

April 2016



Private Structures Within Council Owned (Public) Waterways



Council's new policy

Council has recently become aware that the previous arrangements for the approval of waterway structures (boat ramps, jetties and pontoons) located within Council owned (public) waterways can be improved with respect to the requirements of the relevant legislation. In particular:

- Local Government Act 1993
- Environmental Planning and Assessment Act 1979

To allow the ongoing private occupation of Council owned waterways (by boating and other waterway structures), Council changed the categorisation of the waterway from 'Community Land' to 'Operational Land' under the Local Government Act. This recategorisation was completed in July 2014.

Council is now at the stage of addressing the appropriate means of granting tenure (the legal right to occupy land) for the occupation and use of public waterways for private purposes. A report addressing a range of options was considered by the Council at its Ordinary Meeting held on 17 December 2015. A copy of this report can be accessed on Council's website under Minutes and Agendas.

Council resolved to publicly exhibit a draft policy to implement a licensing system and associated fees. The draft policy is on public exhibition between 6 April and 27 May 2016 and can be inspected at Council's Customer Service Centre, 40 Cherry Street, Ballina and at the Ballina library. It can also be accessed on Council's website under Documents on

Exhibition.

Details regarding how to make a submission on the draft policy are provided overleaf.

Structures and waterways this affects

The new arrangements apply to private waterway structures including **boat ramps, jetties and pontoons** located on the following Council owned (public) waterways:

- Ballina Quays Canals
- Banyanda Lake
- Endeavour Lake

Maps showing the locations of the waterways and associated land in public ownership can be viewed on Council's website, at Council's Customer Service Centre and at the Ballina Library.

The policy does not apply to the Richmond River or North Creek as these waterways comprise Crown land and structures placed within them are administered by the State Government, rather than Council.

Approval of new waterway structures

Landholders seeking to erect new structures within the waterway will need to obtain two forms of authorisation from Council, namely:

- Development Approval for the structure, involving the lodgement of a development application under the Environmental Planning & Assessment Act 1979
- Legal tenure by way of a licence agreement issued by Council as the owner of the land/waterway.

Existing structures

Existing waterway structures may fall into the following categories:

1. Existing structures authorised with development consent
2. Existing structures authorised in writing (pre-1998)
3. Existing unauthorised structures.

Council will require structure owners to enter into a licence agreement for the use of Council owned (public) waterways. In order to licence the structures, Council requires evidence of suitable insurance. Insurance costs are the responsibility of landholders.

The following table outlines the requirements that will apply to each category of existing waterway structure.

CATEGORY	DA APPROVAL/ BUILDING CERTIFICATE	PUBLIC LIABILITY INSURANCE	LICENCE AGREEMENT (TENURE)	TIMEFRAME
1. Existing DA approved structures	Not Applicable	Required	Required	2016
2. Existing structures authorised in writing (pre-1998)	Not Applicable	Required	Required	2016
3. Existing unauthorised structures	Required	Required	Required	2016/2017

Licence Agreements & Fees

In order to properly manage the private occupation of Council owned (public) waterways, by way of legal tenure, Council will require landholders to enter into a licence agreement to be renewed annually. As part of the licensing system, Council proposes to apply licence fees as outlined below.

The licence agreement is between Council and the landholder for the use of Council owned (public) waterways. The agreement does not attach to the adjacent property associated with the structure. Consequently, Council will require the transfer of the licence agreement to a new landholder when a property is sold.

Structure owners will be required to pay the applicable fees prior to the completion of the licensing process.

PROPOSED LICENSING FEES FOR PRIVATE WATERWAY STRUCTURES		
FEE TYPE	AMOUNT incl GST	WHEN PAYABLE
Application (new) and Licence Transfer Fee (change in ownership)	\$132	Upon application or request to transfer licence to new owner. Application fees will not be applied to licences for existing approved structures (fees apply upon property transfer).
Licence Fee (per year)	\$220	Upon issue or renewal of a licence.

What do I need to do?

If you have a waterway structure to which the draft policy applies, you are not required to do anything at this stage. However, you may wish to make a submission to the draft policy which will be considered by the elected Council following the conclusion of the public exhibition period.

After the conclusion of the exhibition period, the elected Council will receive a further report regarding submissions received during the public exhibition. If the policy is adopted by the elected Council, Council staff will be in contact regarding the formalisation of approvals and tenure through the licensing process.

Draft Policy enquiries

Simon Scott, Strategic and Community Facilities Group
Ph: 6686 1432
email: simons@ballina.nsw.gov.au

Make a Submission

mail to: The General Manager
Ballina Shire Council
RE: Submission on Draft Policy - Private Structures within Council Owned (Public) Waterways
PO Box 450
BALLINA NSW 2478

email: council@ballina.nsw.gov.au

online: ballina.nsw.gov.au

submissions close: Friday 27 May 2016





GJ & AN Potter
PO Box 8023
WEST BALLINA 2478
28 April 2016

Ballina Shire Council
PO Box 450
BALLINA 2478



ATTENTION: Simon Scott

RE:Draft Policy – Private Structures within Council owned Waterways

Dear Sir

We would like to lodge a very strong objection to the above Policy

We only purchased our property at 109 Riverside Drive in November 2015. We actually enquired direct at the Council Office to see if there was any fees etc . that had to be paid for our jetty/pontoon and we were told there was nothing and nothing in the near future.

