



# **BOATSHED MANAGEMENT POLICY**

**Adopted by Wyndham City Council  
29 March 2016**

Pursuant to the Crown Land (Reserves) Act 1978, this policy will apply to all boatsheds on the Werribee South Foreshore Reserve at Campbells Cove and Baileys Beach.

## **1. INTRODUCTION**

Wyndham City Council (WCC) is the Committee of Management for the Werribee Foreshore Reserve under the provisions of the Crown Land (Reserves) Act 1978. The reserve, and the area for which Council is responsible, extends from the south-western boundary of the Point Cook RAAF base, to the mouth of the Werribee River on a narrow strip of land occupying the space between the high water mark of Port Phillip Bay and the boundaries of privately owned land adjacent to the coast. 143 boatsheds are located at Campbells Cove and Baileys Beach within the Werribee Foreshore Reserve, (otherwise known as the Werribee South coastal reserve). This WCC Boatshed Management Policy outlines the rights and responsibilities of boatshed licensees and states Council's policy framework for the on-going management and control of boatsheds located within the foreshore reserve.

The key purpose of this policy is to provide for the protection and improvement of the reserve for the benefit and use of all coastal users, including boatshed licensees consistent with the aims and obligations described in:

- The Crown Land (Reserves) Act 1978, and associated regulations;
- The Coastal Management Act 1995;
- The Victorian Coastal Strategy; and
- All other laws, regulations, statutes, and local laws relevant to the use of the coastal reserve.

This policy is issued by Council pending finalisation of the Department of Environment, Land, Water and Planning (DELWP) Bathing Box and Boatshed Policy. Certain elements of the WCC policy may require revision after the DELWP policy has been finalised.

## **2. BACKGROUND**

### **2.1 Management of Crown Land**

The Werribee Foreshore Reserve is Crown Land permanently reserved for public purposes. DELWP represents the Crown as owner of the reserve, and has prime responsibility for policy development and implementation regarding the reserve. The day-to-day management of the reserve rests with Wyndham City Council in their role as the Committee of Management.

The boatshed structures located within the reserve are privately owned and on that basis they are not considered to be a use for which the land was reserved. However, the Crown Land (Reserves) Act 1978 addresses and enables uses of the land for purposes other than for which it was reserved. The Werribee South boatsheds occupy the land subject to the terms and conditions of a licence issued by reference to Section 17B of the Crown Land (Reserves) Act 1978 which enables the trustees or committee of management of the reserve to, among other things, grant licences to enter and use any portion of the land or any building thereon for a period not exceeding 10 years subject to obtaining the written approval of the responsible Minister.

This document sets out the basis for the ongoing management of the boatsheds within the reserve. DELWP is also preparing a policy (The Bathing Box and Boatshed Policy) setting out its requirements for the management of the reserve and the boatsheds located therein. The latest draft of DELWP's policy was prepared in December 2015, which had not been issued for public comment prior to finalisation of the WCC Policy.

## **2.2 Basis of Historical and Current Occupation of the Reserve**

The boatsheds at Campbells Cove and Baileys Beach were predominantly constructed between the 1930's and the 1960's. The majority of these boatsheds occupied the land subject to the terms and conditions of a 3 year licence agreement which was renewed and extended several times to confirm the agreed use of the land by the licence holders until March 2017 pending the implementation of this policy.

Each licence includes a plan of the Licensed Site including the Building Footprint, based on measurements taken in 2001 but in some instances amended as necessary. The Licensed Site plan includes dimensions for the site boundaries, and all permanent improvements on the site including the boatshed and peripheral elements including decks, (open or roofed), stairs, water tanks, paved areas, and "Ancillary Improvements" including slipways, boat ramps, and stairs physically separated from the boatshed and peripherals but constructed to service the aligned Boatshed. The Building Footprint, for the purposes of this policy and the licences, comprises only the boatshed itself, but the peripheral elements are also identified, acknowledged and distinguished to ensure that they are separately defined from the Boatsheds "for the record" and not built on. In some instances action has been taken to force licensees to remove building extensions constructed over these areas in defiance of this policy and the licence conditions, usually on the pretext that the Licensee assumed that the Building Footprint included all decks, hardstand areas etc. This policy explicitly forbids extensions of the boatsheds beyond the existing wall lines. Enclosure of roofed areas over decks by adding walls is also not permitted. The Building Footprint and the measurements depict the full extent of the allowable area within the Licensed Site which may be occupied by a boatshed. Any extension of a boatshed beyond the 2001 Building Footprint measurements may be deemed unauthorised and Council may enforce removal of such extensions prior to renewing the licence for affected boatsheds. Please note building setback and separation distances shown on the Licenced Area plans are taken from the eaves lines, not the boatshed walls, so care should be taken to ensure that buildings are not extended into those areas. Further discussion of these matters can be found in Sections 2.4, 5.1 and 5.2 of this policy.

