Moorings Management Position Paper
October 2015

Available for comment until 20 November 2015
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1. Provide a single set of mooring regulations
2. Establish classes of moorings
3. Short-term casual use of vacant recreational moorings
4. Improved administration of mooring licences
5. Ensure equal and fair access to moorings and prevent moorings gaining proprietary value

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Introduction

The Department of Transport (DoT) is seeking to improve the way moorings are managed in Western Australia.

Moorings in WA are currently subject to two acts of Parliament - the Shipping and Pilotage Act 1967 and the Western Australian Marine Act 1982. Under these acts there are also two sets of regulations that govern moorings in State waters.

In February 2015 DoT commenced the Mooring Regulation Streamline Review to establish a single State-wide set of mooring regulations and a more efficient management system to be administered by DoT for the benefit of all boat users.

Outcomes of the review are aimed at developing a more equitable system. Central to this is the creation of a short-term casual use system to assist in maximising usage of moorings. The review also aims to ensure fees are consistent across mooring management areas and to address the proliferation of approximately 1,500 unlicensed moorings which could pose a threat to the environment and be unsafe for boat owners.

Review Progress

As part of the reform process, DoT has approval from the Minister for Transport to undertake a multi-phased consultation process. Each phase will provide opportunity for community feedback, which will help shape and refine the development of the best mooring regulations for WA.

In Stage One of the review, DoT undertook consultation on five key concepts for potential change.

To raise awareness of the review, DoT utilised a number of platforms including stakeholder meetings, an online survey, information line, written submissions and two public information sessions held in Rockingham and Bicton during March 2015.

DoT wrote to all registered mooring licence holders in WA with information about the review and how to participate in the survey. Information was also provided to approximately 27,000 recipients of DoT’s Boating Communities newsletter.

Feedback during this phase indicated widespread support for the principles and objectives put forward by DoT to address the current inconsistencies in moorings management in WA.

Almost 500 completed survey responses were received during the first phase of the consultation process, with about two-thirds of respondents strongly supporting each of the five objectives.

Feedback received during Stage One has assisted DoT to prepare this Moorings Management Position Paper.
Purpose of the Moorings Management Position Paper

This paper incorporates community feedback from Stage One and goes into greater detail about the proposed changes to mooring regulations in WA. It provides an opportunity for the broader community to consider the proposed changes and to provide comment on the future of mooring regulations in WA.

As part of Stage Two of the consultation process, DoT is seeking public comment as it continues to develop and refine a set of regulations that will be used to manage moorings in WA now and into the future.

The outcomes from the consultation process will be used to finalise DoT’s position, which will be used to seek endorsement from the Minister for Transport to amend the regulations under the Mooring Regulations 1998.

Regulation impact

Currently DoT is responsible for the management of most, but not all, moorings in WA State waters. It has jurisdiction over all recreational moorings in State waters outside of Port Authorities, Marine Parks, Rottnest Island Marine Reserve and the Commonwealth waters surrounding Garden Island.

DoT currently administers moorings within proclaimed Mooring Control Areas (MCA) in the Swan and Canning Riverpark under the Mooring Regulations 1998. DoT also administers moorings at Mangles Bay, Rockingham, Peel, Albany and Carnarvon under the Shipping and Pilotage (Mooring Control Areas) Regulations 1983. Moorings within these MCAs will be the first to be transitioned into the amended Mooring Regulations 1998.

DoT also licenses some moorings within some DoT managed ports, as well as moorings in small boat harbours and mooring lease areas.

It is estimated some 1,500 moorings remain unlicensed throughout State waters. It is proposed that once the regulations are amended, DoT will work systematically to license these moorings through the declaration of MCAs.
Objectives

DoT’s Mooring Regulations Streamline Review is based on the following principle:

Fair and equitable access to moorings is provided for the boating community.

Under this principle, DoT formulated five objectives to provide direction throughout the mooring regulation review.

1. Provide a single set of mooring regulations to be administered across State waters.
2. Establish a ‘classification’ system to clarify the use of moorings in different situations and to make administration easier.
3. Consider the introduction of a system to allow short-term, casual use of vacant moorings including an opt-in system.
4. Deliver improved administration.
5. Ensure equal and fair access to moorings and prevent moorings gaining proprietary value.

