

# Impact Analysis Statement

## Summary IAS

### Details

<b>Lead department</b>	Department of Transport and Main Roads – Maritime Safety Queensland
<b>Name of the proposal</b>	<ol style="list-style-type: none"> <li>1. Lifejacket reforms for people involved in certain heightened-risk boating activities</li> <li>2. Amendment of Schedule 5 of Transport Operations (Marine Safety) Regulation 2016 – Establishment of Lake Wivenhoe Marine Zone</li> <li>3. Amend or repeal transitional provisions that allow the use of old-style lifejackets known as Personal Flotation Devices</li> </ol>
<b>Submission type</b>	Summary IAS
<b>Title of related legislative or regulatory instrument</b>	<p>Transport Operations (Marine Safety) Regulation 2016</p> <p>Transport Operations (Marine Safety—Queensland Regulated Ships Miscellaneous Equipment) Standard 2017</p>
<b>Date of issue</b>	<ol style="list-style-type: none"> <li>1. January 2024</li> <li>2. January 2024</li> <li>3. March 2024</li> </ol>

Proposal type	Details
Minor	<p><b>1. Lifejacket reforms for people involved in certain heightened-risk boating activities</b></p> <p><i>This proposal is minor and has negligible regulatory costs.</i></p> <p>Queensland continues to see increases in recreational vessel registrations each year. There are several risk factors to boating in Queensland waters. As a result of those risks, Queensland sees several fatalities every year. The <i>Transport Operations (Marine Safety) Act 1994</i> (the Act) provides a general safety obligation (GSO) on ship masters to ensure the safety of the ship and its operation. Part of the GSO under the Act is a requirement to operate the ship with safety equipment.</p> <p>The Transport Operations (Marine Safety) Regulation 2016 (the Marine Safety Regulation) sets out the requirements for carriage and wear of different types of safety equipment, including lifejackets, for ships. Further, the Transport Operations (Marine Safety—Queensland Regulated Ships Miscellaneous Equipment) Standard 2017 (the Standard) sets out other recommendations for ships, including paddle craft, regarding carriage and wear of safety equipment to meet the GSO under the Act.</p>

The objective of these laws is to ensure the safety of persons at sea and in Queensland waterways.

#### *Current lifejacket requirements*

It is currently compulsory in Queensland to wear a lifejacket:

- when crossing a designated coastal bar in an open boat that is less than 4.8 metres in length
- if you are aged 1 year or more but less than 12 years in an open boat that is less than 4.8 metres in length and underway
- when on a personal watercraft.

#### *Issue*

In recent years, peak bodies for recreational boating have scrutinised Queensland's lifejacket laws, consistently raising concerns about the increasing number of incidents where the failure to wear a lifejacket contributed to fatalities on our waterways. Requiring boaties and their passengers to wear lifejackets may save lives and reduce trauma for people using our waterways, particularly for people involved in certain heightened-risk boating activities, such as when crossing coastal bars, boating alone, at night, or with children.

There are several risk factors and heightened dangers shown to be impacting on-water safety including: size of boat, location and time of day, number and age of people on board, the safety equipment being carried and its use, and the weather conditions.

In 2023, there were 14 fatal marine incidents that resulted in 16 lives lost, which is higher than the average of 10.6 lives lost over the previous ten years. Of those 16 people who tragically lost their lives at sea in 2023, 13 were known to not be wearing a lifejacket.

In 2023, 22 people were reported to have fallen overboard, and seven of those people lost their lives. A further 82 were involved in a capsizing incident, six of whom lost their lives.

Coastal bars form at the entrance to rivers and inshore waterways because of sand drifting along the coasts. Queensland has many dangerous coastal bars, but they are often the only way boats can access, or reach shelter from, open waters. Coastal bars are considered high risk because they can change quickly and without warning, even on a good day. Currently, it is compulsory for everyone to wear a lifejacket while crossing designated coastal bars in open boats under 4.8m. Over the three-year span between 2021 and 2023, there were 65 reported incidents around coastal bars in Queensland. Of these, 40 (61 per cent) were reported as a capsizing, swamping, flooding, or person overboard incident. These incidents resulted in 14 injuries, including two hospital admissions.

Boating at night carries a heightened risk due to lack of visibility of other boats and objects on or below the surface. In 2023 alone, approximately 92 (31 per cent) of the 292 reported marine incidents happened between 6pm and 9am on the following day (data covering exactly sunset to sunrise is unavailable).

Since 2021, several disappearances or confirmed lives lost in Queensland waters involved people who were boating alone in a small open boat, going overboard and not wearing a lifejacket.

*Proposed solution*

Maritime Safety Queensland (MSQ) proposes to introduce new laws specific to heightened-risk groups or activities to require lifejacket wear, including:

- compulsory wearing of a lifejacket for:
  - people boating alone, or only with children aged under 12 years, on an open boat less than 4.8 metres in length, whilst underway;
  - people boating at night (between sunset and sunrise) on an open boat less than 4.8 metres in length, whilst underway;
  - people crossing a designated coastal bar on an open boat and on an open area (the deck) of a ship of any length; and
  - children aged one year or more and under 12 years on an open boat and on an open area (the deck) of a ship, of any length, whilst underway.

