



Submission: POEO Reg 2022 Review

ISSUE: POEO Reg. 2022

SUBJECT: draft Protection of the Environment Operations (General) Regulation 2022

INTRODUCTION:

NSW Environment Protection Authority is seeking feedback on the draft Protection of the Environment Operations (General) Regulation 2022. EPA state the proposed changes will make the Regulation easier to understand and action.

The *Protection of the Environment Operations Act 1997* (POEO Act) is the key piece of environment protection legislation administered by the Environment Protection Authority (EPA). The Protection of the Environment Operations (General) Regulation 2021 (the POEO General Regulation 2021) is subordinate to the POEO Act and gives effect to many of the powers provided by the POEO Act.

EPA has a draft Regulation and Regulatory Impact Statement at:
<https://yoursay.epa.nsw.gov.au/poeo-general-regulation-2022>

Deadline for comment is Thursday **14 April 2022**.

SUBMISSION

The Boating Industry Association Ltd (BIA) commend EPA for the opportunity to provide our input.

The BIA is the peak body in Australia that represents the interests of recreational and light commercial boating which includes boat manufacturers, importers, brokers, insurers, retailers, charters, marinas, boat yards, events, designers, surveyors and trades from boat builders to riggers, and more. BIA is an advocate for boaters and the boating lifestyle, and supports safe, responsible and enjoyable boating.

The boating economy generates significant benefits through employment. In 2021 the industry reported national turnover of \$8.835 billion, directly employed more than 27,630 people with more than 10,000 contractors. In NSW the industry recorded \$2.60bn in turnover and 9220 in direct employment.

Seventy-five per cent are in small family businesses, employing local workers and supporting local communities.



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With more than 85 per cent of the population living within 50km of the coast, it is little wonder that almost 1 in 5 households have a boat or watercraft. Furthermore, the number of vessels and watercraft in our communities should not surprise as the reality is people of all ages, gender and ability can participate in boating across paddle, sail and power for leisure and sport.

On top of that, boating has proven to be a standout choice of leisure activity through the pandemic. The combination of no international travel, the staycation phenomenon, flexible work practices, and the need to be COVID Safe, have seen the interest in boating ramp up significantly.

A boat is like a moveable island where you choose where to go, when and who with, and it supports compliance with social distancing. It is also proven to be good for your body and mind. Work in social science has shown that when we are on a boat, feel-good hormones like dopamine, serotonin, oxytocin go up, while cortisol (stress) goes down.

This increase in boating participation is also increasing demands on infrastructure such as marinas, boat yards and charter operations. Under demand are service and repair facilities to ensure boats are kept fit for purpose and that includes being safe.

As a result of the above, boating is a significant contributor across social, economic, environmental and cultural benefits that span metropolitan, rural and regional Australia.

Response

Our responses to the noteworthy changes contained in the Regulatory Impact Statement re as follows:

5. Significant regulatory proposals – cost-benefit analysis (from the RIS)

5.1. New licence application fee

BIA does not support the changes suggested by EPA to 'recover its costs'. The industry supports the view that the EPA is a department serving the general public of NSW as a public service with existing funding streams. To claim the need for cost recovery by the EPA because, as listed first in its reasons within the RIS: it 'attends planning focus meetings or steering groups' raises concerns about the rationale. Attending meetings is a fundamental action performed by the broad public sector as part of normal working conditions and also does not factor in the shift to video conferencing over the past two years; a shift that is likely to continue to be applied.

A broad cost recovery model is a commercial economic framework that does not naturally fit in a department that delivers government programs on behalf of the general population.



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The general public service which has general government-revenue funding should treat a philosophy of 'recover costs' with caution.

It is noted the EPA receives government funding as a grant from DPIE. Revenue is also derived from other NSW agencies as well as from environmental licensing and administration fees paid by regulated industries. Total revenue for 2020–21 was \$216 million.

'6. Non-significant regulatory proposals – indexation of fees'

BIA recommends CPI as a maximum measure by which to consider any increasing of fees.

