

Marine Rescue Queensland Bill 2023

Report No. 42, 57th Parliament Community
Support and Services Committee
March 2024

Community Support and Services Committee

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All web address references are current at the time of publishing.

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Chair's foreword

This report presents a summary of the Community Support and Services Committee's examination of the Marine Rescue Queensland Bill 2023.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

The report summarises the committee's examination of the Bill, including the views expressed in submissions and by witnesses at the committee's public briefing and hearing.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill and provided evidence at the public hearing. I also thank our Parliamentary Service staff and staff of the Queensland Police Service.

I commend this report to the House.



Mr Linus Power MP

Acting Chair

Recommendations

Recommendation 1 **5**

The committee recommends the Marine Rescue Queensland Bill 2023 be passed.

Recommendation 2 **13**

The committee encourages the Queensland Police Service's Reform Implementation Taskforce to undertake public education and information sessions to effectively engage and inform State Emergency Service and Marine Rescue Queensland volunteers as part of the implementation of the emergency service and disaster management reforms.

Executive Summary

The Bill's stated purpose is to establish a new Marine Rescue Queensland Act whose main purpose is to establish Marine Rescue Queensland (MRQ) to a marine rescue service in the state and other maritime services to government entities and the community.

The Bill also proposes to establish the functions, powers and membership of MRQ, the role and functions of the Queensland Police Service Commissioner in relation to MRQ, and the appointment and administrative arrangements of authorised marine rescue officers.

Submitters to the Inquiry were generally supportive of the Bill with a number of stakeholders providing additional feedback to aspects of the Bill as well as to the wider reform process of Queensland's emergency service and disaster management arrangements.

The committee identified and considered issues of fundamental legislative principle (FLP) in the Bill and is satisfied that sufficient regard has been given to the rights and liberties of individuals and the institution of parliament.

Having considered the issues raised by submitters and the explanations provided in the statement of compatibility, the committee is also satisfied that the Bill is compatible with human rights in accordance with the *Human Rights Act 2019*.

The committee makes two recommendations, that the Bill be passed by the Legislative Assembly and that the Queensland Police Service, through the Reform Implementation Taskforce, undertake public education and information sessions to effectively engage and inform rescue volunteers as part of the implementation of the emergency service and disaster management reforms.

1 Introduction

1.1 Policy objectives of the Bill

On 28 November 2023, Hon Mark Ryan MP, Minister for Police and Corrective Services and Minister for Fire and Emergency Services introduced the Marine Rescue Queensland Bill 2023 (the Bill). At the same time, the Minister introduced the Emergency Services Reform Amendment Bill 2023 and the State Emergency Service Bill 2023 (the SES Bill) as part of a suite of legislative reform. On 30 November 2023 the Legislative Assembly referred the Emergency Services Reform Amendment Bill 2023, the Marine Rescue Queensland Bill 2023, and the State Emergency Service Bill 2023 (the three Bills) to the Community Support and Services Committee for detailed consideration.

The three Bills propose to enable a range of disaster and emergency services reforms to enhance Queensland's capacity to respond to natural disasters and keep people safe in the state's oceans and waterways.¹ The Emergency Services Reform Amendment Bill 2023 recognises the Queensland State Emergency Service (SES) and Marine Rescue Queensland (MRQ) and aligns both entities under the control of the Queensland Police Service (QPS).²

The objectives of the Bill are to:

- establish MRQ through a new Marine Rescue Queensland Act
- establish MRQ as a dedicated marine rescue service for Queensland, as well as providing other maritime services to government entities and the community
- provide the QPS Commissioner (the Commissioner) with functions that will assist in the administration of MRQ and ensure that MRQ is strategically aligned with other emergency services agencies, including authorising the Commissioner to suspend an MRQ volunteer under certain circumstances
- ensure the Commissioner consult with local community representatives and have regard for certain considerations before establishing an MRQ unit
- establish command and control within MRQ through the appointment of an MRQ chief officer, MRQ unit commanders, MRQ coordinators and MRQ members
- provide a distinction between MRQ members (employees) and volunteers, whereby MRQ members are employed under the *Public Sector Act 2022* and MRQ volunteers are appointed to their position by the Commissioner.³

1.2 Background

Queensland's disaster management arrangements 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 also operate at the local, district and state level to coordinate the information, resources, and services necessary for disaster operations.⁴

¹ Hon Mark Ryan MP, Minister for Police and Corrective Services, 'Bills to shape new era of disaster and emergency services for Queensland', media release, 28 November 2023.

² Refer to Emergency Services Reform Bill 2023.

³ Marine Rescue Queensland Bill 2023, explanatory notes, pp 10-12.

⁴ Explanatory notes, p 1.

