

**MOORING AMENDMENT REGULATIONS 2007 - DISALLOWANCE**

*Motion*

Pursuant to standing order 152(b), the following motion by Hon Simon O'Brien was moved pro forma on 27 September 2007 -

That the Mooring Amendment Regulations 2007, published in the *Government Gazette* on 12 June 2007 and tabled in the Legislative Council on 27 June 2007 under the Shipping and Pilotage Act 1967, be and are hereby disallowed.

**HON SIMON O'BRIEN (South Metropolitan)** [9.01 pm]: The motion of which I have given notice has been moved, of course, pro forma under our standing orders, so it is a live item that must be put to the vote before we adjourn today. I thank the government for bringing on this matter for debate.

The not-for-profit organisation Boating WA raised its concerns with me, as I shall outline shortly, and asked for assistance in seeking to have defeated this fee increase for mooring licences. At the very least, it wanted its concerns raised, even if the house did not find it in its collective view to disallow the regulations, which have been in force for five months or so. I wish to proceed with this motion to disallow. At the outset I say that it is a pity that quite often these matters are decided in the way that we are now proceeding. I sometimes think it is a pity that we cannot consider these matters in a Committee of the Whole House, which would then report to the house in the usual way. I will outline the issues and concerns; the government representative will then stand and, presumably, deliver the government's position, which will probably be derived from a blurb from the department's spin, adjusted by the minister's office. Unfortunately, such a response will probably not address the specific points that need to be acknowledged as part of the debate. That is how it might pan out. We have seen that happen in the past. Is it possible, Mr Deputy President, for the house to go into a Committee of the Whole House so that we can have a two-way debate?

**The DEPUTY PRESIDENT (Hon George Cash)**: The problem we have now is that this is a substantive motion, which is dealt with in the house as it is now formed. I cannot see any way in which we can now move into committee. However, if the member continues his remarks, I will look at the standing orders to see whether we can accommodate his request.

**Hon SIMON O'BRIEN**: Now is as good a time as any to raise the matter. I do not know whether it has been canvassed before. If it is possible, perhaps we can seek leave of the house to allow that.

The regulations that are the subject of this motion were gazetted on 12 June this year on pages 2725 to 2726 of the *Government Gazette*. The Mooring Amendment Regulations 2007 amend the Mooring Regulations 1998, specifically schedule 2, "Fees". The matter of concern that I have is about item 2 of that schedule, which increases the annual mooring licence fee from \$251.60 to \$364.30, including goods and services tax. This was announced via a notice sent to mooring licence holders at the relevant time. That notice, which was by way of an open letter from the Department for Planning and Infrastructure, reads in part -

2006/2008 FEE INCREASE

In 2006 consultants were engaged by the Department for Planning and Infrastructure's (DPI) Marine Safety Business Unit to undertake a review of Marine Safety Fees and Charges and to determine the full costs associated with providing the services for which the fees are charged. The review was initiated by the Western Australian Government's directive for agencies to strive towards recovering the full cost of providing services. The Department for Treasury and Finance's (DTF) *Costing and Pricing of Government Outputs, Guidelines for Use by Agencies*, states that agencies should move towards full cost recovery when pricing fees and charges.

The independent review uncovered that mooring control fees currently being charged are under recovering the cost of DPI providing the service. Accordingly, the consultants recommended the annual mooring fee and associated fees, should increase until full cost recovery is achieved.

Therefore DPI will apply a 44.8% (including CPI) increase, to the annual mooring fee and 24.6% increase to related fees from 1 July 2007. Yearly reviews in the following two years will ensure full cost recovery by year three. A schedule of the new 2007/08 fees is attached for your information.

This increase of 44.8 per cent is acknowledged to well and truly exceed CPI. However, that is not all. The notice also tells us that over the next couple of years, boaters should brace themselves for some further large increases, presumably so large that the department was not game to include them all in the one bang, although 44.8 per cent, as most people would acknowledge, is a pretty big bang for an increase in an ongoing annual licence fee. The sentiments of concern about that were picked up in a letter by a Boating WA member to the secretary of that organisation on 13 July. He said, in part -

Dear Sir,

Herewith is a copy of correspondence I received from Dept. of Planning & Infrastructure (Marine Section) detailing fee increases for moorings for 2007/2008.

