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# Managing Jet skis under the Transport Infrastructure and Other Acts Amendment Bill 2005 (Qld)

*The Queensland Government has been engaged in consultation with stakeholders regarding the most appropriate way of managing and regulating the operation of jet skis. Recent years have seen a rapidly increasing number of jet skis in the State's popular waterways, particularly at the Gold Coast, Sunshine Coast and on the Brisbane River. The popularity of this watercraft has also been attended by safety concerns raised by other water users, including swimmers and other jet ski operators, and a growing number of complaints by nearby residents about noise and amenity issues.*

*The Transport Infrastructure and Other Legislation Amendment Bill 2005 (Qld) was introduced into the Queensland Parliament by the Minister for Transport and Main Roads on 19 April 2005. The Bill amends the Transport Infrastructure Act 1994 (Qld) and other legislation. The amendments to the Transport Operations (Marine Safety) Act 1994 (Qld) are the focus of this paper. The legislative changes are integral to the implementation of initiatives outlined in the Jet Ski Management Plan, released for public comment by the Government in December 2004.*

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## **EXECUTIVE SUMMARY**

As at 30 June 2004, there were 7,291 registered jet skis in Queensland, the majority in South East Queensland. Despite comprising around 4% of all registered recreational boats, jet skis are involved in a large number of waterway accidents. In the first half of 2004, of the 13 serious or fatal boating accidents in Queensland, 4 (i.e. over 30%) involved jet skis. Apart from safety issues, the inappropriate use of jet skis and jet skiers' behaviour comprise most of the complaints received by Maritime Safety Queensland (MSQ), particularly from local councils and community groups. The main issues of grievance are noise, amenity and nuisance (**pages 1-4**).

Jet ski operation is regulated under the Transport Operations (Marine Safety) Regulation 2004 (Qld) (the **2004 Regulation**) pursuant to power conferred by s 218 of the *Transport Operations (Marine Safety) Act 1994 (Qld)*. While the Government has power to regulate noise, safety, environmental impacts etc., there is no one single piece of legislation that covers all of the issues raised by the inappropriate operation of jet skis. In addition, councils are limited in being able to make laws for operations occurring beyond the high water mark and have sought the State Government's assistance.

A key area of need identified in an extensive review of jet skis and community consultation, undertaken in early 2004, was for a comprehensive approach to the management of waterways with the control and regulation of jet ski operation under the umbrella of one Government agency (**page 4**).

In December 2004, the Queensland Government released the *Jet Ski Management Plan* to extensively review the operation of jet skis on Queensland waterways and to set out a possible framework and options for regulating their use. Five key policy initiatives to improve the management of jet skis and the behaviour of their operators were identified (**pages 5-6**).

The **Transport Infrastructure and Other Legislation Amendment Bill 2005 (Qld)** (the Bill) was introduced into the Queensland Parliament by the Minister for Transport and Main Roads on 19 April 2005. The Bill amends the *Transport Infrastructure Act 1994 (Qld)* and other legislation. The amendments to the *Transport Operations (Marine Safety) Act 1994 (Qld) (TOMS Act)* are the focus of this paper. **Clause 19** of the Bill extends the objectives of the *TOMS Act* (in s 3) to make it clear that matters other than safety are able to be dealt with under the *TOMS Act* and under the 2004 Regulation (**page 6**).

Implementation of the five initiatives outlined in the *Jet Ski Management Plan* requires a combination of the introduction of new authorising legislation (as contained in the Bill) and changes to the 2004 Regulation, and administrative action. These measures are discussed in turn as follows –

- A new 'stand alone' type licence for jet skis (**page 7-8**);
- An increase to the minimum size of jet ski registration numbers to allow easy identification (**page 8**);

- Provision of legislative power for the creation of exclusion or restricted use zones by **cl 22** of the Bill which amends s 218 of the *TOMS Act* to make it clear that matters other than safety of operations of ships can be regulated. The creation of a zone will require a coordinated approach by a council wanting the zone and MSQ using zoning assessment criteria currently under development (**pages 8-10**);
- An extension of ‘distance off’ laws that require jet skiers to keep a specified distance from people in the water and other things (**page 11**);
- An expansion of enforcement and education activities (**pages 11-12**).

An outline of regulatory provisions in **New South Wales** and **Victoria** is provided on **pages 12-13**.

