



## **5. DEVELOPMENT AND REGULATION POLICIES**

### **5.1 HEALTH**

#### **5.1.15 WINDY HARBOUR RETICULATED WATER USAGE AND USE OF BORES**

##### **Background and Issues**

The Windy Harbour water supply scheme operates under an exemption from the Economic Regulatory Authority (ERA) licensing procedure. The water supply is managed by the Shire of Manjimup. A condition of the exemption from the ERA licence is that the water supply be reviewed against, and achieve compliance with the Australian Drinking Water Guidelines. Compliance with this condition is audited by the Department of Health.

##### **Objectives**

- To ensure equity to all water consumers in terms of the enforcement of this policy;
- To ensure that water consumption is minimised; and
- To ensure the long term viability of the existing water resource.

##### **Area of Application**

All buildings/users of the reticulated water supply.

##### **Key Documents**

- Windy Harbour Leaseholder Agreement.
- Windy Harbour Water Treatment Drinking Water Quality Plan.
- Australian Drinking Water Guidelines No 6 (2011).

##### **Policy Measures**

###### **Duty of lease occupiers**

1. No sprinklers utilising the reticulated water are permitted at any time.
2. Landscape watering using the reticulated water supply is only permitted to occur when using a single, hand held hose during a watering period between 4pm in the afternoon and 9am the next morning. Watering under this requirement is limited to one hour per watering period.
3. A hose connected to the reticulated water system must not be left to run water onto the ground regardless of what purpose the water is being used for nor is it permissible to be used to fill storage tanks.
4. The reticulated water system may only be directly connected to fixtures associated with leasehold premises. Without the approval of Council, no holding tanks or pressure systems are permitted to be connected to the reticulated system.



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### **5.1 HEALTH**

#### **5.1.15 WINDY HARBOUR RETICULATED WATER USAGE AND USE OF BORES**

5. All private plumbing works on any leasehold premises are to be completed by a Licensed Plumber or the Water Services Operator (Shire) in the case where the reticulated water system is required to be maintained or repaired.

#### **Exemptions**

6. An exemption to Clauses (1) and (2) only, applies if a leaseholder utilises a bore in accordance with other specified conditions in this policy.
7. This policy does not apply to any water used by the Windy Harbour Caretaker during normal operations and Bush Fire Brigade functions performed under the Bush Fires Act.
8. A leaseholder may make formal application to Council for a “limited period exemption” where a new site has been developed and ground cover is being initially established or where a person applies for exemption to re-establish an existing landscaped Leasehold area. Any such exemption granted will be subject to whatever conditions Council deem appropriate, and will only apply for one financial year period July 1st to June 30th.

#### **Enforcement**

9. A person in the position of, or acting in a position of, Windy Harbour Caretaker, Chief Executive Officer, Director Development and Regulation, Principal Environmental Health Officer and Assistant Environmental Health Officer of the Shire of Manjimup has the authority to enter onto any lease area (excluding the entry into buildings) for the express purposes of investigating inappropriate water usage on that leasehold premises.
10. An authorised person described above has the right to ask any person to demonstrate that they are not breaching any part of this policy.
11. If a breach of this policy is alleged by the authorised person, that person is to obtain the necessary evidence of offence and apply the following procedure:
  - a) In the case of first violation, issue a formal written caution to the person breaching this policy, and the leasehold owner/s if they are not the same person, requesting a written response/s, or other alternative acceptable to Council, to the policy breach within 21 days. The written response required above is to be referred to Council for determination as to whether the decision is upheld and placed on permanent record or whether the matter is withdrawn. If no response is received the matter shall be determined as a second violation as prescribed in 11(b).