MSQ proposes the application of the amendments with the following considerations of risk:

- boating alone should include being the sole adult on board with children aged under 12 to ensure the safety of all on board;
- boating alone and at night should apply only to ships less than 4.8 metres in length to align requirements with other elements of current Queensland laws;
- boating alone, at night and with children should apply only while the ship is underway, to ensure other activities such as fishing, sleeping and moving around an enclosed cabin can be undertaken;
- crossing a designated coastal bar already requires lifejacket wear for ships less than 4.8 metres and should apply to all ships; and
- children should continue to be considered as the under 12 years age group in line with other elements of current Queensland laws.

**What options were considered?**

MSQ provided stakeholders and the public a discussion paper with the background as to why the lifejacket proposal was suggested, what was being proposed and information on how to provide feedback. MSQ presented options for managing the heightened-risk groups and activities set out above, allowing respondents to choose their preferred option. MSQ also met with key industry stakeholders to conduct focus group consultation to discuss options.

MSQ has considered policy options such as:

1. Maintaining the status quo, no change to lifejacket wear requirements;
2. Making other amendments to support safety relating to lifejackets: already being undertaken;
3. Bolstering education programs to support safety relating to lifejackets: already being undertaken;
4. Making legislative amendments to improve safety practices in relation to lifejackets.

Of these options, 1-3 were each deemed unsuitable for the following reasons:

1. Does not address the risk;
2. Already being undertaken;
3. Already being undertaken.

Introducing amendments allows adequate risk management for each heightened-risk group and activity. Furthermore, it will improve the overall on-water safety culture, in a similar manner to the positive impact seatbelt wearing had on overall road safety culture in Queensland from 1972.

**What are the impacts?**

The proposed amendments will see requirements about wearing lifejackets change to capture heightened-risk groups and activities in Queensland waters.

*Positive impacts*

No additional purchase requirements for ship owners/operators. As Queensland already mandates ships carry appropriate lifejackets for all occupants, these operators will not be required to purchase lifejackets for use.

*Increased personal safety*

People who currently belong in a heightened risk group, such as children, or those who engage in heightened risk activities, such as crossing a coastal bar, boating at night, or boating alone will lower their risk of drowning by wearing a lifejacket. Compulsory lifejacket use will provide the necessary buoyancy and increased likelihood of survival in case of marine incidents.

*Greater inter-jurisdictional consistency*

MSQ has conducted a jurisdictional review of lifejacket throughout Australia, which found that Queensland's laws are less stringent than those in most other jurisdictions. The proposed reforms for lifejacket use aim to bring Queensland laws in line with other jurisdictions and improve safety practices and culture in Queensland. Further, boaties who travel between jurisdictions will find greater consistency between areas, ensuring safety practices are easier to follow.

*Overall Safety*

The improvements to on-water safety practices not only improve safety practices specific to the amendment but also improve safety practices overall. Introducing safety regulations often sees cultural shifts in various communities, including the maritime industry. The requirement to use lifejackets emphasises the importance of on-water safety, which, over time, can lead to a change in attitudes and behaviours, with mariners becoming more conscious of their safety and the safety of others on water. This is best achieved through pairing regulation with public awareness and education, and adequate and swift compliance and enforcement requirements.

MSQ intends to bolster its public awareness and education further than it already has, to ensure that people understand the importance of protecting themselves and others' safety at sea. MSQ's compliance and enforcement will support new regulation to show the importance of MSQ's commitment to on-water safety. Improved lifejacket use rates also improve safety, rescue and recovery operations.

The number of recovery operations are likely to be significantly reduced because rescuers will have a better opportunity to locate individuals in a marine incident. This not only benefits individuals involved but also facilitates more effective and efficient rescue operations, reducing the risk to rescue personnel. More broadly, the impact of a reduced number of recovery operations is also beneficial to individuals' families, communities and rescue personnel.

*Negative impacts*

Lack of perceived need. Survey responses are outlined below, showing some perceived lack of need for amendments. These issues are addressed further below.

*Boating alone*

- MSQ proposed mandatory wearing of lifejackets for people boating alone on ships less than 4.8 metres in length, similar to rules in New South Wales (NSW), Victoria (VIC), Tasmania (TAS) and South Australia (SA).
- MSQ received a range of responses from the public which showed mixed support for the proposal:
  - 33% supported – most reported currently wearing a lifejacket
  - 58% did not support – most reported never wearing a lifejacket when boating alone
  - 8% provided a neutral response.
 [Note, not 100% due to rounding].

*Boating at night*

- MSQ proposed mandatory wearing of lifejackets for people boating at night on open ships less than 4.8 metres in length. This rule is similar to rules in place in NSW, VIC, TAS and SA.
- MSQ received a range of responses from the public that showed mixed support for the proposal:
  - 48% supported
  - 40% did not support – many had questions about application, particularly when sleeping, some reported not to boat at night
  - 12% provided a neutral response.

