

OPENING TO THE SAVE BASTION POINT CAMPAIGN

SUBMISSION TO THE INQUIRY

The Save Bastion Point Campaign has the authority to represent three community groups to the Inquiry. These include the Friends of Mallacoota, the Mallacoota CoastAction/ Coast Care and the Far East Gippsland Boardriders branch of the Surfrider Foundation Australia. The Inquiry already has details on the purpose and activities of these groups and their membership. The Save Bastion Point Campaign submission made before the Inquiry is on behalf of these three groups.

The Save Bastion Point Campaign also has a number of supporting organisations, including the Melbourne Save Bastion Point Campaign Group, the Mallacoota Surf Life Saving Club, the Surfrider Foundation Australia, the Australian Conservation Foundation, the Victorian National Parks Association, the Save the Waves Coalition, the Friends of Gippsland Lakes and the Disabled Surfers Association. It is also supported by in excess of 600 individuals who requested to be on our supporter email and posting database. These supporter groups and many of the individuals have made their own independent submissions to the Inquiry.

The Save Bastion Point Campaign wishes to acknowledge the traditional custodians of this land. We wish to recognise this land as an Aboriginal Place - it is Country of historical, contemporary and future importance to all indigenous language groups in the Region.

SITE CONTEXT FOR BASTION POINT

Broad description

Mallacoota is an isolated coastal town situated on the Wilderness Coast in Far East Gippsland. It is linked to the Princess Highway by 23 km of winding road.

The township is nestled on the shores of an extensive natural estuary and lake system. Importantly, it is embedded within a National Park system of national and international significance.

The population is approximately 1000 with an increasing number of “sea changers” and retirees. It is traditionally a family holiday and fishing destination, and many families who return every year strongly identify with the area.

Mallacoota has some distinctive social infrastructure which includes a P--12 College, a community radio station, a Health and Support Service, an Arts Council, a uniquely situated camp park and information shed, walking tracks round the town, and a diverse range of special interest clubs and volunteer services.

The main industries revolve around the service industries (health, education, commerce and the trades), tourism and the abalone industry.

Bastion Point is an integral part of Mallacoota.

To local residents and for the purpose of this presentation, the name “Bastion Point” covers an area stretching from the mouth of the estuary and along the beach to the southerly most point of the rocky headland.

A dynamic coastal environment

Bastion Point is part of a dynamic coastal environment.

Wild weather lashes the coast, and major sand deposition and erosion can occur overnight, changing the beachscape dramatically.

The estuary entrance also constantly changes its location – it is presently as far East as it has been for many years, but in the 1990's it ran along the base of the cliff adjacent to the first lookout platform in Bastion Point Road.

This changing nature of the beach affects how and where people use the beach.

The natural integrity of the coast

The natural integrity of this coastal environment is what so many people value.

There is little visible infrastructure, other than the current small ramp, and little interference with natural processes just a magnificent panorama, of which Bastion Point itself is a part.

Native vegetation grows right to the beach line. This is an unusual occurrence in settled areas, and adds to the intrinsic value and beauty of the area.

A wide diversity of wildlife life is present, and this too offers a much-appreciated dimension.

The rocky outcrops, rock formations and cliffs are a feature of Bastion Point and its landscape. These rocks, laid down over 400 million years ago, are the oldest of their type in Victoria, and provide much to wonder at, with their varied structures and colours.

The Bastion Point reef is composed from this rock, and is home to a myriad of species.

People on this landscape

People have interacted with this landscape for centuries, and its natural integrity continues to enhance people's experience of it.

Indigenous people lived on this coast for thousands of years, and still have an on-going relationship with it today.

Bastion Point is within easy walking and cycling distance from the town centre, the school and the camp park. It is regarded as the town beach, frequented by people of all

age groups - young people hanging out, individuals, and families spending valuable time together.

It is the town's primary surf beach and a unique surfing spot for Far East Gippsland.

Many people in the community have a strong personal or spiritual attachment to Bastion Point.

It provides a focal point for people of all generations and walks of life to gather and meet.

Cultural events and ceremonies take place, and the natural beauty of Bastion Point inspires reflection, and provides consolation, inspiration and replenishment.

With much of Victoria's coastline becoming fragmented, retaining this foreshore in its "wilderness" state provides a unique value to the area.

Proposed development in context with Bastion Point

We recognise that Bastion Point is also important for its provision of ocean access for commercial, government and recreational boats. In suitable conditions, the abalone fleet launches here.

Similarly, in suitable conditions recreational fishermen also launch boats to access fishing grounds, as do recreational divers who occasionally access reefs in the area.

We recognise there are issues that need addressing at the current site. We too are concerned that the present facility is in a state of disrepair. We are also concerned that the site is becoming degraded through drainage issues and erosion, through incursions into cultural heritage sites by car and pedestrian traffic, from the illegal destruction of native vegetation, and from inadequate sand and sea weed management practices. All such activity impacts on the integrity and intrinsic values of Bastion Point and must be addressed.

We too are concerned about people's safety.

However, Bastion Point has the capacity to be a shared area. This was formally recognised in December 2006, after considerable community consultation, when Gippsland Ports implemented a shared use zone to clearly define the responsibilities of boat operators, swimmers and surfers.

The proposed development site is not a site in isolation, but is very much a part of the broader Bastion Point environment.

The Bastion Point we describe is significant for its natural values and these are inextricably linked with the social and cultural values of the area. We maintain that a severe disturbance to these natural values, such as the proposed breakwater, road access and all the supporting infrastructure, will irrevocably change Bastion Point, to its, and our, detriment.

PLANNING PANELS VICTORIA
IN THE MATTER OF AN ENVIRONMENT EFFECTS INQUIRY
OCEAN ACCESS BOAT RAMP, BASTION POINT, MALLACOOTA
ENVIRONMENT EFFECTS STATEMENT

EAST GIPPSLAND SHIRE COUNCIL (**Council**)

Proponent

and

SAVE BASTION POINT CAMPAIGN (**SBPC**)

and others

Submitters

**SUBMISSIONS ON BEHALF OF THE
SAVE BASTION POINT CAMPAIGN**

Introduction

1. This submission is made on behalf of the Save Bastion Point Campaign, which also represents Friends of Mallacoota, the Mallacoota CoastAction/ Coast Care and the Far East Gippsland Boardriders branch of the Surfrider Foundation Australia.
2. SBPC objects to the development of an ocean access boat ramp facility and associated structures at Bastion Point, as proposed in Options 1, 2 and 3 in the Environment Effects Statement exhibited in 2007 (**EES**), and to the modified access road now apparently preferred by the East Gippsland Shire Council

(**Council**) as proponent. In particular, it strongly opposes any facility incorporating a breakwater.

3. SBPC has already lodged a detailed written submission to the Panel,¹ setting out the many concerns it has with the various options set out in the EES, as well as the manner in which Council carried out the EES process. It does not propose to repeat all of those concerns here, but it urges the Panel to review the content of that submission closely.
4. Rather, SBPC will address the Panel on:
 - (a) The modified access road, and the manner in which Council has dealt with that 'fourth option';
 - (b) The legislative and policy framework within which the proposed development must operate;
 - (c) The Assessment Guidelines against which the EES must be assessed;
 - (d) The expert evidence to be presented on behalf of SBPC, which will deal with:
 - (i) Environmental impacts – geomorphological, ecological and geological; and
 - (ii) Community impacts – economic, social, recreational, and visual;
 - (e) What is left unsaid in the EES;
 - (f) SBPC's remaining concerns; and
 - (g) SBPC's vision for Mallacoota.

Fourth option

5. In the context of a formal EES process that has been undertaken over eight years, SBPC strongly objects to the manner in which the modified access road has seemingly become a real part of Council's proposal, less than four weeks out from the commencement of the Panel hearing. SBPC objects on the basis that:

¹ *Submission opposing the East Gippsland Shire Council's Environment Effects Statement for an Ocean Access Boat Ramp at Bastion Point, Mallacoota*, dated 15 July 2007, submission number 273.

- (a) No design detail in relation to the modified access road was made available until the exchange of expert witness reports;
- (b) Full assessments (for example, economic and engineering) of the modified access road have not been conducted or made available to submitters ahead of the Panel hearing;
- (c) Members of the local community and submitters not in receipt of Council's communications through its solicitor, or expert witness reports, will not be aware of what is now (possibly) being proposed; and
- (d) Up until the day the Panel hearing commenced, it remained unclear exactly what Council as proponent is in fact proposing to construct at Bastion Point.

A chronology of relevant events is set out below.

6. On 12 September 2007, the Department of Sustainability and Environment (**DSE**) provided its submission, in which it stated that the EES had not adequately assessed the lesser impact options, and that options 2 and 3 were not endorsed until it could be demonstrated that the lesser impact options are not viable and the cumulative impacts of the proposed developments had been addressed. Following that submission and various communications between DSE and EGSC, DSE commissioned a further report from EGSC's consultant, Coastal Engineering Solutions (**CES**), to investigate how some impacts of option 3 (environmental and cultural) could be mitigated in relation to the siting of the access road to the boat ramp. CES issued a supplementary report dated January 2008 (**DSE Report**), in which CES proposed two modifications to option three involving the construction of an access road along the beach. The modifications proposed in the DSE Report were conceptual rather than detailed, containing only two figures depicting the proposed site layout and one cross-sectional diagram.
7. The DSE Report was circulated by the Panel on 25 March 2008. On 14 April 2008, the Panel in Direction 8 sought Council's advice as to whether it had adopted a position on the DSE Report, and what that position was. On 28 May 2008, the Panel wrote to Council's solicitor providing directions for the exhibition of the DSE Report, and again seeking Council's position. On 30 May 2008, Council's solicitor

wrote to the Panel advising that Council had resolved at a Special Council Meeting on 13 May 2008 that *“it does not have any objection to the report being considered but does not accept that the options developed provide a better outcome than the preferred option exhibited”*.

8. On 19 June 2008, Council’s solicitor wrote to the Panel to advise that Council had decided on 17 June to *“support the facility as identified in option 3 but with the modified access road as depicted in the DSE Report at figure 4(b)”*. In that letter, mention was made of expert traffic engineering assistance Council had retained regarding the design of the access road. As late as 1 July 2008, Council’s solicitor again wrote to the Panel, following requests for clarification from the community and submitters such as SBPC, stating that *“Council has not made a formal decision in this regard. It has not formally adopted the modified access road. Indeed, its formal position remains as in its resolution of 30 [sic 13] May 2008”*.
9. Despite SBPC’s specific and urgent request on 25 June 2008 for full details, technical specifications and appropriate assessments such as engineering and economic appraisals in relation to the modified access road, SBPC did not receive any further detail beyond that contained in the DSE Report until the exchange of expert witness reports on 3 July 2008. As a result, expert witnesses retained on behalf of SBPC were not able to examine and comment in their reports on the design details and comments in relation to the modified access road contained in some of the reports circulated by Council. As soon as it became clear that Council was (possibly) pursuing a modified access road, SBPC asked its expert witnesses to comment on that proposal, but the only detail then available was that contained in the DSE Report itself.
10. Extraordinarily after a genesis of 8 years, at the commencement of the Panel hearing the only design detail now available is in the form of a concept plan developed by a landscape architect – rather than, for example, a civil engineer. The community only learned that Option 3, together with that option with the

modified access road, were both being “*commended to the Panel as an appropriate solution*”² on the opening day of the Panel hearing.

