

Policy

Canal Management

Version 1.1

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Canal Management Policy

1 Policy Objective

This Policy documents Council and resident responsibilities, management principles and standards in relation to canals managed by Tweed Shire Council.

The issues covered include:

- Private structures such as pontoons and boat ramps
- Canal retaining walls and foreshores
- Vessels, operation and navigation
- Cleanliness and dumping
- Fees and charges

This policy is applicable to the following areas:

Navigable canals:

- Crystal Waters, Tweed Heads
- Endless Summer, Tweed Heads
- Seagulls, Tweed Heads West
- Tweed, Tweed Heads West
- Blue Waters, Tweed Heads West
- Oxley Cove, Banora Point
- Anchorage Islands, Tweed Heads

Non-Navigable canals:

- Friday Island Canal, Bogangar
- Pottsville Waters Estate, Pottsville

This policy is not applicable to:

- Artificial waterways associated with the Banora Point Drainage Scheme
- Jack Evans Boat Harbour
- Tweed Southern Boat Harbour
- Natural waterways

1.1 Policy Background

Canals are artificial waterways that have been constructed for the purpose of providing navigable water access to adjacent land, or in some cases, the amenity of water frontage without vessel access. Council manages canals in a different way to natural waterways.

Canals are classified as Operational Land under the *Local Government Act 1993* and are zoned W2 - Recreational Waterway, under the Tweed Local Environment Plan 2014.

Canals, while artificial waterways, have become an important component of our natural environment. They provide habitat for fish and many other species of marine life, as well as seagrass, mangroves and salt marsh. Any works within canals should at all times minimise

impacts on the environment, however, it is acknowledged that to maintain the original design function of a canal, it may at times be necessary to cause impacts.

Council acknowledges responsibility for the maintenance and management of canals and associated assets as it pertains to broad public benefit. This includes, for example, dredging for navigation and maintenance of foreshores adjacent to parkland. Council holds the relevant planning and environmental approvals necessary to allow contractors to undertake both navigational and foreshore nourishment dredging within canals, on behalf of both Council and residents.

Individual land owners are responsible for the maintenance of canal walls and foreshores located within their private lots. Generally, free hold title extends seaward beyond the revetment wall for distances ranging from 0.5m to 2.5m, and therefore revetment walls exist within private property, and are a private asset.

Council is sometimes called upon to clarify issues of dispute between neighbours that arise over the use of the canal foreshores or structures. This Policy aims to provide guidance on the most common matters. Council's provision of guidance on these matters does not imply a duty to solve all conflicts between neighbours.

This policy, and its requirements for approvals and notification of certain works, is designed to ensure that impacts on the environment and adjacent residents are assessed and minimised.

2 Policy

2.1 pontoons and boat ramps

2.1.1 Structural design and approval

All structures within canals, including retaining walls, pontoons and boat ramps, require Development Approval.

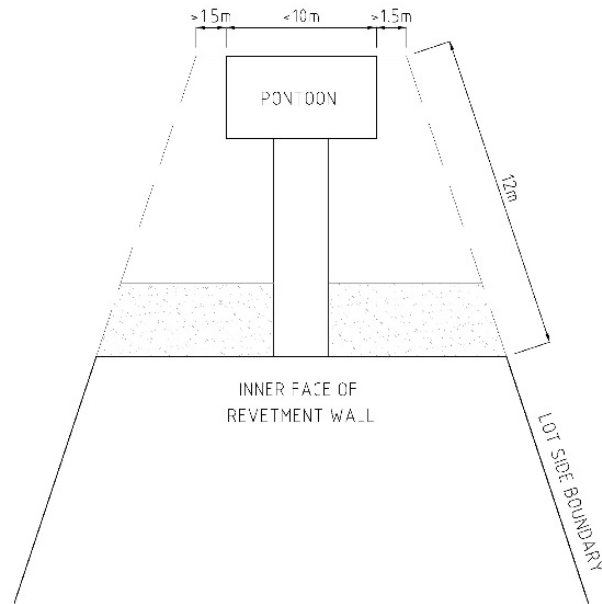
Pontoon and boat ramp designs must be consistent with those detailed in the Tweed Shire Council Guidelines for the Installation of Pontoons and Boat Ramps. The application process is described in the Development Application Checklist: Pontoons and Boat Ramps. Both documents are available on Council's website:

www.tweed.nsw.gov.au

Where a structure has been approved but has not been built in accordance with the approved plans, Council may require the structure to be removed or modified to comply with the approved plans.