*Boating with children*

- Currently, Queensland mandates the wearing of lifejackets for children aged one year or more and under 12 years in an open boat less than 4.8 metres in length while underway.
- MSQ proposed a broader mandate for children aged one year or more and under 12 years to wear lifejackets on open boats and on the open area (the deck) of ships, regardless of length. This is similar to a rule in place in TAS.
- MSQ received a range of responses from the public which showed the following:
  - 63% supported
  - 28% did not support – many had questions about application, and some did not have children
  - 9% provided a neutral response.
- The public noted several queries about the application of this proposed amendment, such as whether it would only apply while a ship is underway.

*Crossing a coastal bar*

- Currently, Queensland mandates the wearing of lifejackets for all occupants when crossing a designated coastal bar in an open boat less than 4.8 metres in length.
- MSQ proposed a broader mandate for people to wear lifejackets when crossing coastal bars on all open boats, and on the open area (the deck) of ships, which is similar to a rule in place in NSW.

	<ul style="list-style-type: none"> <li>• MSQ received a range of responses from the public which showed the following: <ul style="list-style-type: none"> <li>○ 78% supported</li> <li>○ 22% did not support.</li> </ul> </li> </ul> <p><i>Addressing negative comments</i></p> <ul style="list-style-type: none"> <li>• For boating alone, MSQ noted the lack of consideration of safe practices by respondents who did not support the amendment, in conjunction with other risk factors associated with not wearing a lifejacket when boating alone. MSQ recommends progressing this proposed change in its continued effort to improve marine safety. This follows MSQ's evaluation of relevant marine safety data on reported drownings in which lifejacket use was known, marine safety practices in most other jurisdictions, and feedback from its consultations with peak bodies and other key marine industry stakeholders.</li> <li>• MSQ noted some concerns around comfort if wearing a lifejacket at night, such as when sleeping in an enclosed space like a cabin of a boat. Not only were concerns raised about comfort wearing a lifejacket whilst sleeping, but also about the safety of wearing a lifejacket whilst in an enclosed space. MSQ had considered the risk of wearing a lifejacket in an enclosed space and did not intend to progress amendments to require this practice.</li> <li>• MSQ has considered the discomfort of wearing a lifejacket while sleeping and proposed amendments will apply only while the ship is underway. A ship being underway means any crew should be awake. Other occupants who are on deck at night whilst the ship is underway should wear lifejackets for optimal safety. These concerns have been considered in the proposed recommended changes, along with MSQ's evaluation of relevant marine safety data, marine safety practices in most other jurisdictions, and other risk factors associated with boating at night, such as the lack of visibility of other boats and objects on or below the surface.</li> <li>• Regarding the application of amendments to children. The public noted several queries about the application of this proposed amendment, such as whether it would only apply while a ship is underway. MSQ considered this feedback, as well as other risk factors, and decided on including this condition into its proposed recommended changes.</li> </ul> <p><b>Who was consulted?</b></p> <ul style="list-style-type: none"> <li>• An internal review of options and risk resulted in a determination of heightened-risk groups and activities, with the proposed reform limited to those heightened-risk groups/activities only (instead of requiring wear at all times).</li> <li>• Queensland Government Get Involved survey to the public from 1 to 23 December 2022.</li> <li>• Emails, letters or meetings with the following industry stakeholders: <ul style="list-style-type: none"> <li>○ Boating Industry Association</li> <li>○ Queensland Recreational Boating Council</li> <li>○ Volunteer Marine Rescue Queensland</li> <li>○ Surf Life Saving Queensland</li> <li>○ Royal Life Saving Queensland</li> <li>○ Rowing Queensland</li> <li>○ Marina Industries Association</li> <li>○ ABC Training/BoatSafe Queensland</li> <li>○ Queensland Police Service (Water Police)</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"> <li>○ Queensland Department of Education</li> <li>○ Gold Coast Waterways Authority</li> <li>○ Australian Sailing.</li> </ul> <ul style="list-style-type: none"> <li>● MSQ conducted industry focus groups and discussions with two key industry stakeholders: the Queensland Recreational Boating Council and the Boating Industry Association.</li> <li>● MSQ promoted the online survey through TMR's social media channels, such as Facebook and Yammer, and the MSQ website. Invitations for submissions were also emailed to representatives for the 12 key external peak body and industry stakeholders listed above.</li> <li>● Over 1,100 public submissions were received. Most respondents surveyed reported that they owned or operated a small ship (up to six meters in length) for 20 years or more and used it weekly. MSQ also received public feedback through its Facebook post. In addition, MSQ met with key stakeholders to gauge their views and opinions on the proposed safety reforms. The majority supported the changes, with only minor amendments requested. MSQ has proposed changes based on its evaluation of this feedback.</li> </ul> <p><b>What is the recommended option and why?</b></p> <p>MSQ recommends the following regulatory amendment—</p> <ul style="list-style-type: none"> <li>● Compulsory wearing of a lifejacket for:             <ul style="list-style-type: none"> <li>○ people boating alone, or only with children aged under 12 years, on an open boat less than 4.8 metres in length, whilst underway;</li> <li>○ people boating at night (between sunset and sunrise) on an open boat less than 4.8 metres in length, whilst underway;</li> <li>○ people crossing a designated coastal bar on an open boat, and on an open area (the deck) of a ship of any length; and</li> <li>○ children aged 1 year or more but less than 12 years on an open boat and on an open area (the deck) of a ship of any length, whilst underway.</li> </ul> </li> </ul> <p>There are no proposed new Marine Infringement Notices. However, amendments will expand the scope of the GSO under the Act.</p>
<p><b>Proposal type</b></p>	<p><b>Details</b></p>
	<p><b>2. Amendment of Schedule 5 of Transport Operations (Marine Safety) Regulation 2016 – Establishment of Lake Wivenhoe Marine Zone</b></p> <p><i>This proposal is minor and has negligible regulatory costs.</i></p> <p>The Queensland Bulk Water Supply Authority (Seqwater) has applied to the General Manager, MSQ to establish a Marine Zone in accordance with section 179 of the Marine Safety Regulation.</p> <p>This proposal is unlikely to result in significant adverse impacts and seeks to improve and support compliance with already existing site rule requirements. TMR has identified that no further regulatory impact analysis is required under the Queensland Government Better Regulation Policy.</p>

