



# Victoria Government Gazette

No. S 111 Tuesday 13 October 1998

By Authority: Victorian Government Printer

**SPECIAL**

## **Subordinate Legislation Act 1994** **REGULATORY IMPACT STATEMENT** **Wildlife (Whales) Regulations 1998**

Notice is given in accordance with section 11 of the **Subordinate Legislation Act 1994**, that a Regulatory Impact Statement (RIS) has been prepared in relation to the Wildlife (Whales) Regulations 1998.

The objectives of the proposed Regulations are:

- (a) to provide for the long term protection of whales; and
- (b) to prescribe the fees payable for the issue of a permit under section 78(1)(g) of the Act.

There are a number of reasons for the proposed Regulations including the protection of whales from the public by imposing minimum prescribed distances (generally 100 metres) within which the public may not approach whales in vessels and by imposing general restrictions on behaviour relating to whales. Other reasons are to promote tourist activities involving dolphin sightseeing and dolphin swim tours, which currently occur in Port Phillip Bay, by allowing tour operators to approach dolphins within the minimum prescribed distance of 150 metres outside Ticonderoga Bay Sanctuary Zone and within 200 metres within that Zone, subject to strict permit conditions. Under the proposed Regulations, permit fees are imposed to recover administration and inspections costs.

The RIS examined two alternatives to the proposed Regulations. One was to have no regulation of whale watching in Victoria other than by prescribing minimum approach distances. The second alternative was to impose general regulations on the public and a Code of Practice upon the dolphin tour industry. The RIS demonstrates that the first alternative is not appropriate as there would be no restriction on the manner of approach by members of the public or tour operators which could result in the harassment of dolphins. Under the second alternative, the public would be restricted to approaching whales at a distance no closer than

100 metres. Adherence to a Code is voluntary and it is therefore considered that a Code would provide insufficient protection.

The proposed Regulations require tour operators to comply with permit conditions, thereby ensuring that their activities do not adversely affect dolphins. This will encourage dolphins to remain in Port Phillip Bay. Tour operators who do not hold permits may not approach whales within a general distance of 150 metres. This will protect the whales and encourage operators to take out a permit so that they can approach closer than 150 metres to the dolphins. All types of tour operators and members of the public are restricted in the manner in which they are required to behave in the vicinity of whales thereby ensuring that there is no adverse impact on whales. The benefits of the proposed Regulations are therefore considered to outweigh the alternatives.

Copies of the RIS and the proposed Regulations may be obtained from the Information Centre, Department of Natural Resources and Environment, Ground Floor, 8 Nicholson Street, East Melbourne, 3002, telephone (03) 9637 8080, between 8.30 a.m. and 5.30 p.m. or on the Internet at <http://www.nre.gov.au/ris/>.

Public comments are invited on the RIS and accompanying Regulations. All comments must be in writing and must be sent to Mr George Grossek, Manager Flora and Fauna Utilisation (phone 9412 4350), Level 4, 250 Victoria Parade, East Melbourne 3002 or email [George.Grossek@nre.vic.gov.au](mailto:George.Grossek@nre.vic.gov.au) by not later than 5.00 p.m. on 11 November 1998.

**Note:** In this notice the term "whale" includes "dolphin" in accordance with section 75 of the **Wildlife Act 1975**.

MARIE TEHAN  
Minister for Conservation and  
Land Management

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Periodical - \$113.00 each year

Subscriptions are payable in advance and accepted for a period of one year. All subscriptions are on a firm basis and refunds will not be given.

All payments should be made payable to

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The Craftsman Press Pty. Ltd.

125 Highbury Road, Burwood Vic 3125

Telephone: (03) 9926 1233

Fax: (03) 9926 1292

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ISSN 0819-5471

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Melbourne 3002 Victoria Australia

**Subscriptions**

The Craftsman Press Pty. Ltd.

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Victoria, Australia 3125

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2nd Floor, 4 Bank Place

Melbourne 3000

Telephone enquiries (03) 9600 0977

**Price Code A**