

MOORING OWNERS CONCERNS AND COMMENTS

INPUT FROM A CONCERNED MOORING OWNER TALKING ABOUT THE QUESTIONABLE STRUCTURE OF THE DoT SURVEYS

After completing the **Second Phase Survey** and assisting a few others with it, the writer has come to realise what a clever survey it actually is.

The result that DOT want is guaranteed if mooring owners are complacent.

Look at the questions in the first Survey for example:

Strong support

Overall, approximately **two thirds** of respondents strongly supported each objective.

The most popular objective based on the responses to date was "Provide a single set of mooring regulations to be administered across state waters". Throughout the survey period, the level of people registering their response as Strongly support stood at around 64%.

Just over 60% strongly supported "Establish a classification system to clarify the use of moorings in different situations and to make administration easier."

Sixty per cent of those completing the survey nominated that they strongly supported the need to "Consider the introduction of a system to allow short term casual use of vacant moorings including an opt in system."

Just under 60% identified that they strongly supported the objective to "Deliver improved administration." Almost identical results were recorded from respondents when ranking their thoughts on "Ensure equal and fair access to moorings and prevent moorings gaining proprietary value."

And this:



The response from Dean Nalders office regarding the first survey, after a letter detailing mooring owners concerns was forwarded, was as follows:

“Overall the feedback showed a high level of support for the principles contained within the discussion paper”

Obviously Dean Nalder was not present at either of the public forums!

The majority of the questions contained in the survey(s) are not focused on the main issues but rather are designed to engineer support for the DOT:

The question regarding One set of regulations.

This is not an issue, the content of the Regulations are the real issues. In any case nothing will change for the vast majority of boaters. At present the moorings I use are located in the Swan River, Rottnest Island and occasionally Garden Island. These are regulated under 3 different sets of rules and whatever the outcome of the survey that will not change. The question is not relevant and is meaningless but it is a good percentage grabber for the DOT.....I being the mug in the first survey gave this the 100% tick..... *I will not make that mistake again!*

And what about the question regarding improved administration?

What is that even doing in the survey? Who really cares? The DOT do not need to change legislation to improve administration, they do not need a public mandate to achieve this, just do it! After all we already we already pay \$550 odd dollars per annum for this.....I being the mug gave this question the 100% tick as well , yet again a clever percentage grabber for the DOT. *I will not let that mistake happen again!*

The two questions on casual use and the other on a classification system are really the same question as one is dependent on the other.... soft questions which one could easily lend their support to.

The first survey avoids the hard questions and completely avoids the main issue to most of us which is regarding the continued ability of the Licensee to transfer their mooring licence either with their vessel or to a person of their choice. (It's important to note here that the 2nd survey avoids this most important issue as well).

The only question which would draw a strong negative response is the last one, but by the time I (like many others) got to this question it was too late the damage was done, the DOT lulled me into an overall support of their position. **(Note; even this last question was rigged with the intro of “ensure equal and fair access to moorings”, this first part of the question (which would have polled many positive results) been left off the question when the survey result was posted... see above).**

The questions in the second survey are mostly the same as the first and are engineered to show support for the DOT.

This is why mooring owners must maintain and respond with a definitive

"NO CAMPAIGN"

..... which must deliver the strongest negative response to every question in the second consultation phase survey.

This is the only way forward if mooring owners rights are to be protected. Every one of our WAMA members and contacts needs to do the same and if each one of them has family and friends who wish to lend their support, all the better..... that's what the survey is there for.

An overall negative response to the second survey is what we must achieve. Collectively we have the ability to do just that and take away the public mandate that the DOT are seeking to achieve their 'hidden' objectives.

(NOTE: The DoT is using a privately commissioned survey consulting company who may experts in undertaking surveys that are designed to achieve preconceived outcomes.)

A MOORING OWNER'S CONCERNS ABOUT FREE CASUAL USE BY OTHERS

I am concerned about who will be responsible for mooring maintenance and licensing costs on private moorings if they are made available to the public via a share system.

Furthermore I feel it will be an issue when for e.g. a private owner returns from a trip to Rotto with a lot of unpacking etc only to find their mooring occupied and day light running out and all the pressure of getting packed up without worrying about someone getting their boat of the mooring.