I cannot understand why such a large increase is necessary as they do not do anything other than supply the mooring buoy and collect the fees. They have no responsibility for mooring maintenance but readily advise the plethora of penalties if you do not keep the maintenance up to their requirements. I have moored a yacht continuously on my mooring No 53 Swan River since 1980 without incident and am well aware of maintenance requirements.

I think Boating WA could well look into this new fee structure and maybe achieve some modicum of redress.

Indeed, Boating WA has come to me with that thought very much in mind.

**The DEPUTY PRESIDENT:** Given that there is a pause, Hon Simon O'Brien asked whether it was possible to take this motion in committee. The standing orders provide that the house can resolve itself into a Committee of the Whole if it so desires, but that would require this debate to be adjourned to a later stage of this day's sitting and for the Leader of the House to then move that we resolve into a committee to consider the matter and in due course report back to the house, which would enable us to continue with the motion. The facility is there. Whether or not this is such an occasion is entirely up to the house.

**Hon SIMON O'BRIEN:** I thank you for that, Mr Deputy President. In the first instance I will continue my remarks, which will give an opportunity, if the government is agreeable, to follow that course of action. Given the way we are proceeding tonight, I would rather it was done by mutual consent than for me to go down a path that the government was not in favour of proceeding with.

To proceed, the house needs to understand that there has been a significant increase in recent years in the number of people involved in recreational boating. This has highlighted a lack of facilities as the number of boats on the coast, particularly in the metropolitan area, continues to grow. I refer to an article in the *Fremantle Gazette* of 2 September this year in which the Boating WA president, Mr Simon Joel, is reported to have made comments.

[Leave granted for the member's speech to be continued at a later stage of the sitting.]

Debate adjourned until a later stage of the sitting, on motion by **Hon Kim Chance (Leader of the House)**.

[Continued on page 7478.]

*As to Committee*

On motion by **Hon Kim Chance (Leader of the House)** resolved -

That the Council resolve itself into a Committee of the Whole for the purpose of considering the Mooring Amendment Regulations 2007 - Disallowance.

*Committee*

The Chairman of Committees (Hon George Cash) in the chair.

**The CHAIRMAN:** I indicate to members that we are in a Committee of the Whole, but we are faced with certain time constraints. Irrespective of the progress made, I will be reporting progress to the house at five minutes to 10 o'clock, and not later than 10 o'clock, when the question will be put on this order of the day.

**Hon SIMON O'BRIEN:** Thank you, Mr Chairman. I think the way the house was able to resolve that on the run and move forward is a credit to the way in which we do business in this chamber. I thank the government for its cooperation. It is a bit unusual, but I guess we are breaking new ground and one day Phil Pandal, David Black and Harry Phillips will write a book about it! However, we have a matter to deal with and it will be interesting to see if the procedure works a bit better doing it this way.

I was about to quote some remarks by Simon Joel that were reported in the *Fremantle Gazette*. The WA Boating president said -

“Not only is there a chronic shortage of pens but the recent 44 per cent hike in river mooring fees sent shockwaves through the boating community.

“Our members feel they are being completely ignored at a time when they are pouring a huge amount into state coffers through fees and taxes, as well as their financial support of the boating industry.

“Boaties want more pens, more moorings, better services and it's just not happening.”

Even the government recognises that there is a lack of pens, ramps and moorings, particularly in the Perth metropolitan area. It has made projections about future need; indeed, it is working to meet those needs in the future. That is reflected in the draft Perth recreational boating facility study document dated May 2007, of which I have a copy of the summary paper. From my point of view as mover of this disallowance motion and a supporter of Boating WA, that is evidence that more needs to be done and evidence that the government also recognises the pressure on the system and that more needs to be done. There is some interesting information at part 4 of that paper, which members might like to take on board. I refer now to the approximate number of moorings that we are talking about. The government refers to two types of moorings, and they are basically coastal swing moorings and river swing moorings. There are 70 coastal swing moorings, according to this report, and 350 swing moorings located in the river. I have noticed that this table gives a total of 450 whereas perhaps it should be 420, but either way it gives a feel of what we are talking about, which is a relatively small number of units given the size of the population and the number of boats. By contrast, members might also like to note that there are 1 900 coastal boat pens at places such as Hillarys, Fremantle Sailing Club and so on, and 2 400 river pens in the Swan and Canning river system. It is my understanding, from reading the principal regulations, that the fees that we are discussing this evening relate to the river swing moorings.

