



Planning

Tidal works

BOARD POLICY



Document control sheet

Enquiries

Enquiries about this document should be directed to:

Contact officer Mr Peter Kleinig
Position Manager (Waterways)
Phone 07 5539 7350

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Document sign-off

Author

Name Peter Kleinig
Position Manager (Waterways)

Signature	Date
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Endorsed

Name Chris Derksema
Position Chief Executive Officer

Signature	Date
-----------	------

Approved

Name Greg Vann
Position Chairperson

Signature	Date
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Board Policy—Tidal works

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1.0 Policy intent

1.1 Regulatory context

The Gold Coast Waterways Authority (**GCWA**) will apply this *Board Policy—Tidal works* (the **Board Policy**) in the assessment of development applications for **operational work** that is **tidal works** carried out in **Gold Coast waters** for which **GCWA** is a **referral agency** under the *Planning Regulation 2017* (the **Planning Regulation**).

There are no prescribed limitations on **GCWA's referral agency** powers under the *Planning Act 2016* (the **Planning Act**).¹

The **Planning Regulation** prescribes that **GCWA** must assess a development application against the purposes of the *Gold Coast Waterways Authority Act 2012* (**GCWA Act**).²

Section 3 of the **GCWA Act** provides that—

- (1) *The main purpose of this Act is to deliver the best possible management of the Gold Coast waterways at a reasonable cost to the community and government, while keeping government regulation to a minimum.*
- (2) *Other purposes of this Act are to do the following—*
 - (a) *plan for and facilitate the development of the Gold Coast waterways over the long term in a way that is sustainable and considers the impact of development on the environment;*
 - (b) *improve and maintain navigational access to the Gold Coast waterways;*
 - (c) *develop and improve public marine facilities relating to the Gold Coast waterways;*
 - (d) *promote and manage the sustainable use of the Gold Coast waterways for marine industries, tourism and recreation;*
 - (e) *facilitate the implementation of the Spit master plan through the development and delivery of a program for community infrastructure and public realm works.*

In addition, the **Planning Regulation** provides that, as a **referral agency**, **GCWA** must also assess a development application:

- (a) *against the following matters:*
 - (i) *the laws administered by the referral agency;*
 - (ii) *the policies that are reasonably identifiable as policies applied by the referral agency³; and*
- (b) *having regard to, relevantly:*
 - (i) *a local planning instrument applying to the premises;*
 - (ii) *the regional plan, to the extent it is not identified in the planning scheme as being appropriately integrated in the planning scheme;*
 - (iii) *the State Planning Policy, to the extent the State Planning Policy is not identified in the planning scheme as being appropriately integrated in the planning scheme;*

¹ *Planning Act 2016*, section 56(5) and *Planning Regulation 2017*, section 22(5)

² *Planning Regulation 2017*, schedule 10, part 17, division 3, table 3, item 4

³ *Planning Regulation 2017*, section 22(2)

- (iv) *for premises that are designated premises—the designation;*
- (v) *any temporary State planning policy applying to the premises;*
- (vi) *any development approval applying to the premises; and*
- (vii) *material about the application received by the referral agency, including material received before the application was made.*⁴

After assessing a development application, **GCWA** must decide—

- (a) *to tell the assessment manager that **GCWA** has no requirements for the application; or*
- (b) *to direct the assessment manager to do any or all of the following—*
 - (i) *to give any development approval subject to stated development conditions;*
 - (ii) *to give any development approval for only a stated part of the application;*
 - (iii) *to give any development approval only as a preliminary approval;*
 - (iv) *to impose a stated currency period for a development approval given; or*
- (c) *to direct the assessment manager to refuse the application for stated reasons.*⁵

As **GCWA** is a **referral agency**, the assessment manager's decision must comply with **GCWA's** referral response. If **GCWA's** referral response requires conditions to be imposed on a development approval, then the assessment manager must include the conditions exactly as stated in **GCWA's** response.⁶

1.2 Statutory effect

Pursuant to section 43 of the **GCWA Act**, the GCWA Board (the **Board**) controls **GCWA**. The **Board** ensures localised control and decision-making in managing **Gold Coast waterways**, including decisions about waterways management policies.⁷

Pursuant to section 22(2)(b) of the **Planning Regulation**, this **Board Policy** is identifiable as a policy applied by **GCWA** and, accordingly, is also a matter against which **GCWA** must assess a development application.

