

## 7 FORESHORE AND WATERWAY DEVELOPMENT

This section applies to the following development uses proposed within the *foreshore area* (defined by LM LEP 2014), and contains Council's specific requirements for Foreshore and Waterway developments. Other requirements are contained in the relevant general development part (Parts 2 to 7) and/or Area Plans (Parts 10 to 12) of this DCP. Where a conflict exists between this section and the general development part of LM DCP 2014, this section prevails.

### Definitions:

**Foreshore area** – means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody.

**Foreshore development** – means a boatshed, jetty, slipway, boat ramp, in-ground swimming pool, inclinor, landscaping, barbeques or other similar structures within the *foreshore area*.

**Mean High Water Mark (MHWM)** - means the mean height of all tides above a reference datum. The mean high water of Lake Macquarie is approximately equal to + 0.1 metres on the Australian Height Datum and should be used for controls of this section.

### Objectives

- a. To protect the visual character and natural landscape of Lake Macquarie, by restricting the erection of buildings and structures at the Lake foreshore.
- b. To preserve natural foreshore vegetation in order to retain the visual character of Lake Macquarie.
- c. To maintain the stability of shorelines and to protect against erosion and siltation.
- d. To permit private development of foreshore land while maintaining foreshore public reserves and maintaining public access to the foreshore.
- e. To ensure that hazardous and liquid wastes are managed properly to avoid pollution risk to waterways or foreshore.

### Controls

- 1 All buildings and structures that are not foreshore development must be set back in accordance with the adopted foreshore building line.
- 2 Where the subject land does not have a foreshore building line and the subject land adjoins a foreshore reserve, development that is not foreshore development must be set back 6m from the boundary fronting the Lake. The setback to any side boundary adjoining a foreshore reserve must comply with the side setback provisions of the relevant section of this DCP.
- 3 Non-compliance with the foreshore building line will only be considered where the proposed development will provide greater compliance with the foreshore building line than existing buildings and structures, and those buildings or structures will be removed as part of the redevelopment. For public land, non-compliance with the foreshore building line will be considered where the development is in accordance with an adopted Plan of Management.
- 4 Foreshore development must be contained between the projected side boundaries of the land subject of the application.
- 5 A Visual Impact Statement must be prepared and submitted with all applications for foreshore development.
- 6 Domestic foreshore development is only permissible in conjunction with an existing approved dwelling.
- 7 Development uses other than those contained within this section of the DCP must not be developed in the foreshore area.
- 8 Foreshore development listed in Table 1 – Column 1 must not occur in the circumstances/ location identified by Table 1 – Column 2, except where the requirements of Table 1 – Column 3 are met.

