



CANBERRA YACHT CLUB

PO Box 7169 Yarralumla, ACT 2600 • 1 Mariner Place Yarralumla

Phone 02 6273 7177 • Fax 02 6273 6222 • (ACT SAILING INC) ABN 93 090 967 514

Email admin@canberrayc.com • Web canberrayc.com

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To whom it may concern

We refer to the email and media release received on Monday 21 February 2022, seeking public comment on a draft of the Australian Capital Territory National Land (Lakes) Ordinance 2022.

The Canberra Yacht Club acknowledges that this Ordinance is intended to modernise the laws regulating the management and use of Lake Burley Griffin, in relation to the areas of the Lake located on National Land and does not dispute the validity of this task.

We do however express our extreme concern and disappointment with the lack of due process associated with the release of this draft.

Lake Users have been given a mere four business days (now extended to six) to respond to a 99-page document (compared to the extant 17-page document) that materially affects all aspects of our use of the lake. This is frankly an outrageous and entirely indefensible period of time for consultation on an update on an Act that has been in place for 32 years (or 46 years if we take the 1976 Lakes Ordinance ACT). It is unrealistic to expect any of the Lake Users to undertake the level of analysis and consultation necessary to provide the NCA with a thoughtful and useful response.

Despite this, we will attempt to note our initial comments and concerns with this draft here:

In general, throughout: We believe that this draft in its current form is deficient in terms of safety, and if it is put through without significant change it will not only create a dangerous legislative environment on the lake, but also contravene existing national maritime standards. An attempt appears to have been made to re-write/re-draft existing commonwealth maritime guidance from AMSA. To avoid misinterpretation of safety and rules of the road, it is recommended to reference established, tried and tested national and international rules and regulations. Eg Collision Regulations.

In general, throughout: It appears to be the intention of this draft, and stated goals of harmonising with ACT Lakes legislation, to allow petrol powerboats on the lake without permits. We are very concerned that this has been done without any thought to enforcement, impact on current lake users, nor the current infrastructure around the lake. The CYC hosts the largest sailing school in Australia, with more than 1200 students on average learning to sail with us on the waters of Lake Burley Griffin each year. Part of what makes this possible is the safe, flat, calm conditions of the lake. The success of the Sailing School has allowed us to carry on two social inclusion programs or charities – Buoyed Up (Resilience and confidence building for at risk and vulnerable youth through sailing) and Sailability (Sailing for those with disabilities). For the majority of the participants in these programs, safety (and perceived safety) is the major barrier to participation. By allowing an unlimited number of users onto the lake, in craft capable of dangerous speeds (regardless of whatever speed is legislated), the NCA is creating a significant safety hazard for these valuable, established programs, that will immediately reduce participation. It has also been stated by the NCA that there is no intent to introduce policy change as part of this update. It is very clear that allowing free use of the lake, without a permit, by anyone with a license from any state or territory, represents significant policy change, and is entirely inappropriate to include in this process.



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Section 5, Appropriate lifejacket

What standards do lifejackets have to meet? Under (d)(ii) what is the situation with a non-inflatable lifejacket (that cannot be serviced) that is more than 12 months old? Recommend adding "(iv) is a non-inflatable lifejacket, in good repair, no greater than 10 years old."

Section 6, Meaning of dragon boat operating requirements

Why is this defined in this section when no other user is? Recommend deleting.

Part 3 Division 2

Outlines all the types of different areas and the restrictions relating to different areas but doesn't specify (or anywhere else in the document) which parts of the lake are classified as which areas or provide guidance where this information could be found. Speed limits (Section 21), types of boat allowed (Section 22), both continue this problem, referring to 'rules' that are not spelled out in this document and only vaguely outlined in Section 166. The entire scope of the ordinance depends on the specific definition of these points and without these definitions is impossible to accurately assess the ordinance.

Section 17

The CYC currently informs the NCA of all racing activities on the lake, and presumably in this process are allowed to place marks for racing. Would this section imply that temporary marks used for training would also need a full ministerial approval? The current process is hugely time consuming and bureaucratic, and more often than not, fully approved events still do not appear on the calendar shared with other lake users. It is unrealistic to apply this process for multiple classes and courses within the sailing school. Instead, perhaps a year long permit for an organisation to place marks could be considered.