## 1 INTRODUCTION

The Queensland Government has been engaged in consultation with stakeholders regarding the most appropriate way of managing and regulating the operation of jet skis. Recent years have seen a rapidly increasing number of jet skis in the State's popular waterways, particularly at the Gold Coast, Sunshine Coast and on the Brisbane River. The popularity of this watercraft has also been attended by safety concerns raised by other water users, including swimmers and other jet ski operators, and a growing number of complaints by nearby residents about noise and amenity issues.

The **Transport Infrastructure and Other Legislation Amendment Bill 2005 (Qld)** was introduced into the Queensland Parliament by the Minister for Transport and Main Roads on 19 April 2005. The Bill amends the *Transport Infrastructure Act 1994* and other legislation. The amendments to the *Transport Operations (Marine Safety) Act 1994 (Qld)* (the Act) are the focus of this paper.

The legislative changes are integral to the implementation of initiatives outlined in the *Jet Ski Management Plan*, released for public comment by the Government in December 2004.

## 2 BACKGROUND

Jet skis have been causing concerns of a safety and environmental kind for some time. As at 30 June 2004, there were 7,291 registered jet skis in Queensland. The majority (80%) are registered in South East Queensland – particularly for use at the Gold and Sunshine Coasts and on the Brisbane River.<sup>1</sup> However, despite representing only 4% of registered recreational boats, jet skis are involved in a large number of waterway accidents. In the first half of 2004, of the 13 serious or fatal boating accidents in Queensland, 4 (i.e. over 30%) involved jet skis.<sup>2</sup>

A Safety Report prepared by an Investigations Unit in a branch of Maritime Safety Queensland in December 2004 noted that there had been a recent jet ski incident, fortunately resulting in only minor injury, involving a group of teenage girls on the Maroochy River. The girls hired a jet ski from an operator who had given the girls,

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<sup>1</sup> Queensland Government, Maritime Safety Queensland, '*Jet Ski Management Plan – for the improved management and safety of jet skis on Queensland waterways*', December 2004, p 4, [http://www.msq.qld.gov.au/qt/MSQ.nsf/ReferenceLookup/jet\\_ski\\_mgt\\_plan\\_dec2004.pdf/\\$file/jet\\_ski\\_mgt\\_plan\\_dec2004.pdf](http://www.msq.qld.gov.au/qt/MSQ.nsf/ReferenceLookup/jet_ski_mgt_plan_dec2004.pdf/$file/jet_ski_mgt_plan_dec2004.pdf).

<sup>2</sup> *Jet Ski Management Plan*, p 4.

and the mother of one who was supervising the party, a detailed briefing. The girls began riding in groups of three per jet ski but one girl panicked and wanted to slow down but mistook the throttle for the brake. Jet skis do not have brakes. Hence, she kept accelerating each time she tried to 'brake' harder. The girl then lost control of the craft and it crashed into mangroves on the bank. Fortunately, the three girls on the jet ski suffered only minor bumps and grazes. The Report pointed out that the incident indicated that close instruction and supervision is needed by hire operators when inexperienced people are put in charge of powerful watercraft.<sup>3</sup>

In December 2004, the Queensland Injury Surveillance Unit, which collects injury data from 12 Queensland hospitals, released statistics indicating that there was an average of 1,500 people presenting to hospital emergency departments with an injury resulting from water-based recreational activities (including jet skiing). Most of the severe injuries were those associated with jet ski use.<sup>4</sup> A search of emergency department data compiled between 1998 and 2003 found that 80 people presented with jet ski related injuries (1% of the total). The most common age group represented was 20-24 year olds and 81% of those presenting were male. The most common cause of injury was falling (23%) followed by being struck by or colliding with an object (9%). The face was the most commonly injured body part (15%) followed by head and feet (14% each). Generally, the injury was an open wound (26%) or a sprain or strain (24%). Of those injured, 13% required hospital admission.<sup>5</sup>

Apart from safety issues, the inappropriate use of jet skis and jet skiers' behaviour comprise most of the complaints received by Maritime Safety Queensland (MSQ), particularly from local councils and community groups. The main issues of grievance are noise, amenity and nuisance.<sup>6</sup> Councils are currently limited in their ability to make laws for operations occurring beyond the high water mark, apart from limited activities such as swimming and activities in canals. Boating activity, such as the operation of jet skis, is a matter for which councils have sought

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<sup>3</sup> Queensland Government, Maritime Safety Queensland, 'Jet skis don't have brakes', *Safety Report*, December 2004, [http://www.msq.qld.gov.au/qt/MSQ.nsf/ReferenceLookup/r23\\_12\\_2004.pdf/\\$file/r23\\_12\\_2004.pdf](http://www.msq.qld.gov.au/qt/MSQ.nsf/ReferenceLookup/r23_12_2004.pdf/$file/r23_12_2004.pdf).

