

LAKE WENDOUREE BOAT SHED POLICY

1.0 Purpose

The purpose of this policy is to guide the management and use of boat sheds located at Lake Wendouree.

2.0 Scope

The policy applies to boat sheds on Crown land at Lake Wendouree, occupied by community groups, schools, or private individuals. It does not apply to boat sheds or other structures occupied by the City of Ballarat.

The policy recognises that City of Ballarat cannot exceed the powers conferred on it through Victorian government legislation.

The objectives of this policy are to:

- Clarify City of Ballarat's role as Trustee or Committee of Management in relation to boat sheds;
- Clearly set out the rights and obligations of boat shed licensees;
- Protect the amenity, use and enjoyment of the Lake and surrounds by other users;
- Provide for a fair and financially viable approach to boat shed licensing and management arrangements;
- Provide a framework for management and use of boat sheds including repairs, alterations, relocation, and removal of the structures; and
- Ensure compliance with related legislation.

This policy only applies to properties that City of Ballarat has delegated authority to manage. This policy applies to staff that prepare leases, licenses, and occupancy agreements for City of Ballarat controlled properties. This policy affects community groups and tenants of City of Ballarat controlled properties. This policy does not apply to casual users of facilities.

3.0 Policy Statement

This policy outlines the tenure, management, maintenance, and use of community and privately occupied boat sheds at Lake Wendouree, Ballarat.

City of Ballarat must have Department of Energy, Environment and Climate Action (DEECA) or its successor, approval for any lease or licence of Crown land. When City of Ballarat's premises become vacant or at the expiry of the term, City of Ballarat officers will consider the ongoing future use of the premises and determine a suitable tenant for the premises within appropriate City of Ballarat departments. The occupation of City of Ballarat's premises may be subject to an expression of interest or a tender process and satisfying all statutory or legislative requirements.

In the event that the existing tenant does wish to extend their occupancy, the default position will be for a further 10 year licence to be issued to the existing tenant, subject to that party having reasonably met all terms and conditions of the licence in the previous terms.

Land Owner, Manager and Occupier

The Crown – represented by the relevant Minister and Department – is the land owner. City of Ballarat, whether as Committee of Management or Trustees, is the delegated Manager of the land. A licensee of a boat shed has no ownership rights, and is simply an occupier of Crown land, for a period of time as stipulated in the licence.

3.1 Management principles

Boat sheds have been part of the history and use of Lake Wendouree for over a century. Well maintained boat sheds provide a point of interest to visitors and can contribute to the visual amenity of the lake and surrounding land:

- The boat sheds are located on Crown land managed by City of Ballarat. The structures are fixtures on the land and belong to the land owner.
- Boat sheds should benefit the wider community as far as practicable, have multi-functional shared use (where possible), and enable optimal public use of the Lake and surrounds. This principle does not apply to school-operated Boat Sheds delivering educational programs.
- Private occupation of a boat shed is a privilege, not a right. Tenure arrangements will recognise this and be structured to avoid a boat shed becoming a form of private investment in a public resource.
- New private structures on Crown land that provide no public use benefit (such as privately occupied jetties or boatsheds) will not be permitted.
- Over time as opportunities arise, private occupation of existing boat sheds should be phased out in favour of community use based on clearly demonstrated benefit and demand.
- Any new boat shed proposed for community use should be based on a sound business case, benefit a wide range of community members, be located without impeding the landscape value, views or access to the lake and be in character and scale with existing boatsheds.

3.2 Tenure

Grant of Licence

All boat shed occupations will be formalised through a licence agreement. Section 17B of the *Crown Land (Reserves) Act 1978* allows for licence agreements for a period not exceeding 10 years. However, the land manager is not obliged to offer the maximum term.

Occupation of boat sheds located on Crown land at Lake Wendouree will be formalised through a licence under section 17B of the *Crown Land (Reserves) Act 1978*. The term of the licences will be for a maximum of ten (10) years. This tenure will be structured as an initial term of four (4) years and two further terms of three (3) years duration provided all licence conditions have been complied with.

Renewal and Transfer of Licence

At City of Ballarat's discretion, licences may be renewed at the end of the tenure period for a further term where:

- licence conditions are met;
- the structure is well maintained to the satisfaction of City of Ballarat;
- the structure is in an appropriate location and not subject to storm surges, flooding, siltation or erosion;
- the structure is not at risk and/or contributing to the instability of the area; and
- payment of all associated fees and charges.

Licences may be transferred subject to approval from City of Ballarat. A licence may not be transferred by bequest.

