



FACT SHEET

Foreshore Building Line

1. Foreshore Area

Lots fronting waterways and foreshore reserves have a significant role in maintaining and restoring the natural scenic quality of waterways. They also have an important ecological role which is critical to the health of waterways and the maintenance of biodiversity and natural vegetation. The interface between the land and the waterway is the most important part of this land. The provisions of SSLEP2015 impose restrictions upon the use and development of land in this interface area. SSLEP2015 achieves this by defining a foreshore area on these lots. The foreshore area is the land between the foreshore building line and the mean high water mark.

Clause 6.9 of SSLEP2015 sets out the provisions relating to the foreshore area. The objectives of SSLEP2015 in relation to the foreshore area are set out below:

SSLEP2015 Extract:

6.9 Limited development on foreshore area

(1) The objectives of this clause are as follows:

- (a) to ensure that development on the foreshore area will not adversely impact on natural foreshore processes or affect the significance and amenity of the area,
- (b) to maintain and improve public access to the intertidal area of waterfronts if that access will cause minimal adverse environmental impact,
- (c) to avoid adverse ecological effects on waterways by minimising any adverse impact from development on water quality and, so far as is practicable, to improve the quality of urban run-off entering waterways,
- (d) to protect and enhance significant natural features and vegetation on the foreshore area,
- (e) to retain endemic vegetation along foreshore areas,
- (f) to restore and revegetate foreshore areas to improve estuarine flora and fauna habitat,
- (g) to minimise any adverse visual impact of development when viewed from adjacent land and waterways by using a design and materials that complement the natural landscape of the foreshore area,
- (h) to minimise any adverse impact of development on the natural landform of the foreshore area and waterways by integrating the development with minimal change to the natural topography of the foreshore area,
- (i) to achieve a balance between private development and the public use of waterways,
- (j) to minimise the obstruction of water views from public land.

foreshore area means the land between the foreshore building line and the mean high water mark of the nearest bay or river.



2. How is the foreshore building line established?

The foreshore building line is defined in SSLEP 2015 and is indicated on the Foreshore Building Line Map.

SSLEP2015 Extract:

foreshore building line means the line shown as the foreshore building line on the Foreshore Building Line Map.

Foreshore Building Line Map means the Sutherland Shire Local Environmental Plan 2015 Foreshore Building Line Map.

A foreshore building line applies to most of the waterfront lots in Sutherland Shire. The position of the foreshore building line is as indicated on the Foreshore Building Line Map. The position of the foreshore building line therefore remains fixed over time. It does not change if the mean high water mark changes or is redefined.

The foreshore building line generally follows the shape of the mean high water mark along the foreshore, except where the mean high water mark has been redefined. Where the mean high water mark includes changes in direction, the foreshore building line may include angular intersections. The foreshore building line impacts on properties in different ways, depending on the nature of the historical subdivision pattern.