## Background

Seqwater is the Queensland Bulk Water Supply Authority as established under the *South East Queensland Water (Restructuring) Act 2007* (the SEQ Water Act). Under section 9 of the SEQ Water Act, Seqwater has several functions including carrying out water activities, supplying water services, and using or managing its land in ways that benefit the community, including for recreational purposes.

Under section 7(1)(g) of the SEQ Water Act, Seqwater has the power to do anything necessary or convenient to be done for its functions. Seqwater made site rules subject to this section 7 power. However, there is no power for these site rules to be coercively enforced.

The site rules are:

- a 6-knot speed limit
- only passive watercraft or vessels with low emission engines
- no personal watercraft
- no overnight stays on the water
- no skiing or towing activities
- no access to the exclusion area north of the dam wall.

The proposed amendment to Schedule 5 of the Marine Safety Regulation creates a marine zone with the rules of the marine zone reflecting the existing site rules. This will allow MSQ appointed Shipping Inspectors to issue penalty infringement notices for non-compliance. Because the existing site rules are already quasi-legislative in nature, there is no change to the regulatory response required.

Seqwater has requested the entire area of Lake Wivenhoe be established as a marine zone with the conditions of the marine zone reflecting the current site rules.

Briefly, the reasons for this are:

- to protect the water supply, and
- to protect the safety of lake users as there are a high number of submerged hazards which include dead wood and fence lines, and
- to provide protection to local environmentally sensitive areas, and
- to provide protection of the natural amenity and ambience of the area, and
- to protect the lake's banks by limiting shoreline wave scarring and sediment mobilisation, and
- to reduce groundings and subsequent fuel leaks caused by vessels travelling at higher speeds.

Formal declaration of a designated marine zone is required so that the current site rules can be enforced. Lake Wivenhoe is a unique location that not only provides the main water source for Brisbane and the greater Ipswich area, but it is also home to several environmentally and culturally sensitive areas that require protection. A marine zone is the best way for Seqwater to protect these resources and areas.

## Consultation

As required under section 180 of the Marine Safety Regulation, Seqwater has consulted widely with users of the lake, the local community, elected representatives and government agencies, as well as with the following entities:

### Harbour master

Seqwater advised the MSQ's Regional Harbour Master Brisbane, through the General Manager of MSQ, of its intention to prepare an application for the Marine Zone.



	<p><u>Established businesses</u></p> <p>Direct consultation occurred with key local stakeholders (via videoconference), including Australian Sailing Club, Grand Wivenhoe Social Fishing Club, and the Wivenhoe Dam Campground. No issues were raised by them about the proposal.</p> <p><u>Local government</u></p> <p>The Somerset Regional Council was directly consulted (via videoconference). No issues were raised by them about the proposal.</p> <p><u>Publication</u></p> <p>The public notification period was open for 30 business days between 21 February and 1 April 2022 and was also advertised via multiple avenues including:</p> <ul style="list-style-type: none"> <li>• A Public Notice in the local newspaper – The Lockyer &amp; Somerset Independent, published Wednesday 23 February 2022.</li> <li>• Corflute project notification signs were made and installed at eight separate locations around Lake Wivenhoe (16 signs in total) including at the boat ramps and recreational areas.</li> <li>• A notice was published onto the Seqwater corporate website.</li> <li>• A notice was published onto the Seqwater Facebook and Twitter (now X) accounts.</li> <li>• A project website was developed using the ‘Engagement HQ’ consultation platform which included access to additional information about the Marine Zone, frequently asked questions, a map of the Marine Zone and a portal to submit feedback and enquiries.</li> </ul> <p>The newspaper advertisement was drafted to satisfy the requirements of section 180(1)(b) of the Marine Safety Regulation. In addition, the public notices (online and signage), which included details on making a submission, were posted on the Seqwater website and social media platforms for the full term of the consultation period.</p> <p>During the public notification period, Seqwater recorded 17 enquiries relating to the proposed Marine Zone. No formal written submissions were received via mail. Below is a summary of the consultation outcomes:</p>		
	<b>Submission type</b>	<b>Number</b>	<b>Common themes/responded to</b>
	Engagement HQ website	10 submissions 492 total website visits	Yes – all submissions on the Engagement HQ project website were responded to directly.
	Corporate engagement email	6	Yes – all email submissions received via the <a href="mailto:communications@seqwater.com.au">communications@seqwater.com.au</a> corporate email inbox were responded to.
	Corporate engagement hotline enquiries	1	Yes – phone calls received in relation to the Marine Zone proposal were received and queries and concerns addressed.
	Social media post interactions	Comments – 2 Post shares – 14	Nil responses provided. Seqwater’s intent was to raise awareness about the Marine Zone and allowed organic user feedback and interactions on social media. Responses were provided to formal submissions only.