Feedback to date from extensive consultation and information sharing undertaken by DoT since the release of the initial discussion paper overwhelmingly supports the concept of a single set of mooring regulations. Implementation will be undertaken in an orderly and structured manner including provision for transitional arrangements from the existing legislation.

Registered mooring owners and licensees will be notified in advance of the transition.
2. Establish classes of moorings

Comments provided during the first stage of consultation – including discussions with stakeholder representatives and feedback at public information sessions - indicated clear support for a classification system. Eighty-four per cent of respondents in the online survey supported the introduction of a classification system, which reflects the different uses and associated administration requirements for each class.

The aim is to clarify and define the use of each class of mooring so they are subject to appropriate regulations that ensure equitable and safe use.

For example, moorings licensed to government agencies or moorings for commercial purposes may require different approaches and standards. Existing mooring licensees storing their primary vessel on the mooring will experience minimal change.

Further exploration of mooring classification requirements throughout the review process to date, has led DoT to identify a need for ‘Commercial Resource Moorings’. This classification has now been added. Conversely, the classification of Club Moorings has been removed, with the rationale for this decision explained later in this paper.

The leasing of any mooring licence, no matter the classification, will remain strictly prohibited; and moorings will still be non-assignable.

All moorings will be subject to regulations, terms and conditions and scheduled fees.

Proposed mooring classification system

Recreational Moorings

Recreational moorings are licensed moorings used primarily for the storage of the licensee’s nominated registered recreational vessel.

DoT has noted the community response to the concept of recreational moorings, and DoT’s position is to allow one licensed vessel per mooring site licence. This contrasts with the current concept of being able to store any number of vessels at the mooring, provided they are owned/registered to the mooring licensee. A mooring licensee would retain the ability to substitute another vessel owned by them, of the appropriate size, to be stored on the mooring should they wish.

This is consistent with current management of moorings within the Swan and Canning Riverpark MCA and will ensure fair and equitable access to the limited number of moorings available.

Proposed vessel requirements

To maximise mooring availability to vessels that could not otherwise be conveniently stored on a trailer or other alternative dry storage locations such as a boat stacker, DoT proposes introducing a minimum size of five metres for vessels to be licensed to a mooring.

The licensed vessel to be stored on the mooring must be owned/registered by an individual and not a company.

Any vessel secured to a mooring must be seaworthy and capable of undertaking a voyage on request by DoT.

The licensed vessel will be supplied with an identification sticker that for ease of recognition will show the vessel as being licensed to that mooring site and be used as proof of priority use for that mooring.
**Proposed mooring buoy requirements**

To ensure the safety of vessels within a MCA, DoT will continue to require moorings be installed and certified by a recognised mooring contractor. DoT’s position is for annual inspections of moorings in unprotected waters and every two years in protected waters.

An inspection report will need to confirm the mooring is safe, clearly marked and free from marine growth.

Recreational moorings will remain yellow in colour and be required to have suitable bridle/pickup lines attached at all times.

Dependent on location, moorings may also be required to be lit for safety at night.

**General position**

As is the case today, mooring site licences will remain non-assignable along with the advertising for sale, sub-leasing or renting of moorings. The sale of moorings will be strictly prohibited and may result in the cancellation of the mooring site licence.

All recreational moorings will be made available in the short-term casual use system with colour-coded discs marking the mooring site size, similar to the colours used on Rottnest Island.

Mooring licensees will retain priority access to their moorings. Further information on the marking of moorings and how the short-term casual use system will work is provided later in the position paper.

Mooring licences will be restricted to one licence per vessel, per MCA. This means that a single vessel cannot be used to obtain two recreational mooring site licences within the same MCA. A single vessel may, however, be used to obtain an additional recreational mooring licence in multiple MCAs e.g. Swan and Canning Riverpark MCA and also Mangles Bay MCA.

Mooring licences will be for a 12-month period with licensees invited to reapply annually.

In line with the purpose of moorings being for the storage of vessels, mooring site licences would be limited to nominating one vessel per mooring site licence. A licensee would retain the ability to substitute the nominated licensed vessel providing they are the registered owner of the vessel and it is of an appropriate size for that mooring site.

