



New South Wales

Ports and Maritime Administration Amendment (Maritime Advisory Council) Regulation 2011

under the

Ports and Maritime Administration Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Ports and Maritime Administration Act 1995*.

DUNCAN GAY, MLC
Minister for Roads and Ports

Explanatory note

The object of this Regulation is to provide for the establishment of a Maritime Advisory Council by the Minister for Roads and Ports and for its membership and procedure. The functions of the Maritime Advisory Council are to advise the Minister on any matter that is referred to it by the Minister in connection with the operation of the marine legislation and to advise and make recommendations to the Minister on maritime safety and on expenditure priorities for the exercise of the functions of Roads and Maritime Services in connection with maritime infrastructure and maritime research.

This Regulation is made under the *Ports and Maritime Administration Act 1995*, including sections 34 (which provides for the establishment of the Maritime Advisory Council) and 110 (the general regulation-making power).

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Clause 1

Ports and Maritime Administration Amendment (Maritime Advisory Council)
Regulation 2011

**Ports and Maritime Administration Amendment
(Maritime Advisory Council) Regulation 2011**

under the

Ports and Maritime Administration Act 1995

1 Name of Regulation

This Regulation is the *Ports and Maritime Administration Amendment (Maritime Advisory Council) Regulation 2011*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Ports and Maritime Administration Regulation 2007

[1] **Clause 41A Law enforcement officers**

Renumber clause 41A as clause 18ZB and transfer it to Part 2B after clause 18ZA.

[2] **Part 4A**

Insert after Part 4:

Part 4A Maritime Advisory Council

41B Membership of Maritime Advisory Council

- (1) The Maritime Advisory Council established under section 34 of the Act is to be composed of up to 9 members, appointed by the Minister, each of whom has expertise in one or more of the following areas:
 - (a) the recreational boating sector,
 - (b) the commercial vessel sector,
 - (c) the maritime property sector.
- (2) The Minister is also to appoint as a member of the Maritime Advisory Council either:
 - (a) the Director-General of the Department of Transport, or
 - (b) a person employed in the Transport Service, who is nominated by the Director-General.
- (3) The Minister may select and appoint additional persons with specialist expertise as members of the Maritime Advisory Council from time to time and for such periods as the Minister decides.
- (4) A person is not eligible for appointment to the Maritime Advisory Council if the person is a lobbyist of government officials, of persons employed in the Transport Service or of persons engaged under contract to provide services to or on behalf of Transport for NSW.
- (5) In this clause, *lobbyist* and *government official* have the same meaning as in the *Lobbying of Government Officials Act 2011*.

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41C Expressions of interest in becoming a member

- (1) The Minister may invite expressions of interest in being a member of the Maritime Advisory Council:
 - (a) by publishing an advertisement in a newspaper circulating throughout the State, or
 - (b) by any other method that the Minister considers appropriate.
- (2) The Minister is to have regard to those expressions of interest when making decisions about the appointment of members to the Maritime Advisory Council.

41D Chairperson and Deputy Chairperson of Maritime Advisory Council

- (1) The Minister is to appoint a Chairperson and Deputy Chairperson of the Maritime Advisory Council from among the membership of the Council.
- (2) The person appointed as Chairperson must not be a member of the Government Service or an employee of any public authority.
- (3) The Chairperson or Deputy Chairperson vacates office as Chairperson or Deputy Chairperson if he or she:
 - (a) is removed from that office by the Minister under this clause, or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member of the Maritime Advisory Council.
- (4) The Minister may at any time remove the Chairperson or Deputy Chairperson from office as Chairperson or Deputy Chairperson.

41E No remuneration

- (1) A member of the Maritime Advisory Council is not entitled to be paid remuneration in relation to that membership.
- (2) However, a member appointed by the Minister under clause 41B (1) or (3) is entitled to be paid such travelling and subsistence allowances as the Minister may from time to time determine in respect of the member.

41F Provisions relating to membership and procedure

Schedule 4 makes provision for the membership and procedure of the Maritime Advisory Council.

[3] **Schedule 4**

Insert after Schedule 3:

**Schedule 4 Membership and procedure of
Maritime Advisory Council**

(Clause 41F)

Part 1 General

1 Definitions

In this Schedule:

appointed member means a person who is appointed by the Minister as a member of the Council under clause 41B (1) or (3).

Chairperson means the Chairperson of the Council.

Council means the Maritime Advisory Council established under section 34 of the Act.

Deputy Chairperson means the Deputy Chairperson of the Council.

member means any member of the Council.

Part 2 Members

2 Terms of office of members

Subject to this Schedule, an appointed member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Part-time appointments

An appointed member holds office on a part-time basis.

4 Vacancy in office of member

- (1) The office of an appointed member becomes vacant if the member:
- (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or

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- (d) is removed from office by the Minister under this clause, or
 - (e) is absent from any 2 meetings of the Council in any 12-month period of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove an appointed member from office at any time.
 - (3) The Minister must remove an appointed member from office if the member becomes a lobbyist of government officials, of persons employed in the Transport Service or of persons engaged under contract to provide services to or on behalf of Transport for NSW.
 - (4) In this clause, *lobbyist* and *government official* have the same meaning as in the *Lobbying of Government Officials Act 2011*.

5 Filling of vacancy in office of appointed member

If the office of any appointed member becomes vacant, a person is, subject to this Regulation, to be appointed to fill the vacancy for the remainder of the appointed member's term.

6 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Council, and

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- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.
- (2) A disclosure by a member at a meeting of the Council that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the Council in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Council.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Council otherwise determines:
- (a) be present during any deliberation of the Council with respect to the matter, or
 - (b) take part in any decision of the Council with respect to the matter.
- (5) For the purposes of the making of a determination by the Council under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the Council for the purpose of making the determination, or
 - (b) take part in the making by the Council of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Council.

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- (7) This clause applies to a member of a committee of the Council and the committee in the same way as it applies to a member of the Council and the Council.

Part 3 Procedure

7 General procedure

The procedure for the calling of meetings of the Council and for the conduct of business at those meetings is, subject to this Schedule, to be as determined by the Council.

8 Quorum

The quorum for a meeting of the Council is a majority of its members for the time being.

9 Presiding member

- (1) The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson, or in the absence of both the Chairperson and the Deputy Chairperson, a person nominated by the Minister) is to preside at a meeting of the Council.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

10 Voting

A decision supported by a majority of the votes cast at a meeting of the Council at which a quorum is present is the decision of the Council.

11 Transaction of business outside meetings or by telephone

- (1) The Council may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Council for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Council.
- (2) The Council may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Council.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Council.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

12 First meeting

The Minister may call the first meeting of the Council in such manner as the Minister thinks fit.