



# Outcomes of AMSA consultation on the proposed Marine Safety (Short term marina accommodation) Exemption 2018 (Exemption 27)

## Consultation Feedback Report

### Outline

This document outlines the results of public consultation AMSA conducted on our proposed approach to regulating vessels being used for 'Airbnb style activities' such as short term marina accommodation.

The proposed **Marine Safety (Short term marina accommodation) Exemption 2018** (Exemption 27) was published on the AMSA website for public consultation on Monday, 30 April 2018 for an eight week consultation period, closing on Monday, 25 June 2018. The consultation explanatory material set out the proposed exemption and asked stakeholders to respond to a number of specific questions.

AMSA received a total of 153 submissions from a diverse range of stakeholders, including owners of recreational vessels who are currently, or currently considering, hiring their vessel for overnight accommodation, online accommodation platform providers, accredited marine surveyors and other key stakeholders in the industry. AMSA thanks all stakeholders for taking the time to review the proposal and make submissions.

**After detailed consideration of the submissions received through this consultation process, and having regard to AMSA's function as the safety regulator for domestic commercial vessels, AMSA has decided not to proceed with making Exemption 27 at this time.**

However, AMSA considers that:

- it may not be desirable or practical to apply all of the requirements of the National Law to vessels being used for Airbnb style activities;
- recreational vessels being used in this way should not 'become' domestic commercial vessels that are permanently subject to the National Law;
- the constraints of the National Law inhibit AMSA from creating an appropriately calibrated regulatory treatment in this respect; and
- that state and territory laws, together with local marina rules, are likely to be a more appropriate source of regulation in this instance.

**Accordingly, AMSA will work with our state and territory marine safety agency partners to identify alternative options for the regulation of vessels being used for Airbnb style activities. It may be that state and territory laws, together with local marina rules, are a more appropriate source of regulation in this instance.**

AMSA is keenly aware of emerging and future challenges, including the emergence of the 'share economy' and the growing popularity of peer to peer activities. We are currently working to put in place a strategy to guide our engagement with the share economy into the future, in a way that facilitates innovation and economic opportunity, while keeping safety as the priority. Once finalised, this strategy will be published on our website, which will provide clarity and certainty for our stakeholders.



AMSA will continue to provide updates to our stakeholders via our website as we progress in our efforts to support the share economy and facilitate innovation, which ensuring safety is the priority. We will also be providing information in our industry publications, and through our social media channels.

## Background

AMSA has been approached by a range of stakeholders interested in using online platforms to allow owners of recreational vessels to hire their vessels out for overnight or short term accommodation. These vessels would remain stationary in a marina berth, and not be operated by the hirer. This activity is one of a broader range that form part of the burgeoning marine share economy.

As a result of the definition of 'domestic commercial vessel' in the National Law, AMSA considers that a vessel hired out for this activity is a domestic commercial vessel. This means that a range of requirements apply, including the need to have a certificate of survey and comply with a periodic survey regime, to have a certificate of operation, and to comply with general safety duties.

AMSA understands that there are a range of views across the community about how marine safety can be managed in the share economy. To promote transparency and obtain broad-based community feedback about how vessels being used in this way should be regulated, AMSA decided to seek feedback from the public on a draft exemption.

The proposed Exemption 27, if made, would have provided an exemption for these kinds of vessels from the requirement to have a certificate of survey and a certificate of operation, subject to certain criteria and conditions being met. This includes complying with an alternative set of safety standards, including for fire safety, and having a safety management system that addressed specific risks. However, stakeholder feedback received on the proposed exemption was varied and highlighted a firm number of issues which, in AMSA's opinion, mean that the proposed Exemption 27 is not the most appropriate regulatory approach for vessels used for Airbnb style activities.

## Consultation feedback

AMSA received a total of **153 submissions** in response to the proposed exemption, a number of which responded directly to the eight questions outlined in the consultation explanatory material. These comments are set out in **Table 1**, and the responses to specific questions are set out in **Table 2**. A summary of the consultation feedback highlighting key themes is set out below.

AMSA received feedback from a range of stakeholders including:

- recreational vessel owners
- commercial vessel owners and operators, including charter and houseboat businesses (individuals, small companies and large companies)
- marina operators
- boat dealers
- state government agencies
- marine surveyors
- marine insurers
- online short term rental platforms, and
- maritime and tourism industry bodies.

Submissions received from a broad range of stakeholders made clear that there are concerns about:

- the ability of recreational vessel operators to provide a safe environment, particularly given the risks associated with vulnerable passengers such as children, and the enhanced risk of overnight operations;

- the lack of clarity over the interaction between AMSA's regulation of vessels being used for short term marina accommodation, and other jurisdictions' environmental and waterways management laws;
- the lack of barriers to entry, including no notification or third party inspection requirement; and
- the potential to disadvantage established operators, particularly in the hire and drive sector.

However, other submissions asserted that:

- AMSA's proposed approach is a good means of 'entering' regulation of the share economy;
- it is consistent with AMSA's risk-based regulatory approach to date; and
- it provides a level of safety for members of the public who wish to hire boats for these kinds of activities and may currently be doing so without any of the safeguards included in the exemption being in place.

Some stakeholders raised concerns that some of the safety standards imposed in the exemption were too stringent and would be too difficult or extensive for owners of recreational vessels to comply with. It was also argued that the activity of using a vessel for ad hoc or infrequent marina accommodation was not a 'commercial' activity.

### **Summary of feedback from submitters who supported the proposed Exemption 27**

Submitters who did support the proposed Exemption 27 made the following comments:

- good to see AMSA proactively addressing the issue
- exemption provides regulatory certainty
- exemption is consistent with the emerging share economy
- may generate additional income allowing rec vessel owners to upgrade their vessels;
- may reinvigorate the Australian boating industry
- good for tourism
- good for marina industry and support industries
- the safety/regulatory setting seems appropriate to the risk.

### **Summary of feedback from submitters who supported proposed Exemption 27 but not in its current form**

A number of stakeholders suggested amendment to the proposed Exemption 27 to improve the proposed exemption. These included amending the draft exemption to:

- require operators to apply to AMSA for approval to operate
- require operators to notify AMSA of their intention to operate
- require operators to declare that their vessel meets the requirements of the exemption
- require an initial inspection, and annual or 5 yearly inspections thereafter
- require participants to complete an online refresher course before hiring out a vessel
- create a restricted set of UVI numbers so it is obvious if EX27 vessels are being used for illegal charters
- limit EX27 to coastal waters, or exclude houseboats
- limit passenger numbers, for example to match available berths, or up to 12 persons
- amend vessel length cut off (<35m was popular) and consider introducing a minimum length (>9m was suggested)
- impose a maximum age limit for vessels, or impose additional control measures on older vessels

- allow operators whose vessels have been subject to an infringement notice or improvement notice to apply to still be able to operate
- technical:
  - replace reference to electrical/NSCV Part C5B and AS/NZS 3004.2:2014 with a requirement to ensure that the vessel's electrical system is fit for purpose, and require a condition to be included in the SMS to that effect
  - exhaustively set out the minimum standards, rather than requiring vessels owners to understand and comply with AS3004 and NSCV
  - require:
    - compliance with fire and safety requirements equivalent to those applicable for survey vessels
    - stability tests
    - safety certification for gas and electricity
    - smoke detectors hardwired and placed in each cabin
    - mandatory in and out of water inspections to ensure that all skin fittings and safety equipment is operational and in good working order
    - log books

### Summary of feedback from submitters who did not support the proposed Exemption 27

Submitters who did not support the proposed Exemption 27 raised the following issues:

Concern area	Specific comments
<b>Technical requirements</b>	Recreational vessels are built to Australian standards and cannot meet the requirements identified in the exemption
	Need to reconsider the vessel length cut off (<35m was a popular suggestion) and consider introducing a minimum length (>9m was suggested)
	No control over the age of the vessel
	The lack of requirement for the following should be addressed: <ul style="list-style-type: none"> <li>- safety certification for gas and electricity</li> <li>- smoke detectors hardwired and placed in each cabin</li> <li>- mandatory in and out of water inspections to ensure that all skin fittings and safety equipment is operational and in good working order</li> <li>- log book requirements</li> </ul>
<b>Safety</b>	Stability tests should be required
	Recreational vessel owners do not have the knowledge or experience to conduct a risk assessment, develop an SMS, and conduct safety briefings
	Crucial to have a responsible, sober, person on board
	Key risks which are not addressed: gas, electrical installations other than ELV, accommodation ventilation and companionways, emergency bilge pumping, black and grey water management, guardrail height, boarding arrangements, passenger numbers and control, responsible service of alcohol.
	High risk of adults or children falling overboard
	No requirement to have someone with first aid qualifications on board
<b>Industry</b>	Unfair on operators who have invested time and money in complying with commercial vessel standards
	Negative impact on charter and houseboat industries
	If incidents occur with EX27 operators it could lead to intense scrutiny and increased regulations for all of industry
<b>Compliance</b>	Lack of compliance resources
	Potential increase in illegal charters
<b>Environmental</b>	Discharge of black and grey water
	Rubbish thrown overboard
<b>Marina</b>	Adequacy of amenities to cope with more overnight guests

	Berth availability
	Security - unknown persons in marinas
	No requirement to provide accessible arrangements

## AMSA response to key concerns

AMSA carefully considered the feedback received during the consultation process, including feedback suggesting that the proposed Exemption 27 would not provide a satisfactory outcome from both a regulatory and safety perspective. The feedback received indicated that the proposed Exemption 27 was not consistent with general community expectations in relation to safety.

In identifying the proposed way forward, it is relevant to note that AMSA still consider that it may not be desirable or practical to apply all of the requirements of the National Law to vessels operating for Airbnb style activities. We also consider that recreational vessels being used in this way should not 'become' domestic commercial vessels that are permanently subject to the National Law.

Recognising that there is currently no appropriately calibrated, long term way of dealing with these vessels within the National Law, we have decided to explore alternatives by working with our state and territory partners. It may be that state and territory laws, together with local marina rules, are a more appropriate source of regulation in this instance.

We note the concerns raised by industry regarding the potential disparity in treatment of Class 4 overnight hire and drive vessels, as against vessels being used for short term marina accommodation. We distinguish these types of operations on the basis that the latter must remain stationary and cannot be operated by the hirer or persons onboard. The risks of each type of operation are different, and the appropriate regulatory overlay is therefore also different.

## More information

For further information on this consultation process and its outcomes, please contact: [standards.secretariat@amsa.gov.au](mailto:standards.secretariat@amsa.gov.au) or visit [www.amsa.gov.au](http://www.amsa.gov.au).

**Table 1: Questions posed in the Explanatory Material**

Question 1	Do you think the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used only to provide short term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law?
Feedback summary	<p>Mixed feedback was provided in relation to this question, with both positive and negative comments received.</p> <p>The positive comments focused on the regulatory certainty that the exemption provided, the appropriate match between the risk and the response, and the support it provides to the share economy.</p> <p>For example, one stakeholder submitted: <i>“The exemption also responds proactively to the changing behavior of the community in embracing the sharing economy and brings the activity into the regulatory light.”</i></p> <p>The negative comments indicated concern about:</p> <ul style="list-style-type: none"> <li>• the risk of property damage or personal injury that may result from having unsupervised inexperienced people onboard</li> <li>• the risk profile differences between different vessels that could operate under the exemption</li> <li>• the difficulty recreational vessel owners would face in understanding the NSCV or AS3004, and</li> <li>• the negative impacts on marinas including the likelihood of noise complaints.</li> </ul> <p>One stakeholder commented: <i>“The risks do not outweigh the economic gain of a small group of recreational vessel owners.”</i></p> <p>A number of suggestions were made by stakeholders, including that:</p> <ul style="list-style-type: none"> <li>• a declaration should be required from owners wishing to operate under the exemption</li> <li>• that vessels should be required to be fitted with a black water holding tank;</li> <li>• passenger numbers should be limited to 12</li> <li>• the exemption should exhaustively set out the minimum standards, rather than requiring vessels owners to understand and comply with AS3004 and NSCV and</li> <li>• an annual inspection regime, with a certificate issued to compliant vessels</li> </ul>
Question 2	Only owners of vessels that are <24m in length are eligible for exemption under the proposed exemption. Do you think this cut-off is appropriate?
Feedback summary	<p>The majority of the feedback received indicated that stakeholders did not think the &lt;24m cut off was appropriate, but the suggestions for what would be appropriate varied from no limit, to &lt;35m, down to &lt;12m.</p> <p>A large proportion of stakeholders considered that there should not be a cut off.</p> <p>For example, one stakeholder submitted: <i>“No. A review of Australian marinas indicates many vessels over 24m that are recreational vessels. We would suggest that there be no limit on length for recreational vessels providing the conditions of the exemption are met. If, for an</i></p>



*unforeseen regulatory reason, a limitation on length is required we would suggest <35m as this would cover the majority of recreational boats within marinas.”*

A number of stakeholders suggested that the cut off should be <12m to be consistent with NSCV Part G.

It was noted by one stakeholder that vessels between 9m and 20m are relatively easy to operate, and vessels that fall outside those parameters should be excluded.

**Question 3** There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of this intention?

**Feedback summary** Nearly all stakeholders who submitted feedback stated that approval from AMSA should be sought by owners seeking to operate under EX27, and a number of ideas were put forward including charging fees, aligning the procedure with the EPIRB registration procedure, or only imposing the approval requirement on vessels above a certain length or allowed passenger number.

For example one stakeholder stated: *“The requirement to apply for an exemption would allow AMSA to align compliance responsibilities including survey, inspection or risk analysis activities more closely with risk points. Whilst AMSA might not choose to inspect a vessel applying for exemption, the need for action can be explicitly considered, with a desktop assessment always possible. This approach would align more with the targeted ‘lighter regulatory treatment’ of the proposed exemption, rather than removing regulation altogether.”*

A number of stakeholders held a strong view that AMSA should assess vessels before they become eligible to operate under the exemption, for example under a modified survey regime, or perhaps as part of an annual inspection process. It was identified that there are insurance implications if there is no suitable survey regime.

For example one stakeholder stated: *“I have consulted the insurer of our boat B&B and they will only insure our boat if it is surveyed, even though it only carries paying guests when moored. We therefore hoped for a simpler survey standard to be developed for boats like ours...”*

Only one stakeholder (out of 17 submissions) took the view that neither approval nor notification should be required, with the reasoning being that it would increase the regulatory burden and many vessel owners may choose to operate informally.

A suggestion was made that marinas maintain a register of vessels operating under the exemption, and they periodically report to AMSA.

**Question 4** Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardized. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate?

**Feedback summary** Mixed feedback was provided in relation to this question, with both positive and negative comments received.

The positive comments indicated agreement with the question, but did not provide substantive reasons.

The negative comments indicated concern about:

	<ul style="list-style-type: none"> <li>Recreational vessels will have been built to Australian, American or CE/ISO standards and would not be able to comply with current NSCV or other Australian/ISO standards as set out in the exemption;</li> <li>To be suitable, the conditions would need to specify where in the vessel the Electrical, NSCV C5B and AS/NZS 3004.2:2014 standards apply as it is not appropriate to seek to apply it to the whole vessel; and</li> <li>The inadequacy of the proposed conditions, noting they don't address the risks covered by NSCV standards</li> </ul> <p>A number of suggestions were provided in response to this question, including:</p> <ul style="list-style-type: none"> <li>require the vessel owner to verify that the vessel is fit for purpose for the intended use of overnight accommodation in a marina;</li> <li>impose additional requirements regarding risk assessment in the SMS;</li> <li>impose hire and drive requirements; and</li> <li>impose an annual inspection regime.</li> </ul>
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Question 5	Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure the safety of children and other potentially vulnerable passengers. (see eg: AS/NZS 4220:2010 – Bunk beds and other elevated beds, and, HB393 – <i>Bunk beds for the short-term rental accommodation industry</i> )
Feedback summary	<p>The majority of stakeholders felt it would not be practical to require compliance with accommodation standards such as HB393, and that it would be preferable to manage the risk associated with the use of bunkbeds within the SMS.</p> <p>Of the stakeholders who felt that that the exemption should impose additional standards on accommodation, it was suggested that there were 'land-based' accommodation standards that should apply, or alternatively some sort of minimum safety requirements (for example, rail height, should be required.</p>

Question 6	Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical standards mentioned in Division 1 of Schedule 1 (eg <i>ABP or proof of installation</i> )?
Feedback summary	<p>The majority of stakeholders who responded agreed that written evidence should be kept of compliance with technical standards. One stakeholder suggested that, at a minimum, evidence of compliance should be kept for gas and electrical, smoke detectors, and emergency equipment.</p> <p>The stakeholders that did not agree suggested instead that owners be required to provide an annual statutory declaration of compliance, and/or be required to have an annual inspection by an AMSA accredited surveyor.</p>

Question 7	Do you think that the proposed general exemption (below) is clear and easy to understand?
Feedback summary	Nearly all stakeholders agreed that the proposed exemption is clear and easy to understand.

Question 8	Is there any specific guidance AMSA can provide to assist industry with the proposed general exemption, if implemented?
Feedback summary	<p>It was made clear in the responses to this question that clear and user friendly guidance is considered essential to support the proposed exemption if it is implemented. Some ideas included:</p> <ul style="list-style-type: none"> <li>- communicating with industry via traditional and social media channels, state and territory maritime safety agencies and industry associations such as the Boating Industry Association and MIAL;</li> <li>- providing specific guidance about the preparation of safety management plans and relevant templates; and</li> <li>- providing checklists for marinas to utilise.</li> </ul>

**Table 2 – Consultation submissions**

No.	Stakeholder group	Industry comment / submission
<b>Supportive of proposal</b>		
1.		I have no issues with this as long as rules and regulations are adhered to and that those rules and regulations are not ridiculous!
2.		It's a great initiative and a wonderful opportunity for people to experience the pleasure of staying on a boat if they don't own one. It mutually benefits boat owners and renters.
3.		<ol style="list-style-type: none"> <li>1) The exemption provides the level of control required without being overly draconian. Without this exemption and a check of compliance the industry would be a free for all. It is a starting point which in time there will be lessons and amendments. In its current form it does not cover every potential vessel type but does provide the basics for all to comply.</li> <li>2) Unless there is a specific law that requires a cut-off at &lt;24 metres then why cannot owners of longer vessels also be entitled to this business.</li> <li>3) Yes AMSA should approve the vessels to be fit for purpose and have filed records of the number type and location of these vessels. Some assurance of safety and being fit for purpose needs to be provided to the users of these vessels, This</li> </ol>

No.	Stakeholder group	Industry comment / submission
		<p>ultimately can only be of a benefit to the industry.</p> <p>4) The conditions are appropriate and are simple to satisfy compared to a shore based accommodation house. These vessel owners should also have clear standards to follow and AMSA as the regulator on this matter must provide them.</p> <p>5) Yes the accommodation must be made safe, no other way. Following the guidelines of shore based accommodation is a good starting point.</p> <p>6) Yes absolutely without documenting this could quickly become a free for all and no standards will be the</p> <p>7) This is an opportunity for the accredited marine surveyors who should be appointed the appropriate persons to provide the assistance to this industry. Checking compliance documenting accordingly.</p>
4.		<p>Further to our previous consultation comments, Maritime Safety Queensland (MSQ) strongly suggest vessels that seek to gain the benefit of an EX27 Exemption are required to provide evidence that the vessel's sewage equipment is compliant with State (or Territory) requirements for sewage/treatment systems and are able to provide evidence that sewage has been disposed in accordance with local legislation.</p> <p>Further consideration of the proposed EX27 Exemption has raised some other unintended consequences which may affect state/territories significantly, relating to:</p> <ul style="list-style-type: none"> <li>• Owners of recreational vessels in states/territories that may not be aware of the laws that mean their recreational vessel becomes a Domestic Commercial Vessel (DCV) due to the owner hiring their vessel out as an "AirBnB"; and</li> <li>• Increased demand for sewage and treatment system disposal facilities (particularly in marinas);</li> <li>• Users being aware of their requirements; and</li> <li>• Access to information regarding local laws/obligations and AMSA's strategy on how people will ascertain such information.</li> </ul> <p>At the next MAF meeting QLD will be requesting that we discuss how we collectively manage policy changes in the vessel administration that may have implications for the States.</p>
5.		<p>I write in support of EX27 as we see it provides a clear regulatory approach for a low risk use. I suggest that the maximum length of vessel be increased from 24m to 35m to allow coverage of the vessels typically stored in marinas. I also suggest that as recreational vessels have not been built to survey that the Schedule 1 be modified such that the vessels electrical systems must be fit for purpose for the safe use as accommodation only as it is not practical to verify the vessels compliance with current standards.</p>
6.		<p>Having started Boating over 60 year and been very active in the Marina Industry since 1968 I have been across many industry updates as the Boater needs change. This is another step forward. it do me is a natural progression and must be embrased otherwise Boater and other miss out. There will be no risk as the Boats will all be part of well managed Marinas who are already very complaint to all modern Safety and risk as there Business and Govt Lease plus Industry accreditation have evolved to fully make "Short term marina accommodation" VERY safe and very Easy and what is a World wide accepted option</p>
7.		<p>I write in support of EX27 as we see it provides a clear regulatory approach for a low risk use. I suggest that the maximum length of vessel be increased from 24m to 35m to allow coverage of the vessels typically stored in marinas. I also suggest that as recreational</p>

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		vessels have not been built to survey that the Schedule 1 be modified such that the vessels electrical systems must be fit for purpose for the safe use as accommodation only as it is not practical to verify the vessels compliance with current standards
8.		<p>Thanks for allowing me the opportunity to provide feedback on the content of EX 27. Please find my feedback below based on the questions asked:</p> <p>Question 1: It goes a long way toward providing an appropriate regulatory outcome, however there most definitely needs to be a method by which all operators of short term marina accom providers notify AMSA of their intent to operate under this Exemption. If they are not being required to hold a current certificate of operation or survey then there should be some sort of requirement within the exemption laying out that they need to be (at the very least) a recreationally registered vessel for the state of which they are conducting their business in.</p> <p>Question 2: I have some concerns over the maximum length being 24 metres. A boat of this size is pretty big! Vessels of around that size generally have some pretty complex systems onboard for the systems like refrigeration, air conditioning and heating etc. Depending on individual marina power supplies some vessels may have a need to generate their own power to supply power requirements when everything is in use brining another level of complexity to a vessel and its operation particularly is left unmanned by a crew. If people who are using the accommodation are left onboard on their own it would be a concern. Perhaps a reduction in the 24 metre limit might be worth considering or at least reviewing once introduced and up and running.</p> <p>Question 3: Yes vessel owners should be required to apply to AMSA to operate under this exemption. AMSA needs to know how many vessels will be operating under the exemption to be able to regulate and legislate, otherwise AMSA will not likely hear about any issues etc until an incident occurs and I don't believe that reactive legislating is currently where AMSA sits, proactive legislating is more in keeping with how AMSA operates. They also need to be involved in the cost recovery process going forward. If there is an administrative cost to AMSA then this must be recovered directly from this area of the industry, not other Class 1, 2, 3 or 4 DCV's.</p> <p>Question 4: Yes they should be sufficient, although it would be good to have some sort of focus on discharges within the marinas but understand that current pollution regulations etc sit with the individual states. I also think it would be good to specify as a minimum a couple of types of firefighting equipment to be carried onboard as well.</p> <p>Question 5: As per above with firefighting equipment. If you start to include standards for bunk beds then where would it stop. If the vessel is deemed as complying with its standard that it was built to it should then deem to satisfy as too would railing heights, combings, hatches, doorways etc. By introducing greater standards an operator is required to comply to would require more regulatory inspection regimes by AMSA to ensure compliance?</p> <p>Question 6: Yes, a Cert of Survey would assist in demonstrating this, so in the absence of the requirement for one to be held then there definitely needs to be some sort of documented evidence of compliance.</p>

No.	Stakeholder group	Industry comment / submission
		<p>Questions 7: Yes, but consider we are commercial DCV operators, someone who may be relatively new to the DCV world or indeed the recreation vessel operations may not have the same level of understanding, but to me it seems clear enough.</p> <p>Question 8: ensuring Marina owners and operators are informed as well and they are up to speed with what the requirements are. Perhaps the Marina Industry Association might be a good to point of contact if they are not yet involved?</p>
9.		I write in support of the proposed EX27. The exemption provides a clear way of being able to recover some of the costs of boat ownership. It also provides us with the opportunity to stay on boats in different locations and try out different types of boats.
10.		"I frequently stay aboard a private boat. I would like the opportunity to experience stays on other boats."
11.		"I'd love to be able to stay on boats around Australia and enjoy the environment"
12.		"I can't afford to own a boat but my family would love to be able to stay on boats when away. It's an accommodation option not currently available to us that would open options when we travel."
13.		<p>I agree with EX27 as follows:</p> <ul style="list-style-type: none"> <li>- Allows me to earn income to assist with payment of maintenance costs of owning a boat. A well maintained boat has a better impact on the environment</li> <li>- It would allow my husband and I to travel around Australia staying onboard beautiful boats enjoying the marine environment</li> <li>- More people in marinas will increase income for small businesses in that area</li> </ul>
14.		I believe EX27 would benefit boat owners as it should ease the financial burden of boat ownership. Marinas will be kept busier with the potential sales of food and wine
15.		<ol style="list-style-type: none"> <li>1. Great opportunity to introduce new people to boating</li> <li>2. My brokerage clients are all in favour of getting a return on investment</li> <li>3. Great for marina operators to introduce new business to marina</li> <li>4. More usage of boats the better</li> </ol>
16.		<ol style="list-style-type: none"> <li>1. A worthwhile opportunity for new potential people to acquire and get the feeling to what boating can offer</li> <li>2. From my individual point, I always prefer (when travelling) to stay aboard a boat as opposed to a hotel.</li> <li>3. It would keep maintenance levels higher and hence reduce the insurance risk</li> </ol>
17.		For Beds on Board, boats will stay put in the marina berth, and not need commercial survey requirements.
18.		Short term marina accommodation means the boat will not leave the marina, therefore the requirement of a full survey is not necessary. The Beds on Board will provide overnight accommodation for travelling boaties, and provide a small income for boat owners to help defray the marina costs.
19.		More use of boats in a marina for others to come and enjoy a boating weekend with cage? Cape? And water sports. To assist boat owners offset marina fees with providing a boat friendly atmosphere for non boat owners.

No.	Stakeholder group	Industry comment / submission
20.		<p>Short term marina accommodation is a very positive event for both sides, the owners and temporary occupiers. The costing helps the owners offset boat ownership and keep vessels maintained to a high standard whilst introducing people to the marine environment through nice vessels.</p> <p>Gives boating exposure through many different locations for ease and experience.</p>
21.		<p>Sorry I couldn't download your form as the site wasn't working properly. If you need the form filled out email it to me &amp; I'll fill it out &amp; email it back.</p> <p>My thoughts on vessels being used as short term marina accommodation without AMSA survey are:- the times they are a changing throughout the world &amp; the Airbnb phenomenon is sweeping the world both on land &amp; water. People are now expecting to find this service in Australia, especially now as all the major yachting magazines are featuring full page advertisements on it as well as editorial on it. It has been happening throughout the world successfully, &amp; illegally around Australia with little to no consequences.</p> <p>For a vessel to tie up in a marina it needs to be insured, &amp; to get insurance a vessel needs a survey report to ensure the vessel is seaworthy, hence safety requirements for short term marina stays should easily be met. Also vessel owners will need to maintain their vessels &amp; keep updating them as they will be competing with other owners for clientele.</p> <p>The Australian boating industry is at an all time low at present in my opinion, &amp; if this short term marina accommodation can be introduced I think we'll see a rejuvenation of the industry. Marinas will fill up, ship yards become busy, along with all the associated trades. Heaven forbid, people may even start buying &amp; thinking of boats in the same way they think of investment properties.</p> <p>Just as how Uber has vastly improved our transport options, I think this short term marina stay accommodation will only bring good things to the boating industry. Guests may like the experience &amp; buy their own vessel, there'll be more people around the waterfront so charter operators will benefit, along with all the waterfront businesses.</p> <p>The only issues I can see is insurance companies will have to provide public liability cover suitable for short term marina accommodation, &amp; vessels be fitted with effluent holding tanks or portaloos, &amp; show proof the effluent is being disposed of correctly. I'll be interested to see if sense can prevail with short term marina accommodation becoming a main stream accommodation option, as well as a huge shot on the arm for the boating industry.</p>
22.		<p>As an owner of a boat, I see this opportunity as reducing my boating related expended by producing some income from my already existing asset in form of a boat</p> <p>As the boats themselves will not be moved from the marina environment, there would be minimal chance of mishaps therefore surveying would not be necessary.</p> <p>It also would serve as a great chance for non-boaters to be introduced to boating as their expenses would be for a night or two on board a boat.</p> <p>Things such as this should be made easier for all concerned not harder.</p>
23.		<p>Short term marina accommodation is a great idea for boat owners, marinas and many associated businesses. I strongly support approval of EX27</p>

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24.		I would like to invest in more boats and see this as a good way to help finance this
25.		I fully support the initiative of 'Beds on Board' I see it as a way for people to take a holiday close to their homes without the added cost of travel to destinations not as close. It is also a great benefit to boat owners some of whom don't get the chance to utilise their boats as often as they would like. The costs would assist them in the upkeep of their vessels and perhaps carry out work that would otherwise not be done. With NSW getting more and more crowded the extra accommodation would be most welcome. It also creates healthy competition with hotels and similar establishments and brings people to areas which in turn aids the local communities. If done right I see absolutely no negatives to this initiative and myself and my family will certainly be taking part actively.
26.		I agree with the EX27
27.		I believe in EX27 because it assists all facets of the marine industry as vessel owners will receive some income which will in turn be injected back into the marine industry for services. (Dean Husband, qualified boat builder)
28.		I think Beds on Board would be a great asset. Not only would it be easier for people to get out and enjoy the water, but also it would benefit such businesses like ours that are located in waterways like the Hawkesbury area
29.		Beds on Board is a fabulous way to stay in Sydney. I believe this is a great opportunity to increase the amount of accommodation in regions and also gives people a chance to experience staying on a boat.
30.		<p>I understand that a proposal is being considered to require vessels used for short term marina accommodation to be subject to standard commercial survey standards.</p> <p>Given that vessels used for this type of accommodation will not depart the marina, it seems unnecessary to require a marine survey. This is a new innovative concept that has the potential to introduce many new participants to the joy of enjoying boating life and the benefits of a marina community.</p> <p>The concept of "beds on boats" is not unlike the launch of uber as an alternative to taxi travel. In this example uber vehicles were not required to take out full taxi licence compliance and were recognised as being unique.</p> <p>Beds on boats and short term marina accommodation should also be treated as unique, and should not be subjected to the existing "licensing" regime just because there is no other suitable regulations.</p> <p>Please apply a common sense approach and allow the concept to grow.</p>
31.		<p>The following was circulated to Marina Industries Association (MIA) members as an MIA Policy Paper on 22nd May 2018.</p> <p>The Marina Industries Association (MIA) seeks to enhance the prosperity and standing of its members through education, accreditation and research. It also seeks to increase the standing of marinas in the community as important places for recreational and social opportunities. The MIA tracks and responds to changes and innovations in the economy and consumer behaviour and recognizes the opportunities that the sharing economy has for the broader marine and marina industries.</p> <p>The Australian Marine Safety Authority (AMSA) recently released for public consultation Draft Exemption 27 Marine Safety (Short Term Marina Accommodation) which, if approved, would allow recreational boat owners who berth their boats in marinas to let their</p>

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		<p>boats out for short term overnight accommodation to guests, for a fee, and subject to conditions within the exemption. This use of boats within a marina is subject to the written approval of that marina giving marina operators control over the use within their facility. MIA considers this condition is critical as it recognises that not all marinas will want and or are not suited to the provision of short term marina accommodation.</p> <p>The MIA therefore supports the proposed exemption in principal as it has the potential to expose new people to the social and recreational benefits of marinas and to the boating lifestyle and in doing so bring new customers and revenue into the marina economy. It will also have the potential for participating marina berth-holders to cover some of the cost of their boat ownership making boat ownership more affordable.</p>
32.		<p>I believe the EX27 marine safety exemption is a great idea. I would love to be able to travel and stay in the beautiful, tranquil places that many of these boats are kept. I hope there is no limit to the size of the boats as I would love to be able to stay on many luxury boats and experiencing these amazing vessels.</p>
33.		<p>I am in favour of allowing private (non-commercial) owners of boats to rent them out for accommodation.</p> <ul style="list-style-type: none"> <li>-This would offset the cost of ownership.</li> <li>-Guests would get to experience living/being on the water, close to nature which can be a lot more relaxing than being in a house or motel.</li> <li>-A novel experience for non-boat owners</li> <li>-Would increase tourism and possible income to tourism operators in the local and wider areas</li> <li>-It is already a well established option in the UK and Southern Europe</li> </ul>
34.		<p>I support EX27 exemption</p>
35.		<p>I believe the EX27 is a great idea to encourage new owners to the boating industry</p>
36.		<p>I believe EX27 is a great and innovative idea because I would like to buy a bigger boat and this will give me another income stream to buy my bigger boat.</p>
37.		<p>I believe EX27 is an excellent idea because it would allow me to have an income in order to purchase a bigger boat</p>
38.		<p>I think EX27 is a great idea, what better way to enjoy the beautiful scenery of Sydney through its waterways and seasife, a unique opportunity to encourage tourism and expenditure within the area.</p> <p>As a travel agent, I am experiencing more and more that people want to enjoy more unique experiences, this would be an ideal alternative to the norm. I would throrougly enjoy such an experience, it seems an ideal solution to encourage the use of vessels which can be under used.</p>
39.		<p>What a great opportunity to extend tourism in Australia.</p> <p>To enjoy a unique and varied opportunity in attractive locations not normally accessible to the general public.</p> <p>I currently take my tinnie fishing and stay on a friends boat overnight and this is really relaxing and enjoyable.</p>

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		I commend the operators for this short term marina accommodation opportunity (Architect)
40.		I strongly believe EX27 is a really good experience for people like myself, who can't afford a boat. To experience what it's like to stay on one. Great opportunity for all people to experience something different and have the feeling of staying on a boat without owning one themselves.
41.		I support the EX27 Marine Safety Exemption because I feel it's a positive move for the boating industry. It's a great way for people to get introduced to boating.
42.		I think EX27 is a great idea: what better way to enjoy and explore Sydney's waterways. Many people can't afford to own a boat and this will allow people to go and stay on boats to experience Sydney's waterways.
43.		I think EX27 is a great idea for families as I'm unable to afford a boat and it would be a great idea for a weekend away.
44.		What a great experience it would be to stay on a luxury boat and experience the marina and its environment. I would love the opportunity to enjoy this type of accommodation.
45.		I agree with EX27 because I think it is a great opportunity for people to be able to stay on board boats in lieu of standard accommodation. It offers a wonderful and new experience for people who otherwise would never get to experience this. An overnight indulgence could offer someone something they would otherwise never have the opportunity to have and could make the world of difference in their lives.
46.		I would love to try this experience. I will never be able to have such a boat. To be able to rent it and sleep on the boat would be an amazing experience.
47.		Living in the country our weekends away are often near the coast. Therefore to have the opportunity to stay on a vessel over a hotel room I would pick a boat everytime.
48.		I think EX27 is a fantastic idea as it gives people the opportunity to experience staying on a boat in unique locations around Australia.
49.		EX27 is a great idea. Staying on a boat is a fabulous and novel idea. Don't own a boat but would love the opportunity to stay on one.
50.		As a current boat owner, this is an excellent opportunity to offset mooring fees, maintenance costs, etc, etc, enabling saving to purchase a larger boat in the near future. Also will encourage people to experience the lifestyle of staying and sleeping on a boat.
51.		I believe EX27 is a great idea because: 1 – we would love to travel around Australia staying on boats 2 – it will assist current boat owners counteract the costs associated with boat ownership 3 – it provides accommodation in unique locations
52.		The EX27 is a brilliant idea. I look forward to working my way around Australia in the future staying on different vessels in my travels. Hotel rooms are so 'same-same' a different boat in every port is far more appealing. In the future we'd like to own our boat and this would help us achieve this dream. I hope there is no limit on the size of the boat included.

