



Surveyor-General's Direction

No. 6

Water as a Boundary Procedures



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Water as a Boundary Procedures**

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Definitions

In this Direction, the following terms have the meaning as indicated below. The definition of features associated with lakes and rivers are defined in the *Crown Land Management Act 2016* or Schedule 9 of the *Surveying and Spatial Information Regulation 2024*.

Mean High Water Mark (MHWM)	Means the line of mean high tide between the ordinary high-water spring and neap tides.
Bank	Means the limit of the bed of a lake or river
Bed	Means the whole of the soil of a lake or river including that portion – (a) which is alternatively covered and left bare with an increase or diminution in the supply of water; and (b) which is adequate to contain the lake or river at its average or mean stage without reference to extraordinary freshets in time of flood or to extreme drought;
Lake	Includes a permanent or temporary lagoon or similar collection of water not contained in an artificial work;
River	Includes any stream of water, whether perennial or intermittent, flowing in a natural channel, and any affluent, confluent, branch or other stream into or from which the river flows.
Natural Feature	Includes a cliff face, ridgeline, tidal waters and non-tidal waters.

1. Preamble

This Surveyor-General's Direction includes previous changes to procedures due to amendments to the *Coastal Protection Act 1979 (since repealed by the Coastal Management Act 2016)* which established the Modified doctrine of erosion and accretion, hereafter referred to as 'the modified doctrine'. It has been updated for, and includes new requirements brought about by the *Surveying and Spatial Information Regulation 2024*.

The updates and changes included within this Direction are:

- Procedures to address the modified doctrine as defined in Section 28 of the *Coastal Management Act 2016*;
- Changes to Departmental procedures; and
- Surveying requirements under the *Surveying and Spatial Information Regulation 2024*.

A consequence of the modified doctrine is that a MHW application may be required to meet specific criteria prior to approval. In particular, where a definition that increases the area of land to the landward side of the water boundary because of accretion, the applicant will now have to demonstrate that the area, the subject of the accretion claim will:

- a. have a perceived trend of accretion that is likely to be indefinitely sustained by natural means; and
- b. as a consequence of making the claim, not likely restrict or deny public access to a beach, headland or waterway.

The approval procedure for boundaries of Crown Land as defined under the *Crown Land Management Act 2016* has been revised to accord with the amendments to the *Surveying and Spatial Information Regulation 2024* (see section 7).

Where new determinations of MHW adjoin land managed by Transport for NSW (TfNSW) such as Sydney Harbour, then approval from TfNSW is required (see section 8).

2. Introduction

This Surveyor-General's Direction outlines the procedures for:

- Determining MHW as a boundary, or
- Determining the bank or banks of non-tidal streams, or
- Determining the location of the landward boundary of roads or reservations of stipulated width adjacent MHW or non-tidal streams which have not previously been surveyed, or
- Situations where there is doubt or confusion as to the location of natural feature boundaries.

Except under special conditions, as prescribed by law, a boundary cannot extend below MHW. Where the bank or MHW has eroded suddenly and the processes causing the change did not satisfy the doctrine of erosion and accretion (i.e. natural, gradual and imperceptible erosion) hereafter referred to as 'the doctrine', then the former position of the natural feature boundary will not change. In these cases, the natural feature boundary may extend into the water. Some methods of determination of MHW are contained in Part 6, Section 22 of the [Manual of the New South Wales Integrated Survey Grid \(1976\)](#). Current tidal plane statistical data should be obtained from [Department of Climate Change, Energy, the Environment and Water - Manly Hydraulics Laboratory](#).

Section 74 of the *Surveying and Spatial Information Regulation 2024* outlines the requirement for a comprehensive report to be included with the plan for all surveys involving natural feature boundaries (see section 9).

3. Administration of Mean High Water Mark

Titles to the beds of all tidal waters, unless specifically vested in another authority or the subject of a Crown grant, are under common law deemed to be vested in the Crown (see Hallman 13.39). The Minister administering the *Crown Lands Management Act 2016* (or their delegate) is responsible for the management of these lands and is the approval authority for MHW re-determination.

