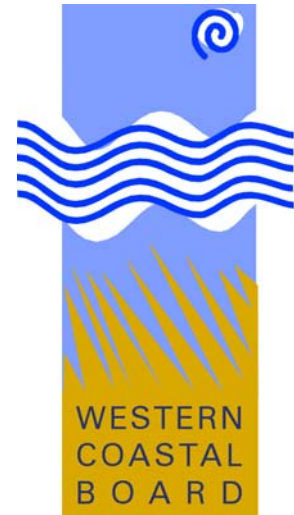


Our Ref: CO877

21 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 Dr Wescott and panel,

Re: Marine and Coastal Act Consultation Paper August 2016

Thank you for the opportunity to comment on the Marine and Coastal Act Consultation Paper (the Paper).

The Western Coastal Board (the Board) supports the intent and objectives of the Marine and Coastal Act (MACA) review and considers that the Paper canvasses most of the relevant issues, questions and challenges. The Board considers that there is merit in a number of the proposals put forward in the Paper, but overall questions whether the changes proposed will lead to any simplification of coastal and marine management arrangements. As the changes present a high level framework only, it is difficult to assess whether they will lead to tangible on-ground improvements in the condition of Victoria's coastal and marine environments.

This submission responds to each question in the Paper, beginning with the current system and following with thoughts on the proposed reforms.

Current marine and coastal system

The Board agrees that current coastal and marine management arrangements are too complex. Sections of coast may be managed by an agency such as Parks Victoria, with adjoining parts managed by the Department of Environment, Land, Water and Planning (DELWP) or a local council, either directly or through a committee of management (CoM). An issue such as racehorse training on Killarney Beach cuts through the boundaries of these land managers, resulting in protracted negotiations and decision making.

Reducing this complexity should be achieved by taking a broader view of the whole system of responsibility and decision making that impacts on the marine and coastal environment and asking 'What is the most effective system of roles and responsibilities that will achieve our shared vision?' rather than 'How can we tweak our current system?'.

Vision for a healthy coast and marine environment

The addition of '...and marine environment' to the vision set out in the *Victorian Coastal Strategy 2014* is apt, given the new direction and emphasis proposed in the Paper. As written, the vision could be enhanced by:

- making it specific to Victoria
- replacing the word 'appreciated' with 'valued'
- encompassing the concepts of sustainability and protection
- adding a sense of extension to the hinterland.

The Board notes that it is important to define 'heritage' correctly. The value of the strong heritage assets of the Great Ocean Road (a declared National Landscape under Australia's National Landscapes Program) cannot be understated – these include not only indigenous assets but the Great Ocean Road itself, lighthouses, shipwrecks and others.

Drivers for Change

The seven Drivers for Change are mostly appropriate and encompass the key issues at a strategic/framework level. However, there are some gaps in the arguments under the driver discussions. For example, in *Drivers for Change 4 – Adapting to climate change*, it is argued that 'there is a perceived lack of action because no one wants to be liable for a decision made without comprehensive information'. In some cases, this lack of action is due to inadequate funding to bodies such as local councils and Parks Victoria. This driver should also consider the need to understand and manage

cumulative climate impacts, and recognise the challenges created by managing climate risks across multiple levels of government and the private sector.

From a State of the Environment perspective, additional drivers for change are population change (e.g. demand and pressure on coastal and marine areas as a result of increasing urbanisation) and economic activity (e.g. activities that generate income from use of coastal and marine resources such as fishing and tourism, or that require access to these environments such as port facilities and shipping).

Setting clear objectives for the marine and coastal system

The Board questions whether the recommended objectives provide a meaningful basis on which to draft legislation.

The language of the objectives could be strengthened and more targeted. The objectives are presented as broad statements that can be interpreted in different ways. Applied practically to a specific example, it is difficult to decide which objective or part of an objective carries the most weight. For example, objectives 1, 2 and 3 (or parts thereof) may support or oppose the use of rock walls to protect coastal communities. Bodies such as local government are seeking clear direction on such matters and these objectives do not clarify the state's stance. Furthermore:

- *Objective 2* talks about 'avoiding detrimental, incremental and/or cumulative ecosystem impacts'. It is not clear how this could be achieved when there are so many other activities outside those proposed to be regulated by the MACA that could have detrimental, incremental and cumulative impacts (e.g. development approvals at both state and federal level, fisheries, ports, agriculture). Every decision that impacts the coast is likely to have an incremental or cumulative impact, so the objective is not to avoid these impacts but to understand, set limits on, plan for and manage them so they don't go beyond a level that adversely affects ecosystem resilience or effective functioning of our natural capital.
- *Objective 3* mentions communities - achieving 'resilient' communities will be interpreted differently by different groups. The terminology 'improving' could be reconsidered.
- *Objective 5* talks about 'acknowledging' Traditional Owners' rights and aspirations and 'using' these to inform. This is not a strong statement of intent about actively engaging with and increasingly involving Traditional Owners in shared management arrangements that would assist them to achieve their aspirations.
- *Objective 6* does not mention settlement (urban development), yet many people choose to live on the coast, and there is a high demand for coastal land for housing.