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53.		Beds on board would be a great way of introducing people to boating. It would also be a great opportunity for boat owners.
54.		I believe the EX27 marine safety exemption is a great idea. I would love to be able to travel and stay in the beautiful, tranquil places that many of these boats are kept. I hope there is no limit to the size of the boats as I would love to be able to stay on many luxury boats and experiencing these amazing vessels.
55.		Having started Boating over 60 year and been very active in the Marina Industry since 1968 I have been across many industry updates as the Boater needs change. This is another step forward. it do me is a natural progression and must be embrased otherwise Boater and other miss out. There will be no risk as the Boats will all be part of well managed Marinas who are already very complaint to all modern Safety and risk as there Business and Govt Lease plus Industry accreditation have evolved to fully make "Short term marina accommodation" VERY safe and very Easy and what is a World wide accepted option
56.		Referred to in exemption This is a great idea. Democratising boating is going to address two key issues that I can see - families get to experience life onboard well looked after boats where they may have never before considered doing so (possible tourism potential for the future??) while boat owners get to generate revenue when its not in use. Perfect for the small businesses too
57.		I write in support of the the proposed EX27 subject to modifying it to remove the limitation on length of recreational vessels and adjustment of the provisions in relation to compliance with standards [responses to questions were attached separately].
58.		I write in support of EX27 as we see it provides a clear regulatory approach for a low risk use. I suggest that the maximum length of vessel be increased from 24m to 35m to allow coverage of the vessels typically stored in marinas. I also suggest that as recreational vessels have not been built to survey that the Schedule 1 be modified such that the vessels electrical systems must be fit for purpose for the safe use as accommodation only as it is not practical to verify the vessels compliance with current standards.
59.		General acceptance to the concept - not for all marinas but will compliment most. Letter outlining response to questions attached
60.		I write in support of EX27 as we see it provides a clear regulatory approach for a low risk use. I suggest that the maximum length of vessel be increased from 24m to 35m to allow coverage of the vessels typically stored in marinas. I also suggest that as recreational vessels have not been built to survey that the Schedule 1 be modified such that the vessels electrical systems must be fit for purpose for the safe use as accommodation only as it is not practical to verify the vessels compliance with current standards.
61.		Please push this forward, this would be great for the industry or allow people who don't own boats to have a unique experience on the water. Much appreciated!
62.		I write in support of EX27 as we see it provides a clear regulatory approach for a low risk use. I suggest that the maximum length of vessel be increased from 24m to 35m to allow coverage of the vessels typically stored in marinas. I also suggest that as recreational vessels have not been built to survey that the Schedule 1 be modified such that the vessels electrical systems must be fit for purpose for the safe use as accommodation only as it is not practical to verify the vessels compliance with current standards.
63.		I support the exemption 27. In fact I'd like to see the exemption broadened to include peer to peer hiring of recreational vessels, similar to Airbnb. We've seen the step change in customer demands for peer to peer services. Take Uber for example. This platform and concept completely disrupted the taxi industry which has resulted in a greater choice and experience for consumers. Its my opinion that this type of peer to peer hiring of vessels is massively desirable to the consumer. we can see a number of vessels already operating in this manner illegally. I'd like to see exemption 27 expanded to accommodate this technology and method. I'd

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		like to see AMSA get out in front of the step change to ensure the regulations and requirements for the vessel owner and hirer are clear and that they pve the way for a safe waterway. for example I'd like to see the vessels being used undergo some sort of compliance check on an annual basis. I'd like to see all vessels involved with an SMS and I'd like to ensure boat licence holders are able to complete an online refresher using the technology before they book a vessel. I have a large number of additional control measures that I'd like to see installed to support this expansion and I'd be happy to talk to AMSA about these at anytime into the future.
64.		From a boat owners perspective, I think this is a wonderful concept. A logical way to offset some of the costs related to owning a boat that spends most of its time empty, in a marina.
65.		Allowing boat owners to rent their unused Boats for short term accommodation will definitely create some initial challenges. However, I strongly believe there will be far more positives come out than negatives. A tried and proven system, that works well in many marinas around the world. I vote yes!
66.		The proposed new general exemption for short-term marina accommodation is a step in the right direction for our industry. Very much in favour of EX27.
67.		As a boat owner berthed in a marina in Airlie Beach I can see a number of problems with the proposed exemption. Please see my attached comments.
68.		This will allow the democratisation of boats and a true sharing economy. Support for small business, marina benefits not only additional revenue but regulation of rental activities. A wonderful opportunity to catch up with the rest of the world.
69.		Steadfast IRS Insurance Brokers support the EX27: Marine Safety (Short term marina accommodation) Exemption 2018 as we understand it will: - Provide marinas with the opportunity to supplement their existing business income, and Offer boat owners who choose to participate the opportunity to offset some of their marina berthing costs. The certificate of survey and certificate of operation remain a critical requirement of the Commercial Vessel Registration process as they help protect the safety of passengers while being transported on-water. EX27: Marine Safety (Short term marina accommodation) Exemption 2018 recognises that the risks associated with a Commercial Vessel diminish significantly when the vessel is inoperable and is safely berthed at a marina. EX27 then identifies and addresses the specific risks applicable to these vessels.
70.		I believe short term marina accommodation will be a great success in Australia. This facility works extremely well in many other countries, so why not Australia.
71.		As a Boat Broker and Marina Operator I support EX27 for the following reasons : The Boating Industry needs to move forward offering alternative experiences to attract millennials and different cultures as they are not asset buyers straight off they are renters. Making boats available as accommodation is a low risk entry point for both guests to experience boating and owners to offset their costs of boat ownership. This exemption allows more people to experience boating at a low cost entry level which may well lead to them becoming involved in boating by taking the next step to perhaps renting a charter boat, then sharing a boat, then full boat ownership. For marinas in Australia it brings more customers into the precinct to use restaurants, retail outlets and services and also gives boat owners more funds to maintain their boats which in turn provides more work to marina contractors. The services required to provide accommodation on boats will also provide more work to cleaners, detailers, and linen suppliers. Boats can also be used as accommodation in times of state emergency : Had boats been allowed to be used as accommodation after Cyclone Debbie, the

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		<p>Trades required to fix all of the issues caused would have been able to be there earlier and reduce the time which services and power were down thus reducing dramatically the loss of tourism revenue during this time. Boats being used as accommodation can create a whole host of new hotel rooms to boost Tourism in the areas without having any further affect on the environment as the rooms are already built. Marinas that service superyachts will suddenly be able to provide accommodation for superyacht crew during rebuilds and works on site. This may allow us to attracts more superyachts to our world class facilities. This is a whole new avenue of tourism to invite overseas visitors to enjoy and boost our tourism revenue - think of the new and unique locations we can advertise to visitors we can dramatically increase the number of visitors to an area and thus support the businesses in those areas. Boat owners will have funds to maintain their vessel to a higher standard and thus reduce insurance risk. It may also allow them to retain a boat they have difficulty affording or even upgrade to a larger boat - thus supporting boat manufacturers, brokers, marinas and contractors. Having the ability to gain some income for their boat may allow boat owners to move their boat to a marina thus taking the pressure off mooring waiting lists again allowing more boaters into the system. Families that would not normally be able to afford a boat can stay on one - exciting for the kids but also exposing those kids to a love of boating which they may strive towards as adults again encouraging more into boating. Clients with smaller boats can extend their boating time by staying in a big boat overnight at the marina and returning for a day out on their smaller boat without clogging up the boat ramp in between - thus again reducing pressure on boating facilities and again allowing more into the activity. I believe EX27 is an excellent initiative by AMSA that will allow the boating industry to expand, move with new generations and make the most of emerging technologies for the good of all in the industry.</p>
72.		<p>Q1 – No  Q2 – yes  Q3 - I have consulted the insurer of our boat B&amp;B and they will only insure our boat if it is surveyed, even though it only carries paying guests when moored. We therefore hoped for a simpler survey standard to be developed for boats like ours. We seem to meet all the criteria in the EX27 proposal, assuming the single registered mooring managed by our business is a 'short term marina' under your definition (and I would like advice on this). However the proposal means we could not be insured and is therefore worthless to us. I wonder if you have consulted insurers to see if there is a problem here.  Q4 - They are more than adequate.  Q5 - Australian Standards already exist and are the responsibility of any business to comply. Insurance companies already require compliance. Should there be a maximum depth of water for the mooring site so that a boat cannot completely sink.  Q6 - As suggested above, we need to meet legal survey requirements for commercial insurance. It needs to be a formal modified version of survey that is cheaper and simpler. The surveyor would check our compliance records.  Q7 – yes  Q8 - A modified survey application form.</p>
73.		<p>Hi, I think it would be great for people like myself to have access to boats and experience our beautiful harbour. All my relatives that visit from overseas talks about getting on a boat and out onto the harbour but they would much prefer a private experience then jump on a ferry. Thank you, Jimmy</p>
74.		<p>I support of Exemption 27 Marine Safety (Short term Marina Accommodation). This will help make marinas more accessible and break down the barriers to entry for more people. The sharing economy is an important part of the future for tourism and the marine industry.</p>

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75.		I believe it will be a great addition to society - giving the ability for those who don't usually encounter marine accommodation to do so. Not only will this generate income for the economy, it will help other efforts such as keeping our waters clean. This is a value add to our society and an added benefit to the utility of all Australians.
76.		I support of Exemption 27 Marine Safety (Short term Marina Accommodation). This will help make marinas more accessible and break down the barriers to entry for more people. The sharing economy is an important part of the future for tourism and the marine industry.
77.		Please give marinas access to have onboard stay to allow a greater appreciation of our beautiful marinas. I fully support Marine Safety to have onboard stays. It will create more opportunities for people to enjoy the Marina.
78.		This is a great idea to allow people who don't have boats or are interested in having a boating lifestyle the opportunity to have a unique experience in a beautiful environment. Having booked hotels all over the world to stay in gets a little mundane. In return this allows boat owners to generate some income for an asset that would otherwise be wasted and unused being berthed at its marina. Win win for all.
79.		We write in support of the proposed EX27 subject to modifying it to remove the limitation on length of recreational vessels and adjustment of the provisions in relation to compliance with standards, The proposed Exemption when approved will provide a new pathway for people to experience the pleasure of staying on boats and that experience may lead them on a path to boat ownership which is important for our industry. The Sharing economy is here to stay and its good seeing AMSA being proactive in working out a way to make it work.
80.		Why shouldn't boat owners be allowed to rent their boats? It's a new idea that we should be supporting - it's happening all over the world. It's not effecting any existing businesses in a bad way and should help make money and give more choice to people visiting the country.
81.		This is a good idea that will give visitors to Australia more choice in where to stay and get them to see parts of the country that weren't accessible to them before. It can create new income, maybe new jobs, for people in the area and from what I can see boats tend to sit doing nothing for a lot of the time so this make perfect sense.
82.		I support this exemption as it provides opportunity for the public to be introduced to boating and the marina industry in a safe and secure way that is controlled by the marinas. The introduction of this exemption will facilitate employment in and around marinas through the servicing of the clients and cleaning / upkeep of the boats. It will also improve the quality and safety standards of boats in the program as they will need to be of a high level to attract custom.
83.		Spinnaker Sound Marina responds as follows: Question 1: Yes. Short term vessel accommodation rental is already occurring on an unregulated basis. The exemption provides a much needed regulatory framework within which private vessel accommodation can be undertaken. The exemption recognises the low risk nature of the operations. Question 2: Many private vessels exceed 24 meters. Providing the other exemption conditions are met, we do not see any philosophical rationale for excluding vessels > 24m Question 3: No. This would increase the regulatory burden and many vessel owners may choose to operate informally. The requirement of seeking marina approval provides sufficient safeguards.

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		<p>Question 4: No. Recreational vessels are not built to survey; they are building to prevailing standards. It would not be practical to verify compliance with current Australian Standards without creating a survey type regime. Given the low risk nature of the operations, it would be more practical to require the boat owner to verify that the vessel is fit for purpose for the intended use.</p> <p>Question 5: No. It is not practical to require existing vessels to comply with the requirements of HB393 due to the configuration constraints within vessels. The Handbook was not drafted in contemplation of application to bunkbeds in boats. The exemption requires the boat owner to prepare a safety management plan and this risk, amongst others, should be considered, and appropriate mitigation undertaken, as part of that plan.</p> <p>Question 6: Yes. Subject to the provision being modified to reflect fit for purpose and such evidence could then form part of the Safety Management Plan.</p> <p>Question 7: Yes</p> <p>Question 8: Industry participants including marinas can play a role in communicating the exemption conditions. Thank you</p>
84.		<p>I think this a great idea and can only be good for Australian tourism and other businesses as more people have more choice in where they can stay. The sharing economy should be embraced, letting boat owners pay for some of their costs and letting people get to see some of Australia's best places.</p>
85.		<p>I support of Exemption 27 Marine Safety (Short term Marina Accommodation). This will help make marinas more accessible and break down the barriers to entry for more people. The sharing economy is an important part of the future for tourism and the marine industry.</p>
86.		<p>I would like to express my support of Exemption 27 Marine Safety (Short term Marina Accommodation). Using boats that aren't moving or being used as accommodation is a great idea and not like Airbnb and Uber as it doesn't have any bad affect on existing businesses because it's totally new. New income for owners and marinas and a new option when it comes to booking a place to stay in Australia. It's working well in other countries so why not here?</p>
87.		<p>The Coastal Infrastructure Business Unit (CIBU) of the Department of Transport WA has responsibility for the management of Marine and Harbours Act boat harbours and maritime facilities in the State of Western Australia and manages around 30 maritime facilities. CIBU is currently considering a trial of the emerging trend of 'Beds on Board' with boat owners able to provide short term accommodation opportunities on recreational vessels located within several of the State's boat harbours. In view of the fact that vessels will have to remain docked during any rental accommodation period, any perceived risk is considerably limited by the fixed nature of the vessel within the facility. In addition, the proposed use is likely to have a positive impact on the number, and experience, of visitors to the State's harbours. It is considered the current AMSA requirements are too restrictive to allow the 'Beds on Board' proposal to be trialled successfully, with the current requirements considered a fatal flaw. CIBU is therefore strongly supportive of the proposed exemption. &lt;CIBU DPT WA also a letter submission, attached&gt;</p>
88.		<p>Thank you for the opportunity to comment on the draft EX27 (short term marina accommodation). Our first comment is that the safety/regulatory settings proposed seem appropriate to the risk. We accept that vessels conducting short term marina accommodation activities meet the threshold to be considered as DCVs under the National Law and acknowledge that Ex27 contemplates this. We would anticipate that short term marina accommodation would be a very small portion of the subject vessel's overall operation. This business model is based on using an existing recreational vessel on an ad hoc basis as a short term accommodation option. Therefore on a typical vessel we would assume that the commercial activity undertaken by the vessel would account for less than 10% of the overall vessel operation. We do not support vessels undertaking this activity at relatively infrequent</p>

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		intervals to be removed from the state based recreational regulatory framework to be treated solely as DCVs. The National Law allows DCVs to be used recreationally, we would recommend investigation as to whether the National Law can accommodate Recreational vessels being used commercially possibly exempting those vessels from COS, COO, UVI & Levy. The exemption is also silent on whether vessels under this scheme would be charged the AMSA Levy. We recommend this be clarified before public consultation is carried out to fully inform the feedback industry can provide to this draft exemption as the AMSA levy could amount to considerably higher charges than current state based recreational registration fees. Clearly there is a need for AMSA to be fully aware of which vessels are operating in the manner contemplated by this exemption. We note the requirement for the vessels engaged in short term marina accommodation to have a Unique Vessel Identifier (UVI) to fulfil this. We believe that the required AMSA could achieve the desired notification outcome by the vessels staying recreationally registered and the subject vessels making themselves known to AMSA by providing their recreational registration number. As always, we are more than willing to discuss this further at any time.
89.		I write in support of EX27 as we see it provides a clear regulatory approach for a low risk use. I suggest that the maximum length of vessel be increased from 24m to 35m to allow coverage of the vessels typically stored in marinas. I also suggest that as recreational vessels have not been built to survey that the Schedule 1 be modified such that the vessels electrical systems must be fit for purpose for the safe use as accommodation only as it is not practical to verify the vessels compliance with current standards.
90.		Submission via letter (Attached)
91.		Submission via letter (Attached)
92.		Submission via letter (Attached)
93.		Submission via letter (Attached)
94.		Submission via letter (Attached)
95.		Submission via letter (Attached)
<b>Not supportive of this proposal</b>		
96.		I do not support this concept. Every vessel providing accommodation should need a COO and survey. Without exception !! I would advocate long term also. Most definitely, I support short term marina accommodation.
97.		Thank you for bringing the proposed new general exemption marine safety (Short term marina accommodation) exemption to our attention. We have considered the proposal and are of the opinion that there are no valid or urgent reasons for the proposed changes. Qld state leases in many cases prohibit commercial jetty owners to allow for overnight stays creating an unfair advantage to non-lease marinas The changes will negatively impact on all existing houseboat hire companies that have to comply with all regulations

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		<p>in place for DCV's. Unfair cost advantages favour recreational vessel owners. The short or long-term hire of a vessel for economic gain is a commercial activity that is clearly regulated for good reason. Without commercial survey and stability tests there is no way to know if these recreational boats are able to handle big changing loads onboard (groups of people moving around). A recreational vessel owner will not necessary have the skills to provide a briefing/instruction for the hirer to be able to handle all safety aspects related to the vessel and water environment in case of an emergency (fire, gas leaks, sinking, rolling). A recreational vessel owner will not necessary have the knowledge in relation to all compulsory regulations and standards, no safeguard can result in major injury or deaths. Without a commercial liability insurance there is no option for hirers to claim in case of serious accidents or death. We strongly advice against this exemption for the economic gain of a small group of recreational vessel owners and certainly do not think it is reason enough to drop safety standards and regulation.</p> <p>Response to questions:</p> <ol style="list-style-type: none"> <li>1. The risks do not weigh out the economic gain of a small group of recreational vessel owners</li> <li>2. How many people do you think hirers will try to get aboard a 24m boat (party time!!!!)</li> <li>3. Bad idea!</li> <li>4. Are they going to comply?? Who is going to be responsible and liable in case things go wrong (will they be around??) or is AMSA going to pay out?</li> <li>5. Boats are not short-term rental accommodation and should comply with all DCV regulation</li> <li>6. Recreational vessel owner will not necessary have the skills or knowledge to comply</li> <li>7. No, AMSA should reject this proposal completely</li> <li>8. No, AMSA should reject this proposal completely</li> </ol> <p>Kind regards, Jo vanos Noosa River Houseboats 9 Cardell Rd Teawantin 4565 1300 853 787</p>
98.		<p>Will the advantages of EX27 be automaticly available to Domestic commercial vessels (&lt;24m) which comply to the requirements of EX27. When they are at a marina (step on step off). There are no minimum crewing requirements when passengers (guests) are on board?</p>
99.		<p>Same as Jo Vanos' comment</p>
100.		<p>Q3: I think a vessel owner who intends to operate the vessel under EX27 should have to apply and have the SMS and vessel assessed by an AMS against the EX27 Standard. Otherwise operators are just doing whatever they want to until they are caught out.</p> <p>Q5: Keep it simple and fundamentally safe. I would stay away from items that aren't specifically safety related like bunk size etc.</p>
101.		<p>The owners of Sydney Wharf Marina which is a 54 berth marina in Pyrmont Sydney do not support allowing short term accommodation within their facility. This might work in other location but we feel the negatives outway the positives. We do not want to see a culture of people renting out boats and using them as party pads with no regard to rules of facilities or neighbours. My 10 years experience as a marina manager says that unless this is managed purely by the marina themselves it will not work and will put management in the position of constantly having to chase and deal with commercial short terms stays on our marina's after the fact.</p>
102.		<p>What safety standard are in place to protect the guest and also the crew overnight.</p>

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103.		<p>I feel this is a dangerous option to allow the public onto non-survey vessels. The majority of vessels are nothing like houses in the land. It normally takes a lengthy time for crew to learn a vessel, how things work and where things are. Majority of people don't understand what is happening regarding power, toilets, cooking etc, and is a very unsafe situation for guests to be in. Systems should be to a survey condition to ensure safety, and are always staffed to endure a safe place. I hope this change does not go ahead, regards Tony Asplet</p>
104.		<p>1) How are the vessels treated when they are in transit for the purpose of a commercial activity? For example, if a vessel is located in Marina A but the client would prefer the vessel to be in Marina B, how does the vessel get there? The master arrives and delivers the vessel to the location..... What qualification does the master require? Conversely, If a 1E vessel is required to complete a dry docking or prepare for a charter or pick up a passenger and pass through 1D waters, then the intent of the journey is for commercial use and the activity would require a Temp operations application and so on.. This does not seem to be considered in the proposed exemption. Will other commercial vessels apply EX27 to get around the requirement of crewing to travel to another location?</p> <p>The hire and drive houseboats may feel hard done by with this exemption in place as many of these vessels undergo an annual survey inspection and operate in a similar manner.</p> <p>How has the risk profile been assessed? Where is the results in the current proposal? Are these vessels exempt from the levy? Why are the vessels not inspected prior and then given a Certificate? The chance of an owner understanding or complying with AS3004 or NSCV would be very low. The proposal is to have almost zero compliance? Why? Do sleeping passengers not need to be in a compliant vessel?</p> <p>There is a private surveyor accreditation scheme that could inspect these vessels, why not make use of this?</p> <p>A safe solution for these vessels would be to have an annual inspection completed by AMSA initial surveyors to comply with the standards stated and then a certificate issued.</p> <p>2) It is appropriate if a risk assessment has been completed to reach the number</p> <p>3) A safe solution for these vessels would be to have an annual inspection completed by AMSA initial surveyors to comply with the standards stated and then a certificate issued. The operator would then have clarity as would the marina owner as to which vessels are compliant and safe</p> <p>4) It is a brave proposal to not have the vessel assessed for construction. Exemptions like this can be dangerous as the industry will use this as a minimum standard and then build boats around this. A safe solution for these vessels would be to have an annual inspection completed by AMSA initial surveyors to comply with the standards stated and then a certificate issued.</p> <p>5) Yes, but if there is no compliance inspection from a surveyor then almost no one will do this</p> <p>6) Yes. A safe solution for these vessels would be to have an annual inspection completed by AMSA initial surveyors to comply with the standards stated and then a certificate issued.</p> <p>7) It is clear for a surveyor, but if the intention of this exemption is to make vessel comply with a minimum standard then it does not achieve that. Most vessel owners would not know of AS3004 or the NSCV. Some vessel owners may consider their vessel to be safe and built to a standard that is acceptable. Some vessel owners may consider the build plate to be accurate.</p> <p>8) Yes. A safe solution for these vessels would be to have an annual inspection completed by AMSA initial surveyors to comply with the standards stated and then a certificate issued.</p>

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105.		<p>About the idea of using vessels as accommodation inside marinas for and against. There has been talk in Airlie of this and it will turn Able Point into a mess and a ridiculous way to flog the little life left in a vessel that either should be condemned, sold or refitted to survey. . If we are to have live aboard vessels why not have a dedicated marina at Shute where it can be better managed, not affect the town or its buisnesses, and expand in an area where there is room and obviously a market.</p>
106.		<p>Thankyou for the opportunity to provide feedback on the reference. On behalf of Projects Global and the Association of Marine Park Tourism Operators, I offer the following comments.</p> <p>Without doubt, when it comes to cost recovery, one of the most important issues is that we do not know <u>who is in and who is out</u>. At a combined committee meeting (DCVIAC and Fishing Industry Advisory Committee - FIAC) in Sydney in December 2017, the introduction of short-term marina accommodation vessels was raised. According to a statement made by Howard Glenn from the Boating Industry of Australia, they are potentially considering the introduction of more than 50,000 vessels that will become Domestic Commercial Vessels as opposed to Recreational Vessels. This figure may have been exaggerated by the BIA however the potential number is quite significant.</p> <p>It was raised again at the most recent DCVIAC in Canberra, that these vessels by definition under the National Law, without doubt should be deemed class 4 vessels and as such, their contribution to cost recovery will significantly reduce the overall cost to all operators.</p> <p><b>Industry will not simply stand back and have <u>our</u> levy cover the costs of monitoring short-term accommodation vessels – no matter how many there are.</b></p> <p>As a minimum we insist that;</p> <ul style="list-style-type: none"> <li>• They pay for an application to be processed and,</li> <li>• They pay an annual levy as described in the levy model for Class 4 vessels</li> <li>• They comply with marina management plans – especially when it comes to sewerage discharge and security. There are very few pump out facilities in Queensland marinas and most of these vessels are direct discharge to sea – has anyone considered the implications surrounding the TOMPA?</li> <li>• Vessels must not leave the marina when being used as short-term accommodation</li> <li>• Vessels must have appropriate insurance and provide evidence of such</li> <li>• Vessels must become compliant with AMSA standards / requirements. Regular safety and compliance inspections are to be conducted by AMSA (Gas, fire etc)</li> <li>• Vessels must have a recognised and implemented safety management system</li> </ul> <p>In addition it should be recognised that the wording used in the initial information sheet could be misleading. The lay person could misconstrue the "as of right" statement. At the time of writing, repeated requests to have this changed have not produced any result.</p>

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		It is strongly recommended that this wording be changed so as not take away the importance of application fees, issuance of a UI and any ongoing levies fees and charges. A simple statement stating that upon successful application and registration (meeting all of the AMSA and Marina requirements) , applicants will be granted Exemption 27 without any further application.
107.		I feel this is a dangerous option to allow the public onto non-survey vessels. The majority of vessels are nothing like houses in the land. It normally takes a lengthy time for crew to learn a vessel, how things work and where things are. Majority of people don't understand what is happening regarding power, toilets, cooking etc, and is a very unsafe situation for guests to be in. Systems should be to a survey condition to ensure safety, and are always staffed to endure a safe place. I hope this change does not go ahead, regards Tony Asplet
108.		As a charter boat owner why should we have the regulatory burden imposed on us and pay dearly for the privilege while others can conduct commercial operations at no cost and with minimal or no regulatory certification. -why are vessels not required to undertake mandatory in water and out of water inspections as per commercial vessels to ensure that all skin fittings and safety equipment is operational and in good working order.
109.		Dear Sir or Madam As a small business owner, of a respected vessel of Sydney Harbour, I am dismayed to hear of the intended changes to requirements for survey for vessels <24m. We, and other vessels on Sydney Harbour, pride ourselves on the safety and peace-of-mind that our passengers can rely on, knowing we comply with very strict regulations. To have these regulations not apply to smaller vessels - after the lengths we go to, to ensure that we DO comply (and in fact, cannot operate without compliance), it is unfathomable to understand why smaller vessels will be exempt from the same standards? Passengers will not be aware that the vessel they are "chartering" does not comply with the otherwise strict regulations imposed on larger vessels. This is a hazard for passengers AND the whole industry.
110.		I do not agree with the amendment - I see some serious safety issues along with security and amenity issues. A vessel is a lot different to a house or apartment. Even with a bare-boat charter you must undertake a detailed briefing including safety briefing prior to boarding. This is why there are regulations and certain safety requirements for bareboat charter vessels, particularly in relation to safety and signage on board. In my opinion the potential dangers far outweigh any advantages that I can see as a marina operator.
111.		<p>I am shocked, disappointed and angry about the proposed changes to the survey requirements for NON Commercial Vessels that in my opinion will effect the safety and viability of our business.</p> <p>The inherent risks that are involved in such a proposal so that some sort of Survey Certification be implemented in order to ensure the ongoing safety record of our boating sector.</p> <p>The following are points that we feel should be addressed</p> <ul style="list-style-type: none"> <li>- if these vessels are operating commercially why is there such a low level of certification required compared to other commercial vessels</li> <li>-will vessels have the correct stability calculations to handle the number of passengers</li> <li>-how will the number of passengers be determined should it be restricted to berthing numbers</li> </ul>

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		<ul style="list-style-type: none"> <li>-how will owners control how many people will be actually on-board for the party not necessarily staying the night and who will control them</li> <li>-why do these vessels not have to have the same safety certification as the commercial vessels for gas and electricity</li> <li>-why are smoke detectors not hard wired and placed in each cabin for safety particularly as there is no captain on board in the event of a fire</li> <li>-why are vessels not required to undertake mandatory in water and out of water inspections as per commercial vessels to ensure that all skin fittings and safety equipment is operational and in good working order</li> <li>-what is to stop clients possibly taking the vessel for a joy ride during the course of the night should not isolation switches be installed to ensure that vessels are unable to be started by unauthorised people</li> <li>-who will be developing emergency procedures for this sector of the industry and who will be monitoring</li> <li>-Ubers have a driver who is responsible for the safety of his/her passengers who will be responsible for guests in this case</li> <li>-who will be formulating the SMS and emergency procedures for the vessel given that these vessel owners may have limited or no experience in safety drills and procedures</li> <li>-should owners not be certified in order to conduct the necessary safety briefings to ensure the safety of the guest who may have no knowledge of the risks associated with being on-board a vessel particularly at night when alcohol or drug usage may be occurring</li> <li>-what is to stop a vessel owner from taking the guests for a quick cruise for a lazy \$500 or more and how will this be policed</li> <li>-if the group is noisy what happens to the quiet enjoyment of the adjoining berths and neighbours in the vicinity of the marina where sound can travel long distances over the water</li> <li>-should these vessels not have a unique identifier (that should be highly visible and identifiable) which should be registered and monitored by AMSA</li> <li>-how will malpractice be controlled and will offending vessels be removed from operation (note over the last 12 months we have it on record that no infringement notices have been issued to offending vessels just plenty of cautions )so who will monitor and control</li> <li>-increased use of vessels under any circumstances particularly under this mode of operation only increases the risk of drownings, potential fires and possible sinking even while berthed</li> <li>-will the vessel have to keep an up to date log book recording all the guests and who will monitor</li> <li>-should the vessels not have to be fitted with suitable grey and black holding tanks to comply with EPA Laws and how will pump out of black tanks be monitored</li> </ul> <p>Why should we be the only suckers to be burdened down by the current regulatory frame work while trying to make a living which is costing us plenty of \$\$ while others have been given a golden ticket to operate with limited survey certification requirements and no additional fees while operating commercially?</p>
112.		<p>Good afternoon all,</p> <p>There's been quite a bit of talk lately about the proposed new AMSA exemption 27 regarding short term marina accommodation so I downloaded the paper and had a good read through.</p> <p>I was having trouble trying to understand the logic behind it so I showed it to my mate Flash and this is what he said:</p> <p>"From what I can gather it looks like this is a federal government initiative to stimulate the economy, boost small business and cut red tape!</p>

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		<p>This is not even a new survey class - its an exemption from being in survey and under any scrutiny at all, except by the marina operators. Its like putting Dracula in charge of the Blood Bank.</p> <p>I mean, all you have to do is hunt around and buy an old boat - the more berths the better - stick it in a marina, put the word out to the struggling uni students and those good people on a working holiday staying around Coogee way, start renting it out and bingo - you're in business!</p> <p>It doesn't matter what condition it's in because there's no need for a licensed person of any kind to check it, and apparently you can even have one with petrol engines! What could possibly go wrong?</p> <p>Of course there's a few things to comply with.</p> <p>For example you'll have to have a safety briefing where you get them to promise not to invite their mates over for a party, get drunk and fall asleep with the oven on, smoke inside the boat, fall in the water and drown, or take the boat for a midnight spin, that kind of thing.</p> <p>This is really important because if something does go wrong you'll probably be tucked up in bed on the other side of town, and meanwhile there's no requirement for a responsible person to be in control at any time, and there will still be all the risks associated with a normal cruise except collision, and we wouldn't want anyone getting hurt would we?</p> <p>In fact there's not even a standard of competency required for the person giving the safety briefing. Too easy!</p> <p>I wouldn't worry too much about something going wrong though because most people are pretty responsible aren't they? Don't pay any attention to those pictures of Coogee Beach after Christmas Day.</p> <p>Another thing is the customers will be able to stay on board for up to 2 weeks (or 3 or 4 if no one checks up) but the holding tanks won't be large enough to store the toilet waste, and very few marinas have pump out points next to every berth. Seeing as the boat is not allowed to move with the guests on board we'll have to come up with a way to empty the full tanks. Ideas anyone?</p> <p>I was initially concerned that perhaps the people attracted to this concept may be the ones with the least money and therefore the most poorly maintained boats, but on second thoughts they will be able to fix them up with all the money they make won't they?</p> <p>Another problem is that Sydney Harbour will end up looking like Hong Kong, especially if the predictions of Sydney reaching a population of 7 million in a few years are true, but the harbour is for everyone right?</p> <p>On top of everything else you'll be able to earn some extra cash taking them out for a spin on the harbour. It's technically illegal but they're mates aren't they? And all you have to do is put up your overnight rate a bit to cover the cost of the cruise. That's a nice little earner right there and no one can prove a thing.</p> <p>Don't worry about being caught because the boat won't be required to have any mark identifying it as an overnight rental operation, and the BSO's are too busy to check up on you.</p> <p>Anyway I checked with a contact inside RMS and found out that despite having a special team assigned to cracking down on illegal charter operators, not one person has been fined or convicted since the investigation started 2 years ago! So don't sweat on that.</p>

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		<p>(I thought that was a bit odd seeing as it took me about 30 seconds to find a few illegal operators blatantly advertising on Air BnB but anyway...)</p> <p>Come to think of it, you could be doing all of the above with a nice modern boat, or even a big luxury superyacht and charge heaps. Nothing stopping you.</p> <p>Another benefit of Exemption 27 is that the problem with trying to run an illegal charter business was always that your marketing was restricted to word of mouth, so it was hard to reach a wide audience, but if this gets through you'll have a legitimate marketing channel to advertise your operation to the world - you beauty!</p> <p>The best bit by far though, and this is really really funny, is that as you cruise around the harbour raking in all that cash with your new friends and all the other unlicensed charter boats, you be able to laugh your hearts out at the poor suckers on the legitimate charter boats who wasted all that time and money maintaining their boats to survey standards, getting their tickets, employing certified crew and all of that. Ha ha ha!!! How funny is that?" Well that was Flash's take on the whole thing.</p>
113.		<p>Air BnB and Beds on Board are commercial operational apps. Any hiring of any vessel for any length of time is a commercial operation. If you modify rules and regulations for private people you are making a very grey area, not only for registered operators but mainly insurance companies. You that a lot of the general public cannot be trusted to do the right thing. That is why we have laws, regulations and registered operators who are accountable to do the right thing. You do not have the main power or the systems to enforce these new regulations are followed through.</p> <p>In Australia I think we have too many rules and regulations but they are there for a reason. Do you realise the procedures I went through to design and build special house boats to operate in an ECO National Park? Surveyed, operation license, safety procedures, even tender survey and operation license just so customers could go fishing in them. You have laws in place now and cannot enforce them as you do nothing about private boats dumping their black wastes into the waterways. This proposed exemption is a cop out for boat owners that want to be commercial without the regulations. Allowing this is a negative duty of care and an investigation into the management of your organisation should be taken. AMSA should be stopping all none commercial operations.</p>
114.		<p>"Thank you for the opportunity to provide feedback regarding Exemption 27 – Marine Safety, Short Term Marina Accommodation. On behalf of Whitsunday Charter Boat Industry Association (WCBIA) members, please consider the following:</p> <p>We do not believe the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used in the provision of short-term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law.</p> <p>We note there is not requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval and we believe, if Exemption 27 were to go ahead, this approval should be obtained.</p> <p>Without doubt, one of the most important issues for industry is that we do not know <u>who is in and who is out</u> when it comes to cost recovery.</p> <p>Under this system there are potentially more than 50,000 vessels that will become domestic commercial vessels as opposed to recreational vessels.</p> <p>These vessels by definition under the national Law without doubt should be deemed class 4 vessels and as such, their contribution to cost recovery will significantly reduce the overall cost to all operators.</p> <p>Industry will not have out levy cover the costs of monitoring short-term accommodation vessels.</p>

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		<p>At a minimum we insist:</p> <ul style="list-style-type: none"> <li>- They pay for an application to be processed and,</li> <li>- They pay an annual levy as described in the levy model for class 4 vessels</li> <li>- They comply with marina management plans – especially when it comes to sewerage discharge and security</li> <li>- Vessels must not leave the marina when being used as short-term accommodation</li> <li>- Vessels must have appropriate insurance</li> <li>- Vessels must be compliance with AMSA standards and requirements</li> <li>- Regular safety and compliance inspections are to be conducted by AMSA</li> <li>- Vessels must have a recognised safety management plan.</li> </ul> <p>This submission is made and endorsed by the following 22 members of the WCBIA, who collectively contribute to 44% of all tourism to the Great Barrier Reef:  Australian Tall Ship Cruises P/L, Tall Ship Adventures P/L, Kiana Sail and Dive PL, Red Cat Adventures P/L, Whitsunday Bullet P/L, Whitsunday Catamarans P/L, iSail Whitsundays, Whitsunday Island Camping Connection P/L, Cruise Whitsundays, Atlantic Clipper P/L, True Blue Sailing P/L, Ocean Rafting P/L, Southern Cross Sailing Adventures, Prima Sailing Adventures, Whitsunday Bliss, Whitsunday Getaways, Apollo Adventure Sailing, Explore Whitsundays Sailing Adventures P/L, Samurai Sailing Whitsundays, ProSail Queensland P/L, Wings Whitsunday Adventures, Summertime Whitsundays.  We look forward to your careful consideration of our concerns.</p>
115.		<p>I have serious concerns regarding the proposed Short Term Marina Accommodation on Vessels. I have been a part of the maritime community for most of my life. I have sailed socially, worked on commercial boats, owned recreational vessels and now own a commercial vessel myself. One of my biggest concerns is the impact on the Environment, this Short Term Marina Accommodation will have on our waterways. As I'm sure you are aware, recreational vessels do not need holding tanks. Therefore, all effluent, washing, showering, etc. will end up in our waters. If you multiply this by the number of vessels that could be hired out, we will potentially end up with our beautiful Sydney Harbour and waterways catastrophically polluted. This will have a huge impact not only on the quality of the water but our sealife as well. It is an issue that needs to be addressed ASAP. I have been in contact with Sydney Water regarding this extremely important issue and they will be investigating the proposal further.</p> <p>Below is an excerpt from, Effluent Disposal from Boats in South Australia By Dr Len Stephens, Dip Agr Sci, BVSc, MSc, PhD sv Equanimity Last updated November 2009 Page 2 of 5 is the problem?  "The problem is that the amount of bacterial pollution from one weekend boater's discharge of untreated sewage is equal to the bacterial pollution resulting from treated sewage of 10,000 people over the same weekend1 ! We do not have the right to continue doing this". I urge you to please consider my major concern regarding EX27. There are a whole host of additional concerns ie: noise pollution, (sound travels), safety of persons on board who are not familiar with boats and one of the biggest, being alcohol and boats. If people are going to be drinking then all sorts of problems and safety issues become a major concern. You CANNOT have a boat full of drunk people!!!! There needs to be someone in charge and SOBER at all times...even so, will he/she be able to control them??? Can all guests swim?? (what if they fall overboard??) What if they decide to swim?? (they will be swimming in their own faeces????get sick etc.etc.etc..) Will they be</p>

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		able to get back on the boat??? The list can go on and on. Here is an article about pollution problems at a Marina in Hope Island, QLD Lets not make this a national problem. <a href="https://www.goldcoastbulletin.com.au/news/sun-community/hope-island-marina-still-on-the-nose-and-locals-have-had-enough/news-story/d07c1f9e1ce8b372412cb60571bd0945">https://www.goldcoastbulletin.com.au/news/sun-community/hope-island-marina-still-on-the-nose-and-locals-have-had-enough/news-story/d07c1f9e1ce8b372412cb60571bd0945</a>
116.		<p>The SeaLink Travel Group (STG), is an ASX listed public company operating a fleet of 74 vessels in 6 states and carrying in excess of 8 million passengers per annum. Together with its brand Captain Cook Cruises, the group is Australia's largest tourism and transport focused Ferry and Cruise operator.</p> <p>Our vessels range from fast ferries, drive on drive off ferries, work boats, barges and cruise and restaurant vessels. The company also has holdings in resort accommodation, owning the Fraser Island based Kingfisher and Eurong beach resorts.</p> <p>STG recognises that the growth of short term marina accommodation will enable owners of underutilised vessels to monetise their assets. However, it is clear that because of this commercialisation, the vessels are in fact Domestic Commercial Vessels (DCV's) by definition, under the National Law. As the Commercial Industries largest player, we therefore advocate that vessels used alongside marinas for accommodation, should comply with the general safety duties, environmental, and work health and safety requirements contained in the National Law and should be required to obtain a unique identifying number.</p> <p>We also strongly advocate for fire and safety compliance equivalent to the standards required of Surveyed DCV's. Fire aboard vessels alongside marina's, carries significant risks, not just to the vessel and its occupants but to all vessels moored nearby and the Marina complex itself. Subject to meeting those conditions, the Industry is supportive of this new opportunity for commercial vessel operations. We also advocate for a means of identifying, authorising and monitoring the compliance of this new sector, which may require a new class of Commercial vessel.</p> <p>Clearly there will be cost associated with administering, managing and monitoring this new and growing fleet. In line with the Governments pursuit of cost recovery, STG holds that all cost associated with administering and monitoring the 'alongside marina' fleet must be borne by the new fleet and not add any additional cost to existing commercial operators who are already expected to pay increased levies under the Cost Recovery Model being implemented by AMSA.</p>
117.		<p>Greetings,</p> <p>I believe there is a proposal under consideration to allow an AirBnB style operation on board private vessels moored in Sydney Harbor.</p> <p>This is a bad idea. Please do not allow this. Here's why.</p> <p>It will not help the average Australian family. The types of boats that will attract paying customers are going to be on the larger end of the scale. The people who currently own these types of boats are relatively wealthy and are unlikely to wish to have unknown guests on board just to save a few dollars. The peak season for bookings would be the same season they will want their boats.</p> <p>The true effect of this proposal would be Marina owners tying up berths with floating short stay hotels, pushing smaller owners onto swing moorings.</p> <p>The outcome would be a poorer experience for boaters &amp; more expensive marina berths and boats.</p>
118.		<p><u>Submission 1</u> (separate entry to the below)</p> <p>- if these vessels are operating commercially why is there such a low level of certification required compared to other commercial vessels? -will vessels have the correct stability calculations to handle the number of passengers? -how will the number of passengers be determined should it be restricted to berthing numbers? -how will owners control how many people will be actually on-board for</p>

