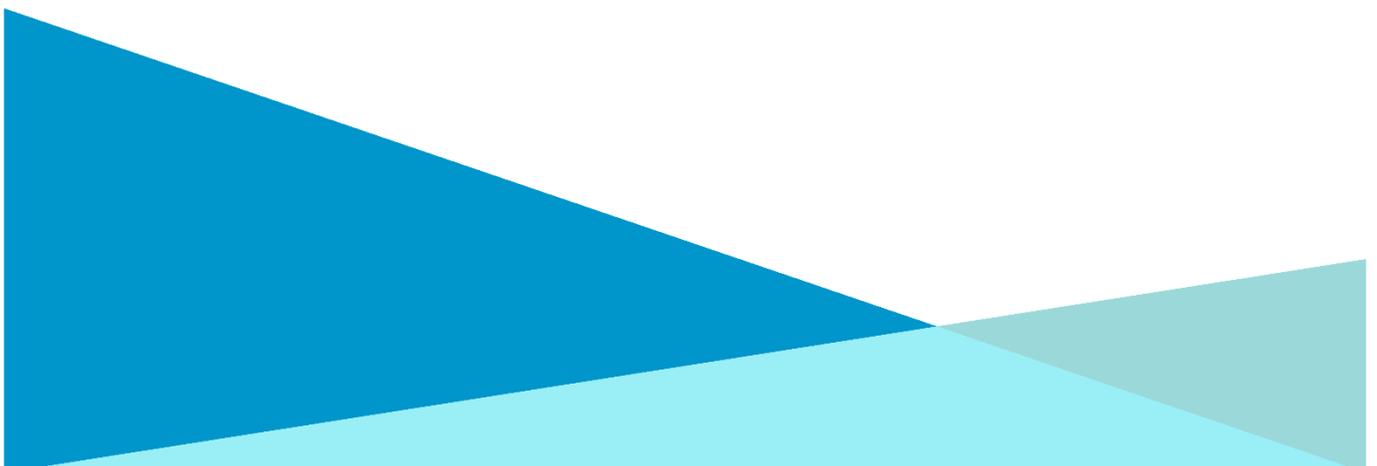




# **Development**

## **Reclamation of land under tidal waters**

**BOARD POLICY**



# Document control sheet

## Enquiries

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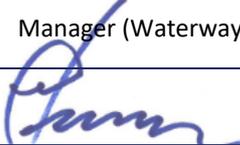
## Version history

Version No	Date	Changed by	Nature of change
1.0	22/06/20	Peter Kleinig	Final

## Document sign-off

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# Board Policy—Reclamation of land under tidal waters

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# 1.0 Introduction

The Gold Coast Waterways Authority (GCWA) was established in December 2012 by the *Gold Coast Waterways Authority Act 2012* (the **GCWA Act**) to:

- strategically plan for, promote and manage the sustainable use of **Gold Coast waterways**
- develop and deliver a program of community infrastructure and public realm works for the Spit master plan area.

The purposes of GCWA, as provided by the GCWA Act, are to:

- deliver the best possible management of Gold Coast waterways at reasonable cost to the community and government, while keeping government regulation to a minimum
- plan for and facilitate the development of Gold Coast waterways over the long term in a way that is sustainable and considers the impact of development on the environment
- improve and maintain navigational access to Gold Coast waterways
- develop and improve **public marine facilities** relating to Gold Coast waterways
- promote and manage the sustainable use of Gold Coast waterways for marine industries, tourism and recreation
- facilitate the implementation of the Spit master plan through the development and delivery of a program of community infrastructure and public realm works.<sup>1</sup>

To achieve these purposes, GCWA performs functions that give effect to the GCWA Act, including:

- developing—
  - a **Waterways Management Strategy**
  - a waterways management program
- ensuring the effective and efficient management of—
  - **water traffic**
  - public marine facilities
  - the use of Gold Coast waterways
- performing functions conferred on GCWA under other Acts, for example—
  - *Transport Infrastructure Act 1994*
  - *Transport Operations (Marine Pollution) Act 1995*
  - *Transport Operations (Marine Safety) Act 1994*
  - *Planning Act 2016* (the **Planning Act**).