## **2.3 Review of Current Situation**

In reviewing the management of boatsheds within the reserve, Council considered the broader issues associated with the current management arrangements including:

- Structural soundness, neglected appearance and doubtful statutory compliance of some boatsheds;
- Possible habitation of some boatsheds;
- Refuse disposal;
- Waste water disposal;
- Fire risk management;
- Non-compliance with policy and/or licence requirements;
- Introduction of exotic flora and fauna;
- Storage of dangerous goods;
- Vermin infestation/control;
- Unauthorised works/alterations/modifications;
- Confusion and uncertainty regarding requirements for planning and building permits and approvals;
- Management of hazardous waste;
- Public liability insurance; and
- Responsibility for maintenance and insurance of the area and structures adjacent to the boatsheds ("Ancillary Structures").
- DELWP policy had not been finalised at the time this WCC policy was approved by Council and submitted for DELWP approval. However, significant efforts have been made to incorporate most provisions of the most recent versions of DELWP's draft policy within this WCC policy in order to provide maximum consistency between the documents, and reduce the possibility of confusion and/or conflict arising.

- As noted previously, certain elements of this WCC policy may require revision after the DELWP policy has been finalised.
- The major differences between the DELWP and WCC policies are that the WCC policy enables the retention of some elements on the Werribee South boatsheds which may not be permitted in the final DELWP policy. These differences are possibly linked with the disparities between the structures at Campbells Cove and Baileys Beach, and DELWP's published construction standards and draft Bathing Box and Boatshed Policy. It is also noted that parts of the DELWP construction specifications differ considerably from many of the Werribee South boatshed structures which have been influenced to some extent by the local topography.

## **2.4 Inclusion of Ancillary Structures**

Council has recognised that various structural improvements added to the reserve over many years by licensees to enable easier and safer site access, boat launching etc were not recognised by the previous licence arrangements.

In order to provide the maximum level of clarity regarding the rights and obligations of licensees and enable improved management of the reserve, Licensed Site boundaries are realigned where appropriate to enable inclusion of existing structures including stairways, boat ramps, and slipways within the Licensed Site as an ancillary to their boatshed(s). If a stairway, boat ramp, slipway or similar structure is included as an ancillary to a Licensed Site, the licensee(s) must maintain that structure to a safe standard, or remove the structure in accordance with the licence terms and conditions. The extended areas beyond the Building Footprints are described as "Ancillary Areas". Boatsheds may not be extended into the Ancillary Areas, and no impediments to public access over the Ancillary Areas is permitted.

Further information regarding Ancillary Areas can be found in Sections 2.2, 5.1 and 5.2 of this policy.

## **3. LEGISLATIVE FRAMEWORK**

Coastal planning and management in Victoria is controlled under the provisions of various Acts of Parliament, related Regulations, and administered by statutory authorities including those described on the following pages.

### **3.1 Crown Land (Reserves) Act 1978**

This Act establishes mechanisms which enable Crown Land to be reserved for various public purposes, and the responsibility for management of specific Crown land reserves can be delegated to a committee of management. Under the provisions of this Act, the Werribee foreshore is permanently reserved for public purposes and Wyndham City Council is the Committee of Management.

Section 17(B) (of the Crown Land (Reserves) Act 1978) also allows the Committee of Management, with the approval in writing of the responsible Minister, to grant licences for the use of any portion of reserved land. Section 13 of the Act allows for the making of regulations governing the use of reserved land.

### **3.2 Coastal Management Act 1995**

This Act establishes the Victorian Coastal Council and regional coastal boards and seeks to provide a co-ordinated strategic approach to planning and management for the Victorian coast. The Act requires that a Victorian Coastal Strategy be prepared and allows a committee of management to prepare a management plan for the whole or any part of land under the committee's management.

Section 37 of the Coastal Management Act 1995 stipulates that coastal Crown Land may not be used or developed unless the written consent of the Minister administering the Act, delegated to the Department of Environment, Land, Water and Planning (DELWP) has first been obtained. This includes any development works to a Boatshed.

Information regarding how to apply for consent for any development works can be found on DELWP's website at <http://www.depi.vic.gov.au/forestry-and-land-use/coasts/coastal-committees-of-management>.

### **3.3 Planning and Environment Act 1987**

This Act controls the use and development of land through the provisions of the local planning scheme, which among other things designates the zones applicable to land throughout the municipality. The Wyndham Planning Scheme, for which Wyndham City Council is the responsible authority, applies to all land throughout the municipality to the coastline (excluding Commonwealth land such as the Point Cook RAAF base). The planning scheme specifies permitted and prohibited uses of land according to its zoning, and whether a planning permit is required for the use, occupation and/or development of land within the relevant zone.

The Campbells Cove and Baileys Beach boatshed precincts at Werribee South are classified as a Public Park and Recreation Zone, and any use, occupation and/or development of land or proposed works must comply with the requirements applicable to this zone, including obtaining a Planning Permit if required.

The Planning and Environment Act 1987 also requires that any application for use and development of land subject to the Coastal Management Act 1995 must be referred by the responsible planning authority to the Minister administering that Act for consent.