There may be circumstances where **GCWA's** interests overlap with the interests of the City of Gold Coast (the **City**) or another Queensland **Government agency** (for example, Maritime Safety Queensland) in relation to **development** impacting on the **Gold Coast waterways**. **GCWA** will always endeavour to consult where this occurs.

This **Board Policy** only deals with **GCWA's** interests having regard to its functions under the **GCWA Act** and the **Planning Act**.

⁴ *Planning Regulation 2017*, section 22(3)

⁵ *Planning Act 2016*, section 56

⁶ *Planning Act 2016*, section 62

⁷ *Gold Coast Waterways Authority Bill 2012*, Explanatory Notes

1.3 Scope

The scope of this **Board Policy** relates to particular aspects of **development** for **tidal works** in, on or above land under **tidal water**.

Note—

The definition of **tidal works** includes **reclamation** of land under **tidal water**. See GCWA's *Board Policy—Reclamation of land under tidal water* regarding matters specific to **reclamation**.

As is evident from the broad definition of **tidal works** (see Schedule 1—Definitions), the scope includes works in, on, or above land under **tidal water** and encompasses, not only works that are an integral part of such works (principal works), but also works that are carried out in, on, or above land directly adjacent to the land in, on, or above which the principal works are carried out.

Such works will often be in the form of a jetty, **marina**, mooring, pontoon, or berth (or combination of them), or similar facility, but the scope of this **Board Policy** is not limited to such forms.

In some cases, the **tidal works** will be associated with a proposed material change of use. The City's **City Plan** identifies uses, such as **landing**, **marine industry**, and **port services**, which are dependent on being located in, on, or above, or proximate to, **tidal water** to function.

This **Board Policy** also applies to other uses involving **tidal works** that necessarily must be located in, on, or above **tidal water**. In determining whether such development is consistent with the sustainable use of the **Gold Coast waterways**, **GCWA** will seek to ensure that the design and assessment of such development addresses:

- berthing or mooring opportunities for **watercraft**;
- maximising the long term sustainable use of the **Gold Coast waterways**; and
- the limited, finite nature of waterways resources.

1.4 Purpose

The purposes of this **Board Policy** are to:

1. Ensure that proposed **development** is assessed in a manner consistent with the purposes of the **GCWA Act**.
2. Provide guidance to proponents on the **GCWA's** policy expectations and requirements for **development** that involves **tidal works** in, on or above **tidal water**.
3. Ensure that **GCWA's** policy considerations are consistent and transparent.

2.0 Definitions

The words and terms identified in **bold italics** in this **Board Policy** are defined in Schedule 1—Definitions.

Where words or terms used in this **Board Policy** are not defined in the policy but are defined in the **GCWA Act**, the **Planning Act**, or the **Planning Regulation**, then their respective definition applies.

3.0 GCWA Development Assessment Code, guides, and checklists

GCWA's planning framework as it relates to its **referral agency** function, and the role and relationship of each statutory instrument, policy, and guidance document that **development** must either be assessed against, or for which further information is provided to assist with the assessment of a proposed **development**, includes:

1. **Planning Act** and **Planning Regulation** – identifies **GCWA's referral agency** power and the matters **development** must be assessed against;
2. **Purposes of GCWA Act** – establishes the higher order policy for which **GCWA** must assess a development application against;
3. **Board policies** – provides the policy outcomes and expectations for **development**;
4. **GCWA Development Assessment Code** (the **Code**) – gives further detail on how to achieve the policy outcomes established under the Board policies; and
5. **Technical Information Guide** – provides the additional technical information and assists applicants with demonstrating compliance with the **Code**;
6. **Other supporting information guides and checklists** – provides further supporting information to assist applicants with making an application.

GCWA has developed the **Code**, which is the operational document setting out the assessment benchmarks for assessing development applications for **operational work** that is **tidal works** in **Gold Coast waterways**.

