

NGO - Submissions

Australian Coastal Society - Victorian Chapter

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AUSTRALIAN COASTAL SOCIETY – VICTORIAN CHAPTER SUBMISSION ON THE CONSULTATION PAPER ON THE PROPOSED NEW MARINE AND COASTAL ACT FOR VICTORIA

1. OVERALL COMMENT

This submission is made on behalf of the Victorian chapter of the Australian Coastal Society (ACS VIC). The Australian Coastal Society is a national organisation made up of individuals and groups with interests and/or professional expertise in coastal planning and management.

ACS VIC appreciates the opportunity to provide a response to the proposals for a new Marine and Coastal Act for Victoria and congratulates the Expert Panel on a very comprehensive consultation paper.

ACS VIC strongly endorses the statements in the consultation paper about the values of the Victorian coast, particularly:

Victoria's marine and coastal environments are special and unique places, loved and cherished by most Victorians. They underpin our way of life, providing enormous social and economic benefits in addition to their intrinsic natural values. These special places deserve to be protected and managed so future generations can also experience and enjoy them. [p.1, Foreword]

....

Healthy coastal and marine ecosystems provide significant value to Victorians and they underpin our way of life. The range of natural, heritage and recreational values make these areas valuable to residents, visitors and tourists, and provide important economic values that support industries and jobs, especially in regional areas. [p.12, A vision for a healthy coast and marine environment]

ACS VIC supports the general thrust of the proposals for a new Marine and Coastal Act, especially as they apply to holistic approaches, improved marine environmental management and proactive responses to the impacts of climate change on the coast. In particular, we agree with proposals to:

- Expand the membership of the Victorian Coastal Council (VCC) to include a wider range of skills in marine matters, and renaming it the Marine and Coastal Council (MACC).
- Designate Catchment Management Authorities (CMAs) as the agencies responsible for advising local government and other coastal managers on the potential for coastal erosion, as well as marine-based inundation (while recognising that additional resources will be required to enable them to develop or commission appropriate expertise, such as in coastal geomorphology and coastal engineering).
- Strengthen the role of Traditional Owners through Traditional Owner Land Management Boards (TOLMBs) and further joint management arrangements for coastal Crown land, including national parks and reserves.

- Require ongoing monitoring of the condition of marine and coastal environments and periodic assessment and reporting through a State of the Marine and Coasts report.
- Prepare a Marine and Coastal Strategy, accompanied by an implementation plan.
- Retain a Ministerial veto on the use and development of Crown land in coastal and marine areas.

We also support, in principle (subject to further work on processes and responsibilities), the proposals to:

- Transfer responsibilities for management of coastal Crown land from small volunteer Category 1 committees of management (CoMs) to larger, better-resourced bodies, either local government or district level Category 2 CoMs. However, we consider that there may be situations, such as in relatively remote areas with small populations, few built assets on the coast and low visitor pressure, where the existing community-level management arrangements may continue to be appropriate in the future.
- Prepare a Marine and Coastal Policy statement to provide a context for the Marine and Coastal Strategy, although we consider that the relationship between the two documents needs to be defined more clearly.
- Prepare a marine spatial planning framework.
- Integrate planning across jurisdictional boundaries and tenures.
- Streamline the consent process for use and development of Crown land in coastal and marine areas.

On the other hand, ACS VIC is disappointed by some aspects of the discussion in the consultation paper, and is not convinced of the potential usefulness of some of the measures proposed. In other cases, while we are in general agreement with the thrust of the recommendations, we consider that the effectiveness of the proposals could be improved.

The following comments on the consultation paper and its proposals are made with the aim of strengthening the planning and management of Victoria's coastal and marine environments and ensuring that the State maintains its position as a leader in this field. Any criticism should be read in this light.

Our major concerns with the consultation paper are:

- It persistently undervalues the role and contribution of regional coastal boards during the 20 years in which the *Coastal Management Act 1995* has been operating and overstates the duplication that would result if the boards were retained.
- It appears to focus on coastal Crown land and the marine environment, at the expense of the broader application of policy in the *Victorian Coastal Strategy (VCS)*, particularly as it relates to development in coastal areas to accommodate population growth and other user demands. The success of some key objectives will depend on influencing decisions taken under the *Planning and Environment Act 1987*.
- It understates the extent to which the failure to develop authoritative policy on marine environments has been a function of the lack of support provided by government.

These issues are discussed in more detail below.

ACS VIC also has some reservations about the stress placed on the complexity of existing management arrangements, due to the number of bodies involved in some way in planning for or management of the coast and Victorian waters. In our experience, engagement between existing agencies in good faith is often more effective than awkward 'restructures' or

transfer of responsibilities, where expertise may be lost and considerable time expended as bodies come to terms with their new responsibilities.

2. SPECIFIC CONCERNS

Regional Coastal Boards

ACS VIC believes that regional coastal boards have played an important role in the improvements in coastal planning and management that have been achieved under the Coastal Management Act, including:

- Attracting significant external funding and resources to research matters of significance to the state as a whole, e.g. the CSIRO studies of climate change on the Gippsland coast and the Commonwealth-funded 'pathways' projects examining the economic significance of camping and caravan parks on coastal Crown land west of Melbourne and the potential to retrofit stormwater and drainage systems in Melbourne's bayside suburbs to increase their resilience in the face of climate change.
- Ensuring that agencies, local governments, key stakeholders and the community were all working together to achieve integrated plans and programs on matters important to the regions. The involvement of agency representatives (and in some cases local government nominees) on the boards meant that agency advice was readily available to the regional boards on their projects, and the boards had an avenue to provide feedback on agency programs and proposals.
- Preparing coastal action plans (CAPs) for issues relevant to particular regions, e.g. integrated coastal planning for Gippsland or recreational boating, and for important areas of regions, such as the Gippsland Lakes or coastal estuaries in western Victoria and Gippsland. Specific municipality-based CAPs in western Victoria have provided long-term direction for multiple agencies and the community. The boating CAPs, which exist in all three regions, have been instrumental in attracting and directing investment in recreational boating facilities and are strongly supported by local government and other coastal managers.
- Facilitating the implementation of the VCS through the planning system, by submissions on Environmental Effects Statements and planning scheme amendments and involvement in appeals hearings at the Victorian Civil and Administrative Tribunal.
- Organising and running coastal conferences and workshops that enable people in regional areas, including members of volunteer committees of management, to engage with the latest scientific research and policy development for the coast.
- Acting as conduits between the Victorian Coastal Council and the community, for example, by hosting consultation sessions on successive drafts of the VCS.

It is true that in recent years, the influence of regional coastal boards has declined, but this can be traced to a large extent to withdrawal of political support, funding and staff and a reduction in their independence. In the view of ACS VIC, the capacity of the boards to coordinate and integrate regional planning and programs was also weakened by the decision to remove direct representation of key agencies, e.g. the relevant Department and Parks Victoria, from board membership.

If the regional coastal boards are abolished, ACS VIC does not believe that the full range of their activities can be satisfactorily substituted by a combination of the proposed MACC, coastal catchment management authorities (CMAs) and the proposed regional and strategic partnerships (RASPs). In particular, the advocacy role for implementation of the VCS/Marine

and Coastal Strategy (and the Marine and Coastal Policy) through the planning system would be weakened substantially.

Application of the Victorian Coastal Strategy beyond coastal Crown land and seas

Part of the effectiveness of successive VCSs has been due to the way in which they have dealt with broad coastal planning issues such as population growth and expansion of settlements and achieved the implementation of these policies through planning schemes.

As noted above, the regional coastal boards have played an important role in facilitating implementation of the VCS, through development of CAPs that assist in translating VCS policies into regionally-specific provisions, and in advocating for decision making to be consistent with the VCS.

We acknowledge that significant advances have been made in coastal planning in the past 10-15 years, with the inclusion of Coastal Spaces significant landscape overlays in planning schemes and the introduction of coastal settlement boundaries in many areas.

However, ACS VIC believes that there is still a need for facilitation and advocacy at the regional level. The structure envisaged by the consultation paper does not, in our view, provide an effective method of ensuring that this role is maintained. We are not sure that it would be embraced by coastal CMAs. While some aspects could be addressed through the proposed RASPs, we have reservations about this mechanism, which are discussed in the detailed comments section below.

The consultation paper claims that local government units are now larger and much better resourced and, by implication, do not need a 'watchdog' to ensure that their decisions give appropriate weight to the VCS. We would point out that local government amalgamation in Victoria was completed before the Coastal Management Act came into operation, yet there have been numerous examples of these larger municipalities making decisions that are inconsistent with the VCS (and indeed with their own planning schemes).

Marine policy

ACS VIC notes that the current and previous iterations of the VCS have contained substantial references to conservation of the marine environment and the planning and management approaches needed to achieve this. The land and biodiversity white paper (*Securing Our Natural Future, 2009*) also contained a commitment developing a Victorian Marine Plan, consistent with the action identified in the VCS 2008 to 'Continually improve marine planning and management frameworks and tools.'