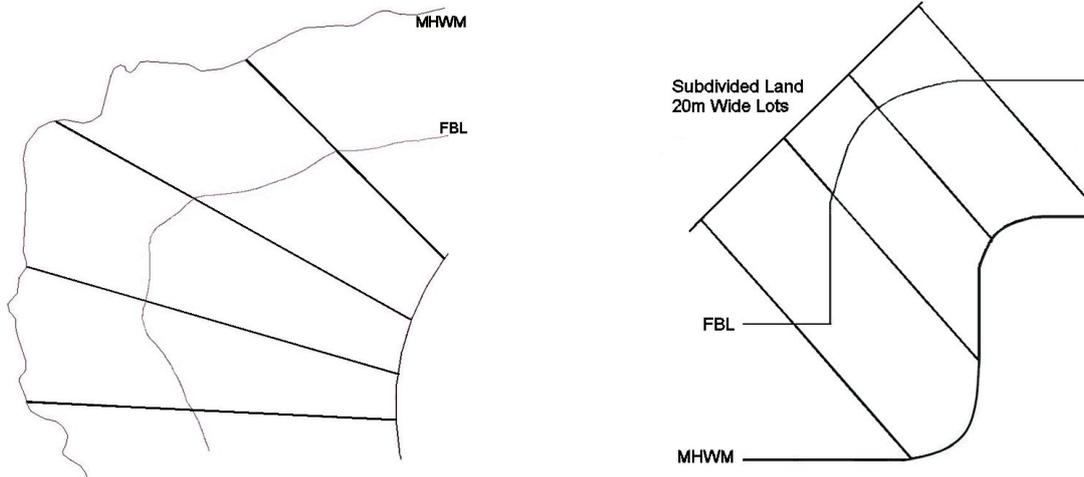


Diagram 1: The Foreshore Building Line

To accurately establish the position of the foreshore building line on a lot, a digital file can be obtained from Council for a fee. Applications can be made online at:

<http://www.sutherlandshire.nsw.gov.au/Development/Local-Environmental-Plan-LEP/Foreshore-Building-Line-Electronic-Data-Applications>

3. How does the foreshore building line affect new development?

The foreshore building line functions to minimise buildings and other works in the most environmentally sensitive area adjacent to the foreshore (the foreshore area). Development in the foreshore area is generally restricted, as shown in the LEP extract below. Generally, buildings or work must not occur in the foreshore area (i.e. below the foreshore building line), as indicated by subclause (2). New dwellings are to be located outside of the foreshore area and designed to maintain and enhance natural vegetation and landforms visible from the waterways.

Subclause (2) makes allowance for some buildings or works to be carried out in the foreshore area. The following may be carried out subject to the necessary appropriate approvals:

- Alterations, extensions and rebuilding of an existing dwelling forward of the foreshore building line
- Boat sheds
- Jetties
- Landscaped areas
- Sea retaining walls
- Slipways
- Inground swimming pool no higher than 300mm above ground level at any points
- Water recreation structures
- Waterway access stairs

Subclauses (3) and (4) set out the matters to be considered by Council in assessing a development application for these buildings or works.

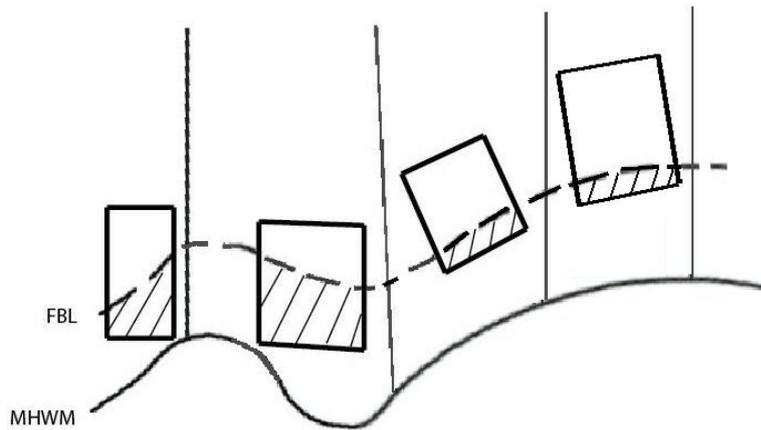
The only forms of development which may be below the foreshore building line are those identified above and those forms of exempt development allowed in the foreshore area under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (as amended from time to time). Other forms of development, including ancillary development to a dwelling e.g. balconies, decks, garden sheds, privacy screens, pergolas, cabanas and fences (other than swimming pool fences) are generally not acceptable below the foreshore building line.

The LEP has provisions for sites that are so constrained by the natural topography and bushland on the site that the only reasonable location for a dwelling is forward of the foreshore building line.

In such cases, Council may consent to a new dwelling forward of the foreshore building line in accordance with subclause 2(b), provided Council is satisfied that the tests in subclauses (3) and (4) are satisfied. These tests are intended to ensure the proposal is a sensible and sensitive solution and that no reasonable alternative location exists on site. In applying these tests, the whole site is considered, not just the part of the site affected by the proposed dwelling.

