



Queensland

# Marine Rescue Queensland Bill 2023

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**2023**

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**A Bill**

for

**An Act to establish Marine Rescue Queensland and for related purposes**

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Marine Rescue Queensland Act 2023*.

### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

### **3 Main purpose of Act**

The main purpose of this Act is to establish Marine Rescue Queensland to provide—

- (a) a marine rescue service in the State; and
- (b) other maritime services to government entities and the community.

### **4 Act binds all persons**

- (1) This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act.

### **5 Definitions**

The dictionary in schedule 1 defines particular words used in this Act.

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## **Part 2                    Marine Rescue Queensland**

### **Division 1                Establishment, functions, powers and membership**

#### **6            Establishment**

Marine Rescue Queensland (*MRQ*) is established.

#### **7            Functions and powers**

- (1) MRQ has the following functions—
- (a) to perform marine search and rescue operations;
  - (b) to provide marine assistance to persons or vessels in difficulty;
  - (c) to provide other marine assistance to any entity in the performance of its functions and to the community if the assistance is reasonably requested and another entity is not reasonably able to assist;
  - (d) to support other entities providing emergency services to help communities respond to and recover from an event or a disaster;
  - (e) to perform activities to raise the profile of MRQ, promote marine safety or raise funds to be used to support MRQ in the performance of its functions;
  - (f) to provide services or assistance by a member of MRQ if required under any Act or law or the reasonable expectations of the community;
  - (g) to perform any other function given to MRQ under this or another Act.
- (2) MRQ has power to do anything necessary or convenient to be done for the performance of MRQ's functions.

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## **8 Membership**

- (1) MRQ consists of the following persons—
  - (a) the MRQ chief officer;
  - (b) MRQ employees;
  - (c) MRQ volunteers.
- (2) A person mentioned in subsection (1)(a), (b) or (c) is an *MRQ member*.

## **Division 2 Functions of commissioner**

### **9 Functions**

The commissioner's functions relating to MRQ are—

- (a) the establishment of MRQ units and the designation of areas for MRQ units; and
- (b) the appointment of persons as MRQ chief officer, MRQ unit commanders, MRQ coordinators and other MRQ members; and
- (c) the giving of directions and guidance to the MRQ chief officer, MRQ unit commanders, MRQ coordinators and other MRQ members; and
- (d) the performance of any other function relating to MRQ that is given to the commissioner under this or another Act.

## **Division 3 MRQ members**

### **Subdivision 1 MRQ chief officer**

#### **10 Appointment of MRQ chief officer**

- (1) There is to be an MRQ chief officer for MRQ.

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- (2) The commissioner may appoint a person to be the MRQ chief officer only if the commissioner is satisfied the person is appropriately qualified to perform the functions and exercise the powers of the MRQ chief officer effectively and efficiently.
  - (3) The MRQ chief officer is to be employed under the *Public Sector Act 2022*.

## **11 Functions and powers**

- (1) The MRQ chief officer has the following functions—
  - (a) to manage MRQ in a way that ensures MRQ operates effectively and efficiently;
  - (b) to comply with any direction given by the commissioner that is relevant to—
    - (i) the functions of the MRQ chief officer or MRQ; or
    - (ii) MRQ members;
  - (c) to perform any other function relating to MRQ given to the MRQ chief officer under this or another Act.
- (2) The MRQ chief officer has power to do anything necessary or convenient to be done for the performance of the MRQ chief officer's functions.

## **12 Acting MRQ chief officer**

- (1) The commissioner may appoint a person to act as the MRQ chief officer—
  - (a) during a vacancy in the office; or
  - (b) during any period, or during all periods, when the MRQ chief officer is absent from duty or is, for another reason, unable to perform the duties of the office.
- (2) A person can not be appointed to act as the MRQ chief officer unless the commissioner could have appointed the person as the MRQ chief officer under section 10(2).

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### **13 Delegations**

The MRQ chief officer may delegate the MRQ chief officer's functions and powers under this Act to another MRQ member who is appropriately qualified.

## **Subdivision 2 Other MRQ members**

### **14 MRQ employees and MRQ volunteers**

- (1) The commissioner may appoint the number of MRQ employees and MRQ volunteers as is necessary for the effective administration of this Act.
- (2) MRQ employees are to be employed under the *Public Sector Act 2022*.

### **15 Suspension of MRQ volunteer**

- (1) The commissioner may, by notice to an MRQ volunteer, suspend the volunteer from duty if the commissioner reasonably believes—
  - (a) the volunteer would, if the volunteer were an employee under the *Public Sector Act 2022*, be liable to discipline under a disciplinary law within the meaning of that Act; or
  - (b) the proper and efficient management of MRQ might be prejudiced if the volunteer is not suspended.
- (2) However, before suspending the MRQ volunteer, the commissioner must consider all reasonable actions available to the commissioner in relation to the volunteer.

*Examples of reasonable actions that may be available to the volunteer—*

- assigning alternative duties
  - changing the location where the MRQ volunteer performs duties
  - making another alternative arrangement about how the MRQ volunteer may continue to participate in MRQ
- (3) The notice must state when the suspension starts and ends.



- (4) The commissioner may, by notice to the MRQ volunteer, extend or further extend the period of suspension before the period ends if the commissioner reasonably believes the circumstances mentioned in subsection (1)(a) or (b) still exist.
- (5) The commissioner must ensure the matter is investigated promptly to ensure the timely resolution of the suspension.
- (6) The commissioner may cancel the suspension at any time.

## **Division 4 Arrangements for police officers**

### **16 Secondment of police officers**

- (1) The MRQ chief officer may arrange with the commissioner for the services of police officers to be made available to MRQ.
- (2) The arrangement is not effective unless it has been approved by the Minister.
- (3) A police officer whose services are seconded to MRQ under this section—
  - (a) is subject to the direction and control of the MRQ chief officer in relation to the performance of MRQ functions; but
  - (b) continues to be a police officer for all purposes and to have the functions and powers of a police officer without being limited to the performance of MRQ's functions.

## **Division 5 MRQ units, MRQ unit commanders and MRQ coordinators**

### **17 Establishment of MRQ units**

- (1) The commissioner may, by notice published on the department's website or MRQ's website, establish an MRQ

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unit for an area of the State if the commissioner is satisfied it is necessary or desirable to establish the MRQ unit to perform an MRQ function in the area.

- (2) In considering whether it is necessary or desirable to establish an MRQ unit for an area, the commissioner must have regard to—
  - (a) the needs of the community in the area; and
  - (b) whether establishing the unit would—
    - (i) represent an appropriate distribution of the capability of MRQ members and assets available to the MRQ for the State; and
    - (ii) provide MRQ with the capability to perform its functions commensurate with the costs and risks associated with the establishment of the unit for the area; and
  - (c) whether sufficient volunteers are likely to be available to ensure the unit is sustainable; and
  - (d) whether the MRQ unit can appropriately maintain the equipment necessary for the unit to perform MRQ's functions in the area.
- (3) Before establishing an MRQ unit for an area, the commissioner must consult with the following entities—
  - (a) any entity the commissioner considers represents the local community for the area;
  - (b) any other entity that provides emergency services for the area.
- (4) The commissioner must publish the boundaries of an MRQ unit's area on the department's website or MRQ's website.

## **18 MRQ unit commanders**

- (1) For each MRQ unit, the commissioner must appoint an MRQ member to be the MRQ unit commander.

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- (2) The appointment must be made by notice given to the MRQ member.
  - (3) The commissioner may appoint a person as the MRQ unit commander for an MRQ unit only if the commissioner is satisfied the member is appropriately qualified to perform the functions of an MRQ unit commander.
  - (4) An MRQ unit commander holds office on any conditions the commissioner considers appropriate and stated in the notice given to the unit commander.

## **19 Functions of MRQ unit commanders**

- (1) The MRQ unit commander for an MRQ unit is responsible for the operational effectiveness of the MRQ unit by ensuring—
  - (a) the unit's MRQ members have the necessary skills to perform their roles in the unit competently; and
  - (b) the unit's equipment is maintained in an appropriate condition; and
  - (c) the unit performs its functions and other activities in a way that is consistent with departmental policies about the performance of an MRQ unit's functions and other activities; and
  - (d) the unit performs its functions in compliance with—
    - (i) this Act and any other applicable Act or law; and
    - (ii) any operational permits and approvals applying to an MRQ unit; and
  - (e) the unit complies with any direction given by the commissioner, the MRQ chief officer or an MRQ coordinator.
- (2) An MRQ unit commander may delegate the MRQ unit commander's functions under this section to another MRQ member.

## 20 MRQ coordinators

- (1) The commissioner may, by notice to a person, appoint the person as an MRQ coordinator to coordinate the performance of the functions of MRQ by a group of MRQ units.
- (2) The commissioner may appoint a person as an MRQ coordinator only if—
  - (a) the person is an MRQ member; and
  - (b) the commissioner is satisfied the member is appropriately qualified to perform the functions of an MRQ coordinator.
- (3) An MRQ coordinator holds office on any conditions the commissioner considers appropriate and stated in the notice given to the coordinator.
- (4) The commissioner must advise the chairperson of each relevant local group and the relevant district disaster coordinator that an MRQ coordinator has been appointed.
- (5) The commissioner may terminate the appointment of an MRQ coordinator if the commissioner considers it is no longer necessary for an MRQ coordinator to be appointed for a group of MRQ units.
- (6) The commissioner must advise the chairperson of each relevant local group and the relevant district disaster coordinator of the termination.
- (7) In this section—

*chairperson*, of a local group, has the meaning given by the *Disaster Management Act 2003*.

*disaster district* has the meaning given by the *Disaster Management Act 2003*.

*district disaster coordinator* has the meaning given by the *Disaster Management Act 2003*.

*local group* has the meaning given by the *Disaster Management Act 2003*.