What is the truth of the matter is something that the chamber must come to grips with. From my observations, there is most certainly a problem. I will describe one of its manifestations in the following way: in relation to key facilities, I point out that there are no coastal boating ramps between Woodman Point and Hillarys. There is not a single launching ramp along that 36 kilometres of metropolitan coastline. We look forward, hopefully, to some being provided in the Fremantle district in due course. What that means for now is that too many boaties are competing for too few ramps. I have even heard reports of ramp rage at overcrowded facilities when boaties compete during the two peak times. Further, there is also a chronic shortage of pens, which has led to further adverse developments. In its publications, the government has acknowledged the shortage of pens and the fact that yacht clubs have waiting lists. Even regulations regarding the transfer of licences specify that transfers cannot be taken by private entreaty if there is any waiting list for a similar facility. The effect of the shortage of pens flows on, firstly, to a depressing effect on boat sales, which affects the whole industry. If people want to buy a decent-sized boat, they must have a pen or a mooring, and they are simply not available. Secondly, that has led to a speculation premium on pens, and a black market is almost pushing prices to unrealistic levels for many would-be boat owners. Third, with all that pressure on pens, the knock-on effect is an excessive demand for permanent moorings. That is a demand that the government is struggling to meet. As I indicated, the number of moorings available is relatively small given the vast population of boaties. Those are the issues with permanent moorings. Of course, there is a further knock-on effect, because casual moorings have become as scarce as the proverbial hen's teeth. It is a vicious circle. Without casual moorings, there is the problem of people wanting to illegally use other people's moorings and the like. There are concerns in the boating industry, and understandably so.

I will summarise some of the comments expressed to me by representatives of Boating Western Australia. I will then sit down so that the parliamentary secretary can respond. Firstly, mooring licensees have no choice in the matter. Parliament previously decided through its legislation to establish a licensing regime. That move was supported by the opposition. However, the fact is that mooring licensees do not have any choice. A person who owns a boat needs a mooring; therefore, he must obtain a mooring licence and pay the required fees. However, there is no guarantee of tenure, because if a person exercises his choice to not pay the fees and to not continue his licence for a year, he cannot come back and get a licence at a subsequent date. People are locked in. They must pay the fees regardless; there is no choice.

Secondly, according to Boating WA, the Department for Planning and Infrastructure purchased a quantity of buoys and forced licensees to accept them without consultation. DPI or its predecessor may have decided to purchase those buoys so that they are uniform and recognisable. However, as has been asked by Boating WA, how long does it take to discharge the cost of those buoys, which presumably have been paid for over and again?

It has also been pointed out that departmental responsibility for moorings ends with the provision of a buoy and the granting of a licence. The licensee himself has responsibility to provide the ground tackle - that is, all the other components below the water. I refer to the block of weight or anchor at the bottom, the chain, rope or cable - or whatever it is that connects the block to the buoy. I am told that there is some evidence that much of the mooring ground tackle is in poor condition and dangerous. Some correspondents have pointed out that high winds have often meant that rescue groups have had to go out to recover boats that have come away from their moorings. The Rottne Island system involves licensees being responsible for their own moorings, which need to be surveyed each year. That cost is reasonable and infinitely cheaper than having rescue groups chasing runaway boats and repairing the subsequent damage they create.

**The CHAIRMAN:** Hon Simon O'Brien, at some stage you may wish to pause to enable the parliamentary secretary to make some comments.

**Hon SIMON O'BRIEN:** I will do so in a moment.

One thing I would like the parliamentary secretary to comment on is: who has the responsibility for, and, therefore, who incurs the cost of, managing this regime of mooring licensing? Apparently DPI does not have any resources to police the buoys. We are told that it provides a buoy and a patrol service to ensure that the wrong person is not using any given licensed buoy. Frankly, not all boating owners think that that service is required. They would like a substantial service for their \$364 rather than what they are getting, or not getting, now.