1.2.1 Review of Queensland's emergency services and disaster management arrangements

The delivery of emergency services in Queensland has been considered in a series of reviews including:

- *Review into Volunteer Marine Rescue Organisations in Queensland*, conducted by Campbell Darby DSC AM, and published in November 2018 (referred to as the Bluewater Review)⁵
- *SES Review, "Sustaining the SES – Partnering for Change"* (the SES Review), conducted by Campbell Darby DSC AM, and published in March 2020⁶
- *Independent review of Queensland Fire and Emergency Services* (the Independent Review), prepared by KPMG for the Queensland Fire and Emergency Services, and final report published in November 2021.⁷

In response to the SES Review and the Independent Review, the Queensland Government published a response to the report's recommendations in October 2022, entitled *Good Jobs and Better Fire and Emergency Services to Support Queensland's Great Lifestyle*.⁸ In this response, the government requested the Inspector-General of Emergency Management (IGEM) conduct a review of the state's disaster arrangements.

The Office of the IGEM worked with the Department of the Premier and Cabinet, the QPS, Queensland Fire and Emergency Services (QFES), Queensland Reconstruction Authority, Department of State Development, Infrastructure, Local Government and Planning, relevant state agencies involved in disaster management, the State Disaster Coordinator (SDC), the Local Government Association of Queensland, and other relevant stakeholders to obtain information necessary to the Review.

The IGEM presented a final review report, *Review of Queensland's Disaster Management Arrangements* (the IGEM Review), to government for consideration on 28 April 2023. The report made 10 recommendations, including that the Commissioner be appointed as the Chief Executive of the *Disaster Management Act 2003* (DM Act).

On 30 October 2023, a machinery-of-government change allocated the responsibilities of the chief executive under the DM Act to the Commissioner and certain response elements transitioned from QFES to the QPS to ensure that there was no diminishing of the delivery of emergency services to the community. The QPS also formally assumed the responsibility of administering grants and service agreements for volunteer entities such as the 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).⁹

1.2.2 Queensland marine rescue services

In Queensland, marine rescue volunteers provide general marine assistance with search and rescue operations. Under the *Inter-governmental Agreement on National Search and Rescue Response*

⁵ Campbell Darby DSC AM, *Review into Volunteer Marine Rescue Organisations in Queensland (Blue Water Review)*, 30 November 2018, <https://www.qfes.qld.gov.au/sites/default/files/2021-03/Review-into-VMR-Organisations-in-QLD.pdf>

⁶ Campbell Darby DSC AM, *SES Review, "Sustaining the SES – Partnering for Change"*, 13 March 2020, <https://www.qfes.qld.gov.au/sites/default/files/2022-10/SES-Review-Report-Sustaining-the-SES-Partnering-for-Change.pdf>

⁷ KPMG (prepared for Queensland Fire and Emergency Services), *Independent Review of Queensland Fire and Emergency Services*, 2 November 2021, <https://www.qfes.qld.gov.au/sites/default/files/2022-10/Independent-Review-of-QFES.pdf>

⁸ Queensland Government, *Good Jobs and Better Fire and Emergency Services to Support Queensland's Great Lifestyle*, 2022, <https://documents.parliament.qld.gov.au/tp/2022/5722T1747-83F4.pdf>.

⁹ Explanatory notes, p 2.

Arrangements 2017,¹⁰ the QPS is responsible for marine search and rescue coordination within Queensland including the use of volunteer marine rescue organisations to assist in its search and rescue response. Marine rescue services are provided by two principal organisations: the VMRAQ, which has 26 squadrons and an estimated 1,400 members, and the AVCGA, which has 21 flotillas and an estimated 1,200 members.¹¹

The QPS advised of the estimated annual operating costs of marine rescue services per region as follows:¹²

Region	Annual cost of operations (estimated for region)
Far Northern	\$951,506
Northern	\$1,353,371
Central	\$867,024
North Coast	\$1,592,966
South Eastern	\$3,528,742

The QPS further advised that when the entity is created on 1 July 2024, the MRQ will have \$27 million and 35 full-time positions to provide support to MRQ volunteers.¹³

VMRAQ and AVCGA are two separate independent organisations with different 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 hold 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.¹⁴

The AVCGA is a national entity incorporated in the Australian Capital Territory. Coast Guard Flotillas are unincorporated and are full members of the AVCGA. Flotillas report through a regional flotilla arrangement. Flotilla representatives operate at a state and national level. However, state level arrangements are an administrative tool to allow funding from the various State Governments to reach flotillas. Governance is conducted by the National Executive and National Board.¹⁵

The explanatory notes identified a lack of integration between the two organisations, potentially leading to inefficiencies through the duplication of services, assets and costs. The explanatory notes set out some advantages of an integrated statewide marine rescue service:

- enhanced service delivery through better interoperability between units
- better clarity around roles and responsibilities for the multiple agencies responsible for providing marine rescue services
- an increase in the quality of services provided by developing standardised training, procedures and policies

¹⁰ Australian Government, Australian Maritime Safety Authority, *Inter-Governmental Agreement on National Search and Rescue Response Arrangements*, November 2017, https://www.amsa.gov.au/sites/default/files/inter-governmental-agreement2017_0.pdf

¹¹ Queensland Police Service, correspondence, 13 December 2023, p 3.

¹² Queensland Police Service, correspondence, 20 February 2024.

¹³ Marcus Hill, Queensland Police Service, public briefing transcript, 12 February 2024, p 6.

¹⁴ Explanatory notes, p 3

¹⁵ Explanatory notes, p 3.