If the proposed dwelling is to replace an existing dwelling forward of the foreshore building line, Council may consent to the proposed dwelling forward of the foreshore building line provided the conditions in tests specified in subclauses (3) and (4) are satisfied. Particular care should be exercised in the proposed location of the dwelling. Subclause 2(a) requires that the new dwelling is no further forward of the foreshore building line than the footprint of the existing

dwelling. In practical terms, the new dwelling should not extend beyond the footprint of the existing floor and walls of the dwelling (excluding any existing balconies) as illustrated in Diagram 3.



The shaded area illustrates the extent of the existing dwelling below the foreshore building line, and therefore the greatest extent of any permissible encroachment below the foreshore building line.

Diagram 2: Foreshore Building Line in Plan View

SSLEP2015 Extract:

Clause 6.9

- (2) Development consent must not be granted for development on the foreshore area except for the following:
- (a) the alteration, extension or rebuilding of an existing dwelling wholly or partly on the foreshore area if the footprint of the extension or alteration will not extend any further forward of the foreshore building line than the footprint of the existing dwelling,
 - (b) the erection of a new dwelling on the foreshore area if there is no reasonable alternative that would allow a new dwelling to be located outside of the foreshore area,
 - (c) development for the following purposes that does not significantly alter the shape, natural form or drainage of the foreshore area:
 - (i) boat sheds,
 - (ii) jetties,
 - (iii) landscaped areas,
 - (iv) sea retaining walls,
 - (v) slipways,
 - (vi) swimming pools (that are no higher than 300 millimetres above ground level),
 - (vii) water recreation structures,
 - (viii) waterway access stairs.
 - (d) the erection of a building on the foreshore area (other than a building referred to in paragraph (a), (b) or (c)), if the levels, depth or other exceptional features of the



site make it appropriate to do so.

- (3) Development consent must not be granted under this clause, unless the consent authority is satisfied that:
- (a) the appearance of the development, from both the foreshore area and the adjacent waterway, will be compatible with the surrounding area, and
 - (b) the development will not cause environmental harm such as:
 - (i) pollution or siltation of the waterway, or
 - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas or fauna and flora habitats, or
 - (iii) an adverse effect on drainage patterns, and
 - (c) the natural qualities of the foreshore area are retained or restored as far as practicable through the retention or reinstatement of natural levels and endemic vegetation, and
 - (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and
 - (e) opportunities to provide continuous public access along the foreshore area and to the waterway will not be compromised, and
 - (f) any heritage significance of the foreshore area on which the development is to be carried out and of surrounding land will be maintained, and
 - (g) in the case of development for the alteration, extension or rebuilding of an existing building (or the erection of a new building) wholly or partly in the foreshore area, the alteration, rebuilding or new building will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and
 - (h) in the case of the erection of a new dwelling, the dwelling will not be erected further forward of the foreshore building line than any existing dwelling on the land, and
 - (i) it has considered sea level rise or change of flooding patterns as a result of climate change.
- (4) In deciding whether to grant development consent for development on the foreshore area, the consent authority must consider whether and to what extent the development would facilitate the following:
- (a) continuous public access to and along the foreshore area through or adjacent to the proposed development,
 - (b) public access to link with existing or proposed open space,
 - (c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,
 - (d) public access to be located above the mean high water mark,
 - (e) reinforcement of the foreshore character and respect for existing environmental conditions,
 - (f) management of any rise in sea level or change of flooding patterns as a result of climate change.

4. How does the foreshore building line affect alterations and additions?

Whilst the LEP does not define alterations and additions, alterations are generally considered to be works to an existing structure that are restricted to the existing building envelope, while additions are generally considered to be works which extend the building footprint or envelope.

Alterations to existing dwellings forward of the foreshore building line

Council may grant consent to alterations to existing dwellings forward of the foreshore building line (subclause (3)(g)). Some alterations may be categorised as exempt development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (as amended from time to time).

