
From: Balthazar, Michael
Sent: Tuesday, 11 July 2017 2:47 PM
To: Bennett, JamesP; Walters, Daniel
Cc: Metcalf, David
Subject: RE: [J2017-246] Lakes Amendment Bill 2017 [DLM=Sensitive: Cabinet]

Hi James / Daniel

Thank you for the drafting instructions for the Lakes Regulation for safety/navigation. We will begin drafting this.

Also, thank you for the comments on the Bill. We will produce a new version of the Bill based on these comments.

For the next version of the Bill, I will put in the wording for s 25B that you suggest and we can discuss this further as things progress.

In terms of your comments on s 25B, we note that the exemption is currently worded in version D01 to prevent someone operating a power boat at a speed of 10 knots or more on a lake without a licence. As you suggest, we can change this exemption to exempt a person operating a power boat that is not capable of a speed greater than 10 knots.

However, we note that s 15 of the *Jervis Bay Territory Marine Safety Ordinance 2016 (Cwlth)*, r 102(1) of the *Marine Safety Regulation 2016 (NSW)*, and the NSW licence restrictions that you quote all exempt based on the speed that the powerboat is being operated rather than on the capability of the powerboat itself to attain a certain speed. We think that one of the reasons for this is that it could be cumbersome in a prosecution to adduce the type of evidence needed to prove that a powerboat has the capability to attain a certain speed.

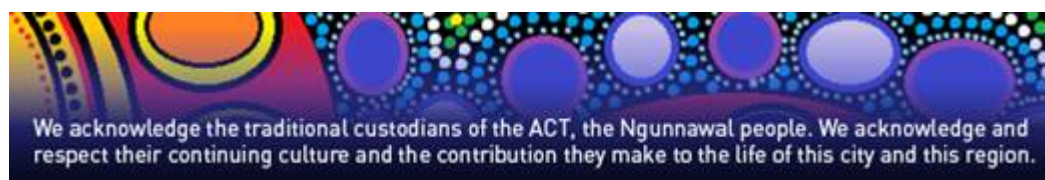
If you wanted to focus on the capability of the boat rather than the actual operation of the boat you could base the exemption in s 25B on the power rating of the engine: a power boat is exempt if it has an engine of with a power rating under 4KW etc. (I assume the power rating is written on the engine and would be easy to prove.) This would be similar to the registration requirements from NSW that you quote.

Kind regards

Michael Balthazar | Assistant Parliamentary Counsel 1

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Parliamentary Counsel's Office | Justice and Community Safety Directorate | ACT Government
Level 3, 12 Moore Street, Canberra City, ACT 2601 | www.legislation.act.gov.au



From: Bennett, JamesP
Sent: Monday, 10 July 2017 5:35 PM
To: Balthazar, Michael
Cc: Kimber, Bianca; Metcalf, David; Walters, Daniel; Chester, Heath
Subject: RE: [J2017-246] Lakes Amendment Bill 2017 [DLM=Sensitive: Cabinet]

Hi Michael

I met with Daniel Walters and Heath Chester from our policy and regulation teams last week to discuss the draft of the bill.

Please find attached our responses included as comments.

Also, we have some general comments below:

- Please go ahead and prepare the Lakes Regulation for safety/navigation – please base this off the Jervis Bay Ordinance provisions
- Please ensure that the Magistrates Court Infringement notice regs are also updated to reflect the new offences
- In relation to the amendment to s 25B, we propose the new wording in the attached document (highlighted in yellow)
 - Some background information on the objective of the provision and the rationale for the new wording is provided.

Daniel Walters [REDACTED], so please send any questions you have through to both of us, and we will discuss and get back to you.

Thanks
James

From: Balthazar, Michael
Sent: Friday, 30 June 2017 4:58 PM
To: Bennett, JamesP
Cc: Kimber, Bianca; Metcalf, David
Subject: [J2017-246] Lakes Amendment Bill 2017 [DLM=Sensitive: Cabinet]

Hi James

Please find attached version D01 of the Lakes Amendment Bill 2017.

I look forward to getting your feedback on the Bill so that we can produce another version.

The Bill includes a series of questions, which are written in notes, for you to consider.

Please feel free to contact me if you have any questions.

Regards

Michael Balthazar | Assistant Parliamentary Counsel 1

Phone: + 61 2 6205 3704 | Fax: +61 2 6205 3703

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Level 3, 12 Moore Street, Canberra City, ACT 2601 | www.legislation.act.gov.au



From: Bennett, JamesP
Sent: Tuesday, 15 August 2017 11:06 AM
To: Lane, Annie
Cc: Walters, Daniel; Dunstan, David; Wilden, Karen; Marcantonio, Laura; EPDCAB
Subject: FW: Lakes Amendment Bill 2017 [DLM=Sensitive]

Hi Annie

I wanted to provide you with an update on the progress of the Lakes Amendment Bill and the deadlines that are approaching.

TIMELINES

- The Bill is due for introduction to the Assembly on 14 September 2017. The Bill package is due to be considered at the Legislation Sub-Committee of Cabinet meeting on 4 September.
- To meet this date, a final package has to be lodged with the Cabinet office by 28 August, with the Minister's office requesting at least a week to review the package before this lodgement date.
- As you can see from the email below from David Metcalf from PCO, we are not in a position to finalise the bill and regulations before this date.
- In my estimation, the drafting will take at least 4 weeks to have a final bill and regulations. David has provided a summary of the complexities of the drafting process below.

FURTHER CONSULTATION

- We also then need to consult with key stakeholders on the final versions of the bill and regulations.
- These stakeholders include the NCA, the AFP and the Lake Manager's Group which includes other ACT Government agencies.
- We are also introducing a large number of offence provisions in the Bill and regulations which we will need to consult on with JACS Criminal Law Policy and Human Rights teams and the Human Rights Commission. This is likely to take another couple of weeks.

OUTCOME:

- At this stage I estimate that we have another 6-8 weeks of solid work to finalise the Bill, regulation and associated supporting package.
- We are unable to meet the September introduction date.
- We should ask permission from Ben, the Minister's office and the Chief Minister to delay the introduction date. I would suggest that a November introduction is much more realistic at this point in time.

PROPOSED ACTION:

- Could you please consider this information and raise with Ben the need to delay the Bill.
 - Our team can help with preparing a letter to delay the introduction date if that is decided to be the best way forward.
- Please note that David also raises the idea of a full re-write of the Act if there is no timing imperative to progress the bill. Happy to discuss this further.

Thanks
James

James Bennett | Legislation Services

Phone: 6205 4877 | Email: JamesP.Bennett@act.gov.au

Environment, Planning and Sustainable Development Directorate | ACT Government

Dame Pattie Menzies House, 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601

www.environment.act.gov.au

From: Metcalf, David
Sent: Monday, 14 August 2017 5:55 PM
To: Bennett, JamesP
Subject: Lakes Amendment Bill 2017 [DLM=Sensitive]

Hi James

The Lakes Amendment Bill 2017 is listed on the current legislation program for presentation in the Legislative Assembly on 14 September 2017. To achieve presentation on that date, the Bill needs to be lodged with Cabinet Office by 28 August 2017. We also have instructions to draft a Lakes Regulation to incorporate for safety and navigation that are based on and consistent with the *Marine Safety Regulation 2016* (NSW) and the *Jervis Bay Marine Safety Ordinance 2016* (Cwlth). I understand that the Regulation is to be tabled in the Legislative Assembly when the Bill is presented, to provide the complete picture of the proposed changes to the regulation of lakes in the Territory. I also understand that, following enactment of the Lakes Amendment Bill 2017, the Commonwealth proposes to pass mirror amendments to the *Lakes Ordinance 1976*.

We have to date provided 2 drafts of the Lakes Amendment Bill 2017 and a part draft of the Lakes Regulation 2017 for your consideration. You have arranged a meeting with us to discuss the drafts on Wednesday 16 August, and to provide further instructions in relation to the issues raised in the drafts. You have also instructed that you are consulting stakeholders who will need to review the final drafts.

Subject to your further instructions following our meeting on Wednesday, drafting of the Bill is close to finished, but will require editing once the drafting is completed to your satisfaction. The editing process is likely to take 2-3 days. The Regulation requires quite a bit more drafting for a first complete draft. I don't think that we will be able to provide finalised drafts of the Bill and Regulation by 28 August.

The amendments to the *Lakes Act 1976* are extensive, and the first major amendment of the Act since self-government. A number of complex issues have arisen during the drafting process due to the modernising of older provisions and the interaction of the Lakes Act with the *Lakes Ordinance 1976* (Cwlth). The amendments to the Act and Regulation also introduce several new offence provisions on which I understand you need to consult relevant stakeholders, including JACS Criminal Law Policy and Human Rights, the Australian Federal Police and the Human Rights Commission.

The Act is quite old, and if the amendments are not urgent, I recommend that you take the opportunity now to rewrite the Act entirely. The benefit of rewriting the Act is a modern cohesive law dealing with the management of ACT lakes.

Regards,

David

David Metcalf | Deputy Parliamentary Counsel
(02) 6205 3779

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[a.ct.legislation](http://www.legislation.act.gov.au) 

From: [REDACTED]
Sent: Wednesday, 30 August 2017 8:22 AM
To: Walters, Daniel
Subject: Lake User Group meeting [SEC=UNOFFICIAL]
Attachments: Lake User Group Meeting Agenda 6 September 2017.pdf

Security: Unofficial

Good morning Daniel

Please find attached the agenda for the LUG meeting on Wednesday 6 September Which will be at the new facility for the Capital Lakes Rowing Club, Menindee Drive, Grevillea Beach.

