

Council Policy

Council policy title:	Bathing Box and Boatshed Policy
Council policy ref no:	C/POL/COR/005
Council policy owner:	Director Corporate Services
Adopted by:	Bayside City Council
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1. Policy intent

To provide guiding principles in regards to the management of bathing boxes and boatsheds and ensure the buildings integrate with the public use of the Foreshore reserve.

2. Purpose/Objective

The objectives of this Policy are:

- To acknowledge the iconic status of the Brighton bathing boxes and boatsheds in the City of Bayside's heritage and their preservation;
- To comply with the relevant legislation;
- To clearly document the rights and obligations of Council and the Licensees of bathing boxes and boatsheds;
- To ensure bathing boxes and boatsheds are maintained to a good standard so that the amenity of the foreshore is protected and to allow use and enjoyment of the foreshore for all beach users;
- To ensure that a financially viable model is created that recognises the benefit available to bathing box and boatshed Licensees and the costs involved in managing the facilities in accordance with this Policy;
- To acknowledge that changes in the foreshore reserves, brought upon by climate change or other unforeseen circumstances may result in a need to remove and/or relocate bathing boxes or boatsheds that are no longer sustainable.

Council officers will manage the premises within the bounds of the following legislation:

- (i) *Local Government Act 1989* (LGA)
- (ii) *Crown Land (Reserves) Act 1978* (CLRA) *
- (iii) *Coastal Management Act 1995* (CMA) *
- (iv) Brighton Land Vesting Act 1877 (BLVA)

*CLRA and CMA only apply to bathing boxes or boatsheds on Crown land.

3. Scope

The roles of Council and BBBA

3.1 The role of Council

Council is the responsible authority, as owner of Brighton Beach Reserve and as Committee of Management of Crown land reserves within the City of Bayside.

Council both as landowner of the Foreshore reserve and Committee of Management has overall responsibility for the management of the Foreshore reserve, including the Bathing Boxes and Boatsheds.

3.2 The role of the Brighton Bathing Box Association

The Brighton Bathing Box Association (BBBA) has seen its role in the past as the “glue” that keeps a community asset together by providing volunteer resources. Its role has been wide and varied including providing support to bathing box and boatshed licensees and assisting Council in ensuring premises are secure and suitably maintained. Council supports the work of this volunteer organisation and it is envisaged that the BBBA will continue to provide this service to its members and the community in general.

Council acknowledges, without prejudicing its own lawful responsibilities, BBBA practices, arrangements (including arrangements with third parties to supply security services), inspections and reports and recognises that the BBBA acts as a representative body for Licensees.

3.3 The nature of this Policy Statement

This Policy provides guidance in relation to the administration of sites and Bathing Boxes and Boatsheds constructed on sites within the Foreshore Reserve. This Policy Statement is not a Local Law of Council.

Council accepts that in applying this Policy Statement in respect of any Licensee, it must observe and comply with all applicable State Laws and Local Laws, applying principles of procedural fairness and natural justice and act fairly and reasonably.

4. Roles & Responsibilities

The Manager Commercial Services will be responsible for the implementation and ongoing management of this policy

5. Monitoring, evaluation & review

Council may carry out inspection audits at a time considered appropriate.

The BBBA may carry out inspection audits to assist licensees to have an understanding of maintenance requirements and to ensure premises are suitably maintained.

Council, at its discretion, may choose to accept the annual audits conducted by the BBBA in relation to these matters.

Council may authorise an internal inspection of any boatshed or bathing box after giving 14 days written notice to the Licensee.

6. Policy statement

6.1 Uses

Bathing boxes and boatsheds will be used for any of the following uses and not for any other use:

- Storage of accessories and equipment incidental to use of the Foreshore reserve, including bathing suits, fishing equipment and other like equipment;
- Shelter;
- Convenience and comfort associated with beach use;
- Boat and boating equipment storage.

A bathing box or boatshed will not under any circumstances be used for any of the following uses:

- For accommodation or habituation purposes (this includes overnight occupation and the provision of toilet facilities);
- Any use that interferes with the amenity of the Foreshore reserve.

No combustible or hazardous substances or materials should be kept in the bathing boxes or boatsheds with the exception of fire extinguishers, bottled gas and fuel associated with boat storage.

Licensees will not sublet or hire out a bathing box or boatshed.

6.2 Licences

6.2.1 Licence Agreements

A licence agreement will be used to suitably reflect the occupation of the premises. Such an agreement on Crown land reserves will be for a period of three years as allowed by the CLRA, and on Council land will be for a period of one year or part thereof in the case of transfer of a licence, at the discretion of Council.

This will provide a security of tenure for licensees and clearly document the responsibilities of each party. The annual licence agreement for the bathing boxes on Council owned land will be issued annually by Council with the fees and the payment of the licence fees deemed as acceptance of the licence conditions.

