



Department of
Transport

Moorings Management Discussion Paper

February 2015



Contents

INTRODUCTION.....	3
PRINCIPLE.....	3
OBJECTIVES.....	4
1. Provide a single set of mooring regulations.....	5
2. Establish classes of moorings.....	5
Recreational moorings	6
Commercial moorings	6
Courtesy moorings	7
Rental moorings:.....	
Error! Bookmark not defined.	
Emergency moorings:.....	
Error! Bookmark not defined.	
Special purpose	
moorings.....	Error! Bookmark not defined.
Club	
moorings.....	Error!
Bookmark not defined.	
3. Short-term casual use of vacant moorings.....	8
4. Improved administration of mooring licences.....	9
Waiting lists.....	10
Mooring apparatus.....	10
Management of unauthorised moorings.....	11
Fees.....	12
Cancellation of mooring licence or approval.....	12
Relocation or removal of mooring.....	12
Substitution of licensed vessels.....	13

5. Ensure equal and fair access to moorings and prevent moorings gaining proprietary value.....	13
FEEDBACK.....	13

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 those acts there are two sets of mooring regulations.

DoT is conducting a review of mooring regulations with the aim of establishing 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.

Currently DoT is responsible for the management of most, but not all moorings in WA waters. It has jurisdiction over all recreational moorings in dedicated areas for moorings, is responsible for licensing some moorings within some DoT managed port authority areas, as well as moorings in small boat harbours and mooring lease areas. The Rottnest Island Authority, port authorities and the Department of Parks and Wildlife manage other moorings.

These complex governance arrangements do not adequately address the increasing demand for equitable access to moorings, the current less-than-optimal use of existing moorings for boat storage or their use as destination points for boat users. The review of mooring regulations is aimed at developing a more equitable system. It also aims to ensure fees are consistent across mooring management areas and to address the proliferation of approximately 1,500 unauthorised moorings which could pose a threat to the environment and be unsafe for boat owners.

As part of the reform process, DoT has approval from the Minister for Transport to undertake a two stage consultation process, with each phase providing opportunity for community feedback which will help shape and refine the development of the best mooring regulations for WA.

This Discussion Paper has been developed to guide consultation and discussion. It outlines the key principle of the review and the main objectives, along with proposed strategies, to be delivered through legislative amendment.

Principle

The Discussion Paper is based on the following principle:

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



Objectives

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.

1. Provide a single set of mooring regulations

Currently the governance of moorings in WA is complex. There are two main relevant Acts:

- the *Shipping and Pilotage Act 1967*; and
- the *Western Australian Marine Act 1982*.

There are also two sets of regulations controlling the administration of moorings:

- the *Mooring Regulations 1998*; and
- *Shipping and Pilotage (Mooring Control Area) Regulations 1983*.

The *Mooring Regulations 1998* regulate the administration of the Swan and Canning Riverpark Mooring Control Areas (MCA), which includes issuing mooring licences.

The *Shipping and Pilotage (MCA) Regulations 1983* regulate moorings within other MCAs under DoT's jurisdiction by utilising a registration process.

Each set of regulations has differing requirements.

A key aim of this review is to amend the *Mooring Regulations 1998* to include all moorings currently administered throughout the State and administer them through the provision of a licence to provide a more consistent, less confusing system for boat owners.

The role of this Discussion Paper is to outline and define the objectives for the future management of moorings which will guide the drafting of appropriate changes to the *Mooring Regulations 1998*.

2. Establish classes of moorings

It is proposed a number of classes of moorings be established to reflect the different uses and associated administration requirements for each. The aim of this is to clarify or define the use of each type of mooring so that each class of mooring would be subject to appropriate regulations, terms and conditions that would ensure equitable and safe use.

For example, moorings licensed to government agencies, moorings for commercial purposes or moorings licensed to yacht clubs may require different standards and

approaches. Approved moorings holders storing their primary vessel on the mooring will experience minimal change.

Note: All moorings shall be subject to regulations, terms and conditions, and scheduled fees.

The following classes of moorings are proposed:

Recreational moorings

- primarily for storage of licensed, recreational vessels;
- required to be certified by a recognised mooring inspector / contractor complete with a compliant buoy appropriately marked and identified;
- required to be maintained in a safe and fit-for-purpose condition at all times;
- vessel/s must be registered or owned by an *individual*;
- additional vessels using the mooring for storage to be limited to vessels registered/owned by the licensee;
- each licensed/authorised vessel shall clearly display identification for ease of recognition;
- only vessels deemed to be seaworthy shall be secured to a mooring;
- a vessel secured to a mooring on a mooring site shall be secured at the risk of the owner of the vessel;
- rafting of vessels on moorings not to be permitted unless the vessel rafted is identified as a tender to the main vessel;
- not to be assignable to another party without authorisation by DoT;
- mooring inspection reports to be provided periodically.

