

25 June 2021

**Our ref: FOL/19/23831**  
**Your ref: COR 2019 0206**

Coroner's Registrar  
Coroners Court of Victoria  
65 Kavanagh Street  
**SOUTHBANK VIC 3006**

Dear Sir / Madam

**INVESTIGATION INTO THE DEATH OF ALLAN RUSSELL MCFARLANE  
FINDING WITHOUT INQUEST – TSV RESPONSE TO RECOMMENDATION  
CASE NUMBER – COR 2019 0206**

On behalf of Transport Safety Victoria (TSV), I write in response to the Coroner's finding without inquest dated 14 January 2021 following the investigation into the death of Allan Russell McFarlane in January 2019, and the recommendations below.

- a) For a number of years this Court has made recommendations with regard to prevention opportunities in boating related incidents. Most recently, after the death of Graham Hill, Coroner Michelle Hodgson recommended " ... that Transport Safety Victoria consider introducing requirements that all boats be fitted with a\_ manual or electrical pumping mechanism to all bilge areas ... ". I support Coroner Hodgson's recommendation and add that I concur with the Water Police Squad's advocacy for all boats fitted with electrical bilge pumps in enclosed bilge areas to have automated switches or floats, or alarms if a manual bilge exists.
- b) Since 2010, the Water Police Squad has consistently campaigned for 'seaworthy' inspections at the time of registration and acquisition or transfer of vessel ownership. The absence of a vessel inspection process to Victoria tragically means that old and/or modified vessels are usually only detected as unsafe or unsuitable post incident. My fellow coroners have enduringly supported the implementation of such a system; however, one is yet to be developed. For this reason, I encourage Transport Safety Victoria to explore the possibility of implementing a system of vessel inspections, akin to roadworthy inspections, to improve marine safety.
- c) Furthermore, I recommend that as part of seaworthy inspections, builders plates are retrospectively attached which determine the number of people, the conditions for which the vessel is suited and the maximum engine capacity of the vessel.

Response:

**General comments**

TSV notes that the Coroner's recommendations all relate to enacting legislative change. Pursuant to section 173 of the *Transport Integration Act 2010* (Vic), while TSV (on behalf of the Director, Transport Safety) may advise or comment on the development of legislation and legislative policy, TSV's functions do not include developing legislation. This is instead a function of the Department of Transport (**department**).

**Recommendation (a)**

TSV notes recommendation (a).

As noted in TSV's response to the recommendation made following the death of Graham Hill, it is already a requirement that all recreational vessels which have a covered bilge or closed underfloor compartment – other than airtight void spaces – are fitted with a manual or electrical bilge pumping mechanism pursuant to regulation 96 of the *Marine Safety Regulations 2012 (Vic)* (**MSR**) (as set out in Schedule 3 to the MSR).

TSV sees merit in the additional recommendation made by the Coroner in support of the Water Police advocacy for all boats fitted with electrical bilge pumps in enclosed bilge areas to have automated switches or floats, or automated alarms if a manual bilge exists.

The MSR sunset on 30 June 2022 and will be remade. TSV is working with the Department of Transport on the remake of these regulations and will raise this recommendation with the department during this process.

### **Recommendation (b)**

TSV notes recommendation (b).

TSV continues to explore the possibility of implementing a vessel inspection system akin to roadworthy inspections. TSV doesn't have the authority to amend the legislation to implement such a system so will continue to pursue this with the Department of Transport representatives responsible for legislative amendments.

### **Recommendation (c)**

TSV notes recommendation (c)

TSV agrees that there should be a mechanism for clearly setting out and communicating the maximum passenger mass for recreational vessels (whether that is via builders' plates or something else). Again, TSV doesn't have the authority to amend the applicable legislation and will continue to explore options and provide them to Department of Transport representatives responsible for legislative amendments.

It is noted that Schedule 2 of the MSR sets out maximum passenger numbers for recreational vessels by vessel type.

TSV's safety education messaging focusses on building awareness of the value of builder's plate information in addition to considering maximum carrying capacity of any recreational vessel.

If you require any further information, please contact Jane Wright, Policy Adviser, at [jane.wright@transportsafety.vic.gov.au](mailto:jane.wright@transportsafety.vic.gov.au).

Yours sincerely



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Director, Maritime Safety