Please also note that planning permits for any use, occupation and/or development or works proposed to be undertaken on coastal land cannot be issued without the written consent of the Minister administering the Coastal Management Act 1995, and where the Minister refuses consent, no appeal right exists under the Planning and Environment Act 1987.

### **3.4 Building Act 1993**

The Building Act 1993, the Building Code of Australia (BCA), and the Victorian Building Regulations 2006 apply to the Werribee South boatsheds. Any new structures, or additions to existing structures, are required to comply with this Act and the associated codes and regulations. Please also refer to Sections 5.1 to 5.5 of this Policy regarding boatshed construction, alterations or repairs.

### **3.5 Public Health and Wellbeing Act 2008**

The Public Health and Wellbeing Act 2008 provides various powers to Councils relating to nuisances; in particular any nuisances arising from elements or matters associated with premises, water, animals, refuse, noise, emission, state, condition or activity(s); which are, or are liable to be, dangerous to health or offensive.

### **3.6 Local Government Act 1989**

This Act specifies the procedures, administration, regulation and controls applicable to local government areas and entities ("municipalities") throughout Victoria. The Werribee South boatsheds are located within the City of Wyndham, and various elements of this Act are directly relevant and applicable to including but not limited to:

- Sections 111 and 116 which enable the application of local laws to the foreshore reserve; and
- Section 154 which decrees that all land is rateable unless the land is specifically excluded by the Act. Crown land occupied by entities other than the Crown, or various public statutory bodies is not excluded; on this basis Council rates may be assessed and applied to the boatsheds at Werribee South.

## **4. KEY MANAGEMENT DIRECTIONS**

### **4.1 Future of Boatsheds**

This policy seeks to provide clarity and certainty for all parties including boatshed licensees consistent with the Werribee South Coastal Reserve Management Plan. The policy formalises a management system for boatsheds within the following framework: -

- Boatsheds will be permitted to continue to occupy Crown land subject to the issuing of formal tenure documents, compliance with the conditions of the tenure document, compliance with this policy, and relevant legislation.
- There shall be no net increase beyond the number of boatsheds at Campbells Cove and Baileys Beach as at the date of adoption of this policy;
- The granting of licences to private individuals to use and maintain boatsheds will not detract in any way from the right of the general public to lawfully access the reserve.
- If a boatshed is altered, modified, replaced and/or reconstructed, there must not be any increase in size which creates a structure larger than the approved building footprint (building envelope) based on the measurements taken in 2001.
- Licences will be granted on the explicit provision that licence holders accept risks associated with the location of the boatsheds close to the shoreline, including but not limited to exposure to storm damage, inundation, erosion, undermining and corrosion.

### **4.2 Formal Documentation of Land Use**

Subject to compliance with licence and policy provisions, boatsheds will be permitted to continue to occupy areas within the Werribee Foreshore Reserve as designated on individual licence documents. New licence documentation will be issued to formalise the arrangements enabling their ongoing presence.

Previously, boatshed licences were issued for a maximum period of 3 years. It is Council's intention to move to a 10 year licence regime, as permitted under Section 17B of the Crown Land (Reserves) Act 1978, which among other things allows Council to issue licences to enter and use designated areas of Crown land.

In order for this to occur, boatsheds must be compliant with construction standards set down by Council and all other licence conditions. The process for moving from 3 year licences to 10 year licences is set out in Appendix 1.

Boatshed licences may be issued subject to the following conditions appurtenant to the Crown Land (Reserves) Act 1978: -

- The Werribee Foreshore Reserve is certified by the Governor in Council as a reserve for which Council can issue licences;
- As specified in Section 17B of the Act, the licence can be for a period of not more than ten years; and
- The licensee must comply with policy requirements specified by Council in exercising its responsibilities as the appointed Committee of Management.

Ongoing access to boatsheds will be conditional upon compliance with licence requirements and obligations relating to the maintenance and use of boatsheds.

- Licences will only be issued to private individuals or legal entities such as registered companies or incorporated associations, either in their own right or as trustees.
- Licences (including renewals of existing licences) WILL NOT be issued to trusts. Arrangements will need to be made to transfer any existing licences currently held by a trust, to a private individual or a legal entity as described above. Failure to do so within a time frame specified by the Council, will result in the forfeiture of all licence rights as well as any improvements left on the Licensed Site after a date nominated by Council.

- Private individuals must provide proof of identity in various forms as may be reasonably requested by Council from time to time.
- Legal entities must provide evidence of registration or incorporation and any other relevant documentation as may be reasonably requested by Council from time to time.
- Prior to Council's approval for the issue or transfer of a licence, a valid street address (being the licensee's principal place of residence) must be provided. Council must be advised as soon as possible following any change of a Licensee's address. Post Office Boxes may be used for direction of correspondence if requested by a Licensee in writing, but Council does not accept any responsibility or liability whatsoever for any items sent by Council to the nominated mailing address but not received by the Licensee.

Licence holders will have an on-going first right to renew licences upon expiry, subject to compliance with this policy and the licence terms and conditions unless the Government, Minister, DELWP or their successor department(s) dictate otherwise. In the event that a licence holder does not renew the licence, tenure will cease, and the Council may issue the licence for that site to another party, or reclaim the site for public use at its own discretion.

