

17 August 2011

Mr Ian Shepherd  
Deputy Executive Director  
DOT Legal Division  
Department of Transport  
121 Exhibition St  
MELBOURNE VIC 3000

Dear Mr Shepherd

## **ASSESSMENT OF REGULATORY IMPACT STATEMENT**

Thank you for seeking an assessment of the Regulatory Impact Statement (RIS) on the proposed *Marine Safety Regulations 2011*.

The Victorian Competition and Efficiency Commission (VCEC) assesses the adequacy of RISs as required under section 11 of the *Subordinate Legislation Act 1994* (the Act). I advise that the final version of the RIS received by the VCEC on 16 August 2011 meets the requirements of section 10 of the Act.

The VCEC's assessment is based on the adequacy of the evidence presented in the RIS and is focused on the quality of the analysis rather than the merits of the proposal itself. **Therefore, an assessment of adequacy by the VCEC does not represent an endorsement of the proposal.**

In making this assessment, the VCEC notes that for this proposal, the extensive consultation process planned will be important to promote stakeholder accessibility, given:

- the range of issues covered and subsequent length of the RIS; and
- the data gaps and limitations and uncertainty that limit the analysis of the costs and benefits of some of the proposed Regulations (chapters 4, 5, 10 and 11)

The VCEC also notes that the elements of the proposed Regulations relating to fees (chapter 16) have not been the subject of detailed analysis in the RIS, but that the Department of Transport (the Department) has committed to a separate review of fees, and an associated RIS, in 2012.

### *Data gaps and limitations*

The *Victorian Guide to Regulation* requires that for a regulatory approach to represent the most efficient solution to a problem, the proposed measure must yield benefits greater than the costs it imposes. The main problems identified in the RIS

relate to information asymmetries, externalities, theft and enforcement of the *Marine Safety Act 2010*. The VCEC notes that for some of the proposed regulations, limited data on costs and benefits is available to support a regulatory approach to the identified problems. For example, the available data:

- are not sufficiently detailed to justify each proposed mandated piece of safety equipment for recreational vessels (chapter 11)
- do not allow costs of the proposed approach to enforcement of recreational vessel standards to be estimated (chapter 5).

Moreover, while the RIS provides a cost benefit analysis to justify the mandatory carriage and wearing of personal floatation devices in specified circumstances, the multi-criteria analysis used initially to assess options aimed at preventing deaths by drowning does not provide a full assessment of costs and benefits (chapter 10).

#### *Registration renewals (chapter 4)*

The RIS concludes that changing the frequency of registration renewal so that it occurs every 3 years, rather than annually, is likely to result in significant cost savings of approximately \$12 million over 10 years. As administrative systems do not currently allow the renewal period to be changed, the proposed regulations retain the requirement for annual renewals. Given concerns about the feasibility of system upgrades and the willingness of vessel owners to pay registration fees in advance, there is considerable uncertainty about the estimated costs and benefits of moving to 3 year renewals.

#### *Fees (chapter 16)*

The RIS remakes current fees until 21 December 2012, which aligns with the sunset date of the current *Marine Safety Regulations 2009*. This reflects the Department's decision to defer a review of fees until 2012. A separate RIS will need to be prepared to remake fees. The VCEC notes that in preparing this RIS, the Department will need to address issues such as:

- estimating an efficient cost base that reflects the costs of administering marine safety regulation
- explaining the rationale for collecting different types of fees
- justifying the appropriate level of cost recovery
- analysing risk-based approaches to the setting of fees.

In the interests of transparency, most departments and agencies publish this assessment letter alongside the RIS when it is released for consultation. The VCEC recommends that you do the same.

If you have any questions, please contact [RegulationReview@vcec.vic.gov.au](mailto:RegulationReview@vcec.vic.gov.au).

Yours sincerely



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**Acting Assistant Director**

**Victorian Competition and Efficiency Commission**