11. More worryingly in terms of proper process is that members of the local community and submitters not in receipt of Council’s recent communications and expert witness reports will not know that what is now (possibly) being proposed is a two-way 6.5m wide road and 2m wide boardwalk winding its way along a stretch of wilderness coast.
12. It follows that the Panel and the Minister in considering the Panel’s report must be unable to derive any confidence that the community - intended to be given the opportunity to provide input into this decision - has any real understanding of what is being proposed. Instead, it is only those who have managed to maintain an interest in this process over a period of many years and who are in a position to have access to communications between the Council and this Panel who are in a position to know that what is now being proposed is a road **on and along** rather than **to** the beach. It is self-evident that this is a fundamental change which leads to different considerations in relation to the proposal.
13. It is certainly possible, and, it is submitted, likely, that people who were previously either supportive or prepared to live with the outcome of the proposal as they understood it would feel entirely let down by a process by which they only became aware of a road along the beach after its approval (or worse still after it was built). This prospect should be considered as a serious social impact arising from the proposal itself.
14. This raises the further question: how can SBPC and the broader community have any confidence in a proposal that the proponent itself is unable to define or promote with any confidence, let alone in Council’s ability to manage this large piece of infrastructure into the future?
15. Most interesting is what this process tells us about the viability of Option 3, particularly from a cultural heritage perspective. Following excavation works and extensive consultation with Indigenous people, Dr Vincent Clark concludes that:

² Council’s opening submission at the Panel hearing, 15 July 2008, slide 181.

- (a) “*there are significant Aboriginal cultural heritage sites located at Bastion Point*”;
- (b) “*it is clear that these sites have social and spiritual value not just as individual sites but as part of the landscape and as evidence of the long association of Aboriginal people to the land itself*”; and
- (c) the “*construction of the access road for Option 3 will cause a severe impact on Aboriginal cultural heritage*”.³

While apparently dressed up as an option to resolve visual impact concerns, it is clear that the modified access road was thought necessary to deal with the significant cultural heritage issues raised by Option 3.

16. For the purposes of this submission, where a general reference is made to the works proposed by Council, that reference is to both Option 3 and Option 3 with the modified access road. The latter is otherwise referred to specifically as **Option 4**.

Legislative framework

17. On 17 August 2000, the then Minister for Planning decided pursuant to s 8B of the *Environment Effects Act 1978* that an Environment Effects Statement should be prepared for the proposed ocean access boat ramp and facilities at Bastion Point, “*to ensure a rigorous and transparent examination*” of the relevant issues.⁴ Nine key issues were identified for assessment, which are echoed in the specific Assessment Guidelines developed for the EES process. Because “*the impact of the ramp on sedimentation will be a critical issue in the assessment*” the Minister determined that the EES process should not be commenced until a method was agreed for developing a detailed understanding of the coastal processes in this area.
18. Council requires Ministerial consent to develop the proposed ocean access boat ramp on Crown land pursuant to s 37 of the *Coastal Management Act 1995*. In

³ Expert witness statement of Dr Vincent Clark dated 30 June 2008.

⁴ EES Appendix 1.

determining whether to give consent, the Minister must have regard, among other matters, to the Victorian Coastal Strategy and any relevant Coastal Action Plan created under that Act. Among the objectives of that Act are:

- (a) To plan for and manage the use of Victoria's coastal resources on a sustainable basis for recreation, conservation, tourism, commerce and similar uses in appropriate areas; and
- (b) To protect and maintain areas of environmental significance on the coast including its ecological, geomorphological, geological, cultural and landscape features (s 4, emphasis added).

19. As noted in the EES, the only permit requirement under the *Planning and Environment Act 1987* relates to the removal of native vegetation, provided the use is conducted by, and the works are carried out by or on behalf of, a public land manager (here, Council). Of course, that situation would change if the proposed ramp were to be developed and managed by an entity other than the Council, which has continuously described itself throughout the EES process as the "*reluctant proponent*".⁵
20. The relevant planning control for the removal of native vegetation is discussed below in relation to SBPC's terrestrial ecology expert evidence. Departmental permission is also required to take listed species from public land under the *Flora and Fauna Guarantee Act 1988*, or to damage or destroy Protected Aquatic Biota under the *Fisheries Act 1995*.
21. Pursuant to s 49 of the *Aboriginal Heritage Act 2006*, a cultural heritage management plan is required to be prepared for any works the subject of an Environment Effects Statement. Since the passing of that legislation, it is clear that the protection of Indigenous cultural heritage is a primary concern, given the level of assessment and protection works required before the commencement of any works the subject of an EES process and evidenced by the demand for significant protection works contained in the draft Cultural Heritage Management Plan prepared by Dr Clark in accordance with that Act.

⁵ See for example letter from Maddocks on behalf of Council to the Panel dated 2 October 2007.

Policy framework

22. SBPC disputes that there is a “*high level of policy support for proposals to upgrade the Mallacoota Ocean Access Boat Ramp*”.⁶ It certainly disputes any suggestion that there is such policy support for what Council proposes, which involves not an upgrade of the existing ramp but the development of substantial, high-impact infrastructure in a more sensitive location. Further, it is submitted that the policy discussion contained in Section 4 of the EES is highly selective and lacks the required depth of analysis. This part of SBPC’s submission attempts to highlight policy considerations that are not dealt with sufficiently or at all in the EES, as well as policy considerations that are specifically relevant to Option 4 (and accordingly not dealt with in the EES).
23. It is submitted that the most relevant policy documents in this context are the *Victorian Coastal Strategy 2002 (Strategy)* (which ought properly be considered in combination with the policy directions apparent from the *Draft Victorian Coastal Strategy 2007*, referred to as the **Draft Strategy**), the *Integrated Coastal Planning for Gippsland Action Plan (Integrated CAP)* and the *Gippsland Boating Coastal Action Plan (Boating CAP)*, all of which are given statutory effect under the *Coastal Management Act 1995*.

The Strategy and Draft Strategy

24. The Strategy in particular is said by Council to provide specific support for Council’s proposal. Underlying the Strategy is the concept of ecologically sustainable development, meaning “*Development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends*” and incorporating the need to consider the environmental, social and economic implications of decisions in an integrated way.⁷ Consistent with that concept, the Strategy sets out a hierarchy of principles for coastal planning and management as follows:

“*Decision makers’ priorities will be to:*

⁶ EES Main Report, p 66.

⁷ *Victorian Coastal Strategy 2002* p 18.

1. *provide for the **protection of significant environmental features**;*
2. *ensure the **sustainable use of natural coastal resources**;*
3. *undertake integrated planning and provide **direction for the future**; and*
4. *when the above principles have been met, facilitate **suitable development on the coast** within existing modified and resilient environments where the demand for services is evident and requires management.”⁸ (Original emphasis.)*

25. The Draft Strategy repeats that hierarchy, stating that “*Coastal development decisions must consider protecting significant features foremost, then the intentions of plans, and how to ensure sustainable use*”.⁹ It clarifies that the final principle in the hierarchy “*aims to firstly provide an environmental, social and/or economic benefit and then enhance the community’s use of the coast*”. Protection of the natural environment is the consistent overarching theme in each version of the Strategy.

26. The Strategy deals specifically with access to Victoria’s coastline, noting (with particular relevance to Option 4) that:

“Construction of roads and car parks in foredunes and other sensitive areas frequently results in a very unstable environment which cannot be viably maintained over time... Car parks servicing the coast require sensitive location as far back as is practicable from dune systems and cliffs. Vehicle access to beaches will generally be discouraged... The provision of pedestrian access will be designed, sited and managed to minimise public risk, enhance environmental protection, minimise risks of erosion and improve access.”¹⁰

27. In relation to specialist boating facilities for launching, mooring and safety, the Strategy notes that “*There is currently a shortage of these facilities in Victoria due to a lack of suitably protected sites, the high cost of construction and maintenance,*

⁸ Ibid p 20.

⁹ Draft Victorian Coastal Strategy 2007 p 17.

¹⁰ Victorian Coastal Strategy 2002 p 34.

and the potential they have to cause significant environmental impact.” A relevant objective is to “*Improve opportunities for safe boating and water based activities*” through the following action:

“Coastal and bay locations that have natural benefits, such as sheltered boating locations due to protection from prevailing winds and sea conditions, shall be identified through a recreational boating strategy or regional boating plans. Planning should give priority to maritime related uses at these locations (refer to Figure 7).”¹¹ (Emphasis added.)

28. Figure 7 identifies Mallacoota as a location for a “Regional Boat Ramp” which is defined as follows:

“A Regional Boat Ramp accommodates a significant amount of recreational boating in appropriate conditions. These include multiple boat ramps, jetties, substantial car parking, safety measures where required and significant onshore facilities such as fish cleaning facilities, wash down areas and toilets. A site satisfying this level of hierarchy generates a significant level of boating activity from a wide catchment.”

29. Contrary to the assumption in the EES,¹² that definition does not hinge on a requirement for ocean access. Rather, it is directly applicable to the Main Wharf boat ramp, which has the “natural benefit” of being “sheltered” from “prevailing winds and sea conditions” - utterly unlike Bastion Point, where a highly engineered solution is required to provide the level of safety required of a Regional Boat Ramp. Further, the second principle in the hierarchy insists on the use and management of the coast being designed “*to work with nature rather than against it, to minimise impacts which occur downstream or off-site, reducing long term community costs*”.¹³ No boat ramp structure at Bastion Point could meet the definition of a Regional Boat Ramp while at the same time being in accordance with the hierarchy of principles or the clear policy intent of ecologically sustainable development underlying the Strategy.

¹¹ Ibid p 35.

¹² EES main report p 7.

¹³ Ibid p 20.

30. It is all very well for Council to submit that it is a matter of how, rather than whether, a Regional Boat Ramp should be constructed at Mallacoota. But that takes the Panel no further than the point we have now reached in the EES process, which is whether Bastion Point is an appropriate site for the construction of such significant infrastructure. It is also misleading for Council to submit that a Regional Boat Ramp has been “*identified as strategically important at this location*”¹⁴ when the location identified in the Strategy is Mallacoota, not Bastion Point, and not at a location that directly accesses the open ocean.
31. The Draft Strategy goes a step further, now insisting that the provision of “*open water ramps, access or facilities*” is to be avoided, and “*any new or redeveloped boating facilities*” are to be directed to “*safe, sheltered locations with protection from strong prevailing winds and high energy sea conditions in line with boating coastal action plans*”.¹⁵
32. In light of the clear policy intent underlying the Strategy (and arguably strengthened in the Draft Strategy), it is difficult to see how Option 4 in particular - a 6.5m road running along a stretch of wilderness coast - could hope to draw on the Strategy for policy support.

Integrated and Boating CAPs

33. Coastal Action Plans under the *Coastal Management Act 1995* must provide for detailed planning of the relevant region, both to facilitate recreational use and tourism, and to provide for protection and enhancement of significant features of the region’s coast, including the marine environment. They must also be consistent with the Strategy. (See s 23.) Given that statutory purpose, it is interesting to note that the EES only identifies policy directions in the Integrated and Boating CAPs relevant to recreational use and tourism.¹⁶
34. As well as identifying recreation and tourism as a feature of the Gippsland coast, the Integrated CAP identifies natural values (including geological and

¹⁴ Council’s opening submission at the Panel hearing, 14 July 2008, slide 130.

¹⁵ *Draft Victorian Coastal Strategy 2007* p 36.

