

Your Ref: 1881/2008
File: FOL/10/47710

Ms Theresa Aberline
Coroners Registrar
Coroners Court of Victoria
Level 1, 436 Lonsdale Street
MELBOURNE VIC 3000

Dear Madam

Investigation into the deaths of Jennifer and Alexander Elliot

I refer to the inquest finding dated 5 August 2010 in relation to the above matter.

I enclose the statement of Transport Safety Victoria (Maritime Safety branch) as required under section 72 of the *Coroners Act 2008 (Vic)*.

Kindly note that the Coroner's findings address Marine Safety Victoria, which became a branch of the new independent regulator of transport, Transport Safety Victoria led by the Director, Transport Safety on 1 July 2010. The Director, Transport Safety is established under section 171 of the *Transport Integration Act 2010 (Vic)*.

Yours sincerely



ALAN OSBORNE
Director, Transport Safety
Transport Safety Victoria

12/11/2010

Statement of Transport Safety Victoria (TSV)
(a public statutory authority within
the meaning of s72 of the *Coroners Act 2008*)

- In relation to the Inquest findings of Coroner White dated 5 August 2010 regarding the deaths of Jenifer and Alexander Elliot at Pier 35 on 3 May 2008.
- The relevant findings and TSV's statement in response:

A. (1) *To this end, I recommend that the resources currently available to the Police Marine Units be reviewed and that going forward adequate resources be made available to Victoria Police to allow for an increase in the level of policing in this area.*

TSV Response:

Victoria Police is currently the primary enforcement agency in relation to Victoria's marine safety law with respect to recreational vessels.

On 1 July 2010, the former Marine Safety Victoria (MSV) became part of the new independent regulator of transport safety in Victoria, Transport Safety Victoria (TSV), which is led by the Director, Transport Safety. The Maritime Safety Branch of TSV is responsible for the regulation of marine safety in Victoria, and undertakes a range of regulatory actions in relation to breaches of marine safety laws. Prosecutions of criminal offences under the *Marine Act 1988 (Vic) (Marine Act)* are generally conducted by Victoria Police.

A new statutory scheme has been passed into legislation, the *Marine Safety Act 2010 (Vic) (New Marine Safety Act)*. The *New Marine Safety Act* significantly modernises the regulation of marine safety by clarifying and strengthening the existing safety duties of boat operators, owners, designers, manufacturers, retailers and users. In particular, enforcement avenues have been significantly streamlined, to enhance enforcement and compliance action.

Significantly, section 279 of the *New Marine Safety Act* includes a requirement for the development of a "Marine Enforcement Policy", by the Director, Transport Safety which must be publicly available within 12 months of the commencement of the *New Marine Safety Act*, expected to be 1 July 2011 at this stage. Required consultation to precede the "Marine Enforcement Policy" will see the development of updated arrangements in relation to enforcement activities on Victoria's waterways.

As part of the reform of marine safety arrangements careful consideration is being given to the resources that are needed to effectively enforce marine safety requirements. TSV has prepared a business case for more resources and this submission will be considered as part of the normal budgeting cycle.

The call for more resources in this sector needs to be considered relative to all the other competing demands for government funding. This will be a matter for the incoming government to consider.

- (2) *Having regard to all of the evidence, I also recommend that Marine Safety Victoria and Victoria Police Marine Division continue their campaign and further highlight the dangers involved in the use of petrol driven inboard motor cruisers, particularly following a period of disuse.*

TSV Response:

The coroner's recommendation has been implemented.

Educational campaign activity in this area to date has included:

- Educational information relating to the dangers involving the use of petrol driven inboard motors featured in the Towed Water Sports Campaign, specifically in a publication titled "*Don't let Injury Cramp Your Style*". This publication was distributed to approximately 5,000 people during the term of the campaign. This publication is available from TSV on request.
- During the period 2002 until 2007, Boating Safety Officers addressed the dangers involving the use of petrol driven inboard motors at presentations to boating-related clubs and organisations in addition to educating the recreational boating community at boat ramps across the state.
- Public seminars and forums conducted throughout Victoria.

This campaign will be continued and expanded to ensure maximum exposure to the boating public. This will be ensured by:

- Additional research into marine incident data to enhance the design and targeting of campaign actions to maximise impact.

B.

- (1) *That the State of Victoria introduce legislation which will require that all non-commercial, petrol powered inboard motor cruisers boats or other similar vessels, operated within Victorian waters, which are greater than 15 years old, be surveyed by a suitably qualified marine surveyor.*

TSV Response:

The coroner's recommendation will require further consideration by the Department of Transport.

Before 1 July, MSV was part of DOT. MSV and DOT carried out research into the feasibility of introducing measures (including the introduction of higher vessel design standards and an inspection scheme) to mitigate risks to recreational boaters from the use of petrol inboard engines. This research is yet to be completed and covers such issues as the installation of engineering interventions such as ventilation systems, increased education, vessel inspection regimes and the likely effectiveness of each mitigation measure. The research will assess the social, economic and industry impacts of an inspection scheme against the potential safety outcomes.

With the Maritime Safety branch of TSV now being independent from DOT, TSV is not responsible for legislative policy development. DOT will address this recommendation separately.

- (2) *I further recommend that all new non-commercial petrol powered inboard motor cruisers boats or other similar vessels be surveyed on first registration, and thereafter on each occasion that a change of ownership registration, and thereafter on each occasion that a change of ownership in respect of any such vessel is sought.*

TSV Response:

The coroner's recommendation will require further consideration.

Refer to the response to recommendation B(1) above. DOT will address this recommendation separately.

- (3) *I also recommend that the State of Victoria introduce legislation to establish general design standards, which include as a minimum requirement for the registration of all petrol fuelled leisure vessels,*

- *that all engines and fuel delivery systems are maronised;*
- *that petrol tanks are easily accessible and are capable of being cleaned and tested;*
- *that petrol tanks have adequate venting to atmosphere outside the boat, by reference to volume;*
- *that flammable fuel detectors are attached; and*
- *that carburettors are properly fitted to drip trays with collected fuel directed to absorbent material which prevents fuel evaporation.*

TSV Response:

The coroner's recommendation will require further consideration.

Refer to the response to recommendation B(1) above. DOT will address this recommendation separately.

- (4) *Further I recommend that such legislation make it an absolute offence punishable by the imposition of a significant financial penalty,*

'to own at sea, or to sell rent, or take to, or to control at sea, any petrol driven inboard powered leisure vessel'

which has not passed survey in accordance with these requirements.

TSV Response:

The coroner's recommendation will require further consideration.

Refer to the response to recommendation B(1) above. DOT will address this recommendation separately.

- (5) *To further support the interest of public safety I also recommend that the Boating Industry Association continue its work with Marine Safety Victoria, to set up and appropriate dealer accreditation programme.*

TSV Response:

TSV (Maritime branch) understands that a voluntary dealer accreditation program available to members of the Boating Industry Association has commenced. The key elements of the standards incorporated into the program include:

- Provision of minimum safety information to purchasers
- Ethical conduct requirements including disclosure obligations
- Public liability insurance
- Sales processes including dealing in second hand goods
- Customer satisfaction
- Consumer protection

The New Marine Safety Act includes a provision (section 272) which allows the Minister to approve codes of practice in relation to any aspect of vessel operations, including the supply of vessels.

Following necessary consultation and consideration by TSV, the dealer accreditation scheme may form the basis for Ministerial code of practice, to embed ethical safety management principles into marine dealer culture and behaviour.