Alterations and additions to excluded buildings or works

Council may grant consent to alterations and additions to excluded buildings or works (Subclause (3)(g)). Some alterations and additions may be categorised as exempt development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (as amended from time to time).

Additions to existing dwellings forward of the foreshore building line

Council may consent to additions to an existing dwelling forward of the foreshore building line provided the condition of subclause (2)(a) that the additions to the dwelling are no further forward of the foreshore building line than the footprint of the existing dwelling.

Council must be satisfied that the conditions in subclause (3) (g) are achieved and that there has been consideration of the matters in subclause (4). These tests are intended to ensure that the proposal is sensible and sensitive to the context and are considered in the context of maintaining and enhancing the whole foreshore area, not just the location of the proposed addition to the dwelling.

In practical terms, any proposed additions forward of the foreshore building line should generally not protrude beyond the existing floor or walls of the dwelling (not including any existing balconies). Additions forward of the foreshore building line may extend into the airspace above the existing building to the applicable height limit (e.g. addition of a second storey above the existing dwelling) or may occupy space below the existing floor. The proposal will still have to satisfy the other requirements of the LEP such as FSR, and have an acceptable impact on bulk, scale etc. [see also Note below]

FACT SHEET 8

Foreshore Building Line

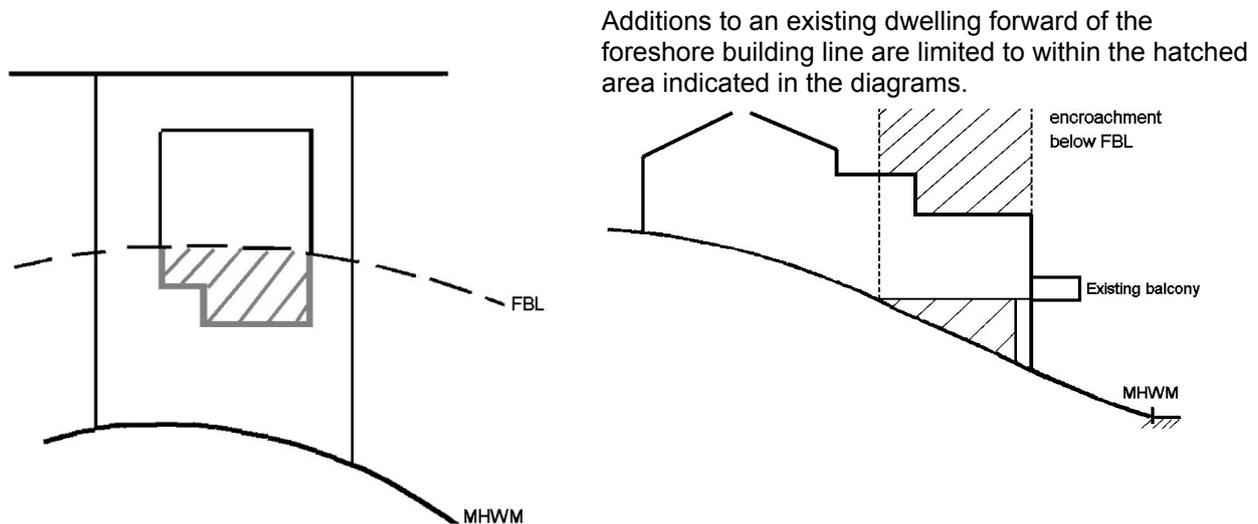


Diagram 3: Additions forward of the foreshore building line

Note:

Clause 6.9(2)(a), which limits an alteration, extension, or rebuilding of an existing dwelling to no further forward of the foreshore building line than the footprint of the existing dwelling, is a development standard. Council may consider a written request to contravene this development standard pursuant to clause 4.6 of the plan. Any such request must justify the contravention, demonstrating that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental grounds to justify the contravention. Council must be satisfied that the development is in the public interest and is consistent with the objectives of clause 6.9 and the zone objectives.