<sup>4</sup> Queensland Injury Surveillance Unit (QISU), Media Releases 2005, <http://www.qisu.org.au/modcore/MedialReleases/frontend/index.asp#a23>.

<sup>5</sup> QISU, 'Water Related Injury in Queensland', *Injury Bulletin No 85*, December 2004, [http://www.qisu.org.au/modcore/PreviousBulliten/backend/upload\\_file/Issue085.pdf](http://www.qisu.org.au/modcore/PreviousBulliten/backend/upload_file/Issue085.pdf).

<sup>6</sup> *Jet Ski Management Plan*, p 4.



assistance from the State Government.<sup>7</sup> In particular, local government favours the passage of legislation that would authorise the restriction or limitation of jet ski operation in particular areas.<sup>8</sup>

In May 2004, it was reported that some jet ski operators were ‘driving Gold Coast residents crazy’ and that they were endangering swimmers and kayakers in Currumbin Creek. There have been reports of ‘burnouts’ near other water users and of jet skis causing excessive noise to the annoyance of nearby residents, picnickers and swimmers. There have also been reports of complaints to police that jet skiers are not obeying the Creek’s six knot speed limit.<sup>9</sup>

Around midnight on New Year’s Eve 2004, the Queensland Water Police chased three jet skiers travelling at approximately 25 knots in a six-knot zone in the Southport Spit. The jet skis had no lights and the skiers were not wearing life jackets. They eluded the water police by dumping the jet ski and running off.<sup>10</sup> However, the Queensland Water Police reported that a number of infringement notices had been issued during a safety blitz during the 2004-2005 summer period, particularly to jet skiers who had been speeding close to swimmers, boat ramps and anchored boats.<sup>11</sup>

Member for Currumbin, Mrs Jan Stuckey MP, informed the Queensland Parliament of a recent example of the problems faced by beachgoers during early 2004. A group of six kayakers and beachgoers were buzzed constantly by jet skiers for over four hours. The police were called and the incident was reported but by the time the police arrived, both the kayakers and the jet skiers had moved on. Mrs Stuckey believed that the water police needed to have more resources to ensure the safety of all marine craft users and the safety of people, including tourists, who wish to enjoy the Gold Coast beaches and waterways.<sup>12</sup>

Similarly, in October 2004, Mr Mark McArdle MP, Member for Caloundra, told Parliament that jet skiers had been creating problems in the Pumicestone Passage by using it as a raceway thereby causing much ecological damage, noise pollution,

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<sup>7</sup> *Jet Ski Management Plan*, p 5.

<sup>8</sup> Transport Infrastructure and Other Legislation Amendment Bill 2004 (Qld), *Explanatory Notes*, p 5.

<sup>9</sup> Brian Williams, ‘Jet skis tear up peace in creek’, *Courier Mail*, 22 May 2004, p 21.

<sup>10</sup> Kay Dibben, ‘Blitz nets boat speedsters’, *Sunday Mail*, 2 January 2005, p 24.

<sup>11</sup> Kay Dibben.

<sup>12</sup> Mrs J Stuckey MP, ‘Jet Skis’, Adjournment, *Queensland Parliamentary Debates*, 11 May 2004, p 869.

and risk for families using the Passage. Many families in the area were upset by the noise in disregard of restrictions. Mr McArdle urged the Government to move forward with regulating jet ski operations so that attractive waterways are protected for other users. He noted that the issue had been around for a number of years.<sup>13</sup>

### 3 CURRENT REGULATORY CONTROLS

Jet ski operation is regulated under the **Transport Operations (Marine Safety) Regulation 2004 (Qld)** (the 2004 Regulation) pursuant to power conferred by s 218 of the *Transport Operations (Marine Safety) Act 1994 (Qld)* (*TOMS Act*). Under the 2004 Regulation, a jet ski is known as a ‘personal watercraft’.

