

Boatshed and Bathing Box Policy

VERSION NO. / APPROVAL:	Version 1 – adopted by Council 20 November 2006 Version 2 – adopted by Council 22 May 2017
TRIM REF:	17/28479
REVIEW	30/06/2021
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POLICY

BOATSHED AND BATHING BOX POLICY

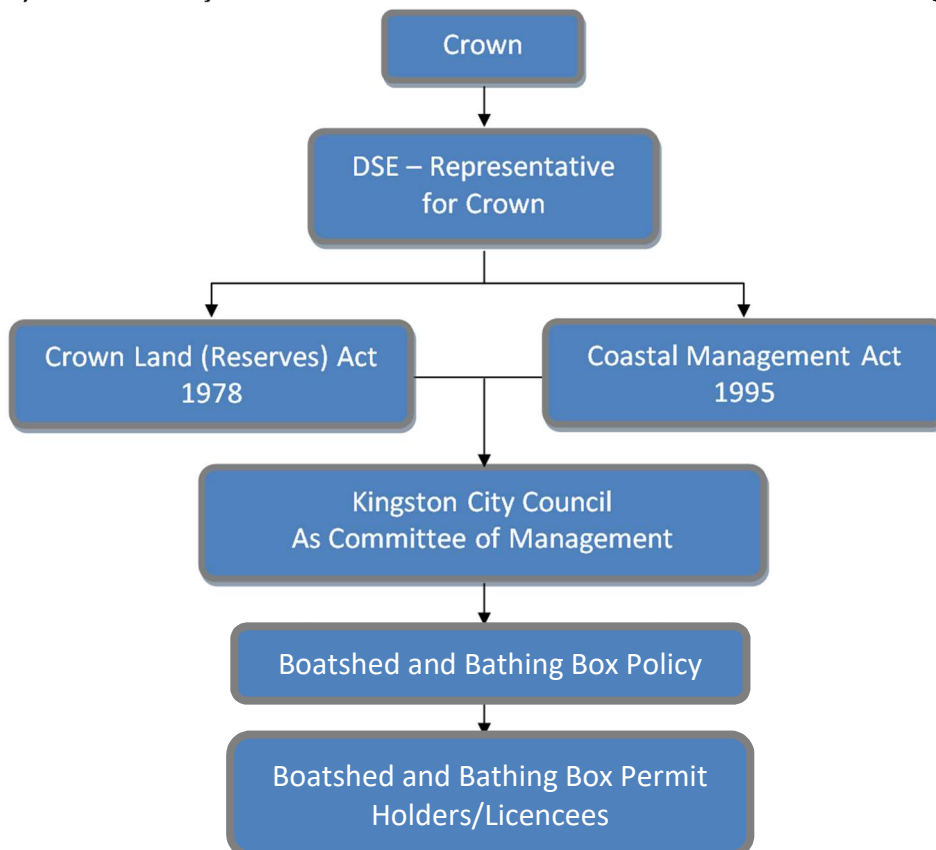
INTRODUCTION

This policy provides guidance for the maintenance and management of boatsheds and bathing boxes.

Boatsheds and Bathing Boxes are features on the beaches surrounding Port Phillip and Westernport. They are often brightly coloured and have historical significance.

There are 190 boatsheds and bathing boxes located on the Foreshore Reserves that Council manages. A regular audit is carried out of the buildings to ensure they are maintained to an acceptable standard.

The State Government - Department of Environment, Land, Water and Planning (DELWP) has appointed Council as the Committee of Management of the Foreshore Reserves in Kingston. Any policies or guidelines set by the DELWP will be the governing document. The management of the Foreshore Reserves in the area covered by this policy has been delegated to the Committee of Management under section 14 of the Crown Land (Reserves) Act 1978. The Crown being the landowner has appointed DELWP as the manager for the Foreshore Reserves in Kingston. Any approvals for the use and development of coastal Crown land must be in accordance with section 37 of the Coastal Management Act 1995. This policy works in conjunction with DELWP framework as illustrated in the diagram below:



HISTORY

The Shire of Moorabbin first gave permission to erect bathing houses in Mordialloc in 1883 and there was a surge of requests for permission to erect Bathing Boxes on the beachfront in the early 1900s. Between Mordialloc Creek and the Patterson River boatsheds and bathing boxes continued to be built until the mid-1960's.

