Queensland

Transport Operations (Marine Safety) Amendment Regulation (No. 1) 2005

Regulatory Impact Statement for SL 2005 No. 50

made under the

Transport Operations (Marine Pollution) Act 1995
Transport Operations (Marine Safety) Act 1994

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1 Title

Transport Operations (Marine Safety) Amendment Regulation 2004 Draft Regulatory Impact Statement

2 Background

This legislation proposes new pilotage fees for Queensland ports and other related amendments to establish a consistent approach to the requirement for pilotage and the application of pilotage fees.

Maritime Safety Queensland (MSQ) was established within Queensland Transport on 1 October 2002 to, amongst other things, ensure the provision of state-wide port pilotage services. Before this date, port pilotage for most ports was the responsibility of Queensland port authorities.

For Brisbane and many of the smaller (low volume) ports such as Southport and Maryborough, Queensland Transport continued to provide services either directly or through contract and charged a fee regulated under the Transport Operations (Marine Safety) legislation.

As part of consultation during the establishment of MSQ an undertaking was given to industry and other key stakeholders by Queensland Transport to retain the existing fees until 30 June 2003. After this date and after the completion of a suitable review of both the service and the fees, new fees were to be set to recover the full cost of the state-wide service.

New fees are now proposed for implementation on 1 January 2005 and are intended to recover the full cost of service provision in line with Queensland Treasury Whole of Government Review of Fees and Charges - Guidelines for Agencies for the costing of services, address past inconsistencies in the requirements for pilotage, improve transparency in the way pilotage is charged and support government's goals for building Queensland's regions.

3 Authorising Law (S44(a))

Transport Operations (Marine Safety) Act 1994 – Part 18, Sections 209 (1), 215 (1).

Transport Operations (Marine Safety) Regulation 2004 – Schedule 10, items 9, 17 and 18 – the setting of fees for restricted use flags and pilotage.

4 Policy Objectives

Introduction of a new fee regime for port pilotage that collects revenue sufficient to offset the full cost of service delivery.

Queensland Treasury guidelines for the costing of services indicate port pilotage to be a regulatory service. For such services, revenue collected from the user of the service should be sufficient to recover the full cost of service provision.

The fees currently in place will not fully recover the direct and indirect cost of the planned port pilotage services. Direct and indirect costs are projected at $ 29.2 m in 2004/05.

Estimates of direct costs are based on the cost to transfer the pilot to the ship requiring the service (pilot launch and crewing costs, helicopter charges, accommodation, travel etc.) and the cost of providing the pilot for the time of the service (salaries and all oncosts).

Indirect costs include financial transactions, system and other overheads.

Revenue projections for the 2004/05 financial year, based on likely shipping movement numbers and current fees indicate collections of $28.5 m are likely. This will result in a shortfall of about $ 0.688 m.

By the end of the 2006/07 financial year the shortfall is expected to increase to about $ 2.599 m.

In comparison, the proposed fees seek to recover about $ 29.78 m in 2004/05 – a surplus of just under $ 600,000 – and are expected to collect $32.56 m in 2005/07 – an expected shortfall of about $ 549,000. Over the intended life of the proposed fees (to 30 June 2007) revenue collected is expected to equal the cost of service provision.

In addition to the proposed aggregated revenue increase across the state, existing services that do not fully cost recover will be specifically targeted for increases. An example of this includes delays in ship operations that in turn cause delays to the pilotage service. Full details are provided under the section “Improving the alignment between the fees applied within ports and to individual ships and the costs incurred in the delivery of services”.

Improving the level of transparency in fee setting.

Full cost recovery from individual ports is not considered viable given the substantial increases that would be required in existing remote, developing or low volume ports. Further, such an approach would likely significantly restrict any future proposed new port developments in locations other than at major population centres.

To better support government's goals of building Queensland's regions it is proposed to establish a standard pilotage fee for the state which is then varied by specific characteristics of the movement. Variations proposed include the length of the ship, the category of pilotage service that is to be provided within the port - proposed categories of service align with pilot training and skill requirements - and the distance of the pilotage run (nautical miles).

In total, the standard fee with variations when applied will return revenue sufficient to cover all direct and indirect costs.

