

TERMS & CONDITIONS: LIT VESSELS PROGRAM

1. General

1. The Australia Day Lit Vessels Program 2024 (“the Program”) is to be held on Friday, 26 January 2024 between 19:30 and 21:45 inclusive of the Australia Day Live broadcast.

2. Exclusive area and procession course

1. The exclusive area, as part of the Exclusion Zone “EZ” is defined to the north of Sydney Cove managed by Transport for NSW Maritime (TfNSW Maritime). The area will not be marked with special buoys, but rather patrolled by TfNSW Maritime vessels and activated from 19:00 to 22:00. A map of the area will be sent to participants via email to the nominated contact and master, as part of the Master’s Handbook.
2. The procession course for vessels invited to complete a lap of Circular Quay (“Procession Course”) will be in Sydney Cove. Details of the Procession Course will be notified to participants at the Master’s Briefing (see clause 4) and via email to the nominated contact.
3. The NSW Premier’s Department may request TfNSW Maritime to alter the Managed Area and the Procession Course at any time and at its absolute discretion, although this may only be able to be done ‘on-site’ by way of authorised officer direction if there is insufficient time to alter the Gazette Notice under the *Marine Safety Act 1998* (the instrument under s.12 of that Act which establishes the Managed Area at law and is required to be published).

3. Registration

1. To record your interest to participate in the Program, the individual who is to be the responsible vessel operator during the Program (“Operator”) must register and accept these terms and conditions by 11.59pm, Friday, 17 November 2023, by completing and submitting the registration form on [this website \[LINK\]](#). The Operator will need to specify the vessel to be entered in the Program (“Participating Vessel”).

4. Master’s Briefing and Handbook

1. After the Premier’s Department have received and reviewed your registration of interest, should you be selected for the Program you will be notified by 30 November 2023. An in-person briefing for Master’s will be held on Wednesday, 17 January 2024 from 4:00pm to 6:00pm AEDT. Attendance by the Master is compulsory, and attendance by the vessel operator for the Participating Vessel during the Program (“Participants”) is encouraged. If a Master is unable to attend, Premier’s Department will nominate an alternative method of briefing at its discretion. The Operator/Master will be sent a Master’s Handbook with detailed information and a schedule of the Australia Day Live 2024 event.

5. Safety and insurance

1. It is the responsibility of each Operator to assess what safety standards and insurance arrangements are necessary and appropriate for the Participating Vessel for the Program. It is the responsibility of the Operator / Master to ensure that such arrangements are put in place.

6. Compliance with NSW Health Orders

1. It is the responsibility of each Master/Operator/Owner of the Participating Vessel/s to adhere to current NSW Health advice and comply with Public Health Orders.

7. Expenses

1. All expenses associated with the Participating Vessel’s participation in the Program are the responsibility of the Master/Owner unless agreed upon in writing between Premier’s Department and the Master/Owner/Operator.

8. Program rules

1. The Master must comply with, and ensure that all crew and other persons (including passengers) who are present on the relevant Participating Vessel during the Program (“Participants”) comply with, any direction given by the Police, Port Authority or an authorised officer of TfNSW Maritime.
2. The Master must comply with advice given by Premier’s Department unless it is unsafe to do so (as outlined in Clause 10).
3. The Program will have a maximum speed of 6 knots. Participating Vessels must not exceed this speed.
4. Masters and Participants must not interfere in any way with another Participating Vessel.
5. Participating Vessels agree to display Australia Day or Australia Day Sponsors' signage, banners or related materials that are supplied by Premier’s Department.
6. Without written approval of Premier’s Department, participating vessels must not display images or signage which contain:
 - logos or branding of a commercial nature; or
 - material unsuitable for a family event, including material which is, or could be taken by a reasonable person to be, offensive, discriminatory or sexually explicit.
7. Master and passengers must not engage in behaviour which is unsuitable for a family event including behaviour which is, or could be taken by a reasonable person to be, offensive, discriminatory or sexually explicit.

9. Promotional activities

1. The Master of the Participating Vessel agrees to participate and cooperate as may be reasonably required by the Premier’s Department in activities relating to the promotion of the Australia Day Program including, but not limited to, participating in interviews, and being filmed and photographed, on the day of the Program.
2. The Master grants the State of New South Wales the right to use (and to allow others to use) the Master’s name and likeness and the Participating Vessel’s name and image for promotion and advertising purposes, including to promote and advertise the Program, Australia Day or generally; and Sydney, the State of NSW and Australia as tourist destinations; and NSW Government and its role in events and the events industry.