Currently, a person needs to be at least 16 years of age and hold a recreational marine driver’s licence in order to operate a jet ski. However, to qualify for such a licence, the applicant does not have to show that they can operate a jet ski, the test being conducted on a boat.<sup>14</sup> Jet ski operators cannot exceed six knots within 30 metres of moored vessels and other specified things and within 60 metres of people in the water.<sup>15</sup> Jet skis must bear a registration number which must be at least 75 mm high.<sup>16</sup>

At present, while the Government has power to regulate noise, safety, environmental impacts etc., there is no one single piece of legislation that covers all of the issues raised by the inappropriate operation of jet skis.

A key area of need identified in an extensive review of jet skis and community consultation, undertaken in early 2004, was for a comprehensive approach to the management of waterways with the control and regulation of jet ski operation under the umbrella of one Government agency.<sup>17</sup>

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<sup>13</sup> Mr MF McArdle MP, ‘Jet Skis’, Adjournment, *Queensland Parliamentary Debates*, 5 October 2004, p 2704.

<sup>14</sup> See Part 4 of the 2004 Regulation and s 99.

<sup>15</sup> See Part 5, Div 9 of the 2004 Regulation, esp ss 127-128.

<sup>16</sup> 2004 Regulation, s 74(3).

<sup>17</sup> *Jet Ski Management Plan*, p 5.

## 4 GOVERNMENT ACTION

In November 2003, the *Operation of Jet Skis Discussion Paper* was released.<sup>18</sup> In October 2004, the Transport Minister, the Hon Paul Lucas MP, told Parliament that many of the submissions to the review related to amenity issues, particularly annoyance to others using the area in which jet skis operated.<sup>19</sup>

A review of jet skis and community consultation undertaken in early 2004 supported the introduction of tougher regulations for jet ski operators and of measures to improve safety and the behaviour of some jet skiers.<sup>20</sup>

### 4.1 JET SKI MANAGEMENT PLAN

In December 2004, the Queensland Government released the *Jet Ski Management Plan* (the *Management Plan*) to extensively review the operation of jet skis on Queensland waterways. Submissions were invited up to 27 February 2005, with legislation to be introduced into Parliament thereafter, reflecting the outcome of this process.

The intention of the *Management Plan* was to set out a possible framework and options for the best way of regulating the use of jet skis, taking into account the issues and interests of waterways and land users, environmental impacts, safety, general amenity and the enforceability of regulations.<sup>21</sup>

Five key policy initiatives to improve the management of jet skis and the behaviour of their operators were identified as follows –

- A new ‘stand alone’ type licence for jet skis;
- An increase to the minimum size of jet ski registration numbers to allow easy identification;
- Provision of legislative power for the creation of exclusion or restricted use zones;

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<sup>18</sup> As referred to by Mr MF McArdle MP, ‘Jet Skis’, Adjournment. This *Discussion Paper* is no longer able to be downloaded from the Queensland Department of Transport’s website.

<sup>19</sup> Hon PT Lucas MP, Minister for Transport and Main Roads, ‘Jet Skis’, Answer to Question on Notice by Miss FS Simpson MP, *Queensland Parliamentary Debates*, 6 October 2004, p 2732.

<sup>20</sup> *Jet Ski Management Plan*, Executive Summary, p 3.

<sup>21</sup> *Jet Ski Management Plan*, p 5.

- An extension of ‘distance off’ laws that require jet skiers to keep a specified distance from people in the water and other things;
- An expansion of enforcement and education activities.

These initiatives will be explored below.

The *Management Plan* does outline a proposal that requires the passage of new legislation (to provide authorisation for a new regulation making power for matters other than safety). However, a number of the initiatives will be implemented via changes to the existing 2004 Regulation (increasing ‘distance off’ requirements, minimum size of registration numbers, the creation of restricted use/exclusion zones, and a new licence class for jet skis) and through administrative action (e.g. education and enforcement).

## **4.2 TRANSPORT INFRASTRUCTURE AND OTHER LEGISLATION AMENDMENT BILL 2005**

Following the closure of the time for comments on the *Management Plan* on 27 February 2005, the Transport Infrastructure and Other Legislation Amendment Bill 2005 (Qld) (the Bill) was drafted and then introduced into the Queensland Parliament by the Minister for Transport and Main Roads on 19 April 2005. The Bill amends the *Transport Infrastructure Act 1994* (Qld) and other legislation. The amendments to the *Transport Operations (Marine Safety) Act 1994* (Qld) (*TOMS Act*) are the focus of this paper.