Section 27

It is not clear in this section, or in the definition of a domestic commercial vessel, if the CYC's (and other sailing clubs) rescue boats would require NSW (or some other states) registration. Currently they hold no registration, as they operate only on LBG, and have not previously required it.

Section 30

This section mentions only interstate licenses – it does not mention an Australian Sailing Powerboat Handling Certificate as being an acceptable qualification to drive on the lake. It has been widely understood for many years by the NCA, Waterpolice and Sailing Clubs that given that an ACT Powerboat License does not exist, an AS Powerboat Handling Certificate would suffice. Section 30 needs to include a reference to AS Powerboat Handling Certificate being an acceptable form of license.

Section 31

10knots is, for most powered vessels, the speed at which wake and wash is maximised, as the boat is close to its maximum speed before leaving displacement mode (also known as hump speed). 6-8knots would be far more appropriate.

The majority of powered boats do not have a speedometer. How will users know that they are under this speed, and how will it be enforced?



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CYC requests confirmation that the 10knot speed limit would not apply to our rescue or coaching boats (which currently and will presumably continue to hold a permit from the NCA to support aquatic activities.) Many of our sailing boats are capable of 20knots or above so clearly a powerboat conducting rescue, race operations or coaching will regularly need to exceed 10knots. Once again, travelling at either 6-8 knots, or 15-20knots greatly reduces wake. Travelling at 10knots maximises it.

Section 34

Gives exemption for anchoring at night if fishing by handheld line is undertaken (clause 3). This should either be deleted, or further exemptions should be made for other reasonable activities – eg watching fireworks displays, or a start boat anchoring for a sailing night race.

Section 35

Why is this penalty, for operating a hovercraft, 6 months imprisonment, when all other penalties refer to units? There are other more dangerous activities prohibited, which do not mention jail time. Why not include other totally inappropriate craft like Jetskis, or hydrofoiling powerboats, or seaplanes? Recommend removing.

Section 38

Poor wording in (1) (a) (i) & (2) (a) means that, while the section has a heading of waterskiing the actual rule as worded would prohibit an authorised powerboat towing a sailing boat for legitimate purposes.

Section 40

Is ambiguous in situations where two boats want to use the same area of the lake at the same time, who commits the offence if both are lawfully allowed to use that area?

Section 41

(b) notes that unacceptable wash would be causing other boats to rock. The 10knot limit in section 31 will maximise wash and any user travelling at 10knots would likely immediately breach section 41.

Section 54

This section seems to contradict the speed limits in section 31

Section 56

Wording in this section applies to all boats, including sailing boats, not just powerboats. In (1) sailing boats that exceed 10knots (very common) would not be allowed to do so within 60 meters of another boat. This effectively prevents racing, or even boats cruising outside of an unorganised activity. Again in (3) sailing boats commonly exceed 10knots while safely using the lake, and being within 30 meters of land, powerboats, or anchored boats. For instance one of the possible finish lines for a race is between the CYC racing control tower, and a mark. The entire fleet would pass within 30 meters of the shore, while many of them exceed 10knots, just to finish the race.

Section 58

(1) (c) encourages unsafe towing of boats. It is standard practice when being towed by a rescue boat in an off the beach dinghy to NOT secure a line to your craft, but instead wrap it



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around a strong point and hold it by hand, so that in an emergency it can be quickly released. Recommend removing (1) (C).

Section 62

In general, this section is poorly worded, and does not well represent the standard rules for sailing boats coming together. It would be better to reference the COLREGS.

(2) & (3) are referring to the same rule – Port tack gives way to starboard tack. Whether a boat is close hauled or “running free with the wind” (incidentally a very old term that most sailors would not understand or recognise) is irrelevant.

(4) is correct in that if two boats are on the same tack (with the wind coming over the same side of the boat) then the boat that is to windward gives way to the boat that is to leeward. It is irrelevant if a boat is running free with the wind at the time or not.

It is dangerous to state that the Stand on boat (referred to as the Keep its course boat in this document for some reason) should keep its course, without noting that it must avoid a collision. Recommend repeating “the other boat must keep its course and speed unless this course would cause the boat to collide with another boat” in all relevant places, not just in **60 (2)**. This also applies to section **63, 64, 65, 66**.

Section 86

(b) why is this a defence?

Yours sincerely

Sue Hart
Commodore
Canberra Yacht Club