

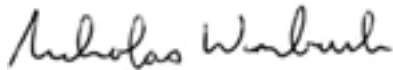
**OCEAN ACCESS BOAT RAMP,
BASTION POINT, MALLACOOTA,
ENVIRONMENT EFFECTS STATEMENT
EAST GIPPSLAND PLANNING
SCHEME, PERMIT APPLICATION
162/2007/P**

PANEL REPORT

OCTOBER 2008

**OCEAN ACCESS BOAT RAMP,
BASTION POINT, MALLACOOTA,
ENVIRONMENT EFFECTS STATEMENT
EAST GIPPSLAND PLANNING SCHEME,
PERMIT APPLICATION 162/2007/P**

PANEL REPORT



Nick Wimbush, Chair



Robin Saunders, Member



Barry La Fontaine, Member

OCTOBER 2008

Contents

1. EXECUTIVE SUMMARY	1
2. BACKGROUND.....	5
2.1 The subject site and surrounds.....	5
2.2 What is proposed.....	6
2.2.1 Option 1.....	7
2.2.2 Option 2.....	7
2.2.3 Option 3.....	8
2.2.4 Option 3a.....	9
2.2.5 Option 3b.....	9
2.2.6 Option LS1	10
2.3 Options taken forward for detailed assessment by the Panel.....	10
2.3.1 The Options to be removed	10
2.3.2 Additional option	11
2.3.3 Summary	11
2.4 Main approvals required.....	11
2.4.1 Coastal Management Act 1995	11
2.4.2 Planning and Environment Act 1987	11
2.4.3 Aboriginal Heritage Act 2006.....	12
2.5 Panel approach to assessment of effects	12
3. POLICY FRAMEWORK.....	15
3.1 Coastal policy.....	15
3.1.1 Victorian Coastal Strategy	15
3.1.2 Gippsland Boating Coastal Action Plan.....	19
3.1.3 Integrated Coastal Planning for Gippsland	21
3.1.4 Other coastal policy documents	22
3.1.5 Overall conclusions on coastal policy	23
3.2 East Gippsland Planning Scheme	25
3.3 Other policy documents.....	26
4. EFFICIENT, SAFE INFRASTRUCTURE	27
4.1 The issues.....	27
4.1.1 Efficiency	27
4.1.2 Safety.....	28
4.2 Background	28
4.3 Submissions.....	31
4.3.1 Approach and shoreline access	31
4.3.2 Ramp operations.....	32
4.3.3 Waterway impacts.....	35
4.3.4 Miscellaneous Safety Hazards	41
4.4 Discussion.....	42
4.4.1 The Panel's approach to assessing risk	42
4.4.2 Approach and shoreline access	42
4.4.3 Ramp operations.....	43
4.4.4 Waterway impacts	45
4.4.5 Miscellaneous Safety Hazards	48
4.5 Conclusions	49

5.	COASTAL PROCESSES	51
5.1	The issues.....	51
5.2	Background	51
5.2.1	Sediment movement in the general area	51
5.2.2	Boat ramp siltation	53
5.2.3	Surfing and waves	54
5.2.4	The coastal road	54
5.2.5	Climate change.....	55
5.3	Submissions and evidence	55
5.4	Discussion.....	57
5.4.1	Sediment movement in the general area	57
5.4.2	Boat ramp siltation	57
5.4.3	Surfing.....	58
5.4.4	Climate change.....	58
5.5	Conclusions	59
6.	MARINE ECOLOGY	61
6.1	The issues.....	61
6.2	Background	61
6.3	Submissions and evidence	62
6.4	Discussion.....	63
6.5	Conclusions	63
7.	CHARACTER AND AMENITY	65
7.1	The issues.....	65
7.2	What is social impact?	66
7.3	A vision for Mallacoota	67
7.4	Consultation.....	70
7.4.1	The community ballot	70
7.4.2	The openness of the EES process.....	73
7.4.3	The separate meetings at Mallacoota	74
7.4.4	Confusion about the EGSC's preferred option.....	76
7.4.5	Conclusion.....	77
7.5	Landscape value, wilderness character and aesthetics	77
7.5.1	The Issues.....	77
7.5.2	Background	77
7.5.3	Submissions.....	80
7.5.4	Discussion	84
7.5.5	Conclusions	87
7.6	Recreation (surfing, rock fishing, swimming, rock-rambling, walking, contemplation).....	88
7.6.1	Background	89
7.6.2	Submissions and evidence.....	90
7.6.3	Discussion	92
7.6.4	Conclusions	94
7.7	Tourism.....	94
7.7.1	Background	94
7.7.2	Submissions.....	96
7.7.3	Discussion	100
7.7.4	Conclusions	103
7.8	Social impacts.....	104
7.8.1	Background	104
7.8.2	Submissions.....	105

7.8.3	Discussion	107
7.8.4	Conclusions	108
7.9	Overall summary of impacts included under Evaluation Objective 4	109
8.	CULTURAL HERITAGE	110
8.1	The issues.....	110
8.2	Background	110
8.3	Submissions.....	113
8.4	Discussion.....	114
8.5	Conclusions	115
9.	TERRESTRIAL ECOLOGICAL IMPACTS.....	118
9.1	The issues.....	118
9.2	Vegetation.....	118
9.2.1	Background	118
9.2.2	Submissions and evidence.....	120
9.2.3	Discussion	120
9.2.4	Conclusions	121
9.2.5	Existing clearing above Option 3 ramp location	122
9.3	Fauna.....	122
9.3.1	Background	122
9.3.2	Submissions and evidence.....	123
9.3.3	Discussion	123
9.3.4	Conclusions	124
9.4	Overall summary of impacts for terrestrial ecology	125
10.	ECONOMIC IMPACTS	126
10.1	The issues.....	126
10.2	Background	126
10.3	Submissions and evidence	130
10.4	Discussion.....	133
10.5	Conclusions	135
11.	OVERALL SOCIETAL BENEFIT AND REVIEW OF OPTIONS	136
11.1	Overview of evaluation objectives.....	136
11.2	Panel's overall evaluation of the options	137
11.2.1	Option 3.....	137
11.2.2	Option 3b.....	138
11.2.3	Option LS1	138
11.2.4	Do nothing.....	139
11.3	Panel's conclusions and recommendations in chief on options	139
12.	TERMS OF REFERENCE AND PARAMETERS FOR UPGRADING THE EXISTING BOAT RAMP	140
12.1	Terms of Reference.....	140
12.2	Minor Upgrading of the Existing Ramp	142
12.3	Conclusion.....	147
13.	SUMMARY OF FINDINGS AND RECOMMENDATIONS	148
13.1	Findings	148
13.2	Recommendations.....	152

Appendices

A	TERMS OF REFERENCE.....	153
B	EES PROCESS.....	157
B1	Assessment process.....	157
B2	Appearances.....	158
C	LIST OF SUBMITTERS	160
D	DRAFT PLANNING PERMIT.....	169

List of Figures

Figure 1:	Existing situation.....	6
Figure 2:	Option 1.....	7
Figure 3:	Option 2.....	8
Figure 4:	Option 3.....	8
Figure 5:	Option 3a.....	9
Figure 6:	Option 3b.....	9
Figure 7:	Option LS1	10
Figure 8:	Aboriginal cultural heritage sites	111

List of Tables

Table 1:	Evaluation objectives	13
Table 2:	Option evaluation - efficiency.....	27
Table 3:	Risk assessment matrix	29
Table 4:	Risks assessed by Pryor Knowledge.....	30
Table 5:	Option evaluation – approach and shoreline access.....	43
Table 6:	Option evaluation – ramp operations	45
Table 7:	Option evaluation – Waterway impacts	48
Table 8:	Summary of risks	49
Table 9:	Option evaluation – efficiency and safety components	50
Table 10:	Rating of options against Evaluation Objective 1	50
Table 11:	Rating of options against Evaluation Objective 2.....	60
Table 12:	Rating of options against Evaluation Objective 3.....	64
Table 13:	Option evaluation - landscape.....	88

Table 14: Option evaluation - recreation.....	94
Table 15: Option evaluation - tourism	103
Table 16: Option evaluation - social	108
Table 17: Summary of assessment - Evaluation Objective 4.....	109
Table 18: Rating of Options - Evaluation Objective 4.....	109
Table 19: Option evaluation – artefacts and sense of place	116
Table 20: Rating of Options - Evaluation Objective 5.....	117
Table 21: Vegetation clearing for the various options	119
Table 22: Option evaluation - flora	122
Table 23: Option evaluation - fauna.....	124
Table 24: Rating of options – Evaluation Objectives 6 and 7.....	125
Table 25: Project costs	129
Table 26: Rating of options – Evaluation Objective 8	135
Table 27: Summary of evaluation objectives and option response	136
Table 28: Overall societal benefit of options	137

List of acronyms

AVG –	Abalone viral ganglioneuritis
CAP –	Coastal Action Plan
CES –	Coastal Engineering Solutions Pty Ltd
CHMP –	Cultural Heritage Management Plan
DPCD –	Department of Planning and Community Development
DSE –	Department of Sustainability and Environment
EES –	Environment Effects Statement
EGSC –	East Gippsland Shire Council
EPBC –	Environment Protection and Biodiversity Conservation Act 1999
GCB –	Gippsland Coastal Board
HS –	Hearing submission
ICGP CAP –	Integrated Coastal Planning for Gippsland Coastal Action Plan
MADBATA –	Mallacoota and Districts Business and Tourism Association
MOAC –	Mallacoota Ocean Access Committee
MSV –	Marine Safety Victoria
SBPC –	Save Bastion Point Campaign
SIA –	Social Impact Assessment
VCS –	Victorian Coastal Strategy

1. Executive summary

The Mallacoota Ocean Access Boat Ramp is proposed at Bastion Point, approximately 1.5 km south of Mallacoota in East Gippsland and 520 km east of Melbourne. In 2000 the Minister for Planning determined that an Environment Effects Statement was required to provide a framework for considering potential impacts of the proposal. A planning permit application for removing native vegetation associated with the project was called in by the Minister for Planning.

An existing boat ramp at Bastion Point is approximately 40 years old and is used by recreational fishers, commercial Abalone divers and fishers and for other uses such as fisheries patrols and servicing Gabo Island. The ramp is intensively used during the summer and Easter holiday periods by recreational fishermen.

The existing ramp has a number of issues related to traffic and parking, ramp slope, ramp width, general ramp condition and weather protection. According to estimates it is currently usable for about 25% of the time.

Ocean access via the Mallacoota Inlet mouth occurs at times but this is reliant on the inlet mouth being open and can be a hazardous transit due to inlet and sea conditions.

The debate regarding improved ocean access at Mallacoota has been under way since at least the 1980s, and possibly longer. It is a divisive issue that has caused considerable angst at times in town between those who support larger development proposals at Bastion Point and those who would prefer a minimal upgrade of the current ramp or no change at all.

The East Gippsland Shire Council is the proponent for the proposals in the EES. The exhibited options in the EES included; an upgraded ramp with breakwaters at the current ramp site; a new ramp about 100 m further south with one breakwater, and a new ramp about 150 m south of the existing ramp with one breakwater. Following exhibition of the EES, further options were presented to move the access roads to the new ramp proposals from the top of the embankment down on to the beach front to reduce impacts on vegetation and Aboriginal heritage.

The Council's preferred option is a new ramp at the Option 3 site, 150 m south of the existing ramp.

As a result of the exhibition of the EES, 482 submissions were received, with 87% objecting to the new ramp proposals and/or supporting an upgrade of the current ramp. As a result of exhibition of later options, a further 75 submissions were received (supplementary submissions from some of the original submitters).

The major issues raised in submissions (not necessarily in order of significance) were:

- Aboriginal heritage;
- Landscape values;
- Character and amenity;
- Coastal processes;
- Social impacts;
- Economic issues;
- Recreational use;
- Safety (relating to the current ramp and new proposals);
- Native vegetation removal; and
- Policy support for proposals.

The Panel appointed by the Minister for Planning sat for 14 days in Mallacoota and Melbourne and heard from approximately 70 submitters and a large number of expert witnesses.

The Panel has considered all the material put before it and assessed it against the evaluation objectives in the Assessment Guidelines developed for the EES. On these issues the Panel concludes as follows.

Policy framework

The Panel does not consider the policy framework is as supportive of the development proposals as put in the Hearing by the Proponent. The Panel considers that the key, relevant parts of the policies stress boating safety (including not providing facilities where inexperienced people may get into difficulty) and environmental sustainability.