Now within a very short period, only 5 months later, its seems this is not the case, We think this is outrageous.

Being pensioners we did not expect this extra expense.

Yours faithfully

GJ & AN Potter

Simon Scott

From: John Barry Beaver <johnbarrybeaver@yahoo.com.au>
Sent: Wednesday, 25 May 2016 5:28 PM
To: Ballina Shire Council
Subject: TRIM: Re: Draft Policy, Private Structures Within the Public Community Waterways.

HP TRIM Record Number: 16/40415

To Simon Scott, Strategic Planner.

My wife & I Strongly Against the Council Charging Licence Transfer Fees to a new owner, or paying a Licence Fee every year for having a Council Approved Pontoon attached to our property.

People living on the Ballina Quays, comprise of a lot of Retired Pensioners, living on fixes incomes. This imposing annual licence Fee & Transfer Fee, will provide Significant Hardships to these Residents.

The Councils responsibility, when originally the Ballina Quays were installed, was to maintain them on a 5 year schedule. We have been living on the Canal for the past 16 years & only to my knowledge they have been dredge twice in a half hearted manner, putting the run off sand etc back up on the bank. Instead of removing it to another area. The first heavy downfall it all runs back into the Canal.

It seem the Council needs to put up these Fees, to pay for all the updates on Ballina island, like we do not Exist in West Ballina, like the Shopping Arcades, proposed New lifts, Road updating, Tree planting, Bike footpaths, Car park, goes on & on.

When is the Council going to spend some of our money on West Ballina ? Pensioners, Children, People restricted to Wheel Chairs & Walking Sticks, Motor scooters, they have to walk on the streets day & night as there is no Foot Paths. There is going to be a serious accident as some drivers cut across on the wrong side on road on corners.

We are against imposing these extra fees on the West Ballina Quays as We are paying enough seeing what funds are spent in West Ballina

Yours Sincerely John & Julia Beaver. 3 Spinnaker Crescent, West Ballina Quays 2478

This email has been scanned by the Symantec Email Security.cloud service.

For more information please visit <http://scanmail.trustwave.com/?c=4991&d=-9PF16fudzoQjwY8G90JQ8Nihj9NoCbaofhxS0BvwA&u=http%3a%2f%2fwww%2esyanteccloud%2ecom>

Simon Scott
Strategic Planner
Ballina Shire Council

Peter & Denice Gallaway
64 Dolphin Dr
Ballina NSW
22nd April, 2016

Dear Simon

Re: Draft Policy - Private structures within Council owned (Public) Waterways

We would like to receive answers to the following questions.

1. How was the fee for my pontoon decided?
2. Will this fee remain the same?_____
3. Pontoons have been on Ballina Quays for nearly 30 years and Ballina Shire Council has always been responsible for The Quays. Why charge a fee now? We already pay higher rates than many other Ballina residents.
4. Will the money from the fees be put aside for future waterways upgrades or will it be placed in General Revenue?

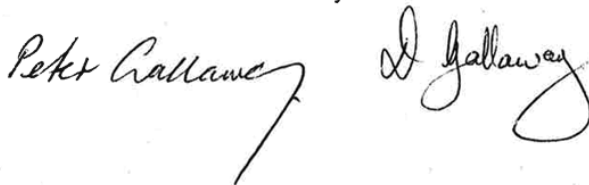
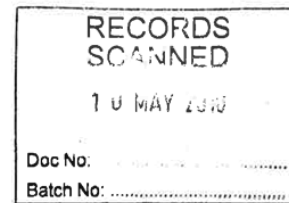
I must mention that the maintenance of Ballina Quays Waterways has been very ordinary in the past. Only 4 dredging attempts in almost 30 years.

- When first dredged in the 1990's a good job was done with a proper dredge.
- However, the next two efforts with a HiMack Digger have been a disaster. The gradient levels of the beach were destroyed. I have photos to show this. Acidic soil was dug up and dumped on the beach. Ramps were broken.
- The last dredging effort in 2015 showed some improvement, returning to the use of full dredging equipment.

When we purchased this block in 1988 we were informed correctly that Ballina Shire Council was responsible for regular waterways maintenance,

If we are going to be subjected to this licence fee we have every right to expect that this money is targeted to be used to maintain Ballina Quays a lot more professionally and regularly.

Yours Faithfully
Peter and Denice Gallaway

12/5/16

Simon Scott

Strategic Planner

Ballina Council

David Harmon

62 Dolphin Drive, Ballina

2478

This letter is in reference to a letter received from you regarding private structures in council waterways (16/22893)

Dear Scott

In reply to your letter and corresponding conversations I have had with you, the planning department and records department of Ballina Council I would like to raise with you the following points;

- As I discussed with you previously I informed you that we do have a boat ramp at our property. After searches with your planning department it was confirmed that council does not have records of the ramp. This does not mean approval was not sought for this ramp.

It is my understanding that prior to 1998 the process for approval of a boat ramp was not as formal as it is now and only required an approval letter. My neighbour built his house before our property was built in 1992 and confirms that our ramp was installed sometime between 1992 – 1994.