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		<p>the party not necessarily staying the night and who will control them? -why do these vessels not have to have the same safety certification as the commercial vessels for gas and electricity? -why are smoke detectors not hard wired and placed in each cabin for safety particularly as there is no captain on board in the event of a fire? -why are vessels not required to undertake mandatory in water and out of water inspections as per commercial vessels to ensure that all skin fittings and safety equipment is operational and in good working order? -what is to stop clients possibly taking the vessel for a joy ride during the course of the night should not isolation switches be installed to ensure that vessels are unable to be started by unauthorised people? -who will be developing emergency procedures for this sector of the industry and who will be monitoring? -I am totally amazed that you do not allow more than 4000 characters!! I will follow this with 3 more submissions</p> <p><u>Submission 2</u></p> <p>-Ubers have a driver who is responsible for the safety of his/her passengers who will be responsible for guests in this case? -who will be formulating the SMS and emergency procedures for the vessel given that these vessel owners may have limited or no experience in safety drills and procedures ? -should owners not be certified in order to conduct the necessary safety briefings to ensure the safety of the guest who may have no knowledge of the risks associated with being on-board a vessel particularly at night when alcohol or drug usage may be occurring? -what is to stop a vessel owner from taking the guests for a quick cruise for a lazy \$500 or more and how will this be policed? -if the group is noisy what happens to the quiet enjoyment of the adjoining berths and neighbours in the vicinity of the marina where sound can travel long distances over the water? -should these vessels not have a unique identifier (that should be highly visible and identifiable) which should be registered and monitored by AMSA? -how will malpractice be controlled and will offending vessels be removed from operation (note over the last 12 months we have it on record that no infringement notices have been issued to offending vessels just plenty of cautions )so who will monitor and control -increased use of vessels under any circumstances particularly under this mode of operation only increases the risk of drownings, potential fires and possible sinking even while berthed??? -will the vessel have to keep an up to date log book recording all the guests and who will monitor?</p> <p><u>Submission 3</u></p> <p>-should the vessels not have to be fitted with suitable grey and black holding tanks to comply with EPA Laws and how will pump out of black tanks be monitored? Why should we be the only suckers to be burdened down by the current regulatory frame work while trying to make a living which is costing us plenty of \$\$ while others have been given a golden ticket to operate with limited survey certification requirements and no additional fees while operating commercially? "From what I can gather it looks like this is a federal government initiative to stimulate the economy, boost small business and cut red tape! This is not even a new survey class – it's an exemption from being in survey and under any scrutiny at all, except by the marina operators. It's like putting Dracula in charge of the Blood Bank. I mean, all you have to do is hunt around and buy an old boat - the more berths the better - stick it in a marina, put the word out to the struggling uni - students and those good people on a working holiday staying around Coogee way, start renting it out and bingo - you're in business! It doesn't matter what condition it's in because there's no need for a licensed person of any kind to check it, and apparently you can even have one with petrol engines! What could possibly go wrong? Of course there's a few things to comply with. For example you'll have to have a safety briefing where you get them to promise not to invite their mates over for a party, get drunk and fall asleep with the oven on, smoke inside the boat, fall in the water and drown, or take the boat for a</p>

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		<p>midnight spin, that kind of thing. This is really important because if something does go wrong you'll probably be tucked up in bed on the other side of town, and meanwhile there's no requirement for a responsible person to be in control at any time, and there will still be all the risks associated with a normal cruise except collision, and we wouldn't want anyone getting hurt would we?</p> <p><u>Submission 4</u></p> <p>In fact there's not even a standard of competency required for the person giving the safety briefing. Too easy! I wouldn't worry too much about something going wrong though because most people are pretty responsible aren't they? Don't pay any attention to those pictures of Coogee Beach after Christmas Day. Another thing is the customers will be able to stay on board for up to 2 weeks (or 3 or 4 if no one checks up) but the holding tanks won't be large enough to store the toilet waste, and very few marinas have pump out points next to every berth. Seeing as the boat is not allowed to move with the guests on board we'll have to come up with a way to empty the full tanks. Ideas anyone? I was initially concerned that perhaps the people attracted to this concept may be the ones with the least money and therefore the most poorly maintained boats, but on second thoughts they will be able to fix them up with all the money they make won't they? Another problem is that Sydney Harbour will end up looking like Hong Kong, especially if the predictions of Sydney reaching a population of 7 million in a few years are true, but the harbour is for everyone right? On top of everything else you'll be able to earn some extra cash taking them out for a spin on the harbour. It's technically illegal but they're mates aren't they? And all you have to do is put up your overnight rate a bit to cover the cost of the cruise. That's a nice little earner right there and no one can prove a thing. Don't worry about being caught because the boat won't be required to have any mark identifying it as an overnight rental operation, and the BSO's are too busy to check up on you. Anyway I checked with a contact inside RMS and found out that despite having a special team assigned to cracking down on illegal charter operators, not one person has been fined or convicted since the investigation started 2 years ago! So don't sweat on that. (I thought that was a bit odd seeing as it took me about 30 seconds to find a few illegal operators blatantly advertising on Air BnB but anyway...) Come to think of it, you could be doing all of the above with a nice modern boat, or even a big luxury superyacht and charge heaps. Nothing stopping you. Another benefit of Exemption 27 is that the problem with trying to run an illegal charter business was always that your marketing was restricted to word of mouth, so it was hard to reach a wide audience, but if this gets through you'll have a legitimate marketing channel to advertise your operation to the world - you beauty! The best bit by far though, and this is really really funny, is that as you cruise around the harbour raking in all that cash with your new friends and all the other unlicensed charter boats, you be able to laugh your hearts out at the poor suckers on the legitimate charter boats who wasted all that time and money maintaining their boats to survey standards, getting their tickets, employing certified crew and all of that. Ha ha ha!!! How funny is that?" I admit I have plagiarise the above, but as I 1000% agree with these comments I have chosen to copy them to express my complete horror of this exemption. I don't believe that any thought has been given to the consequences of such an exemption. I know I would feel very worried if a vessel berthed close to my charter yacht on a marina rented out their vessel to anyone who paid for the rental. Who is there to see if they are not (for example deep frying) and the risk of fire that could destroy all the vessels on the marina??? Would AMSA then pay the insurance for such a loss??? I really don't think that anyone at AMSA has given this any thought whatsoever!!</p>
119.		<p>I feel this exemption is a risk to the guests who will stay on these boats and also it is unfair to all the charter boats that have done the right thing in order to charter their boat legally and in compliance. This will eventually also cause safety issues around marinas with more people (strangers) entering these marinas without supervision on the boats. It's not like a house, many other things can go wrong on boats. Who will be liable???</p>

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120.		Ship inspection Option 2 is option preferred for implementation as it requires the Operator to have operational procedures and an amount of safety equipment. This provides guidance as to what the Operator would need to have to meet their General Safety Duties requirements.
121.		Unacceptable risk of fire spreading to other vessels in the marinas, with often careless, untrained persons aboard. Sewage Holding tanks (if even fitted) risk of overflow and pollution into waterways from lack of monitoring or pumpout facilities. Vessels are not connected to land based sewage systems and likely that raw sewage will simply be discharged into water. Onboard parties will cause noise issues for nearby land based residents. Risk of violence. The limit of occupation time won't be monitored nor enforced in most cases.
122.		I feel that this will open the door to many Cowboys with no regard other Marina users and this will turn into a cheap party on my boat nightmare, I envisage drunks smoking and throwing butts everywhere (major fire hazards) and pollution, as this will not be monitored by a person responsible ie charter skipper or similar. You will get people disrespecting others vessel again another safety issue they will climb jump all over neighbouring vessels. There will be no means to stop people from untying the vessel and having a lil drift around again another major safety issue. This an ill contrived idea that will be impossible to police and only end up upsetting other boat owners and presenting a massive risk to the boat owners and marinas with regards to guests safety and insurance as to who is covered on way to vessel and all the additional problems that will likely occur. I am strongly against this !!! Regards Wes Raddysh Master 5
123.		I feel that the concept of making it easier for the provision of short term accommodation in marinas would place an unnecessary level of responsibility on the marina owners and operators. The experience of AirBnB style accommodation with apartments has shown that the dealing with disruptive short term tenants is onerous. The risks associated for unsupervised commercial accommodation on boats is unacceptable The concept of disruptive behaviour, noise, damage and potential for injury presents a major risk the administration and operations of a marina. I feel that this exception should not be pursued and that any short term accommodation in a marina be subject to the Act and require on board supervision from a suitably qualified person.
124.		Dear Sir/Madam. First thing, I am a commercial boat operator and do not feel this will impact my business. However, this action Exemption 27, is the most dangerous idea I have seen for many years. Its is guaranteed to be a mistake. The proposed idea of allowing un trained people, to operate a boat, even tied to a marina is so dangerous, it will be a matter of time before a fatality happens, or serious injury. So you let out a boat, to someone, with no training, and no idea how many people on board, on an un surveyed boat, with a petrol engine ?, gas on board, ? with no regulations required. Who comes up with these ideas ? its beyond crazy. You will have a dozen back packers on a unregistered boat, in a marina, making all types of noise, who manages the rubbish ?, and the black water tank ?, thats right, only a slight percentage of boats have these, so, all raw sewage will be dumped into the harbour. So if someone butts an old clapped out boat from Queensland, ties it up to a marina, with no survey,or regulation, and sleeps an undetermined amount of people on board, as there is no way to police it, what could possibly go wrong ? You will turn Sydney Harbour into the cheapest accommodation option available. Sydney harbour will start looking like a 3rd world asian port. Shut this stupid idea down before it gets legs. Do you really need to be advised about the safety hazards in this ? Captain Mark Falconer
125.		The fact that the Australian Maritime SAFETY authority has drafted such an exception like 27 is a joke and can only be seen as being driven by person(s) with direct financial gain from this being passed. Saying a vessel is recreational but can act in a commercial manner is simply contradictory. How can AMSA think that someone with no training in SMS or anything regarding boating safety for

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		<p>that matter be responsible for giving a safety briefing ? to customers. 2 how can assume a vessel is less dangerous when alongside than when at sea. An non inspected gas system can still kill a boat full of sleeping guests. A corroded worn non inspected annually seacock can still let go and drown a boat full of sleeping guests. When a commercial vessel wants to add Berthed passengers to there burdensome survey they need to add safety equipment yet exemption 27 pretty much makes a joke of it . The only way this whole thing would make sense is if amsa made a new survey classification similar to 4E where at least the boats are being inspected to see if they are actually safe to stay on I and many long term boating professionals will be disgusted if this exemption is passed in its current state It is simply reckless and not.... SAFE</p>
126.		<p>This proposal is not thought through given the poor safety record in the maritime industry that exists. This 'exemption' will lead to more illegal trade on Sydney harbour and almost certainly more accidents. One of my vessels was hit by a boat I have strong suspicion was operating an illegal charter. Guess what - my boat was moored! So any presumption that by vessels being moored at marinas they will be 'safer' is untrue. You may think this a joke, but google "Livin II" (the vessel that hit mine) and it appears on air bnb as a vessel available for overnight accommodation AND CHARTER - BEFORE ANY exemptions are agreed and yet you as the regulator do nothing. That is unacceptable. I cannot fathom why a boat rented out for accommodation (and commercial return as defined by law) does not have to have a stability test undertaken to check it is safe with the registered number of people on board and does not have annual maintenance inspections to check it is sea worthy. If it sinks with people asleep on board because of lack of maintenance this will be AMSA's fault and as a tax payer I dont want to be paying for you making appallingly bad decisions like you are proposing here. As it will be the relatives suing AMSA for not having correct procedures in place and the tax payer who is left picking up the tab. That is responsible commercial vessel operators like me paying for you making bad decisions and allowing private vessels to compete with me - no thanks! You are not proposing any restriction on the number of nights a boat can be rented out for. This seems to be an encouragement for disaster as it can then be used as long term accommodation with no inspections to check it is safe. Not only that but potentially it means unsurveyed vessels can have greater utilisation and income earning capacity than properly approved commercial vessels! Thus encouraging everyone to avoid commercial survey. Moreover, the longer a vessel is used like this and not subject to survey then the greater the risk of a disaster happening through capsizing or sinking - yes that can happen even when moored! You are not proposing any restriction on the amount per night that can be charged. This is an encouragement for owners to ramp up the "bed" rate and then offer a "free" cruise! This then brings it into the realms of greater risk of disaster as not only is it no longer moored but you can have someone with just a boat license operating the vessel even at night (when my boat was hit!). The whole point of the Marine Safety (Domestic Commercial Vessel) National Law Act 2012 was to ensure ALL vessels undertaking COMMERCIAL activities complied to minimum safety standards. Why do you think this shouldn't be the case now? If I only use my vessel to cruise once a week surely I too can have an exemptions form all the regulatory burden in the act, can't I? whats the difference? As I have proved above, being moored doesn't make it safer. Have you not learned that uber has done nothing for reducing taxi fares but has done well in destroying a regulated industry and led to rorting from supposed cleaning charges, as well as unregulated drivers attacking people. Here is the extract from Air bnb of Livin II - pursue them under current legislation..... This luxury multi million dollar 4 bedroom vessel is available for 5 Star accommodation and also for corporate or family functions. The Sydney yacht is now available to book your luxury getaway on. Berthed at the most central Harbour location with the best restaurants. Walk into city Opera House. More information The space For charters the boat can handle up to 50 \$995 per hour Multiple pick up points Woolomooloo / rose bay Skipper included 9 for accommodation If you charter the boat the skipper and crew will take you anywhere on Sydney Harbour you wish.</p>

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127.		I understand that the so called sharing economy is with the boating fraternity and that it may present new financial opportunities for vessel utilisation however there need to be some independent regulatory oversight as to the condition of the vessels and that they meet the required standard. Self assessment and certification is not a safe or satisfactory regulatory outcome, specifically when it comes to gas, electrical installations other than ELV, accommodation ventilation and companionways, emergency bilge pumping, black and grey water management, guardrail height, boarding arrangements, passenger numbers and control, responsible service of alcohol. AMSA should also consider the impact the proposed exemption will have on operators that have already expended significant sums of money to ensure their vessel is compliant with the current standard. In short - vessels subject to exemption 27 MUST be inspected by an accredited surveyor to be certain that the it meets the requirements of the exemption
128.		Against this terrible idea This terrible idea is will bring nothing but trouble and shifts the responsibility for operating what will essentially be an unregistered, non compliant domestic commercial vessel onto owners who have no understanding of safety and safe operating. As an owner of a recreational vessel, it's hard enough to find an affordable marina berth or mooring. This will surely make boating more expensive and less accessible to average people just as sites such as airbnb have put pressure on housing availability and pricing. Recreational vessels are complex equipment that requires a reasonable knowledge base and understanding to use safely weather underway or alongside. Having untrained people with no understanding or investment in a vessel trying to use the onboard equipment will be dangerous and potentially a risk to life, property and environment. Even if this were to be legalised many marinas will not accept it as existing customers will not want unknown people having access to secure areas. What kind of responsible vessel owner would do this in the first place? Non that I can think of which only leaves irresponsible owners most likely with poorly maintained vessels to offer there vessel as accommodation. How will this be policed? What happens when an accident or environmental incident occurs? Who will be responsible the owner who isn't present or the customer who doesn't know what they are doing because nobody told them. From a commercial vessel operators view, why would I continue to keep a vessel in survey, pay all the associated fees and costs of owning and operating if this door is opened to operating recreational vessels in a commercial capacity. Surely this will just be the beginning of deregulating the entire industry. Already Australia has sites where you can pay to go out on a recreational vessel which under current legislation is illegal yet they continue to operate
129.		As an in-survey domestic charter boat operator, our Company is concerned with the beds on boats that is proposed to be permitted to operate. We have problems with the safety elements of having vessels with paying customers tied up to marina berths without proper supervision by the Vessel owners. Also the environmental aspects of untrained personnel using the sullage systems and other equipment with which they are unfamiliar. As licensed operators, we have to undergo training, pay a lot of money to have our vessel properly in survey and to ensure that our crews are adequately trained. There is great opportunity for "renters" to coax the vessel's owners to "just take us out for a little spin on the harbour". The problem of noise from the marinas would be a huge problem for those residents living adjacent to marinas and other vessel owners in the immediate vicinity. As well, as the "renters" would be largely unknown to the boat owners, the possibility of drunkenness, drug taking and vandalism to other vessels nearby would need to be taken into consideration.
130.		Hi, I am very concerned about the move to simply provide an exemption. Personally, I am a supporter of the sharing economy and its benefits however, I have a serious concern about boat safety and water pollution. What steps is AMSA going to take to ensure the public safety? Will these boats be inspected every year? Who will deliver a safety briefing to the guests? Who will monitor how many people are on the boat and their alcohol consumption? Where will all the sullage be pumped? (Direct into the Harbour??)

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		These are all questions that unfortunately the proposed exemption does not address. Please consider safety and our environment before considering the monetary gain. Many Thanks Gilbert
131.		<p>Question 3: There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of this intention? ANSWER Q3 - Yes - Written approval should be obtained by AMSA and a fee paid.</p> <p>Question 4: Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardised. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate? ANSWER Q4 - Yes, however an initial and annual in water inspection must be completed by a surveyor before the operator may continue.</p> <p>Question 5: Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure the safety of children and other potentially vulnerable passengers. (See eg: AS/NZS 4220:2010 - Bunk beds and other elevated beds, and, HB393 - Bunk beds for the short-term rental accommodation industry) ANSWER Q5 - YES</p> <p>Question 6: Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical standards mentioned in Division 1 of Schedule 1 (eg: ABP or proof of installation)? ANSWER Q6 - YES, Plus annual inspection of vessel and paperwork.</p>
132.		<p>* Whilst on a vessel, guests are unsupervised. * Guests can accidentally turn on and/or turn off switches they don't understand. * Unsupervised guests who consume alcohol, can lead to accidents on or off the vessel. * Increased noise level at Marina for local-residents with unsupervised guests. * Theft of hardware and equipment on the vessel and Marina. * Disruptions to local community and surrounds with traffic congestion etc. * Guests are not qualified for fire safety and fire fighting in the Marine environment.</p>
133.		Please see attached I am against Ex27
134.		<p>This exemption is one of the most dangerous and short-sighted proposals I have ever seen. I have been in the charter boat industry for a few years now and I have never read such a poorly thought out and ignorant idea. The risk associated with this exemption is and obvious and the outcome is inevitable – there will be fatal incidents purely due to the lack of safety requirements, and that is just the beginning. There are many charter boat Operators in Sydney spending hundreds of thousands of dollars every single year to keep their vessels in survey, maintaining them, berthing them, getting their tickets and ensuring they are meeting your standards in terms of safety, and all of a sudden there is a league of operators whom do not need to follow the same rules. How is that going to work? The guests that this will attract will be faced with all the same risks as regular charter vessels aside from collision – except they won't be required to have a Master or any other kind of supervision on board. How is that ever going to work? The customers will be able to stay on board for up to 2 weeks (or longer because who will actually be checking?), so how are the holding tanks going to be emptied if the boat 'isn't allowed' to move with guests on board because it's not in survey? Are the owners going to kick the guests off so that they can do the sewer run? I highly doubt it, and then while they're at it, why not take them on a short Harbour cruise for some extra cash straight in the hand? No need to advertise cruises when you can just put the overnight rate up to cover the cost and you're ready to go. What about the other boat owners whose boats are kept at the same marina as someone offering</p>

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		this service? The risk to their vessels is incredibly high as I don't see this kind of service attracting respectful and mature people at all. You might get 1 or 2 older groups looking for a nice night away, but the rest of the clientele are likely going to be young boozers with little respect for other people's property. It's going to be nothing for them to drink excessive amounts of alcohol, fall in the water and drown. Meanwhile the boat owner is probably asleep in bed thinking that all is going well and he/she is just picking up some cash for doing literally nothing besides making some beds. There is no way that this is going to end well. Surely you can see that. Giving a few owners the chance to make some cash is not worth the risk. Make them put their boats in survey so that they are compliant with YOUR rules, and then allow them to operate in this way. I guarantee that they will then want premium rates in order to make back the money spent doing the right thing. Don't make it easy for people to get hurt.
135.		I can't believe this is in the best interest of anyone. How can you monitor the safety of the boats if they are not in survey? Safety should be the number one priority, something we as charter boat owners must maintain at an expense. I am dead set against this.
136.		We are totally against short term marina accommodation. It poses a security risk for our other boat owners with these people having the ability and opportunity to access other boats putting at risk equipment and possessions. We do not want drinking, parties and the like. Who's insurance covers these people and their safety? Our current boat owners would be up in arms as their agreement with this Marina would have changed. Boats in a Marina form part of a high risk area for Marinas as they have fuel on board as well as other flammable substances and in the hands of inexperienced people all this poses too high a risk. Who will police the use of each boat for boating purposes such as fishing and whether these 'renters' have the necessary licences, safety gear, expertise etc. All this makes it unworkable for us and we will not be participating.
137.		An absolute Insult to Legitimate Responsible Commercial Vessel Operators. I Have recently spent over \$1.5mil to build a New Commercial Vessel to operate in Sydney. Almost a third of this expense is to comply with AMSA. The toughest system in the world for people who wish to operate legally. Who will be responsible for MY loss of income. Who will be responsible when Property is damaged Fires occur People will certainly be injured & unsupervised intoxicated people on Water there will be death. I have to spend Hundreds Of thousand of Dollars to Comply as well as ongoing training & scrutiny by regulators. Boat share Airbnb call it what you want. "These vessels are Now Charter Vessels" Treat them as so. This is the biggest slap in the face since Syndication & the Boat share loophole was allowed to happen. These Vessels have stolen business from me operate illegally yet AMSA not only let it happen, but do nothing to monitor & prosecute. NOTHING Maybe I should just tell my clients you are not chartering my vessel, it does not comply to the National Standards or ever would, The skipper is not qualified, but its all legal because you just purchased .01% for the Day. If you dont feel comfortable with that you can stay on board for a weekend. You & your guests & 12 bottles of Vodka. Can someone from this authority please explain to me WHY??????? WHY I operate by the book. WHY I pay the fees. Why I pay & spend 1,000s of hours & \$ getting the compliant Skippering Qualifications & licences. Looking forward to your response there are a lot of us waiting to find out??????????
138.		<a href="http://www.coroners.justice.nsw.gov.au/Documents/BanfieldFindings2.pdf">http://www.coroners.justice.nsw.gov.au/Documents/BanfieldFindings2.pdf</a> - reminder! Personally I find this proposal outrageous after spending years paying plenty of \$\$ satisfying all the requirements of survey for my vessels only to find that now in 2018 vessels can operate commercially (regardless of whether they are berthed and not moving )with minimal safety and survey requirements with a framework that will be nigh on impossible to regulate or control. - if these vessels are operating commercially why is there such a low level of certification required compared to other commercial vessels -will vessels have the correct stability calculations to handle the number of passengers -how will the number of passengers be determined should it be restricted to berthing numbers -how will owners control how many people will be actually on-board for the party not necessarily staying the night and who will

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		<p>control them -why do these vessels not have to have the same safety certification as the commercial vessels for gas and electricity -why are smoke detectors not hard wired and placed in each cabin for safety particularly as there is no captain on board in the event of a fire -why are vessels not required to undertake mandatory in water and out of water inspections as per commercial vessels to ensure that all skin fittings and safety equipment is operational and in good working order -what is to stop clients possibly taking the vessel for a joy ride during the course of the night should not isolation switches be installed to ensure that vessels are unable to be started by unauthorised people -who will be developing emergency procedures for this sector of the industry and who will be monitoring -Ubers have a driver who is responsible for the safety of his/her passengers who will be responsible for guests in this case -who will be formulating the SMS and emergency procedures for the vessel given that these vessel owners may have limited or no experience in safety drills and procedures -should owners not be certified in order to conduct the necessary safety briefings to ensure the safety of the guest who may have no knowledge of the risks associated with being on-board a vessel particularly at night when alcohol or drug usage may be occurring -what is to stop a vessel owner from taking the guests for a quick cruise for a lazy \$500 or more and how will this be policed -if the group is noisy what happens to the quiet enjoyment of the adjoining berths and neighbours in the vicinity of the marina where sound can travel long distances over the water -how will malpractice be controlled and will offending vessels be removed from operation (note over the last 12 months we have it on record that no infringement notices have been issued to offending vessels just plenty of cautions )so who will monitor and control -increased use of vessels under any circumstances particularly under this mode of operation only increases the risk of drownings, potential fires and possible sinking even while berthed -will the vessel have to keep an up to date log book recording all the guests and who will monitor -should the vessels not have to be fitted with suitable grey and black holding tanks to comply with EPA Laws and how will pump out of black tanks be monitored</p>
139.		<p>I am against exemption 27 for several reasons. 1) It will be a gateway for vessel owners to charter there vessel illegally. 2) Safety. If the vessel starts taking on water and there are people inside asleep with no knowledge of vessels or that vessel in particular it could end in a fatality. There are plenty more scenarios I can think of but I'll keep it short. 3) Marina space is hard to come by in Sydney and with this new exemption it will be much worse. As everyone will start buying a boat to Air bnb it as it is cheaper then a house but would almost have the same return in profits. 4) Pollution. People from other walks of life that live on the water will not respect the laws in place and just chuck there rubbish overboard. Not to mention vessel owners illegally discharging sullage into the harbour as there are not enough pump out facilities as is (charter vessels I know of already do this illegally) and it would just be convenient for them. 5) If it does go ahead I would be jumping on the bandwagon to make a quick dollar. I am a commercial skipper and would like to keep the Harbour clean my tickets valid and worth something as if they do bring forward Ex27 people will be doing illegal charters and it would make it harder to get jobs in the industry and lower wages overall. As you know the maritime industry is suffering from companies being allowed to employ non Australians in Australian waters and then would just add to the stress. I would also be willing to commence a class action against this if work on the harbour decreases due to this and tickets becoming useless.</p>
140.		<p>Good afternoon, In my opinion, this proposal appears incredibly dangerous for a number of reasons. Firstly, as charter boat owners there are many rules and regulations that we have to adhere to in order to run our business and ensure the safety of our guests while on board our vessel, such as renewal of our annual survey both in water and out of water (every year for some of us), having qualified crew on board to ensure safety, having sufficient working fire extinguishers and life jackets on board, fire supression systems (and people to work them in case of an emergency), crew being trained in first aid in case of an emergency and also carrying up to date first aid kits, ensuring there are multiple exits for peoplein case of an emergency, adhering to RSA rules even -</p>

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		<p>when we are a BYO vessel, to name a few. How are you going to regulate safety on a vessel berthed at a marina? Generally 9/10 guests on board a charter know nothing about boats, and in my experience boats whether berthed at a marina or not carry a lot of potential risks to people who do not know what they are doing. Some of the safety standards mentioned in the exemption make it seem like it would be perfectly safe, however I have some comments; **the vessel owner implementing and maintaining a written safety management system - How are you going to police this? There are thousands of boats and minimal water police, at times there is only 1 water police vessel on the harbour, how are you going to ensure that all vessels berthed at a marina have an adequate SMS? **the vessel owner obtaining written approval from the marina authorising the use of the vessel for short-term accommodation - Again, how are you going to police this across the hundreds of marinas in NSW? In fact, how are you going to regulate any of the safety requirements across that amount of boats? As well as keep up the same checking with charter boats? The number of charter boats on the harbour doesnt even come close to the number of private boats that could take advantage of this exemption, and I can tell you in the 3 years of running this business we have not been checked once, apart from the survey contractors that we pay to do our annual survey, so you can't tell me that you are going to be able to stay on top of ensuring safety across all of those vessels as well? There is an obvious unfairness to this proposal which I believe is upsetting many commercial vessel owners, which is the fact that as charter boats we have to pay for survey and slipping costs, up to date first aid kits, working fire extinguishers, qualified crew etc, now I understand that this is our business, and to the others it is a secondary income to offset some of the marina costs, but that's exactly what Uber was to the Taxi industry and some might say it was unfair - Uber paid the taxi industry \$250 Million compensation. So what I want to know is what now differentiates a commercial vessel and a normal boat? What safety is in place to stop someone falling asleep with a cigarette or a candle on and the boat catching on fire? What is to stop someone getting so drunk they fall of the side and get squished between 2 boats or drown, who is going to administer first aid if something does go wrong? I could go on for days, but the main point I want to get across, is I would never let someone stay on our boat overnight or for any length of time for that matter without a qualified crew on board simply because it is unsafe, and there is no possible way for you to police this with current resources if you allow it to go ahead.</p>
141.		<p>Thanks for the opportunity to offer feedback on this important proposal. I see serious implications to the safety standards in the Northern Territory if this exemption is implemented. There are some major factors that make it imperative to delay or abandon this exemption. 1.The Northern Territory does not have boat licenses for private boat owners, AMSA survey is the only instrument to govern marine safety standards in the NT. This 'regulatory burden' is the only way to ensure the vessel is sound and fit for commercial activity. 2.Fair playing field – commercial operators currently undertake at great expense survey requirements to ensure the highest possible safety standards. Private boat owners who wish to derive an income from their vessel should be governed by the same level of regulation. 3.The tourism industry across Australia is investing heavily in research and forums to better understand the impact of this style of accommodation, shared economy. At this stage there is no real data on the effect of relaxing regulations and what the impact on the community and Tourism industry is. The wider tourism industry does not want to see deregulation of the accommodation sector. With this in mind it would be premature for AMSA to make any decisions before the accommodation sector has this information. 4.The decision to allow or not allow this activity should not be left to Marina's to manage who's focus is on commercial viability not necessarily community safety. This is AMSA's responsibility. As always I am happy to offer further information.</p>
142.		<p>I feel that the concept of making it easier for the provision of short term accommodation in marinas would place an unnecessary level of responsibility on the marina owners and operators. The experience of AirBnB style accommodation with apartments has</p>

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		<p>shown that the dealing with disruptive short term tenants is onerous. The risks associated for unsupervised commercial accommodation on boats is unacceptable The concept of disruptive behaviour, noise, damage and potential for injury presents a major risk the administration and operations of a marina. I feel that this exception should not be pursued and that any short term accommodation in a marina be subject to the Act and require on board supervision from a suitably qualified person</p> <p>Question1: Yes; there has to be a regulation for the short term marina accommodation to allow the vessel to be at a minimum standard of safety for the owners responsibilities to meet and allow the hirer/s to feel safe in the arrangement.  Question 2: At this stage in the process this length in a vessel is appropriate, however in the future it should be revisited to allow other owners of vessel over 24M to be part of the short term accommodation.  Question 3: Yes there should be a process for approval and notification, maybe the similar/same as the registration process of an EBIRB. This way a data base can be keep by AMSA on the applications of the EX27. Question 4: Yes, this EX27 needs a minimum standard for the safety requirements for short term accommodation.  Question 5: There should be a standard for beds/bunks within the EX27, however this should be consideration taken into account for vessels as bunks are built to accommodate the vessels design.  Question 6: Yes at a minimum, a gas ticket, an electrical certificate, plus smoke detectors and emergency equipment. Again this could be put on the EX27 electronic application process as certificates/tickets have authorisation numbers on the documentation and the smoke / gas detectors  Question 7: Yes  Question 8: Educational programme to provide</p>
143.		<p>As a commercial vessel operator, we have grave concerns about Exemption 27 Short term marina accommodation and write to request that this Exemption is not approved. Due to the high levels of risk associated to health and safety and the environment, we believe that any vessel wanting to partake in commercial activity of any kind should be required to have a certificate of Operation and subject to the ongoing inspection requirements to ensure compliance and hence, not have these exemptions in place. Of particular concern: 1. Inexperienced customers living on board a vessel with little to no boating experience. Boats cannot be compared to hotels or apartments. The safety risks associated with boating are much higher eg – risk of slips and falls, man overboard , fire, blocked toilets, misuse of gas and electrical. 2. Uncertified Boat Owners - The current exemption is unacceptable in any format as recreational boat owners have no qualifications to be able to confirm a boat meets standards, give safety briefings etc. How can they develop an adequate emergency procedure and comprehensive safety management system if they do not have a lot of boating experience – they decide to buy a boat as a business opportunity? 3. Certified staff needed to conduct proper handover and briefing 4. Without the requirement for a Certificate of Operation , where is the ongoing compliance – checking safety gear, gas and electrical, non slip surfaces, bedding safety rails, emergency preparedness etc 5. Vessel Stability needs to be addressed. At the very least the vessel must have a CE certification to be stability test exempt OR a stability test done. 6. How is the waste management controlled? Grey water/ Black water tanks must be installed and checked and logs of pump outs recorded. 7. Running a commercial vessel business, we know the importance of having qualified and experienced crew to ensure the safety of the customer – whether the boat is moving or stationary. Without any responsible , qualified person on board, the risk to health , safety and the environment is much higher. Of particular concern is misuse of the vessel's instruments ie gas and electricity, excessive use of alcohol , noise pollution, pollution to the waterways, blocked heads, damage to surrounding marina vessels. In</p>

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		summary, we recommend that the short term marina accommodation needs to require all vessels to have certificate of Operation with stringent regulations and annual inspections to ensure full safety practices are in place.
144.		<p><b>Question 1:</b> Do you think the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used only to provide short term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law? <b>Answer:</b> No</p> <p><b>Question 2:</b> Only owners of vessels that are &lt;24 metres in length are eligible for exemption under the proposed general exemption. Do you think this cut-off is appropriate? <b>Answer:</b> No, it should be 12M as per NSCV F2</p> <p><b>Question 3:</b> There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of this intention? <b>Answer:</b> Yes they should</p> <p><b>Question 4:</b> Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardised. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate? <b>Answer:</b> Yes</p> <p><b>Question 5:</b> Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure the safety of children and other potentially vulnerable passengers. (See eg: AS/NZS 4220:2010 - Bunk beds and other elevated beds, and, HB393 – Bunk beds for the short-term rental accommodation industry) <b>Answer:</b> There needs to be consideration for State laws around the Environment Protection Policy (Water Quality) 2015 and the COP for vessel and facility management.</p> <p><b>Question 6:</b> Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical standards mentioned in Division 1 of Schedule 1 (eg: ABP or proof of installation)? <b>Answer</b> Yes</p> <p><b>Question 7:</b> Do you think that the proposed general exemption (below) is clear and easy to understand? <b>Answer</b> Yes</p> <p><b>Question 8:</b> Is there any specific guidance AMSA can provide to assist industry with the proposed general exemption, if implemented? <b>Answer</b> Yes for sure.</p> <p>In summary, the South Australia Environment Protection Authority has concerns about additional wastewater management risks from private operating vessels which will now be able to operate as a commercial vessel. For a vessel to be cleared to be used for</p>

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		<p>the beds on board program, they must be compliant with EPA wastewater legislation (for South Australia). Marina operators will need to also take responsibility for extra usage of their Marinas and facilities.</p> <p>Note, there are approx.300 commercial vessels and approx.1900 private vessels on the River Murray in SA. Commercial vessels are considered higher risk.</p>
145.		Submission by letter (Attached)
146.		Submission by letter (Attached)
147.		Submission by letter (Attached)
148.		Submission by letter (Attached)
149.		Submission by letter (Attached)
150.		Submission by letter (Attached)
151.		Submission by letter (Attached)
152.		Submission by letter (Attached)
153.		Submission by letter (Attached)
154.		Submission by letter (Attached)
155.		Submission by letter (Attached)
156.		Submission by letter (Attached)
<b>Uncategorised comments</b>		

No.	Stakeholder group	Industry comment / submission
157.		*comment said “see attached file” but no link present.
158.		Submission by letter (Attached)
160.		Submission by letter (Attached)

**Table 2 – Answers to questions posed in Explanatory Material**

Question 1	Do you think the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used only to provide short term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law?
	<p>Yes. The sharing economy is an important part of the future of the boating and marina industries, however, there is uncertainty in the community as to whether stationary berthed vessels not capable of navigation are required to comply with the National Law. Commensurately, this activity is likely to be occurring in the community already in non-compliance with the law. The draft exemption provides clarity on this point and responds with a regulatory approach that matches regulation with risk. The exemption also responds proactively to the changing behaviour of the community in embracing the sharing economy and brings the activity into the regulatory light. Absence of the exemptions leads to uncertainty and risk.</p>
	There should be a set of approved and required compliances to ensure safety and consistency
	<p>BIA considers the regulatory outcome of EX27 to be appropriate, subject to the following comments and recommendations:</p> <p>At the time of becoming an EX27 vessel, the owner of such should be required to make a declaration that the vessel complies with all requirements of the exemption, specifically those in Schedule 1. This should be lodged with the marina in which the EX27 vessel is berthed as part of the marina’s EX27 program management. The vessel owner should be required to renew this declaration annually and should take steps to support such a declaration at five-yearly intervals by obtaining an inspection report as to the condition of the vessel and systems from an appropriate, competent person. This may be as part of a periodic insurance survey or a specially commissioned report as relevant.</p> <p>In managing environmental risks, EX27 vessels should be fitted with a black-water holding tank. Guests should be advised of toilet facilities available at the on-shore marina complex and recommended that such be used in preference to onboard facilities (this being the norm with owners and guests using boats berthed in a marina). If at any time during a booking should the holding tank reach capacity, the marina management or owner should arrange for it to be emptied via a pump-out station: if the EX27 vessel is required to be moved from its berth to reach a pump-out station, the guests should not be permitted to be on board during the time away from the berth.</p> <p>Persons (the briefer) conducting a show-out to guests, ie taking the guests to the vessel, welcoming on board and providing a briefing as to the operation of hotel and related systems, safety systems and equipment, should be competent to conduct such a show-out, having met the conditions required of a briefer in NSCV F2, noting that this includes a requirement to hold a recreational vessel operator’s licence. The briefer should have a knowledge of individual EX27 vessels, either as an employee/agent of the marina or as the owner of the subject EX27 vessel.</p> <p>BIA would recommend reviewing the definition of a marina, noting that there are instances, particularly on some inland waterways, where marinas are often not of as formal a nature as those in coastal regions. Consideration could be given as to a minimum number of berths, perhaps 10, that is considered to constitute a marina. In all instances, there must be a management organisation at the marina capable of managing the EX27 program and maintaining appropriate records.</p> <p>Concerns raised by BIA members operating houseboats related to the number of persons permitted on board EX27 vessels should be addressed by either capping the number of persons for which accommodation is available on any single EX27 vessel to 12, or by considering not making the exemption available to standard houseboats, as defined in NSCV F2.</p>
	<p>There is a high risk of property damage or personal injury associated with the operation of recreational vessels used to provide short term marina accommodation. These include:</p> <ul style="list-style-type: none"> <li>• risks arising from renting exempt vessels to parties that are unsupervised and inexperienced with its operation</li> </ul>

	<ul style="list-style-type: none"> <li>• food preparation and therefore fire risk in vessels which are in close proximity to a potentially large accumulation of high value vessels and marina infrastructure. There is also the risk and related safety concerns of fire spreading to other property.</li> <li>• the likelihood of poor maintenance or condition of the vessels is heightened in this type of operation. For example, individuals that can afford to purchase and properly maintain high value new craft are less likely to be involved in seeking rent revenue by occasionally hiring such vessels to third parties. This compares to owners that need to lease their vessels in order to earn supplementary income to fund maintenance costs. This group of owners may cut corners or postpone maintenance and repairs due to financial difficulties.</li> </ul> <p>The proposed exemption reduces the current level of control and increases risks involved with the operation of exempt vessels. The proposed exemption also does not take into account the frequency of use. Whilst it only applies to vessels used for short term accommodation less than 14 days, a vessel operating continuously as temporary accommodation (for example, a vessel regularly leased twice a month or more) is not distinguished from the case where the owner occasionally leases out the vessel, for instance twice a year. The risk profiles of the two vessels are very different.</p>
	<p>No, NSCV F2 already regulates this activity</p>
	<ol style="list-style-type: none"> <li>1. Department of Transport WA (DoT) agrees that the exemption requirements caters appropriately to the reduced risks in a Marina, but DoT has some concerns about leaving some aspects of the vessel's arrangement and fit-out to a Safety Management System developed by an owner alone. For example: <ol style="list-style-type: none"> <li>a. While <u>accommodation standards</u> would be largely market driven, there would be a few essentials that should not be overlooked from NSCV Part C1, at least to a standard that is suitable for a vessel almost stationary at a marina. For example: <ol style="list-style-type: none"> <li>i. Ventilation – Clause 4.8.3 would be too onerous, but there should be adequate provision. Includes separation from liquids, and fumes – Clause 4.10.4.</li> <li>ii. Lighting – for movement at night – Clause 4.8.5.</li> <li>iii. Maximum number of persons able to access a single deck: Clause 4.11.1 (a) intact stability, and (e) escape or evacuation.</li> <li>iv. Operators might be warned of compliance with standards for persons with disabilities.</li> <li>v. Those matters addressed in Chapter 5 summarised immediately below:</li> </ol> <p><b>Required outcomes</b></p> <p><b>5.3 Required outcome — escape from hazards within spaces on the vessel</b></p> <p>Enclosed spaces on a vessel must have escape routes of sufficient number and size to eliminate or reduce to acceptable levels the exposure of persons on board the vessel to hazards such as fire, smoke, and flooding.</p> <p><b>5.4 Required outcome — redundancy in escapes</b></p> <p>Alternative escape routes on a vessel must control the risk of entrapment from the blocking of a single escape, having regard to the magnitude of risk if the escape route is blocked (eg the likelihood and consequences of exposure to hazards).</p> <p><b>5.5 Required outcome — facilitate movement for evacuation</b></p> <p>A vessel must be designed, constructed and furnished to facilitate in an emergency the orderly and timely movement of persons to:</p> <p>(a) places of assembly; and</p> <p>(b) disembarkation points for evacuation into survival craft.</p> <p><b>5.6 Required outcome — facilitate movement between decks</b></p> <p>Means of access between different deck levels on the vessel must be designed and constructed to facilitate the rapid movement of persons in an emergency and to avoid tripping hazards.</p> <ol style="list-style-type: none"> <li>vi. General accommodation arrangement design factors such as limitations on angles of walkways, stairways and ladders at Clause 5.13.2, Step dimensions at Clause 5.13.3.4.</li> </ol> </li> </ol> </li> </ol>