Kind regards



National Capital Authority | Treasury Building, King Edward Terrace, PARKES ACT 2600
GPO Box 373, CANBERRA ACT 2601 | www.nca.gov.au Water Quality: lbgwq.nationalcapital.gov.au | Twitter: @NCA_Media
| #LoveLBG



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Lake User Group (LUG) Meeting Agenda

Trim 324642

Wednesday 6 September 2017

9:00 AM – 10:00 AM

Venue: Canberra Lakes Rowing Facility, Grevillea Beach

- 9:00am 1. Welcome & apologies
- 9:05am 2. Acceptance of Previous Minutes
- 9:10am 3. [Redacted]
- 9:20am 4. [Redacted]
- 9:30am 5. Daniel Walters, Senior Manager Environment Protection Policy, EPSDD
- 9:40 am 6. Items for discussion
 - NCA Update – [Redacted]
- 9:55am 6. Other Business
- 10:10am 7. [Redacted]

Schedule for future LUG meetings 2017:

Wednesday 6 December 2017 – National Capital Exhibition, Regatta Point





OUT OF SESSION ACTION ITEMS

None

Lake Burley Griffin Management – LUG Meeting 6 September 2017

– NCA Estate

Description	Notes
General Lake Maintenance	

From: Walters, Daniel
Sent: Wednesday, 1 November 2017 2:34 PM
To: [REDACTED]
Subject: Lakes Amendment Bill 2017 [SEC=UNCLASSIFIED]

Hi [REDACTED]

FYI, the Bill was introduced in the ACT Legislative Assembly yesterday, without any dissent.

It is scheduled to be debated on 27 November 2017.

We are now working on the Regulations to support the Bill and it would be great if we could organise a meeting of the Lake Managers Forum to discuss the regulations, particularly in relation to NSW classification of waters in the area as Alpine waters. The issue is lifejacket requirements.

Cheers

Daniel Walters

Senior Manager | Environment Protection Policy
Environment, Planning and Sustainable Development Directorate | ACT Government

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File No. T332846

Chair: [REDACTED]

Attendees:

Daniel Walters, Environment Planning Directorate
Joel Kelly, City Services, TCCSD
Margo Lawrence, ACT Property Services, CMETDD
[REDACTED], AMSA
[REDACTED], AFP
[REDACTED] AFP

Date: Friday, 10 November 2017

Location: Griffin Room, NCA

Meeting commenced:

11:00am

Meeting concluded:

11:55am

1. Business arising from last meeting

Chair

- Nil

2. Legislative Review update

Daniel

- Daniel confirmed the ACT's *Lakes Amendment Bill 2017* went before the Legislative Assembly last week with few issues raised. It is anticipated it will be debated on 28-30 November 2017. It copies heavily from the *Jervis Bay Territory Marine Safety Ordinance 2016* and NSW legislation.
- [REDACTED] stated the NCA was waiting for the ACT legislation to pass before commencing the equivalent process for the *Lakes Ordinance 1976* update. [REDACTED] said he was interested in the conversation [REDACTED]
- Daniels legal team are currently developing the associated regulations to match the Bill. Daniel asked the Forum for opinions on the designation of ACT Lakes (including Lake Burley Griffin) to be defined as alpine lakes. The designation of Alpine Waters imposes less exemptions for the requirement for the wearing of life jackets/personal floatation devices (PFD's) for some boat users. In particular, if our lakes are designated alpine waters, single rowers and kayakers would be required to wear life jackets under the proposed regulations. Rowers being accompanied by a support craft or dragon boats are already exempt from this provision. It was agreed that ACT Lakes have similar temperature profiles to lakes in the NSW that are designated as alpine waters.

ACTION: The group agreed that that as our lakes are smaller and are in urban environments, we would not classify ACT Lakes as alpine waters.

3. Other Business

Chair

- [REDACTED]
- [REDACTED]



ACT Lake Manager's Forum Minutes

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-
-
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4. Next Meeting

Chair

Not discussed



Legislative Change for Lakes Management - Meeting with ACT Rowing Community MINUTES

File No. T333586

Chair: [REDACTED], NCA

Attendees: Daniel Walters, EPSDD
[REDACTED], ACT Rowing
[REDACTED], Capital Lakes Rowing Club
[REDACTED], AIS and ANU Rowing
[REDACTED], CGGS and Lake Tuggeranong Rowing
[REDACTED], Black Mountain Rowing

Date: Tuesday, 21 November 2017

Location: NCA Griffin Room, Treasury Building, Parkes

Meeting commenced: 5:00pm **Meeting concluded:** 6:00pm

1. Introduction to Legislative Change Chair

- [REDACTED] provided explanation that due to a Coronial Report of 2015 into a death of a water skier, both NCA and ACT Government agreed to update our respective legislation concerning lake management.
 - ACT Lake Managers and regulators have been meeting since mid-2016 to develop agreed positions for legislative change to Lakes legislation.
 - Currently, the legislation that applies to LBG – *National Land Ordinance 1989* (and associated pre self-government laws) contains the *Lakes Ordinance 1976* - <https://www.legislation.gov.au/Details/C2004H03968>
 - Currently, the legislation that applies to ACT Lakes (including Kingston Harbour, Jerrabomberra Creek and Molonglo Reach) – *Lakes Act 1976* - <http://www.legislation.act.gov.au/a/1976-65/default.asp>
 - It is the intent of both parties to modernise the Lakes legislation to include Drink driving offenses, common legislative language to the new Jervis Bay Act and harmonise regulation of boating safety rules with NSW legislation.
 - The ACT has the *Lakes Amendment Bill 2017* (http://www.legislation.act.gov.au/b/db_57075/default.asp) before the Legislative assembly now. While it was to be voted on in late November, this has been pushed back to February 2018. In the meantime, associated regulation is being developed to provide a lot of the detailed rules. Additionally, Daniel mentioned the Plan of Management for ACT Lakes where a lot of the acceptable uses of water bodies is actually specified.
 - [REDACTED]

2. Designation of ACT Waters as Alpine Waters Daniel

- Daniel introduced the concept of designation of all ACT Waterways as Alpine Waters, as they pertain to NSW legislation. In particular, if ACT waterways were designated as Alpine Waters, there would be less exemptions for the use of PFD's. Most similar water bodies surrounding the ACT have this designation already.
- Alpine waters would still allow all rowers to not be mandatorily required to wear PFD's



Legislative Change for Lakes Management - Meeting with ACT Rowing Community MINUTES

(due to an exception for vessels over 4.8m), however all people in coaching boats would be required to wear PFD's. **DECISION: The group agreed this was an acceptable condition.**

- Dragon boaters were exempt from wearing PFD's due to the size of the vessel and other safety mitigations employed by users.
- All kayakers, canoeist and wind-surfers will be required to wear PFD's on the water

3. Lighting for Rowing

Chair

- The group asked that a consistent lighting rule be developed for the new legislation as it is poorly understood and inconsistently implemented across the ACT.
- The current *Lakes Ordinance* does not specify lights or lighting strength for rowers. General lighting rules are specified in Section 37-40.
- While not legislated, the LBG Traffic Flow Guide (<https://www.nca.gov.au/national-land/lake-burley-griffin-overview/boating-commercial-activity-permits-safety>) specifies Minimum Lighting Recommendations
 - Motorboats should have port and starboard lighting and white light visible from 360°
 - Paddlers and rowers should have solid white lights at bow and stern or a flashing white light visible from 360°
 - Lights should be visible from 1500m in clear conditions
- Daniel asked the group to provide examples of useful lighting rules and regulations for consideration in regulation development. **ACTION: Examples to be provided to** [REDACTED]

4. Permits and Licencing

Chair

- The new legislation proposes the cessation of requirements for boat permits for vessels that travel less than 10knots, including fishing boats with electric motors, sailing boats and traditional boats. It is anticipated that coaching and judging support vessels will still require a permit, as will work boats with petrol motors and commercial boats. These category of boats will still be required to be operated by licenced drivers.

File No. T334923

Chair:

Attendees:

[REDACTED]
Daniel Walters, EPSDD
[REDACTED], Burley Griffin Canoe Club
[REDACTED], Burley Griffin Canoe Club
[REDACTED], Canberra Yacht Club
[REDACTED], Wetspot
[REDACTED], Dragon Boat

Date: Tuesday, 12 December 2017

Location: NCA Griffin Room, Treasury Building, Parkes

Meeting commenced: 5:00pm Meeting concluded: 6:00pm

1. Introduction to Legislative Change Chair

- [REDACTED] provided explanation that due to a Coronial Report of 2015 into a death of a water skier, both NCA and ACT Government agreed to update our respective legislation concerning lake management.
 - ACT Lake Managers and regulators have been meeting since mid-2016 to develop agreed positions for legislative change to Lakes legislation.
 - Currently, the legislation that applies to LBG – *National Land Ordinance 1989* (and associated pre self-government laws) contains the *Lakes Ordinance 1976* - <https://www.legislation.gov.au/Details/C2004H03968>
 - Currently, the legislation that applies to ACT Lakes (including Kingston Harbour, Jerrabomberra Creek and Molonglo Reach) – *Lakes Act 1976* - <http://www.legislation.act.gov.au/a/1976-65/default.asp>
 - It is the intent of both parties to modernise the Lakes legislation to include Drink driving offenses, common legislative language to the new Jervis Bay Act and harmonise regulation of boating safety rules with NSW legislation.
 - The ACT has the *Lakes Amendment Bill 2017* (http://www.legislation.act.gov.au/b/db_57075/default.asp) before the Legislative assembly now. While it was to be voted on in late November, this has been pushed back to February 2018. In the meantime, associated regulation is being developed to provide a lot of the detailed rules. Additionally, Daniel mentioned the Plan of Management for ACT Lakes where a lot of the acceptable uses of water bodies is actually specified.
 - The NCA intends to piggyback on the ACT process once finalised. This means new legislation for LBG will be likely implemented after the ACT legislation.