TfNSW is responsible for administering all land below MHW in Sydney Harbour, Botany Bay, Port Hunter and Port Kembla Harbour.

This direction will deal with the responsibility of TfNSW separately. Each organisation has different procedures for approving MHW definitions.

Under section 75(2) of the *Surveying and Spatial Information Regulation 2024* approval is required for MHW definitions before lodging the plan with NSW Land Registry Services (NSW LRS). This includes defining the MHW for the first time, making changes to an existing MHW definition, and redefinition **if it has not been updated in the last 20 years.**

4. Non-tidal water

4.1 Lakes and lagoons

Where a survey plan includes a boundary along a non-tidal lake or lagoon, the surveyor will be required to adopt the original position of the bank at the time of transfer. The following summary of Section 13.3 of the *Crown Land Management Act 2016* applies to non-tidal lakes and lagoons.

- Section 13.3 (1) outlines that the boundary of any land which is transferred by the Crown, and which is described as being bounded by the margin or bank of a non-tidal lake shall be taken to be the bank of the lake at the time of the Crown survey for the purpose of transfer.
- Section 13.3 (2) outlines that if the title of transferred land is described as being bounded by a non-tidal lake, then that title does not and has never extended to include any part of the bed of the lake. No person who is the owner of adjoining land so transferred is entitled to any rights of access over, or to the use of, any part of the bed.
- Section 13.3 (3) states the doctrine of accretion does **not** apply, and never **has** applied, to a non-tidal lake.

To assist surveyors prepare applications for redefinition, the following water bodies have been judged to be non-tidal:

- Narrabeen Lagoon (*Attorney General (NSW) v Wheeler* (1944) 45 SR (NSW) 321)
- Dee Why (*Williams v Booth* (1910) 10 CLR 341)
- Glenrock Lagoon (*Attorney General (NSW) v Merewether* (1905) 5 SR (NSW) 157)
- Lake Illawarra (*Attorney General v Swan* (1921) 21 SR (NSW) 408)

Therefore, the doctrine does not apply to land adjoining those water bodies. There may be other non-tidal water bodies within New South Wales that by virtue of their character may be deemed non-tidal.

In any case where the original position of the bank cannot be reproduced with certainty, the approval of the Minister administering the *Crown Land Management Act 2016* or their delegate to a proposed definition of the bank is required. The procedure to obtain this consent is similar to that for a determination of MHW (see section 7.2).

In any case where the bank of a non-tidal lake or lagoon is to be used as a natural feature boundary to define a new land grant or title, then the bank shall be the limit of the bed as described in the *Crown Land Management Act 2016*. No new boundary of a lot shall be an ill-defined natural feature (e.g. cliffs, lakes, and swamps). In those situations, the boundary must be defined and marked by a series of straight lines **that do not** represent or approximate the ill-defined natural feature. The ill-defined natural feature will **not** be the boundary.

4.2 Rivers and streams

Rivers and streams are subject to the doctrine. Where a survey includes a boundary along a non-tidal river or stream, the surveyor will adopt the presently existing bank or centre line, **ONLY**

1. if it agrees with the original position, or
2. if it can be proven that the change is consistent with the doctrine, or
3. if it can be proven that the previous definition of the bank was incorrect. In most cases this will be very difficult to prove.

If the position of the bank has changed suddenly, or by artificial means (i.e. flood, reclamation etc.), then the definition of the bank before the sudden change or changes occurred must be adopted.

The existing position of the bank in addition to the original position of the bank must also be shown on the survey plan with appropriate details noted as to what constitutes the boundary.

If a title extends to the centre of the stream, then the surveyor must determine the position of both banks as the means of defining the centre line of the bed. All three features are to be noted on the survey plan with the appropriate details as to what constitutes the boundary.

5. Landward boundaries of roads or reservations of stipulated width adjacent to water bodies

5.1 Landward boundaries of reservation fronting tidal waters

When surveying land adjacent to a reserve that has a natural feature boundary, Section 40(2) of the *Surveying and Spatial Information Regulation 2024* requires a surveyor to define the boundary by straight lines approximately parallel to the position of the natural feature as originally defined, if no prior survey definition exists.

