

## CHAPTER 2.12 WATERFRONT STRUCTURES

### 2.12.1 INTRODUCTION

This Chapter aims to facilitate the ongoing and future enjoyment of the Central Coast's waterways by providing detailed requirements for the development, management, conservation and economic use of water recreation structures on public and private land. The definition of a Water Recreation Structure is contained within Central Coast Council Local Environmental Plan (LEP) 2018. Merit based assessments may be undertaken using the provisions of this plan as a guide where the objectives are demonstrated to be delivered.

**Note:** *Water recreation structures may be Integrated Development requiring approval under the NSW Fisheries Management Act from the NSW Department of Primary Industries.*

This Chapter should be read in terms of the General Requirements and Development Controls applicable to the location of the proposed water recreation structures. The areas to which this Chapter applies are listed in the following subsection.

#### 2.12.1.1 Land to which this Chapter Applies

This Chapter applies to all areas within the Central Coast Council Local Government Area (LGA) and comprises the following areas:

- a Brisbane Water
  - i. Comprises the bed of Brisbane Water
  - ii. Abuts the mean high water mark of Brisbane Water
  - iii. Shares a common title boundary with a public reserve which abuts the mean high water mark of Brisbane Water and tributaries, and
  - iv. Is a public reserve which abuts the mean high water mark of Brisbane Water and tributaries
- b St Huberts Island and all canals of St Huberts Island.
- c Any waterbody, waterway or watercourse as defined in the Dictionary of Central Coast LEP 2018 of the Tuggerah Lakes Estuary including:
  - i. Tuggerah Lake
  - ii. Budgewoi Lake
  - iii. Lake Munmorah
  - iv. Colongra Lake
  - v. Mannering Lake
  - vi. Lake Macquarie
- d In addition the objectives and principles of this chapter will be used when assessing applications that relate to waterway structures in the Central Coast LGA.

### 2.12.1.2 Relationship to Other Chapters and Policies

This Chapter should be read in conjunction with other relevant Chapters of this Development Control Plan and / or policies.

- Chapter 3.2 – Coastal Hazard Management
- Chapter 2.4 – Subdivision
- Council's Civil Works Specification

### 2.12.1.3 Development Application Requirements

This Chapter provides detailed requirements for the development of water recreation structures however land owner's consent and other approvals are required before any application can be accepted by Council.

Applications for water recreation structures in all areas to which this Chapter applies (excluding development in the canals of St Huberts Island or wholly contained on private land) require land owner's consent from the Department of Primary Industries – Lands (Crown Land). Other approvals may also be required (e.g. Fisheries and NSW Maritime). In the first instance applicants should contact the Department of Primary Industries – Lands (Crown Land) for information regarding obtaining land owner's consent, other required approvals, and additional pertinent information.

In the case of development in the canals on St Huberts Island, applicants should contact Council with regard to obtaining land owner's consent.

*Note: Specific mention and detail should be provided to the Department of Industry – Lands (Crown Land) if consent is sought for permanent berthing of a water vessel. If not, owner's consent will only be given for short stay berthing and temporary loading and unloading.*

*Note: 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.*

### 2.12.1.4 General Objectives

#### OBJECTIVES

The following objectives apply to all water recreation structures in all areas of the Central Coast Council LGA and are to be addressed where appropriate when any departure from the requirements below is sought:

- To ensure that the number and location of water recreation structures will not affect the visual amenity and existing character of adjoining lands and waterways.
- To ensure that development does not affect navigable areas of waterways or adversely affect the use of ferries or other service vessels.
- To promote the co-ordinated management of water recreation structures by avoiding visibly unattractive concentrations of structures and encouraging innovative design for the shared use of structures where appropriate.
- To ensure development has regard for and does not adversely affect important estuarine flora including seagrasses, mangroves or fauna habitats and fishing grounds.