Safety and efficiency

The new ramp proposals would provide a better facility at the actual launch and retrieval point but the Panel has serious concerns in relation to the safety of all the new proposals in relation to facility entry and exit.

Coastal processes

The Panel considers there is unlikely to be significant impacts on Mallacoota Inlet but the Panel has serious concerns in relation to sediment movement affecting the safety and usability of the Option 3 proposals.

Marine Ecology

The Panel considers that impacts on marine ecology could be managed during project development.

Character and amenity

The Panel considers that the impact of the breakwaters in the new proposals will have considerable impact on the wilderness and landscape values of Bastion Point and an overall net detriment to tourism.

The social impacts in Mallacoota are dependent on which option is chosen and whichever group feels disaffected is likely to experience ongoing social impact.

Cultural heritage

The Panel has concluded that the 'beach road' options will significantly reduce impacts on Aboriginal sites but that impacts on other cultural heritage values (such as Aboriginal 'sense of place') will remain.

Terrestrial ecology

Vegetation removal for the beach road options is significantly less than for the cliff top road options and could be managed within the Native Vegetation Management Framework.

Economic impacts

The economic case for the project is very weak and likely to have a benefit cost ratio well below 1. There are a number of significant remaining uncertainties in the assumptions that further undermine the economic case.

On the issue of overall societal benefit, the Panel has concluded that the case for the development options is not strong. Weighing up all the different issues and considerations for ocean access at Mallacoota, the Panel has concluded that on balance the development proposals should not proceed. This is not a case where National, State or regional imperatives demand that the proposal proceed for the greater good of the community. This is a local issue where the balance and weighting is much finer and the Panel concludes

that refinement and improvement of the existing boat ramp at Bastion Point provides a much better environmental, economic and social outcome.

The Panel recommends:

The environment effects of Options 1, 2 and 3 as exhibited, Options 3a and 3b, and Option LS1 are such that there is no overall societal benefit in progressing these options further and they should be discarded.

The Panel considers that 'Do nothing' is not an acceptable option and, within its terms of reference, has suggested that an upgrade of the existing ramp and parking be undertaken, and it has provided a suggested scope for such works.

2. Background

2.1 The subject site and surrounds

Mallacoota is located approximately 520 km east of Melbourne near the New South Wales border. At the time of the 2006 census the population was 972. Cann River is the nearest settlement west (70 km) and Eden in NSW is the nearest settlement east (85 km).

The town contains a range of retail shops and essential services such as fire, medical, police and Post Office. Mallacoota College is a P-12 school located in town.

Mallacoota Inlet lies on the eastern side of the town and is fed by the Genoa and Wallagaraugh Rivers. The inlet is periodically cut off from the sea by a naturally occurring sand bar. When estuary and ocean conditions permit the inlet breaks through to the sea. This breakthrough point can occur anywhere along the Mallacoota main beach in front of the estuary depending on conditions.

When the inlet is open to the sea, the channel is sometimes navigable but can be difficult and dangerous for small craft due to shallow water, the movement of the channel and the interaction between estuary outflows and ocean swell and waves.

Croajingolong National Park surrounds the town. This is a wilderness national park of 87,500 ha stretching for 100 km along the East Gippsland coast. It is popular with walkers and campers and has limited vehicle access points.

A number of other public reserves are near the town including the coastal reserve at Bastion Point. The site of the Ocean Access Boat Ramp proposal at Bastion Point is located approximately 1.5 km southeast of the Mallacoota township. Bastion Point is serviced by Bastion Point Road, which is a two lane sealed road and a walking path.

The foreshore of Bastion Point is heavily vegetated but in a narrow strip between the coast and the Mallacoota Golf Course. Existing facilities at Bastion Point include car parking, beach access for walkers and vehicles, the existing boat ramp, a small toilet block and various lookouts and walking trails. The existing conditions are shown in Figure 1.

Figure 1: Existing situation



2.2 What is proposed

As the project name suggests, the Mallacoota Ocean Access Boat Ramp proposal is to provide improved ocean boat launching for commercial and recreational craft up to about 10 m in length.

To achieve this, the East Gippsland Shire Council (EGSC) has developed a number of options for consideration in the Environment Effects Statement (EES) process.

The EES contained Options 1, 2 and 3 which were exhibited in mid 2007 during the main EES exhibition. Coastal Engineering Solutions (CES), commissioned by the Department of Sustainability and Environment (DSE), prepared a further two options in January 2008, and these are referred to by the Panel as 3a and 3b. These were exhibited in mid 2008 at the Panel's direction.

When expert evidence was circulated prior to the Panel Hearing, Mr Alan Wyatt, a landscape expert from ERM working for EGSC, had prepared Option LS1, a variation to Option 3b, the primary difference being further development of the design and an alternative parking layout.

The options are outlined in Section 2.2.1. The EES also considered a 'No Change' option on p32 and concluded that doing nothing may force ramp closure or impose severe operating restrictions on it.

2.2.1 Option 1

Option 1 (shown in Figure 2) is located at the existing boat ramp site. It includes revised parking, two breakwaters, a two lane boat ramp and a hardstand area.

Figure 2: Option 1



2.2.2 Option 2

Option 2 is located approximately 100 m south of the existing boat ramp at a naturally occurring small 'slot' in the reef. It includes the features outlined in Option 1 but only has one breakwater on the south side and a new access road through native vegetation down to the ramp. It is shown in Figure 3.

Figure 3: Option 2**2.2.3 Option 3**

Option 3 is located approximately 150 m south of the existing boat ramp at a naturally occurring larger 'slot' in the reef. It includes the features outlined in Option 1 but only has one breakwater on the south side and a new access road through native vegetation down to the ramp. It is shown in Figure 4. Option 3 was identified in the EES as the preferred option for the new facility.

Figure 4: Option 3

2.2.4 Option 3a

Option 3a has the same boat ramp and breakwater arrangement as Option 3 but the road to access the ramp is moved down on to the foreshore to minimise vegetation clearing and impact on Aboriginal heritage. On the beach the road cuts across the rock platform from where the existing access road meets the beach to a turning area at the base of the new ramp. This is shown in Figure 5.

Figure 5: Option 3a



2.2.5 Option 3b

Option 3b is shown in Figure 6. It is essentially the same as Option 3b except that the road on the beach is tucked in against the base of the existing escarpment to minimise impact on landscape values and the rock platform.

Figure 6: Option 3b



EGSC or submitters. If Option 2 were to be pursued, comments in this report related to Option 3 would generally apply.

Option 3a prepared by CES suggests a road approximately from the location of the existing ramp access road across the reef platform to a turning area at the base of the new boat ramp at Option 3. This Option was not supported by any party and would involve considerably more impact on the Bastion Point foreshore.

2.3.2 Additional option

Do nothing was raised in the EES as a possibility but the EGSC suggested there will be severe consequences for ramp operation if nothing is done. For the assessment the Panel has included a Do nothing option as a reference case to consider the development proposals against the existing situation.

2.3.3 Summary

The following options are considered for detailed assessment in this report:

- A Do nothing option;
- Option 3;
- Option 3b; and
- Option LS1.

2.4 Main approvals required

The legislative framework for the proposal is set out in Chapter 2 of the main volume of the EES. There are a number of relevant pieces of legislation listed in that chapter but the key approvals required are discussed below.

2.4.1 Coastal Management Act 1995

Coastal Crown land covers the seabed of the waters of Victoria and up to 200 m inland from the high water mark. All of the options for ocean access in the EES are therefore located on coastal Crown land, including car parks.

Under Division 4 of the *Coastal Management Act 1995*, consent from the Minister for Environment and Conservation is required to use or develop coastal Crown land.

2.4.2 Planning and Environment Act 1987

A permit under the East Gippsland Planning Scheme for the ocean access boat ramp is not required under the zone covering Bastion Point (discussed further in Section 3.2). However, a permit is required to remove native vegetation under the scheme.

2.4.3 Aboriginal Heritage Act 2006

Consent under other legislation for the proposal can not be given until a Cultural Heritage Management Plan has been prepared and approved by the appropriate Registered Aboriginal Party (RAP). At this point a RAP has not been appointed for the project area so this power rests with the Secretary of the Department of Planning and Community Development.

2.5 Panel approach to assessment of effects

Draft evaluation objectives (shown in Table 1) were provided in the assessment guidelines for the project. These are repeated, with some alterations, in Section 1.6 of the EES main report and then listed in Chapter 9. Section 1.7 of the EES suggests a set of 'Project Objectives' which cover a similar set of issues but with a stronger focus on policy.

The project, whilst relatively small in scale, is complex in the range of issues that present. Establishing a clear and logical assessment framework for the Panel is critical to allow proper consideration of the issues and to apportion appropriate weight to evidence and submissions.

The Panel has reviewed the various sets of objectives and has concluded that using the original set from the assessment guidelines is its preferred approach. Whilst these may be imperfect; they were developed over a period of time with an opportunity for public input; they cover the range of issues raised in the EES and Hearing; and a superior set was not strongly advanced by any party.

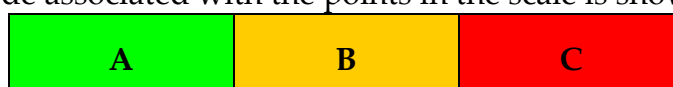
Table 1: Evaluation objectives

No.	Evaluation objective	Primary chapter(s) in this report
1	To provide efficient, safe infrastructure for the launching and retrieval of commercial and recreational boats under all-tides at Mallacoota.	4
2	To avoid significant interference with coastal processes related to patterns of wave formation and sediment movement affecting Mallacoota Inlet and nearby beaches.	5
3	To avoid significant adverse impacts on the water quality and ecological character of Mallacoota Inlet and surrounding site during both construction and operational phases.	6
4	To avoid detrimental impacts on the character, amenity and infrastructure of Bastion Point, including its attractiveness for recreation, education and tourism.	7
5	To avoid to the maximum extent practicable, adverse impacts on Aboriginal or post-settlement cultural heritage.	8
6	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.	9
7	To avoid adverse impacts on migratory waterbirds any other species that are of National and/or State significance.	9
8	To provide a clear overall societal benefit, taking into account economic impacts, social outcomes and residual environment impacts.	10, 11

For each evaluation objective the Panel assesses the degree to which the options meet the objective, using a three point scale from A to C. The points on the scale have the following meaning:

- A The option meets the objective well
- B The option meets the objective partially
- C The option meets the objective poorly

A colour code associated with the points in the scale is shown below:



Where an evaluation objective has a number of detailed components or issues, these are discussed separately in the Chapter prior to an overall rating for the option against the evaluation objective.

It should be stressed that the Panel has used a qualitative approach based on its analysis of the evidence and submissions rather than quantitative (or numerical) approach in compiling these tables.

3. Policy framework

3.1 Coastal policy

3.1.1 Victorian Coastal Strategy

Background

The Victorian Coastal Strategy (VCS) is prepared under Division 2 of the *Coastal Management Act* 1995. The current VCS was endorsed by the Victorian Government in 2002 and was referenced by submitters and in evidence before the Panel. There was no disagreement by any party to the Hearing that the VCS is a significant policy document in the Panel's deliberations.

A new draft Victorian Coastal Strategy is being prepared (the draft VCS 2007) but had not been finalised by the time of this Panel Hearing. Whilst the draft has not been finalised, it was approved for public exhibition by the Victorian Coastal Council (VCC), exhibited and submissions received. The Panel considers it has the status of a 'seriously entertained planning proposal', and where it has changed or advanced relevant issues from the 2002 VCS, the Panel has made use of it, albeit with caveats due to the fact that it is incomplete.

The VCS defines the Victorian coast broadly to include the sea and seabed out to the State limit (3 nautical miles) and land and inland waters within the coastal catchment.

The VCS is based on the principles of ecologically sustainable development and integrated coastal zone management and uses a hierarchy of four principles to guide coastal planning and management. These are:

- Protection of significant environmental features;
- Sustainable use of natural coastal resources;
- Providing direction for future decision making; and
- When the above principles have been met, facilitating suitable development on the coast.

Under these broad principles the VCS contains a number of themed chapters containing objectives and specific recommendations. These include issues such as marine and estuarine environments and natural onshore environments among others.