In conversation with your planning department they can confirm with google earth that the ramp was in place as far back as 2004. The planning department are unable to go back past this date. I purchased this property 3 years ago and had the property inspected by Council Building Inspector Neil Stone, who issued a Building certificate No: 2013/5, dated 7/2/13. Moreover, this certificate is a whole of building and included pontoon and jetty. I put to you that it should have also included the boat ramp.

I do not believe I should be required to seek retrospective approval for a boat ramp that is approximately 25 years old, most probably has had approval from council, and is still structurally sound and in very good condition.

- While I am not happy with council's proposal to register each pontoon and charge a fee, I accept the rationale in the proposal. What I cannot understand is why council requests a copy of our insurance policy to ensure we have public liability insurance. I am firstly unsure if this request is within council's scope of power, and secondly if as a land owner and rate payer I am legally obligated to supply such information

Sincerely

David Harmon

5

113 Riverside Dve
Ballina NSW 2478
13th May 2016The General Manager Ballina Shire Council
PO Box 450
Ballina NSW 2478

Dear Sir

Re: Draft Policy – Private Structures Within Council Owned (Public) Waterways

We are **Strongly Against Any** motion by Council to implement Licensing Fees for our Council Approved pontoon.

We have **already** paid Council for the 'privilege' of having our pontoon attached to our property. Without this fee, we would not have been allocated our Ballina Shire Council Development Application Approval.

The purpose of Council is to reflect the Community wishes and to provide and maintain Community Infrastructure. When Council proposed to reclassify the waterway from "Community Land" to "Operational Land", there was considerable community opposition. Council chose to **ignore** the Community. At this time, Council representatives also stated that the reclassification would **NOT** mean Council would/could implement ongoing charges. This Draft Policy shows that Council has **mised** the community and that we were correct to be concerned about the reclassification.

At this time Council cited Legal advice as to the reason for the reclassification. Council **refused** to provide the legal advice for public scrutiny.

A retired Magistrate, a current Magistrate and a local Solicitor, along with all residents affected, all advised Council that the reclassification was **NOT** legally required and was against the wishes of the Community. Clearly Council had an ulterior agenda when forcing through this reclassification, choosing to mislead the Community and ignore Community wishes.

The integrity and credibility of Council has been severely eroded.

The Ballina Quays community are largely comprised of retirees who are living on a restrictive fixed income. Contrary to Council opinion we are **NOT** all wealthy people who Council can use as Cash Cows to supplement Council expenses at Council's whim.

In 2015 Council received approval for a significant increase in rates above CPI. This increased burden on ratepayers which has now raised our rates permanently, along with increases to all other Council service charges, will provide significant hardship to many residents. The impost of an annual licence fee for an **Already Approved** Pontoon is extremely upsetting and obvious double-dipping.

If Council is seriously concerned about the integrity of the structures, Council could simply utilise the expertise of one of its existing Engineers to conduct occasional audits of each structure. A compliance letter could then be sent to the landowner outlining the required improvements to the structure. This would be funded from our **current** increased rates. Clearly Council's proposed annual licence fee is **NOT** designed to ensure the integrity of the structure, but merely to be a revenue generating mechanism.

We have always paid our rates promptly and yet over the 28 years we have owned our property, Council, to its shame, has continually sought to avoid its responsibility to Ballina Quays ratepayers. Canal maintenance has **NEVER** been undertaken by Council in a timely manner, without the necessity for significant input from residents, even when Council finally included the maintenance of the canals on its maintenance schedule, with a 5 yearly timeline.

Council has significantly increased rates for all Ballina Shire ratepayers. It would be appropriate for some of that money to be utilised to maintain the canals properly and in a timely manner. They are Community property and available for all to access. We already pay high rates which have recently been significantly increased. There was no need for Council to reclassify the waterway. We have already paid Council for the 'privilege' of placing a pontoon adjacent to our property. Clearly there is **NO NEED OR JUSTIFICATION** for a new licensing fee.

Again, we **STRONGLY OPPOSE** this proposal for an annual licensing fee.

Yours sincerely
Pam & Brian Maxwell

RE. DRAFT POLICY – PRIVATE STRUCTURES WITHIN COUNCIL OWNED (PUBLIC)
WATERWAYS.

Dear Sir,

I am writing to strongly object to the proposed increase for an annual licensing fee.

We here in Ballina Quays seem to be the willing goose who lays the golden egg for Ballina Shire Council. We are constantly slugged extra fees / rates for the privilege of living in this area. I really feel we are subsidising the rest of Ballina Shire with the "extra" charges we so far have willingly paid. We get no more than other rate payers – probably less pro rata for our rate money. Council have promised to keep the canals well maintained as well as dredging every 5 years. When was the last time the canals were dredged? I never see any council workers checking the waterways, nor do they tend the area where our pontoons are located. The water is dirty & smelly – I used to swim in the canal. Not any more now for several years because of the unhygienic condition of the water.

This is public property. To which the public can enjoy at any time. While we have the responsibility of Insuring the structure – an extra expense for property holders.

We paid for our DEVELOPMENT APPLICATION for this pontoon in May 2004 when Council inspected the structure – File No. DA 2004/ 1033 - signed by Mr. R.A.Willis. Is Council now telling me this is all "null & void" by today's standards.

We are not the goose that lays the golden egg / eggs for Ballina Shire Council we would like to see more improved conditions for our money as well.