2. Designation of ACT Waters as Alpine Waters Daniel

- Daniel introduced the concept of designation of all ACT Waterways as Alpine Waters, as they pertain to NSW legislation. In particular, if ACT waterways were designated as Alpine Waters, there would be less exemptions for the use of PFD's. Most similar water bodies surrounding the ACT have this designation already.
- Daniel described the circumstances where wearing PFD's would be required as intended in



Legislative Change for Lakes Management - Meeting with Miscellaneous Lake User Community

the new Legislation:

- Kayak's under 4.8 metres in length will require PFD's to be worn.
- Kayak's over 4.8m or kayak operated in groups in competition will be exempt from wearing PFD's.
- Dragon Boats operators are exempt from wearing PFD's in all circumstances
- All vessels under 4.8 metres, including coaching and judging boats and recreational fisherman, will be required to wear pfd's at all times.
- [REDACTED] raised that there is inconsistency in interpretation of NSW rules around wearing PFD's as competitive paddlers are required to wear PFD's at all times in NSW, including competition events. Daniel said he would undertake more research to clarify this issue.
- [REDACTED] said that the legislation is intended as minimum rules and that the clubs have a duty of care to enforce best practices measures over and above the legislation.

3. Lighting for Rowing

Chair

- The group asked that a flashing white lighting rule be developed for the new legislation as that is easiest to see at night on water.

4. Permits and Licencing

Chair

- The new legislation proposes the cessation of requirements for boat permits for vessels that travel less than 10knots, including fishing boats with electric motors, sailing boats and traditional boats. It is anticipated that coaching and judging support vessels will still require a permit, as will work boats with petrol motors and commercial boats. These category of boats will still be required to be operated by licenced drivers.

5. Consultation

Chair

- Daniel explained their isn't a formal consultation process for this legislative reform, but was willing to consult with Lake Users through the LUG Secretariat (NCA), on issues around exemption on PFD use and small craft lighting.

From: Balthazar, Michael
Sent: Thursday, 14 December 2017 4:37 PM
To: Bennett, JamesP
Cc: Walters, Daniel; Metcalf, David; Georges, Sandra
Subject: RE: Updated lifejacket and safety equipment instructions [SEC=UNCLASSIFIED]

Thanks James.

Lifejackets

As discussed on the phone, in relation to the you also wanted an operator to be liable for an offence if they operate a boat while a person is not wearing a lifejacket.

Summary of policy position:

- Must wear a lifejacket if on a boat less than 4.8m – any time of day/night – children and adults
 - Except for kiteboards, windsurfers, paddle boards and surfboards

Lighting rules/ navigation rules- for the regulation

Did you want to put in the regulation the-

- (a) lighting rules from Div 5.1 of the Act and the rules from Div 5.2 of the Act; or
- (b) the Convention on International Regulations for Preventing Collisions at sea (applying these to inland waters as NSW has done in Schedule 4 of the Marine Safety Regulation 2016).

It would be good to get a view from those that use the lake about what lights they currently use on their boats and which of these rules they tend to follow. It would be good to understand what rules they use to navigate the lake and whether they follow what is in the Act or the Convention. In both cases, it would also be good to understand which is most suitable for lakes in the ACT and why NSW decided to apply these to inland waters with some modifications in certain circumstances.

Thanks.

Michael

From: Bennett, JamesP
Sent: Thursday, 14 December 2017 2:03 PM
To: Balthazar, Michael <Michael.Balthazar@act.gov.au>
Cc: Walters, Daniel <Daniel.WALTERS@act.gov.au>; Metcalf, David <David.Metcalf@act.gov.au>; Georges, Sandra <Sandra.Georges@act.gov.au>
Subject: Updated lifejacket and safety equipment instructions [SEC=UNCLASSIFIED]

Hi Michael

We have had some further discussions with user groups to resolve the lifejackets policy.

Please see the below for updated instructions. Could you please give me a call to discuss the best way forward.

Alpine Waters and Towing (updated instruction 13 December 2017)

Meeting held on 12 December 2017 at the NCA with Burley Griffin Canoe Club, Canberra Yacht Club, Wetspot and Dragon Boat operators.

The proposed adoption of lifejacket requirements for NSW alpine waters in the ACT was discussed. Similar to the previous meeting with AIS and sailing and rowing clubs there was general support for lifejackets to be mandatory for all persons on a boat where boat is less than 4.8 metres in length. The AIS elite K1 and above vessels similar to the AIS rowing vessels are all greater than 4.8m in length.

Bill

In light of these discussion and previous discussion with lake users and sporting clubs these requirements can be achieved by removing existing section subsection 41(3)(d) which would mean any person on a boat less than 4.8 metres on a lake must wear a lifejacket. This would make current section 41(1) and 41(2) redundant as all person on a boat at any time (i.e. day or night) would be required to wear a like jacket. This would also make section 40(1) redundant as again any person on a boat would be required to wear a life jacket irrespective of age. Retain section 40(2) as this applies to larger boats under 8 metres where a child under 12 years is on board.

Summary of policy position:

- Must wear a lifejacket if on a boat less than 4.8m – any time of day/night – children and adults
 - Except for kiteboards, windsurfers, paddle boards and surfboards

(For your info – AIS rowing, elite sporting kayaks etc are all over 4.8m. Recreational craft may be under 4.8m and operators will be required to wear a lifejacket)

Regulations

Another topic of discussion was the requirement for rowing, kayak and canoes operating at night or low visibility to have a white light (constant or flashing) visible for 1-1.5 km on the boat. This is a safety equipment requirement which can be included in the Regs.

The following is from the NSW boating hand book and would provide a good example of requirement for regulation: Paddle or rowing during daylight hours where paddling or rowing in restricted visibility or between sunset and sunrise, exhibit two all round continuous or flashing white lights, one attached to the canoe or kayak at or near the forward end and the other one attached at or near the aft end. The light is to be visible in clear conditions from a distance of one kilometre and may be masked so as not to interfere with the vision of the occupants, provided at least one light is visible from any direction.

Discussions with groups suggested one light was sufficient as rowers would fix to the bow and canoes would fix to the stern to no interfere with the operators.

Dragon boats – more info to come.

From: Walters, Daniel
Sent: Wednesday, 13 December 2017 10:39 AM
To: Bennett, JamesP <JamesP.Bennett@act.gov.au>
Subject: Alpine Waters.docx [SEC=UNCLASSIFIED]

James

Have updated instructions as discussed

Regards

Daniel

From: Walters, Daniel
Sent: Friday, 15 December 2017 10:58 AM
To: Bennett, JamesP
Subject: RE: Updated lifejacket and safety equipment instructions [SEC=UNCLASSIFIED]

James

The lighting rules in the Act remain current and consistent with International Convention. Have included below a diagram for information, these rules are international and haven't changed and are applied by manufactures of boats so please include in Regulation. This is preferable as rules are readily available rather than having to find, makes it easier for regulated and regulators.

In relation to s37 of the Act the contemporary maritime reference rather than at 'night' where these lighting rules are triggered is "between sunrise and sunset or in restricted visibility".

In relation to length of vessels mentioned in s38 (1)(a) and s39(1) for consistency the length should be 4.8 metres (not 5m)

In relation to s39 see previous advice where this would apply to small power boats less than 4.8m and any kayak, rowing boat or canoe of any length. During consultation with lake users the provisions missing, consistent with other jurisdictions, was the white light rule for rowing, paddling vessels operating between sun set and sun rise and low visibility. This is particularly relevant in ACT with our foggy mornings when often the rowers, canoes and kayaks are on the water and are hard to see especially the elite athletes training which travel at speed.

Similar to lighting rules, the rules of the water in Div.5.2 of the Act should be included, again taken from international convention as relevant to ACT waters and still current and applicable.

In essence for simplicity of lake users and regulation the previous drafters have taken the relevant rules and included in Act.

In relation to NSW Schedule 4 the modification to the International Convention are generally not relevant to activities on ACT lakes or would be covered in very limited circumstance if they were proposed by commercial activity or other approval conditions (e.g. dredging (maybe), dive operators (unlikely), pilotage duty (unlikely), aquatic activity licenses (unlikely), commuter craft zones (unlikely) etc.

Regards

Daniel Walters

Senior Manager | Environment Protection Policy
Environment, Planning and Sustainable Development Directorate | ACT Government

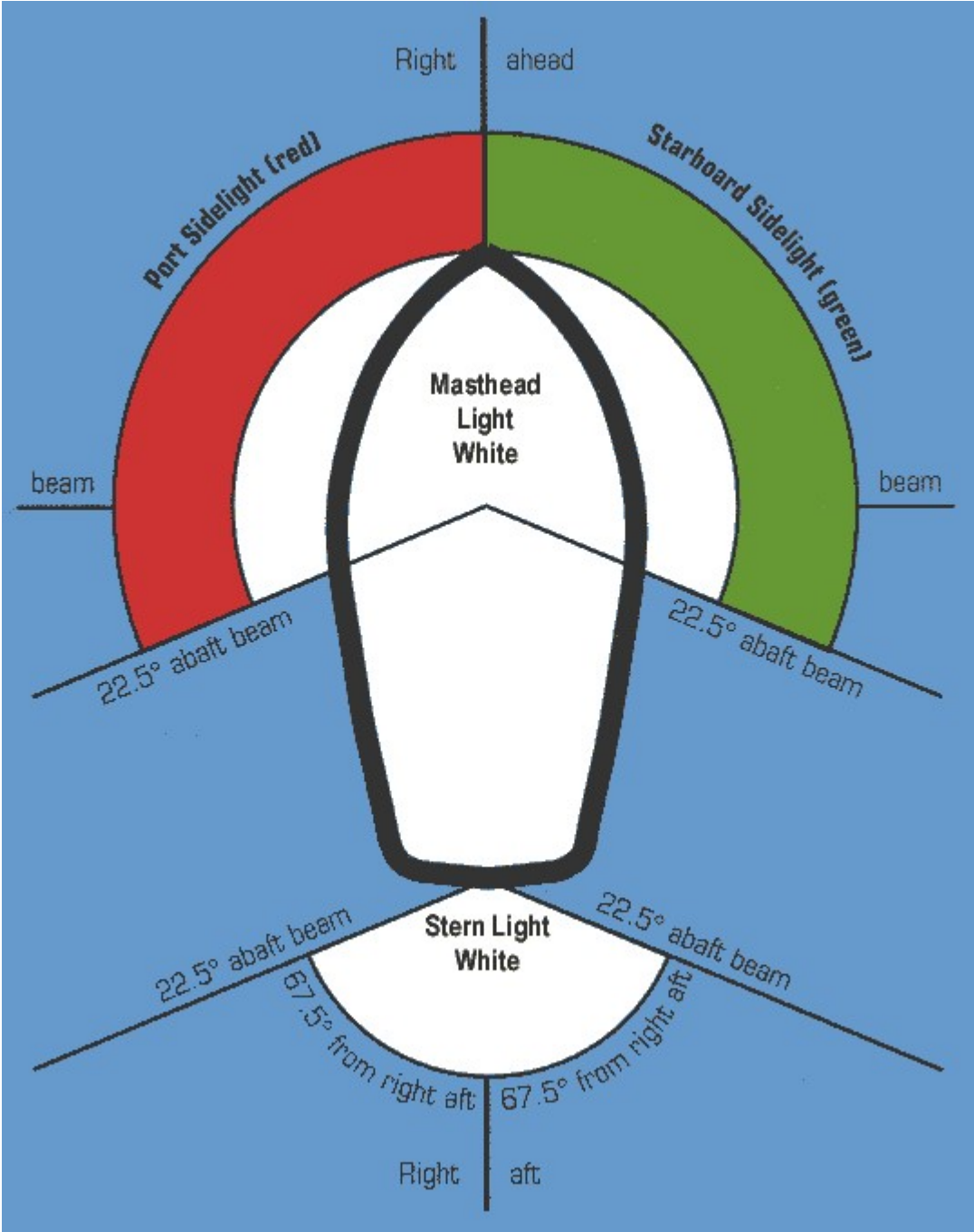
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From: Bennett, JamesP
Sent: Thursday, 14 December 2017 4:41 PM

