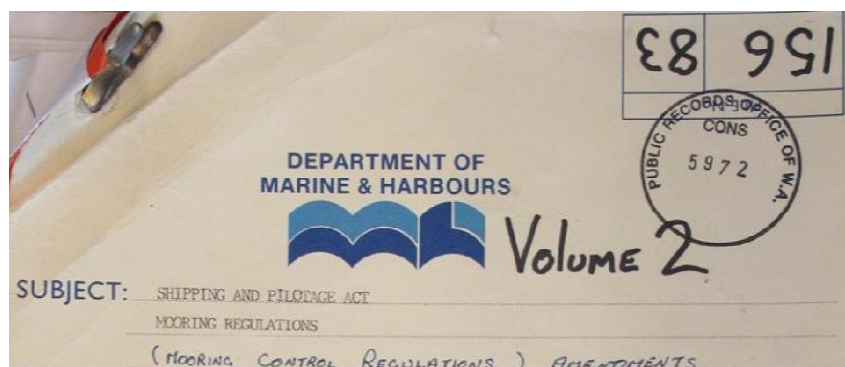


COMMENTARY 4 WAMA Office

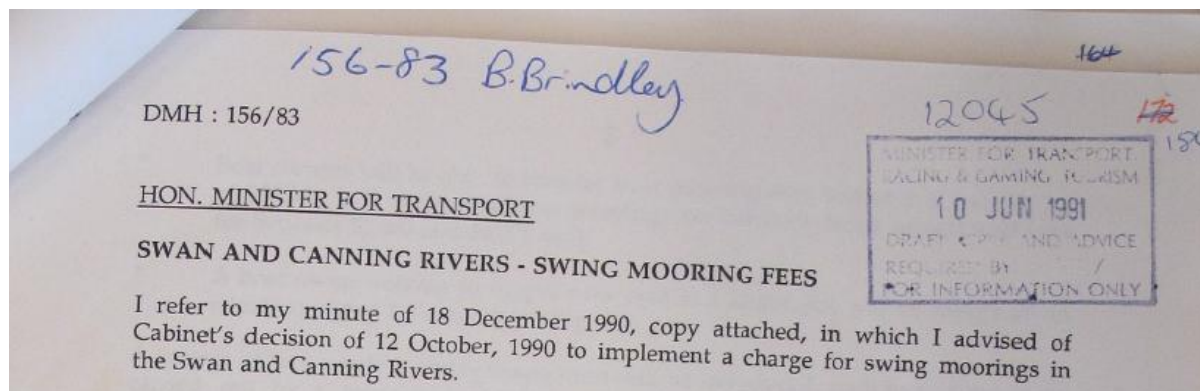
Departmental and Ministerial Discussion Prior to Gazettal of Mooring Regulations 1998

The documents referenced have been accessed by an FOI search



Complete document at reference:

FOI 1 Mooring Control Regs Amendments 5 June 1991 Executive Director Marine and Harbours



I remain reluctant to proceed with the gazettal of the new fees without further discussion with you and your approval as there is bound to be some public criticism of their introduction.

Such criticism would include:-

- The new fees are a revenue grabbing exercise.
- The long established tradition of free moorings in the Swan and Canning Rivers would be broken.
- The Department of Marine & Harbours has not undertaken any development work associated with the moorings and therefore there can be no basis for a fee to be charged.
- Current boating fees are already too high.
- It will be difficult for many boat owners to pay the new fees in the current economic climate and many will be forced to remove their boats from the rivers.

Note: The public will see "The new fees are a revenue grabbing exercise."

Then the expected revenue will be:

The expected revenue to be derived from the collection of mooring fees is now estimated to be \$150,000 per year based on the recommended mooring fee for 1991/92 of \$20.00 per metre boat length. The costs involved in collecting this

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* Boat owners will be able to transfer their mooring sites subject to a transfer fee of \$50.00. It is understood that moorings are currently being bought and sold for between \$3,000 and \$4,000 each.

This is an explicit statement showing the intention that "boat owners will be able to transfer their mooring sites..."

It is proposed to declare mooring areas in other areas of the State such as Kalbarri, Mandurah and Mangles Bay in due course.

The Mooring Regulations 1998 were proposed to be used in other areas besides the Swan and Canning Rivers. Why were the Mooring Regulations 1998 not implemented during the revamp of the Mangles Bay area by simply declaring Mangles Bay as a Mooring Control Area for the purposes of Schedule 2 the Mooring Regulations 1998. The confusing regulatory situation has been created by the Department itself by not complying with what was the intended use of the Mooring Regulations 1998.


J M JENKIN
EXECUTIVE DIRECTOR
MARINE & HARBOURS
5 June 1991

Complete document at reference:

FOI 1 Mooring Control Regs Amendments 5 June 1991 Executive Director Marine and Harbours

Complete document at reference:
FOI 2 Mooring Regs 1998 EXPLANATORY MEMORANDUM 22 Dec 1998 Supporting Documents
14th August 1998 Explanatory comments on Mooring Regulations Draft 2

6. Transfer of mooring sites: It is difficult to see how a power to bequeath, sell or assign a right to use a mooring site can co-exist with the waiting list. As it is the owner of a principal vessel that has a right to use a registered mooring site (being the person in whose name the mooring is registered does not give this right) I have provided that the principal vessel for a mooring site can be changed by transfer.