Where a structure has been approved and has been installed in accordance with approved plans, the existing structure takes precedence over any new development applications for similar structures, regardless of 'encroachment' into the adjacent residential lots 'Waterway Allocation' as detailed in Tweed Shire Council Guidelines for the Installation of Pontoons and Boat Ramps.

Pontoons are to be wholly located within the waterway allocation of the private lot. The waterway allocation is illustrated in figure 1. The waterway allocation extends 12m from the revetment wall, measured as an extension of the lot's side boundaries. The outside edge of the pontoon is to be no less than 1.5m from the side boundary of the waterway allocation.



WATERWAY ALLOCATION

NOT TO SCALE

Development Applications relating to the installation of non-powered boating facilities (small scale canoe launching only) will be considered within the Pottsville Waters and Friday Island (Bogangar) Canals. Pottsville Waters and Friday Island canals are not considered to be a navigable waterways, and Council will not support the construction of full size pontoons in these areas.

2.2 Unapproved Structures

Council does not permit:

- Construction of groynes to capture or retain sand.
- Extensions of retaining walls, decks or other structures into the canal lot.
- Installation of pontoons, jetties or boat ramps without development approval.

If an unapproved structure is identified within a Council canal, the adjacent owner will be notified. Council may request removal of unapproved structures, or initiate compliance action in relation to unapproved structures. Failure to meet all regulatory requirements may result in an unapproved structure being required to be removed, or removed by Council. Council may seek costs for its expenses in removal of unapproved structures.

A structure may be considered for approval, if it is consistent with this policy and other relevant design standards. However all processes required under the Environmental Planning and Assessment Act 1979 will apply and must be initiated at the owners expense.

2.2.1 Fees and Licensing

All pontoons located within the Council owned canal lot are required to be licensed. Council will charge an annual license fee for pontoons, reflecting the fact that pontoon owners occupy public land for private use. Council will also charge an administration fee to facilitate the issuance and transfer of licenses.

The payment of an annual licence fee for private pontoon structures in Council owned canals is consistent with the payment of licence fees to the NSW Government for pontoon structures located in Crown waterway reserves.

A summary of fees associated with the installation and licensing of pontoons and boat ramps is available at: www.tweed.nsw.gov.au/FeesAndCharges

The revenue generated from the annual licensing fee will primarily be used to maintain navigability, safety and amenity within canal estates.

2.2.2 Insurance

Pontoon owners must obtain, and maintain, Public Liability Indemnity Insurance to the value \$20,000,000 for their licensed and approved structures. Evidence of this insurance cover, in the form of a Certificate of Currency or similar, shall be provided prior to Council accepting payment of an annual licence fee.

2.2.3 Services

Provision of services (Water and Electricity) to pontoons is permitted. All works are to be completed by an appropriately licensed contractor with evidence to be provided to Council on request.

2.2.4 Maintenance

Pontoons and vessels moored in canals must be kept in a condition that is deemed by Council to be clean, safe and otherwise satisfactory.

2.2.5 Commercial Activities

As detailed in the license, the licensed area and structure must be used for domestic purposes only and not for any business or commercial purposes, including the sub-letting or leasing of the structure or the renting of moored vessels for accommodation or other commercial purposes.

Where it can be demonstrated to Council that a pontoon has been designed and built as a shared facility, and that two vessels are moored to it to make efficient use of space, exemptions on sub-leasing pontoon berths may be granted. Evidence of the structures ability to cater for the load of two vessels may be required.

Failure to comply with this condition of the pontoon development approval and license may result in compliance action being taken.

2.3 Canal Retaining Walls and Foreshores

2.3.1 Inspection and Maintenance Works

It is the land owner's responsibility to inspect their canal wall to ensure stability, structural integrity and public safety. Where **maintenance (structural)** is required it is the land owner's responsibility to complete such works. All works shall be undertaken by suitably qualified and experienced persons.

Minor repairs to the structure of a retaining wall are likely to be permitted without the requirement for development approval. However, any mechanised earthworks or works beneath the existing wall (i.e. on the foreshore or within the waters of the canal) may require Development Approval prior to commencement.

It is the land owner's responsibility to obtain all approvals required to complete structural works on retaining walls. It is recommended that land owners contact Council to discuss the proposed works and required approvals.

Where **maintenance (sand nourishment)** is required to ensure the stability of the existing canal wall it is the land owner's responsibility to fund and arrange such sand nourishment. This will primarily be completed through dredging of the canal and sand nourishment of the foreshore.

Council has obtained and will maintain the necessary planning and environmental approvals required to undertake dredging and nourishment works in canals. Land owners must arrange and pay for nourishment of their own foreshores.