To: Walters, Daniel <Daniel.WALTERS@act.gov.au>

Subject: FW: Updated lifejacket and safety equipment instructions [SEC=UNCLASSIFIED]

Hi Daniel

Can you please let me know which way you want to go on the lighting rules?

Thanks

James

From: Balthazar, Michael

Sent: Thursday, 14 December 2017 4:37 PM

To: Bennett, JamesP <JamesP.Bennett@act.gov.au>

Cc: Walters, Daniel <Daniel.WALTERS@act.gov.au>; Metcalf, David <David.Metcalf@act.gov.au>; Georges, Sandra <Sandra.Georges@act.gov.au>

Subject: RE: Updated lifejacket and safety equipment instructions [SEC=UNCLASSIFIED]

Thanks James.

Lifejackets

As discussed on the phone, in relation to the you also wanted an operator to be liable for an offence if they operate a boat while a person is not wearing a lifejacket.

Summary of policy position:

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Lighting rules/ navigation rules- for the regulation

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- (b) the Convention on International Regulations for Preventing Collisions at sea (applying these to inland waters as NSW has done in Schedule 4 of the Marine Safety Regulation 2016).

It would be good to get a view from those that use the lake about what lights they currently use on their boats and which of these rules they tend to follow. It would be good to understand what rules they use to navigate the lake and whether they follow what is in the Act or the Convention. In both cases, it would also be good to understand which is most suitable for lakes in the ACT and why NSW decided to apply these to inland waters with some modifications in certain circumstances.

Thanks.

Michael

From: Bennett, JamesP

Sent: Thursday, 14 December 2017 2:03 PM

To: Balthazar, Michael <Michael.Balthazar@act.gov.au>

Cc: Walters, Daniel <Daniel.WALTERS@act.gov.au>; Metcalf, David <David.Metcalf@act.gov.au>; Georges, Sandra <Sandra.Georges@act.gov.au>

Subject: Updated lifejacket and safety equipment instructions [SEC=UNCLASSIFIED]

Hi Michael

We have had some further discussions with user groups to resolve the lifejackets policy.

Please see the below for updated instructions. Could you please give me a call to discuss the best way forward.

Alpine Waters and Towing (updated instruction 13 December 2017)

Meeting held on 12 December 2017 at the NCA with Burley Griffin Canoe Club, Canberra Yacht Club, Wetspot and Dragon Boat operators.

The proposed adoption of lifejacket requirements for NSW alpine waters in the ACT was discussed. Similar to the previous meeting with AIS and sailing and rowing clubs there was general support for lifejackets to be mandatory for all persons on a boat where boat is less than 4.8 metres in length. The AIS elite K1 and above vessels similar to the AIS rowing vessels are all greater than 4.8m in length.

Bill

In light of these discussion and previous discussion with lake users and sporting clubs these requirements can be achieved by removing existing section subsection 41(3)(d) which would mean any person on a boat less than 4.8 metres on a lake must wear a lifejacket. This would make current section 41(1) and 41(2) redundant as all person on a boat at any time (i.e. day or night) would be required to wear a like jacket. This would also make section 40(1) redundant as again any person on a boat would be required to wear a life jacket irrespective of age. Retain section 40(2) as this applies to larger boats under 8 metres where a child under 12 years is on board.

Summary of policy position:

- Must wear a lifejacket if on a boat less than 4.8m – any time of day/night – children and adults
 - Except for kiteboards, windsurfers, paddle boards and surfboards

(For your info – AIS rowing, elite sporting kayaks etc are all over 4.8m. Recreational craft may be under 4.8m and operators will be required to wear a lifejacket)

Regulations

Another topic of discussion was the requirement for rowing, kayak and canoes operating at night or low visibility to have a white light (constant or flashing) visible for 1-1.5 km on the boat. This is a safety equipment requirement which can be included in the Regs.

The following is from the NSW boating hand book and would provide a good example of requirement for regulation: Paddle or rowing during daylight hours where paddling or rowing in restricted visibility or between sunset and sunrise, exhibit two all round continuous or flashing white lights, one attached to the canoe or kayak at or near the forward end and the other one attached at or near the aft end. The light is to be visible in clear conditions from a distance of one kilometre and may be masked so as not to interfere with the vision of the occupants, provided at least one light is visible from any direction.

Discussions with groups suggested one light was sufficient as rowers would fix to the bow and canoes would fix to the stern to no interfere with the operators.

Dragon boats – more info to come.

From: Walters, Daniel
Sent: Wednesday, 13 December 2017 10:39 AM
To: Bennett, JamesP <JamesP.Bennett@act.gov.au>
Subject: Alpine Waters.docx [SEC=UNCLASSIFIED]

James

Have updated instructions as discussed

Regards

Daniel

From: Bennett, JamesP
Sent: Friday, 15 December 2017 12:34 PM
To: Balthazar, Michael
Cc: Walters, Daniel; Metcalf, David; Georges, Sandra
Subject: Further instructions on lighting and rules of the water [SEC=UNCLASSIFIED]

Hi Michael

Please see further instructions below on lighting and rules of the water:

The lighting rules in the Act remain current and consistent with International Convention. Have included below a diagram for information, these rules are international and haven't changed and are applied by manufactures of boats. Please include existing lighting rules in the Act in the Regulation. This is preferable as rules are readily available rather than having to find, makes it easier for regulated and regulators.

In relation to s37 of the Act the contemporary maritime reference rather than at 'night' where these lighting rules are triggered is "between sunrise and sunset or in **restricted visibility**".

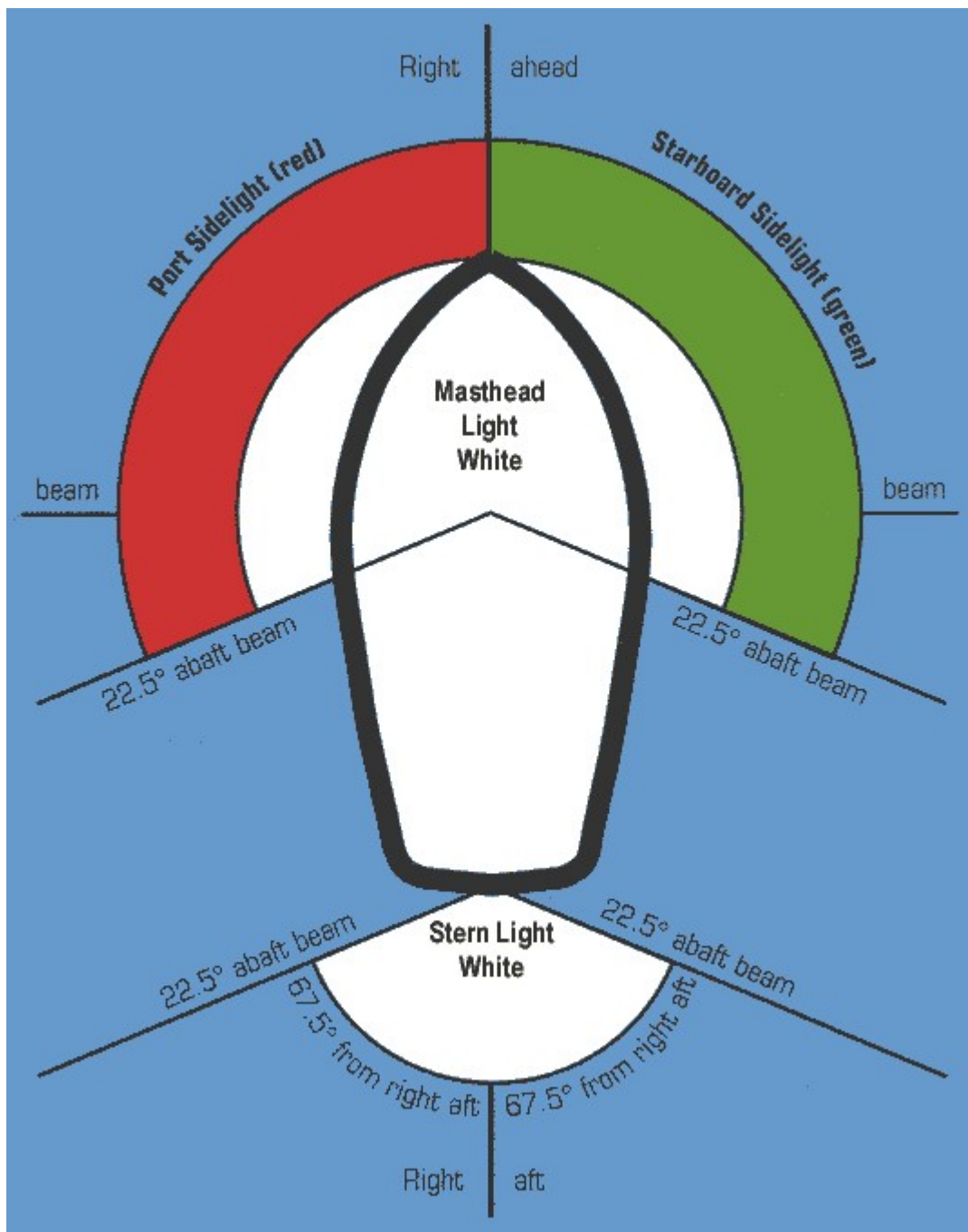
In relation to length of vessels mentioned in s38 (1)(a) and s39(1) for consistency the length should be 4.8 metres (not 5m)