In 1934 Chelsea Council imposed restrictions on the holders of boatshed licences, requiring that they had to reside in or own property in the City of Chelsea.

In 1920 the Shires of Mordialloc and Sandringham took over the responsibility of managing a section of the Port Phillip foreshore from the Shire of Moorabbin. Unlike Chelsea there were no residency restrictions imposed on applicants and boatsheds were available for annual lease.

There are now 190 boatsheds and bathing boxes, which are an intrinsic part of the City of Kingston, Port Phillip Bay and Western Port Bay.

These brightly coloured boxes of simple structure remain an icon to our city, which takes in 13km of Port Phillip foreshore, including the largest stretch of unbroken beach in metropolitan Melbourne. For more history refer to our website: www.kingston.vic.gov.au.

1. GENERAL

- 1.1** An annual permit/licence is issued to boatsheds and bathing boxes permit holders/licencees. The right to this permit/licence can be sold and must be transferred in accordance with this policy.
- 1.2** It is an aim of Council to move to a system where a licence agreement is entered into between permit holders/licencees and Council, as this will clarify the rights and responsibilities of each party. This agreement would be for a period of up to 9 years rather than an annual permit/licence.
- 1.3** The Kingston Boatshed Association (KBA) was incorporated on 24 May 2002 with core objectives to preserve and promote local heritage and culture and to represent permit holders/licensees to Local and State Governments. KBA is a key foreshore stakeholder and point of reference for Council. While permit holders/licensees are not required to be KBA members, the Association nevertheless facilitates Council's mandatory permit holder/licensee annual Public Liability insurance requirement. Council is committed to continuing to work with KBA to resolve issues that impact on its members.

2. AIMS AND PRINCIPLES

2.1 Aim

The aim of this policy is to provide guiding principles that will enable the management of boatsheds and bathing boxes in a way that is consistent with Council's Corporate Plan and DELWP's Draft Guidelines in order to maximise the use of community assets and manage them in a responsible way.

2.2 Principles

This aim will be achieved by addressing issues in harmony with Council's values, inclusive of equity, accountability, transparency, and responsibility. These values will provide the foundations for decision-making and will be done through the following key areas:

2.2.1 To document Council's role as Committee of Management in accordance with the provisions of the Crown Land (Reserves) Act 1978.

2.2.2 Provide for the protection of the amenity and use of the Foreshore Reserve by other beach users.

2.2.3 Provide a fair and financially viable approach to boatshed and bathing box management arrangements.

2.2.4 Ensure that boatsheds and bathing boxes are maintained in good condition and direct the upgrade, improvement, relocation or removal of boatshed and bathing box structures as determined by Council.

2.3 Objectives

The objective of the policy is to provide straightforward guidelines for:

2.3.1 Preservation and appropriate use of boatsheds and bathing boxes in accordance with the provisions of this policy;

2.3.2 Controlling the use, maintenance, permit/licences, transfers and fees of pre-existing structures; and

2.3.3 Assisting in the assessment of applications from permit holders/licencees for alterations or reconstruction and maintenance requirements of boatsheds and bathing boxes.

The policy is intended to clearly define the roles and responsibilities of both the boatshed/bathing box permit holders/licencees and Council. The policy will provide a useful tool to ensure the best use of the facilities is achieved and a clear relationship established between the said parties.

2.4 Policy Ownership and Implementation

This policy will be the responsibility of the General Manager, City Assets and Environment and will be administered and coordinated by the Property Services Department.