Fees are imposed by a body remote from the administering agency, which is dictated by Treasury. The fees do not appear to be related to, at least historically, cost recovery. The increase in fees vastly exceeds the consumer price index. If we allow these regulations to pass, there is the promise of two more years of further steep increases. The boating community is claiming that it is not getting value for money from the mooring licence fees, which is simply a bit of paper and a buoy. It wants to know, if it has to keep forking out that amount of money, why it should have to do it. I will sit down now so that the government can have its say.

**Hon Adele Farina:** Before you do, can you recap specifically what it is you want answers to out of all that?

**The CHAIRMAN:** Hon Simon O'Brien has raised a number of issues. I wanted some interchange so that we could deal with them as we went along.

**Hon SIMON O'BRIEN:** Sure. One normally gets only one bite of the cherry.

**The CHAIRMAN:** I agree. We are breaking new ground.

**Hon SIMON O'BRIEN:** The government claims that this measure is about cost recovery; cost recovery for what? The boating fraternity has claimed that it does not receive any services to this value. The fact that the government, which is really good at spending money and raising fees, is spending that much does not mean that it is providing that much value. It is my contention that it has not been demonstrated that such value is being provided. The question of who polices the moorings has also been asked.

**Hon ADELE FARINA:** The new cost structure, as the member outlined, is the result of a comprehensive review undertaken on the basis of cost recovery. It is strictly cost recovery. That is part of the government's policy requirement by Treasury. In relation to who polices the moorings, DPI's marine safety division does that.

In relation to what is provided from those mooring fees, mooring fees are payable for the privilege of a mooring site, and for services that are provided by DPI, such as maintaining the mooring database and ensuring on-water compliance. In addition to a three-monthly audit of the entire Swan-Canning mooring system, marine officers carry out weekend and daily compliance patrols to ensure that the positioning of moorings is being maintained. The officers check each mooring to verify the position of the mooring. They also ensure that the maintenance of moorings is being undertaken. Any inadequacies are reported to the licence holder. This provides a risk-management benefit to the licence holder, because a lack of maintenance may cause costly repairs to the mooring apparatus and vessels. It is a requirement under the regulations that the licence holder attend to those maintenance requirements. The marine officers also check that the correct vessel is using the mooring. This ensures that the mooring is available for use by the licence holder at all times, and that wrongly sized vessels are not using the mooring, because that creates a safety problem. A wrongly sized vessel may damage the mooring, run aground or collide with other vessels, presenting a safety problem. Repeat offenders are prosecuted for issues stemming from illegal use of moorings and related damage to vessels. The cost recovery also covers fuel costs, boat depreciation costs, and overtime because of the hours of operation of the marine officers. It also covers the cost of creating mooring management plans and of infringement processing. A lot of time is spent in dispute negotiations and resolution. These are the matters that are covered by the mooring fees.

**Hon SIMON O'BRIEN:** I thank the parliamentary secretary for that information. Also contained in the letter that was circulated to licence holders was the promise of some further increase in the next couple of years. I appreciate that this is not essential to the debate this evening, because it is asking for a future projection, but is the parliamentary secretary able to give some indication of what we can expect?

**Hon ADELE FARINA:** I am sorry, I am not, because the fees have not been finalised. The fees will be reviewed each year to make sure that they are kept in line with cost recovery, and also to assess the reasonableness of any further cost increases, depending on the circumstances at the time. Therefore, I cannot give the member an indication at this time.

**Hon SIMON O'BRIEN:** I am looking at the Mooring Regulations 1998, schedule 2. The reprint that I have shows a 2005 licence fee of \$242.90. We know from the letter circulated to licence holders that the 2006 fee was \$251.60. That is an increase of only about \$8, which in ballpark terms is probably not much more than the rate of inflation. The current fee is \$364.30, including GST. That is an increase of about \$112. Would the government concede that that is a substantial increase in percentage terms, and that boat owners are entitled to ask why this is happening, when they do not see any change in the environment in which they are recreating?