In relation to s39 see previous advice where this would apply to small power boats less than 4.8m and any kayak, rowing boat or canoe of any length. During consultation with lake users the provisions missing, consistent with other jurisdictions, was the white light rule for rowing, paddling vessels operating between sun set and sun rise and low visibility. This is particularly relevant in ACT with our foggy mornings when often the rowers, canoes and kayaks are on the water and are hard to see especially the elite athletes training which travel at speed.

Similar to lighting rules, the rules of the water in Div.5.2 of the Act should be included, again taken from international convention as relevant to ACT waters and still current and applicable.

In essence for simplicity of lake users and regulation the previous drafters have taken the relevant rules and included in Act.

In relation to NSW Schedule 4 the modification to the International Convention are generally not relevant to activities on ACT lakes or would be covered in very limited circumstance if they were proposed by commercial activity or other approval conditions (e.g. dredging (maybe), dive operators (unlikely), pilotage duty (unlikely), aquatic activity licenses (unlikely), commuter craft zones (unlikely) etc.



From: Bennett, JamesP
Sent: Thursday, 14 December 2017 4:41 PM
To: Walters, Daniel <Daniel.WALTERS@act.gov.au>
Subject: FW: Updated lifejacket and safety equipment instructions [SEC=UNCLASSIFIED]

Hi Daniel
 Can you please let me know which way you want to go on the lighting rules?

Thanks
 James

From: Balthazar, Michael
Sent: Thursday, 14 December 2017 4:37 PM
To: Bennett, JamesP <JamesP.Bennett@act.gov.au>

Cc: Walters, Daniel <Daniel.WALTERS@act.gov.au>; Metcalf, David <David.Metcalf@act.gov.au>; Georges, Sandra <Sandra.Georges@act.gov.au>

Subject: RE: Updated lifejacket and safety equipment instructions [SEC=UNCLASSIFIED]

Thanks James.

Lifejackets

As discussed on the phone, in relation to the you also wanted an operator to be liable for an offence if they operate a boat while a person is not wearing a lifejacket.

Summary of policy position:

- Must wear a lifejacket if on a boat less than 4.8m – any time of day/night – children and adults
 - Except for kiteboards, windsurfers, paddle boards and surfboards

Lighting rules/ navigation rules- for the regulation

Did you want to put in the regulation the-

- (a) lighting rules from Div 5.1 of the Act and the rules from Div 5.2 of the Act; or
- (b) the Convention on International Regulations for Preventing Collisions at sea (applying these to inland waters as NSW has done in Schedule 4 of the Marine Safety Regulation 2016).

It would be good to get a view from those that use the lake about what lights they currently use on their boats and which of these rules they tend to follow. It would be good to understand what rules they use to navigate the lake and whether they follow what is in the Act or the Convention. In both cases, it would also be good to understand which is most suitable for lakes in the ACT and why NSW decided to apply these to inland waters with some modifications in certain circumstances.

Thanks.

Michael

From: Bennett, JamesP

Sent: Thursday, 14 December 2017 2:03 PM

To: Balthazar, Michael <Michael.Balthazar@act.gov.au>

Cc: Walters, Daniel <Daniel.WALTERS@act.gov.au>; Metcalf, David <David.Metcalf@act.gov.au>; Georges, Sandra <Sandra.Georges@act.gov.au>

Subject: Updated lifejacket and safety equipment instructions [SEC=UNCLASSIFIED]

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Please see the below for updated instructions. Could you please give me a call to discuss the best way forward.

Alpine Waters and Towing (updated instruction 13 December 2017)

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The proposed adoption of lifejacket requirements for NSW alpine waters in the ACT was discussed. Similar to the previous meeting with AIS and sailing and rowing clubs there was general support for lifejackets to be mandatory for all persons on a boat where boat is less than 4.8 metres in length. The AIS elite K1 and above vessels similar to the AIS rowing vessels are all greater than 4.8m in length.

Bill

In light of these discussion and previous discussion with lake users and sporting clubs these requirements can be achieved by removing existing section subsection 41(3)(d) which would mean any person on a boat less than 4.8 metres on a lake must wear a lifejacket. This would make current section 41(1) and 41(2) redundant as all person on a boat at any time (i.e. day or night) would be required to wear a like jacket. This would also make section 40(1)

redundant as again any person on a boat would be required to wear a life jacket irrespective of age. Retain section 40(2) as this applies to larger boats under 8 metres where a child under 12 years is on board.

Summary of policy position:

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Dragon boats – more info to come.

From: Walters, Daniel

Sent: Wednesday, 13 December 2017 10:39 AM

To: Bennett, JamesP <JamesP.Bennett@act.gov.au>

Subject: Alpine Waters.docx [SEC=UNCLASSIFIED]

James

Have updated instructions as discussed

Regards

Daniel

Lakes Amendment Bill 2017

Questions and Answers

Question 1. : Why is the Lakes Act being amended?

Answer: The Act is dated and does not provide adequate and contemporary provisions for the safety of lake users. The legislation has not been reviewed since its introduction in 1976 and is inconsistent with similar legislative frameworks governing waterways in NSW and nationally, including offence provisions in relation to drug and alcohol use on boats on ACT waters.

Question 2. Which lakes and waterways come under the jurisdiction of the Lakes Act?

Answer: Lake Tuggeranong, and Lake Ginninderra, the Molonglo Reach, Kingston Harbour, and Gungahlin, Yerrabi, Dunlop, West Belconnen, Gordon, Point Hut, Isabella and Stanger Ponds, are the declared lakes under the Lakes Act. Other ACT waterways, lakes and ponds are not currently regulated by the Lakes Act.

Question 3. Will the rules banning power boats and jet skis be affected?

The [Plan of Management for Lakes and Ponds](#) made under the *Planning and Development Act 2007* provides the management framework for all lakes and ponds in the ACT including those declared under the *Lakes Act 1976*, except Lake Burley Griffin which is regulated and managed by the National Capital Authority.

The Plan of Management restricts the use of petrol motor boats and jet skis on all ACT waterways except the Molonglo Reach water ski area unless a special permit is obtained. So the changes to the Act will not change the activities currently permitted on ACT waterways other than for electric powered boats that travel at less than 10 knots. These boats will no longer require a permit.

The Plan of Management is currently being reviewed to compliment the amendments to the Lakes Act and will be subject to full public consultation. It is anticipated that this will occur in the first half of 2018.

Question 4. What are the main changes to the Act?

Answer: The main changes are the introduction of contemporary safety and navigation provisions consistent with NSW legislation and offence provisions for drug and alcohol use consistent with the ACT road rules for the use of boats on ACT lakes.

The amendments also include mutual recognition of approvals required for certain users of Lake Burley Griffin, Kingston Harbour and the Molonglo Reach removing the requirement to obtain approval from both the ACT and Commonwealth governments for the same activity.

The changes will also align boat use licensing requirements with NSW where for low risk activities where boats travel at low speeds approvals will no longer be required. This is supported by offence provisions consistent with NSW to ensure safety standards are maintained for operating powered boats on our waterways.

Question 5. What consultation was undertaken to inform the amendments?

Answer: Consultation was undertaken with the Lake Users Group which includes recreational users, sporting and recreation clubs and organisation and commercial operators. The Lake Users Group identified the key issues required to be addressed which have been included in the amendments to the Act.

The Commonwealth and ACT Government's also convened the Lake Managers Forum to consider the amendments required to contemporise the legislation in the ACT. This group comprised representatives from the National Capital Authority, the Australian Maritime Authority, NSW Maritime Authority and ACT lake managers and regulators including Transport Canberra and City Service, Access Canberra, Environment, Planning and Sustainable Development and the Australian Federal Police.

Question 6. How will the amendments improve safety on ACT lakes?

Answer: The proposed amendments to the Lakes Act will update contemporary safety, directions and offences provisions relating to the use of the Territory's lakes consistent with surrounding NSW waters.

With increased use of our waterways by ACT and interstate users comes the increased risk of conflict. Ensuring the ACT has contemporary safety legislation to protect lake users ensures our community and businesses can enjoy our increasingly vibrant and dynamic city in a safe environment.

Question 7. Will the Commonwealth Lakes Ordinance have the same amendments and when will the Ordinance be amended?

Answer: The purpose of the review was to update and modernise both the Commonwealth laws which regulate the use of Lake Burly Griffin and the Territory laws which govern the remaining lakes in the ACT including the Kingston Harbour and Molonglo Reach. The current *Lakes Act 1976* while modelled on the Lakes Ordinance

1976 has a number of anomalies and like the Ordinance has not been reviewed since its commencement in 1976.

The NCA, AFP and ACT Government have worked together to ensure the amendments are suitable and satisfactory for both jurisdictions. The NCA have agreed to amend the Lakes Ordinance to reflect the changes to the Lakes Act.

This will remove any duplication and inconsistencies between the legislation and ensure consistent harmonised regulation of all ACT waterways to the benefit of the ACT community.