3.0 DEFINITIONS

“Annual Permit/Licence Fee” means the annual fee payable to Council as a Committee of Management appointed under the Crown Land (Reserve) Act 1978 and paid by the permit holders/licencees to occupy a boatshed/bathing box.

“Boatshed/Bathing Box” means a freestanding structure erected on the foreshore which is non residential, to be used by private individuals & families, managed by Council and is primarily for storing beach equipment and/or boats, as a change facility, and for shade and/or shelter.

“Council” (City of Kingston) which acts as the Committee of Management and the land manager for Foreshore Reserves within Kingston.

“Committee of Management” - Council

“Department of Environment, Land, Water and Planning” (DELWP) and a “State Government Department” which represents the Crown as the landowner.

“Footprint” means area of foreshore occupied by the boatshed/bathing box including any ramps, steps, decks or the like.

“Foreshore” means land managed by Council in accordance with the provisions within the Crown Land (Reserve) Act 1978.

“Natural Persons” is an individual human being, as opposed to a legal person, which may be a private (i.e., business entity or non-governmental organization) or public (i.e., government) organization;

“Permit holder/Licencee” means persons currently occupying the site;

“Site” is land allocated by the Council for a boatshed;

“Transfer Fee” is the fee payable to Council at the time of transfer and is established by Council as part of the fees and charges adopted during the annual budget process.

3.1 Scope

This Policy applies to the following Foreshore Reserves managed by the City Of Kingston:

- Aspendale
- Edithvale
- Chelsea
- Bonbeach

4.0 PERMIT HOLDERS/LICENCEES RESPONSIBILITIES

4.1 Permits or licences

As the appointed Committee of Management for the foreshore reserve Council holds the sole right to issue a permit and licences to for the occupation of crown land. No person shall be entitled to sub-let or transfer the right to occupy any part of the reserve or structure on the reserve.

An annual permit/licence fee is payable to the Council. The income from boatshed permits assists council in recouping part of the costs of managing the Foreshore Reserves. All income derived from Crown Land Reserves is applied to the management and maintenance of the reserve. The amount of this fee is determined during the annual budget process and is a fee prescribed under Council's rates and charges.

Boatsheds Permit/licence holders are only eligible to hold and renew their permit/licence whilst they are a Permanent Resident or Rate payer of the City of Kingston.

4.1.1 If 1 or all permit holders/licencees cease to be a rate payer or permanent resident of the City of Kingston, the permit holder/licencee(s) have a 6 month grace period to transfer or otherwise alter the permit after which time Council may at its sole discretion cancel or modify the licence and charge an administration fee.

4.2 Transfer of Permits

Council will only permit/licence the transfer of a permit/licence for a boatshed or bathing box once a written application is made to the Council via Property Services Department. All transfers attract an administration fee and transfer fee unless exempt under 4.3.2.

In order for a transfer to occur the following criteria must be satisfied:

4.2.1 The proposed permit holder/licensee is a permanent resident or ratepayer of the City of Kingston. All notices will be mailed to the registered address.

4.2.2 There are no outstanding fees payable to Council. Any outstanding or unpaid transfer fees and/or permit/licence fees will be added to the holder/licencee's account; and must be paid prior to transfer.

- 4.2.3** An Internal Boatshed/bathing box inspection must be completed by a Council Officer. The internal and external structure must be compliant with Appendix 1 & 2 and all required maintenance or rectification orders must be completed to Council's satisfaction prior to transfer.
- 4.2.4** Either party pays the transfer and administration fee to Council;
- 4.2.5** At the time of a transfer a permit or licence will be issued to the purchaser with a copy of the current policy.
- 4.2.6** All purchasers must be a "Natural Person" not a company, trust or other such organisation.

4.3 Boatshed/Bathing box Permit Transfer Fee

Either party (vendor or purchaser) may pay the Boatshed/Bathing Box Permit/licence transfer and administration fee. These fees are determined by Council's "User Fees and Charges" (updated annually) and are incurred when a Boatshed/Bathing Box Permit/licence is transferred from one party to another.

