

Transport Operations (Marine Safety) (Riverston Bay Marine Zone) Amendment Regulation 2024

Explanatory notes for SL 2024 No. 34

made under the

Transport Operations (Marine Safety) Act 1994

General Outline

Short title

Transport Operations (Marine Safety) (Riverston Bay Marine Zone) Amendment Regulation 2024

Authorising law

Section 207 of the *Transport Operations (Marine Safety) Act 1994*

Policy objectives and the reasons for them

Riverston Bay is an area of Lake Awoonga situated in Gladstone. It is a popular location for on-water recreational activities including swimming and paddling. Despite the existence of a six-knot speed limit at Riverston Bay, there remains a safety risk to swimmers and non-motorised watercraft users, due to the difficulty seeing them from motorised vessels (ships) in the area, and the potential for collisions to cause injury or death, even where motorised ships are travelling at low speeds.

The first policy objective of the *Transport Operations (Marine Safety) (Riverston Bay Marine Zone) Amendment Regulation 2024* (the Amendment Regulation) is to protect swimmers and users of non-motorised watercraft in Riverston Bay from the safety risks posed by the operation of motorised ships in those waters.

The second objective of the Amendment Regulation is to update the reference to the legislative instrument that specifies what a *government entity* is, which is relevant for prescribing the types of entities that may propose a marine zone. Schedule 9 (Dictionary) of the *Transport Operations (Marine Safety) Regulation 2016* (the Marine Safety Regulation) includes a definition for *government entity* that points to the *Public Service Act 2008*, section 24. This is an outdated reference, because the *Public Service Act 2008* was repealed in 2022 and replaced with the *Public Sector Act 2022*.

Achievement of policy objectives

The Amendment Regulation achieves its first policy objective by amending the Marine Safety Regulation to establish a marine zone over the waters of Riverston Bay. The requirement for the Riverston Bay marine zone is that persons must not operate a ship powered by an engine within the marine zone unless an exemption applies.

The Amendment Regulation provides that employees of the Gladstone Area Water Board (the Board) are exempt from the Riverston Bay marine zone requirement when performing water authority functions under the *Water Act 2000* (the Water Act), shipping inspector functions under the *Transport Operations (Marine Safety) Act 1994* (the Act), and fish stocking program activities in accordance with permits issued under the *Fisheries Act 1994*. Existing exemptions from marine zone requirements for enforcement officers and emergency, rescue and life saving activities will continue to apply under sections 96(2)(c) and 178(2) of the Marine Safety Regulation.

The existing offence provision for contravening a marine zone requirement, under section 178(1) of the Marine Safety Regulation, will apply to contraventions of the Riverston Bay marine zone requirement. As currently provided for under the *State Penalties Enforcement Regulation 2014*, infringement notices for contravention of a marine zone requirement may be given by shipping inspectors appointed under the Act.

The new marine zone and its requirement, which commences on 1 July 2024, addresses the safety risks posed by motorised ships to swimmers and users of non-motorised watercraft within the waters of Riverston Bay.

The second policy objective is achieved by amending the definition of **government entity** in Schedule 9 of the Marine Safety Regulation, by replacing the reference to the *Public Service Act 2008*, section 24, with a reference to the *Public Sector Act 2022*, section 276.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Act to—

- establish a system under which marine safety and related marine operational issues can be effectively planned and efficiently managed; and
- manage the operation and activities of ships.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no feasible alternative ways to achieve the objectives other than through regulatory amendments.

Benefits and costs of implementation

The introduction of a marine zone at Riverston Bay provides safety benefits to swimmers and users of non-motorised watercraft in the bay. Ancillary benefits include reduced environmental and amenity impacts by allowing shore-based users and fauna to experience the area with reduced engine noise. This in turn provides a foundation for promoting the area as an optimal choice for recreational water activities.

Potential impacts on motorised ship users have been mitigated by the establishment of a new boat ramp and two boat loading pontoons outside of the marine zone, ensuring these users have continued access to the majority of Lake Awoonga.

The introduction of the marine zone does not impose costs on government, businesses in the area, or to persons complying with the marine zone requirements.

The Board, the proposing entity for the marine zone, is a water authority under the Water Act and as such its employees can be appointed as shipping inspectors to perform monitoring and enforcement functions under the Act. The Board will install signage and deliver communications about the new requirements in the lead up to the commencement on 1 July 2024, and will increase its surveillance of activities in Riverston Bay upon commencement.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles as required under the *Legislative Standards Act 1992*.

Consultation

As required under the Marine Safety Regulation for a government entity proposing a marine zone, the Board consulted with the Gladstone Harbour Master, the Gladstone Regional Council, and established businesses local to the area of the proposed marine zone. The Board also consulted with clubs and community groups operating on Lake Awoonga and not-for-profit organisations supporting businesses in the area.

In accordance with the consultation requirements under the Marine Safety Regulation, the Board published details of the proposal and invited written submissions in a local newspaper. Radio, website, email, signage and social media platforms were also used to provide information about the proposal and the submission period to the community.

Results of consultation indicated that while there was general support for the proposal, there were some concerns around accessibility. The Board addressed respondents' concerns about access to waterfront space and commercial motorised boat access by establishing a new boat ramp in a convenient location away from the marine zone, as well as two swimming pontoons, and two boat loading pontoons. The new facilities ensure that motorised ships will continue to have ready access to the majority of Lake Awoonga. Concerns over access to waterfront space were further addressed by reducing the size of the marine zone from the original proposed size.

In accordance with the Queensland Government Better Regulation Policy, a summary Impact Analysis Statement has been prepared, as is required for regulatory proposals with impacts that are not significant.

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