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<sup>1</sup> *Gold Coast Waterways Authority Act 2012*, section 3

For the Planning Act, GCWA performs the function of referral agency for certain development in Gold Coast waterways, including:

- **tidal works**
- disposal of dredge spoil
- certain canal construction
- **reclamation of land under tidal waters.**

The Planning Act provides a performance-based framework for development assessment. Unless specified as prohibited development,<sup>2</sup> all development applications must be assessed by the relevant **government agency** against the matters set out within the *Planning Regulation 2017*.

As a referral agency, GCWA may only assess development applications against the purposes of the GCWA Act.<sup>3</sup>

## 2.0 Purpose

GCWA is controlled by the Gold Coast Waterways Authority Board (the **Board**), which consists of a chairperson, the mayor of City of Gold Coast and at least 5 other members.

The purpose of this *Board Policy—Reclamation of land under tidal water* (the **Board Policy**) is to clearly communicate how the Board strives to meet needs and expectations of the local community when considering its position on development applications that involve reclamation of land under tidal waters.

The Board Policy underscores the Board's focus on strategic planning for future development and use of Gold Coast waterways, consistent with the purposes of both the GCWA Act and the Planning Act.

The Board Policy is not a statutory document. Rather, it articulates matters for consideration by the Board for reclamation of land under tidal waters, which is assessable development by GCWA under the *Planning Regulation 2017*.

Proponents for development applications should refer and respond to GCWA's **Assessment Code**,<sup>4</sup> the operational document setting out assessment criteria for all forms of operational works that are tidal works in Gold Coast waterways.

## 3.0 Scope

The Board Policy applies to members of the Board when having consideration to any development that involves reclamation of land under tidal waters.

## 4.0 Context

GCWA performs the function of referral agency under the Planning Act, assessing and responding to development applications within its jurisdiction, consistent with the purposes of the GCWA Act.

To inform its assessment and referral response, GCWA may consider numerous factors, including:

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<sup>2</sup> *Planning Act 2016*, section 44(2)

<sup>3</sup> *Planning Regulation 2017*, schedule 10, table 3

<sup>4</sup> *Assessment Code* is currently under development. Enquiries for development applications should be directed to GCWA's Waterways Unit

- purpose of the proposed development
- physical characteristics of a waterway
- different types of water traffic reasonably expected on a waterway
- existing uses for a waterway
- longer term plans for a waterway
- impact upon water traffic, private and commercial structures, or public marine facilities
- existing sanctions, approvals or authorities
- existing leases, permits and statutory requirements
- quay lines and water allocation areas
- compliance with current GCWA tidal works requirements or conditions
- consistency with relevant legislation.

GCWA considers each development application on a case-by-case basis, consistent with the Assessment Code.

Where GCWA receives a development application for **significant development**, the Manager (Waterways) will discuss that application with the Chief Executive Officer for further consideration, setting out risks, benefits and constraints, and including recommendations for a referral response and conditions.

Examples of significant development include:

- significant infrastructure (for example, bridges, marinas and tunnels)
- tidal works involving new master planned areas
- **any reclamation of land in Gold Coast waters.**

The Chief Executive Officer may refer an application for significant development to the Board for consideration, remaining mindful of response timeframes under the Planning Act. The Board chairperson may decide a time and place for a meeting of the Board to properly consider the application.

When deciding whether to endorse or oppose an application for significant development, the Board will carefully consider the purposes of the GCWA Act.

The Board understands that if GCWA does not provide its referral response for a development application in accordance with the Planning Act, then the assessment manager must decide that application as if GCWA has assessed the application and makes no referral response with requirements or advice about it.<sup>5</sup>

The Board recognises the important function of the State Assessment and Referral Agency (commonly called SARA), coordinating technical advice for development applications from other State Government agencies, for example:

- Department of Agriculture and Fisheries (DAF)
- Department of Environment and Science (DES)
- Department of Natural Resources, Mines and Energy (NRME)
- Department of Transport and Main Roads (TMR)
- Maritime Safety Queensland (MSQ).

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<sup>5</sup> *Planning Act 2016*, section 58

The Board also recognises that SARA delivers a whole-of-government approach to assessable development, thereby avoiding the potential for conflicting responses from different State Government agencies for the same development application.

GCWA regularly consults with SARA to ensure consistent responses from State Government agencies.

## 5.0 Guiding principles

The Board's approach to strategic planning for sustainable development and use of Gold Coast waterways is built upon the following guiding principles:

**Balance:** It will be necessary to balance easily identified short-term economic costs against more difficult to quantify overriding public needs and environmental impacts.

**Continual improvement:** Performance of GCWA as waterways manager will be based on accountability, transparency and good governance.