'5.2. Extractive activities'

The issue of dredging is referenced in this section. Dredging is often a State significant matter and is linked to both the economic benefits of the region whilst also delivering social benefits through safe navigation across NSW waterways.

Any changes considered as part of this review should not put at risk the current approach of the NSW Government to support strategic dredging operations for the navigation of vessels which to support economic and social benefits.

As the NSW Government's own NSW Coastal Dredging Strategy states: 'To meet the rising demand for boating and water-based tourism experiences and balance environmental imperatives requires a well-informed, proactive management approach to waterway accessibility.'

'While dredging is not a legislative responsibility, the NSW Government is committed to improve and sustain accessibility to key coastal locations, river entrances and local waterways to support economic growth opportunities through improved navigation for commercial and recreational vessels. Dredging is an important management activity necessary to maintain navigation channels and provide access to maritime infrastructure that are otherwise restricted by natural sand shoaling. A well-managed statewide dredging approach can economically provide navigational and other benefits such as flood mitigation, sand for beach nourishment and help conserve water quality within our estuaries.'

To highlight the value of dredging, the State Government has supporting Transport for NSW in taking on a stronger role in this key area.

Boating is part of the lifestyle for many Australians and 1 in 5 NSW households has a boat or some form of watercraft (eg., paddle craft), and industry seeks government support in these areas and not more barriers and red tape to the issue of dredging.



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Furthermore, the issue of Climate Change and extreme weather is already influencing siltation of estuaries and BIA seeks the collaboration of EPA to focus on solutions to enabling and delivering dredging where necessary and appropriate.

'6. Non-significant regulatory proposals – indexation of fees'

Changes under this section should not be founded on the desire of EPA to recover costs for its public service duties but rather the application where appropriate of CPI as a maximum measure by which to consider any increasing of fees.

'7. Non-significant regulatory proposals – National Pollutant Inventory'

NIL

8. Non-significant regulatory proposals – other

8.3. Penalty notice offence fees

Changes under this section should not be founded on the desire of EPA to recover costs for its public service duties but rather the application where appropriate of CPI as a maximum measure by which to consider any increasing of fees.

8.4. Testing of pollution incident response management plans

BIA supports the reduction of red tape including where it applies to pollution incident response management plans (PIRMP).

8.6. Protection of the Environment Operations (Noise Control) Regulation 2017

Marinas and boat yards should not be caught up in any increased red tape and or fees, chargers or penalties under these changes. It must be recognised that boat yards, and marinas, in many instances are long-standing operations with connections to the history of the working waterfront and keeping vessels fit for purpose (safe). In the case of Sydney, that is the Working Harbour. In many of these locations urbanization has encroached upon and, in some cases, pressured boat yards to relocate and or close. In the case of Sydney Harbour, much is made of the Working Harbour by the community and by governments. However, government policy is not always aligned. It is imperative that EPA recognises the social, economic, environmental and cultural benefit arising from the boat yards, repair and maintenance facilities, and marinas.

9. Amendments to fees in Schedule 1 of the POEO General Regulation

Amendments should be based upon sustainable practices and not on cost recovery by EPA.

10. Amendments to Schedule 1 of the POEO Act

10.1. Marina and boat repairs – boat construction/maintenance (dry/floating docks) and boat construction/maintenance (general)

This section covers the following:

- **boat construction/maintenance (dry/floating docks)**, meaning the use of dry docks or floating docks for the construction, repair and maintenance of vessels
- **boat construction/maintenance (general)**, meaning the use of facilities (whether water-based or land-based) for the construction, repair and maintenance of vessels (other than dry docks, floating docks and facilities not having frontage to a waterway)
- **boat mooring and storage**, meaning the use of pontoons, jetties, piers or other structures (whether water-based or land-based) designed or utilised to provide moorings or dry storage (other than swing moorings and facilities not having frontage to a waterway).

BIA recommends no change to these definitions which would lead to an increase red tape, bureaucratic or regulatory burden, or costs.