### **4.3 Use of Boatsheds**

Subject to satisfaction of Council's requirements, owners of boatsheds located on Crown land within the foreshore reserve will be issued with a licence enabling the use of the licensed site for the purpose of using and maintaining a boatshed. Boatsheds must only be used in accordance with the following provisions and those specified within the licence appurtenant to each site. If there are any conflict(s) between this policy and the licence, the licence shall prevail.

A boatshed: -

- Must be primarily used, or capable of being used, for the purpose of the storage of boats, boating equipment and items ancillary to boats and boating equipment;
- May be used for recreational purposes whilst complying with all parts of this policy; and
- Must not at any time be used for any overnight or long term habitation.

## **5. SPECIFIC REQUIREMENTS FOR BOATSHEDS**

### **5.1 Existing Boatsheds**

The boatshed structures existing at the commencement of this policy will be permitted to remain in place subject to the following: -

- Compliance with the licence conditions for the site (including undertaking any repairs reasonably required by Council to a boatshed, or any other improvements located within the boundaries of a licenced site) identified during any inspection of the site
- Boatsheds must be structurally sound;
- Where boatsheds have open verandahs these must not be enclosed, nor should a planning permit be applied for enabling such modification to the boatshed;
- Boatshed construction must be consistent with the DELWP Standards for Bathing Box & Boatshed – Construction Guidelines 2015 as referred to in Section 5.5 of this policy;
- Any existing unapproved extension or modification to the original boatshed and/or boatshed footprint (building envelope) based on the measurements taken in 2001 may be required to be removed. Council (in its role as the public land manager and Licensor, as distinct from its separate role as the responsible planning authority) may or may not allow, at its discretion, such existing modifications to remain where planning and building approvals have previously been obtained.
- Where appropriate, Council will provide and maintain safe stairways to allow adequate access for the general public in the boatshed precinct, including public access to the foreshore and beach.

- If a stairway, boat ramp, slipway or similar structure is included as an ancillary item to the footprint of a particular boatshed or sheds, the Licensed Site will include the Ancillary Area and the licence holder(s) must maintain that structure to a safe standard. If the structure is later deemed unsafe, it must be remediated to a satisfactory standard, or removed and the site remediated to Council's satisfaction at the licence holder's expense in accordance with the licence terms and conditions.
- No new slipways or site access stairs will be approved.
- It is noted that the launching of boats directly from the beach is an accepted practice, subject to the proviso that no modifications whatsoever (including removal, relocation and/or importation of vegetation, sand, rocks, or materials conducive to constructing ramps or other facilities) may be made to the foreshore to facilitate such activities.

Please also refer to Sections 2.2, 2.4, and 5.2 of this document for further information regarding Ancillary Areas.

## **5.2 Changes to Boatsheds**

All boatshed modifications, including alterations, reconstruction, maintenance repair and removal, must be consistent with the DELWP Standards for Bathing Box & Boatshed – Construction Guidelines 2015 as referred to in Section 5.5 and must be compliant with the Building Code of Australia, and the Building Act 1993. Licensees must obtain Council's written consent prior to carrying out alterations or rebuilding boatsheds, or seeking a permit for such works. Any changes may be subject to the issue of a planning permit under the Planning & Environment Act 1987 and the Coastal Management Act 1995.

Section 37 of the Coastal Management Act 1995 requires that no use or development of coastal Crown land, regardless of who is responsible for its management, may occur without the consent of the Minister administering the Act, delegated to the Department of Environment, Land, Water and Planning (DELWP). This includes any development works to a Boatshed. Information regarding how to apply for consent for any development works is found on DELWP's website at <http://www.depi.vic.gov.au/forestry-and-land-use/coasts/coastal-committees-of-management> .

A building permit under the Building Act 1993 is also required for most building alterations and works. Planning permits are generally not required for maintenance or repair where the works are on a "like for like" basis; however, licensees should always liaise with Council to confirm what requirements apply prior to commencing any works.

Construction of new ramps, verandahs, decks, steps and other structural additions to boatsheds will generally not be permitted. These alterations may be considered if it is demonstrated that such additions are required for the proper use of the structure (e.g. ramps for boat storage and retrieval, or retractable steps for access) and the additions are contained within the existing building footprint. However, open verandahs identified on the measurements taken in 2001 may not be enclosed within the building and any applications for consents and/or permits to do so, will not be approved. Repairs to existing boat ramps, slipways, and site access stairs located within the Ancillary Area of a Licensed Site may be undertaken, subject to any relevant permits being obtained prior to commencement of works. No new slipways or site access stairs in areas other than those with existing structures will be approved. Please also refer to Sections 2.2, 2.4, and 5.1 of this document for further information regarding Ancillary Areas.