**Community involvement:** Progress towards sustainable use of Gold Coast waterways requires support and involvement of all waterways users, including marine industry, tourism, and recreational sectors.

**Ecological integrity:** Decisions and actions will maintain biological diversity of the waterways.<sup>6</sup>

**Equity of access:** Present and future generations should have fair and equal access to Gold Coast waterways.

**Foresight:** Decisions will be guided by foresight, managing potential impacts to navigational access and future waterways development, so that decisions anticipate change.

**Integration:** Economic, environmental and social considerations should be effectively integrated into planning and decision-making.

**Navigational access:** Decisions and actions will maintain, improve or enhance navigational access to Gold Coast waterways.

**Precautionary principle:** A lack of scientific certainty should not be used as a reason to postpone action in the face of the risk of serious or irreversible community, environmental or economic damage.

**Traditional Custodians:** GCWA recognises and respects the Traditional Custodians of the lands and waters that comprise Gold Coast waterways and considers their rights and interests in activities undertaken by GCWA.

## 6.0 Policy statement

The Board understands that reclamation of land under tidal waters may result in adverse impacts to Gold Coast waterways, with potential to change coastal processes. Other impacts may include changes to areas prone to erosion and storm surge, flood mitigation and on access to navigational channels.

With its focus on sustainable waterways use and responding to local community needs and expectations, the Board will carefully consider the potential for significant impacts on coastal processes and the environment, as well as impacts on waterways access and use that may result from reclamation of land under tidal waters.

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<sup>6</sup> These matters are assessed by DES, DAF and NRME as technical agencies for the relevant State Codes. However, when assessing development applications, GCWA ensures the facilitation of development for Gold Coast waterways over the long term in a way that is sustainable and with consideration to environmental impacts.

Generally, consistent with State Development Assessment Provisions,<sup>7</sup> the Board will not endorse reclamation of land under tidal waters, except for the purposes of:

- coastal-dependent development, public marine development or community infrastructure, where there is no feasible alternative
- strategic ports and boat harbours, or strategic airports and aviation facilities, in accordance with a statutory land use plan
- coastal protection works or works necessary to protect coastal resources or coastal processes.

Where GCWA receives a development application that includes reclamation of land under tidal waters, GCWA will carefully assess that application against the purposes of the GCWA Act.

Factors that GCWA will consider include, but are not limited to, the following:

- impacts upon waterways infrastructure, coastal processes and/or physical characteristics
- how the application might augment, diminish and/or maintain waterways access
- existing legitimate waterways-related activities
- existing landside facilities
- benefits or otherwise to marine industry, tourism and recreation
- potential future use.

Potential future use may include any potential reduction of marina berths, as well as synergies between land and waterways uses.

## 7.0 Policy principles for reclamation

With an understanding of community needs and expectations, the Board will apply the following principles when having consideration to reclamation of land under tidal waters:

- Access for waterways users (including marine industries, tourism and recreation) will be maintained, improved or enhanced.
- Smaller areas of reclamation to enhance waterways access (such as beneficial re-use of dredged sand resources), may proceed where the reclamation maintains consistency with policy outcomes set out below.
- Reclamation will result in no net loss of Gold Coast waterways for access and sustainable use.
- Scientific evidence will be used to support decision-making, and where not available, the precautionary principle shall apply.

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<sup>7</sup> *State Development Provisions, State Code 8: Coastal development and tidal works, version 2.6*

## 8.0 Policy outcomes

### **Policy outcome 1: Reclamation must maintain, improve or enhance navigational access in Gold Coast waterways.**

Gold Coast waterways encompass an extensive range of recreational, economic and environmental values. Well defined channels for safer navigation are priority, with other important features including public marine facilities, anchorages and buoy mooring areas.

The Board recognises opportunities for better use of Gold Coast waterways while continuing to preserve GCWA's channel network and ensuring that individuals and corporate entities may use the waterways safely.

Consequently, any development involving reclamation:

- should remain clear of GCWA's channel network,<sup>8</sup> public marine facilities, anchorages and buoy mooring areas, or at least mitigate any impacts that might occur
- should maintain community access to foreshores of Gold Coast waterways, or at least minimise any impact that might occur
- should not alter, or at least minimise any impacts upon, the physical characteristics of Gold Coast waterways, such that navigational access would be adversely affected.

