

AUSTRALIAN BUILDERS PLATE STANDARD REVIEW 2019

SUBMISSION BY THE BOATING INDUSTRY ASSOCIATION

31 January 2020

The Boating Industry Association represents a broad range of businesses involved with recreational vessels that are in scope of the Australian Builders Plate Standard, including manufacturers, importers, new boat dealers, second-hand boat dealers, service workshops, designers, naval architects and operators. As the principal standard concerning the principal product of the boating industry, the BIA and its members have a significant interest in the ABP Standard being an effective regulatory and administrative standard, in line with industry best practice and meeting the objectives of consumer protection. This includes the standard being accessible in terms of readability and generally being fit for purpose.

One of the key issues to be addressed in the revision of the ABP Standard is that of industry (and consumer) education. This would include the intent, interpretation, understanding and application of the standard, including particularly the presentation of values on the ABP plate itself.

From recent reviews of ABP plates, particularly in relation to *small volume boats* (as defined in the Consultation Paper), it is clear that a lack of understanding has led to many examples of plates with load capacity and person capacity ratings being incompatible or incorrect. While the origins of the value inscribed on such plates may be unclear, subsequent practical testing and technical assessment of boats meeting this definition has not shown there to be a widespread problem with the actual capabilities of the boat, in terms of being able to carry the load suggested on the plate. This does not mean there is not a problem, but it does mean that the current ABP Standard is not readily understood by its target market.

The BIA is pleased, therefore, that the ABP Standard has been considered for revision and believes that an 'updating' of the standard generally is warranted following several years use since first publication and learnings in recent years as to how it could be improved to support industry, regulators and ultimately consumers.

The BIA is responding to the consultation with this submission on behalf of members collectively across Australia, with the submission drafted with the inclusion of and endorsement from BIA Victoria and BIA Western Australia. Furthermore, the BIA understands a number of members will also make submissions to address detailed matters where they have a specific interest.

The BIA submission responds to proposed changes to the ABP program presented as part of the consultation and makes additional comment as required. The BIA is pleased to have been asked to join the ABP Working Group to review comments following closing of the consultation exercise and looks forward to working with the Australian Recreational Boating Safety Committee (ARBSC) members to resolve all comments in due course.

Proposed changes to the ABP Standard as presented in draft Edition 5

The presentation of draft Edition 5 of the ABP Standard is considered a significant improvement over earlier editions. It will greatly assist those who use the standard to understand requirements, in particular where such apply only to specific types or sizes of boat. The use of tables to confirm such requirements and to provide a cross-reference to relevant specified technical standards that may be used is welcomed.

In response to specific proposed changes, the BIA comments as follows in items 1 to 9.

1 The concept of full accordance

The BIA understands the ABPWG wish to see full accordance with standards specified for use in determining values and performance characteristics of a boat, whereby all relevant requirements (calculations, assessments and testing) of a standard would be applied in determining values for ABP compliance. It is clear that this would provide a more reliable means of ensuring the interconnectivity of different parts of the various standards systems is delivering appropriate values for the ABP.

However, it must be recognised that some of the requirements may not be possible, currently, to perform or replicate locally due to a lack of suitable facilities or industry capabilities. A specific example of this is the preparation of a boat and associated test weights, in terms of preconditioning, for flotation testing required in the ABYC series of standards.

While not condoning that previously some requirements of a standard may not have been met in full in determining values for the ABP, the strengthening of the ABP standard by introduction of the concept of full accordance should be considered to be introduced over a period of time to allow for local manufacturers to develop suitable processes.

BIA recommendation:

A transition period of 24 months (from the date of implementation of ABP Standard Edition 5) should be provided to enable processes and facilities to be put in place to support assessment and testing of boats to specified technical standards and further education on specific requirements of such assessments and testing to be delivered to industry participants.

2 Removal of level flotation moderation

This is a consequent requirement of the concept of full accordance, in that the ABP Standard will no longer provide for a variation to the requirements or outcomes of a specified technical standard. While this clarification of the intent of the ABP Standard to seek to improve safety outcomes in terms of flotation performance of a boat is understood, it must be considered carefully as to whether the acknowledged ultimate goal to have level flotation as the only outcome for boats under 6m is actually a superior safety outcome in all circumstances. Concern has been expressed that a boat that remains level when swamped in a high wave environment may actually be less safe for the boater to remain with than one which has only basic flotation.

