

# SCHEDULE OF CONDITIONS

## (GENERAL)

Section 217 of the *Transport Operations (Marine Safety) Act 1994* (The Marine Safety Act)

Section 198 of the *Transport Operations (Marine Safety) Regulation 2016*

### GENERAL

1. The Authority Holder is responsible for the overall safety of the aquatic event. In particular, the Authority Holder is responsible for complying with all legislation applicable to the aquatic event, including marine regulation and workplace health and safety legislation.
2. A Harbour Master may give a direction for the safe operation of ships at the aquatic event, which the Authority Holder must comply with. This may include the operation of safety vessels, vessels used for the aquatic event, and spectator vessels. A Harbour Master may also give a direction about an obstruction to navigation. This may include an obstruction caused by barges, buoys, floats or other equipment used for the aquatic event.
3. The Harbour Master or Area Manager may cancel or postpone the aquatic event if either person considers that the weather or water conditions are unsuitable for the event. This does not absolve the Authority Holder from making their own assessment whether the weather or water conditions are unsuitable for the event.
4. A contravention of any condition in this Authority is an offence that carries a maximum penalty of 50 penalty units. A contravention of a condition of this Authority is also grounds for cancellation or suspension of the Authority, as well as grounds for refusal of a future application for an authority.
5. All marine incidents must be reported to either Maritime Safety Queensland, Queensland Police Service or Queensland Boating and Fisheries Patrol within 48 hours and recorded on the Queensland Government form 'Marine Incident Report' (form number F3071).

### DOCUMENTATION

6. The Authority Holder must carry a copy of this Authority for the duration of the aquatic event.
7. If requested, the Authority Holder must produce any of the following documents to a shipping inspector<sup>1</sup> for examination:
  - a) the Authority and Schedule of Conditions
  - b) a copy of the approved map
  - c) the Safety Management Plan approved by Maritime Safety Queensland
  - d) the Emergency Response Plan approved by Maritime Safety Queensland.
  - e) Records pertaining to the briefing held and participants present (as per condition 21)
8. The master of any safety ship must be able to produce a copy of the approved map to a shipping inspector for examination, if requested.
9. The Authority Holder must comply with the following documents approved for the event by Maritime Safety Queensland:
  - a) Safety Management Plan
  - b) Risk Management Plan

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<sup>1</sup> A police officer may be appointed as a shipping inspector under the *Transport Operations (Marine Safety) Act 1994*.

- c) Emergency Response Plan.
10. Maritime Safety Queensland may provide an applicant for an Authority with templates of the documents described in paragraph 7 above. It is a condition of the Authority that while templates of those documents are provided for the guidance and assistance of the applicant in obtaining an Authority for the event, The Applicant and Authority Holder remains responsible for the adequacy of those documents as submitted to Maritime Safety Queensland for the safety and circumstances of the event. Any response by Maritime Safety Queensland to the documents as submitted is also for the purpose of the applicant obtaining an Authority for the event.

Any response by Maritime Safety Queensland to the documents as submitted for the event, and grant of the Authority by Maritime Safety Queensland does not:

- a) amount to a representation or warranty of the template documents or any responses given by Maritime Safety Queensland as to the adequacy of those documents for safety of the event concerned; or
- b) override the indemnity that the Authority Holder provides to Maritime Safety Queensland under the Authority.

#### **SAFETY SHIPS / SHORE-BASED STATION**

11. Maritime Safety Queensland requires the Authority Holder to have one or more support/safety ships available for the aquatic event as follows:
- a) adequate number of support ships to safely manage the event
- b) qualified master and adequate number of crew to safely operate the ship
- c) VHF radio
12. The Authority Holder must ensure that an appropriately registered safety ship is available at all times for the duration of the aquatic event.
13. An appropriately equipped safety ship must be available at all times and positioned adjacent to the event location and be ready to respond to a safety incident.
14. The Authority Holder must provide a staffed ship or shore-based coordination centre for the duration of the aquatic event.

#### **COLLISION REGULATIONS AND RACING RULES**

15. Clauses 16-18 inclusive apply if:
- a) Maritime Safety Queensland requires the Authority Holder to have one or more safety ships available for the aquatic event; and also
- b) If the event includes ships participating in the aquatic event.
16. All participating ships and safety ships equipped with VHF are to monitor VHF channel 16 and VHF channel 77.
17. The *International Regulations for Preventing Collisions at Sea 1972* (the Collision Regulations) apply to all ships involved in the aquatic event at all times.
18. The Authority Holder must remind the operators of all participating ships they must comply with the:
- a) *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* and subordinate regulation, or
- b) *Transport Operations (Marine Safety) Act 1994* and subordinate regulation, whichever is applicable.

- c) Racing Rules of the organisation under which the aquatic event is being conducted, provided that in the event of an inconsistency between the Racing Rules and the legislation referred to in 19a) and 19b), that legislation prevails.

#### **BRIEFING AND COMMUNICATION**

19. The Authority Holder must brief all participants, masters and crew of safety ships and safety marshals prior to the event about compliance with the Safety Management Plan, Risk Management Plan, the Emergency Response Plan and the conditions of this Authority.
20. The Authority Holder must record the delivery of the briefing and all attendees, acknowledgement of their attendance and understanding of their obligations during the duration of the event.
21. If Maritime Safety Queensland requires the Authority Holder to have one or more safety ships available for the aquatic event, there must be radio and/or mobile phone communication between the safety ship and the staffed ship or shore-based coordination centre.
22. If the aquatic event coincides with another aquatic event, both Authority Holders must coordinate the most safe and orderly way to utilise the location for the events.