*relevant district disaster coordinator* means the district disaster coordinator for a disaster district whose area overlaps with the area or a part of the area of 1 or more MRQ units in the group of MRQ units.

*relevant local group* means the local group for a local government area whose area overlaps with the area or a part of the area of 1 or more MRQ units in the group of MRQ units.

## 21 Functions of MRQ coordinators

- (1) An MRQ coordinator has the following functions—
  - (a) to coordinate the performance of MRQ functions in the areas of the group of MRQ units for which the coordinator is appointed when resources of MRQ from outside the areas are made available to the group;
  - (b) to provide advice to MRQ unit commanders of the MRQ units about—
    - (i) MRQ functions; and
    - (ii) managing the safety and fatigue of the members of the MRQ units; and
    - (iii) logistical and financial matters;
  - (c) to perform other functions agreed between the MRQ coordinator and the local disaster coordinator for the relevant local group;
  - (d) to give effect to any direction given by the commissioner or MRQ chief officer.
- (2) In performing the MRQ coordinator's functions, the coordinator must have regard to—
  - (a) the advice of the local disaster coordinator for a relevant local group; and
  - (b) any applicable disaster management plans.
- (3) In this section—

*disaster management plan* has the meaning given by the *Disaster Management Act 2003*.

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*local disaster coordinator* has the meaning given by the *Disaster Management Act 2003*.

*local group* has the meaning given by the *Disaster Management Act 2003*.

*relevant local group* means the local group for a local government area whose area overlaps with the area or a part of the area of 1 or more MRQ units in the group of MRQ units.

## Division 6 Powers of MRQ members

### 22 Power of entry

- (1) An MRQ member may enter a place without a warrant or the consent of the owner or occupier of the place if—
  - (a) the MRQ member is performing an MRQ function at the place; and
  - (b) the MRQ member reasonably suspects that there is a dangerous situation at or near the place.
- (2) However, if the occupier is present at the place, the MRQ member must do, or make a reasonable attempt to do, the following things before entering the place—
  - (a) tell the occupier the purpose of the entry;
  - (b) seek the consent of the occupier to the entry;
  - (c) tell the occupier the MRQ member is permitted under this Act to enter the place without the occupier's consent.
- (3) Subsection (2) does not require the MRQ member to take a step if the member reasonably believes that to do so may endanger any person or property.
- (4) The MRQ member may remain at the place for the time necessary—
  - (a) to establish whether a dangerous situation exists at or near the place; and

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- (b) to give or arrange for reasonable help to any person at the place.

(5) In this section—

***dangerous situation*** means a situation that is likely to result in an imminent risk of material harm to persons, property or the environment if action is not taken to avoid, eliminate or minimise the risk.

***occupier***, of a place, includes the following—

- (a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;
- (b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;
- (c) if no-one apparently occupies the place—any person who is an owner of the place.

***of***, a place, includes at or on the place.

***place*** includes—

- (a) premises; and
- (b) vacant land; and
- (c) a vehicle; and
- (d) a place in Queensland waters; and
- (e) a place held under 2 or more titles or by 2 or more owners.

***premises*** includes—

- (a) a building or structure, or part of a building or structure, of any type; and
- (b) a group of buildings or structures, or part of a group of buildings or structures, of any type; and
- (c) the land or water where a building or structure, or a group of buildings or structures, is situated; and
- (d) a vehicle and a caravan; and

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- (e) premises held under 2 or more titles or by 2 or more owners.

*reasonably suspects* means suspects on grounds that are reasonable in the circumstances.

*vehicle* means—

- (a) an aircraft, including a helicopter; or
- (b) a vehicle or vessel under the *Transport Operations (Road Use Management) Act 1995*.

**23 Power to use force**

- (1) It is lawful for an MRQ member to use reasonably necessary force when performing or attempting to perform an MRQ function.
- (2) This section does not apply to the use of force against an individual.

**Part 3 Offences**

**24 Offence to assault or obstruct MRQ member**

- (1) A person must not, unless the person has a reasonable excuse—
  - (a) assault an MRQ member performing an MRQ function; or
  - (b) obstruct an MRQ member performing an MRQ function.

Maximum penalty—100 penalty units or 6 months imprisonment.

- (2) If a person has obstructed an MRQ member and the member decides to proceed with the performance of the function, the member must warn the person that—



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- (a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and
  - (b) the member considers the person's conduct an obstruction.
- (3) In this section—
- assault* has the meaning given by the Criminal Code, section 245.
- obstruct* includes hinder, resist, attempt to obstruct and threaten to obstruct.

**25 Impersonating MRQ member**

A person must not impersonate an MRQ member.  
Maximum penalty—100 penalty units.

**26 Unauthorised use of confidential information**

- (1) This section applies to a person who—
- (a) is or has been—
    - (i) an MRQ member performing functions under or relating to the administration of this Act; or
    - (ii) another individual engaged to perform functions under or relating to the administration of this Act; or
    - (iii) an individual engaged by an entity that is engaged to perform functions under or relating to the administration of this Act; and
  - (b) in that capacity, acquired confidential information or has access to, or custody of, confidential information.
- (2) This section also applies to a person who has acquired or has access to confidential information—
- (a) whether directly or indirectly, from a person mentioned in subsection (1); or

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- (b) as authorised under an Act, another law or an arrangement with the Queensland Police Service.
- (3) The person must not use the confidential information other than under this section.

Maximum penalty—100 penalty units or 2 years imprisonment.

- (4) The person may use the confidential information—
  - (a) to the extent the use is required or permitted under this Act or another Act or to perform the person’s functions under this Act or another Act; or
  - (b) with the consent of the person to whom the information relates if the information would normally be made available to any member of the public on request; or
  - (c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or
  - (d) if the use is otherwise required or permitted under another law.

- (5) In this section—

***confidential information***—

- (a) means personal information about an individual or other information of a confidential nature; but
- (b) does not include—
  - (i) information that is publicly available; or
  - (ii) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates.

***personal information*** see the *Information Privacy Act 2009*, section 12.

***use***, in relation to information, includes the following—

- (a) disclose;
- (b) give;

- (c) give access to;
- (d) make available;
- (e) publish;
- (f) record.

## 27 Using restricted expressions etc.

- (1) A person must not, unless the person has a reasonable excuse—
- (a) use a restricted expression without the commissioner’s written approval or authority—
    - (i) in, or as, the name of a business carried on by the person; or
    - (ii) to advertise or otherwise promote goods or services provided by the person; or
    - (iii) to raise funds, whether for MRQ or another entity; or
  - (b) use the expression ‘Marine Rescue Queensland’ or ‘MRQ’, or a similar expression, in a way that suggests the person is an MRQ member if the person is not an MRQ member.

Maximum penalty—40 penalty units.

- (2) In this section—

***restricted expression*** means any of the following expressions—

- (a) ‘Marine Rescue Queensland’;
- (b) ‘MRQ’;
- (c) another expression that includes an expression mentioned in paragraph (a) or (b).

## **Part 4                      Miscellaneous**

### **28            Protection from liability**

Civil liability does not attach to either of the following entities because of an act done, or omission made, honestly and without negligence by the entity under this Act—

- (a) the State;
- (b) an MRQ member.

### **29            Appointments and authority**

In a proceeding under or in relation to this Act, the following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment of an MRQ member;
- (b) the power of an MRQ member to do anything under this Act.

### **30            Other evidentiary aids**

A certificate purporting to be signed by the commissioner stating any of the following matters is evidence of the matter—

- (a) a stated document is an appointment, approval, authorisation, decision, direction, notice or requirement given or made under this Act;
- (b) a stated document is a copy of, or an extract from or part of, a document mentioned in paragraph (a);
- (c) that, on a stated day—
  - (i) a stated person was given a stated decision, direction or notice under this Act; or
  - (ii) a stated requirement under this Act was made of a stated person.

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**31 Regulation-making power**

The Governor in Council may make regulations under this Act.

**Part 5 Transitional provision**

**32 References to particular entities**

A reference in an Act or a document to any of the following entities may, if the context permits, be taken to be a reference to MRQ—

- (a) The Australian Volunteer Coast Guard Association Incorporated ABN 99 392 980 313;
- (b) Volunteer Marine Rescue ABN 39 394 393 984 (also known as Volunteer Marine Rescue Karumba);
- (c) Volunteer Marine Rescue Assoc Qld Inc ABN 46 387 273 867;
- (d) Volunteer Marine Rescue Association Bowen Inc ABN 23 732 682 124;
- (e) Volunteer Marine Rescue Bribie Island Inc ABN 20 500 377 468;
- (f) Volunteer Marine Rescue Brisbane Inc ABN 12 718 565 330;
- (g) Marine Rescue Bundaberg Incorporated ABN 72 249 925 594;
- (h) Volunteer Marine Rescue Burdekin Inc ABN 77 575 613 538;
- (i) Volunteer Marine Rescue Burketown Inc ABN 51 329 761 087;
- (j) Volunteer Marine Rescue Currumbin ABN 76 746 351 209;

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- (k) Volunteer Marine Rescue Douglas Shire Inc ABN 65 871 449 034 (also known as Volunteer Marine Rescue Port Douglas Inc);
- (l) Volunteer Marine Rescue Gladstone Inc ABN 47 236 033 890;
- (m) Volunteer Marine Rescue Hervey Bay Inc ABN 92 424 635 054;
- (n) Volunteer Marine Rescue Jacobs Well Assn Inc ABN 25 862 670 198;
- (o) Volunteer Marine Rescue Mackay Inc ABN 20 572 944 700;
- (p) Volunteer Marine Rescue Midge Point Inc ABN 80 270 379 615;
- (q) Volunteer Marine Rescue Mornington Island Inc ABN 26 206 170 160;
- (r) Volunteer Marine Rescue North Stradbroke Island Inc ABN 22 309 931 531;
- (s) Volunteer Marine Rescue Raby Bay Inc ABN 61 187 902 123;
- (t) Volunteer Marine Rescue Round Hill Inc ABN 27 833 875 690;
- (u) Volunteer Marine Rescue Southport Surfers Paradise Association Inc ABN 28 929 833 597;
- (v) Volunteer Marine Rescue St Pauls Inc ABN 11 920 031 371 (also known as Volunteer Marine Rescue Moa Inc);
- (w) Volunteer Marine Rescue Thursday Island Inc ABN 50 893 928 178;
- (x) Volunteer Marine Rescue Victoria Point Association Inc ABN 88 836 276 421;
- (y) Volunteer Marine Rescue Weipa Inc ABN 29 709 476 617;
- (z) Volunteer Marine Rescue Whitsunday Inc ABN 61 265 910 328;

- (za) Volunteer Marine Rescue Yorke Island Inc ABN 38 588 145 791 (also known as Volunteer Marine Rescue Masig Inc).