The **Code** is directed at ensuring **development** is consistent with, and achieves, the purposes of the **GCWA Act**.

Compliance with the **Code** enables an efficient and effective assessment of development applications by **GCWA** and ensures compliance with this **Board Policy** and the purposes of the **GCWA Act**.

For the Technical Information Guide, and any other supporting guides and checklists, these are matters that provide additional supporting information and which **GCWA** will have regard to when assessing a development application for compliance against the **Code**.

GCWA will also have regard to the following standards and guidelines as comprising desirable design parameters for **development**:

- Australian Standard AS 3962:2020: Marina design; and
- World Association for Waterborne Transport Infrastructure (PIANC) Report No. 134 – 2013: Design and Operational Guidelines for Superyacht Facilities.

4.0 Assessment approach

4.1 Contextual considerations

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

Achieving the purposes of the **GCWA Act** requires planning and decision-making by **GCWA** to have regard to the broader context in which proposed **development** occurs.

While development applications must be assessed on a case-by-case basis, **GCWA** will take a holistic approach, assessing development applications for **tidal works** to ensure decision-making does not impair the achievement of the **GCWA Act's** purposes.

Accordingly, in considering a development application, contextual considerations, to the extent relevant, include—

- (a) nature, purpose and function of proposed **development**;
- (b) physical characteristics of the affected waterway;
- (c) different types of **water traffic** reasonably expected on the affected waterway;
- (d) existing uses of the affected waterway;
- (e) proposed **development's** impact on **water traffic**, private and commercial structures, and **public marine facilities**;
- (f) existing sanctions, approvals, or authorities;
- (g) existing leases, permits, and statutory requirements;
- (h) quay lines and water allocation areas;
- (i) compliance with the **Code**, Technical Information Guide and other supporting guides and checklists;
- (j) compliance with standards or guidelines (for example, Australian Standard AS 3962:2020: Marina design);
- (k) published longer-term plans and management strategies for the **Gold Coast waterways** (for example, as set out in **GCWA's waterways management strategy** and **waterways management program**);
- (l) consistency with relevant legislation.

Where a development application achieves the policy outcomes of this **Board Policy**, **GCWA** will consider that application favourably.

4.2 Consideration by Chief Executive Officer and Board

A development application for **significant development** may warrant consideration by the Chief Executive Officer and potentially the **Board**.

Where the Chief Executive Officer refers an application for **significant development** to the **Board**, the **Board** chairperson may convene a meeting of the **Board** to properly consider the application.

At all times, **GCWA** will remain cognisant of the development assessment timeframes provided by the development assessment rules. If **GCWA** does not provide its **referral agency** response to the assessment manager within the statutory timeframe, then the assessment manager must decide that application as if **GCWA** has assessed the application, given its referral response, and has no requirements for, or advice about, the application.⁸

Bearing this implication in mind, **GCWA** may need to seek the applicant's agreement to a further agreed period to enable proper consideration by **GCWA** commensurate with the significance, scale, or complexity of the proposed **development**.

⁸ *Planning Act 2016*, section 58

5.0 Policy outcomes

The policy outcomes set out below provide direction for **GCWA** in achieving the long-term sustainable use and best possible management of the **Gold Coast waterways**.

Policy outcome 1: Development must improve and maintain navigational access in the Gold Coast waterways

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

Well-designed and well-sited **marine infrastructure** enables and supports better use of the **Gold Coast waterways**, as such infrastructure provides secure moorings for **watercraft**, access to **navigable waterways** and shore-based services, and presents an important facilitator for marine industries, tourism, and recreation.

However, **marine infrastructure** that is poorly designed or poorly sited may negatively impact upon anchorages, **buoy mooring** areas, the **GCWA channel network**⁹, or **public marine facilities** by restricting navigational access and subsequently adversely affecting marine industries, or waterways related tourism or recreation.

