

Tabled, by leave,

MS Sharpe

Shelton

MARINE SAFETY AMENDMENT BILL 2024

STATEMENT OF PUBLIC INTEREST

Clerk of the Parliaments

Need: Why is the policy needed based on factual evidence and stakeholder input?

A review of the Marine Safety Regulation 2016 (the Regulation) considered whether the legislative framework for marine safety remains effective. It considered the objectives of the *Marine Safety Act 1998* (the Act) and the Regulation's suitability for the current and expected future NSW waterways and maritime environment, along with stakeholder feedback provided during consultation.

Transport for NSW (Transport) exhibited amendments to the Act to complement the proposed Regulation changes. These amendments received public support and Transport considered the feedback received alongside the available data and evidence. Transport developed further administrative and technical amendments in response to current and emerging issues on the waterways.

Boating is a popular hobby for many NSW residents. As of 30 June 2024, there are approximately 460,000 people who hold a recreational vessel driving licence and 215,000 registered recreational vessels in the state. Almost one in five NSW households own a boat or watercraft and it is estimated that two million people go boating each year on the state's waterways. Additionally, our waterways are used by a significant number of visitors from other states, particularly along our borders.

Fifteen boating fatalities and 37 serious injuries were reported in the 12 months up to 30 June 2024.

Objectives: What is the policy's objective couched in terms of the public interest?

The Bill will update and streamline the existing marine safety legislation to ensure it remains up-to-date and responds to current and emerging maritime safety issues. An improved maritime safety framework contributes to improved safety, economic and environmental outcomes which are all in the public interest.

Specifically, the Bill will:

- Support marine businesses by enabling a flexible and transferable aquatic licence framework.
- harmonise NSW's marine pilotage requirements with other jurisdictions.
- provide greater safety and a more robust licensing framework for marine pilots.
- enable Port Authority to declare offshore anchorage areas to help minimise the impacts of large ship anchors on our marine environments.
- enable Port Authority and Transport to manage discarded items on the seabed such as anchors and sunken vessels more effectively.
- strengthen the legislation to better manage disused sea cables.
- provide greater clarity and transparency in the vessel registration and transfer regime including making more information available to prospective buyers.
- enable Transport to manage derelict, abandoned and unseaworthy vessels such as end-of-life vessels and former vessels more effectively.

Options: What alternative policies and mechanisms were considered in advance of the Bill?

The amendments are required to give effect to the NSW Government's commitment to regular reviews under the Better Regulation Principles.

Broadly, three options were considered: to proceed with all proposed amendments, to proceed with one or more proposed amendments, to not proceed with any of the proposed amendments and retain the status quo, thus retaining the current Act.

The first option is preferred as it best improves the Act and supports its objects, which are:

- to ensure the safe operation of vessels in ports and other waterways
- to promote the responsible operation of vessels
- to provide an effective framework for the enforcement of marine legislation and
- to consolidate marine safety legislation.

Not proceeding with this option would also mean two exhibited regulation amendments could not be made.

Analysis: What were the benefits/costs of each option considered?

The table below covers the details of changes to the Act. Benefits and costs were considered and it was determined that the amendments provide safety and administrative benefits at little to no direct cost to the industry and the public as follows.

#	Act changes	Benefits/costs
1.	Increase the minimum length of vessel requiring compulsory pilotage from 30 metres to 35 metres	<p>Net Benefits</p> <p>Modernises and improves consistency in marine pilotage requirements across Australian jurisdictions.</p> <p>Provides benefits of greater clarity on matters covered under the Act and ensures it remains fit for purpose by updating and modernising legislation in line with current and expected future practice, including streamlining the Act where appropriate.</p> <p>This will likely lead to a small reduction in the overall number of vessels requiring a marine pilot, a master to hold a Certificate of Local Knowledge (COLK), or a marine pilot exemption certificate. This is not expected to be significant, as the number of Domestic Commercial Vessels between 30 to 35 metres are in the towage industries or ferries and it is typically already a requirement for the masters of these vessels to hold a COLK.</p>
2.	Introduce cancellation of marine pilot licences on notification	<p>Net Benefits</p> <p>Provides a more robust marine pilotage licensing framework to support port safety.</p>
3.	Declaration of offshore anchorages	<p>Net Benefits</p> <p>Provides a safe location for merchant vessels to anchor while awaiting entry into the port.</p> <p>Improves ecosystem values, environmental outcomes, and the management of sensitive marine habitats. Supports protection and possible rejuvenation of natural habitats in port areas by reducing anchor scour from large merchant vessels.</p> <p>Supports efficient and effective port management.</p>