Boat manufacturers have also expressed concern that the requirement to fit buoyancy materials in boats under 6m, particularly in *small volume boats*, to satisfy the requirements of level flotation, may not be achievable with current designs and may lead to a boat that displays undesirable stability characteristics due to changing the centre of buoyancy. Additionally, manufacturers have previously offered models that encompassed level flotation which, given space required to fit appropriate buoyancy materials, was detrimental to some functionality of the boat, leading to a rejection of the model by consumers.

In specifying specific technical standards that may be used to demonstrate conformity with the ABP Standard requirements, the context of the broader regulatory environment operating in jurisdictions where such standards originate and the type/number of boating incidents, should also be considered. Data concerning boating incidents where a boat having only basic flotation was the causal factor in an incident, or contributed subsequently to casualties arising from an incident, in Australia, does not support the requirement to fit only level flotation in boats under 6m.

BIA Recommendation:

The BIA does not support the proposal to remove the level flotation moderation, however, in line with the concept of full accordance, accepts that boats under 6m designed and built to conform with the ISO and ABYC standards systems should fit buoyancy materials to achieve level flotation. Boats under 6m built to AS1799 should continue to be permitted to fit buoyancy materials to achieve basic flotation, with suitable confirmation of this to be part of the forthcoming review of AS1799.

Furthermore, the BIA considers that boats over 6m which are fitted with buoyancy materials that provide for either basic or level flotation should be permitted to display such information on the ABP plate, as desired, on a voluntary basis.

3 Use of conservative values

The clarification of when and where values used on the ABP may be varied to those determined from relevant calculation, assessment or testing is welcomed, noting that this clearly provides only for the use of conservative values, ie values lesser than determined, in terms of maximum load, maximum persons and outboard engine power. However, as discussed in later comment under items 11 and 12, the key determiner of the safety of the boat, in terms of the ABP Standard, is the load carrying capacity of the boat. Where an outboard engine of a lower power rating is specified, which in turn provides for a reduction in mass of the unit, it is considered appropriate that this reduction in mass is allowed for in determining other components of the maximum load, including additional fitted equipment, carry on gear or, potentially, depending on other constraining factors (to include seating), the maximum number of persons.

BIA recommendation:

Where a reduction in outboard engine power rating provides for a consequent reduction in mass of the unit, this reduction in mass may be allowed for in determining other components of the maximum load.

4 Auxiliary engine mass allocation

The proposal to allocate the mass of any auxiliary engine and associated equipment and fittings as part of the maximum load, as opposed to part of the engine mass is supported. A clear explanation of this should be made to the consumer in literature about the ABP program, including in any user handbook provided with the boat, with consideration of additional symbol/descriptor as per item 13 below.

5 Mandatory warning statements

The proposal to require that warning statements specified by relevant standards are to be mandatory in terms of display on the ABP plate is welcomed. This is considered to be in accordance with the concept of full accordance, while noting the subsequent comment below. The proposal to allow for such warning statements to be addressed as part of a user handbook is also welcomed, however where space permits, it would be appropriate for as much information related to such warnings as possible, to be more visible to the boater, particularly the skipper, as part of the ABP plate or an additional supplementary plate.

Notwithstanding the above comment, and while not seeking to reduce the relevance and importance of warning statements, it would appear contradictory to the concept of full accordance to require a warning statement in accordance with AS1799 when the ABYC standard series is used, acknowledging that ABYC does not provide for such warning statements. It would be more pragmatic to require a warning statement to be provided in all circumstances, regardless of the specified standard used, making use of a standardised text that draws the skipper's attention to the need to consider varying load and/or persons when operating in different environments.

BIA recommendation:

Introduce into the text of the ABP Standard a standardised warning statement regarding the need to consider varying loads when operating in different environments.

6 Displaying the HIN on the ABP

While not directly connected in terms of regulation, the ABP and HIN are often referenced in the same discussion regarding requirements of recreational boats and it would be a useful to strengthen this reference by requiring the HIN be displayed on the ABP plate. It is of course recognised that there are a number of states that do not currently mandate a HIN be affixed to a boat, although there is capacity to record a HIN as part of the registration process in these states, with the exception of the NT which currently has no boat registration program.