### **Policy outcome 2: Opportunities for development should not impact on GCWA's channel network.**

Access to Gold Coast waterways and waterfront development remains highly desirable for marine industry, recreation and tourism. Development of marine industries and public marine facilities can provide significant economic benefits to the community, as well as allowing for recreational uses by locals and visitors alike (e.g. recreational boating, fishing and diving).

However, the Board understands community sentiment about the need to preserve waterways resources, together with coastal processes that may impact upon the marine environment, which are reflected in the ***Sand Management Plan***.

Consequently, any development involving reclamation:

- should avoid impacts that alter coastal processes which, in turn, may impact on the operation or maintenance of GCWA's channel network
- wherever possible, maximise use of dredged sand resources for foreshore nourishment or other beneficial use.

### **Policy outcome 3: Reclamation must maintain, improve or enhance recreation, tourism and marine industries.**

The increasing popularity of Gold Coast waterways and improvements in access mean continuing growth of community use and water traffic operations. This also means there will be an increasing need to balance competing user needs and expectations, and to appropriately manage water traffic for safer operations, and look towards greater capacity for tackling water traffic congestion.

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<sup>8</sup> *Gold Coast Waterways Channel Chainages, Map C4-87-2*

The Board understands the significant economic benefits of marine industries, tourism and recreation associated with Gold Coast waterways, as well as the value of the waterways to users.

Consequently, any development involving reclamation:

- must support appropriate waterways-related activities (e.g. marine industry and waterways-related tourism and recreation)
- should not reduce access to public marine facilities or other infrastructure for waterways users.

**Policy outcome 4: Any development that involves reclamation must facilitate implementation of the Spit master plan.**

The Queensland Government released *The Spit Master Plan* in May 2019, following a comprehensive master planning process and extensive community consultation.

The master plan articulates a shared vision for the long-term future of The Spit and supports the Government's commitment to improving the area as a community asset for future generations. Implementation of the master plan will unlock investment, while ensuring the protection and enhancement of community open spaces.

The Board fully supports implementation of The Spit Master Plan.

Consequently, any development as part of The Spit Master Plan involving reclamation:

- must remain consistent with The Spit Master Plan
- must follow the relevant application process, whether by infrastructure designation or through usual development application
- must deliver on policy outcomes set out above numbered 1 to 3.

## 9.0 Glossary

**Assessment Code** means the Assessment Code produced by GCWA's Waterways Unit for development assessable by GCWA as referral agency under the *Planning Act 2016* against the purposes of the *Gold Coast Waterways Authority Act 2012*, as required by the *Planning Regulation 2017*.

**Board** means the Gold Coast Waterways Authority Board as described by the *Gold Coast Waterways Authority Act 2012*, part 8.

**Board Policy** means this *Board Policy—Reclamation of land under tidal waters*.

**GCWA** means the Gold Coast Waterways Authority established under the *Gold Coast Waterways Authority Act 2012*.

**GCWA Act** means the *Gold Coast Waterways Authority Act 2012*.

**Gold Coast waterways** means those waters as defined by the *Gold Coast Waterways Authority Act 2012*, section 7(2).

**government agency** means a State Government agency and the local government.

**Planning Act** means the *Planning Act 2016*.

**public marine facility** means that term as defined by the *Transport Infrastructure Act 1994*, schedule 6.

**reclamation of land under tidal water** means raising the land above the mean high-water spring, whether gradually and imperceptibly or otherwise, by carrying out works, including dredging and the depositing of solid material.

**Sand Management Plan** means the *Sand Management Plan*, updated in March 2020.

**significant development** means development that is likely to generate significant public interest or cause significant impact to Gold Coast waterways.

**tidal works** means that term as defined by the *Coastal Protection and Management Act 1995*.

**water traffic** means that term as defined by the *Transport Infrastructure Act 1994*, schedule 6.

**Waterways Management Strategy** means the *Gold Coast Waterways Management Strategy 2014-2023*.

## 10.0 Supporting documents

*Gold Coast Waterways Authority Act 2012*

*Gold Coast Waterways Channel Chainages, Map C4-87-2*

*Gold Coast Waterways Management Program*

*Gold Coast Waterways Management Strategy 2014-2023*

*Implementation of The Spit Master Plan Act 2020*

*Planning Act 2016*

*Planning Regulation 2017*

*Sand Management Plan, March 2020*

*State Development Provisions, State Code 8: Coastal development and tidal works, version 2.6*

*The Spit Master Plan, May 2019*

*Transport Infrastructure Act 1994*