	<ul style="list-style-type: none"> <li>b. Regarding <u>general safety</u>: <ul style="list-style-type: none"> <li>i. Will persons falling overboard be noticed?</li> </ul> </li> <li>c. Regarding <u>Electrical</u>: While compliance with NSCV Part C5B would be adequate, not many recreational vessels seeking to make use of this Short Term Marina Accommodation Marina Exemption (EX 27) would comply with this standard. However, recreational vessels, if they have 240 / 440 V systems that can be grid-connected to marinas, are required by WA law to comply with AS 3000 or AS 3004.2, and most of what is required in NSCV Part C5B will be addressed. However, certain sections in NSCV Part C5B will not be addressed in the AS 3000/3004 standards. For example, it might be essential for some sections of NSCV Part C5B to apply to the vessel apart from requirements of AS 3000 / 3004 – such as: <ul style="list-style-type: none"> <li>i. Requirements for required outcomes 5.6 and 5.7:</li> </ul> </li> </ul> <p><b>5.6 PERIOD OF OPERATION</b> Essential services must be maintained during emergency situations for a period sufficient for the emergency to be overcome or for evacuation of the vessel to be completed.</p> <p><b>5.7 EMERGENCY LIGHTING</b> In the event of a failure in the main electrical system, sufficient emergency lighting must be provided to facilitate the initiation, undertaking and completion of appropriate emergency responses.</p> <ul style="list-style-type: none"> <li>d. Regarding <u>Gas installations</u>: It is a requirement of the Dept of Mines, Industry Regulation &amp; Safety that the gas installation is installed by a registered gas fitter and that a compliance plate is attached. Unless a builder of recreational boats installs a system illegally (that is, installation is not by a licensed installer) all recreational vessels in WA should be fitted with complying /safe gas systems in accordance with AS/NZS 5601.</li> <li>e. Regarding <u>fire safety</u>: It might be unwise to rely upon fixed fire suppression systems that might be fitted on some vessels. Also: <ul style="list-style-type: none"> <li>i. For larger vessels, there should be arrangements to facilitate safe evacuation in the case of fire, such as mentioned in NSCV Part C4, at various clauses mentioning blind corridors, evacuation routes and protection from fire and smoke.</li> </ul> </li> <li>f. Regarding <u>sewage</u>: No NSCV standard for sewage discharge or holding tanks exists, and different States have different laws governing discharge. Management of grey and black water will presumably be an item for the Marina to manage.</li> </ul> <p>Based on the above a set of minimum standards that a majority of recreational vessels comply with and to achieve a minimum level of safety, the exemption should consider and list these items in the exemption rather than rely only on the owner/operator to think of these things in an operating plan.</p>
	<p>The draft exemption provides clarity on what is permissible within the sharing economy and responds with a regulatory approach that matches regulation, and regulatory burden, with the low risk nature of the activity. Given the requirement for boat owners to seek the approval of the marina it gives us the opportunity to satisfy ourselves that the vessel and its use in this way is appropriate and suitable insurances and codes of conduct are in place.</p>
	<p>The sharing economy is an important part of our future business, however, there is uncertainty with our customers as to whether stationary berthed vessels not capable of navigation comply with the national law. The draft exemption provides clarity on this point and responds with a regulatory approach that matches regulation, and regulatory burden, with the low risk nature of the activity. Given the requirement for the boat owner to seek the approval of the marina it gives us the opportunity to satisfy ourselves that the vessel and its use in this way is appropriate and that suitable insurances are in place.</p>

	<p><b>Answer:</b> I do not agree with the proposed exemption as I believe it will expose the marina industry to a number of issues that may affect the amenity and safety of our guests. Every marina has an obligation to manage and maintain a facility that will have no detrimental effect on any other vessel in the marina and I believe opening up marinas to short term accommodation is not in the best interests of vessel or marina owners. Below I have dot pointed why short term accommodation is not a suitable outcome for marinas.</p> <ul style="list-style-type: none"> <li>▪ <b>Noise Complaints:</b> There have been numerous media reports documenting how neighbours of houses used for short term accommodation have been impacted by noise. Marinas have vessels all within close proximity of each other and sound has a strong ability to be magnified across water. Some marinas have a number of live-a-boards and I do not believe they would be happy with noise pollution around the marina.</li> <li>▪ <b>Inexperience of hirers:</b> Vessels have complex systems of operation even when berthed. Some may include fire suppression systems, Toilet Systems, Battery and charging systems, 240, 12 and 24 volts circuits, Gas systems and electronics. People hiring these vessels may not stayed on a vessel and a briefing would not be sufficient. It may minimise some of the issues relating to the operating systems but unless you have been around vessels in some form before the risk ratio would be raised.</li> </ul> <ul style="list-style-type: none"> <li>▪ <b>Insurance of the vessels:</b> There may be some requirement for owners to take out extra cover on their policies to cover people staying on the vessel in the same way landlords have to advise their insurers if their property is rented. Insurance on vessels has increased considerably in the last few years and has become increasingly harder to obtain.</li> <li>▪ <b>Weather conditions:</b> Not all marinas are totally removed from weather events. In the case of a mooring line breaking are the people staying on the vessel going to be able to address the situation? If someone falls over board are they going to know what to do? Simple problems but is someone that has never been on a vessel before going to be able to react to the situation?</li> </ul>	
	No, NSCV F2 already regulates this activity.	
	No. The proposed exemption does provide any regulation of appropriate standards of construction etc, as Australia has no appropriate regulation of recreational craft. The existing regulatory regime for domestic commercial vessels should be maintained and applied to marina stays and similar operations. The preferred approach is to retain the existing regime which already appropriately matches risk with regulatory burden.	
	No, NSCV F2 already regulates this activity.	

	The exemption provides the level of control required without being overly draconian. Without this exemption and a check of compliance the industry would be a free for all. It is a starting point which in time there will be lessons and amendments. In its current form it does not cover every potential vessel type but does provide the basics for all to comply.
	It goes a long way toward providing an appropriate regulatory outcome, however there most definitely needs to be a method by which all operators of short term marina accom providers notify AMSA of their intent to operate under this Exemption. If they are not being required to hold a current certificate of operation or survey then there should be some sort of requirement within the exemption laying out that they need to be (at the very least) a recreationally registered vessel for the state of which they are conducting their business in.
	No
	Yes. Short term vessel accommodation rental is already occurring on an unregulated basis. The exemption provides a much needed regulatory framework within which private vessel accommodation can be undertaken. The exemption recognises the low risk nature of the operations.
	The risks do not weigh out the economic gain of a small group of recreational vessel owners
	How are the vessels treated when they are in transit for the purpose of a commercial activity? For example, if a vessel is located in Marina A but the client would prefer the vessel to be in Marina B, how does the vessel get there? The master arrives and delivers the vessel to the location..... What qualification does the master require? Conversely, If a 1E vessel is required to complete a dry docking or prepare for a charter or pick up a passenger and pass through 1D waters, then the intent of the journey is for commercial use and the activity would require a Temp operations application and so on.. This does not seem to be considered in the proposed exemption. Will other commercial vessels apply EX27 to get around the requirement of crewing to travel to another location? The hire and drive houseboats may feel hard done by with this exemption in place as many of these vessels undergo an annual survey inspection and operate in a similar manner. How has the risk profile been assessed? Where is the results in the current proposal? Are these vessels exempt from the levy? Why are the vessels not inspected prior and then given a Certificate? The chance of an owner understanding or complying with AS3004 or NSCV would be very low. The proposal is to have almost zero compliance? Why? Do sleeping passengers not need to be in a compliant vessel? There is a private surveyor accreditation scheme that could inspect these vessels, why not make use of this? A safe solution for these vessels would be to have an annual inspection completed by AMSA initial surveyors to comply with the standards stated and then a certificate issued.
	Yes; there has to be a regulation for the short term marina accommodation to allow the vessel to be at a minimum standard of safety for the owners responsibilities to meet and allow the hirer/s to feel safe in the arrangement.
	No
<b>Question 2</b>	Only owners of vessels that are <24m in length are eligible for exemption under the proposed exemption. Do you think this cut-off is appropriate?
	No. A review of Australian marinas indicates many vessels over 24m that are recreational vessels. We would suggest that there be no limit on length for recreational vessels providing the conditions of the exemption are met. If, for an unforeseen regulatory reason, a limitation on length is required we would suggest <35m as this would cover the majority of recreational boats within marinas.
	In my experience vessels under 20 meters fall into the “easy operable” craft and this would be out recommended cut off point. Vessels over 20 metres really require crfew and have far too complex operating systems and are usually computerised. There should also be an age consideration – vessels over 7 years should require AMSA approval. I also believe there should eb a requirement for vessels over 9

	metres. Vessels smaller than this do not have the required amenities and facilities and are more precarious to move around in. Minimum age of 10+ should be enforced.
	BIA would recommend that the length cut-off for EX27 vessels be 35m, in line with other provisions of the National Law.
	The Insurance Council does not consider this cut-off appropriate. A vessel that is up to 24 metres in length is of substantial size and value, increasing exposure in the event a problem arises. The proposed exemption should be limited to smaller craft.
	No, with differences applying to F2 vessels above and below 12m, 12m could also be the limit here
	DoT notes a majority of vessels likely to operate under Exemption 27 will be under 24 metres however it should be noted vessels above 24 metre vessels will often be built to higher standard than smaller vessels, and are likely to be surveyed during build and fit-out. A more suitable limit may be 35 metres. DoT accepts there is the possibility larger vessels, such as barges of any length being constructed with accommodation complying with this exemption and being used by other businesses to avoid using hotels for major projects. This type of operation is not really the target of this exemption, and when numbers of persons berthed on such vessels exceed some limit, a more rigorous treatment is more appropriate. This upper limit could be determined by liaising with respective Harbour Masters/ Marina Managers. For the purposes of this exemption, a convenient risk-based limit to the number of berthed passengers might be 12 persons to match numbers permitted on Class 2 vessels.
	We would suggest that if the conditions of the exemption are met there does not need to be a restriction on participating boat length
	We have had a number of boats in our marina that are over 24m and are recreational vessels. We would suggest that there be no limit on length for recreational vessels providing the conditions of the exemption are met.
	The key to limiting the impact on permanents berthed in the marina is to keep numbers of people on board the exempted vessels to a minimum. A 24m vessel is a large vessel and it would lend itself to larger groups of people staying on the vessel. I believe that numbers of people on board at any time has to be managed and a way of limiting these numbers is by reducing the size of the exempted vessels to 15m.
	No, with differences applying to F2 vessels above & below 12m, 12m could also be the limit here.
	No. With an appropriate set of standards there is no need for an artificial cut off. The risk and enforcement cost for a 23m vessel will be virtually the same as for a 25m vessel.
	No, with differences applying to F2 vessels above & below 12m, 12m could also be the limit here.
	Unless there is a specific law that requires a cut-off at <24 metres then why cannot owners of longer vessels also be entitled to this business.
	I have some concerns over the maximum length being 24 metres. A boat of this size is pretty big! Vessels of around that size generally have some pretty complex systems onboard for the systems like refrigeration, air conditioning and heating etc. Depending on individual marina power supplies some vessels may have a need to generate their own power to supply power requirements when everything is in use bringing another level of complexity to a vessel and its operation particularly is left unmanned by a crew. If people who are using the accommodation are left onboard on their own it would be a concern. Perhaps a reduction in the 24 metre limit might be worth considering or at least reviewing once introduced and up and running.
	Yes
	Many private vessels exceed 24 meters. Providing the other exemption conditions are met, we do not see any philosophical rationale for excluding vessels > 24m
	How many people do you think hirers will try to get aboard a 24m boat (party time!!!!)
	It is appropriate if a risk assessment has been completed to reach the number

	At this stage in the process this length in a vessel is appropriate, however in the future it should be revisited to allow other owners of vessel over 24M to be part of the short term accommodation
	No, it should be 12M as per NSCV F2

**Question 3** There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of this intention?

	<p>No to the first question and yes to the second. The requirement to seek approval from AMSA would impose an unnecessary administrative burden on AMSA without benefit. It would, however, from a research and compliance point of view be useful if AMSA was informed of vessels proposing to use the general exemption. This could be a condition of the Exemption but not require any action on behalf of AMSA apart from setting up the website page to accept and acknowledge receipt of the information.</p> <p>We would suggest that the information submitted include the following:</p> <ol style="list-style-type: none"> <li>1. Name of vessel owner and applicant (may be different as the marina may manage the activity on behalf of the boat owner)</li> <li>2. Vessel type (power/sail/houseboat)</li> <li>3. Vessel age</li> <li>4. Vessel length</li> <li>5. No of berths/cabins</li> <li>6. Vessel location (marina where it will operate)</li> </ol> <p>Beds on board would also be prepared to share (on a commercial in confidence basis) activity statistics on boats listed on its platform in Australia and boat nights booked to assist AMSA in understanding the scale of the activity and effectiveness of the exemption.</p>
	Newer vessels should not require individual approval but vessels of greater than 7 years it should be required.
	BIA would recommend that a register of EX27 vessels is maintained by the marina in which such vessels are berthed and that this register be periodically reported to AMSA: on an annual basis or when a vessel moves in or out of the marina's EX27 program. The register should record the registration number of the vessel and the declaration of the owner as to compliance with requirements of the exemption. Such a register is expected to be an intrinsic part of the marina's management system for an EX27 program. BIA does not consider that a unique identifier issued under the National Law is appropriate or required if such a register is maintained.
	The requirement to apply for an exemption would allow AMSA to align compliance responsibilities including survey, inspection or risk analysis activities more closely with risk points. Whilst AMSA might not choose to inspect a vessel applying for exemption, the need for action can be explicitly considered, with a desktop assessment always possible. This approach would align more with the targeted 'lighter regulatory treatment' of the proposed exemption, rather than removing regulation altogether.
	<p>Approval should be mandatory:</p> <ul style="list-style-type: none"> <li>- It could be joined with application for a unique identified, which it is suggested would most often not occur under an as-of-right regime, or</li> <li>- Requirement for a certificate eof operation could be retained to avoid creation of new protocols?</li> <li>- It should be subject to a 5 year out of water survey or, more frequent in-water survey or, at least EX27 3(3) and 3(4) compliance inspection by an MSI</li> </ul>
	DoT is generally satisfied however it is suggested a requirement to notify AMSA <u>should</u> apply for vessels above a certain length, or vessels able to carry a certain number of people, so that AMSA can decide whether the exemption remains effective. This would bring the vessel to AMSA's attention to instigate making a determination in accordance with EX 27 item 3(4) – "National Regulator may make a determination".

	There would seem to be no need for boat owners to apply to AMSA for approval as that would require significant work for AMSA but perhaps requiring boat owners to notify their intention would be simpler and participating Marina's could be required to keep an up to date record of vessels that have been approved under their requirements
	The requirement to seek approval from AMSA would impose an unnecessary administrative burden on AMSA without any benefit so we don't support this. A requirement to notify is not unreasonable. We, as a marina operator, would maintain a record of vessels that we have approved the use of in our marina and would be happy to provide this to AMSA on request.
	It is important that if this exemption is approved that <b>ALL</b> vessel owners have to apply to AMSA for approval. As part of this approval the SMS document, vessel layout, certificates and any other supporting documents should be submitted with the application. To allow any vessel owner to lend out any vessel without some sort of application and supporting document would be totally irresponsible. When owners have to apply and support the application it at least shows that they are committed enough to follow all requirements of the exemption.
	Approval should be mandatory: - it could be joined with application for a unique identifier, which it is suggested would most often <i>not</i> occur under an as-of-right regime or, - requirement for a Certificate of Operation could be retained to avoid creation of new protocols? - it should be subject to 5 year out-of-water survey or, more frequent in-water survey or, at least EX27 3(3) and 3(4) compliance inspection by an MSI.
	Approval must be obtained so that stakeholders can identify which vessels comply and which do not. Passed experience in many industries has proven that we cannot rely on owners to notify AMSA or other regulators without an appropriate inspection and licensing system.
	Approval should be mandatory: - it could be joined with application for a unique identifier, which it is suggested would most often <i>not</i> occur under an as-of-right regime or, - requirement for a Certificate of Operation could be retained to avoid creation of new protocols? - it should be subject to 5 year out-of-water survey or, more frequent in-water survey or, at least EX27 3(3) and 3(4) compliance inspection by an MSI.
	Yes AMSA should approve the vessels to be fit for purpose and have filed records of the number type and location of these vessels. Some assurance of safety and being fit for purpose needs to be provided to the users of these vessels, This ultimately can only be of a benefit to the industry.
	Yes vessel owners should be required to apply to AMSA to operate under this exemption. AMSA needs to know how many vessels will be operating under the exemption to be able to regulate and legislate, otherwise AMSA will not likely hear about any issues etc until an incident occurs and I don't believe that reactive legislating is currently where AMSA sits, proactive legislating is more in keeping with how AMSA operates. They also need to be involved in the cost recovery process going forward. If there is an administrative cost to AMSA then this must be recovered directly from this area of the industry, not other Class 1, 2, 3 or 4 DCV's.
	I have consulted the insurer of our boat B&B and they will only insure our boat if it is surveyed, even though it only carries paying guests when moored. We therefore hoped for a simpler survey standard to be developed for boats like ours. We seem to meet all the criteria in the EX27 proposal, assuming the single registered mooring managed by our business is a 'short term marina' under your definition (and I would like advice on this). However the proposal means we could not be insured and is therefore worthless to us. I wonder if you have consulted insurers to see if there is a problem here

	No. This would increase the regulatory burden and many vessel owners may choose to operate informally. The requirement of seeking marina approval provides sufficient safeguards.
	Bad idea
	I think a vessel owner who intends to operate the vessel under EX27 should have to apply and have the SMS and vessel assessed by an AMS against the EX27 Standard. Otherwise operators are just doing whatever they want to until they are caught out.
	A safe solution for these vessels would be to have an annual inspection completed by AMSA initial surveyors to comply with the standards stated and then a certificate issued. The operator would then have clarity as would the marina owner as to which vessels are compliant and safe
	There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of this intention? ANSWER Q3 - Yes - Written approval should be obtained by AMSA and a fee paid.
	Yes there should be a process for approval and notification, maybe the similar/same as the registration process of an EBIRB. This way a data base can be keep by AMSA on the applications of the EX27
	Yes they should

Question 4	Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardized. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate?
	No. The vessel proposed to be subject to EX27 are local or imported recreational vessels. AS such they would have been constructed to Australian, American or CE/ISO standards. As the vessels are not required to be in survey it is not practical to require or confirm compliance with current NSCV or other current Australian/ISO standards as set out in the exemption, nor is it practical to define where, in relation to items 1. Electrical, NSCV C5B and AS/NZS 3004.2:20147 relate to the whole of the vessel including propulsion etc which are not relevant to the proposed use therefore the requirement to meet these standards across the whole vessel is not appropriate or achievable for an existing recreational vessel. As such, we propose that in order to comply with Division 1 Sections 1, 2 and 4.1 the existing provisions be deleted and replaced with:

	<p><i>1. Electrical</i></p> <p><i>1.1 The vessel's electrical system must be fit for purpose for the safe use of the vessel for accommodation only while berthed in a marina.</i></p> <p><i>2. Gas</i></p> <p><i>1.2 Where LPG gas appliances are fitted to the vessel, the vessel must have a current gas installation compliance certificate.</i></p> <p><i>4.1 The vessels galley arrangement must be fit for purpose for the safe use of the vessel for accommodation only while berthed in a marina.</i></p> <p>We also suggest that the EX27 SMS content includes a new element as follows:</p> <p>Condition of the vessel</p> <p>The owner must ensure that the vessel is fit for purpose for use as accommodation only in marinas including:</p> <ul style="list-style-type: none"> <li>(a) Verifying that the electrical system and shore power connection are fit for purpose.</li> <li>(b) Where LPG gas appliances are fitted to the vessel, the vessel must have a current gas installation compliance certificate.</li> <li>(c) The vessels galley arrangement must be fit for purpose for the safe use of the vessel for accommodation only while berthed in a marina</li> <li>(d) Safety equipment meets local regulatory requirements, is complete, serviceable and in date.</li> </ul> <p>We support the provisions of Schedule 1 Sections 4 and 5 as drafted.</p>	
	<p>No, recreational vessel re not built to survey and would have been built to the then current Australian or international standards. It would not be practical to verify compliance with current Australian Standards without creating a survey type regime. It would be more practical to require the boat owner to verify that the vessel is fit for purpose to the intended use of overnight accommodation in a marina.</p>	
	<p>BIA considers the technical standards applicable to EX27 vessels to be broadly appropriate, but would recommend that reference also be made, where possible, to international standards for electrical and gas installations, where such are relevant, noting that many larger vessels in the modern recreational vessel fleet in Australia are imported vessels designed and constructed in compliance with regulatory systems in Europe and the USA.</p> <p>A key element of managing on-board safety of guests and the potential impact on surrounding berthed vessels, is the safety management plan and system (SMP/S). This should be drafted jointly by the owner and marina operator, as appropriate, to detail all onboard safety systems, safety equipment and emergency procedures, plus pontoon or shore-side based fire-fighting appliances, emergency alerts and evacuation protocols.</p>	
	<p>The conditions specified in Schedule 1 of the proposed exemption appear appropriate. However, the conditions in the Schedule place almost all onus on the vessel owner to ensure compliance with these requirements and eliminates AMSA involvement. A significant burden, and potential liability, is therefore introduced on the vessel owner. If for example, the owner fails to identify that an exempt vessel is in poor condition and a subsequent loss occurs, injured parties may potentially hold them liable. This could result in an increase in exposure and potential liability with a consequent increase in the cost of insurance for the vessel owner.</p>	
	<p>Yes</p>	
	<p>DoT believes some requirements are too onerous in that some recreational vessels will not be able comply, and most smaller vessels definitely will not comply with electrical requirements if not connected to the marina's electrical grid.</p>	

	<p>Also note that the only Australian Standard in existence for recreational boats does not apply to boats longer than 24 meters, and most ISO standards for recreational vessels also stop at 24 meters. DoT does not think that Schedule 1 is adequate because:</p> <p>a) it is onerous in some respects (all electrical requirements applying to the whole of the vessel), but</p> <p>b) not comprehensive enough to cover other risks that might need to be managed, and that are not mentioned in the exemption - refer to question 1.</p>
	<p>Some of these conditions seem to be excessive. Most of the participating vessels under this provision will have been built to applicable standards. These vessels are not required to be in survey and so to require them to confirm their compliance with current NSCV or any of the current Australian standards noted in the exemption. It would seem, therefore, impractical to define grandfathering provisions for vessels previously not constructed to survey.</p> <p>It would seem a more appropriate response, in order to comply with Div 1 Sections 1, 2, and 4.1 the existing provisions to be deleted and replaced with better requirements for the risk assessment and the Safety Management Plan that require the vessel be more fit for purpose as overnight accommodation in a Marina. Under this plan we are more likely to get a better safety outcome.</p> <p>We support the provisions of Schedule 1 Sections 4 and 5 as drafted.</p>
	<p>The conditions in some respect are too onerous. The vessels proposed to be subject of EX24 are recreational vessels that may have been locally or internationally built. As such they would have been constructed to applicable Australian, American or CE/ISO standards at the time of construction. As the vessels are not required to be in survey it is not practical to require or confirm compliance with current NSCV or other current Australian/ISO standards as set out in the exemption, nor is it practical to define grandfathering provisions for vessels previously not built to survey. For example, item 1. Electrical, NSCV C5B and AS/NZS 3004.2:2014 relates to the whole of the vessel including propulsion etc which are not relevant to the proposed use therefore the requirement to meet these standards across the whole vessel is not appropriate or achievable for an existing recreational vessel.</p> <p>As such, we propose that in order to comply with Division 1 Sections 1, 2 and 4.1 the existing provisions be deleted and be replaced with enhanced requirements for the risk assessment and the Safety Management Plan that require the vessel be fit for purpose for its intended use as overnight accommodation in a marina. This is more likely to lead to better safety outcomes than the disparate interpretation of the proposed standards.</p> <p>We support the provisions of Schedule 1 Sections 4 and 5 as drafted.</p>
	The conditions seem to be adequate enough if they are submitted for approval as per my answer at question 3
	yes
	No. The proposed conditions are totally inadequate and do not address the vast majority of risks covered by NSCV standards. As recreational craft standards do not apply appropriate NSCV Hire and Drive standards should be applied and enforced. See Risk Analysis above.
	yes
	The conditions are appropriate and are simple to satisfy compared to a shore based accommodation house. These vessel owners should also have clear standards to follow and AMSA as the regulator on this matter must provide them
	Yes they should be sufficient, although it would be good to have some sort of focus on discharges within the marinas but understand that current pollution regulations etc sit with the individual states. I also think it would be good to specify as a minimum a couple of types of firefighting equipment to be carried onboard as well.
	They are more than adequate
	No. Recreational vessels are not built to survey; they are building to prevailing standards. It would not be practical to verify compliance with current Australian Standards without creating a survey type regime. Given the low risk nature of the operations, it would be more practical to require the boat owner to verify that the vessel is fit for purpose for the intended use.

	Are they going to comply?? Who is going to be responsible and liable in case things go wrong (will they be around??) or is AMSA going to pay out?
	It is a brave proposal to not have the vessel assessed for construction. Exemptions like this can be dangerous as the industry will use this as a minimum standard and then build boats around this. A safe solution for these vessels would be to have an annual inspection completed by AMSA initial surveyors to comply with the standards stated and then a certificate issued
	Yes, however an initial and annual in water inspection must be completed by a surveyor before the operator may continue
	Yes, this EX27 needs a minimum standard for the safety requirements for short term accommodation.
	Yes

Question 5	Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure the safety of children and other potentially vulnerable passengers. (see eg: AS/NZS 4220:2010 – Bunk beds and other elevated beds, and, HB393 – <i>Bunk beds for the short-term rental accommodation industry</i> )
	No. It is not practical to require existing vessels to comply with the requirements of HB393 due to the configuration constraints within vessels. The Handbook was not drafted in contemplation of application to bunkbeds on boats. We would suggest that the risk associated with the use of bunkbeds in boats should form part of the risk assessment undertaken to inform the safety management plan. We would also suggest that the safety management plan include an additional point to those suggested in response to question 4 above being: (e) where applicable, bunk beds must have adequate and appropriate rails to prevent falls or entrapment of vulnerable persons (for example young people or elderly people) from the bunk bed.
	No. It is not practical to require existing vessels to comply with the requirements of HB393 due to the configuration constraints within vessels. The Handbook was not drafted in contemplation of application to bunkbeds in boats. The exemption requires the boat owner to prepare a safety management plan and this risk, amongst others, should be considered, and appropriate mitigation undertaken, as part of that plan.
	BIA does not consider it necessary to list any additional technical standards for elevated or bunk beds, noting that the general safety provisions of the National Law and other (international) regulatory settings, along with industry norms developed over many years of design improvement of recreational vessels, adequately address such.
	It would seem appropriate to apply technical standards to exempt vessels equivalent to those applying to land-based property which provides temporary accommodation. Requiring the exempt vessel's owner to provide a written declaration that technical standards had been satisfied would increase awareness and potentially reduce the risk of non-compliance.
	No
	See response to question 1. It would be reasonable to comply with some minimum <u>safety</u> requirements in terms of reducing specific risks as outlined in Question 1
	It is not practical to require existing vessels to comply with the requirements of HB393 due to the configuration constraints within vessels. The Handbook was not drafted in contemplation of application to bunkbeds in boats. We would suggest that the risk associated with the use of bunkbeds should form part of the risk assessment undertaken to inform the safety management plan.
	It is not practical to require existing vessels to comply with the requirements of HB393 due to the configuration constraints within vessels. The Handbook was not drafted in contemplation of application to bunkbeds in boats. We would suggest that the risk associated with the use of bunkbeds should form part of the risk assessment undertaken to inform the safety management plan.
	All standards that can be cross referenced with land based accommodation requirements should apply to exempted vessels
	No

	The conditions of EX27 Division 1 of Schedule 1 are totally inadequate. A better solution is review NSCV and if it can be justified on economic grounds, create a separate area of operation say F for vessel which are permanently berthed or moored and apply appropriate existing regulations and standards instead of exempting vessels then attempting to create a new de-facto standard. It must be remembered that short term marina accommodation in Australia is not like Europe and for motor vehicle ride sharing there are no enforceable standards for recreational boats used in short term Marina accommodation in Australia other than the NSCV. There is no necessity or reason to exempt vessels from that standard.
	No
	Yes the accommodation must be made safe, no other way. Following the guidelines of shore based accommodation is a good starting point
	As per above with firefighting equipment. If you start to include standards for bunk beds then where would it stop. If the vessel is deemed as complying with its standard that it was built to it should then deem to satisfy as too would railing heights, combings, hatches, doorways etc. By introducing greater standards an operator is required to comply to would require more regulatory inspection regimes by AMSA to ensure compliance?
	Australian Standards already exist and are the responsibility of any business to comply. Insurance companies already require compliance. Should there be a maximum depth of water for the mooring site so that a boat cannot completely sink
	No. It is not practical to require existing vessels to comply with the requirements of HB393 due to the configuration constraints within vessels. The Handbook was not drafted in contemplation of application to bunkbeds in boats. The exemption requires the boat owner to prepare a safety management plan and this risk, amongst others, should be considered, and appropriate mitigation undertaken, as part of that plan.
	Boats are not short-term rental accommodation and should comply with all DCV regulation
	Keep it simple and fundamentally safe. I would stay away from items that aren't specifically safety related like bunk size etc.
	Yes, but if there is no compliance inspection from a surveyor then almost no one will do this
	Yes
	There should be a standard for beds/bunks within the EX27, however this should be consideration taken into account for vessels as bunks are built to accommodate the vessels design
	There needs to be consideration for State laws around the Environment Protection Policy (Water Quality) 2015 and the COP for vessel and facility management

Question 6	Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical <b>standards</b> mentioned in Division 1 of Schedule 1 ( <i>eg ABP or proof of installation</i> )?
	Yes, subject to the responses to questions 4 and 5 herein.
	Yes, subject to the provision being modified to reflect fit for purpose and such evidence could then form part of the Safety Management Plan
	BIA would strongly recommend that a record of all relevant documentation related to compliance with technical requirements of an EX27 vessel be maintained by the vessel owner: it would be expected that much of this would be maintained in an electronic format that is accessible, as required, by relevant authorities, including the marina management where the EX27 vessel is berthed. Where appropriate, certification of compliance of any element of the vessel or its equipment should be maintained in written form within a reference handbook kept aboard the vessel, such as a compendium of hotel and safety systems.

	It would seem appropriate to apply technical standards to exempt vessels equivalent to those applying to land-based property which provides temporary accommodation. Requiring the exempt vessel's owner to provide a written declaration that technical standards had been satisfied would increase awareness and potentially reduce the risk of non-compliance.
	No but an annual statutory declaration of compliance should be required
	DoT WA believes written evidence should be provided showing the vessel complies with the minimum safety standards as outlined in Question 1 and this should be made available upon request to a marina operator or Marine Safety Inspectors, and may be relevant to emergency services if required.
	yes
	yes
	All evidence relating to the vessel receiving the exemption should be kept with the SMS of the vessel. There should also be a copy kept at a land based location.
	No but an annual statutory declaration of compliance should be required.
	Yes. Owners of vessels and regulators should be required to keep written evidence with independent verification that the vessel complies. Owners will mostly have no training to enable them to determine whether or not a vessel complies. Such record keeping will be provided by retaining the existing regime.
	No but an annual statutory declaration of compliance should be required.
	Yes absolutely without documenting this could quickly become a free for all and no standards will be the...
	Yes, a Cert of Survey would assist in demonstrating this, so in the absence of the requirement for one to be held then there definitely needs to be some sort of documented evidence of compliance.
	As suggested above, we need to meet legal survey requirements for commercial insurance. It needs to be a formal modified version of survey that is cheaper and simpler. The surveyor would check our compliance records.
	Yes. Subject to the provision being modified to reflect fit for purpose and such evidence could then form part of the Safety Management Plan.
	Recreational vessel owner will not necessary have the skills or knowledge to comply
	Yes. A safe solution for these vessels would be to have an annual inspection completed by AMSA initial surveyors to comply with the standards stated and then a certificate issued
	YES, Plus annual inspection of vessel and paperwork
	Yes at a minimum, a gas ticket, an electrical certificate, plus smoke detectors and emergency equipment. Again this could be put on the EX27 electronic application process as certificates/tickets have authorisation numbers on the documentation and the smoke / gas detectors
	Yes

Question 7	Do you think that the proposed general exemption (below) is clear and easy to understand?
	Yes
	Yes
	BIA considers that EX27 is clear and easy to understand, notwithstanding additional commentary in Question 1 and the need to develop further provisions of EX27 to accommodate such.
	Yes
	DoT WA believes the current exemption is easy to understand.
	yes
	yes
	As it stands it has been kept simple and easy to understand but does not cover all of the issues that could occur with inexperienced people staying in a marina. I do not believe the problems that could occur have been addressed and I believe the exemption requires more investigation before implementation.
	yes
	No. The proposed exemption does not make it clear whether effected vessels will be treated as recreational or commercial under marine safety, environment protection and other legislation which requires a clear distinction to determine which sections apply in a particular case. The proposed EX27 suggests that unqualified owners and not independent and appropriately qualified surveyors can certify that a vessel complies with technical safety requirements.
	yes
	This is an opportunity for the accredited marine surveyors who should be appointed the appropriate persons to provide the assistance to this industry. Checking compliance documenting accordingly
	Yes, but consider we are commercial DCV operators, someone who may be relatively new to the DCV world or indeed the recreation vessel operations may not have the same level of understanding, but to me it seems clear enough.
	Yes
	yes
	No, AMSA should reject this proposal completely
	It is clear for a surveyor, but if the intention of this exemption is to make vessel comply with a minimum standard then it does not achieve that. Most vessel owners would not know of AS3004 or the NSCV. Some vessel owners may consider their vessel to be safe and built to a standard that is acceptable. Some vessel owners may consider the build plate to be accurate.
	Yes
	Yes

Question 8

Is there any specific guidance AMSA can provide to assist industry with the proposed general exemption, if implemented?

	<p>Yes, communication of the exemption through traditional and social media channels so that the industry and consumers are informed about the existence of the exemption. Additional specific guidance about the preparation of safety management plans for this use in a language understandable by recreational boat owners will improve compliance and as a result improve safety education in the broader boating community. In addition, collaboration with State maritime agencies to communicate the exemption through their registration and license database and through their social media channels will ensure that the community understands what is permissible.</p>
	<p>Yes, communication of the exemption to State Maritime Agencies and through them to registered boaters so that they understand the regulatory regime. Work with the industry associations to provide clear messages to their members about the exemption. Additional – marina facilities and amenities must be taken into consideration – vessel users should be required to use marina facilities which must be adequate.</p>
	<p>Industry is always assisted in complying with regulation when it is clear and easy to understand, but particularly so when there is supporting guidance documentation. BIA would recommend AMSA make available templates for development of SMP/S by vessel owners and/or marina managers, check-lists for marinas seeking to list EX27 vessels and for show-out of such to guests. BIA would also recommend a clear warning be made within the text of EX27 that the exemption does not provide for the vessel to be used for a voyage or to leave the berth at any time with guests on board.</p>
	<p>By definition, the proposal is for non-industry operators who would need prodigious guidance</p>
	<p>A General Guidance Note should be developed based on the final exemption.</p>
	<p>Engaging with BIA and MIA and delivering clear messages to their members as to their requirements under the scheme. We would engage with the WLD Dept of Transport and Main Roads to ensure requirements and regulations of the scheme are communicated to the boating public.</p>
	<p>Yes, work with BIA and MIA in providing clear messages to their members about the requirements for the use and work with RMS in NSW to communicate to the boating public and community what is permissible.</p>
	<p>Informative material should be made available for marinas to display. The material should be simple but explain all of the pros and cons of renting out a vessel as short term accommodation.</p>
	<p>By definition, the proposal is for non-industry operators who would need prodigious guidance</p>
	<p>Yes. How to go about ensuring that the exemption is withdrawn as it is likely that it will be abused by unscrupulous operators as it does not provide for independent verification of compliance prior to operation. Even racing yachts and private motor vehicles have some independent verification of the safety of the vessel or vehicle.</p>
	<p>By definition, the proposal is for non-industry operators who would need prodigious guidance</p>

	ensuring Marina owners and operators are informed as well and they are up to speed with what the requirements are. Perhaps the Marina Industry Association might be a good to point of contact if they are not yet involved?
	A modified survey application form
	Industry participants including marinas can play a role in communicating the exemption conditions
	No, AMSA should reject this proposal completely
	Yes. A safe solution for these vessels would be to have an annual inspection completed by AMSA initial surveyors to comply with the standards stated and then a certificate issued
	Educational programme to provide
	Yes, for sure

**General Comments**

	In further comment, following detailed discussion with members across all segments of BIA membership, a key issue raised has been that of compliance enforcement, of any and all commercial vessel operations. Members operating vessels in full commercial survey have expressed concern about the possibility of EX27 opening up the market for illegal charter: BIA does not consider that EX27 itself would be a cause of such activity, as illegal charter is already a live issue and is regularly reported to relevant authorities. However, BIA would recommend that AMSA and its state delegate compliance agencies seek to maintain an appropriate, active and effective level of compliance enforcement to assure commercial vessel operators that all participants in the sector are properly managed.
	Summary: regulations, crewing and qualifications are necessary for all commercial vessels to manage risk. I believe this exemption needs to go a lot further to limit the risk to vessel owners, vessel hirers and marinas.

## Response to EX 27 Questions

We are pleased to respond to the questions raised by AMSA in the explanatory material as follows:

Question 1: Do you think the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used only to provide short term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law?

Response: There should be a set of approved & required compliances to ensure safety and consistency.

Question 2: Only owners of vessels that are <24 metres in length are eligible for exemption under the proposed general exemption. Do you think this cut-off is appropriate?

Response: **In my experience vessels under 20meters fall into the "easy operable" craft** and this would be our recommended cut off point. Vessels over 20 meters really require crew and have far too complex operating systems and are usually computerized. There should also be an age consideration – vessels over 7 years should require AMSA approval. I also believe there should be a requirement for vessels over 9meters. Vessels smaller than this do not have the required amenities and facilities and are more precarious to move around in. Minimum age of 10+ should be enforced.