Marinas and boat yards not only deliver critical land-water interface infrastructure but they help create a sense of place; waterfront destinations which support tourism, charters, government, water taxis (public transport), emergency services and recreation.

Community club marinas can also support health and wellbeing programs such as sailing and paddling, which can and do included programs for people of all abilities. They also form social hubs in key waterfront locations.

Marinas typically provide safe, convenient and accessible deep-water access to our waterways, and together with boat yards (service and repair) provide essential and managed services to protect life, the environment and property. Many include at least the following:

- safe storage and supervision of vessels;
- provision of fuel and the maintenance of waterside fuel delivery systems;
- service and maintenance to vessels (through waterside and specialist technical contractor workshops like mechanics, shipwrights, marine electricians etc);
- emergency boat lift and maintenance;
- pollution response capability;
- the provision of essential supplies (food and water) to vessels away from their home port;
- sewage pump out; and
- emergency medivac points.

More than half of all marinas and clubs provide fuel for vessels including recreational, commercial and response vessels. Sixty per cent of marinas provide boat lifting services and 54 per cent

have boat repair and maintenance facilities. Boat yards and marine service/ repair precincts not only provide employment and support for skills and trades but they are an economic driver in their own right. As an example, there has been an increase in large 30m+ yachts visiting Australia for service work in appropriately equipped boat yards. This is driving employment, training and skills, and economic benefits to government.

No changes should be made that increases red tape, fees or charges, or the regulatory burden placed upon the marine industry. That includes service and repair facilities such as floating docks. As mentioned, Sydney and NSW is already straining to provide the service and repair facilities to support the recreational and commercial sector, that in turn support a significant boating public and a significant tourism sector. There is a clear and present need for governments to help ensure service and repair infrastructure is in place to meet demand in key boating areas now and into the future.

11. Minor changes to the POEO General Regulation

Changes under this section should not be founded on the desire of EPA to recover costs for its public service duties but rather the application where appropriate of CPI as a maximum measure by which to consider any increasing of fees.

Industry is also concerned amendments to POEO may result in changes to pollution compliance and enforcement regarding waste from vessels. Government action should not be on more red tape, fees or fines, but rather it should be focused on the provision or incentivisation of an appropriate network of vessels pump out facilities across popular waterways in NSW.

In conclusion, BIA would welcome to meet with EPA to discuss opportunity before us to support sustainable recreational and light commercial vessel activity, for the benefit of millions of Australians now and into the future.

For example, please note the following:

BIA aims to advocate to governments to consider opportunities in broader government strategies, policies and programs such as:

- Government policy drive to decarbonise the economy pushing towards renewable energy and reduced reliance on fossil fuels;
- Increased focus on infrastructure resilience to Climate Change driving more robust and protected infrastructure and management systems (which potentially may drive up capital and operational costs)

- Technological development of alternatives to fossil fuels and hybrid drive. Marine engines have lagged automotive as biofuels are not suitable for marine engines due to water separation and electric drives to date have had limited uptake due to the range limitations of the current energy density of battery technology, however, this area continues to evolve.
- Increased recognition of the social, environmental and economic benefits of boating. Particularly as Covid-19 has seen a reset of consumer behaviour and their engagement with recreational boating. This has been driven by boating presenting a Covid-Safe activity with limited friends and family delivering outdoor escapism and effective social distancing. This has seen a growth in boat sales across the board and a significant uptake in boat utilisation over 2020 and 2021. New habits and behaviours are being formed. Boating skills and confidence of users are increasing which is a key factor in boat use frequency and enjoyment. With international travel unlikely to 'normalise' for many years these behaviours are likely to become habitual and point to a future of ongoing demand for participation in recreational boating.

In consideration of the above we see that there are a number of opportunities that we can explore in collaboration that address and respond to the above challenges and opportunities.

1. Electrical capacity and decarbonisation:

The demand for electricity by the boating industry will increase over time because of the transition from fossil fueled engines to electric engines and hybrid engines for both motor vehicles and boats. The existing electrical infrastructure needs to be addressed.