4.3.1 Adding or removing an owner to a Boatshed/Bathing Box permit/licence

4.3.1.1 Adding an additional permit holder or licensee (shareholder) to the permit/licence will incur a transfer and administration fee.

4.3.1.2 Removing a permit holder/licensee's name from a permit/licence will incur a transfer and administration fee.

4.3.2 Exemption from Boatshed/Bathing Box permit/licence transfer fee

Council recognizes that in a limited number of cases it is appropriate for a transfer to be exempt from the payment of a transfer fee.

4.3.2.1 An application is submitted to Council requesting an exemption from the Transfer Fee outlining the rationale. Exemption requests will be considered on a case by case basis and will ultimately be at Council's sole discretion. Consistent with section 4.3 all transfers will attract an administration fee and must be consistent and compliant with the plans set out in Appendix 1 and 2.

4.3.2.2 If the owner has recently deceased, the inheritor(s) will be exempt from paying a transfer fee. However the new permit holder/licensee will be required to pay the administration fee. Furthermore the Boatshed/Bathing Box must be compliant and consistent with the plans in Appendix 1 and 2. The following documents must be presented before transfer:

- Death Certificate
- Grant of Probate
- 100 Points of ID
- Proof of Kingston rate payer or resident

4.4 Use of Boatshed and Bathing Boxes

A boatshed or bathing box is only to be used for the following purposes and for no other reason:

4.4.1 The storage of bathing suits, beach accessories, boats, boating equipment and fishing equipment and items incidental to the use of the foreshore reserve and;

4.4.2 Convenience and comfort associated with beach use, i.e.: shade, shelter, undressing and dressing before and after bathing;

4.4.3 A boatshed or bathing box may not be used for residential or commercial purposes or overnight accommodation, and all services including but not limited to the provision of kitchens, showers and toilets are prohibited.

4.5 Permit/Licence Revocation

4.5.1 Council reserves the right not to renew or to revoke a licence/permit agreement, without compensation. Revocation is determined upon the following grounds:

- Non compliance with the terms of the licence/permit agreement;
- 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 6.1, Maintenance of this Policy);
- Failure to disconnect services when directed by Council in accordance with this policy;
- If the annual licence fee is not paid within four (4) months of the due date;
- A breach of the City of Kingston Planning Scheme;
- A requirement for the relocation or removal of the bathing box or boatshed in accordance with section 6.3 or 6.4 of this policy.
- The original footprint of the Bathing Box or Boatshed has been extended without Council's consent;
- Failure to provide a certificate of currency of public liability insurance by 30th June each year.

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

- Council issue a notice in writing to Permit holders/Licensees of outstanding issues that require rectification.
- Permit holders/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 Permit Holder/Licensee fails to rectify the breach or to develop such a plan within the requisite time, Council will provide a written notice terminating the permit/licence agreement at which point locks will be changed and all belongings will become property of Council.

4.6 Insurance

The Permit Holder must be the holder of a current Public Liability Policy of Insurance with an insurer approved by Council for an amount no less than \$10 million (or such greater sum as reasonably required by Council). The Public Liability Policy shall extend to cover the City of Kingston in respect to claims for personal injury or property damage arising out of the negligence of the Permit Holder. The Permit Holder must produce a certificate of currency annually. If a certificate is not produced annually then this will be considered a breach of the permit conditions

5.0 RESPONSIBILITIES OF COUNCIL

5.1 Audits

Council will actively monitor the use and condition of the structures and surrounding foreshore to minimise any impact on beach amenity, the environment and public enjoyment of the coast. Council will undertake regular audits of the structures and provide requests for maintenance and repairs accordingly.

Council will promptly notify the permit holder/licensee, in writing, of the required rectification works to ensure the boatsheds and bathing boxes are maintained in accordance with the policy.