## **5. DEVELOPMENT AND REGULATION POLICIES**

### **5.1 HEALTH**

#### **5.1.15 WINDY HARBOUR RETICULATED WATER USAGE AND USE OF BORES**

- b) In the case of a second violation, all evidence shall be presented to Council with opportunity for the leasehold owner/s to address Council on the issue. Council shall consider the matter and if satisfied that a breach has occurred and the circumstances surrounding the second violation warrant further action, Council shall authorise a water flow monitoring device to be installed by a contractor at the premises for a period determined by the Chief Executive Officer. The cost of installation and removal of the water flow monitoring device, including all associated works shall be entirely at the leaseholder's expense.
- c) In the case of a third violation including evidence of excessive water consumption (as a result of the installation of a water flow monitoring device), all evidence shall be presented to Council with opportunity for the leasehold owner/s to address Council on the issue. Council shall consider and determine whether the cancellation of their Windy Harbour Lease Agreement in accordance with this policy and the terms of the lease agreement is necessary.
- d) For the purposes of this policy a second and third violation, may only be classed as a second or third violation where a period of time, being no more than three years, has elapsed between the first policy breach and the second or third policy breach. If two policy breaches have occurred more than three years apart, then they are both considered to be a first violation.
- e) In the process of determining all evidence, Council shall give due regard to any vexatious or unintended acts that have given rise to the situation.
- f) If a Lease Agreement is transferred at any stage the enforcement action will be considered by Council during the Lease Agreement transfer process and typically, enforcement action will not carry over to the new leaseholder/s unless the transferee and the transferor are related parties.

#### **Bores**

- 12. All bores are to be conditionally registered by the Shire of Manjimup and approval may be withdrawn by Council for non compliance with register conditions. The cost of the initial registration shall be as determined by Council's Schedule of Fees and Charges and will cover the cost of initial inspection and registration and signage. Bores shall be registered once which will cover the life of the bore subject to compliance with this policy.
- 13. That all private bores in the Windy Harbour settlement must achieve a microbiological analysis result of less than 60 thermotolerant coliform units per sample as tested by the Shire of Manjimup in the months of December and April.



## **5. DEVELOPMENT AND REGULATION POLICIES**

### **5.1 HEALTH**

#### **5.1.15 WINDY HARBOUR RETICULATED WATER USAGE AND USE OF BORES**

14. The cost of once yearly routine testing by the Shire of Manjimup is as determined by Council's Schedule of Fees and Charges.
15. That the testing of bores will be conducted on days determined by the Shire of Manjimup and will be advertised to bore owners.
16. That if a bore cannot achieve the above microbiological standard, that the bore is either removed, annual registration suspended and the bore not used until the standard is achieved, or an alternate approved disinfection system is installed to produce water meeting the specified standard as approved by Council. Retesting by the Shire of Manjimup is required at the bore owner's expense to confirm the status of the bore and the revocation of the suspension over the annual registration.
17. That appropriate signage is to be managed by the bore owner and displayed whilst the bore is in operation to clearly identify that the water being irrigated is not fit for human contact. Initial signage will be provided by the Shire of Manjimup with all subsequent signage at the bore owners' expense.

That the signage displayed shall read "PRIVATE BORE WATER IRRIGATION – HUMAN CONTACT IS NOT RECOMMENDED" and be of a lettering size and colour as determined by the Chief Executive Officer. All signage is to be displayed in a prominent position on the Leaseholder property.
18. All reasonable measures are taken by the bore operator to ensure all human contact is minimized including at times of windy conditions so as to avoid spray drift.
19. That any new bores be permitted subject to an initial inspection and issue of a registration and compliance thereafter with the above conditions.
20. Non-compliance with this Policy in regard to bore operation may result in the revocation of bore registration after due consideration and resolution of Council. Council shall give regard to the circumstance and issue any direction including warnings as deemed appropriate. The registered bore owner shall have opportunity to provide a written submission to respond to the allegation and address Council at the Council meeting where the issue is to be determined. Use of a bore without Council approval in accordance with this policy shall be determined to be an alleged breach of legislation and necessary enforcement action will be taken by Council Officers and Council as appropriate.



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##### **Administration**

This policy is to be administered by the Development and Regulation Directorate.

##### **Adoption and Date Due for Revision**

**ADOPTED 14 DECEMBER 2006**

**REVIEWED 28 JUNE 2007**

**REVIEWED AND TRANSFERRED FROM COMMUNITY SERVICES TO  
STATUTORY SERVICES 9 FEBRUARY 2012**

**REVIEWED 13 JUNE 2019**

**RENUMBERED 25 JULY 2019**

**NEXT DUE FOR REVIEW JULY 2023**

**The Administration of this Policy is by the Development and Regulation  
Directorate.**