ACS VIC acknowledges the work that has been done, including mapping and evaluation of marine and coastal assets, but notes that the resources required to address the full suite of issues involved in marine planning and management have been lacking to date. The proposed new system will need strong, preferably bipartisan, political support if it is to be more effective than its predecessors.

3. DETAILED COMMENTS

Question 1

Is the Vision set out in the Victorian Coastal Strategy 2014 [and amended by the Expert Panel to read '*A healthy coast and marine environment, appreciated by all, now and in the future*'] the appropriate vision to be used for the development of a new marine and coastal system? If not, how can it be improved?

ACS VIC generally supports the vision, including the proposed amendments. However, to us it does not quite encapsulate the long-standing Victorian commitment to containing coastal settlements and ensuring that, outside the metropolitan area at least, natural environments or rural settings predominate in the immediate coastal hinterland.

Management arrangements (pp.16-19)

The consultation paper notes that more than two-thirds of coastal Crown land and parts of the marine environment have been declared as national park, coastal park, marine national park or marine sanctuary and that these areas are protected under the *National Parks Act 1975* and managed by Parks Victoria.

It is not clear to ACS VIC whether this calculation includes the areas designated as Marine and Coastal Parks, e.g. Nooramunga, Shallow Inlet and Corner Inlet, plus the Wilsons Promontory Marine Reserve, Wilsons Promontory Marine Park and Bunurong Marine Park. While Parks Victoria manages these areas under the National Parks Act, they are not declared as national, state or coastal parks or marine national parks or marine sanctuaries. They are included under the National Parks Act by virtue of Schedule 4, which provides that any area of land vested in the Minister or managed by the Secretary (under various sections of the Act) are areas of land to which the provisions of the Act and its accompanying regulations apply. Recognition under Schedule 4 does not remove previous reservations, e.g. road reserves or foreshore reserves, managed by other agencies. It is highly desirable that these areas should be formally declared as national, state or coastal parks and/or marine national parks or marine sanctuaries, under the full provisions of the National Park Act.

ACS VIC acknowledges the Victorian Government's achievement in declaring 5.3% of the State's marine waters as highly protected no-take areas (marine national parks and marine sanctuaries). It would be interesting to know how this, and the extent of Commonwealth highly protected areas, compares with international benchmarks.

The consultation paper notes that most of the foreshore Crown land outside parks is reserved under the *Crown Land (Reserves) Act 1978* for various public purposes and is largely managed by CoMs. Nevertheless, small areas of Crown land above the high water mark and most marine areas within Victorian waters are technically unreserved Crown land under the control of the *Land Act 1958*. These are under the administrative control of DELWP. In these areas, issues and activities within the system are usually managed as specific sectors established under legislation other than the Coastal Management Act. Most of these sectors have their own legislative, policy and management frameworks.

ACS VIC is not clear about what the proposed new regime will do to change the influence of specific sectors in the management of issues and activities in these areas. What influence will the MACC have in relation to the activities of other sectors, under other legislation? How will the other Departments or agencies be encouraged to sign up to the proposed marine spatial planning framework?

The consultation paper notes that regional catchment strategies (RCSs) direct the integrated management of land, water and biodiversity within catchments and out to three nautical miles offshore and that RCSs are based on the principles of effective community engagement in decision making, ecologically sustainable development, enhanced biodiversity values and improved natural resource management.

While the above statement is true, ACS VIC is aware that approaches vary across the state. In preparation for the most recent generation of RCSs, some CMAs engaged proactively with

marine environmental issues. For example, East Gippsland CMA provided funding to the Gippsland Coastal Board to identify coastal and marine assets and Glenelg Hopkins CMA supported information sessions for researchers to assist with community understanding and identification of new marine pests. However, it is our understanding that CMAs were discouraged from dealing in the RCSs with marine issues that were not related to catchment-coast interactions.

Strengths of the current system (p.21)

An important feature of Victoria's coastal management regime is the extent of the coastline that is in public ownership, maintaining and unprecedented equity of access to the coast and beaches.

Consideration should be given to whether the figure of 96 per cent, given in the consultation paper, is still accurate, particularly if the shorelines of major lake systems such as the Gippsland Lakes are included. It may depend on how the coastal reserve was specified in the first place, e.g. a specified distance inland from high water mark or a width based on surveyed boundaries. To ACS VIC's knowledge, there has been no systematic examination of the Victorian coast to determine changes that have occurred since the foreshore reserves were declared. As the consultation paper rightly states:

Public land along the coast also supports important ecosystems and acts as a natural buffer to allow for the natural dynamics of the coast. A public land coastal strip will become even more valuable as we face the challenges of climate change. [p.21]

The current status of the coastal reserve and ways to preserve it into the future are, in our view, absolutely central amongst the issues that need to be addressed in relation to the impacts of climate change on the coast.

ACS VIC endorses the view expressed in the consultation paper that the VCS and Coastal Management Plans (most usually taking the form of Foreshore Management Plans) are strengths of the current system, but is disappointed that the role and effectiveness of CAPs (and more recently, regional coastal plans) has not been recognised.

Drivers for change (pp.24-31)

As noted above, ACS VIC considers that the alleged 'complexity' of the current coastal management system and the lack of clarity in roles and responsibilities are somewhat overstated. In any case, the only significant structural change proposed seems to be the elimination of regional coastal boards, whose role is in planning, coordination and advocacy.

In our view, the main shortcoming of the current regime under the Coastal Management Act is the lack of a clear link between policy/strategy and implementation action. Strengthening this link should be a major focus of the proposed new structure, but we are not sure that the consultation paper's proposals achieve this.

The statement that the responsibility for managing marine habitat could lie with one of a number of organisations is somewhat confusing. This point could have been explained in more detail, with examples.

Question 2:

Do you think coastal and marine management arrangements are overly complex? If so, how has it negatively affected outcomes? Give specific examples if possible.

As discussed above, ACS VIC does not consider that the complexity of current planning and management arrangements are as significant as has been claimed. Major structural changes can result in loss of expertise and years of reduced productivity as the new agencies come to terms with their responsibilities. This is not intended as an argument against reform, but a caution about the processes to be adopted.

The consultation paper rightly rejects the idea of a 'one size fits' all approach to reallocation of responsibilities for management of (mainly urban) foreshore reserves. In many cases, local government may be the appropriate manager, in others it could be an enlarged Category 1 CoM, whilst elsewhere, small volunteer committees may continue to be the best solution.

The issue of multiple advisory bodies and whether the abolition of regional coastal boards is desirable has already been addressed. However, ACS VIC notes that governments frequently create new, non-statutory advisory committees, such as the Gippsland Lakes Coordinating Committee (previously Gippsland Lakes Ministerial Advisory Committee) to achieve short-term political objectives. In our view, it would be preferable for existing bodies to be resourced to undertake additional roles. We are also aware that the previous Victorian Government, in particular, provided substantially more funding to the Gippsland Lakes Ministerial Advisory Committee than to the Gippsland Lakes and Regional Coastal Board (Gippsland Coast Board) from 2010 to 2014, so it is hardly surprising that the Committee had more apparent achievements during that period than did GCB. If a new coordinating body is seen as desirable, for example to oversee the distribution of a specific funding allocation, it would be more effective if this took the form of an 'umbrella' group comprising senior representatives of the relevant agencies, similar to the former Gippsland Lakes Task Force.

ACS VIC generally supports the improvements for which the Expert Panel is aiming regarding governance and institutional arrangements (p.25).

We agree that there is a need to strengthen marine management policy and planning, to respond to threats from invasive species, changing water quality, increased use and development and climate change. However, as noted before, additional resources will be needed to achieve significant improvements in these areas. ACS VIC is also concerned that fisheries, oil and gas, commercial ports and other marine sectors will remain outside the scope of the proposed Marine and Coastal Act.

ACS VIC endorses proposals for research to fill significant gaps in knowledge of marine science, biological processes, species and ecosystems as well as human impacts and other threats to these natural marine systems. We also support the statement of aims regarding strengthening marine management, policy and planning (p.26).

ACS VIC agrees that it is essential to integrate policy and management regimes across jurisdictional and physical boundaries and public and private land, and to align planning process under Coastal Management Plans (CMPs), which should be mandatory, with municipal strategic planning. We also endorse the use of coastal compartments as a basis for assessing appropriate actions to respond to the likely impacts of climate change on the coast.

While recognising that there are some overlaps – and some gaps – in the relationship between Coastal Management Act consents and planning permits under the Planning and Environment Act, ACS VIC considers that care is required in determining how best to streamline the system, e.g. the wording of exemptions for 'minor' matters.

We support introduction of a public notification and comment process for matters that do need consent. This would avoid clumsy responses such as requiring an EES for the ocean

access boat ramp at Mallacoota, because – since the substantive development did not require a planning permit – there was no other way of providing formal public input. We also support stronger enforcement provisions, as regulation without enforcement is weak.

ACS VIC supports the improvements for which the Expert Panel is aiming regarding integrating planning systems (p.27), but considers that the proposals also need to make provision for facilitation and advocacy concerning the implementation of the VCS/Marine and Coastal Strategy through the planning system.