The monitoring by Council does not alleviate the permit holder/licensee responsibility outlined in 6.1

Council may require an internal inspection of any boatshed or bathing box. Written notice to the permit holders/licencees, shall be given and access will be provided by permit holder/licencee within seven days. Any rectification works not carried out in the specified time will be considered as a breach of the permit. A Council officer may immediately enter to inspect a boatshed or bathing box where Council or its authorised officer has determined that it is in the interest of public safety to do so.

5.2 Timeliness

Transfers are to be affected promptly once all requirements and directives have been completed by the permit holders/licencees.

After a Council Officer has inspected the Boatshed/Bathing Box and it is deemed compliant, this compliance certification is valid for 3 months after the inspection date before it lapses.

After this period, another inspection will be required before a transfer can occur (this will attract an additional administration fee).

5.3 Disputes

Council will notify the permit holders/licencees in writing of all repairs, maintenance and rectification requirements. If the works are not completed, the request will be repeated and Council will direct the permit holders/licencees to complete the said works by a specified date. If the works are not completed by such a date Council will again notify the permit holders/licencees in writing that Council will conduct the works at the permit holders/licencees cost. This cost will be noted against the permit/licence until payment has been made.

5.4 Access and Equity

If ramps, railings or the like are vital to satisfy disability access requirements for permit holders/licencees, applications to carry out such works must be made in writing to Council with relevant verification.

The Council Access and Equity Review Panel will determine the merit of each application.

Such works must be constructed in accordance with Council guidelines as determined from time to time. When the permit/licence is transferred all additional works must be rectified to Council's satisfaction.

6.0 CONSTRUCTION AND ONGOING CONDITION REQUIREMENTS

6.1 Maintenance

It is the responsibility of the permit holders/licencees to maintain the structure in good condition. It is important that the structure and its surrounds are managed to avoid a negative impact on the foreshore environment and the public use of the reserve.

The materials used for the construction of the structure are to include timber walls, floors and plinth board, cladding in accordance with DELWP's Draft Guidelines and Building Code of Australia, unless otherwise approved by Council & DELWP (if necessary) prior to construction.

As a minimum, the following standards and maintenance levels must be met:

6.1.1 Structure

6.1.1.1 Boatsheds/Bathing Boxes are classified as Class 10 structures under the BCA (Building Code of Australia).

- 6.1.1.2** The boatshed/bathing boxes must be maintained in a safe and aesthetically pleasing state to the satisfaction of Council.
- 6.1.1.3** Unless authorised under clause 6.2 no person shall alter the existing floor level of any boatshed/bathing box from its present position. Construction materials are to comply with DELWP Draft Guidelines and Building Code of Australia.
- 6.1.1.4** All boatsheds/bathing boxes must clearly display their allocated number on the front of the building.
- 6.1.1.5** Boatsheds and Bathing Boxes must be regularly painted and must not be unsightly in appearance, which may result in the degradation of the surrounding amenity. Permit holders/licencees should have regard to the surrounding environment in selecting a color scheme. Murals and or other works of art require the prior approval of Council.
- 6.1.1.6** There is no potential risk to users or the public.
- 6.1.1.7** Graffiti must be removed immediately (by the permit holders/licensees).
- 6.1.1.8** All damage caused as the result of vandalism is to be repaired immediately (by the permit holders/licencees).
- 6.1.1.9** If asbestos is disturbed/damaged, it must be removed or covered immediately in accordance with the asbestos section of this policy.
- 6.1.1.10** Other than existing structures such as retaining walls, hard paths (i.e. concrete, brick, timber, etc.) are not permitted on or around any foreshore bathing box or boatshed, unless approved in writing by Council.
- 6.1.1.11** Any application to repair or replace existing ramps or steps will be considered in accordance with clause 6.1 of this policy
- 6.1.1.12** Decks are not permitted. Any bathing box or boatshed that has a deck will be required to remove it to Council's satisfaction. The permit/licence will not be transferred until deck has been converted to a ramp in compliance with Appendix 1 and 2.
- 6.1.1.13** Any repairs or alterations to existing boatsheds and bathing boxes must be undertaken in accordance with the DELWP's Draft Guidelines and Building Code of Australia and with written permission from Council.
- 6.1.1.14** Structures and their surrounds must be kept clear of litter, building materials and other rubbish and all permit/licencees must remove all litter created at each visit to the boatshed or bathing box.

