

Boatshed/Bathing Box Policy

2023 - 2028

Lifestyle capital of Victoria



1. Purpose and Intent

Boatsheds and Bathing boxes (bathing boxes) continue to be a unique feature of Port Phillip Bay. Frankston City Council (Council) manages 60 bathing boxes on the Frankston foreshore. The Frankston foreshore is Crown Land, Council is the appointed Committee of Management under the *Crown Land (Reserves) Act 1978*.

Historically bathing boxes were used for the storage of boats and to provide a place for beachgoers to change clothes/attire. More recently they have become iconic landmarks contributing to the visual amenity of the foreshore.

The intention of this policy is to set out the considerations and principles to which Council will have regard in the management of bathing boxes, while recognising their sensitive coastal location, in accordance with Council's obligations as Committee of Management.

This policy is issued consistent with the Department of Energy, Environment and Climate Action (DEECA) "Guidelines for the management of existing bathing boxes and boatsheds on marine and coastal Crown land March 2022" (**2022 Guidelines**).

To the extent of any inconsistency, the 2022 Guidelines, and any forthcoming policies issued by DEECA, will take precedence over this policy.

The key elements of this policy are to:

- preserve and ensure the appropriate use of bathing boxes;
- control the use, maintenance, licenses, transfers, and fees of pre-existing structures;
- ensure the roles and responsibilities of all parties are clearly defined; and
- reflect changes in the overarching management of bathing boxes consistent with state government legislation, including coastal and environmental treatment.

For information regarding this policy contact the Frankston City Council Property team on property@frankston.vic.gov.au.

2. Scope

This policy applies to any bathing box located on the Frankston Foreshore Reserve.

3. Definitions

In this policy the following words have the following meanings:

“annual licence fee” means the annual fee paid by the licensee to use a bathing box;

“bathing box” means a bathing box or boatshed. Over time these terms have become interchangeable and therefore a reference to a bathing box in this document means a bathing box and/or boatshed. A bathing box includes any attached structures, such as a deck or steps, but does not include any retaining walls;

“beach” means the sand area, adjacent dune system and access paths forming part of the Frankston foreshore;

“coastal vulnerability assessment” means a report assessing the natural coastal conditions and the ongoing suitability of the site for a bathing box;

“Council” means the Frankston City Council;

“DEECA” means the Department of Energy, Environment and Climate Action, formerly known as the Department of Environment, Land, Water and Planning (DELWP);

“footprint” means the area of the beach occupied by the bathing box, including any stairs, ramps, decks or the like as specified in the current licence in accordance with Council records;

“foreshore” means the land from the water’s edge (low water mark) and includes all the public land adjacent to Port Phillip Bay comprising of the beach, car parks, access tracks, and public amenities;

“licence” means the legal document between Council and a bathing box owner that provides the permission for and obligations of the parties to use and manage the bathing box structure;

“maintenance” means minor repairs of the existing structure such as painting, rust treatments, replacement of door hinges and locks, and patching walls and doors. This does not include any additions or modifications to the structure; sand clearing or vegetation removal;

“natural person” A human being as distinguished from an entity created by law;

“public land” means all land held and/or available for the benefit/use of the community. This includes Crown Land;

“retaining wall” means a structure that holds back sand and prevents it from sliding or eroding away, the purpose of which is to protect a bathing box from sand accretion. Retaining walls can be constructed of various materials and be free standing or attached to a bathing box;

“ratepayer” means a person or company that owns rateable property valued under Section 13(D)(C) under the *Valuation of Land Act 1960* within the Frankston Municipality;

“sand removal” means the physical removal/relocation of sand from the beach by either hand or mechanical methods;

“site” means the licensed area approved by Council and DEECA for the use of a bathing box irrespective of whether that site has a structure on it;

“structure” means a man-made building or other object including a bathing box, stairs, ramps, decks, retaining walls or the like;

“works” means all repairs that are not deemed to be maintenance as defined above. Works may include additions or modifications including internal bracing/support, replacing the floor, walls or doors.

