

We want some more from Victorian environmental law

Chris Smyth, the Australian Conservation Foundation's Healthy Oceans campaigner, says that the State Government's approval for developments at Bastion Point (Mallacoota) is one of a number of bad planning decisions due largely to the weakness of Victoria's Environment Effects Act.

W'ANT SOME MORE' might be the most-quoted text from Charles Dickens' *Oliver Twist*, but 'The law is an ass' could come a close second.

If alive today, Dickens could apply his references to Victoria's *Environment Effects Act*.

We want much more from this ass of a law if it is to protect the environment from development excesses.



Not much doubt about what these Mallacoota residents think of the proposed Bastion Point developments.

PHOTO: MICHAEL RAYNER

Planning Minister Justin Madden's approval of the East Gippsland Shire Council's Bastion Point ocean access ramp, breakwater and beach road for Mallacoota, despite his own expert Panel recommending strongly against it, again shows a planning system in trouble.

The August application by the Friends of Mallacoota for a Supreme Court judicial review of the Minister's decision (served on Madden and also environment minister Gavin Jennings) indicates the community has had enough.

The Friends action is based on two grounds. The first is that the Planning Minister failed to assess the development's environmental impacts, his clear task under the Act. The second is that the groups opposing the development were denied natural justice in his cursory approval process.

Mallacoota residents and visitors do not want a destructive development dumped on Bastion

Point. Its beach and shallow reef are popular for surfing, swimming, rock pool rambling, scientific study, snorkelling, angling and many other recreational and social activities.

But by defying planning logic, Minister Madden's decision could see this natural icon of the Wilderness Coast buried under rubble, concrete and asphalt.

He rejected the findings of his Panel's long and comprehensive investigation, the first time a Victorian planning minister has done so. The Panel said the development could not be justified on environmental, social and economic grounds.

Nevertheless, he approved it, with the safety and separation of boat users and bathers his stated prime reason. This too was at odds with the Panel's conclusion that the proposed development would in fact be unsafe.

Opposition to the harbour development is broadly based.

The Gippsland Coastal Board did not support the proposal because it is inconsistent with the Victorian Coastal Strategy.

Neither did 87% of the people who submitted to the Panel, as well as many coastal experts, local surf lifesavers and SES volunteers.

The only support comes from the East Gippsland Council (less than unanimous), local independent MP Craig Ingram and a handful of Mallacoota business people.

It appears the Brumby Government has abandoned any commitment to proper and detailed environmental impact assessment, treating the process as either optional or a rubber stamp.

It determined that major developments such as channel deepening and the north-south pipeline would proceed well before an Environment Effects Statement (EES) was considered.

It is also ignoring the directions it set itself in documents like the Victorian Coastal Strategy. Approval of a canal estate at Lonsdale Lakes in a time of dangerous climate change, and the Bastion Point decision, are the latest examples.

In the case of channel deepening, the Government failed to provide a robust environmental management plan, comprehensive monitoring program or sufficient environmental safeguards.



(Above) Bastion Point with artist's sketch of proposed developments, including road along beach and loss of coastal vegetation.

PHOTO COURTESY DAVID HUXTABLE

It pleaded that an EES was not required for the desalination plant at Wonthaggi. Presumably it reluctantly agreed to one after federal government insistence, but mocked the process in its haste to approve the plant.

These bad decisions are in large part due to the weakness of Victoria's *Environment Effects Act*. It is a mere 16 pages long, has no objects clause and provides no credible ministerial assessment framework for informing decisions under such laws as the Coastal Management Act.

Open to broad interpretation, the *Environment Effects Act* makes it easy for political self-interest to steamroll environmental concerns. Calls for its reform, including the 145-page report of a 2002 Planning Advisory Committee, have been ignored.

The Brumby Government can still get it right at Bastion Point and also turn the ass of an *Environmental Effects Act* into a thoroughbred.

It should take heed of the broader community concern reflected in the Friends of Mallacoota Supreme Court action, and reform the law.

Reform of the Act should include provisions that trigger environmental impact assessments, remove ministerial discretion on whether an assessment is required, and establish a tiered approach that identifies the level of assessment a project needs.

There should also be clear process timeframes and opportunities for community input, and open and transparent assessments with the mandatory release of assessment reports.

If the State Government doesn't reform the law, it will cast further doubt on its willingness to protect Victoria's environment.

See also 'Port Campbell headland still at risk' (p.23)

(Below) Bastion Point as it is now. This part of the beach would be obliterated by a road and large boat ramp, and a breakwater would cover the rocks. PHOTO: CHRIS SMYTH