6.1.2 Surrounds –Vegetation

No person shall remove, lop, prune, damage or interfere with any vegetation in any part of the Foreshore Reserves except for the purpose of fulfilling bathing box and boatshed maintenance requirements described herein, and within the following constraints:

6.1.2.1 Vegetation may be cleared back to a distance no greater than 500mm-700mm from the boatshed or bathing box structure under the guidance of Council.

6.1.2.2 Vegetation may only be cleared using non-powered hand tools (i.e. the use of chainsaws, brush cutters, whipper snippers, etc. is not permitted).

6.1.2.3 No person may plant, cultivate or otherwise introduce any plant, seed or other plant material, into the Foreshore Reserve, except where, and in accordance with any conditions, authorised by the Council.

Any breach of the above constraints will be treated as a breach of the Foreshore Reserves Local Law and will be pursued as such.

6.1.3 Surrounds – Sand

No person shall remove or excavate sand from the Foreshore Reserve except for the purpose of fulfilling boatshed and bathing box maintenance requirements described herein, and within the following constraints:

6.1.3.1 Generally sand may be cleared back to a distance no greater than 500mm however permission may be granted for clearance 500 - 700mm as suggested in appendix 1. on a case by case basis.

6.1.3.2 Sand may only be cleared using non-powered hand tools (i.e. the use of bobcats, backhoes, etc. is not permitted).

Any breach of the above constraints will be treated as a breach of the Foreshore Reserves Local Law and will be pursued as such.

6.2 Replacement or Alterations

In all cases repair and restoration will be favoured over total demolition and rebuilding. Property Services will review all of the criteria and work with Council's Planning and Building Department and DELWP to consider and approve all applications.

If Council approves demolition and reconstruction of the boatshed/bathing box, the permit holder/licencee will be required to obtain relevant permits including Planning and Building permits, Coastal Management Act consent from DELWP and a vehicular access permit/licence from Council.

Replacement structures will only be considered if the current structure is no longer safe and cannot be repaired. Permit holders/licencees must make a written application to Property Services detailing the reasons and rationale for the replacement of the structure together with written evidence in a form of a report from a registered building practitioner.

Such an application must include the following:

- Plan of the building works including dimensions and area.
- Detailed description of materials and methods of construction. These are to comply with DELWP Draft Guidelines that may alter at any given time and in accordance with standards specified by Council.
- No boatshed or bathing box shall be extended beyond its original, approved footprint.
- No new services to be connected.
- Approvals for works will only be granted in accordance with the conditions of this policy.
- Reconstruction of boatsheds and bathing boxes must be commenced within six (6) months after permit is issued and completed within one (1) year of the demolition or destruction of the original shed.
- If the works are not carried out within the allocated time line, Council may refuse to reissue a permit/licence for the boatshed or bathing box.

6.3 Relocation

The relocation of boatsheds/bathing boxes will be considered on a case-by-case basis and in accordance with DELWP Draft Guidelines and the Kingston Planning Scheme.

Boatshed/bathing boxes may be relocated when the existing structure is deemed by the Committee of Management to be located in an area that is detrimental to the foreshore or restricts the use of the foreshore by other users and the relocation will, in the opinion of the Committee of Management, provide a net benefit to the Foreshore Reserve.

6.4 Removal

Boatsheds and Bathing Boxes will be removed from the Foreshore Reserve where:

- The structure is dilapidated, beyond repair or represents a public safety hazard (as determined by Council) and there is a failure to effect notices issued by the Council.

