

# Repairing, replacing, or altering an existing domestic waterfront structure – Information for licence holders

Licence holders must maintain their domestic waterfront structures in good condition. This fact sheet will help you decide what you need to do before beginning any work.

The NSW Department of Planning, Housing and Infrastructure has a legal responsibility to manage, protect and sustain foreshore Crown land and waterways. Use of public land or waterway for private purposes is a benefit to the adjoining landowner – not a right.

As a licence holder, you are responsible for complying with the terms and conditions of the licence agreement. Repairing an existing, approved domestic waterfront structure is different from replacing or altering the footprint of an approved domestic waterfront structure. The following information can help you understand the difference between these. It will also help you decide what you need to do, if anything, before you go ahead with any work.

## Repairing

Repair and maintenance works are those types of works that fall within the scope of exempt development<sup>1</sup> and replace part of a building or structure with material of a similar type and size. These minor works, which have little effect, may include:

- repairs to or replacement of timber boards or decking, or other non-load bearing elements
- painting and other surface treatments to protect structures from corrosion or weathering.

Works are not classed as repairs or maintenance if they:

- enlarge the footprint (size) of the existing building or structure
- change the height of the existing building or structure, or
- are done on a structural part of an existing building or structure (for example, beams, columns, a bearer or joist or pylon).

<sup>1</sup> <https://www.planning.nsw.gov.au/sites/default/files/2023-02/waterway-structures-rules-for-exempt-and-complying-development.pdf>

## When you need the Department's consent to do repair or maintenance works

You do not need to get consent from the Department as the landowner where the proposed works:

- involve the repair or maintenance of an existing lawful<sup>2</sup> building or other structure
- will not enlarge the footprint of the existing building or structure
- will not change the height of the existing building or structure
- are not being done on a structural part of the existing building or structure
- fall within the meaning of 'exempt development'.

Where you have to do more works to the structure that go beyond repair or maintenance, you may need to submit a complying development certificate application<sup>1</sup> above or a development application.<sup>3</sup> See the Replacing and Altering sections for more information.

For information about repairing a local or state heritage-listed item, refer to your local council's local environmental plan or the Environment and Heritage website.<sup>4</sup>

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## Replacing

Replacing an existing domestic waterfront building or structure involves completely or partially removing that building or structure and replacing it, like-for-like, with the same thing. These works are generally necessary where:

- the building or structure is in bad condition
- load-bearing parts such as beams or columns, pylons, or bearers or joists are damaged.

You will need planning approval to remove and replace a building or structure to restore it to good condition or make it solid and stable, under the *Environmental Planning and Assessment Act 1979*.

Replacing or doing structural repairs on reserve front<sup>5</sup> domestic waterfront buildings or structures is not permitted.

Where a reserve front domestic waterfront building or structure is in bad condition or load-bearing parts such as beams or columns, bearers, joists or pylons are damaged, the building or structure must be removed.

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<sup>2</sup> A lawful building or structure means a building or structure that the *Environmental Planning and Assessment Act 1979* and the *Crown Land Management Act 2016* permitted to be built. The footprint of the building or structure must comply with the development consent notice and the licence contract.

<sup>3</sup> [www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Planning-Approval-Pathways/Local-Development](http://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Planning-Approval-Pathways/Local-Development)

<sup>4</sup> <https://www2.environment.nsw.gov.au/topics/heritage>

<sup>5</sup> A reserve front means a domestic waterfront building, or structure, that does not directly adjoin your property because there is a reserve or road which separates your property from the waterway.

## When you need the Department's consent to replace an existing building or structure

You must have consent from the Department as the landowner before you lodge a planning application with a private certifier or your local council. For more information on the landowner's consent process, visit our website, [www.crownland.nsw.gov.au/sites/default/files/2022-09/development-on-foreshore-Crown-land-and-waterways.-Information-for-waterfront-landowners.pdf](http://www.crownland.nsw.gov.au/sites/default/files/2022-09/development-on-foreshore-Crown-land-and-waterways.-Information-for-waterfront-landowners.pdf)

## Altering

Altering an existing lawful building or structure<sup>2</sup> effectively changes the footprint of the building or structure. These works require planning consent and may include:

- removing part of a building or structure and replacing that part in a new size or in a different design – for example, changing the end of a jetty from straight to a 'T' end.
- incorporating certain elements such as steps into a jetty
- extending the length or width of an approved building or structure.

