

STATEMENT ADDRESSING THE BETTER REGULATION PRINCIPLES IN RELATION TO THE

PORTS AND MARITIME ADMINISTRATION AMENDMENT REGULATION 2011

1 *The need for government action should be established*

The proposed Regulation is to be made under the *Ports and Maritime Administration Act 1995* (“the *Ports Act*”) to make a single amendment to prescribe authorised officers appointed under the *Marine Safety Act 1998* as a class of “law enforcement officers” for the purposes of serving penalty notices under the *Ports Act* and principal Regulation.

The penalty notice schemes under both the *Ports Act* and the *Marine Safety Act 1998* provide for service of penalty notices by “law enforcement officers” who are members of a class of persons to be prescribed in regulations under those Acts.

Prior to amendments to the principal Regulation made in November 2010 no penalty notices were prescribed under that regulation. Due to an oversight no prescription of “law enforcement officers” was included in the amendments to the principal Regulation.

It is necessary to prescribe a class of persons as “law enforcement officers” to enable the penalty notice provisions of the principal Regulation to be effective.

2 *The objective of government action should be clear*

The objective of the proposed Regulation is to make a simple amendment to the principal Regulation to enable persons appointed as authorised officers under the *Marine Safety Act 1998* to issue penalty notices as “law enforcement officers” under the *Ports Act* and the principal Regulation.

The prescription of authorised officers under the *Marine Safety Act 1998* as “law enforcement officers” under the *Ports Act* is convenient as both Acts are related components of the “marine legislation” of New South Wales and the *Ports Act* does not contain provision for the appointment of authorised officers.

3 *The impact of government action should be properly understood by considering the costs and benefits of a range of options, including non-regulatory options*

Non-regulatory options are not suitable as the amendment is a simple correction to enable penalty notices to be issued as originally intended when penalty notice provisions were inserted into the principal Regulation in November 2010.

4 *Government action should be effective and proportional*

The proposed amendment will assist in ensuring that the principal Regulation is effective by enabling the penalty notice provisions to be administered as intended.

5 *Consultation with business and the community should inform regulatory development*

The amendment is required to enable penalty notices to be issued by authorised officers as originally intended when penalty notice provisions were inserted into the principal Regulation in November 2010.

6 *The simplification, repeal, reform or consolidation of existing regulation should be considered*

The amendment will facilitate the administration of the principal Regulation as intended.

7 *Regulation should be periodically reviewed, and if necessary reformed to ensure its continued efficiency and effectiveness*

The principal Regulation will be reviewed under the staged repeal process of the *Subordinate Legislation Act 1989*.