Nourishment of the foreshore shall be generally consistent with the typical canal profile, having due consideration of the location of existing canal walls, property boundaries and adjacent structures, including stormwater outlets. Nourishment over and above that which is required to maintain the structural stability of the retaining wall will not be permitted. This requirement seeks to ensure that over nourishment does not result in land reclamation and protrusion of beaches, and avoids potential negative impacts on the canal profile and adjacent residents.

Landowners should also consider the impact of their decision on nourishment in relation to their neighbours beach and retaining wall. Failure to nourish one property may result in an accelerated loss of sand from adjacent beaches.

Where dredging works are impractical, importing and placement of additional sand (clean sand, equivalent to the existing typical material) may be considered at Council's discretion. These works, being earthworks within the waters of the canal, will require a Development Application and will be considered on a case by case basis.

Dumping or placement of material other than sand, for example rock, rubble or waste, is not permitted within canals. This includes the construction of groynes or other structures designed to capture or retain sand. Council does not support the conversion of a sandy foreshore into a rocky foreshore unless it is justified through extenuating circumstances and documented through a Development Approval process.

Where a lot is designated as Community, Operational or Council Administered Crown Land, Council as the land owner and manager has the responsibility to ensure the stability, integrity and public safety of the associated canal wall and foreshore. Inspection of these assets will be completed on a biennial basis, or as otherwise required.

2.3.2 Construction Works

Where it is determined through inspection that construction works are required to replace or renew the existing canal wall it will be the land owner's responsibility to complete the works as required.

Construction works associated with the replacement or renewal of the existing canal wall will require Development Approval.

Engineering drawings and a technical specification, prepared by a suitably qualified and experienced professional engineer, shall be provided to support the development application and must consider the functional purpose of the structure (i.e. earth retaining structure) and the local environmental conditions including tidal and extreme water levels, the effects of sea level rise, and potential beach lowering due to foreshore erosion and slumping.

Works shall not compromise adjacent structures, shall be in keeping with local character, and typically compliant with the original design of the estate. An alternative design may be considered, solely at Council's discretion, in the case of major works to replace a substantial (multiple consecutive lots) section of wall.

All works shall be constructed on the existing alignment and entirely within the private lot.

Where an existing canal wall is to be rebuilt, and it is located within the Council owned canal lot, realignment of the wall shall be completed within the proposed works, to ensure the entirety of the wall is located within the private lot.

2.3.3 Asbestos

In some canal estates the existing canal walls contain asbestos sheeting as a primary construction material.

It is the land owner's responsibility to ensure that this is adequately considered in inspections of the canal walls. All asbestos walls are to be maintained in a good state of repair, free from cracking and other signs of failure.

Asbestos sheeting buried within a wet / intertidal environment is considered to be of a low risk to public and environmental health. Asbestos sheeting maintained in a good condition is considered to be a low risk to public and environmental health.

Any asbestos associated with a canal wall proposed to be replaced or renewed shall be appropriately removed and disposed of in accordance with statutory requirements and having due regard to public and environmental health.

Land owners who fail to maintain asbestos sheeting in an appropriate state of repair will be issued with a direction requesting that maintenance works be completed. Failure to comply with this request may result in the issuance of a formal notice.

Further information can be found in Councils Asbestos Management Policy.

2.3.4 Consideration of impacts

All inspections, maintenance and construction works shall be considered so as not to cause an undue negative impact on adjacent lots. This includes, the failure of existing canal walls or associated structures, vegetation management, failure to maintain foreshore at an appropriate level, and derelict structures.

2.3.5 Drainage Infrastructure

Where works are required for the maintenance or replacement of either the private canal walls or foreshore, and existing Council stormwater drainage may be impacted, it shall be the land owner's responsibility to allow for, and adequately reinstate, existing drainage infrastructure in accordance with the relevant Tweed Shire Council Standard Design.

Where works are required for the maintenance, replacement or construction of stormwater drainage infrastructure, Council shall be responsible for adequately reinstating the affected section of private canal wall and / or foreshore to a standard consistent with that prior to the works.

2.3.6 Foreshore Access

The waterway lot is public land and accessibility should be maintained to reflect this. No structure, fence or other impediment to access shall be constructed across the public foreshore, other than structures approved in accordance with this policy.

It is acknowledged that free hold title extends seaward beyond the revetment wall for distances ranging from approximately 0.5m to 2.5m, and therefore revetment walls exist within private property.

Members of the public are permitted to use canal foreshore areas, excluding private structures (pontoons) and land, however, must be cognisant of private property boundaries and the implications of trespass and other nuisance activities.

