
From: noreply=ballina.nsw.gov.au@mg.paperform.co on behalf of Ballina Shire Council <noreply@ballina.nsw.gov.au>
Sent: Thursday, 23 April 2020 8:37 PM
To: neilhar2@hotmail.com
Subject: Documents on Exhibition - Private Structures Within Council Owned Waterways Policy

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Feedback for Documents on Exhibition

Submitted At

2020-04-23 20:37:15

Name of exhibited document you want to make comment on.

Private Structures Within Council Owned Waterways Policy

Your Name

Neil Hargreaves

Phone Number

0413180508

Your email?

neilhar2@hotmail.com

Having read the document, is it easy to read and understand?

No

Please provide any suggestions for improvement.

Document can not be downloaded for viewing. Is that intentional.

Do you support the overall objectives and content of the document?

No

Please provide further comments if you wish.

I answered NO because I'm sure that they would not be supported

If you wish your feedback to remain confidential please provide reasons for this.

No

Do you need to attach something?

Waterways Policy Review.docx

I agree to Ballina Shire Council collecting my Name, Email, and Phone Number

I agree

Submission ID

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Waterways Policy Review- Submission.

QUALIFICATIONS TO MAKE THIS SUBMISSION:

While I am not a "qualified" engineer by experience I have held engineering positions that have given me wide engineering experience as follows.

1. Completed basic engineering training in the RAAF 1951-1953
2. Assisted with the design, construction and installation of an edible oils plant at a meatworks 1953.
3. Purchasing officer for Byron Whaling Co. during the construction of the Byron Bay Whaling station and had an active role in the installation of the plant and facilities including the jetty repairs following the cyclone that partially destroyed that jetty. 1953-4
4. Engineer in charge of the construction of a whaling station at Gt Barrier Is. New Zealand and the design and installation of the plant and buildings, including access ramps and associated marine facilities. 1954-6
5. Consulting Whaling Engineer to the Crown Prince of Tonga and to W.R. Carpenter & Co Fiji 1956-57
6. Part of the engineering team that designed and built fertiliser factories at Hemmant, Brisbane and at Mackay for Fertiliser Distributors and was Factory manager after the build. 1957-9

I have had considerable boating experience associated with these endeavours and have also owned pontoons at 3 separate locations. Runaway Bay, Paradise point and Clarence River. I have experience with cyclones and floods.

My first job was with a sand mining company that used dredging as the primary method of mineral sands extraction with my step father actively engaged in the actual dredging work. (The "sacred" waterhole at Evans Head was actually excavated by him as a dredge pond and left behind as a waterhole after the site was revegetated. FACT)

PONTOONS;

Without doubt the safest, most secure and generally accepted method of mooring a boat is attached to a pontoon that is firmly attached to pylons that are well built and sunk a considerable depth into the

waterway bed. This cannot be disputed as evidenced by most of the pontoon construction anywhere worldwide. Any advice I have received by the experts, those that do pontoon installation, suggest this. To suggest otherwise is wrong. Any review of policy should examine this closely.

The argument put forward by inexperienced council staff that it is not possible to maintain the canals because of these pylons is wrong. It relies on bad dredging practices in the past that have been abandoned. The fact that there are already many pontoons secured with pylons already means that dredging activities must allow for this to be taken into account.

Original Agreement between Council and the Developer:

1. All decisions made by council should be approved by landowners.
2. Any agreement that sets out the council responsibilities and landowner's rights should be consistent with 1.
3. The original agreement/licence was not drawn up after consultation with landholders or the developer. It was imposed by council without due consultation.

Rates and Levies;

1. It should be taken into account that general rates are levied on the land value and this is based on the price paid. That price paid includes the valuation of the canal facility. A portion of these rates should be allocated to canal maintenance.
2. Any additional levy or charge should take this into account.
3. There should be no charge for a boat ramp. These ramps are mainly constructed on shareholders property which extends into the canal. They require no maintenance cost born by council.

Water Quality.

1. Water quality should be monitored by council, possibly with the assistance of residents prepared to submit samples to council, on a regular basis.

2. The results should be made available to residents. (The canal is often used by children swimming or wading.)

Canal Profiles.