Surely if a licence holder uses their mooring as a full time boat storage point then these moorings should be exempt from the shared system.

kind regards

ANOTHER MOORING OWNER'S CONCERNS ABOUT FREE CASUAL USE BY OTHERS

I trust my e-mail finds you well.

Firstly, imagine leasing a new apartment which you have to keep in top condition as per the lease, then later down the track you are advised that the landlord has altered your lease so that if you go on holiday he is entitled to put other people in your property without notifying you . He will receive rent which is not passed on to you. On your return you have to evict the people if they are still there. Any damage is down to you and you cannot get insurance against this.

Would you vote such legislation through parliament ?

As a current lessee of a mooring on the Swan River I am faced with the same situation by this latest DOT mooring regulation review .

Secondly, imagine that I am away from my mooring for three days. On my return all seems well, winds are light so I tie my vessel up and return home not realising my mooring has been

used and damaged by a unrecorded third party legally endorsed and charged for by the D.O.T.

At 6pm I am arrested by the local Police on a charge of manslaughter .

The winds have increased in the afternoon , my yacht has broken free , damaged three other boats and blown on to the beach where a young child is playing and has crushed him to death.

In court I am fully responsible for the condition of my mooring which has failed due to damage done by a third party while I have been away. I am convicted as I cannot prove others were involved so I am deemed at fault.

The DOT say there is concern about damage expressed in the survey. They say they would try and chase up offenders. This from an organisation that has managed moorings for a number of years. **What credence could we put on that when they have allowed 1500 illegal moorings to exist on their watch ?**

In line with our new prime minister's attitude I think positively. As a sailor of over 65 years experience and having sailed 60,000 + nautical miles in 23 Countries I feel that I have quite a lot of knowledge on moorings, so hopefully my input may be of some value.

I am fully in favour of the river moorings being used. I do not like to see lots of them vacant as at present, which is due mainly to the D.O.T change in policy which stopped lessees allowing a third party to use their mooring on occasions. The fear of losing their lease has caused mooring owners to leave their moorings empty.

(This is FUNNY) The review proposes that the D.O.T do exactly what the DOT has stopped the current lessees from doing except that the DOT require payment. Is this just a revenue raising exercise really ?

A MOORING OWNER'S COMPLETE OPPOSITION

I am totally opposed to the idea.

I own and have paid good money for a number of moorings, 4 in Geographe Bay and one in Port Denison. I continue to pay good money for maintenance of these moorings.

I have no interest in having others use my moorings at no cost or contribution to my ongoing costs.

A MOORING OWNER'S LETTER TO HIS LOCAL MEMBER OF PARLIAMENT - THE MINISTER for TRANSPORT

Dear Dean,

As my local member and Minister for Transport, I am emailing you about the so-called Mooring Regulation Streamline Review

As you would know, the Western Australian Department of Transport (DoT) is endeavouring to produce major changes to the way the river and coastal recreational mooring system has worked in Western Australia for many decades. The push for changes to the system, which is currently comfortably managed under the Mooring Regulations 1998 and the Shipping and Pilotage (MCA) regulations 1984, began in December 2010 when the Department's Mooring Office Manager published a media release that proclaimed changes to the way mooring sites and related physical apparatus were to be transferred from one party to another. The historical practice of simply making an application to the Department to transfer one's mooring apparatus and mooring site to another party, along with the payment of a fee, was replaced with a condition that the only way a mooring licence or registration will be transferred is when the new applicant has purchased the vessel that is currently registered as the licensed vessel to the particular mooring site.

I understand that just after the 2010 changes, under an FOI application, the DoT was asked to release their legal advice in respect to the reinterpretation of R. 16 Mooring Regulations 1998 related to the transfer of mooring site licences. The DoT refused to release the legal opinion/advice on the grounds of legal confidentiality. (Not bad for a public institution.) I suspect if the DoT's legal advice had supported, their re-interpretation of R.16, they would have been more than willing to release it. Could you investigate this matter please and confirm if my understanding is correct?