The timeframe for the Commonwealth amendments will be dependent on the Commonwealth legislative program

Question 8. Why has it taken seven years to make changes following the 2010 fatality at the Molonglo Reach water ski area?

Answer: The Molonglo Reach water ski area was only opened up briefly to the public following the incident and was then subsequently closed in December 2010 due to major flooding in the area. It has remained closed to the public since.

The August 2015 Coroner's report into the 2010 fatality included a recommendation that a review of the relevant legislation be carried out to ensure it is adequate and carries sufficient deterrent, for the unlawful use of the Molonglo Reach, and that members of the AFP – ACT Police have sufficient powers to enforce relevant legislation, including the issuing of infringement notices and the carrying out of random alcohol and drug testing.

While the Coroner's recommendations related to the Molonglo Reach water ski area which has been closed to the public since 2010 the ACT and Commonwealth Government's initiated the review in 2016 due to increased use of ACT lakes, particularly Lake Burley Griffin.

Question 9. Why has the ACT Government taken so long to update it?

Answer: The Commonwealth and ACT Government have initiated the review due to the increasing uses on our lakes particularly Lake Burley Griffin. The Commonwealth has agreed to amend the *Lakes Ordinance 1976* to reflect the amendments to the *Lakes Act 1976* to ensure consistency between regulation of Lake Burley Griffin by the Commonwealth and ACT lakes by the ACT Government. It was also timely considering the 2015 Coroner's report into the fatality on the Molonglo Reach water ski area in 2010.

The Molonglo-water-ski area has been closed to the public since 2010 due to flood damage and debris in the river. A small section of the Molonglo Reach has been

approved for use by the ACT Water Ski Association for training and event purposes following a detailed risk assessment by the Association and TCCS.

Question 10. With the streamlining of boat permit requirements how will the new requirements compare with the old?

Answer: Currently a permit is required to operate a powered boat on Lake Tuggeranong, Lake Ginninderra, the Molonglo Reach (except the Molonglo Reach water ski area) and the Kingston Harbour. The amendments will bring the ACT in line with other jurisdictions particular surround NSW waters where a permit is not required where a boat travels at less than 10 knots.

The 'Plan of Management for Lakes and Ponds' made under the *Planning and Development Act 2007* details activities permitted on ACT waterways and restricts the use of petrol motor boats on Lake Tuggeranong, Lake Ginninderra, the Molonglo Reach and the Kingston Harbour unless a permit is obtained. So the changes to the Act will not change the activities currently permitted on ACT waterways other than for electric powered boats that travel at less than 10 knots.

The Plan of Management prohibits the use of powered boats on all other lakes declared under the Act which includes Gungahlin, Yerrabi, Dunlop, West Belconnen, Gordon, Point Hut, Isabella and Stanger Ponds.

Question 11. What are the current rules on using boats under the influence of drugs and alcohol?

Answer: The ACT Lakes Act and Commonwealth Lakes Ordinance do not contain drug and alcohol provisions like other jurisdictions.

Question 12. Will the new drug and alcohol lake rules affect or be linked to car licences and who will do the testing?

Answer: No, the offences for drug and alcohol while operating a boat are not linked to car drivers license demerit points system. Only the ACT Water Police will undertake drug and alcohol testing of boat operators.

Question 13. Will jet skis be allowed on ACT lakes?

Answer: No, the Plan of Management for Lakes and Ponds made under the *Planning and Development Act 2007* restricts the use of jet skis on ACT lakes. They are permitted on the Molonglo Reach water ski area however it is currently closed to the public and is likely to remain that way for the foreseeable future due to the flood

damage which occurred in 2010. The NCA regulates their use on Lake Burley Griffin, however it is understood they are not permitted on Lake Burley Griffin either.

Question 14. Will boat users such as kayakers, sail boats and canoeists be required to wear life jackets under the new legislation?

Answer: Yes, it is mandatory in the NSW rules for surrounding alpine waters for all persons on boats less than 4.8 metres in length to wear an appropriate life jacket. The ACT is adopting the NSW rules for alpine waters to ensure consistency with surrounding water bodies. The types of life jacket required will be defined in the new Regulations to support the changes in the ACT and will be based on NSW rules.

Question 15. How do the new life jacket requirement affect sail boat users?

Answer: Any person on a sail boat under 4.8m in length must wear an appropriate life jacket. For sail boats greater than 4.8m in length the boat must have on board in an identified and easily accessible place an appropriate life jacket for each person on the boat. The exception to this rule is for off-the-beach sailing boats where any person must wear an appropriate life jacket for any size of off-the-beach sailing boat. These types of boats such as catamarans, hobie cats and skiffs are extremely unstable, do not have a fixed keel and can travel at fast speeds which require additional safety measures for person on these boats.

Question 16. What will the fines be for life jacket non-compliance?

Answer: The fine for not wearing a life jacket if it is required to be worn is \$300. In the initial education phase of introducing the legislation an educational approach will be taken by regulatory agencies.

Question 17. What are the red tape and regulatory barriers that will be removed for people wanting to enjoy the Territory's lakes?

Answer: Currently a permit is required to operate any powered boat on an ACT Lake or Lake Burley Griffin. The amendments will bring the ACT in line with other jurisdictions particular the surround NSW where a permit is not required where a boat travels at less than 10 knots. This will mean that all the electric powered boats used by the community will no longer require a permit. The conditions of use detailed in the current permits will be replaced by the legislation and regulations which will be subsequently developed.

The current Plan of Management for Lakes and Ponds made under the Planning and Development Act 2007 restricts the use of petrol powered boats on ACT lakes where they are only permitted subject to a permit. The Plan of Management is currently being reviewed to compliment the amendments to the Lakes Act and will be subject to full public consultation.

Question 18. Has the general public been adequately consulted on the proposed changes?

Answer: The amendments to the Lakes Act are to contemporise the legislation to protect public safety and reduce red tape consistent with other jurisdictions.

Consultation was undertaken with the Lake Users Group which includes recreational users, sporting and recreation clubs and organisation and commercial operators. The Lake Users Group identified the key issues required to be addressed which have been included in the amendments to the Act.

The Commonwealth and ACT Government's also convened the Lake Managers Forum to consider the amendments required to contemporise the legislation in the ACT. This group comprised representatives from the National Capital Authority, the Australian Maritime Authority, NSW Maritime Authority and ACT lake managers and regulators including Transport Canberra and City Service, Access Canberra, Environment, Planning and Sustainable Development and the Australian Federal Police.

Question 19. Does the government anticipate an increase in boats using the lake as a result of the new legislation and if so are there adequate facilities to cope with the increase?

Answer: The Government supports the increased use of our lakes and these amendments will ensure the appropriate controls are in place to ensure public safety as Canberra grows and use of our waterways increase. The ACT's lakes are currently underutilised and facilities are adequate to cope with any increased use due to the increasing population growth.

Question 20. When will the new rules come into effect?

Answer: The rules will come into effect once the Regulations to support the Bill are completed. This is required as the Regulations contains lower offence provisions and technical specification for navigation and safety equipment such as the appropriate life jackets for different boats and rules governing the use of boat similar to the rules applying to roads. The regulations will be modelled, again for consistency, with the NSW Regulations.

This will also allow a period for educating the Canberra Community on the new laws before they take effect.

Title of Item for Assembly Business

Talking Points

General information:

- The purpose of the Lakes Amendment Bill 2017 is to amend the *Lakes Act 1976* to update and modernise the provisions relating to navigation and safety on ACT Lakes consistent with comparable NSW legislation for safety and navigation and the ACT road transport legislation for drug and alcohol use.
- The Lakes Act is an outdated and inadequate statute which has not been reviewed since its inception in 1976 and does not currently provide clear or enforceable provisions in relation to navigation and public safety for users of ACT lakes.
- The proposed amendments will include drug and alcohol offence provisions for operators of boats consistent with the ACT road transport and NSW maritime legislation.
- The NSW alpine waters rules that are being adopted by the ACT include the requirement for for all persons on recreational boats less than 4.8 metres in length to wear an appropriate life jacket at all times. Due to the high levels of risk, users of catamarans or similar boats of any size will also be required to wear life jackets. The types of life jacket required will be detailed in the new Regulations (currently being finalised) due for release in early 2018. The fines for life jacket non-compliance will be \$300.
- The proposed changes will harmonise the ACT boating regulation to be consistent with the surrounding NSW water where, for low risk activities such as recreational boats travelling at speeds of less than 10 knots, licensing is not required.
- The Bill also introduces cross-jurisdictional arrangements where approvals issued under the respective Territory and Commonwealth lake laws are recognised subject to consultation between the regulating authorities. This will remove the current duplication for approvals for users of Lakes Burley Griffin (administered by the Commonwealth) and the Kingston Harbour and the Molonglo Reach (administered by the Territory) where boats operate throughout these waters.
- The introduction of a more streamlined licensing and approval regime will reduce red tape and remove regulatory barriers for people wanting to enjoy the Territory's lakes. This will promote and facilitate greater use of this valuable resource for the benefit of all the community.
- These amendments are timely due to the increasing use of ACT lakes and will facilitate business activity and opportunities to activate our lakes while ensuring the safety of all users.

- The new rules will come into effect following development of the new Regulations which include the technical specifications for navigation and safety equipment such as life jackets and lighting on boats operating at night.

Issues:

- There is potential sensitivity around the fact that there is negligible public awareness that the ACT Water Police currently have limited legislative capacity to enforce or regulate in relation to safety and navigation and drug and alcohol use on boats on Canberra's lakes
- Small boat users objecting to the new rules about life jackets should be aware that life jackets like safety belts in cars save lives and with the ACT's cold climate where water temperatures drop dramatically studies show up to 60% of fatalities due to cold water immersion mostly occur in the first 15 minutes. Wearing life jackets does save lives.
- This is addressed by the legislative amendments proposed which will bring the ACT in line with other jurisdictions particularly surrounding NSW.
- This will provide consistency for the large majority of Canberrans who also enjoy boating activities in surrounding NSW waters and for interstate visitors for the region enjoying our waterways.
- The NCA and AFP support the amendments to the Lakes Act. The NCA has indicated it will update the Commonwealth Lakes Ordinance to reflect the ACT amendments.

