



# Maddocks

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<b>And To</b> Neville Penrose	<b>Department</b> Department of Sustainability and Environment	<b>Facsimile</b> (03) 5172 2100
Brendan Sydes	Environment Defenders Office Victoria	By email

Our Ref MYM:MOS:5172424

Dear Nicole

### Ocean Access Boat Ramp - Bastion Point, Mallacoota East Gippsland Planning Scheme, Permit Application 162/2007P

We refer to the above matter and enclose copy Further and Better Particulars in accordance with order number 2 of the Orders of the Panel dated 25 February 2008.

If you have any queries please contact Mat Sherwell on 9240 0873.

Yours faithfully

Maddocks

[5172424: 5419597v1]

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**In the Matter of an Inquiry under  
the *Environment Effects Act 1978***

**East Gippsland Shire Council**

And

**Department of Sustainability and Environment**

Request for Further and Better Particulars of the Submission (Submission) of the Department of Sustainability and Environment (**Department**) and correspondence from the Department dated 15 November 2007, 31 December 2007 and 18 February 2008.

Where indicated (in the Further and Better Particulars):

'Proposal' is the proposal before the Panel and the advertised EES documentation.

Where you are asked to give, state or provide 'the general position of the Department', you are required to set out whether the Department is:

- a) providing departmental advice in relation to the proposal as the responsible government authority;
- b) raising issues for consideration by the Panel but not claiming expertise in relation to that specific area; and/or
- c) raising an issue that it intends to prosecute at the panel hearing.

Where you are asked to give, state or provide 'the basis for' any statement, you are required to set out each report, internal referral, memorandum, or advice given by department officers or experts engaged by the Department or any other reason for any opinions formed by the Department.

Where you are asked to give, state or provide 'the usual details' of any allegation, act, fact, matter, circumstance or thing, you are required to set out each and every act, fact, matter, circumstance, or thing said to constitute the same or by reason of which the same is made, specifying all relevant dates, periods of time, places, account, documents and all relevant persons.

Where you are asked to give, state or provide 'the usual particulars' of any agreement, arrangement, instruction, direction, advice, allegation or other communication or action you are required to identify, including by reference to all relevant persons, dates, periods of time, places, account, documents, each and every act, fact, matter, circumstance or thing by

reason of which or by reference to which such allegation is made, or which is said to constitute the agreement, arrangement, instruction, direction, advice, allegation or like communication enquired after.

## Comments on EES

### Policy

1. In relation to the 'policy' section of the submission, state the general position of the Department.
  
2. In relation to the Department's submission at paragraph 1 of 'Policy':
  1. State which policy (or policies) the Department considers relevant to the Proposal.
  2. In relation to (1) above state whether or not the Department considers the Proposal satisfies each of those policies.
  
3. In relation to the Department's submission at paragraph 3 of 'Policy':
  3. In relation to the 'cultural heritage' section of the submission, state the general position of the Department.
  4. State the further works required to the 'cultural heritage' section of the Proposal documentation.
  5. State the legislation and section that requires the further works to be undertaken prior to the exhibition of the Proposal documentation.
  
4. In relation to the 'native vegetation' section of the submission, state the general position of the Department.
  
5. In relation to the Department's submission at paragraph 4 and 5 of 'Native Vegetation Net Gain Policy' and subsequently the correspondence:
  6. State whether the Department supports any of the proposed modifications to the EES options outlined in the Supplementary Report by Coastal Engineering Solutions (produced for the Department) and if so, which ones.
  
6. In relation to the Department's submission at paragraph 6 of 'Usability':
  7. In relation to the 'usability' section of the submission, state the general position of the Department.
  8. Does the Department consider that a lower useability rate than 90% launch and retrieval would provide an acceptable level of safety?

9. If yes to the above, state the basis of that opinion.
  10. State what useability rate the Department considers appropriate at the site and state the basis of that opinion.
7. In relation to the Department's submission at paragraph 7 'Previous Concepts':
11. In relation to the 'previous concepts' section of the submission, state the general position of the Department.
  12. State the differences between the 1999 concept and options 2 and 3.
  13. State whether the Department prefers the proposal outlined in the Coastal Engineering Solutions report dated 1999 to any of the options identified in the EES.
  14. If yes to (13) above, state why the proposal is preferred.
8. In relation to the Department's submission at paragraph 8 of 'Other Users Safety':
15. In relation to the 'Other Users Safety' section of the submission, state the general position of the Department.
  16. State whether the Department considers the Proposal to be adequate.
  17. State the basis upon which the Department requires a quantitative rather than qualitative assessment of impacts on surfers.
  18. State whether the Department has monitored the Code of Conduct and if so, give the usual details and usual particulars of that monitoring.
  19. Give the usual details and the usual particulars of the statement that the approach appears to have worked satisfactorily at the existing site.
9. In relation to the Department's submission at paragraph 10 of 'Boating safety':
20. In relation to the 'Boating Safety' section of the submission, state the general position of the Department.
  21. State whether the Department considers the Proposal to be adequate.
  22. If the Department considers the Proposal to be adequate does it still consider that the Proposal will create unsafe boating conditions?
  23. If the Department considers that there will be unsafe boating conditions state how the unsafe boating will occur.
  24. If the Department considers the Proposal documentation to be adequate does it still consider that the access road would be used by non ramp users.
  25. If yes to (24) above, state how why the access road would be used by non ramp users.

10. In relation to the Department's submission at paragraph 12 of 'Coastal processes':
  26. In relation to the 'Coastal processes' section of the submission, state the general position of the Department.
  27. State whether the Department considers the Proposal documentation to be adequate.
  28. If the Department considers the Proposal documentation to be adequate state whether the movement of sand and the need for ongoing monitoring should have been included in the Proposal.
  29. State the impacts to the geological structures.
  
11. In relation to the Department's submission at the 'Conclusion':
  30. In relation to paragraph 1 of the 'Conclusion' section of the submission, state the general position of the Department.
  31. State the basis for the opinion in paragraph 1 of the Conclusion.
  32. In relation to paragraph 2 of the 'Conclusion' section of the submission, state the general position of the Department.
  33. State the basis for paragraph 2 in the Conclusion.
  34. In relation to paragraph 3 of the 'Conclusion' section of the submission, state the general position of the Department.
  35. State the basis for paragraph 3 in the Conclusion.
  36. In relation to paragraph 4 of the 'Conclusion' section of the submission, state the general position of the Department.
  37. State the basis for paragraph 4 in the Conclusion.
  38. In relation to paragraph 6 of the 'Conclusion' section of the submission, state the general position of the Department.
  39. State the basis for paragraph 6 in the Conclusion.
  40. Provide the usual details of:-
    - 40.1 the elevated cultural heritage;
    - 40.2 the landscape and social values;
    - 40.3 the physical and visual impacts;referred to in paragraph 6
  41. In relation to paragraph 6 of the 'Conclusion' section of the submission, state the policy (or policies) the Department considers the Proposal fails to satisfy.

42. In relation to the Department's submission at the 'Conclusion':
  - 42.1 In relation to paragraph 8 of the of the 'Conclusion' section of the submission, state the general position of the Department.
  - 42.2 State the basis for the opinion in paragraph 8 of the Conclusion.