- enhanced asset management.¹⁶

1.3 Proposed reform of Queensland’s emergency services and disaster management arrangements

The three Bills are described in the explanatory notes as an emergency services reform amendment ‘package’, and as one part of a suite of measures to enable reform.¹⁷ Other tasks listed as part of the suite of reforms include the making of machinery-of-government changes, development of appropriate policies, and the negotiation and preparation of service agreements and grant allocations. However, the explanatory notes state that legislative amendment must occur before certain implementation processes can begin.¹⁸

Legislative reform is expected to occur in two stages, the first stage being the reforms proposed in the three Bills, and the second stage being reforms proposed by legislation to be introduced in 2024, which will make the legislative amendments required to meet the remaining recommendations in the Independent Review Report and the IGEM Review.¹⁹ That legislation is expected to include supporting the creation of the new Queensland Fire Department with the Rural Fire Service established as its own entity within the new department in 2024.²⁰

The Bill proposes to establish the MRQ and provide uniformity where possible, with the establishment of the SES.²¹ The QPS advised that while the Bill has been drafted to prioritise consistency with the SES Bill where reasonable, the requirement for the MRQ to operate within a marine environment has resulted in sections being specifically tailored to meet its needs. Nonetheless, the Bill’s provisions are similar to provisions in the State Emergency Service Bill 2023 in relation to:

- functions and powers of the Commissioner (cls 7, 9, 10-13), the MRQ coordinator (cls 21-22) and the MRQ unit commanders (cls 19-20)
- suspension of MRQ volunteer (cl 16)
- secondment of police officers (cl 17)
- offence of unauthorised use of confidential information (cl 27).

The QPS advised that, in relation to the functions of the Commissioner and command structure of the MRQ, the Bill is not intended to be exhaustive.²²

To ensure that MRQ may be managed with flexibility and adaptability, other roles and functions of MRQ members within the MRQ command and control hierarchy may be developed through internal policies.²³

1.4 Legislative compliance

The committee’s deliberations included assessing whether or not the Bill complies with the Parliament’s requirements for legislation as contained in the *Parliament of Queensland Act 2001*, *Legislative Standards Act 1992* and the *Human Rights Act 2019*.

¹⁶ Explanatory notes, p 3

¹⁷ Public briefing transcript, Brisbane, 12 February 2024, p 1.

¹⁸ Explanatory notes, p 2.

¹⁹ Explanatory notes, p 2.

²⁰ Hon Mark Ryan MP, Minister for Police and Corrective Services, ‘Bills to shape new era of disaster and emergency services for Queensland’, media release, 28 November 2023.

²¹ Queensland Police Service, correspondence, 13 December 2023, p. 7.

²² Queensland Police Service, correspondence, 13 December 2023, p 9.

²³ Queensland Police Service, correspondence, 13 December 2023, p 9.

1.4.1 *Legislative Standards Act 1992*

The *Legislative Standards Act 1992* sets out ‘Fundamental legislative principles’ that are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’.²⁴ The principles include that legislation has sufficient regard to:

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

The committee’s assessment of the *Legislative Standards Act 1992* identified issues which are discussed in chapter 2 below.

Part 4 of the *Legislative Standards Act 1992* requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly and sets out the information an explanatory note should contain. Explanatory notes were tabled with the introduction of the Bill. The committee is satisfied the notes contain the information required by Part 4 and a sufficient level of background information and commentary to facilitate understanding of the Bill’s aims and origins.

1.4.2 *Human Rights Act 2019*

The committee’s deliberations on the Bill’s compatibility with the *Human Rights Act 2019* (HRA) are included in chapter 2 below. The committee finds the Bill is, on balance, compatible with human rights.

A statement of compatibility was tabled with the introduction of the Bill as required by s 38 of the HRA. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

1.5 Inquiry process

Following the referral of the three Bills to the committee and recognising that they are inextricably linked to each other, the committee resolved to align key engagement activities in relation to its examination of the Bills, including receiving submissions, a public briefing from the QPS on 12 February 2024, and a public hearing on 4 March 2024.

In accordance with the referrals of the three Bills by the Queensland Parliament, the committee has reported separately on each Bill. Refer to *Report No.40 57th Parliament, Emergency Service Reform Bill 2023* and *Report No.41 57th Parliament, State Emergency Services Bill 2023* tabled on 15 March 2024.

1.6 Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.

Recommendation 1

The committee recommends the Marine Rescue Queensland Bill 2023 be passed.

²⁴ *Legislative Standards Act 1992*, s 4.

2 Examination of the Bill

This section discusses key issues raised during the committee's examination of the Bill. It does not discuss all consequential, minor or technical amendments.

The committee received 20 submissions to the three Bills, of which 8 submissions spoke exclusively to the Bill²⁵ and 3 submissions referred to the Bill as well as one or both of the other Bills in the emergency reform amendment package.²⁶

Submitters were generally supportive of the Bill's proposed reforms.²⁷

The LGAQ submitted:

Establishing MRQ in a 'standalone Act' including its purpose, functions, command structure and roles of members, emphasises the value of the organisation which in turn assists in promoting volunteer engagement.²⁸

Mr James Wilkinson was supportive of the Bill objectives to provide consistency across the marine volunteer organisations and provide for a standard system across Queensland with greater efficiencies:

... the formation of Marine Rescue Queensland, will give standard support to the Volunteers so that all Units are treated equally and they will not have the added burden of trying to raise funds to try to keep their Units operating. They will be able to concentrate on the task at hand, namely assisting Qld boaties and offering them a professional, efficient service.²⁹

A number of stakeholders provided additional comment to aspects of the Bill, as outlined below.