The proposed approach will address inconsistencies in port pilotage charges and should provide the necessary assistance to developing ports, which without some form of pricing support may not remain viable. This approach will also address the immediate concerns of port users and other port stakeholders regarding the situation in Mackay where the existing fees have resulted in some users paying up to three times the pilotage charges in neighbouring and comparable ports.

A port by port comparison of the revenue projections from both the existing fees and the proposed length based fees is provided in Table 1. Comparisons in Table 1 are made on the basis of a full year of application of the proposed LOA fees.

Establishment of a consistent approach to the requirement for pilotage and the application of the pilotage fee.

Foreign registered ships below 50 metres length overall (LOA) will no longer be required to take a pilot, bringing them in line with existing arrangements for Australian registered ships of the same size. All ships 35 metres and above but less than 50 metres LOA will, however, be required to report their intended movements within pilotage areas to the relevant Regional Harbour Master.

A ship of any size can still request the service of a pilot and the Regional Harbour Master may still require any ship, including those less than 50 metres LOA to take a pilot where there are concerns for the safety of the ship movement. The minimum pilotage charge for this port service will then apply.

The adoption of LOA as the means by which pilotage fees will be applied better addresses the charging of ships in the smaller range and categories of ships such as naval ships which often do not have gross tonnages.

Improving the alignment between the fees applied within ports and to individual ships and the costs incurred in the delivery of services.

Removal fees

In most ports removal fees have, in the past, not recovered the full cost of service provision. Significant variations between ports are also apparent under the current fees for removals. In the port of Weipa, for example, the removal fee is equivalent to the current full pilotage fee.

To improve overall cost recovery from removal services and to re-establish consistency between ports, removal fees will be based on 50 per cent of the full pilotage fee, adjusted for the removal of the multiplier associated with the length of the pilotage run.

While this distance impacts significantly on the cost of servicing piloted arrivals and departures it has no effect on removals.

Cancellation fees

A full pilotage fee can currently be imposed if a pilotage is cancelled within two hours of the planned service.

This nominated period does not reflect the needs of ports where the pilot is required to travel. It is proposed to increase this period for all ports to three hours.

New port specific charges are also proposed to be introduced for cancellations, replacing the current practice of applying a full pilotage fee.

Where notification of cancellation is provided more than three hours in advance of a ship's nominated sailing time, no charge will apply however any further cancellation of the notified sailing time of this ship may result in this ship being programmed at a time to best suit all port ship movements. This is aimed to prevent abuse of multiple sailing time changes that would be detrimental to overall port traffic.

The general manager may also specify another period of 'notification time of cancellation' if it is considered necessary for the effective and efficient operation of the pilotage service in that area.

Delay fees

There is no ability at the moment for the pilotage service to charge where planned movements are delayed due to the operation of the ship. In instances where such delays to the planned movement time negatively affect other planned ship movements an hourly delay rate will be applied.

The proposed delay rate will be port specific and charged on an hourly basis. Proposed delay fees have been set to recover the cost of pilot salaries and oncosts.

Where no notification of cancellation has been provided and a ship is delayed for more than half an hour after the nominated sailing time, a delay charge will apply from the nominated sailing time for every hour or part thereof to a maximum of two hours.

After two hours delay, the pilotage will be deemed to have been cancelled and the service rescheduled at a time to best suit all port ship movements.

Delay charges would work in the following way:

- Where a ship delays pilotage up to 30 minutes after the booked time no delay charge will apply.
- Where a delay period extends beyond 30 minutes and up to 1 hour a delay fee will apply.
- If this delay period extends beyond 1 hour a further delay fee will apply.
- If this delay extends beyond 2 hours the service will be considered cancelled.

Phased Arrival or Departure Services

In specific circumstances it may be a cost benefit to the pilotage service and the port as a whole to provide a phased arrival or departure pilotage service to particular ships. Where this split pilotage occurs it is proposed only one pilotage charge be levied. The circumstances under which this can occur are:

- Where a pilot disembarks from a departing ship at the fairway and would otherwise be returning to the port pilot base, it may be beneficial to the pilotage service and the port to transfer this pilot to another ship to facilitate the first phase of that ship's berthing program. On completion of the final phase of the berthing program only a single pilotage fee would apply to this two phased operation; and
- Where the pilotage movements are performed at the request of the Pilotage Service with the full knowledge and approval of the Regional Harbour Master, the ship's agent and the ship's master.