The Panel's attention was drawn to many parts of the VCS as being relevant but the most discussed was Chapter 4 (Access). The East Gippsland Shire Council (EGSC) argued that under this section and particularly Section 4.1 (*Improve opportunities for safe boating and water based activities*), the VCS provides explicit policy support for the Bastion Point Boat Ramp.

Ms Forsyth, Counsel for EGSC drew attention to Action 4.1.2 which states:

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.

The Action refers to Figure 7 in the VCS which identifies Mallacoota as a Regional Boat Ramp. The VCS considers a regional boat ramp thus:

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.

There was considerable discussion in the Hearing as to whether this 'regional boat ramp' designation was intended to specifically suggest or support ocean access as opposed to inlet access. The EGSC submitted that the VCS clearly indicates that ocean access at this location is supported by the strategy.

Mr Milner, in his evidence also supported the view that ocean access at Mallacoota is supported by the VCS.

Ms Porter, Counsel for Save Bastion Point Campaign (SBPC), drew the Panel's attention to another interpretation of the strategic direction in the VCS. That is, the regional boat ramp referred to for Mallacoota actually refers to the inlet boat ramp in town. She submitted that this existing ramp actually meets the requirements of a regional boat ramp as described above and that there is no explicit reference in the VCS to ocean access, or indeed to Bastion Point as opposed to Mallacoota more broadly.

Ms Porter also drew the Panel's attention to other parts of Chapter 4 including (on p34 of the VCS) the comment:

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, and the potential they have to cause significant environmental impact.

and:

Construction of roads and carparks in foredunes and other sensitive areas frequently results in a very unstable environment which cannot be viably maintained over time.

The draft VCS 2007 generally continues the themes from the existing VCS. Climate change is given greater weight and a sea level rise of 0.4 m to 0.8 m by 2100 (based on work by the Intergovernmental Panel on Climate Change) is given as guidance for coastal managers and planners.

Mallacoota is identified in Figure 11 as a 'Regional Boating Facility' in a hierarchy which has been reduced from three to two levels in the draft Strategy. The policy statements in Chapter 3.8 of the draft are generally consistent with the existing Strategy although the Panel notes that the Policy under dot points two and three (quoted below) appear to be particularly relevant:

- ...
- *Avoid providing open water ramps, access or facilities and direct any new or redeveloped boating facilities to safe, sheltered locations with protection from strong prevailing winds and high energy sea conditions in line with boating coastal action plans.*
- *Where boating facilities already exist or must unavoidably be located with direct access into open water, all reasonable safety precautions must be taken to minimise risk to users and the surrounding environment.*
-

The Gippsland Coastal Board (GCB), who are appointed by the Minister for Environment and Conservation to advise on coastal planning and development, put in a submission assessing the options in the EES against the four key principles from the VCS (outlined at the start of this section).

The GCB concluded that whilst they support the provision of ocean access at Mallacoota, none of the exhibited options are supported by the VCS when considered against these core principles. The GCB considered that a minimal upgrade of the existing ramp should have been explored.

In the Hearing, the Department of Sustainability and Environment (DSE) highlighted relevant aspects of the VCS but did not draw any conclusions as to whether any of the exhibited options for providing ocean access would satisfy its requirements. Their earlier submission of 5 September 2007 tabled at the Directions Hearing indicated that DSE did not support the exhibited Options 2 or 3.

Discussion

The VCS is a document of considerable weight in the Panel's considerations. It has statutory weight in its own right through the *Coastal Management Act 1995*, and the Minister for Environment and Conservation must have regard to it in any consideration of issuing consent under Section 40 of that Act.

The VCS is also referenced in Clause 15.08-2 of the East Gippsland Planning Scheme.

The Panel responds to the various objectives and principles in the VCS in the issues based Chapters that follow in this report.

In relation to Chapter 4 and whether the proposal has explicit Victorian Government policy support in the VCS, the Panel is not convinced that the direction provided in this document requires, or even necessarily supports the type of facility proposed in the exhibited Option 3, 3b or LS1.

This opinion is reached on three major grounds. Firstly, there is the question of ocean access itself. Does regional boat ramp status automatically infer that ocean access is required? One might logically assume that a boat ramp in a coastal policy document leads to ocean access. However, in this case the Panel considers that this is a narrow interpretation that does not take into account the extent of the 'coast' in the VCS.

Given that the VCS has a broad definition of the coast that includes inland waterways leading to the coast, the Panel considers that a boat ramp does not automatically need to access the ocean.

The best existing example of this (other than Mallacoota town boat ramp itself) is found at the opposite end of the State, in Nelson on the Glenelg River. Nelson is also listed as a 'regional boat ramp' in Figure 7 of the VCS but to the Panel's knowledge never, or very rarely, provides ocean access due to conditions at the estuary mouth and outside sea conditions.

Secondly, the Panel notes that the style and condition of regional boat ramps is highly variable. For example at Altona in Port Phillip, the boat ramps are protected by significant rock walls to make it an all weather ramp. However, at Cape Conran (near Mallacoota), also a regional boat ramp, the ramp has relatively little weather protection except that provided by its orientation to the prevailing weather conditions.

Thirdly, the Panel considers that the argument that the existing boat ramp at the town wharf in Mallacoota meets the requirements of a 'regional boat ramp' is persuasive. The list of facilities at a regional boat ramp in Figure 7 of the VCS can all be found at the town wharf ramps.

When conditions permit, these ramps also provide ocean access through the inlet mouth.

This opinion in itself does not mean that ocean access at Bastion Point is not desirable, and the existence of the current ramp, albeit with relatively low usability, is testament to this. However, it does mean, importantly, that the Panel considers the policy position in the VCS does not explicitly support a highly developed facility such as that presented in Option 3, 3b or LS1.

The Panel also has some concerns about the LS1 Option (which places a road along the beach) in relation to its long term stability and maintenance, its alienation of the beach front, and landscape issues. The VCS (p34) cautions against such an approach. Mr Riedel in evidence stated that the road can be constructed and maintained in such a manner that minimises impacts on the coast. Whilst generally accepting Mr Riedel's evidence, the Panel is aware that such structures in coastal environments frequently result in unforeseen consequences and higher than expected maintenance costs.

The Panel also notes however, the rationale for developing Option LS1, that being to minimise impacts on vegetation and Aboriginal sites.

The EGSC, in closing, suggested that little weight should be given to the submission of the GCB. Whilst it is true that the Panel would have liked the Board to expand on its submission at the Hearing, it does not agree in principle with this proposition as put by the EGSC. The GCB is a skills based organisation responsible under the *Coastal Management Act 1995* for, amongst other things (at Section 12(1)(e)), facilitating the implementation of the VCS. The Panel thus considers its opinion must carry at least some weight on this matter in interpreting the policy directions in the VCS.

3.1.2 Gippsland Boating Coastal Action Plan

Background

The Gippsland Boating Coastal Action Plan ('Boating CAP') was released by the GCB in 2002 after endorsement under Section 26(2) of the *Coastal Management Act 1995*. The Boating CAP provides a vision and a number of objectives for boating on coastal and inland waterways in Gippsland. It was referenced to in the EES at p55.

Similarly to the VCS, the Minister for Environment and Conservation must have regard to any Coastal Action Plan applying to the land when considering issuing consent under Section 40 of the *Coastal Management Act 1995*.

Mallacoota as an area is addressed in Section 4.7 of the Boating CAP, and in relation to existing conditions at Bastion Point, it identifies that the existing ramp can be hazardous to small boats and that it poses difficulties particularly for recreational fishers, who may not have the same time flexibility as professional abalone divers.

In Section 4.7.2 the Boating CAP notes that the plebiscite in town is driving further consideration of development at Bastion Point and that the EES process is under way. The priority table in Section 7.3 gives a High priority to finalise the assessment process at Bastion Point and a High priority for warning signs.

In addition to the specific references to Mallacoota, both the EGSC and SBPC drew the Panel's attention to other relevant sections of the Boating CAP. Section 1.4 identifies a number of principles for boating in Gippsland being:

- Matching water with activity;
- Safety;
- The environment;
- Enhancement of existing communities;
- Destination opportunities; and
- Rivers and small estuaries.

In their opening submission, SBPC quoted from Section 1.4.2 (safety) at p2 of the Boating CAP which reads:

This plan encourages the development of facilities that are easy to use and 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.

The following paragraph of the Boating CAP emphasises that upgrading facilities with ocean access should be focused on areas with 'safe passages' from calm water to the open ocean.

Section 7.2 addresses the issue of efficiency of boating facilities including management of car parking and loading/unloading operations. This is an issue raised by many submitters during the Hearing.

Discussion

The Panel has reviewed the Boating CAP in relation to Mallacoota and considers it clearly identifies Mallacoota as a significant boating destination for Mallacoota Inlet with a lesser emphasis on ocean boating.

The Boating CAP identifies a range of actions for improving and managing boating in the inlet. In relation to Bastion Point the Panel notes the Boating CAP only acknowledges the existing assessment process, it does not make a strong strategic policy statement that this a specific location where a major new facility should be developed.

The text on p36 of the Boating CAP talks about Council considering a range of options for 'improving the ramp'. To the Panel this does not seem to indicate relocation (to the Option 3 site) or necessarily indicate the type of engineering structures proposed.

The Panel contrasts this with the Cape Conran boat ramp which in Section 4.4 receives considerably more analysis of the conditions and specific measures that may be taken to improve the situation.

In relation to safety, the Panel notes the key principle at Section 1.4.2 as quoted above. This principle encapsulates to a large extent the dilemma faced at Bastion Point with the new proposal. That is, constructing the exhibited Option 3 proposal to enable safer storm condition retrieval will encourage more recreational boaters to launch into an environment that can be extremely hazardous for boating.

Safety is discussed in detail in Chapter 4 of this report.

The Panel notes that land traffic management during peak times is unsatisfactory with the current facility. Whatever the decision in relation to Option 3, 3b or LS1, this is an issue that needs to be addressed.

3.1.3 Integrated Coastal Planning for Gippsland

Background

The Integrated Coastal Planning for Gippsland Coastal Action Plan (ICPG CAP) was released by the GCB in 2002 after endorsement under Section 26(2) of the *Coastal Management Act 1995*. The ICGP CAP is an ambitious document that attempts to provide direction to agencies (and Local Government in particular) to undertake coastal planning in an integrated manner considering the principles of ecologically sustainable development.

Preventing coastal strip development and maximising the use of available infrastructure are key themes of the ICPG CAP.

EGSC in submissions noted that the ICPG CAP does not provide specific policy direction for the ocean access proposal but that it does provide general policy direction.

SBPC suggested that some of the key principles in the ICPG CAP relating to protection of natural, cultural and landscape values were generally applicable.

Discussion

The Panel considers that the ICPG CAP does not provide specific policy direction in terms of boating infrastructure at Bastion Point. However, it does provide clear policy direction that decision makers should make coastal planning decisions in an integrated manner.

3.1.4 Other coastal policy documents

A range of other coastal policy and management documents were drawn to the Panel's attention. These are considered briefly below.

Mallacoota Foreshore Management Plan

The Foreshore Management Plan was released in 2001 and reviewed in 2005. The Management Plan recognises Bastion Point as an important activity node and that ocean access there is currently unsatisfactory. The management plan does not provide strategic direction on future boating access but acknowledges that EGSC is undertaking this (EES) assessment.

In its submission SBPC drew the Panel's attention to aspects of the vision in the Management Plan, being Bastion Point's natural values that are recognised by residents and visitors, and that new development should be in character with the surrounding landscape.

Coastal spaces landscape assessment study

The assessment study was undertaken by the VCC in 2006. The study identified the East Gippsland coast east of Marlo and for some distance inland as being of State landscape significance (including Mallacoota and Bastion Point).

Landscape setting types for the Victorian coast

The landscape setting types were developed by the VCC in 1998. In its submission DSE drew the Panel's attention to the description of the coastline in the Mallacoota area, and particularly its wild natural beauty.

In particular the DSE submission noted that the special considerations for this stretch of coastline include:

Avoid any development on the coastal side of dunes and contain new works to inland inlets and rivers to ensure the coastline retains its rugged non-developed wilderness character.

Siting and design guidelines for structures on the Victorian coast

These guidelines were released by the VCC in 1998. They are designed to assist land managers in considering proposals on the coast to minimise, in particular, visual impact.

The guidelines may be useful in furthering the design of any particular option taken forward by the Minister for Environment and Conservation.