2.3.7 Berthing of Vessels

Long term berthing of vessels is to be on private land or approved and licensed structures (pontoons). Vessels anchored (including mooring lines) must be wholly within the waterway allocation of the owners adjacent lot.

Vessels may be anchored temporarily within the waterway allocation of a Council lot (park/easement) or beached along the adjoining foreshore.

Vessels may not be stored for long periods of time at an owner's convenience on Council lots or associated waterway allocation.

Any vessel deemed to have been abandoned on Council Land for a period of 7 days will be impounded under the Impounding Act 1993, and held for 28 days, following which it may be disposed of, under the Impounding Act 1993. Any vessel which is impounded will be subject to impounding fees prior to its release to the owner.

2.4 Vessels, Operation and Navigation

2.4.1 Vessels and Navigation.

Canals classified as navigable waterways will be maintained for this purpose, within the limitations of available resources and access constraints. Dredging will be undertaken to maintain the typical design profile having due consideration to the local environment and conditions.

Typical vessel navigation requirements shall be used, based on Australian Standards, and considering the following design vessel:

- Vessel Type: Power Boats
- Length: 8.0 metres
- Beam: 3.4 metres
- Draught: 0.9 metres

It is the responsibility of vessel owners to ensure that any vessel they choose to moor within a canal is of a suitable size and draft, given the constraints of the canal. Council will not undertake navigational dredging to facilitate the requirements of individuals or unsuitable vessels.

Navigational dredging in canals will consider access to the canal from natural waterways and the limitations of depth at these locations. Council does not commit to navigational dredging of natural waterways in order to provide access to canals.

2.4.2 Vessel Operation

Vessels shall be operated so as not to cause undue nuisance to others / residents of the canal having consideration for vessel wake, noise and marine safety.

- Speed: 4 knots
- Hours: No restriction

Living aboard vessels is not permitted, though it is acknowledged that occasional, short term over-night use of vessels for temporary accommodation will occur.

Speed restrictions are imposed and enforced by NSW Maritime.

2.4.3 Vessel Condition and Maintenance

All vessels berthed within canals must be maintained in a safe and tidy condition. They shall be free from significant defects such as peeling paint or leaking oil which could be considered to have an adverse impact on safety, the environment or visual amenity. Council will seek the advice of NSW Maritime Services on vessel condition, if a vessel is deemed to be at risk of sinking or becoming a significant hazard.

Routine and minor vessel maintenance works are permitted to be undertaken when vessels are berthed on an approved pontoon, having due consideration of the impacts on neighbours, the environment, visual amenity and associated noise, dust and other pollutants.

Major vessel maintenance (for example a refit involving frequent work over a period of months), is not permitted to be undertaken within canals.

2.5 Dumping and debris

2.5.1 Debris

Council will remove debris when a flood or other high flow event results in an accumulation of significant amounts of debris. Flood debris removal will be undertaken to:

- Reasonably maintain the amenity of the foreshores,
- Allow reasonable navigational access to the waterways and foreshores, and
- Allow reasonable recreational access to beaches for residents.

Small amounts of debris in isolated locations, affecting a single property or vessel, will not generally be removed by Council.

2.5.2 Dumping

Dumping, or the placement of materials within the waterway is not permitted, except as otherwise approved with respect to maintenance (nourishment).

Residents are not permitted to build unapproved structures from construction rubble or any other waste material.

Discharge or dumping of black water, greywater or other pollutants is not permitted.

Dumping of garden waste into the canal is not permitted.

2.6 Sea Level Rise and Tidal Inundation Impacts

Canal landowners are advised that sea level rise is occurring and is predicted to result in more frequent inundation of low lying foreshores during future high tides. More frequent inundation and over topping of canal retaining walls will accelerate their deterioration. Canal landowners should factor sea level rise into account in planning for maintenance of their canal retaining walls.

3 Related Legislation and Policy

- Environmental Planning and Assessment Act 1979.
- Protection of Environment Operations Act 1997
- Impounding Act 1993
- Local Government Act 1993.
- Asbestos Management Policy (Tweed Shire Council).
- Tweed Shire Council Guidelines for the Installation of pontoons and Boat Ramps.

4 Forms

- Tweed Shire Council pontoon development application check list

5 Review Period

5.1 This policy will be reviewed within 12 months of the election of each new Council or more frequently in the event of any legislative changes or change in circumstances.

6 Useful Links

[Tweed Shire Council website](#)

[Office of Local Government](#)

Version Control:

Version History		
Version #	Summary of changes made	Date changes made
1.0	<i>Creation of new Policy</i>	<i>Adopted on 18 March 2021</i>
1.1	Reviewed as part of Policies Review and no changes required.	16 June 2022