Under Drivers for Change 4, the first paragraph contains an excellent summary of the current and future impacts of climate change on the Victorian coast (p.28):

Climate change will continue to affect Victoria's coastal and marine areas. Sea level rise, increases in the severity and frequency of storms and rising temperatures are leading to increased flooding of low-lying areas; erosion of dunes; loss of beaches, sand dunes, saltmarshes and mangroves; and increased salinity in estuaries, rivers and bays. In marine areas, the impacts include increased ocean temperature and increased ocean acidity that cause changes to critical marine habitats and ecosystems.

This is one of the few statements in the document that recognises the profound impacts that may arise from ocean acidification. ACS VIC considers that the implications of this process for coastal planning and management, as well as for marine biodiversity, have not yet been fully understood.

This section of the consultation paper refers to the impacts of population growth and other user pressures on ecosystem integrity and resilience. This highlights the points made above about the need to retain an advocate at the regional scale for the implementation of statewide marine and coastal strategy.

ACS VIC strongly supports the inclusion of an objective relating to climate change in the new Marine and Coastal Act (and in the Planning and Environment Act, as recommended by the 2010 report of the Coastal Climate Change Advisory Committee) and the need to work out ways to take proactive adaptation action in the face of ongoing uncertainty, and to increase the understanding of risk in coastal communities.

While we agree that there is a need to rationalise coastal protection assets and determine responsibilities for their ongoing maintenance, ACS VIC believes that more stress should be given to non-structural adaptation measures, which may also be costly but are not afforded equal treatment in the consultation paper.

As noted above, preserving access to the coast is a key issue for future planning. We suspect that more of the coastal (or shoreline) reserve has been lost already than is commonly understood. The current status of reserves should be determined (with reference to how they were originally specified) and 'hot spots' identified, such as areas with historically high rates of erosion, to receive priority in planning. This could take the form of land acquisition or access agreements with adjoining land holders. Clarification of how Victoria will apply the doctrines of accretion and diluvion (erosion) is essential.

ACS VIC supports the improvements for which the Expert Panel is aiming regarding adapting to climate change (p.28).

Question 3:

Other jurisdictions have made legislative changes to better deal with the impacts of accretion and erosion. Are there any aspects of the approaches used in other

jurisdictions, for instance NSW and Queensland, that would be relevant for Victoria to help achieve the above improvements?

ACS VIC considers that there are important lessons from other jurisdictions.

The proposed new regime in NSW has positive features, although ACS VIC notes that NSW has, in the past, reneged on some of its stronger positions, such as refusing to allow private owners to install protection structures on Crown land. NSW also has a more prescriptive coastal management manual than the Victorian *Coastal Hazard Guide* (2010).

In addition, the South Australian Coast Protection Board (established under the *Coast Protection Act 1972*) is an interesting model. It develops coastal policy and acts as a referral authority on key development proposals on the coast.

With regard to sustainable resourcing for marine and coastal management, the consultation paper seeks to improve the predictability, quantity and distributional equity of funding, which ACS VIC agrees are essential. However, it seems to have accepted that there will be no substantial new government funding. We believe that the improvements needed in the marine and coastal management regime cannot be achieved without major increases in investment of public funds and resources.

The consultation paper identifies the need for greatly improved monitoring and reporting of the condition and health of the marine and coastal environments (natural, biophysical and physical) and the condition of built assets. ACS VIC strongly supports the need for improved long term monitoring of issues such as invasive marine species – native as well as exotic – and the state of beaches (extent, profile, height above high water mark, etc.). Some of these activities provide opportunities for involvement of citizen scientists, but resources are still required for training, coordination and analysis of results. We note, also, that baseline information is absent for a range of key variables, such as historic sea levels (say 1990, to which planning benchmarks of a 0.8 metre sea level rise by 2100 are linked) on specific areas of the coast, detailed mapping of the widths of the coastal reserve, and processes and rates of erosion or deposition in particular locations.

Monitoring is also required to determine the effectiveness of the proposed Strategy. This should cover inputs (resources committed to implementation), outputs (achievement of actions identified in the Strategy) and outcomes, in terms of measurable improvements in the coastal and marine environment.

ACS VIC agrees that community involvement is central to the success of any regime for marine and coastal management in Victoria (p.29). However, if regional coastal boards are abolished and small local CoMs are amalgamated into larger units, the gap between statewide policy and community understanding and action may widen. Reinstatement of funding for Coastcare would go a long way towards providing a meaningful avenue for public involvement. Citizen science programs should also receive increased support.

Question 4: Do you think the seven Drivers for Change encompass the key issues? If not, what other key issues need to be addressed to improve Victoria's coastal and marine management system?

As discussed above, the consultation paper concentrates on coastal Crown land and the marine environment. There is an under-emphasis on the need to maintain compact coastal settlements and to protect the aesthetic values of the coast between settlements. This is a legitimate objective of a system for marine and coastal planning and management.

In addition, ACS VIC believes that provision of ecosystem services should be explicitly recognised as a function of the coastal and marine system. The benefits that ecosystems provide should be identified, valued and included in decision making.

Proposed reforms (pp.34-73)

Principles for guiding change

ACS VIC endorses the proposed principles for guiding change (Appendix 2), although it considers the principle on ecologically sustainable development would be better recast as:

Use and development that affects Victoria's coastal and marine environment should aim to maintain the ecological processes on which life depends, while improving the quality of life of Victorians, across current and future generations.

Setting clear objectives for the marine and coastal system

Question 5:

Do you think these objectives for a new marine and coastal system are appropriate to form the basis of the objectives for a new Marine and Coastal Act? Are there any issues that need to be considered when finalising these objectives?

ACS VIC believes that the objectives for the new system should be imbedded in the proposed Marine and Coastal Act. They need to have a level of specificity so that those implementing and testing the Act in panels or tribunals have a clear idea as to what must be done.

We generally support the draft objectives, with the following suggestions for improvement:

- Objective 2 might include explicit reference to the need to reduce existing stressors on coastal environments.
- Objective 3 refers to improving the resilience of coastal assets, which could be in conflict with some desirable measures under Objective 2, for example, removing linear infrastructure such as road embankments near the coast in order to reduce the 'coastal squeeze' on natural systems such as mangroves and saltmarsh. We also suggest that this objective should be reworded to:
 - *Reduce current and future risks from climate change by improving the resilience of marine and coastal communities and assets, ~~and~~ adapting to the impacts of increased hazards and mitigating climate change.*
- A new objective should be added as follows:
 - *Promote the monitoring and enforcement of unauthorised use and development of the marine and coastal environment.*
- Explicit mention should be made of preserving and enhancing the value of ecosystem services.

The objectives of the new legislation and the relevant policy should recognise climate change mitigation as well as adaptation. The marine and coastal area contributes to release of greenhouse gases in addition to the capture and reduction of greenhouse gases through renewable energy, carbon capture and storage and natural carbon sinks.

There may be a need to define the inland extent of the 'coast' to enable stronger planning decisions when considering residential development, marinas, cultural heritage and related matters.

Clearer governance and institutional arrangements

Marine and Coastal Council

ACS VIC supports the conversion of the VCC to a new Marine and Coastal Council (MACC) and generally endorses the roles outlined for the new body. However, we have reservations about the capacity of a statewide body to act as a conduit between government and the community on marine and coastal issues.

ACS VIC sees considerable advantages in the alternative model, a Marine and Coastal Authority (or possibly three or more regional bodies that would take on this role, under a statewide policy and strategy), but accepts that this is likely to be politically untenable.

In the absence of such a body, we agree that it is imperative to retain an ‘arms length’ advisory body. It should have commensurate input into decision making and have clear and dedicated functions. However, we caution that its effectiveness will be determined by the resources allocated to it, as much as by what is written in the enabling legislation. We suggest that funding should be allocated on a three-year rolling basis.

It is essential that the MACC has the ability to seek its own sources of advice, outside the departmental structure and that it continues to build on the VCC’s links with universities and other research institutions.

Membership of the MACC should be skills based, rather than representative (which seems to be suggested in the consultation paper). It is very important to retain its capacity to form expert advisory groups, such as the VCC Science Panel.

We also support the proposal that any advice provided could be tabled formally in Parliament to increase transparency. The new Act could contain a provision, similar to that in the *Environmental Assessment Council Act 2001*, that requires the Minister to table advice or reports from the MACC in Parliament within seven sitting days of its receipt. ACS VIC is aware that in the past, the VCC has provided advice to the Minister on matters such as the interpretation of coastal dependent uses and erosion on the open coast, but the content of this advice has not been made publically available. The MACC should, as the VCC already does, prepare an annual report to be tabled in Parliament.

In addition to the proposed role of the Council in advising the Minister on specific proposals for use and development in the coastal and marine environment, the MACC should be able to provide submissions in public forums, such as on EESs or planning scheme amendments.

Question 6: Do you think the required skills for the Marine and Coastal Authority members should be legislated? If so, what skills, backgrounds and expertise should be represented? Should there be a minimum number of members? Is the maximum of 11 members still appropriate?