Commercial moorings

- only to be used for mooring commercial vessels;
- may be held and applied for in a company name/entity, (providing a person is listed as the contact);

- vessels using the mooring must be suitably registered, maintain current certificates of survey or current certificate of operation;
- apparatus to be appropriately designed by a qualified mooring contractor or qualified marine engineer and certified safe and fit-for-purpose for the designated vessel/s and be annually inspected;
- moorings to be clearly identified, with a size suitable buoy and clearly marked as 'authorised use only';
- moorings may be required to be lit appropriately, and;
- mooring licences are to be non-transferable and non-assignable.

Courtesy moorings

- for the purpose of short-term public courtesy use;
- to be used for a limited identified period;
- manning restrictions may apply;
- maximum vessel and capacity rating as identified on the buoy;
- no fee required and moorings may be used on a first come first served basis.

Rental moorings

- the proposed new classifications may include a booking system for rental use moorings to provide boat users greater opportunities to use moorings as a destination point rather than just for boat storage;
- moorings could be available to be booked online for a fee to allow short term stays on a daily or weekly basis.

Emergency moorings

- moorings available for emergency use only for vessels in distress with approval by the DoT. For this purpose a fee may be considered.

Special purpose moorings

- special purpose moorings such as, but not limited to, swimming pontoons etc.

Club moorings

- moorings licensed to an entity on a non-commercial basis for members and club vessels.

3. Short-term casual use of vacant recreational moorings

Many moorings are left vacant for long periods. DoT is considering introducing a system to allow the additional use of vacant moorings on a casual basis.

Over the past two years 49 per cent of moorings in the Swan and Canning Riverpark MCAs have predominantly been vacant. The introduction of this system may reduce demand for the installation of new, additional moorings. The aim is to provide broader access to recreational moorings.

If a casual use model was introduced, recreational mooring licence holders would retain priority of use for their mooring. The intent of the model is that should a mooring licence holder not be using their mooring, then another compliant vessel may use the mooring for a limited time or until the mooring licence holder requires the use of the mooring.



Over the past two years 49 per cent of moorings in the Swan and Canning Riverpark MCAs have been empty

Short-term casual mooring users would be provided with identification for this purpose. In addition, a fee to register vessels participating in the system may be introduced to offset administrative costs.

It is anticipated that an approved vessel would meet the following criteria:

- registered/owned by the applicant;
- overall length defined to ensure that the maximum approved vessel length or capacity of the mooring being used is not exceeded;
- vessels to be clearly identified as an approved vessel (possibly through a sticker).

In administering this process, and to limit potential damage to moorings, it is anticipated that clear identification of moorings is introduced to ensure each licensed mooring is easily recognisable to approved boat owners with a suitable vessel.

The Rottneest Island Authority's experience in administering shared moorings may be drawn upon.

A short-term, casual use system would rely heavily on self-compliance. It is intended that any vessel licensed to a mooring site will have priority over a vessel that is casually using the site. The casual use vessel will be required to vacate the site immediately on request of a licensee.

It is expected that a casual shared-use system would allow access to moorings by a broader range of boat owners.

4. Improved administration of mooring licences

The primary aim of streamlining the administration of mooring regulations is to introduce a system that provides more equitable access to moorings and ensures they are safe and well managed for the benefit of boat users and the environment.

As such it is proposed that all moorings have a licence, renewed annually on the anniversary of the granting of the licence, and that all moorings be within the bounds of designated MCAs.

Approved mooring holders would be responsible for their mooring and its maintenance consistent with legislation and conditions placed on the licence.

DoT will make clear the class of mooring licences available in each MCA or individual zone within an MCA.

The application process for a mooring licence would be similar to existing processes already in place. As is the case currently, DoT would not be obliged to offer a mooring site licence upon application.

Waiting lists

DoT may divide MCAs into different areas or zones for the purpose of establishing waiting lists.

As an MCA or determined zone within an area nears capacity, a wait-list system could be implemented in line with current regulations.

Establishing a wait-list system would provide fairer and more equitable access to the issuing of moorings. With annual licensing, a short-term casual use option and a wait-list system, the overall usage of moorings would be optimised.