2.1 Establishment of MRQ command

Divisions 2 and 3 of the Bill propose to set out the functions of the Commissioner and MRQ members. 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.³⁰

The LGAQ expressed support for the appointment of MRQ coordinators which 'will improve coordination and cooperation with local disaster coordinators'.³¹ The LGAQ also supported the State Government's intentions to grow volunteering numbers and participation to improve the involvement and participation of volunteers.³²

In contrast, Mr Murray Petersen and Ms Janne Petersen opposed the Bill's proposed command arrangements in their submissions. Mr Petersen noted that many current Queensland VMR groups were very experienced and best placed to continue their role performing marine rescues.³³ Mr Petersen described the command structure proposed by the Bill as follows:

It is a strongly centralised, top-down management structure with all authority resting with the government through a government appointed commissioner. This commissioner has no accountability to

²⁵ Submissions 2, 3, 4, 5, 6, 9, 12, 16.

²⁶ Submissions 13, 17, 18.

²⁷ Submissions 2, 5, 6, 18,

²⁸ Submission 18.

²⁹ Submission 4.

³⁰ Bill, cl 14; explanatory notes, p 12.

³¹ Submission 18.

³² Submission 18

³³ Submission 12 and 16.

the volunteers, over whom he or she has authoritarian control. This is a totally inappropriate structure for what should be a rescue service.³⁴

Ms Jill Barclay submitted that the Bill enables MRQ Coordinators to only coordinate the performance of MRQ functions in the areas of their group when resources are brought in externally. She stated, 'I would expect that the MRQ Coordinator would want to be coordinating the performance of MRQ functions in their areas 'at all times' i.e. when staffing does not include resources from outside the area'.³⁵

To Mr Petersen, the QPS responded that his submission only considered one function of MRQ coordinators and notes that all functions of the role are set out at clause 22.³⁶

2.1.1 Recognising volunteers in the MRQ

The AVCGA supported the Bill but expressed concern that it does not implement the policy of the Marine Rescue Implementation Program to date in respect to the MRQ being volunteer-centric. The AVCGA stated: 'While the Bill provides for legislative instruments of appointment, powers and offences, it misses an opportunity to establish a volunteer-centric framework for the organisation'.³⁷

During the public hearing Volunteering Queensland noted that volunteers can feel that much is being asked of them, and that rising costs of volunteering are causing a big drop-off in numbers. Volunteering Queensland stressed the importance of communication and consultation to ensure volunteers feel like they have a voice, and that they are being heard by leaders.³⁸

The AVCGA suggested the incorporation of a volunteer charter into the legislation. According to the AVCGA, charters are typically a statement of the commitment and principles that apply to the relationship between the government and volunteers and require that government organisations recognise, value, respect and promote the contribution of volunteers, officers, and members, and that it commit to consult with volunteers on any matter that might reasonably be expected to affect them.³⁹ Volunteering Queensland echoed the value of a volunteer charter during the public hearing, stating, 'anything that clarifies roles and makes volunteers feel that they are heard and acknowledged is important'.⁴⁰

In response, the QPS noted the valuable contribution of volunteers in the provision of marine rescue in Queensland, and that the three Bills recognise that volunteers will form part of the membership of both the MRQ and the SES. Specifically, to the suggestion of a volunteer charter, the QPS stated:

... the Bill will establish MRQ as a state entity, and this means a Volunteer Charter is not appropriate because the state cannot enter into agreement with itself (i.e. another state entity). Further, a Volunteer Charter records the responsibilities and expectations of the relationship between a volunteer cohort and a state entity. In the case of MRQ, the duties and responsibilities of the Commissioner and the MRQ Chief Officer owing to MRQ members, including volunteers, are reflected in the legislation.

2.2 Suspension of an MRQ volunteer

Clause 16 of the Bill proposes to enable the Commissioner to suspend an MRQ volunteer if the Commissioner reasonably believes:

³⁴ Submission 12.

³⁵ Submission 9.

³⁶ Queensland Police Service, correspondence, 9 February 2024, pp 27-28.

³⁷ Submission 2.

³⁸ Mara Basanovic, Volunteering Queensland, public hearing transcript, Brisbane, 4 March 2024, p 10.

³⁹ Submission 2.

⁴⁰ Mara Basanovic, Volunteering Queensland, public hearing transcript, Brisbane, 4 March 2024, p 11.