10. Compliance with NSW maritime safety legislation

1. The Master must comply with, and ensure that all Participants comply with, all relevant laws in operation in the State of New South Wales, including, without limitation, all laws contained in:
 - [Marine Safety \(Domestic Commercial Vessel\) National Law Act 2012](#); (‘the National Law’)
 - [Marine Safety Act 1998](#);
 - [Marine Safety Regulation 2016](#) (‘the Regulations’);
 - [International Regulations for Preventing Collisions at Sea](#) as adopted and modified by the Regulations to include NSW Special Rules;
 - [Marine Pollution Act 2012](#);
 - [Ports and Maritime Administration Act 1995](#)
2. The Master is reminded that under New South Wales or Commonwealth law:

- it is an offence:
 - i. to operate a vessel (including to be towed by a vessel, to act as an observer on a vessel of any person being towed by the vessel or supervise a juvenile operator of a motor vessel) under the influence of alcohol or any other drug,
 - ii. to operate an unsafe vessel,
 - iii. to operate a vessel negligently, recklessly or at a speed or in a manner dangerous to the public, or
 - iv. to operate or make other use of a vessel in a manner that interferes unreasonably with the lawful use of those waters by other persons;
 - the operator of a sailing vessel must keep out of the way of, and a safe distance from, a vessel displaying an orange diamond (including Manly, First Fleet and Lady Class ferries);
 - the operator of a vessel must ensure the vessel carries the safety equipment specified in Schedule 8 of the Regulations.
3. The Master of a vessel is not to enter Sydney Cove without prior approval from TfNSW (in accordance with Schedule 6 of the Regulations).
 4. Nothing in these Terms and Conditions shall exonerate any Participating Vessel, or the Owner, Master or crew thereof, from the consequences of any neglect to comply with relevant laws or of the neglect of any precaution which may be required by the ordinary practice of seamen, or the special circumstances of the case.
 5. In construing and complying with these Terms and Conditions, due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Terms and Conditions necessary to avoid immediate danger.

11. Warranties, indemnity and release

1. The Operator warrants that:
 - the Operator has considered what insurance arrangements (including with respect to the Participating Vessel, the Master, Participants and third parties) are necessary and appropriate for the Program and has made such arrangements as are appropriate;
 - the Participating Vessel carries and will carry during the Program, the minimum safety equipment specified in Schedule 8 of the Regulation and that such safety equipment complies with the minimum standards for safety equipment set out in Schedule 7 of the Regulation;
 - if the Master is not the Owner, the Owner has given written permission for the Participating Vessel to be entered in the Program;
 - prior to the Program the Master will obtain from each Participant on the Master's vessel permission (including, where the Participants are under 18 years of age, necessary parental permission) for the State of New South Wales to use (and to allow others to use) the Participants' names and likenesses for the purposes and in the ways set out in clause 8 (Promotional Activities); and
 - in Participating in the Program the Master will comply with, and ensure all Participants comply with:
 - all relevant laws in operation in the State of New South Wales; and
 - these Terms and Conditions, including the Program Rules set out in section 8 above; and
 - all directions issued by the Harbour Master or any authorised officer of TfNSW Maritime.

2. Except for any liability that cannot be excluded by law, the State of New South Wales (including, but not limited to, any officer, employee, contractor or agent of the State of New South Wales) excludes all liability (including negligence, and whether advised or aware of the possibility of that liability), for any personal injury, death, or any loss or damage (including loss of opportunity), whether direct, indirect, special or consequential, arising in any way out of or connected to the Program, including, but not limited to, where arising out of:
 - any technical difficulties or equipment malfunction;
 - any collision, including a collision of any Participating Vessel into any other vessel, obstruction, land or object;
 - any weather related event;
 - any tax liability incurred by any winner or participant;
 - any unauthorised use of images, including images of the Participating Vessel, Master, Participant or material subject to copyright; and
 - any variation of these terms and conditions.
3. The Operator must indemnify and keep indemnified the State of New South Wales and any manifestations of the State of New South Wales, including, but not limited to, the Premier's Department, the Department of Premier and Cabinet (DPC), NSW Transport for Maritime (TfNSW) and their officers, employees and contractors ("those indemnified") from and against all proceedings, actions, claims, suits, demands, losses, costs including legal costs, expenses and damages which may be brought by any Participant on the Master's vessel against any of those indemnified as a result of:
 - any personal injury, death, or any loss or damage (including loss of opportunity), whether direct, indirect, special or consequential; and
 - any infringement or alleged infringement of an intellectual property right (including copyright and moral rights), arising in any way out of or connected to the Program.

12. Privacy and Disclosure

1. In agreeing to these Terms and Conditions, you agree to Premier's Department sharing this information with other government agencies for the management of New Year's Eve or Australia Day. By agreeing to these Terms and Conditions, applications and services, or otherwise providing us with your information, you acknowledge and agree to us collecting, holding, using and disclosing your personal information as described in the NSW Government's Privacy Statement, located at <https://www.nsw.gov.au/privacy-statement>. Users are entitled to expect that any information collected as a result of that use will be treated within the terms of the New South Wales Government's privacy responsibilities and obligations. The New South Wales Government's privacy practices are regulated by the *Privacy and Personal Information Protection Act 1998*.