The landward boundary of the reserve **fronting tidal waters** must be surveyed and marked in accordance with Sections 48, 49, 50, 51 and 52 and Schedules 2 and 3 of the *Surveying and Spatial Information Regulation 2024*.

From Section 65 of the *Surveying and Spatial Information Regulation 2024*, the position of the natural feature (present waterline) must be shown by spline and a series of short lines positioned so that each change of course or direction of the present natural feature can be determined. Appropriate details describing the natural feature must be shown on the survey plan.

5.2 Landward boundaries of crown road of stipulated width fronting non-tidal waters

The position of the existing natural feature (bank) must be shown by a spline and a series of short lines positioned so that each change of course or direction of the present natural feature can be determined. Appropriate details describing the natural feature must be shown on the survey plan.

The *Surveying and Spatial Information Regulation 2024* no longer requires position of the legal or original bank.

Note: Where the landward boundary of a road is involved, applicants should be aware that procedures under Sections 18 –21 of the *Roads Act 1993* may apply.

5.3 Approval to landward boundary of reservation or crown road fronting a natural feature

A surveyor must obtain the approval of the Minister administering the *Crown Land Management Act 2016* when the survey abuts the landward boundary of any road or reservation fronting a river, stream or tidal waters and that landward boundary has not previously been defined by survey.

Consent from Crown Lands is not required when no Crown land is involved.

To obtain consent please refer to the requirements outlined on the [Water boundary determination](#) page of the Crown Lands website.

Approval to the new definition of the landward boundary of the reservation or crown road fronting a natural feature should be sought prior to lodgment of the survey plan at NSW LRS. It is recommended that surveyors carrying out the new definition liaise with officers of the Crown Lands prior to lodgment of the plan, particularly where there is a marked variation or any other unusual circumstances. Contact details for Crown Lands can be found on the [Crown Lands Contact Us webpage](#). A consultation fee may apply.

Before registration of the final survey plan at NSW LRS, the following statement will be inserted in the “Signature and Seals Only” panel of the plan form:

“THE MINISTER FOR LANDS AND PROPERTY IN ACCORDANCE WITH SECTION 75 OF THE SURVEYING & SPATIAL INFORMATION REGULATION 2024 APPROVES THE DETERMINATION OF THE LANDWARD BOUNDARY OF AS SHOWN HEREON.

CROWN LANDS FILE ON/...../.....”

The inclusion of this statement will inform subsequent users of the plan that the position of the landward boundary of the reserve or reservation had the approval of Crown Lands.

6. Modified doctrine of erosion and accretion

Section 28 of the *Coastal Management Act 2016* applies to land:

- a. *which is within the coastal zone, or which adjoins the tidal waters of Sydney Harbour or Botany Bay, or their tributaries, and*
- b. *a boundary (**the water boundary**) of which is defined or otherwise determined by reference to a mean high-water mark.*

Section 28 does not apply to the amendment of titles that were previously based upon poor, erroneous or inaccurate surveys.

Under Section 28 of the *Coastal Management Act 2016*, the doctrine of accretion has been modified to include additional provisions whereby an accretion claim **cannot** be granted if:

- a. *a perceived trend by way of accretion is not likely to be indefinitely sustained by natural means, or*
- b. *as a consequence of making such a grant, public access to a beach, headland or waterway will, or is likely to be, restricted or denied.*

These legislative changes have been brought about to provide a more sustainable assessment methodology aimed at preventing the undue loss or inadvertent further alienation of public foreshore lands. In addition to

the existing requirement that accretion is caused by natural, gradual and imperceptible means, the modified doctrine requires that a more rigorous understanding of the physical shoreline processes will form the basis of the determination.

Firstly, in order for an applicant to demonstrate that “*a perceived trend by way of accretion is likely to be indefinitely sustained by natural means*”, it will be necessary to obtain the professional opinion of practitioners with a demonstrated level of professional experience in the interpretation and quantification of hydrodynamic processes and shoreline movements. In particular, professional assessments would need to be based upon a detailed understanding and assessment of observations (where available) regarding relevant coastal or estuarine hydrodynamics, shoreline positions and sediment transport processes. More specifically, professional assessments would need to cover the following:

- History of the subject accretion and determination of quantifiable trends.