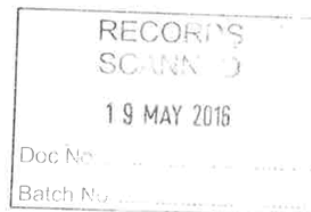
Yours sincerely,

D. Saines

Dorothy Saines

48 Dolphin Drive, West Ballina

18/5/2016



Simon Scott

From: Colin Paull <stoverepairs@bigpond.com>
Sent: Saturday, 21 May 2016 4:54 PM
To: Simon Scott
Subject: TRIM: Private Structures _ Council Waterways (16/22893)

HP TRIM Record Number: 16/39206

Attention Simon Scott.

With reference to your recent communication on the above subject, I wish to make the following comments;

1. Your letter infers that I have an approved Jetty/pontoon associated with my property. I have been a resident in this property for 12 1/2 years and never at any time have I had such a structure as part of my property.
2. In 2014 when the so-called "Community Land" was re-categorised as "Operational Land", the ratepayers concerned were assured that this re-categorisation was not a method for the Ballina Council to levy additional fees on the residents who already pay higher rates than other non canal front residents. This current Draft Policy issue, in my opinion is a blatant disregard for this assertion.
3. If I did happen to have one of the structures you refer to, would the "fee" associated with the draft policy be used to maintain my said structure by Ballina Council? If not, what service if any is being provided by this fee? A majority of the structures in the canals were in place without incident well before the "Council" decided to go down the path of "Operational Land", most having had to pay a "Development Application Fee" before installation of said structure.

If it is not already obvious from my above comments I feel these additional "fees" are totally uncalled for.

Yours faithfully,
Colin Paull
P.O. Box 137
Ballina NSW 2478
Australia.
P. 0409 251 820
E. stoverepairs@bigpond.com

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>



Simon Scott

From: council@ballina.nsw.gov.au
Sent: Friday, 27 May 2016 7:24 AM
Subject: New response for survey 'Feedback for Documents on Exhibition'

GENERAL RESPONSE INFORMATION

Response Start Time: 5/27/2016 7:03:18 AM Response End Time: 5/27/2016 7:23:41 AM IP Address: 1.178.26.194
Completed Survey: Yes
Respondent: Anonymous

SURVEY RESPONSES

1. Name of exhibited document you want to make comment on.
Private Structures within Council Owned (Public) Waterways (Draft Policy)
2. Your name (anonymous submissions may be disregarded by Council) Thomas Bowers
3. Phone number (optional)
02 6681 5653
4. Email (confirmation of your email address is required to provide feedback from Council) Tom@B-E.Biz
5. Having read the document, is it easy to read and understand?
No. The document is littered with ambiguities, implies that ramps that are on privately owned land are actually on publicly owned land, fails to provide justifications for the need to license the structures or link that real costs of doing so with the proposed charges and / or fees. Furthermore it completely disregards the previous agreements made by Council with respect to there being no fees or charges for the structures as well as proposing a retroactive imposition on those who have made the decision to install structures based on the fact that they were told by council that there are no annual or licensing fees. There is no reference to any legal background work done by Council to confirm that the proposal is legal and will withstand legal challenge by those affected.
6. Please provide any suggestions for improvement.
Scrap the idea would be a good start. It is obviously a blatant money grab by Council to target those living on the canals, many of which are elderly, frail, pensioners and those living on fixed incomes who will be severely impacted by such an exorbitant fee, which would be in addition to their already inflated cost of rates for amenities that they do not use, such as the \$11M swimming pool upgrades. If the Council is of the belief that all ratepayers should absorb the cost of the swimming pool upgrades than why doesn't the same logic apply to any perceived need to review the insurances of structures?
7. Do you support the overall objectives and content of the document?
Emphatically not. Likewise I would oppose all retrospective measures that penalise people who have acted in good faith at the time of their decision(s), such as those who installed pontoons or boat ramps with the belief and assurances that there would be no ongoing government fees for their use. If any such measures would be imposed, they should be imposed offering grandfathering for those with existing structures.
8. Please provide further comments if you wish.
Please feel free to contact me to discuss. Many of the property owners are very angry about this proposal but too ill or frail to write to Council directly.
9. If you wish your feedback to remain confidential please provide reasons for this.

RE: – Private Structures Within Council Owned (Public) Waterways

Dear Sir,

My wife and I live and own our canal frontage property at 50 Dolphin Drive
West Ballina.

The council's letter dated 31st March, 2016 re draft policy – private structures
Within council owned (public) waterways (16 / 22893) we strongly object to
the council's proposal to impose an annual licence fee for an already approved
Pontoon.

We pay high council rates in this area which should be adequate to cover our
Council approved pontoon and maintenance.

There is no need for a new licensing fee at any time to be imposed. The canals
are a community property and are available to all to access and are an asset to
Ballina council and should be maintained regularly by Ballina council.

Again we strongly oppose the proposal for an annual licensing fee.

Yours sincerely

Shirley & William Malcolm.

W Malcolm
S Malcolm
20th May 2016

Simon Scott

From: John Barry Beaver <johnbarrybeaver@yahoo.com.au>
Sent: Wednesday, 25 May 2016 5:28 PM
Subject: Re: Draft Policy, Private Structures Within the Public Community Waterways.

To Simon Scott, Strategic Planner.