Question 3: There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of this intention?

Response: Newer vessels should not require individual approval but vessels of greater than 7 years it should be required.

Question 4: Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardised. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate?

Response: No, recreational vessels are not built to survey and would have been built to the then current Australian or international standards. It would not be practical to verify compliance with current Australian Standards without creating a survey type regime. It would be more practical to require the boat owner to verify that the vessel is fit for purpose to the intended use of overnight accommodation in a marina.

Question 5: Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure the safety of children and other potentially vulnerable passengers. (See eg: AS/NZS 4220:2010 - Bunk beds and other elevated beds, and, HB393 - Bunk beds for the short-term rental accommodation industry)

Response: No. It is not practical to require existing vessels to comply with the requirements of HB393 due to the configuration constraints within vessels. The Handbook was not drafted in contemplation of application to bunkbeds in boats. The exemption requires the boat owner to prepare a safety management plan and this risk,

amongst others, should be considered, and appropriate mitigation undertaken, as part of that plan.

Question 6: Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical standards mentioned in Division 1 of Schedule 1 (eg: ABP or proof of installation)?

Response: Yes, subject to the provision being modified to reflect fit for purpose and such evidence could then form part of the Safety Management Plan.

Question 7: Do you think that the proposed general exemption (below) is clear and easy to understand?

Response: Yes

Question 8: Is there any specific guidance AMSA can provide to assist industry with the proposed general exemption, if implemented?

Response: Yes, Communication of the exemption to State Maritime Agencies and though them to registered boaters so that they understand the regulatory regime. Work with the industry associations to provide clear messages to their members about the exemption.

**Additional – Marina facilities and amenities must be taken into consideration – vessel users should be required to use marina facilities which must be adequate.**

[REDACTED]

**Subject:** Committee Consultation on EX27 (short term marina accommodation)  
**Date:** Tuesday, 28 November 2017 11:05:59 PM

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Dear Consultation Team.

Please find below comment from the [REDACTED] in response to proposed Exemption 27 (short term marina accommodation) .

*[REDACTED] has responsibility for the management of Marine and Harbours Act boat harbours and maritime facilities [REDACTED] and manages around 30 maritime facilities. [REDACTED] is currently considering a trial of the emerging trend of 'Beds on Board' with boat owners able to provide short term accommodation opportunities on recreational vessels located within several of the State's boat harbours. In view of the fact that vessels will have to remain docked during any rental accommodation period, any perceived risk is considerably limited by the fixed nature of the vessel within the facility. In addition, the proposed use is likely to have a positive impact on the number, and experience, of visitors to the State's harbours.*

*It is considered the current AMSA requirements are too restrictive to allow the 'Beds on Board' proposal to be trialled successfully, with the current requirements considered a fatal flaw.*

*[REDACTED] is therefore strongly supportive of the proposed exemption.*

[REDACTED]

25 November, 2017

Australian Maritime Safety Authority  
GPO Box 2181  
Canberra ACT 2601  
Australia

Attention: Ms Clare East  
By email

Dear Clare,

feedback on Draft Exemption 27 – short term Marina Accommodation

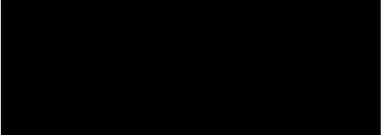
Thank you for the opportunity to provide feedback on the draft *EX27 Marine Safety (Short term Marina Accommodation) Exemption 2017*. is a platform that facilitates 'accommodation only' on boats in marinas. It is a global platform which was founded in the UK in 2015 and has thousands on boats listed and active on the platform predominantly in the UK and Europe but also in over 70 countries around the world. As a specialist platform operating exclusively to facilitate accommodation on boats in marinas, has both a unique perspective and relevant practical experience to provide feedback on this proposed exemption to deliver the core objectives of public safety and the protection of property while engaged in this specific use.

#### *Response to the proposed exemption*

Whilst we generally support the intent, approach and content of the exemption, we have attached a PDF version of the proposed exemption which has been highlighted in yellow to identify those sections of the exemption that we suggest require adjustment to enable the practical implementation of the exemption while achieving the core objectives outlined above. Our explanation and justification for these proposed adjustments are set out below:

**1. Unique Identifier:** The explanatory notes Part 2, page 2 states that vessels operating under the exemption will not be exempt from displaying a unique identifier number. This is not practical for state registered vessels as these will already display registration numbers in accordance with state law and be subject to state jurisdiction when navigating. There would also need to be a change to the UI application form as it design for DCV vessels in survey. Furthermore as the purpose of this is to enable MSIs to identify the vessel operating under the exemption, in practice the MSI will need to inspect the vessel at a marina and as such the outcome could be achieved by requiring marinas that approve the use, under Division2 (1) of the Exemption, to maintain a register of approved vessels for inspection by the MSI. We propose the addition of the following words to the exemption to accommodate this suggestion:

**1.3 The Marina that provides approval under this provision shall maintain a current register of vessels that it has approved under this exemption which shall be available for inspection by Maritime Safety Inspectors during business hours.**



2. *Limitation on length:* Part of the Definition of an 'EX27 Vessel' states that it shall be *<24m in length*. Given the nature of the 'accommodation only' use and that the exemption applies to vessels that are for recreational use, the larger private vessels are more suited to the provision of accommodation only. As such, we propose that the words *“,and which is <24m in length”* be removed from the definition of an EX27 Vessel. If there is some technical reason why there needs to be a limitation on length we suggest that this be changed to a minimum of '*<35m*' so that the majority of recreational vessels within marinas are covered by the exemption.

3. *Design and Construction Specifications:* The vessels proposed to be subject of EX27 are recreational vessels that may be local or internationally built. As such they would have been constructed to Australian, American or CE/ISO standards. As the vessels are not required to be in survey it is not practical to require or confirm compliance with NSCV or other current Australian/ISO standards. As such, we propose that in order to comply with Division 1 Sections 1, 2 and 4.1 the existing provisions be deleted and be replaced with:

1. *Electrical*

1.1 *The vessel's electrical system must be fit for purpose for the safe use of the vessel for accommodation only while berthed in a marina.*

2. *Gas*

1.2 *Where LPG gas appliances are fitted to the vessel, the vessel must have a current gas installation compliance certificate.*

4.1 *The vessels galley arrangement must be fit for purpose for the safe use of the vessel for accommodation only while berthed in a marina.*

We also suggest that the EX27 SMS content includes a new element as follows:

*Condition of the vessel*

*The owner must ensure that the vessel is fit for purpose for use as accommodation only in marinas including:*

- (a) Verifying that the electrical system and shore power connection are fit for purpose.*
- (b) Where LPG gas appliances are fitted to the vessel, the vessel must have a current gas installation compliance certificate.*
- (c) The vessels galley arrangement must be fit for purpose for the safe use of the vessel for accommodation only while berthed in a marina*
- (d) Safety equipment meets local regulatory requirements, is complete, serviceable and in date.*

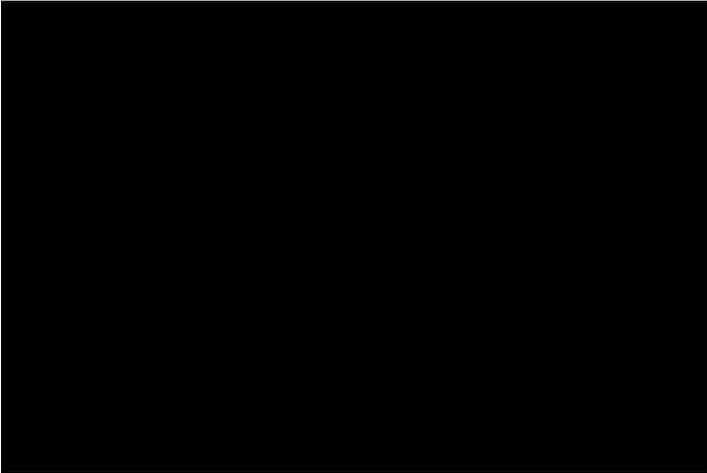
We would, of course, be happy to discuss these suggestions at your convenience.

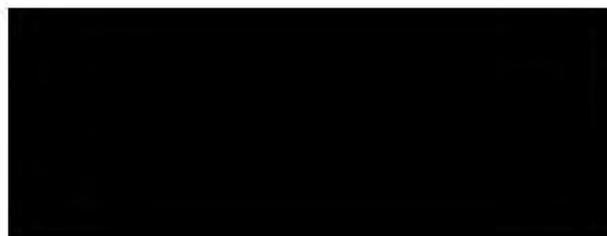
As you are aware, we have prepared a template SMS and guest instructions book to reflect the requirements of the Exemption, which we would happy to provide to you on request.



We have been liaising with leading marinas whereby we propose to prepare marina specific SMS templates that can then be tailored to individual vessels within the marina.

We remain available to discuss or meet with you to discuss any of the content contained herein at your convenience.





23 June, 2018

Australian Maritime Safety Authority  
GPO Box 2181  
Canberra ACT 2601  
Australia

Dear Sir/Madam,

**Exemption 27 Marine Safety (short term Marina Accommodation)**

I write in support of the proposed Exemption 27 Marine Safety (Short Term Marina Accommodation). I write in my personal capacity as a boat owner who intends to make use of this exemption.



A number of years ago I undertook research and published a paper targeted at identifying the future boaters and the implications of changing consumer behaviour on participation in boating. Participation in boating and boat ownership had been declining. Aspiration to boat ownership had been a behaviour started by Baby Boomers and followed by GenX. This has not been followed in the same way by GenY and subsequent generations now referred to as Millennials. International research shows that Millennials prefer experiences over possessions and have embraced the sharing economy through platforms like Airbnb, Uber, Go Get, Car next door, Camplify and many others. The sharing economy exists because technology enables the monetisation of underutilised private assets. Private boats in marinas sit unused more than 90% of the time. This is both unsustainable and a massive underutilisation of resources. It is also not financially sustainable in the long term and a failure of the industry to respond to these issues will see a decline in the engagement with, and prosperity of, the whole marine industry over time. We are already seeing this decline. This is recognised by industry leaders. Commensurately, the leading industry associations responsible for the long term prosperity of the Boating and Marina Industries Nationally and Internationally have publicly stated their support for the importance of the sharing economy to the future of the industry and as such their support for AMSA's response to this opportunity through the publishing of EX27.

Not everyone sees it that way. I have personally made considerable effort to engage with people and businesses that do not support EX27 to understand their objections and to identify solutions. Through these investigations, I have identified a number of consistent concerns that don't actually relate to the content of EX27 but more to the fear of the consequences of change that the sharing economy may represent. I have identified and commented on these views publicly and directly to objectors to EX27 which I have paraphrased in italics as follows:

*“EX27 is the thin edge of the wedge, soon AMSA will allow private boats to take passengers”*

I have explained my view that that the purpose of EX27 is to draw a line as to what is, and what isn't acceptable in this area. There is ignorance and uncertainty in the community as to whether vessels that are not underway and are walk on/walk off are subject to survey regulations. This exemption provides clarity and conditions under which the use of accommodation only on boats in marinas is permissible. Commensurately, it draws a line such that any use beyond that contemplated by the exemption requires compliance in accordance with the National Law.

*“I spend thousands of dollars every year keeping my boat in survey why should these boats not have to do the same”*

I have explained that, in my view, AMSA is taking a pragmatic approach of matching regulation with risk. The conditions of the exemption put the onus on the boat owner and the marina within which it is located to identify and manage the risks associated with the use. Given the low risk of the activity, the requirement for, and burden of, survey inspections is not appropriate or practical.

*“The new cost recovery regime under AMSA has increased my costs. If this exemption brings hundreds of new boats into the compliance system who is going to pay for compliance”*

I have explained my view that an exemption, by its very nature, runs for a period of time and is subject to review. If compliance becomes an issue there is the opportunity to review the terms of the exemption and the ways that the costs of compliance can be recovered. I agree that it would be unfair for one sector of the DCV sector to pay for the compliance costs of another and this should be monitored.

*“Its unsafe, what stops people having parties or doing damage to the marina or my boat”*

This is a particularly interesting one as almost all marinas accept overnight stays from visiting boats. These bookings are often over the phone and the people and vessel unknown. Upon arrival, the marina meets the boat owner and the collects insurance details and the overnight fee which is usually less than \$100. Where guests are looking to stay on a boat in the marina (as contemplated by EX27 and from overseas experience as a user of this service) there is communication back and forth about the booking, the guests are greeted on arrival, briefed on the boat and the marina and stay overnight on the boat. They are paying many hundreds of dollars and will have a significant bond. The boat owner and marina know a lot about the guests before they arrive. Only registered guests can stay on board. The boat owner and marina are motivated to make sure that this is a safe activity that causes minimal risk of damage to the boat or the marina. The key point being that the parties managing the activity are highly motivated to make sure that issues don't arise and as such is, in fact, a much lower risk activity than happens every day in marinas with other paying customers.

*“The law shouldn't be changed, full stop”*

The most common underlying reason for objection to EX27 is the perception of increased competition or disruption to the traditional conservative business models and market. This is often disguised behind regulatory or safety concerns that when challenged don't stand up to scrutiny. Intractability is the best indicator of ulterior motive. This is not a surprise and is recognised as the typical response of traditional industries/businesses to change. In NSW this was the position of the taxi industry to Uber and the industry suffered as a result. The NSW Business chamber published “Policy principles to foster the sharing economy in NSW” in 2015. The policy set out a number of principles that “governments should follow when developing regulatory frameworks for the sharing economy” namely:

1. *“Regulation should encourage the growth of commercial activity, not restrict it*
2. *The opportunity should be taken to reduce overall regulation across the visitor economy*
3. *Self-regulation should be encouraged before government intervenes*

4. *A cross-governmental approach is required to develop an efficient regulatory framework*
5. *Regulatory responses should be designed based on strong empirical evidence “*

The policy is quite insightful and predicative of the issues that we now face in response to EX27. As an example, the policy states:

*“The greatest threat to the sharing economy is a government regulation agenda that imposes restrictions on new businesses that shave away their competitive advantages and leaves those businesses operating as versions of what already exists. Excessive legislation and regulation will neutralise the positive gains generated by technology improvements, prevent innovation and stifle potential economic growth.*

*A worst-case scenario would be that heavy handed regulations resulted in a ban on sharing economy services and the transformative benefits it may herald for the future. Traditional forms of regulation should be selectively employed as corrective measures to create an even playing field for businesses both inside and outside the tourism sharing economy. “*

and

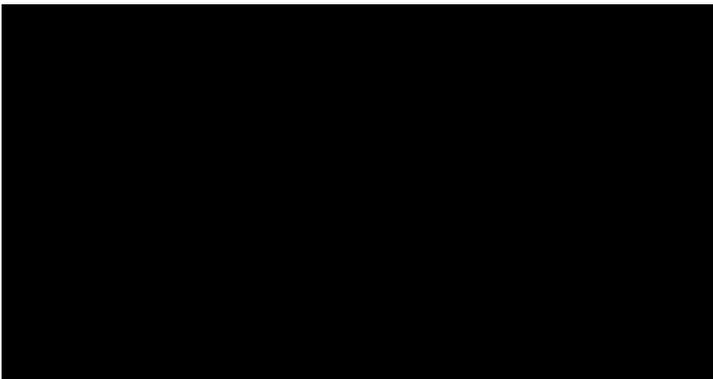
*“Traditional forms of regulation should be applied sparingly and where possible equity should be achieved by reducing regulatory burdens placed on non-sharing economy enterprises freeing them to compete directly with their sharing economy counterparts.”*

I would encourage the document to read as a whole as it encapsulates the challenges of regulatory reform in implementing balanced outcomes like EX27. It can be found online [here](#) : Interestingly, EX27 is of as much benefit to existing DCV operators, who feel threatened by its existence, as to new participants. In reality the new customers encouraged into the market by the sharing economy will filter though to all sectors of the market including marinas and DCVs. In fact it has been identified globally as an important pathway to the engagement of customers of the future.

My specific personal comments in relation to the proposed exemption are that I support it in principal but would suggest adjustment to item 1. Electrical, NSCV C5B and AS/NZS 3004.2:2014. My vessel was built to CE standards in 2005. These current Australian standards referred to in EX27 relate to the whole of the vessel which are not relevant to the proposed use therefore the requirement to verify compliance with these standards across the whole vessel is not appropriate or practical. I suggest that this section be deleted and be replaced with a requirement to ensure that the vessels electrical systems are fit for purpose for the use and a condition be contained within the Safety Management Plan with requirements to this effect.

I otherwise support the provisions of Schedule 1 Sections 4 and 5 and the balance of the document as drafted.

Subject to the comments above, I would encourage AMSA to finalise the Exemption at the earliest time.



Business Support, Standards  
Australian Maritime Safety Authority  
GPO Box 2181  
Canberra ACT 2601

25 June 2018

Dear Sir/Madam

### **Marine Safety (Short term marina accommodation) Exemption 2018**

The [REDACTED] is pleased to have the opportunity to make a submission to the consultation on short-term marina accommodation, commonly known as EX27. This submission has been developed following extensive consultation with [REDACTED] members across Australia, including, but not limited to, marina owners/operators and commercial vessel operators: within [REDACTED] membership of over 800 marine businesses, are an array of other industry operators, such as boatbuilders, retailers, marine engineers, professional services and this submission balances the interests of all members as far as is practicable.

The [REDACTED] has a brief to promote and sustain the boating industry across Australia, ensuring the long-term success of the industry and the ongoing prosperity of members' businesses. A key facet of this is looking for opportunities to grow the number of people participating in and enjoying the boating lifestyle. Understanding and responding to contemporary consumer trends and emerging business models that service such is vitally important and over the last two years, [REDACTED] has joined with its global peers to explore and identify opportunities presented by the sharing economy that could support growth in boating.

In doing so, [REDACTED] is keenly aware that such opportunities should be embraced and activated in a way that is fair and equitable to all sectors of the industry and commensurate with [REDACTED] overall philosophy of matching regulation with risk while seeking to reduce regulatory burden and cost to its members. Such an approach must provide clarity as to what is acceptable and what is not: [REDACTED] therefore welcomes AMSA's efforts to design and implement a regulatory framework for short-term marina accommodation that can be considered to be a precedent-setting framework for other aspects of the sharing economy interacting with the marine industry in Australia.

It is relevant to note that [REDACTED] global industry association [REDACTED] has recently drafted a guideline for peer-to-peer boat share schemes which closely matches the concepts and provisions of EX27, confirming that this approach is in line with other, international jurisdictions and industry best-practice worldwide.

### **Detailed response**

The consultation asks a number of questions and in response to such [REDACTED] would comment as follows.

#### **Question 1**

[REDACTED] considers the regulatory outcome of EX27 to be appropriate, subject to the following comments and recommendations:

At the time of becoming an EX27 vessel, the owner of such should be required to make a declaration that the vessel complies with all requirements of the exemption, specifically those in Schedule 1. This should be lodged with the marina in which the EX27 vessel is berthed as part of the marina's EX27 program management. The vessel owner should be required to renew this declaration annually and should take steps to support such a declaration at five-yearly intervals by obtaining an inspection report as to the condition of the vessel and systems from an appropriate, competent person. This may be as part of a periodic insurance survey or a specially commissioned report as relevant.

In managing environmental risks, EX27 vessels should be fitted with a black-water holding tank. Guests should be advised of toilet facilities available at the on-shore marina complex and recommended that such be used in preference to onboard facilities (this being the norm with owners and guests using boats berthed in a marina). If at any time during a booking should the holding tank reach capacity, the marina management or owner should arrange for it to be emptied via a pump-out station: if the EX27 vessel is required to be moved from its berth to reach a pump-out station, the guests should not be permitted to be on board during the time away from the berth.

Persons (the briefer) conducting a show-out to guests, ie taking the guests to the vessel, welcoming on board and providing a briefing as to the operation of hotel and related systems, safety systems and equipment, should be competent to conduct such a show-out, having met the conditions required of a briefer in NSCV F2, noting that this includes a requirement to hold a recreational vessel operator's licence. The briefer should have a knowledge of individual EX27 vessels, either as an employee/agent of the marina or as the owner of the subject EX27 vessel.

[REDACTED] would recommend reviewing the definition of a marina, noting that there are instances, particularly on some inland waterways, where marinas are often not of as formal a nature as those in coastal regions. Consideration could be given as to a minimum number of berths, perhaps 10, that is considered to constitute a marina. In all instances, there must be a management organisation at the marina capable of managing the EX27 program and maintaining appropriate records.

Concerns raised by [REDACTED] members operating houseboats related to the number of persons permitted on board EX27 vessels should be addressed by either capping the number of persons for which accommodation is available on any single EX27 vessel to 12, or by considering not making the exemption available to standard houseboats, as defined in NSCV F2.

### **Question 2**

█ would recommend that the length cut-off for EX27 vessels be 35m, in line with other provisions of the National Law.

### **Question 3**

█ would recommend that a register of EX27 vessels is maintained by the marina in which such vessels are berthed and that this register be periodically reported to AMSA: on an annual basis or when a vessel moves in or out of the marina's EX27 program. The register should record the registration number of the vessel and the declaration of the owner as to compliance with requirements of the exemption. Such a register is expected to be an intrinsic part of the marina's management system for an EX27 program. █ does not consider that a unique identifier issued under the National Law is appropriate or required if such a register is maintained.

### **Question 4**

█ considers the technical standards applicable to EX27 vessels to be broadly appropriate, but would recommend that reference also be made, where possible, to international standards for electrical and gas installations, where such are relevant, noting that many larger vessels in the modern recreational vessel fleet in Australia are imported vessels designed and constructed in compliance with regulatory systems in Europe and the USA.

A key element of managing onboard safety of guests and the potential impact on surrounding berthed vessels, is the safety management plan and system (SMP/S). This should be drafted jointly by the owner and marina operator, as appropriate, to detail all onboard safety systems, safety equipment and emergency procedures, plus pontoon or shore-side based fire-fighting appliances, emergency alerts and evacuation protocols.

### **Question 5**

█ does not consider it necessary to list any additional technical standards for elevated or bunk beds, noting that the general safety provisions of the National Law and other (international) regulatory settings, along with industry norms developed over many years of design improvement of recreational vessels, adequately address such.

### **Question 6**

█ would strongly recommend that a record of all relevant documentation related to compliance with technical requirements of an EX27 vessel be maintained by the vessel owner: it would be expected that much of this would be maintained in an electronic format that is accessible, as required, by relevant authorities, including the marina management where the EX27 vessel is berthed. Where appropriate, certification of compliance of any element of the vessel or its equipment should be maintained in written form within a reference handbook kept aboard the vessel, such as a compendium of hotel and safety systems.

### **Question 7**

█ considers that EX27 is clear and easy to understand, notwithstanding additional commentary in Question 1 and the need to develop further provisions of EX27 to accommodate such.

**Question 8**

Industry is always assisted in complying with regulation when it is clear and easy to understand, but particularly so when there is supporting guidance documentation. [REDACTED] would recommend AMSA make available templates for development of SMP/S by vessel owners and/or marina managers, check-lists for marinas seeking to list EX27 vessels and for show-out of such to guests. [REDACTED] would also recommend a clear warning be made within the text of EX27 that the exemption does not provide for the vessel to be used for a voyage or to leave the berth at any time with guests on board.

**General comment**

In further comment, following detailed discussion with members across all segments of [REDACTED] membership, a key issue raised has been that of compliance enforcement, of any and all commercial vessel operations. Members operating vessels in full commercial survey have expressed concern about the possibility of EX27 opening up the market for illegal charter: [REDACTED] does not consider that EX27 itself would be a cause of such activity, as illegal charter is already a live issue and is regularly reported to relevant authorities. However, [REDACTED] would recommend that AMSA and its state delegate compliance agencies seek to maintain an appropriate, active and effective level of compliance enforcement to assure commercial vessel operators that all participants in the sector are properly managed.

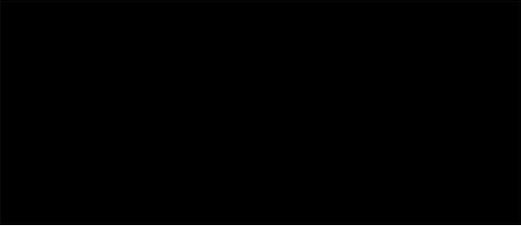
[REDACTED] is available for further discussion on this matter as required via the author of this submission.

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]



## **Australian Maritime Safety Authority**

EX27 Marine Safety (Short term marina accommodation) Exemption  
2018



Thank you for the opportunity to comment on EX27 Marine Safety (Short term marina accommodation) Exemption 2018.

### **About**

Founded in August of 2008 and based in  is a trusted community marketplace for people to list, discover, and book unique accommodation and experiences around the world.

Our company and the  community are leaders in the new sharing economy, a movement that will represent a significant part of the world's future economic growth. Millions of hospitality micro-entrepreneurs are now empowered to help make ends meet using their underutilised assets or by sharing their passions. This movement is distributing economic opportunities across diverse neighbourhoods and providing millions of people with a trusted platform they can use to benefit their families, earn additional income as hosts, or find unique lodging opportunities and travel experiences as guests.

Since 2008, more than 300 million guests have arrived at more than 5 million  listings worldwide, enjoying a safe and positive experience on . We have worked hard to provide tools and resources that promote transparency and trust, and we are proud to be a global leader in providing education on these issues for our community.

Simply put,  allows anyone to belong anywhere. Our platform helps strangers experience a city as a local does and lets hosts become

ambassadors for the communities they love, using communication, payment, and trusted tools to empower users around the world.

## **The [REDACTED] community in Australia**

[REDACTED] community has continued to grow into a significant presence in Australia, and it plays an increasingly vital role in the visitor economy.

[REDACTED] is used by a broad spectrum of hosts ranging from people who make extra income from sharing space in their own homes, to the long established holiday letting industry, even to traditional accommodation providers who increasingly list their businesses on our platform. [REDACTED] is used by hosts who are creatives, artisans, and small businesses as an online platform to share their passion with the world and unlock their time and potential to create new economic activity.

In 2017, our [REDACTED] community welcomed over 5 million guests across the country -- both domestic and international travellers. There are currently 137,900 active [REDACTED] listings in Australia, and in 2017 the average [REDACTED] host in Australia earned \$5,200, supporting hosts to earn supplemental income from sharing their spare space. This includes listings across Australia that are categorised as boats. Since being launched in March 2017 and November 2017 respectively, there are currently 200 Experiences in Sydney and Melbourne.

The sharing economy helps to build resilient communities where locals can create supplemental income and robust economies that are supported by increased visitation and spending by [REDACTED] guests in areas that do not traditionally benefit from the tourism dollar.

## **[REDACTED] contribution to the Australian economy**

The growth and mainstream adoption of the sharing economy is leading to fundamental changes in how people travel and experience destinations, opening up possibilities to build a robust and resilient visitor economy. These trends are resulting in increased travel, increased spending, and increased engagement with different parts of a city than

visitors have typically visited, supporting retail and other small businesses.

██████████ community is an important contributor to the Australian economy. A recent report by Deloitte Access Economics -- *Economic effects of ██████████ in Australia*<sup>1</sup> -- found that in 2015-2016 ██████████ guests who stayed in Australia spent \$2 billion, which supported 14,409 jobs, including more than 3,700 jobs in regional areas in brick-and-mortar businesses such as cafes, restaurants, and retailers, and contributed \$1.6 billion to Gross Domestic Product.

### **EX27 Marine Safety (Short term marina accommodation) Exemption 2018**

The changing nature of travel means people increasingly don't want mass produced travel experiences. Travellers are seeking out more local, unique and authentic experiences and as such expect a greater diversity of accommodation.

As such, ██████████ supports the principles proposed under the EX27 Marine Safety (Short term marina accommodation) Exemption 2018 to remove the regulatory burden by providing an exemption category for vessel owners who wish to undertake short term accommodation when berthed at a marina. This approach strikes the right balance between managing the risk profile of these vessels versus the compliance burden associated with an application and approval process. It acknowledges the benefits to both vessel owners who wish to participate in the sharing economy and guests seeking different travel experiences, and can help open up marine travel experiences to a whole new demographic of domestic and international travellers.

██████████ supports the provisions set out in Schedule 1 relating to compliance with a base set of safety standards. Given the nature of short term accommodation involves an inherently different risk profile compared the way in which people share their homes, these provisions



are considered appropriate to provide for the safety of guests, other vessels, and marinas.

Notwithstanding ██████ support for the intention of the following provisions, Airbnb suggests that the Australian Maritime Safety Authority also consider the following:

- With regard to the definition of EX27 vessel, the removal of the reference that only vessels under 24 metres in length fall within the scope of this definition and broadening this definition to also include vessel which is longer than 24 metres.
- With regard to the definition of short term marina accommodation, the removal of the fourteen day cap on the number of nights a guest or group of guests may occupy the vessel in any one stay under the exemption as this is a restrictive arbitrary time period. ██████ considers that removing this cap would provide flexibility for travellers wishing to stay on a vessel under this exemption.
- The removal of the provision which requires a vessel owner to obtain written approval to conduct short term accommodation from the marina where the vessel will be berthed. ██████ suggests that the AMSA consider amending Division 2, cause 1.1 to read:

1. Approval in writing by the marina

1.1 The owner of the vessel ~~must~~ may be required to:

- (a) obtain from the marina where the vessel will be berthed approval in writing for the short term accommodation operation; and
- (b) keep a copy of that approval in the vessel's safety management system.

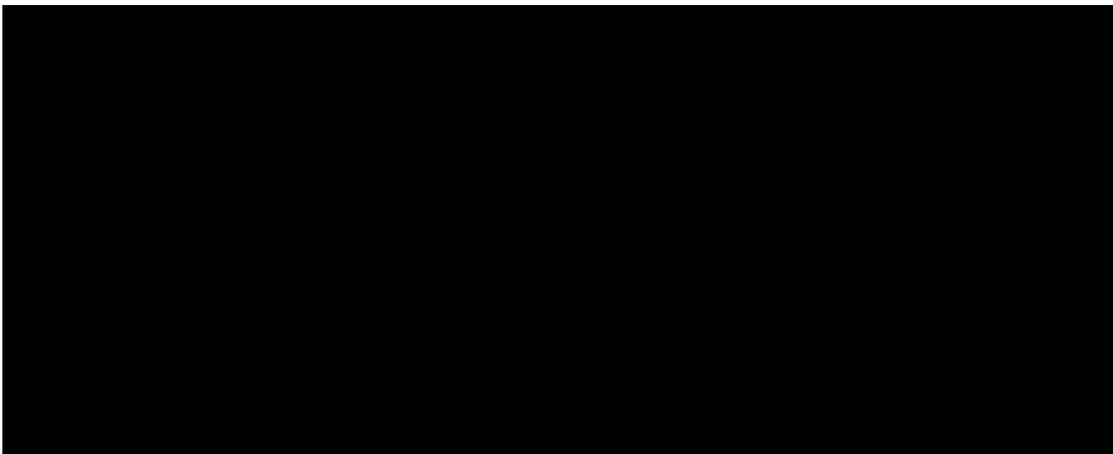
- With regard to the infringement or prohibition notices in Division 2, section 2, the addition of a clause that provides an avenue for an owner of the vessel issued with an infringement

or prohibition notice to seek exemption from the 12 months prohibition, given that there may be occasions where extenuating circumstances are relevant and should be taken into consideration. In other words we suggest that a vessel owner can appeal to have the 12 months period waived or reduced upon application and at the discretion of the AMSA based on the principles of natural justice and due process.

Finally, if EX27 Marine Safety (Short term marina accommodation) Exemption 2018 is implemented as outlined above, [REDACTED] would like to offer to play a constructive role in helping to educate our host community on their obligations, to ensure that any vessel hosting is conducted in a responsible and respectful manner.. In partnership with the AMSA, this could for example include:

- communication by email with important information to hosts potentially affected by the exemption; and
- conducting educational workshops for our host community in partnership with the AMSA.

We look forward to working with the AMSA in relation to these issues, and would be pleased to engage further on the deliberations related to the EX27 Marine Safety (Short term marina accommodation) Exemption 2018.



18 June 2018

Australian Maritime Safety Authority  
GPO Box 2181  
Canberra ACT 2601  
AUSTRALIA

Dear Sirs

**Draft Exemption 27 Marine Safety (short term Marina Accommodation)**

We refer to the recent release of the proposed EX27 Marine Safety (Short term Marina Accommodation) Exemption 2017. [REDACTED] We also have [REDACTED] so we are keenly interested in opportunities for bringing new customers to our marina and open up the opportunities for more people to enjoy the boating lifestyle. As such, we support AMSA's proposal, through this exemption, to provide clarity for Marinas and Clientele alike, of the regulatory framework for new opportunities in the sharing economy.

This exemption is important, not only to provide clarity as to what is permissible but also to draw a line in what is not permissible so that the broader community, boaters and non-boaters alike, are fully informed.

Our response to the questions raised by AMSA in the explanatory material as follows:

Question 1: Do you think the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used only to provide short term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law?

The draft exemption provides clarity on what is permissible within the sharing economy and responds with a regulatory approach that matches regulation, and regulatory burden, with the low risk nature of the activity. Given the requirement for the boat owner to seek the approval of the marina it gives us the opportunity to satisfy ourselves that the vessel and its use in this way is appropriate and that suitable insurances and codes of conduct are in place.

Question 2: Only owners of vessels that are <24 metres in length are eligible for exemption under the proposed general exemption. Do you think this cut-off is appropriate?

We would suggest that if the conditions of the exemption are met there does not need to be a restriction on participating boat length.

Question 3: There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of this intention?

There would seem to be no need for boat owners to apply to AMSA for approval as that would require significant work for AMSA but perhaps requiring boat owners to notify their intention would be simpler and participating Marina's could be required to keep an up to date record of vessels that have been approved under their requirements.

Question 4: Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardised. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate?

Some of these conditions seem to be excessive. Most of the participating vessels under this provision will have been built to applicable standards. These vessels are not required to be in survey and so to require them to confirm their compliance with current NSCV or any of the current Australian standards noted in the exemption. It would seem, therefore, impractical to define grandfathering provisions for vessels previously not constructed to survey.

It would seem a more appropriate response, in order to comply with Div 1 Sections 1, 2 & 4.1 the existing provisions be deleted and replaced with better requirements for the risk assessment and the Safety Management Plan that require the vessel be more fit for purpose as overnight accommodation in a Marina. Under this plan we are more likely to get better safety outcomes.

We support the provisions of Schedule 1 Sections 4 and 5 as drafted.

Question 5: Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure the safety of children and other potentially vulnerable passengers (See eg: AS/NZA 4220:2010-Bunk beds and other elevated beds and HB393 – Bunk beds for the short-term rental accommodation industry)

It is not practical to require existing vessels to comply with the requirements of HB393 due to the configuration constraints within vessels. The Handbook was not drafted in contemplation of application to bunkbeds in boats. We would suggest that the risk associated with the use of bunkbeds in boats should form part of the risk assessment undertaken to form the safety management plan.

Question 6: Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical standards mentioned in Division 1 of Schedule 1 (eg: ABP or proof of installation)?

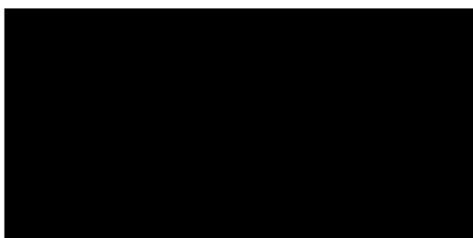
Yes

Question 7: Do you think that the proposed general exemption (below) is clear and easy to understand?

Yes

Question 8: Is there any specific guidance AMSA can provide to assist industry with the proposed general exemption, if implemented?

Engaging with the BIA and MIA and delivering clear messages to their members as to their requirements under the scheme. We would engage with the Qld Department of Transport and Main Roads to ensure requirements and regulations of the scheme are communicated to the boating public.



18 June 2018

Australian Maritime Safety Authority  
GPO Box 2181  
Canberra ACT 2601  
AUSTRALIA

Dear Sirs

**Draft Exemption 27 Marine Safety (short term Marina Accommodation)**

We refer to the recent release of the proposed EX27 Marine Safety (Short term Marina Accommodation) Exemption 2017. [REDACTED] is a 330 berth marina located in the [REDACTED] Brisbane. We also have a 240 boat Dry Storage facility so we are keenly interested in opportunities for bringing new customers to our marina and open up the opportunities for more people to enjoy the boating lifestyle. As such, we support AMSA's proposal, through this exemption, to provide clarity for Marinas and Clientele alike, of the regulatory framework for new opportunities in the sharing economy.

This exemption is important, not only to provide clarity as to what is permissible but also to draw a line in what is not permissible so that the broader community, boaters and non-boaters alike, are fully informed.

Our response to the questions raised by AMSA in the explanatory material as follows:

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The draft exemption provides clarity on what is permissible within the sharing economy and responds with a regulatory approach that matches regulation, and regulatory burden, with the low risk nature of the activity. Given the requirement for the boat owner to seek the approval of the marina it gives us the opportunity to satisfy ourselves that the vessel and its use in this way is appropriate and that suitable insurances and codes of conduct are in place.

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It would seem a more appropriate response, in order to comply with Div 1 Sections 1, 2 & 4.1 the existing provisions be deleted and replaced with better requirements for the risk assessment and the Safety Management Plan that require the vessel be more fit for purpose as overnight accommodation in a Marina. Under this plan we are more likely to get better safety outcomes.

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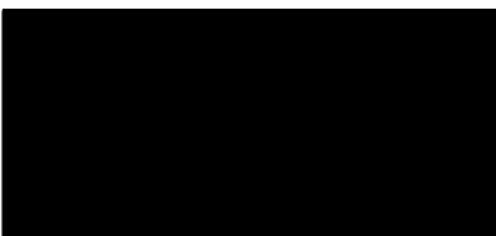
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Engaging with the [REDACTED] and delivering clear messages to their members as to their requirements under the scheme. We would engage with the Qld Department of Transport and Main Roads to ensure requirements and regulations of the scheme are communicated to the boating public.





Australian Government  
Australian Maritime Safety Authority

# PUBLIC COMMENT FORM

Please submit this form by either:

Email: [consultation@amsa.gov.au](mailto:consultation@amsa.gov.au)

Post: Business Support  
Standards  
Australian Maritime Safety Authority  
GPO Box 2181  
Canberra ACT 2601

## Personal details

[REDACTED]	
[REDACTED]	[REDACTED]

### Please note:

- For submissions made by individuals, all personal details other than the State or Territory in which you reside will be removed from your submission before it is published on the AMSA website.
- Submissions may be placed on the AMSA website, shortly after receipt, unless prior contact has been made concerning material supplied in confidence, or to request a delayed release for a short period of time. **Submissions will remain as public documents indefinitely.**

**Please treat my submission as confidential.**  
By checking this box, you are indicating that you do not wish AMSA to publish your submission as part of the consultation process. Please refer to the Privacy Statement below for more information on how AMSA will handle your personal information.

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#### Privacy Statement for regulatory consultation

For more information about how we protect your privacy and handle your personal information, please see our [Privacy Policy](#).

In order to participate in, and contribute to, the regulatory consultation process, you will be requested to provide an email address, phone or fax number, and other personal details. AMSA collects this personal information for the purposes of informing and receiving feedback from its stakeholders on proposed regulatory changes. We will only use and disclose your personal information for any other purpose in a circumstance as described within the "use and disclosure" section of AMSA's Privacy Policy.