Consequently, **development**:

- (a) must minimise congestion of the waterway;
- (b) must avoid conflicts on the waterway;
- (c) must remain clear of **aids to navigation**, anchorages, **buoy mooring** areas, the **GCWA channel network**, and **public marine facilities**, or be able to clearly demonstrate how any potential impacts will be suitably mitigated;
- (d) must remain consistent with quay lines and surrounding **marine infrastructure**, or be able to clearly demonstrate how any potential impact will be suitably mitigated; and
- (e) must clearly demonstrate the functional requirement for the siting of amenities, facilities, or support infrastructure over **tidal water** rather than on land in order to function.

Policy outcome 2: Development must not impact upon GCWA's channel network

Access to the **Gold Coast waterways** and waterfront **development** remains highly desirable for marine industries, 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 (for example, recreational boating, fishing, and diving).

However, there is also a need to consider the impact of **development** on channels and waterways resources, together with **coastal processes** that may impact upon the marine environment. In particular, **development** must not impede maintenance of the **GCWA channel network** or other waterways resources.

Consequently, **development**:

- (a) must avoid impacts that alter **coastal processes** or the physical characteristics of the **Gold Coast waterways**, which, in turn, may impact on the access to, operation or maintenance of

⁹ See *Gold Coast Waterways – Channel chainages*, Map C4-87-2

the **GCWA channel network**, or clearly demonstrate how potential impacts will be suitably mitigated;

- (b) must maintain public access to foreshores and navigational access to the **Gold Coast waterways**, or clearly demonstrate how potential impacts will be suitably mitigated;
- (c) must not impact maintenance dredging of the **GCWA channel network** or maintenance of banks, canals, or foreshores, or clearly demonstrate how potential impacts will be suitably mitigated; and
- (d) wherever possible, must minimise dredging or other impacts that may affect the environment in the **Gold Coast waterways**, or clearly demonstrate how potential impacts will be suitably mitigated.

Policy outcome 3: Development must promote and manage sustainable use of waterways for marine industries, tourism, and recreation

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

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

In particular, **GCWA** strives to increase numbers for marina berths.

The **Gold Coast waterways** are a limited resource and must be managed as such. The purposes of the **GCWA Act** therefore recognise:

- facilitating the **development** of the **Gold Coast waterways** in a way that must be sustainable over the long term; and
- promoting and managing the sustainable use of the **Gold Coast waterways** for marine industries, tourism, and recreation.

Consequently, **development**:

- (a) must be **waterways related development**;
- (b) must support **waterways related development** (for example, marine industries, or waterways related tourism or recreation);
- (c) must appropriately connect, both in terms of functional relationship and physical interface, with related shore-based industries and services;
- (d) must have a **marine access purpose**;
- (e) where over **tidal water**, must not be constructed for uses of **air services, bar, club, dwelling house, dwelling unit, food and drink outlet, function facility, hotel, nightclub entertainment facility, office, resort complex, sales office, shop, showroom, or tourist attraction**; and

Note—

These uses have a specific meaning for the purpose of the *City Plan*.

- (f) must not reduce or restrict access to **public marine facilities** or other infrastructure for waterways users.

Policy outcome 3 does not apply to **government supported development**.

Policy outcome 4: Development must be consistent with 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 Spit Master Plan articulates a shared vision for the long-term future of The Spit and supports the Queensland Government's commitment to improving the area as a community asset for future generations. Implementation of *The Spit Master Plan* will unlock investment, while ensuring the protection and enhancement of community open spaces.

GCWA supports implementation of *The Spit Master Plan*.

Consequently, **development** within The Spit master plan area must be consistent with *The Spit Master Plan*.

The Spit Master Plan identifies by illustrative plans, concept diagrams and descriptive statements the intent, outcomes, activities, movement, and character envisaged within the various master plan precincts, representing the ultimate effect of *The Spit Master Plan*.

In assessing development applications, **GCWA** will have regard to the specific nature, function, and location of **development** in the **Gold Coast waterways** within The Spit master plan area, as identified by *The Spit Master Plan*.