Development within the foreshore area should have minimal environmental impact. Development should not adversely impact the amenity or aesthetic appearance of the foreshore. Development must be compatible with the surrounding area. Development should minimise any adverse visual impact of development when viewed from adjacent land and waterways by using a design and materials that complement the natural landscape of the foreshore area. Development should minimise the obstruction of water views from public land. Development should protect and enhance natural features and vegetation and retain or restore the natural qualities of the foreshore area through the retention or reinstatement of natural levels and endemic vegetation extent. Development should minimise any adverse impact of development on the natural landform of the foreshore area and waterways by integrating the development with minimal change to the natural topography of the foreshore area.

Development within the foreshore area is significantly constrained. Consultation with Council assessment staff early in the DA process is advisable.



SSLEP2015 Extract:

Clause 6.9

- (2) Development consent must not be granted for development on the foreshore area except for the following:
- (a) the alteration, extension or rebuilding of an existing dwelling wholly or partly on the foreshore area if the footprint of the extension or alteration will not extend any further forward of the foreshore building line than the footprint of the existing dwelling,
 - (b)
 - (c)
 - (d)
- (3) Development consent must not be granted under this clause, unless the consent authority is satisfied that:
- (a) the appearance of the development, from both the foreshore area and the adjacent waterway, will be compatible with the surrounding area, and
 - (b) the development will not cause environmental harm such as:
 - (i) pollution or siltation of the waterway, or
 - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas or fauna and flora habitats, or
 - (iii) an adverse effect on drainage patterns, and
 - (c) the natural qualities of the foreshore area are retained or restored as far as practicable through the retention or reinstatement of natural levels and endemic vegetation, and
 - (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and
 - (e) opportunities to provide continuous public access along the foreshore area and to the waterway will not be compromised, and
 - (f) any heritage significance of the foreshore area on which the development is to be carried out and of surrounding land will be maintained, and
 - (g) in the case of development for the alteration, extension or rebuilding of an existing building (or the erection of a new building) wholly or partly in the foreshore area, the alteration, rebuilding or new building will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and
 - (h) in the case of the erection of a new dwelling, the dwelling will not be erected



- further forward of the foreshore building line than any existing dwelling on the land, and
- (i) it has considered sea level rise or change of flooding patterns as a result of climate change.
- (4) In deciding whether to grant development consent for development on the foreshore area, the consent authority must consider whether and to what extent the development would facilitate the following:
- (a) continuous public access to and along the foreshore area through or adjacent to the proposed development,
 - (b) public access to link with existing or proposed open space,
 - (c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,
 - (d) public access to be located above the mean high water mark,
 - (e) reinforcement of the foreshore character and respect for existing environmental conditions,
 - (f) management of any rise in sea level or change of flooding patterns as a result of climate change.

Disclaimer

Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) was published on NSW Legislation Website and commenced on 23 June 2015. The plan has been amended a number of times, the most recent amendment being made on 9 October 2015. The following extracts, explanatory notes and diagrams have been provided for guidance purposes only and do not form part of the Plan made by the Minister.

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Special controls may apply to a particular site over and above those that would apply to the particular zone or use. For example, there are extra controls for land affected by flooding, bushfire risk and acid sulfate soils and development is required to meet the specific requirements for these circumstances. In addition to zoning maps in SSLEP 2015, also check other LEP provisions and maps for:

- Floor space ratio
- Height of buildings
- Landscape area
- Environmentally Sensitive land
- Acid sulfate soils
- Flood Planning
- Heritage items
- Land with a foreshore building line.

There are also special controls for localities and specific sites across the Shire. Each of these is illustrated on a map either associated with SSLEP 2015 or draft Sutherland Shire Development Control Plan 2015. All of the maps are available on Council's website.

The factsheet provides extracts from SSLEP2015 which are relevant to development below the foreshore building line and explanatory notes. This information is provided to assist in the public understanding of the provisions. It is important to remember, however, that compliance with the numerical controls does not automatically guarantee development approval. Both SSLEP 2015 and SSDCP 2015 contain many objectives and non-numerical controls that also need to be considered in any determination of a development application.