The proposal to display a HIN on the ABP plate where such is already affixed to the boat is therefore supported, however, this proposal should be strengthened to require a HIN be displayed in all circumstances: if a boat does not have a HIN, one should be applied, regardless of the regulated requirement for such in some states. There is no reason why a new boat, ie one which requires an ABP, does not have a HIN; boats manufactured in Australia are routinely affixed with a HIN and imported boats should be similarly compliant, the HIN being a global norm for the recreational boating industry.

With efforts to introduce a national HIN system currently being discussed, it would be a missed opportunity to encourage the development of this system by not mandating the HIN be displayed on the ABP plate.

BIA recommendation:

Every new recreational boat that is required to have affixed an ABP plate should be required to have a HIN and to display that HIN on the ABP plate.

7 Responsibility for determining and affixing ABP plate

The BIA welcomes the proposal to clarify the roles and responsibilities of various entities with a connection with ABP compliance. It is important to acknowledge the specific requirement that the ABP Standard essentially reflects the condition of the boat and compliance with the ABP Standard at the point transfer to the owner as a new boat (point of first sale). This includes where it may have undergone modification, prior to transfer, that has changed the characteristics of the boat in terms of original manufacturer's ABP compliance declaration.

The responsibilities of various entities for determining and affixing the ABP was a key learning for the boating industry during the recent ABP education workshops and it will be important that all relevant agencies work to educate the industry more widely of this responsibility.

However, the value of the ABP program would be strengthened by specifically extending the responsibility to affix a compliant ABP to any boat, in scope of the ABP Standard, where such has

undergone a modification that has changed the characteristics of the boat in terms of ABP plate originally affixed by any of the parties foreseen in clause 3.2.2. This would provide for after-market modifications to be compliant with the ABP plate originally affixed, or to then be assessed for compliance to the ABP Standard under the responsibility of the party making the modification. This would address the very real concern of repowering boats, including where such are brand new boats. Essentially this would confirm that the ABP is valid for the life of the boat.

Additional recommendations re entities with a responsibility for ABP compliance, validity of the ABP plate and how to address changes to the load capacity are addressed in subsequent comments.

BIA recommendation:

The responsibility to affix a compliant ABP plate should be extended to include any entity making an after-market modification to the boat that has changed the characteristics of the boat.

8 Guidance on location of ABP

The BIA supports the proposal to provide enhanced guidance on where the ABP plate should be affixed. In support of this, the ABP program should ensure boaters and skippers particularly are educated as to where to look for the ABP plate and how to read /interpret the values on the plate.

9 Removal of reference to ISO 11192

The BIA supports the proposal to remove reference to the ISO 11192 standard for symbols, however see subsequent comment under item 10 re the use of symbols defined in the ABP Standard.

Additional comments

BIA has a range of additional comments and proposals that have been discussed and developed among boating industry members during various workshops throughout the last 18 months. All are intended to improve the scope, application, understanding and effectiveness of the ABP and adoption would contribute to an enhancement of the fundamental objective to ensure boater safety.

10 Symbols

The use of symbols on the ABP plate is useful where the meaning of such is readily understood, particularly by the consumer or boater. While it is recognised that the proposed change to make the use of symbols an option allows the entity responsible for preparing the plate to choose what style of plate layout to use, it should be remembered that manufacturers and consumers are both accustomed to seeing symbols and it would be important to ensure education materials explain the changes that consumers should be looking for on plates using only text.

11 The person symbol

In regard to the person symbol, draft Edition 5 does not define the person symbol to mean the mass of a person used in the specified standard; this proposed change is supported as it is clear that boaters have not understood the concept of a (varying) standard mass person used in such standards, assuming (as evidenced by overloading of boats) that the symbol and accompanying value simply means a number of persons. This now provides for boat manufacturer to use the symbol, if desired, to mean exactly that; a defined maximum number of persons, based on their calculations or testing, that they consider the boat to be capable of carrying (based on load capacity), without reference to a standard person mass. In other

words, the manufacturer may choose to limit the person capacity value displayed in recognition that the certain boater types/groups will likely be individually heavier than the standard mass. This supports the proposed change under item 3 *Use of conservative values*.

To clarify this further, Table 5 row 5 b) should not define the person mass as a maximum number of persons; the person mass should be the maximum permitted mass of all persons on board the boat, regardless of actual number of persons.