- 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.⁴¹

Clause 16 requires the Commissioner to consider all reasonable alternatives available to the volunteer such as alternative duties, a change in the location where the volunteer performs their duties, or making alternative arrangements so that the volunteer may continue to participate in MRQ.⁴²

Ms Jill Barclay submitted that this provision in the Bill was ‘one sided’ and provides ‘no reference to how an MRQ volunteer defends themselves or what process would be followed that would provide a fair and reasonable outcome for the MRQ volunteer’.⁴³

Volunteering Queensland, in reference to this clause, and to the corresponding clause 21 in the SES Bill, emphasised that any process used when considering the suspension of a volunteer ‘must fully comply with due process and natural justice’.⁴⁴

To the concerns expressed by Ms Barclay, the QPS responded:

The QPS considers that the proposed clause 16 ‘Suspension of MRQ volunteer’ of the MRQ Bill provides an appropriate legislative framework. The concerns raised about the process of suspending an MRQ volunteer will be outlined through policy that is being developed by the Marine Rescue Implementation Program.⁴⁵

To Volunteering Queensland’s submission, the QPS committed to ‘develop complaint management guidelines for MRQ and SES volunteers that align with due process and natural justice principles’.⁴⁶

2.2.1.1 Matter of fundamental legislative principle – administrative power and natural justice

Clause 16, as noted above, would empower the Commissioner to suspend an MRQ volunteer and would permit the Commissioner to extend the period of suspension if the Commissioner reasonably believes the circumstances which formed the basis of the suspension still exist.⁴⁷ The Commissioner would have the power to cancel the suspension at any time.⁴⁸

As the Bill does not require the Commissioner to consider any input from the MRQ volunteer regarding the proposed suspension, nor provide any avenue in the Bill for the volunteer to appeal the decision, the provision potentially has insufficient regard to rights and liberties of individuals.

The explanatory notes do not address this potential inconsistency with fundamental legislative principles, but elsewhere the notes explain that suspension will offer another available alternative because at present, ‘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’.⁴⁹

The proposed power to suspend an MRQ volunteer mirrors provisions in the *Public Sector Act 2022*. In addition, the Bill places limits on when the Commissioner may suspend an MRQ volunteer. Under the Bill, an MRQ volunteer may only be suspended if the Commissioner reasonably believes the

⁴¹ Bill, cl 16(1). The clause is consistent with clause 21 of the SES Bill in relation to SES volunteers.

⁴² Bill, cl 16(2).

⁴³ Submission 9.

⁴⁴ Submission 17.

⁴⁵ Queensland Police Service, correspondence, 9 February 2024, p 27.

⁴⁶ Queensland Police Service, correspondence, 9 February 2024, p 36.

⁴⁷ Bill, cl 16(4).

⁴⁸ Bill, cl 16(6).

⁴⁹ Explanatory notes, p 13.

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 the proper and efficient management of MRQ might be prejudiced if the volunteer is not suspended.⁵⁰

Committee comment

The committee is satisfied the proposed provision that would enable the Commissioner to suspend an MRQ volunteer from duty is justified and appropriate in the circumstances, with sufficient regard to rights and liberties of individuals.

2.2.1.2 Human rights issue – right to a fair hearing

Section 31 of the HRA is a procedural fairness provision that aims to ensure that persons coming before courts and tribunals for criminal or civil proceedings receive a fair and public hearing, following which a decision on a charge or proceeding must be made by a competent, independent and impartial court or tribunal.

As noted in the statement of compatibility, the decision to suspend a member of MRQ is an administrative decision within the authority of the Commissioner. It is not a decision of a court or tribunal. However, it is possible that – upon challenge – it could be determined that fair hearing rights extend to this type of decision. In any case, the legislation should aim to ensure that such a decision is made in the spirit of the right to a fair hearing.

Committee comment

The committee notes the purpose of the limitation on the right to a fair hearing is important as it helps to maintain public trust in MRQ, supports the Commissioner in appropriate and limited disciplinary action and enables considered decision-making in a situation where a volunteer member's conduct may indicate their incapacity to serve MRQ appropriately.

The committee is satisfied an appropriate balance has been struck.

2.3 Insurance coverage for MRQ volunteers

Clause 15 of the Bill provides that the Commissioner must enter into a contract of insurance with WorkCover or another entity to insure MRQ volunteers. The contract of insurance must cover an MRQ volunteer while the person is:

- performing a function relating to MRQ in their capacity as an MRQ member; or,
- involved in another activity, including training, related to the carrying out of a function of MRQ or disaster operations under the *Disaster Management Act 2003*.⁵¹

Volunteering Queensland was supportive of the provision in the Bill that MRQ volunteers will continue to be legally covered by insurance.⁵² Mr David Skinner called for clause 15 of the Bill to be expanded to include, as a minimum, an appropriate level of cover for MRQ volunteers in connection with:

- WorkCover (as per current drafting)
- third party accident, injury or death
- third party property damage
- claims of negligence during operations (including legal costs of defending such claims).⁵³

⁵⁰ Bill, cl 16(1). Proposed new clause 16 is modelled on s 101 of the *Public Sector Act 2022*.

⁵¹ Bill, cl 15.

⁵² Submission 17.

⁵³ Submission 5.