Furthermore, there was the implementation of a complete ban on the decades old practice of mooring apparatus owners allowing the use of their apparatus when another boat owner was in need of temporary or short term storage assistance for their vessel. Amounts paid to the mooring owner were never excessive and simply contributed to the cost of upkeep of the mooring apparatus. The Department now considers these temporary use arrangements as commercial gain to the mooring owner and has classified these arrangements as illegal.

The result of these two changes is that many mooring sites have been left idle with the owners seriously concerned that if they breached the new rules they would lose their mooring site licence or registration, this often being the advice of the Department's Mooring Office officers. **Yet one of the major justifications for the proposed changes - the vacancy rate on moorings - has increased substantially since DoT's 2010 reinterpretation of the 1998 regulations, clearly because they have made it harder to transfer licences and banned short-term leasing of moorings.**

It is suspected that both of these changes may have been made outside of the intended authority of current legislation.

After perusing Departmental publications, it has become obvious to some mooring owners that the main aim of the current Mooring Regulation Streamline Review process is to introduce major changes to the recreational mooring system in Western Australia. Mooring owners consider that the current mooring regulations are entirely satisfactory for management purposes of recreational moorings. The Mooring Regulations 1998 were introduced only seventeen years ago. Those regulations took almost ten years to be formulated and drafted and were designed to be used across the entire State by way of declaration of Mooring Control Areas to be listed under Schedule 1 of the regulations. When the Shipping and Pilotage (MCA) Regulations 1984 were introduced they were intended to clarify recreational mooring management issues at the time and have worked quite successfully since introduction. The latter Mooring Regulations 1998 were meant to replace the former Shipping and Pilotage Regulations 1984 in the area of management of recreational moorings. For some questionable reason the former regulations were continued to be used in recently created mooring control areas such as Mangles Bay, Rockingham.

The Department now says that one set of mooring regulations for the management of recreational moorings throughout the State is the main reason why the Mooring Regulations Streamline Review is being undertaken. In the same breath the Department says that the new regulations will not apply to Rottnest Island, Garden Island and other port authority control areas throughout the State.

Other aspects such as fairness and equity, are being put forward by the Department to rationalise the review of the current regulations. Initially the Mooring Regulations 1998 were used fairly and equitably. Very few complaints were made by mooring owners about the system that was designed to be used State-wide, until Dec 2010 when the dramatic changes in the interpretation of the regulations, as described above, were implemented and accompanied by gargantuan increases in annual fees.

Mooring owners are in a state of total bemusement.

The Department's interpretation of the regulations is clearly in conflict with the obvious intent and purpose of the regulations as drafted. The Department now states that the mooring review will clear matters up and will simplify management processes for the management of recreational mooring site licence and registration issues and mooring apparatus ownership. Nothing could be further from the truth.

The irony is that the existing regulations, if applied properly by the Department, can already be used on a State-wide basis.

In summary, after administering the 1998 Regulations as clearly intended from 1998 to 2010, the DoT created a precedence, with many mooring transfers proceeding with written DoT advice and approval. In 2010, the DoT decided to change their interpretation of the Regulations, and refuse to release any legal advice they received with respect to this re-(mis)-interpretation. This change led to a significant increase in mooring vacancies. Clearly mooring licensees who acquired their licences between 1998 and 2010 have suffered "material loss" through the DoT's "misinterpretation", probably making it possible to sue DoT. If the proposed changes are implemented, those acquiring licences after 2010 will also suffer material loss. You can be sure that if the Mooring Regulation Streamline Review proceeds, it and the 2010 reinterpretation of the Mooring Regulations 1998, will be legally challenged. Mooring licensees will not simply give up moorings they have spent tens of thousands of dollars acquiring and maintaining under the existing (and unchanged) Mooring Regulations 1998.

As my local member and Minister in charge of the DoT, I ask that you review and cancel the unnecessary and unfair Mooring Regulation Streamline Review process, thereby saving further expenditure by the DoT (and potential litigants).