We may publish your responses to consultations, including your name and your State/Territory, unless you have expressly advised us not to. The format of any such publication will be as a compilation of submissions received, with other contact information removed. By making a submission you agree and authorise AMSA to publish, at its complete discretion, your submission in this format. Your submission will be treated as confidential only if you have indicated this in the submission process. AMSA reserves the right not to publish any submissions at its complete discretion. For copyright, disclaimers and information on external links applying to the regulatory consultation process, please see [www.amsa.gov.au/copyright/](http://www.amsa.gov.au/copyright/)

Provided below are comments on (this section must be completed):

Document name <b>EX27 Marine Safety (Short term marina accommodation) Exemption 2018</b>
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Reference (Number of Section, Clause, Table, Figure, Issue etc)	Comments (include the reasons for any change to assist AMSA in understanding your concerns)
	<p>Here are some issues with Ex27 I have, while I consider the safety aspects the most important, I have tried to address other areas for concern allowing EX27 to proceed will create and some of the misconceptions the owners of Flotespace and beds on board are promoting. Where possible I have backed up my points with facts, figures and real life case studies. I have so many more points to make but I have limited this to 7 pages.</p> <p>I am all for short term rentals, as long as the vessel is in full commercial survey. I strongly oppose EX27.</p> <p><b>Problem: Comparing beds on board/flotepace etc to other sharing/online platforms, namely Uber.</b></p> <p>Uber cars need to pass an initial inspection and then complete YEARLY inspections thereafter. To pass the car must be less than 10 years old and have a current pink slip amongst other things. The driver must also meet age and experience requirements along with back ground checks. If uber can implement stringent tests for vehicles and drivers, why does this not apply to EX27boats?</p> <p><b>Solution:</b> Initial inspections and yearly inspections for vessels from qualified surveyors, background checks for hosts.</p> <p><b>Problem: Increased Risk of death by drowning.</b></p> <p>Royal Life Saving Report has found that 473 people drowned in Australian waterways whilst participating in boating and watercraft activity over the past 10 years (2005/06 – 2014/15). 19 of those were getting on and off a vessel, 58 from falling off a vessel and 16 while the vessel was stationary. A total of 93 (20%) people died doing activities guests will do when on vessels with EX27 ie. potential Flotespace, Beds on board and AirBnB customers.</p> <p>Only 4% of the total deaths were in an employment capacity or on a charter. Therefore 96% of deaths were on RECREATIONAL vessels, vessels which don't comply with safety standards, or have professional crew onboard.</p> <p>Another example of lives lost, is in the UK; the national water report stated in 2017, 14 people died in a marina or dock; either by getting on/off a vessel or walking along the marina or dock. This is an increase from 8 lives lost in 2016, an increase of almost 50%. Is that due to the increase in numbers of people in marinas from beds on boards which took</p>

force in 2016?

If EX27 is to be passed, with more people on recreational vessels there will be more risk of drownings.

Solution:

All vessels should be to current commercial survey standard with qualified crew onboard.

**Problem: International boats generating illegal income.**

EX27 creates a loop hole for travellers who don't have work visas to generate an income. For example an international boat can sail into Australia rent out their boat for 3 months while the host is on a tourist visa to earn money and then sail away.

Or said person leaves the country and continues to earn money which is then sent overseas.

Solution:

Vessels need to be Australian registered vessels with a Unique Identifier number, hosts should prove their residency status before being allowed to rent out their vessels.

**Problem: AirBnB is being banned in countries.**

Amsterdam, Berlin, Palma, Paris and more recently Japan have/are banning AirBnB due to its negative impact on the economy. It is even being questioned whether it should be banned in apartment blocks in Australia. Why is something so controversial with proven negative impacts on local communities, economy even being considered?

Ex27 will cover all the current airBNB and the emerging companies; flotespace and beds on board.

Solution: Do not allow EX27. Focus on our growing commercial operators who contribute to the local and national economy, provide jobs for locals and pay taxes and more importantly pay for their licenses/tickets which pay for AMSA.

**Problem: Sharing platforms stimulate the economy.**

This is not true for boat sharing. The vast majority of boat owners are in the AB and more recently the C socio-economic spectrum with household incomes over \$103870 in 2016 - figures from the Roy Morgan Research. Where as the median gross house hold income in Australia, from the 2016 census is \$74,776.

The clientele who own boats already have above average incomes, therefore it is not boosting the economy instead allowing the rich to get richer. How is their additional income regulated? The sharing platforms do not monitor or govern incomes or GST leaving it up to the individual

themselves thus creating a direct link to tax invasion.

Solution:

By commercially registering vessels for business purposes it highlights vessels to the authorities their purpose is to earn revenue. Giving a clear definition of vessels for business or pleasure.

**Problem: Inadequate sleeping space**

EX27 does not specify what type of vessel or accommodation facilities it needs to be, does it need a bunk? A bed? Can you sleep on the floor? Surely that should of been included within the rules, it is after all for overnight accommodation.

Department of Transport and Main Roads 2014 census stated there were 250231 registered recreation vessels in Queensland. Can all these vessels take overnight passengers? Only 15306 are full cabin cruisers, of this who knows how many have adequate sleeping space.

Solution:

Vessels must have a bed/bunk per person of which complies with NSCV part c, ensuring overnight guests have sufficient space to sleep.

**Problem: The vessels are old and standards of said vessels are out of date.**

Out of the 250231 recreational vessels registered in Queensland in 2014, 49288 we older than 23 years old, 161787 are older than 10 years old. 65% of recreational vessels registered in Queensland are older than 10 years old, meaning their standards are 10 years out of date.

Uber does not allow vehicles older then 10 years old, but there is no requirement for boats in EX27.

Solution:

Inspections from qualified surveyors to ensure vessels are safe/standards are adhered to.

**Problem; Risk of fire**

Vessels in a marina are within the close proximity of one another. If a guest on a short term rental, uses an uncertified BBQ and sets the boat alight, it is not only said vessel at risk, the whole marina dock is at risk.

Just like what happened less than 6 months ago in NSW.

<https://www.9news.com.au/national/2017/12/15/06/22/millions-of-dollars-of-boats-burn-in-nsw-marina>

Within the last week a vessel owner in NSW set his boat alight while cleaning. Every time a vessel get used for short term accommodation it will result in cleaning. Imagine if this was a family who wanted to avoid the cleaning surcharge added at the end of the short term rental so cleaned the vessel themselves.

<https://www.facebook.com/9News/videos/1992940064087154/>

Solution:

Inspections from qualified surveyors to ensure vessels are safe/standards are adhered to. Use qualified crew.

**Problem: No funds to enforce/monitor/regulate the vessels.**

It quite clearly states within the Management of Waters and Waterside Lands Regulations of N.S.W. that a license is required if the "accommodation of vessels of guests or other persons" along with the relevant fees structure associated with said license.

See below excerpt;

36 Classification of occupation licences and fees—other than boatshed or similar business activity etc

(1) If an occupation licence is sought otherwise than as incidental to the conduct in navigable waters of a boatshed or similar business activity, the accommodation of vessels of guests or other persons or the handling of floating timber or other cargo or goods, an application in respect of any specified floating object, apparatus or vessel, as the case may be, may be made for a licence of one or more of the following classes, that is to say:

(a) class 1—if the application relates to a vessel of less than 7 m in length,

(b) class 2—if the application relates to a vessel of 7 m or more, but less than 11 m, in length, or

(c) class 3—if the application relates to a vessel of 11 m or more in length (not being a vessel referred to in paragraph (1)).

(d)–(p) (Repealed)

(2)–(4) (Repealed)

36A Fee for occupation licence—other than for boatshed or similar business activity

(1) The annual fee payable for an occupation licence in the Sydney Harbour (Western) locality or the Pittwater locality is:

(a) in respect of a class 1 licence—\$324, or

(b) in respect of a class 2 licence—\$324, plus an additional \$111 for each metre or part of a metre by which the length of the vessel exceeds 7m, or

(c) in respect of a class 3 licence—\$768, plus an additional \$217 for each

metre or part of a metre by which the length of the vessel exceeds 11m.

(2) The annual fee payable for an occupation licence in the Sydney Harbour (Eastern) locality is:

- (a) in respect of a class 1 licence—\$506, or
- (b) in respect of a class 2 licence—\$506, plus an additional \$170 for each metre or part of a metre by which the length of the vessel exceeds 7m, or
- (c) in respect of a class 3 licence—\$1,186, plus an additional \$337 for each metre or part of a metre by which the length of the vessel exceeds 11m.

(3) The annual fee payable for an occupation licence in a locality other than a locality referred to in clause (1) or (2) is:

- (a) in respect of a class 1 licence—\$217, or
- (b) in respect of a class 2 licence—\$217, plus an additional \$47 for each metre or part of a metre by which the length of the vessel exceeds 7m, or
- (c) in respect of a class 3 licence—\$405, plus an additional \$86 for each metre or part of a metre by which the length of the vessel exceeds 11m.

Again Referring to Management of Waters and Waterside Lands Regulations—N.S.W.

The definition of a Houseboat;

Houseboat means a vessel or floating object, other than a seagoing ship or a visiting small craft (within the meaning of Regulation 34A), inhabited as a dwelling in the course of any six consecutive months for a period exceeding:

(a) one period of not more than twenty-one consecutive days, (b) two periods of not more than ten consecutive days each, (c) a number of periods:

(i) each of not less than one day, (ii) none of which exceeds three days, (iii) each of which is separated from any other by an interval of at least three clear days, the total of which is not more than thirty-one days,

(d) notwithstanding paragraphs (a), (b) and (c): (i) one period of not more than twenty-one consecutive days, and

(ii) a number of periods calculated in accordance with paragraph (c) the total of which is not more than thirty-one days, or

(e) notwithstanding paragraphs (a), (b) and (c): (i) two periods of not more than ten consecutive days each, and

(ii) a number of periods calculated in accordance with paragraph (c) the total of which is not more than thirty-one days.

In accordance with Management of Waters and Waterside Lands

Regulations—N.S.W.

37 Application for occupation licence

(4) In addition to the other requirements of this Regulation, an applicant for an occupation licence for a vessel or floating object used or intended to be used as a houseboat shall supply to the Board:

(a) written evidence that the Council of the City, Municipality or Shire the boundary of which most nearly adjoins the locality in which the licence is sought is aware of and does not object to the proposed location and use of the vessel or floating object and the standard of accommodation provided therein, and

(b) written evidence that the owner or occupier of the land from which access to the vessel or floating object is proposed to be obtained consents to the use of that land for that purpose.

Solution:

Therefore a vessel of say 15m intending to operate AirBnB within a marina cannot do so without written permission from the council AND written permission from the marina and pay a \$1638 yearly fee.

*Additional rows may be added by clicking the tab key at the end of the last entry.*

To Whom it May Concern.

This feedback is being submitted on behalf of [REDACTED] These views were provided by the members [REDACTED] and have been summarised for submission.

Exemption 27 is flawed in five main areas.

1. Safety
2. Environment
3. Qualifications
4. Enforcement
5. Business

### **Safety**

There is no doubt that exemption 27 relates to activities that can only be carried out by a commercial vessel (DCV). As such an exemption is completely unacceptable. To allow EX27 activities without even an application process is destined to open a can of worms that the waterways do not need.

Initial and then periodic surveys must be carried out for a vessel to be used commercially.

An EX27 vessel may not be allowed to leave a marina but it is not immune to corroded skin fittings, leaking stern glands, faulty electrical systems, faulty gas systems, faulty bilge alarms, low or non routine maintenance. Inexperienced recreational vessel owners can not be expected to identify and manage maintenance and safety issues that may arise.

The only risk that a vessel secured to a marina is immune from in comparison to a charter vessel is the risk of collision, and perhaps the risk of an engine room fire. Every other risk is the same whether the vessel is floating at a marina or underway and as such regular safety inspections are essential.

The only way in which AMSA can “safely” relax the rules is to create a new class of survey requiring regular inspections by an accredited surveyor. A new class for example 5E needs to be created allowing boats that do not leave a marina to be used commercially.

The unique identifier must have a restricted set of numbers so that if the vessel is underway with what appears to be a charter it can be immediately stopped and inspected. Eg all 5E vessels have UIN 7XXXX.

The rules can be relaxed around issues relating to stability if a CE certificate is held, shaft sizes, collision bulk heads etc but not around any issue that directly relates to people staying on board the boat.

I further propose that the number of passengers allowed on board be restricted to the number of berths. Eg a vessel may be able to hold 8 PAX however if there are only 2 berths then only 2 PAX are allowed on board.

The AMSA Explanatory Material - Part 1 – Background to the proposed exemption states

*It has been identified that applying the full extent of the National Law, including the requirement to obtain a certificate of survey and certificate of operation, to vessels being used in this way does not appropriately match the risk with the regulatory burden imposed.*

My question to AMSA on this statement is how did you determine that? Who decided that the risk of having unqualified guests on board a boat, during the night, alone, and unsupervised, is LESS of a risk than a charter boat with qualified crew trained in safety and first aid with a legal duty of care over passengers on board?

The regulatory red tape required for a charter boat to be allowed to be used for over night accommodation is exponentially harder to cut through, yet there are trained professionals on board to manage and monitor safety. How is that more of a risk and easier to justify the regulatory burden?

There is absolutely zero “decreased” risk associated with sleeping on board a recreational boat. Zero. It is more risky due to the lack of professional supervision and as such regulatory burden is an issue then it should be treated the same or harsher than a charter vessel wanting to apply for overnight accommodation.

## **Environment**

Nowhere in any of the documentation is there mention of the requirement for blackwater or greywater holding tanks. The vast majority of recreational boats either do not have holding tanks or have tanks with the overboard discharge valve set to “overboard”.

Further to that if there is a holding tank on board, and there are guests on board for up to 14 days, when does the vessel pump out? Where does the vessel pump out? If the vessel can not leave the berth, how does the vessel pump out?

Marinas will be inundated by sewage under EX27 causing serious health risks for guests, marina tenants, and all users of the waterways, as well as shallow water sea life.

If an argument is made that the marina has bathroom facilities there are a few points to note

- Not all marinas have bathroom facilities
- Those that do, have not all got 24 hour access
- The nature of most people will be to walk a few feet to use an operable “private” toilet rather than walk 50 meters or more down a jetty to use a “public” bathroom.

This is an environmental catastrophe waiting to happen and allowing this is both negligent and unconscionable.

## **Qualifications**

EX27 states that the vessel must have an SMS the covers but is not limited to the below items.

### *3. Safety management system*

*3.1 The owner of the vessel must develop, implement and maintain a written safety management system which:*

- (a) identifies the risks of the vessel and its operation; and*
- (b) describes the systems and procedures to eliminate or minimise risks to safety and ensure that, so far as is reasonably practicable, the vessel and its operations are safe; and*
- (c) includes, as a minimum, the matters specified in Table 1; and*
- (d) is kept on board the vessel so that it is readily accessible to any person on board.*

### *Briefing*

*(a) The owner must ensure that a verbal briefing is given to the hirer at the beginning of the hire of the vessel; and*

*(b) The briefing must include:*

- (i) the maximum number of persons permitted on board the vessel;*
- (ii) whether or not any persons who are not the hirer are permitted on the vessel; and*
- (iii) advice about any commonly known risks; and*
- (iv) the emergency procedures (the emergency plan); and*

(v) the location and correct way to operate any on board equipment including safety equipment; and  
(vi) how to summon help; and  
(vii) any other procedures or rules that are to be followed under the safety management system or required by the marina.  
(viii) The requirement for the hirer to brief any other persons on board the vessel.

Note for (a) The matters addressed in a verbal briefing must also be included in the safety management system for the vessel.

Note for (b)(iii) Specific mention should be made of the risks, causes and effects of carbon monoxide poisoning in enclosed spaces, flammable vapours, and fire safety.

Note for (b)(v) This includes the smoke, vapour and carbon monoxide detectors.

(a) An emergency plan must be developed, be recorded in writing, and kept on board the vessel so that it is readily accessible by any person on board.

(b) The emergency plan must include procedures for responding to each of the following situations should this risk be applicable to the type of vessel and operation:

(i) fire on board or on an adjacent or nearby vessel;

(ii) a person overboard;

(iii) a personal injury or other medical emergency;

(iv) vessel flooding;

(iv) any other circumstance identified by the risk assessment that may require an emergency response.

(c) The emergency plan must include assembly points in the marina in the event of evacuation.

There is no possible way to expect an inexperienced recreational boater to have any understanding of safety standards on board boats. To leave unqualified owners in charge of creating emergency procedures, creating and delivering a safety briefing, knowing about the dangers of all of the systems on board is negligible in the highest degree.

The average boat owner, who has never done any study would not have ever learned about the risks of carbon monoxide poisoning, flammable vapours, and fire safety. They would also be completely unqualified to complete any type of thorough risk assessment on board a vessel.

The only solution is that owners must do a safety program. A simplified version of Sea Survival so that they understand the risks themselves. If they don't understand them they can not convey them.

The Whitsundays charter operators are required to do a bare boat briefing course before they can give a briefing on any charter. A similar model is essential in this scenario.

### **Enforcement**

In the current environment regulation is quite strict and illegal charter activity is rife around the country. Last year AMSA set up a task force to investigate the issue. There are currently [REDACTED] employees working on the illegal chartering of vessels.

The issue is occurring in plain site with vessels being advertised on public platforms advertising their charter services with fees for the world to see [REDACTED] have been informed countless times, as have the water Police. Phone calls have been made to offenders and wrists have been slapped but with all of the resources being thrown at the issue, there has not been a single infringement. No fines what so ever. And to top it off the offenders just continue to operate, laughing in the face of AMSA, [REDACTED] and the industry.

If authorities can't control the issue now, then what will happen when the floodgates open and recreational boaters are encouraged to accept money for the use of their boat?

It is already a slap in the face to every operator doing the right thing and it is only going to get worse.

boarded vessels owned and shut them down for not having their survey up to date. Safety equipment was not identified, first aid kits were depleted etc. The company was reprimanded and is losing money every day they are off the water.

To get to these boats they had to reported for doing illegal charters over and over again. know about the boat and have "called" the owner and "warned" him. The owner has never been fined. took the time to go straight past that boat and come down on a charter operator like a ton of bricks. Boats that actually have met survey requirements up until now.

With the enforcement situation in such disarray how can we expect any action to be taken if EX27 boats do not actually meet all of the regulations? How can we expect action to be taken if the EX27 boats start accepting a quick \$500 to take the hirers out to get some photos of the Sydney icons?

For a boat to be allowed to have relaxed rules to allow people to stay on board there absolutely MUST be consequences for doing the wrong thing. Not just the threat of consequences but actual resources must be made available to actually fine people and shut down their boats, they must be available to respond to information about illegal activity.

### **Business**

It is inconceivable that by creating an exemption, businesses in the industry will not be harmed. EX27 is a direct threat to the commercial vessel industry in this country and in particular to the charter boat industry that currently provides millions of dollars to the economy and employs many thousands of people.

The playing field is being skewed in the favour of vessels falling under the exemption with no regard to the damage to industry.

Will charter boats now be able to have a "right" to operate without applying or the need for approval? Why would an EX27 Vessel be allowed to operate without even applying? Why are the charter companies employing people and collecting GST, paying taxes, supporting industry being penalised? Why are some exempt and not others?

And lets not ignore the elephant in the room. Illegal charter activities will take place once guests have paid to stay on board. To think otherwise is naive at the least. It wont take long for Joe Public to get pricing on a charter, then have direct access to owners of recreational vessels to wave money in front of their faces to do illegal charters.

This exemption will be a direct threat to the industry, slowly shutting down businesses which in turn will put less money back into the system in the way of fees. Small business will suffer and once again those doing the right thing will be slapped in the face. The playing field is not level and those that have been in the industry for years and years will be the ones that suffer.

Should an incident occur on an illegal charter then not only the EX27 boats will have increased regulations. The entire industry will be scrutinised making life harder for all the good operators because of the non compliant EX27 boats.

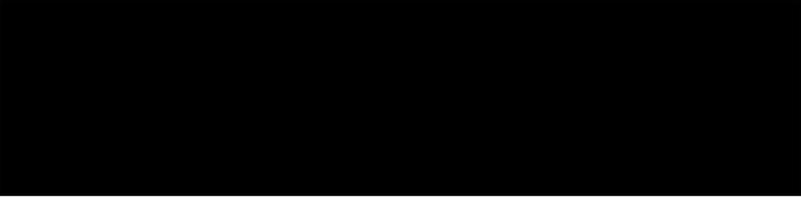
### **Summary**

In summary EX27 is floored. The only people that don't think so are the people about to profit from it. Industry leaders, operators, and regulators have been consulted and not on single person has thought the idea was safe.

Renting out a vessel at a marina is a commercial activity and as such the vessels need to be treated as commercial vessels. Not be given a leg up to circumvent the system.

The only way forward is with a simplified survey class.





EX27 Marine Safety Exemption Consultation  
Australian Maritime Safety Authority  
82 Northbourne Avenue  
BRADDON ACT 2612

Email: [consultation@amsa.gov.au](mailto:consultation@amsa.gov.au)

26 June 2018

Dear Sir/Madam

### EX27 MARINE SAFETY (SHORT TERM MARINA ACCOMMODATION) EXEMPTION 2018

The  appreciates the opportunity to provide its views on the Australian Maritime Safety Authority's (AMSA) proposed new general exemption *Marine Safety (Short term marina accommodation) Exemption 2018* and the supporting Explanatory Material (the Proposed Exemption). The  has considerable experience in understanding the risks and exposure involved for vessel owners and the public, given that leasing domestic commercial vessels for short term accommodation has become commonplace.

AMSA is proposing to exempt owners of domestic commercial vessels which are less than 24 metres in length and being used for short term marina accommodation (exempt vessels) from the requirement to have a certificate of survey and a certificate of operation, subject to meeting specific conditions. These would include a number of operational, design, construction and equipment requirements, including gas and fire safety and provision of safety equipment and a safety management system being in place.

The  is concerned that the proposed exemption does not include any mechanism to monitor compliance. This creates a risk that defective vessels are not identified prior to a problem surfacing, potentially affecting the safety of persons on board exempt vessels. Furthermore, insurers would not be able to identify high risk exempt vessels without separate independent surveys or until claims are submitted.

Under the proposed exemption, insurers would not be able to enquire about key risk factors, including the registration of the vessel and therefore determine whether the vessel is being used for commercial purposes. Accordingly, pleasure craft insurers may inadvertently insure exempt vessels, only to discover the commercial use element at the time of a claim. This is an issue because many pleasure craft policies include a commercial use exclusion to reflect the additional risk involved with insuring such vessels. Accordingly, the proposed exemption

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[Redacted]

increases the exposure and places significant new responsibilities on the owner of the exempt vessel to ensure all specific conditions are met.

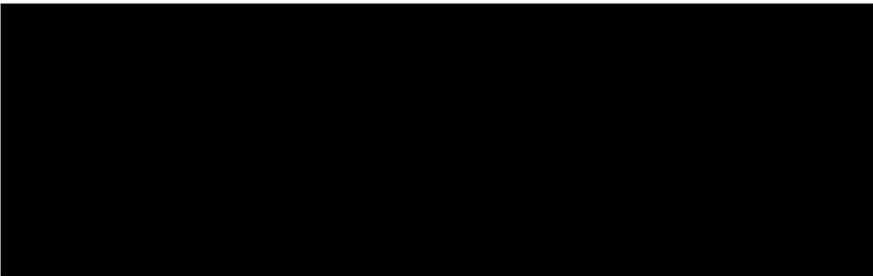
The proposed exemption could potentially increase significantly the number of high risk exempt vessels and unfairly expose Australian marine insurers to a material increase in insurance claims. Marine insurers will not be able to accurately determine policyholder compliance without seeking independent surveys for exempt vessels or until claims time, the costs of which would ultimately need to be passed on to insurance policyholders. This would lead to higher marine insurance premiums or reinsurance charges for Australian insurers, with the likely consequence that insurers became more selective in the risks they underwrite.

Attachment A provides the [Redacted] responses to the AMSA's consultations questions which relate directly to marine insurance issues.

[Redacted]

Yours sincerely

[Redacted]



## ATTACHMENT A

### Question 1

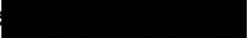
There is a high risk of property damage or personal injury associated with the operation of recreational vessels used to provide short term marina accommodation. These include:

- risks arising from renting exempt vessels to parties that are unsupervised and inexperienced with its operation
- food preparation and therefore fire risk in vessels which are in close proximity to a potentially large accumulation of high value vessels and marina infrastructure. There is also the risk and related safety concerns of fire spreading to other property.
- the likelihood of poor maintenance or condition of the vessels is heightened in this type of operation. For example, individuals that can afford to purchase and properly maintain high value new craft are less likely to be involved in seeking rent revenue by occasionally hiring such vessels to third parties. This compares to owners that need to lease their vessels in order to earn supplementary income to fund maintenance costs. This group of owners may cut corners or postpone maintenance and repairs due to financial difficulties.

The proposed exemption reduces the current level of control and increases risks involved with the operation of exempt vessels.

The proposed exemption also does not take into account the frequency of use. Whilst it only applies to vessels used for short term accommodation less than 14 days, a vessel operating continuously as temporary accommodation (for example, a vessel regularly leased twice a month or more) is not distinguished from the case where the owner occasionally leases out the vessel, for instance twice a year. The risk profiles of the two vessels are very different.

### Question 2

The  does not consider this cut-off appropriate. A vessel that is up to 24 metres in length is of substantial size and value, increasing exposure in the event a problem arises. The proposed exemption should be limited to smaller craft.

### Question 3

The requirement to apply for an exemption would allow AMSA to align compliance responsibilities including survey, inspection or risk analysis activities more closely with risk points. Whilst AMSA might not choose to inspect a vessel applying for exemption, the need for action can be explicitly considered, with a desktop assessment always possible. This approach would align more with the targeted 'lighter regulatory treatment' of the proposed exemption, rather than removing regulation altogether.

### Question 4

The conditions specified in Schedule 1 of the proposed exemption appear appropriate. However, the conditions in the Schedule place almost all onus on the vessel owner to ensure compliance with these requirements and eliminates AMSA involvement. A significant burden, and potential liability, is therefore introduced on the vessel owner. If for example, the owner fails to identify that an exempt vessel is in poor condition and a subsequent loss occurs, injured parties may potentially hold them liable. This could result in an increase in



exposure and potential liability with a consequent increase in the cost of insurance for the vessel owner.

#### Questions 5 and 6

It would seem appropriate to apply technical standards to exempt vessels equivalent to those applying to land-based property which provides temporary accommodation. Requiring the exempt vessel's owner to provide a written declaration that technical standards had been satisfied would increase awareness and potentially reduce the risk of non-compliance.

## Response to AMSA's EX27 External Consultation Draft

██████████ believes that the proposed EX27 (which appears to have been drafted largely in the context of cruisers in coastal water marinas?) would have unintended, highly injurious consequences for the houseboat hire industry or other industries providing overnight accommodation on PURPOSE BUILT SURVEYED HOUSEBOATS and CHARTER VESSELS providing overnight accommodation for financial reward.

We do not deny digital change nor seek protection in the online market space – we subscribe to the Houseboat Hirers Association leading Australian houseboat internet booking service, are listed on the Australian Tourism Data Warehouse and developing full online booking/payment on our own website. However, we believe that *inequitable two-tiered* regulation by AMSA for largely overlapping product would have severe negative impact on our sector. Static hire has always been an element of our business and some other houseboats operate *only* in that way. Under the NSCV F2 regime for commercial Leisure Craft, static operation is only slightly cheaper than hire & drive but costs for EX27 vessels would be markedly lower due to minimal regulatory impost. It is anticipated that many hirers, particularly those who moor in one location for much of their hire would opt for that then much cheaper mode, with hugely reduced occupancy for high cost, in-survey vessels.

There would be two principal differences between proposed EX27 vessels and F2 vessels with accommodation:

1. EX27 vessels would be berthed in a marina whilst in that mode of use.

On inland waters this is not as clear cut as it is for coastal waters. Along the 2,000 km of Murray River for example, there are as many vessels moored on-river as off it, mostly licensed by RMS in NSW and leased by councils in SA, to groups of vessels and termed on-river marinas – all would qualify under the definition in the draft definition. However, on-river moorings adjacent to private property in SA, serviced with shore power and water, fenced from public access and under supervision of a site residence would not? Also, the current EX27 marina definition includes neither strata title nor freehold berths in *any* type of marina?

2. EX27 vessels could not be driven (or have any engine operated) by hirers.

In harsh operating environments that is significant. However, for stable, slow moving vessels on smooth waters (operational area E) the main difference between driven or not relates to instruction given to the operator (SMS), not the intrinsic safety of the vessel and its equipment (survey). If survey is necessary in one case then it absolutely should be in the other – very few houseboats ever sink but if they do it is usually when moored, not whilst underway.

Further:

- F2 houseboats are limited to 12 berth, no matter how constructed. As currently drafted, EX27 would create a loophole for new un-surveyed <24 m vessels to be built or existing ones modified with any number of berths, to service this market. While the draft proposal specifies that space, equipment and facilities must be commensurate, there is no further qualifier, including buoyancy and stability?

- There appears to be no requirement for incident reporting, which surely could not be waived for commercial use. There *will be* accidents in this operating mode, the frequency and nature of which need to be known.
- All houseboats on inland waters in Victoria (i.e. Lake Eildon) are subject to 5-7 year out-of-water inspection and no commercial activity may be undertaken without a Category 7 permit issued by Goulburn-Murray Rural Water Corporation. For inland waters in NSW, untreated greywater discharge is prohibited from commercial vessels constructed after 2005 but not from recreational ones, while in SA commercial vessels cannot claim small vessel exemption and have a more rigorous cleaning regime for on board filter systems.

Private owners are unlikely to be aware of these and other rule differences for private and commercial operation of vessels, by various state authorities.

As a direct consequence of earlier two-tiered SA greywater imposts and greatly increased administrative/cost burden arising from transfer of operational regulation from the State to AMSA, a number of smaller houseboat operators have purportedly ceased business but are known to continue illicit operation. It is believed that the proposal for EX27 to be an as-of-right general exemption, without any application or even notification requirement, would be taken as encouragement by such operators and inevitably lead to more private vessels commencing operation not just as moored accommodation but hire & drive. Also, many (most?) genuine moored accommodation vessels are unlikely to obtain an AMSA unique ID, comply with SMS requirements and pay administrative levies, if not obliged to register – and AMSA could not police this without knowledge of the participants.

Notwithstanding the above, we would have little concern with EX27, if:

- it was restricted to coastal waters or,
- it was restricted to vessels below 12 m, which has some precedence in F2 or,
- it was un-available to houseboats.

The rationale for the latter is that, as vessels specifically designed for multi-berth accommodation, houseboats differ from other leisure craft with accommodation as acknowledged by many houseboat-specific rules in F2. Also most houseboats have been purposely built for commercial use and thus the majority of private ones, particularly >12m, are older retired commercial boats. It would be inequitable in the extreme to authorize their effectively unregulated commercial operation, at the expense of continuing fully regulated vessels *with insignificantly different risk profile*.

### **Summary**

Moored accommodation for reward, by otherwise private vessels is recognized as a commercial boating activity, which AMSA is thus obliged to administer but has proposed to effect with a general as-of-right exemption.

We have:

- raised a number of anomalies in the draft proposal;
- suggested that without an application/approval/registration process the activity would be endorsed but remain effectively unregulated due to unenforceability;

- proposed some potential compromises to make the exemption more equitable with AMSA's existing regulation of domestic marine accommodation.

#### Responses to AMSA's pro-forma *Specific Questions*

**Question 1:** Do you think the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used only to provide short term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law?

No, NSCV F2 already regulates this activity.

**Question 2:** Only owners of vessels that are <24 metres in length are eligible for exemption under the proposed general exemption. Do you think this cut-off is appropriate?

No, with differences applying to F2 vessels above & below 12m, 12m could also be the limit here.

**Question 3:** There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of intention?

Approval should be mandatory:

- it could be joined with application for a unique identifier, which it is suggested would most often not occur under an as-of-right regime or,
- requirement for a Certificate of Operation could be retained to avoid creation of new protocols?
- it should be subject to 5 year out-of-water survey or, more frequent in-water survey or, at least EX27 3(3) and 3(4) compliance inspection by an MSI.

**Question 4:** Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardised. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate?

Yes.

**Question 5:** Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure the safety of children and other potentially vulnerable passengers. (See eg: AS/NZS 4220:2010 - *Bunk beds and other elevated beds*, and, HB393 – *Bunk beds for the short-term rental accommodation industry*).

No.

**Question 6:** Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical standards mentioned in Division 1 of Schedule 1 (eg: *ABP or proof of installation*)?

No but an annual statutory declaration of compliance should be required.

**Question 7:** Do you think that the proposed general exemption is clear and easy to understand?

Yes.

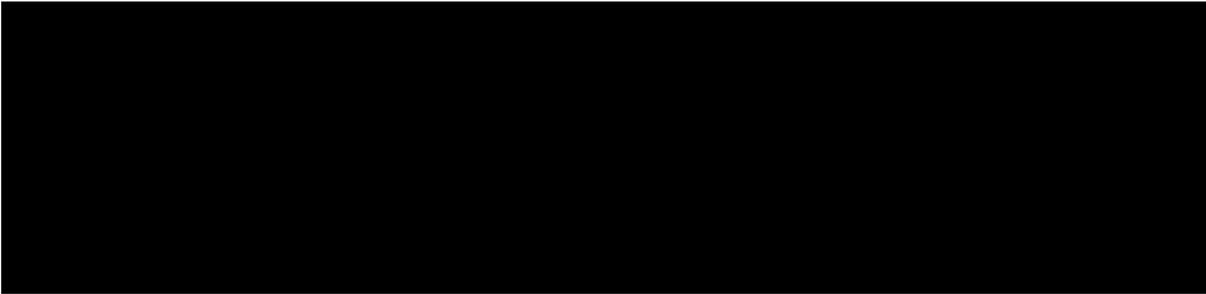
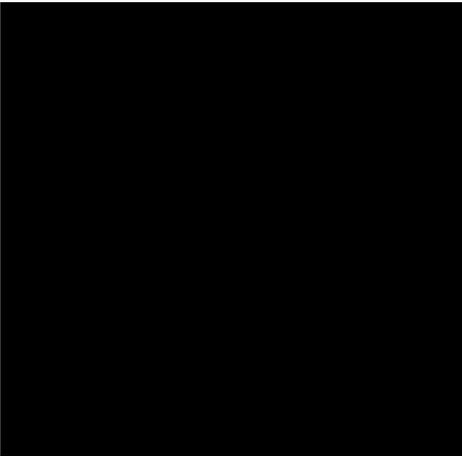
**Question 8:** Is there any specific guidance AMSA can provide to assist industry with the proposed general exemption, if implemented?

By definition, the proposal is for non-industry operators who would need prodigious guidance.



EX27 Marine Safety STMA (Short term marina accommodation)

22/06/2018



Objections to the proposed Exemption 27

1) Safety

A vessel alongside has in my view all the same risks as a vessel, underway except collision and an engine room fire, with the added danger of no trained crew present when something does go wrong, therefore the safety equipment, construction standards and access should be in line with existing survey standards.

The proposed SMS and safety briefing are not required to be prepared by a qualified person and therefore not able to be authenticated as appropriate, which is pointless and inconsistent with the requirements for other vessels being used commercially.

In my view vessels being used for short term accommodation should be managed under a new survey class consistent with the associated risks and inspected by an accredited surveyor.

## 2) Environment

As Ex 27 is currently proposed, guests can stay aboard for up to 14 days, but few recreational vessels have a suitable holding tank capacity and no marinas that I am aware of have pump out points next to every vessel. Therefore there is a real risk of raw sewage being discharged overboard.

## 3) Regulation

Under the proposed exemption there is no requirement for STMA vessel to have an identifying number so no way to identify vessels operating under the proposed exemption, and therefore no way of policing the rules.

There is also no mention of what action will be taken and what penalties if the rules are not followed or which agency will be responsible for enforcing compliance.

## 4) Damage to existing business

There are already a large problem of numerous private boats chartering illegally on Sydney Harbour and elsewhere, however at the moment illegal charter operators are hampered due to their inability to advertise openly.

Exemption 27 STMA will effectively legalise platforms which will connect customers who want to be on boats with owners who want to make money out of their private boats. There is no doubt that the owners will provide cruises to their customers using the loophole that the cruise is not charged for and therefore not illegal, and simply increase the overnight charge.

This will result in an explosion of private boats competing with complying surveyed vessels albeit with a greatly reduced cost base, which will have a huge impact on the livelihoods of operators who have invested in their legitimate businesses.

## 5) Lack of consistency

If the owner of a surveyed vessel wants to offer overnight accommodation they have to comply with an onerous (and expensive) set of regulations, yet a private owner will not have the same burden under Exemption 27, which will create an uneven playing field and unfairly impact the commercial operators' ability to participate in the overnight accommodation businesses.

## 6) Potential for purpose built accommodation vessels

EX27 does not exclude the introduction of floating hostel vessels.

## Summary

I object to the proposed EX27 Marine Safety (Short term marina accommodation) and it is my opinion that vessels offering short term marina accommodation should be:

- Dealt with under a new survey class
- Inspected by accredited personnel
- Clearly identifiable
- Listed on a public database
- Adequately monitored and policed

Australian Maritime Safety Authority  
EX27 Marine Safety (Short term marina accommodation) Exemption 2018

Hi,

**Question 1:** Do you think the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used only to provide short term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law?

**Answer:** *I do not agree with the proposed exemption as I believe it will expose the marina industry to a number of issues that may affect the amenity and safety of our guests. Every marina has an obligation to manage and maintain a facility that will have no detrimental effect on any other vessel in the marina and I believe opening up marinas to short term accommodation is not in the best interests of vessel or marina owners. Below I have dot pointed why short term accommodation is not a suitable outcome for marinas.*

- **Noise Complaints:** *There have been numerous media reports documenting how neighbours of houses used for short term accommodation have been impacted by noise. Marinas have vessels all within close proximity of each other and sound has a strong ability to be magnified across water. Some marinas have a number of live-a-boards and I do not believe they would be happy with noise pollution around the marina.*
- **Inexperience of hirers:** *Vessels have complex systems of operation even when berthed. Some may include fire suppression systems, Toilet Systems, Battery and charging systems, 240, 12 and 24 volts circuits, Gas systems and electronics. People hiring these vessels may not stayed on a vessel and a briefing would not be sufficient. It may minimise some of the issues relating to the operating systems but unless you have been around vessels in some form before the risk ratio would be raised.*
- **Insurance of the vessels:** *There may be some requirement for owners to take out extra cover on their policies to cover people staying on the vessel in the same way landlords have to advise their insurers if their property is rented. Insurance on vessels has increased considerably in the last few years and has become increasingly harder to obtain.*
- **Weather conditions:** *Not all marinas are totally removed from weather events. In the case of a mooring line breaking are the people staying on the vessel going to be able to address the situation? If someone falls over board are they going to know what to do? Simple problems but is someone that has never been on a vessel before going to be able to react to the situation?*

**Question 2:** Only owners of vessels that are <24 metres in length are eligible for exemption under the proposed general exemption. Do you think this cut-off is appropriate?

**Answer:** The key to limiting the impact on permanents berthed in the marina is to keep numbers of people on board the exempted vessels to a minimum. A 24m vessel is a large vessel and it would lend itself to larger groups of people staying on the vessel. I believe that numbers of people on board at any time has to be managed and a way of limiting these numbers is by reducing the size of the exempted vessels to 15m.

**Question 3:** There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of this intention?

**Answer:** *It is important that if this exemption is approved that **ALL** vessel owners have to apply to AMSA for approval. As part of this approval the SMS document, vessel layout, certificates and any other supporting documents should be submitted with the application. To allow any vessel owner to lend out any vessel without some sort of application and supporting document would be totally irresponsible. When owners have to apply and support the application it at least shows that they are committed enough to follow all requirements of the exemption.*

**Question 4:** Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardised. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate?