My wife & I Strongly Against the Council Charging Licence Transfer Fees to a new owner, or paying a Licence Fee every year for having a Council Approved Pontoon attached to our property.

People living on the Ballina Quays, comprise of a lot of Retired Pensioners, living on fixed incomes. This imposing annual licence fee & transfer fee, will provide significant hardships to these residents.

The Council's responsibility, when originally the Ballina Quays were installed, was to maintain them on a 5 year schedule. We have been living on the Canal for the past 16 years & only to my knowledge they have been dredged twice in a half-hearted manner, putting the run-off sand etc back up on the bank. Instead of removing it to another area. The first heavy downfall it all runs back into the Canal.

It seems the Council needs to put up these fees, to pay for all the updates on Ballina Island, like we do not exist in West Ballina, like the Shopping Arcades, proposed new lifts, road updating, tree planting, bike footpaths, car park, goes on & on.

When is the Council going to spend some of our money on West Ballina? Pensioners, children, people restricted to wheelchairs & walking sticks, motor scooters, they have to walk on the streets day & night as there is no footpaths. There is going to be a serious accident as some drivers cut across on the wrong side on road on corners.

We are against imposing these extra fees on the West Ballina Quays as we are paying enough seeing what funds are spent in West Ballina

Yours sincerely John & Julia Beaver. 3 Spinnaker Crescent, West Ballina Quays 2478

This email has been scanned by the Symantec Email Security.cloud service.

For more information please visit <http://scanmail.trustwave.com/?c=4991&d=-9PF16fudz0QjwY8G90JQ8Nihj9NoCbaofhx50BvwA&u=http%3a%2f%2fwww%2esyanteccloud%2ecom>

11
(1/3)

The General Manager
Ballina Shire Council
PO Box 450
BALLINA
NSW 2478

R W Jemison
8 Sirius Place
BALLINA
NSW 2478

Subject: Submission on Draft Policy – Private Structures within Council Owned Public Waterways.

Dear Sir,

I have read the document sent to me on the above matter and I enclose a copy of the letter I gave to Council on 03/11/13. My position hasn't changed. At the time I knew this was just a grab for more taxes and this has proved to be the case. I was unable to attend the public meeting as I was interstate at the time, but I understood certain assurances were given that this was not a tax grab but merely an administrative change.

I ask you what is the money raised by this tax to be used for? If it is to be used to benefit those paying the tax what are those benefits? If it is going to be used for the benefit of all in the Ballina Shire then everyone should be paying the tax.

I have forwarded a copy of my correspondence to the Minister for local Government. I don't believe that imposing new taxes such as this were in the platform of any elected representative that I am aware of.

Yours Sincerely


Robert W Jemison

11
(2/3)

Lachlan Sims
Strategic Planner
Ballina Shire Council
40 Cherry st
Ballina 2478

Subject: Planning Proposal BSCPP13/008
Reclassification of Council Owned Waterways

03/11/13

Dear Sir,

Thank you for your letter of 9th October advising me of the Councils intentions on this matter. The reclassification seems to be of no benefit to the residents of the Quays and would only be of benefit to the Council in that once the rules change they may be able to put charges and levies on the residents which they cannot now do.

I would not support any change to the status quo unless the Council in general meeting pass a motion to the effect that the residents of the Quays will never be the subject of any future levies or charges which they currently do not pay and that whatever rights they currently hold are preserved.

When the developer of the Estate negotiated for planning permission, the Council would have received payment and the developer would have been committed to pay for roads, sewerage, electricity, open spaces and a host of other things. These costs would have been passed by the developer to me and other residents of the Quays when we purchased our property. In consideration of the payments received by the Council, the Council would have assumed certain obligations-for example dredging the canals. Any future cost impositions put on the residents by Council means we are paying twice.

I look forward to hearing you putting forward your case at the meeting.

Yours Sincerely



R W Jemison

(11)
(3/3)

The Hon Paul Toole MP
Minister for Local Government
A Level 17 NE
52 Martin Place,
SYDNEY NSW 2000

R W Jemison
8 Sirius Place
BALLINA
NSW 2478

Subject: New Taxes

22/05/16

Dear Minister,

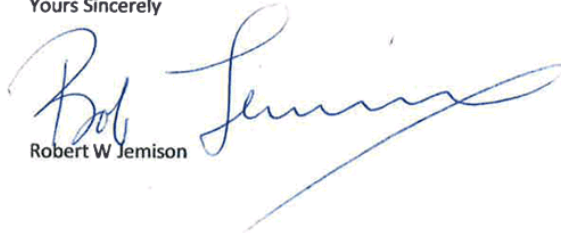
The Ballina Council have plotted an underhand way of imposing more taxes.

The back ground is available in the attached correspondence.

I trust that you will use your powers to instruct the Council to get more efficient in other ways to save money if they wish to balance their budget and not impose a tax on residents who have already paid a levy to Council for the capital investment the Council now wants to tax. Sound like another version of Mrs Thatcher's Poll tax. This new tax was not raised by any candidate at the last round of Council elections and should be delayed at least until the new elections have been held and voters can see who is for more taxes and who is not.

I am looking for your assistance in this matter.