The Bill extends the objectives of the *TOMS Act* (in s 3) so that, in addition to providing a system for dealing with safety and operational issues or enabling the effectiveness and efficiency of the maritime industry, a further objective of the *TOMS Act* will now be to manage the operation and activities of ships. This makes it clear that matters other than safety are able to be dealt with under the *TOMS Act* and under the 2004 Regulation: **cl 19**.

The other amendment of significance is the extension of the regulation making power in s 218 of the *TOMS Act* to enable the making of regulations for matters other than safety. This issue is discussed further below.

## **5 JET SKI REGULATION INITIATIVES**

Implementation of the five initiatives outlined in the *Jet Ski Management Plan* requires a combination of the introduction of new authorising legislation (as contained in the Bill) and changes to the 2004 Regulation, and administrative action. These measures are discussed in turn under the following headings.

### 5.1.1 Stand-Alone Licence For Jet Ski Operators<sup>22</sup>

The *Management Plan* proposed that a new stand-alone licence for jet ski owners would be introduced from 1 January 2005 to improve the knowledge and skill level of operators and to aid enforcement and compliance. Requirements for licensing will have practical and theoretical training components.

The review indicated that enforcement officers, industry representatives and users were concerned about the fact that, to obtain a recreational marine driver licence required for operating a jet ski, the watercraft used for training and examination purposes by testing officers were watercraft other than jet skis. Indeed, the *Management Plan* pointed out that a jet ski is excluded as a craft used for examination purposes. The problem is that jet ski operation requires a special level of skill and this craft can travel at speeds over 100 kph, yet no skill pertaining to such operation is required to be demonstrated.<sup>23</sup> The fact that 30% of serious jet ski incidents between 2000 and 2004 involved unlicensed drivers may show that lack of skills and knowledge contributes to accidents.

The new requirements will be:

- From 1 July 2005 to 31 December 2005, existing recreational marine driver licence holders can upgrade their current licence to a jet ski licence by passing a written examination – thus allowing existing holders an adequate period of transition to the new arrangements. However, new applicants will need to undertake the necessary training to obtain a recreational marine driver licence and then pass another written test specific to jet ski operation.
- From 1 January 2006, it will be mandatory for all persons wishing to operate a jet ski to hold a jet ski licence. All new applicants for a jet ski licence must undertake a BoatSafe (Jet Ski) Training Course before being eligible. So if, for example, a person has held a recreational marine driver licence or a Master Class 4 licence (speed boats) but has also operated jet skis and wishes to continue to operate a jet ski, they will have to hold a special jet ski licence from 1 January 2006.
- The fee for a jet ski licence will be \$32.05. New applicants will have to pay \$32.05 for a recreational marine driver licence, then a further \$32.05 for a jet ski licence. The revenue raised will assist increased law enforcement and education activities.

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<sup>22</sup> Discussed in Section 4.1 of the *Jet Ski Management Plan*, pp 6-7.

<sup>23</sup> *Jet Ski Management Plan*, p 6.

### 5.1.2 Increasing Minimum Size of Registration Numbers<sup>24</sup>

The *Jet Ski Management Plan* states that the 2004 Regulation will be amended to require that, from 1 July 2005, registration numbering be at least 100 mm high for display purposes rather than the current 75 mm high. This is to overcome difficulties that enforcement officers have had in identifying jet skis and, also, for residents to be able to make identifications needed to lodge complaints. This measure will be consistent with requirements in New South Wales and Victoria. There will be a cost of around \$7.20 in upgrading the numbers on a jet ski.

### 5.1.3 Zones for Excluding or Limiting Operation of Jet Skis<sup>25</sup>

Currently, the regulation making power in the *TOMS Act* (s 218) allows regulations to be made about safety matters such as speed limits for vessels; removing obstructions to navigation; establishing buoy moorings etc. However, no power is provided for making regulations in areas other than those associated with the safety of the operation of vessels. For example, the power to deal with noise and environmental damage is governed by other legislation. The *Transport Infrastructure Act 1994* does allow Queensland Transport to develop Waterways Management Plans to control activities on water for a number of reasons. Such Plans exist at the Gold Coast, Sunshine Coast and Yeppoon.

The *Management Plan* proposed that s 218 of the *TOMS Act* be amended to enable the 2004 Regulation to deal with the establishment of zones in which jet ski operation will be limited or restricted for reasons other than just safety.