It is essential that accurate, quantifiable measures of accretion are readily substantiated by data analysis. In this respect, photogrammetric analysis of vertical aerial photography is likely to provide the most accurate data upon which to conclude trends in the movement of the shoreline and associated features including the MHWL.

- Physical processes impacting upon and governing the stretch of foreshore in question.

An understanding of the physical processes is essential to demonstrate that any perceived trend of accretion is likely to be indefinitely sustained by natural means.

- Implication of climate change (in particular, postulated rise in Mean Sea Level (MSL)).

The weight of scientific evidence available predicts accelerated Sea Level Rise (SLR) over the course of this century. The extent of SLR is not definitive and predictions rely on a range of global atmospheric models driven by various greenhouse gas emission scenarios.

The Intergovernmental Panel on Climate Change (IPCC), which was jointly established by the World Meteorological Organisation and the United Nations Environment Program in 1988, remains the most authoritative source on global climate change predictions. The 2001 publication by the IPCC indicated a broad range of possible predictions of SLR over the period from 1990 to 2100 ranging from a low of 9 centimetres to a high of 88 centimetres. The average of all these possible scenarios indicates a rise in MSL of approximately 50 centimetres over this timeframe.

In effect, the result of an increase in MSL is that the active nearshore profile (and by consequence, ambulatory boundaries such as those defined by reference to the MHWL), will readjust to a higher and more landward position over time.

In order to consider the impact of SLR, it will be necessary to assess what impact a rise in MSL of 50 centimetres would have on the position of the MHWL. This assessment will provide a fundamental guide to establishing whether or not any trend of accretion that is evident will likely be “indefinitely sustainable by natural means” over the longer term, in a position seaward of the existing ambulatory boundary.

Secondly, in order to meet the provisions of the modified doctrine of accretion, an applicant must also demonstrate that to grant such a claim would not result in “*public access to a beach, headland or waterway either being, or likely to be, restricted or denied*”. In this respect it would be necessary for the applicant to provide details of the site in question and document the extent of associated customary public access. The professional assessment indicated in the afore mentioned, will also have to consider the impact of climate change at the site in respect of denying or restricting public access.

The Local Council will be referenced by the relevant approval authority to provide information regarding public access issues.

6.1 Land not satisfying Section 28 of the Coastal Management Act 2016

If there has been accretion to the foreshore and that accretion cannot satisfy the conditions of the modified doctrine of accretion, then the original MHWL must be adopted. New Deposited Plans should show the current title limit (i.e. the original Mean High Water Mark - described by a series of short lines). The present shoreline should also be shown on the Deposited Plan (also, described by a series of short lines). The present shoreline is the intersection line of the Mean High Water (MHW) tidal plane with the adjoining land along the foreshore.

The present waterline must not be described as a variation of MHWL. Legally MHWL is the term to describe the title limit, that being the natural feature, which is the mean of all the high tides including the spring and neap high tides taken over a sufficiently long period.

The accreted land must be clearly described in the survey plan with the notation “Land not satisfying Section 28 of the Coastal Management Act 2016” as shown in Figure 1.

“Land not satisfying Section 28 of the Coastal Management Act 2016”