## 2.12.2 BRISBANE WATER

### 2.12.2.1 General Requirements Related to Brisbane Water

- a Development should improve opportunities and the ability to obtain easy access to the waterway to improve fishing, boating, walking and other general recreational and educational pursuits. Development must not extend into or restrict any navigation area or channel.
  - b Assessment of the visual impact of a proposed development on land to which this plan applies will be made on the basis of the requirements set out in the Character and Scenic Quality Guidelines.
  - c Building materials used both in and for the construction shall include plantation grown timber and timber removed with the approval from State Forests. Mesh decking is acceptable. Buildings and structures should be non-reflective and use colours appropriate to the setting.
  - d Any existing solid fill structure which is the subject of an application for additions, alterations or replacement are to be reconstructed on piers in accordance with Clause 2.1(c) above, unless the existing structure has been identified as a heritage item. If not so identified then the old solid fill structure must be removed.
  - e Water recreation structures under this Chapter are only intended to facilitate access for private boating where a reasonable depth of water can be achieved without the necessity for an extended structure. Larger vessels or keep vessels which cannot achieve water access to water recreation structures approved in accordance with those dimensions outlined within this policy are not appropriate for berthing and will need to make other arrangements.
  - f Where an existing facility could be relocated to a common boundary to be used as a shared facility, Council will give consideration to permitting a facility of the same length as the previous structure depending on its merits.
  - g The length of any water recreation structure shall:
    - i Not exceed the average length of water recreation structures within 100 metres on either side of the subject site
    - ii Achieve the 'basic' length necessary to provide a water depth of a minimum 900mm or maximum 1.5 metres at mean low water at the 'jetty head'
    - iii Not exceed a maximum 'basic' length of a possible 50 metres with a possible 5 metres additional length (refer Figure 3 in Appendix) and subject to approval under item (iv) below, and
    - iv With regard to iii) above, Council may consider minor extensions (up to a maximum 5 metres increase) to the length subject to the concurrence of the NSW Roads and Maritime, Department of Primary Industries (Fisheries), and the Department of Planning and Environment
- Note: If a water recreation structure cannot reach a depth of 900mm at mean low water and with a 'basic' length of 50 metres (plus any 5 metre approved extension) it will not be approved.*
- h A water recreation structure must not be constructed of solid fill, but must be constructed on piles with a minimum longitudinal spacing of three metres along the structure.
  - i Water recreation structure platforms are to be constructed to a minimum height of 750 mm above the mean high water level (1.15m AHD approximately). Excessively high jetties will not be permitted.

- j The width of a water recreation structure is to be minimum 900mm and a maximum 1.2 metres, except for community or public water recreation structures.
- k A single hand rail may be provided on one side of the structure only, with the design and construction to be such that access along the foreshore is not restricted. Handrails may be omitted for appearance where appropriate.
- l The construction of an "L", "T", or similar type configuration on the "water end" or 'jetty head' of the structure is permitted with an area not exceeding 9m<sup>2</sup> for a single owner or 12m<sup>2</sup> for a shared ownership (refer Figure 2 in Appendix). The widened end of a 'jetty head' (indicated as "Y" in Figure 2 in Appendix) shall not exceed 4m for a single owner or 6m for a shared ownership.
- m A pontoon may be permitted instead of the widened end of a jetty or wharf. The dimensions of a pontoon shall not exceed the dimensions permitted for a solid structure. The length of a jetty or wharf permitted shall include the pontoon.
- n Gates or similar devices are not permitted.
- o Lighting on any water recreation structure is to be minimal and will only be permitted where it can be shown to be essential for the safe use of the structure. Such lighting shall be neither red nor green.
- p Davits and derricks will not be permitted.

### 2.12.2.2 Additional Development Controls – Shared Private Use Jetties (Figure 1)

- a Favourable consideration will be given for the provision of an additional water recreation structure where there is an agreement between adjoining owners to share the use and responsibility for the facility.
- b Where the operation of a shared water recreation structure would result in an individual property being isolated and unable to submit to a shared water recreation structure proposal, Council may consider permitting a single water recreation structure.
- c Where approval is sought to rebuild or replace an existing structure, an agreement must be made for adjoining owners to equally share use of and responsibility for the facility.
- d Approval may not be given to rebuild or replace an existing structure where it is practical for the owner to share with an adjoining facility.
- e Legal access is to be available or provided to / from the facility for each property involved in a shared facility (e.g. right-of-way easement, adjustment of common boundary etc.).