In addition to the skills/knowledge areas specified in the Coastal Management Act – conservation, tourism, business, recreation, commerce, issues relating to indigenous peoples, community affairs, town planning, local government and coastal engineering – it would be desirable to add: coastal geomorphology, marine environment, fisheries, marine energy, and maritime transport/ports. The Act should provide for a maximum of 12 members, with the ability to co-opt additional members to provide specific skills as needed for particular tasks. Participation of representatives of DELWP and Parks Victoria, if necessary on an *ex-officio* basis, should also be considered. ACS VIC considers that the involvement of these agencies in the VCC and regional coastal boards in the past was extremely valuable.

Marine and Coastal Strategy & Marine and Coastal Policy

ACS VIC supports the proposals to prepare a Marine and Coastal Strategy and a Marine and Coastal Policy and for both to be seen as ‘whole of government’ documents rather than merely the outputs of an individual advisory body.

There appears, however, to be some confusion in the consultation paper about the relative status of the proposed new Policy and Strategy, with discussion of the Strategy preceding that of the Policy, which seems to be intended as the more stable and long-lived component of the system (although no review period is specified for it). ACS VIC also notes that the Policy will require development of new agreed positions with regard to marine policy. It is not clear to us what incentives there will be for other marine sectors to participate in this process. If cooperation is not forthcoming, the timeframe for development of the Policy may blow out to a point where it threatens the ability to prepare a new Strategy in a reasonable period.

We note the judgement in the consultation paper that the VCS has been less successful in leading and guiding the management of marine environments and has been unable to achieve significant participation and influence in all marine sectors, such as local and commercial ports, commercial and recreational fishing and the earth resources sectors. In the opinion of ACS VIC, this failure has resulted from a lack of resourcing to address these issues. We note also that the listed marine sectors were specifically excluded from the scope of the existing and previous VCSs and – according to the briefing at the Stakeholder Forums – from the scope of the new Marine and Coastal Act.

ACS VIC agrees that the current VCS contains too many specific actions; these can have the effect of stifling creative thinking about the most effective ways to achieve particular policies or strategies. In addition, while an implementation plan has been prepared for the VCS in the past, specifying lead agencies, other bodies with an interest in an action, and timeframes, it did not contain any detail on resource requirements, sources of funding or measures of success.

Question 7:

Do you agree with the recommended time frames and approach for a new marine and coastal strategy and marine and coastal policy? Why?

ACS VIC suggests that responsibility for preparation of the Policy and Strategy should lie with the MACC, with support from government departments and agencies, rather than with the agencies (as suggested on p.81). The Strategy should be reviewed every five years, rather than the four years proposed in the consultation paper. Past experience indicates that it is difficult to achieve even this turnaround. As noted above, delays in resolving the marine components of the Policy could add to the complexity.

Boosting the role of coastal CMAs

With regard to proposals to boost the role of coastal CMAs, ACS VIC supports their designation as the bodies responsible for providing advice to coastal managers on the potential for coastal erosion, as well as inundation from marine or estuarine processes. Additional skills and resources would be required to equip them to fulfil this function.

However, ACS VIC is not convinced that the CMAs would pick up the full range of policy roles fulfilled by the regional coastal boards, particularly with regard to social and economic issues, climate change adaptation in urban areas, location of facilities on the coast, expansion of settlements and landscape impacts. Nor do we believe that they are necessarily the appropriate bodies to manage marine environmental values outside marine parks.

ACS VIC foresees major challenges in extending the focus of CMAs from terrestrial catchments, biodiversity and waterway management to include coastal and marine areas that have largely been outside their expertise, capacity and areas of interest.

There is also the issue of split reporting responsibilities between the Ministers responsible for the *Catchment and Land Protection Act 1994*, the *Water Act 1989* and the new Marine and Coastal Act. This also applies to directions from the proposed MACC and the existing VCMC.

Another important issue is that the current boundaries of CMAs do not support unified management of the coastal and marine environment. For example, the Gippsland Lakes and Port Phillip Bay are both split between two different CMAs.

Question 8:

Do you think the proposed reforms would provide for greater efficiency in the advisory functions for natural resource management in marine and coastal areas? What other changes would be useful to help recognition of an enhanced focus on coastal and marine issues by Catchment Management Authorities (e.g. Coastal in the title)? Why?

The proposed reforms might provide greater efficiency in advisory functions for natural resource management and giving CMAs more responsibility for community engagement may couple well with their current roles in delivering projects and outcomes. However, ACS VIC believes that advocacy for some aspects of the scope of the VCS may be downgraded.

With regard to the inclusion of 'coastal' in the title, if the changes go ahead, we would support renaming them as Catchment and Coastal Authorities. In this eventuality, the new legislation must prescribe the connections between state and regional roles and each body's responsibilities and authority. It should also ensure the CMAs are monitored to ensure balanced and appropriate decision making; and the decisions must be accountable.

Providing for Regional and Strategic Partnerships

Regarding the proposal for regional and strategic partnerships, ACS VIC's comments are provided on a 'without prejudice' basis, given that we have already made clear our preference for retaining regional coastal boards.

The proposed RASPs appear to us to have potential in addressing issues such as adaptation to climate change and the contribution of coastal and marine environments to mitigation, e.g. through expansion of mangrove ecosystems and other forms of 'blue carbon'.

However, if the process of establishing or approving RASPs is not managed carefully, they could cause more confusion and duplication, with the possibility that a range of similar issues may be addressed through parallel or overlapping projects, led by different bodies, in the same region. In addition, as with so much else, resourcing and governance arrangements will be keys to their success.

If RASPs are pursued, we agree that could be an appropriate mechanism to deal with regional planning or issue-based planning that crosses jurisdictional boundaries such as coastal hazard assessments, adaptation plans, user demand management strategies and environmental management plans. To this list could be added regional recreational boating strategies, to update existing boating CAPs.

We note the proposal that a Coastal Management Plan (CMP) or consent for use or development could be required to take into account a relevant plan produced by a RASP. This should also apply to decisions under planning schemes, as is the case at present for CAPs.

Phasing out Regional Coastal Boards

For the reasons discussed in detail above, ACS VIC does not support the phasing out of regional coastal boards. In addition, it notes that the very limited resources currently applied to supporting the boards would go nowhere in terms of additional support for the MACC or the coastal CMAs.

A revised and strengthened Marine and Coastal Board model, with adequate resources for managing projects, good agency and local government participation and a clear purpose under the revised Act would provide valuable oversight and integration opportunities. The ability to prepare CAPs / regional coastal plans should be retained. If project governance arrangements needed to be formalised between agencies and other stakeholders, a version of the RASP mechanism could be used.

Skilled and capable coastal managers / transitioning from smaller committees of management

Question 9:

What issues would need to be considered to enable a smooth transition from smaller CoMs to larger coastal managers or local government? What process should be followed? How would you ensure that the benefits of local input, knowledge and effort were not lost as part of the process?

ACS VIC generally supports the proposals to amalgamate smaller CoMs into larger, district level units or to transfer their responsibilities to local government. However, as noted above, there may be cases where small volunteer CoMs will continue to be effective. The Department of Environment, Land, Water and Planning (DELWP) would be the appropriate body to determine whether foreshore reserves should be transferred to local government management or to a Category 1 CoM, or remain as stand-alone Category 2 CoMs. Local input should be given strong consideration in making these decisions.

Where small CoMs are transitioning to larger groupings, the current chairs could be appointed to the new body for its first term of office. In both cases – Category 1 CoMs and local government management – opportunities could be provided for interested members of the public to participate in advisory bodies and/or activities such as Coastcare or Friends groups.

Strengthening the roles of Parks Victoria and of Traditional Owners

ACS VIC supports a stronger role for Parks Victoria in marine and coastal management. This should include cooperative management with Traditional Owner Land Management Boards where appropriate. Parks Victoria is also well placed to take a lead in research and monitoring, including supporting citizen science.

With regard to strengthening the role of Traditional Owners in marine and coastal management, ACS VIC strongly endorses this direction and suggests that it should be included in binding legislation. Effective participation is likely to require substantial resources and ongoing support over an extended period.

Marine management, policy and planning

ACS VIC strongly endorses the statement of the values of the marine environment (p.52):

The marine environment provides ecosystem services that support fisheries, aquaculture, tourism, recreation, trade, defence and carbon storage. The intrinsic value of Victoria's marine environment is equally important to the ecosystem services these environments provide.

It also recognises the importance – and the difficulties – of addressing cumulative impacts and incremental change.

In addition to the challenges identified in the consultation paper – marine pests, water quality impacts and climate change – a key threat to the marine environment is waste from land-based sources, particularly plastics (including micro-plastics). This indicates the need to broaden the range of agencies involved in discussions of policy to conserve marine environmental values, to include the bodies responsible for regulation of products that can be offered for sale in Victoria.

Decision making for the marine environment should be pro-active and science based. The three dimensional nature of the marine area must be accounted for and planned for accordingly.

The connection between marine development and use and existing ecosystems must be managed appropriately. Ecosystem based management should be implemented where decisions are made with full knowledge and assessment of the potential impact on marine ecosystems and development and use is implemented to work with the ecosystem.

Question 10:

Do you think Victoria needs a marine spatial planning framework? If so, what would be the key elements and who should be involved?