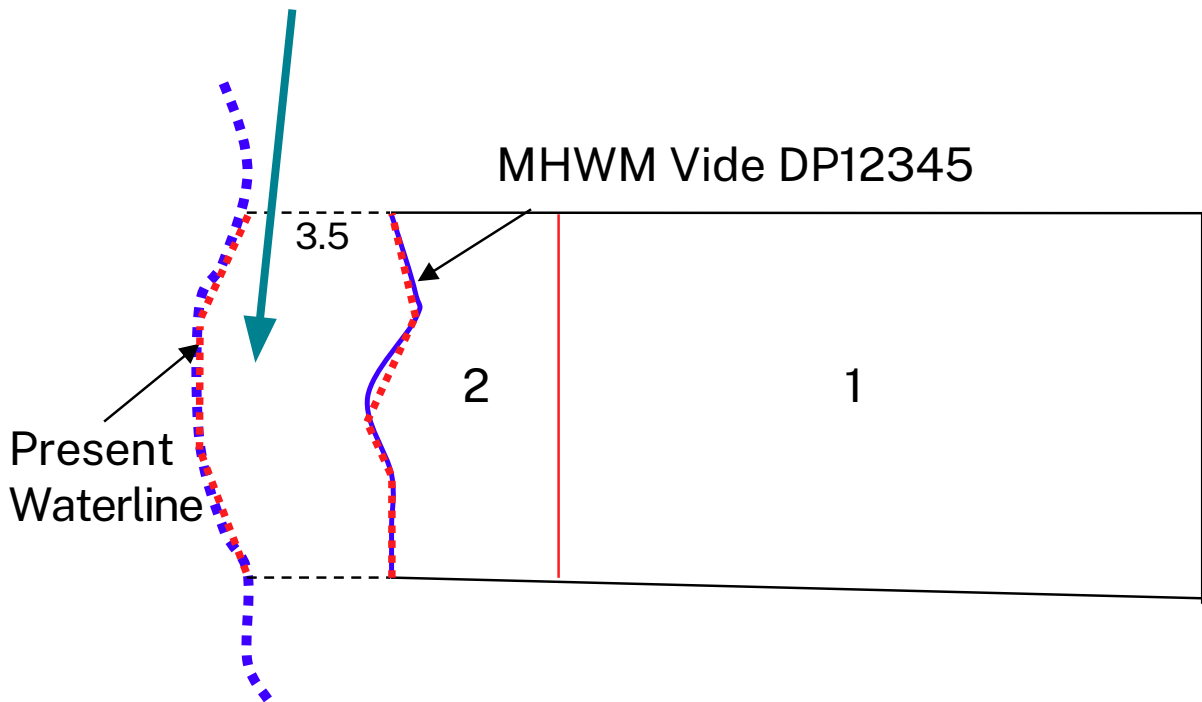


Figure 1 Land not satisfying Section 28 of the Coastal Management Act 2016

7. Department of Planning, Housing and Infrastructure – Crown Lands

Consent requirements for new water boundary definitions (Including non-tidal and Mean High Water Mark definitions)

This section applies only where the bed of the water body is Crown Land as defined under the *Crown Land Management Act 2016*. If another authority owns the bed, then approval from that authority must be obtained. The submission for their approval will be similar to the requirements of this section.

There are two categories for obtaining the consent from Crown Lands to new natural feature boundaries - one for non-tidal river & stream bank boundaries and the other for MHWB boundaries. To obtain the consent of the Minister administering the *Crown Land Management Act 2016*, an application can be made at the Crown Lands website - [Water boundary determination](#). Contact details for Crown Lands can be found on the [Crown Lands Contact Us webpage](#)

The consent from Crown Lands is not required when no crown land is involved.

7.1 Consent to non-tidal river and stream boundaries

7.1.1 Consent to unchanged bank boundaries

The surveyor may dispense with the need for a specific approval of Crown Lands in cases where the plan, when lodged at NSW LRS, bears a certification. That certification must state that the position of bank on the ground, as depicted on the plan, is substantially the same as that shown on a previous plan that had an approval to the bank definition.

The certification should be in the following terms:

“ THE LOCATION OF THE BANK BOUNDARY AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS THAT SHOWN ON (ADD PLAN NUMBER) “

A surveyors' report must accompany the survey plan. That report must describe the basis and method of determining the location of the bank, photographs and a detailed plot of the bank shown in the previous plan and the present bank. The report must support the certification shown on the survey plan. NSW LRS on the basis of the certification, may accept the definition of the bank. However, if normal investigations of the plan find the certification to be inconsistent with the facts, a requisition will be raised.

In the event that consent was not obtained to the previous plan, an approval for the determination of the bank must be obtained (see section 7.1.2 for the approval process).

7.1.2 Consent to bank boundaries that do not have a current consent

Where a survey of the bank does not have a current consent, the approval of the Minister administering the *Crown Land Management Act 2016* is required.

