

Development Control Guidelines for the Provision of Foreshore Open Space and Access

(Adopted by the Council on 26th August, 1991 as Guidelines under Sydney Regional Environmental Plan No. 23, and as a Policy in relation to the Council's own determinations)



1. Preamble

The harbourside and ocean setting is one of the Municipality's greatest natural assets. One way to utilise this asset is to facilitate public access and to provide public places along the foreshores for the enjoyment of all residents.

The Council has a long standing commitment to make the foreshores more accessible to the public and has now decided to prepare these Development Control Guidelines to facilitate the implementation of its foreshore objectives.

The objectives, which are listed below, are long-term objectives and are likely to be achieved incrementally as a result of particular Council initiatives or as circumstances arise. Their implementation could, for instance, ultimately take the form of a sequence of foreshore scenic walkways linking parks and other publicly accessible foreshore areas. The links could be relatively broad and well vegetated as is the case along the Hermitage Foreshore Reserve. Alternatively they might be narrow rights of way allowing public access across private property or include sections along the intertidal zone.

2. Purpose of the development control guidelines

The purpose of these Development Control Guidelines is to state the means by which the Council intends to implement its foreshore objectives.

3. Foreshore objectives

- To preserve existing public open space along the harbour foreshores, and to promote the dedication, acquisition, lease or occupation of additional usable areas so as to provide further public pedestrian access to and along the harbour foreshore in appropriate locations.
- To discourage further alienation of the immediate foreshore areas by building and, in the long term, to encourage greater public access to those areas.
- To foster the development of an environment which satisfies community needs and expectations while protecting the natural environment.
- To provide for open space which will meet the requirements of the Community and which will be developed in such a manner so as to protect, improve and preserve the natural environment and the existing amenity of the immediate locality.
- To foster opportunities for the study and appreciation of the intertidal zone when accessed by land or water.
- To provide for stopping points or refuges for people exploring the foreshores by small boats.

4. Application

These Development Control Guidelines apply to land within Woollahra Municipality and to the foreshores to which Sydney Regional Environmental Plan No. 23 – Sydney and Middle Harbours applies.

In particular the Guidelines apply to:

- (i) public and private land that has frontage to the Sydney Harbour or the Tasman Sea;
- (ii) land in the intertidal zone which is below mean high water mark; and
- (iii) any land that is capable of providing public access to the harbour or ocean foreshores.

5. Guidelines

In order to give effect to its foreshore objectives, the Council will generally maintain and enhance existing public foreshore areas, and extend public open space at and access to and along the foreshore. The inter-tidal zone may be utilised when appropriate for those purposes.

Depending on the circumstances of the particular case, the Council will adopt one or more of the following means to implement its objectives:

1. Investigate the basis of private occupation of public foreshore lands and, where appropriate, initiate action to return the land to public use.
2. Investigate opportunities and undertake action necessary to create public access to the foreshore through existing drainage and road reserves, and rights of way.
3. Create, and where possible extend, foreshore parks and provide pedestrian access to the water on the Council's foreshore lands which are not presently developed for recreation or access purposes.
4. Provide facilities for pedestrian access from Council's land to the water and then to the adjoining foreshore areas.
5. Rezone the foreshore of the Council Chambers site for public open space purposes.
6. Provide appropriate facilities for access to the foreshore parks and from these to the water for people with ambulatory problems.
7. Establish a policy for the interim use and maintenance of foreshore land which is publicly owned, or upon which there is a public easement, but which is currently inaccessible to the public, until such land becomes accessible.

8. Negotiate with private owners for an easement for public access over, or for the transfer of land that is currently zoned 6 (c) or 6 (d) open space reservation, in the instances where that access is necessary to obtain access to nearby public foreshores.
9. Identify and promote a walkway system through streets adjacent to the harbour as an alternative or in addition to foreshore links.
10. Retain ownership and control of land presently vested in the Council which provides or has the potential to provide public access to the foreshore.
11. Ensure that new zonings of foreshore land maintain or increase the area of existing public open space or the degree of public accessibility to the foreshores.
12. Further investigate the status of the land known as the “Watercourse” between Vaucluse Road and Hermit Bay, Vaucluse, to assess its suitability for the purpose of public access.
13. Negotiate with the Water Board for a public right of way over the stormwater channel in Double Bay, adjoining Sherbrook Avenue.
14. Negotiate for a public right of way to and across the foreshore of land in Darling Point, being the site of the building known as Babworth House, a medical related facility.
15. Negotiate with the Maritime Services Board for the transfer of ownership, or management and control, to the Council of certain reclaimed foreshore lands which are currently leased to the adjoining property owners, or for other means of achieving public access over those lands.
16. Consider, in appropriate instances, the installation of short lengths of boardwalks, pontoons, and similar structures on land below Mean High Water Mark to provide useable pedestrian links between accessible foreshore locations.
17. Encourage private owners and the Maritime Services Board to provide steps, ramps or other appropriate devices to facilitate pedestrian passage across jetties, ramps, docks and similar foreshore structures.
18. Request the Maritime Services Board to reserve public rights of way in all future tenure agreements relating to structures privately built below MHWL such as jetties, ramps and the like. Also request that similar provisions be incorporated, at an appropriate time, in relation to existing tenure agreements which do not contain a public right of way provision.
19. Have regard to the desirability of enlarging the availability of public open space and the provision of access to and along the foreshore in its consideration of rezoning and development applications.

20. Require the dedication of foreshore land or of land which would provide access to the foreshore, or both, when a proposed development, the subject of a development application, is likely to increase the demand for open space, in accordance with section 94 of the Environmental Planning and Assessment Act. This requirement is generally applicable when a site is subdivided or redeveloped at a higher residential density.
 21. Negotiate with private owners for the transfer of land or for the granting of a public easement to provide access to and along the foreshore when major redevelopment of a site occurs in instances where section 94 is not applicable.
 22. Compile and publish information about public foreshore open space, linking walks and foreshore access points.
 23. Discourage private or public development, such as boatsheds and raised platforms, in forms that would restrict or deny public access to or along the foreshores.
 24. Promote the protection of existing views and the creation of new ones, from public spaces such as parks and roads, to the foreshore and the water, so as to complement physical access with visual access.
 25. Conduct on-going assessments of the applicability to individual locations of these and other means of pursuing the Council's foreshore objectives, so as to ensure that they are pursued in a timely fashion as opportunity arises.
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