ACS VIC supports the concept of a marine spatial planning framework for Victoria, to address the three-dimensional nature of the marine environment and resolve issues such as regulation of marine energy proposals. However, this must focus on conservation of marine ecosystems. Lessons from overseas, as relayed by Dr Tundi Argady at the recent Coast-to-Coast Conference 2016, indicate that there is a risk that such processes can be captured by sectoral interest groups and used to advance the ‘blue economy’ to the detriment of environmental values.

International marine planning and management regimes may provide useful lessons, both in terms of positive features and pitfalls to avoid. Evaluation of these models needs to keep a clear view of the similarities and differences between these states / countries and Victoria, in terms of: the predominant tenure of coastal land, seas and seabeds; existing planning and management structures; machinery of government arrangements for allocating responsibility for decision making and management; and the degree of competition for access to coastal land and waters.

For example, in the United Kingdom, the *Marine and Coastal Access Act 2009* (MACA Act) put in place for the first time a national policy and plan-making process for the marine area, including identification and designation of marine protected areas. This regime subjected marine licence decision making to the discipline of testing against national policy and plan policy.

However, the UK MACA Act applies to inland waters to a 12 nautical mile limit and also to offshore seas out to the limit of territorial waters, encompassing a sea area significantly larger than the extent of the land area of the UK. By contrast, Victoria’s proposed marine spatial planning framework will apply only to the limit of Victorian waters, which constitute a small and largely land-facing system.

In addition, Victoria lacks the extensive continental shelf found in English and other European waters. These seas are shallow and have relatively benign wave conditions; they also contain immense mineral, food and energy resources, which are relatively easy to exploit, and are some of the most intensively used waters in the world for navigation and military activities.

The UK system therefore concentrates on resolving water column and seabed use conflicts in resource-rich, congested and contested seaways. These issues may be a lesser priority for Victoria, compared with conservation of marine ecosystems.

The strengths of the UK marine management system can be summarised as:

- A clearly articulated national marine policy statement with statutory status, at the apex of the system, identifying principles that all marine plans must address. This provides a high level strategic statement for development management purposes, in areas that do not yet have marine plans.
- A regionalised system of marine plans, intended to eventually cover all inshore and offshore waters in due course, prioritised to areas of greatest use and development pressure. Whilst the Marine Management Organisation (MMO) is the planning authority for all of these, the fact that they are regional and then in turn divided between inshore and offshore waters within each region enables local and regional communities and sea users to engage with plan making in a more locally specific way than if there was a single national plan.
- The accountability of marine licence decision-making to the national policy statement and the marine plans (where they have been made). This provides greater certainty and a means by which stakeholder concerns can be integrated into decision-making.
- Framing a system of marine protected areas. Whilst many have argued that this system should be larger and that the designation system is too slow and affected by economic interests, it is a lot better than no system at all. An attempt is now being made to identify and safeguard representative examples and the functional cores of the main marine ecosystems.

On the other hand, advice to ACS VIC indicates that the UK system has weaknesses that, to some extent, mirror the strengths of the Victorian coastal management structure. These include integrated coastal management and effective planning across the land-sea interface. The UK system also perpetuates an historic situation where the great bulk of UK waters are held by the Crown and are managed by the Crown Estate, a rather monolithic agency that still manages leases over the seabed and water column and is not subject to the decisions of the MMO, established under the MACA Act.

ACS Vic considers that the preparation of comprehensive marine spatial plans in Victoria should focus initially on sea areas with higher levels of commercial use and greater concentrations of population and urban development on adjoining land, such as Port Phillip Bay (including Corio Bay) and Western Port. A special-purpose planning board – or an umbrella group representing the various interests involved – could act as a steering committee for the development of these plans. More localised plans could be introduced later for regional areas that experience relatively intensive water-based use, such as Portland, Corner Inlet and Lakes Entrance. These could be overseen by representatives of relevant local agencies (or by Marine and Coastal Boards, if the existing regional bodies are retained and expanded).

To ensure reform and integrated governance of the marine area in Victoria occurs, it is important that this is included in legislation. We have seen good policy being written but not acted upon previously, e.g. *Australia's Oceans Policy* (1998).

The marine spatial planning framework should be endorsed by all Ministers whose portfolio responsibilities include agencies impacted by it. It should also include a clear statement of

Ministerial responsibility for dispute resolution if agencies subsequently disagree on the application of the process.

Question 11:

Do you think there is a need to legislate for an EMP to be prepared for Port Phillip Bay? What other areas would benefit from an EMP?

ACS VIC considers that, while it may not be strictly necessary, legislation that requires an environmental management plan for Port Phillip Bay would be beneficial. Similar plans should be prepared for Western Port and the Gippsland Lakes.

Integrating planning systems

Strengthening Coastal Management Plans

ACS VIC agrees that Coastal Management Plans (CMPs) should be mandatory for all coastal reserves covered by CoMs or local government acting as a CoM and could cover all reserves within a defined coastal compartment. They should be reviewed at five yearly intervals (or the same intervals as the Marine and Coastal Strategy, if that turns out to be four years).

CMPs should be prepared on scientific and technical data and aim for any use of coastal Crown land to be ecologically sustainable; they should not be economic documents to encourage development.

Regarding suggestions that compliance with a CMP might mean that use and development on coastal Crown land did not need formal consents, we believe that caution is warranted. If this measure is adopted, approval could be 'in principle' subject to endorsement of detailed plans.

ACS VIC also supports the view that planning for, and management of, coastal public land should integrate seamlessly with the wider municipal planning context regardless of which entity manages the coast.

The Ministerial veto on proposed use or development of coastal Crown land should definitely be retained and there may be some scope to streamline the system by excluding minor works or those already subject to other planning processes. However, care needs to be exercised to make sure that unintended consequences are avoided.

Assessment of the impacts of a proposal

Areas covered by planning schemes

The consultation paper notes that Victoria has a strong municipality-based land use planning system provided by the Planning and Environment Act, implemented through the Victoria Planning Provisions and local planning schemes. Schemes cover the beds of lakes and estuaries and, in Port Phillip Bay, land and water to 600 metres seaward. It also mentions that the State Planning Policy Framework (SPPF) requires that the VCS, CAPs and coastal management plans should be taken into account in planning, as relevant.

ACS VIC notes that statement in the SPPF regarding the degree of consideration that must be given to the VCS was downgraded in 2011 from 'decision making ... should be consistent with' to 'planning must take into account, as relevant'. However, the requirement for decision makers to apply the VCS hierarchy of principles for development on the coast has been retained. It would be desirable for the stronger wording to be reinstated.

ACS VIC acknowledges that there has sometimes been duplication of effort and inconsistencies between decisions under the Coastal Management Act and the Planning and

Environment Act, where approvals are required under both pieces of legislation. It may be possible to substitute a referral to DELWP (as a ‘determining’ referral authority) for Coastal Management Act consent in these circumstances.

Marine areas not covered by planning schemes

ACS VIC supports the introduction of a system that strengthens the assessment and permit regime for uses and development of marine area, where these are not covered by existing sector-based processes. An enhanced policy and strategy framework will be required to support this system.

Consent processes

ACS VIC supports the retention of a Ministerial veto on proposals for use and development of coastal Crown land, although this could be streamlined in line with a risk-based approach, as suggested (p.60). Policy guidance to assist with assessment of significant developments would be beneficial. The penalty regime should be reviewed. Mandatory referral of planning permits affecting land adjoining coastal Crown land should be carried forward.

As noted above, uses identified in a CMP could be treated as having ‘in principle’ consent, subject to endorsement of detailed plans.

We also endorse introduction of notice provisions and public participation mechanisms for consents, but suggest that these should be restricted to matters of broad community interest.

Adapting to climate change

ACS VIC believes that there is a need for the new marine and coastal system to consider mitigation of climate change as well as adaptation to it. The proposed marine spatial planning framework should consider protection and enhancement of ecosystems that sequester carbon, location and design of marine energy facilities, and other ‘blue carbon’ opportunities. Agreements relating to matters such as carbon sequestration should, as proposed, continue to be regulated under the *Climate Change Act 2010* but the spatial aspects will need to be considered under the marine spatial planning framework.

Provision should be made for the recognition of existing carbon sinks and the introduction, maintenance and protection of natural carbon sinks to combat climate change.

ACS VIC believes that the new Act should be very strong in its approach to climate change adaptation and mitigation. It could take a similar approach to Scotland and the *Marine Scotland Act 2010*. As Victoria does, Scotland has a separate Climate Change Act. Wording similar to that in the Scotland Marine Act could be included:

In exercising any function that affects the Scottish marine area under this Act, the Climate Change (Scotland) Act 2009 (asp 12), or any other enactment—

(a) the Scottish Ministers, and

(b) public authorities,

must act in the way best calculated to mitigate, and adapt to, climate change so far as is consistent with the purpose of the function concerned.