3.1.5 Overall conclusions on coastal policy

In opening submissions, Ms Forsyth for EGSC concluded on policy that:

- *There is a high level of policy support for proposals to upgrade the Mallacoota Ocean Access Boat Ramp*
- *A regional boat ramp has been identified as strategically important at this location*
- *A range of environmental and social issues need to be taken into account in evaluating project options and in the construction and management of the facility, if approved*

Having listened to submissions and evidence on this issue and reviewed the written material, the Panel is of the opinion that the policy case in support of Options 3, 3b and LS1 has been overstated by EGSC.

Policy support for a regional ocean access boat ramp at Mallacoota

In relation to the first two dot points above, the Panel considers the policy position is weak at best when viewed with specific reference to ocean access at Bastion Point. The Panel can find no explicit policy support for a facility such as is proposed in the exhibited Options or Option LS1.

Mallacoota is identified as being the site for a regional boat ramp, but the Panel does not see a compelling argument firstly, that this must include ocean access, and secondly, that the reference to a regional boat ramp is not reference to the town boat ramps in Mallacoota.

Whilst there may be a need for upgraded boating facilities in areas of Victoria, the Panel considers issues such as boating safety, infrastructure maintenance and environment protection are referenced very strongly in both the VCS and Boating CAP. Thus the starting point is to avoid increasing risk; to protect the natural environment (environment including social and cultural issues); and not create facilities that may be a drain on the public purse in future.

It has not escaped the Panel's notice that the wilderness values, significant coastal landscapes and natural beauty of this area are given prominence in nearly all the policy documents sighted.

Range of environment and social issues to be taken into account

In relation to the third dot point above put by Ms Forsyth that a range of environment and social issues need to be considered, the Panel agrees in principle with this approach. Evaluating impacts is the task that this Panel has been asked to turn its mind to and in this report considers the particular evaluation objectives developed as part of the EES process.

Coastal policy

There is broad agreement that the existing boat ramp has a range of issues including congestion at peak times, poor weather protection leading to low levels of usability, safety issues, poor infrastructure condition and sand build up amongst others.

The Panel is not suggesting that the existing ramp is perfect, but rather expressing the view that while the existing situation has limitations, some significant, there is not strong policy support to develop a much larger facility with a breakwater, extended access road and the other elements proposed.

The Panel finds that a new ocean access facility at Bastion Point of the type suggested in the exhibited Options and Option LS1 do not have coastal policy support.

Consideration of the particular merits of each of the issues associated with the EES options, including the Do nothing option, are discussed in the evaluation objectives chapters.

3.2 East Gippsland Planning Scheme

Background

In Section 2.1.3, the EES identified the relevant aspects of the *Planning and Environment Act 1987* and East Gippsland Planning Scheme that apply to the project. Section 4.1.12 then provides a more detailed assessment of relevant Municipal Strategic Statement (MSS) references.

There was no disagreement that the boat launching facility itself does not require a permit for use and development in the Public Conservation and Resource Zone. This is because the works are being carried out on behalf of the public land manager.

The only permit that is required is for the removal of native vegetation. This permit requirement is triggered by the Vegetation Protection Overlay (Schedule 8) that covers the area and the particular provisions of Clause 52.17 – Native Vegetation. The merits of vegetation removal are discussed in Chapter 9.

Mr Milner and Ms George in evidence both took the Panel to sections of the State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF) which they argued were relevant to the Panel's considerations. These include parts of Clauses 11 (Introduction, Goals and Principles), 15.08 (Coastal areas) and 21 (MSS).

Ms Porter submitted that as EGSC was in the position of being both proponent and author of policy in the LPPF:

...it is submitted that consistency with the LPPF provides the Panel with no more useful information than that the Council supports its own proposal.

Discussion

The Panel understands that as the only permit required is for the removal of native vegetation, the effect of the planning scheme is limited by practice¹ to policies, provisions and decision guidelines relating to that particular application.

In this case the Panel considers consideration of the vegetation removal permit application is limited to directly relevant matters, such as

¹ For example see *Victorian National Parks Association Inc v Iluka Resources Limited* [2004] VCAT 20, paragraph 30.

consideration of the vegetation removal within the Native Vegetation Framework.

The merits of the boating facility are being considered via this EES process and specific approval is required for the facility under the *Coastal Management Act 1995*.

The Panel thus considers the East Gippsland Planning Scheme carries little weight in the Panel's deliberations, except in relation to the vegetation removal permit discussed in Chapter 9.

It is important to note that the essence of Clause 15.08 (Coastal Areas) of the SPPF is effectively covered by the direct application of the VCS and CAPs in the *Coastal Management Act 1995*.

3.3 Other policy documents

A range of other policies (offered in support of and in opposition to the project options) were referred to in the EES and during the Hearing in the following areas:

- Tourism;
- Greenhouse Gas;
- Fisheries and aquaculture; and
- Marine safety.

Where relevant, these policies have been discussed in the following issue chapters.

4. Efficient, safe infrastructure

Evaluation Objective 1: To provide efficient, safe infrastructure for the launching and retrieval of commercial and recreational boats under all-tides at Mallacoota.

4.1 The issues

4.1.1 Efficiency

The efficiency of the Options, including the 'Do nothing' Option, while being described in the EES, was little discussed during the Panel Hearing. It is clear that any of the upgraded Options will increase the efficiency of the movement of vehicles and parking, particularly at peak times over the Christmas New Year period. The manoeuvring of vehicles and trailers at the ramp will be improved because of the narrowness of the existing ramp. For boat launching and retrieval, there will be advantages in the water depth and small waves at the new ramp allowing normal road cars to launch boats, and the ability to tie up the boat while waiting to park or retrieve the empty trailer. However it likely to take longer to park or retrieve the trailer, compared to the Do-nothing Option due to the greater distance to walk.

There would be little difference between the efficiency of the upgraded Options considered in this Report except that the revised car parking arrangements proposed in Option LS1 will be better than those for the other proposals, given that there will be better arrangements for parking and leaving, both in a forward direction and a one way system of circulation within the car park. Finally, the car park can be developed in stages to minimise capital cost and better match the need.

The Panel's evaluation of the options against efficiency is shown in Table 2.

Table 2: Option evaluation - efficiency

Issue	Do nothing	Option 3	Option 3b	Option LS1
Efficiency	B	A	A	A

4.1.2 Safety

The Panel has adopted the grouping of safety hazards and risks² under the headings reported in Report B, Safety and Risk Issues by Pryor Knowledge (EES Volume 3, Part 2):

- Approach and shoreline access;
- Ramp operations; and
- Waterway impacts.

Miscellaneous hazards (operation of the proposed dredge and disposal of dredged sand and seaweed) are also briefly considered.

4.2 Background

The Pryor Knowledge Safety and Risk Issues Report relies on the methodology adopted by Gippsland Ports in its Ports Safety Management Plan; uses the hazard assessment made by Marine Safety Victoria (MSV) field officers and further discussed at Pryor Knowledge Workshops; and rates the likelihood and consequences of identified hazards for the existing situation (see pages 16 and 17 of the Pryor Knowledge Report) and for Options 1, 2 and 3 (see pages 29, 30 and 31). The hazards are grouped by Pryor Knowledge into those associated with the Approach and shoreline access, Ramp operations, and Waterway impacts.

East Gippsland Shire Council (EGSC) provided an extract from the Safety & Environmental Management Plan for East Gippsland Ports 2007 (HS 28). The risk assessment framework developed by Gippsland Ports is based on the application of the following Australian and New Zealand Standards:

- AS/NZS 4360:2004 Risk Management;
- AS/NZS 4801:2001 Occupational health and safety management systems - Specification with guidance for use;
- AS/NZS ISO 14001:2004 Environment management systems - Specification with guidance for use; and
- AS/NZS ISO 14004:2004 Environment management systems - General guidelines on principles, systems and supporting techniques.

² Definitions used in this Section for safety management are taken from the Australian/New Zealand Standard for Risk Management AS/NZS 4360:2004: 'Hazard – a source of potential harm'; 'Risk – the chance of something happening that will have an impact upon objectives. Risk is often specified in terms of an event or circumstances and the consequences that flow from it. Risk is measured in terms of a combination of the consequences of an event and their likelihood'. (In the case of safety, these objectives are taken to mean safe experiences for persons). 'Risk management – the culture, process and structures that are directed towards realising potential opportunities and managing adverse effects'

The Panel has reproduced the matrix of hazard likelihoods and consequences that together define risk (Table 5.6 in the East Gippsland Ports extract), notating the likelihoods for the categories A to E for Likelihood (Table 5.5), and the safety hazard consequence descriptors 1 to 5 for human injury (Table 5.3). It is shown as Table 3 below.

Table 3: Risk assessment matrix

	1-Insignificant First aid	2-Minor Medical treatment	3-Moderate Hospital	4-Major Brain damage or death	5-Catastrophic Multiple deaths
A > monthly	HIGH	HIGH	EXTREME	EXTREME	EXTREME
B > annually	MEDIUM	HIGH	HIGH	EXTREME	EXTREME
C > 5 yearly	LOW	MEDIUM	HIGH	EXTREME	EXTREME
D > 10 yearly	LOW	LOW	MEDIUM	HIGH	EXTREME
E > 100 yearly	LOW	LOW	MEDIUM	HIGH	HIGH

The risks assigned to the hazards identified by Pryor Knowledge are reproduced in Table 4 below. The Panel has grouped the hazards according to the schema adopted by Pryor Knowledge, and has deleted the results for Options 1 and 2, and the comments provided by Pryor Knowledge.

Table 4: Risks assessed by Pryor Knowledge

Hazard	Existing Ramp			Option 3		
	Likelihood	Consequence	Risk rating*	Likelihood	Consequence	Risk rating*
Approach and shoreline access						
Traffic congestion on Bastion Point Road leading to accidents	C	2	M	C	2	M
Car parking prevents seeing ramp activity and causes accidents	C	2	M	D	2	L
Sharp and potentially dangerous corner down onto beach	C	2	M	D	2	L
Variety of vehicles on shoreline and beach	C	2	M	D	2	L
Walkers and traffic using same parts of beach – includes walkers on Mallacoota Track	C	2	M	D	2	L
Ramp operations						
Existing ramp break up	D	2	L	N/A	N/A	N/A
Narrow channel	C	2	L†	D	2	L
Shallow water	A	2	H	D	2	L
Boats being retained while awaiting return of car driver	B	2	H	D	2	L
Boat propeller strikes someone in water	B	3	H	E	2	L
Waterway impacts						
Submerged hazard	B	4	E	E	4	H
Personal Flotation Devices	C	2	M	C	2	M
Swimmers	A	3	E	D	3	M
Surfers	A	3	E	B	3	H
Other recreational water sports	D	2	L	D	2	L
Shipping	D	3	M	D	3	H
Visibility	C	3	H	C	3	H
Speed limits	B	3	H	C	3	H
Sea conditions	C	5	E	C	5	E
Weather conditions	C	5	E	C	5	E
Tides	C	5	E	C	5	E
Bar Crossing	B	4	E	C	4	E

- * The Risk rating derives from the combination of Likelihood and Consequence, as set out in Table 4 above. L stands for Low, M for Medium, H for High and E for Extreme.
- ‡ The correct assignment of risk for this hazard (based on the quoted likelihood and consequences) is Medium, not Low as shown in the Pryor Knowledge Report.

The EES and the expert evidence provided at the Hearings did little to discuss the safety hazards to boat operators and passengers from boats exiting and entering the proposed facility.

The EES noted that *'the potential risks associated with a small or poorly equipped boats launching from the facility and experiencing difficulties when weather conditions change are inherent in all the options considered'*. The Pryor Knowledge Report assigns a risk rating of Extreme (C5) to Sea Conditions, Weather Conditions and Tides. There is some ambiguity whether the ratings apply to ocean conditions beyond the ramps, or to ramp operations.

4.3 Submissions

4.3.1 Approach and shoreline access

Traffic and parking including for vehicles and trailers (hazards to pedestrians)

The EES states that construction of the additional car and trailer parking is important in managing traffic movement and parking, but also to provide separation between the boat ramp and other beach traffic and pedestrians accessing the area.

Mr Rob Milner in his expert evidence relating to strategic planning said, in effect, that in its current form, the existing ramp is a safety hazard because the car parking area is insufficient and provides excessive opportunities for conflict between pedestrians and vehicles. He makes the point that car parking is evidently insufficient during peak times.