Clearer governance and institutional arrangements

In general, it seems that the proposal for structural change does little to simplify governance and institutional arrangements and could even add unnecessary layers of decision making.

The option of a Marine Coastal Authority (the Authority) should be considered, which could be supported by the Marine Coastal Council as a link to both the Authority and community. The Marine Coastal Council could be put in place immediately to assist the implementation of the Authority. The new MACA should give the Authority the power to raise revenue opportunities and allocate funding on a needs basis. The Authority should have responsibility for boat ramps, jetties and boardwalks, Crown land lease opportunities and marine parks and sanctuaries. The departments that have responsibility for parts of the marine and coastal areas would be required to liaise with the Authority on issues. The current ministerial arrangements would continue.

Regarding other proposed arrangements:

- *Marine and Coastal Council*: the Board questions whether the skills for the members should be legislated, due to the risk of omitting certain skills. A maximum of 11 members is still appropriate, provided local representation is included.
- *Marine and Coastal Strategy and Marine and Coastal Policy*: The separation of policy from strategy is acceptable. Currently, strategy is linked with an implementation plan. If there is to be a policy before the next four year strategy, the timeframe may be too tight. The implementation needs to include specific allocation of responsibility and resourcing requirements. As a significant proportion of the impacts on marine and coastal areas arise upstream (e.g. from catchments, agricultural activity, extraction, and plastics production), any policy should take a 'catchment to oceans' perspective.
- *Strengthening coastal Catchment Management Authorities (CMAs)*: CMAs will need to be resourced with skilled and dedicated people. This could work with the support of an individual management plan. If CMAs are to deliver, the name needs to represent the role and therefore imbed the vision. That is, the word marine should be included – 'CMCMA'.

- *Phasing out Regional Coastal Boards (RCBs):* The participation of RCB Chairs in the Victorian Coastal Council provides a great opportunity for links to local knowledge. To ensure regional voices are not lost, this needs to be addressed when structuring the proposed Marine and Coastal Council.
- *Transitioning from smaller committees of management into either larger committees or to local government:* it is unclear how this would simplify the system, and the concern is that if a larger CoM (e.g. Parks Victoria) simply absorbs a smaller CoM, this could lead to a loss of local voice. The critical role or unique responsibility of a CoM should be the deciding factor, not the size. That said, the benefit of giving local government the opportunity to manage an area is that the community may have a stronger voice through their elected councillors.
- *Strengthening Parks Victoria:* Parks Victoria have legislation, a current role, expertise and resources - this certainly needs to be recognised more adequately. It is interesting that while Parks Victoria manages approximately 70% of Victoria's coastal Crown land, the diagram on p.77 of the Consultation Paper places Parks Victoria below local government.

Strengthening marine management, policy and planning

The Board supports a marine spatial planning framework for Victoria. International best practice should be used to identify what this framework needs to include, and efforts should be made to have a system that operations seamlessly with those in adjoining jurisdictions (Commonwealth, NSW, and SA). There is some concern about the cost, and how it would be enforced.

It is uncertain why legislation requiring a particular Environmental Management Plan (EMP) is required. Once prepared, it will be out of date very quickly. It seems unnecessary to require a plan to be developed that could simply be done through a cabinet decision that is binding on relevant ministers and portfolios. Modern best practice is to focus on minimal regulation and on the outcomes sought (in terms of improved management and decision making), rather than the inputs and processes required to achieve those outcomes.

It may be more appropriate to have a broader power indicating the role that EMPs play in the marine and coastal management system, that the relevant ministers have the power to request that one be drafted, and that when one is drafted and agreed, it must be implemented. This would provide greater flexibility and allow for EMPs to be developed for other regions (such as Portland, Gippsland Lakes) when needed.

Integrating planning systems

The new MACA should identify the need for Coastal Management Plans (CMPs), which will be the responsibility of the land manager as outlined in the Consultation Paper. There should be a review of the *Planning and Environment Act 1987*, undertaken as part of the discussion regarding the proposed new Marine and Coastal Act. This new MACA should include how the Planning and Environment Act can work in conjunction with and compliment the development of CMPs. The objective should be to streamline the preparation and cost of preparing CMPs and to reduce the time to prepare them. It is important that all land managers, including Parks Victoria, are required to prepare CMPs for land they are responsible for - this has not occurred in the past.