**PLEASE FORWARD YOUR COMMENTS AND CONCERNS TO YOUR
LOCAL MEMBER OF PARLIAMENT**

(FORWARD A COPY TO THE WAMA OFFICE AT wamooringassoc@gmail.com)

**MAKE SURE YOU VOTE NEGATIVE TO ALL DoT SURVEY QUESTIONS
IN ORDER TO PROTECT YOUR RIGHTS AND PROPERTY AS A
MOORING OWNER**

COMPLETE THE SURVEY ON THE DOT WEBSITE AT LINK:

<http://www.transport.wa.gov.au/imate/mooring-regulation-streamline-review.asp>

**Note: The Department of Transport has set up the second Mooring
Regulations Review survey so that your computer is tracked.**

**If you have members of your family or friend who would also like to
complete the DoT survey they will have to use another computer or another
search engine.**

WAMA COMMITTEE

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MOORING OWNERS CONCERNS AND COMMENTS

FURTHER INPUT FROM A CONCERNED A MOORING OWNER TALKING ABOUT THE QUESTIONABLE STRUCTURE OF THE DoT SURVEYS

To All Recreational Mooring Owners,

Basically the DOT feel justified in their stance by the favourable results of their first survey. Surprisingly 55% of the respondents were mooring owners or users (probably the bulk being from Rottnest and Garden Island) WA recreational mooring owners have all been too soft and perhaps a little naive in the first survey with answers ranging from the positive to negative and everything in between. This time around we need to be more aggressive and answer every question with the strongest negative possible. Shoot down the whole deal and **do not give the DOT a mandate for anything**. The questions while seemingly innocent are giving the department a mandate for sweeping changes.

There is only one way to win this.

We should all answer as follows (The questions have been abbreviated):

- Provide a single set of regulations..... **Strongly oppose.**
- Establish a classification system..... **Strongly oppose.**
- Introduce short term casual use..... **Strongly oppose.**
- Deliver improved administration..... **Strongly oppose.**
- Prevent moorings gaining proprietary value..... **Strongly oppose.**
- How likely would you be to join a wait list **Not at all likely.** (An inefficient way to distribute moorings to real boaters, long delays, uncertainty, etc).
- Is 3 months an acceptable time to nominate a vessel..... **No**
- Proposed casual use system, main advantages **No advantages**
- Proposed casual use system, disadvantages (lots of reasons here, increased maintenance, insurance issues, unable to moor up after trip as mooring is occupied, potential “mooring Rage”, DOT will not be able to effectively police new rules etc etc)
- How likely are you to use short term, casual system**Not at all likely**
- Discontinuing current Authorised user system **I think it’s a bad idea** (Authorised user system should be kept as it allows for medium to long term additional use which the casual use system does not cater for)
- Is 3 months long enough to substitute licensed vessel..... **No**
- Also amongst final comments we should note that; **The current ability to transfer the mooring licence together with the current principle vessel should be maintained.** (to many of us this is the most important aspect of any change, the DOT is well aware of this but have conveniently left this most important question off the survey)

Mooring owners need to speak collectively - vote along party lines so to speak. It’s the only way to make our voice heard and has worked for years for the major parties...democracy at its best!. **We need to get as many people as possible to fill out the survey**, every person that we know with access to a computer, laptop, smart phone or all of them (currently,

the survey is only allowing one survey response per device). Fill in a survey for every device possible.

This is our biggest chance to make our voice heard. If even 15 of us could muster 20 surveys each that is 300 which is over 50% of the last survey total. But the truth is we can do way better than that.

All mooring owners can contribute significantly by each in turn mustering as many votes as possible from every person and device that they can access. **It's only fitting that the people that these draconian changes effect most should vote in force.**

This is our biggest chance to make ourselves heard and dominate the survey with a negative response.

The proposed DoT changes to the mooring regulations should be scrapped. Every mooring owner and their associates should vote accordingly.

FURTHER INPUT FROM A CONCERNED A MOORING OWNER ABOUT PROVIDING A BRIDLE/HEAD ROPES FOR OTHERS TO USE

Another comment from me.

On my moorings that I have paid good money for and continue to pay maintenance on, I do not leave a mooring bridle on them. The reason I don't is that this mooring bridle deteriorates when left on the mooring so I leave the mooring bridle on my boat. In addition it also deters people from using my mooring if the mooring bridle is not attached.

Now what is going to happen if this new legislation comes in. I will strongly resist being forced to put a mooring bridle on each of my moorings just so that someone else is free to use them. Surely I cannot be forced to do this?

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