Vessels secured to a mooring will be done so at the risk of the vessel owner, with rafting of vessels remaining prohibited - unless defined as a tender to the licensed vessel as set out in the regulations.

Only residents of WA will be able to apply for or hold a recreational mooring licence.

To ensure the most efficient use of waters within a MCA, mooring sites will be required to be maintained at the mooring’s designated maximum vessel length. For example, if a mooring licensee has a mooring site for a nine-metre vessel, but only has a six-metre vessel, they still need to maintain the mooring to accommodate a nine metre vessel.

Existing mooring licensees that do not wish to maintain a site greater than that of the licensed vessel may be offered an alternative site suitable to the vessel size, or could apply to reduce the existing site to the licensed vessel length.
**Commercial Moorings**

Commercial moorings are licensed moorings used for the storage of a designated domestic commercial vessel (DCV) and are provided for commercial operators such as tour operators.

DCV operators must have a current Certificate of Survey and/or a Certificate of Operation issued by the Australian Maritime Safety Authority (AMSA) and provide the vessel’s unique identifying number to be nominated to the mooring site licence.

Commercial moorings may be applied for and held in a company name or entity, provided an individual is nominated on the mooring site licence as the primary and responsible contact.

Companies that own multiple vessels will have the ability to nominate multiple vessels to the one commercial mooring site licence provided they are owned by the same company.

As with all mooring site licences, commercial licences will be non-assignable along with the advertising for sale, sub-leasing or renting of moorings. The sale of moorings will be strictly prohibited and may result in the cancellation of the mooring site licence.

Upon the sale of the company and the nominated vessel, consideration will be given to issuing a new licence. This will not be guaranteed and will be determined on a case-by-case basis.

Recognised mooring contractors or marine engineers will be required to design, install and annually certify that the mooring apparatus is safe and fit for purpose for the vessel(s) to be stored on that mooring.

Commercial moorings will not be included in the short-term casual use system and will be marked accordingly. Lighting of commercial moorings may be required and will be dependent upon location.

**Commercial Resource Moorings**

Commercial resource moorings are licensed moorings used for the operations of vessels primarily associated with the resources sector in the North West of the State.

Since the release of the initial Moorings Management Discussion Paper, DoT has included moorings used by the commercial resource industry in the proposed new mooring classifications, with current conditions to remain unchanged.

For further information on commercial resource moorings please visit: http://www.transport.wa.gov.au/imarine/mooring-in-wa-waters.asp

**Courtesy Moorings**

Courtesy moorings are moorings that are licensed, owned and maintained by DoT or another Government agency such as the Department of Parks and Wildlife.

They are available for use to the boating public free of charge for limited periods of time on a first-come, first-served basis.

Maximum vessel size restrictions apply and these, along with other usage requirements, will be marked on the mooring buoy.

Courtesy mooring buoys are red in colour and installed in various locations throughout all DoT MCAs.

Penalties may apply for unauthorised or misuse of these moorings.
Rental Moorings

Rental moorings will be licensed, owned and managed by DoT. No other class of mooring will be used as a rental mooring.

DoT believes the introduction of rental moorings may encourage existing mooring licensees who maintain a mooring for intermittent use, to instead choose to rent a mooring for short stays. This might mean relinquishing their mooring licence back to DoT for reallocation to a vessel owner that requires on-water storage for their vessel.

Rental moorings will be available to be booked for a fee, which will provide vessel skippers with the security of knowing they have a safe location for their boat when exploring new destinations.

Unlike the short-term casual use system, the vessel skipper may leave the vessel on the rental mooring unmanned for the period it has been booked.

Maximum length of stay and penalties for unauthorised or misuse of these moorings may apply.

Emergency Moorings

Emergency moorings are moorings that are licensed, owned and managed by DoT.

These moorings are made available to the boating public for vessels in distress. This may include vessels that have broken down or vessels stored on licensed moorings that have broken free from their mooring.

Vessel owners using emergency moorings will be required to advise DoT of their usage and seek approval for the continued use, with a fee being considered for extended use greater than seven days.