4. Authorisation

This policy is managed by the Procurement, Property and Risk Department, and is approved by Frankston City’s Mayor and Council’s Chief Executive Officer (CEO):

Mayor, Frankston City

CEO, Frankston City Council

in accordance with Frankston City Council resolution at the Council meeting of xxxx.

5. Policy

5.1. Introduction

Bathing boxes are icons of the Victorian beachscape. These structures are located mainly on Marine and Coastal Crown Land and occupy a unique role in bayside beach life. There are bathing boxes located around Port Phillip and Western Port bays under various Committees of Management.

While still serving the functional purpose of providing storage for boats and bathing equipment, these structures also have a historic and cultural value and importance.

This policy has been developed to provide guidance for the preservation, upgrading, and appropriate use of these beach structures.

5.2. Conditions of Use

A bathing box may be used for:

- storage of small boats and boating equipment;
- storage of beach accessories;
- shelter associated with beach use

A bathing box may not be:

- used for accommodation or habitation purposes. This includes overnight stays;
- hired out or sublet;

A bathing box may not have the following installations (does not apply to previously approved installations as recorded by Council prior to the implementation of this policy):

- kitchens
- showers
- plumbing
- air conditioners
- toilets

5.3. Licences

Council may grant or issue a licence to occupy a bathing box site on the foreshore. Licences will be issued for a maximum term of five (5) years.

The maximum number of people that can be signatories to a licence agreement is two (2). This does not apply to existing licences with more than two signatories as at the date of this Policy.

If a licence is not executed within six (6) months of a Council request, the occupancy of the bathing box will be considered unlicensed and illegal. In these circumstances Council may remove the bathing box and reinstate the site to public foreshore.

Future licence renewals (from 2028) may require provision of a coastal vulnerability assessment no more than 12 months old. A structural engineers report may also be required to confirm the integrity of the bathing box structure. These will be determined on a case-by-case basis.

All licensees must meet the prerequisites below to obtain a bathing box licence, and continue to meet and comply with the conditions throughout the term of the licence;

- Must own a property in Frankston, be a natural person, and be recorded as a ratepayer of Frankston City Council (for a separate property in addition to a bathing box). It does not matter if the property owned is a commercial or residential property;
- Must not hold a licence for any other bathing box within Frankston City Council;

- Must not be the spouse, dependant or immediate relative of an existing bathing box licensee or reside in a home which is owned by an existing bathing box licensee.

If any licensee no longer meets the prerequisites of holding a licence, there is a three (3) month grace period to address the criteria, this may involve transfer the licence. After this time Council may at its sole discretion, cancel or modify the licence.

Council will conduct reviews of the above prerequisites to ensure compliance.

An annual licence fee is payable and is determined by Council as part of the budget process. Non-payment of a fee may lead to cancellation of the licence.

A licence transfer is not a property transaction and therefore even if acquired as part of a private freehold property purchase, may not appear in a Section 32 vendor statement (*Sale of Land Act 1962*).

All licence transfers are strictly subject to the Council conditions as stated in the licence agreement.

5.3.1 Insurance

Public Liability Insurance may be difficult and costly for individual licensees to obtain. Therefore, Council takes out a Public Liability Insurance policy (Insurance scheme) on behalf of bathing box licensees annually. Licensees may choose to self-insure and therefore opt out of Council's insurance scheme in writing no later than 31 March each year. Licensees that opt out must maintain and provide evidence of Public Liability Insurance.

The licensee is solely responsible for insuring the bathing box and contents, and any approved retaining wall.

5.3.2 Transfer of Licences

A licence may be transferred to another party. If a transfer occurs, a new licensee will receive the residual balance of the current term only.

Subject to Council approval, transfers will only occur where:

- all proposed licensee prerequisites are satisfied by any/all prospective licensees; and
- there are no outstanding maintenance notices; and
- there are no outstanding fees; and
- a Notification of Sale Form has been completed with confirmation of settlement provided.