Bathing box and boatshed licensees will be eligible for foreshore parking permits subject to the applicable Council policy.

6.2.2 Licence revocation

Council reserves the right not to renew or to revoke a licence agreement, without compensation. The bases for revocation are as follows:

- Non compliance with a written notice to repair or maintain a bathing box or boatshed by the specified date of the notice (which will be not less than one month after the written notice is given, unless they include vandalism, graffiti, asbestos or items that are unsafe to the general public, as detailed in 6.6.2, structures of this Policy);
- Non compliance with the terms of the licence agreement;
- Non compliance with Local Law No. 4;

- Failure to disconnect services when directed by Council in accordance with this policy;
- If the annual licence fee is not paid within two months of the due date;
- A breach of the Bayside Planning Scheme;
- A requirement for the removal of the bathing box or boatshed in accordance with section 6.5 of this policy.
- The Footprint is no longer sustainable for Bathing Boxes or Boatsheds;
- Failure to provide a certificate of currency of public liability insurance by 31 May each year.

Council will give notice of revocation in writing. The process for revocation will be as follows:

- Council issue a notice in writing to Licensees of outstanding issues that require rectification.
- Licensees will be given one month to respond in writing to such concerns and a further period of one month to carry out the required rectification or to develop an agreed plan, including timing to achieve compliance.
- If a Licensee fails to rectify the breach or to develop such a plan within the requisite time, Council will provide a written notice terminating the licence agreement.

Licensees may request in writing that the matter be heard by a Committee of Council prior to a decision being made to terminate a Licence. Licensees will be able to speak in support of their submission at such a hearing.

If a licence is revoked Council reserves the right to negotiate a licence agreement with a new party.

All buildings or improvements on sites will become the property of Council or the Crown unless removed within 14 days after a licence lapses or is revoked surrendered or terminated.

6.3 Transfer

A licence is allocated to the licensee and is not transferable without the written permission of Council. Council will not unreasonably withhold consent for such a transfer.

Licensees, taking account of Local Law No. 4, will ensure all maintenance requirements will be carried out prior to allowing a transfer.

- Purchasers will provide proof that they are either a resident and/or a ratepayer of the City of Bayside;
- All purchasers will be a “natural person” not a company or other such organisation.

Licensees will lodge with Council a transfer form, the applicable fee and proof that any outstanding maintenance works have been completed by the proposed purchaser before a transfer will be allowed to occur.

If Council accepts a transfer of Licensee, a licence agreement will be forwarded to the new Licensee and the terms of the licence will be deemed to be accepted by the Licensee by the payment of the transfer fee. If a transfer is not accepted the licensee will be notified in writing of reasons for refusal.

6.4 Fees, Rates and Charges

Licence fees and transfer fees will be reviewed annually in accordance with Council’s



“Schedule of Fees and Charges”. Where a licence continues for a period in excess of one year Council reserves the right to review the fee annually. The annual fee charged will take account of amenity, storage, practicality, convenience and shelter provided to those that hold a licence.

The income derived from the annual licence fees and transfer fees will assist Council in recouping part of the costs of managing the Foreshore reserve. Income derived from bathing boxes on Council owned land at Brighton Beach Reserve, will be used to similarly assist.

Council also levies rates in accordance with the LGA for bathing boxes and boatsheds. These will be billed annually to the licensees in accordance with the general rating provisions of Council.

6.5 Insurance

The Licensees will take out and maintain a public liability insurance policy at an amount reasonably required by Council and provide, on an annual basis, either personally or via their insurance broker, a Certificate of Currency to Council marked to the attention of “The Manager Commercial Services”. The Certificate must be provided by 31 May each year. In relation to Boatsheds the DSE will also take out public liability insurance.

Council will not take out building insurance and/or contents insurance, however Licensees may elect to do so.

The existence of Council's own public liability insurance does not negate the obligation upon the licensee to maintain appropriate coverage.

6.6 Improvements

6.6.1 Maintenance Requirements

Licensees will maintain the premises in good condition and ensure that the condition of the premises does not have a negative impact on the Foreshore reserve or affect the public use of the Foreshore reserve. Bathing boxes and boatsheds will be maintained to ensure they do not decline so that they detract from the landscape and would be considered as no longer appropriate or acceptable. Council reserves the right to carry out an audit.

Improvements and construction of bathing boxes or boatsheds will be in accordance with the “Standards for Bathing Boxes and Boatshed Construction” or any updated version of the standards, which may be issued by any Relevant Authority, or as otherwise approved by Council or the DSE prior to construction.

Prior to any Maintenance Works being carried out, licensees will seek the consent of Council, which consent will not be unreasonably withheld. If consent is provided it is the responsibility of the licensee to apply for all necessary permits. Council may seek the recommendations of BBBA in relation to these matters.