The QPS responded that the breadth of protections afforded to MRQ members are not found within the MRQ Bill. The passage of the Emergency Service Reform Bill 2023 would align MRQ and SES personnel with the QPS under the *Public Sector Act 2022*. The QPS noted:

This will translate to the following protections, currently available under the PSA Act to existing QPS staff members, also applying to MRQ and SES members:

- Section 10.3 'Protection from liability for reports';
- Section 10.5 'Civil liability of police officers and others for engaging in conduct in official capacity'; and
- Section 10.7 'Provision of legal representation'.⁵⁴

2.4 Protection from liability

Clause 29 of the Bill provides that civil liability does not attach to either the state or an MRQ member because of an act done, or omission made, honestly and without negligence.⁵⁵

Mr David Skinner sought clarification of the clause and called for appropriate protection for MRQ volunteers, 'so that MRQ does not disincentivise volunteers and experienced vessel masters from providing their time and expertise for this extremely important service for our Queensland boating community'.⁵⁶

In response the QPS advised:

The QPS considers the MRQ Bill in conjunction with the ESRA Bill will benefit MRQ members by:

- authorising MRQ members to exercise specific powers which as a consequence outlines the circumstances where an MRQ member acting in accordance with these powers will not be subject to civil liability
- maintaining civil liability protections currently afforded to members of the VMRAQ and AVCGA
- allowing for the provision of legal representation for MRQ members for acts done or omissions made in the performance of their duties.⁵⁷

2.4.1.1 Matter of fundamental legislative principle - administrative power and natural justice

To have sufficient regard to rights and liberties of individuals legislation should not confer immunity from proceeding or prosecution without adequate justification.⁵⁸

The explanatory notes state that the conferral of immunity in this instance is justified because immunity from civil liability is appropriate if it is conferred on persons carrying out statutory functions, and the immunity provided in the Bill is consistent with that in the *Fire and Emergency Services Act 1990* (FES Act). The notes also state that exposing MRQ members, many of whom are volunteers, to potential civil liabilities when they are assisting in a response to natural disasters would be inappropriate and could reduce the number of people willing to join the MRQ.⁵⁹

⁵⁴ Queensland Police Service, correspondence, 9 February 2024, p 20.

⁵⁵ Bill, cl 29.

⁵⁶ Submission 5.

⁵⁷ Queensland Police Service, correspondence, 9 February 2024, p 18.

⁵⁸ *Legislative Standards Act 1992*, s 4(3)(h).

⁵⁹ Explanatory notes, p 18.

Committee comment

With respect to the immunity that the Bill would provide for Marine Rescue Queensland members, noting the justifications in the explanatory notes to the Bill and that the immunity only applies to limited acts and omissions, the committee is satisfied that the conferral of immunity from civil liability is adequately justified and limited, and the provision has sufficient regard to rights and liberties of individuals.

2.5 Power to enter property

Clause 23 of the Bill proposes to authorise 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. Clause 24 of the Bill would authorise 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.

Ms Jill Barclay questioned the reasoning for why clause 23 refers to entering a premises, vehicle or other property on land, when the Bill applies to a marine setting.⁶⁰

The QPS cited the explanatory notes to the relevant clauses which state:

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. An 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, an MRQ member may need to board the vessel so that it may be safely steered and recovered for its owner.

...

Alternatively, an 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 the structure if the MRQ member does not intervene.⁶¹

2.5.1.1 Human rights issue – right to property

Under s 24 of the HRA, all persons have the right to own property and a person must not be arbitrarily deprived of their property.

This right may be engaged by the proposed clauses authorising MRQ members to enter a place and/or to use force in specific circumstances. Helpful examples of how such powers may be exercised are outlined in the statement of compatibility accompanying the Bill.⁶² These powers are limited and commensurate with powers afforded to other emergency personnel in comparable circumstances.

The purpose of limitations potentially imposed on the right to property are to authorise MRQ members to protect life and property from harm.

Committee comment

The committee recognises that while it is important to protect property rights against arbitrary interference, the design of the clauses in the Bill in respect to entering property is sufficient to ensure that any interference will be limited and justified.

⁶⁰ Submission 9.

⁶¹ Queensland Police Service, correspondence, 9 February 2024, p 28.

⁶² Statement of compatibility, p 8.

2.6 Territorial applicability of the Bill in coastal waters

The AVCGQ noted that an Australian Government Solicitor briefing from 2020⁶³ summarised the applicability of both state legislation and common law beyond coastal waters, which typically extends to 3 nautical miles. This briefing noted that there is some ambiguity about whether common law applies beyond the low water mark in the absence of legislation.⁶⁴

The AVCGA expressed concern that the Bill would establish MRQ powers, liability and insurance that would cease to apply beyond coastal waters, or 3 nautical miles.⁶⁵ Mr Hugh Webster, National Administration Commodore, AVCGA, further advised the committee that the organisation ‘would perform services quite routinely out well beyond that, sometimes out to 50 nautical miles’.⁶⁶

The AVCGA suggested the Bill could enable the MRQ to operate extraterritorially, either in the Bill or by an amendment to s 12 of the *Acts Interpretation Act 1954 (QLD)*.