**Table 1 - Foreshore Development**

Column 1 Development Type	Column 2 Locations Where Not Favoured	Column 3 Except Where
Domestic and Community Jetties, Boat Ramps, Slipways, Boatsheds and Pontoons	<ul style="list-style-type: none"> <li>• Land adjoining land identified for acquisition as a proposed Foreshore Public Reserve. Shown hatched on the LEP Maps.</li> <li>• Land to which SEPP 14 – Coastal Wetlands or SEPP 26 - Littoral Rainforests applies.</li> <li>• Land that is identified as an aquatic reserve or supporting significant aquatic flora and fauna, which is likely to be harmed by the construction or use of the development.</li> <li>• Land forming part of a designated fishing ground.</li> <li>• Land forming part of a navigation channel.</li> <li>• Land within any tidal tributary.</li> <li>• Land adjoining the waterway Dora Creek.</li> <li>• Land in a prominent position, such as a headland, point or other promontory.</li> </ul>	<ul style="list-style-type: none"> <li>• In tidal tributaries –the overall dimension of the domestic landing platform and/or pontoon, does not exceed 2.4 metres x 2.4 metres.</li> <li>• Adjacent to a Foreshore Public Reserve, the community jetty is demonstrated to have community benefit.</li> </ul>
Dredging	<ul style="list-style-type: none"> <li>• Anywhere in the Natural Waterways Zone.</li> </ul>	Necessary to maintain navigation channels and is carried out in accordance with the SEPP (Infrastructure) 2007.
Domestic foreshore stabilisation treatment including those below DHWM.	<ul style="list-style-type: none"> <li>• Any development that does not comply with defined foreshore stabilisation treatment limit lines.</li> </ul>	<p>Council is satisfied that:</p> <ul style="list-style-type: none"> <li>• the development is necessary to control landslip, active erosion of the foreshore and persistent or continuing inundation. (Refer to <i>Foreshore Stabilisation Rehabilitation Guidelines</i>, (LMCC 2006), or <i>Estuarine Creekbank Stabilisation and Rehabilitation Guidelines</i> (LMCC 2007).</li> <li>• the treatment results in rehabilitation of native lake foreshore vegetation.</li> </ul>
Domestic derricks, davits and boat hoists.	<ul style="list-style-type: none"> <li>• Anywhere in the Natural Waterways Zone.</li> </ul>	
Permanent, vessel and/or trolley parking and storage.	<ul style="list-style-type: none"> <li>• Anywhere in the Natural Waterways Zone and within 3 metres landward of the DHWM.</li> </ul>	
Signs	<ul style="list-style-type: none"> <li>• Anywhere in the Natural Waterways Zone.</li> </ul>	

### 7.1 DOMESTIC BOAT SHEDS

#### Objectives

- a. To maintain the visual amenity and character of the Lake Macquarie foreshore.

- b. To ensure that public access and safety is not adversely affected by the establishment of domestic boat sheds.

### **Controls**

- 1 The height of a boat shed must not be greater than three metres for a skillion roof or 3.5 metres with a gable or hip roof.
- 2 The area of a boat shed must not be greater than 36 square metres (typically 4 x 9 metres).
- 3 The side of the boat shed fronting the Lake must not exceed 4 metres.
- 4 A boat shed must not include washing and/ or cooking facilities, habitable rooms, or entertaining areas/ facilities.
- 5 A boat shed must not include storage of hazardous or liquid wastes.

## **7.2 JETTIES**

### **Objectives**

- a. To facilitate waterway recreation through jetty access to boats, where reasonable depth of water can be obtained without dredging.
- b. To maintain the visual character and natural landscape of Lake Macquarie by reducing the number of jetties within the Lake through the use of shared jetties where adjoining private residences are present.
- c. To mitigate adverse impacts of jetties on ecological processes and marine life.
- d. To ensure that jetties do not adversely affect the amenity of the Lake or its foreshore.

### **Controls**

- 1 To avoid the need to establish access rights on the properties Certificate of Title, private domestic jetties must be sited to enable the shared use from at least two adjoining properties i.e. positioned on the shared boundary.
- 2 Where a jetty (unshared) exists on an adjoining property, written evidence must be provided indicating why sharing of existing jetties is not feasible.
- 3 Documentation must be submitted, which demonstrates that the proposed development will not adversely affect Lake ecology or wildlife.
- 4 Jetties should be constructed of materials to maximise the passage of natural light through the structure to suit circumstances and orientation and should achieve at least 40% light penetration of decking.
- 5 The length of a jetty must be the shortest of:
  - i. The length necessary to achieve a water depth of 1.2 metres at the jetty end at the Indian Spring Low Water; or
  - ii. Thirty (30) metres into the Lake from the Mean High Water Mark.
- 6 In addition to Control 5, the applicant must demonstrate that a minimum water depth of 600mm over bare substratum and 900mm over sea grass will be maintained on three sides of the jetty end at the Indian Spring Low Water. If this cannot be met, a jetty is not appropriate for the location.
- 7 The width of the jetty is to be 1.2 metres with minor variations permitted.
- 8 The length of a jetty (L) or (T) end must be at least 2.4 metres but not more than 4.2 metres. The width of a jetty (L) or (T) end must not exceed 1.8 metres.
- 9 Prefabricated materials must be laid in such a way as to avoid creating a hazard for people using a wheelchair.
- 10 The finished surface of a domestic jetty must be at least 600 mm but not more than 750 mm above the mean high water level.
- 11 To minimise visual impact, no component of the jetty should protrude more than 300mm above the finished surface of a jetty. Any necessary protrusions must be positioned to mitigate risk to users.
- 12 Public access along the Lake foreshore must not to be impeded.