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**Hon ADELE FARINA:** I understand the issue. It is a 44.8 per cent increase, which is a substantial amount. However, over the past 10 years, the increases in fees have not kept up with the increases in the consumer price index. The only exceptions were one year in which the increase in fees was a reasonable amount above the CPI, and another year in which it was just slightly above the CPI. Therefore, we are playing catch-up, because the CPI increases have not been imposed in eight of the past 10 years. That is the situation. It is a substantial increase, but we need to achieve cost recovery. It is a result of the CPI increase not being applied consistently and appropriately over the past 10 years.

**Hon SIMON O'BRIEN:** I think what the parliamentary secretary is saying is that we need to achieve cost recovery because Sir Eric in Treasury and Finance has decreed that it shall be so. I am just doing my back-of-the-envelope calculations. Correct me if I am wrong, but I think these increases apply to the 350 river moorings. The increase is about \$112, including GST. That makes a grand total of about \$36 000 in extra revenue. Would that be about right?

**Hon ADELE FARINA:** I need to correct the answer that I gave previously, because one of my advisers picked up that I may not have articulated what I actually meant.

**Hon Simon O'Brien:** That is the benefit of my great idea to deal with this matter in committee!

**Hon ADELE FARINA:** Absolutely! When I said that the CPI increase was not applied, I meant that the full CPI increase was not applied. I think the member understood what I meant there.

**Hon Simon O'Brien:** Yes, I did understand what you meant there.

**Hon ADELE FARINA:** There is a discrepancy between the member's figures for total moorings, and my figures. My understanding is that the current number of moorings on the Swan and Canning Rivers, and elsewhere along the coast, is about 1 194 - or close to 1 200. Therefore, there is a discrepancy. In terms of the additional revenue that will be raised as a result of the increase in mooring fees, as I have said, we are playing catch-up. The money that will be raised will go to meet the full cost of the services that are being provided.

**Hon SIMON O'BRIEN:** I thank the parliamentary secretary for correcting those two points. I must admit I was a little surprised - I think I have expressed my surprise in the course of this debate - about the total number of moorings that is shown in the document. Perhaps it is a matter of interpretation. I had always thought it was close to the 1 200 mark as well. I can go only on what we are given. Either way, it is not a large sum of money. However, other costs are, of course, involved for people who need to do business with the government simply because they want to mess about in a boat. All these costs add up. When people see a government that routinely comes in with \$2 billion-plus cash surpluses each year, and they look at the extra fees they have to pay, to the tune of 44.8 per cent in this case, the extra stamp duty on motor vehicle registrations, and all the rest of it, I think we can understand why they feel imposed upon and think the government is being unnecessarily grasping in this respect. Perhaps that is something that needs to be applied to the whole of government rather than just this discrete marine section, which I am sure does a very good job, under sometimes difficult and confrontational circumstances. Nonetheless, it is the political policy makers whom I have in my sights in moving this motion, rather than the officers who are employed by the state to carry out that policy. There may well be other comments that the parliamentary secretary and other members wish to make on this matter, but I intend to conclude. I have raised my concerns. It has been very beneficial to have the advisers at the table and to have this two-way exchange. Who knows? Perhaps this is a procedure that we can develop that may be useful in the future. The case has been made and I think members are aware of the issues. I support the disallowance motion and I hope that the chamber will support both me and the recreational boating community by doing the same.

**Hon MURRAY CRIDDLE:** There was talk of full cost recovery. Is that full cost recovery for transport, because there are two distinct consumer price indices? Are we talking about the average CPI or the transport CPI? There are distinctions between the two, which make a substantial difference.

**Hon ADELE FARINA:** I am informed that it is the Treasury's CPI number; that is, the all-purpose CPI, not the specific transport CPI.

**Hon MURRAY CRIDDLE:** Can I have an assurance that the amount of appreciation of the CPI, plus goods and service tax, as I understand it, is the compensation reaching the figure that we are at now? Is the calculation based on the CPI over those years?

**Hon ADELE FARINA:** The process that we have embarked on envisages that at least one other review is required to bring the full cost recovery up to speed. We are substantially down the track of achieving full cost recovery, but we are not quite there yet. Therefore, we anticipate there will be at least one other review and assessment; it may take two more reviews.