Yours Sincerely


Robert W Jemison

86 Temple Street
Ballina NSW 2478
Mobile: 0413 485 550
27th May, 2016

The General Manager
Ballina Shire Council

RE: **Submission on Draft Policy-Private Structures within Council Owned (Public) Waterways**

Dear Sir,

The reclassification of my land to "Operational Land" subject to "Licensing Fees" is a major concern and will lead to future counter claims concerning the retrospective of the annual charges. The proposed Licence Fee is a further financial burden that was not envisaged when the approved boat ramp was installed.

I would not have continued with the ramp had I known that an annual fee was to be charged in the future.

Our fees for waterfront properties are charged at a premium. These increased fees have not resulted in any improvement in either the quality of the water or surrounds of the lake. Is there specific uses that these increased fees will be used for, or does the increased rates/fees just go into general revenue?


The partial dredging of the lake that had been done in the past is now a non-event. I have previously complained about a partial fence around a major stormwater outlet to the lake that is in need of repair to no avail. No improvements have been made to the foreshore whatsoever. A program of annual regeneration would need to be documented before I would agree to any increase in fees. This does not sit well with to quote your April 2016 document [waterways, information for Ballina Shire Residents] stating that changes are to be made "In order to properly manage the private occupation of (now) Council owned (Public) waterways...."

There are residents on the lake that do not have either a pontoon or ramp that regularly launch their craft, will they be charged a rate/fee as well.

I feel by further increasing the annual "rates" on my property its resale value will be diminished. I stress that if these increased annual charges had been in place when the ramp was approved prior to installation I would not have proceeded. Unlike those owners of existing pontoons I have no option to removed the structure.

Finally there was no mention of any changes to the rate/fee structure in the preliminary letter to residents sent out on 9 October 2013 (BSCPP 13/008). The retrospectivity of this increased fee is a serious concern. I wish to have the issues I have raised addressed before any changes are made to my annual rates. The possibility of 'grandfathering' these proposed changes will give any future landowners a chance to make an informed decision regarding applications to council. I did not have the chance to make an informed decision.

Yours sincerely,



Barry John Rodger

Simon Scott

From: Steve Barnier
Sent: Monday, 30 May 2016 1:27 PM
To: Simon Scott
Cc: Matthew Wood
Subject: TRIM: FW: Draft Policy -Private Structures within Councilowned (Public) Waterways

HP TRIM Record Number: 16/41329

Simon, please ensure that Mr Crandon's issues/suggestions are appropriately canvassed in our reporting to the Council.
Ta, SJB.

From: Richard Crandon [<mailto:crandon612@gmail.com>]
Sent: Monday, 30 May 2016 8:39 AM
To: Steve Barnier
Subject: Draft Policy -Private Structures within Councilowned (Public) Waterways

Steve,

I refer to my phone call to you last Friday 27th May 2016 - re the above,

I expressed my main concern that Council was proceeding with this Draft Policy without the implementation of a Plan of Management (POM) to control the administration of the future maintenance and funding of the waterways.

I have had a number of neighbours also raise their concerns as to where this Draft Policy is leading to, regarding tenure , licensing, future dredging costs , maintenance of foreshore , control of structures , insurances of private structures.

The general understanding that now that Council has full control from the reclassification of the waterways ,they will be exposed to additional charges & fees that can be charged by Council in its plea to raise revenue against waterway costs..

In the past Council has obtained additional rated monies from the hype in property valuations with waterfrontage - averaging \$300 per property

To soften this blow, I recommend to you to make public Council's POM for the Waterways, so that concerned Ratepayers to read and fully digest.

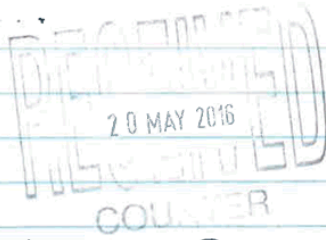
Also all monies raised by Council from this rate hype and new charges be held in a Special Working Account to fund the future works & maintenance of the Waterways.

This would ensure all monies raised would not be lost in consolidated revenue.

Steve, I appreciate your patience with me on this matter , I am prepared to disgust this further with you or Council if you desire.

Regards,

(14)



CB JB HAALF
59 Dolphin Dr
Ballina 2478
18/5/16

Attention Simon Scott
Strategic Planner.

Regarding:- Recent Letter 31/3/16
Private Structures Waterways

We have both Jetty Pontoon & Boat Ramp which were all approved by council to previous owners K L & T B IRVINE when building this house in 1989/90 for which was stated there would be no more charges to these & council would maintain & dredge every 5 yrs.

Due to Recent dredging our boat ramp has broken in 4 pieces the bottom piece is slipping into the canal due to the dredging not being done properly at this address. At the completion of the dredge we rang you regarding "Where the dredge was" your answer "It has been completed"

The dredge had removed large holes of sand from 61 Dolphin Dr that is beside one side of our ramp but in their "wisdom" had not done our pontoon or other side of our ramp, due to the fact



7 June 2016

Ballina Shire Council
Att: General Manager
PO Box 450
BALLINA NSW 2478

Public Sector
Jardine Lloyd Thompson Pty Ltd
ABN 69 009 098 864
Level 11, 66 Clarence Street
Sydney NSW 2000
PO Box H25, Australia Square
Sydney NSW 1215
Tel +61 2 9320 2700
www.jlta.com.au

Dear Paul,

Resident Pontoons, Boat Ramps and Jetties adjoining Council Property and Waterways

Jardine Lloyd Thompson Pty Ltd are appointed insurance brokers to Ballina Shire Council and are responsible for arranging and managing insurances and Scheme covers held by Council.

