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RE: Submission from the Marina Industries Association (MIA) Draft Network Exemptions Guideline (Version 7) and Draft Retail Exempt Selling Guideline (Version 7) to the AER

As the peak national body representing the interests of 300 marinas and yacht clubs, the Marina Industries Association (MIA) appreciates the opportunity to provide feedback on the Draft Network Exemptions Guideline (Version 7) and Draft Retail Exempt Selling Guideline (Version 7), released in March 2025.

We recognise the AER's requirement to update these Guidelines and acknowledge the importance of ensuring fair treatment and adequate protections for all customers, particularly those considered vulnerable. The MIA supports the rationale behind the Guidelines and endorse the AER's objectives in:

- Introducing assistance provisions for affected customers experiencing family violence¹
- Supporting customers in hardship²
- Providing protections for life support³ customers and
- Ensuring accessible and independent dispute resolution⁴

Key Concern

We wish to raise concerns regarding the administrative and operational burden these Guidelines may impose on marina operators, particularly the small business marinas which are merely providing storage for a vessel used by non-residential private individuals for non-commercial reasons. The requirements for formalised dispute resolution, participation in energy ombudsman schemes⁵ enhanced reporting and registration⁶ and clear itemised billing⁷ represent a significant increase in compliance effort and costs. We agree that most of these requirements are appropriate in a permanent residential setting where power usage is continuous and needed to maintain safe and satisfactory living conditions.

Marinas play a unique role in Australia's marine and tourism sectors. Marinas vary widely in complexity and scale—from simple sites, run as small businesses with their owners actively involved in the operation of the business, to complex multi-service facilities, which may require a variety of exemption classes. Please note that as reported in our 2023 Health of the Marina Industry Survey, 75.4% of marinas in Australia are small businesses.

¹ Retail Condition 27

² Network Conditions 1.14–1.16; Retail Conditions 9 and 26

³ Draft Network Exemptions Guideline (Version 7) Conditions 1.10 and 1.11; Draft Retail Exempt Selling Guideline (Version 7) Condition 20

⁴ Network Condition 1.6; Retail Condition 16

⁵ Network Condition 1.13; Retail Condition 17

⁶ Network Condition 1.18

⁷ Network Conditions 5.1–5.3; Retail Conditions 3



Solution

We believe the solution does not require a change to the Guidelines, merely ***clarification for our industry that longer term, non-residential, recreational marina berths/vessels are recognised under D1 or R1 exemption categories.***

Within the scope of a marina's operations, there are varied uses where different exemptions may apply:

1. **Shore-based commercial businesses** operating within the marina precinct will be considered under the commercial exemptions.
2. **Commercial vessel operators** (fishing charters, sightseeing tours etc) clearly fall under a commercial exemption consideration.
3. **Residential berth users** (such as 'liveaboards', whose vessel is their primary/only place of residence) are less common (approximately 3% according to our 2023 research). In some states, such as NSW, living aboard a vessel is not permissible by the landowner (usually Crown Lands).

There are vessels, due to their size where a permanent crew must remain on board in accordance with AMSA regulations. In these instances, these vessels may be classed as residential where over three months continued occupancy, however, they are generally be used as charter vessels and will therefore be classed as commercial.

4. **Recreational vessel berth holders** are the majority of marinas users, (we estimate at least 80%). The owners of these vessels are not residents as they reside elsewhere. These are recreational boaters who store their vessel at the marina and who use marina facilities from time to time, but do not reside on their boats. Their vessels may or may not remain permanently connected to shore power, and where they do, it is generally low use for battery or vessel maintenance.

It is our view that these recreational vessels be considered under the D1 or R1 exemption (non-residential), which aligns with their actual usage.

Certainty around the exemption classification for consideration of recreational berths/vessels as D1 or R1 will significantly reduce the potentially regulatory burden on small business marina operators who do not operate residential facilities. Where genuine residential occupation exists (e.g. liveaboards), appropriate exemptions can still be sought, without imposing the more rigorous residential obligations across the board.

While the D3 deemed exemption remains valuable for the minority of short-term berth holders—such as visiting vessels—the operational reality is that most berth holders maintain long-term moorings without residing onboard.

Given the diversity of the types of customers within marinas, we would like to be able to provide some guidance to our members on which exemption classes are most likely to apply to each scenario without each operator feeling the need to expend significant resources on legal opinions, and we would be grateful for your support and clarification in this regard.



The MIA will continue to communicate to our members the latest changes to the regulations and how these may impact the exemptions they may operate under so that they can remain compliant.

We believe that with your understanding of our business models and your clarification of our view of the most appropriate and proportionate exemption classification, we can strike the right balance between protecting customers and ensuring compliant and efficient marina operations.

The MIA remains available to engage and provide further information, clarification and collaboration as required.

Thank you for your consideration.

Yours sincerely,

THE MARINA INDUSTRIES ASSOCIATION



Suzanne Davies

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