### 2.12.2.3 Community Jetties (Figure 1)

- a Community water recreation structures may be permitted, subject to Council approval. Community water recreation structures, if approved, will be permitted to abut foreshore land between the private properties and mean high water mark which is a public reserve or proposed public reserve and is an area of freehold waterfront foreshore land where private water recreation structures (whether shared or not) will not in general be permitted.
- b A community water recreation structure may be permitted, subject to approval, beyond the basic length limit of 50 metres subject to the development complying with the requirements of Clause

2.12.2.2(a)(i),(ii) & (iv) and Section 2.12.2.1 – General Requirements Related to Brisbane Water of this Chapter.

- c Such consent will be subject to the sharing of costs and on-going responsibilities for the community water recreation structure between at least 7 owners. The responsibility shall be its land access, maintenance and management in a safe operating condition and the provision for safe and secure public access which is available at all times. The owners shall live adjacent to the public reserve or in the immediate vicinity for the proposed community water recreation structure.
- d A community water recreation structure shall be available for authorised use and access by the general public. However, public mooring will be prohibited.
- e A community water recreation structure must be designed, constructed and maintained to the requirements of Australian Standard *AS4997-2005 Guidelines for the Design of Maritime Structures* and shall include appropriate lighting for public safety and in respect to actual users and vessels using the adjacent waters.
- f A person(s) holding the licence from the Crown for a community or an individual water recreation structure abutting public land must enter a Deed with Council, and 88E under the *Conveyancing Act 1919* (if necessary), relating to an indemnity and have an insurance contract to protect Council from possible claims from any party, should that party be injured, suffer property damage or economic loss as a result of the construction or use of the community or individual water recreation structure which are to be prepared in accordance with Council's requirements and to the satisfaction of Council.
- g Indemnity and restrictions under 88E shall be prepared by Council's solicitors but subject to the cost of the applicant(s) / licensee(s). Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979 as a condition precedent to the consent taking effect to any development application for a community or individual water recreation structure.
- h Any water recreation structure required to be made available for public access may be permitted to provide adequate signage on the deck and located as the entrance to the water recreation structure stating "No unauthorised use of this jetty / wharf is permitted"

#### **2.12.2.4 Foreshores Designated as "No Private Jetties" (Figure 1)**

Private and community water recreation structures may not be permitted by Council on the Foreshores Designated by an Unbroken Heavy Black Line on the 'Permitted Jetty Types' Diagram (Figure 1).

#### **2.12.2.5 Positive Covenant and Licence for Development Relating to Brisbane Water**

Prior to construction of any water recreation structure, the owner shall:

- a Submit a copy of the licence agreement issued by the Department of Industry – Lands for the use of Crown Land; 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 public liability insurance for the life of the structure;
  - ii Maintain the structure in a safe condition at all times;

- iii    Provide an identification and licence number; and,
- iv    If (i) and (ii) are not complied with the structure(s) shall be removed.
- c     Where appropriate, allow right-of-access to others who share the facility.
- d     The owner shall be responsible for Council's legal and administrative costs in relation to the preparation of the positive covenant.

