



Legal Waves

Looking at how the law interfaces with today's boatowners and fishermen.

By Katherine Hawes, "The Fish Lawyer" from Aquarius Lawyers, Sydney

Thinking of Buying A Boat ?

What you need to know.

As the weather warms up – our dreams turn to purchasing a boat to enjoy those long summer days out on the water. However, if you don't want to sink your investment, it is important to do your homework first as I have seen several cases where the dream purchase became more of a nightmare.

Apart from making sure that the vessel you're buying is technically functional, suitable for your needs, and affordable, there are a few other things you need to look into from a legal perspective to ensure that you are getting a good deal.

Australian Builders Plate for Recreational Boats (ABP)

The National Standard for the Australian Builders Plate for Recreational Boats is overseen by the Australian Recreational Boating Safety Committee (ARBSC).

Each recreational vessel needs to be registered with a ABP that is issued by the ARBSC. The ABP is a state-legislation regulation which means that the speed of its adoption and implementation differ from state to state. However, it is an industry supported label and is introduced and active to different extent in Tasmania, New South Wales, Western Virginia, Queensland, South Australia, and Victoria.

"The ABP is essentially a self-declaration by the builder backed up by legal sanctions to ensure that boats falling within the scope of the standard, are fitted with an ABP and the information on it is accurate. It is therefore important that those building and supplying recreational boats understand the ABP standard and how it affects them. Customers may also seek advice from suppliers about what the information on the ABP means and how it will assist them in making the right choice of boat." [ANZSBEG]

The information on the ABP is self-declared but is always issued by a competent person. This might be the builder, importer or consultant but who issued the ABP will always be evident on the plate itself.

Therefore, each boat, whether it is self-made, factory-made, imported or altered in any way should have an ABP which will provide you with additional specific information. This will ultimately assist you in making it easier to choose a boat which is safe and matches your specific needs.

The goal of the ABP is to make the boat experience safer so it includes two key pieces of information:

- 1) The maximum number of people and load they can safely carry;
- 2) The maximum outboard engine power and the buoyancy performance for smaller boats.

If a vessel you are trying to buy doesn't have an ABP, it may fall under one of the following categories:

- aquatic toys;
- amphibious vehicles;
- canoes, kayaks or similar boats designed to be paddle-powered such as surf skis;
- hydrofoils or hovercraft;
- pedal powered boats;
- personal watercraft carrying no more than two people;
- racing boats;
- rowing shells used for racing or rowing training;
- sailboards;
- sailing boats;
- submersibles and surf row boats.

In addition, if the boat is less than 6 metres long it will require an additional certification known as a buoyancy certificate. This ensures that the boat will continue to float in a level position if swamped and will not capsize in calm water. Boats longer than 6 metres do not require such a certificate.

When you buy yourself a boat, just double checking the ABP can save you a bunch of misunderstandings and problems when you finally decide to take your boat for a ride.

As the ABP is an industry accepted legal requirement for selling and registering boats in most states, the lack of such should raise a red flag that the seller or manufacturer hasn't done something right. It's better to stay away from boats that don't have or are not eligible for an ABP.

ABM