#### **SHIP OPERATIONS AND OTHER ACTIVITIES**

23. Any marker buoy or float placed or located in the water for the aquatic event must not be constructed or coloured in any way so it may be confused with an aid to navigation.
24. All marker buoys or floats must be removed from the water within 1 hour of the conclusion of the aquatic event.
25. The Authority Holder or the master of the safety ship must remove any debris from the aquatic event from the water as soon as practicable.
26. The event is to be held within the limits indicated on the approved chart.
27. The Authority Holder must ensure that ships participating in the aquatic event observe a 20-metre exclusion zone around all Aids to Navigation.
28. The Authority Holder must ensure that the latitude and longitude coordinates of all marker buoys on the waters covered by the aquatic event are recorded in case of any incidents for subsequent marine incident investigations.
29. First aid personnel, with current appropriate qualifications, must be on duty and available at the location of the aquatic event for the duration of the event.

#### **USE OF WATERWAY**

30. The Authority Holder must obtain permission to hold the aquatic event from the entity responsible for the administration of the waterway on which the event will be conducted (the Administrating Entity) if it is not Maritime Safety Queensland prior to the event.
31. All conditions for use of the waterway imposed by the Administrating Entity must be observed during the aquatic event.

**INSURANCE**

32. The Authority Holder must affect and maintain, for the duration of the aquatic event, a public liability insurance policy. The policy must:
- (a) be in the name of the Authority Holder and the State of Queensland acting through the Department of Transport and Main Roads (the “parties”);
  - (b) cover the:
    - (i) respective rights and interests; and
    - (ii) liabilities to third parties, of the parties;
  - (c) cover the parties’ respective liability to each other for loss or damage to property and the death or injury to any person;
  - (d) be for the amount of not less than twenty million dollars (\$20,000,000);
  - (e) be with a reputable insurer in terms approved by Maritime Safety Queensland, which approval will not be unreasonably withheld; and
  - (f) require the insurer to inform the State of Queensland in writing whenever any notice of cancellation or other notice in relation to the policy is served on the Authority Holder.
33. The Authority Holder must, prior to the commencement of the aquatic event, provide to Maritime Safety Queensland, a copy of the public liability insurance policy and a certificate of currency for the policy.

**INDEMNITY AND RELEASE**

34. To the maximum extent permitted by law, the Authority Holder indemnifies and shall keep indemnified Maritime Safety Queensland, its officers and employees from and against all actions, suits, claims, demands, proceedings (whether in tort or otherwise), losses (including but not limited to consequential loss, loss of profit and loss of opportunity), liabilities, damages, compensation, costs, charges and expenses or other claims whatsoever to which Maritime Safety Queensland, its officers or employees shall or may become liable in respect of:
- (a) any breach by the Authority Holder of any of the terms and conditions contained in this Authority; or
  - (b) any unlawful or negligent act or omission or the wilful misconduct of the Authority Holder, its officers, employees, agents, contractors, invitees or other persons arising out of or in connection with the aquatic event,
  - (c) contravention of any legislative requirement by the Authority Holder, its officers, employees or agents; or
  - (d) loss, destruction or damage to real or personal property (including that of Maritime Safety Queensland, and including loss of use of property which has not been physically damaged or destroyed) arising out of or in connection with the aquatic event; or
  - (e) injury to, or death of, persons, and claims for loss of consortium, loss of servitium or dependency claims of any description arising out of or in connection with the aquatic event, except to the extent that such actions, suits, claims, demands, proceedings, losses, liabilities, damages, compensation, costs, charges, expenses or claims are a consequence of an unlawful or negligent act or omission or the wilful misconduct of Maritime Safety Queensland, its officers or employees.
35. The Authority Holder unconditionally releases Maritime Safety Queensland from any claims of the nature referred to in clause 32 which it may otherwise have against Maritime Safety Queensland.

36. The releases and indemnities contained in clauses 32 and 33 shall continue in full force and effect as to any claims occurring or arising from any act or omission during the duration of the aquatic event (and any extended period) notwithstanding the expiration or termination of the aquatic event.

#### **MISCELLANEOUS CONDITIONS**

37. The Authority Holder must ensure staff and participants are not under the influence of alcohol or drugs for the duration of the aquatic event.
38. If the aquatic event moves due to weather or an alternate date, the Authority Holder must advise Maritime Safety Queensland and submit a revised or new application for consideration and approval.
39. A public notice for the aquatic event must be placed in a local newspaper at least 5 business days before the event.

#### **ADDITIONAL INFORMATION**

Any questions about these conditions should be directed to Dean Crust, Acting Area Manager (Sunshine Coast) on 07 5373 2310.

## SCHEDULE OF CONDITIONS (SUPPLEMENTARY – APPLICABLE TO SPECIFIC CATEGORIES OF EVENTS)

Section 217 of the *Transport Operations (Marine Safety) Act 1994* (The Marine Safety Act)

Section 198 of the *Transport Operations (Marine Safety) Regulation 2016*

### CONDITIONS APPLICABLE TO SPECIFIC LOCATION OF THE AQUATIC EVENT NEAR SPECIFIC COMMERCIAL SHIPPING CHANNELS, BEACHES OR RIVERS

40. Participant ships must keep at least 300 metres clear of the entrance to the Mooloolah River during the activities of the aquatic event.
41. Participant ships must not impede the safe passage of commercial vessels navigating the Mooloolah River.
42. Participant ships must keep at least 50 metres clear of any shark fishing equipment.
43. No commercial fishing apparatus is to be removed from the water or moved without the consent of the owner.