¹⁶ EES main report pp 55-6.

geomorphological features such as Corajingolong's rocky headlands and beaches), cultural values (including Indigenous cultural and archaeological sites along the length of the Gippsland coast) and landscape values. As confirmation of those values, since exhibition of the EES, the Mallacoota Coastal and Inlet Foreshore (specifically including Bastion Point) has been classified by the National Trust of Australia (Victoria) for its "*aesthetic, historic, scientific (ecological, geological and geomorphological), social and spiritual values*".¹⁷

35. The Integrated CAP notes in relation to the policy of protecting coastal values that "*Increasing pressure on natural, cultural and landscape values threaten the Gippsland coast. Unsustainable use results from over development, excessive recreational use, over fishing...*" It states that suitable locations for a range of activities "*will be determined based on the character, function and environmental significance of a particular site*".¹⁸
36. While the EES quotes extensively from the section in the Boating CAP relating to efficiency of boating facilities,¹⁹ inexplicably it does not quote, cite or otherwise deal with the following sections:

"1.4 Principles for Boating in Gippsland

1.4.2 Safety

This Plan encourages the development of facilities that are easy to use and that allow safe access to nearby waters in most conditions, while discouraging facilities that provide easy access to dangerous waters or waters that become dangerous to use in storm conditions. This applies particularly to boat ramps on the open coast where it is difficult or impossible to retrieve boats quickly if storm conditions arise suddenly whilst the boats are at sea, and where there is no alternative shelter.

There are a limited number of locations on the Victorian coast east of Melbourne where there are safe passages from calm water to the open

¹⁷ Landscape Classification Report, attached to letter from National Trust of Australia (Victoria) to EGSC dated 27 June 2007; Appendix A to expert witness statement of Peter Haack, July 2008.

¹⁸ *Integrated Coastal Planning for Gippsland Action Plan* pp 22-3.

¹⁹ *Gippsland Boating Coastal Action Plan* pp 55-6.

ocean: Western Port Bay, Corner Inlet and environs, and Lakes Entrance. The emphasis for upgrading facilities with ocean access will be on locations where these safe passages exist.

1.4.3 The Environment

A well-managed environment has major benefits for the boating community. The provision of boating facilities and the use of the Gippsland's coastal region for boating activities will be undertaken in a manner which:

- *Preserves and protects important and sensitive marine, coastal and estuarine environments;*
- *Minimises the impacts of dredging, boat wakes, infrastructure development, boat launching, anchoring and boat-sourced pollution;*
- *Encourages the boating public to appreciate and preserve the natural environment.”²⁰*

37. For the EES to contain a quote from the Boating CAP regarding the standard for efficient boating facilities, without any mention of the overriding policy regarding where those facilities are to be located, is positively misleading. In fact, the Boating CAP specifically recognises the dangerous ocean conditions at Bastion Point, and recommends signage be provided “*indicating the dangers associated with the use of small craft in the exposed waters of Bass Strait [sic Tasman Sea]*”.²¹ Further, contrary to the implication in the EES, the Boating CAP does not itself approve of or advocate for an ocean access facility at Bastion Point; rather, it recognises that an assessment process for such a facility is underway.²²

Mallacoota Foreshore Management Plan

38. It is extraordinary that two pages of the EES are devoted to the *Mallacoota Foreshore Management Plan (Plan)*,²³ given that Plan excludes from the study contained therein any proposed improvements to the boat ramp at Bastion Point in

²⁰ Ibid pp 2-3.

²¹ Ibid p 36.

²² Ibid.

²³ Together with slides 122 to 124 of Council's submission at the Panel hearing on 15 July 2008.

recognition of the separate planning processes that deal with it. This renders the contents of the Plan largely irrelevant, except for the recommendation that planning for an ocean access facility at Bastion Point “*will need to integrate the visions, management objectives and strategies*” of the Plan.

39. Interestingly, two aspects of the vision outlined in the Plan are:

- (a) The Mallacoota foreshore will “*reflect the characteristics of Mallacoota that are valued by its residents and visitors: its natural beauty, its landscape diversity, its low-key development and its relationship to the ocean, inlet, urban area and surrounding national parks*”.
- (b) New and improved commercial recreational and tourism developments “*will be in character with the surrounding landscape and conform to the principles of ecologically sustainable development*”.

Local Planning Policy Framework

40. SBPC does not propose to undertake a detailed analysis of the MSS or LPPF. Given that the Council is simultaneously the proponent in an EES process that is now more than eight years old, and the author of the policy statements in the MSS and LPPF under the *East Gippsland Planning Scheme* it would be extremely surprising if the LPPF did not provide support for the proposal. In the present unusual circumstances it is submitted that consistency with the LPPF provides the Panel with no more useful information than that the Council supports its own proposal.²⁴

Sustainable Recreation and Tourism on Victoria’s Public Land

41. There is no discussion in the EES of *Sustainable Recreation and Tourism on Victoria’s Public Land*, the 2002 State government policy document that “*sets out desired outcomes and approaches for the management of recreation and tourism across all public land*” and guides stakeholders on the “*Government’s direction in facilitating and managing recreation and tourism activities on public land within a*

²⁴ Although, as noted above, given the state of its resolution in relation to Option 4 even this is not entirely clear.

consultative framework". The definition of "appropriate recreation and tourism use" includes use or development that:

- (a) Is consistent with the *National Ecologically Sustainable Development* objectives and principles, including the *Precautionary Principle*;
- (b) Involves levels of risk that are consistent with the skills and experience of the likely users and does not require impractical levels of risk mitigation for the setting; and
- (c) Does not unreasonably restrict other community users from access to public land.

It is submitted that neither Option 3 nor Option 4 meet the definition of "appropriate recreation and tourism use" at Bastion Point.

East Gippsland Area Review Final Recommendations

- 42. Council produced the *East Gippsland Area Review Final Recommendations*, published by the Land Conservation Council, on the first day of the Panel hearing. SBPC has never seen this document before, but submits that its contents at best form part of the backdrop, and cannot be said to provide relevant policy support for the current proposal, given that the document is more than twenty years old.
- 43. It is clear that relevant policies have been given an extremely selective and highly misleading treatment in the EES, to suggest that there is a "*high level of policy support*" for the proposed development. In fact, what is advocated for in those policy documents is a far more nuanced and balanced approach than is contained in the EES, with the paramount consideration being protection of the environment first and foremost.

Assessment guidelines and objectives

- 44. In December 2004, the DSE finalised and published Assessment Guidelines setting out the requirements for the preparation for the EES. The Assessment Guidelines separated the matters to be addressed in the EES under the following headings:

- (a) General content and style of the EES, including a description of options capable of meeting the proposal's objectives to a substantial degree, as compared with a 'no project' scenario;
- (b) Project description;
- (c) Assessment of options, including:
 - (i) an identification of alternative locations, designs and strategies that respond to environmental constraints and opportunities of the site and its environs; and
 - (ii) in so far as the proposal faces environmental constraints relating to ecological, hydrological, cultural heritage or other factors, a presentation of alternative designs that seek to avoid or minimise key potential impacts;
- (d) Relevant legislation, policies and strategies;
- (e) Evaluation objectives and criteria (discussed below);
- (f) Existing environment; and
- (g) Potential environmental effects.

45. It is submitted that most important among these for the purposes of preparing the EES were the evaluation objectives and criteria, which were "*designed to guide the evaluation of potential environmental impacts*" of the proposed development and reflect relevant legislation and government policy (section 4.5). The objectives are:

- (a) To provide efficient, safe infrastructure for the launching and retrieval of commercial and recreational boats under all-tides at Mallacoota;
- (b) To avoid significant interference with coastal processes related to patterns of wave formation and sediment movement affecting Mallacoota Inlet and nearby beaches;
- (c) To avoid significant adverse impacts on the water quality and ecological character of Mallacoota Inlet and surrounding site during both construction and operational phases;

- (d) To avoid detrimental impacts on the character, amenity and infrastructure of Bastion Point, including its attractiveness for recreation, education and tourism;
- (e) To avoid to the maximum extent practicable, adverse impacts on Aboriginal or post-settlement cultural heritage;
- (f) To avoid adverse ecological impacts on significant native vegetation (communities or species), and to provide for effective net gain compensation where necessary in accordance with the Native Vegetation Management Framework;
- (g) To avoid adverse impacts on migratory waterbirds and any other species that are of National and/or State significance; and
- (h) To provide a clear overall societal benefit, taking into account economic impacts, social outcomes and residual environmental impacts. [Emphasis added.]

46. It was suggested in the Assessment Guidelines that those objectives “*might usefully be translated into more specific performance criteria to guide the EES studies and evaluation of alternative design concepts and environmental management measures*”. Had that been done, and each objective thereby analysed in depth with an appropriate measure in respect of each ‘option’, Council would no doubt not be in the position in which it finds itself today, where it is grasping at a two-lane road along a stretch of wilderness coast in a last minute attempt to rescue the EES from significant cultural heritage, vegetation and visual impact hurdles.

47. Instead, it appears Council and its consultants throughout the EES process have focused narrowly on the first objective, “*To provide efficient, safe infrastructure for the launching and retrieval of commercial and recreational boats under all-tides at Mallacoota*”, at the cost of the seven other objectives, all but one of which are based on the precautionary principle of avoidance informed by the *1992 Inter-governmental Agreement on the Environment*. Moreover, as is discussed below,

even the efficiency and safety of the infrastructure being proposed in the EES is highly questionable.

48. Council's failure to deal with each objective in any meaningful way is discussed below in relation to the expert evidence SBPC will present to the Panel.

Environmental impacts

Geomorphology

To avoid significant interference with coastal processes related to patterns of wave formation and sediment movement affecting Mallacoota Inlet and nearby beaches

49. It has been recognised from the outset that the coastal processes component of the EES *"is critical to the feasibility of the project"*.²⁵ The then Minister for Planning determined that a key issue for assessment of the boat ramp and associated works was the issue of *"Impacts on sediment transport and deposition, including dredging"*. For this reason, the Minister required Council and DSE to agree on the method to be applied in developing a detailed understanding of coastal processes at Bastion Point before the EES process could commence, as *"the impact of the ramp on sedimentation will be a critical issue in the assessment"*.²⁶
50. After eight years and multiple revisions by Council's consultant, CES, of the options available as a result of the coastal processes study, the Panel is left to make recommendations where:
- (a) The EES is based on an insufficient investigation of coastal processes at Bastion Point, involving wave hindcasting calibrated on data recorded at other locations, only 5 years of wind data and no consideration of crucial factors such as wave type, tides and tidal currents, and the presence of rocky reefs;
 - (b) The sediment transport modelling used in the EES is subject to a wide range of errors not disclosed in the CES study, and based on an inaccurate definition of the Mallacoota littoral cell, resulting at best in *"an indication of sand transport direction with the volumes open to question"*;

²⁵ Assessment Guidelines p 5.

²⁶ EES Appendix 1.

- (c) The potential impact of each option on the geomorphology of the shoreline has not been adequately assessed;
 - (d) The proposed sand management system of by-passing (dredging) is problematic; and
 - (e) The landward end of the breakwater for options 2 and 3 is tied to the cliff, presenting a physical barrier to the recreational use of the foreshore.²⁷
51. Further, Council has never arranged for the CES study to be reviewed by an expert in the field of coastal geomorphology. Instead, the same consultant who compiled the CES study is to be called as an independent expert witness by Council at the Panel hearing. This is to be contrasted with the efforts of SBPC to retain an independent expert, Dr Wayne Stephenson, and to have his work reviewed by Professor Andrew Short, the pre-eminent coastal geomorphologist in Australia.
52. Option 4, as already discussed, originated from a brief supplementary report by CES commissioned by DSE in early 2008. The option of placing a road on an active beach:
- (a) Fails to consider the detrimental impacts on coastal processes and beach morphology;
 - (b) Fails to consider the impacts of coastal process on the structure; and
 - (c) Represents a significant loss of natural foreshore and amenity values.²⁸
53. Despite the serious implications arising from placing a road along the foreshore, the extent of design detail for Option 4 at the commencement of the Panel hearing is a plan prepared by a landscape expert, where the method of design differs from that originally proposed in the DSE Report and is not then reviewed by Dr Peter Riedel in his statement of expert evidence from a coastal processes perspective.²⁹
54. There is also a startling lack of detail or analysis in the EES or any expert witness reports of the method, potential impacts, and ongoing management and operating

²⁷ Expert witness statement of Dr Wayne Stephenson dated 17 June 2008, peer reviewed by Professor Andrew Short on 30 June 2008.