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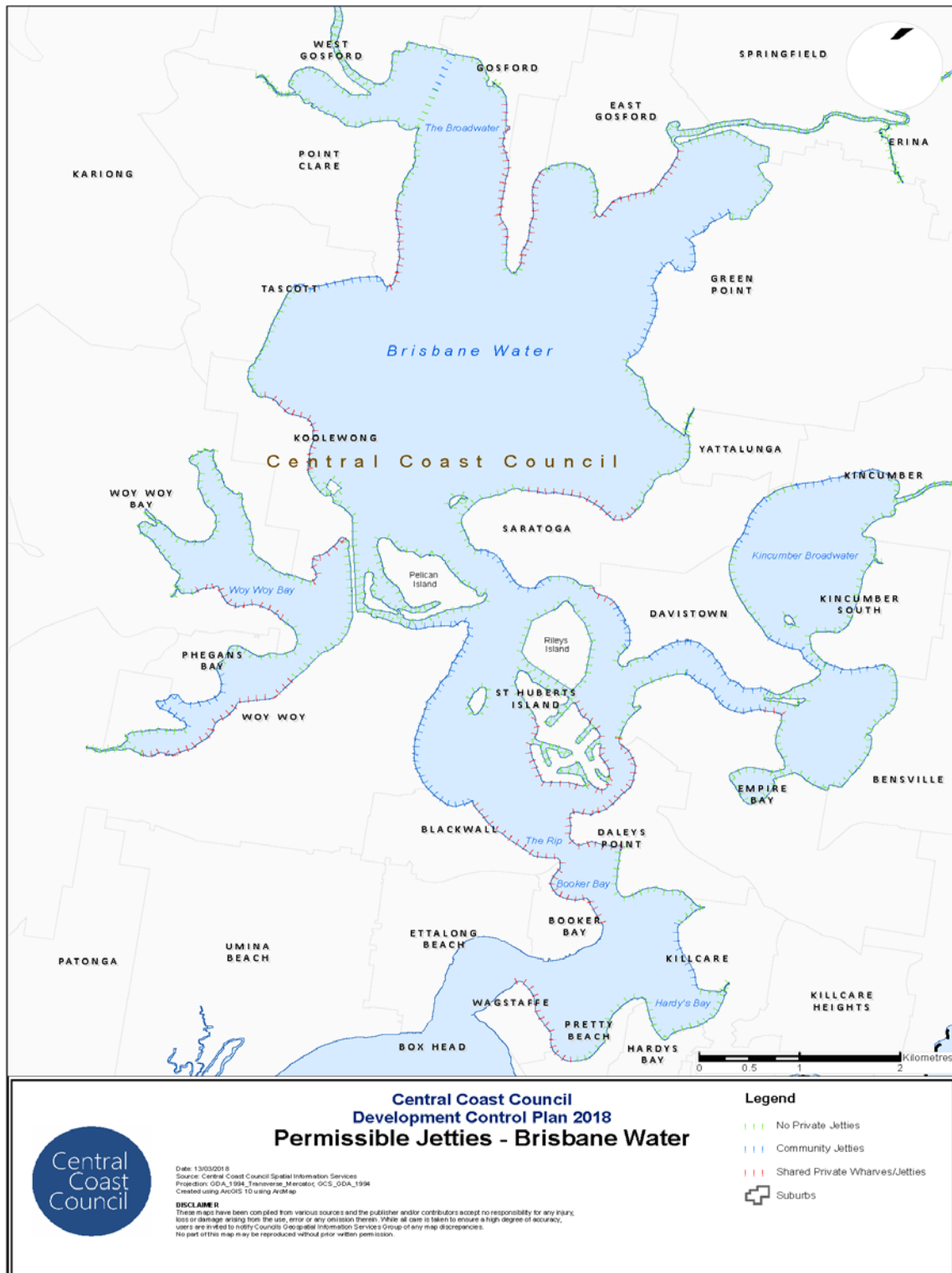


Figure 1: Permitted Wharf and Jetty Types – Brisbane Water

### 2.12.3 ST HUBERTS ISLAND

Development for the purpose of water recreation structures at St Huberts Island is for boat ramps used for access for vessels to the canals from the adjoining residential property, and structures in the form of a floating pontoon and associated walkways.

#### 2.12.3.1 General Requirements for Development in Canals of St Huberts Island

- a Generally Council will not accept a development application for a pontoon unless made by a minimum of 2 adjoining landowners. Share arrangements for 1 pontoon for up to 4 adjoining premises may be considered.
- b Pontoons and walkways may not be permitted at premises of narrow frontage of less than 9 metres or near to canal corners or ends.
- c Pontoon walkways are to be located at a common property boundary.
- d Only vessels owned by residents with canal frontage properties will be permitted to be berthed at a pontoon within the canals.
- e All boat ramps, pontoons or walkways are to be maintained in a condition that prevents failure and is acceptable to Council. Those which fall into disrepair or are a danger to the public use of the canals are to be removed by, or at the expense of, the owner of the structure.
- f A mooring will be relinquished and removed upon installation of a pontoon in accordance with this Chapter.
- g Boat ramps, pontoons, piles, walkways and associated works shall be adequately maintained in a condition that prevents failure and is acceptable to the Council. If structures are not maintained Council may direct their removal.