## **5.3 Damaged or Destroyed Boatsheds**

Damaged or destroyed boatsheds may be rebuilt subject to all of the following: -

- The provision of the written consent of Council under the provisions of the Coastal Management Act 1995;



- Compliance with the DELWP Standards for Bathing Box & Boatshed – Construction Guidelines 2015, as referred to in Section 5.5;
- The issue of:
  - a planning permit under the Planning & Environment Act 1987; and
  - a building permit under the Building Act 1993.

Applications for approvals for works under relevant legislation must be lodged within 6 months of a boatshed's damage or destruction, or the licence may be deemed to have lapsed and may be cancelled by Council using the procedures described in Section 6.3 of this policy.

The construction or re-construction of a boatshed must be completed within the timeframes specified within the planning permit and Coastal Management Act consent.

Where approval is given, replacement and/or reconstructed boatsheds must not occupy an envelope larger than the approved building footprint based on the measurements taken in 2001.

Rebuilding of boatsheds will not be permitted where the site is vulnerable to the impacts of climate change (including coastal erosion, inundation and other coastal hazards), where the structure is interfering with natural processes, or where a Coastal Management Plan or Cultural Heritage Management Plan has determined that the site is better suited for another purpose.

#### **5.4 Structurally Unsound Boatsheds**

Subject to Section 5.3 above, Council may determine that an existing boatshed is a risk to public safety due to structural failure or possible structural failure. A risk assessment may be undertaken or a building surveyor engaged to issue a notice. Where a bathing box or boatshed is deemed a risk, the site must be secured immediately by the licensee or if the licensee fails to do so, the Council; and DELWP notified. Where a structure is deemed unsafe and beyond repair the demolition of the structure should occur as soon as practicable under the supervision of a suitably qualified person in accordance with the relevant permits and approvals, and the site remediated to Council's satisfaction at the licence holder's expense in accordance with the licence terms and conditions.

#### **5.5 DELWP Standards for Bathing Box & Boatshed – Construction Guidelines 2015**

The "DELWP Standards for Bathing Box & Boatshed – Construction Guidelines 2015" which are attached as Appendix 2, form part of this policy and should be read in conjunction with Appendix 3 which provides examples of construction materials and design elements which may be approved by Council as alternatives to the requirements specified in the DELWP Standards document.

These standards are drafted in accordance with the Building Code of Australia and will be used as the basis for planning approval under the Planning and Environment Act 1987 and by Council in determining what structures are suitable for the coastal reserve.

Council acknowledges that the standards do not take sufficient account of:

- the various construction materials and designs that have been utilised to construct many of the existing, long standing boatsheds in the Werribee South Reserve; and
- the specific topography of some sections of the Werribee South foreshore which differs from many other foreshore areas around Port Phillip Bay, which is implicit in the standards.

Where existing structures do not comply with the DELWP Standards for Bathing Box & Boatshed – Construction Guidelines 2015, variations to these standards may be approved at the discretion of the Council. Any such variations must be compliant with the Building Code of Australia.

Similarly, proposed changes to or reconstruction of boatsheds may have some components approved by Council that are inconsistent with the DELWP Standards for Bathing Box & Boatshed – Construction Guidelines 2015 where warranted by the circumstances relevant to each instance e.g. the major repair or reconstruction of an existing boatshed where concrete has been previously used or is a more suitable material to suit the topography of the site; or the site topography renders the application of the DELWP Standards for Bathing Box & Boatshed – Construction Guidelines 2015 impractical.

## 5.6 Services, Facilities and Storage

This policy seeks to regulate the type and kind of facilities permitted to minimise fire risk, clarify Council's position, and provide certainty to boatshed licensees. Mains electricity, gas, water, and telephone are not provided on the foreshore reserve and will not be approved. The following table outlines what is and what is not permitted in terms of facilities.\*

Facility / Service / Item	Comment
Electricity	<ul style="list-style-type: none"> <li>• No mains electricity may be connected to boatsheds.</li> <li>• Licensees are encouraged to install laser sheeting on sections of the roof to allow natural light to enter the bathing box or boatshed or to utilise portable battery operated LED lighting where required.</li> <li>• Solar panels fitted to boatshed roofs and associated batteries are discouraged but may be used subject to the following:               <ul style="list-style-type: none"> <li>➢ Secure fitment and appropriate maintenance to ensure safety of boatshed users and the public is not compromised;</li> <li>➢ If used, solar panels must be securely fitted to the roof of the boatshed but must be no larger in area than 5% of the total roof area.</li> <li>➢ Free standing solar panels are not permitted.</li> </ul> </li> <li>• Motor-driven electricity generators are not permitted.</li> <li>• Wind turbines are not permitted.</li> </ul>
Water	<ul style="list-style-type: none"> <li>• No mains water may be connected to boatsheds</li> <li>• Water tank(s) associated with a boatshed may not have a total capacity of more than 1500 litres;</li> <li>• Water tanks should be located at the rear (inland) end of the boatshed, where possible; and</li> <li>• All water tanks must be made of corrosion resistant materials, although existing tanks constructed of other materials may remain until they require replacement.</li> </ul>
Gas	<ul style="list-style-type: none"> <li>• No mains gas may be connected to boatsheds.</li> <li>• No more than two gas bottles, each of a maximum size of 45kg, may be used in association with a boatshed;</li> <li>• The gas bottles must be installed external to the boatshed and, where possible, located at the rear (inland) end of the boatshed;</li> <li>• It is recommended that all gas bottles be caged to protect against tampering; and,</li> <li>• All fittings must be fitted with appropriate safety mechanisms and proof provided upon request, to demonstrate that they have been fitted and/or checked by a qualified gas plumber within legislated time frames.</li> <li>• Proof of adequacy and currency of relevant certification of inspection of gas bottles must be submitted to Council upon request. If current certification of gas bottles is not provided by the licensee Council may, at the licensee's cost, have an inspection undertaken by a qualified practitioner. Any rectification or replacement deemed necessary as a consequence of the inspection shall be at the licensee's cost.</li> </ul>