Mr Kevin Lott (Submission 244), a commercial fisherman from Mallacoota, commented that young children run out between cars on Bastion Point Road and there is *'no room to turn away due to the one car width or no room to see ahead'*. He said that he has seen near misses.

In his expert evidence on Master Planning, Mr Alan Wyatt described the existing boat ramp as being serviced by the Bastion Point Road and a small section of gravel road leading to the beach. Further he says that car parking in Bastion Point Road is informal and chaotic at busy times.

Mr Wyatt said that the proposed upper car park will facilitate circulation and parking of boat trailers; avoid trailers from reversing into oncoming traffic; separate vehicular and pedestrian movements and accommodate seasonal fluctuations in traffic.

Further, in Option LS1 pedestrian access will be separated from the road by a boardwalk traversing from the southern steps to the beach to the turning circle for the proposed ramp.

Vehicle and trailer manoeuvring at the ramp (hazards to pedestrians and boat operators)

The EES states that the current ramp is effectively not used other than for defining the location where launching takes place. Report B of the EES on Safety and Risk Issues considers that this highlights the hazardous situation existing in respect to current operations at the ramp by both professional and recreational fishers. This Report also considers that the ramp may be considered to constitute a workplace under the *Victorian Occupational Health and Safety Act 2004* for users of the present facility and beach users. This opinion would also no doubt relate to the topic of the next Section 4.3.2, that is boat launching and retrieval.

Mr Wyatt said that the existing boat ramp adjacent to the beach area creates conflicts, trailers reverse across road lanes and there is parking on the beach. The proposal LS1 provides a 4250 square metre car park and a 25 metre turning circle at the commencement of the boat ramp. This would allow for improved circulation of vehicles and trailers in the car park, encouraging better traffic flows along Bastion Point Road; and for more efficient circulation of vehicle and trailers in the process of boat launching and retrieval.

Mr Craig Ingram MP (HS 19) pointed out that the use of agricultural tractors for launching boats at the existing site is dangerous based on their use on farms where they are the third largest safety hazard.

4.3.2 Ramp operations

Boat launching and retrieval (hazards to boat operators and passengers, swimmers and surfers)

Concerning the safety hazards to boat operators and passengers on launching and retrieval at the present ramp, Mr Edgar and Mrs Johns (Submission 265) cite witnessing numerous near miss incidents such as people getting washed off the sides of their trailers while retrieving their

boats. Both submitters also describe safety hazards to swimmers and surfers when boats are exiting from or returning to the ramp.

In a letter to the then Premier, the Hon S Bracks (provided as Submission 211 from the Mallacoota Ocean Access Committee, Appendix 3, Letters of Complaint Facility Status Launch Retrieval Issues), Mrs Haugh describes how her husband had to wait close to the shoreline for retrieval behind 4 or 5 other boats. The water was quite choppy and her father-in-law tried to exit the boat to get the trailer. During this time, a wave came over the top of the boat and washed him overboard. Fortunately her husband saved him from being knocked unconscious by the boat and possibly drowned. He received injuries to his shoulder and both legs and at the time the letter was written (19 February 2007) he was still receiving physical therapy to his injured shoulder.

Another letter from Mr and Mrs Smethurst describes damage done to their boat while trying to get it back on the trailer. They also describe the difficulty of getting a disabled friend in and out of the boat, aggravated by the condition of the ramp. The letter states that they have watched a lot of people *'going through grief with their boats'* even though they believe they are experienced boat users like themselves.

Mr Shooter in Submission 38 said that sometimes there are 3 boats waiting at the existing ramp and behind the wave sets (swells) there can be a dozen boats waiting.

Gippsland Ports in its letter of 29 July 2008 to the Panel states that *'there are clearly operational safety issues associated with launching and retrieval from the ramp in its current form'*.

Some of the evidence to the Hearing emphasised that the slope of the existing ramp, 1:12³, does not meet the Australian Standard AS 3962 *'Guidelines for the Design of Marinas Section 7.2.3.3 Gradient'*.

The existing ramp, while in the lee of the rocky reef of Bastion Point, is more exposed to waves and has a slope of 1:12. It is located in an area used by pedestrians and swimmers. Submitter No 451 Mr Peter York said, *'I have also witnessed numerous near misses whilst employed by the local Abalone Fisherman's Co-op as tractor driver launching and retrieving boats at Bastion Point. Swimmers, surfers, boat operators and passengers are all in danger of serious injury if the current situation remains'*.

³ The 1:12 slope is given in Volume 2 - Appendices of the EES, Appendix 10, page 9

On the other hand, in Submission 421, Mr John Frazer, who retired in 1995 after 20 years employment at the Abalone Fisherman's Co-operative as the driver of its launch tractor put a different view. He carried out approximately 7000 launch/retrievals of abalone boats and said that the tractor has now carried out 18,000 plus launch/retrievals at Bastion Point with no accidents or incidents with the public without any signage or education of ramp users.

Ms Linette Treasure, a former councillor of the East Gippsland Shire during the time of much of the process of developing the proposal, comments (in Submission 304, page 4) that local memory claimed only 2 minor incidents over 15,000 launchings and retrievals. She says that the conditions of the present ramp act as a natural indication of safety at sea – *'if it's too difficult to launch, it's rough out there'* (this comment has relevance to Section 4.3.6 of this Report relating to Boat Safety in the Ocean).

Supporting this contention that the safety risks of launching and retrieval is low is Mr Tim Frazer, Mallacoota Board Riders Secretary. In HS 49 he commented that there have never been any accidents/deaths at Bastion Point or the existing boat ramp area in regard to this mixed zone since its construction.

To minimise safety hazards to swimmers and pedestrians in the vicinity of the existing ramp, a Special Use Zone was implemented by MSV (gazetted in December 2005). This was supported by Gippsland Ports, the Victorian Police and the EGSC, recognising the importance of the shared area for all users. The Special Use Zone was established to provide safe navigation for vessels and to provide separation between vessels and swimmers/surfers also wishing to use the area. The Zone is defined by shoreline boundary markers and extends seaward 300 m. It is identified by yellow triangles on the shoreline with orange discs on the tree-line.

The Zone allocates responsibilities to swimmers and surfers, and for vessel operators and these are displayed as two separate signs at the ramp area. One of the requirements for vessels is not to exceed 5 knots within 50 m of a swimmer/surfer within the zone. It was pointed out by Mr Ingram that to progress through sizeable swells, a boat has to exceed this speed to make a safe transit.

In its letter to the Panel dated 28 July 2008 (HS 104), Gippsland Ports said that, *'Despite a high level of community and user group awareness it appears from both anecdotal advice and observation that this zone is not very effective, although Gippsland Ports has only received one or two reported zone breach incidents'*.

The EES and the expert evidence submitted by Dr Riedel proposes that the new boat ramp would have two lanes for launching and retrieval purposes and the provision of a holding area to accommodate eight waiting boats (some needing to raft). In addition, the ramp and the excavated channel, which is designed to be 20 m wide, will be between a new 2.8 metre high breakwater (located on the south side of the boat ramp) and the existing rocks to the north. This design will provide 90% usability related to expected sea conditions with wave heights at the ramp equal to or less than 0.2 m.

Further, the new ramp will have a slope of 1:8 to conform to the Australian Standard AS 3962 '*Guidelines for the Design of Marinas Section 7.2.3.3 Gradient*' which specifies a desirable range of 1:9 to 1:7.

Launching and retrieval from the ramp at the new proposal will have no conflict with swimmers or surfers and should provide a safe experience for boat operators and passengers.

4.3.3 Waterway impacts

Boats exiting from the facility to the ocean (hazards to boat operators and passengers, swimmers and surfers)

As noted in Section 4.2 above, the EES and expert evidence supporting the proposal made little if any mention of the safety hazards to boat operators and passengers related to boats exiting and entering the facility from the ocean.

Many submitters described the expected safety hazard of boats exiting from the proposed facility by having to turn immediately after exiting into moderate to large swells and possibly into breaking waves. The submitters claimed that, if this manoeuvre is not made well, the boat would be side on to the swell and could be swamped throwing the operator and passengers into the sea.

A large proportion of these submissions were from experienced fishermen or from people whose jobs are closely associated with the conditions around Bastion Point. For example in Hearing Submission 32, Mr Symes who has worked as Light Station Caretaker on nearby Gabo Island and accessed the Island by boat from Bastion Point in many varied sea conditions, said that '*...the 2.4 metre high breakwall will prevent visibility on the ocean beyond the breakwall. Exiting in any swell is going to be damn right dangerous, departing a harbour broadside to oncoming waves blindfolded by a manmade rock barrier – what a frightful prospect*'.

Describing the concept of a minor upgrade to the existing ramp, Mr Symes said that the natural rock formations dissipate the swells but still allow good visibility which is imperative to be able to observe and calculate until you are safely beyond the break.

Mr Les Mason (Submission 354) stated with respect to it being '*...dangerous for boat operators entering and exiting the entrance of the boat harbour*' that this was the strongest point made by him and the Mallacoota Surf Riders during their discussions with EGSC and its consultants, including the designer of the 3 Options.

Mr Bruce Pascoe (Submission 79) who has worked on professional fishing boats, fishes around Gabo Island and uses the existing boat ramp said, '*I believe, along with many professional boat users in Mallacoota, that it is a recipe for disaster to encourage amateur boatmen to exit a ramp facility blind to the oncoming sea. An inexperienced sailor will panic when entering the sea broadside to oncoming waves which he hasn't been able to assess*'.

The Mallacoota Surf Life Saving Club (Submission 84) made the point that, even at the existing ramp where visibility of the oncoming swells is good, that boating accidents have occurred at the present site as a result of boats capsizing due to waves when entering and leaving the harbour. The submission comments that the Option 3 boat ramp would not have changed this potentially fatal situation as the exit to the harbour would still be inside the surf zone. In fact it would be potentially far more dangerous as the boat operator would have no ability to wait for any lulls in the (swell) sets.

Mr John Frazer (Submission 421) who drove the tractor launching boats at Bastion Point for seven years said that boaters leaving the 'safety' of the (proposed) ramp will be unable to see over the 2.8 m wall to judge the swell which stands up at Broken Board (the area of surf immediately outside the facility).

During his expert evidence on coastal processes, Dr Riedel, the designer of the concept for the proposed facility said that other open coast port launching areas in Victoria block vision of the sea leaving the protection of the breakwater, for example Portland, Warrnambool and Apollo Bay. However Mr Symes, a surfer, diver and fisherman, in his Submission 326 said that he had spoken to an Apollo Bay commercial fisherman who is vehemently opposed to locations exposed to large south and easterly seas (like Mallacoota). This professional fisherman had said that Apollo Bay had claimed numerous lives including experienced and capable fishermen.

Dr Riedel while giving evidence to the Hearing said that it was necessary to judge the run on exit (to make a safe exit) but that '*...a lot aren't that good*'.

On entering the facility he said that it would be necessary to '*...gun it in and stop inside the shelter*'.

Mr Bob Shooter (Submission 38) the previous owner/operator of the MV Loch Ard which operates a tourist boating service on the lakes described safety hazards relating to the existing ramp both after launching and returning from the ocean: 'Came over the top of a wave going seaward, on the other side was a surfboard rider 2-3 m away – a very frightening experience for both of us. The incident was reported to the Police'.

Another submitter, Briony Wood-Ingram (Submission 63) made a verbal presentation to the Hearing, and presented a different view of the incident. She told the Panel that she had witnessed the incident involving two surfers and the boat, and did not believe it represented an example of the intrinsic risk of the wave conditions.

Mr Kevin Lott (Submission 244) described close calls with swimmers in summer and the fact that 'one young lad is lucky to be alive as he was missed by inches when he was on the downside of the wave and popped out and bounced off the side of the boat'. Mr Lott said he did not know of the incident until someone on the beach told him.

These reports of incidents are at variance to the general thrust of submissions set out in Section 4.3.3 above that there had been few accidents at the existing boat ramp area since the introduction of the Special Use Zone.

Boat entering the facility from the ocean (hazards to boat operators and passengers, swimmers and surfers)

While the safety hazards are similar on entry, returning boats have to do a 90 degree left hand turn from the line of the swell to the ramp.

Mr Allan, with professional fishing experience and long local knowledge working from the Bastion Point boat ramp in the Abalone industry, commented that entry to the proposed development will be more dangerous. He said that the entry being 20 m wide, however clearly marked, will be difficult to find in strong winds or heavy swell. It will be necessary to execute a 90 degree turn across the prevailing swell direction – a dangerous manoeuvre, especially for those who do not have the knowledge and experience of professional fishermen.