#### 2.12.3.2 Requirements related to Boat Ramps for Canals on St Huberts Island

- a Boat ramps shall be constructed at the level of the floor of, and follow the contour of, the canal and shall not exceed 3 metres in width.
- b 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.
- c No permanent lighting or power facility shall be provided on any approved pontoon or walkway.
- d Applications for ramps in the canal corners shall be considered on their individual merits.
- e A boat ramp shall be constructed flush with the natural level of the foreshore. That part of the boat ramp which is below the mean high water mark shall not project more than 150mm above the bed of the waterway.
- f Boat ramps are to be constructed of concrete with a grooved non-slip surface.
- g Where retaining walls have been / are to be constructed the foreshore is to be accessible to pedestrians therefore batters should not be greater than 1:8.



### 2.12.3.3 Requirements related to Pontoons and Associated Walkways for Canals on St Huberts Island

- a Pontoons shall be permitted in a minimum water depth of 900mm 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 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 a 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 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 a maximum width of 1.2 metres, and
  - iv Be constructed at right angles to 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 900mm at mean low water.
- i The height of walkways shall be a maximum of 1.15 metres above Australian Height Datum to the uppermost surface of the walkway.
- j A single handrail may be provided on one side of the structure only with the design and construction being such that access along the foreshore is not restricted. Handrails may be 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 portion of the pontoon or vessel berthed shall be within 5 metres of the centreline of the canal.
- m All pontoons and walkways shall be subject of all necessary applications to Council, including Development Application and "Permissive Occupancy" application and annual licence from the Council.
- n Applications for pontoons and walkways in the narrower canals shall be carefully considered on their individual merits.

### **2.12.3.4 Positive Covenant and Licences for Development in Canals on St Huberts Island**

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

- a Make appropriate arrangements with Council for the granting of a licence for use of the drainage reserve including payment of any licence fee
- 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, and
  - v Allow Council to recover costs for the repairs and removal
- c Where appropriate, allow a right of access to others who share the facility
- d The owner is responsible for Council's legal and administrative costs in relation to the licence and positive covenant.
- e The annual fee for pontoons is set out in Council's Fees and Charges Schedule.

## **2.12.4 TUGGERAH LAKES ESTUARY & LAKE MACQUARIE**

### **2.12.4.1 General Requirements Related to the Tuggerah Lakes Estuary**

- a Any material excavated from below low tide or the natural water table must be tested for potential acid-sulphate soils and, if found, treated to neutralise prior to disposal.
- b Water recreation structures under this Section are only intended to facilitate access where a reasonable depth of water can be achieved without the necessity for an extended structure. Larger vessels or keep vessels which cannot achieve water access to water recreation structures approved in accordance with those dimensions outlined within this section of the policy are not appropriate for berthing and will need to make other arrangements.
- c Building materials used both in and for the construction shall include plantation grown timber and timber removed with the approval from State Forests. Mesh decking is acceptable. Buildings and structures should be non-reflective and use colours appropriate to the setting.

### **2.12.4.2 Requirements for Boat Ramps and Slipways**

- a The recommended maximum length of a boat ramp is 5 metres when measured from the deemed high water mark into the waterway.
- b The recommended maximum width of a boat ramp is 3 metres.

- c Boat ramps should be constructed directly on the bed of the waterway. Reclamation of the bed of the waterway is not permitted. Minor excavation of the waterway bed so as to produce an even grade is permitted.
- d A boat ramp shall be constructed flush with the natural level of the foreshore. That part of the boat ramp which is below the mean high water mark shall not project more than 150mm above the bed of the waterway.
- e Boat ramps are to be constructed of concrete with a grooved non-slip surface.
- f A boat ramp shall enter the waterbody at the property boundary where it meets the mean high water mark.
- g Where retaining walls have been / are to be constructed the foreshore is to be accessible to pedestrians therefore batters should not be greater than 1:8.
- h The length of a slipway is to be the lesser of:
  - i The length necessary to achieve a depth of 1.2m at Indian Spring Low Water
  - ii The length of the jetty to be used in conjunction with the slipway.
- i Slipways must achieve a depth of at least 600mm at Indian Spring Low Water.
- j Slipways are to be a maximum of 2m wide