Remember – Altering a reserve front<sup>5</sup> domestic waterfront building or structure is not permitted in any circumstances.

## When you need the Department's consent to alter an existing building or structure

You must have consent from the Department as the landowner before you lodge a development application with your local council. For more information on the landowner's consent process, visit our website, [www.crownland.nsw.gov.au/sites/default/files/2022-09/development-on-foreshore-Crown-land-and-waterways.-Information-for-waterfront-landowners.pdf](http://www.crownland.nsw.gov.au/sites/default/files/2022-09/development-on-foreshore-Crown-land-and-waterways.-Information-for-waterfront-landowners.pdf)

## Licence conditions related to restrictions or removal of structures

Some licences contain conditions which:

- restrict you from doing replacement, structural works or alterations to certain buildings, such as a boatshed, or a structure, such as a jetty, or
- require you to remove a building or structure, such as a swimming pool, by a certain date or when it has reached the end of its economic and functional life.

Check your licence to see if any restrictions or removal conditions have been applied. Where there are restrictions or removal conditions, the Department will not give consent for the building or structure to be restored or altered.

## Why you need to comply with your licence agreement

As a licence holder and tenant, you are responsible for complying with the terms and conditions of the licence agreement. By complying, you are doing your duty as a licence holder. This also means that the Department or your local council will not need to take action against you.

## What will happen if you don't comply

If you:

- do not comply with the conditions of your licence, or
- go ahead and do works without getting consent from the Department where required

the Department or your local council will take action against you.

This may include:

- cancelling your licence, or
- directing you in writing to remove the building or structure or works that were done without approval.

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## More information

For more information about domestic waterfront licences or related resources, visit our website, [www.crownland.nsw.gov.au/licences-leases-and-permits/apply-or-manage-licence/apply-domestic-waterfront-licence](http://www.crownland.nsw.gov.au/licences-leases-and-permits/apply-or-manage-licence/apply-domestic-waterfront-licence)

or call 1300 886 235.

## Related resources

- [Domestic waterfront licences – Guideline<sup>6</sup>](#)
- [Domestic waterfront licence – standard terms and conditions<sup>7</sup>](#)
- [Development on foreshore Crown land or waterways. Information for waterfront landowners<sup>8</sup>](#)
- [Development on foreshore Crown land or waterways - Brochure<sup>9</sup>](#)
- [Waterway structures – Rules for exempt and complying development<sup>10</sup>](#)

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<sup>6</sup> [www.crownland.nsw.gov.au/sites/default/files/2022-07/Domestic-waterfront-licences-guidelines.pdf](http://www.crownland.nsw.gov.au/sites/default/files/2022-07/Domestic-waterfront-licences-guidelines.pdf)

<sup>7</sup> [www.crownland.nsw.gov.au/sites/default/files/2022-07/Domestic-waterfront-licence-standard-terms-and-conditions.pdf](http://www.crownland.nsw.gov.au/sites/default/files/2022-07/Domestic-waterfront-licence-standard-terms-and-conditions.pdf)

<sup>8</sup> [www.crownland.nsw.gov.au/sites/default/files/2022-09/development-on-foreshore-Crown-land-and-waterways-Information-for-waterfront-landowners.pdf](http://www.crownland.nsw.gov.au/sites/default/files/2022-09/development-on-foreshore-Crown-land-and-waterways-Information-for-waterfront-landowners.pdf)

<sup>9</sup> [www.crownland.nsw.gov.au/sites/default/files/2022-09/development-on-foreshore-Crown-land-and-waterways-brochure.pdf](http://www.crownland.nsw.gov.au/sites/default/files/2022-09/development-on-foreshore-Crown-land-and-waterways-brochure.pdf)

<sup>10</sup> [www.planning.nsw.gov.au/sites/default/files/2023-02/waterway-structures-rules-for-exempt-and-complying-development.pdf](http://www.planning.nsw.gov.au/sites/default/files/2023-02/waterway-structures-rules-for-exempt-and-complying-development.pdf)