From: Bennett, JamesP
Sent: Wednesday, 31 January 2018 2:53 PM
To: Sendaba, Bethel
Cc: EPSDD DLO; Hurrell, Erica; Walters, Daniel; Ives, Kieran
Subject: FW: Lakes Amendment Bill [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]

Hi Bethel
Please see response below cleared by DDG.

Thanks
James

From: Brady, Erin
Sent: Wednesday, 31 January 2018 2:43 PM
To: Bennett, JamesP
Cc: Ives, Kieran ; Walters, Daniel
Subject: RE: Lakes Amendment Bill [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]

James – yes this is good to go.

From: Bennett, JamesP
Sent: Wednesday, 31 January 2018 11:46 AM
To: Brady, Erin <Erin.Brady@act.gov.au>
Cc: Ives, Kieran <Kieran.Ives@act.gov.au>; Walters, Daniel <Daniel.WALTERS@act.gov.au>
Subject: RE: Lakes Amendment Bill [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]

Hi Erin

Please see responses to Bethel's questions below for your **consideration and approval**.

Thanks
James

Proposed section 25B sets a speed 'limit' of 10 knots, below which a licence is not required. Can you please advise:

- **Why 10 knots was chosen?**

Response: The speed of 10 knots (18.52 kph) was chosen as it is consistent with the current rules in the Permits issued for the use of electric boats on ACT Lakes. It is also consistent with the speed under which the corresponding NSW boating laws do not require a licence. This speed is considered to be low risk in terms of safety to avoid collisions.

In essence, there is no substantive change from the current rules, except that administrative red tape is removed by not requiring people to apply for a permit to operate under 10 knots.

- **Which lake users and conservation groups were consulted and what their views were, if any?**

Response: Consultation was undertaken with the Lake Users Group, which is made up of recreational boat users and organisations, community and sporting groups and commercial operators. Consultation was also undertaken with

the Lake Managers Forum which consists of representatives from the National Capital Authority (responsible for Lake Burley Griffin), ACT Water Police, Transport Canberra and City Services (Lakes Managers), Access Canberra, EPSDD and the Australian Marine Safety Authority (AMSA).

Lake Users supported having appropriate and contemporary legislation for boating safety and support that this approach is consistent with NSW regulations that apply to other water bodies in the region.

It is also important to note that the Lakes Act regulates the safety aspects of boating use. It does not regulate for environmental impacts.

The *Lakes and Ponds Plan of Management* (Plan) made under the *Planning and Development Act 2007* regulates the actual uses permitted and considers environmental impacts. The current Plan restricts petrol-powered recreational boats on all ACT lakes except the Molonglo Reach Waterski area which has been closed to general public use since the floods in 2010. EPSDD is currently reviewing the Plan and anticipate an updated draft Plan will be released for Public Consultation in the first half of 2018. The draft updated Plan has not proposed changes to the restrictions on petrol-powered boats on ACT Lakes.

From: Sendaba, Bethel

Sent: Tuesday, 30 January 2018 11:00 AM

To: Bennett, JamesP <JamesP.Bennett@act.gov.au>

Cc: Hurrell, Erica <Erica.Hurrell@act.gov.au>; EPSDD DLO <EPSDDDLO@act.gov.au>

Subject: Lakes Amendment Bill

Hi James,

A couple of questions from the Le Couteur office about the Lakes Bill.

Proposed section 25B sets a speed 'limit' of 10 knots, below which a licence is not required. Can you please advise:

- Why 10 knots was chosen?
- Which lake users and conservation groups were consulted and what their views were, if any?

If the answer to any of the above is already in the ES (or elsewhere) let me know.

Thanks,
Bethel

From: Walters, Daniel
Sent: Thursday, 8 February 2018 5:11 PM
To: Bennett, JamesP
Subject: FW: Lakes permit electric motor Daniel Walters.pdf [SEC=UNCLASSIFIED]
Attachments: Lakes permit electric motor Daniel Walters.pdf; Interstate users conditions of use.pdf

James

Regarding DLO enquiry, please find attached a permit to use an electric boat on our lakes, this is the limit of current education on safety on ACT waterways (TCCS regulate permits through Access Canberra). For petrol power boat permits conditions of use also attached, the rules are clearer in the sense they rely on the conditions that apply to the persons interstate license to operate a boat (EPA regulate these permits through Access Canberra). With the closure of the Molonglo water ski area there is limited use of ACT lakes by power boats other than commercial operators, contractors, support craft for sailing and other training / school vessels and boat license training vessels (for NSW boat licenses).

The Permit for electric boats is extremely limited as you can see from conditions on safety. This was highlighted in the review by Lake Users Group and Lakes Managers Forum and there was universal agreement the ACT laws were deficient compared to NSW and other jurisdictions and unenforceable. The rules of the water as detailed in Part 5 Rules for preventing collisions on a lake (Lakes Act 1976) which also includes lighting rules for boats will be incorporated in the new Regulations being drafted to support the Bill.

The short answer regarding education is that it is limited to conditions in permit but also historically recognised that ACT boat operators generally operate in NSW and to the rules that apply in NSW. During consultation there was general assumption the same rules applied in ACT even though we don't have the legislative framework.

The need to update our legislation was reinforced by the Coroner's recommendations into the fatality on the ACT regulated Molonglo Reach Waterski area the NCA highlighting that there is greater use of LBG which in turn means greater use of Kingston Harbour and Molonglo reach which are part of LBG but regulated by the ACT. Lake Ginninderra and Tuggeranong are also see increased use as our urban density increases.

Regards

Daniel Walters

Senior Manager | Environment Protection Policy
Environment, Planning and Sustainable Development Directorate | ACT Government

☎ Ph: (02) 6207 6334

☎ Fax: (02) 6207 6084

✉ [email: daniel.walters@act.gov.au](mailto:daniel.walters@act.gov.au)

🌐 <http://www.environment.act.gov.au/>

Please consider our environment before printing this e-mail.



From: Walters, Daniel

Sent: Thursday, 8 February 2018 3:36 PM

To: Walters, Daniel <Daniel.WALTERS@act.gov.au>

Subject: Lakes permit electric motor Daniel Walters.pdf [SEC=UNCLASSIFIED]



Details of Registered Boat on Canberra's Urban Lakes and Ponds

Permit: [REDACTED]

Date of issue: 08/02/2018

Expiry date: [REDACTED]

Boat name: [REDACTED]

Boat manufacturer: [REDACTED]

Hull Colour: [REDACTED]

Engine Manufacturer: [REDACTED]

Horsepower/thrust: 2

Boat length: 4.2

Seating capacity: 1

Owner name: [REDACTED]

Date of birth: [REDACTED]

Residential address: [REDACTED]

Phone - Home:

Phone - Business:

Phone - Mobile: [REDACTED]

By submission of this application form, you agree:

General

you are aware this permit is only valid for the use of electric powered craft on Lake Gininniderra and Lake Tuggeranong

- you are aware this permit is only valid for the use of electric powered craft on Lake Gininniderra and Lake Tuggeranong
- A petrol-powered outboard must not be used to propel the boat on on Lake Gininniderra and Lake Tuggeranong.
- A petrol-powered outboard motor must be covered with a bright orange cover that encloses the motor cowling and outboard leg including the propeller. A purpose built cover is preferable however orange plastic sheeting securely fixed to the motor is acceptable.
- A petrol motor is to be placed in the horizontal position at all times.
- Fuel tanks, where practicable, must be removed from the boat prior to entry onto Googong Dam. Where a boat has built-in tanks the amount of fuel carried must be minimal. All fuel lines, where practicable must be removed.
- The printed receipt upon successful completion of the application will serve as your permit.
- The permit is approved by the delegate of the *Lakes Act 1976*
- the person in charge of the boat is over the age of 16 years and is competent to supervise the operations of the boat;
- any crew carried in the boat are competent to perform the duties required of them;
- the driver obeys all reasonable commands of a member of the ACT Water Police boat, Rangers boat or an inspector under the Act;
- the boat and minimum safety equipment is made available for inspection upon request;
- the approval holder indemnifies the Territory against any claim for damages or expenses incurred through the use of the said boat;

Electric/Steam

- the approved Permit once issued will be shown to an authorised officer upon request;
- the boat is used primarily for recreational purposes;
- the boat does not exceed 5 knots.

Petrol (Rescue, Research or Special Events)

- the approved permit once issued will be shown to an authorised officer upon request;
- the boat is used primarily for the purpose the authority is issued under;
- the boat does not exceed 13 knots except for proceeding to a rescue;
- the Club/Organisation is responsible for ensuring that the person using the boat hold a current boating licence;
- the number of persons carried, except for rescued persons, shall be at least two or two less than the designed capacity of the boat where the designed capacity exceeds 4 persons.

Details of Registered Boat on Googong Dam

Permit: [REDACTED]

Date of issue: [REDACTED]

Expiry date: [REDACTED]

Boat name: [REDACTED]

Boat manufacturer: [REDACTED]

Hull Colour: [REDACTED]

Engine Manufacturer: [REDACTED]

Horsepower/thrust: 2

Boat length: 4.2

Seating capacity: 1

Owner name: [REDACTED]

Date of birth: [REDACTED]

Residential address: [REDACTED]

Phone - Home:

Phone - Business:

Phone - Mobile: [REDACTED]

SCHEDULE 1

Conditions for carrying a disabled outboard motor on a boat on Googong Dam

1. A petrol-powered outboard must not be used to propel the boat on Googong Dam.
2. A petrol-powered outboard motor must be covered with a bright orange cover that encloses the motor cowling and outboard leg including the propeller. A purpose built cover is preferable however orange plastic sheeting securely fixed to the motor is acceptable.
3. A petrol motor is to be placed in the horizontal position at all times.
4. Fuel tanks, where practicable, must be removed from the boat prior to entry onto Googong Dam. Where a boat has built-in tanks the amount of fuel carried must be minimal. All fuel lines, where practicable must be removed.
5. The person in charge of the boat must be competent to supervise the operations of the boat and where required by law be over the age of 16 years of age and hold a current boating drivers licence.
6. The driver obeys all reasonable commands from authorised officers or other regulatory authorities having jurisdictional powers on Googong Dam.
7. The boat and minimum safety equipment be made available for inspection by authorised officers on request.
8. This use, on Googong Dam, of the boat described in **Table 1** and subject to these conditions is **valid for a period of 5 years from the date of issue on the ACT Registered Boat Permit.**
9. A copy of this letter must be carried on the boat when it is used on Googong Dam and be produced for inspection if requested by the ACT Water Police, Lake Rangers or Authorised persons.
10. The ""Details for Registered Boat"" permit showing the number listed above is to be carried and produced for inspection if requested by the ACT Water Police, Lake Rangers or Authorised persons.