#### 2.12.4.3 Requirements for Domestic Jetties

- a Council encourages the shared use and entitlement of a jetty between two or more adjoining waterfront properties.
- b The maximum length of a jetty as measured from the deemed high water mark into the waterway is:
  - iii the minimum length necessary to provide a water depth of 900mm or 1.5 metres maximum at the mean low water at the jetty head, or
  - iv Not exceed a maximum 'basic' length of a possible 50 metres with a possible 5 metres additional length subject to concurrence of the NSW Roads and Maritime, Department of Primary Industries (Fisheries) and the Department of Planning and Environment (refer Figure 3 of Appendix)

*Note: If a jetty cannot reach a depth of 900mm at mean low water and with a 'basic' length of 50 metres (plus any 5 metre approved extension) it may not be approved.*

- c Legal access to the jetty must be available from each participating allotment. Legal access can be achieved by constructing the jetty from the common side boundary in the case of shared use between two parties or by the creation of a legal right-of-way.
- d A jetty should generally form a right angle with the shoreline but may form some other angle where it is demonstrated that this is appropriate to the circumstances.
- e The construction of an "L", "T", or similar type configuration on the "water end" or jetty head of the structure is permitted with an area not exceeding 9m<sup>2</sup> for a single owner or 12m<sup>2</sup> for a shared ownership. The dimension "Y" as shown in Figure 1 shall not exceed 4m for a single owner or 6m for a shared ownership.

- f The width of a jetty is to be minimum 900mm and a maximum 1.2 metres, except for community and public water recreation structures.
- g Jetties are to be constructed to a minimum height of 750 mm above the mean high water level. Excessively high jetties will not be permitted.
- h A jetty / wharf must not be constructed of solid fill, but must be constructed on piles with a minimum longitudinal spacing of three (3) metres along the jetty / wharf.
- i A single hand rail may be provided on one side of the structure only, with the design and construction to be such that access along the foreshore is not restricted. Handrails may be omitted for appearance where appropriate.
- j Gates or similar devices are not permitted.
- k Lighting on any jetty / wharf structure is to be minimal and will only be permitted where it can be shown to be essential for the safe use of the structure. Such lighting shall be neither red nor green.
- l Davits and derricks will not be permitted.

#### **2.12.4.4 Requirements for Commercial Use Jetties**

- a Merit based assessments will be undertaken where the objectives of the Chapter are demonstrative to be delivered and using the provisions of this section of the Chapter as a guide.
- b Favourable consideration will be given for the provision of an additional jetty / wharf where there is an agreement between adjoining owners to share the use and responsibility for the facility.
- c Where the operation of a shared jetty or wharf policy results in an individual property being isolated and unable to submit to a shared jetty proposal, Council may consider permitting a single jetty.
- d Where approval is sought to rebuild or replace an existing structure, an agreement must be made for adjoining owners to equally share use of and responsibility for the facility.
- e Legal access is to be available or provided to / from the facility for each property involved in a shared facility (e.g. right-of-way easement, adjustment of common boundary etc.)

#### **2.12.4.5 Requirements for Retaining Walls**

- a Retaining walls should be located wholly within private land above the deemed high water mark and not exceed 1 metre in height.
- b Retaining walls are to be designed by an appropriately qualified and practising structural engineer.
- c Retaining walls are to be designed with a minimum life expectancy of 50 years.
- d The design of the retaining wall is to consider and provide appropriate stormwater management.

#### **2.12.4.6 Positive Covenant and Licence for Development in Tuggerah Lakes Estuary**

Prior to construction of any water recreation structure, the owner shall:

- a     Submit a copy of the licence agreement issued by the *Department of Industry – Lands* for the use of Crown Land; 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 public liability insurance for the life of the structure;
  - ii        Maintain the structure in a safe condition at all times;
  - iii        Provide an identification and licence number; and,
  - iv        If (i) and (ii) are not complied with the structure(s) shall be removed.
- c     Where appropriate, allow right-of-access to others who share the facility.
- d     The owner shall be responsible for Council's legal and administrative costs in relation to the preparation of the positive covenant.