5.3.3 Deceased Estates

A licence transfer is not a property transaction. Therefore any right of a licensee is extinguished on their passing. Historically families have considered licences to be part of a licensee's estate. Council will recognise this for the first bathing box licence issued under the Boatshed/Bathing Box Policy 2023 – 2028, by allowing the past licensees right to be transferred, provided the prerequisites of holding a licence are met. Beyond 2028, the first right of refusal may be provided to remaining licence holders or Council.

The prerequisites do not apply where a licence is to be temporarily transferred to the executors or legal representatives of the estate. All fees and charges remain payable.

5.3.4 Termination of Licences

Council may terminate a licence without compensation as a result of a licensee:

- breaching the terms or conditions of the licence;
- breaching this policy;
- failing to comply with a notice issued by Council to undertake repairs, maintenance, or other works within the time specified on such notice;
- failing to pay annual licence fees or other costs such as insurance premiums.

Council may also terminate a licence without compensation if the site is considered vulnerable to coastal processes and results in:

- a bathing box or retaining wall being at risk;
- instability of the licensed site or surrounds.

This will be determined by a suitably qualified expert.

If a licence is terminated Council may deal with the bathing box at its absolute discretion.

Where a licence has been terminated or expires, any items left in the bathing box after 14 days will be deemed to be abandoned by the licensee and will become the property of the Council. Council may remove and dispose of the items at the licensee's cost and risk.

5.4. Reconstruction and Alterations

Any development or works associated with a bathing box requires a range of consents. In order to secure approval, including works to retaining walls, the works must take into account the unique foreshore location and demonstrate that the works are consistent with overarching environmental objectives and sensitivities.

For example, climate change is resulting in more severe, naturally occurring coastal processes such as inundation and erosion. Therefore any proposed upgrades, works or rebuilding design must consider and be adaptable to the increase in coastal hazards, including elements such as projected sea level rises and dune degradation, over the structure's life span.

Increases in the footprint of the bathing box are prohibited.

Before undertaking any alterations or reconstructions, a range of approvals and consents may be required, including but not limited to:

- Approval from the licensor;
- Approval under the *Marine and Coastal Act 2018*.
This includes any guidelines or standards adopted under the above, such as the '[DEECA standards for Bathing Box and Boatshed Construction Guidelines 2015](#)';
- If relevant, consent under the *Planning and Environment Act 1987* and the *Building Act 1993*

Alterations and reconstruction includes internal works, access doorways, structural features and historical restorations.

5.4.1 Retaining Walls

New retaining walls to protect bathing boxes from sand accretion are prohibited. Council maintains a record of existing retaining wall structures.

Repairs to existing retaining walls are subject to DEECA approval. Where approval cannot be obtained, retaining walls will be required to be removed.

5.4.2 Fencing

Permanent fencing around a bathing box or the surrounding public area is prohibited.

Temporary fencing around a bathing box and the immediate surrounds may be required in the event of a public safety issue. In this case Council may direct the licensee to fence, or Council may fence and recover the cost of fencing from the licensee.

5.5. Sand and Vegetation Removal

5.5.1 Sand Accretion

Sand accretion is the natural forward movement of a sand/dune system, and is a naturally occurring coastal process. This is more prevalent in some areas than others. As a result some bathing boxes may have sand proliferation immediately adjacent to the walls of the bathing box structure. In these cases maintenance of the structure needs to be carefully considered as sand accretion can impact the future viability of bathing box structures. No new structures to prevent erosion or sand accumulation will be permitted.

5.5.2 Sand Removal

The licensee is only permitted to remove sand to the minimal extent necessary to ensure the bathing box remains functional and accessible. This includes removal to enable maintenance to be undertaken and to allow access from the front of the bathing box structure and the side, where side access already exists.

Sand removal by the licensee must be undertaken by hand/shovel only.

Approval for proposed sand removal by a licensee that is more significant, will be determined on a case by case basis and must be requested in writing to the Council. This may include but is not limited to, removal that has the potential to impact the broader dune system and/or any vegetation that may require removal by mechanical means.

Significant sand removal must be undertaken by Council.

Council undertakes routine annual mechanical sand removal from the front of bathing boxes only. This is a free opt out service for licensees. Licensees will be advised of the proposed timing of the clearance or removal in advance.