Pilotage Charge for Exempt Masters

In some ports it has been noted on a number of occasions that exempt masters of inbound ships are requesting a pilot after they have navigated the channel, which for current exempt ships is a reasonably straightforward operation. Under present regulations the ship is only charged for a removal, based on distance rather than the full pilotage.

For such movements a full pilotage fee will be applied whenever an exempt master uses the services of a pilot.

Restricted Use Flags

The issuing of restricted use flags (RUFs) to some ships has been identified as a service that does not recover the full cost of service provision. It is proposed to apply new RUF fees on the basis of 5 length categories as follows:

A restricted use flag for ships intending to undertake an intrastate voyage, of length:

- less than or equal to 50 m LOA will cost $61.80
- greater than 50 m LOA but less than or equal to 80 m LOA will cost $132
- greater than 80 m LOA but less than or equal to 150 m LOA will cost $280
- greater than 150 m LOA but less than or equal to 200 m LOA will cost $440
- greater than 200 m LOA will cost $600, all inclusive of GST.

5 Legislative Intent (S44(c))

Policy objectives will be achieved by establishing consistent requirements for pilotage and setting port pilotage fees that:

- recover the full cost of providing state-wide port pilotage services;
- re-establish a consistent basis for pilotage fees for all ports including Brisbane; and
- are consistent with Treasury guidelines for the costing of government services.

6 Consistency with Authorising Law (S44(d))

The proposed amendment to the fees charged for pilotage is consistent with Sections 209 (1) and 215 (1) – Part 18 of the Transport Operations (Marine Safety) Act 1994 that provides for appropriate fees to be set for restricted use flags and the port pilotage service.

7 Consistency with Other Legislation (S44(e))

There are no inconsistencies with policy objectives of other legislation.

8 Alternatives (S44(F))

Retaining the Existing Fees

Retaining the existing fees will not provide sufficient revenue from the state-wide pilotage service to offset the direct and indirect costs of service provision.

Existing inconsistencies between ports (specifically involving the port of Mackay), significant under cost recovery from some specific services and the current lack of transparency would remain as would the existing problems inherent with fees being applied through gross tonnage (GT).

Full Cost Recovery from Individual Ports

Full cost recovery from individual ports would address concerns regarding cross-subsidisation between ports.

Such an approach would, however, result in significant increases to users that typically have little capacity to pay.

By adopting an approach of full cost recovery on a port-by-port basis government's ability to support developing and essential low volume ports would be removed.

Increases to pilotage fees in low volume remote ports such as Thursday Island would be likely felt by its communities through the cost of essential goods and services.

Application of a Single State-wide Pilotage Fee across All Ports

A single fee applied across all Queensland ports offers improved consistency, however, due to the characteristics of Queensland ports highly cost efficient pilotage operations such as those in place in Hay Point would see price increases over those proposed to all but ships of LOA 270 metres and above.

Additionally, there is less opportunity to reflect the actual cost of service provision at individual ports through the fees set. Under a single rate model, ships requiring a pilotage service in Gladstone would pay the same as ships in Hay Point. The average time for the service in Gladstone is, however, approximately twice that of Hay Point. Government's ability to support developing and essential low volume ports would also be significantly restricted.

9 Cost Benefit Assessment (S44(g))

The proposed approach ensures full cost recovery and aims to ensure smaller tonnage ships and ships visiting remote location ports pay a rate that is considered to be appropriate and sustainable.

The proposed approach will ensure pilotage fees do not adversely affect employment security in remote areas of the state or the viability of any port in the state network.

10 Consistency with Fundamental Legislative Principles (S44(h))

There are no implications for fundamental legislative principles arising from the proposed changes to pilotage fees.

11 Other Relevant Considerations

The approach to fee setting remains largely consistent with all other jurisdictions within Australia except with respect to the method of application - LOA against GT. LOA is, however, used in some overseas jurisdictions.

There are no negative issues associated with the move to this method of charging for Queensland port pilotage services.

12 Risk Assessment

An assessment of the actual cost of pilotage against total ship visit costs in Queensland ports other than Brisbane has not been made. However, the Commonwealth Government Bureau of Transport and Regional Services publication Waterline (September 2002, Issue 32) quotes the cost of pilotage in Brisbane for ships 15 000 to 20 000 and 35 000 to 40 000 GT during the period January to June 2002 as representing about 4 per cent of the total ship visit charges.