The *Management Plan* noted that the greatest issue emerging from the 2004 review and consultation was the idea of 'banning' jet skis from particular areas (as has been done in New South Wales in banning jet skis on Sydney Harbour), and limiting or restricting their operation in certain areas. There were strong opinions both for and against such a concept.

Previous enforcement and education campaigns have had no impact on curtailing nuisance behaviour by some jet ski operators whose disregard of the law endangers the safety of other water users and creates annoyance for nearby residents. Noise and nuisance appear to be the major causes for complaint.<sup>26</sup>

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<sup>24</sup> Discussed in Section 4.2 of the *Jet Ski Management Plan*, pp 7-8.

<sup>25</sup> Discussed in Section 4.3 of the *Jet Ski Management Plan*, pp 8-10.

<sup>26</sup> *Jet Ski Management Plan*, p 7.

Accordingly, **cl 22** the Bill amends s 218 of the *TOMS Act* to allow the making of necessary changes to the 2004 Regulation regarding the operation and activities of ships not otherwise provided for under the Act. For example, it will allow for regulations about amenity and for exclusion or restriction zones.

The new laws should make enforcement easier because a person's presence in a zone will establish the offence rather than trying to prove a problem exists in an area (e.g. too much noise).

It is intended that the zone areas where limits will apply will be stated in the *Government Gazette* and by appropriate signage in the zone area. The information will also be available from the MSQ website and from local councils.

It is proposed that the new requirements will commence from 1 July 2005. However, the creation of a particular jet ski zone will not occur until the local council in the relevant area where the zone would operate has complied with a specified process. This course of action seeks to answer concerns by some respondents to the 2004 review that local and state bodies might make arbitrary decisions about the creation of exclusion zones.<sup>27</sup> The procedure is intended to be the following –

- MSQ will establish a standard **zoning assessment criteria**, which will be developed in consultation with councils and other relevant agencies. This enables a consistent approach across the State for managing zones. The criteria will address issues such as safety (having regard to matters such as safe distances from swimmers etc. and existing speed limits); environmental protection (i.e. allowable distance from, and operations allowed in, sensitive areas such as protection zones); access (e.g. availability of boat ramps etc.) and suitability of the area to cater for needs of many water users etc.; amenity (e.g. density of neighbouring communities, distance from those communities, ambient noise levels); noise during hours of operation taking into account number of craft and factors which affect noise levels; enforceability issues; equity (including mitigating impact on commercial operators and ensuring community consultation occurs).
- A Council must apply the assessment criteria and engage in community consultation when they wish to limit or restrict jet ski activities in a particular area.
- The Council must submit a proposal, with appropriate justification, to MSQ. The proposal must include an amenity management plan.

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<sup>27</sup> Transport Infrastructure and Other Legislation Amendment Bill 2004 (Qld), *Explanatory Notes*, p 5.

- The amenity management plan will outline the proposed approach to enforcement, education, mitigation of impacts for commercial operators, signage and public notification. It will have to indicate the way in which the Council is committed to managing the area into the future and what is intended regarding enforcement of the restrictions.
- MSQ will assess individual Council proposals against the assessment criteria and liaise with the Council regarding the amenity management plan before determination is made.
- MSQ will then make a recommendation to the Minister for Transport. The Minister will then make a decision on the proposal. If it is approved, the Minister will seek preparation of the legislative amendment (possibly an amendment to the Schedule in the 2004 Regulation)<sup>28</sup> and Gazette notices.

In some areas, there may be no option but to ban the use of jet skis – such as where there are many waterside homes and a narrow stretch of water in which activities such as swimming occurs.

In July 2004, following a number of complaints, the Noosa Shire Council voted to make the Noosa River a passive recreation area which would ban jet skis from most of the Noosa River, apart from the area between Noosa Waters and the mouth of the river but commercial operations would still be permitted at Noosaville. However, a ban required the State Government's endorsement.<sup>29</sup> This proposal occurred prior to the release of the *Management Plan*. The Noosa River Plan was formally adopted by the Queensland Government in January 2005 but, in the event of conflict, the *Management Plan* would take precedence.

#### 5.1.4 'Distance Off' Requirements<sup>30</sup>

Under s 127 of the 2004 Regulation, a jet ski must not travel at a speed of more than six knots if it is –

- within 30 metres of anchored vessels, jetties, wharfs, boat ramps or pontoons; and
- within 60 metres of a person in the water.