**Answer:** *The conditions seem to be adequate enough if they are submitted for approval as per my answer at question 3.*

**Question 5:** Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure safety of children and other potentially vulnerable passengers. (See eg: AS/NZS 4220:2010 – Bunk beds and other elevated beds, and, HB393 – Bunk beds for the short-term rental accommodation industry)

**Answer:** *All standards that can be cross referenced with land based accommodation requirements should apply to exempted vessels.*

**Question 6:** Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical standards mentioned in Division 1 of Schedule 1 (eg: ABP and proof of installation)?

**Answer:** *All evidence relating to the vessel receiving the exemption should be kept with the SMS of the vessel. There should also be a copy kept at a land based location.*

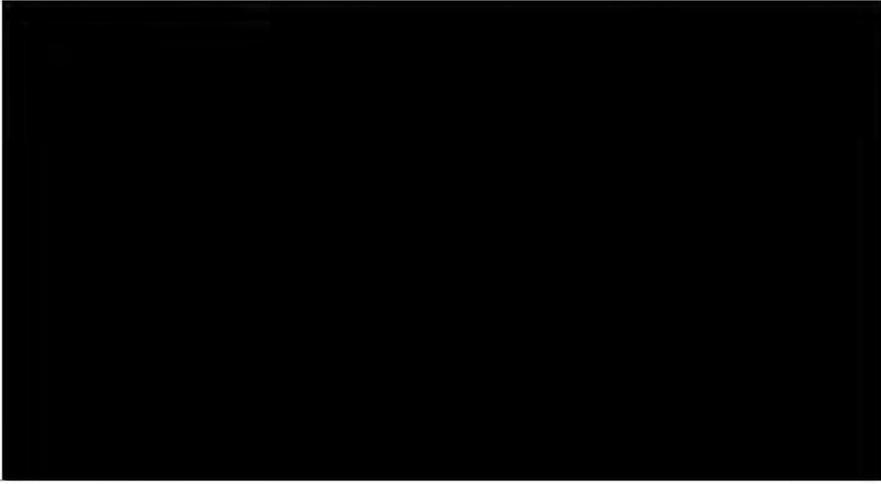
**Question 7:** Do you think that the proposed general exemption (below) is clear and easy to understand?

**Answer:** *As it stands it has been kept simple and easy to understand but does not cover all of the issues that could occur with inexperienced people staying in a marina. I do not believe the problems that could occur have been addressed and I believe the exemption requires more investigation before implementation.*

**Question 8:** Is there any specific guidance AMSA can provide to assist industry with the proposed general exemption, if implemented?

**Answer:** *Informative material should be made available for Marinas to display. The material should be simple but explain all of the pros and cons of renting out a vessel as short term accommodation.*

**SUMMARY:** Regulations, crewing and qualifications are necessary for all commercial vessels to manage risk. I believe this exemption needs to go a lot further to limit the risk to vessel owners, Vessel hirers and Marinas.



## Exemption 27: Marine Safety (Short term marina accommodation) Exemption 2018

[REDACTED] makes the following submission with regard to the proposed Marine Safety (Short term marina accommodation) Exemption 2018 ("the Exemption"). The Exemption will enable vessel owners to use their vessels for short term accommodation such as Airbnb and Beds on Board.

The vessels that will engage the Exemption will not face the same risks as a DCV, as they will only be used for commercial purposes when in a marina berth and are not being operated. The Exemption acknowledges that the vessels do not need to satisfy the same standards as a domestic commercial vessel according to the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (The National Law). We submit that the Exemption will align the requirements of these vessels with the risks posed by this type of use.

However, we are concerned that the Exemption does not properly consider the consequences of these vessels being captured by the National Law on the insurance of the vessel.

Firstly, we submit that, for the assurance and protection of vessel users, especially members of the public, that it ought to be a condition of the Exemption that vessels have or obtain an insurance policy that will cover the risks of this type of use.

Secondly, we are concerned how the Exemption will affect the insurance of vessels and particularly whether they are regulated by the *Insurance Contracts Act 1984* or the *Marine Insurance Act 1909*. As we are sure you are aware, the *Insurance Contracts Act 1984* is consumer friendly and applies to most marine insurance contracts for pleasure craft. The *Marine Insurance Act 1909* is a maritime industry focused piece of legislation that tends to be more insurer-friendly, and applies to vessels used for reward.



The determining section is the *Insurance Contracts Act 1984* s 9A that defines a *pleasure craft* as a ship that is;

1. used or intended to be used:
  - i. wholly for recreational activities, sporting activities, or both; and
  - ii. otherwise than for reward; and
2. legally and beneficially owned by one or more individuals; and
3. not declared by the regulations to be exempt from this subsection.

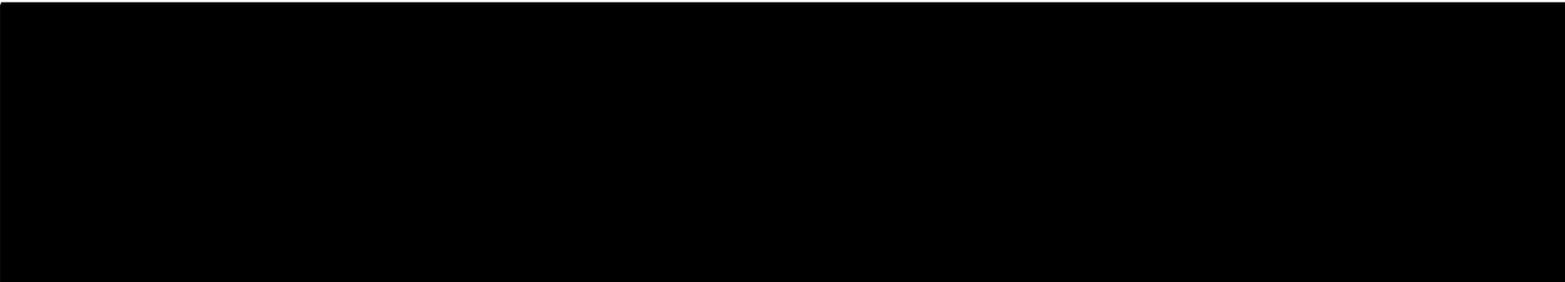
Vessels that fall into the classification of pleasure craft will be regulated by the *Insurance Contracts Act 1984*, whereas all other marine insurance contracts are regulated by the *Marine Insurance Act 1909*.

The *Marine Insurance Act 1909* is strictly applied to contraventions of insurance policies. Where an insurance policy warranty is breached; the *Marine Insurance Act 1909* dictates that the insurer is discharged from liability from the date of the breach of warranty. This rule is strictly applied meaning that even if the breach is remedied soon after, the insurance cover will not be re-enlivened. Additionally, the *Marine Insurance Act 1909* implies additional warranties in the insurance contracts that fall within its scope.

If boat owners use their vessels for the purpose of the Exemption and begin to receive reward in the form of accommodation payment, they may unknowingly transfer their insurance policy (if they have one) from being regulated under the *Insurance Contract Act 1984* to the *Marine Insurance Act 1909* without understanding the consequences. This may result in vessels being leased for accommodation effectively either becoming uninsured or cover being declined for breach of warranty.

The consequences are obvious; users of the vessel may be injured, and a technical breach of a warranty might be used to decline cover, resulting in the loss/liability falling on the vessel owner. The practical effect may be that injured persons may not be adequately compensated.

We submit that it would assist the maritime community if the Exemption provided guidance as to how vessel insurance will be regulated under the Exemption, and the types of coverage required, to ensure that hardship for injured persons does not arise as a consequence of this exemption.



## Response to AMSA's EX27 External Consultation Draft

██████████ believes that the proposed EX27 (which appears to have been drafted largely in the context of cruisers in coastal water marinas?) would have unintended, highly injurious consequences for the houseboat hire industry.

We do not deny digital change nor seek protection in the online market space ██████████

██████████ we believe that *inequitable two-tiered* regulation by AMSA for largely overlapping product would have severe negative impact on our sector. Static hire has always been an element of our business and some ██████████ operate *only* in that way. Under the NSCV F2 regime for commercial Leisure Craft, static operation is only slightly cheaper than hire & drive but costs for EX27 vessels would be markedly lower due to minimal regulatory impost. It is anticipated that many hirers, particularly those who moor in one location for much of their hire would opt for that then much cheaper mode, with hugely reduced occupancy for high cost, in-survey vessels.

There would be two principal differences between proposed EX27 vessels and F2 vessels with accommodation:

1. EX27 vessels would be berthed in a marina whilst in that mode of use. On inland waters this is not as clear cut as it is for coastal waters. Along the 2,000 km of Murray River for example, there are as many vessels moored on-river as off it, mostly licensed by RMS in NSW and leased by councils in SA, to groups of vessels and termed on-river marinas – all would qualify under the definition in the draft definition. But on-river moorings adjacent to private property, serviced with shore power and water, fenced from public access and under supervision of a site residence would not? Also, the current EX27 marina definition does not include strata title or freehold berths in *any* type of marina.
2. EX27 vessels could not be driven (or have any engine operated) by hirers. In harsh operating environments that is significant. However, for stable, slow moving vessels on smooth waters (operational area E) the main difference between driven or not relates to instruction given to the operator (SMS), not the intrinsic safety of the vessel and its equipment (survey). If survey is necessary in one case then it absolutely should be in the other – very few houseboats ever sink but if they do it is usually when moored, not whilst underway.

Further:

- F2 houseboats are limited to 12 berth, no matter how constructed. As currently drafted, EX27 would create a loophole for new un-surveyed <24 m vessels to be built or existing ones modified with any number of berths, to service this market. While the draft proposal specifies that space, equipment and facilities must be commensurate, there is no further qualifier, including buoyancy and stability?
- There appears to be no requirement for incident reporting, which surely could not be waived for commercial use? There *will be* accidents in this operating mode, the frequency and nature of which need to be known.

- All houseboats on inland waters in Victoria (i.e. Lake Eildon) are subject to 5-7 year out-of-water inspection and no commercial activity may be undertaken without a Category 7 permit issued by Goulburn-Murray Rural Water Corporation. For inland waters in NSW, untreated greywater discharge is prohibited from commercial vessels constructed after 2005 but not from recreational ones, while in SA commercial vessels cannot claim small vessel exemption and have a more rigorous cleaning regime for on board filter systems.

Private owners are unlikely to be aware of these and other rule differences for private and commercial operation of vessels, by various state authorities.

As a direct consequence of earlier two-tiered SA greywater imposts and greatly increased administrative/cost burden arising from transfer of operational regulation from the State to AMSA, a number of smaller houseboat operators have purportedly ceased business but are known to continue illicit operation. It is believed that the proposal for EX27 to be an as-of-right general exemption, without any application or even notification requirement, would be taken as encouragement by such operators and inevitably lead to more private vessels commencing operation not just as moored accommodation but hire & drive. Also, many (most?) genuine moored accommodation vessels are unlikely to obtain an AMSA unique ID, comply with SMS requirements and pay administrative levies, if not obliged to register – and AMSA could not police this without knowledge of the participants.

Notwithstanding the above, we would have little concern with EX27, if:

- it was restricted to coastal waters or,
- it was restricted to vessels below 12 m, which has some precedence in F2 or,
- it was un-available to houseboats.

The rationale for the latter is that, as vessels specifically designed for multi-berth accommodation, houseboats differ from other leisure craft with accommodation as acknowledged by many houseboat-specific rules in F2. Also most houseboats have been purposely built for commercial use and thus the majority of private ones, particularly >12m, are older retired commercial boats. It would be inequitable in the extreme to authorize their effectively unregulated commercial operation, at the expense of continuing fully regulated vessels *with insignificantly different risk profile*.

## Summary

Moored accommodation for reward, by otherwise private vessels is recognized as a commercial boating activity, which AMSA is thus obliged to administer but has proposed to effect with a general as-of-right exemption.

We have:

- raised a number of anomalies in the draft proposal;
- suggested that without an application/approval/registration process the activity would be endorsed but remain effectively unregulated due to unenforceability;
- proposed some potential compromises to make the exemption more equitable with AMSA's existing regulation of domestic marine accommodation.

Responses to AMSA's pro-forma *Specific Questions* are overpage.

**Question 1:** Do you think the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used only to provide short term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law?

No, NSCV F2 already regulates this activity.

**Question 2:** Only owners of vessels that are <24 metres in length are eligible for exemption under the proposed general exemption. Do you think this cut-off is appropriate?

No, with differences applying to F2 vessels above & below 12m, 12m could also be the limit here.

**Question 3:** There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of intention?

Approval should be mandatory:

- it could be joined with application for a unique identifier, which it is suggested would most often *not* occur under an as-of-right regime or,
- requirement for a Certificate of Operation could be retained to avoid creation of new protocols?
- it should be subject to 5 year out-of-water survey or, more frequent in-water survey or, at least EX27 3(3) and 3(4) compliance inspection by an MSI.

**Question 4:** Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardised. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate?

Yes.

**Question 5:** Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure the safety of children and other potentially vulnerable passengers. (See eg: AS/NZS 4220:2010 - *Bunk beds and other elevated beds*, and, HB393 – *Bunk beds for the short-term rental accommodation industry*).

No.

**Question 6:** Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical standards mentioned in Division 1 of Schedule 1 (eg: ABP or proof of installation)?

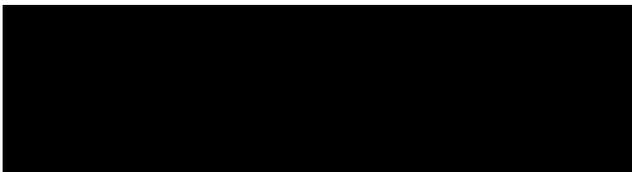
No but an annual statutory declaration of compliance should be required.

**Question 7:** Do you think that the proposed general exemption is clear and easy to understand?

Yes.

**Question 8:** Is there any specific guidance AMSA can provide to assist industry with the proposed general exemption, if implemented?

By definition, the proposal is for non-industry operators who would need prodigious guidance.



# Submission

## Draft AMSA EX27

### Marine Safety (Short term marina accommodation) Exemption 2018

Please note that this submission relates to Draft AMSA EX27 Marine Safety (Short term marina accommodation) Exemption 2018 and not to AMSA EX27 Marine Safety (Bait gathering) Exemption 2015. I trust that if AMSA does make a Marine Safety (Short term marina accommodation) Exemption 2018(which is not recommended) that it will not be numbered EX27.

The EX27 Short term marina accommodation explanatory material claims that *“applying the full extent of the National Law, including the requirement to obtain a certificate of survey and certificate of operation, to vessels being used in this way does not appropriately match the risk with the regulatory burden imposed. As such, applying a ‘lighter regulatory treatment’ that still fosters minimum safety standards has been identified as the preferred approach”*.

The claim in the EX27 Explanatory Material that the National Law requirements for Certificates of Survey (COS) and Certificates of Operation (COO) do not match the risk of short term marina accommodation has clearly been made without any proper risk analysis. This is clearly in breach of the Australian Government Guide to Regulation.

Short term marina accommodation is offered to the public who will generally not be educated or experienced in boating systems and the risks of boating. Members of the public will not be able to assess whether a vessel or operation is safe or overloaded. The existing regulatory regime provides members of the public protection in the form of COS, COO and Capacity plates which provide for independent verification, by suitably qualified professionals, that the vessel and operation meet minimum safety and environmental protection standards.

The draft EX27 proposal enables unscrupulous operators to bypass virtually all safety and pollution control aspects state regulation and the National Law as all compliance monitoring is left to unqualified owners including areas which require specialist qualification such as stability, structural integrity, electrical, fire and gas installation. This introduces a totally unacceptable level of risk.

EX27 provides for commercial Unique Vessel Identifiers to be issued to EX27 vessels. The public would be entitled to assume that a vessel displaying a commercial UVI has met minimum commercial safety standards exceeding those applicable to recreational craft. Under the draft EX27 a vessel need not even meet recreational safety standards.

By removing COS, COO and capacity plate protections and independent safety assessment the draft EX27, if made, will put people’s lives and the environment at risk. In no way does EX27 match the risk with the regulatory burden imposed – see Risk Analysis” below.

## Explanatory Material Deficiencies

If AMSA chooses to proceed with EX27 they should at least redraft the exemption and explanatory material so that it complies with proper Regulation Impact Statement requirements and put the revised drafts out for further consultation. Hopefully this will not be necessary as the case for EX27 cannot be justified once a proper risk analysis is conducted.

Apart from not providing an adequate analysis of the risks and benefits the Explanatory Material for the proposed exemption does not: -

- Identify all relevant stakeholders and effects on them including: -
  - Members of the general public who rent space on an exempted vessel or are guests onboard a rented vessel
  - Owners and guests on neighbouring vessels who will be exposed to potentially higher levels of vehicle traffic, pollution, nuisance and security breaches.
  - Planning authorities, local councils, emergency services and other agencies responsible for development control, garbage, effluent, and safety of marinas.
- Establish the case for removing regulation for a segment of the industry which already has a history of non-compliance and nuisance to the extent that a majority of marina operators will not permit commercial short stay accommodation or are precluded from such commercial operations by lease and development conditions.
- Identify alternative methods of reducing regulatory burden on commercial vessel operators
- Include details of the full consultative process and timeline and other analysis required for the introduction of a regulatory instrument.

The draft exemption does not satisfy the 10 principles in the Guide to Regulation. The Explanatory Material does not simply and clearly explain the problem and objective nor does it: -

- examine a range of viable, genuine policy options, including non-regulation and options put forward during consultations
- include a clear explanation why other alternatives are not viable or practical
- clearly analyse in a balanced and objective manner the benefits and costs of all the proposed options for business, community organisations and individuals
- quantify the regulatory costs (and offsets where applicable)

By not presenting compliance with NSCV Part F2 Leisure Craft as an alternative to the proposed exemption and by not conducting an appropriate risk analysis AMSA have demonstrated significant breaches in the Principle of Good Regulation.

## Deficiencies with the draft EX27

Unlike other jurisdictions such as Europe the design and construction of recreational vessel is not regulated in Australia. The proposed Exemption does not impose any independently verified standards in this and other areas leaving hirers, marina visitors, marina operators and the environment potentially exposed to substandard dangerous vessels without any verification of minimum standards for the following: -

- Loading and passenger capacity
- Arrangement, accommodation and personal safety
- Watertight and weathertight integrity
- Construction
- Fire safety
- Machinery
- Electrical
- LPG systems for appliances
- Stability
- Equipment
- Operator competencies
- Operations and risk management

The proposed exemption would create a very different scenario to the situation in Europe and many other parts of the world where all recreational vessels must meet minimum standards such as the CE Recreational Craft Directive (RCD) Standards and operators must be licensed. The proposed exemption has no requirement equivalent to compliance plates used in the RCD system and other sharing economy areas such as Uber where vehicles must have compliance plates, be registered and by operated by licensed drivers.

Commercial vessels exempt under EX27 fall outside the scope of recreational vessel requirements and would not be required to have the most basic safety protection offered by a builder's capacity plate.

AMSA EX04 Marine Safety (Recreational use) Exemption 2018 Clause 4 (2) automatically excludes a domestic commercial vessel of less than 12m in length from Australian Builder's Plate requirements when being used for recreational purposes. Vessel 12m or over many apply an exemption for recreational use. The combined effect of EX27 and EX04 would mean that such vessels escape the most basic safety requirements when used for either commercial or recreational purposes.

This is an absolutely untenable situation questioning the entire process adopted in the drafting of EX27.

The proposed exemption would also leave a situation very different to buildings and motor vehicles for hire or sharing which much must still meet appropriate minimum safety standards.

In Australia there are no universal minimum safety standards for recreational craft. The proposed exemption would create a regulatory vacuum exposing stakeholders such as hirers, marina operators, neighbouring vessels, neighbouring residences, clubs etc. and local wildlife to many dangers.



- Increased risk of water pollution from recreational craft without holding tanks or inadequate capacity to cope with the additional load. Even if a recreational boat has holding tanks how many could cope with a 14 day stay without pump out?
- Increased risk of medical emergencies such as electrocutions, burns, carbon monoxide poisoning, people in the water etc.
- Increased risk of noise pollution
- Increase risk of damage to boats and marina equipment and other crimes from inadequately identified and vetted guests
- If other boats or marina facilities are damaged where the marina has given permission for overnight stays who will be responsible - the marina owner, boat owner, guest or booking agent?
- Breaches of security systems designed to limit access by the general public
- Increased risk of violence from uncontrolled and unsupervised consumption of alcohol and drugs
- Increased pressure on facilities such as car parking, pump out, power, water, garbage disposal.
- Increased financial risk of increased visits and damage. Will this be borne by all marina berth owners or will berths permitted to be used for overnight stays by guests be charged a higher fee?
- Does commercial use of the marina breach lease or environmental approval conditions and expose to the marina to costs of non-compliance?

Enquiries of several marina operators show that the vast majority of marina operators will not or can not offer short term marina accommodation (BnB operations) for reasons including: -

- Numerous noise complaints and pollution incidents jeopardising continued Environmental Protection Authority approval.
- Noise and nuisance complaints by neighbouring vessels and residences
- Breaches of security measures by guests seeking access to the marina and/or its facilities.
- Additional demand on marina facilities and damage to facilities
- Additional demand of marina staff particularly where the host is not available when guests arrive.
- Overnight stays are prohibited or limited under lease and planning conditions
- Lease conditions prohibit commercial operations
- Security requirements do not permit guests unless they are accompanied by the owner.

## Compliance costs

The proposed exemption effectively passes the role and cost of regulating BnB operations to the marina operator by requiring written approval. Before granting written approval, marina operators would need to undertake a due diligence process to ensure the safety, security and utility of the marina. In the absence of applicable recreational or commercial safety standards it will be all but impossible for a marina operator to make an informed decision on the safety of a vessel and its capacity to accommodate BnB operations. If the existing regulatory regime is continued and BnB vessels must meet independently verified commercial safety standards a marina operator could reasonably rely on compliance with commercial safety standards and grant approval for BnB operations if other considerations are met.

The proposed “shut the gate after the horse has bolted” exemption as of right until an improvement notice, prohibition notice, or a detention notice has been issued approach is likely to provide no disincentive to unscrupulous operators entering the industry. The vagaries as to whether an EX27 vessel is commercial or recreational will create massively complicated compliance and enforcement difficulties particularly where commercial and recreational regulations differ such as sewage holding tank, electrical, gas and other safety requirements.

When all parties are considered enforcement and compliance costs of the proposed draft EX27 are likely to be much higher than the existing regimes.

Specific issues with EX27 Schedule 1 Design, construction and equipment requirements include: -

The proposed exemption appears to exempt BnB vessels from virtually all design and construction requirement without specifying an alternate standard. As there are no universal Australian standards for the design and construction of recreational vessels hirers, guests, workers and other marina users may be exposed to likely risks with catastrophic consequences due to: -

- Overloading leading to capsize, flooding or structural failure.
- A lack of fire protection and means of escape
- Fire and Carbon Monoxide poisoning due to non-compliant or incorrectly operated LPG appliances
- Hydrogen Sulphide and other gas poisoning and illness from inadequate or incorrectly operated sewage systems.

#### 1. Electrical

Marina power sources and vessel supplies are Low Voltage with such a high risk of death or injury due to electrocution that special qualifications are required. An owner is not qualified to provide independent assurance that a vessel complies with either NSCV Subsection C5B – Electrical; or AS/NZS 3004.2:2014. A regulation or exemption condition must not require an unqualified person to make such an assurance. The only way hirers, guests, workers on BnB vessels and other marina users can be ensured of the electrical safety of a BnB vessel is for the design and final approval to be conducted by an appropriately qualified electrical surveyor and work conducted by an appropriately licensed electrician. The proposed exemption creates an unacceptable risk of death or injury.

#### 2. Gas

The proposed exemption does not specify whether design, installation and testing are to be verified by a qualified independent person or left to an unqualified owner. While AS /NZS 5601.2:2013 requires work to be undertaken by qualified personnel an owner is unlikely to have access to the standard or otherwise have the training and skills to be able to ensure compliance with the standard. Without independent verification of compliance such as provided by the existing commercial survey and operation regulatory regime the proposed exemption creates an unacceptable risk of death or injury.

#### 3. Arrangements for safe access

BnB operations may be offered to the general public including people with disabilities and children. Exactly what constitutes safe access (and safe means of escape) is not specified. Standards for guard

rails are not specified. Vessels in a marina may be exposed to wash and waves and guard rails are required. The risk of children falling off a BnB vessel would appear to be commensurate with the risk of children falling into a swimming pool and compliance with an applicable standard is required such as

- NSCV Part C Section 1 6.12 Bulwarks and guardrails
- ISO 15085 plus children wearing lifejackets and close parental supervision while on deck
- AS 1926.1 Swimming pool safety Part 1: Safety barriers for swimming pools

The proposed exemption does not provide sufficient detail to protect hirers, guests, workers and especially children and creates an unacceptable risk of death or injury. The alternate regime of enforcing applicable NSCV Design and Construction standards provides a more acceptable level of protection.

#### 4. Fire safety

Unqualified owners are unlikely to have access to the standard nor have the training and skills to be able to ensure compliance with ISO 9094: 2015 Small craft – Fire protection.

The proposed exemption makes no mention of requirements for fire extinguishers and other fire safety measures specified in NSCV.

The proposed exemption produces an unacceptable risk of death or injury

Alternative regulatory regimes such as independently verified compliance with NSCV standards provides an acceptable level of regulation.

#### 5. Safety equipment

The proposed EX27 states that the “The owner of the vessel must ensure that the vessel carries the equipment and meet the standards required by the State or Territory recreational boating requirements for the State or Territory in which the vessel is berthed. As a commercial vessel a BnB vessel is outside the scope of recreational requirements and no equipment is required to be carried by the State or Territory recreational boating regulations. Even if recreational requirements did apply they are inadequate to the risk associated with a commercial operation open to the public. For example, a BnB vessel may have a number of cabins perhaps with bunk beds and so a large number of berthed passengers with a high risk of smoking in bed and fire. This requires higher levels of fire protection, detection and response equipment and training.

NSW Marine Safety Regulation 2016 Reg 121 and Schedule 8 requires ***only one fire extinguisher***. It also states that more are to be carried if potential sources of fire and the size of the vessel require it but provides no details.

EX27 Division 2 Operations Table 1 SMS requires the SMS and briefing to include the maximum number of persons onboard and accommodated but provides no guidance or reference to applicable standards on how this maximum number is to be determined.

## Regulatory Vacuum

New South Wales is typical of marine safety legislation in Australia. The New South Wales Marine Safety Act 1998 defines “recreational vessel” as a vessel other than a commercial vessel. Under this Act "commercial vessel" has the same meaning as "domestic commercial vessel" in the National law. Marine Safety (Domestic Commercial Vessel) National Law Act 2012 defines "domestic commercial vessel" as a vessel that is for use in connection with a commercial, governmental or research activity. BnB operations where a fee is collected in return for accommodation are commercial operations.

NSW MARINE SAFETY REGULATION 2016 - REG 54 Maximum safe loading level of certain vessels subsection (10) (e) excludes commercial vessels from the requirement to have a maximum loading safety label.

By granting an exemption from the important operative provisions of the NSCV such as limits on the number of passengers and berthed passengers and with BnB vessels being commercial vessels outside even the most basic loading limits applicable to recreational vessels the proposed exemption 27 creates a regulatory vacuum and an un acceptable risk of death or injury.

The proposed exemption does not specify how the additional risk of compliance and enforcement will be funded and states will be compensated for the loss of revenue that would result from BnB vessels becoming commercial vessels outside the state’s ability to register the vessels and levy registration fees.

The many inadequacies of the proposed exemption EX27 creates a risk of death or injury and other adverse impacts which should be totally rejected by the Australian population, Australian governments and especially the Executive Officer of the Australian Maritime Safety Authority.

The draft EX27 make no reference to NSCV Part G in which case NSCV Part G Clause 1.2 will not be triggered and Part G will not apply to EX27 vessels. Part G provisions are aimed at different types of vessels with different risk profile and would not be appropriate to short term marina accommodation vessels.

## Risk Assessment and application of current applicable regulation

The EX27 explanatory material claims the *“The purpose of creating this proposed approach is to provide a way for vessels to be used for short term marina accommodation which balances the risks to safety of persons on board the vessel against the regulatory burden imposed under the current regulatory framework.”* The approach adopted removes a vessel used for short term marina accommodation from virtually all safety regulation applicable to either a recreational or commercial vessel. The few conditions contained in Schedule 1 have no requirement for assessment by independent and appropriately qualified assessors. Such a complete lack of regulation may be appropriate if there was no risk from such operations, but a proper risk analysis will conclude that significant risks are inherent in short term marina accommodation and the existing system of regulation for hire and drive vessels is more appropriate to those risks. Some exemption from specific risks and associated regulation for hire and drive operations could be made while still providing adequate and appropriate regulation.

The table below attempts to highlight some of the risks and applicable regulation to show that short term marina accommodation retains significant risk and consequences. This type of analysis and alternative regulatory regimes should have been included in the explanatory material published with the draft EX27.

When assessing these risks, it must be noted that vessels used for short term marina accommodation will generally be moved under their own power for purposes such as pumping out sewage and grey water tanks and that such activities are part of the commercial operation.

The requirements of NSCV Part F2 Leisure Craft are generally consistent with similar standards overseas and for recreational vessels. They represent a satisfactory standard of safety. As compliance with NSCV Part F2 can be through compliance with craft meeting international standards most imported craft will already comply with relevant standards (except electrical and gas standards) and the cost of compliance is relatively low. The requirements of NSCV Part F2 are much lighter than for class 1, 2 and 3 and are already appropriately match the risk with the regulatory burden imposed. Applying NSCV Part F2 Leisure Craft would still fosters minimum safety standards and should be the preferred approach.

Of the 54 key safety elements applicable to short term marina accommodation in the analysis below only 10 are included in the regime proposed in the draft EX27. Clearly the regime proposed by the draft EX27 is inadequate.

The draft EX27 also fails to address a significant part of the sharing economy being overnight accommodation where boats are kept on a mooring and not in a marina berth. While the risks associated with accommodation while on a mooring may be slightly higher than the risk on a marina berth those risk are adequately covered by the requirements in NSCV Part F2.

To ensure a fair and equitable regulatory regime between the in marina and on mooring sectors of the short-term accommodation on boats industry any unbiased and competent analysis would apply the existing NSCV Part F2 regime to both the marina and mooring segments.

<b>Safety factor</b>	<b>Applicable to short term marina accommodation</b>	<b>Relevant EX27 Standard</b>	<b>Relevant NSCV Hire and Drive Standard</b>
1. Person or child falling overboard	Yes	None	NSCV Part F2 3.1 Table 1 & 2 Lifejackets and Buoyant appliances
2. Vessel sinking	Yes	None	NSCV Part F2 3.1 Table 1 & 2 Lifejackets and Buoyant appliances
3. Communication equipment for contacting a shore base or other vessels	Yes	None	NSCV Part F2 3.1 Table 1 & 2 and Schedule 2
4. Distress signals – flares and smoke signals	If radio etc. not available	None	NSCV Part F2 3.1 Table 1 & 2
5. Fire blanket	Yes	None	NSCV Part F2 3.1 Table 1 & 2
6. Fire bucket with lanyard	Yes	None	NSCV Part F2 3.1 Table 1 & 2
7. Fire extinguisher	Yes	None	NSCV Part F2 3.1 Table 1 & 2

<b>Safety factor</b>	<b>Applicable to short term marina accommodation</b>	<b>Relevant EX27 Standard</b>	<b>Relevant NSCV Hire and Drive Standard</b>
8. First aid kit	Yes	None	NSCV Part F2 3.1 Table 1 & 2
9. Watertight and weathertight integrity	Yes	None	NSCV Part F2 5.1 (a) NSCV Part C, Section 2; or (b) AS 1799.1; or (c) both ISO 12216 and ISO 11812; or (d) each of: (i) ABYC H-3; and (ii) ABYC H-4; and (iii) ABYC H-27.
10. Structure of vessels	Yes	None	NSCV Part F2 6.1. NSCV Part C, Section 3; or (b) ISO 12215 Parts 1 to 9 as applicable ISO 6185 Parts 1 to 4 as applicable or AS 4132.1; and either (i) AS 4132.2; or (ii) AS 4132.3
11. Standards for fire safety	Yes	None except a smoke detector	NSCV Part F2 7.1 NSCV Part C, Section 4 or ISO 9094; and ISO 21487.
12. Gangway or gangplank	Yes	Schedule 1 Division 1 3.1	NSCV Part F2 3.1 Table 1 & 2 NSCV Part F2 4.6
13. Map or chart of operational area	Yes. If moving to pump out etc.	None	NSCV Part F2 3.1 Table 1 & 2
14. Navigation lights	Yes. If moving to pump out etc. at night or in restricted visibility	None	NSCV Part F2 3.1 Table 1 & 2
15. Smoke detectors	Yes	Schedule 1 Division 1 4.2 (a) AS3786:2014	NSCV Part F2 3.1 Table 1 AS 3786
16. Carbon monoxide detector	Yes	Schedule 1 Division 1 4.2 (b)	None
17. Waterproof buoyant torch	Yes	None	NSCV Part F2 3.1 Table 1
18. Bilge pump - Vessel sinking	Yes	None	NSCV Part F2 3.1 Table 2. & 3.37 Table 5
19. Sleeping berths	Yes	None	NSCV Part F2 4.1
20. Seating	Yes	None	NSCV Part F2 4.2
21. Vision from helm	Yes to move the vessel	None	NSCV Part F2 4.3
22. Strength of glazing	Yes	None	NSCV Part F2 4.4 AS/NZS 2080; ISO 12216; ABYC H-3.
23. Bulwarks and guardrails	Yes	None	NSCV Part F2 4.5.2

<b>Safety factor</b>	<b>Applicable to short term marina accommodation</b>	<b>Relevant EX27 Standard</b>	<b>Relevant NSCV Hire and Drive Standard</b>
24. Small side decks	Yes in some cases	None	NSCV Part F2 4.5.3
25. Foot stops and toe rails	Yes	None	NSCV Part F2 4.5.4
26. Slip resistant surfaces	Yes	None	NSCV Part F2 4.5.5
27. Handholds	Yes	None	NSCV Part F2 4.5.6
28. Means of reboarding	Yes	None	NSCV Part F2 4.5.7
29. Potable water tanks	Yes	None	NSCV Part F2 4.7
30. Swimming pools and spas	In some cases	None	NSCV Part F2 4.8
31. Machinery, propulsion, exhaust, steering and fuel	Yes to move the vessel	None	NSCV Part F2 Chapter 8
32. Electrical requirements	Yes	Schedule Division 1 1.1 AS/NZS 3004.2	NSCV Part F2 9.1 AS/NZS 3004.2
33. Freeboard and intact stability requirements	Yes	None	NSCV Part F2 10.1 NSCV Part C, Subsection 6A; (b) AS 1799.1; (c) ISO 12217 Parts 1 to 3 as applicable; (d) ISO 6185 Parts 1 to 4 as applicable;
34. Maximum load capacity and capacity plates	Yes	None	NSCV Part F2 10.2 ABYC H-5; (b) AS 1799.1; (c) ISO 14946; (d) ISO 6185 parts 1 to 4 as applicable.
35. Flotation and decking	Yes	None	NSCV Part F2 10.3
36. Safety management systems	Yes	Schedule 1 Division 2 3.1	NSCV Part F2 13.1
37. SMS Vessel and contact details	Yes	None	NSCV Part F2 13.1 Table 10 Element 1
38. SMS Designated persons	Yes	None	NSCV Part F2 13.1 Table 10 Element 2
39. SMS Risk assessment and controls	Yes	None	NSCV Part F2 13.1 Table 10 Element 3
40. SMS Participant numbers,	Yes	Schedule 1 Division 2 3.1 Table 1 Element 1	NSCV Part F2 13.1 Table 10 Element 4
41. SMS Hirer competence, age and health	Yes	None	NSCV Part F2 13.1 Table 10 Element 4
42. SMS briefer competencies	Yes	None	NSCV Part F2 13.1 Table 10 Element 5
43. SMS Briefing	Yes	Schedule 1 Division 2 3.1 Table 1 Element 2	NSCV Part F2 13.1 Table 10 Element 6
44. SMS Hirer's agreements and written records	Yes	None	NSCV Part F2 13.1 Table 10 Element 6

<b>Safety factor</b>	<b>Applicable to short term marina accommodation</b>	<b>Relevant EX27 Standard</b>	<b>Relevant NSCV Hire and Drive Standard</b>
45. SMS Procedures for onboard operations	Yes	Schedule 1 Division 2 3.1 Table 1 Element 2	NSCV Part F2 13.1 Table 10 Element 7
46. SMS Emergency preparedness	Yes	Schedule 1 Division 2 3.1 Table 1 Element 3	NSCV Part F2 13.1 Table 10 Element 8
47. SMS Follow-up on incidents, hazardous occurrences and nonconformances	Yes	None	NSCV Part F2 13.1 Table 10 Element 9
48. SMS Maintenance of vessel and equipment	Yes	None	NSCV Part F2 13.1 Table 10 Element 10
49. SMS Written records, verification, review and evaluation	Yes	None	NSCV Part F2 13.1 Table 10 Element 11
50. Escape from hazards within spaces on the vessel Facilitate movement for evacuation	Yes	None	NSCV Part F2 Schedule 1 C12 & C13
51. Safe conduct of operations — lighting	Yes	None	NSCV Part F2 Schedule 1 C15
52. Certificate of Survey	Yes	None	
53. Certificate of Operation	Yes	None	
54. Independent verification of compliance with safety and environment protection standards	Yes	None	

## Pollution

NSW Marine Pollution Regulations 2014 - REG 14 No discharge of untreated sewage may prohibit discharge of untreated sewage, but this regulation only applies to commercial vessels. EX27 does not make it clear whether BnB vessels will be registered as commercial or recreational vessels. If BnB vessels can also be operated on a recreational basis (which would be automatically permitted for vessels less than 12 metres in length by AMSA EX04) then Regulation 14 would not apply, and vessel owners could argue that they could discharge sewage without penalty when in recreational mode.

Regulation 17 only require Class 1 (more than 12 passengers) and Class 4 (Hire and Drive) vessels to be fitted with sewage holding tanks.

To comply with the NSW Marine Pollution Regulations a BnB vessel would need to either: -

- Remove all toilets, showers sinks etc. and use marina facilities – using marina facilities may be an issue as they are often locked at night.
- Fit sewage and grey water discharge connections from the vessel to the shore – no such facilities are known to be in use in Australia.
- Fit holding tanks and have a naval architect certify that the holding tank complies with the requirements of that clause and that the stability of the vessel has not been, and is unlikely to be, affected adversely in a material way by the installation and intended use of the holding tank.

The cost of such certification will approach that of a full commercial survey so EX27 can not be justified on cost saving grounds. In any case cost of diminished safety and environmental protection offered by EX27 far outweigh any cost saving to owners of BnBN vessels.

It should also be noted that a BnB vessel fitted with holding tanks must be moved out of the marina berth to pump out waste collected during BnB operations. The process of moving the vessel will be part of the commercial operation and will fall outside the provisions of EX27. Such a vessel may need to be in full survey with qualified crew to perform this operation and EX27 would not provide any cost saving to the owner.

## Questions put in the EX27 Explanatory Material

*Question 1: Do you think the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used only to provide short term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law?*

Answer 1. No. The proposed exemption does provide any regulation of appropriate standards of construction etc, as Australia has no appropriate regulation of recreational craft. The existing regulatory regime for domestic commercial vessels should be maintained and applied to marina stays and similar operations. The preferred approach is to retain the existing regime which already appropriately matches risk with regulatory burden.

*Question 2: Only owners of vessels that are <24 metres in length are eligible for exemption under the proposed general exemption. Do you think this cut-off is appropriate?*

Answer 2. No. With an appropriate set of standards there is no need for an artificial cut off. The risk and enforcement cost for a 23m vessel will be virtually the same as for a 25m vessel.