Provision should be made to ensure climate change (adaptation and mitigation) is included in the objectives of RASPs and CMPs that flow from the legislation. Again, the Scotland Marine Act provides a model:

For the purposes of preparing a national marine plan or (as the case may be) a regional marine plan, the Scottish Ministers must set—

- (i) economic, social and marine ecosystem objectives,*
- (ii) objectives relating to the mitigation of, and adaptation to, climate change,*
 - (b) prepare an assessment of the condition of the Scottish marine area or, as the case may be, Scottish marine region at the time of the plan's preparation,*
 - (c) prepare a summary of significant pressures and the impact of human activity on the area or region.*

The consultation paper suggests that climate change will not produce new hazards but will increase the severity and occurrence of existing hazards. However, there is the potential for some new hazards, for example, collapse of sea caves under coastal settlements as a result of the impacts of ocean acidification on limestone coasts.

Planning for adaptation to climate change for communities and settlements on the coast must take an 'all hazards approach' – involving bushfire risk, heat stress, storminess and water security – as well as direct impacts on the coast. It should also recognise the need to help natural systems adapt, by locating (or relocating) and designing infrastructure to lessen the 'coastal squeeze' and preventing developments of areas of high conservation value or connectivity that may provide opportunities for flora and fauna to adapt spontaneously.

ACS VIC sees opportunities to upgrade the ability of planning schemes to deal with the likely impacts of climate change. Detailed recommendations were put forward by the Coastal Climate Change Advisory Committee in 2010. These should be revisited, to ensure that decisions under the Planning and Environment Act support implementation of statewide marine and coastal policy and strategy.

ACS VIC believes that construction of new protective assets should not be regarded as the natural response to coastal erosion. As climate change progresses, new assets may become ineffective in an increasingly short time frame and the money spent on them will have been wasted. Assessments should consider all options and identify adaptation pathways that will provide the greatest benefit in the longer term.

Mechanisms for spreading costs of adaptation planning and implementation actions – including those under the Local Government Act, such as differential rates and special charge schemes – should be shared by beneficiaries, to the extent that this is equitable. However, many residents in vulnerable areas of coastal towns and lakeside settlements are elderly, often frail and relatively poor. If they own their own home, this may well be their only asset - which is likely to depreciate in value as hazard awareness increases. Adaptation plans need to recognise that these people may not have the capacity to adapt or relocate without assistance.

Question 12:

Do you feel that the policy statement in the VCS should be reflected in legislation through the new act? Why?

The longstanding Victorian policy position that the Crown does not have an obligation to protect private property from natural processes or allow the use of Crown land for private protection structures should be maintained. If private protection structures are appropriate, they should be confined to land owned by the beneficiary or beneficiaries and consideration should be given to potential impacts on adjoining land.

The provision in the New South Wales *Local Government Act* 1993 that councils are not liable for damage caused by flooding and natural hazards in the coastal zone as a result of them

doing or omitting to do something in good faith (such as building a seawall or granting or refusing a development application) is an excellent precedent. However, as far as ACS VIC is aware, it is backed by a coastal management manual that is much more explicit than Victoria's coastal hazard guide; this is often used to demonstrate that action was appropriate and thus 'in good faith'.

ACS VIC strongly supports the inclusion of the proposed objectives recognising climate change in the new Marine and Coastal Act. As part of the marine and coastal planning reforms, the Planning and Environment Act should be amended to insert a similar objective or objectives.

We also support providing stronger policy, guidance and technical expertise to decision makers, but believe that the current make up of Victorian public service may be deficient in many of the skills that will be required, particularly coastal geomorphology and coastal engineering. Guidelines, manuals and consultant reports do not take the place of people who are available to provide advice on specific locations and circumstances. An alternative to direct employment of experts may be to use a model like the previous Heritage Advisor scheme for local government, where the state could provide resources (perhaps on a shared funding basis) to coastal decision makers to access advice from appropriately qualified consultants as required. This would enable the decision making body to develop an ongoing relationship with a particular advisor, who could become familiar with conditions in a specific area of coast.

ACS VIC agrees that establishing baseline conditions is very important. As noted previously, sea level information for 1990 for different areas of the coast is not easy to access and data on the morphology of beaches is deficient. Science-based benchmarks, updated as new information becomes available, should be set through the proposed Strategy.

Sustainable resourcing of the proposed system

ACS VIC agrees that resourcing arrangements for coastal and marine environments need to be improved to enable us to address the current and future challenges posed by an ageing asset base, increasing and changing demands resulting from population growth and the impacts of climate change.

ACS VIC considers that additional and dedicated funding should be provided by the Victorian Government for approved and strategic regionally-based projects and research.

With regard to increasing transparency of costs and revenues, we suggest that the potential benefits of any proposed changes should be assessed against the additional complexity and staff time that would be required to comply with them.

Question 13:

Are there activities where you think the beneficiary pays principle could be further implemented in a fair and equitable manner?

ACS VIC has reservations about implementation of full 'beneficiary pays' approaches, as this may limit access to the coast and coastal facilities for those with a lower capacity to pay. For example, local residents may not be able to afford the same berthing fees in marinas or launching fees at boat ramps as non-resident owners or tourists. Preferential charges for residents/ratepayers or seasons tickets could overcome these problems. Similarly, low income families and groups should not be priced out of camping/caravan parks on coastal Crown land, since these are the only affordable options for accommodation in coastal areas.

Question 14:

Do you think this approach would be effective at targeting resources to where they are most needed for coastal management? Which coastal Crown land managers should be subject to such a levy and eligible to access the proposed fund?

ACS VIC does not support the idea of a levy on Category 1 CoMs. It is not equitable to apply such a charge to coastal Crown land managers when managers of other reserves elsewhere in the state would not be liable for this levy. We suggest that transfer of foreshore management responsibilities to local government or larger CoMs will provide an opportunity to redistribute funds within a district or municipality. This should provide sufficient flexibility, without raising the possibility of cross-district or cross-regional transfers.

Improving knowledge

Question 16:

Would legislating for a State of the Marine and Coasts Report help to achieve the system objectives? What issues would need to be considered in drafting a legislative obligation?

ACS VIC strongly supports the idea of including a requirement for such a report in the proposed new Act. The report should be prepared in advance of each revision of the Marine and Coastal Strategy, to inform its preparation.

Boosting community involvement

ACS VIC concurs that coastal and marine education for user groups and general members of the Victorian community is a critical element of a successful integrated marine and coastal management system.

Community knowledge of the coastal and marine environment should be increased and communities should be made aware of the consequences of their actions for the marine and coastal environment. For example, stormwater management on land contributes significantly to coastal and marine water quality, however there is a disconnect between land based decisions, awareness and the final outcome.

Resources committed to support advisory bodies, community education, citizen science, Coastcare and other volunteer programs should be boosted substantially.

Marine and coastal planners and managers can also learn a great deal from the community, including Traditional Owners and other Indigenous people. Public involvement should be built in from the earliest stages of development of new policy and strategy and in management. Opportunities may include participation in formal governance or advisory structures, shorter term membership of steering groups or equivalent, community meetings, feedback on draft reports or concept plans and, where appropriate, submissions on projects requiring Ministerial consent for use or development on Crown land.

A key issue in plan implementation and political support is community engagement and legitimacy. However, ACS VIC is concerned that the abolition of regional coastal boards and the amalgamation or transfer of CoM responsibilities to local government or large CoMs has the potential to weaken local involvement in coastal protection and enhancement in some areas, unless the new management agencies and the CMAs take specific actions to encourage new conduits for community input. This might be overcome if the MACC developed closer relationships with Coastcare coordinators to recognise and celebrate volunteer achievements.

Thank you again for the opportunity to present this submission. Should you require any further clarification or information please contact me on vic@australiancoastalsociety.org

Sue Mudford

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A Voice for the Coast



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21 October 2016

Dear Associate Professor ~~Geoff~~ Wescott *Geoff,*

It is with pleasure that I forward to you Deakin University's submission to the Marine and Coastal Act Consultation Paper, which is currently open for public consultation.

Deakin University believes the proposal for a new Marine and Coastal Act, which will bring all management and protection under one system and develop new management and oversight for marine areas, coasts and bays, is addressing a particularly important issue for the State of Victoria.

Deakin University has a long history in research and teaching in marine and coastal science to inform planning and management of our marine and coastal estate. Our research in marine science has considerable breadth with expertise in marine ecology and habitat mapping, marine wildlife, aquaculture and management of marine, coastal, estuarine and freshwater ecosystems. The research also supports local and national industries, and helps to improve the environmental and economic sustainability of the communities we serve. In addition, Deakin University has been providing courses in marine biology and coastal management for many years, which are informed by many of the issues that are described in the Consultation Paper.

Given the breadth of the Marine and Coastal Act Consultation Paper, our response is tailored to our specific areas of expertise in marine ecology, marine habitat mapping, aquaculture and coastal management.

I commend this submission to the Expert Panel of the Marine and Coastal Act Consultation Policy and Strategy Unit.