The above figures represent a total of all online and email/phone submissions received throughout the public consultation period via the various avenues provided by Seqwater.

In summary, the 30-day public notification period regarding the proposed Marine Zone resulted in a total of 17 enquiries that sought clarification around the effect of the Marine Zone and questions relating to the existing recreation conditions of the dam. All enquiries were responded to by Seqwater within a timely manner and no follow up actions have been required.

The public consultation undertaken for this project revealed no substantial reasons why the Marine Zone should not proceed as proposed. No formal opposition to the proposed Marine Zone was recorded that would impede the progress of the application. The Harbour Master and local government (Somerset Regional Council) did not raise issues in relation to the proposed Marine Zone and no additional opposing correspondence regarding the Marine Zone was received via Seqwater’s normal operational points of contact.

Seqwater satisfied the provisions of section 180 of the Marine Safety Regulation and thereby concluded its public consultation efforts.

TMR also undertook its own consultation with members of the South East Queensland community and industry stakeholders through the MSQ website and Facebook. TMR liaised extensively with Seqwater regarding the proposed amendments and this consultation provided Seqwater an opportunity to address a number of recurring questions that were raised about recreational activities at Lake Wivenhoe. The consultation concluded on 16 October 2023 and the majority of the public and industry respondents supported the introduction of a marine zone at Lake Wivenhoe.

**Impact Assessment**

	First full year	First 10 years
<b>Direct costs – Compliance costs*</b>	<p><b>1. Lifejacket reforms for people involved in certain heightened-risk boating activities.</b></p> <p>There are no costs to the public because MSQ is proposing the requirement to wear the lifejacket they already carry on board.</p> <p><b>2. Amend or repeal transitional provisions that allow the use of old-style lifejackets known as Personal Flotation Devices.</b></p> <p>Any master or operator who needs to purchase new Australian Standard AS4758 lifejackets will need to do so for each person on board. While this is not possible to be estimated overall, this cost will likely occur in the first year of the amendments and will be at a range between \$20 and \$200 per person depending on the style and type of lifejacket chosen.</p>	<p><b>1. Lifejacket reforms for people involved in certain heightened-risk boating activities.</b></p> <p>There are no costs to the public because MSQ is proposing the requirement to wear the lifejacket they already carry on board.</p> <p><b>2. Amend or repeal transitional provisions that allow the use of old-style lifejackets known as Personal Flotation Devices.</b></p> <p>Any master or operator who needs to purchase new Australian Standard AS4758 lifejackets will need to do so for each person on board. It is expected that most masters/operators will do so within the first year of the amendments.</p>

Impact Contd	Assessment	First full year	First 10 years
<p><b>Direct costs – Government costs (Contd)</b></p>	<p><b>1. Lifejacket reforms for people involved in certain heightened-risk boating activities.</b></p> <p>Compliance costs are covered by existing allocations. MSQ currently prioritises compliance and enforcement of all lifejacket laws through intercepting customers on water.</p> <p>There will be no additional cost for intercepts.</p> <p>There are educational costs to Government that sit within its current allocations.</p>	<p><b>1. Lifejacket reforms for people involved in certain heightened-risk boating activities.</b></p> <p>Compliance costs are covered by existing allocations. MSQ currently prioritises compliance and enforcement of all lifejacket laws through intercepting customers on water.</p> <p>There will be no additional cost for intercepts.</p> <p>There are educational costs to Government that sit within its current allocations.</p>	
	<p><b>2. Amend or repeal transitional provisions that allow the use of old-style lifejackets known as Personal Flotation Devices.</b></p> <p>Compliance costs are covered by existing allocations. MSQ currently prioritises compliance and enforcement of all lifejacket laws through intercepting customers on water.</p> <p>There will be no additional cost for intercepts.</p> <p>There are educational costs to Government that sit within its current allocations.</p>	<p><b>2. Amend or repeal transitional provisions that allow the use of old-style lifejackets known as Personal Flotation Devices.</b></p> <p>Compliance costs are covered by existing allocations. MSQ currently prioritises compliance and enforcement of all lifejacket laws through intercepting customers on water.</p> <p>There will be no additional cost for intercepts.</p> <p>There are educational costs to Government that sit within its current allocations.</p>	
	<p><b>3. Amendment of Schedule 5 of Transport Operations (Marine Safety) Regulation 2016 – Establishment of Lake Wivenhoe Marine Zone.</b></p> <p>No costs are involved in this proposal.</p>	<p><b>3. Amendment of Schedule 5 of Transport Operations (Marine Safety) Regulation 2016 – Establishment of Lake Wivenhoe Marine Zone.</b></p> <p>No costs are involved in this proposal.</p>	
<p><b>Proposal type</b></p>	<p><b>Details</b></p>		
<p><b>Regulatory proposals where no RIA is required</b></p>	<p><b>3. Amend or repeal transitional provisions that allow the use of old-style lifejackets known as Personal Flotation Devices</b></p> <p>The proposal relates to amending or repealing transitional provisions to reflect developments in Australian Standards for lifejackets and are to ensure marine safety and related marine operational issues are effectively and efficiently managed.</p> <p><i>Background</i></p>		