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## APPENDIX

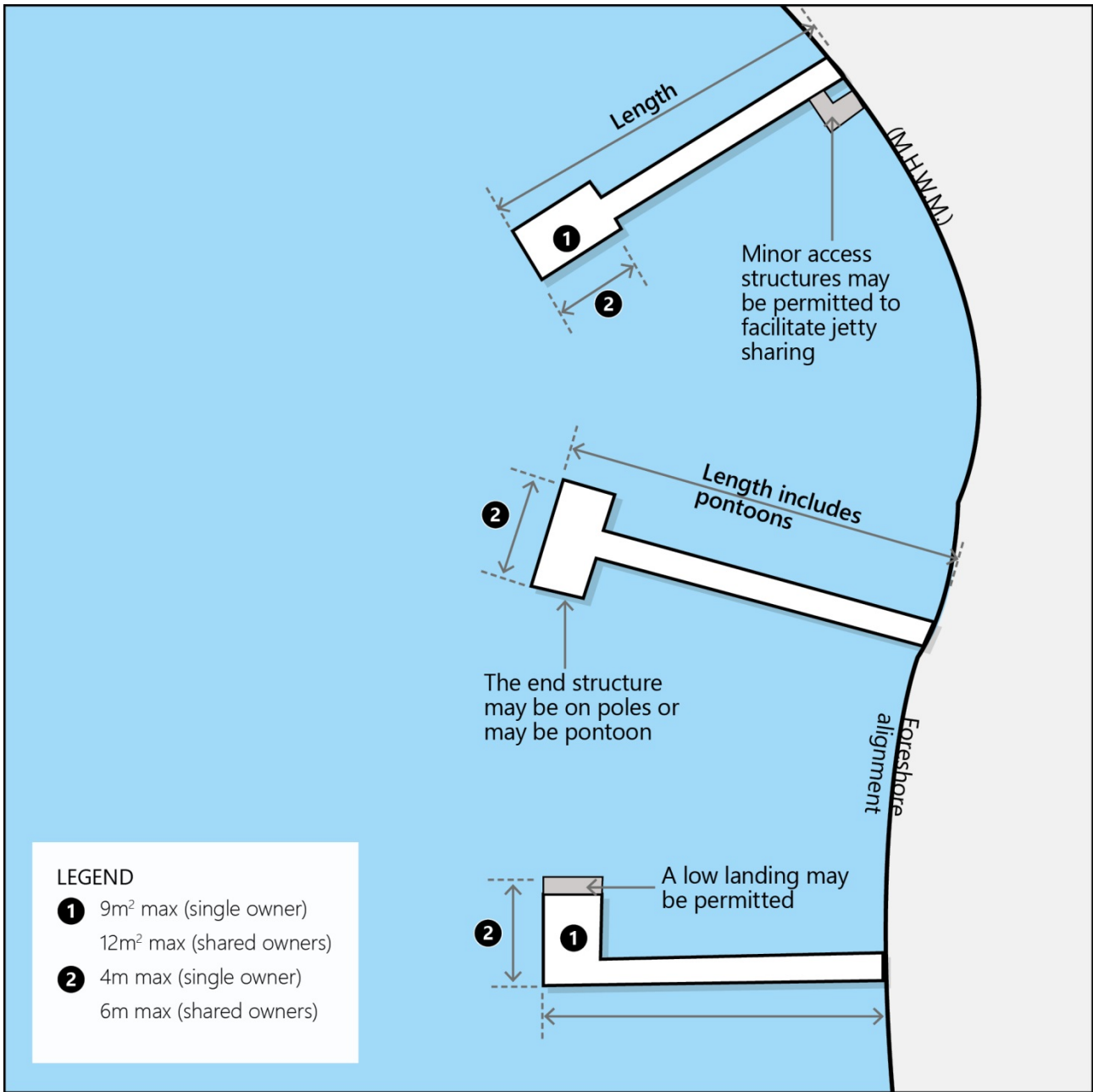


