

Preparing a water allocation area for tidal works in natural waterways

Guideline for coastal development

This document guides applicants in preparing water allocation area plans to support an application for owner's consent for tidal works on state tidal land in a natural waterway¹ for a private marine access structure (tidal works).

Overview

A property owner of land directly abutting tidal water (a waterfront property) has an assumed right of access to navigable water in the adjacent waterway. This access is based on the property frontage and configuration of the property boundaries and as a minimum is to be a corridor of 3m in width from the waterfront property to the navigable water, navigation corridor² or quay line (whichever is the furthest away from the shore). This right of access does not infer any right or entitlement to construct any marine access structure (jetty, pontoon, boat ramp etc.) on **state tidal land** to facilitate such access without first obtaining from the State:

- owner's consent for tidal works on State land below the high water mark³; and
- a development approval for operational work that is tidal works⁴.

The area of a waterway within which the state may allow a waterfront property owner to locate and construct a marine access structure (**prescribed tidal works**) is termed a water allocation area (WAA). A WAA is not a tenure nor does it confer a use right or exclusive use of the water area. The WAA is essentially a potential building envelope, showing where a structure may be located. It is an administrative tool used when assessing owner's consent applications to ensure that access rights of adjoining property owners are not prejudiced, private use of **state tidal land** is minimised and safe navigation is maintained. A WAA is only relevant to the subject development application and has no enduring effect. If a new development is proposed a new WAA must be prepared considering any changed conditions or requirements at the site.

Access to the shore for purposes including maintenance of works, dredging of the waterway, compliance and public use must also be maintained. To achieve this, a 3m corridor must be maintained between adjacent WAAs. Hence the WAA must be in most cases inset 1.5m from any **extended side boundary**.

If a property owner wants a marine access structure on **state tidal land** they are required to prepare a plan of the WAA and make an application to the State for owner's consent. The State may require changes to the WAA before owner's consent is granted or refuse owners consent.

The owner's consent is a requirement for a development application for the **tidal works**. A detailed assessment of the structure and its impact, including the mooring of vessels will be undertaken as part of the development assessment process. The assessment manager may also require changes to the WAA prior to granting a development approval which would require a revised owner's consent to be issued by the State.

A right to occupy and use **state tidal land** for a private marine access structure is provided by section 123 of the *Coastal Protection and Management Act 1995* (Coastal Act) when a development approval is granted.

¹ Natural waterways are Queensland waters excluding artificial waterways. Artificial waterways are defined in the *Coastal Protection and Management Act 1995*.

² The maritime safety mapping layers showing navigation corridors are publically available on the Department of State Development, Manufacturing, Infrastructure and Planning DA mapping system <https://planning.dsdmip.qld.gov.au/maps>.

³ The application form for Owner's consent is available from the Department of Environment and Science (DES) webpage <https://www.ehp.qld.gov.au/forms/coastal.html>

⁴ Application details are available from the Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) webpage <https://planning.dsdmip.qld.gov.au/planning/better-development/application-forms-and-templates>

A WAA is defined on a plan by distances, or bearings and distances from defined survey stations on existing real property boundaries.

A WAA may not be able to be determined or supported in all cases particularly where lot frontages are narrow or the WAA is constrained by tight bends in the waterway (**a constrained lot**).

Water allocation areas

How to define the location of a WAA

A WAA is a four sided polygon over tidal water and directly abuts the waterfront property lot. The four sides are:

- 1—the WAA land boundary which is the seaward property boundary of the lot
- 2—the WAA seaward boundary which is parallel or near parallel to the WAA land boundary
- 3 and 4—the WAA side boundaries joining the WAA land and WAA seaward boundaries.

Refer to **Attachments 1 and 2** for examples of a WAA.

The location and length of the boundaries of the WAA are determined by the following rules:

1. *The WAA land boundary*

- 1.1. The WAA land boundary aligns with the seaward property boundary of the lot. Where this is an ambulatory boundary, the boundary is determined by the rules for setting ambulatory boundaries.
- 1.2. The length of the WAA land boundary is defined by the location of the WAA side boundaries (refer point **3. The WAA side boundaries** below).

2. *The WAA seaward boundary*

- 2.1. The WAA seaward boundary location is determined by the following:

The maximum distance a WAA can extend seaward into the waterway is (whichever is the furthest away from the shore):

- a) the quay line, or
- b) the boundary of a navigation corridor defined by Maritime Safety Queensland (MSQ)⁵
- c) if a) and b) have not been set, the minimum distance necessary to obtain safe vessel operation, but
 - i. not past one-third the width of the navigable waterway (**high water mark** shoreline to **high water mark** shoreline); or
 - ii. not to a distance which would could make navigation of other vessels along the waterway unsafe⁶.

- 2.2. The length of the WAA seaward boundary is defined by the location of the WAA side boundaries (refer point **3. The WAA side boundaries** below).

3. *The WAA side boundaries*

- 3.1. The location of the WAA side boundaries are determined as follows:

- a) For boat ramps the WAA side boundary adjacent to the proposed boat ramp is the **extended side boundary** and inset 1.5m from the other **extended side boundary**, to the distance of the WAA seaward boundary.
- b) For marine access structures other than boat ramps: the WAA side boundary is inset 1.5m from the **extended side boundaries** of the lot to the distance of the WAA seaward boundary.