Sections 41 and 44 of the Act provides a general safety obligation for an owner and master of a ship to operate the ship safely. This obligation extends to the safety equipment that is required by a regulation to be carried on the ship, such as lifejackets.

MSQ is proposing to amend or repeal transitional provisions in section 225 of the Marine Safety Regulation and section 26 of the Standard. These transitional provisions allow the use of old-style lifejackets known as Personal Flotation Devices (PFDs) under the repealed 2004 version of the Marine Safety Regulation (the 2004 Regulation). A PFD is defined as a buoyancy aid worn by a person to keep the person afloat in water. PFDs were manufactured under now outdated Australian Standards (AS). MSQ proposes to expire the provisions 12 months after notification of the amendment regulation. Following that 12-month period, no Queensland regulated ship will be permitted to carry PFDs.

Under these transitional provisions, a Queensland regulated ship that is required to carry lifejackets can instead carry PFDs, provided that they are within their serviceable life. The current standard for lifejackets is AS 4758, which was originally published in 2008. Lifejackets manufactured to AS 4758 are the safest in Australia due to a simpler rating system, additional safety features, better design and increased buoyancy. PFDs were manufactured to the older standards AS 1512, AS 1499, and AS 2260. It has now been over a decade since these outdated standards were superseded.

Currently, under the Marine Safety Regulation a 'lifejacket' is defined as a garment or device that, when correctly worn and used in water, will provide the wearer with a specific amount of buoyancy which will increase the likelihood of survival. If a Queensland regulated ship is required to be equipped with lifejackets for everyone on board who is aged 1 year or more, it must be equipped with only the following types of required lifejackets of appropriate size for those people on board:

- a lifejacket level 50; or
- a lifejacket level 50S; or
- a lifejacket level 100; or
- a compliant inflatable diver's jacket.

The type of lifejackets that ships are required to be equipped with depends on the waters the ship is operating in, as tabled below:

*Table 1 – Types of required lifejackets that must be carried on ships when operating in certain waters*

Ship operated	in smooth waters	in partially smooth waters	beyond partially smooth waters
Queensland regulated ship (other than a personal watercraft)	<ul style="list-style-type: none"> <li>• a lifejacket level 50</li> <li>• a lifejacket level 50S</li> <li>• a lifejacket level 100</li> <li>• a compliant inflatable diver's jacket</li> </ul>	<ul style="list-style-type: none"> <li>• a lifejacket level 50</li> <li>• a lifejacket level 100</li> <li>• a compliant inflatable diver's jacket</li> </ul>	<ul style="list-style-type: none"> <li>• a lifejacket level 100</li> <li>• a compliant inflatable diver's jacket</li> </ul>
Personal watercraft	<ul style="list-style-type: none"> <li>• a lifejacket level 50</li> <li>• a lifejacket level 50S</li> </ul>	<ul style="list-style-type: none"> <li>• a lifejacket level 50</li> </ul>	<ul style="list-style-type: none"> <li>• a lifejacket level 50</li> </ul>

Note: Custom-made lifejackets can also be used in place of level 50, 50S, and 100 lifejackets if they comply with the requirements of section 23 of the Marine Safety Regulation. This includes that the lifejacket is constructed using the same materials and methods of construction as the level it is used in place of, and this must be declared by the manufacturer. Custom-made lifejackets are made to an equivalent standard to AS 4758.

Under the Marine Safety Regulation, lifejackets level 50, 50S and 100 are all classified under AS 4758 as in force at the date of manufacture for the lifejacket. However, lifejacket level 100 can also include any of the following other acceptable Standards:

- a coastal lifejacket complying with the requirements in the National Standard for Commercial Vessels (NSCV), part C, section 7, subsection 7A, annex G
- a lifejacket complying with the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1978 (SOLAS), chapter III, regulation 32.

Further, a compliant inflatable diver's jacket is one that complies with BS EN 12628:1999.