Mr Perry, Harbour Master for the Ports of Melbourne, Port Phillip and all ports eastward to Mallacoota until 1988 (HS 107), made the point that there can be serious risk to small craft from breaking seas outside the end of the proposed breakwater. He said that inward bound craft will probably need to

be at speed to outrun breaking waves (or out of habit) and will then turn hard left in a most hazardous situation in order to enter a narrow 20 metre wide rock and reef channel. Until the last moment they will be unable to see a craft outward bound or craft awaiting retrieval, if there was congestion. Further he noted that any disabled craft and crew are likely to be thrown onto the rocks. Mr Perry provided a photograph of an experienced skipper waiting outside the line of the swells (he estimated 2-3 m) to pick the best time to come in, saying that sometimes 10 to 15 minutes will be spent doing this.

Mr Watts (Submission 50) said that the existing ramp allows boats in trouble to end up on the beach whereas at the proposed new facility boats in trouble would end up on the rocks.

Regarding the situation of a large number of returning boats coming in from rough seas and possible congestion in the channel, some submitters said this would be dangerous. Dr Riedel, however, gave evidence that the facility can readily accommodate 8 waiting boats with the balance of the channel area being available for boats coming in.

The safety hazards to swimmers and surfers on entry to the existing and proposed facility are similar to that described in the previous Section 4.3.4.

Boat safety in the ocean (hazards to boat operators and passengers)

Mr op den Brouw in his Submission 310 said that the claim that the proposed facility will provide safe ocean access is disingenuous. He commented that boaters attracted to Mallacoota by these claims will be sorely disappointed or attempt to use the facility in inappropriate conditions. Further he said that the result will be an exponential growth in boating incidents with a subsequent strain on limited local rescue resources (see later in this Section) and great risk and anguish for local rescuers. It would only be a matter of time before a major incident occurs and this would likely result in multiple fatalities.

Mr op den Brouw, who was Caretaker on Gabo Island at the time, also described the number of occasions that he has assisted small boat owners, usually as a result of poor decision making and experience. For example he describes a sudden increase in wind strength from the south west which sent five recreational fishing boats scurrying for shelter at Gabo Island. The small boats were not able to cope with the sudden change in conditions. In all the cases described, the weather forecasts had predicted the wind strength and sea state on local and regional radio stations.

Victorian Office of the Bureau of Meteorology Wind Roses (part of Submission 12) show the direction and strength of wind for Gabo Island Lighthouse (about 15 kilometres from Mallacoota) taken at 9:00 AM and 3:00 PM for the months of November to February (the busy season for amateur boaters). Over this period the mean wind strength was approximately 25 knots in the morning and over 30 knots in the afternoon. These wind strengths produce moderate to rough seas.

Mr Watts (HS 50) said, *'I believe that the limitations of the current ramp have, in fact, historically proved very advantageous in its safe operating record. In effect the ramp and the weather/ocean conditions have dictated the ramp's useability. There seems little doubt that the current proposal would make launching far more attractive to a greater number of the boating public and consequently the potential for accidents to dramatically increase'*.

Mr Perry (HS 107) commented that the proponent appears to take it for granted that usage of the facility will be self regulating in unsafe conditions. He said that many more inexperienced operators will be drawn to the facility increasing the likelihood of accidents.

In his Submission 267, Mr Allan said that the best amateur fishing grounds are to the north-east of Bastion Point in the direction of Gabo Island. The most damaging winds are the 'southerly busters' coming from the opposite direction. These occur regularly during the warmer months and peak holiday time. It will be the less experienced boater, family and friends, who will be deceived by the clear skies and calm water (inside the ramp) only to be caught by the conditions, which can change in minutes. He said that *'The necessary return to Bastion Point would be challenging and dangerous. Providing easier access, thus encouraging inexperienced boaters, will lead to loss of life'*.

Availability of rescue services

MSV's letter to the Panel dated 28 July, 2008 (HS 105) did not comment directly on the safety hazards relating to the use of the proposed facility or while boats are at sea but said that a number of issues need to be taken into account before an accurate assessment of risk can proceed:

1. The availability of an adequate search and rescue service in the area to service the ocean access point.
2. The proximity of any refuge or safe harbour in the area in case of an emergency.
3. Any competing use for the area proposed for the ocean access point.

Further, MSV commented that any new facility, particularly in coastal areas, should be designed and constructed in a manner that allows for an adequate level of usability in all weather conditions.

Although the design of the proposed boat ramp is to provide 90% usability, the information provided by submitters experienced in managing boats at the ramp (see Sections 4.3.4 and 4.3.5) questions this level of usability based on the difficulty of exiting and entering the facility in moderate to heavy seas.

With respect to point 1 from the MSV letter, the following information was received by the Panel.

Mallacoota Coast Guard has ceased operations at Bastion Point (Submission 248 from Australian Volunteer Coast Guard Association) and for it to continue to have a presence, it is crucial to have continued ocean access at all times. Without the redevelopment of Mallacoota it cannot guarantee Coast Guard response should an emergency arise. In Submission 189, the Mallacoota Coast Guard provided statistics for one year at Mallacoota, which are typical of the last 7 years, for 24 incidents, such as Mayday, PAN PAN⁴, out of fuel, breakdown, medical, etc.

Mr Allison President of the Mallacoota Surf Lifesaving Club, in Submission 84, said that they have two boats capable of rescue: a larger 'zodiac' launched behind a vehicle at the ramp and a smaller one launched from the beach. For major rescues a helicopter could be used or larger boats from the SES or the Police.

Mr Allan, Submission 267, said that the Surf Lifesaving Club has recently been presented with a 'rescue boat', larger than the existing one. However the size and power of the craft is inadequate to safely negotiate rescues offshore and the volunteer pool is limited especially in this role with the specialised skills required to prevent tragedy.

Gippsland Coastal Board (Submission 367) said that, if the usability of the existing facility is dramatically increased, the need for ocean rescue and enforcement activities will (need to) show a corresponding increase. The Board made this statement in the context of its advice that none of the proposed options should proceed, and further investigation of a 'minimal upgrade' of the existing facility should be undertaken.

Yachting Victoria (Submission 341) wrote that it supports the proposed ramp because it would be valuable in emergency circumstances and in particular a

⁴ Low level distress calls to the Coast Guard

medical emergency on board a passing boat. The Association said that it would also provide safe access for many of our club's members who holiday in Mallacoota with their boats.

4.3.4 Miscellaneous Safety Hazards

Operation of dredge

In his evidence to the Hearing (HS 100), Dr Riedel described a type of floating suction dredge suitable for removing sand from the channel of the proposed facility. They operate with their own anchor and winching system and would not require fixed cables as was indicated for the system in the EES. These cables were seen by Submitters to be a hazard to boats using the channel in the proposed facility.

Dr Riedel said that he expected the operation regime for the dredge would be a weekly cycle if the operator has deemed that there has been enough siltation to warrant dredging. He postulated dredging for a 6 hour day, once per week. This operation would present some safety hazards to boat operators, vehicles and pedestrians.

No safety hazard assessment for the dredge and related operations was provided to the Panel since the proposal was made towards the end of the Hearings. It is expected that a safety management plan that provides a responsible outcome could be developed and implemented for this hazard.

Disposal of dredged sand and seaweed

In his evidence, Dr Riedel described the possibility of sand disposal via a pipeline under the breakwater and beach road, with outlets to the Cove and the main beach. A safety management plan for hazards related to the disposal of sand and seaweed from the proposed facility would be needed.

HS 12 from SBPC on Safety and Risk Issues included a letter and report from Mr Garry Ball (Occupational Health and Safety Coordinator of the EGSC), who assessed the compliance by the Shire's sand removal contractors with OHS standards. In the report of his inspection of the sand removal at Bastion Point boat ramp, Mr Ball stated that traffic control is more than adequate and that overall the OHS management of this site is acceptable. In a separate letter to Mr Leo op den Brouw, Mr Ball advised that stockpiling of up to 30 m³ of sand would be a risk to children, and that he would advise the contractor that a smaller amount may only be stockpiled.

Some concerns were also expressed by submitters about the hazards to children of high piles of sand left on the beach from sand dredging of the existing ramp.

4.4 Discussion

4.4.1 The Panel's approach to assessing risk

The Panel has reviewed the risk ratings reported in the EES, taking into account the findings of the EES, the submissions made, and applying the Panel's judgement to these issues, noting that the Panel members have extensive personal experience in boating and risk assessment.

With regard to ramp operations and waterway impacts, the Panel has referred to risk ratings for Option 3, noting that the same configuration of ramp and breakwater applies for Options 3b and LS1 as for Option 3.

4.4.2 Approach and shoreline access

Traffic and parking including for vehicles and trailers (hazards to pedestrians)

The existing ramp is considered to have a 'medium' risk rating for traffic and parking. Generally Option 3 provides a Low (D2) safety risk⁵, except for 'traffic congestion on the Bastion Point Road, leading to accidents' where the risk is rated at Medium (C2).

The Panel supports these findings of Pryor Knowledge, and notes that improvement to the parking provision could be implemented independently from the upgrade Options. Option LS1, which was not considered in the EES, provides improved and expanded traffic control and parking arrangements designed by suitably qualified consultants.

The Panel also notes that the demand for parking has not been established by any systematic counting at the existing parking area but has relied on anecdotal information. The photos provided by the proponent showing vehicles parked along the road at peak times do not immediately suggest that this is poor practice although the EES and two submitters thought otherwise. In fact, if additional parking is required at the expense of significant native vegetation removal, there is every reason to be cautious about trying to completely satisfy demand.

⁵ See Table 4 in Section 4.2 above.

If parking improvements similar to those shown in Option LS1 are provided in the future, further consideration should be given to the quantum of parking, and to using a staged approach.

Vehicle and trailer and boat manoeuvring at the ramp (hazards to pedestrians and boat operators)

While no history of any incident or accident associated with vehicular manoeuvring at the existing ramp was submitted to the Panel, its proximity to other users, and the lack of any management presence at peak times, the Panel agrees with the Pryor Knowledge safety risk rating of the Do nothing Option as Medium (C2).

The upgrade Options contain improved facilities for vehicle and trailer movement, and for boat manoeuvring at the ramp. By separating vehicular activity from the other recreational activities at the existing ramp location, they provide a 'low' safety risk to pedestrians and boat operators.

The Panel's evaluation of the options is shown in Table 5.

Table 5: Option evaluation – approach and shoreline access

Issue	Do nothing	Option 3	Option 3b	Option LS1
Approach and shoreline access	B	A	A	A

4.4.3 Ramp operations

Boat launching and retrieval (hazards to boat operators and passengers, swimmers and surfers)

Safety hazards to boat operators and passengers

The Pryor Knowledge Report, in assigning the Sea Conditions an Extreme Risk rating, did not make clear whether as well as applying to the open ocean, it also applied to the existing ramp. With respect to this hazard, the comment 'Open to ocean swell which is a regular aspect of coastal water' was made, on the listing on page 16 relating to the existing ramp.

The Panel has considered this aspect of the existing ramp and the fact that the existing ramp is in a cove sheltered from low to moderate seas from the south by the inter-tidal reef. Conditions unsuitable for boat launching have been assessed to exist for 75% of the time, although at least one experienced boat operator has used the ramp for a much greater proportion of the year. During times when sea conditions pose an extreme risk, it is quite obvious to

potential users that it would be dangerous to attempt to use the facility. The absence of any record of serious injury in such circumstances confirms that the risk of sea conditions at the existing ramp is not 'Extreme' due to this self regulating nature of ramp use.

Some of the evidence to the Hearing emphasised that the slope of the existing ramp, 1:12⁶, does not meet the Australian Standard AS 3962 '*Guidelines for the Design of Marinas*' Section 7.2.3.3 - Gradient. The Panel considers that this Standard does not apply well to ocean boat ramps and provides guidelines only, not specifications.

The Pryor Knowledge assessment of risks also considers the bar crossing, and assigns a rating of Extreme (B4) to the existing ramp. With respect to the presence of a 'bombie' (an underwater rock outcrop) out from the existing ramp, the rating given by Pryor Knowledge is again Extreme (B4). The Panel believes the risk level is overstated in both cases, given the absence of any reported serious accidents, and assigns a rating of High (B2) to these hazards.

In other respects the Panel agrees with the assessment by Pryor Knowledge that the risks are generally High (A2-B3).