It is intended that DoT retains the discretionary authority to assess applications for deceased estate transfer of moorings, despite a waiting list being in place.

In allowing the transfer of mooring sites, by way of a transfer of the licensed vessel, DoT may introduce conditions to ensure that the transfer of the licensed vessel is in good faith and not a spurious arrangement used to facilitate the 'sale' of the mooring in contravention of the intent of the regulations.

Where demand for mooring sites exceeds the capacity of a mooring area, a ballot system facilitated by the Western Australian Electoral Commission may be used to determine the order of the waiting list. Should a mooring site become available, DoT may make an 'offer' of a mooring site licence to the first suitable applicant chosen through the ballot system.

Should an offer lapse DoT may remove the applicant from the waiting list and make an offer to another applicant.

An unsuccessful applicant would be able to re-apply to be placed on a waiting list.

Mooring apparatus

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 approved by DoT. Failure to achieve the sale may result in the requesting the removal of the apparatus.

Management of unauthorised moorings

An unauthorised mooring is a mooring:

- that has been installed without the approval of DoT;
- where the owner has failed to lodge an application for an existing mooring site – within the specified time;
- that has not been removed by the licensee after a request by DoT;
- that is unclaimed or where the owner is unknown;
- where the licence has been cancelled by DoT; or
- that has been relinquished by the licensee.

Abandoned vessels in mooring areas may be moved to a place determined suitable by DoT and, if necessary, the vessel disposed of according to the *West Australian Marine Act 1982*.

There are approximately 1500 unauthorised moorings in state waters. Unauthorised moorings are often poorly maintained, put the environment at risk and can be unsafe for boats. The presence of unauthorised moorings creates inequities in relation to access to public waters and problems associated with the lack of tenure.

To better optimise the use of moorings, and ensure their safety for boat users and the environment, it is proposed that all moorings be located within declared MCAs. New mooring control areas may be declared in WA.

To overcome the existing problems associated with the proliferation of unauthorised moorings, and where there are grounds to assume that an unauthorised mooring may be acceptable in relation to its location and structure, DoT will seek compliance from owners by asking them to apply for a licence.

If unauthorised mooring owners are unwilling to comply, infringements or notices to remove may be issued. If necessary, unauthorised moorings may be removed, or disposed of, with the seeking recovery of costs associated with removal. Similarly, if unauthorised moorings are not constructed to a suitable standard or are in an unsuitable location owners will be required to remove them.

Fees

A proposed fee regime to recover costs of administration is based on current fees:

- (1) a standard application fee –(see applications);
- (2) annual mooring licence fee;
- (3) late fee;
- (4) annual fee to register a vessel to use the short-term casual vacant mooring system;
- (5) rental fee (per day, week, month).

Cancellation of mooring licence or approval

DoT intends to retain the ability to cancel a mooring licence, or withhold approval for a vessel to access the casual mooring system, if the:

- licensee or approved short term casual user breaches any of the regulations or terms and conditions;
- annual licence fee, or the late fee have not been paid in accordance with a notice given;
- annual permit fee has not been paid in accordance with a notice given;
- licensed vessel has been sold and the licensee has not nominated a suitable substitute vessel;
- approved vessel has been sold or disposed of and DoT has not been notified or;
- DoT is of the opinion that it is in the best public interest or the interest of good management of the MCA to do so.

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. It is proposed DoT maintains 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, the DoT may move or remove the mooring in accordance with the direction and 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 licenced vessel, a mooring licensee has the ability to substitute a suitable vessel on their mooring license within a six month period. This will be at DoT's discretion.

A mooring licensee who sells or otherwise disposes of his or her interest in a licensed vessel will be required to give written notice to DoT within seven days of the date of sale or disposal.

This is consistent with the review's principle of providing more equitable access to moorings for all.

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

To limit the potential for a mooring licence to gain monetary value to the licensee, and to ensure there is no incentive for a licensee to retain a mooring that is not being used for its intended purpose, there will be controls on the transferability of licences with a preference for licences to be relinquished to DoT to be reallocated.

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.

The exclusive use of public waters by a private individual for a nominal fee should be considered a privilege rather than a proprietary right and this position is reflected in the fact that there is no guarantee of renewal of a mooring licence and any renewal is at the discretion of DoT.

Feedback

This discussion paper is open for comment from 9 February 2015 to 8 May 2015.

Feedback and comments can be provided via our online survey by clicking on the following link <http://mooringsreview.questionpro.com>