²⁸ Ibid, p 14.

²⁹ Expert witness statement of Dr Peter Riedel dated 30 June 2008.

costs of dredging the channel to prevent a build-up of sedimentation. This is made more uncertain by the problems with sediment transport modelling on which each of the options rely, as already discussed.

55. It is submitted that on a coastal geomorphological basis alone, the proposed development should not be allowed to proceed, at least without significant further field work and analysis first being undertaken.

Marine Ecology

To avoid significant adverse impacts on the water quality and ecological character of Mallacoota Inlet and surrounding site during both construction and operational phases

56. Given the proposed excavation of 3,250 cubic metres – including the loss of or damage to one third of the reef at Bastion Point³⁰ – there is little analysis in the EES and associated reports of the potential impact on the existing marine ecology at Bastion Point. Council does not propose to call an independent expert witness in the area of marine ecology to assist the Panel. Dr Tim O’Hara, who will be called by SBPC to present evidence on marine ecology at the Panel hearing, considers that the *“information about the marine environment provided to the Panel thus far through the EES is brief and inadequate”*.³¹

57. Dr O’Hara’s evidence to the Panel will be that:
- (a) The total extent of intertidal reef in East Gippsland (on a very generous estimate) is only 2.4sqkm;
 - (b) The intertidal rocks between Bastion Point and Shipwreck Creek support a distinct biological assemblage that is distinctive from other sections of the nearby coast, deriving from the combination of warm- and cold-water species that prefer this particular stretch of coast;
 - (c) The intertidal community that will remain following the construction of Options 3 or 4 will be affected by the reduced wave exposure as a result of the

³⁰ Expert witness statement of Dr Tim O’Hara dated 26 June 2008.

³¹ Ibid.

breakwater, together with sand accumulation, hydrocarbon spillage and organic enrichment from fish scraps; and

- (d) Contrary to suggestions in the EES and associated reports, neither the breakwater nor dumped rubble will replace lost habitat.

Terrestrial Ecology

To avoid adverse ecological impacts on significant native vegetation (communities or species), and to provide for effective net gain compensation where necessary in accordance with the Native Vegetation Management Framework

To avoid adverse impacts on migratory waterbirds and any other species that are of National and/or State significance

58. The terrestrial ecological assessment of the site by Biosis Research on behalf of Council was based on one session of field work over three days in June 2005. Despite the recommendation of its own consultant that further survey work such as a spring orchid survey, a bandicoot survey and a geological survey be undertaken, and despite the fact that it is essential that sites be assessed on the basis of well-timed and repeated surveys in order to determine the existence of rare flora and fauna, Council has not undertaken or commissioned further field work. This goes against the clear policy impetus of protection of significant environments, and against the specific Assessment Guidelines relevant to the avoidance of adverse ecological impacts.
59. Mr Lincoln Kern, a botanist and ecologist retained by SBPC to provide independent expert evidence to the Panel, concludes that the rainforest in the gully on the site identified as Warm Temperate Rainforest is more accurately described as Littoral Rainforest, which is a very rare rainforest type, thus making the site possibly of state or national significance and of Very High conservation significance.³² Mr Kern considers that the conservation status of all habitat zones on the site should be classified Very High, and only cleared in exceptional circumstances from a state-wide perspective. While Option 4 is a significant improvement, Mr Kern notes

³² Expert witness statement of Mr Lincoln Kern dated 30 June 2008, p 8.

that it would still involve the removal of an “*unknown extent of significant Littoral Rainforest and Coastal Dune Scrub*”.³³

60. Mr Kern criticises the approach taken in the EES process for a failure to design in response to relevant flora, fauna and habitat zone data. Instead, it appears engineers dictated the preferred design approach, and ecological consultants were then asked to review the impacts. Even under Option 4, significant vegetation will be removed to develop the carpark, which “*practically eliminates the corridor of native vegetation along the coast in this area*”.³⁴ Mr Kern also identifies difficulties in locating the substantial offsets that will be required, and notes that this issue has not been considered adequately in the EES.
61. Council’s expert witness Ms Catherine Costello notes that sufficient detail of the car/trailer park proposed under Option 4 is not available to provide meaningful comment.³⁵

Geology

To provide a clear overall societal benefit, taking into account residual environmental impacts

62. Despite the recommendation of Council’s consultant, Biosis Research, that a geological survey should be done as part of the EES process, it has been left to SBPC to retain an independent expert in that field, Dr Neville Rosengren, to assist the Panel in determining geological impacts.
63. Dr Rosengren considers from his review of the EES and associated reports that “*no specific field-based study by an appropriately qualified person of the potential geoscience values of the Bastion Point area was conducted for the EES by the proponent*”. As a consequence, “*impacts of the proposal on geoscience values has not been adequately determined*”.³⁶ Together with the documented State Significance rating of Bastion Point to Little Rame Head, because it contains the most extensive coastal exposure of Palaeozoic sedimentary rocks in Victoria, and

³³ Ibid p 9.

³⁴ Ibid p 10.

³⁵ Expert witness statement of Ms Catherine Costello dated 27 June 2008, p 13.

³⁶ Expert witness statement of Dr Neville Rosengren dated 7 July 2008.

is a major site for the study of the depositional and deformation history of rocks of intricate structure, Dr Rosengren notes a number of other significant attributes of the site requiring consideration.

64. Dr Rosengren concludes that the proposal would considerably alter aspects of the geoscience significance of Bastion Point by:
- (a) Removing, reshaping and/or permanently covering areas of rock shore platform that are part of a site assessed to be of State Geoscience Significance; and
 - (b) Removing, reshaping and/or permanently covering deposits related to higher sea levels.

Community impacts

Economics

To provide a clear overall societal benefit, taking into account economic impacts

65. SBPC retained Economists at Large & Associates to undertake a review of the economic model used in support of the EES, and in particular Option 3. Their report raises a number of concerns with the economic model used as follows:
- (a) The number used in the modelling of assumed additional boat launches is incorrect and has the effect of doubling the projected benefits of the proposed development;
 - (b) Cost savings (from activity provided within the community) are reported as net benefits;
 - (c) Capital costs are taken from the 2005 CES Coastal Processes study, apparently adjusted from estimates given in 1998, which does not reflect increased costs due to the current national skills shortage leading to capacity restraints;
 - (d) Rising fuel prices may have an impact on recreational boat users (on whom the economic model was based) that needs to be taken into account;

- (e) No value is ascribed to surfers and other recreational users of Bastion Point and the economic impact of their changed use of the area;
- (f) No consideration is given to the opportunity cost of the use of capital to fund the proposed development; and
- (g) There is an overall lack of traceability of data, meaning the rigour of the calculations underlying the economic analysis is difficult to test.³⁷

66. Dr Boyd Blackwell, who is an economist specialising in beach and foreshore economics, has also been retained by SBPC. He notes that non-market values are overlooked in the economic analysis undertaken in the EES, and attempts to ascribe a monetary value to those values in order to estimate the total benefits from conservation in comparison to the net market benefits of proceeding with the proposed development. Further, Dr Blackwell considers that the Mallacoota and East Gippsland community is too narrow a population for the purpose of the required economic analysis.³⁸

67. It should also be noted that Mr Neil Lazarow conducted a one-year survey in 2005-6 of recreational surfing at Mallacoota and concluded that the observed market expenditure by local recreational surfers in Mallacoota, related to the surfbreaks at Bastion Point, was approximately \$230,000 per year.³⁹

68. It is disappointing to note that Mr Jack Backen, retained by Council to provide an independent economic assessment of the proposed development to assist the Panel, has evidently not been asked to assess:

- (a) the capital cost estimate in the EES and how that estimate may have changed in the intervening years;
- (b) the likely cost of operating and maintaining the ramp, or the likely cost of constructing the ancillary structures; or

³⁷ Expert witness statement of Francis Grey, Simon O'Connor and Tristan Knowles dated July 2007 (sic 2008).

³⁸ Expert witness statement of Dr Boyd Blackwell undated.

³⁹ Expert witness statement of Mr Neil Lazarow undated p 5.

- (c) the likely cost implications of the modified access road in Option 4.⁴⁰

Social Planning

To avoid to the maximum extent practicable, adverse impacts on Aboriginal or post-settlement cultural heritage

To provide a clear overall societal benefit, taking into account social outcomes

69. Clearly Bastion Point is used by visitors and the local community for a diverse range of activities, well beyond commercial and recreational boaters. More than just a beautiful and wild place, it is also a special place, the focus of community activities, whether they be recreational, spiritual or artistic. Options 3 and 4 in particular will alienate all users except boaters from the stretch of coast to the south of the proposed development, and effectively appropriate that foreshore for one user group to the detriment of many others.
70. Ms Bernadette George, retained on behalf of SBPC to undertake a social planning assessment of the EES, considered that the EES fails properly to identify specific user groups who might be affected (positively or negatively) by the proposed development. Her social planning assessment is that the proposed development:
- (a) Is likely to generate an increased need for medical support and emergency services;
 - (b) Is unlikely to address successfully the need to provide a safe facility; and
 - (c) Will improve access, and thereby enjoyment, for recreational boaters but significantly reduce accessibility and enjoyment for a range of other user groups.

⁴⁰ Expert witness statement of Mr Jack Backen, July 2008.

Surf Recreation

To avoid detrimental impacts on the character, amenity and infrastructure of Bastion Point, including its attractiveness for recreation, education and tourism

To provide a clear overall societal benefit, taking into account economic impacts, social outcomes and residual environmental impacts

71. Mr Max Wells, retained by SBPC to provide an assessment of the surfing and water safety implications of the proposed development, states that Bastion Point is a nationally recognised surfing location, “*one of the prime surfing locations at the end of Victoria’s 90 mile beach*” unparalleled in its capacity to cater for surfers of such varying degrees of ability “*for many hundreds of kilometres along the Eastern Victorian coastline*”. Option 3 will severely impact on both the beginners and experienced surf breaks at Bastion Point, causing the loss of the Roxy Surf Jam, a dramatic drop in surfers visiting the area and a further loss of already limited recreational opportunities for local children.⁴¹ It should also be noted that the surf breaks at Bastion Point are the closest surf breaks to Mallacoota, and close to a patrolled beach.
72. Mr Neil Lazarow notes that there is “*now good information about how coastal systems react to physical interventions and a clear policy directive... to ensure that potential environmental impacts are well understood prior to any development taking place*”. Further, a lack of data on the socio-economic value and importance of recreational surfing is no longer an excuse for a failure to consider how surfing and the associated social good and tourism market might be affected by a proposed development.⁴²

⁴¹ Expert witness statement of Mr Max Wells dated June 2008.

⁴² Expert witness statement of Mr Neil Lazarow, undated.

Tourism

To avoid detrimental impacts on the character, amenity and infrastructure of Bastion Point, including its attractiveness for tourism

73. Mr Ken Boundy considers the proposed development will have detrimental impacts on sustainable tourism in Mallacoota, in terms of changing the recreational activity mix towards power boating, and compromising the physical and aesthetic integrity of Bastion Point. Further, he queries the assumption that the proposed development will increase tourist activity and visitation in the low season, and would diminish the attractiveness of Mallacoota to the strongest existing visitor base.⁴³

Visual Impact

To avoid detrimental impacts on the character, amenity and infrastructure of Bastion Point, including its attractiveness for recreation, education and tourism

74. From Mr Peter Haack's review of the adequacy of the visual impact assessment methodology employed in the EES, it is clear the Panel can draw no comfort from Council's suggestion that Option 3 would produce an acceptable result from a visual amenity perspective.⁴⁴ Further, it is difficult to imagine how it can be contended that the construction of a road on a wilderness beach can result in an acceptable visual impact. It should be emphasised in that regard that visual impact is not only about views to a site from a distance - visual impact can be immediate.