A transfer of licence will be subject to:

- acceptable condition of the boat shed structure as determined by City of Ballarat;
- approval for any alterations;
- no increase in licensed footprint;
- maintenance repairs, including external painting, as determined by City of Ballarat;
- payment of outstanding charges including rates, taxes and licence fees;
- payment of prescribed transfer fees; and
- City of Ballarat having not determined to remove the structure or use the structure in another way.

Cancellation of Licence

A breach by a licensee of the licence or this policy, including failure to pay City of Ballarat fees and charges, and which is unremedied after reasonable notice of the breach is given to the licensee, may result in cancellation of the licence.

Licences which become available as a result of cancellation may be offered for reallocation by City of Ballarat.

3.2.1 Fees and Charges

Licence Fees

The licence fees for boat sheds will be determined by Council on an annual basis. Fees and charges for boat shed licences are payable annually in advance. The method of determining the licence fees will be determined by Council from time to time and is subject to any relevant legislation, policies and strategies.

All Fees and Charges

Licensees are responsible for payment of all municipal land rates and taxes on the licensed site. Failure to pay municipal land rates, licence or direct costs relating to a license transfer may result in City of Ballarat to pursuing recovery of such money and cancellation of the licence.

3.2.2 Rebuilding a structure

Where an existing boat shed is substantially damaged through a force-majeure event (greater than 50% loss), building of a new boatshed may be permitted within the existing footprint of the structure at the discretion of City of Ballarat. The building of the replacement boatshed must be completed within the timeframes specified within the permit or permission may be deemed to have lapsed.

This does not apply in the case of building neglect.

The style, form and materials of any rebuilt boat shed should be consistent with DEECA's Standards for Bathing Box and Boatshed Construction Guidelines and should take into account the character of the adjoining bathing boxes and boatsheds and the surrounding foreshore environment.

3.2.3 Removal of structures

Boat Sheds may be removed in any of the following circumstances as determined by Council or the City of Ballarat:

- The structure is dilapidated, beyond repair, or is a hazard to public safety;
- The tenant fails to give effect to notices issued by the City of Ballarat;
- The structure does not comply with the relevant construction standards;
- The area is subject to changes including storm surges, flooding, loss of water in the lake, siltation or erosion;
- The structure is at risk or may contribute to land or water changes;
- The area around the structure is unsafe to access;
- Removal is planned through any Management Plan or policy for the area; and
- All heritage considerations are not appropriately met.

3.3 Occupancy conditions

3.3.1 General Maintenance

To provide a consistent and fair framework for the conduct of maintenance on City of Ballarat premises, maintenance schedules have been developed and each tenant is required to maintain the facility in accordance with the maintenance schedule attached to the lease or licence. The maintenance schedule will specify the responsibilities of City of Ballarat and the tenant including responsibility for maintaining the structure, the building fixtures and fittings and grounds. The level of maintenance responsibility

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outlined in the relevant schedule will be determined by the tenant category and any special maintenance requirements by the tenant.

Generally, the licensee must maintain the boat shed in good condition to the satisfaction of City of Ballarat and ensure the boat shed does not prejudice the safety of its users, and other lake users and visitors.

The licensee must ensure that:

- Any improvements are kept in good order and condition;
- Graffiti is removed from the structure within the period specified on notification by City of Ballarat: general graffiti 28 days and offensive graffiti 48 hours. City of Ballarat reserves the right to remove offensive graffiti where it is in public view and likely to cause distress to the community.
- The site is kept free of rubbish, pest animals and weeds; and
- Every default of which notice is given by the City of Ballarat to the licensee is remedied within a reasonable time specified in the notice.

3.3.2 Risk and Occupational Health and Safety

City of Ballarat will require appropriate risk management measures in all leases and licenses which will include requiring tenants to:

- Release and indemnify City of Ballarat for all claims resulting from any damage, loss, death or injury in connection with the premise unless such claims arise out of City of Ballarat's negligence;
- Maintain adequate public liability insurance;
- Ensure that appropriate documentation and insurance is in place for occasional or hired use of the premises by third parties;
- Implement appropriate emergency evacuation procedures;
- Implement a risk management plan that identifies the risks associated with the tenant's use of the premises and how such risks will be addressed; and
- Only use appropriately qualified tradespeople to undertake repairs.

3.3.3 Condition Audits

Tenants may be required to participate in a regular condition inspection and report of the premises as determined by City of Ballarat. The regularity of the review will depend on the use and type of tenant. City of Ballarat or City of Ballarat's agent may also enter the premises at any reasonable time after giving the tenant a minimum of one weeks' notice to conduct condition audits.