⁵ Under the State Development Assessment Provisions (SDAP) Fast Track Framework the combined proposed structure and vessel must be outside of the navigation corridor—refer to the SDAP State code 7: Maritime safety - Reference documents – *State Development Assessment Provisions supporting Information – Maritime Safety* (<https://planning.dsdmip.qld.gov.au/planning/better-development/the-development-assessment-process/the-states-role/state-development-assessment-provisions>)

⁶ Where necessary the advice of MSQ may need to be sought to define the WAA seaward boundaries.

- c) Where the subject lot or either adjacent lot is a **constrained lot** the length of the **constrained lot** seaward boundary must be increased to 3m by:
- i. moving the **extended side boundaries** from where they join the seaward boundary equally on both sides to achieve a 3m wide **access corridor**, without either reducing the neighbouring lots' **access corridor** to less than 3m or including neighbouring structures in the WAA; or
 - ii. if a lot adjacent to the subject lot is a **constrained lot**, moving the **extended side boundary** with the other adjacent lot where they join the seaward boundary to achieve a 3m **access corridor** for all lots, without either reducing the neighbouring lots **access corridor** to less than 3m or including neighbouring structures in the WAA;
 - iii. if the above rules are unable to achieve a 3m unimpeded **access corridor** for all lots then -
 - A. adjoining land owners may consider a combined WAA to allow for a shared marine access structure located on the common boundary while maintaining a common access of 3m to the quay line or navigation corridor (whichever is the furthest away from the shore); or
 - B. a WAA will not be supported for the lot and therefore owner's consent will not be provided; or
 - C. advice can be sought from DES on setting a WAA for the subject lot.
- d) As a final check, each adjacent property must have a 3m wide **access corridor** from the property to the navigation corridor or the quay line unimpeded by any proposed WAA or structure.
- 3.2.** The length of the WAA side boundaries are defined by the distance between WAA land boundary and the WAA seaward boundary.

Preparing a valid WAA plan

A WAA plan is required to show the boundary of the proposed WAA determined by rules 1 to 3 above and also needs to show as a minimum, clearly and accurately scaled, the following for 20m seaward and 20m on either side of the land lot:

- A. the lot description including lot on plan number and residential address of the waterfront property
- B. cadastral boundaries of all lots
- C. description of the land proposed for the WAA (e.g. name of the river)
- D. location of quay lines (if available) and navigation corridor⁷
- E. position of **high water mark**
- F. location and dimensions of the proposed tidal works
- G. location and dimensions of existing tidal works/prescribed tidal work
- H. distances, or bearings and distances from defined survey stations on existing real property boundaries for the boundaries of the WAA
- I. if the lot or lots on either side of the subject lot are **constrained lots** or would become **constrained lots** by moving the **extended side boundary**, show:

⁷ The maritime safety mapping layers showing navigation corridors are publicly available on the Department of State Development, Manufacturing, Infrastructure and Planning DA mapping system <https://planning.dsdmip.qld.gov.au/maps>.

- a. footprints of approved but not constructed **tidal works/prescribed tidal work**⁸
- b. the WAAs of properties on either side based on the rules 1 to 3 above.

Refer **Attachment 1**—Example of a water allocation area plan.

Refer **Attachment 2**—Example of a water allocation area plan for a **constrained lot**.

Neighbours and proposed WAA for constrained lots

Prior to making an application for owner's consent associated with a **constrained lot** it is recommended that you consult with your neighbours.

It is important the WAA proposed for your property does not impede your neighbours' ability to access the waterway from their property. Where an adjustment to the WAA side boundary is required to achieve a 3m access to the navigation corridor, it is recommended that you consult with your neighbours to ensure equitable access to the waterway.

The Department of Environment and Science (DES) can provide assistance in interpreting this guideline for **constrained lots**. Please email coastal.support@des.qld.gov.au.

Definitions

Access corridor means a 3m wide corridor from the landward boundary of a lot to navigable water (e.g. navigation corridor) to allow unimpeded access to the property from tidal water.

Constrained lot means a lot that has a distance between the **extended side boundaries** of 3m or less at the seaward boundary due to meanders or bends in the waterway or the position of the lot side boundaries.

Extended side boundary means a notional boundary worked out by extending a side boundary of a lot into tidal water in a continuing straight line.

High water mark is assumed to be the mean high water springs (MHWS) tidal plane and can be referenced in the MSQ tide tables for the current year.

Prescribed tidal work is defined in section 15 of the Coastal Protection and Management Regulation 2017.

State tidal land is defined in *Coastal Protection and Management Act 1995*.

Tidal works is defined in the *Coastal Protection and Management Act 1995*.

⁸ The local government for the area hold the records for all prescribed tidal work development approvals. DSDMIP hold the records of tidal works development approvals.

Further information

For further information/assistance with:

- **Owner's consent for tidal works in natural waterways** contact: DES Permit and Licence Management on 13 QGOV (13 74 68) or email palm@des.qld.gov.au or visit www.des.qld.gov.au
- **Navigation safety or waterways management** contact:
 - Local/regional council
 - Regional Harbour Masters: www.msq.qld.gov.au
 - Gold Coast Waterways Authority: mail@gcwa.qld.gov.au
- **Interpreting this guideline for constrained lots** email: coastal.support@des.qld.gov.au
- **Tidal works and prescribed tidal work application requirements** refer: DES guidelines — Purpose and use of the Code for assessable development that is prescribed tidal works and Building and engineering standards for tidal works⁹.

Disclaimer

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment and Science should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

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⁹ Guidelines available on the DES website <https://www.ehp.qld.gov.au/coastal/development/guidelines.html>

Attachment 1—Example of a water allocation area plan