**Hon MURRAY CRIDDLE:** Over what period will those assessments be made? I am trying to establish when all this will stop and we will have only an appreciation of CPI year in, year out.

Hon Simon O'Brien; Deputy President; Hon Kim Chance; Chairman; Hon Adele Farina; Hon Murray Criddle

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**Hon ADELE FARINA:** It is anticipated that the next review will take place in time for consideration in the next budget round.

**Hon MURRAY CRIDDLE:** From that point on, would we have the CPI increase, which would be a natural appreciation of the fees?

**Hon ADELE FARINA:** Certainly, that is what we anticipate. However, there may be one further review that is needed to get us to that point. Obviously, a decision needs to be made at each review period about how much we want to increase the fees and whether we want to step it out in two stages or do it all in one hit to bring it fully up to cost recovery. Therefore, as I explained earlier, there will definitely be one more review that will happen in time for the next budget round, and once we have the outcome of that review, obviously, a decision will need to be made about whether we implement the outcome of that review in one hit or whether we stage that.

**Hon MURRAY CRIDDLE:** I am still trying to establish when this will all stop. What will be the figure that is reached before further cost appreciation is based only on CPI? In other words, I want to know when the ceiling will be reached and then, from that ceiling, CPI is implemented.

**Hon ADELE FARINA:** The ceiling will be set at the point we obtain full cost recovery. As I said, a number of considerations need to be made. I will not make those considerations; the minister and cabinet will. I cannot tell the honourable member with any certainty whether as a result of the next review they will make a decision to implement that full cost recovery in one hit or whether it will be staged. Therefore, I cannot give the honourable member a definite answer about the time frame. I can tell the honourable member that the objective is to get to full cost recovery, so the ceiling will be at full cost recovery, and then there will be CPI increases beyond that point.

**Hon MURRAY CRIDDLE:** When we talk about "full cost recovery", I always get worried because it is easy to add things from outside to come to a conclusion. What we do not want to see is another cost put upon the cost we have. Therefore, the parliamentary secretary can see why I want some sort of ceiling figure arrived at.

**Hon ADELE FARINA:** I understand the point that the honourable member is making and I wish I could give him a definite answer; unfortunately, I cannot. What I can tell the honourable member is that Treasury has guidelines in place for full cost recovery and we are applying those guidelines rigidly.

Question put and a division taken with the following result -

Ayes (13)

Hon George Cash  
Hon Peter Collier  
Hon Murray Criddle  
Hon Brian Ellis

Hon Donna Faragher  
Hon Anthony Fels  
Hon Nigel Hallett  
Hon Ray Halligan

Hon Robyn McSweeney  
Hon Norman Moore  
Hon Helen Morton  
Hon Simon O'Brien

Hon Bruce Donaldson (*Teller*)

Noes (13)

Hon Matt Benson-Lidholm  
Hon Vincent Catania  
Hon Kim Chance  
Hon Kate Doust

Hon Sue Ellery  
Hon Adele Farina  
Hon Graham Giffard  
Hon Paul Llewellyn

Hon Sheila Mills  
Hon Ljiljana Ravlich  
Hon Ken Travers  
Hon Giz Watson

Hon Ed Dermer (*Teller*)

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Pairs

Hon Barry House  
Hon Ken Baston  
Hon Barbara Scott

Hon Shelley Archer  
Hon Jon Ford  
Hon Sally Talbot

**Question thus negated.**

*Report*

Resolution reported, and report adopted, on motion by **Hon Adele Farina (Parliamentary Secretary)**.

*Motion*

Resumed from an earlier stage of the sitting.

**Extract from *Hansard***

[COUNCIL - Wednesday, 21 November 2007]

p7473b-7478a

Hon Simon O'Brien; Deputy President; Hon Kim Chance; Chairman; Hon Adele Farina; Hon Murray Criddle

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**THE DEPUTY PRESIDENT (Hon Ken Travers):** My understanding is that there is a requirement that we again put the question to the whole house on the motion to disallow. The question is that the motion moved by Hon Simon O'Brien be agreed to.

Question put and negatived.