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## Schedule 1 Dictionary

section 5

*commissioner* means the commissioner of the Queensland Police Service.

*MRQ* see section 6.

*MRQ chief officer* means a person appointed by the commissioner under section 10.

*MRQ coordinator* means a person appointed by the commissioner under section 20(1).

*MRQ employee* means a person appointed by the commissioner as an MRQ employee under section 14(1).

*MRQ function* means a function of MRQ mentioned in section 7.

*MRQ member* see section 8(2).

*MRQ unit* means an MRQ unit established by the commissioner under section 17(1).

*MRQ unit commander* means a person appointed by the commissioner under section 18(1).

*MRQ volunteer* means a person appointed by the commissioner as an MRQ volunteer under section 14(1).

*notice* means written notice.

*reasonably believes* means believes on grounds that are reasonable in the circumstances.



# Marine Rescue Queensland Bill 2023

## Explanatory Notes

### Short title

The short title of the Bill is the Marine Rescue Queensland Bill 2023.

### Policy objectives and the reasons for them

Queensland is the most disaster affected State in Australia, experiencing almost 90 significant natural disasters and weather events in the past decade. Deloitte forecasts natural disasters will increase the cost to the Australian economy from \$38 billion annually in 2021 to at least \$73 billion a year by 2060. This increase is due to three main cost drivers of population growth, climate change and rising property values.

The significant impact of disasters upon Queensland highlights the importance of this State's emergency services agencies performing optimally and has prompted various organisational arrangements at a Local, State and Commonwealth Government level to be developed to meet the four phases of the State's emergency management and disaster response system namely Prevention, Preparedness, Response and Recovery.

Queensland's disaster management arrangements (QDMA) operate through a tiered system outlined in the *Disaster Management Act 2003* (DM Act) enabling a progressive escalation of support and assistance to affected communities. Disaster management groups are formed at a local, district and state level and are responsible for the planning, organisation, coordination and implementation of all measures to mitigate or prevent, prepare for, respond to and recover from disaster events. These disaster management groups are supported by coordination centres that operate at the local, district and state level to coordinate the information, resources and services necessary for disaster operations.

Local governments have primary responsibility for managing a disaster at the community level through the implementation of their Local Disaster Management Plan (LDMP) which is managed by their Local Disaster Management Group (a local group). If a local group does not have the capacity to deal with a disaster and requires additional resources, a request for support may be made to a District Disaster Management Group (DDMG). Currently, the DM Act divides the State into 23 disaster districts, each with a DDMG which may be comprised of one or more local groups. DDMGs are responsible to the State government, through the Queensland Disaster Management Committee (QDMC).

In the event the DDMG cannot facilitate a request for support from a local group, the request can be escalated onwards to the State level, via the State Disaster Coordination Centre or the State Disaster Coordination Group to the QDMC. The QDMC provides strategic leadership about disaster management for the State and performs a range of high-level disaster management functions including, for example, making a request for assistance to the Federal Government or international governments on behalf of the State.

The QDMC's membership consists of Ministers, supported by Directors-General, observers and invitees and is chaired by the Premier and Minister for the Olympic and Paralympic Games. The QDMC is assisted by the State Disaster Management Group (SDMG). The SDMG is

comprised of the same members as the QDMC (excluding Ministers) and is chaired by the Director-General Department of the Premier and Cabinet (DPC). The SDMG provide strategic leadership to Queensland when the QDMC is not convened.

Additionally, the Commissioner of the Queensland Fire and Emergency Services (the Fire Commissioner) is currently responsible as the chief executive of the DM Act for:

- establishing and maintaining arrangements between the State and the Commonwealth for effective disaster management;
- ensuring disaster management and operations are consistent with the State's disaster management plans, standards, guidelines and strategic policy;
- ensuring persons performing functions under the DM Act are appropriately trained; and
- providing advice and support about disaster management and disaster operations to the local, district and State groups.

Currently, the Queensland Fire and Emergency Services (QFES) coordinate and manage various elements of Queensland's disaster response including the Fire and Rescue Service (FRS), the Rural Fire Service (RFS), the Queensland State Emergency Service (SES) and, through the administration of grants and service agreements, volunteer entities including Police-Citizens Youth Club Queensland (PCYC) Emergency Services Cadets, Australian Volunteer Coast Guard Association of Queensland (AVCGA), Volunteer Marine Rescue Association of Queensland (VMRAQ), Surf Life Saving Queensland (SLSQ) and Royal Life Saving Society Queensland (RLSSQ).

### **The State Emergency Service (SES)**

The SES provides assistance in circumstances ranging from non-life-threatening emergency situations during floods, storms or other similar events to supporting other agencies such as the Queensland Police Service (QPS) and the FRS with road crash rescue, emergency traffic management, flood boat rescue and urban, rural and evacuation searches. The SES is as a 'not-for-profit' organisation consisting of SES units established within each local government area. These SES units may be comprised of separate SES groups depending on the local government area's specific needs. Currently, there are 75 SES units comprised of 303 SES groups. While the membership of the SES consists of State and local government employees, the SES relies heavily on the support it receives from its large cohort of about 5400 volunteers.

The SES has evolved from its inception in response to the January 1974 Brisbane floods and historically has been closely linked with local government. In 2003, the DM Act enshrined a responsibility for local governments to ensure they had a disaster response capability. Local governments have entered into various memorandums of agreement with the State government outlining funding, training and administration of SES units.

Most recently, following the Police and Community Safety Review in 2013, Emergency Management Queensland, the SES and disaster management functions transitioned into the newly formed Department of Queensland Fire and Emergency Services. The *Fire and Emergency Services Act 1990* (FES Act) currently provides the legislative framework for the SES.

### **Marine Rescue Services**

In Queensland, marine rescue volunteers play a critical role in keeping the community safe on the water through providing general marine assistance and assisting with search and rescue operations (SAR). Marine rescue services are provided by two principal organisations namely

VMRAQ which has 26 squadrons and an estimated 1,400 members and AVCGA which has 21 flotillas and an estimated 1,200 members.

VMRAQ and AVCGA are two separate independent organisations based upon differing structures. VMRAQ consists of Volunteer Marine Rescue Queensland which is incorporated as a charitable entity and is affiliated with the 26 individual squadrons that mostly operate with charitable status. A hierarchy is formed by individual squadrons providing representatives to a Volunteer Marine Rescue (VMR) zone which acts subordinate to the State body. For example, VMR Southport Inc. squadrons elect representatives to a VMR zone from which elected zone representatives become State Council members. Members of each squadron are only responsible to their squadron and do not have voting rights at the State level.

In contrast, the AVCGA is a national entity incorporated in the Australian Capital Territory through which each of the Queensland Flotillas operate as unincorporated associations. Flotillas report through a regional squadron arrangement. Squadron representatives operate at a State and national level. However, State level arrangements are an administrative tool assembled to allow funding from the various State Governments to reach flotillas. Governance is conducted by the National Executive and National Board.

VMRAQ and AVCGA have many common features. Both organisations provide similar services and place a great reliance upon volunteers and local community fundraising to operate, yet both are also subsidised by the Queensland Government. However, issues with the current provision of marine rescue services may arise through a lack of integration of these organisations. VMRAQ and AVCGA squadrons and flotillas may operate in overlapping and occasionally unclear areas leading to inefficiencies through the duplication of services, assets and costs.

The advantages of an integrated statewide marine rescue service include:

- enhanced service delivery through better interoperability between units;
- better clarity around roles and responsibilities for the multiple agencies responsible for providing the same marine rescue service;
- an increase in quality of the services provided through the development of consistent training and the standardising of procedures and policies; and
- enhanced asset management.

### **The review of Queensland’s emergency services and disaster management arrangements**

The efficiency of the delivery of emergency services in Queensland has been considered in a series of reviews including the *Review into Volunteer Marine Rescue Organisations in Queensland*, the *SES Review “Sustaining the SES – Partnering for Change”*, culminating in the *‘Independent review of Queensland Fire and Emergency Services’* (the Independent Review Report) and the *‘Review of Queensland’s Disaster Management Arrangements (QDMA)’*.

The Independent Review Report made 19 recommendations that address various facets of emergency services management in Queensland. These recommendations are:

#### Function and Structure

1. To simplify, emphasise and focus efforts in relation to fire and emergency services activities in Queensland, establish a new, integrated department consisting of the current Fire and Rescue Service (including Auxiliary staff), Rural Fire Service, FireCom and appropriate elements of QFES’ current Corporate Services Division.