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<sup>28</sup> See Queensland Transport, MSQ, 'Ride with the changes: Queensland's New Jet Ski Management Plan – Frequently Asked Questions', [http://www.msq.qld.gov.au/qt/msq.nsf/index/jetski\\_mgt\\_plan](http://www.msq.qld.gov.au/qt/msq.nsf/index/jetski_mgt_plan).

<sup>29</sup> 'Fast News – environment -jet ski ban', *Courier Mail*, 9 July 2004, p 6.

<sup>30</sup> Discussed in Section 4.5 of the *Jet Ski Management Plan*, pp 12-13.



These laws are popularly known as the ‘distance off’ requirements. It has been found that these laws are difficult to enforce and the assessment of the law enforcement officer’s distance from objects etc is often challenged by the person who is charged.<sup>31</sup>

In response to problems identified by the Government in the 2004 review, the 2004 Regulation will be amended to extend the ‘distance off’ for jet skis so that they must not travel at more than six knots within 60 metres in *all* cases, not just from a person in the water. This six knot limit will also apply to 60 metres from the shore to prevent environmental damage from wash, a matter that is not currently specifically regulated.

In addition, the Government is considering, in consultation with the public, a new law to limit free-styling and wave jumping to outside 200 metres of the shore if there are dwellings adjacent to the water and they can be seen by the jet ski operator.

#### **5.1.5 Education and Enforcement<sup>32</sup>**

Current education and enforcement of jet ski laws is undertaken by the Queensland Boating and Fisheries Patrol (QBFP) and by the Queensland Water Police. However, effective enforcement can be limited by competing enforcement priorities. During the early 2004 review, a common area of concern was that current enforcement is inadequate and the jet ski laws are unclear and hard to enforce. The creation of zones, as outlined above, will only go so far in managing jet ski operations. Zones of that type cannot be created everywhere.

It has been recognised that better education and adequate resources for enforcement are the key to effective management of behaviour.

The *Management Plan* noted that a dedicated jet ski education and enforcement team would be created to enforce general boating safety rules and to educate jet ski operators on their responsibilities. They would do this through regular patrols in trouble spots in addition to patrols by QBFP and the Water Police. The team would help local councils in setting up their own enforcement efforts. Additional resources will be deployed to assist such activities, especially in trouble spots. A review of the effectiveness of a dedicated enforcement presence will be undertaken in late 2005.

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<sup>31</sup> *Jet Ski Management Plan*, p 12.

<sup>32</sup> Discussed in Section 4.1 of the *Jet Ski Management Plan*, pp 10-11.

## 6 OTHER JURISDICTIONS

It appears that the initiatives outlined above will be consistent with the approach taken in other States such as in New South Wales and Victoria.<sup>33</sup>

### 6.1 NEW SOUTH WALES

In New South Wales, the relevant legislation regarding the management of personal watercraft (which is defined to include jet skis) is the Water Traffic Regulations 1969 (NSW), made under the *Maritime Services Act 1935* (NSW).

Under the Regulations, a jet ski operator must have a personal watercraft licence. A licence applicant has to pass an examination relevant to the type of licence sought. All jet skis must be registered and the registration numbers have to be at least 100 mm high (as will be the case under new laws in Queensland).

Jet skis are prohibited in certain exclusion zones. They were banned from Sydney Harbour from October 2001 after changes to the Regulations. Restriction zones exist in a number of other areas where certain behaviours are prohibited such as irregular driving (e.g. wave jumping). In various areas there are signs forbidding some activities or restricting speed. A jet ski cannot be ridden after sunset.

‘Distance off’ requirements state that a jet ski travelling at 10 knots or more must keep 60 metres from a person in the water and from small, non-powered vessels, such as sailing craft. A distance of 30 metres must be maintained from other power driven vessels, the riverbank, the shore, structures, and any other larger sailing vessel. ‘Distance off’ requirements also apply to surf zones areas.<sup>34</sup>

### 6.2 VICTORIA

The operation of jet skis (included in the definition of ‘personal watercraft’) is governed by the *Marine Act 1988* (Vic) and the Marine Regulations 1999 (Vic).<sup>35</sup>

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<sup>33</sup> See also, for example, the Harbours and Navigation Regulations 1994 (SA), <http://www.parliament.sa.gov.au/Catalog/legislation/Regulations/h/1994.176.un.htm>.