Village Centre South

In supporting outcomes of *The Spit Master Plan* and priorities of the *Queensland Superyacht Strategy*, **GCWA** may consider **development** of an ancillary structure for use over **tidal water** within **Village Centre South**, provided the ancillary structure complies with all the following:

- (a) must be as close as practicable to the foreshore or water's edge;
- (b) must be works to cater for superyachts or **waterways related development** (for example, marine industries, or waterways related tourism or recreation);
- (c) must not include any structures for aircraft take-off or landing;
- (d) must not reduce or restrict public access to the **Broadwater pathway**; and
- (e) total loss of water area for marina berths within a term lease must not exceed—
 - (i) 800m² **site cover**; or
 - (ii) three percent **site cover**,

whichever is the lesser, unless otherwise approved by the Chief Executive Officer in writing.

6.0 Review

Implementation, monitoring, and review of this **Board Policy** will be the responsibility of the Manager (Waterways) who will make any necessary suggestions or recommendations for improvement to the Chief Executive Officer.

The Manager (Waterways) will review this **Board Policy** biennially (every two years). However, review of this policy may also be warranted if there are material changes to legislation or other circumstances that impact upon its effectiveness.

GCWA will publish this **Board Policy** on its website.

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Schedule 1—Definitions

aid to navigation as defined in the *Transport Operations (Marine Safety) Act 1994*.

air services as defined in the *City Plan*, schedule 1.

bar as defined in the *City Plan*, schedule 1.

Board means the Gold Coast Waterways Authority Board.

Board Policy means this *Board Policy—Tidal works*.

Broadwater pathway see *The Spit Master Plan*, page 76.

buoy mooring as defined in the *Transport Operations (Marine Safety) Act 1994*.

City means the Council of the City of Gold Coast.

City Plan means the planning scheme for the City of Gold Coast as amended for alignment with the *Planning Act 2016*.

club as defined in the *City Plan*, schedule 1.

coastal processes as defined in the *State Development and Assessment Provisions, State code 8: Coastal development and tidal works*.

Code means the *Gold Coast Waterways Authority Development Assessment Code*.

development as defined in the *Planning Act 2016*.

dwelling house as defined in the *City Plan*, schedule 1.

dwelling unit as defined in the *City Plan*, schedule 1.

food and drink outlet as defined in the *City Plan*, schedule 1.

function facility as defined in the *City Plan*, schedule 1.

GCWA means the Gold Coast Waterways Authority.

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

GCWA channel network means the channel network shown on *Gold Coast Waterways Channel Chainages Map C4-87-2*.

Gold Coast waters as defined in the *Gold Coast Waterways Authority Act 2012*.

Gold Coast waterways as defined in the *Gold Coast Waterways Authority Act 2012*.

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

government supported development means development that is materially funded by the State or Commonwealth.

hotel as defined in the *City Plan*, schedule 1.

landing as defined in the *City Plan*, schedule 1.

marina as defined in the *Gold Coast Waterways Authority Act 2012*.

marine access purpose means a structure in tidal water used to facilitate watercraft access for people between land and a navigable waterway (for example, a jetty, landing, mooring, pontoon, and boat ramp, but excludes a deck and boardwalk).

marine industry as defined in the *City Plan*, schedule 1.

marine infrastructure means a boat ramp, jetty, landing, marina, mooring, pontoon or the like that can be used by watercraft.

navigable waterway means waters with sufficient depth and width to allow safe passage by all vessel sizes and types that frequently use the area.

nightclub entertainment facility as defined in the *City Plan*, schedule 1.

office as defined in the *City Plan*, schedule 1.

operational work as defined in the *Planning Act 2016*.

Planning Act means the *Planning Act 2016*.

Planning Regulation means the *Planning Regulation 2017*.

port services as defined in the *City Plan*, schedule 1.

public marine facility as defined in the *Transport Infrastructure Act 1994*.

referral agency as defined in the *Planning Act 2016*.

resort complex as defined in the *City Plan*, schedule 1.

sales office as defined in the *City Plan*, schedule 1.

shop as defined in the *City Plan*, schedule 1.

showroom as defined in the *City Plan*, schedule 1.

significant development means development in relation to any of the following:

- (a) bridges;
- (b) commercial marinas;
- (c) master planned areas;
- (d) port facilities;
- (e) reclaiming land under tidal water;
- (f) tunnels for transport purposes;
- (g) any development that impacts on GCWA's aids to navigation, buoy moorings areas, channel network, or marine infrastructure.

site cover means the portion of the term lease over water, or proposed term lease over water, expressed as area or percentage, that will be covered by a structure, measured to its outermost projection, after the development is carried out.

tidal water as defined in the *Coastal Protection and Management Act 1995*.

tidal works as defined in the *Coastal Protection and Management Act 1995*.