The transitional provisions provide that PFDs under the 2004 Regulation are taken to be lifejackets if the ship was equipped with them prior to 1 September 2016 and they are within their serviceable life. PFDs under the 2004 Regulation were manufactured to now outdated standards and are marked or labelled with AS 1512, AS 1499, AS 2260, PFD Type 1, Type 2 or Type 3. The serviceable life, for a PFD, is defined to mean the period ending when the PFD needs to be replaced because it is:

- irreparable; or
- unserviceable; or
- incapable of being restored to its original working condition; or
- reached the end of its service life as stated by its manufacturer.

MSQ's rationale at the time for the inclusion of these transitional provisions was to reduce the economic impact that would have been imposed on Queensland's boating community in requiring all PFDs carried on ships to be replaced with lifejackets that meet AS 4758. MSQ recognised that there were costs associated with replacing PFDs still considered to be within their serviceable life and that certain larger ships could be carrying a considerable quantity of serviceable PFDs on board.

However, MSQ is now concerned about the issue of marine safety in continuing to allow ships to carry PFDs, given how much time has passed since AS 4758 was originally published back in 2008. While it is impossible to estimate how many vessels registered may still carry PFDs, MSQ is concerned that in recent years, Queensland has seen significant growth in the popularity of recreational boating. Queensland continues to see increases in recreational vessel registrations each year. This increase in boating numbers means there is likely to be a greater number of people on Queensland waters, increasing the chance of marine incidents that can include injuries, missing persons and fatalities. The key goal of these amendments is to improve water safety to save lives and reduce trauma for everyone using our waterways.

According to several manufacturers, the 'average' life span of a PFD or lifejacket is 10 years. The reason being is that over time the materials used to manufacture them deteriorate, especially when exposed to the marine environment. For instance, stitching is very susceptible to UV degradation, as are webbing and nylon materials, rendering the PFD irreparable, unserviceable or incapable of being restored to its original working condition. AS 4758 has been in place for over 15 years now, so it is highly unlikely that there are many serviceable PFDs still in circulation today. While some ship owners or operators may still be carrying PFDs on their ships and say they are fine, if the PFDs were to be inspected by MSQ it is most probable that they would be found to be outside of their serviceable life.

MSQ's proposed changes to end the continued permitted use of PFDs also factored in that recent research shows that most manufacturers have been good corporate citizens and started to manufacture lifejackets to AS 4758 without much delay when it came into force. Today most lifejackets on the market for sale in Australia are manufactured to AS 4758. MSQ estimates that the ability to purchase PFDs ceased over a decade ago, which exceeds their average serviceable life. Therefore, if there are unserviceable PFDs being carried on ships they must be replaced regardless, and the costs associated with doing so are reasonable.



The AS 4758 Standard lifejackets provide many benefits over PFDs. AS 4758 lifejackets include a detailed instruction for the servicing of inflatable lifejackets, which has had a greater positive consideration of lifejacket maintenance and care by lifejacket users overall. MSQ was encouraged to see greater understanding and care taken with lifejackets generally, including the acknowledgement that fabric and buckle quality, maintenance and care is important. Most importantly, AS 4758 lifejackets provide a greater level of buoyancy and more stringent testing methodologies when being designed and manufactured.

It is worth noting that MSQ has limited data and cannot make a statement regarding whether the use of PFDs have contributed to adverse marine incidents. Further, MSQ also looked at the other acceptable standards for lifejackets and, at this time, did not identify issues that needed to be addressed through regulatory amendments in relation to these other standards, which includes SOLAS, NSCV, BS EN 12628 and custom-made lifejackets.

#### **What options were considered?**

There are no other feasible policy options to address the problem other than to amend or repeal the transitional provisions in section 225 of the Marine Safety Regulation and section 26 of the Standard. MSQ proposes to expire the provisions 12 months after notification of the amendment regulation and standard. Following that 12-month period, no Queensland regulated ship will be permitted to carry PFDs.

#### **What are the impacts?**

The proposed changes will ensure marine safety and related marine operational issues are effectively and efficiently managed. Ship owners and operators will be required to check the lifejackets that they are carrying on board and dispose of any unserviceable and less safe PFDs. After the 12-month grace period ends, all Queensland regulated ships will be carrying the safer lifejackets available today, which are manufactured to AS 4758.

Quantifying the number of impacted stakeholders is impossible due to limited data, the passage of time and the fact that MSQ only regulates recreational boats. MSQ notes that, given the amount of time that has passed since AS 4758 was introduced in 2008, all Queensland regulated ships should already be equipped with AS 4758 compliant lifejackets or lifejackets compliant with one of the other acceptable standards. The proposed changes will simply bring this fact to the attention of owners and operators of ships that still are carrying unserviceable PFDs to replace them.

MSQ is mindful that a small number of ship owners within Queensland's boating communities could still be carrying serviceable PFDs and there will be costs imposed on them to replace these PFDs. Noting the economic, social, and environmental impacts that may be associated with the proposed changes, before enforcing compliance, ship owners will have a grace period of 12 months to ensure that their lifejackets comply with AS 4758. Following this grace period, PFDs will be banned on all Queensland regulated ships.