Option 3 with the ramp being protected by the breakwater allowing waves of no more than 0.2 m; having two lanes and an incline of 1:8 to improve launching and retrieval; with a finger jetty to allow passengers safe access; and with facilities to accommodate up to 8 waiting boats; has been assessed by Pryor Knowledge as having a Low (A-C 2) rating. Pryor Knowledge rates the risk from shallow water at the ramp as Low (D2) and from submerged hazards as High (E4). The Panel agrees with these ratings.

Overall Option 3 will significantly improve the safety of the ramp operations, that is, the actual launching and retrieval of boats on and off trailers.

Safety hazards to swimmers and surfers

The Pryor Knowledge Report does not separate the risk rating for swimmers and surfers into the two distinct areas of Ramp operations and Waterway impacts. The Panel has undertaken that separation. There is a potentially significant hazard at the existing ramp for swimmers and surfers, albeit now managed by a Special Use Zone which attempts to separate boats from swimmers and surfers. The actual safety record of the existing ramp over 30-40 years indicates that an extreme risk rating is mitigated in practice. The Panel therefore considers the safety risk at the existing ramp operations to be Medium (C2).

⁶ The 1:12 slope is given in Volume 2 - Appendices of the EES, Appendix 10, page 9

There would be no safety hazards to swimmers and surfers during boat launching and retrieval at Option 3 so the risk is rated as Low (E1).

The Panel's evaluation of the options is shown in Table 6.

Table 6: Option evaluation – ramp operations

Issue	Do nothing	Option 3	Option 3b	Option LS1
Ramp operations	C	B	B	B

4.4.4 Waterway impacts

Boat exiting from the facility to the ocean (hazards to boat operators and passengers, swimmers and surfers)

Boats exiting from the existing facility have good vision of the swells because there is no breakwater to obscure the view. However there has been at least one report of a boat capsizing due to the swells (See Section 4.5) but there has been no serious injury or loss of life.

Boats returning to the existing ramp have more time to make their turn parallel to the swells but here have been some reports of boats capsizing due to the swells but there has been no loss of life. However, boats that capsize returning to the existing ramp will founder on the beach and the consequences for the boat operator and passengers are not likely to be catastrophic, noting that during the peak boating time over late December and January, the Mallacoota Surf Lifesaving Club have two rescue boats in service. Given the single report of a boat overturning during the 30-40 years of operation at the existing ramp, the level of safety risk is considered to be 'High' (D4).

The EES and the expert evidence provided at the Hearing did little to discuss the safety hazards to boat operators and passengers from boats exiting and entering the proposed facility. This is surprising given that, as noted above in Section 4.3.3 Mr Les Mason said that this was the strongest point made by him and the Mallacoota Surf Riders during their discussions with EGSC and its consultants, including the designer of the 3 Options.

Additionally, the hazards identified at stakeholder discussions (see Section 1.1 of the Pryor Knowledge Safety and Risk Issues Report) identify two particularly relevant hazards, as follows:

- *Presently, boats depart from the existing ramp facing the sea. Whereas this will not be the case under options 2 and 3;*

- *Options 2 and 3 will see people and boats rolling onto rocks if they turn over, whereas it is only sand for Option 1 (and at the existing ramp –comment by Panel).*

The Pryor Knowledge assessment does not include the hazard resulting from not being able to see the incoming sets which are obscured by the breakwater, the problem of leaving the breakwater side on to the incoming waves, and the problems of returning, when boats must make a sharp turn and access a narrow channel. In this last case, errors could result in overturning, and striking the inter-tidal reef.

The overwhelming weight of information provided to the Panel was the high likelihood of a boat capsizing due to impact of side-on, moderate to large swells when exiting Option 3 and that the consequences for the operator and passengers thrown out of the boat, such as drowning, could be either major or catastrophic.

Similar to the situation of boats exiting Option 3, the overwhelming weight of information provided to the Panel is the high likelihood of a boat capsizing due to the impact of side-on moderate to large swells when entering the proposed facility. This capsizing could result in the boat hitting the breakwater or the rocks on the other side of the channel causing passengers to be thrown out of the boat with catastrophic consequences.

A further hazard is the possibility of a returning boat misjudging its entry into the 20 metre wide slot of the proposed boat ramp, and striking the intertidal reef. At the existing boat ramp, there can be also be a sand bar but boats have more room to manoeuvre to avoid it.

As discussed further in Chapter 5, a bar may also form across the entrance to the channel of the new facility, making sea conditions more unpredictable and navigation more difficult.

The Panel believes that the hazard of boats entering and leaving the ramp area protected by the breakwater at Option 3 must be rated as A5 (Extreme). The Panel has little doubt that the risks to inexperienced users in difficult sea conditions would indeed be at the upper level of Extreme. The Panel considers that this particular hazard is one of the two that differentiate the existing ramp from Option 3 by introducing a level of risk that is unacceptable.

Hazards to swimmers and surfers at the existing ramp entail both the area where boats are launched, and the route that they take to access open water. Credible information was provided to the Panel that there have been some incidents and near misses. On the other hand, there is little systematic record

available as to the number of incidents or the consequences. To try to overcome this safety risk the Special Use Zone to separate boats from swimmers and surfers was introduced. This may have the potential to reduce the number of incidents but in the absence of a management regime to oversee its implementation, the risk would not appear to be greatly reduced. While Pryor Knowledge has assessed these risks as Extreme (A3), the Panel is concerned that the potential consequences could involve brain injury or death, making the assessment Extreme (A4). Again the accident history over 40 years suggests that while there is the potential for serious accidents, they have not actually eventuated, indicating that a rating of High (D4) would better accord with the historical data for this hazard.

Option 3 will separate swimmers from boats and the likelihood of boats hitting swimmers is unlikely. However the possibility of hitting surfers while making the right hand turn at the exit exists. With regard to Option 3, the Panel notes the rating given by Pryor Knowledge – Medium (D3) for swimmers, High (B3) for surfers.

The Panel has some concern that the likely severity of injury is only rated at 3 by Pryor Knowledge, when a collision between a boat and a swimmer or surfer could well result in major brain damage or death. However Pryor Knowledge has been consistent in applying a Consequence level of 3 to injuries to swimmers and surfers at both the existing ramp and Option 3. In view of this (and the fact that increasing the Consequence level would not further differentiate the options), the Panel has not departed from the rating provided by Pryor Knowledge.

Overall the risk to swimmers is improved by the separation at the ramp for Option 3 to Medium (D3), while the risk to surfers remains High (B3).

Boat safety in the ocean (hazards to boat operators and passengers)

As noted in Section 4.2 above, the EES does not differentiate between the existing situation and the proposals concerning the degree of risk that small boats will be exposed to in the ocean, both situations being accorded a rating of Extreme (C5).

The overwhelming weight of information received during the Panel is that the Option 3 is likely to lead to more inexperienced boat operators putting to sea in unsuitable conditions. They may be lulled into a false sense of security behind the breakwater and then experience the frequent moderate to high winds and confused seas experienced particularly in this part of the ocean, leading to catastrophic loss of life from drowning. This is particularly so given that there are unsuitable rescue boats available for this type of ocean rescue at Mallacoota.

While the same consequence is present for boat operators and their passengers putting to sea from the existing facility, there is a much greater opportunity for the boat operator to observe the state of the ocean from the unimpeded view from the launch site (the beach). In addition, the Panel believes that the difficulty of launching from the existing ramp in moderate to rough seas dissuades many inexperienced boat operators from using the ramp. No reported drownings from boats using the existing ramp were brought to the Panel's attention. For these reasons, the Panel considers that the level of risk reported by Pryor Knowledge resulting from use of the Existing ramp is overstated (Extreme (C5)), and the Panel assigns a rating of Extreme (D5). The Panel considers that the level of risk reported for Option 3 is considerably understated, and the Panel assigns a rating of Extreme (B5).

Overall, the Panel believes the risk of catastrophic accidents in the open ocean would be significantly increased if Option 3 was implemented. This is the second area where the Panel has differed in its assessment of risk to the assessment provided by Pryor Knowledge, and where the Panel believes that Option 3 introduces an unacceptable risk.

The new facility as a safe haven for yachts

The Panel noted that the design of the depth of the channel in the proposed facility is only 1 m at low tide which is unsuitable for the great majority of keel yachts. Trailer sailers with swing or drop keels may be able to launch or be retrieved in appropriate conditions. However these craft are generally low powered under motor and it would be very difficult and dangerous to pilot such a craft into the channel at the facility under heavy wind and swell conditions under sail or power.

The Panel's evaluation of the options is shown in Table 7.

Table 7: Option evaluation – Waterway impacts

Issue	Do nothing	Option 3	Option 3b	Option LS1
Waterway impacts	B	C	C	C

4.4.5 Miscellaneous Safety Hazards

The Panel considers that hazards arising from dredging, disposal of sand and disposal of weed are not sufficiently significant to warrant further discussion. The impacts will be allowed for, to the extent practicable, in the economic impacts section.

4.5 Conclusions

The Panel's considered opinion of the risks likely to result from the operation of the existing ramp and Option 3 (noting that Options 3b and LS1 have a similar risk profile to Option 3) are as set out in the summary below in Table 8.

Table 8: Summary of risks

Location	Hazard	Risk Existing Ramp	Risk Option 3
Approach and shoreline access	Overall	Medium: (C2)	Generally Low: (D2)
Ramp operations	Boat operators and passengers	Panel: High (A2-B3) PK: High (B2)	Low (A-C 2)
	Shallow water and submerged hazard	Panel High (B2) PK Extreme (B4)	Low (D2) & High (E4)
	Swimmers and Surfers	Medium (C2) PK no assessment	Low (E1) PK no assessment
Waterway impacts	Boats entering or returning	High (D4) PK no assessment	Extreme (A5) PK no assessment
	Swimmers	High (D4) PK Extreme (A3)	Medium (D3)
	Surfers	High (D4)	High (B3)
	Boat safety in the ocean	Panel: Extreme (D5) PK: Extreme (C5)	Panel Extreme (B5) PK Extreme (C5)

Having documented, in a few cases, the reasons for varying the rating assigned by Pryor Knowledge, and for providing a rating in other cases not addressed by Pryor Knowledge, the following is the Panel's conclusion of the ratings for the various hazards:

- With regard to 'Approach and shoreline access' Option 3 offers clear advantages over the existing ramp, through better arrangements for parking and less potential conflict between users on the beach.
- With regard to 'Ramp operations' Option 3 offers clear advantages over the existing ramp, through safer arrangements for launching and retrieving boats, and by providing deeper water.
- With regards to 'Waterway impacts' Option 3 offers clear advantages over the existing ramp for swimmers, but increases the risks for boats entering and returning to the ramp, and for boat safety in the ocean.

The Panel has given great weight to the very serious consequences of encouraging inexperienced boat users to put to sea in what they may believe to be safe conditions behind the breakwater, only to find that, at the end of it

they must negotiate side-on waves that threaten to capsize them. Having made it the ocean, conditions are quite likely to arise that are beyond their experience. On preparing to return to the ramp, in even moderate conditions, they will have to pick a spot between two waves, run in at speed, and turn suddenly into a narrow 20 m slot. Failure could well result in capsizing, or running onto the rocks with catastrophic results.

The reduced safety risks of the proposals relating to traffic and parking and manoeuvring at the ramp cannot be compared to the potentially catastrophic outcomes of exiting and entering the proposed upgrade and the additional numbers of inexperienced boat operators entering the ocean, given the relatively good safety record of the existing ramp.

The Panel finds that while the advantages for safety arising from Option 3 are considerable, they are more than offset by the unacceptable risks introduced by Option 3. These unacceptable risks are firstly to boats entering and leaving the ramp in a confined space bounded by the intertidal reef on one side and the breakwater on the other, in the presence of breaking waves side on to the direction of travel of the boat; and secondly through Option 3 being attractive to inexperienced boaters and leading them to put to sea in conditions that are, or may become, dangerous.

In relation to the specific efficiency and safety hazards covered in this Chapter, Table 9 shows the Panel's considered opinion of the degree to which the Options satisfy Evaluation Objective 1: *To provide efficient, safe infrastructure for the launching and retrieval of commercial and recreational boats under all-tides at Mallacoota.*

Table 9: Option evaluation – efficiency and safety components

Issue	Do nothing	Option 3	Option 3b	Option LS1
Efficiency	B	A	A	A
Approach and shoreline access	B	A	A	A
Ramp operations	C	B	B	B
Waterway impacts	B	C	C	C

The overall assessment for the options is shown in Table 10.