Ballina Shire Council is a Member of Statewide Mutual Liability Scheme (the Scheme). The Scheme only covers its Members legal liability for causing personal injury and property damage to third parties that is due to Council's negligence arising from Council's business activities, and subject to the full terms and conditions of the Scheme. There is no cover available under the Scheme for residents or any other party constructing a structure on Council Property.

Jardine Lloyd Thompson recommends that Council informs as part of any approval process that any person, or business constructing any structure on Council's property including waterways for which Council is responsible to hold their own Public Liability Insurances covering the residents legal liability for the construction, ownership and use of private pontoons, jetties, boat ramps and the like where such erected structure adjoins Council land and/or Council controlled waterways. Such insurances should include Council as an interested party for its respective rights and interests.

JLT is aware that there are insurers with the ability to cover residents with this particular risk, and residents should contact their insurers to discuss Council's requirements, or alternatively seek the advice of an insurance advisor to assist with managing their needs.

We trust that this explains the situation, however should you have any queries please do not hesitate to telephone the writer on (02) 6639 1707.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Adam Hellier', is positioned above the typed name.

Adam Hellier
Account Manager

POLICY NAME: PRIVATE STRUCTURES WITHIN
COUNCIL OWNED WATERWAYS

POLICY REF:

MEETING ADOPTED: Resolution No.

POLICY HISTORY:



TABLE OF CONTENTS

OBJECTIVES	1
BACKGROUND	1
DEFINITIONS	1
SCOPE OF POLICY	2
LAND TO WHICH THIS POLICY APPLIES	2
RELATED DOCUMENTATION	2
POLICY	2
REVIEW	5

14/33187

9.4 Policy (New) - Private Structures - Council Owned Waterways.DOC

OBJECTIVES

The objectives of this policy are to

- Enable the use and occupation of Council owned waterways for private boating structures,
- Address adequately Council's liability in relation to private structures within waterways under Council's ownership,
- Provide transparency and clarity in relation to the approval and licencing requirements for private waterway structures on Council owned land,
- Establish guidelines and parameters in relation to the installation and construction requirements for waterway structures,
- Maintain the function and public accessibility of Council owned waterways, and,
- Recognise the private occupation of public land in Council owned waterways.

BACKGROUND

Council owns the freehold title to the following water bodies:

- Ballina Quays Canals (Lot 63 DP 263861 & Lot 132 DP 775228)
- Banyanda Lake (Lot 50 DP 259593)
- Endeavour Lake (Lot 72 DP 778628)

The bed (and, in the case of Endeavour Lake, the shoreline) of these waterways is owned by Council and classified as operational land in accordance with the *Local Government Act 1993*. One of the functions of these waterways is to enable adjoining properties to benefit from direct waterway access. Among these benefits are the options for adjoining owners to place private structures such as boat ramps, jetties and pontoons within the waterway.

The purpose of this policy is to establish and clarify the Council's regulatory framework where waterway structures occupy or are placed over Council owned land.

The waters to which this policy applies are navigable waterways for the purpose of the *Marine Safety Act 1998*. Consequently, the navigation of these waterways is subject to relevant State and Federal legislation governing the registration and operation of marine vessels.

DEFINITIONS

Adjoining landowner means the owner of the private land which directly adjoins a Council owned waterway (e.g. the owner of a waterfront property).

9.4 Policy (New) - Private Structures - Council Owned Waterways.DOC

Benefiting landowner means an adjoining landowner who benefits from an approval and authorisation by Council to place private waterway structures within a Council owned waterway.

Boat ramp means an inclined ramp structure constructed for the purpose of accessing the waterway and extending into the waterway from an adjoining property

Council owned waterway means, for the purposes of this policy, the land comprising the bed and foreshore area (where applicable) of the Ballina Quays Canals (Lot 63 DP 263861 and Lot 132 DP 775228), Banyanda Lake (Lot 50 DP 259593) and Endeavour Lake (Lot 72 DP 778628).

Jetty means a structure extending into the waterway generally perpendicular to the shoreline to enable access to boats and other water vessels.

Pontoon means a floating platform structure connected to the shore by a gangway or ramp for the primary purpose of accessing boats and other water vessels.

Slipway means a structure, generally 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 manual or powered winch, a block and tackle or the like.

Waterway structure means a boat ramp, jetty, pontoon, slipway or permanent mooring for private use, occupation and benefit.

SCOPE OF POLICY

This policy applies to:

- Council employees
- Community members
- Corporate entities

LAND TO WHICH THIS POLICY APPLIES

This policy applies to Council owned waterways.

RELATED DOCUMENTATION

Related documents, policies and legislation:

- *Environmental Planning and Assessment Act 1979*
- *Local Government Act 1993*
- Application Form – Installation/Transfer of Private Waterway Structures
- Streamlined Assessment Procedures for Retaining Walls, Boat Ramps and Pontoons in the Ballina Quays and Banyanda Estates
- Engineering Standards and Guidelines for Maritime Structures (NSW Maritime 2005).

POLICY

Council recognises the benefits provided to adjoining landowners through the provision of waterway structures that provide access to the greater Richmond River

9.4 Policy (New) - Private Structures - Council Owned Waterways.DOC

estuary system. Council also acknowledges that the placement of waterway structures is consistent with the purpose of the subject waterways.

