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Mr Bill Kyriakopoulos
Deputy Secretary Police, Racing, Victims and Coordination
Department of Justice and Community Safety
Level 26, 121 Exhibition Street
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1 December 2023

Dear Mr Kyriakopoulos

REGULATORY IMPACT STATEMENT FOR THE VICTORIA POLICE (FEES AND CHARGES) REGULATIONS 2024

I would like to thank your staff at the Department of Justice and Community Safety (the Department) for working with the team at Better Regulation Victoria to prepare a Regulatory Impact Statement (RIS) for the Victoria Police (Fees and Charges) Regulations 2024 (the proposed Regulations).

As you know, the Commissioner for Better Regulation provides independent advice on the adequacy of the analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be written clearly so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 1 December 2023 meets the adequacy requirements set out in the *Subordinate Legislation Act 1994*.

Background and Problems

Victoria Police operates under the *Victoria Police Act 2013* (the Act), which authorises Victoria Police to impose fees and charges for providing police resources primarily used for commercial or personal purposes. These resources include police officers, protective services officers and Victorian Public Service staff, police assets such as police animals and vehicles, and police information such as fingerprints and police records.

Commercial events that may require police attendance include sporting events, concerts and film festivals. While event organisers bear responsibility for event safety, police may be deployed when event organisers cannot reasonably mitigate risk, or when the community or Government expect the police to attend. Personal purposes that require

police resources include obtaining a National Police Certificate for employment or volunteering, or processing fingerprints for travel or immigration. Victoria Police may also provide police photographs of offenders to the media, although the Department notes that this has occurred less than five times in the last 15 years.

The Department explains that the Chief Commissioner of Victoria Police has the discretion to waive or reduce fees for certain events if a waiver is requested before an event takes place. The Chief Commissioner can also require an event organiser to pay fees when police were not requested before an event, but police were called to assist.

The Department explains that while Victoria Police is funded to respond to community needs, police attendance at commercial events primarily benefits event organisers and attendees. The Department therefore argues that it is appropriate for primarily private beneficiaries to bear the costs of additional policing. The Department also explains that, in recent years, the costs of attending events and providing police information services have been under-recovered.

The current Victoria Police (Fees and Charges) Regulations 2014 sunset in June 2024. The Department explains that if the Regulations are not remade (the base case for analysis), Victoria Police cannot recover the costs of providing police resources to commercial events or providing information services and agency photographs. The Department notes that in the base case, Victoria Police would continue to attend higher-risk events. However, this would shift costs from the beneficiary (event organisers, attendees and requestors of information or photographs) to Victorian taxpayers.

Options and Analysis

The Department analyses three fee options for remaking the Regulations. All options will introduce new fees for new police assets (such as drones), remove fees for assets that are no longer used, and maintain current fees for police photographs. The options are:

1. A single fee for all events based on the average total cost of providing police resources across all events, and a single fee across the three categories of police information services (National Police Certificates, reports for lost, stolen or damaged property, and reports for collisions and accidents).
 - a. Under this option, fees for events would not vary depending on event size or risk posed. Fees for information services would also not vary depending on the type, complexity or volume of information requested.
2. Three types of fees based on event risk, and a single fee for each of the three categories of police information services.
 - a. Under this option, Victoria Police will assess whether an event is low, medium or high-risk. The risk assessment considers factors such as expected attendance, whether alcohol or suspected illicit drugs would be consumed, and intelligence.

Fees for information services would vary by category of police information services, but not by the complexity or volume of information requested.

3. Line-item fees based on costs for specific personnel, resources and effort involved (the status quo approach).
 - a. Under this option, fees would vary depending on the per-hour cost of providing personnel at various ranks and levels, and the per-hour cost of providing different police assets. Fees for information services would vary based on the costs of providing those services.
 - b. Relative to the current fees, fee units will increase for most staff and assets.

The Department assesses these fee options using a multi-criteria analysis (MCA), employing three equally weighted criteria, which are:

1. reflective of risk and cost – whether fees reflect the risk posed by the users, and the costs to Victoria Police of providing services.
2. equity – whether costs are borne by those who benefit from or create the need for police services.
3. simplicity – whether fees are easy for users to understand, and for Victoria Police to administer.

Option 3 has the highest weighted score and is the Department's preferred option. The Department explains that the line-item approach of charging for the per-hourly cost of providing resources, and having differentiated fees for all types of police information services is the most reflective of risk and cost. The Department also explains that this approach best ensures that those who benefit from police services bear the costs of providing those services. However, Option 3 is the least simple to administer.

The Department assesses that Options 1 and 2 are better than the base case in reflecting risk and costs, and ensuring beneficiaries bear costs. However, it explains both options are likely to lead to an under-recovery or over-recovery for certain events and services, and will lead to a degree of cross-subsidisation. This is because fees would not vary depending on the actual effort used to police an event or provide information.

Impacts of the Preferred Option

The Department estimates that, over the life of the Regulations, it will raise approximately \$113 million in fee revenue from the proposed Regulations. Of this, \$77 million will be from events, and \$36 million will be from information services.

The Department acknowledges stakeholder concerns around the potential negative impacts of increasing policing costs on holding commercial events in Victoria. The Department estimates that fees for events requiring a small, medium or large police presence will increase by 13 per cent relative to current fees. In the RIS, Victoria Police notes it could only reliably estimate personnel deployed at these events (using past allocations) as the use of other assets varies significantly depending on the risk of a particular event.

In the RIS, the Department conducts a jurisdictional comparison to compare Victorian fees with other Australian jurisdictions. In this analysis, the Department explains that the fees for lower-ranked officers (who provide a large portion of staffing at events) are much lower than fees charged in New South Wales and Queensland. However, it notes Victoria has the highest charges for all types of vehicles, other than some watercraft.

The Department also acknowledges stakeholder concerns around amendments to the Act by the *Justice Legislation Amendment (Police and Other Matters) Act 2022*. Prior to these amendments, Victoria Police could only charge fees for resources used at the event site. The amendments, which take effect from 1 January 2024, will allow fees to be charged for police deployed near the site when police are required to maintain order.

Although the Department acknowledges the amendments will increase fee revenue, the RIS does not analyse the impacts in detail. The Department explains that while the Regulations prescribe what Victoria Police may charge for, whether these fees are charged in practice, or are subject to a waiver (either wholly or in part), depends on Victoria Police policy. The RIS explains that this policy has not been settled, but Victoria Police will publish this policy in time for the commencement of the Regulations.

Implementation and Evaluation

The Regulations will take effect in early 2024. Victoria Police will be primarily responsible for applying and monitoring the proposed Regulations, including how waivers are granted, and the impacts of the 2022 legislative amendments. The RIS explains that Victoria Police is updating its waiver application process, as it anticipates the proposed fees will lead to an increase in waiver requests.

The Department explains that as the proposed Regulations reflect minor amendments to existing fees, Victoria Police does not need to significantly alter its systems to apply or monitor the proposed fees. The Department commits to monitoring the impact of the 2022 legislative amendments, including any disproportionate impact on small businesses.

In the RIS, the Department also commits to a mid-term evaluation of the proposed Regulations three to five years after initial implementation. The evaluation will focus on whether the level of cost recovery achieved by the Regulations is appropriate.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on (03) 7005 9772.

Yours sincerely



Rebecca Billings

Interim Commissioner for Better Regulation