3.3.4 General Occupancy Conditions

- No construction works are to be carried out by the licensee without firstly obtaining the permission of City of Ballarat as land manager under the *Crown Land (Reserves) Act 1978*, and secondly, obtaining any permission required from Heritage Council Victoria as the Responsible Authority under the *Planning and Environment Act 1987*. This includes any erosion or siltation control works or jetty construction.
- The licensee must hold public liability insurance over the licensed site to a minimum value specified in the licence and supply evidence of the current policy to City of Ballarat on request.
- No services such as power, water, drainage, sewerage, gas or telecommunications are to be connected to a boat shed. This includes solar or wind power generation or other infrastructure, without the consent of City of Ballarat.
- Boat sheds shall not be used for overnight stays or any other sort of residential accommodation.
- Boat sheds shall not be used for any commercial purpose without City of Ballarat permission.
- No fuel or chemicals are to be stored in any privately occupied boat shed. Where the storage of fuel in other boat sheds is permitted by City of Ballarat, relevant Australian Standards must be adhered to and will be included as a condition of the licence.

3.4 Compliance responsibilities

The Executive Manager Property and Facilities will ensure all tenants comply with relevant terms and conditions contained within this policy.

3.5 Charter of Human Rights compliance

It is considered that this policy does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

3.6 Commitment to Child Safe standards

All tenants and their staff are expected to ensure they understand City of Ballarat’s commitment to the Child Safety Standards and that everyone has a role to play in protecting children from abuse. Tenants and their staff are expected to understand how to identify, assess and minimise risks of child abuse and to detect potential signs of child abuse. They will also be expected to ensure that their behaviour towards children is in accordance with the Child Safe Standards.

4.0 Supporting documents and references

4.1 Legislation

- *Local Government Act 2020*
- *Crown Land (Reserves) Act 1978*
- *Planning and Environment Act 1987*
- *Heritage Act 2017*
- *Charter of Human Rights and Responsibilities Act 2007*
- *Gender Equality Act 2020*
- *Occupational Health and Safety Act 2004*

4.2 Associated Documents

- Risk Management Policy
- Asset Management Policy
- Approved Master Plans
- Capital Works Program
- Council Plan –2021 - 2025
- Community Engagement Policy
- Standard City of Ballarat Lease and Licence Templates
- Standard DEECA Lease and Licence Templates
- Child Safe Standards

4.3 Definitions

<i>Annual Licence Fee</i>	The annual fee payable to City of Ballarat as owner or manager of the property.
<i>Boatshed</i>	A shed or similar structure erected on the lake foreshore managed by City of Ballarat and generally used for the storage of boats, watercraft, and accessories, and for the comfort and convenience of licensees.
<i>Council</i>	Council consists of the Councillors who are democratically elected to represent the Ballarat municipality in accordance with the <i>Local Government Act 2020</i> .
<i>City of Ballarat</i>	The body corporate constituted in accordance with the <i>Local Government Act 2020</i> .

DEECA	The Department of Energy, Environment and Climate Action and its predecessors, successors and assignees, the Victorian Government department representing the Crown as the landowner of Crown land.
Existing Boatshed	A boat shed that exists at the date of this policy.
Heritage Victoria	Heritage Victoria the Responsible Authority under the <i>Planning and Environment Act 1987</i>
Lease	A lease is a right granted by the owner of land (landlord) to another person, community group or incorporated organisation (tenant) to have exclusive possession of that land, or part thereof, for a fixed duration in return for rental payment. City of Ballarat may grant a lease where the premises will be occupied exclusively by the one user and City of Ballarat considers that granting a lease is in the best interests of the community.
Licence	A licence permits a person, community group or incorporated organisation (licensee) to occupy land (or part thereof) on particular conditions. The main feature that distinguishes a licence from a lease is that a licence does not permit exclusive occupancy of the land.
Licensee	A person holding a current licence for any City of Ballarat owned or managed property
Property	Land or building owned or managed by the City of Ballarat and any successor in law.
Site	City of Ballarat freehold land or Crown land managed by the City of Ballarat allocated to a tenant whether or not that site has any structure on it.
Structure/Facility	Any structural improvement on the land.
Successor in law	An entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name.

5.0 Administrative updates

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of City of Ballarat departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.

6.0 Policy owner

The owner of this policy is the Executive Manager Property Services and Facilities Management.

7.0 Authorisation

Adopted by Ballarat City Council on 24 April 2024 (R52/24).