Opportunities to increase electrical capacity, resilience and introduce renewable energy in the boating industry include:

- Covering all roof areas with high performance PV cells which has the potential to deliver significant levels of solar power;
- Utilise off-peak power and solar power to provide battery power storage to reduce or eliminate peak demand power draw;
- Invest in electric vehicle charging infrastructure
- Invest in electrical engines for hire boats and associated charging infrastructure
- Plan for long term investment in electrical charging infrastructure for hybrid and electrical propulsion boats

2. Bush Fire resistance strategies

In Australia, fire is a genuine threat especially in rural and regional areas where boatyards and marinas are often in or adjacent to bush environments. Opportunities to increase the Bush Fire resilience of the at-risk infrastructure includes:

- The installation of an external pumped drenching/sprinkler system to cover

the exterior of at-risk buildings.

- The installation of fire-resistant shutters to external windows where appropriate
- The repainting of at-risk buildings including a topcoat of fire-resistant paint
- The installation of onsite water storage as a backup to support firefighting efforts
- The removal of trees that overhang at-risk buildings and to a distance from such buildings to reduce the risk of treefall during a bush fire event.

3. Extreme Weather resilience

As was evident from the extreme weather event in Sydney in February 2020, the main risks for maritime infrastructure such as marinas that experience increase in extreme weather intensity and frequency can include:

- increased flow from extreme rainfall that causes siltation or trees and other large items to be in the waterway that causes damage to vessels or infrastructure
- on the land side tree fall and landslides.

Opportunities to increase the extreme weather resilience include:

- Increased investment in maintenance of the marina pontoon system to maintain near-new performance in the longer term.
- Implement a program of maintenance dredging that maintains navigable waters and uses dredged material to guide flow in extreme weather events to the channel and away from infrastructure.
- Review slopes upward of at-risk infrastructure to ascertain risk and take preventative action
- Review trees upward of at-risk infrastructure to determine the risk and impact of tree fall and take preventative action.

The above outlines the range of risks and opportunities that can confront boating infrastructure over coming decades. A key challenge is that they represent both significant capital cost and risk without commensurate savings in costs or uplift in revenues.

Consequently, BIA aims to advocate for Government recognition of such risks and the need to work together on the solutions. That, for example, should factor in the additional capital investment, changes in operating expenses (insurance premiums, additional maintenance ie dredging or additional cost of working) and how considerations like, Lease term, Lease Rent, Lease Area or additional development and Grants and Rebates (From other State and Federal Government entities) factor into the viability of the business model.

The core objective being that all parties' interests are balanced and sustainable.

Advocacy for a Green Blue Grid strategic approach



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- We must value 'blue space' as well as 'green space'. We recommend adopting an overall 'green/blue' approach so that we work to build not just Green Spaces, which gives a sense that they are land based and independent from one another, but to consider a "Green Blue Grid" where the aim is to connect, integrate, enable and care for these natural spaces irrespective of whether they are on dry or over wetlands. Afterall, almost 1 in 5 households have a boat or watercraft.
- Strengthen and support evolving community connections - We also draw attention to Professor Ralf Buckley of Griffith University and the International Chair in Ecotourism Research and his work to put a public health value on open spaces. His work published in 2019 revealed Australia's national parks are worth \$145 billion to the economy from the improved mental health of people who visit them, according to peer-reviewed research. This highlights the need for urgent consideration as to how we can provide safe integrated and well-planned access to both the outdoor 'green' and 'blue' spaces for our collective physical and mental health.

We encourage government to develop a Green Blue economic benefit study and consider engaging Prof Buckley to quantify these outcomes and assist in shaping priorities, policy and strategies re., social benefit. This would be of considerable value to the wider issue of strategic planning for opportunities around the land-water interface across the nation.

Thank you again for the opportunity to provide input to the EPA. Please do not hesitate to contact Mr Neil Patchett, Co General Manager, e. neil@bia.org.au or m. 0418 279 465 on this matter.

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