Waste Water	<ul style="list-style-type: none"> <li>• No connection from boatsheds to sewerage mains is permitted;</li> <li>• “Porta Potti” type temporary sanitary facilities are permitted to be used in conjunction with a boatshed, conditional upon all wastes being removed from the foreshore reserve and disposed of in a proper manner consistent with the provisions of the Environmental Protection Act 1970. #</li> <li>• No grey or waste water is to be allowed to discharge into the reserve;</li> <li>• Anything that generates waste or grey water that cannot be disposed of off-site to a sewer or licensed dump point is not permitted except water used for the purpose of washing a boat and boating equipment;</li> <li>• Underground tanks and/or discharge facilities are prohibited.</li> </ul>
Cooking Facilities	<ul style="list-style-type: none"> <li>• Fixed cooking facilities such as stoves may be installed in boatsheds but they must be fitted with appropriate safety devices and licensees must be able to demonstrate that they have been installed or checked by an appropriately qualified person.</li> </ul>
Fuel	<ul style="list-style-type: none"> <li>• No more than 40 litres of fuel in total may be stored on site.</li> <li>• All fuel must be stored in containers which comply with the relevant standards for the storage of that class of volatile or flammable liquids (i.e., Australian Standard AS/NZS 2906 - Fuel containers – portable - plastics and metal.); and</li> <li>• Any fuel stored within a boatshed must be directly associated with the use of the boatshed as defined by this policy (i.e., for boating equipment and/or maintenance of the shed and the surrounds).</li> </ul>
Other	<ul style="list-style-type: none"> <li>• All other facilities, services and items stored within or associated with a boatshed may be assessed on a case-by-case basis by Council and permission may be considered where such facilities, services or items are legitimately required for the use of a boatshed as defined by this policy.</li> </ul>

\* Licensees should be aware that this policy permits some features and facilities which are prohibited under DELWP’s draft Bathing Box and Boatshed Policy (e.g. solar panels, gas bottles, water tanks) which when finalised will prevail over this document.

# Council is investigating provision of a dump point to assist licensees with disposal of waste from “Porta Potti” facilities

## 5.7 Fire Prevention

Each boatshed must contain a 4A 60 BE (Dry Chemical) Fire Extinguisher with a minimum capacity of 4.5kg. The extinguisher must be installed in a prominent and easily accessible location in the boatshed and maintained in accordance with the requirements of the responsible authority. Contact numbers for local emergency service agencies must be displayed in a prominent place in the boatshed.

Proof of adequacy and currency of relevant certification of inspection of extinguishers must be submitted to Council upon request. If current certification of the extinguisher is not provided by the licensee Council may, at the licensee’s cost, have an inspection undertaken by a qualified practitioner. Any rectification or replacement deemed necessary as a consequence of the inspection shall be at the licensee’s cost.

## 5.8 Identification

All boatsheds are required to prominently display the relevant number assigned by the Council on the front and rear of the building so that it can be clearly identified. The number must be at least 10cm high, and in a contrasting colour to the wall section of the shed on which it is mounted.

Clear and prominent display of boatshed numbers will assist in the identification of individual boatsheds by emergency services and Council.

## **5.9 Insurance**

All boatsheds must have a public liability insurance policy over the buildings, ancillary works and licensed sites providing an indemnity limit for any one occurrence during the policy period of no less than \$20,000,000, endorsed to note as follows:

*"Wyndham City Council as the Committee of Management, the Crown in the right of the State of Victoria, the Secretary to the Department of Environment, Land, Water and Planning, its servants, agents and employees in respect to providing indemnity for personal injury and/or property damage caused by an occurrence, and/or for breach of duty arising out of the negligent acts, errors or omissions of the Licensee and/or its servants agents and employees. The endorsement and extension to the policy does not extend to negligent acts, errors or omissions of the Crown (and others above mentioned), and is limited to \$20,000,000 for any one occurrence."*

## **5.10 Maintenance and Environmental Management**

All boatshed licensees will be required to undertake, at their expense, all maintenance and works that are reasonably required by Council. All permits and approvals for maintenance works, where required, must be obtained at the boatshed licensee's expense.