2. The State Emergency Service and Disaster Management functions be transferred through a machinery-of-government change to the Queensland Police Service.
3. In-line with the Queensland Government's commitment to the creation of a single Marine Rescue entity, the Marine Rescue functions within QFES (including grants arrangements for Surf Life Saving Queensland and the Royal Life Saving Society Queensland) be transferred through a machinery-of-government change to the Queensland Police Service.
4. Establish a future-focused service planning capability that supports data driven, risk adjusted resource allocation decisions, including workforce planning with a focus on increased use of auxiliary, that cascade across all services within the new organisation including but not limited to, budget allocations, station and fleet locations, staffing levels, and technology investments.
5. Create the new entity as a department of the Queensland Government, with the [QFES] Commissioner maintaining all powers of the chief executive under the [then] *Public Service Act 2008*.
6. Establish a specific Project Management and Cultural Reform Office to drive the implementation of recommendations and focus specifically on the cultural and organisational reforms necessary to give effect to the structural changes, ongoing integration of the new entity and drive collaboration between the elements of the new agency.
7. Conduct a detailed functional and structural review prior to the separation of functions from QFES, focused on: reducing duplicated functions and organisational layers to allow more effective decision making; examining opportunities to centralise administrative processes to reduce their impact on front line service delivery; and considering ways in which the existing workforce could be better utilised to address any latency that may be present in current staffing models.

#### Culture

8. Establish a specific leadership program to support continued focus on a diverse and inclusive culture that is representative of the community, with a clear emphasis on continuing to modernise, diversify and establish operational and strategic leadership capabilities in a way that break down silos, drives on inclusive fire and emergency service and which ensures ethical decision-making and acceptable workplace conduct is central to operations.
9. Develop and publish performance against (on a regular basis, ideally quarterly) an Outcomes Framework setting out:
  - Outcomes-based fire (and broader emergency) services' performance measures;
  - Strategic effectiveness measures across the Prevention, Preparedness, Response and Recovery (PPRR) framework, but focussed within the remit of the new organisation;
  - A formal interoperability plan, focused in two specific parts to drive interoperability between elements within the new organisations and more broadly to clarify the new entity's role within the emergency and disaster management system in Queensland;

- A clear link between resource planning/service analysis and community outcomes; and
- Goals to (and progress against) improve(d) operability across professional, auxiliary and volunteer firefighter organisations.

The Outcomes Framework should emphasise the breadth of the PPRR framework, adopting an ‘all hazards’ approach, and not be solely focused on traditional fire and rescue response activities’

10. The new agency undertakes a detailed workforce culture assessment, inclusive of volunteers, to improve collaboration, performance and workforce experience, as the basis for establishing reforms to support integration of fire and emergency services activities in a manner that aligns to the requirement of the community articulated through data driven, risk-based service planning.
11. In light of the significant need for a continued focus on establishing a diverse workforce, representative of the community the organisation serves and where all staff feel safe, respected and included, specific targets be established in-line with the Queensland Government’s Inclusion and Diversity Strategy 2021-2025 for women, people with a disability, Aboriginal and Torres Strait Islander peoples, culturally and linguistically diverse people and the LGBTIQ+ community for each of the services and the corporate support functions within the new agency.

#### Efficiency and Funding

12. Legislate for the provision of a State Emergency Service Levy.
13. Work with local government to establish a reporting requirement for Councils’ funding, costs, assets and liabilities that support services currently provided by Queensland Fire and Emergency Services, including the Rural Fire Service Levy and local government expenditure for the State Emergency Service, to create a ‘full financial picture’ of the services operated by the new entity and the Queensland Police Service.
14. As part of the machinery-of-government changes to relocate State Emergency Services, Disaster Management and Marine Rescue functions, subject to the extent to which the State Emergency Service Levy ameliorates the cost impact of moving those functions to the Queensland Police Service, conduct a zero-base budgeting exercise to determining the elements (if any) of the Service Delivery Statement funding breakdowns (as set out in KPMG’s report) to be re-allocated, focussing on budgeting within agencies to clarify the cost of service delivery. This should occur following the establishment of a State Emergency Service Levy which would likely offset the funding requirements relating to the State Emergency Service, Disaster Management and existing Marine Rescue moving to the Queensland Police Service.
15. Following the necessary budget adjustments arising through machinery-of-government changes, adopt a staged process - using a risk-based approach that considers the changing nature of fire services, the impact of climate change and which leverages the newly created service planning capability recommended in this Report – to prioritise funding for the Rural fire Service to address bushfire, landscape fire and broader rural and seasonal risks into the future.
16. Reduce the senior executive structure (Deputy Commissioner and Assistant Commissioner levels) of the new department to reflect the streamlined, more

focussed nature of the new entity, informed by the detailed structural and functional review set out in Recommendation 7. The structure should support a geographic leadership model that clarifies command and control arrangements.

#### Sustainability

17. In recognition of both the substantive changes arising because of the recommendations contained within the Report, and the age of the statutes, undertake the following legislative and policy reform projects:
  - Review the *Fire and Emergency Services Act 1990* and the *Disaster Management Act 2003*, with a view to modernising both pieces of legislation and (with regard to the *Fire and Emergency Services Act 1990*) clearly addressing the role of professional and volunteer firefighters (including providing the same legislative protections to auxiliary and volunteer firefighters as afforded to professional firefighters);
  - Move the provisions of the *Fire and Emergency Services Act 1990* relating to the State Emergency Service into the *Disaster Management Act 2003*;
  - Clarify the Commissioner of Police as the Chief Executive for the purposes of the *Disaster Management Act 2003*;
  - Clarify that the Commissioner of Fire continues to play a key leadership role as part of the State's emergency response and disaster arrangements where they relate to fire or emergency services activities within the remit of the new agency;
  - Update [the] *Public Safety Preservation Act 1986* to reflect the importance of protecting economic, heritage and cultural sites (in addition to current considerations relating to life and property);
  - Examine the role of landholders in relation to prevention, preparation and response activities, with a specific focus on determining whether additional powers are required for firefighters to address at-risk circumstances and more rapid action as fire events escalate;
  - Make consequential amendments arising as a result of the recommendations in this Review, where necessary; and
  - Review and update the Queensland State Disaster Management Plan, following the machinery-of-government changes.
18. Develop a formal interoperability plan for the new organisation, supported through an appropriate legislative remit developed as part of legislative review activities recommended by this Review, with a long-term vision of clearly defining, drawing together and empowering the services provided by professional, auxiliary and volunteer firefighters. This plan should recognise the histories and respect the differing levels of expertise required of different services types and ultimately acknowledge the need to modernise approaches across the PPRR framework - specifically relating to fire and emergency activities. This should be done in a manner to address changing risk profiles, harmonise training activities and provide a more coordinated approach (across urban and rural operations) to planning, funding and support, to achieve a more integrated approach that meets the needs of the Queensland community into the future.
19. The implementation of reforms set out in this Report should adopt an approach that is staged, planned and that recognises certain high priority recommendations can be expedited, while others will require further consultation and engagement as part of the implementation process.

On 26 October 2022, the Government published *Good Jobs and Better Fire and Emergency Services to Support Queensland's Great Lifestyle* accepting in principle all recommendations made in the Independent Review Report excepting recommendation 12. The Government also announced the formation of the Reform Implementation Taskforce (RIT), led by Special Coordinator Steve Gollschewski and Deputy Commissioner Shane Chelepy. The RIT has been established to oversee and coordinate the implementation of the reforms to the emergency services portfolio over a two-year period

The Government's response also requested the Inspector-General of Emergency Management (IGEM) review Queensland's disaster management arrangements and propose any necessary legislative reforms and updates to the State Disaster Management Plan.

On 28 April 2023, the IGEM delivered its *Review of Queensland's Disaster Management Arrangements (QDMA)* (the IGEM Review) which made 10 broad recommendations that were subsequently accepted in principle by the Government. These recommendations are:

1. The Inspector-General of Emergency Management recommends the following changes to Queensland's Disaster Management legislation:
  - a. That the Commissioner of the Queensland Police Service be appointed as the Chief Executive of the *Disaster Management Act 2003*;
  - b. That the *Disaster Management Act 2003* be amended to reflect the new role and function of the Queensland Disaster Management Committee;
  - c. That a State Disaster Management Group is established within the *Disaster Management Act 2003*.
  - d. That the *Disaster Management Act 2003* be amended to establish the position, role and functions of the State Recovery Policy and Planning Coordinator.
2. The Inspector-General of Emergency Management recommends the following changes to Queensland's Disaster Management structures:
  - a. That the State Disaster Coordination Group revert to a single Chair arrangement (chaired by a Senior Queensland Police Officer), focussed on response and the aspect of preparedness for, and resilience in, response. The Terms of Reference should be amended to incorporate this and other changes to its role and functions.
  - b. That a State Recovery and Resilience Group be established and embedded in the Queensland Disaster Management Arrangements alongside the State Disaster Coordination Group, to focus on disaster management functions outside of response. The Queensland Reconstruction Authority should lead the establishment of the State Recovery and Resilience Group, develop the Terms of Reference and chair the group.
  - c. That, to support the State Recovery and Resilience Group, the Functional Recovery Groups expand their remit to incorporate resilience and be renamed Functional Recovery and Resilience Groups.
  - d. That clear lines of reporting be established between any appointed State Recovery Coordinator and the State Recovery Policy and Planning Coordinator.
  - e. That an Emergency Relief Subcommittee of the State Disaster Coordination Group and the State Recovery and Resilience Group be established to reflect a strong partnership arrangement to address all aspects of Emergency Relief. The roles of Chair and Deputy Chair are to be determined via consultation between the Queensland Police Service, the Queensland Reconstruction