- 13 Jetties must not comprise solid fill structures or groynes in whole, or in part.
- 14 Installation, replacement or relocation of mooring poles associated with jetties must not be located within, or result in shadowing of, seagrass habitat.
- 15 Community jetties must be for the shared use of six or more properties, and must not be within 500 metres of another community jetty.
- 16 Community jetties must have frontage to a Foreshore Public Reserve or other suitable public access.
- 17 A written agreement must be submitted, which outlines use, insurance, and maintenance of shared jetties. Licence holders of a community jetty must provide documented evidence of a public risk insurance policy of at least \$10 million.

### **7.3 DOMESTIC BOAT LAUNCHING RAMPS**

#### ***Objectives***

- a. To mitigate the impact of domestic boat launching ramps on the integrity of local ecological processes.
- b. To maintain the visual amenity and character of the Lake Macquarie foreshore.
- c. To ensure that public access and safety is not adversely affected by the establishment of a domestic boat launching ramp.

#### ***Controls***

- 1 Domestic boat launching ramps must not be more than 5 metres long when measured from the Mean High Water Mark, and must not be more than 3 metres wide.
- 2 Domestic boat launching ramps must achieve a depth of at least 600 mm at Indian Spring Low Water.
- 3 Measures must be implemented to reduce the risk of slipping on the surface of a domestic boat launching ramp.
- 4 Domestic boat launching ramps must be unobtrusive and must minimise trip hazards and protruding components.
- 5 Domestic boat launching ramps should be positioned to minimise adverse impacts on ecological processes including mitigating the need to remove sea grasses.

### **7.4 DOMESTIC SLIPWAYS**

#### ***Objectives***

- a. To mitigate the impact of domestic slipways on the integrity of local ecological processes.
- b. To maintain the visual amenity and character of the Lake Macquarie foreshore.
- c. To ensure that public access and safety is not adversely affected by the establishment of a domestic slipway.

#### ***Controls***

- 1 The length of a slipway must be the lesser of:
  - i. The length necessary to achieve a water depth of 1.2 metres at Indian Spring Low Water;
  - ii. The length of the jetty to be used in conjunction with the slipway.
- 2 Slipways should not be more than 1.2 metres wide.
- 3 Slipways must achieve a depth of at least 600 mm at Indian Spring Low Water.
- 4 Measures must be implemented to reduce the risk of slipping on the surface of a slipway and associated structures.
- 5 Slipways should be unobtrusive and must mitigate trip hazards and protruding components. This should be achieved through recessing the rails to ground level where possible, or where in conjunction with a boat ramp, recessed into the boat ramp.

- 6 Slipways should be positioned to minimise adverse impacts on ecological processes including mitigating the need to harm sea grasses.

### 7.5 SWIMMING POOLS

#### *Objectives*

- a. To mitigate the visual impact of development on views from the Lake.
- b. To re-establish environmental integrity and foreshore vegetation, while also screening of foreshore development.