Application for the use of a power boat - Permit approval

Your submission has been successful. Please keep a copy of this receipt for your records.

Date and time

08 Feb 2018 3:30:26 PM

Reference code

[Redacted]

Transport Canberra and City Services

GPO Box 158
Canberra City ACT 2601

Phone: 13 22 81

Applicant details

Date of birth *

[Redacted]

Do you intend to only use an electric motor in the water? *

Yes No

Each permit is valid for a period of 5 years from date of issue.

No renewal form will be sent.

The permit holder will have sole responsibility for reapplication at the end of the 5 year period.

Title

Given name *

Family name *

[Redacted]

Address line 1 *

[Redacted]

Address line 2

[Redacted]

Suburb *

State *

Postcode *

[Redacted]

Enter at least one phone number: *

Home phone number

Work phone number

Mobile number

[Redacted]

[Redacted]

[Redacted]

Email *

[Redacted]

Permit details

Lake Burley Griffin and Scrivener Dam are controlled by the Commonwealth and clients are advised to contact the Water Police on 02 6245 7393 (tel:0262457393) for further information and/or permits for these areas.

Do you want to use an electric powered craft on: (please select at least one option) *

- Lake Ginnindera
- Lake Tuggeranong
- Googong Dam

ACT permit number

NSW WaterWays Registration Number

[Redacted]

[Redacted]

Water craft details

Boat name *

Boat manufacturer *

Hull colour *

Boat length *

4.2

Boat type *

Electric

Seating capacity *

1

Electric motor details

Engine manufacturer *

Horsepower/thrust *

2

The permit/s will be emailed to the address you have provided. You will be required to: a) print copies of your permit to present to an authorised officer upon request; or b) make available a PDF version of your permit on a smart phone or tablet to an authorised officer upon request.

From: Walters, Daniel
Sent: Wednesday, 9 January 2019 2:29 PM
To: [REDACTED]
Subject: RE: For Action - Lakes Reform Project - ACT/NCA consultation question re Lakes Act [SEC=UNCLASSIFIED]
Attachments: Simon Corbell MLA letter to Gary Rake CEO NCA.doc; Lakes Managers Forum Legislative Sub-committee meeting minutes.pdf

Hi [REDACTED]

The short answer is no, other than direct consultation with the Tuggeranong Sea Scouts who are not part of the LUG convened by NCA and the only other ACT lake user organisation not represented on the LUG.

The details below generally reflects the more recent consultation undertaken for the Bill (passed Feb 2018) and the Regs (draft tabled with Bill, finalisation in progress). My records indicate there were some additional meeting other than those detailed below for the Lake Managers Forum (Sub-Committee on Legislative Reform), I've included Minutes from these Meetings.

To provide some background the proposal to amend the Lakes Act and create regulations first commenced following a letter from the CEO of the NCA Gary Rake in May 2011. The ACT established in June 2011 a Lakes Act Working Group The Lakes Act Working Group comprised representative from NCA, ACT Water Police, ACT EPA, NSW Maritime Authority and the Recreational Vessels Advisory Group. The elements details for reform were agreed through the working group and consultation Lake Users Group (LUG) convened by the NCA. It was also agreed through this process that it would be more expedient for the ACT to draft the legislation for subsequent consideration by the Commonwealth.

There was a hiatus until 2015 due to the Molonglo water ski area being closed due to flooding, it has remained closed to the public since, with limited use by ACT Waterski Association for training purposes and marine repair businesses. As this was the only area where powered recreational vessels were permitted on Territory waters the legislative reforms were not a priority. This changed when the ACT Coroner released the finding and recommendations into the fatality on the Molonglo water ski area in August 2015 and NCA initiate a review process in early 2016.

It was agreed through the ACT policy and legislative processes of developing the Bill and Regulations that the NCA's Lake Users Group and Lake Manager's Forum were appropriate for consultation purposes.

FYI, I am in the process of finalising the Regulation with a meeting with the ACT PCO next week. I will then forward to LUG and LMF for final comments.

Should you wish to discuss please give me a call.

Regards

Daniel Walters

Senior Manager | Environment Protection Policy
Environment, Planning and Sustainable Development Directorate | ACT Government

☎ Ph: (02) 6207 6334

☎ Fax: (02) 6207 6084

✉ email: daniel.walters@act.gov.au

🌐 <http://www.environment.act.gov.au/>

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From: [REDACTED]
Sent: Monday, 7 January 2019 9:41 AM
To: Walters, Daniel <Daniel.WALTERS@act.gov.au>
Cc: [REDACTED]
Subject: FW: For Action - Lakes Reform Project - ACT/NCA consultation question re Lakes Act [SEC=UNCLASSIFIED]

Hi Daniel,

I hope you had a good break. I just wanted to check in and see how you were travelling with the below request (and whether you are still the appropriate contact for Lakes issues).

If you could let me know either way as soon as possible that would be great.

Cheers,

From: [REDACTED]
Sent: Monday, 17 December 2018 12:02 PM
To: 'Walters, Daniel' <Daniel.WALTERS@act.gov.au>
Cc: [REDACTED]
Subject: For Action - Lakes Reform Project - ACT/NCA consultation question re Lakes Act [SEC=UNCLASSIFIED]

Hi Daniel,

Under our legislative process we are required (with a few exceptions) to engage in appropriate and reasonably practicable consultation, prior to making a legislative instrument. It is my hope that, assuming the Australian Government agrees to full harmonisation with the ACT's framework, we can use the consultation undertaken by the NCA and ACT Government.

The NCA have provided me with the following list of consultation meeting minutes involving the ACT and/or NCA:

- Lakes Managers Forum (18/05/16, 28/09/16, 12/07/17, 30/04/18, 14/05/18)
- Lake Users Group (06/12/17, 07/03/18, 06/06/18, 05/09/18, 05/12/18)
- Specific User Group discussions (rowers – 21/11/17, 04/12/18. Alpine waters 12/12/17).

Did the ACT Government engage in any other consultation on Lakes reform outside of the above meetings? Are you able to share details of this consultation with my Department?

I look forward to hearing from you by early January 2019, and I will be in touch with you further as the project moves forward on our end.

Regards,

[Redacted]
Department of Infrastructure and Regional Development
[Redacted]

From: Walters, Daniel <Daniel.WALTERS@act.gov.au>

Sent: Thursday, 9 August 2018 3:12 PM

To: [Redacted]

Cc: [Redacted]

Subject: RE: ACTION: Request for reformed ACT lakes instrument regarding Lakes Reform Project [SEC=UNCLASSIFIED]

Hi [Redacted]

Lovely to chat. The Lakes Amendment Bill was passed by the legislative assembly earlier this year. It can also be found here: http://www.legislation.act.gov.au/b/db_57075/default.asp

As a bit of background the legislation was reviewed following the ACT Coroners recommendations into a fatality on the Molonglo water ski area with the amending Bill introducing contemporary safety, navigation and drug and alcohol and offence provisions modelled on the NSW and Jervis Bay marine legislation. The Bill and Regs were developed in partnership with NCA, Water Police, AMSA and ACT agencies responsible for managing and regulating our lakes and in consultation with the Lakes Users Group forum convened by the NCA.

To implement the Bill new supporting regulations are required. I have attached a copy of the draft Regulation which were tabled in the ACT Assembly on presentation of the Bill.

The Bill will not come into effect until the Regulation is completed, so we still have opportunity to change the Bill if required.

I am in the process of doing drafting instruction to ACT PCO following consultation on the draft Regulation earlier this year with Lake Users and Lakes Managers forums. Main issues raised were around life jacket exemptions for

elite athletes, lighting on vessels and navigation between rowers and other vessels. The amended Regs once drafted will be circulated again to the lake users and managers for review.

Should you wish to discuss please give me a call or drop me an email.

Regards

Daniel Walters

Senior Manager | Environment Protection Policy

Environment, Planning and Sustainable Development Directorate | ACT Government

☎Ph: (02) 6207 6334

7Fax: (02) 6207 6084

✉email: daniel.walters@act.gov.au

🌐<http://www.environment.act.gov.au/>

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From: [REDACTED]
Sent: Thursday, 9 August 2018 1:46 PM
To: Walters, Daniel
Subject: ACTION: Request for reformed ACT lakes instrument regarding Lakes Reform Project [SEC=UNCLASSIFIED]

Good morning Daniel,

I am contacting you in regards to the Lakes reform project that we are currently working with the NCA on.

[REDACTED] from the NCA provided us with your contact details and advised that we could approach you in relation to this.

As you may be aware, the project is aimed at harmonising Commonwealth and ACT lakes legislation. As such, we are seeking a **list of relevant reformed/updated ACT lakes instruments including subordinate instruments**.

This will assist us in comparing Commonwealth and updated ACT lakes legislation and noting the elements that need to be harmonised.

Any help you can provide will be much appreciated.

Please let me know if you require further clarification related to this request.

Kind regards

[Redacted]
Department of Infrastructure, Regional Development and Cities

[Redacted] www.infrastructure.gov.au



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