#	Act changes	Benefits/costs
		Supports the ongoing monitoring of vessels' environmental performance to help identify opportunities for improvement and assess new initiatives.
4.	Removal of items discarded on seabed	<p>Net Benefits</p> <p>Streamline and modernise the legislative framework.</p> <p>More effective management of discarded items on the seabed including anchors and sunken vessels.</p> <p>Strengthens enforcement of waterways safety and security directions to support safe and efficient operations and management of waterways.</p>
5.	Removal of disused sea cables	<p>Net Benefits</p> <p>Provides greater clarity on matters covered under the Act and ensures it remains fit for purpose by updating and modernising legislation in line with current and expected future practice, including streamlining the Act where appropriate.</p> <p>Reduces costs to industry due to reduced safety incidents and maximises future utility of commercial ports.</p>
6.	Vessel registration and transfer improvements	<p>Net Benefits</p> <p>Provides clarity on vessel registration transfer procedures, requirements (e.g., producing proof of seaworthiness), conditions, and obligations.</p> <p>Provides greater transparency in the vessel registration and transfer regime including making more information available to prospective buyers.</p> <p>Supports enforcement of remedial action to be undertaken by the vessel owner or 'person responsible' in circumstances where their vessel is at risk (or where that risk has already manifested) of polluting the waterways or if the vessel is causing a public safety issue.</p> <p>Reduces salvaging cost to the government via improved management of risk.</p> <p>Provides greater clarity on matters covered under the Act and ensures it remains fit for purpose by updating and modernising legislation in line with current and expected</p>

#	Act changes	Benefits/costs
		future practice, including streamlining the Act where appropriate.
7.	Improved management of unsafe vessels, including end-of-life and former vessels	<p>Net Benefits</p> <p>Supports effective management of former vessels and end-of-life vessels.</p> <p>Supports efficient enforcement of remedial action to be undertaken by the 'person responsible' in circumstances where their vessel is at risk (or where that risk has already manifested) of polluting the waterways or if the vessel is causing a public safety issue or navigational risk.</p> <p>Reduces economic and environmental costs of such vessels to the government.</p>
8.	Amended aquatic licence framework to regulate maritime commercial businesses	<p>Net Benefits</p> <p>Enables more effective regulation of commercial and non-commercial activities with different periods and conditions.</p> <p>Creates greater business certainty by enabling commercial businesses to transfer their aquatic licence to new owners.</p> <p>Ensures businesses operating on waterways maintain practices that optimise public safety.</p> <p>Enables increased investment in maritime-related commercial activities. It also provides a clearly-defined pathway and economic opportunities for new entrants to enter the market.</p> <p>Costs</p> <p>Any costs incurred under the new class of licence is comparable to existing costs that businesses pay Transport.</p>
9.	Introduction of special recreational vessel permit as a marine safety licence (This will be further introduced as an amendment to the Regulation)	<p>Net Benefits</p> <p>Allows recreational vessels 35 metres or above whose master holds a special recreational vessel permit to be exempted from compulsory pilotage while ensuring high navigational safety standards.</p>

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The legislative provisions will commence on assent of the Bill. The policy will be administered under delegation by Transport and the Port Authority of NSW.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

Relevant government agencies were consulted on the development of the Bill and Transport held broad public consultation on the review of the Marine Safety Regulation 2016, which also resulted in four proposed amendments to the Act.

Transport exhibited four changes to the Act in a discussion paper from November 2022 to January 2023. At the same time, Transport exhibited a policy options paper which proposed legislative changes for dealing with end-of-life vessels. The proposed amendments received public support. The remaining changes in the Bill are minor amendments which were not exhibited because they are administrative and technical. These were consulted on with relevant agencies including NSW Police and Heritage NSW.

The Bill supports the objectives of the NSW Government's Maritime Safety Plan 2026 which aims to achieve zero fatalities and serious injuries on NSW waterways by 2056. It also contributes to achieving Transport's commitments to safe and sustainable boating under the NSW Marine Estate Management Strategy.

MINISTER FOR TRANSPORT
25 September 2024