What is left unsaid

Safety

To provide safe infrastructure for the launching and retrieval of commercial and recreational boats under all-tides at Mallacoota

75. The EES contains a great deal of comment on the safety problems that currently exist. SBPC does not disagree that the current situation requires improvement – indeed, the existing ramp has evidently been left to deteriorate over the past 20

⁴³ Expert witness statement of Mr Ken Boundy, undated.

⁴⁴ Expert witness statement of Mr Peter Haack, July 2008.

years by Council – but SBPC disputes the impression given in the EES that there is a situation of continual conflict between users in the water. Rather, as is stated in SBPC’s comprehensive discussion of safety and risk issues in its written submission, the existing situation mainly gives rise to problems related to traffic management. SBPC has already proposed a number of low impact measures that could be employed to mitigate existing risks.⁴⁵

76. What the EES does not do is adequately assess the safety issues arising under Option 3 for both boat users (particularly once they have entered this dangerous stretch of water) and other recreational users, beyond those wishing to use the beach area at the site of the existing ramp. Option 4 gives rise to serious concerns about the introduction of a long stretch of road onto an active and well-used beach, and the consequent traffic management and user conflict issues that will be intensified.
77. Council has also presented no evidence to the Panel – beyond assumptions and generalised comment - of past incidents to prove the current situation is as dangerous as has been suggested.

Alternative solutions with lesser impacts

78. The Assessment Guidelines for the EES specifically required an assessment of:
 - (a) an identification of alternative locations, designs and strategies that respond to environmental constraints and opportunities of the site and its environs; and
 - (b) in so far as the proposal faces environmental constraints relating to ecological, hydrological, cultural heritage or other factors, a presentation of alternative designs that seek to avoid or minimise key potential impacts.
79. Despite this repeated emphasis in the Assessment Guidelines, it is a major flaw of the EES that essentially two scenarios were presented: one involving three ‘options’ that were designed to achieve exactly the same useability percentage and

⁴⁵ See Section H, *Submission opposing the East Gippsland Shire Council’s Environment Effects Statement for an Ocean Access Boat Ramp at Bastion Point, Mallacoota*, dated 15 July 2007, submission number 273.

based on a similar design, scale and layout in very close proximity to one another, and one that was a 'no project' scenario. The approach taken in the EES was therefore an all-or-nothing approach, with no genuine alternatives presented.

80. SBPC maintains that improvement works to the existing boat ramp, as well as traffic management, would necessarily improve its safety to all users in the area.

Ancillary infrastructure

81. The supplementary CES report dealing with ancillary infrastructure,⁴⁶ which was not circulated until June 2008, provides a cursory description of ancillary infrastructure, with no attempt to analyse the potentially adverse impact on Bastion Point. The suggestion that fish scraps should be fed to opportunistic scavenger birds is criticised by Mr Kern for its evident lack of any consideration of the ecological consequences, particularly to the threatened Little Tern colony in the area,⁴⁷ while Dr O'Hara discourages this proposal.⁴⁸ Mr Kern also criticises the failure of the proponent to address the biosecurity concerns raised by boat washing, particularly as boat washing is proposed to be undertaken elsewhere.
82. Lighting is proposed "*at the head of the ramp, at the car park and at the toilets*"⁴⁹ but no attempt is made to analyse the visual or safety impacts of lighting⁵⁰ and no detailed description is provided of exactly where the lighting is to be located, what wattage is to be used, or how large lighting structures are proposed to be.
83. "*Self contained chemical toilets*" are proposed, generally in a location north east of the current road, but there is no indication provided of the number of toilets to be constructed, nor their ecological impact, particularly as a result of further vegetation clearing.⁵¹

Climate change

⁴⁶ Supplementary report *Bastion Point Boat Ramp Infrastructure*, G Byrne, undated.

⁴⁷ Expert witness statement of Mr Lincoln Kern dated 30 June 2008, pp 14-15.

⁴⁸ Expert witness statement of Dr Tim O'Hara dated 26 June 2008, p 4.

⁴⁹ Supplementary report *Bastion Point Boat Ramp Infrastructure*, G Byrne, undated.

⁵⁰ Expert witness statement of Mr Peter Haack, July 2008, p 7.

⁵¹ Expert witness statement of Mr Lincoln Kern dated 30 June 2008, p 7.

84. There is a clear emphasis on climate change in the Draft Strategy as a factor that should strongly influence and guide future decision making, including the unambiguous statement that:

*“As infrastructure such as dwellings, buildings, drainage, roads and electricity, is generally built to last up to 100 years, current planning must consider climate change.”*⁵²

Further, the Draft Strategy notes that, after assessing the Gippsland coastline, the CSIRO has predicted that “a one-in-100 year extreme sea level or storm event could occur around every five years by 2070” which may have “serious implications for existing infrastructure and building and planning guidelines, as drainage, roads, seawalls, jetties and other infrastructure are generally built to withstand a one-in-100 year event”.⁵³ Both Dr Stephenson and Dr O’Hara note that climate change consequences need to be factored into the design of any coastal structures.

85. Dr Riedel’s recommendation in light of this acknowledged policy impetus is to wait and see – “if sea level rises the simple remedy at Mallacoota is to raise the height of the boat ramp facility and approach road to accommodate the sea level rise. This should only occur when sea level rise has actually occurred.”⁵⁴ It is surprising that Dr Riedel’s recommendation is submitted to be a “practical approach”⁵⁵ – how is raising the height of a boat ramp and beach road ‘practical’? He does not even address the increase in storm events predicted as a result of climate change, and the resulting impacts this may have on any of the structures proposed under Options 3 and 4. It is important to emphasise that climate change is not only about sea levels, but about an increase in adverse physical and weather conditions generally.

Responsibility

86. A glaring omission throughout the EES process is detail as to the entity that will be responsible for overseeing the construction, and more importantly the ongoing

⁵² *Draft Victorian Coastal Strategy 2007* p 19.

⁵³ *Ibid*, p 13.

⁵⁴ Expert witness statement of Dr Peter Riedel dated 30 June 2008, p 15.

⁵⁵ Council’s opening submission at the Panel hearing, 15 July 2008, slide 133.

management, of the proposed development. Council has now submitted that it would be “*premature*” for the Panel to consider the entity that will manage the proposed development.⁵⁶ However, it is submitted that this is a relevant consideration, as it has ramifications for the cost of the proposed development and its ongoing (and significant) management (such as dredging), as well as the level of confidence in the community that the proposed development will be undertaken with the degree of care and precaution that is obviously necessary.

Other issues

87. Members of SBPC will shortly outline some of their key concerns not specifically addressed by way of expert evidence, namely, safety, cultural impacts, and non-surf recreational uses, before outlining to the Panel their vision for Mallacoota and the alternative option they consider should have been an integral part of the investigation carried out in the EES process.

Conclusion

88. The importance of community input into environmental decision-making, and of respecting community values of public coastal space, are best summarised in the *State Environment Protection Policy (Waters of Victoria)*:

Community members have responsibilities to protect the beneficial uses of Victoria’s surface waters. These include a responsibility to manage their activities to minimise direct impacts on surface waters...

In carrying out these responsibilities, it is important that community members (including indigenous groups) support and feed into the regional planning processes of catchment management authorities, regional coastal boards and municipal councils, to identify beneficial uses they value and actions aimed at achieving their protection. This is important not only to ensure that communities help protect beneficial uses, but also to ensure

⁵⁶ Council’s opening submission at the Panel hearing, 14 July 2008.

*indigenous and non-indigenous cultural and spiritual values are incorporated into regional catchment strategies and regional coastal plans.*⁵⁷

89. The individual and organisational members of the Save Bastion Point Campaign take their community responsibilities seriously, evidenced by the extraordinary amount of time, effort and emotional and financial commitment they have invested throughout the EES process over the past eight years. SBPC is grateful to the Panel for the opportunity to present their considerable and fundamental concerns with a proposal they fear will have disastrous environmental, social and economic impacts for Bastion Point and Mallacoota.

E Porter

Counsel for the Save Bastion Point Campaign

15 July 2008

⁵⁷ *SEPP (Waters of Victoria)* (GG S 107, 4 June 2003) Part VI para 23.

SAFETY AND RISK ISSUES

Opening statement

The SBPC submission to the EES presented our opinion that the safety and risk report is incomplete and fails to consider a range of hazards that can be found at any of the three options proposed. This view has been supported in many of the submissions presented to the panel by the general public. Of particular interest are comments on safety concerns created by options 1,2 & 3 and expressed by recreational and commercial boat operators who have been using the existing facility for many years. Views expressed in this presentation are based on these submissions and over 30 years of experience the author has gained from boating and surfing at Bastion Point.

Safety concerns with the existing facility

Safety concerns with the existing facility can be broadly categorised into two components, terrestrial and marine or, land based and boating/swimming/surfing and further defined by dot points. These points only refer to issues identified in the EES as high or medium risk.

Marine.

- Slope of ramp currently 1:15, 1:8 preferred.
- Wave surge, both side on and from behind.
- Holding the boat while waiting for the car and driver, Propeller strike, crush injury.
- Shallow water (subject to seasonal and annual variation and tides)
- Mixed use i.e. surfers and swimmers may be present, again seasonal and subject to a range of factors.
- Bar crossing.
- Sea conditions

- Submerged hazard
- Personal flotation devices
- Surfers, swimmers, other water users
- Visibility
- Speed limits
- Boat unsuitable/unseaworthy.

Of this list of hazards only four can be controlled through engineering methods or changes to systems of works (launch/retrieval process). Furthermore, there are several risk control methods that could apply to reducing each of these hazards.

1. Slope of ramp.

Control: Re-construct ramp to improve slope, Third party (tractor) launch off beach.

2. Wave surge. Control: Physical barrier between ramp and wave direction (side on or from behind). Third party launch. Administrative controls. Wave surge is usually only an issue on high tides and when the waves are greater than 1 metre as currently the rock formations provide a natural barrier and dissipate much of the waves energy. Furthermore, a barrier, however long, would not reduce the risk of waves from behind as this results from wave/swell refraction and is noticeably worse during long period swells or swells/waves from the easterly quadrant.

3. Holding the boat.

Control: Jetty or other boat holding structure. Third party launch.

Third party launch should be considered favourably as it enables rapid and efficient launch/retrieval times, minimises the amount of time a boat will spend at or near the ramp and removes the need for people to hold the vessel while waiting for the vehicle and trailer, particularly as the car park is some distance from the ramp.

4. Shallow water.

Control: Physical removal as required.

This will remain an ongoing issue do to the dynamic nature of the coastline and is acknowledged in the EES by the provision of a dredge.

The remaining marine hazard and risk issues can only be managed by administrative controls, such as boating regulations, signage, education and site management. For example;

1. Swimmers/surfers.

Control. This hazard is currently controlled through the Shared Use Zone. Risks could be further reduced through prohibiting swimming/surfing during boating activities or investigating other management methods to reduce or eliminate that risk.

2. Sea Conditions.

Control. This hazard cannot be reduced and relies on the boat operator. The conditions on the existing ramp, discourages many boat operators from heading out to sea when conditions are marginal.

Terrestrial (land based)

The hazards and risk associated with the existing ramp and environs are well documented and include.

- Traffic congestion on beach and roadway.
- Car/trailer parking.
- Access road onto beach.
- Heavy machinery on beach.
- Sand piles.

- Pedestrians/onlookers.

All of these hazards and risks can be significantly reduced through the application of traffic design principles, administrative controls and site management. Or can be eliminated, for example.