The QPS described the extraterritorial application of state legislation, particularly in a maritime environment as ‘incredibly complex’.⁶⁷ Noting that amendment to s 12 of the *Acts Interpretation Act 1954* would not achieve the suggested extraterritorial coverage, the QPS stated:

To create further certainty for MRQ members regarding the exercise of powers in the MRQ Bill, parameters will be set by QPS and MRQ policy and direction. Importantly, the question of extraterritorial application does not limit the physical capacity of MRQ units to undertake their functions, particularly marine search and rescue. When performing these functions, an MRQ member will still attract the civil liability protections afforded to them by section 10.5 of the PSA Act and general insurance coverage provided by the Queensland General Insurance Fund (QGIF).⁶⁸

2.7 Clarification sought on other matters

A number of individual submitters sought greater clarification on aspects of the Bill’s reforms with respect to:

- the development of supporting policies and regulations⁶⁹
- responsibility and management of call centres on weekdays and after hours, the monitoring of emergency radio channels, and the continued use of the TRIPWATCH database⁷⁰
- appropriate training for SES and MRQ members⁷¹
- the financial future of VMR branch rescue organisations, and the state’s role in the management of fundraised branch assets and savings.⁷²

Dr Graham Kingston, President of the VMRAQ, stated:

Volunteer Marine Rescue Association Queensland notes little if any direct impact of then legislation on marine rescue operations. We do however have significant concerns with the largely yet to be developed doctrine and regulations to underpin the legislation. We hope to work with the Government to ensure

⁶³ Australian Government Solicitor, *Ruling the waves – regulating Australia’s offshore waters*, Legal Briefing No.116, 1 December 2020, <https://www.ags.gov.au/sites/default/files/2020-12/br116.pdf>.

⁶⁴ Submission 2.

⁶⁵ Submission 2.

⁶⁶ Public hearing transcript, Brisbane, 4 March 2024, p 6.

⁶⁷ Queensland Police Service, correspondence, 9 February 2024, p 13.

⁶⁸ Queensland Police Service, correspondence, 9 February 2024, p 14.

⁶⁹ Dr Graham Kingston, President, VMRAQ, correspondence dated 6 March 2024.

⁷⁰ Submission 3.

⁷¹ Submission 20.

⁷² Judith Carne, public hearing transcript, Brisbane, 4 March, p 14.

such doctrine and regulations do not devalue or degrade current services to the community and have negative impact on the recruitment and retention of our volunteers.⁷³

The Queensland Government has authorised and funded a team of experts from across emergency services agencies to form a Reform Implementation Taskforce, currently led by Special Coordinator for Police and Emergency Services Reform Steve Gollschewski APM.⁷⁴ The explanatory notes state that the Reform Implementation Taskforce has been established to oversee and coordinate the implementation of the reforms to the emergency services portfolio over a two-year period.⁷⁵

To submitters' concerns around training MRQ members, the QPS stated:

The QPS is committed to maintaining a high standard of training for MRQ and SES members. Within the Reform Implementation Taskforce, a sub working group consisting of representatives from the SES, QFES and the QPS is working toward the establishment of a Registered Training Organisation (RTO) for the SES. Further, this working group is also in the process of establishing a learning management system for the SES and will engage volunteers and staff to determine high priority training areas.⁷⁶

Committee comment

The committee notes the Reform Implementation Taskforce, will coordinate and oversee the implementation of the reforms proposed by the three emergency services reform Bills as part of a broader reform program.

Recommendation 2

The committee encourages the Queensland Police Service's Reform Implementation Taskforce to undertake public education and information sessions to effectively engage and inform State Emergency Service and Marine Rescue Queensland volunteers as part of the implementation of the emergency service and disaster management reforms.

⁷³ Dr Graham Kingston, President, VMRAQ, correspondence, 6 March 2024.

⁷⁴ Queensland Government, 'Queensland disaster and emergency management', <https://www.forgov.qld.gov.au/service-delivery-and-community-support/queensland-disaster-and-emergency-management>

⁷⁵ Explanatory notes, p 4.

⁷⁶ Queensland Police Service, correspondence, 9 February 2024, p 44.

Appendix A – Submitters

Sub #	Submitter
1	Neil Percival
2	Australian Volunteer Coast Guard Association
3	David Finlay
4	James Wilkinson
5	David Skinner
6	James Deck
7	Brisbane City Council
8	Edward John Moynihan
9	Jill Barclay
10	Queensland Council of Social Service (QCOSS)
11	Hopwood Ganim Lawyers
12	Murray Peterson
13	Community Legal Centres Queensland
14	Warren Smith
15	Neighbourhood Centres Queensland
16	Janne Peterson
17	Volunteering Queensland
18	Local Government Association of Queensland (LGAQ)
19	Australasian College of Paramedicine
20	Mark McCombie

Appendix B – Officials at public departmental briefing

Queensland Police Service

- Marcus Hill, Acting Assistant Commissioner; Reform Implementation Taskforce, Disaster and Emergency Management
- Brian Cox, Acting Assistant Commissioner; State Emergency Service
- Greg Ringuet, Business Reform Coordinator; Marine Rescue Queensland
- Greg Obst, Director; Legal, Police & Emergency Services Reform Program
- John Henderson, Inspector; Policy and Performance Division

Appendix C – Witnesses at public hearing

Local Government Association of Queensland

- Glen Beckett, Head of Assist
- Elle Ackland, Manager Workforce and Industrial Relations
- Liz Drumm, Disaster Management Lead

Australian Volunteer Coast Guard Association

- Hugh Webster, National Administration Commodore

Volunteering Queensland

- Mara Basanovic, Chief Executive Officer
- Samuel Delamoir, Advocacy, Policy and Research Manager
- Andrew Bartlett, Advocacy Advisor

Personal capacity

- Judith Carne

Community Legal Centres Queensland

- Monica Taylor, Disaster and Climate Resilience Project Coordinator

Queensland State Emergency Service Volunteer Association Inc.