- Authority, and the Department of State Development, Infrastructure, Local Government and Planning.
- f. That the final composition of the Emergency Relief subcommittee's inner and outer core membership be a joint responsibility of the Queensland Police Service, the Queensland Reconstruction Authority and the Department of State Development, Infrastructure, Local Government and Planning, in consultation with the State Disaster Coordinator and the State Recovery Policy and Planning Coordinator.
  - g. That the Queensland Reconstruction Authority leads state-level hazard and risk function, including the design and delivery of a risk assessment tool that is locally appropriate, cost-effective and fit for purpose.
3. The Inspector-General of Emergency Management recommends the following changes to Queensland's disaster management plan and guidelines:
    - a. That there should be one State Disaster Management Plan that succinctly describes all of Queensland's Disaster Management Arrangements, supported by separate sub-plans across the Prevention, Preparedness, Response and Recovery comprehensive model, including Resilience, mirroring the new governance structure. The State Disaster Management Plan should be reviewed biannually and/or following debriefs from significant disaster operations where relevant.
    - b. That the term 'Emergency Supply' be changed to 'Emergency Relief' in the State Disaster Management Plan.
    - c. That the Queensland Police Service, Queensland Reconstruction Authority and the Department of State Development, Infrastructure, Local Government and Planning develop an Emergency Relief strategy.
  4. The Inspector-General of Emergency Management recommends the following changes to the ways that Queensland's Disaster Management Arrangements support cross-border collaboration:
    - a. That documents and plans that support the operationalisation of Queensland's Disaster Management Arrangements is updated to encourage and enable cross-border disaster management engagement and relationships at officer-level, council to council, and district to district.
    - b. That all Local and District Disaster management Groups who share a border or borders with other states or Territories conduct collaborative disaster management planning and exercising.
  5. The Inspector-General of Emergency Management recommends the following changes to the ways that 'resilience' is reflected in Queensland's Disaster Management Arrangements:
    - a. That the *Disaster Management Act 2003* be amended to include a definition of 'resilience' that reflects the Queensland Government's endorsed definition within the Queensland Strategy for Disaster Resilience, clarifying that Resilience functions incorporate activities related to the phases of Prevention, Preparedness, Response and Recovery.
  6. The Inspector-General of Emergency Management recommends the following change to the way that Disaster Recovery Funding Arrangements are supported through Queensland's Disaster Management Arrangements:
    - a. That the Queensland Reconstruction Authority be Queensland's lead agency coordinating Disaster Recovery Funding Arrangements. Ministerial



responsibility for activation of Disaster Recovery Funding Arrangements should transfer from the Minister for Police and Corrective Services and Minister for Fire and Emergency Services to the Minister responsible for the Queensland Reconstruction Authority.

7. The Inspector-General of Emergency Management recommends the following action linked to disaster management preparedness messaging:
  - a. That the Queensland Reconstruction Authority ‘Get Ready Queensland’ brand expands to include bushfire awareness campaigns and ‘If It’s Flooded Forget It’.
8. The Inspector-General of Emergency Management recommends the following actions linked to Disaster Management sector capability and accreditation:
  - a. That all training associated with the Queensland Disaster Management Training Framework should, wherever possible, identify and utilise pathways to achieve nationally recognised qualifications.
  - b. That the Queensland Police Service undertake a capability assessment of the State Emergency Service, Marine Rescue Queensland, and the broader disaster management sector, for the present and future. This should include a review of the Queensland Disaster Management Training Framework.
9. The Inspector-General of Emergency Management recommends the following actions to support a seamless transition of Disaster Management responsibilities from Queensland Fire and Emergency Services to the Queensland Police Service:
  - a. That the roles and Terms of Reference of all current state and national disaster management committees that are non-hazard specific, and that reflect state disaster management arrangements and policy, be tabled at the Reform Implementation Taskforce for discussion and consideration of future representation.
  - b. That the Reform Implementation Taskforce seeks clarity on all Memorandum of Understanding and agreements that are currently in scope as a result of the proposed Machinery of Government changes.
  - c. That any open Queensland Fire and Emergency Services recommendations made by the Inspector-General of Emergency Management, that are not hazard specific, transition to the Queensland Police Service at a time to be identified by the Reform Implementation Taskforce. Queensland Fire and Emergency Services should continue to progress implementation of recommendations, in consultation with the Queensland Police Service, until Machinery of Government changes are implemented.
  - d. That the Reform Implementation Taskforce determines the most appropriate agency to manage the ongoing whole-of-government coordination of implementation and reporting on the recommendations of the Royal Commission into National Natural Disaster Arrangements. Until this time, Queensland Fire and Emergency Services should continue to progress implementation of recommendations, in consultation with the Reform Implementation Taskforce.
10. The Inspector-General of Emergency Management recommends the following actions linked to the effective implementation and evaluation of the changes to Queensland’s Disaster Management Arrangements accepted from this Review:
  - a. That, in the 2027/28 financial year, the Inspector-General of Emergency Management partner with the Queensland Police Service and Queensland

Reconstruction Authority to review the implementation of the Machinery of Government changes, and revised Queensland Disaster Management Arrangements.

- b. That, for the recommendations arising from this review, the Office of the Inspector-General of Emergency Management is involved in consultation prior to the finalisation of the government action plan, to align intended actions with the intent of the recommendations.
- c. That this Review report be returned to the Office of the Inspector-General of Emergency Management to monitor, evaluate and report on progress and implementation of the recommendations that are accepted in whole or in part by government.

Undertaking the recommended emergency services reform requires the successful completion of a multitude of tasks including amendments to legislation, machinery-of-government changes and policy development including the negotiation and preparation of service agreements and grants allocations. Legislative amendments are also required to either specifically meet these reforms or to allow later administrative processes to achieve that outcome.

## **Achievement of policy objectives**

Legislative reform of Queensland's emergency services and disaster management arrangements will be progressed in two stages. The first stage consists of a number of Bills that will make the legislative amendments necessary to restructure emergency service arrangements as recommended in the Independent Review Report. This will be achieved by:

- establishing Marine Rescue Queensland (MRQ) as a state-wide marine rescue service through the Marine Rescue Queensland Bill 2023;
- establishing the SES through the State Emergency Services Bill 2023; and
- aligning MRQ and SES under the control of the QPS through the Emergency Services Reform Amendment Bill 2023 which will make the necessary administrative and consequential amendments for this to occur.

The importance of SES and marine rescue volunteers to the success and effectiveness of the SES and MRQ is acknowledged through amendments in the State Emergency Services Bill 2023 and the Marine Rescue Queensland Bill 2023. These Bills will establish the SES and MRQ in 'standalone Acts' which will emphasise these organisations' value, promote volunteer engagement and provide a framework that outlines the purpose, functions and command structures of the SES and MRQ, and the roles of their members.

The Marine Rescue Queensland Bill 2023 (the Bill) will achieve its objectives by establishing MRQ through the new *Marine Rescue Queensland Act 2023*.

### **The new *Marine Rescue Queensland Act 2023* (MRQ Act)**

The new MRQ Act will establish Marine Rescue Queensland (MRQ) which will be dedicated to providing a marine rescue service for Queensland in addition to providing other maritime services to government entities and the community.

The MRQ membership will consist of the MRQ chief officer, MRQ employees and MRQ volunteers.

Consistent with recommendations from the Independent Review Report, the Bill provides the Commissioner with functions that will assist in the administration of the MRQ and ensure that the MRQ is strategically aligned with other emergency services agencies. The Commissioner is to have the following functions:

- the establishment of MRQ units and the designation of areas as MRQ unit areas;
- the appointment of persons as MRQ members and as the MRQ chief officer, MRQ unit commanders, MRQ coordinators and MRQ members; and
- without limiting above, the giving of direction and guidance to MRQ Unit commanders, MRQ coordinators and MRQ volunteers about matters relating to MRQ's functions.

Before establishing a MRQ unit, the Commissioner must consult local community representatives and have regard to the following considerations:

- the needs of the community in the area in which the unit is to be located;
- whether establishing a unit at the location would enhance or contribute to an appropriate distribution of capability and assets across the State to provide a response capability commensurate with risk;
- whether sufficient volunteers are likely to be available at the location to ensure the sustainability of the unit; and
- whether the unit can appropriately maintain the equipment necessary for the unit to perform the service's functions.

The boundaries of these MRQ units will be published on the QPS or the MRQ website.

Appointments made by the Commissioner of a person to a position in the MRQ, such as the role of the MRQ chief officer, may only be made if the Commissioner is satisfied that the person is appropriately qualified to perform the functions and responsibilities of that role.

Command and control within the MRQ will be achieved through the appointment of a MRQ chief officer, MRQ coordinators and MRQ unit commanders. These roles are designed to ensure appropriate management of the MRQ is achieved at a state, regional and local level.

Management of the MRQ at a state level will be the responsibility of the MRQ chief officer. The Bill provides that the MRQ chief officer is responsible for ensuring that the MRQ is managed efficiently and effectively and is to give effect to any direction given by the Commissioner that relates to the functions of the MRQ or MRQ members. The MRQ chief officer is also obliged to perform any other function given to the MRQ chief officer under this or another Act.

If the MRQ chief officer is absent from duty or cannot for any reason perform his or her functions, the Commissioner may appoint a person as an acting MRQ chief officer during the period of vacancy.

At a local level, MRQ unit commanders are responsible for the management of individual MRQ units. MRQ unit commanders must ensure:

- their unit's members have the necessary skills to competently perform their roles within the unit;
- their unit's equipment is maintained to an appropriate standard;
- their unit performs its functions and other activities in a way that is consistent with departmental policies about the performance of the functions and activities;

- their unit performs its functions in compliance with all relevant legislative and regulatory obligations, and in accordance with all relevant operational permits and approvals; and
- their unit complies with any direction to given by the Commissioner, the MRQ chief officer or MRQ coordinator.

At a regional level, the Bill will provide for the appointment of MRQ coordinators that will be tasked with the performance of MRQ functions across MRQ unit areas. MRQ coordinators will have the following functions:

- to coordinate the performance of MRQ functions in the MRQ areas for which the MRQ coordinator is appointed in circumstances where MRQ unit resources may be made available within a MRQ unit area from outside the MRQ unit area;
- to provide advice to MRQ Unit commanders about—
  - MRQ functions; and
  - managing the safety and fatigue of the members of the MRQ units; and
  - logistical and financial matters;
- to perform other functions agreed between the MRQ coordinator and the local disaster coordinator for the relevant local group; and
- to give effect to any direction given by the Commissioner or the MRQ chief officer.