All Australian jurisdictions have incorporated AS 4758 into their respective legislation. Tasmania, South Australia and Victoria have also passed laws banning the use of lifejackets manufactured to AS 1512, AS 1499 and/or AS 2260 from 1 January 2021, 1 January 2025 and 1 July 2028, respectively. MSQ understands that the other Australian jurisdictions are likely to follow the lead of Tasmania, South Australia and Victoria in the near future.

Replacing a lifejacket can cost a person anywhere in the range of around \$20 to around \$200, with some models that can automatically inflate in water costing up to several hundred dollars.

#### **Who was consulted?**

MSQ publishes information about lifejacket standards on its website. This includes publications and a fact sheet about choosing the right lifejacket. This proposed change will be communicated to key industry bodies and to the general public through the MSQ website and

its other communication channels, for example notice to mariners, and through MSQ's Maritime Matters magazine. The below table details the stakeholder engagement.

Stakeholder	Date consulted	Documents/ websites used	Feedback	TMR response to feedback
Queensland Recreational Boating Council (QRBC)	18 March 2022	Email to detail initiative and impacts	QRBC delegates endorsed all proposed initiatives and agreed they would have minimal adverse effect on recreational boating.	MSQ acknowledged the feedback and advised it would inform QRBC if and when the change is expected to commence.
Royal Life Saving Queensland (RLSQ)	18 March 2022	Email to detail initiative and impacts	Agreed with the proposed change but also recommended a community communication campaign occur in respect to this proposed change.	MSQ assured RLSQ that it will run an education campaign for people impacted by the change
Rowing Queensland	18 March 2022	Email to detail initiative and impacts	Rowing Queensland supports the change.	MSQ acknowledged the feedback and advised it would inform Rowing Queensland if and when the change is expected to commence.
Queensland Police Service (QPS)	18 March 2022	Email to detail initiative and impacts	QPS supports MSQ with the requirement to use current Australian Standard life jackets (4758). Suggested MSQ issue an enforcement directive about other lifejacket standards.	MSQ acknowledged the suggestion for an enforcement directive for other lifejacket standards, and will consider a more holistic review of acceptable lifejacket standards.
Gold Coast Waterways Authority (GCWA)	18 March 2022	Email to detail initiative and impacts	GCWA believe the requirement for all PFDs to be of the latest safety standard (AS 4758) is sure to improve the safety outcomes for all on-water users.	MSQ acknowledged the feedback and advised it would inform GCWA if and when the change is expected to commence.
Department of Education (DoE)	18 March 2022	Email to detail initiative and impacts	DoE supports the change to improve marine safety in Queensland and agrees with introducing the initiative in late 2022.	MSQ acknowledged the feedback and advised it would inform DoE if and when the change is expected to commence
Public	26 February 2024	Facebook post targeting boat owners and users	One comment saying it is safest to stay on board	Nil response required

MSQ also consulted with Australian Sailing, BoatSafe Queensland, Marina Industries Association, Surf Life Saving Queensland, Volunteer Marine Rescue Queensland, Marine Teachers Association of Queensland, Boating Industry Association and the Australian Volunteer Coast Guard Association. These industry bodies were consulted about the change by email on 18 March 2022, but MSQ received no feedback.

#### What is the recommended option and why?

MSQ is proposing to amend or repeal the transitional provisions in section 225 of the Marine Safety Regulation and section 26 of the Standard as the only feasible option for managing the need for use of lifejackets to the current AS. MSQ proposes to expire the provisions 12 months after notification of the amendment regulation and standard. Following that 12-month period, no Queensland regulated ship will be permitted to carry PFDs. The recommended option generates the greatest net benefit to the community compared with maintaining the status quo because it provides time for boat owners to update any old Standard lifejackets and ensures that if they find themselves in a situation in which they need to rely on a lifejacket it is more likely to effectively keep them afloat than old Standard lifejackets. This is a direct benefit to the wearer, but also a broad benefit to the community and emergency responders in reducing the need to conduct search and rescue or recovery.

For the amendments phasing out outdated PFDs, it was identified that there would be a cost in updating to lifejackets that meet current AS. This will be between \$20 and \$200 depending on the style and type of lifejacket chosen. Having said that, such jackets are now over 10 years old and should have already been replaced according to manufacturers stated lifespans. It is not clear how many older style lifejackets might still be in use, so it is not possible to estimate overall costs. The IAS also identified that there would be costs associated with educating the community about phasing out of the PFDs that will be met within existing budget allocations.

The proposed changes will ensure marine safety and related marine operational issues are effectively and efficiently managed. Ship owners and operators will be required to check the lifejackets that they are carrying on board and dispose of any unserviceable and less safe PFDs. After the 12-month grace period ends, all Queensland regulated ships will be carrying the safety lifejackets available today, which are manufactured to AS 4758.

## Signed



Sally Stannard  
Director-General  
Department of Transport and Main Roads

5/8/2024



Bart Mellish MP  
Minister for Transport and Main Roads  
Minister for Digital Services

8/8/2024