Best wishes


Professor Jane den Hollander
Vice-Chancellor



Deakin University

Submission

Marine and Coastal Act Consultation Paper

October 2016

Deakin University believes this consultation paper provides an opportunity to build on the foundations of the Coastal Management Act (1995), and is addressing a particularly important issue for Victoria in how we ensure the protection of our unique coastal and marine environments, whilst facilitating their sustainable use and development. This is not a trivial task as there is increasing pressure from population growth, a changing climate and increased competition for use of valuable resources that these ecosystems provide. The provision of a new Marine and Coastal Act affords a unique opportunity to develop a framework to improve management arrangements and focus attention on the emerging challenges.

The establishment of a Marine and Coastal Council (replacing the existing Victorian Coastal Council) is a significant step forward in ensuring that there is a State-wide coordinated approach for the establishment of marine and coastal management systems (*Section 3: Clearer governance and institutional arrangements*). In addition, we support the proposals to strengthen the role of Coastal Catchment Management Authorities and to simplify governance arrangements by phasing out Regional Coastal Boards (3.5) and transitioning small Category 2 Committees of Management to larger Category 1 Committees of Management (3.6). For the latter point, we agree that it is important to develop a transition process that recognises the importance of local knowledge to inform Category 1 Committees of Management.

A strengthened Marine and Coastal Act is important in ensuring the effective and long term sustainable management of our marine environment, as we believe the coastal waters have been overlooked in the current Act. The timing of this initiative is appropriate with the development of new technologies and observing systems, which are now available to better understand the marine and coastal systems; this was not possible a few decades ago. For example, seafloor mapping systems have provided insights into coastal evolution, the distribution of habitats, invasive species, fisheries and spatial overlap between multi-sector resource usages. Yet over 60 per cent of our State waters have limited information available, which is hampering a marine spatial planning approach.

Australia now has an established Integrated Marine Observing System (IMOS). With the recent establishment of the South East Australian Integrated Marine Observing Node in 2015 and increased focus on Victorian coastal waters, there is a unique opportunity for co-investment for sustained marine observing in the State, which is necessary to make informed management decisions. The alignment with such programs would be beneficial and assist to close significant gaps in our understanding of marine biological processes and the functionality of our marine ecosystems (current funding through NCRIS ~\$15M per annum). Program alignment will also facilitate improved data access and sharing through nationally funded infrastructure such as via the Australia Ocean

Data Network (AODN). Sharing knowledge will be critical if we are going to be in a position to adapt to climate change (*Section 3: Clearer governance and institutional arrangements; Section 6: Adapting to climate change*) and make informed management decisions.

Removal of atmospheric carbon dioxide through bio-sequestration is necessary to keep global warming under two degrees Celsius as the world transitions to a low-carbon economy. Among the most efficient systems for carbon dioxide bio-sequestration are vegetated coastal habitats, seagrasses, saltmarshes and mangroves, which are known as 'blue carbon' ecosystems. We commend the encouragement to facilitate the recognition of blue carbon rather than establishing new frameworks and processes to enable carbon sequestration agreements (*Section 6: Adapting to climate change*). As sea levels rise and coastal development intensifies, Australia's blue carbon ecosystems are increasingly threatened by 'coastal squeeze'. There is urgent need for spatial prioritization tools and monitoring data to inform planning, conservation, and restoration efforts to maximise blue carbon sequestration opportunities and associated ecosystem services (e.g. biodiversity, fisheries, and erosion control). This is critical if we are to be in a position to act to prevent further deterioration of blue carbon ecosystems and improve their potential for sequestering carbon into the future.

We encourage the use of coastal compartments as geomorphological units and as an assessment framework (*Drivers of Change 3- Integrating Planning Systems*). We also acknowledge the importance of offshore sediment supply when informing coastal erosion and sediment transport processes that this approach affords. We can learn much from developments in Western Australia and New South Wales where coastal compartment research has been well-established to inform the nature of coastal change. These studies have highlighted the importance in understanding offshore sediment supply (down to the wave base less than 50 metres) when managing our coast, and provide opportunities in filling major gaps in our coastal and marine knowledge and understanding future threats to the coast.

We also support the inclusion of a marine spatial planning approach to be in the Marine and Coastal Act legislation to inform a State-wide strategy (*4.2: Developing a marine spatial planning*). This would help guide decision making for current use of coastal resources and the development of future management strategies, and also provide an opportunity to create an adaptive management framework for managing multi-faceted use of the marine and coastal space. It also allows an ecosystem-based sea and coastal management approach to be implemented, and places focus on the habitats supporting public use and conservation values. For example, our sandy beaches are faced with a variety of challenges from erosion, habitat loss and pollution. Good management and integration of citizen science has seen sandy shore species such as hooded plover populations recover over the past three decades; this is arguably among the most successful species recovery efforts in Australia's history. This can be attributed to good management decisions such as the highly restricted use of vehicles on beaches, and provisions to prevent strip development, which are some of the wonderful legacies of previous Coastal Acts. However, multiple uses of coastal habitats can pose issues when trying to protect critical habitats such as the hooded plover nesting habitat. In addition, dog management continues to be a key biodiversity conservation issue on sandy shores in Victoria, and horse management is a growing and controversial issue that also requires more research and attention from coastal managers. Coastal parks should be managed for these issues in a similar fashion to any 'terrestrial park'.

In the marine sector, increasing engagement with marine space users is key in marine spatial planning. A recent example is that of the flow-on effects of an increase in pricing for anchorage zones in Port Phillip Bay. This has seen an increasing occurrence of large ships anchoring on our open coast, which has been a cause for concern by other stakeholders. For example, one area of concern

is the potential for habitat damage caused by anchoring in areas such as Marine National Parks. We need to carefully think about futureproofing of our marine spatial management plans and ensure that they are flexible enough to deal with immediate issues of concern within a dynamic and adaptive management framework. Furthermore, we need to ensure that the future needs of sectors such as the aquaculture industry are taken into consideration in a spatial planning approach. The Victorian aquaculture industry is valued at \$21M and represents only two percent of the value of national aquaculture industry; therefore, it is essential that it can grow sustainably to maintain food security. A spatial planning approach will maximise the potential growth of the Victoria aquaculture industry, whilst minimising conflicts in the use of resource space and a heavy reliance on imported and/or wild caught seafood. We also need to ensure that dialogue and alignment is maintained with other statutes such as the Fisheries Act (1995) to ensure that we avoid a fragmented approach to coastal and marine planning, and that management of resources is done in a way that is consistent with objectives of regional catchment, marine and coastal strategies.

Improving knowledge of the existing and changing condition of marine and coastal areas will require the establishment of robust long-term monitoring programs. There may be opportunities for leveraging co-investment from national programs (IMOS) and data management strategies (AODN). Information such as habitat extent (e.g. seagrass) is often lacking or out of date. For example, the last bay-wide assessment of seagrass habitat in Port Phillip Bay was 16 years ago. Currently, there is no established monitoring program across sites to determine changes in seagrass condition over time. Furthermore, the issue of marine biosecurity gets very little mention in the Consultation Paper with just passing references to invasive species in the section *Drivers for Change 6: Improving knowledge* and an acknowledgment of lack of monitoring. Given Port Phillip Bay's status as a major international port, and the history of introductions of invasive species into the bay (more than 150 at the last count), we recommend that this needs more consideration in the Consultation Paper. Again, there are no ongoing monitoring programs for marine invasive species in the bay, and their economic and ecological impacts. Additionally, we have little understanding of Port Phillip Bay as a source of marine pests that are found outside the bay; this has recently been shown for some invasive species that entered the ecosystem via the bay. Therefore, Port Phillip Bay is likely to continue to be a major concern for range expansion of invasive species. Thus, there is a need for a framework to support legislation to ensure the establishment and continuation of monitoring programs so we can build habitat condition assessments on decadal timescales to infer patterns from process. Without ongoing long term data, it is virtually impossible to detect declines and negative impacts of key ecosystems early enough to launch an appropriate response. The lack of long term data also hampers the ability of state agencies to identify the causes of declines in habitat health.

We agree building capacity and transfer of knowledge is critical (*Section 8: Improving knowledge of the condition of marine and coastal areas*). We need to ensure marine data is accessible to the public and allows for informed decision making at various levels of governance. Data translation is also essential in order to advocate marine and coastal values. Partnerships between government, research bodies and universities will be critical. We recommend commissioning a review of marine and coastal science education and research facilities that are available in the State and through National partners, to ensure we have the necessary infrastructure and technical expertise to inform policy and decision making into the future. Perhaps a worthy first job for the Marine and Coastal Council.

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18 October 2016

Marine and Coastal Act Consultation
Policy and Strategy Unit
Department of Environment, Land,
Water and Planning
PO Box 500
East Melbourne Vic 3002

Dear Sirs

Marine and Coastal Act Review Consultation

The Law Institute of Victoria (LIV) thanks the Department for the opportunity to respond to its Consultation Paper. The LIV welcomes new more efficient and clear legislation.

The Consultation Paper identifies natural features and a clean and unspoilt environment as 'extremely important' values associated with Victorians' social and cultural perceptions and experiences of the coastline (pp.14-15). That emphasis on environmental values is reflected in the eight proposed objects of the new Marine and Coastal Act (p.37).

The LIV's submission focuses on 'Drivers for Change' Nos. 1 and 3, outlined in the Consultation Paper. Proper management of these two Drivers is likely to have cross-over effects on all seven identified 'Drivers for Change'.