Penalties may apply for unauthorised or misuse of these moorings.

Special Purpose Moorings

Special purpose moorings may be issued to authorities such as, but not limited to, local government for the installation of swimming pontoons or other objects not directly related to the mooring of vessels.

Club Moorings

The classification of club moorings was included in Stage One of the Mooring Regulation Streamline Review, with the original intent to allow not-for-profit clubs to store vessels on moorings in close proximity to their clubs, removing the requirement to hold a Mooring Area Licence. The intention of club moorings was never to provide destination moorings for specific club members.

Accordingly, to meet the objective of providing equal and fair access to moorings, DoT has since reconsidered its position based on the feedback received from the consultation process.

DoT is investigating options to improve management of moorings currently situated inside mooring licence areas through other legislative mechanisms.
3. Short-term casual use of vacant recreational moorings

While there has been a diversity of opinion from stakeholders on how a short-term casual use system could best work, figures drawn from DoT’s online survey show 76 per cent of respondents supported the proposal to introduce an opt-in short-term casual use system as a solution to maximise access to vacant moorings and address the current situation where many moorings are left vacant for long periods of time.

This under-utilisation of moorings is reflected by the fact that over the past two years 49 per cent of moorings in the Swan and Canning Riverpark MCAs have predominantly been vacant. However, it should be reinforced that there is no intent by DoT to decrease the number of available moorings.

DoT remains of the firm view that the introduction of a casual use system is a common sense approach which will facilitate the effective and efficient use of existing infrastructure. It will likely reduce demand for the installation of new, additional moorings and will have positive implications in terms of environmental sustainability. The introduction of a casual use system may provide a cost-efficient alternative for current mooring licensees who use their mooring on a casual basis and minimise the need to maintain a site for this purpose.

Proposed system

In line with the review’s principle of “Fair and equitable access to moorings is provided for the boating community,” all recreational mooring sites under these amended regulations will be included in the short-term casual use system.

All recreational moorings will be marked with a coloured disc provided by DoT to be installed by the licensee’s contractor on the mooring, similar to those found on moorings around Rottnest Island.

Vessel owners wishing to opt-in will be able to apply to DoT for a short-term casual use permit that will allow them to use an appropriate sized mooring for short periods of time - up to a maximum of four hours during daylight hours or overnight from 7pm to 7am when not being used or required by the mooring site licensee.

Vessel owners who opt-in to the short-term casual use system will not be permitted to leave or store their vessel on a mooring. The holder of a Recreational Skipper’s Ticket will be required to remain on board the vessel at all times when it’s secured to a mooring to ensure the mooring licensee can access their mooring upon request when returning from their voyage.

People will be able to apply to DoT for a short-term casual use permit, issued on an annual basis for a fee. DoT will provide a sticker that must be displayed on the vessel at all times. Permits will be issued to the vessel and remain with the vessel if sold.

Penalties will apply for misuse such as not relocating to another mooring on request of the mooring licensee and may result in the cancellation of the permit.

What does this mean for recreational mooring licensees?

As has always been the intention, the mooring licence holder would retain priority of use for their mooring site. Should a recreational mooring site licensee return from their voyage to find a vessel secured to their mooring, they will be able to immediately request the vessel skipper to move to another suitable mooring.

Recreational mooring licensees will also have automatic access to the short-term casual use system meaning they will be able to utilise any suitable size mooring for short-term use.

A disc system will be used to identify mooring size limits. This will ensure that larger vessels don’t attempt to pull up to smaller mooring sites.
What does this mean for vessel owners that do not have a mooring?

Under existing legislation it is an offence to use a mooring without the authorisation of DoT.

Under the opt-in, short-term casual use system, those vessel owners that choose to opt-in will have access to a range of moorings suitable to their vessel size when they’re not being utilised by a mooring licensee.

This system will allow greater use of existing infrastructure and usage of waterways for recreational activities.

Have your say:

How likely would you be to use this opt-in short-term casual use system?

Tell us at: www.transport.wa.gov.au/mooringreview

Marking of moorings

The disc system, similar to that used successfully at Rottnest Island, will be used to clearly identify the maximum size for a short-term casual use vessel to access a mooring. Discs will be colour-coded to indicate the permitted vessel length on the mooring.