- The area is vulnerable to coastal processes and if this results in the structures being at risk as determined by Council.
- The structure contributes to the instability of the area or causes a risk to public safety as determined by Council.
- The Foreshore Reserve on which the structure is located is unsafe or access to it is unsafe as determined by Council.
- Removal is in accordance with a management plan or policy relating to the Foreshore Reserve.

6.5 Asbestos

Many of the boatsheds and bathing boxes contain asbestos due to the era in which they were constructed.

If asbestos remains intact and undisturbed it is generally harmless; any damage that exposes it and makes it friable creates a danger that must be addressed. The following guidelines should be applied when dealing with this product:

- Repair materials used should seal any raw edges i.e. tar, bitumen, or paint as per WorkCover Guidance. Contact WorkCover for further details.
- If the area to be repaired is too large to use such materials, then the roof should be replaced with a suitable material such as corrugated steel sheeting, zincalume or colourbond. Fixings and tie downs must be able to withstand harsh coastal conditions.

If removal is to occur Council requires permit holders/licencees to forward a written request to the Property Services Department. The Property Services department will liaise with DELWP, EPA and relevant Council departments to provide advice and guidance to the permit holder/licencee. The following items must also be included with the written application:

- A copy of a permit/licence from Local Laws to allow a skip or other such container on the Foreshore Reserve to contain the product.
- A permit/licence is to be obtained from a building practitioner for the demolition.
- The name of the registered asbestos removalist.

Professionals are to be used for such projects. Removal must be undertaken in accordance with Occupational Health & Safety requirements. Asbestos containing material must be disposed of in accordance with EPA (Prescribed Waste) Regulations 1998 and relevant

codes. Removalists must be registered asbestos removalist class A, B or C with Environment Protection Authority (EPA).

Works must not commence until Council provides written approval.

6.6 Services

Permission will not be given to connect or install to any boatshed or bathing box drainage, sewerage, water, power, gas, telephone, generators, solar power or similar services. Unauthorised or new connections will not be permitted under any circumstances.

Council will order the disconnection, removal and rectification of illegal unauthorized connections after written notice to the permit holder/licencee. The cost will be passed on to the permit holder/licencee if illegally connected.

Council will direct the removal of services at the following times:

- At the request of the service authority; and
- If the service is a danger to beach users.
- If it is a threat to environment near vegetation/fire hazard.
- If the service is unauthorised or a new connection.

6.7 Retaining walls, Fences & Paving

Fences and paving are not permitted. Generally retaining walls are also not permitted, however the description below explains the exclusions. Fencing, paving and retaining walls may cause offsite environmental impacts and restrict public access.

Retaining walls will only be considered in extreme circumstances where permit holders/licencees have maintained site in line with maintenance conditions as outlined in 6.1. It is desirable to keep the perimeter of the shed free from a build up of sand (500mm-700mm and where possible at 30 degree horizontal (refer appendix 1). This will assist to protect the stability and integrity of the structure. If this is not achievable, Council will consider granting permission to permit holder/licencee for the erection of a retaining wall.

6.7.1 Retaining walls - application

All applications for retaining walls must be directed to Property Services in writing (Property.Services@Kingston.vic.gov.au).

A Building Surveyor, Property Services Officer and Natural Resources Officer will assess each request based on its merits.

If permission has been granted by the Property Services Department and DELWP then the normal course applies for building works as set out below:

- DELWP consent under Coastal Management Act 1995.
- Permit from Town Planning (submitting certified engineered plan for approval)
- Building Permit.
- Issuing Property Services Department with copy of final certificate (Building will also receive copy from Private surveyor)