Figure 2: Typical Jetty Layout – Plan View

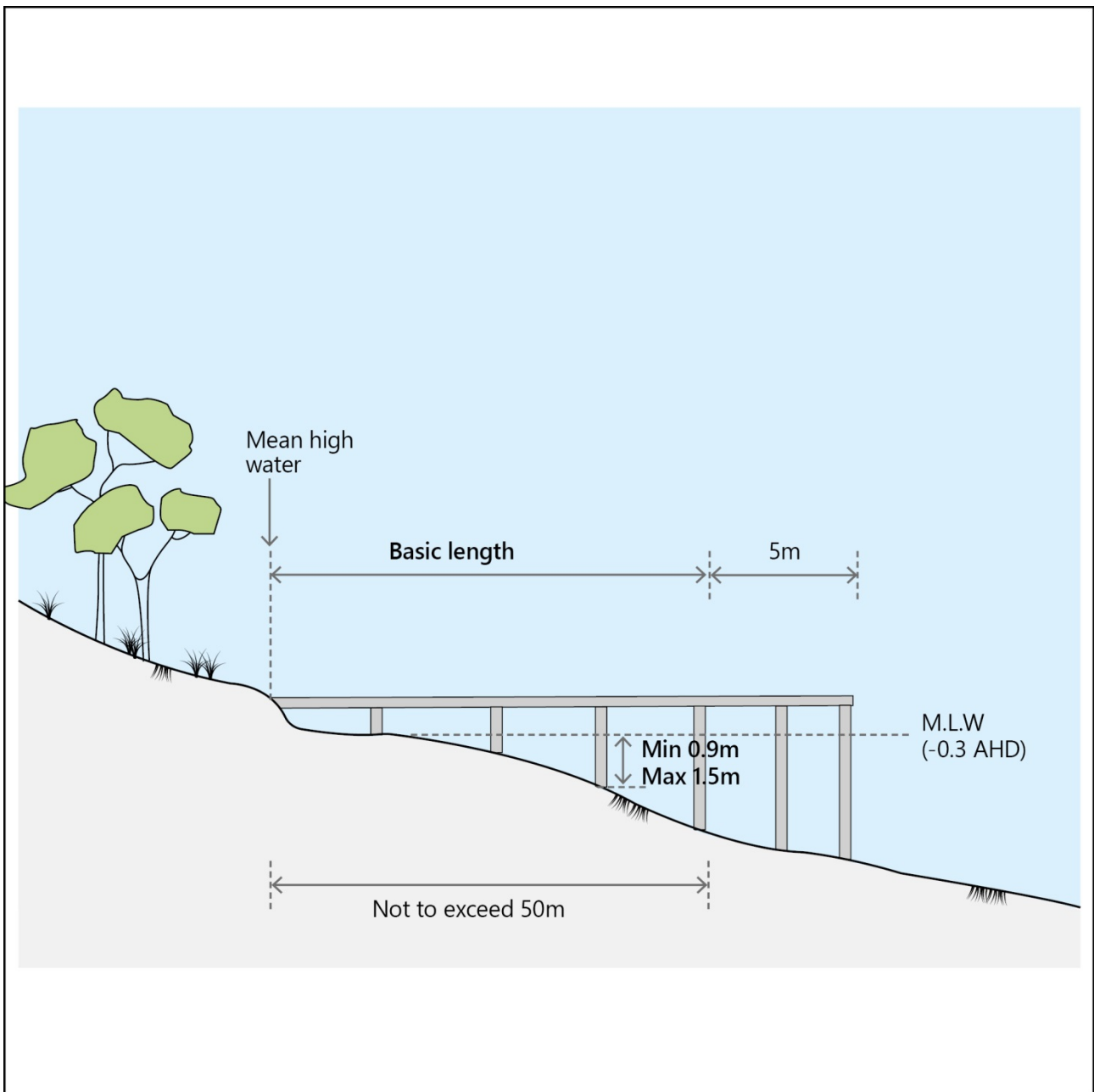


Figure 3: Typical Jetty Elevation