6.6.2 Structure

In addition to the DSE guidelines, licensees will meet the following minimum standards:

- Structures will be maintained in a safe condition and must not detract from the landscape;
- Bathing boxes and boatsheds will be regularly painted to the satisfaction of Council;
- Bathing boxes and boatsheds will be secure when vacant;

- All bathing boxes and boatsheds will clearly display their allocated number on the front of the building;
- Licensees will ensure that there is no potential danger to users or the public arising from the structure;
- From the time of written notification by Council to Licensees, graffiti will be removed within five days;
- All damage caused as the result of vandalism will be made safe within two days from written notification by Council to Licensees, and repaired within two weeks from that written notification;
- Licensees will ensure exposed asbestos is removed or covered immediately in accordance with the building requirements, taking account of Occupational Health and Safety requirements and disposed of in accordance with Environment Protection Authority regulations;
- New structures such as retaining walls, hard paths (e.g. concrete, brick, timber, etc.) will not be permitted on or around any bathing box or boatshed;
- New decks will not be permitted. Any existing deck on a bathing box or boatshed will be allowed to remain;
- A bathing box and boatshed structure and its surrounds will be kept clear of litter created by the Licensee and the Licensee will remove all litter created at each visit by that Licensee to the bathing box or boatshed.

6.6.3 Vegetation

The licensee or invitee will not remove, lop, prune, damage or interfere with any vegetation or remove, infill or excavate sand that will affect such vegetation from the Foreshore reserve.

Any required works will be carried out in accordance with the Bayside Planning Scheme and CMA consent in relation to bathing boxes and boatsheds on Crown land reserves and Council consent in relation to bathing boxes on Council owned land and within the following constraints:

- Sand may only be cleared using non-powered hand tools (e.g. bobcats or backhoes etc. are not permitted)
- Licensee or invitees will not plant, cultivate or otherwise introduce any plant, seed or other plant material into the Foreshore reserve, except in accordance with any conditions authorised by Council.
- Council will undertake reasonable measures to protect Bathing Boxes and Boatsheds from inundation by sand. Reasonableness will include consideration of the beach and foreshore as a dynamic environment.

6.6.4 Reconstruction, Relocation and Alteration

Council will favour repair and restoration over total demolition and reconstruction. However replacement or relocation of existing sheds may be allowed, at Council's discretion, where they are in a poor condition and may cause a danger to beach users or there is a more appropriate location. All costs associated with replacement or relocations will be borne by licensees.

Applications for relocation or reconstruction will be accompanied with detailed reasons for the works and identify where the premises are unsafe. The application should be supported by a report from a registered building practitioner.

Reconstruction, relocation or alteration will provide for a similar building to the previous structure and will be consistent with the size, shape and existing pattern of structures already existing in the area. Improvements can also be made along the lines of the following:

- Structural improvements;
- Variations in floor heights where the natural processes of sand movement inundate premises with sand; and
- Change to roofing angles from a flat to a pitched roof.

Any such works must be carried out within six months of demolition.

Relocation will only occur on to a new site that has been designated by Council and/or DSE. Relocation will only be considered where Council and/or the DSE consider that the current occupation is detrimental to the foreshore and it is considered that the relocation will provide a net benefit.

Relocation should occur within the same precinct of the beach reserve that the bathing box or boatshed in question is located. If a suitable site cannot be located no alternative site will be provided. Relocation is at Council's absolute discretion for bathing boxes on Council owned land and at the absolute discretion of Council and the DSE in relation to bathing boxes and boatsheds on Crown land reserves. This may include changes affecting the beach as a result of climate change.

The DSE has a clear policy of not allowing any net gain on the Crown land reserves and therefore no extra boatsheds will be allowed on Crown land reserves.

Any such reconstruction, relocation or alterations will occur in accordance with the following criteria:

- Consent from Council as owner or land manager;
- Consent from DSE, for bathing boxes and boatsheds on Crown land in accordance with the CMA, such consent will be requested by Council;
- Necessary permits have been obtained, i.e. planning and building;
- No increase to the footprint of the building will be allowed;
- The height of the building and floor level will be the same as the previous, or if it is considered more appropriate by Council to alter the height or level to accord with other bathing boxes or boatsheds where the natural processes of sand movement inundate premises with sand, variations in floor levels and building heights will be considered by Council;
- Timber will be used for wall cladding;
- Construction will have regard to the minimum standards provided in "Standards for Bathing Box and Boatshed Construction" and Council requirements indicated within this policy.

Any such works will be carried out within six months of demolition.

6.6.5 Removal

Council may require the removal of bathing boxes or boatsheds where Council determines that:

- The structure is dilapidated, beyond repair or represents a public safety hazard;
- The area is vulnerable to coastal processes that cause the structures to be at risk;

- The structure contributes to the instability of the area;
- The foreshore reserve on which the structure is located is unsafe or access to it is unsafe;
- The Footprint is no longer sustainable.