#### *Controls*

- 1 Swimming pools must be in-ground.
- 2 Swimming pools must be set back at least 7.2 metres from the Deed High Water Mark or from the lot boundary fronting the Lake where a foreshore reserve is present.
- 3 Swimming pools must be set back at least 1.2 metres from side boundaries.
- 4 The swimming pool or concourse must not exceed one metre above ground level (existing).
- 5 Pool safety fencing must be screened with native endemic foreshore vegetation to reduce its visual impact and to contribute towards re-establishing a native vegetated foreshore.
- 6 Landscaping must not provide climbing opportunities that may undermine the function of pool safety fencing.
- 7 Backwashing associated with cleaning the pool must be directed to the reticulated sewerage system or alternative disposal area as approved by Council.

### 7.6 FENCING

#### *Objectives*

- a. To mitigate the visual impact of fencing on views from the Lake through vegetation screening.
- b. To re-establish environmental integrity and foreshore vegetation, while also screening of foreshore development.

#### *Controls*

- 1 Fencing must not occur within six metres of the Deed High Water Mark.
- 2 Fencing in the area between the foreshore building line and 6 metres from the Deed High Water Mark must not exceed 1.2 metres.
- 3 Fencing must be screened with native endemic foreshore vegetation to reduce its visual impact and to contribute towards re-establishing a native vegetated foreshore.

### 7.7 FORESHORE STABILISATION

#### *Objectives*

- a. To ensure foreshore stabilisation works are designed and constructed to minimise environmental and visual impacts.
- b. To re-establish the environmental integrity of the Lake foreshore.

#### *Controls*

- 1 Domestic foreshore stabilisation treatment must only be used to control erosion or landslip, retain authorised reclamation fill and prevent inundation.
- 2 The design of foreshore stabilisation works must protect through natural absorption of incident wave energy by incorporating high structural porosity and permeability with an upper surface of low gradient sloping lake-ward. Soft treatments are the preferred option and suit most conditions in Lake Macquarie. It is unlikely that sea walls, groynes, break walls or the like would be required or approved to address erosion problems associated with private properties.
- 3 The design and construction standards must comply with Council's *Foreshore Stabilisation and Rehabilitation Guidelines*.

- 4 The domestic foreshore stabilisation treatment must be located wholly within private land above the Deed High Water Mark, except in locations where foreshore stabilisation treatment limit lines have been approved.

### 7.8 WASTE MANAGEMENT AT PUBLIC AND COMMERCIAL FACILITIES

#### *Objectives*

- a. To maximise opportunity for waste from boats or foreshore users to be collected separately for maximum resource recovery.
- b. To ensure that hazardous and liquid wastes are managed properly to avoid pollution risk to waterways or foreshore.

#### *Controls*

1. Waste management for Public and Commercial Facilities must comply with "Guidance to Meet Operational Controls - All Zones" in the Lake Macquarie Waste Management Guidelines, with the following modifications:
  - i. Bin type, sizes, numbers and collection frequency
    - a. Applications for boatshed, jetty, slipway, boat ramps and other developments that extend over the water that are for commercial or public use must provide a completed Demolition, Construction and Operational Waste Management Plan (WMP) of the development, in accordance with Lake Macquarie City Council Waste Management Guidelines. The Operational WMP must enable separate management of garbage, recyclables and problem waste (such as batteries, oils, paints and fishing line) generated by boats or foreshore users.
  - ii. Waste Storage
    - a. Where the development extends over the water at highest tide, the development must not include storage of hazardous or liquid wastes unless these are completely enclosed and bunded to prevent spills reaching the water.
    - b. If boat maintenance is part of the activities to be carried out at the facility, then the plan must also provide for scrap metal recycling, boat engine oil, other boating liquid chemicals, empty chemical drums, batteries and any other special or recyclable wastes to be separately collected and appropriately managed.
    - c. Recyclable and problem waste (such as batteries, oils, paints and fishing line) generated by boats or foreshore users, must be collected separately. This may include providing separate publicly accessible bins for garbage, recycling, food waste, soft plastics, fishing line and batteries, and back of house bins for oils and paints.
    - d. Waste storage areas should be designed to prevent access by rodents and insects with potential to be disease vectors.