MRQ coordinators will have oversight of a number of individual MRQ areas and will facilitate the coordination and cooperation between these areas. In performing their functions, MRQ coordinators must have regard to:

- the advice of the local disaster coordinator for a relevant local group; and
- any applicable disaster management plans.

The Commissioner must advise the chairperson of each relevant local group and the relevant district disaster coordinator of the appointment, and the termination of, the appointment of a MRQ coordinator.

The Bill also provides a distinction between MRQ employees and MRQ volunteers. MRQ employees are MRQ members employed under the *Public Sector Act 2022* and MRQ volunteers are persons appointed to this position by the Commissioner.

The maintenance and protection of the reputation of the MRQ is a significant issue. One method of promoting an organisation's reputation is implementing appropriate discipline mechanisms for its members. This is a challenge for organisations that rely heavily on the support and participation of volunteers. As volunteers are not paid public sector employees, provisions about discipline, including the ability of the chief executive to suspend an employee under the *Public Sector Act 2022*, are not applicable. Consequently, in response to an allegation of wrongdoing, the only courses available to resolve the matter are often to do nothing or to revoke a volunteer's appointment.

The Bill will address this by authorising the Commissioner to suspend a MRQ volunteer if the Commissioner reasonably believes:

- the volunteer would, if deemed an employee under the *Public Sector Act 2022*, be liable to be disciplined under a disciplinary law; or
- the proper and efficient management of the entity might be prejudiced if the volunteer is not suspended.

This suspension is to be made by written notice stating when the suspension starts and ends. Before suspending the volunteer, the Commissioner must consider all reasonable alternatives available to the volunteer such as alternative duties, a change to the location where the volunteer performs duties or other alternatives about how the volunteer may continue to participate in the organisation.

This amendment will benefit the MRQ as an organisation by protecting its reputation through authorising a volunteer who has allegedly acted inappropriately to be suspended from their duties. Conversely, the amendment also benefits a MRQ volunteer by affording that person with an opportunity to have an allegation investigated and allowing the MRQ volunteer to continue with the organisation, particularly if the allegation is found to be baseless.

The Bill will also establish statutory powers and protections for MRQ as an organisation, its members and for the community it serves.

For example, there are a number of circumstances that illustrate the need for MRQ members to be authorised to exercise certain powers provided by the Bill. A MRQ member may come across an unoccupied vessel floating in a sea lane causing a navigational hazard and presenting a clear risk to a person's safety and property. To gain control of the vessel, a MRQ member may need to board the vessel so that it may be safely steered and recovered for its owner. Alternatively, a MRQ member may need to gain urgent access to a jetty to fend off a boat that is moving dangerously close to the jetty and is threatening to cause damage to this structure if the MRQ member does not intervene.

The Bill will authorise a MRQ member to use the force reasonably necessary to perform or attempt to perform a function of the MRQ. This power is limited to the use of force against property or other inanimate things and does not apply to the use of force against an individual. This power may be exercised in circumstances such as securing a vessel that has slipped its mooring.

Additionally, the Bill will authorise a MRQ member to enter a place without warrant if:

- the MRQ member is performing a function of the MRQ; and
- the MRQ member reasonably suspects that there is a dangerous situation associated with the place. A 'dangerous situation' is defined to mean a situation likely to result in the death or injury to a person, damage to property or harm to the environment if action is not taken to prevent, remove or minimise the danger.

The Bill will allow the MRQ member to remain at the place and stay on it for the time necessary to:

- establish whether a dangerous situation exists at or near the place; and
- give or arrange for reasonable help to any person at the place.

The Bill will provide a statutory safeguard about the exercise of this power. If the occupier is present at the place, before entering the place a MRQ member must, or make a reasonable attempt to:

- tell the occupier the purpose of the entry;
- seek the consent of the occupier to the entry; and
- tell the occupier the MRQ member is permitted under this Act to enter without the occupier's consent.

However, the MRQ member is not required to provide information to the occupier or seek consent from the occupier if the MRQ member reasonably believes that to do so would lead to a person or property being endangered.

The Bill will also provide further statutory protections to MRQ members by providing:

- offence provisions to deter offenders from assaulting or obstructing a MRQ member who is in the performance of a MRQ function; and
- civil liability protections that may arise through an act or omission done by MRQ members for an act or omission made honestly and without negligence in the performance of their duties.

The Bill will also protect the reputation of MRQ by prohibiting the unauthorised use of restricted expressions and the impersonation of a MRQ member.

This amendment will acknowledge the special regard that will be given to MRQ members by the community. MRQ members are relied upon by the public to provide an invaluable rescue service in times of need. Members of the community should be able to expect that any person declaring themselves to be a MRQ member or any use of specific words such as ‘MRQ’ or ‘Marine Rescue Queensland’ should, in fact, be associated with MRQ.

Finally, the Bill will ensure that confidential information in the possession of the MRQ will be protected by introducing an offence provision mirrored on an existing offence provision outlined in section 10.1 ‘Use of confidential information’ under the PSA Act. The proposed offence provision is designed to be an appropriate deterrent to the misuse of confidential information held by Government agencies.

The second stage of legislative reform of Queensland’s emergency services and disaster management arrangements is intended to meet the remaining recommended by the Independent Review Report and the IGEM Review that require legislative amendments.

The Government is committed to implementing these reforms by 30 June 2024 without any diminishing of the delivery of emergency services.

## **Alternative ways of achieving policy objectives**

There are no alternative ways of achieving the policy objectives other than by legislative reform.

## **Estimated cost for government implementation**

The Government has allocated a total funding package of up to \$578 million over 5 years from 2023-2024 and \$142 million per annum ongoing.

This will be achieved by:

- allocating up to \$10 million over two years (2022-2032 and 2023-2024) and providing 30 temporary full-time equivalent (FTE) positions to the RIT;
- allocating approximately \$142 million per annum ongoing from 2023-2024 through the following distributions:
  - \$60 million per annum for the SES;
  - \$27 million per annum for the establishment of MRQ
  - \$20 million per annum for disaster management functions in the QPS;
  - \$11 million per annum to contribute to the cost of 143 additional firefighters

- \$10 million per annum for QPS corporate support
- \$9 million per annum for service level agreements with SLSQ, RLSSQ and PCYC Emergency Service Cadets;
- \$4 million per annum to the Queensland Reconstruction Authority (QRA); and
- \$1 million per annum for the Office of the Chief Fire Officer; and
- allocating up to 550 FTE positions to support implementation of the Report recommendations which includes the provision of an additional 60 FTE positions for the SES.

Finally, an additional 30 FTE positions have been allocated to the QRA to support further disaster preparedness and resilience programs and initiatives.

## **Consistency with fundamental legislative principles**

The amendments have been drafted with due regard to the fundamental legislative principles (FLPs) in section 4 of the *Legislative Standards Act 1992* (LSA). The principles include requiring that legislation has sufficient regard to:

- the rights and liberties of individuals; and
- the institution of Parliament.

The amendments that may impact upon those principles are considered further in these notes.

### **Whether a Bill has sufficient regard to the rights and liberties of individuals**

The Bill introduces new offence provisions which may be considered to impact upon the rights and liberties of individuals by making the subject person liable to criminal sanctions for non-compliance. For brevity, the offence provisions will be listed, immediately followed by commentary about their potential impact upon FLPs.

- Offences involving the unauthorised use of confidential information held by the MRQ (clause 26 of the Bill).

The proposed amendment will introduce an offence prohibiting a MRQ member who misuses confidential information acquired through performing functions under the MRQ Act. This offence provision will impose a maximum penalty of 100 penalty units or two years imprisonment.

In determining whether this amendment is consistent with FLPs, consideration should be given to whether the consequences imposed by legislation are proportionate and relevant to the actions to which the consequences are applied by the legislation. Penalties should be proportionate to the offence and legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence. Additionally, penalties within legislation should be consistent with each other.

These emergency services organisations will maintain personal and confidential information on a range of matters. The unlawful disclosure or use of such information could cause great detriment to the individuals to whom the information relates as well as compromise the reputation of the emergency services.

The proposed increase in maximum penalty is considered warranted in order to reflect the potential serious consequences of disclosing confidential information. This is particularly so,

given the contemporary means available to widely disseminate information such as the internet or social media. Furthermore, the proposed penalty is consistent with other equivalent offences in other Acts.

The potential breach of FLPs is justified by the need to protect the confidential information that the MRQ may hold and to protect the rights to privacy of the individuals to which that information relates.

- Obstruct/Assault of MRQ members performing a function (clause 24 of the Bill).

The Bill will introduce a new offence provision prohibiting a person from assaulting or obstructing a MRQ member who is performing their duties. The maximum penalty of 100 penalty units or 6 months imprisonment will reflect the seriousness of assaulting or obstructing a MRQ member and is consistent with the maximum penalty imposed for similar offences against equivalent emergency services workers.

Although it may be argued that these offence provisions may infringe upon FLPs by potentially subjecting a transgressor to sanctions including imprisonment, this is justified as emergency services personnel including volunteers should be protected by the law when performing duties which benefit the community.

- The offence of impersonating a MRQ member (clause 25 of the Bill).

The Bill will introduce an offence provision prohibiting a person from impersonating a MRQ member. The proposed offence will carry a maximum penalty of 100 penalty units.

This penalty is consistent with other penalties involved with impersonating other emergency services workers such as police officers or fire service officers.