Council may consult with BBBA prior to making any such determination.

If a bathing box or boatshed is removed, other than in accordance with section 6.6.4, the associated licence will also be revoked.

6.6.6 Services

Council in relation to bathing boxes on Council owned land and boatsheds and bathing boxes on Crown land reserves will not provide permission to connect any services to bathing boxes and boatsheds including drainage, electricity, water, gas or sewerage. Council will direct the disconnection of services at the following times:

- At the request of the service authority;
- If the service may cause a danger to Licensee or beach users or the surrounding environment; or
- If the service is unauthorised.

6.7 Infill

Bathing boxes have occupied part of Brighton Beach Reserve for over 100 years. They have over time been relocated to fit within the coastal processes and the needs of beach users. Historical records indicate that in the past there were between 100 –120 bathing boxes in this area. Boxes were lost due to various reasons including coastal processes or neglect by licensees.

At the time of the preparation of this Policy there are 82 bathing boxes at Brighton Beach Reserve and the demand for these is high. Council considers it appropriate to release a small number of sites to replace some of those lost. It is proposed that any new sites would be located within the precinct of the existing bathing boxes at Dendy Street Beach. Public consultation has been carried out and Council is moving forward to construct a small number of new boxes, staged over time and the right to occupy the sites under licence will be sold by Council.

7. Related documents

Policies	Leasing Policy
Strategies	
Procedures	Leasing and Licensing Procedure
Guidelines	



8. Definitions & Abbreviations

Term	Meaning
annual licence fee	Means the annual fee payable to Council, either as the owner of the land or as a Committee of Management appointed under the CLRA, by the Licensee to occupy a bathing box and/or boatshed.
bathing box and/or boatshed	Means a simple freestanding non-commercial, non-residential structure erected on the Foreshore reserve managed by Council, that is used by private individuals and families, and is primarily used for storing beach equipment, boats, etc or as a change facility, and to provide shade and shelter. Historically bathing boxes are located within the Brighton Beach Reserve and boatsheds on Crown land reserves. A detailed description of the shape and difference between the structures is provided in the "Standards for Bathing Box and Boatshed Construction".
BBBA	Means Brighton Bathing Box Association Incorporated.
Council	Means the Bayside City Council or delegated officer, which is the owner of Brighton Beach Reserve and also acts as the Committee of Management for the Crown land reserves within the City of Bayside.
Brighton Beach Reserve	Means the land owned by Council in accordance with the Brighton Land Vesting Act 1877 and managed by Council.
Dendy Street Beach	Means that part of the Brighton Beach Reserve located between Middle Brighton Beach and Holloways Bend
Department of Sustainability and Environment	(DSE) is a State Government Department which acts on behalf of the Crown as the landowner of Crown land reserves.
Footprint	Means the area of foreshore occupied by the bathing box/boatshed including any ramps, steps, decks, shade, structure or the like.
Foreshore reserve	Means land owned by Council in accordance with the <i>BLVA</i> and land managed by Council in accordance with the provisions of the CLRA.
Invitee	Means those people invited to share the use of the bathing box or boatshed or to do Maintenance Works or day-to-day repairs, urgent repairs or maintenance to deal with an emergency situation on such.
Licensee	Means persons holding a current licence and currently occupying the premises.



Maintenance Works	Means works of a significant nature and do not include day-to-day repairs, urgent repairs, re-painting or maintenance to deal with an emergency situation.
Premises	Means a bathing box or boatshed. This Policy will apply to the following premises: (i) Brighton Beach Reserve bathing boxes on Council owned land. There are 82 boxes at the time of policy development. (ii) 10 non-commercial boatsheds on Crown land reserves managed by Council as Committee of Management located as follows: <ul style="list-style-type: none"> o Half Moon Bay Black Rock 3 boatsheds o Dalgetty Road Beaumaris 3 boatsheds o North of Beaumaris Yacht Club 4 boatsheds There are 4 commercial premises that are known as boatsheds that are not dealt with under this Policy. Three are located at Jetty Road Sandringham and one at Half Moon Bay, Black Rock. It is proposed that these will be dealt with under Council's Leasing Policy.
Site	Means the land allocated by Council for a bathing box and/or boatshed whether or not the site has a structure on it.
Standards for Bathing Box and Boatshed Construction	November 1996 are draft standards prepared for the DSE, to provide guidance for the construction and maintenance of bathing boxes and boatsheds.
Transfer Fee	Means the fee payable to Council at the time of transfer and is established by Council as part of the "Schedule of Fees and Charges" adopted during the annual budget process.

Please note: This policy is current as at the date of approval. Refer to Council's website (www.bayside.vic.gov.au) or staff intranet to ensure this is the latest version.