The risk to be controlled centres on ensuring overall budget neutrality while balancing fee increases in remote and low volume port operations such as Thursday Island and Karumba with those planned for the larger port operations of Brisbane, Gladstone and Hay Point.

The proposed fees aim to provide a means by which government can support any of its port pilotage operations from state pilotage revenue.

The direct risk in implementing the proposed fees is expected to lie with a possible adverse reaction from the larger trade ships at all ports, and specifically the port of Mackay, and all ships visiting the port of Gladstone.

In Mackay if the fees proposed are approved by government for implementation, ships above a GT of 17 000 tonnes that require pilotage will move from the flat rate fee of $1 606 per movement up to about $2 177 for a ship of LOA 210 metres.

Again if the proposed fees are approved, the naval ship USS Reuben James - length 138.1 metres (LOA) and GT of 2 750 tonnes - when visiting the port of Brisbane will experience the largest increase in dollar terms, rising from a current $700 to $2 378. Correspondingly, the ship Superstar Leo at a length of 268.60 metres (LOA) and a GT of 75 338 tonnes when arriving or departing Cairns will receive the biggest decrease, from a GT based fee of $4 594 down to a proposed $2 771.

All charges quoted are exclusive of GST.

Table 2 provides a comparison between the existing fees and the new fees proposed by port and by categories of ship tonnage and ship's lengths.

While there are instances of specific ships being affected by significant fee increases the proposed fees attempt to simply address inconsistencies that currently exist and better reflect the true cost of the service.

In line with the intention to improve alignment between fees and costs CPI will no longer be automatically applied to pilotage fees each year. Under this proposal future changes to pilotage fees will be based on variations in the cost of service provision.

The proposed fees are seen as consistent, affordable and the most appropriate for the port pilotage service within the state.

Table 1 Projected Revenue 2004/05 Based on Current GT Fees and Proposed LOA Fees (Excludes GST)

04/05	Revenue based on Present Rate (2004/05) Fees and 2002/03 Shipping Projected to 2004/05		Revenue based on LOA Rate (2004/05) Fees and 2002/03 ShippingProjected to 2004/05		Revenue based on Present Rate (2004/05) Fees and 2002/03 Shipping Projected to 2004/05	Revenue based on LOA Rate (2004/05) Fees and 2002/03 Shipping Projected to 2004/05
Port	Arrivals and Departures	Removals	Arrivals and Departures	Removals	Arrivals and Departures and Removals	Arrivals, Departures and Removals
Abbot Point	842,493	0	676,713	0	842,493	676,713
Brisbane	14,163,754	221,413	14,595,539	375,631	14,385,167	14,971,170
Bundaberg	67,943	0	88,070	0	67,943	88,070
Cairns	462,909	27,926	548,445	30,148	490,834	578,593
Cape	145,016	0	165,718	0	145,016	165,718
Gladstone	4,656,713	25,062	5,585,711	52,755	4,681,775	5,638,466
Hay Point	3,866,324	207,727	4,219,645	106,727	4,074,051	4,326,372
Karumba	70,269	7,421	62,949	3,392	77,690	66,341
Lucinda	88,228	0	69,976	0	88,228	69,976
Mackay	507,627	1,703	482,438	581	509,331	483,019
Mourilyan	146,572	0	126,553	0	146,572	126,553
Port Alma	92,321	395	137,165	664	92,716	137,829
Thursday Island	33,283	1,349	28,296	559	34,632	28,855
Townsville	2,113,126	25,969	2,256,054	34,246	2,139,095	2,290,300
Weipa	667,685	56,587	745,248	28,723	724,271	773,972
All Ports	27,924,261	575,552	29,788,521	633,426	28,499,814	30,421,947

The smaller port operations of Southport, Maryborough, Hervey Bay, Port Douglas and Cooktown do not figure in state revenue projections