Council should set a target profile of the canal basin and outline a program to maintain that profile bearing in mind the original agreement between council and the developer.

It should be noted that sand pumped onto beaches fronting properties is washed back in to the canal in short time if heavy rain at a low tide is experienced.

Access to Private Land by Council Staff.

1. Council officers should respect the privacy of landowners at all times.
2. Should council staff require access they must give prior notice and introduce themselves on entry.
3. There should be a list of reasons for staff to enter this private property.
4. Staff should be subject to the laws of trespass without exception.

From: noreply=ballina.nsw.gov.au@mg.paperform.co on behalf of Ballina Shire Council
<noreply@ballina.nsw.gov.au>
Sent: Wednesday, 29 April 2020 10:01 AM
To: bhmaxwell@hotmail.com
Subject: Documents on Exhibition - Private Structures Within Council Owned Waterways Policy

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Feedback for Documents on Exhibition

Submitted At

2020-04-29 10:01:23

Name of exhibited document you want to make comment on.

Private Structures Within Council Owned Waterways Policy

Your Name

Brian & Pam Maxwell

Your email?

bhmaxwell@hotmail.com

Having read the document, is it easy to read and understand?

Yes

Please provide any suggestions for improvement.

We refer to item 1.9 in the draft policy for Private Structures within Council Owned Waterways. The item requires that the lessees insurance policy note the interests of BSC as the owners of the land and the policy be provided to Council with the signed license agreement.

We have contacted our insurance company and they have assured us that the pontoon is covered under our building insurance as it is attached to our property and public liability of \$20 million is included. However.... our insurance company DOES NOT have the facility in their system to include the Councils interest on the insurance policy document. Consequently this proposed clause CANNOT be met.

We are of the understanding that a number of other insurance companies are also unable to meet this clause.

Would you please reconsider this clause.

Do you support the overall objectives and content of the document?

Yes

I agree to Ballina Shire Council collecting my Name, Email, and Phone Number

I agree

Submission ID

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44 Quays Drive,
West Ballina. NSW 2478
16 April, 2000

Leanne Harding,
Coordinator Property
Commercial Services
Ballina Shire Council
P.O. Box 450,
Ballina. NSW 2478

Dear Leanne,

Re: Private Structures within Council Owned Waterways

Policy Review - Ref: 1843-03

We have received your letter of 6 April seeking public comment on the proposed policy and we have viewed the draft policy on your website and wish to make the following comments.

- 1/ We have an approved structure in excellent order and accept the need for licencing with a fee to cover your costs of inspection to ensure continued conformance but am concerned about the aspects of insurance. The canals are public waterways similar to public roads, public parks, drainage reserves within which there are approved structures. Why then does Councils blanket public insurance policy not cover pontoons, jetties and boat ramps which have been approved by Council as with other public property.
- 2/ If Council is unable to include waterway structures in their blanket public liability insurance then Under Clause 1.9 of your draft policy a benefitting land owner must be responsible for public liability insurance. Our current home and contents insurance covers structures such as pontoons, jetties and boat ramps for the appropriate amount. However in Clause 1.9a you wish Ballina Shire Council to be included as an interested party on the policy. Have you ever tried to get an insurance company to change their Product Disclosure Statement in this way?
It is unreasonable and expensive to expect we the landowner to take out a separate insurance policy with Council interest named when we have current appropriate insurance.
We request you delete Clause 1.9a from your policy.
- 3/ We also think that during the Covid -19 lockdown is an inappropriate time to seek public input on a draft policy when it is not possible to have a public meeting to discuss any issues.

We can be contacted on 0437 724 161 for discussion if required .

Your consideration of the above would be appreciated.

Regards,
Bruce & Joyce Waterson



Leanne Harding
Coordinator Property
Commercial Services
Ballina Shire Council
PO Box 450
Ballina NSW 2478

6 May 2020

Reference 1843-03

Dear Leanne

We agree and totally endorse the submission by Bruce and Joyce Waterson on the draft policy review of the private structures within Council Owned Waterways.

We have already been subjected to the impost of an annual fee as a result of Council taking over these waterways.

We feel that changing our insurance policy to nominate Council interest would result in an added cost to us by the insurance company to make this change.