If the natural feature has not changed and the variation is due to a poor, erroneous or inaccurate survey of the original bank, then the facts must be disclosed in the comprehensive report (see section 9).

In complex or difficult bank redefinition situations, please refer to the requirements outlined on the [Water boundary determination](#) page of the Crown Lands website.

7.2 Mean High Water Mark boundaries

7.2.1 Consent to unchanged boundary

The need for a specific approval of Crown Lands may be dispensed with in cases where the plan, when lodged at NSW LRS bears a certification by the surveyor. That certification must state that the position of MHWM on the ground, as depicted on the plan, is substantially the same as that shown on a previous plan that had an approval to the MHWM definition within the last 20 years.

Regardless to whether approval is or is not required, a comprehensive report must be prepared and submitted alongside the survey plan (see section 9).

The certification should be in the following terms:

“ THE LOCATION OF THE MHWM BOUNDARY AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS THAT SHOWN ON (ADD PLAN NUMBER)..... “

The definition of MHWM may be accepted by NSW LRS on the basis of the certification. However, if normal investigations of the plan find the certification to be inconsistent with the facts, a requisition will be raised.

In the event that consent was not obtained to the previous plan, an approval for the determination of MHWM must be sought from the Minister administering the *Crown Land Management Act 2016*. To obtain consent please refer to the requirements outlined on the [Water boundary determination](#) page of the Crown Lands website.

An administration fee plus GST may be charged to the surveyor.

When approved, one (1) endorsed copy of the plan will be returned to the surveyor as a record of Crown Lands' consent. That endorsed plan must be submitted with the final survey plan to NSW LRS.

Before lodging the plan at the NSW LRS, the following statement should be inserted in the “Signature and Seals Only” panel of the plan form:

“THE MINISTER FOR LANDS & PROPERTY, IN ACCORDANCE WITH SECTION 75 OF THE SURVEYING AND SPATIAL INFORMATION REGULATION 2024 APPROVES THE DETERMINATION OF THE MHWM, AS SHOWN HEREON.

CROWN LANDS FILE _ _ _ _ ON _ _ / _ _ / _ _ .”

The inclusion of this statement will inform subsequent users of the plan that the position of the MHWM had the approval of Crown Lands.

7.2.2 Consent to changed boundary

Where a survey reveals a substantial variation in the position of MHWM to that determined by an earlier survey, the approval of the Minister administering the *Crown Land Management Act 2016* is required. The cause of the variation is critical.

Should the cause of the variation be erosion, then there are no further requirements of the applicant apart from those under the *Surveying and Spatial Information Regulation 2024*. The location of the present shoreline and former MHWM must be described on the survey plan by a series of short lines. The present shoreline is the intersection line of the MHW tidal plane with the adjoining land along the foreshore.

However, if the cause of the variation is by accretion to the land and within the Coastal Zone or Sydney Harbour or Botany Bay and their tributaries, then the provisions of Section 28 of the *Coastal Management Act 2016* modified doctrine apply (see section 6). If the natural feature has not changed and the variation is due to a poor, erroneous or inaccurate survey of the original MHWM feature, then the approval of the Minister administering

the *Crown Land Management Act 2016* is still required, but without the need to prove the modified doctrine.

Approval to the new definition of MHWM should be sought prior to lodgment of the survey plan at NSW LRS. It is recommended that surveyors carrying out MHWM definitions, liaise with officers of Crown Lands prior to lodgment of the plan, particularly where there is a marked variation or other unusual circumstances. A consultation fee may apply.

When making the submission, the surveyor must lodge an application for MHWM approval at Crown Lands. Please refer to the requirements outlined on the [Water boundary determination](#) page of the Crown Lands website.

Crown Lands surveyors will analyse the method and basis of the determination, conduct a site investigation where appropriate and may consider responses from any other authority.

The applicant will be advised in writing whether their application has been approved or the basis upon which the application was refused. If approved, one (1) endorsed copy of the plan will be returned to the applicant. The surveyor must retain the endorsed copy.