Mooring disc key

- Not to be used for casual access
- Vessels up to and including 5m
- Vessels up to and including 8m
- Vessels up to and including 10m
- Vessels up to and including 12m
- Vessels up to and including 14m
- Vessels up to and including 16m
- Vessels over 16m*

For example, the mooring licensee has a licensed vessel of 11.5 metres. To ensure no vessel larger than the licensed vessel can access the mooring site, the mooring would be marked with the appropriate disc to the next size down i.e. 10 metres.

A short-term casual user with a nine-metre vessel would be able to use this mooring as well as moorings marked with discs up to 16 metres. They would not be permitted to use moorings marked with eight or five metre discs.

Short-term casual use system

- 10m
- 12m
- 14m
- 16m
- Over 16m

*Lengths vary on each mooring. Maximum size is indicated on the mooring buoy.
4. Improved administration of mooring licences

The primary aim of streamlining the administration of moorings is to facilitate management of all moorings under a single set of regulations.

This resonated with respondents in Stage One of the Mooring Regulations Streamline Review, with 79 per cent supporting improvements to the system which include the requirement for all moorings to be within designated MCAs, with a licence which is renewed annually.

The application process for a mooring licence would be similar to existing processes for areas at capacity via a wait list. As is the case currently, DoT would not be obliged to offer a mooring site licence on application.

5. Ensure equal and fair access to moorings and prevent moorings gaining proprietary value

DoT is committed to limiting the potential for a mooring licence to gain proprietary value. Approximately two-thirds of people surveyed in Stage One agreed that there should be fair and equitable access to moorings which should not be allowed to be retained for their perceived monetary value – particularly if they are not being used.

This has been a well-covered topic in community engagement to date. DoT’s position remains consistent - there will be no transfers of mooring site licences with a preference for licences to be relinquished to DoT for reallocation via a wait list.

The administration and regulation of moorings in public waters was not intended to create a situation whereby mooring licences would accrue a monetary value or become a tradeable commodity. It is DoT’s view that trading or placing a commercial value on mooring licences is contrary to the intent of the legislation and not in the community’s interest.

Transfers of mooring site licences

In line with the principle of providing fair and equitable access to moorings for the boating community, DoT’s position is to cease the transfer of mooring site licences.

DoT will instead use a wait list to reallocate mooring site licences that are relinquished or cancelled.
Wait list system

The establishment of a wait list system will allow for a fairer and more equitable allocation of moorings. DoT’s position is to cease all transfers of mooring licences. This measure, along with the creation of wait lists in MCAs that have reached capacity, will ensure an effective and fair process for the allocation of moorings State-wide.

The establishment of wait lists is not a new concept to DoT and has been a long-standing best practice for distribution of pens administered by DoT.

Consideration will be given to splitting MCAs with wait lists into zones. An applicant would then choose to nominate a preference for specific zones within the MCA. Applicants who do not have a preference will be able to nominate the entire MCA.

To prevent wait lists from becoming unmanageable, applications will be limited to one application per vessel, per MCA. Applicants may, however, apply for multiple MCAs using the same vessel. DoT may at any time request applicants on the wait list to confirm or update their contact information.

Whilst there will be no requirement to own a vessel to apply to go on the wait list, applicants without a vessel will be required to nominate the mooring size they require. This will be in line with the disc marking sizes. For example, an applicant who nominates a vessel length between 12 to 14 metres will only be offered a mooring site in this range. The applicant will then be required to provide the vessel registration within three months of being offered the mooring site licence.

If an applicant is unable to provide suitable vessel details within the stipulated period, or declines the offer, they will be removed from the wait list.

As is currently the case, if there is already a mooring on the site, DoT may provide the person on the wait list with contact details of the previous mooring licensee to allow both parties to negotiate the possible purchase of the mooring apparatus.

DoT intends to have the ability to offer a mooring licence to a person not listed on the wait list. An example of this may be through a deceased estate. If the licensed vessel is bequeathed to an immediate family member DoT will consider providing a new mooring licence to a beneficiary. This new licence will be restricted to the vessel and the licensee will not be able to substitute another vessel.