All boatshed licensees are required to ensure that each boatshed, and the site area (including any ancillary area) identified for each boatshed, is maintained to a standard that is consistent with minimising risks to boatshed occupants and other foreshore users and which acknowledges the public nature of the foreshore reserve. This includes keeping boatsheds and their surrounds free of pest animals and weeds.

Boatshed licensees must not obstruct public access to the foreshore area in any way, or create exclusive areas by erecting fences, walls or other barriers.

Council will undertake certain maintenance activities associated with the general reserve areas such as:

- roadside grass and weed slashing;
- drain clearance; and
- weed control programs.

## **5.11 Compliance With All Relevant Legislation**

All boatsheds must comply at all times with the provisions of all statutes, regulations, local laws and by-laws relating to the boatsheds and the surrounds, and all lawful orders or directions made under them.

## **6. ADMINISTRATION OF BOATSHED LICENCES**

### **6.1 Licence Fee**

An annual fee is payable by boatshed licensees to occupy sites on the foreshore reserve. This fee will be invoiced annually by Council, and may be reviewed and adjusted by Council from time to time, but not more often than once every 12 months.

### **6.2 Licence Transfers**

Licences are issued by Council to boatshed owners for a specific boatshed site. If a transfer of the occupancy rights associated with that site is sought, it must be approved by Council. Transfers will be conditional on the existing licensee complying with all licence conditions. It is a prerequisite that a Boatshed inspection must be

carried out, and any issues remedied to Council's satisfaction, prior to Council granting consent to a transfer or assignment of the Boatshed Licence. Council may withhold its consent to the transfer or grant of a licence for boatsheds which do not comply with this policy.

A fee will be charged by Council to process any application to transfer boatshed licences.

### **6.3 Non-Compliance with Licence / Refusal to Seek Licence**

Where refusal to seek, enter into or comply with a licence occurs, Council has the right to enforce the removal of the boatshed and reclaim the boatshed site.

Where licence conditions are not complied with, the Council may cancel a licence, provided that the current licensee has been accorded a reasonable opportunity to be heard. The cancellation of a licence requires the publication of a notice in the Government Gazette.

If a licence is cancelled, the licensee is responsible for removing the boatshed at their cost, within 30 days, unless otherwise negotiated with the Council. In the event that the licensee fails to remove the boatshed when required to do so under this clause, Council reserves the right to have it removed and to recover all of its costs from the licensee arising from or in connection with that removal and making good the site.

Where a licence is cancelled, the Council may:

- re-issue the licence to another party; or
- return the site to general public use.

### **6.4 Removal of a Boatshed**

If a boatshed licensee seeks to remove a boatshed from the reserve, written consent to do so is required from Council and from the Minister for the Environment under the provisions of Section 37 of the Coastal Management Act 1995. Council would not normally withhold consent to remove a boatshed.

In approving the removal of a boatshed (or Ancillary Structure):

- Council will require that the site is left in a clean and safe condition and maintained in such condition until the site is transferred, used to rebuild an approved boatshed, or returned to public use.
- Council may charge the licensee for any site restoration works it is required to undertake as a result of the shed's removal.

## Appendix 1

### Process for the Implementation of 10 Year Boatshed Licences

- A.** Previously, boatshed licences were issued for a maximum period of 3 years. It is Council's intention to move to a 10 year licence regime, as permitted under Section 17B of the Crown Land (Reserves) Act 1978. However, longer terms of tenure on Crown land are subject to escalating criteria to ensure that any improvements on the land are in a condition sufficient to ensure that they will last for the entire term and beyond without requiring significant maintenance and structural repairs prior to the expiry of the tenancy agreement. In order for 10 year Boatshed licences to be issued at Werribee South, a boatshed must comply with standards set down by DELWP and Council and all other licence conditions.
- Boatshed Inspections may be carried out by the Licensor to assess the overall condition of the Boatshed and its compliance with the Building Code of Australia ("BCA"), the Building Act 1993, Victorian Building Regulations, Boatshed Licence Conditions and Wyndham City Council Boatshed Management Policy. Inspections may be carried out from time to time including:
- A.1 (To prepare for the introduction of the 10 year licences): As soon as possible following the issue of this two year conditional licence; and
- A.2 (for Licence Renewal purposes) – not more than 9 months prior to the Licence Expiry Date, or the Adjusted Licence Expiry Date (if applicable); and
- A.3 At any time by the request of the Licensee as a prerequisite to obtaining the Licensor's consent to a transfer or assignment of a Boatshed Licence.
- B.** At the time of writing this policy, Council recognise that many boatsheds would not comply in their current state with DELWP and Council's requirements and some licensees could be forced to forfeit their sheds if 10 year licences were introduced immediately.
- C.** In order to provide licensees a better understanding of the requirements to enable a 10 year licence to be issued, it was determined that a transition process would be developed. Under the transition process following approval of this Policy by DELWP and its adoption by Council, boatshed licensees will be issued a conditional licence for an Interim Term of two years. Licensees will be required to provide access to Council to enable inspections of their boatsheds to be undertaken, and remedy any issues identified during or as a consequence of the inspections, within two years from the date of the inspection.
- D.** Immediately following the issue of the 2 year licences, Council intends to inspect every Boatshed at Werribee South to confirm and document their condition by reference to the relevant requirements of the BCA, Building Act, Building Regulations, Licence Conditions and WCC Boatshed Management Policy.
- E.** Following the Inspection, Council will provide a Report to the licensees of each boatshed which will describe the findings of the inspections, including repairs and/or remediation works required to be undertaken (if any).
- F.** If the Inspection indicates that:
- F.1 the boatshed **is** fully compliant with the requirements summarised in Item D and no works are required to be undertaken, Council will issue a 10 year licence as soon as possible;
- F.2 the boatshed **is not** fully compliant with the requirements summarised in Item D, and works are required to be undertaken, Council will issue a Notice to the Licensee specifying what works are required to achieve compliance;
- F.3 in order to ensure that no Licensees are disadvantaged by the timing of their inspection (i.e. if a Boatshed is not inspected until late in the program, and the Licensee is advised after the inspection of works required to achieve compliance, they might claim to be disadvantaged in the time remaining on the 2 year licence compared to a Licensee