Before registration of the final survey plan at NSW LRS, the following statement will be inserted in the “Signature and Seals Only” panel of the plan form:

“THE MINISTER FOR LANDS AND PROPERTY, IN ACCORDANCE WITH SECTION 75 OF THE SURVEYING AND SPATIAL INFORMATION REGULATION 2024, APPROVES THE DETERMINATION OF THE MHWM BOUNDARY OF LOTS, AS SHOWN HEREON.

CROWN LANDS FILE _____ ON __/__/__.”

If the variation was caused by accretion to the adjoining land, then the modified doctrine must be satisfied. In that case relevant documents will be forwarded to the local council and NSW Environment & Heritage to comment on the applicant’s submission in regard to the issues of public access and indefinite sustainability (see section 6).

If the application satisfies all criteria of the modified doctrine, then the following statement will be inserted in the “Signature and Seals Only” panel of the plan form:

“THE MINISTER FOR LANDS AND WATER IN ACCORDANCE WITH SECTION 75 OF THE SURVEYING AND SPATIAL INFORMATION REGULATION 2024 AND SECTION 28 OF THE COASTAL MANAGEMENT ACT 2016 AS AMENDED, APPROVES THE DETERMINATION OF THE MHWM BOUNDARY OF LOTS , AS SHOWN HEREON.

CROWN LANDS FILE _____ ON __/__/__.”

The inclusion of these statements will inform subsequent users of the plan that the position of MHWM had the approval of the Minister administering the *Crown Land Management Act 2016* without the need to undertake extensive searching.

7.3 Identification surveys of waterfront properties

When undertaking your search prior to an identification survey of a waterfront property, the latest information from Crown Lands and tidal analysis data from the Manly Hydraulic Laboratory should be included.

This information should include the details of structures and occupations contained within leases, licences or permissive occupancies.

The surveyor has a professional obligation to identify and comment on the location of all structures and occupations that relate to the client's property. In this regard, MHWL is a title boundary no different to any other. Therefore, differences in the location of MHWL or the encroachment of improvements should be identified and reported.

Surveyors should also refer to the guide for conducting Identification Surveys prepared by the Institution of Surveyors NSW.

8. Transport for NSW

Transport for NSW (TfNSW) – is the successor agency to Roads and Maritime Services, NSW Maritime, the Waterways Authority, the Maritime Services Board and the Sydney Harbour Trust. Applications within Sydney Harbour, Botany Bay, Newcastle Harbour & Port Kembla must be lodged through TfNSW. For information on these applications or how to contact TfNSW visit the [TfNSW Maritime Survey and Spatial Information webpage](#).

TfNSW has the responsibility for administering the title to all land below MHWL in the following geographical areas:

- **Sydney Harbour** including its estuaries to their tidal limit.
- **Botany Bay** to a line east of the Captain Cook Bridge extending between Taren Point and Rocky Point.
- **Newcastle Harbour** from the eastern end of the breakwalls to the downstream side of the following bridges:
 - o Stockton Bridge (Hunter River, North Channel)
 - o Tourle Street Bridge (Hunter River, South Channel)
 - o Hannell Street Bridge (Throsby Creek)
- **Port Kembla Harbour**, including the Inner & Outer Harbours and their adjoining foreshores.

TfNSW's consent to the definition of MHWL in these geographical areas is a pre-requisite to the lodgment of a survey plan at NSW LRS.

Surveyors should include in their search the latest definition of MHWL provided by TfNSW. It is possible that TfNSW's definition of MHWL will be different to that shown on the "current plan".

8.1 Consent to unchanged boundary

To obtain TfNSW's consent to an unchanged boundary the surveyor should submit a PDF copy of the plan together with a covering letter stating that:

"THE DEFINITION OF F/MHWL IS THE SAME AS THAT SHOWN ON DP..... FOR CONSENT TO THE DEFINITION SEE TRANSPORT FOR NSW FILE(S):"

A comprehensive report must be submitted with the plan (see section 9).

When approved, an endorsed PDF copy of the plan will be returned to the surveyor as a record of TfNSW's consent.