"I have provided that the principal vessel for a mooring site can be changed by transfer."



Lee Harvey
Assistant Parliamentary Counsel

14th August 1998 Explanatory comments on Mooring Regulations Draft 2

Complete document at reference:
FOI 3 Mooring Regs 1998 EXPLANATORY MEMORANDUM 22 Dec 1998

EXPLANATORY MEMORANDUM
NOT to be forwarded to Executive Council
To be returned to TRANSPORT

96

JA/98/0140
PT 2

Mooring Regulations 1998

EXPLANATORY MEMORANDUM

99/140 v.L



A74364

Legislative Authority

Shipping and Pilotage Act, 1967 and Western Australian Marine Act, 1982.

Purpose

To provide an appropriate regulatory framework for the orderly management of vessel moorings on the Swan and Canning Rivers which will ensure safe mooring of vessels and assist safe navigation in surrounding waters.

Consultation

The framework established by these Regulations are based on best practice following extensive consultation with New South Wales and Rottnest Island authorities and the Swan River Trust.

Transport officers had extensive consultation with officers of the NSW Waterways Authority which is responsible for mooring policy and administration in NSW. Following a major review of the administration of moorings by the Independent Commission against Corruption (ICAC) the NSW legislation, administration and policies had been extensively remodelled. ICAC recommended a number of arrangements such as formal waiting lists, and statutory procedures for exchange and transfer of mooring licenses to minimise opportunities for official corruption and perceptions of unfair dealing. Many of these recommendations have been incorporated into the *Mooring Regulations, 1998*.

Consultation was also held with the Rottnest Island Authority officials who administer the mooring arrangements, and with their legal advisers. These consultations reinforced the advice already received from NSW as well as provide additional information.

Transport consulted extensively with the Swan River Trust in its role as the planning authority for the Swan River. The final policy for the mooring regulations was developed in collaboration with the Trust officers and discussed with the Swan River Trust both formally and informally. The Trust endorsed the policy and has agreed to participate in some of the mooring clean up work which is likely to flow from some mooring sites being relinquished.

In reference to NSW "ICAC recommended a number of arrangements such as formal waiting lists, and statutory procedures for exchange and transfer of mooring licences to minimise opportunities for official corruption and perceptions of unfair dealing. Many of these recommendations have been incorporated into the Mooring Regulations 1998."

NOTE: The NSW regulatory position at the time had much influence on the drafting of the WA Mooring Regulations 1998. It appears that the current review is also being heavily influenced by the current NSW position and regulatory system. (*Refer to the NSW websites*)

Mooring licence and registration of mooring site (Regulation 12)

This Regulation provides another important procedural element for the overall framework. It also requires that a licence can only be issued if the applicant is the owner of a vessel which will use that mooring. This is to restrict the practice of a person acquiring multiple moorings without owning vessels to use them and thereby excluding other boat owners from moorings in the area.

"... a licence can only be issued if the applicant is the owner of a vessel which will use that mooring."

How much clearer does the Explanatory Memorandum need to be. There can be no allusion that the applicant must be the owner of the past licensed vessel for the mooring site and that is the only way a mooring site licence can be transferred.

Exchange of mooring sites (Regulation 15)

This Regulation establishes the conditions under which mooring sites may be exchanged between people with the permission of the Minister. This is to facilitate sensible administration of the mooring management system so that individuals can relocate their boat with minimal regulatory overview.

Importantly this Regulation protects the rights of those people on any waiting list by prohibiting the Minister from permitting exchange of mooring sites under certain circumstances.

Transfer of mooring licence (Regulation 16)

This Regulation is similar to Regulation 15 but applies to the proposed transfer of licences.

"... so that individuals can relocate their boat with minimal regulatory overview."

The essence of Regulation 16 is similar to Regulation 15 "... but applies to the transfer of licences."

I.e. The transfer of licences should take place with the minimum regulatory overview.

The current Departmental or Mooring Office restriction of only approving transfer of mooring sites by way of sale of the current licensed vessel is completely nonsensical and in complete contradiction to the intent, essence and meaning of the Mooring Regulations 1998.

Refer to the Mooring Regulations 1998 r.16 and the direct requirement for the operation of r.12 when considering the transfer of mooring sites.

Complete document at reference:

FOI 4 Mooring Regs 1998 Preamble Departmental Discussion in formatting 1998 Regs

5th May 1991 To Corporate Executive from Manager Business and Development:

*** Mooring site transfers will be allowable providing that all outstanding fees have been paid and a vessel of equal or shorter length is to be moored on the mooring**

31st July 1990 Draft No 3 Swing Moorings - Swan and Canning Rivers

8. TRANSFER OF MOORINGS

It shall be permissible for an owner of a mooring to transfer or otherwise sell that mooring to a third party provided that the new vessel to be moored is equal to or shorter in length than the previous vessel and there are no debts owing on the mooring to the Department. When the new vessel to be moored is greater in length than the previous vessel then the provisions of para 6 shall apply. Notwithstanding, a transfer fee of \$50 shall apply to all mooring transfers. If a mooring site is no longer required for a vessel then the site returns to the Department.

The intention of Item 8 in this departmental correspondence is clear and explicit. The permissible transfer of the mooring site will involve a 'new vessel' which will become the licensed vessel.

WAMA Office June 2015