This policy has been established to define and clarify Council's requirements for the placement of private waterway structures within a Council owned waterway. Council agrees in principle to the occupation of Council owned waterways for waterway structures subject to the benefiting landowner complying with the following requirements.

1. General requirements applicable to all waterway structures

- 1.1 The construction, installation and maintenance of waterway structures within Council owned waterways is to be undertaken in accordance with the provisions of this policy and relevant provisions of the Engineering Standards and Guidelines for Maritime Structures (NSW Maritime 2005), or other relevant superseding guidelines.
- 1.2 Landholders are to satisfy themselves that appropriate approvals have been obtained where required from the Road and Maritime Service under the provisions of the *Management of Waters and Waterside Lands Regulation-NSW* where such structures are located within 'navigable waters' under the terms of the Regulation.
- 1.3 When directed, waterway structures are to be removed (at no cost to Council) to permit maintenance activities within the waterway, or for any other reason.
- 1.3 It is the responsibility of the benefiting landowner (licencee) to maintain the waterway structure in a safe and tidy condition at all times.
- 1.4 A waterway structure must not be modified, extended or changed without the prior approval of Council.
- 1.5 Any alterations and/or additions to an existing authorised waterway structure must obtain the relevant approvals in accordance with the requirements of section 2 of this policy.
- 1.6 Provision is to be made for the access of Council and its servants or contractors across any structure erected/installed within the Council owned waterway.
- 1.7 The benefiting landowner is required to pay the annual licence fee (and application and transfer fees if applicable) for private waterway structures as determined by Council.
- 1.8 A licence issued by Council for a waterway structure may be cancelled at any time with notice in writing to the benefiting landowner in circumstances where:
 - a) the structure in the opinion of Council has become unsafe or presents a danger to boating or other property or to the general public,
 - b) the benefiting landowner (licensee) does not hold the insurance coverage requirements as specified in this policy, or
 - c) the Council considers it necessary for any other reason.

9.4 Policy (New) - Private Structures - Council Owned Waterways.DOC

1.9 The benefiting landowner must maintain a public liability policy of insurance in respect of any one occurrence of not less than \$20,000,000.00 in relation to liability for loss or damage to property and death of or injury to any person in any way connected to Council owned land the subject of the licence agreement. The insurance policy is to note the interests of Ballina Shire Council as the owner of the land.

1.10 Private waterway structures are not to be used for the permanent mooring of houseboats (or involve the residential occupation of boating vessels).

1.11 Private waterway structures are not to be used for commercial purposes, other than as approved in accordance with Council's Commercial Activities on Public Land Policy.

2. Requirements for installation of new waterway structures (including alterations and additions to existing structures)

2.1 Proposals for any new waterway structures or any alterations and additions to existing structures over or within Council owned land must satisfy the following requirements prior to construction or installation works commencing:

- a) An application including details (plans and specifications) of the proposed structure/s is to be submitted to Council for approval,
- b) The design and application documents for any proposed waterway structure are to comply with the requirements of Council's "Pontoon, Jetties and Boat Ramp Procedure" for waterway structures, and
- c) The documentation submitted with the application must be sufficient to satisfy any necessary approval requirements under the *Environmental Planning and Assessment Act 1979*.

2.2 Following the approval requirements in clause 2.1 and prior to the commencement of construction or installation works for any new, altered or additional structures within or over Council owned waterways, the benefiting landowner is to enter into a licence agreement with Council for the occupation of Council owned land.

3. Existing waterway structures with approval

3.1 Upon request by Council, adjoining landowners with existing waterway structures having development consent issued in accordance with the *Environmental Planning & Assessment Act 1979* or another appropriate approval from Council will be required to enter into a licence agreement for the occupation of Council owned land.

Written evidence of approval documentation is required.

4. Existing waterway structures without approval (transitional requirements)

- 4.1 Upon request by Council, adjoining landowners with existing waterway structures without written approval or consent from Council will be required to enter into a temporary licence agreement for the occupation of Council owned land.
- 4.2 Prior to the issue of a temporary licence agreement under clause 4.1, the benefiting landowner shall provide evidence satisfactory to Council that the private waterway structure/s:
- a) comply with Council's "Pontoons, Jetties and Boat Ramps Procedures", and
 - c) have been certified as structurally sound by a suitably qualified person.
- 4.3 A temporary licence agreement issued under clause 4.1 is non-renewable after 12 months and is non-transferable. After 12 months, the benefiting landowner must obtain approval under the *Environmental Planning and Assessment Act 1979*, as necessary, and to enter into a licence agreement with Council for the occupation of Council owned land, if their intention is to retain the structure.

5. Transfer of licences

- 5.1 Any licence agreement issued by Council for private waterway structures under sections 2 or 3 of this policy may be transferred to a new adjoining landowner upon written request to Council.
- 5.2 A request for transfer of licence agreement in clause 5.1 must be made in writing to Council and shall be accompanied by the required transfer fee.

6. Compliance

- 6.1 Failure to have structures appropriately approved and licence issued may result in Council undertaking compliance actions to have the structure removed, with any costs associated with such actions borne by the landholder.

REVIEW

The Private Structures within Council Owned Waterways Policy is to be reviewed every four years or as required.