whose Boatshed was inspected (say) 8 weeks earlier), the Expiry Date on Licences for boatsheds which are subject to a Notice advising that works are required to be undertaken in order to achieve compliance for a 10 year licence will be adjusted to give 2 years from the Notice Date to complete the works to Council's satisfaction;

F.4 this will be formalised by the insertion in the Schedule of the "Adjusted Expiry Date" being 2 years from the date of the Notice to the Licensee specifying works to be completed to the Licensors satisfaction;

- G. If a licensee has been required to undertake works as a consequence of the Inspection and considers that they have completed the works as required and the boatshed is now compliant, they may apply for a further inspection at any time within the two year period.
- H. If no application is received within the two year time frame, Council will inspect the boatshed for compliance, on or near the two year expiry date.
- I. When follow up inspections have been carried out under items G or H above, and Council considers that the boatshed is now compliant, Council will issue a 10 year licence.
- J. Where follow up inspections indicate that the boatshed is not compliant, Council may cancel the licence in accordance with the Act (as described in Section 6.3 of the Boatshed Management Policy 2016) and in that event, the licensee must remove the boatshed and any other improvements, and restore the site to its unimproved condition. All costs associated with the removal and site restoration are to be borne by the terminated licensee.
- K. If Council or their agents are refused access to a Boatshed to carry out the inspections they will be deemed to be in breach of licence Condition 3.6 and Special Condition 16.5. In that case the Interim Licence will expire on the Expiry Date and no further licence will be issued. The Licensor may also choose to cancel the Licence in accordance with the Crown Land (Reserves) Act (as described in Section 6.3 of the Boatshed Management Policy 2016) and in that event, the licensee must remove the boatshed and any other improvements, and restore the site to its unimproved condition. All costs associated with the removal and site restoration are to be borne by the terminated licensee.

### **Inspection Procedures**

1. Council will arrange the initial inspection of all boatsheds during the period to be advised.
2. Licensees will be given a minimum of 21 days written notice of pending inspections.
3. Inspections will consider internal and external building elements as part of the compliance requirements.
4. In order to simplify licence administration: 10 year licences will be issued with effect from the start of the quarter following the issue of a report indicating compliance with Council requirements.
5. A Boatshed inspection must be carried out, and any issues remedied to Council's satisfaction, prior to Council granting consent to a transfer or assignment of a Boatshed Licence.

**Appendix 2 – DELWP Standards for Bathing Box and Boatshed**

**CONSTRUCTION GUIDELINES 2015**



### Appendix 3

#### Examples of construction materials and design elements which may be approved by Council as alternatives to the requirements specified in the DELWP Standards for Bathing Box & Boatshed – Construction Guidelines 2015.

As stated in Section 5.5 of this policy, the DELWP Standards for Bathing Box & Boatshed – Construction Guidelines 2015 will be used as the basis for planning approval under the Planning and Environment Act 1987 and by Council in determining what structures are suitable for the coastal reserve. However, Council acknowledges that the existing standards do not take sufficient account of:

- The various construction materials and designs that have been utilised to construct the existing, long standing boatsheds in the Werribee South Reserve; and
- The specific topography of some sections of the Werribee South foreshore, which differs from that which is implicit in the DELWP construction standards.

As well as these matters, many alternative building materials that may provide equal or better durability in the coastal environment are now available.

In view of these factors, the following list provides examples of alternatives which may be approved by Council where, in the opinion of Council, a departure from the Standards is warranted. All such variations must be approved by Council's Planning and Building Departments.

- Concrete stumps
- Concrete slab
- Weatherboards other than timber. e.g. Hardiplank
- Gutters on rooves to enable collection of rain water into approved water storage tanks as described in Section 5.6 of this policy
- Existing corrugated iron sheeting, brick and masonry construction at Bailey's Beach may remain in place
- Front door width requirements of 1870 to 2400mm may be waived where alterations to replace them with narrower doorways have been carried out prior to the implementation date of this policy.