Adapting to climate change

The policy statement regarding climate change in the VCS should only be included in the new MACA by way of setting out the objectives of the MACA. It is not clear how including a policy statement in legislation adds any value if it doesn't translate into specific guidance through the clear objectives of the act or provisions regulating particular activities and behaviour.

Placement of the policy statement about 'respecting natural processes' could be included, however this is not a simple issue. These words do not recognise the long-standing social and economic investment that the community has made in settling on the land over generations - in building infrastructure that has resulted in modification or interference with natural processes. If the policy were to be inserted into the MACA, the repair or upgrade of much of the Port Phillip foreshore's hard infrastructure, for example, could no longer occur or might be challenged in the courts.

Sustainable resourcing

The beneficiary pays principle is supported overall but becomes complex when, for example, the annual sand renourishment that occurs on Melbourne's beaches is considered. Should those that live directly across the road pay as they get most use of a better beach, or their property value rises by virtue of better amenity? How then do the masses of others from elsewhere using that same sand pay? In reality, all Victorians are beneficiaries.

Using coastal protection works as another example, a whole town, region or the state may benefit from maintaining the existence of a coastal settlement which has high values such as tourism and heritage. In such cases, expending funds obtained through municipal rates may already be applying the principle of beneficiary pays.

Some activities where the beneficiary pays principle could be implemented in a fair and equitable manner include: vehicle access and parking; training of animals (e.g. horse training); tourism; ports; commercial and recreational fishing; use of waters as a source of disposal of excess nutrients and pollutants; planning and building applications levies/contributions in coastal areas (e.g. within 1-2km of ocean/coast/estuary, and perhaps a certain distance from tributaries that feed the coast); boat ramp fees that where possible recover cost for services (where infrastructure is provided, charges should reflect cost); park fees re-introduced (as a response to a lack of funding); investigate opportunities to provide camping, caravan and mobile home sites in parks; leasing caravan parks on Crown land to the private sector on a two year lease basis.

The consideration of resourcing should go beyond government controlled levies and allocation of resourcing. There needs to be consideration of how the legislation could set out a framework that encourages (or at least, does not limit) private sector investment in marine and coastal matters, including the potential to generate economic, social and environmental returns for government and private interest from their investments.

Councils already collect levies for the state and may not be supportive of handling another. If the levy is proposed to come from council funds, this would not be supported due to the current rate capping situation and the amount of rate moneys already being expended on coastal management. The contribution levy could also prove inequitable, as some do not contribute to it.

To be truly effective, cost sharing arrangements would need to be agreed between Commonwealth, state and local government. While the state could include its component in legislation, it is unlikely that the Commonwealth ever would. It may be better to broadly refer to implementation of the latest agreed policy framework (and allowing this to change over time), rather than specifying in legislation specific state responsibilities at the point of drafting.

Municipalities often expend considerable amounts of money developing and maintaining coastal infrastructure such as carparks, toilets, promenades and parks; they do so to provide recreational facilities for their community, maintain the social and other fabric of the settlement, and to service tourism which benefits local businesses. In many cases, it benefits the state as a whole by drawing interstate and overseas tourists. On the other hand, there are areas in rural Victoria which are Crown reserves at the end of rural roads which aren't a hub of activity for large numbers of people, but serve the needs of a small number of locals and an occasional tourist, in an area currently managed by Parks Victoria (in most cases). Much more discussion is required on this topic to ensure clear objectives are established.

Improving knowledge

A legislated 'State of the Marine and Coasts' report is supported. However, it is not clear how effective State of the Environment (SoE) is at generating real change. For example, there is usually no requirement for governments to do anything different in response to findings in SoE reports; multiple reports may say things are getting worse, but there is no obligation to act.

A more modern approach than a stand-alone report is needed. There must be online, real-time data and information resources that report on current state and condition, and that can be used interactively to inform better decision-making. The data is only useful if there are systems in place to benefit from it.

Involving the community

The volunteer commitment to the marine and coastal environment needs to be strengthened and supported into the future. Coastcare Victoria is key to this and needs to be better resourced. Furthermore, involving school children in coastal and marine projects should be encouraged.

The Board thanks you again for the opportunity to contribute, and trusts these comments will be helpful.

Sincerely,



Cr. Jill Parker

Chair, Western Coastal Board 2015-18