BIA recommendation:

Change Table 5 row 5 b) to read “the maximum mass of persons, expressed in kilograms”

12 Small volume boat plate

With regard specifically to *small volume boats*, the affixing of a plate not displaying either a symbol or text defining a maximum number of persons, simply a maximum person load in kg, would provide for a safer outcome, with the boater more closely focused on the capability of the boat to carry a certain load, rather than a finite number of persons. This is in line with the mantra ‘*you’re the skipper, you’re responsible*’ in terms of the skipper considering the total number of persons to carry, being cognisant of an individual person’s weight.

This would also recognise that children are (usually) of a lower mass than adults and therefore permit a variation of number of persons based on the group demographic in terms of adults and children. It is understood that some states still provide for (in regulation) children to be counted as half an adult in terms of standard mass and this proposed change would accommodate this variation while ensuring the ultimate focus is on load carrying capability. This specific issue of assessment of the crew or passenger profile is potentially also relevant to boats larger than *small volume boats*, but at all times should be constrained by the number of seats, or similarly designated seating areas, available within the boat, regardless of the profile of occupants.

BIA recommendation:

A third plate option for *small volume boats* be provided, to display only a maximum person load in kg and not define a specific number of persons by either text or symbol. An example of the layout of such a plate to be included in Annex A.

13 The outboard engine and suitcase symbols

The text in Table 2 describing the outboard engine symbol should note that any auxiliary engine is not included in the mass, for further reinforcement of Table 5 row 6 d). Similarly, the text in Table 5 row 4 should note that the mass of an auxiliary engine is not included in the mass of the outboard engine.

When then considering Table 5 row 6 in full, consideration should also be given to the need for an additional symbol, or text descriptor, to identify auxiliary engines and optional equipment and fittings not included in the manufacturer’s basic fit-out, to provide clarity to the boater that these items form part of/consume a portion of the total load capacity: it is not certain that a boater would equate such items alongside carry-on gear when summing all additional masses on board the boat.

BIA recommendation:

An additional symbol or text descriptor be defined to identify items to be assessed as part of the maximum load that are fitted to the boat but are not covered by current descriptors for person, outboard engine or carry-on gear.

14 Simplified testing for small volume boats

While acknowledging that the ABP Standard is not a technical standard, it is considered appropriate that the review of the standard should make recommendations to enhance existing technical standards, or indeed propose a new standard if required, to provide for alternate compliance options, in some instances. If this is considered appropriate, allowance for this in way of a future or updated technical standard is readily accommodated in referencing such a standard in Edition 5 with a caveat note that the referenced document would be subject to review in terms of suitability as part of its drafting.

This is specifically related to the option for simplified, practical testing for *small volume boats* to assess loading and stability. Such simplified options are available in various standards systems, notably the ISO series, with resulting values for loading – or other requirements as appropriate – being of a conservative nature. This would allow for manufacturers – and dealers, particularly, where additional equipment is specified by buyer, plus those undertaking aftermarket modifications – to make a good assessment of the capabilities of the boat without the reliance on use of calculation. It is considered that for some segments of the market this would be a positive additional option.

It is unlikely that the ABP review program would be unable to influence international standards systems, however the review of AS1799 would be able to consider options for simplified testing if there was a suitable request for this to be delivered as part of the ABP review outcomes.

BIA recommendation:

The ABP review program to make recommendation to Standards Australia for the review of AS1799 to develop options for simplified loading and stability testing for *small volume boats*.

15 Scope of application

To provide certainty as to point at which a boat is ‘captured’ by the ABP standard, the scope of application should make it clear that the standard applies to recreational boats which are:

- New build
- New imports – whether via a recognised agent or private importer
- Second-hand imports – with same criteria as new
- Conversion of commercial or other non-recreational boats to recreational use
- ABP compliant boats subject to modification that varies the original ABP specification

In each instance, the boat is essentially ‘new to the market’ as a recreational boat. This would also confirm the responsibility of various entities to take a role in ABP Standard compliance, as addressed under item 16.

Further, this would support the need to ensure the validity of the ABP plate for the lifetime of the boat and to definitively connect ongoing compliance with various entities involved with the boat throughout its lifetime in terms of modification and repair, as addressed under item 18.