It is totally unnecessary as our current insurance policy already covers structures and incidents to the sum of \$20M for public liability as required by Council.

We urge that Clause 1.9a be removed from your policy.

Yours truly,

Greg and Leonie Oliver
153 Riverside Drive
West Ballina 2478

Late submission to Policy Review – Private Structures within the Council Owned Waterways.

“A” Ward ZOOM Meeting 12 May 2020.

Comments from Rod Fayle, West Ballina Council Consultative Group
Policy Review – Private Structures within the Council Owned Waterways.

1. Thank you for including our Group in the review. Submissions closed 6 May 20. Are we allowed to ask how many submissions were received? Unfortunately, due to the Covid-19 constraints, we have not been able to have public or group meetings so residents may not have had their say. **Is it possible to extend the submission time?** I understand that council will be considering the revised policy on 28 May 2020.

2. **Issues**

Insurance: The issue most raised is the how the Council liability insurance issue should be addressed. The policy requires that specific items are to be included in landholders policies (1.9). Our Group members have approached our insurers who have had no interest in changing the existing policies as they already provide coverage for pontoon, jetties, ramps.... It has also been pointed out that this requirement is not consistent with other similar situations including where driveways cross council owned land, nature strip gardens, picnic facilities constructed by community groups on council land.

Council Obligations: The Group considered that the Policy should include statements covering Council’s obligations so that community members can see and more readily accept the need for the “Licence Agreement” that flows from the policy. This should include:

- Maintenance obligations e.g. dredging intervals
- Review intervals for policy and Licence Agreement including fees

The Group also considered the Licence Agreement should be part of the DA to avoid any misunderstanding of Council’s requirements at the DA stage. (2.2)

A further suggestion from the Group was that the yearly fee be added to the Rates notice and that any changes in the fee be subject to the same rules that apply to Rates.

Other Comments

- Design: some issues with the design requirements (2.1.c)
- Transfer of Licences and Payment: some issues (5.2)

Regards

Rod Fayle

12 May 2020

POLICY NAME: (REVIEW)
PRIVATE STRUCTURES WITHIN
COUNCIL OWNED WATERWAYS

POLICY REF: P02

MEETING ADOPTED: 28 July 2016
Resolution No. 280716/31

POLICY HISTORY: Reviewed 28 March 2020 adopted 28 May 2020
Resolution No.



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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.

POLICY

Council recognises the benefits provided to adjoining landowners through the provision of waterway structures that provide access to the greater Richmond River 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 Australian Standards for *Guidelines for the Design of Maritime Structures 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 (licensee) 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,
 - c) failure to pay the annual licence fee, or
 - d) the Council considers it necessary for any other reason.
- 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 Product Disclosure Statement (PDS) and Certificate of Currency is to:-
- a) be provided to Council with the signed Licence Agreement,
 - b) be maintained yearly and provided to Council upon request.
- 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) All waterways structures requirement Development Consent and a Construction Certificate (CC) to be issued prior to the commencement of works.

- b) Any waterways structures, which potentially affect or disturb any sea grass beds may require referral to the NSW Department of Primary Industries (DPI) for their comment/concurrence. In these instances, the proposal is regarded as Integrated Development under the Environmental Planning and Assessment Act (EPA) 1979 as amended. An integrated referral attracts additional NSW Government referral and Council administration fees.
- c) The design and application documents for any proposed waterway structure are to comply with the requirements of Council's Boat Ramp Standard Design and/or Pontoon Design Guideline.

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. Transfer of licences

4.1 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.

4.2 A request for transfer of licence agreement in clause 4.1 must be made in writing to Council and shall be accompanied by the required transfer fee.

5. Compliance

5.1 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.

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).

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.

Note: Retaining walls within the canal profile and located fully within the adjoining private property are not waterway structures for the purposes of this policy.

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*
- Licence 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).
- Boat Ramp Standard Design – Ballina Shire Council
- Pontoon Design Guideline

REVIEW

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

Note: *Review of this policy is to include a direct notification to landholders that have frontage to the Ballina Quays Canals, Banyanda Lake and Endeavour Lake to advise of the review process and provide the landholders with an opportunity to provide feedback in relation to the policy review.*