Heavy machinery on beach

1. Control. Site management, i.e. close the lower car park and turning area to non-boating traffic during such activity. Currently the heavy machinery on the beach is either the commercial boat launching tractor or loader removing sand from the ramp, these operators do or should have appropriate OH&S work controls in place to ensure public and worker safety. Refer attachment 1.

Occupational Health and Safety.

Attachment no. 2 seeks to assist the panel in their deliberations by providing a brief summary on the application of OH&S legislation to workplaces as outlined in the publication “Controlling OHS hazards and risks”.

In summary,

The guide is written for employers, self-employed people and those with management or control of workplaces who have duties to ensure health and safety under the OHS Act and its regulations. These people are referred to as duty holders.

Duty-holders have obligations under the Occupational Health and Safety Act 2004 (OHS Act) to ensure the health and safety of people ‘so far as reasonably practicable’.

It is our view that hazards and risks can be eliminated or controlled at the existing facility while protecting the natural and social/recreational values of the area.

Safety concerns with the proposed facility. (Options 1, 2 & 3)

The majority of safety issues listed above under marine will be encountered at any ocean access facility on Bastion Point regardless of its design and location.

Furthermore, the proposed designs present new hazards and risks; many of these have been outlined in previous submissions.

Marine risks

Marine risks addressed through the construction of proposed options.

- Slope of ramp, preferred slope of 1:8.
- Wave surge, (side on) breakwater.
- Holding the boat while waiting for the car and driver, jetty, waiting area.
- Shallow water, dredge

Of these, wave surge from behind is still a risk as it is the result of refracted wave energy.

Reduction of risks to other water users (surfers/swimmers etc.) cannot be assumed and should rely on administrative or site management controls.

Shallow water is subject to efficiency of dredge, and at best will be at 1 metre at low tide.

All other marine risks as referred to previously, will not be altered by the construction of the proposed facility.

New marine risks presented by preferred options (breakwaters)

- Reduced visibility due to breakwater height.
- Bar crossing beam on to swells.
- Narrower boating channel.
- Barge/dredge further reduces width of boating channel and presents issues with discharge pipes and associated equipment.

- Distance from car park will significantly increase waiting periods during launch retrieval.
- Increases the risk that boat operators will be tempted to launch boats in marginal or deteriorating sea conditions.

The risk that yachts and cruisers will attempt to use the facility for shelter in inclement weather. The Coastal Processes Report states that excavation of rock to 1 metre will occur to provide adequate depth for boats and dredging will be required to maintain the depth of 1 metre at low tide. This depth will not meet the standard for yachts.¹ (Refer attachment 3)

Land based risks

As described earlier, all hazards and risks associated with land based boating or recreational activities such as parking, pedestrians, traffic congestion and so on, are significantly reduced through the application of traffic design principles, administrative controls and site management. The preferred option does not reduce or eliminate many of the identified risks and makes the dangerous assumption that other users of the area will not be attracted to the vicinity of the proposed boat ramp. Furthermore, an access road along the beach presents new risks that should be considered.

- The roadway, boulder seawalls and increased traffic flows present a greater level of safety and risk than exists with the use of the current site.
- Large commercial boats will still require large heavy vehicles to tow them for safety reasons.
- Of particular concern is safety for pedestrian traffic, particularly small children who are users of the area. There is no designated road crossing point for them, which become more important with the anticipated increased usage by large boats and the heavier vehicles that are needed to transport them. Users of the ramp will have to walk longer distances to and from their cars.

¹ Australian Standard, Guidelines for design of marinas, page 22, table 3.1.

Boating Safety

Boating activities and more specifically ocean boating at Bastion Point, presents a number of hazards and risks that are generally well understood by the local commercial and recreational boating community and appropriate actions are undertaken by the boat operator to reduce those risks. However, inexperienced boat operators and even the experienced can easily make errors of judgement or fail to take appropriate measures to ensure safe operation, particularly in open waters or waters with which they are unfamiliar. This has been recognised in marine safety literature such as the “boat smart” series of brochures released by Marine Safety Victoria. Some submitters have highlighted several of a number of incidents that have occurred in ocean waters at or near Bastion Point, most of these have been the result of poor decisions, failure to heed weather forecasts or accessing open waters in deteriorating ocean conditions.

Boating facilities can and should be designed to eliminate or reduce risks whilst recognising the limitations or constraints placed on boating at any given location, particularly those giving access to open waters.

In my observations the type of vessel that is used by the average recreational boater would average between 4.5 and 7 metres. The attached brochure (attachment 4) published by the Australian Maritime Safety Authority (AMSA) gives a good example of the capability of small boats in various sea conditions. These guidelines also rely on the driver of the boat having a reasonable level of experience.

The key to using this guide is to having a good understanding of sea wave conditions and knowledge of the terminology used by the Bureau of Meteorology (BOM) when issuing coastal waters forecasts. By analysing wind data issued by the BOM (attachment 5) we soon see that wind strength averages at Gabo Island regularly exceed strengths that are suitable for most recreational boats. Therefore, one must question the wisdom in providing a boating facility that gives ready access to offshore waters that are often unsuitable for recreational boats.

Conclusion

It is our view that risks and hazards associated with boat launching activities and other recreational pursuits cannot be overcome through the construction of a large breakwater separated from other users by a relatively short distance. It is also our view that the proposal presents more safety issues with a higher level of risk than it attempts to resolve.

We urge the panel to reject the proposal as it relates to safety and risk issues on the following grounds.

- The majority of extreme hazards will not be reduced by the proposed options.
- The proposed options introduce new hazards and risks that may be rated as extreme or high.
- The majority of high and medium level hazards are land based and can be eliminated through traffic management works and other proactive controls implemented by the manager of the facility.

Attachment 3

Submission 248. This submission supporting the proposal is from a boating rescue organisation and based on the false premise that the proposed facility will be suitable for use in 90% of weather conditions and not subject to sand or seaweed accumulation.

Submissions 333,341, These two are from yachting organisations that have based their support for the proposal on incorrect information or a misunderstanding that the proposed facility will be able to provide shelter in bad weather for yachts and large cruisers. This is incorrect as the water depth inside the facility will be 1 metre at low tide (unsuitable for yachts and larger boats) and breaking waves will be encountered in the vicinity of the entrance to the main channel. The breakwater will be “overtopped” in heavy seas and there is no provision of mooring facilities for vessels of this type.

Submission 386. Australian Standards The Australian Standards applied to the design of the proposed facility are based on guidelines for marinas. While the angle of the ramp proposed falls within the guideline parameters (a gradient in the range of 1:7 to 1:9.) other components of the proposal fail to meet the guidelines.

ABORIGINAL AND NON-ABORIGINAL CULTURAL HERITAGE

Wider relevance of Aboriginal cultural heritage significance at Bastion Point

Mallacoota has a rich indigenous history as evidenced by extensive shell middens, artefact scatters and quarry sites in the area.

Aboriginal cultural heritage significance is however far broader than archaeological sites. It includes the social, spiritual, aesthetic and anthropological. It may be historical and/ or contemporary. It is about a sense of Place and Country.

Cultural heritage that does not appear in the form of hard scientific evidence as artefacts such as shells and middens or axes and stones, is of no lesser importance.

Little is yet to be known about the broader Aboriginal cultural heritage significance of the Bastion Point area. Scientific studies to date, including those prepared for the EES, primarily focused on archaeological sites.

Given the highly significant richness revealed by the archaeological sites identified at Bastion Point it would correlate that the area is steeped in a wealthy tapestry of important wider Aboriginal cultural heritage. Bastion Point is a place where Aboriginal people lived for an extraordinary number of years and made tools, prepared food, and undoubtedly carried out many cultural activities.

On 4 September 2007, members of the Mallacoota community met with ten Koori people to discuss the Bastion Point ocean access proposal. In the meeting, examples were shared of less tangible broader topics of Aboriginal cultural heritage significance. These included the social activities of coastal-based food gathering on the reef, and the landscape significance of the location where Aboriginal ancestors chose to live, meet and work. The area could have been a place for gathering, cultural lore, mourning, teaching, food collection, etc.

Whilst we've made it known to the Inquiry that we do not support the destruction or damage to any Aboriginal cultural heritage sites in the Bastion Point area, we also wish

to highlight that major changes to the area in any form, i.e. even with the newly proposed road on the beach, would severely impact upon broader Aboriginal cultural heritage significance.

Aboriginal Place

Based on information shared with us by Koori people of the region, we believe Bastion Point and indeed many surrounding areas in Mallacoota, are Aboriginal Places.

To make dramatic changes to an Aboriginal Place where there is known significant Aboriginal archaeological and other cultural heritage, is to irreversibly change the future for indigenous Australian's in this location.

Contemporary relevance of Aboriginal cultural heritage

Aboriginal cultural heritage can be historical or it can be contemporary. Whilst a rich knowledge of Aboriginal history of the Bastion Point and wider Mallacoota area is slowly being built up via archaeological investigations, the addition of anthropological research about social, spiritual and aesthetic values would deepen our understanding of not only the historical but also the contemporary sense of Place and Country for Aboriginal people today.

A continuous indigenous presence is in fact evident in Mallacoota. The Clark investigations revealed an historic continuous occupation in the Bastion Point area, and Mallacoota continues to have Koori residents and visitors.

The level of support from the Mallacoota community for the continuation of an indigenous presence and sense of Place and Country in a more equitable and just manner, is high.

A formal ceremony organised earlier this year by the local Reconciliation Group recognising Aboriginal custodianship was extremely well attended despite adverse weather conditions.

In our 4 September 2007 meeting, our indigenous friends expressed a wish to be able to continue being in and visiting the area in the future for a range of reasons. One example was the opportunity to hold community and family activities in the area and to be able to teach young people about Aboriginal heritage. One person described his cultural heritage as a way of life or a lifestyle that remains possible today and into the future. The meeting itself with Aboriginal representatives from across the region, confirmed this ongoing relationship with Country, and its importance.

Destroying or damaging Aboriginal cultural heritage is not only an irreversible and permanent loss of Aboriginal history – Australia’s history; it is also a loss of the very real and relevant heritage and lifestyle for the present-day and into the future.

Aboriginal consultation

We understand that the history of family ties to the Mallacoota area stretches up the south east coast of NSW, down the Gippsland coast and inland. The Aboriginal people who gathered for the 4 September 2007 meeting were of Bidwal, Monaro, Gunai/Kurnai, Wurrunjeri, Yorta Yorta, Yuin and Bunurong heritage. At the meeting these people expressed a desire to collectively protect Aboriginal cultural heritage in the Bastion Point area.

Aboriginal cultural heritage significance for all Australians

We believe all Australians have a responsibility for respecting and protecting Aboriginal cultural heritage because Aboriginal historical and contemporary cultural heritage is the heritage of this country.

It is of major concern to many in the Mallacoota community that past wrongs are not repeated, and that there is mutual respect and co-operation between indigenous and non-indigenous people and a respect for Country. It is therefore imperative that Bastion Point’s Aboriginal cultural heritage is fully protected.

Non Aboriginal cultural heritage

Non Aboriginal cultural heritage is of extremely high significance in the area of the proposal site at Bastion Point and surrounds. Residents of Mallacoota have close links to Bastion Point. We reiterate that the area is a place of cultural significance for social events and informal gatherings, recreation, health, spiritual healing, mourning, ceremonies and celebration.

The natural beauty of Bastion Point encourages reflection and meditation, and provides inspiration and replenishment. Many people in the community have a strong personal, emotional and/or spiritual attachment to Bastion.

“Joan’s seat” near the lower car park steps remains as a tribute to a person whose contribution to the community has been recognised by the placing of a “reflection” seat, in her memory.

As with Aboriginal cultural heritage, non Aboriginal cultural heritage must be understood in its broadest terms and not only as sites or structures and buildings.