Have your say:

How likely would you be to join a waiting list to obtain a mooring licence?

a. Very likely
b. Quite likely
c. Not that likely
d. Not at all likely
e. Don’t know

Tell us at:

Have your say:

If you were on a waitlist and DoT notified you of an offer of a mooring licence, do you think three months is an acceptable time frame in order to nominate a vessel to secure the mooring?

Tell us at:
General Information

Mooring apparatus

A mooring apparatus will remain the responsibility and the property of the licensee.

Should a licence be relinquished/cancelled, the mooring apparatus may be removed, or, with the owner’s consent, contact details may be released to provide for the negotiation of the sale of the apparatus to an applicant on the wait list. Should negotiations fail, owners will be required to remove the apparatus, and the applicant is to install a new apparatus.

Authorised use

Due to the proposed introduction of rental moorings, as well as the short-term casual use system, DoT’s position is to discontinue the current authorised use system.

The existence of authorised use in the proposed short-term casual use mooring system will create an unnecessary complexity and goes against the preferred use of moorings for storage of the licensees’ vessel.

It’s proposed that authorised use of mooring sites will be phased out as part of the implementation of the amended regulations and current vessel owners nominated as authorised users will be given time to find alternative storage options for their vessel.

Management of unlicensed moorings

An unlicensed mooring is generally a mooring outside of a declared MCA which is currently not licensed or recognised under any regulatory regime. However, unlicensed moorings can also occur within a MCA, for example, those installed without approval from DoT, or mooring licences that have been cancelled by DoT and not removed by the owner.

There are approximately 1,500 unlicensed moorings in State waters. These moorings are often poorly maintained, put the environment at risk and can be unsafe for vessels. The presence of unlicensed moorings creates inequities in relation to access to public waters.

To overcome the existing problems associated with the proliferation of unlicensed moorings, DoT will seek compliance by establishing a MCA and providing an opportunity for the mooring owner to apply for a licence.

Fees

All fees associated with the management of moorings under these amended regulations will be established through the standard government cost recovery model and will be based around current fees.

Should the Mooring Regulations 1998 be amended through this process and adopted State-wide, it is possible that GST may be removed from moorings currently administered under Shipping and Pilotage (MCA) Regulations 1983.

Have your say:

Because of the opt-in short-term casual use system and the introduction of rental moorings that will be licensed, owned and managed by DoT, the current authorised use system will be discontinued.

What is your view on this proposed change?

Tell us at:
Cancellation of mooring site licences and short-term casual use permits

DoT intends to retain the ability to cancel a mooring site licence or short-term casual use permit should the licensee/permit holder breach any of the regulations or terms and conditions of their associated permit or licence.

Relocation or removal of mooring

Occasionally for good management, or if the mooring is a safety hazard, there is a requirement to request the relocation of a mooring. DoT will maintain its current ability to direct a mooring licensee to move a mooring to another position or to another mooring location, if required.

If the mooring licensee does not comply with a direction, DoT may move or remove the mooring in accordance with the direction at the owner’s expense.

If the mooring licensee moves a mooring to another mooring site in accordance with a direction, it will be at the mooring owner’s expense and responsibility. DoT will amend the register and mooring licence accordingly.

Substitution of licensed vessels

On the sale or disposal of a licensed vessel, a mooring licensee has the opportunity to substitute a suitable vessel on their mooring licence within a three month period.

Anchoring

Anchoring within a MCA will be prohibited within 50 metres of a mooring apparatus.

It is intended that a list of scheduled areas is created where anchoring for periods of more than six hours is prohibited unless the vessel is manned for the entire period. This is in line with current anchoring provisions within the Mooring Regulations 1998.

Nothing in these regulations will exempt vessel skippers from anchoring requirements under the Prevention of Collision at Sea Regulations.

Feedback

This position paper is open for comment until 20 November 2015. Feedback and comments can be provided via our online survey at http://mooringsreview2.questionpro.com or contact DoT on 08 9431 1000 for further information.
CONTACT

For further information regarding the proposed changes, please visit:
Phone: 08 9431 1000
Email: moorings@transport.wa.gov.au
DoT encourages you to provide your comments by completing the online survey.

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