*Question 3: There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of this intention?*

Answer 3. Approval must be obtained so that stakeholders can identify which vessels comply and which do not. Passed experience in many industries has proven that we cannot rely on owners to notify AMSA or other regulators without an appropriate inspection and licensing system.

*Question 4: Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardised. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate?*

Answer 4. No. The proposed conditions are totally inadequate and do not address the vast majority of risks covered by NSCV standards. As recreational craft standards do not apply appropriate NSCV Hire and Drive standards should be applied and enforced. See Risk Analysis above.

*Question 5: Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure the safety of children and other potentially vulnerable passengers. (See eg: AS/NZS 4220:2010 - Bunk beds and other elevated beds, and, HB393 – Bunk beds for the short-term rental accommodation industry)*

Answer 5 The conditions of EX27 Division 1 of Schedule 1 are totally inadequate. A better solution is review NSCV and if it can be justified on economic grounds, create a separate area of operation say F for vessel which are permanently berthed or moored and apply appropriate existing regulations and standards instead of exempting vessels then attempting to create a new de-facto standard. It must be remembered that short term marina accommodation in Australia is not like Europe and for motor vehicle ride sharing there are no enforceable standards for recreational boats used in short term Marina accommodation in Australia other than the NSCV. There is no necessity or reason to exempt vessels from that standard.

*Question 6: Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical standards mentioned in Division 1 of Schedule 1 (eg: ABP or proof of installation)?*

Answer 6. Yes. Owners of vessels and regulators should be required to keep written evidence with independent verification that the vessel complies. Owners will mostly have no training to enable them to determine whether or not a vessel complies. Such record keeping will be provided by retaining the existing regime.

*Question 7: Do you think that the proposed general exemption (below) is clear and easy to understand?*

Answer 7. No. The proposed exemption does not make it clear whether effected vessels will be treated as recreational or commercial under marine safety, environment protection and other legislation which requires a clear distinction to determine which sections apply in a particular case. The proposed EX27 suggests that unqualified owners and not independent and appropriately qualified surveyors can certify that a vessel complies with technical safety requirements.

*Question 8: Is there any specific guidance AMSA can provide to assist industry with the proposed general exemption, if implemented?*

Answer 8. Yes. How to go about ensuring that the exemption is withdrawn as it is likely that it will be abused by unscrupulous operators as it does not provide for independent verification of compliance prior to operation. Even racing yachts and private motor vehicles have some independent verification of the safety of the vessel or vehicle.

## Regulation Impact Statement – questions which should have been asked and answered in the AMSA EX 27 Explanatory material.

***Do not confuse the problem with a ‘symptom’ of the problem. Identify the underlying cause of the problem. Is the problem the consequence or the cause?***

The EX27 Explanatory Material identifies the need for EX27 to be due to an *increasing number of enquiries from stakeholders, including vessel owners, boat builders, boating associations and MSIs, about what requirements schedule 1 of the Marine Safety (Domestic commercial vessel) National Law Act 2012 (the National Law) imposes in relation to recreational vessels that are hired out for short term accommodation through online platforms such as ‘Air BnB’ or ‘Beds on Board’.*

It is reasonable to assume that these enquiries are the result of *platforms such as ‘Air BnB’ or ‘Beds on Board’* promoting an activity which is currently only legal where conducted on a vessel which meets safety and pollution control standards for commercial vessels to owners of vessels which do not meet those standards. In other words, the websites are promoting illegal activities and may be in breach of Trade Practise and Fair Trading legislation. In many cases boats listed on the websites go beyond offering stays while in the marina and promote access to other areas and on water underway activities clearly in breach of applicable commercial use legislation.

An appropriate regulatory response is not to provide an exemption to virtually all safety and pollution control regulation but to tighten enforcement in areas where illegal activity is promoted.

• ***What is the nature of the problem? What loss, harm or other adverse consequences are being experienced, and by whom?***

The only loss harm or other adverse consequences shown in the EX27 Explanatory Material is that owners of recreational vessels currently must meet applicable commercial regulations if they are to hire out their vessels. The Explanatory Material fails to mention adverse consequences being caused by illegal short stay marina accommodation including those listed above. The draft EX27 does nothing to address these problems and if the exemption is made will only serve to increase the severity and frequency of losses, harm and adverse consequences.

Retaining the existing marine safety regulatory regime will help maintain reasonable and cost-effective safety and pollution control standards. The area where regulative action is required are the websites which through lack of enforcement are able to promote illegal activity of unlicensed vessels, operators, trades people etc. without impunity.

• ***How significant is the problem? What is its magnitude? If your proposal is intended to mitigate risk of an adverse event, what is the likelihood of that event occurring? What evidence do you have to support that assessment?***

The EX27 Explanatory material does not quantify the issue in any way, nor does it identify how risks will be mitigated or provide evidence of the alleged problem. A survey [REDACTED] would show that as few as two marinas may be prepared to permit short term marina accommodation.

A website search reveals that there are currently 3 listings on flotespace.com in Australia none of which appear to be operating legally.

There are 18 listings on Bedsonboard.com in Australia. Of these 4 appear to be operated by vessels in survey.

AirBnB has 99 listings for boats in Australia. Around 22 are duplicates or mis-classified. Around 38 appear to be commercial boats leaving no more than 39 listings. Of these a number are operating from moorings or would otherwise not satisfy EX27 requirements.

Fitting holding tanks with naval architect certification, smoke alarms, CO alarms etc. will discourage a large number of operators from taking up operations under EX27. The percentage of marinas permitting short term marina accommodation is very small. It is expected that the take up will be very small once operators become aware of the cost of compliance with EX27 and other limiting factors.

Providing that loopholes in the draft are closed and the exemption were to operate as intended the take up rate for EX27 is estimated be in the range of 20 to 30 boats throughout Australia. Of these many would be able to operate under NSCV F2 for a relatively small cost if properly advised. Any remaining need could be easily handled by individual exemptions providing that appropriate conditions are met. Clearly there is no justifiable need for a universal exemption as of right.

Given the potential for additional enforcement costs and much higher risk of injury or pollution the draft EX27 approach can not be justified. The preferred option should be to retain NSCV F2 compliance for short term marina accommodation.

- ***How is the problem currently regulated by Australian Government, state, territory or local government regulations, or by governments overseas? Are there deficiencies in the existing regulatory system?***

Short term marina accommodation is currently regulated through compliance with the National Law NSCV Part F2 class 4E minimum where no crew remain or Class 1 or 2 where crew remain onboard. These standards have operated successfully for many years with few incidents or complaints in this area. No deficiencies in this regime have been identified in the EX27 Explanatory Material.

NSCV Part F2 is generally consistent with international standards and permits compliance with international standards as a pathway. The additional costs to an owner adopting NSCV F2 are largely associated with fitting holding tanks, electrical and gas installations complying with Australian requirements. As the draft EX27 also requires these additional costs the marginal cost of compliance with NSCV Part F2 over EX27 is quite small. However, the numerous loopholes and anomalies in the Draft EX27 would create a very difficult and expensive enforcement environment and would not provide adequate protection to hirers, owners and other stakeholders.

- ***Is there a case for government intervention or is the problem of purely private interest?***

There is no case for the regulatory regime proposed by the draft EX27. The small marginal cost of compliance with NSCV Part F2 over EX27 is far outweighed by the additional risk associated with unqualified owners self-certifying compliance and the difficulties of enforcement associated by the numerous loopholes and sparse coverage of the regime proposed in the draft EX27.

- ***Why does current regulation not properly address the problem?***

The draft EX27 Explanatory Material does not detail any reasons why current regulation would not address the problem if properly enforced and communicated. By contrast the regime proposed in

the draft EX27 would leave a regulatory vacuum which endangers lives and potentially ruin the exemplary reputation of Australian commercial maritime operations.

- ***If the problem relates to existing legislation or regulation, is it caused by faulty design, implementation, or both?***

Legislation applicable to short term marina accommodation is consistent with international regulation and standards and regulation of recreational vessels. No real problems with current regulation were identified in the Explanatory Material. It is more likely that vested interests are blaming the existence of regulation on the poor take up of their websites instead of the real cause which is the bad reputation of marina and land AirBnB type systems which permit large noisy parties and other nuisances.

If any further regulation or enforcement is required, it relates to the websites not the operators. The number of illegal operators currently listed demonstrates that there is a step missing in the process of gaining a listing. Legislation is required which requires the website publishers to ensure that listings are legal operations.

We can take a lead from the very successful Uber ride sharing operation which mandates an inspection and check that vehicles are registered and roadworthy and that drivers are licensed and meet other background checks.

Instead of promoting an exemption from current laws website publishers would be better served by implementing Uber type checks to ensure compliance with current laws.

- ***What are the consequences of not taking any action?***

Not proceeding with the draft EX27 would mean existing regulation could be more readily understood and enforced. Assumes that appropriate enforcement action is taken the safety of marina users and the environment will be in a better position if the exemption is not made.

What is needed in either scenario is visible enforcement which is currently lacking in this space.

- ***Could relying on the market in conjunction with the general application of existing laws and regulations solve the problem? If not, why not?***

Yes. Once existing laws are seen to be enforced the number of operators trying to circumvent commercial safety standards will be reduced. With enforcement and communication of existing commercial regulations hirers and guests of short term marina accommodation will be better able to avoid non-compliant and unsafe vessels and operations.

- ***Will the problem self-correct within a reasonable timeframe?***

Providing that visible enforcement action is taken against illegal operators, enquiries to AMSA of the type complained about in the EX27 Explanatory Material will steadily reduce.

What is required is not an exemption from both existing commercial and recreational laws that would be created by the draft EX27 but communication and enforcement action of the existing laws and website publishers taking responsibility by putting in place systems that prevent illegal activities from being promoted on their sites.

28<sup>th</sup> June 2018

Standards Secretariat  
Australian Marine Safety Authority  
c/o [standardssecretariat@amsa.gov.au](mailto:standardssecretariat@amsa.gov.au)

### **Proposed new general exemption Marine Safety (Short term marina accommodation) Exemption 2018**

We refer to the AMSA request for industry views on a proposed regulatory approach to vessels being used for short term marina accommodation or 'AirBnB style' operations. AMSA is proposing an exemption which would allow vessels that are berthed at marinas and being used to provide overnight accommodation to comply with a more flexible set of requirements – so long as certain criterion for eligibility are met.

██████████ is the peak industry representative body for the commercial fishing, pearling and aquaculture industries ██████████ with a membership of over 1500 vessels.

██████████ supports the general thrust under the proposed general exemption to require reasonable safety standards that vessel owners and operators need to meet will be better aligned to the risk associated with this kind of 'AirBnB style' vessel use.

██████████ agrees that vessels operating under Exemption 27 will still have to meet minimum safety requirements, based on a set of conditions of use, including:

- vessel is berthed at a marina and can be accessed on a 'step on, step off' basis
- vessel owner implementing and maintaining a written safety management system
- vessel owner obtaining written approval from the marina authorising the use of the vessel for short term accommodation
- vessel complying with specific standards in respect to electrical, gas and fire safety
- a person not being able to operate the vessel or start the engine at any time.

██████████ does not support the AMSA proposal that a person does not need to apply to AMSA for approval to operate an AirBnB style vessel accommodation. Our industry believes that the commitment to formally apply and seek approval will assist to drive an owner to meet and demonstrate the eligibility criteria for the exemption and comply with all of the conditions.

██████████ agrees that a vessel will need to:

- obtain a National Law unique identifier and display it on the vessel;
- comply with the general safety duties outlined in Part 3 of the National Law

- comply with State and Territory laws that apply to the vessel, including local waterways management laws, environmental management, workplace health and safety and gas and electrical safety
- pay any levies and/or fees for the vessel which the owner may be liable to pay to AMSA and State/Territory marine safety agencies, based on the Commonwealth government cost recovery policy.

Yours sincerely,





Australian Government  
Australian Maritime Safety Authority

# PUBLIC COMMENT FORM

Please submit this form by either:

Email : [consultation@amsa.gov.au](mailto:consultation@amsa.gov.au)

Post: Business Support  
Standards  
Australian Maritime Safety Authority  
GPO Box 2181  
Canberra ACT 2601

## Personal details

[REDACTED]	[REDACTED]

### Please note:

- For submissions made by individuals, a person's details other than the State or Territory in which you reside will be removed from your submission before it is published on the AMSA website.
- Submissions may be placed on the AMSA website, shortly after receipt, unless prior contact has been made concerning material supplied in confidence, or to request a delayed release for a short period of time. **Submissions will remain as public documents indefinitely.**

Please treat my submission as confidential.

*By checking this box you are indicating that you do not wish AMSA to publish your submission as part of the consultation process. Please refer to the Privacy Statement below for more information on how AMSA will handle your personal information.*

### PLEASE READ:

#### Privacy Statement for regulatory consultation

For more information about how we protect your privacy and handle your personal information, please see our [Privacy Policy](#).

In order to participate in, and contribute to, the regulatory consultation process, you will be requested to provide an email address, phone or fax number, and other personal details. AMSA collects this personal information for the purposes of informing and receiving feedback from its stakeholders on proposed regulatory changes. We will only use and disclose your personal information for any other purpose in a circumstance as described within the "use and disclosure" section of AMSA's Privacy Policy.

We may publish your responses to consultations, including your name and your State/Territory, unless you have expressly advised us not to. The format of any such publication will be as a compilation of submissions received, with other contact information removed. By making a submission you agree and authorise AMSA to publish, at its complete discretion, your submission in this format. Your submission will be treated as confidential only if you have indicated this in the submission process. AMSA reserves the right not to publish any submissions at its complete discretion. For copyright, disclaimer and information on external links applying to the regulatory consultation process, please see [www.amsa.gov.au/copyright/](http://www.amsa.gov.au/copyright/)

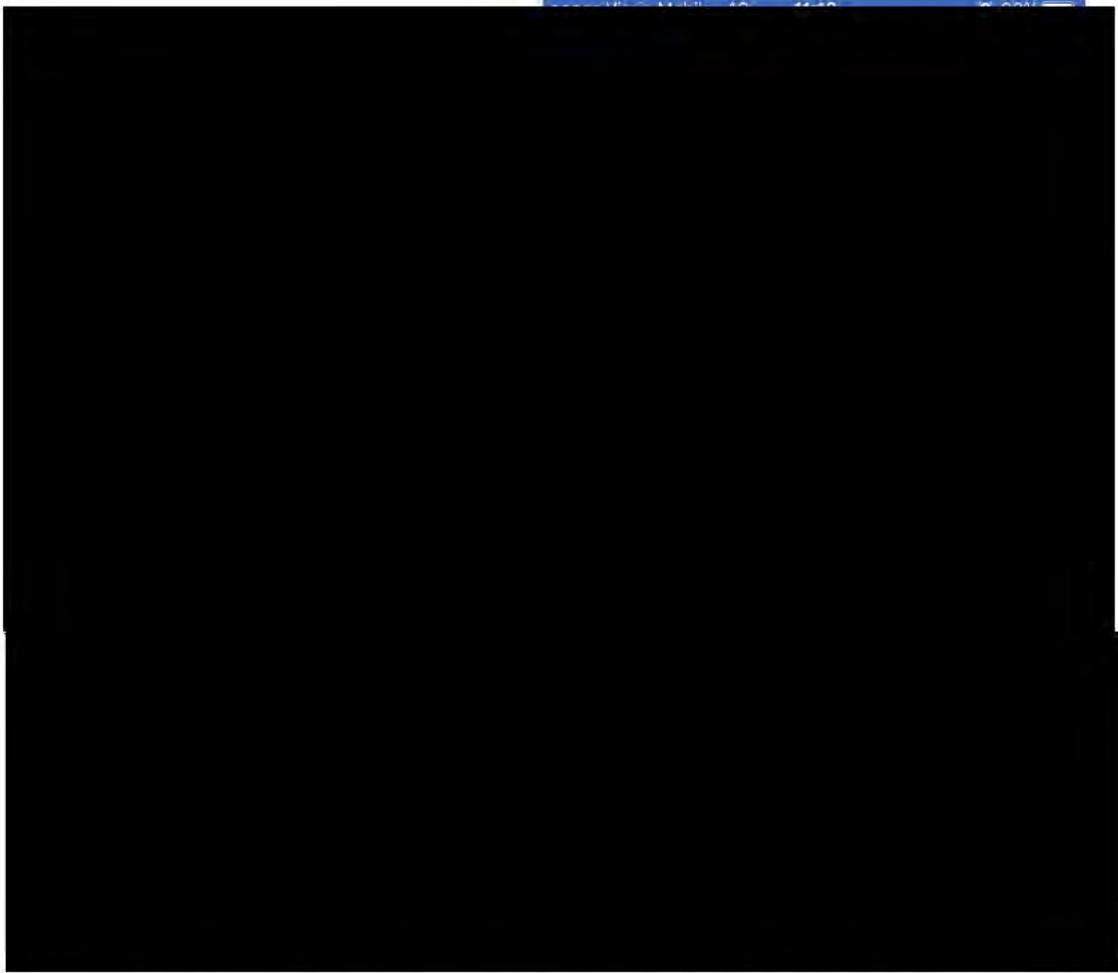
Provided below are comments on (this section must be completed):

Document name  
**EX27 Marine Safety (Short term marina accommodation) Exemption 2018**

Reference (Number of Section, Cause, Table, Figure, Issue etc)	Comments (include the reasons for any change to assist AMSA in understanding your concerns)
	<p> <span style="background-color: black; color: black;">[REDACTED]</span> I am a Master &lt;24m and MED 2. I currently own and operate 2 commercial charter boats <span style="background-color: black; color: black;">[REDACTED]</span> I am also a qualified electrician. I am strongly opposed EX27 to allowing short term accommodation onboard privately registered vessel with only limited safety upgrades that need to be complied with. Over the last 10 years in the commercial marine industry I have worked on many vessels both recreational and commercial and can see that this would be a very devastating decision by AMSA. I could go on and on with how it could be detrimental to my business etc but that's not the main concern I have for allowing this to happen. As a commercial operator I have to have a safety management system onboard each of my vessels which I constantly update with revisions, this can happen because I get feedback from my crew or myself while onboard our vessels during the time it is in its berth or while passengers are onboard. This allows us to always be working how to make our vessels safer for everyone. These companies that want to rent out recreational vessels (Airbnb, Floatspace and bedsonboard etc) don't actually have anybody onboard with the guest so when things go wrong no crew or owner is around to make changes so this doesn't happen again. One of the main sections of my SMS is risk assessment, has anybody bothered to do a risk assessment of letting passengers which are not familiar not just with the boat they are staying on but boats in general? With my commercial vessels I have to run with 100% more crew than my survey states just to make it safe to have passengers onboard my vessels.         </p> <p>           I understand AMSA have issued some guidelines in to what vessels need to have so make the vessels safer but without anybody regulating it who is actually going to make these changes? No body! I have to do periodic survey inspections with amsa accredited surveyors why do these vessels get away with not having to do this? If no one is checking up on these vessels why would they maintain standards?         </p> <p> <span style="background-color: black; color: black;">[REDACTED]</span> there is a very big issue with recreational vessel operating as charter vessels without commercial survey. I had one vessel next to my berth over summer that was taking out 100 passengers without enough life jackets or safety equipment to cover half that! I reported it <span style="background-color: black; color: black;">[REDACTED]</span> <span style="background-color: black; color: black;">[REDACTED]</span> and I was told that there isn't enough resources to go and stop this operator from running! Now AMSA want to         </p>

just make it legal for recreational vessel to have people stay onboard their vessel without paying any fees to help with the management of this? You are going to open a flood gate. If you cant manage the small number of illegal operators now, how are you going to manage when everyman and his dog renting out any type of vessel????? My opinon is AMSA has put this in the too hard basket to manage and the easiest way out for AMSA is Ex27. There needs to be an extra survey class iniated 1- passengers 2- non passenger 3- fishing 4- hire and drive 5- EX27. They will need to have to pay a fee to amsa and go through a initial survey. This will give it some power back to AMSA and let it be able to go regulated. Otherwise it's me and other commercial operators who have to find AMSA's involvement with EX27.

My other concern is you give the an inch and they take it a mile, I has on a facebook group the other day and they were discussing Airbnb on boats, this was mainly people from the USA and most of them had said that their marians had mostly banned this type of thing from going on, as there was so many safety risks, mainly because there isn't any staff at the marina at night so not only were no owners on the boats there weren't any staff to help people at the marina if anything was to go wrong. That wasn't the most alarming thing on that comments, it was a comment from a recreational boat owner [REDACTED] [REDACTED]



So you see this person started with just Airbnb but then will just “take them for a spin” this is a full commercail operation and this person thinks its ok!!!! So imagine if this is made legal everyone will just “take them for a spin” it will be a matter of day not years before someone is killed because these vessels arent built to commercial standard, don’t have the commercial crew onboard just so this vessel owner can made a quick buck.

**JUST BECAUSE IT’S A MOBILE APP DOESN’T MAKE IT LEGAL!!!!!!**

This needs to stop and letting them do accomodation while the vessels is not moving in my opioin will not help the situation it will make things go very bad quickly.

*Additional rows may be added by clicking the tab key at the end of the last entry.*

## Response to AMSA's EX27 External Consultation Draft

██████████ believe that the proposed EX27 (which appears to have been drafted largely in the context of cruisers in coastal water marinas?) would have unintended, highly injurious consequences for the houseboat hire industry.

We do not deny digital change nor seek protection in the online market space – we subscribe to the Houseboat Hirers Association leading Australian houseboat internet booking service, **are listed on the Australian Tourism Data Warehouse and developing full online booking/payment on our own website**. However, we believe that *inequitable two-tiered* regulation by AMSA for largely overlapping product would have severe negative impact on our sector. Static hire has always been an element of our business and some other houseboats operate *only* in that way. Under the NSCV F2 regime for commercial Leisure Craft, static operation is only slightly cheaper than hire & drive but costs for EX27 vessels would be markedly lower due to minimal regulatory impost. It is anticipated that many hirers, particularly those who moor in one location for much of their hire would opt for that then much cheaper mode, with hugely reduced occupancy for high cost, in-survey vessels.

There would be two principal differences between proposed EX27 vessels and F2 vessels with accommodation:

1. EX27 vessels would be berthed in a marina whilst in that mode of use. On inland waters this is not as clear cut as it is for coastal waters. Along the 2,000 km of Murray River for example, there are as many vessels moored on-river as off it, mostly licensed by RMS in NSW and leased by councils in SA, to groups of vessels and termed on-river marinas – all would qualify under the definition in the draft definition. However, on-river moorings adjacent to private property in SA, serviced with shore power and water, fenced from public access and under supervision of a site residence would not? Also, the current EX27 marina definition includes neither strata title nor freehold berths in *any* type of marina?
2. EX27 vessels could not be driven (or have any engine operated) by hirers. In harsh operating environments that is significant. However, for stable, slow moving vessels on smooth waters (operational area E) the main difference between driven or not relates to instruction given to the operator (SMS), not the intrinsic safety of the vessel and its equipment (survey). If survey is necessary in one case then it absolutely should be in the other – very few houseboats ever sink but if they do it is usually when moored, not whilst underway.

Further:

- F2 houseboats are limited to 12 berth, no matter how constructed. As currently drafted, EX27 would create a loophole for new un-surveyed <24 m vessels to be built or existing ones modified with any number of berths, to service this market. While the draft proposal specifies that space, equipment and facilities must be commensurate, there is no further qualifier, including buoyancy and stability?
- There appears to be no requirement for incident reporting, which surely could not be waived for commercial use. There *will be* accidents in this operating mode, the frequency and nature of which need to be known.

- All houseboats on inland waters in Victoria (i.e. Lake Eildon) are subject to 5-7 year out-of-water inspection and no commercial activity may be undertaken without a Category 7 permit issued by Goulburn-Murray Rural Water Corporation. For inland waters in NSW, untreated greywater discharge is prohibited from commercial vessels constructed after 2005 but not from recreational ones, while in SA commercial vessels cannot claim small vessel exemption and have a more rigorous cleaning regime for on board filter systems.

Private owners are unlikely to be aware of these and other rule differences for private and commercial operation of vessels, by various state authorities.

As a direct consequence of earlier two-tiered SA greywater imposts and greatly increased administrative/cost burden arising from transfer of operational regulation from the State to AMSA, a number of smaller houseboat operators have purportedly ceased business but are known to continue illicit operation. It is believed that the proposal for EX27 to be an as-of-right general exemption, without any application or even notification requirement, would be taken as encouragement by such operators and inevitably lead to more private vessels commencing operation not just as moored accommodation but hire & drive. Also, many (most?) genuine moored accommodation vessels are unlikely to obtain an AMSA unique ID, comply with SMS requirements and pay administrative levies, if not obliged to register – and AMSA could not police this without knowledge of the participants.

Notwithstanding the above, we would have little concern with EX27, if:

- it was restricted to coastal waters or,
- it was restricted to vessels below 12 m, which has some precedence in F2 or,
- it was un-available to houseboats.

The rationale for the latter is that, as vessels specifically designed for multi-berth accommodation, houseboats differ from other leisure craft with accommodation as acknowledged by many houseboat-specific rules in F2. Also most houseboats have been purposely built for commercial use and thus the majority of private ones, particularly >12m, are older retired commercial boats. It would be inequitable in the extreme to authorize their effectively unregulated commercial operation, at the expense of continuing fully regulated vessels *with insignificantly different risk profile*.

## Summary

Moored accommodation for reward, by otherwise private vessels is recognized as a commercial boating activity, which AMSA is thus obliged to administer but has proposed to effect with a general as-of-right exemption.

We have:

- raised a number of anomalies in the draft proposal;
- suggested that without an application/approval/registration process the activity would be endorsed but remain effectively unregulated due to unenforceability;
- proposed some potential compromises to make the exemption more equitable with AMSA's existing regulation of domestic marine accommodation.

Responses to AMSA's pro-forma *Specific Questions* are overpage.

**Question 1:** Do you think the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used only to provide short term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law?

No, NSCV F2 already regulates this activity.

**Question 2:** Only owners of vessels that are <24 metres in length are eligible for exemption under the proposed general exemption. Do you think this cut-off is appropriate?

No, with differences applying to F2 vessels above & below 12m, 12m could also be the limit here.

**Question 3:** There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of intention?

Approval should be mandatory:

- it could be joined with application for a unique identifier, which it is suggested would most often *not* occur under an as-of-right regime or,
- requirement for a Certificate of Operation could be retained to avoid creation of new protocols?
- it should be subject to 5 year out-of-water survey or, more frequent in-water survey or, at least EX27 3(3) and 3(4) compliance inspection by an MSI.

**Question 4:** Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardised. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate?

Yes.

**Question 5:** Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure the safety of children and other potentially vulnerable passengers. (See eg: AS/NZS 4220:2010 - *Bunk beds and other elevated beds*, and, HB393 – *Bunk beds for the short-term rental accommodation industry*).

No.

**Question 6:** Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical standards mentioned in Division 1 of Schedule 1 (eg: ABP or proof of installation)?

No but an annual statutory declaration of compliance should be required.

**Question 7:** Do you think that the proposed general exemption is clear and easy to understand?

Yes.

**Question 8:** Is there any specific guidance AMSA can provide to assist industry with the proposed general exemption, if implemented?

By definition, the proposal is for non-industry operators who would need prodigious guidance.

**Question 1: Do you think the proposed new exemption provides an appropriate regulatory outcome for recreational vessels used only to provide short term marina accommodation, weighing up the risk profile of these vessels and the costs associated with full compliance with the National Law?**

1. [REDACTED] agrees that the exemption requirements caters appropriately to the reduced risks in a Marina, but [REDACTED] has some concerns about leaving some aspects of the vessel's arrangement and fit-out to a Safety Management System developed by an owner alone. For example:
  - a. While accommodation standards would be largely market driven, there would be a few essentials that should not be overlooked from NSCV Part C1, at least to a standard that is suitable for a vessel almost stationary at a marina. For example:
    - i. Ventilation – Clause 4.8.3 would be too onerous, but there should be adequate provision. Includes separation from liquids, and fumes – Clause 4.10.4.
    - ii. Lighting – for movement at night – Clause 4.8.5.
    - iii. Maximum number of persons able to access a single deck: Clause 4.11.1 (a) intact stability, and (e) escape or evacuation.
    - iv. Operators might be warned of compliance with standards for persons with disabilities.
    - v. Those matters addressed in Chapter 5 summarised immediately below:
 

**Required outcomes**

**5.3 Required outcome — escape from hazards within spaces on the vessel**

Enclosed spaces on a vessel must have escape routes of sufficient number and size to eliminate or reduce to acceptable levels the exposure of persons on board the vessel to hazards such as fire, smoke, and flooding.

**5.4 Required outcome — redundancy in escapes**

Alternative escape routes on a vessel must control the risk of entrapment from the blocking of a single escape, having regard to the magnitude of risk if the escape route is blocked (eg the likelihood and consequences of exposure to hazards).

**5.5 Required outcome — facilitate movement for evacuation**

A vessel must be designed, constructed and furnished to facilitate in an emergency the orderly and timely movement of persons to:

(a) places of assembly; and

(b) disembarkation points for evacuation into survival craft.

**5.6 Required outcome — facilitate movement between decks**

Means of access between different deck levels on the vessel must be designed and constructed to facilitate the rapid movement of persons in an emergency and to avoid tripping hazards.
    - vi. General accommodation arrangement design factors such as limitations on angles of walkways, stairways and ladders at Clause 5.13.2, Step dimensions at Clause 5.13.3.4.
- b. Regarding general safety:
  - i. Will persons falling overboard be noticed?

- c. Regarding Electrical: While compliance with NSCV Part C5B would be adequate, not many recreational vessels seeking to make use of this Short Term Marina Accommodation Marina Exemption (EX 27) would comply with this standard. However, recreational vessels, if they have 240 / 440 V systems that can be grid-connected to marinas, are required by [REDACTED] law to comply with AS 3000 or AS 3004.2, and most of what is required in NSCV Part C5B will be addressed. However, certain sections in NSCV Part C5B will not be addressed in the AS 3000/3004 standards. For example, it might be essential for some sections of NSCV Part C5B to apply to the vessel apart from requirements of AS 3000 / 3004 – such as:
  - i. Requirements for required outcomes 5.6 and 5.7:
    - 5.6 PERIOD OF OPERATION**  
Essential services must be maintained during emergency situations for a period sufficient for the emergency to be overcome or for evacuation of the vessel to be completed.
    - 5.7 EMERGENCY LIGHTING**  
In the event of a failure in the main electrical system, sufficient emergency lighting must be provided to facilitate the initiation, undertaking and completion of appropriate emergency responses.
- d. Regarding Gas installations: It is a requirement of the Dept of Mines, Industry Regulation & Safety that the gas installation is installed by a registered gas fitter and that a compliance plate is attached. Unless a builder of recreational boats installs a system illegally (that is, installation is not by a licensed installer) all recreational vessels [REDACTED] should be fitted with complying /safe gas systems in accordance with AS/NZS 5601.
- e. Regarding fire safety: It might be unwise to rely upon fixed fire suppression systems that might be fitted on some vessels. Also:
  - i. For larger vessels, there should be arrangements to facilitate safe evacuation in the case of fire, such as mentioned in NSCV Part C4, at various clauses mentioning blind corridors, evacuation routes and protection from fire and smoke.
- f. Regarding sewage: No NSCV standard for sewage discharge or holding tanks exists, and different States have different laws governing discharge. Management of grey and black water will presumably be an item for the Marina to manage.

Based on the above a set of minimum standards that a majority of recreational vessels comply with and to achieve a minimum level of safety, the exemption should consider and list these items in the exemption rather than rely only on the owner/operator to think of these things in an operating plan.

**Question 2: Only owners of vessels that are < 24 metres in length are eligible for exemption under the proposed general exemption. Do you think this cut-off is appropriate?**

- 2. [REDACTED] a majority of vessels likely to operate under Exemption 27 will be under 24 metres however it should be noted vessels above 24 metre vessels will often be built to higher standard than smaller vessels, and are likely to be surveyed during build and fit-out. A more suitable limit may be 35 metres.

██████████ there is the possibility larger vessels, such as barges of any length being constructed with accommodation complying with this exemption and being used by other businesses to avoid using hotels for major projects. This type of operation is not really the target of this exemption, and when numbers of persons berthed on such vessels exceed some limit, a more rigorous treatment is more appropriate. This upper limit could be determined by liaising with respective Harbour Masters/ Marina Managers. For the purposes of this exemption, a convenient risk-based limit to the number of berthed passengers might be 12 persons to match numbers permitted on Class 2 vessels.

**Question 3: There is no requirement for owners of vessels wishing to operate under the general exemption to apply to AMSA for approval. Do you think approval should be obtained? Alternatively, should vessel owners proposing to use this general exemption be required to notify AMSA of this intention?**

3. ██████████ generally satisfied however it is suggested a requirement to notify AMSA should apply for vessels above a certain length, or vessels able to carry a certain number of people, so that AMSA can decide whether the exemption remains effective. This would bring the vessel to AMSA's attention to instigate making a determination in accordance with EX 27 item 3(4) – "National Regulator may make a determination".

**Question 4: Schedule 1 of the proposed exemption requires an owner of an EX27 vessel to comply with a number of conditions which are designed to ensure that the safety of the vessel, or other vessels in the marina, and persons on board is not jeopardised. Do you think these conditions are appropriate? In particular, do you think the conditions at Division 1 of Schedule 1 (design, construction and equipment requirements) are adequate?**

4. ██████████ some requirements are too onerous in that some recreational vessels will not be able comply, and most smaller vessels definitely will not comply with electrical requirements if not connected to the marina's electrical grid.

Also note that the only Australian Standard in existence for recreational boats does not apply to boats longer than 24 metres, and most ISO standards for recreational vessels also stop at 24 metres. ██████████ Schedule 1 is adequate because:

- a) it is onerous in some respects (all electrical requirements applying to the whole of the vessel), but
- b) not comprehensive enough to cover other risks that might need to be managed, and that are not mentioned in the exemption - refer to question 1.

**Question 5: Should the conditions at Division 1 of Schedule 1 require compliance with any additional technical standards relating specifically to accommodation and/or accommodation providers? Examples could include compliance with standards relating to safety of bunk beds and other measures designed to ensure the safety of children and other potentially vulnerable passengers (See eg: AS/NZS 4220:2010 - Bunk beds and other elevated beds, and, HB393 - Bunk beds for the short-term rental accommodation industry).**

5. See response to question 1. It would be reasonable to comply with some minimum safety requirements in terms of reducing specific risks as outlined in Question 1

**Question 6: Do you think an owner of an Exemption 27 vessel should also be required to keep written evidence that the vessel complies with the technical standards mentioned in Division 1 of Schedule 1 (eg: ABP or proof of installation)?**

6. [REDACTED] written evidence should be provided showing the vessel complies with the minimum safety standards as outlined in Question 1 and this should be made available upon request to a marina operator or Marine Safety Inspectors, and may be relevant to emergency services if required.

**Question 7: Do you think that the proposed general exemption (below) is clear and easy to understand?**

7. [REDACTED] the current exemption is easy to understand.

**Question 8: Is there any specific guidance AMSA can provide to assist industry with the proposed general exemption, if implemented?**

8. A General Guidance Note should be developed based on the final exemption.

## Submission regarding EX27 Marine Safety (Short term marina accommodation) Exemption 2018

Marinas, by their nature, have poor flushing of water, therefore it is not permitted to discharge either grey or black water (raw, macerated sewage) in any marina in Queensland.

To allow cruising yachties to live onboard their boats while staying at a marina for short periods, toilets, showers and laundries are provided onshore. Cruising yachties will make use of these because they are well aware of the consequences of not doing so - foul smelling water around their boats, obvious debris and scum on the water surface etc. From personal experience I can say that one does need to sternly remind oneself of the above when faced with a 10 minute walk on a cold and windy night to go to the loo!

If the proposed regulations encourage the growth of an industry based on owners leasing out their boats in local marinas as accommodation for visitors then the following issues will need to be considered and the problems raised addressed:

- The provision of accommodation in a marina is not consistent with the primary purpose of marinas which is to provide a safe harbour for boats. Yes there is a need for small numbers of person/nights of accommodation onboard by cruising yachties and marinas are set up to cater for this. They are not designed to cope with large numbers of non boating users living onboard moored boats for periods of up to 14 days.
- Anyone who hires a boat purely for accommodation obviously does not have the same concerns as a liveaboard owner/cruiser. If that person has paid a lot to hire a boat they will expect to be able to use all the facilities onboard. Of course many modern vessels have holding tanks for toilet discharge, but grey water from showers, sinks and washbasins still goes directly overboard. These holding tanks have only a small volume and are designed to hold sewage for one or two days/nights until the boat leaves a no discharge zone.
- If holding tanks are in use on boats providing accommodation in marinas, they will need to be emptied often - possibly several times during a single hire. [REDACTED] at least one marina has sewage pump out facilities, but only at the fuel dock and only when a booking is made in advance to use it. The vessel must be moved to the dock, the tank discharged and then the boat taken back to its berth. Alternatively the vessel might be sailed out of the marina and it's holding tank emptied just outside the entrance, which in the case of both local marinas, means the dumping of untreated sewage just off a swimming beach. In either case a competent skipper and crew will be needed to achieve this. Of course it is illegal to dump sewage within the smooth waters limits - but who will police that on a daily basis?
- Many marinas do not permit long term liveaboard vessels. The reasons have to do with the fact that vessels which are never taken to sea tend to be poorly maintained and become a hazard to other marina patrons and the marina infrastructure and environment. How many old boats, festooned with so much junk and pot plants that it's clear that it would take a week to get them ready for sea, have sunk at their moorings over the years?
- All marinas in [REDACTED] have secured berths, with locked gates at the top of the access ramps. Boat owners and crew of visiting yachts are issued with keys or swipe cards (which usually also allow entry to the toilet/shower facilities) for short term use. These people will generally take care to lock the gates as it is their interest to keep the marina arms on which their boats are moored secure. Visitors and temporary hirers of vessels won't see it that way and will tie back gates to allow their friends to

come and go at will. This already happens all too often when non boat owners are allowed access to marinas, such as during regattas and race weeks.

- [REDACTED] a wealth of existing accommodation options from backpacker hostels to five star hotels. We unfortunately have a problem with antisocial behaviour, often fuelled by alcohol and illegal drugs, among many visitors to this town which has a reputation as a party town [REDACTED]  
[REDACTED] Accommodation houses onshore have plenty of trouble with revellers who have over indulged. There have been many instances of stupid and risky behaviour on land and our local police are kept busy dealing with it. The prospect of the same sort of thing happening on boats in a marina is not enticing! How many drunks will attempt to climb the mast or go skinny dipping under the hull at 3:00 o'clock in the morning? Not only will other marina users be disturbed and potentially have their property damaged, but police and emergency services will have much less easy access to the perpetrators and probable victims.
- If private vessels are to be operated as commercial premises for the provision of accommodation they should be subject to the same standards as commercial vessels taking paying guests to sea and those which apply to self contained commercial accommodation on land. In other words the vessel must be seaworthy and safe to be occupied by unsupervised people.

As a boat owner I cannot foresee any circumstances in which I would be happy to rent out my boat to anyone for accommodation. The potential for things to go badly wrong for either myself as the owner, or for the hirer, is far too great. I'm also certain that my insurance company would take a dim view of any claim I made as a result of the activity. I'm forced to conclude that this form of business will only be attractive to those who have no personal attachment to their boats and treat them purely as money making investments. That view in turn leads to all the problems associated with making money from property and it should not be encouraged [REDACTED]

[REDACTED] The best way to do this is to keep the existing regulations in place and require all vessels providing accommodation either, at sea, or in a marina to be in survey and crewed by competent persons.