Table 2 Comparison of Existing/Proposed Fees by Ship Size by Port

	Abbot Point		Gladstone		Hay Point		Brisbane		
	Existing fee	LOA proposed fee	Existing fee	LOA proposed fee	Existing fee	LOA proposed fee	Existing fee	LOA proposed fee	
GT '000	$	$	$	$	$	$	$	$	LOA (m)
5	1,237	864	461	1,269	1,167	860	1,016	1,505	**100**
10	1,414	1,317	923	1,947	1,274	1,309	2,031	2,310	**135**
15	1,591	1,629	1,384	2,414	1,381	1,618	2,628	2,864	**160**
20	1,768	1,747	1,845	2,590	1,488	1,734	3,224	3,073	**170**
25	1,945	1,864	2,129	2,766	1,596	1,851	3,615	3,282	**180**
30	2,122	1,982	2,413	2,943	1,703	1,967	4,007	3,491	**190**
35	2,299	2,194	2,698	3,260	1,810	2,177	4,114	3,868	**210**
40	2,476	2,335	2,982	3,471	1,917	2,317	4,221	4,118	**225**
45	2,653	2,570	3,159	3,823	2,024	2,550	4,328	4,537	**250**
50	2,830	2,570	3,336	3,823	2,131	2,550	4,435	4,537	**250**
55	3,007	2,570	3,513	3,823	2,239	2,550	4,543	4,537	**250**
60	3,184	2,612	3,690	3,885	2,346	2,591	4,650	4,610	**255**
65	3,361	2,653	3,867	3,947	2,453	2,631	4,757	4,683	**260**
70	3,538	2,735	4,044	4,070	2,560	2,713	4,864	4,829	**270**
75	3,716	2,735	4,221	4,070	2,667	2,713	4,971	4,829	**270**
80	3,893	2,900	4,398	4,317	2,774	2,876	5,078	5,122	**290**
85	4,070	2,900	4,575	4,317	2,882	2,876	5,186	5,122	**290**
90	4,247	2,900	4,752	4,317	2,989	2,876	5,293	5,122	**290**
95	4,424	2,900	4,929	4,317	3,096	2,876	5,400	5,122	**290**
100	4,601	2,900	5,106	4,317	3,203	2,876	5,507	5,122	**290**
	Cairns		Townsville		Weipa		Cape Flattery		
	$	$	$	$	$	$	$	$	
5	503	873	461	877	1,151	1,383	1,200	898	**100**
10	1,006	1,337	923	1,345	1,455	2,132	1,340	1,390	**135**

15	1,510	1,656	1,384	1,667	1,758	2,648	1,479	1,729	**160**
20	2,013	1,776	1,845	1,788	2,062	2,842	1,619	1,856	**170**
25	2,320	1,896	2,129	1,910	2,365	3,037	1,759	1,984	**180**
30	2,628	2,017	2,413	2,032	2,669	3,231	1,899	2,112	**190**
35	2,935	2,233	2,698	2,250	2,972	3,582	2,039	2,342	**210**
40	3,243	2,378	2,982	2,396	3,275	3,815			**225**
45	3,433	2,619	3,159	2,639	3,433	4,204			**250**
50	3,624	2,619	3,336	2,639	3,601	4,204			**250**
55	3,815	2,619	3,513	2,639					**250**
60	4,005	2,661							**255**
65	4,196	2,703							**260**
	Lucinda		**Mackay**		**Bundaberg**		**Port Alma**		
	$	**$**	**$**	**$**	**$**	**$**	**$**	**$**	
5	1,165	859	1,606	860	461	872	461	850	**100**
10	1,482	1,306	1,606	1,309	923	1,334	923	1,288	**135**
15	1,798	1,614	1,606	1,618	1,384	1,652	1,384	1,589	**160**
20	2,115	1,730	1,606	1,734	1,845	1,772	1,845	1,702	**170**
25	2,432	1,846	1,606	1,851	2,129	1,892	2,129	1,816	**180**
30	2,749	1,962	1,606	1,967					**190**
35	3,066	2,171	1,606	2,177					**210**
	Mourilyan		**Thursday Island**		**Karumba**				
	$	**$**	**$**	**$**	**$**	**$**			
5	1,165	861	636	777	785	788			**100**
10	1,482	1,312	636	1,191					**135**
15	1,798	1,621							**160**
20	2,115	1,738							**170**
25									**180**

Existing fees appear in the shaded columns

Note 1 For comparative purposes fees are shown exclusive of GST

Note 2 While there is a strong correlation between GRT and length there will be some variation from vessel to vessel

Note 3 GT fees are based on 04/05 fees

ENDNOTES

1 Laid before the Legislative Assembly on . . .

2 The administering agency is the Department of Transport.