- Edward Cowie, State President



Marine Rescue Queensland Bill 2023 LNP STATEMENT OF RESERVATION

The LNP fully supports any attempt to improve the emergency response of agencies and volunteer groups for regular operations and disaster management. The opposition does, however, have reservations about the Marine Rescue Queensland Bill 2023.

As was raised in correspondence submitted to the committee by the Volunteer Marine Rescue Association QLD (VMRAQ) during the committee's consideration of the Bill, the opposition has concerns regarding the contents of the regulations of the Bills, their impact, and future changes by the relevant Minister.

The Opposition has concerns regarding the lack of information provided to volunteers as to how the new arrangements will operate in respect of the potential compulsory acquisition of equipment and finances of individual SES, Marine Rescue and VMR organisations.

It should be noted that there was criticism regarding the lack of clear communication by the government, particularly in relation to how MRQ will operate.

It should also be noted that volunteers are the backbone of VMR, SES and the Volunteer Coast Guard. It is very important that the culture of these organisations is maintained within the structure. There are concerns amongst volunteers of being subject to the Police Service Administration Act.

In relation to funding the reforms –

Acting Assistant Commissioner Marcus Hill stated in relation to funding for MRQ:

With regard to Marine Rescue Queensland, being a new entity, when the entity is created on 1 July this year it will have \$27 million and 35 full-time positions to provide support to those volunteers. The process where the volunteer organisations will be brought on will be a staged process, so it is not like we hit 1 July and everybody is onboarded, so it is important that the groups that are not onboarded immediately still have surety of their funding arrangements. Currently those groups operate under a grants program that is funded through government. Those grants will continue to support those units that have not transitioned across. Once July this year commences there will be \$27 million and 35 FTE to support Marine Rescue Queensland, but those individual groups that are yet to transition will still have funding to make sure that there is a continuity of service and there is no degradation of capability or capacity.¹

¹ Public briefing, Brisbane, 12 February 2024, p 6.

In response to questioning, the QPS provided financial data in relation to the cost of the *Review into Volunteer Marine Rescue Organisations in Queensland*, also known as the Blue Water Review, and the Marine Rescue Implementation program by year from 2018-19 to 2022-23, as well as a total for the current year to date (2023-24).²

Ms Judith Carne, Treasurer of the Volunteer Marine Rescue North Stradbroke, on the Blue Water Review and the transition of MRQ to the QPS said:

*The Blue Water Review, as you know, undertook an analysis of the functions of both VMR and the coastguard, and a number of recommendations from that review have been adopted by the state government. As you know, we are currently in the process of change during which the Queensland Police Service, through QFES, is compulsorily integrating our voluntary services into their mandate. In terms of communication with the state government, it has been extremely difficult to achieve transparent, accountable communication with the state government and QFES. We have dealt with a frequently changing cohort of public servants who appear to have been inadequately briefed on the process and who appear to be withholding information from us. The state government refers to this process as a transition. It is not a transition; it is a takeover. To be honest, we have been patronised and kept in the dark. We ask questions and receive no answers. We get very little communication, and the verbal communication we do get is scant and peremptory.*³

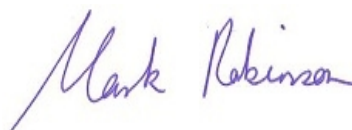
Ms Judith Carne, on her concerns about the future of VMR North Stradbroke's assets and savings, told the committee:

*We have been told by the state government that all of our assets will be compulsorily transferred to the state government as part of the transition. We are told that our cash reserves will be held by the state government in a fenced account. Should we wish to spend money on, for example, our community education program, we can apply to the state government for those funds, and if the public servant who decides such matters agrees with our process, then we will be given some of our own money to spend. We do not understand how this process is going to work. We currently have some \$740,000 in the bank. We have worked very hard for that money. Of that money, \$120,000 has been raised through sausage sizzles and donations. ... We have been told by the state government that we will be required to continue to fundraise and those funds will be transferred to them to manage. We really do not understand how this is going to work. We are on the cusp of a piece of legislation being passed that we do not think is fit for purpose.*⁴

The Opposition will detail additional concerns during the parliamentary debate on the Bill.



Stephen Bennett



Mark Robinson

² Refer to Response to Question taken on Notice, correspondence 20 February 2024, p 2:
<https://documents.parliament.qld.gov.au/com/CSSC-0A12/ESRAB2023-BDEC/Taken%20on%20Notice%20and%20Responses,%20Queensland%20Police%20Service.pdf>

³ Public hearing, Brisbane, 4 March 2024, p 14.

⁴ Public hearing, Brisbane, 4 March 2024, p 14.