<sup>34</sup> Water Traffic Regulations 1969 (NSW), ss 15AAA-15A, Part 3A, at <http://www.legislation.nsw.gov.au/fullhtml/inforce/subordleg+03+1969+FIRST+0+N> and the NSW Maritime Authority’s Personal Water Craft Code of Conduct, <http://www.maritime.nsw.gov.au/pwc.html>.

<sup>35</sup> See esp Marine Regulations 1999 (Vic), Parts 4, 7, at [http://www.dms.dpc.vic.gov.au/Domino/Web\\_Notes/LDMS/PubLawToday.nsf/b12e276826f7c27fca256de50022686b/98857a3589710a69ca256f7900782276/\\$FILE/99-145sr014.pdf](http://www.dms.dpc.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/b12e276826f7c27fca256de50022686b/98857a3589710a69ca256f7900782276/$FILE/99-145sr014.pdf).

To operate a jet ski, a person must have (as of February 2002) an operator licence authorising the use of a personal watercraft and have a personal watercraft endorsement accordingly. A knowledge test must be undertaken by a licence applicant.

Jet skis must be registered and the minimum size of the registration number is 100 mm (as will be the case in Queensland under the amendments to the 2004 Regulation).

‘Distance off’ requirements are that a jet ski travelling at five knots or more must keep at least 50 metres from persons in the water or from another vessel and 100 metres from a diver’s flag/buoy/vessel. In coastal waters, a jet ski at this speed must keep 200 metres from the water’s edge and 50 metres away from a wharf, boat ramp etc. In inland waters, a jet ski travelling at 5 knots or more has to stay 50 metres from the water’s edge or from a fixed or floating structure. There are some exemptions regarding distance from vessels such as where vessels are in an exclusive personal watercraft zone where the width of water prevents the necessary distance restrictions being maintained. Jet skis must also stay away from swimming/surf beaches and areas where other vessels operate in close proximity.

Certain general boating rules made under the *Marine Act*, such as ‘give way’ rules, apply to jet ski operators.



## **APPENDIX A – MINISTERIAL MEDIA STATEMENT**

**The Hon. Paul Lucas MP, Transport & Main Roads**

**19 April 2005**

### **BEATTIE GOVERNMENT TABLES JET SKI LEGISLATION**

The Beattie Government today introduced a bill into State Parliament that will help Maritime Safety Queensland (MSQ), local governments and local communities to effectively manage jet skis in their areas.

Transport Minister Paul Lucas told State Parliament today that proposed amendments to the Transport Operations (Marine Safety) Act would broaden MSQ's ability to manage water-based activities for reasons other than safety.

"The State Government also will be able to give councils the power to manage jet skis in their areas in consultation with it and their communities," he said.

"These new measures provide a legislative framework to implement the Jet Ski Management Plan, which was announced by the Beattie Government late last year."

The management plan includes initiatives such requiring a special licence for jet skis, creating the power to declare exclusion or restricted-use zones, on-water enforcement and education, and increased distance-off requirements.

Local government authorities will be able to apply to Queensland Transport for exclusion zones from the second half of this year.

Mr Lucas said under its existing legislation, Maritime Safety Queensland dealt with matters of safety, marine pollution prevention and response, and promoting the effectiveness and efficiency of the maritime industry.

"However, most complaints about smaller craft such as jet skis however have arisen out of noise, nuisance and reduced amenity," he said.

"The amendments will enable the agency to regulate for reasons such as noise."

As soon as this bill is passed by Parliament, the Queensland Cabinet will consider a new regulation to finalise the establishment of exclusion zone criteria.

Maritime Safety Queensland and the Local Government Association of Queensland and local councils are developing a process to be followed when a council proposes to establish a zone to restrict jet ski activities.

"The council will have to fully consult the local community before any zones are approved and regulated," Mr Lucas said.

"Other criteria for setting up zones include safety considerations, environmental protection, accessibility and suitability such as the availability of boat ramps and facilities in other non-restricted areas, amenity, noise, enforceability and equity issues.

"Local governments will also help to promote the safe and considerate use of these machines in areas where they operate," Mr Lucas said.

These changes will help to minimise conflicts between the increasing number of people involved in water-based activities and those people who live along our waterways.

Media inquiries: Paul Childs 3237 1942 or 0407 131 654.

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