Any concerns about a breach of FLPs must be balanced against the benefits in deterring persons from pretending to be MRQ members. MRQ personnel will hold a unique position in our community. Unlike many other public officials, MRQ personnel may exercise powers particularly in circumstances where members of the community are under great stress such as when confronting an emergency. These new offence provisions are justifiable to ensure that the public may trust in the authority of these personnel and not be misled into thinking that a person is a MRQ member when this is not the case.

- The offence of using restricted expressions unique to MRQ (clause 27 of the Bill).

The Bill will create an offence prohibiting a person from using without reasonable excuse the expressions 'Marine Rescue Queensland' or 'MRQ' or a similar expression in a way that suggests the person is an MRQ member if the person is not a MRQ member.

An additional offence will prohibit a person who without reasonable excuse and without the Commissioner's written approval uses the words 'MRQ' or 'Marine Rescue Queensland' to raise funds or uses these words in, or as, the name of a business carried on by the person or to advertise or otherwise promote goods or services provided by the person.

Both offences are to carry a maximum penalty of 40 penalty units. The proposed offence provisions are consistent with similar provisions employed by other emergency services agencies (for example section 10.18 'Prohibited use of words suggesting association with police' of the *Police Service Administration Act 1990* (PSA Act) and are mirrored on the current section 150H 'Using restricted expressions etc.' of the FES Act



Organisations, such as the SES and the proposed new MRQ, that provide emergency services to the community are held in high regard. The reputation of these organisations could be compromised if persons inappropriately trade on that reputation for financial gain. These new offence provisions are justifiable to ensure that the public may place their trust in the accurate use of these expressions and not be misled into thinking that a thing, or activity is associated with the MRQ when this is not the case.

*Legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer (section 4(3)(e) of the LSA) (clause 22 of the Bill).*

This FLP issue supports a long established rule of common law that protects the property of citizens and frequently arises in the context of inspectorial powers as in this context these powers are very likely to interfere directly with the rights and liberties of individuals.

The Bill will introduce new powers for MRQ members to enter places and to use force to protect property.

Although, it may be argued that these powers may infringe upon a person's property rights, it should be noted that these powers are not designed for inspectorial or investigative purposes but to protect property that is endangered through exceptional circumstances.

A MRQ member may only enter onto a place without a warrant or the consent of the owner or occupier of the place if the MRQ member is performing a function of the MRQ and the member reasonably suspects that there is a dangerous situation associated with the place. Concerns about the impact of the exercise of this power are mitigated as the MRQ member is statutorily limited to only stay on the place for the time reasonably necessary to establish whether the reason for the entry exists, to ensure that the risk of injury or damage does no longer exist and to give or arrange for reasonable help to any person at the place. An example of where this power may be exercised would be if a MRQ member needed to gain access to a private jetty urgently to fend off an unoccupied vessel that had slipped its moorings and was moving dangerously close to the jetty and threatening damage if the MRQ member does not intervene.

The power of a MRQ member to enter a place is appropriate as the power is limited to specific extraordinary circumstances and designed to have as minimal impact upon the owner or occupier as possible. In these circumstances it is in the interest of the community that MRQ members are authorised to take the reasonable measures outlined in the Bill to reduce danger to persons or property.

*Legislation should not confer immunity from proceedings or prosecution without adequate justification (section 4(3)(h) of the LSA) (clause 28 of the Bill).*

The previous Scrutiny Committee has stated that one of the fundamental principles of the law is that everyone is equal before the law, and each person should therefore be fully liable for their acts or omissions. However, the committee did recognise that the conferral of immunity is appropriate in certain situations.

Amendments in the Bill will confer civil liability protections on the State and a MRQ member for an act done or omission made, honestly and without negligence when performing a MRQ function.

It is considered that any potential breach is justified on the basis that:

- immunity from prosecution is appropriate if it is conferred on persons carrying out statutory functions; and
- it is consistent with the existing civil liability provisions outlined in section 153 ‘Protection from civil liability-acts or omissions under chapter 4’ of the FES Act.

The previous Scrutiny Committee has considered immunity provisions conferred to parties involved in disaster management. Although not surprised at the level of immunity conferred, having regard to the nature of the legislation which provided for disaster management, the Scrutiny Committee has referred to Parliament, without express objection, provisions that conferred immunity of the State and local governments and on ‘officials’ to the extent of things done under the legislation ‘in good faith and without reckless disregard’.

In the context of these amendments, the provision of civil liability protections is justified as MRQ members, many of whom are volunteers, are participating in activities that are of significant benefit to the public interest including such as activities as responding to a natural disaster. Exposing these persons to potential civil liabilities under these circumstances would be inappropriate and may lead to a reduction in volunteer participation which would be potentially deleterious to the MRQ as an organisation.

## **Consultation**

A consultation draft of the Bill was circulated with the following stakeholders:

- the Inspector-General of Emergency Management;
- the Local Government Association of Queensland;
- the Queensland Police Union of Employees
- the Queensland Police Commissioned Officers’ Union of Employees;
- the Together Union;
- the Office of the Information Commissioner;
- the Crime and Corruption Commission;
- the Rural Fire Brigade Association Queensland;
- the United Firefighters Union Queensland;
- the Queensland Auxiliary Firefighters Association;
- the Queensland Fire and Emergency Service Senior Officers Union of Employees;
- the State Emergency Service Volunteer Association;
- the State Emergency Service Volunteer Consultative Committee;
- the Queensland flotillas of the Australian Volunteer Coast Guard Inc;
- the Volunteer Marine Rescue Association Queensland Inc and affiliated bodies;
- Surf Life Saving Queensland;
- the Royal Life Saving Society Queensland;
- Volunteering Queensland; and
- PCYC Queensland.

## **Consistency with legislation of other jurisdictions**

The amendments in the Bill are specific to the State of Queensland and is not uniform with, or complementary to legislation of the Commonwealth or another State.

## Notes on provisions

### Part 1 Preliminary

#### 1. Short title

Clause 1 provides that, when enacted, the Act may be cited as the *Marine Rescue Queensland Act 2023*.

#### 2. Commencement

Clause 2 provides that the Act commences on a date to be fixed by proclamation.

#### 3. Main purpose of Act

Clause 3 outlines the main purposes of the Act. The main purpose of the Act is to establish Marine Rescue Queensland which will provide a marine rescue service and other maritime services to government entities and the community.

#### 4. Act binds all persons

Clause 4 provides that the Act binds all persons, including the State, and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States. The Commonwealth or a State cannot be prosecuted for an offence against this Act.

#### 5. Definitions

Clause 5 provides that the dictionary in schedule 1 defines particular words used in the Act.

### Part 2 Marine Rescue Queensland

#### Division 1 Establishment, functions, powers and membership

#### 6. Establishment

Clause 6 establishes Marine Rescue Queensland (MRQ).

#### 7. Functions and powers

Clause 7 outlines the functions of MRQ. While primarily constrained to operating within a marine environment, MRQ's functions are by necessity broad and include:

- the performance of marine search and rescue operations;
- the provision of marine assistance to persons or vessels in difficulty;
- the provision of other marine assistance to any entity in the performance of its functions and to the community if the assistance is reasonably requested and another entity is not reasonably able to assist;
- the provision of support to other entities providing emergency services to help communities respond to and recover from an event or a disaster;

- the performance of activities to raise the profile of MRQ, promote marine safety or raise funds to be used to support MRQ in the performance of its functions;
- the provision of services or assistance by a MRQ member if required under any Act or law or the reasonable expectations of the community; and
- the performance of any other function given to MRQ under this or another Act.

Clause 7 also states that MRQ has the power to do anything necessary or convenient to be done for the performance of its functions.

## **8. Membership**

Clause 8 states that MRQ consists of MRQ members who are the MRQ chief officer, MRQ employees and MRQ volunteers.

## **Division 2 Functions of commissioner**

### **9. Functions**

Clause 9 outlines the functions of the Commissioner in relation to MRQ to include:

- the establishment of MRQ units and the designation of areas for MRQ units;
- the appointment of persons as MRQ chief officer, MRQ unit commanders, MRQ coordinators and other MRQ members;
- giving direction and guidance to MRQ unit commanders, MRQ coordinators and MRQ members; and
- the performance of any other function relating to MRQ that is given to the Commissioner under this or another Act.

## **Division 3 MRQ members**

### **Subdivision 1 MRQ chief officer**

#### **10. Appointment of MRQ chief officer**

Clause 10 states that the Commissioner may appoint a MRQ chief officer if the Commissioner is satisfied the person is appropriately qualified to perform the functions and exercise the powers effectively and efficiently. The MRQ chief officer is employed under the *Public Sector Act 2022*.

#### **11. Functions and powers**

Clause 11 states the functions and powers of the MRQ chief officer. The functions are primarily directed to the day to day running of the MRQ. The chief officer is obliged to comply with any direction given by the Commissioner that relate to the functions of MRQ or the MRQ chief officer, or MRQ members. The MRQ chief officer has power to do anything necessary or convenient in the performance of the chief officer's functions.

#### **12. Acting MRQ chief officer**

Clause 12 provides that the Commissioner may appoint a person to act as the MRQ chief officer during a vacancy in the office or during a period when the MRQ chief officer is absent from

duty or is, for another reason, unable to perform the duties of the office. A person cannot be appointed to act as the MRQ chief officer unless the Commissioner could have appointed the person as the MRQ chief officer under section 10(2).

### **13. Delegations**

Clause 13 provides that the MRQ chief officer may delegate his or her functions and powers under this Act to another MRQ member who is appropriately qualified person.

## **Subdivision 2 Other MRQ members**

### **14. MRQ employees and MRQ volunteers**

Clause 14 provides that the Commissioner may appoint MRQ employees and MRQ volunteers in order to administer the Act. MRQ employees are to be employed under the *Public Sector Act 2022*.

### **15. Suspension of MRQ volunteers**

Clause 15 provides that the Commissioner may, by notice, suspend an MRQ volunteer from duty.

