



Department of Economic Development,
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Ref: CSEC150462

Ms Emma Lindsey
Coroners Registrar
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Dear Ms Lindsey

INVESTIGATION INTO THE DEATH OF KEVIN CAITHNESS AND PAUL WASHINGTON

Thank you for your letter regarding Coroner's findings following the investigation into the deaths of Kevin Caithness and Paul Washington. I have been briefed on the circumstances that lead to the deaths of Mr Caithness and Mr Washington. I understand that the condition of the vessels and a lack of safety equipment were contributory factors in their deaths.

I apologise for the delay in providing this response.

The Coroner made the following recommendations:

Recommendation 1

I recommend that the Department of Economic Development, Jobs, Transport and Resources and Transport Safety Victoria considers reviewing and increasing the current regulatory safety requirements for operators of canoes and kayaks travelling more than 500m from shoreline in enclosed waters by requiring them to carry either flares and a torch, or a marine radio, or a PLB or EPIRB.

Recommendation 2

I recommend that Transport Safety Victoria continues to explore potential models for a non-commercial vessel and seaworthy inspection and certification regime as a means of ensuring the seaworthiness of vessels at points of registration, transfer of ownership and after any modification.

I wish to confirm, as per the response you have received from Transport Safety Victoria (TSV), that Recommendation 1 is supported and that TSV is taking action (as indicated in its response) to better educate recreational boaters on safety equipment requirements and gather information to support consideration of potential amendments to the Marine Safety Regulations 2012.

The Minister for Ports will be briefed on the merits of making amendments to the Marine Safety Regulations 2012 in the third quarter of 2016. I will provide notification of outcomes after the department's recommendations have been considered by the Minister.

Recommendation 2 is directed to TSV and it is has already provided a response.

As noted by the Coroner in her finding, the Department of Transport (now Department of Economic Development, Jobs, Transport and Resources) recommended to the Minister for Ports in early 2012 that no standards be set and that no system of seaworthiness checks be established. Instead, it was recommended to make it an offence to cause or allow a recreational vessel to be operated unless it is fit for purpose (Regulation 27 of the Marine Safety Regulations 2012).

In the Coroner's finding the following statement is made:

Unlike other regulations under Part 2 of the Marine Safety Regulations 2012 relating to registration of vessels such as regulations 16, 17, 18, 24 and 26, Regulation 27 does not create an offence and no penalty is prescribed.

In response, it is necessary to explain that the condition of registration specified in Regulation 27 is enforceable. Section 37(3)(a) of the *Marine Safety Act 2010* makes a breach of any condition of registration an offence with a maximum penalty of 60 Penalty units. This approach was adopted to ensure the penalty applicable (60 Penalty units) reflected the seriousness of non-compliance. The maximum penalty able to be prescribed under the regulations (20 penalty units) did not reflect the seriousness of non-compliance.

The department has not yet reviewed the implementation of the Marine Safety Regulations 2012. However, I have asked relevant officers of the department to investigate how many compliance monitoring and enforcement activities have been undertaken (e.g. compliance inspection programs at boat ramps) by Victoria Police and TSV since the new offence was established. I will notify you of the outcomes of these investigations.

If you require further information, please contact Paul Salter of the Transport Group on telephone (03) 8392 6447.

Yours sincerely



Richard Bolt
Secretary

24/6 / 2016