5.5.3 Vegetation

Removal, lopping or trimming of vegetation (either within or outside the licensed area) by licensees is prohibited except with the prior written approval of Council.

5.6. Asbestos

A number of bathing boxes contain asbestos due to the era in which they were constructed. The licence contains provisions designed to mitigate asbestos risks.

If asbestos removal is required, the licensee must forward a written request to Council to seek approval.

5.7. Relocation

Bathing boxes are in an area susceptible to natural coastal process, including potential sea level rises, tidal and storm events, which could impact the existing structure, ongoing maintenance costs, and future viability of bathing box occupancy. Therefore, relocation of a bathing box will only be considered in limited circumstances and only where a suitable alternative site can be identified by the licensor and DEECA.

Identifying an alternative site will include assessment of:

- the location's coastal hazard/vulnerability
- impact on public access
- proximity to the dune system
- existing vegetation

The 'Marine and Coastal Policy 2020' (policy 11.8) does not support the relocation of existing bathing boxes.

5.8. Removal

Council and/or DEECA, in accordance with overriding policy, may determine that bathing boxes will be removed from the foreshore area where:

- the structure is dilapidated, beyond repair or represents a public risk and licensee fails, or is unable to;
 - respond to notification by the licensor; or
 - adequately address the notification by the licensor; or
 - comply with notice by the licensor
- the occupied site is vulnerable to coastal processes, which result in the bathing box being at risk or may contribute to the instability of the immediate vicinity, as determined by a suitably qualified expert;
- the beach on which the bathing box is located is unsafe or access to it is unsafe;
- removal is in accordance with an approved Coastal and Marine Management Plan or policy relating to the licensed site or its surrounds or a directive of the licensor, the Crown, the relevant Minister; or Management Plan or policy relating to the area.

5.9. Services

Infrastructure and/or mechanical works required to deliver utility services may cause damage to the foreshore environment and dune system on installation. As the use of a bathing box is for storage and privacy on a relatively infrequent basis, services such as water and power are not deemed essential for its enjoyment and use.

Therefore, licensor approval and consent under the *Marine and Coastal Act 2018* will not be provided for any new connections of services (e.g. power (including solar), drainage, sewerage, water, gas, telecommunications, surveillance cameras or similar service) to bathing boxes.

Where a service is required to be disconnected, the licensor will determine whether associated infrastructure is required to be completely abolished (removed), considering the potential for damage to the foreshore environment and dune system as a result of removal.

5.9.1 Foreshore Access

Vehicle access to the beach area to undertake maintenance and or approved works must be approved in writing under a park crossing permit.

6. Roles and responsibilities

Manager Procurement, Property and Risk or other nominated officer has the responsibility for the review, management and implementation of this policy.

7. Administrative Matters

Council's CEO is authorised to make any reasonable administrative amendments to this Policy from time to time where the amendment is limited to an administrative nature and does not affect the substance of this Policy. For Instance, Council's CEO may authorise administrative amendments to:

- Address or amend any clerical errors, mistakes or omissions; or
- Insert a correction.

Any other matters in this Boatshed/Bathing Box Policy 2023 – 2028 must only be amended by Council Resolution.

8. Related documents

- [Guidelines for the management of existing bathing boxes and boatsheds on marine and coastal Crown land - March 2022 \(DEECA\)](#)
- *Crown Land (Reserves) Act 1978*
- *Marine and Coastal Act 2018*
- [Marine and Coastal Policy 2020](#)

- *Local Government Act 2020*
- All other laws, regulations, statutes, and local laws relevant to the use of the coastal reserve

9. Implementation of the Policy

This policy (in conjunction with other Related Documents) will be communicated by one or more of the following methods:

- Frankston City Council Website
- Provision of access to a copy of the policy to all stakeholders
- Emails
- References in procedures

10. Document History

Date approved	Change Type	Version	Next Review Date
2006	Original	1	N/A
2012	Review	2	N/A
2023	Major review following adoption of the Property Strategy and Plan and the introduction of new legislation/guidelines	3	2028