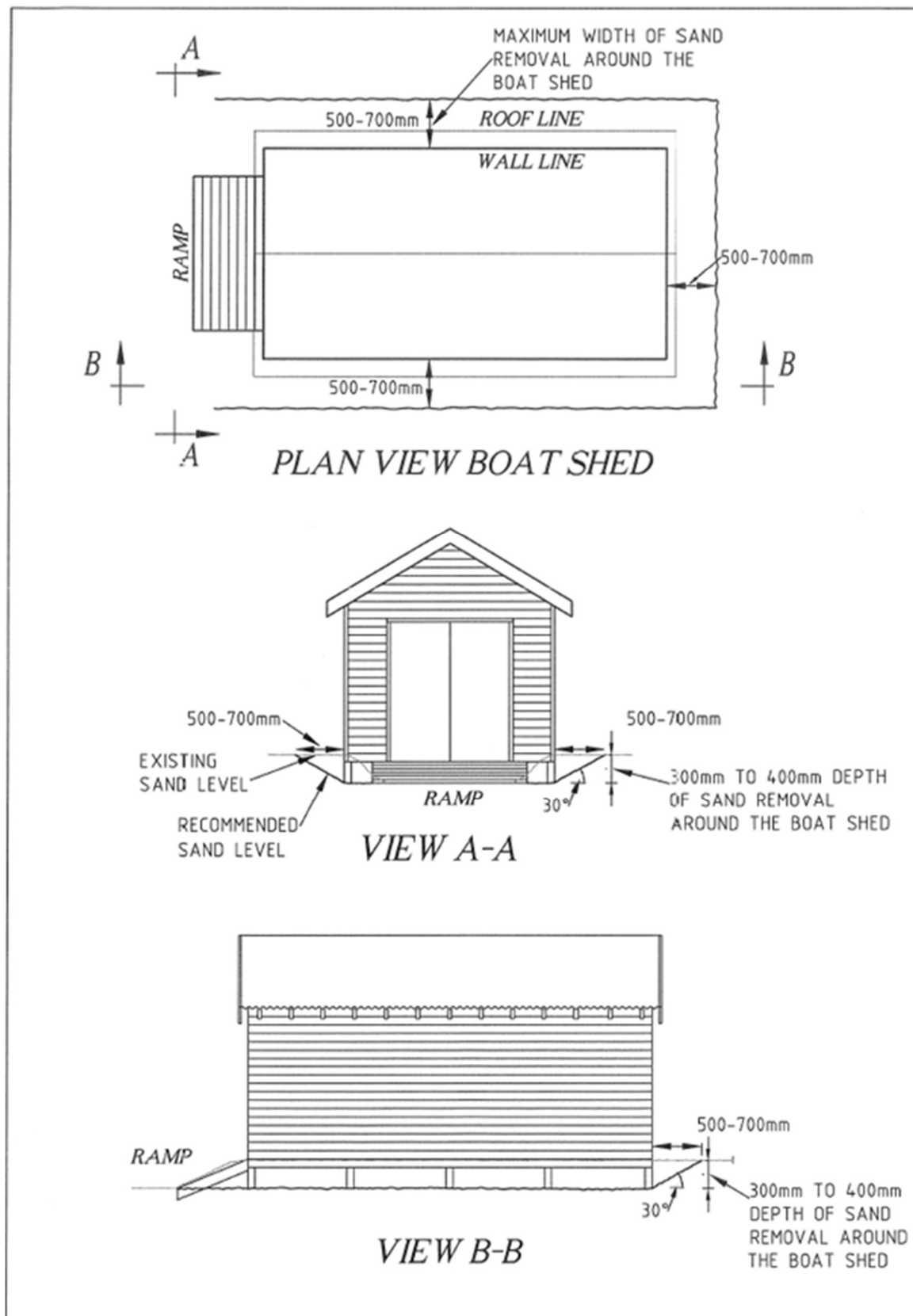
6.7.2 Responsibility for retaining walls:

- Permit holders/licencees are responsible for:
- Costs
- Permits
- Construction
- Maintenance
- Public Liability Insurance

Notation: In the event that retaining walls are consented to the permit holders/licencees must include these within their Public Liability Insurance.

Appendix 1

Plan showing clearance of sand around Boatshed/Bathing Box at 30-degree horizontal fall.



Appendix 2

A standard design to meet Council & DELWP's requirements and the requirements of the Building Code of Australia in relation to ramps.