The Commissioner must reasonably believe that either the volunteer would, if the volunteer had been an employee under the *Public Sector Act 2022* be liable to discipline under a disciplinary law within the meaning of that Act or the proper and efficient management of MRQ might be prejudiced if the volunteer is not suspended.

Before any suspension, the Commissioner is required to consider all reasonable actions available to the Commissioner in relation to the MRQ volunteer. For example, consideration could be given to engaging the MRQ volunteer in alternative duties, changing the location where the MRQ volunteer performs duties, or another alternative arrangement about how the MRQ volunteer may continue to participate in MRQ.

If the MRQ volunteer is suspended, the notice must state when the suspension starts and ends. If the Commissioner reasonably believes the circumstances that led to the suspension still exist, the Commissioner may extend or further extend a period of suspension before the period ends.

The Commissioner must ensure the matter is investigated promptly to ensure the timely resolution of the suspension and may cancel the suspension at any time.

## **Division 4 Arrangements for police officers**

### **16. Secondment of police officers**

Clause 16 provides that the MRQ chief officer may arrange with the Commissioner for the service of police officers to be made available to MRQ. The arrangement must be approved by the Minister. A police officer seconded to MRQ is subject to the direction and control of the MRQ chief executive in relation to the performance of MRQ functions but continues to be a police officer for all purposes and retains the function and powers of a police officer without being limited to the performance of MRQ's functions.

## **Division 5            MRQ units, MRQ unit commanders and MRQ coordinators**

### **17.    Establishment of MRQ units**

Clause 17 provides that the Commissioner may establish an MRQ unit for an area, if it is necessary or desirable. Before establishing an MRQ unit, the Commissioner must consult with any entity the Commissioner considers represents the local community for the area, and any other entity that provides emergency services for the area.

In considering whether it is necessary or desirable to establish a MRQ, the Commissioner must have regard to the needs of the community in the area and whether establishing the unit would represent an appropriate distribution of the capability of MRQ members and assets available to MRQ for the State, and provide MRQ with capability to perform its functions in a way that is commensurate with the costs and risk associated with the establishment of the unit for the area. The Commissioner must also have regard to whether sufficient volunteers are likely to be available and whether the MRQ unit can appropriately maintain the equipment necessary for the unit to perform MRQ's functions.

The Commissioner must publish the boundaries of a MRQ unit on the QPS or the MRQ website.

### **18.    MRQ unit commanders**

Clause 18 provides that the Commissioner must appoint an MRQ member as a MRQ unit commander for each MRQ unit provided that the Commissioner is satisfied the MRQ member is appropriately qualified to perform the functions of an MRQ unit commander. A MRQ unit commander holds office on the conditions the Commissioner considers appropriate and stated in the notice given to the unit commander.

### **19.    Functions of MRQ unit commanders**

Clause 19 provides that the MRQ unit commander for an MRQ unit is responsible for the operational effectiveness of the MRQ unit. An MRQ unit commander may delegate the MRQ unit commander functions to an MRQ member.

An MRQ unit commander must ensure:

- the unit's MRQ members have the necessary skills to perform their roles in the unit competently;
- the unit's equipment is maintained and in an appropriate condition;
- the unit performs its functions and other activities in a way that is consistent with departmental policies about the performance of an MRQ unit's functions and other activities;
- the unit performs its functions in compliance with—
  - this Act and any other applicable Act or law;
  - any operational permits and approvals applying to an MRQ unit; and
- the unit complies with any direction given by the commissioner, the MRQ chief officer or an MRQ coordinator.

## **20. MRQ coordinators**

Clause 20 states that the Commissioner may appoint an MRQ member to be an MRQ coordinator provided that the Commissioner is satisfied the member is appropriately qualified to perform the functions of an MRQ coordinator. A MRQ coordinator holds office on any conditions the Commissioner considers appropriate.

Upon the appointment or the termination of an MRQ coordinator, the Commissioner must advise the chairperson of each relevant local group and the relevant district disaster coordinator.

## **21. Functions of MRQ coordinators**

Clause 21 provides for the functions of MRQ coordinators. In performing its functions, the MRQ coordinator must have regard to the advice of the local disaster coordinator for a relevant local group, and any applicable disaster management plan.

The functions of MRQ coordinators are:

- to coordinate the performance of MRQ functions in the areas of the group of MRQ units for which the coordinator is appointed in circumstances where resources of MRQ from outside the areas are made available to the group;
- to provide advice to MRQ unit commanders of the MRQ units about MRQ functions, managing the safety and fatigue of the members of the MRQ units, and logistical and financial matters;
- to perform other functions agreed between the MRQ coordinator and the local disaster coordinator for the relevant local group;
- to give effect to any direction given by the commissioner or MRQ chief officer.

## **Division 6 Powers of MRQ members**

### **22. Power of entry**

Clause 22 authorises an MRQ member to enter places without a warrant or the consent of the owner or occupier of a place if the MRQ member is performing a function of MRQ at the place and the MRQ member reasonably suspects that there is a dangerous situation at or near the place.

If the occupier is present at the place, before entering the place, the MRQ member must make reasonable attempts to tell the occupier the purpose of the entry, seek the consent of the occupier to enter, and tell the occupier the MRQ member is permitted under this Act to enter the place without the occupier's consent. These steps are not required if the MRQ member reasonably believes that to do so may endanger any person or property.

The power of entry allows the MRQ member to remain at the place for the time necessary to establishing if a dangerous situation exists at or near the place and to give or arrange for reasonable help to any person at the place.

This power of entry is consistent with the powers afforded to public officials such as inspectors or police officers under Acts such as the *Explosives Act 1999* and the *Police Powers and Responsibilities Act 2000* which authorise the official's entry to a place where there are concerns about the safety of persons or property at that place.

**23. Power to use force**

Clause 23 authorises an MRQ member to use reasonably necessary force when performing or attempting to perform a function of MRQ. This section does not apply to the use of force against an individual.

Certain tasks performed by MRQ members may require an application of force. For example, a MRQ member may encounter an unoccupied vessel adrift and obstructing the safe passage of a seaway. The MRQ member may apply force to the vessel to tow the vessel to a place of safety.

**Part 3 Offences**

**24. Offence to assault or obstruct MRQ member**

Clause 24 introduces the offence of assault or obstruct MRQ member. The section provides it is an offence to assault or obstruct an MRQ member performing a function of MRQ without a reasonable excuse. This offence will carry a maximum penalty of 100 penalty units or 6 months imprisonment.

The section provides that where a member of the public has obstructed an MRQ member, and the MRQ member decides to proceed with the performance of the function, the MRQ member must warn the person that it is an offence to cause an obstruction unless the person has a reasonable excuse; and the member considers the person's conduct an obstruction.

**25. Impersonating MRQ member**

Clause 25 provides the offence of impersonating an MRQ member. This offence will carry a maximum penalty of 100 penalty units.

This section aims to protect the reputation of MRQ and MRQ members who are relied upon by members of the community in times of need. This section also protects members of the community so that they can rely upon a person declaring themselves an MRQ member to actually be part of that organisation.

**26. Unauthorised use of confidential information**

Clause 26 introduces the offence of unauthorised use of confidential information. This offence will carry a maximum penalty of 100 penalty units or 2 years imprisonment.

The offence relates to a person who is or has been an MRQ member performing functions under or relating to the administration of this Act, or another individual engaged to perform functions under or relating to the administration of this Act, or an individual engaged by an entity that is engaged to perform functions under or relating to the administration of this Act, and in that capacity acquired confidential information or has access to, or custody of, confidential information.

The offence also captures a person who has acquired or has access to confidential information directly or indirectly from the persons mentioned above, or as authorised under an Act, another law or an arrangement with the Queensland Police Service.



The section permits the use of confidential information:

- to the extent the use is required or permitted under this Act or another Act or to perform the person's function under this Act or another Act; or
- with the consent of the person to whom the information relates if the information would normally be made available to any member of the public upon request; or
- in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or
- if the use is otherwise required or permitted under another law.

#### **27. Using restricted expressions etc.**

Clause 27 introduces the offence of using restricted expressions. This offence will carry a maximum penalty of 40 penalty units. A restricted expression is defined to mean 'Marine Rescue Queensland' or 'MRQ' or another expression that includes one of these expressions.

The section provides it is an offence to, without reasonable excuse, use a restricted expression without the commissioner's written approval or authority in, or as, the name of a business carried on by the person, or to advertise or otherwise promote goods or services provided by the person, or to raise funds, whether for MRQ or another entity. It is also an offence to use a restricted expression in a way that suggests the person is a MRQ member if the person is not a MRQ member.

## **Part 4 Miscellaneous**

#### **28. Protection from liability**

Clause 28 provides that civil liability does not attach to the State or an MRQ member because of an act done, or omission made, honestly and without negligence by the entity under this Act.

#### **29. Appointments and authority**

Clause 29 provides that a person's appointment as a MRQ member and the power of a MRQ member to do anything under this Act is presumed, unless a party to the proceeding gives reasonable notice that the party requires the proof of it.

#### **30. Other evidentiary aids**

Clause 30 provides that a certificate purportedly signed by the Commissioner is evidence of the following matters:

- a stated document is an appointment, approval, authorisation, decision, direction, notice or requirement given or made under this Act;
- a stated document is a copy of, or an extract from or part of, an aforementioned document; and
- that, on a stated day a stated person was given a stated decision, direction or notice under this Act; or a stated requirement under this Act was made of a stated person.

#### **31. Regulation-making power**

Clause 31 authorises the making of regulations under this Act by the Governor in Council.

## **Part 5                      Transitional provisions**

### **32.     References to particular entities**

Clause 32 list entities that if referred to in an Act or document may, if context permits, be taken to be a reference to MRQ.

## **Schedule 1     Dictionary**

Schedule 1 provides definitions for terms used in the Act.