The natural and landscape values of Bastion Point are a community symbol for the township and provide it with a sense of place that nurtures community connection and identity.

RECREATIONAL ACTIVITIES OTHER THAN SURFING AND BOATING

In our written submissions we discussed a large range of recreational activities other than surfing and boating, that are pursued at Bastion Point, and which have not been adequately described or assessed in the EES.

Other recreational activities include swimming, rock rambling, snorkelling, beach and rock fishing, walking, kayaking and windsurfing, beach combing, wildlife observation, sightseeing, and artistic pursuits such as photography, painting and writing.

Education, cultural pursuits, informal meetings and gatherings, reflection and meditation are all activities also regularly pursued at Bastion Point.

Many of these recreational activities are enjoyed by tourists and visitors to the town, and are in fact central to their holiday experience. This in turn means Bastion Point provides additional value to Malla-coota's tourism industry.

These activities are important for the health and well-being of residents who live in a remote area where opportunities for pursuing interests are more limited. We have limited formal recreational facilities, and no such facilities as swimming pools and gymnasiums which are found in bigger centres.

We are more dependent on the outdoors for our recreational activities.

Bastion Point not only offers the possibility for all these activities. It is an easily accessible destination from a number of key locations.

People can access Bastion Point on foot, by bicycles, on mobility scooters, or with pushers and prams.

We wish to now provide the Panel with further insights into these recreational activities, to enable better understanding of their importance to the town, and better understanding of the ways Bastion Point is used.

The location of recreational activities at Bastion Point fluctuates depending upon tides, sand and entrance location. The type of activity undertaken varies according to weather and sea conditions and the intensity of activities varies according to peak tourism periods and time of day. This is true for all activities undertaken at Bastion Point, including surfing and boating.

In the warmer months, during the school year parents with toddlers and young children often prefer the beach near the lower carpark where they can keep an eye on their children whilst they swim and paddle in the sandy shallows of the bay, or explore the nearby rockpools. This is more often mid-morning, after boats have left, or following school when most boats have already returned. Very occasionally both user groups may be in the area at the same time.

Families with young children also favour the beach near the rock-pools, as it offers a safe place for young children to swim and play, and for young families to enjoy the water together.

People with disabilities or limited mobility also choose the cove as their preferred spot. It can be accessed easily by mobility scooters and cars and thus provides the opportunity for people with disabilities to be “on the ocean beach” and even to enter the water, which is something not possible at any other surf beach in Mallacoota.

Bastion Point is the only beach that is patrolled by the Surf Life Saving Club over summer, as the other beaches are deemed to be too dangerous. More often than not the flags are between the steps of the first viewing platform and the entrance. Club Training and the Nipper Program are carried out at varied locations at Bastion Point at appropriate times.

Bastion Point is the only relatively safe and readily accessible inter-tidal platform close to town, and is the source of constant interest and enjoyment, providing wonderful opportunities for exploration and discovery. At low tide, at all times of the year, people

can explore this inter-tidal reef on foot. In the warmer months, in calm conditions, snorkellers can safely access the outer reef by using the area known as “The Key Hole” thereby being able to appreciate the myriad of species that live on the reef under the water.

Educators and researchers also utilise the rocky platform. For example, the P-12 College has used this as a resource for years, to meet the interest and needs of the various class levels. Mallacoota Coast Action/Coast Care also favours the reef as a resource for interpretive walks over various holiday periods, but especially for the popular summer program.

Tertiary students use the reef for education and research purposes. It is highly regarded for such purposes because of the complexity of habitat, diversity of species, unique location and ready accessibility. For example, it is a key site for research by Wollongong University. We’d like to refer the Inquiry to submission 372 about this.

Walking at Bastion in all seasons is also popular with locals and visitors alike. People walk round the Point throughout the year. For locals, this is often a daily activity and an essential part of their routine. For visitors it provides an accessible and varied experience of the Wilderness Coast.

This section of the beach is not only a key component of the Mallacoota Walking track; it is also incorporated into other shorter walks in the area. For example, walking from the estuary to the Bastion Point rock near the beginning of Tip beach provides for a wonderful diversity of beach life - estuarine, sandy beach and rocky platforms. It is an ideal short walk for visitors wanting to experience some of our coastal highlights, and ties in nicely with the aims of accessible nature and sustainable tourism

Weather conditions are not a pre-requisite for walking - people enjoy experiencing the elements at any time. This includes watching the power of the ocean. Some high tides and big seas occasionally limit access in certain sections.

Wild life observation is another popular activity, and this too occurs throughout the year with specific sightings dependent upon the seasons. Bird observers and field naturalist

groups are increasingly attracted to the area, and contribute well to Mallacoota's sustainable tourism industry.

Bird watchers are privileged to see a variety of waders and shorebirds forage on the beach, other sea birds flying overhead and diving for fish, and those that favour the reef, resting on the rocky outcrops.

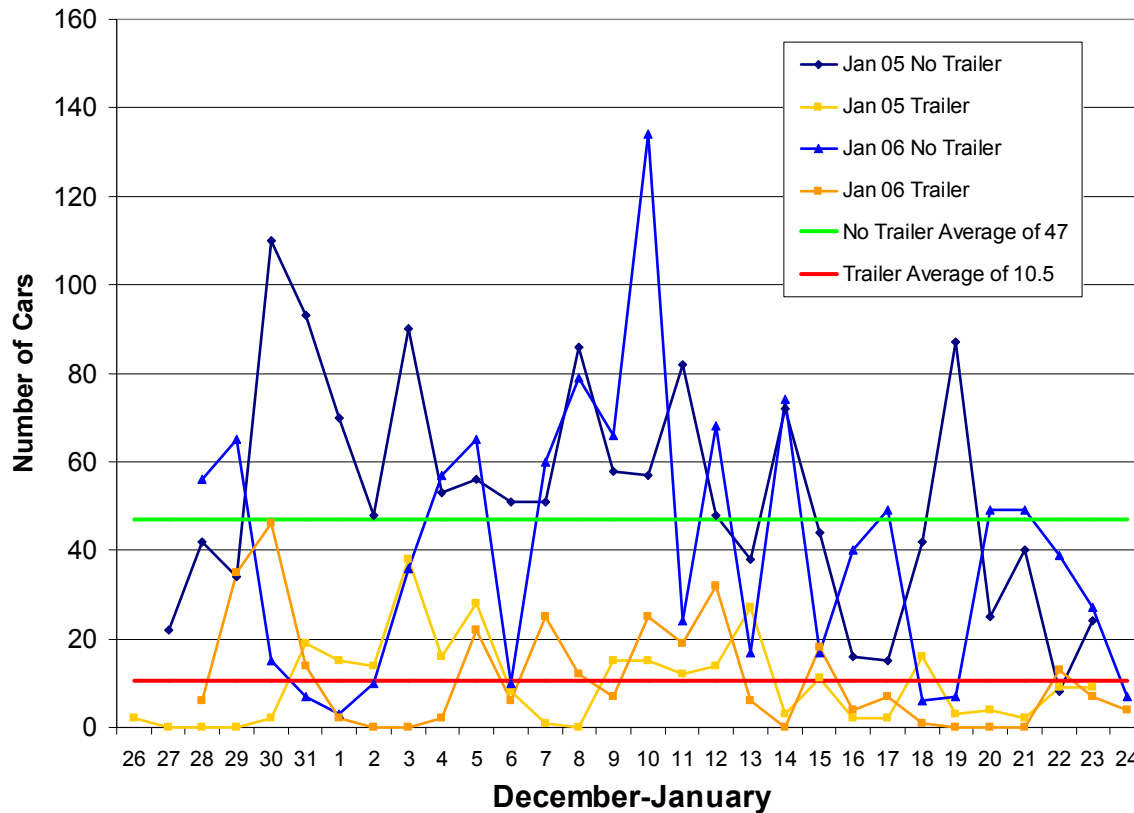
Dolphins too are regularly seen feeding and playing in the waters close to shore, often surfing the waves. A few years ago participants and onlookers at a surf rally were thrilled by an all day visit from a whale and her calf, just off the point itself. Locals never cease to be thrilled by these wildlife experiences

Local and visiting artists are drawn to the many aspects of Bastion Point, and it continues to inspire a variety of artwork, including painting and photography. We have put a selection of local creative art on display, for the Inquiry's interest after this presentation.

Bastion Point is clearly used for a range of different recreational activities throughout the year.

While the whole combination of users is rarely, if ever, all at the site at the one time, there can occasionally be several groups in the area resulting in traffic congestion and potential risks to some of the users. This tends to occur in the warmer summer months but rarely occurs during the remainder of the year.

We suggest that with appropriate planning, Bastion Point has the capacity to continue as a shared use area.



Over several summers during peak season, supporters of the Save Bastion Point Campaign surveyed the number of cars with and without boat trailers parked in the Bastion Point area.

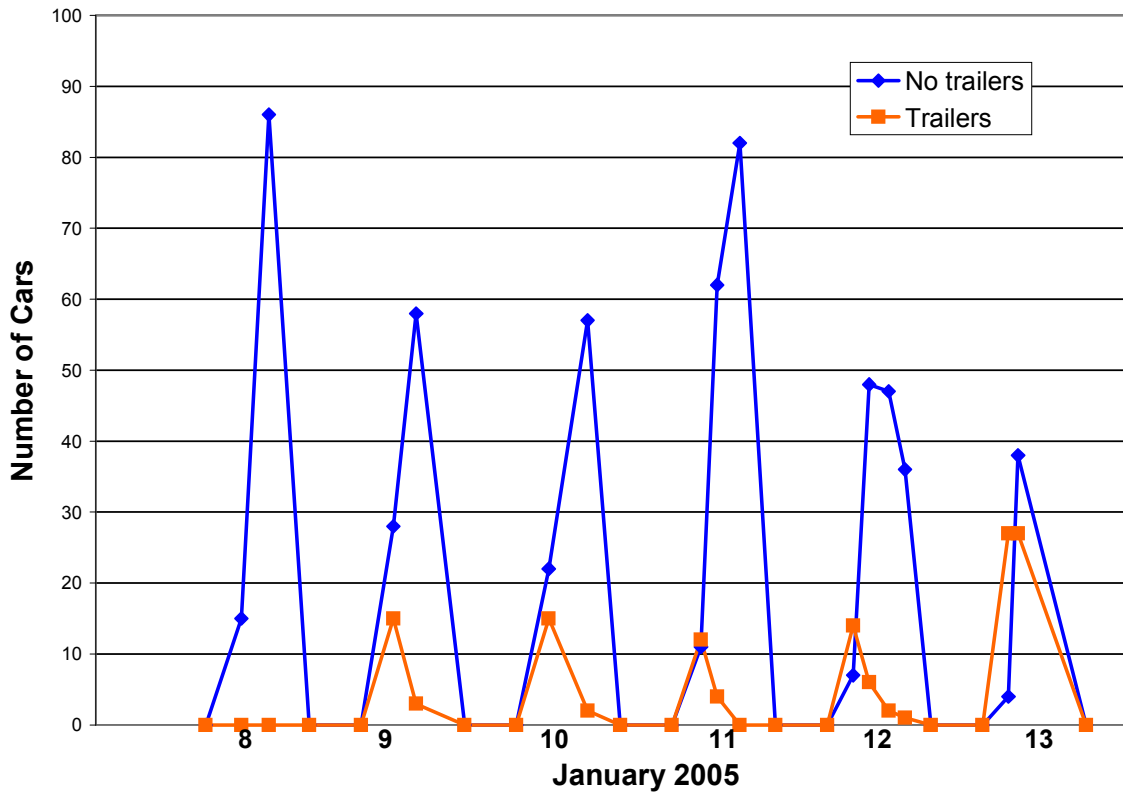
This graph demonstrates that non-boating uses of Bastion Point outweigh, on average, boating usage at Bastion Point 4.5 fold. This data does not include the many people who walk or cycle to Bastion Point, so vastly underestimates the numbers of other beach users.

