

1 August 2018
Paul Salter
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By email:

Dear Mr Salter

Re: Outcomes of meeting with Australian Sailing representatives re the *Marine Safety Act 2010* (Vic)

Thank you very much for meeting with me, Ray Shaw, Murray McCutcheon, Vanessa Twigg and Steve Walker and Ben Scullin today to discuss the issues raised in my letter to you of 21 July 2018. The purpose of this letter is to confirm the four outcomes of today's meeting and the actions we have agreed to take.

Legislation to explicitly state and have the effect that volunteers and trainees are not subject to criminal penalties in carrying out their roles on behalf of the duty holders.

You have agreed that the current section 30 does not mirror the provisions of the Occupational Health and Safety Act 2004, which it was intended to do, and has resulted in some unintended consequences. You have agreed that section 30 of the *Marine Safety Act 2010* needs to be urgently amended so as to ensure that this provision does not apply to volunteers and trainees engaged in supporting sailing and boating activities. You have agreed to use your best endeavours to try and have this amendment passed as soon as possible, but we recognise the difficulties in getting legislative amendments prepared and passed in an election year. It was also noted that you advised that Section 11 of the OH&S Act offers protection for volunteers under section 30 of the Marine Safety Act.

Compliance with a code of practice to be evidence of compliance with the duty holders' relevant obligations under the legislation.

You have drawn our attention to section 299 of the Marine Safety Act that provides a protection against a breach of a duty or obligation by persons who comply with an approved code of practice.

That Australian Sailing is fully and properly consulted and involved in any codes of practice or similar compliance instruments and that they are consistent with national and international rules and regulations and in a manner which does not add even more complexity and regulatory burden in an area of both.

You have made a commitment to us to recognise the 'Blue Book' and other documents relating to the regulation of yacht racing, sail training, and organised cruising as an approved code of practice under the Marine Safety Act. You have agreed to have this code of practice signed off by the Minister for Ports (the responsible Minister) and in effect within the next two months. You have agreed to consult fully with Australian Sailing during that process. Australian Sailing has agreed to assist you by compiling all the necessary documents for the code of practice and meeting with you, at a mutually convenient time, to assist in drafting the code of practice.

The criminal law should not specifically apply to a recreational sport and activity that is already highly evolved and regulated. This is specifically demonstrated by an excellent safety record for sailing where it is conducted under the ultimate auspices of the world or national peak body and their member clubs.

We recognise that criminal liabilities exist under section 25A and other duty provisions imposed on boat operators and others associated with boat operations in the Marine Safety Act, but that compliance with approved codes of practice and policies and procedures will assist in limiting the exposure of our volunteers, club employees and club directors/officeholders to liability for breaches of duties and criminal liability. We look forward to meeting with you again for the purposes set out above.

Yours faithfully

A handwritten signature in black ink, appearing to read "Gavin Wall".

Gavin Wall

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