Before lodging the plan at NSW LRS, the following statement should be inserted in the "Signature and Seals Only" panel of the plan form:

"TRANSPORT FOR NSW, IN ACCORDANCE WITH DIVISION 75 OF THE SURVEYING AND SPATIAL INFORMATION REGULATION 2024, APPROVES THE DETERMINATION OF THE F/MHWL BOUNDARY, AS SHOWN HEREON.

TRANSPORT FOR NSW FILE_ _ _ _ _ ON_ _ / _ _ / _ _ ."

The inclusion of this statement will inform subsequent users of the plan that the position of the MHWL had the approval of TfNSW.

8.2 Consent to changed boundary

Where a survey reveals a substantial variation in the position of MHWM to that provided by TfNSW in a preliminary search, TfNSW's approval is to be sought to the proposed definition prior to plan lodgment at NSW LRS.

When making the submission for approval, the surveyor must forward the following items to TfNSW for investigation:

- c. A PDF of the final plan signed and dated by a registered surveyor showing the definition of the MHWM boundary as supplied by TfNSW in a preliminary search and the proposed definition of MHWM as determined by the surveyor; and
- d. In accordance with the Surveying and Spatial Information Regulation 2024 a comprehensive report on the definition of Mean High Water Mark (see section 9).

A file will be created for each application.

The TfNSW survey manager will analyse the method and basis of the determination and conduct a site investigation where appropriate.

The applicant will be advised in writing whether their application has been approved or the basis upon which the application was refused. If approved, an endorsed PDF copy of the plan will be returned to the applicant.

Before lodgment of the final survey plan at NSW LRS, the following statement will be inserted in the "Signature and Seals Only" panel of the plan form:

"TRANSPORT FOR NSW, IN ACCORDANCE WITH PART 10 OF THE SURVEYING AND SPATIAL INFORMATION REGULATION 2024 APPROVES THE DETERMINATION OF THE F/MHWM BOUNDARY AS SHOWN HEREON.

TRANSPORT FOR NSW FILE ON/...../....."

If the variation was caused by accretion to the adjoining land, then the modified doctrine must be satisfied. In that case relevant documents will be forwarded to the local council and NSW Environment & Heritage to comment on the applicant's submission in regard to the issues of public access and indefinite sustainability (see section 6).

If the application satisfies all criteria of the modified doctrine, then the following statement will be inserted in the "Signature and Seals Only" panel of the plan form:

"TRANSPORT FOR NSW IN ACCORDANCE WITH PART 10 OF THE SURVEYING AND SPATIAL INFORMATION REGULATION 2024 AND SECTION 28 OF THE COASTAL MANAGEMENT ACT 2016, APPROVES THE DETERMINATION OF THE MHWM BOUNDARY AS SHOWN HEREON.

TRANSPORT FOR NSW FILE ON/...../....."

The inclusion of this statement will inform subsequent users of the plan that the position of the MHWM had the approval of TfNSW without the need to undertake extensive searching.

8.3 Identification surveys of waterfront properties

When undertaking your search for an identification survey of a waterfront property, information from TfNSW, the Port Authority of NSW and the Manly Hydraulics Laboratory should be included. This should include details of the relevant foreshore structures and occupations held under lease from TfNSW.

The surveyor has a professional obligation to identify and comment on title dimensions, the location of all structures and occupations that relate to the client's property. In this regard, MHWM is a title boundary no different to any other. Therefore, differences in the location of MHWM or the encroachment of improvements should be identified and reported.

The use of TfNSW records, plans and field notes may be extremely useful in providing a solution to what may otherwise be a difficult fixation in respect to certain side boundaries. It is therefore recommended that you include TfNSW, tide data from the Port Authority of NSW and Manly Hydraulics Laboratory on your standard search list for waterfront properties.

9. Reporting

Under Section 74 of the *Surveying and Spatial Information Regulation 2024*, when defining a natural feature boundary, the surveyor must prepare and submit a comprehensive report alongside the plan. This ensures the methodology, evidence, and justification for the defined boundary are clearly documented.

A template and a sample report are available in the resource pack associated with SGD No 7.

End of Direction