This clearly shows the importance of Bastion Point for non-boat users.

We believe that conflict of users is an overstated concept.

Over summer, the Abalone Co-op is closed, and the industry therefore does not use the site in the peak tourism season. Throughout the year the Co-op is closed on Sundays, so abalone boats do not launch on Saturdays. Launching by the Co-op occurs first thing in the morning, and generally boats are back by early afternoon. They only need to

access the ocean approximately 50 days a year to meet their quota.



From the summer surveys mentioned previously it became apparent that during the peak summer season, boat traffic was busier earlier in the morning, whilst other recreational users were present in greater numbers later in the day.

There were days that were not appropriate for boating at all, and a handful of days that were just perfect.

The mix of users in the area is a situation that we believe can be managed.

The proponent suggests that Option 3 will separate users, and thus solve the “conflict issue”. We do not agree. The EES suggests that with Option 3, boating activity will increase substantially, just 60m further south along the beach. This does not solve conflict issues: it exacerbates them.

Other activities currently occur in the location of the proposed development all throughout the year. This spot is not tucked around the corner, as the proponent suggests. It is an area enjoyed by many other recreational users all year round.

The proposed development would permanently sacrifice a valued area of foreshore used for a range of recreational activities all year round for the supposed benefit of one user group that would only use the facility at certain times of the year, dependent on weather conditions.

The proposed road on the beach effectively alienates even more beach, disenfranchising other users from the area completely.

MALLACOOTA TODAY AND OUR VISION OF ITS FUTURE

The proposal site, the larger Bastion Point area, the township of Mallacoota, and the surrounding Region, are not mutually exclusive.

The township of Mallacoota, and the region within which it is located, have special characteristics and values. It is critical for decisions about the future of ocean access at Bastion Point to be made in light of this context and in accordance with a planned vision for the area.

Any development at Bastion Point must reflect the values of the wider, surrounding location to ensure future generations continue to benefit from the area's unique attributes.

Special Characteristics and values of Mallacoota

Natural assets

Mallacoota's natural beauty is the essential part of the character of the town.

The lake, the forest, and heathlands, and the wilderness coast, including Bastion Point, are central to and *the* defining ingredients of Mallacoota's identity.

Its natural assets include its varied natural landscapes, its diverse and prolific wildflowers, birds and other wildlife, its fish, its marine life, rock pools and rocky headlands.

Mallacoota's natural assets are inextricably linked with the surrounding National Parks.

Low key charm

Another essential ingredient is Mallacoota's low-key charm, and non-commercial feel. For example, there are no high rise buildings, flashing neon lights, high profile advertising and there are neither poker machines nor traffic lights.

It is a tranquil and relaxed location. It is a vast contrast to urban life or indeed many other coastal holiday destinations. This is a special quality that needs to be protected and will be even more highly valued in the future when such assets and charm become extremely rare.

Infrastructure in Mallacoota tends to be sympathetic to the surroundings. For example, apart from amenities facilities in the camp park there are no permanent buildings on the foreshore and the industrial area is effectively screened from the main road by trees.

There are many coast and bush walking tracks, and a boardwalk traverses a sensitive salt marsh community near Devlin's Gully.

Fishing platforms along the lake shore, the camp park lookout, the bus shelter, the Mudbrick Pavilion and the proposed shared pathway along Lakeside Drive linking Karbeethong to Mallacoota township, are all thematic features of Mallacoota's low key charm and infrastructure.

Historically, there has been great community support for protecting the values of the town. An example of this was the resolution regarding the location of the Abalone Co-op's processing factory. The initial proposal for this development was adjacent to the main wharf, as this was the site where the abalone catch was landed, and where there was an historical connection with the fishing industry. Opposition to the location for this development led to the alienation of Crown land further inland, for the development of the industrial commercial estate, now screened from the highway by trees; a much better outcome for all.

The people and lifestyle

Mallacoota is a friendly community, and its members are generally proud of their town. There is a commitment to it as evidenced by the large number of community groups served by volunteers. For example, the Mallacoota District Health and Support Service is reliant on volunteers and volunteers staff the information shed, the radio station and other community-based services including emergency services. Weekly weeding activities take place on public land, and our beaches are kept clear of the environmental

weed, Sea Spurge. Op shops provide low cost goods, and profits are distributed amongst the community service groups. Sporting activities and surf contests, health, education, youth and well-being initiatives are all well supported.

There is also strong advocacy for the protection of the town's natural values, and a commitment by many to help achieve this by becoming actively involved in groups such as the Friends of Mallacoota and Coast Care programmes.

A recent initiative for community involvement in alternative energy has resulted in a commitment by over 60 households to install solar panels by the end of the year - well on track for the town to meet the 20/20 goal.

The town had a recycling program run for years by volunteers, and individuals and groups still regularly participate in litter removal and clean ups. Just four weeks ago on International Surfing Day, despite the rain and freezing temperature, over two dozen volunteers cheerfully came and helped pick up litter from Bastion Point.

Mallacoota is a community that pulls together in times of need, and is supportive of its members. People generally look out for young people's well being, providing for a secure and safe environment. Intergenerational co-operation, coaching and informal mentoring are strong in both the arts and sporting activities, such as surfing, soccer and netball. Many activities and events held in Mallacoota nurture this supportive community environment and help it to flourish. For example, people aged from 5 to 75 regularly participate in fishing competitions, people of all ages surf together, and arts/music events, such as strum club, actively involve all ages.

The lifestyle is generally relaxed, and people often stop for a chat while collecting mail, shopping, or as they stroll down to check out the view at Bastion.

People gather at Bastion at different times of the day to check out the surf, look at the view, watch the sunset, or merely go for a walk on the beach.

The viewing spot along the Bastion Point road is affectionately known by locals as the "um and ah point", as it is the preferred spot for surfers of all ages and Abalone divers to

“um and ah” about sea conditions, swell direction, weather forecasts, tides and all the mysteries surrounding their life-styles. It is a place where they catch up with friends and peers, arrange meetings, make appointments, discuss world events and local gossip, and generally socialise.

During stormy weather, floods, big swells, whales close to shore or other notable events, many locals make their way to Bastion to view the excitement. The bush telegraph works well at these times.

Generally people enjoy simple things and engage in a variety of sporting and cultural activities. If the surf is up, it is generally understood that some jobs won't get done that day!

Culture and the Arts

Mallacoota's identity is also linked to its vibrant arts community.

Historically there was a Writers Camp at Captain Stevenson's Point. Guests at this camp included people such as Henry Lawson.

Many of these early writers extolled the special environment of Mallacoota (eg E.J Brady, and Ted Harrington's "Mallacoota").

The present day arts community continues to be important for Mallacoota, and vice versa.

The Mallacoota Arts Festival was an annual event for over 25 years, attracting many visitors and artists. Festival activities were often linked to the surrounding natural environment (eg Festival of the Southern Ocean). In recent years the emphasis has been more on community arts throughout the year rather than one big annual event. Artists continue to be inspired and enriched by the surrounding environment, including Bastion Point.

The arts community contributes to Mallacoota's special identity with projects such as the information shed, the bus shelter, the gazebo, Woodys Garden, and events such as the Woody Surf Classic, and the Sand castle competitions .

Tourism

Tourists are attracted to Mallacoota *because* of Mallacoota's natural beauty, its low-key charm, the recreational pursuits possible, its arts and the community.

Many of the tourists prefer a more laid back holiday and return year after year, to fish and boat in the lake, to swim and surf at the beach, and to generally enjoy and explore the diverse surroundings.

As one respondent reported in a Survey carried out by the Save Bastion Point Campaign in January 2005: "Mallacoota is the epitome of the perfect family beach holiday".

The Future for Mallacoota and Bastion Point

We hope that Mallacoota will retain its special features and character and to continue to be valued for its natural beauty, it's low-key development, and its special community

The future we envisage for Mallacoota is, we believe, inextricably linked with that of Bastion Point and any development at Bastion Point must reflect the values of the wider area, and be in keeping with our vision of its future.

We see Mallacoota as an exceptional town within a National Park, and an internationally recognised region.

Mallacoota's unique features are an attribute for the Region.

We see that Mallacoota can be a model of sustainable living, in harmony with its natural environment. We believe there can be further encouragement of sustainable tourism and expansion of jobs related to Natural Resource Management and the development of a Centre for Learning in Natural Resource and Environment Management.

We believe Mallacoota *is* unique, and sound tourism planning must be consistent with its special qualities and character. Tourism, to be sustainable at Bastion Point, must also be sensitive to its special values - ecological, cultural, and recreational and landscape.

The future we want for Bastion Point is one where all these values are respected and protected for the benefit of present and future generations.

This is clearly also what so many in the Mallacoota and broader community want as evidenced by 1500 signed postcards submitted to the Minister for Planning, petition campaigns to Council, crowded public meetings, and by an overwhelming number of written submissions.

Conclusion

It has been the vision of our predecessors that have helped define the town and the region in which it sits, and it behoves us to ensure that future generations are also able to benefit from a future as we envisage.

SOLUTIONS

It is our strongest desire to see the amenity of Bastion Point improved for the broad range of users that enjoy and cherish the area and who wish to preserve all of its valued features for the pleasure and enjoyment of future generations.

In finding a successful outcome for improved ocean access at Bastion point a range of principles should be considered.

Any proposed development should be in keeping with the ecological, recreational, social, cultural and landscape values of the area, and not at the expense of any of these.

It should be in keeping with the values and visions of the wider landscape of Mallacoota and the surrounding national parks.

It needs to equally consider and accommodate the needs of all user groups.

Any proposed facility must fit within the constraints set by the environment of the site, rather than manipulate the environment to meet the needs of a single user group.

Any proposed development must also be one that the community can own, not one that is thrust upon us, and thus divides, disenfranchises and causes disharmony within the community.

In researching information that would help us to understand management strategies, design considerations and possible solutions for the provision of Ocean Access along the Victorian coastline we were fortunate enough to gain access to one document that we found particularly interesting and believe that it may be of benefit to the Panel.

We refer the Panel here to the Torquay Boat Ramp Feasibility Study, May 2007, prepared for the Great Ocean Road Coast Committee.

The Torquay Boat Ramp is remarkable in its similarity to Bastion Point Boat Ramp due to safety issues for launch and retrieval, dynamic coastal processes with high volumes

of sand movement, a broad range of other users within the vicinity of the ramp and sea conditions (waves) creating unsafe conditions for launch and retrieval..

There the similarity ends.

- At Torquay there is a much higher degree of risk and difficulty associated with launch and retrieval of boats.
- The ramp carries more than 5000 launches per annum.
- There is an ocean rescue boat and service operating from the site
- The feasibility study process was inclusive and thorough with all key stakeholder groups represented.
- A broad range of designs were considered and assessed against Vision and objectives.
- There is a clear management strategy for the operation of the facility.

At Mallacoota we have not been so fortunate, instead we have been presented with.

- Three heavily engineered options designed to provide maximum benefit to boat launch/retrieval, at the expense of all other users..
- No consideration given to environmental values of the site prior to the design phase.
- A specific interest steering committee that only considered maximising boating infrastructure.
- A series of studies that give no confidence in the EES process.
- No commitment to the future management of the site by a “reluctant proponent”.
- No consideration of infrastructure that may be required by all user groups now and into the future.

Mallacoota and all visitors to Bastion Point deserve better than this.

Our wish is to see a holistic approach applied to the provision of services at Bastion Point- one that considers all environmental constraints, assesses usage patterns of all users. And then presents a range of designs that fulfil visions and objectives