Driver 1 – Clearer governance and institutional arrangements

The Consultation Paper has addressed the complexity of current management arrangements for coastal areas. At present, a single Crown land reservation can be affected by numerous statutory frameworks, often resulting in a multiplicity of competing objectives, purposes and management hierarchies.

The LIV welcomes a simplified institutional framework. The transition of leadership roles to Catchment Management Authorities and Local Governments is noted.

However, the LIV submits that the decision making processes should be reviewed to ensure that (in the case of Authorities and Council) conflicts of interest are avoided and that, where appropriate, affected persons (including those who have a proper interest in protecting the marine and coastal environment) can participate in review processes. At present, the overly complex and cumbersome legislative framework makes review of administrative decisions difficult, time consuming and costly.

Driver 3 – Integrating planning systems

The LIV supports the aims of the government concerning the need to streamline assessment and consent requirements across all relevant legislation, and particularly to establish "use and development planning and decision making systems that are appropriate for coastal and marine areas" (p.27).

It is desirable that the streamlined assessment and consent requirements recognise matters which are routine or minor such that these will be exempt from consent (similar to cl.62 of planning schemes).

The LIV also suggests that there be an appropriate management system, across the relevant authorities, which will ensure that the conditions of permits, licences and leases relating to public land are regularly checked for compliance.

Due to the complexity of the rules and legislative framework concerning different types of coastal reservations, the provisions of Crown leases which attach to them can be overlooked in the planning processes. Planning decisions that ignore mandatory Crown lease pre-conditions and/or lease conditions create added complexity & uncertainty.

The LIV suggests that consideration should be given to the integration of controls arising under the new Marine and Coastal Act or, at the very least, their reference into the Victorian Planning Provisions. The concept of a one stop shop should be investigated so that all development and use controls of land in or around coastal areas are contained in one easily accessible place. The introduction of new coastal zones could improve and highlight the need for care and protection of any protected coastal areas.

The new Marine and Coastal Act should also provide for access to the review of decisions under the *Victorian Civil and Administrative Tribunal Act 1988*.

In summary, therefore, the LIV affirms and support the Marine and Coastal Act Review, including its emphasis on key areas for reform, but requests that further consideration be given to the matters noted in this letter.

We look forward to participating further in this process and contributing to the development of subsequent legislation as a stakeholder. If you would like to discuss any of the matters raised in this letter, please contact me or Barton Wu, LIV Property and Environmental Law Section Lawyer, on 9607 9357.

Yours sincerely

Steven Sapountsis
President
Law Institute of Victoria

Feedback Paper

21/10/16

SUBJECT: Marine and Coastal Act Consultation Paper- Proposed reforms

AUTHOR: Paul Shannon- General Manager Government and Industry Relations

Life Saving Victoria (est. 2002) is an initiative of the Royal Life Saving Society Australia Victoria Branch (est. 1904) and Surf Life Saving Victoria (est. 1947). Life Saving Victoria is the peak water safety body in the state of Victoria.

Life Saving Victoria's (LSV) mission is to prevent aquatic related death and injury in all Victorian communities and has the vision that all Victorians will learn water safety, swimming and resuscitation, and be provided with safe aquatic environments and venues.

General comments

In principle LSV agree that there should be *clearer governance and institutional arrangements that better link capacity, resources and responsibility*. On a regional level LSV agree that there should be strategic partnerships that will enable communities and organisations to come together as needed to solve complex shared problems. At a local level we agree we should maintain and promote the role of volunteers in local marine and coastal management.

LSV are unclear as to what the definition and scope of "coastal management" includes. Safety of public visiting coastal crown land and the responsibility associated with activity is not addressed and form the basis of our feedback.

Proposed reforms to *strengthen marine management, integrate planning systems, adapting to climate change and improving knowledge* all resonate with LSV.

In regards to *sustainable resources* for the coast, we need to make sure we have included arrangements for Life Saving Facilities, and Lifesaving operational services, to deal with the identified increase in tourism, and coastal visitations.

LSV should be a leader and fully supports *involving the community*. We need to better inform the streams of government of what LSV already does in education, training and the community/government partnership model. LSV needs to understand what the paper refers to as enhance opportunities for informal and formal involvement in marine and coastal

management. Does this include building social networks, building community resilience and coastal safety?

LSV related coastal safety feedback

The draft plan rightly focusues on clear governance that better link capacity resources and responsibility associated with responsible use of crown land.

There is reference to “visitation demand management strategies” that concentrate on the environment and not the welfare of the visitor.

Should there be an acknowledgement of responsibility for safety on crown land?

Should safety be considered as a subset of “coastal management”? If safety is not part of the scope, then where in policy does public safety on crown land reside?

Increased visitations and planning for environmental consequences is a key theme. The planning for public consequences as a result of increased usage should be considered as a gap in policy if it currently does not exist.

If there is a role for government to play in safety on coastal crown land, then why and whom, and should it be reflected in the plan? Should a “beneficiary model” also be considered for safety services? Currently there is a shared responsibility between state government, local government, land managers and community for coastal public safety. While this shared arrangement has improved public safety, this does not appear to be reflected in policy or acknowledged that it is taking place in the coastal environment.

LSV welcomes the plan to encourage participation while not overburdening volunteers who don't have the necessary expertise, support or resources to undertake the task. Streamlining processes in navigating coastal consent will improve management of volunteer lifesaving assets on crown land.

LSV agrees that managing healthy coastal and marine environments is a shared responsibility, as is drowning prevention in these environments. LSV supports a community, industry and government partnership model.

LSV strongly agrees that building environmental reilience for climate change should parallel building community resilience for emergency events and future risks.

LSV would welcome improved clarity around the responsibility for constructing new coastal protection assetts that would include Life saving facilities in their role as public protection assetts.

LSV sees it has a role in stewardship of coastal marine environments. Educating members and public in appropriate use of coastal assets enhances the user experience for all Victorians.

Life Saving Victoria welcomes the opportunity to provide feedback, we sees ourselves as a key community group that can be empowered to not only protect the public recreating in the aquatic environment on crown land, but to also protect the asset that is our working environment.

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18 October 2016

Marine and Coastal Act Consultation
Policy and Strategy Unit
Department of Environment, Land,
Water and Planning
PO Box 500
East Melbourne Victoria 3002

To the Committee

Re: Submission re Consultation Paper August 2016

We refer to the Marine and Coastal Act Consultation Paper (Consultation Paper) issued in August 2016 and take this opportunity to lodge a submission on behalf of Moolap Land Development Corporation Pty Ltd (Ridley) and Sanctuary Living Pty Ltd – the parties associated with the proposed development of the former Moolap Salt fields situated in Moolap, Victoria which is currently described as Nelson Cove (refer www.nelsoncove.com.au for details).

In response to the Consultation Paper, we would like to make the following general comments:

1. We are very concerned with the proposed legislative amendments relating to the ceding of land to the Crown, free of charge, for any coastal land impacted by erosion and accretion caused by sudden storm surges and/or sea level rise. Any such amendments are grossly unfair and unjust to private landowners – noting that some 4% of coastal land within Victoria is currently controlled by private landowners.
2. The stated objectives for a new marine and coastal system are too narrow and do not appropriately address the importance of appropriate, well considered, development of coastal land in Victoria. Any proposed development of coastal land should, in our view, include due consideration of the economic, social, and environmental costs/benefits relating to any such development, and provide a more complete and comprehensive approach to maintaining and enhancing the coastal character in line with the new Act.
3. The concept of replacing Coastal Councils with larger, better resourced bodies, appears to be a positive change. We strongly suggest the inclusion of persons with appropriate skills and experience in tourism, job creation and industry. This would provide for a more balanced approach in the future when dealing with coastal land management issues.



4. The general flavour of the Consultation Paper appears to be creating an environment that will make it very difficult to develop any Victorian coastal land in the future. We believe the new Act should encourage appropriate, well considered, coastal development that satisfies a balanced cost/benefit approach taking into account social, economic and environmental factors of local, regional and state significance.

We believe our proposed Nelson Cove development is a great example of an appropriate, well considered coastal development, that on balance, provides tremendous benefits (social, economic and environmental) to Geelong and Victoria. Our project also provides a working, innovative design approach for responding to climate change induced sea-level rise that protects existing and future communities, and be fully funded by the private sector. We believe that these types of developments are an important model for future coastal development and will enhance the character and ecology of the Victorian coastline, and coincide with the general objectives and principles that are intended to guide the proposed legislative amendments to be contained in the new Act.

We are supportive of the desire to ensure that the Victorian coastline is managed such that current and future generations can continue to experience and enjoy the beauty and diversity of Victoria's natural coastline. We also support proper coastal management which accommodates appropriate sustainable development without adversely impacting on the Victorian coastline and which actually enhances the coastal experience of Victorians and visitors to the state.

Please feel free to contact the undersigned if you would wish to discuss in further detail.

Yours sincerely
Sanctuary Living Pty Ltd

A handwritten signature in blue ink, appearing to read "S Head", is written over the company name.

Stephen Head
Executive Chairman