16 Definition for Responsible Entity

Compliance with the ABP Standard is the responsibility of a range of people, or, more correctly, entities, including; manufacturers, importers, dealers/retailers, brokers/second-hand dealers, aftermarket service agents or those undertaking works on a boat where such may trigger an ABP compliance requirement. All these entities have, or may have, some connection with responsibility for a boat’s compliance with the

ABP Standard, whether as; a new build, new import, second-hand import, conversion of a commercial vessel, or modification of the boat to an extent that invalidates the original ABP compliance specifications.

In terms of reading the standard and ensuring all relevant entities have an appreciation of their possible responsibility for compliance, a definition of Responsible Entity should be considered. This would support clauses 2.8 and 3.2.2 of the draft Edition 5, and elsewhere as relevant.

17 Logbook of additional equipment

Expanding on comment 17, the need for various entities to assume a role in ABP compliance should include those supplying and fitting additional equipment to a boat where the mass of such is accommodated within the available load capacity rating on the ABP plate and does not detrimentally modify the ABP compliance specification. Such an addition would therefore not require a new ABP compliance assessment or affixing of a new plate. An example would be an aftermarket dealer adding a new trolling motor to a boat which has sufficient available load capacity to carry such without impacting other specifications. This would also extend to an owner fitting additional equipment without a third-party involvement, thereby taking on a role in ABP compliance in their own right.

The requirement to keep a logbook of equipment and masses added to the boat would provide an ongoing record to the owner, potential future owners and service agents etc of changes made to the boat and would provide a safeguard to the need to consider a new ABP compliance assessment where an aggregation of such additions potentially breaches the available load capacity.

There are various mechanisms by which such a logbook system could be managed, including the potential for an additional plate to note changes, a paper-based record or, preferably, an online system database which would be available to all relevant parties with a connection with the boat throughout its lifetime.

This proposal would be supported by education of boaters as to the objectives of the ABP program and the need to consider the usefulness of such whenever changes are made to their boat.

The application of this proposal should be limited boats under 6m or such a size as the ABPWG may determine.

18 Definition for Duration (of validity of the ABP)

Expanding on comment 16, (and agreeing the concept that the ABP Standard refers to all boats entering the market as new recreational boats for the first time), it is important that the boat is then maintained in accordance with the ABP specifications at the time of being declared to be in compliance, including as part of any aftermarket modification. The concept of how long should the ABP last for, or its Duration, is not clear and leads to confusion among all stakeholders.

The Duration of the validity of the ABP plate should be for the lifetime of the boat and a definition to support this concept, including clauses covering scope and affixing and marking of the plate, as well as in supporting educational information for boaters, should be considered.

19 Definition for Hydrofoil

Recent discussion among technical regulators and industry in Europe has identified the need for a definition of 'hydrofoil' in terms of exemption from application of recreational craft legislation (the EU RCD in Europe) and this should be considered for the ABP Edition 5 also. Novel craft designs in way of

skegs may result in a boat being considered a hydrofoil in design terms, where it should in fact be still considered a boat within scope of the ABP Standard.

20 Mandating specified standards

On the topic of mandating specified standards, while it is understood that this is not a change proposed in draft Edition 5 of the ABP standard, it is clear that the concept has been discussed. BIA would express caution about this approach for a number of reasons.

First, the freedom to select from a range of technical standards in demonstrating conformity with the requirements of the ABP Standard ensures that manufacturers exporting boats are able to select the most appropriate standard for the destination market, which would then be used across boats destined for either the domestic or export market. This freedom is then similarly necessary to support imported boats where they will have been designed and manufactured to compliance with another standard system/regulatory jurisdiction.

Second, the need to consider the most appropriate technical standard for different applications/boat types, noting that the likes of the US ABYC standards and particularly the ISO standards, provide a number of options for assessing various elements of a boat's compliance with individual standards. This has an added complexity to the whole system of assessing compliance and requires active intervention of various agencies to check and inspect compliance.

The BIA is in discussion with its members regarding development of an accreditation program to support boat manufacturers and it should be a part of this discussion that any interest in mandating any specific standards be addressed to consider what options and degree of third-party intervention, in way of compliance assessment would be desired, required or possible.

Conclusion of submission

This submission is made by Nik Parker, General Manager Member Services.
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This submission will be made available to BIA Members following submission to the ARBSC.