For convenience, the definition is replicated below—

1. *Tidal works means any of the following—*
 - (a) *works in, on or above—*
 - (i) *land under tidal water; or*
 - (ii) *land that will or may be under tidal water because of development on or near the land;*
 - (b) *works that are—*
 - (i) *an integral part of works mentioned above (the principal works); and*
 - (ii) *carried out in, on or above land directly adjacent to the land in, on or above which the principal works are carried out;*
 - (c) *works designed to be exposed to tidal water because of shoreline fluctuations;*
 - (d) *works designed to prevent the erosion of land by the sea (whether or not within the ebb and flow of the tide at spring tides);*
 - (e) *works within the boundaries of a canal, whether above or below high-water mark.*
2. *Tidal works includes:*
 - (a) *the construction or demolition of a basin, boat ramp, breakwater, bridge, dam, dock, dockyard, embankment, groyne, jetty, pipeline, pontoon, powerline, seawall, slip, small craft facility, training wall or wharf; and*
 - (b) *works in tidal water necessarily associated with the construction or demolition mentioned in paragraph (a); and*
 - (c) *the reclamation of land under tidal water.*
3. *Tidal works does not include—*
 - (a) *the erection of a sign or other structure, including, for example, a navigational aid or sign for maritime navigation, under a direction made under another Act; or*
 - (b) *the construction of an open drain that—*
 - (i) *is less than 1 m deep; and*
 - (ii) *has a cross sectional area less than 2.5 m²; or*
 - (c) *works that are assessable development, carried out within a coastal management district, of any of the following types—*
 - (i) *the disposal of dredge spoil or other solid waste material in tidal water;*
 - (ii) *the construction of an artificial waterway; or*
 - (d) *the removal of quarry material that has accumulated within the boundaries of, or in an area adjoining, a previously approved tidal work to allow the work to be used for the function for which it was approved; or*
 - (e) *the removal of quarry material from land under tidal water, if the removal is for no other purpose than the sale of the material or use of the material to reclaim land; or*
 - (f) *the construction of buoy moorings.*

tourist attraction as defined in the *City Plan*, schedule 1.

Village Centre South see *The Spit Master Plan*, page 76.

watercraft as defined in the *Transport Infrastructure Act 1994*.

water traffic as defined in the *Transport Infrastructure Act 1994*.

waterways management program as defined in the *Gold Coast Waterways Authority Act 2012*.

waterways management strategy as defined in the *Gold Coast Waterways Authority Act 2012*.

waterways related development means:

- (a) development that, in order to function, must be located in Gold Coast waterways or be able to access Gold Coast waterways; and
- (b) may include, but is not limited to—
 - (i) ports, harbours, and navigation channels and facilities;
 - (ii) aquaculture involving marine species, tidal generators, and coastal protection functions;
 - (iii) works for erosion control structures and beach nourishment;
 - (iv) private marine access purposes;
 - (v) public marine facilities;
 - (vi) boat ramps, boat ramp queuing beaches, jetties, pontoons, and wharves;
 - (vii) tourism facilities for marine (boating) purposes;
 - (viii) community or sporting facilities that require access to tidal water in order to function, such as diving facilities, marine rescue organisations, or rowing, sailing and surf clubs; or
 - (ix) co-located residential and tourist uses that are part of an integrated development proposal (e.g. mixed-use development) incorporating a marina, if these uses are located directly landward of the marina; but
- (c) does not include—
 - (i) residential development, including canal development, as the predominant use; or
 - (ii) transport infrastructure, other than for access to the waterways.

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 2021-2030

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 3.0

The Spit Master Plan, May 2019

Transport Infrastructure Act 1994

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40-44 Seaworld Drive
Main Beach Qld 4217
P: 07 5539 7350

mail@gcwa.qld.gov.au
gcwa.qld.gov.au