Table 10: Rating of options against Evaluation Objective 1

Issue	Do nothing	Option 3	Option 3b	Option LS1
Overall evaluation for Objective 1	B	C	C	C

5. Coastal processes

Evaluation objective 2: To avoid significant interference with coastal processes related to patterns of wave formation and sediment movement affecting Mallacoota Inlet and nearby beaches.

This chapter addresses the issues around the physical impact of the breakwater structure and coastal road proposed in Options 3, 3b and LS1 on the marine and coastal environment.

5.1 The issues

- Effect on wave formation;
- Potential changes to sand movement patterns;
- Effect of sand movement on boat ramp and viability of sand removal; and
- Levels of certainty regarding effects on coastal processes.

5.2 Background

5.2.1 Sediment movement in the general area

Coastal processes were addressed in Chapter 5 of the EES and in the Coastal Processes Study specialist report prepared by Coastal Engineering Solutions Pty Ltd (CES) and included in Volume 3 Part 1 of the EES.

Dr Peter Riedel prepared an expert witness statement on behalf of East Gippsland Shire Council (EGSC) and a series of overheads for presentation to the Panel. Dr Riedel has been involved in the project since the late 1990s, developing various options in response to requests from EGSC and the Department of Sustainability and Environment (DSE).

The coastal processes study itself was prepared from 2004-2007 using the following procedure:

- Review of existing data;
- Site inspections (land, sea and air);
- Historical record from aerial photographs; and
- Computer based coastal process modelling.

The computer modelling undertaken by Dr Riedel uses his own proprietary software. Swell wave data is purchased from a third party and used as a model input.

Dr Riedel undertook his own bathymetric measurements of the area between Bastion Point and Tullaburnga Island as the available data was insufficient for his purposes.

The model was verified using data from wave rider buoys at Eden (30 years data) and Lakes Entrance (1 year data) and a modified wind data set from the Gabo Island lighthouse to hindcast local sea conditions. This tests whether modelled conditions are similar to actual recorded conditions.

Following the development and verification of the model, the model was then run using the input of sediment with characteristics similar to that found on Mallacoota beaches to determine the likely movement of sand in the area.

During his presentation, Dr Riedel stressed that he uses computer modelling as a verification tool to confirm his visual observations rather than vice versa. He commented that he often undertakes modelling '*because the authorities require him to*'. Dr Riedel stated in the Hearing that his modelling results have an accuracy of +/- 25%, which he considered good for the field.

A summary of Dr Riedel's coastal processes studies can be found on pages 10-11 of his expert witness report. Dr Riedel's key findings included:

- the tidal range at Mallacoota is small and has little effect on sand movement at Bastion Point;
- currents from Mallacoota inlet would rarely take sand as far Bastion Point;
- sand movement along Mallacoota Beach between Bastion Point and Gabo Island is due to waves and whilst approximately 175,000 m³ of sand moves back and forth along the beach there is zero net movement⁷;
- the area above is a 'sand sink' with the dunes behind Mallacoota Beach removing about 50,000 m³ of sand from the marine environment each year;
- the sand at the Bastion Point boat ramp is independent of the location and condition of the inlet entrance and is controlled by the local wave climate, accreting in mild to moderate wave conditions and eroding in storm conditions; and

⁷ Dr Riedel also gave evidence that this situation also occurs at Betka Beach which is south west of Bastion Point.

- sand movement along the Bastion Point coast is from south to north.

In the Hearing Dr Riedel made a number of other points including that there is a small amount of sand leakage northwards around Bastion Point from Betka Beach, but that this sand movement can not be modelled because of the rocky shoreline of Bastion Point.

Dr Riedel's position in the EES and the Hearing was that this amount of sand can not be accurately calculated and the best practical way to measure longshore drift in this location would be to develop a 'trial breakwater' to simulate the effect of the proposed breakwater.

In the absence of such a proposal Dr Riedel suggested that, based on his experience and observations of the site, he would estimate that the longshore drift from south to north along Bastion Point is in the order of a few tens of thousands of cubic metres a year.

5.2.2 Boat ramp siltation

Dr Riedel advised that the proposed breakwater in Option 3 will intercept this sand, causing the boating channel to silt up. In recognition of this, Dr Riedel developed a conceptual dredging proposal that was exhibited in the EES. This information was superseded during the Hearing in a document titled 'Mallacoota Maintenance Dredging' tabled by Dr Riedel (HS 100).

The conclusions in this document were that:

- the storage capacity of the boat channel is about 1500 m³ of sand. If this channel filled in a storm it may take 2-3 days (12 hours/day) of dredging to clear it;
- Dr Riedel would expect the dredge to normally operate on a weekly cycle (6 hours once per week) to remove 12,500 m³ – 20,000 m³ of sand per year for approximately \$50,000 with minimal impact on the facility operation;
- siltation rates of 30,000 m³ – 50,000 m³ per year would require 2 to 3 days dredging per week which could be undertaken with the boat ramp in use;
- siltation greater than 50,000 m³ per year would likely make both dredging operations and ramp use unviable; and
- Dr Riedel expects siltation would not be greater than 10,000 m³ – 20,000 m³ per year.

Under the maintenance dredging, spoil would be pumped north to the vicinity of the existing boat ramp. During further discussion on this matter, Dr Riedel stated that he envisaged there being fixed piping below the

breakwater and under the beach road, with outlets at both the existing boat ramp area and further north. He advised that this is likely to be clean sand lacking organic matter so should not result in odours from anaerobic decomposition.

In response to questions at the Hearing, Dr Riedel stated that siltation in the boating channel of Option 3, under normal conditions, would likely occur at the mouth of the channel, effectively creating a bar. This situation presently occurs at the existing ramp under some conditions (for example see Slide 42 of the EGSC opening submission).

5.2.3 Surfing and waves

In relation to impacts on wave formation and surfing, the EES in the CES report concludes that Option 3 may impact on the 'Broken Board' surf break by placing surfers and boaters in conflict. However, given that the Broken Board surf break operates in heavier conditions, the potential for conflict may be reduced as fewer boats will be launching and retrieving under these conditions.

In the Hearing, Dr Riedel also suggested that approximately 30% of the wave energy hitting the breakwater may be reflected which would influence wave formation and behaviour in the vicinity of the breakwater. The exact effect of this on the 'surfability' of waves in the vicinity has not been determined.

5.2.4 The coastal road

The coastal road proposal (identified in this report in the 3b and LS1 options) leading from the existing car park along the beach to the new boat ramp was not considered in Dr Riedel's original investigations.

In the Hearing Dr Riedel viewed the LS1 options and commented as follows:

- the road along the beach would need to be protected with rock armour or similar but this was feasible;
- if carefully designed the beach road and its protective structures should not have a significant negative impact on the local environment; and
- the road level would need to be carefully designed in relation to storm events.

Reference is made in Section 7.5.4 to the use of sheet piling at the face of the bank, to avoid the use of rip-rap. Dr Riedel advised that sheet piling is not favoured as it reflects wave energy, rather than absorbing the energy as rip-rap does.

5.2.5 Climate change

Whilst acknowledging that climate change is a significant issue, the approach taken in the EES is that the structures (the boat ramp, breakwater and the road along the beach in Options 3b and LS1) need to be designed for today's conditions. If sea level rise, increased storm surge or more frequent storms occur in future, then the structure can be modified as necessary.

For example, Dr Riedel in his presentation stated that if there is a higher storm surge in future, additional rock could be added to the breakwater to make it higher and the initial design should take this into account. However he added that he did not consider that this was likely to be needed in the 50 year design life of the breakwater.

5.3 Submissions and evidence

Coastal processes were raised by a number of submitters in relation to sediment movement in the general area, siltation at the proposed boat ramp and the impact on surfing via altered coastal processes.

The Panel was drawn to two submissions in particular in relation to coastal processes, those of Mr Rod Thomas (Submission 54) and Mr Michael Perry (Submission 462). Both submitters have skills in coastal engineering and considerable experience in the waters of East Gippsland.

Mr Thomas indicated he had no particular position on an improved ocean access boat ramp at Mallacoota, but that he had concerns in relation to the modelling work undertaken for the project. In essence Mr Thomas considered that based on previous studies in East Gippsland he considered that the modelling may be incorrect by nearly an order of magnitude.

Mr Thomas submitted that the length of time for data collection was too short and that annual variations can distort the overall results.

He submitted that if correct, this would mean the volume of sand moving past the proposal, and hence subject to entrapment, may be substantially greater than envisaged in the EES with consequent negative impacts on facility operation and annual dredging costs of probably four times that envisaged in the EES.

Mr Perry also commented that he thought five years of data collection was inadequate and there were other issues with the modelling related to the use of a particular formula. He also concluded that the modelling results for sediment transport were an order of magnitude lower than his previous experience at Lakes Entrance would suggest.

Mr Perry also suggested that the economic model for dredging was flawed and a number of other issues around dredging had not been considered including amenity impacts and kelp build up.

The Save Bastion Point Campaign (SBPC) called Dr Wayne Stephenson from the University of Melbourne to give evidence on coastal processes. Dr Stephenson was critical of a number of aspects of Dr Riedel's work including wave hindcasting, the shortness of the five year data collection period and particular elements of the use of the Queen's formula to calculate sediment transport rates.

Under cross examination, Dr Stephenson admitted that he had not directly undertaken sediment transport modelling himself and that his knowledge was based on a theoretical understanding.

Dr Stephenson also expressed concern, that based on the data in the EES related to sand movement, that the level of sand build up behind the breakwater in Option 2 or 3 may be significantly higher than that predicted by Dr Riedel. He also submitted that the road along the beach as shown in Options 3a and 3b may be problematic and may both affect coastal stability in the area and put the road itself at risk.

A number of submitters raised the impact of altered coastal process on surfing. For example Ms Phoebe Wood-Ingram (Submission 371) questioned the degree of uncertainty in relation to effects on the Nursery wave and submitted that this should have been addressed in the EES.

The Surfrider Foundation, Far East Gippsland Branch (Submission 363) raised the issue of the definition of surf breaks in the EES and suggested that the location and level of use of the different breaks was incorrect. They further submitted that the coastal processes study:

...failed to address the impact of any proposed structure on the natural pattern and consistency of breaking waves on Bastion Point in terms of swell size and direction, wave refraction and reflection within the surf zone.

5.4 Discussion

The Panel was greatly assisted in its deliberations by the evidence of Dr Riedel and Dr Stephenson, and the submissions of Mr Thomas, Mr Perry and others.

The Panel has reviewed the evidence and submissions and notes that there is considerable disagreement amongst those with expertise in this field about the rates of sediment transport in the broader area, both in absolute terms and in the implications of cyclical periods of sand movement east and west along beaches in the area.

5.4.1 Sediment movement in the general area

The Panel notes however there is general agreement that there is unlikely to be significant detrimental impact on sediment movement in the broader area. That is, Option 3, 3b and LS1 are unlikely to significantly affect Betka Beach, Mallacoota Main Beach and the Mallacoota Inlet.

In relation to the Bastion Point area specifically, there is general agreement that some sand moves south to north along the foreshore, having moved around the point from Betka Beach. The amount that moves around apparently can not be modelled and whilst it may be able to be physically measured, this is not a simple process.

5.4.2 Boat ramp siltation

Mr Riedel estimates that the amount of sand that will move past the Option 3 breakwater site, and then be possibly subject to entrapment, is in the order of 10,000 m³ – 20,000 m³ per annum, but if it is more than this, then dredging as a mechanism for clearing the new boating channel becomes progressively more expensive and less feasible.

Other submitters have suggested that this amount may in fact be considerably greater. These submitters, such as Mr Thomas and Mr Perry also have considerable experience in the marine environment of East Gippsland, and whilst their submissions are not 'evidence' per se, the Panel gives some weight to their material.

This leaves the Panel in a difficult position, as whilst we accept the expertise and experience of Dr Riedel, this is an area of uncertainty that in the Panel's mind is critical to the functioning of the new boat ramp. Dr Riedel himself, whilst comfortable with his estimates, was clear that they are only estimates and that uncertainty remains.

The dynamic nature of marine environments and sediment transport means that the consequences of misjudging such an estimate can be severe. This is not always an excuse to 'do nothing', and in many cases further studies can be undertaken, or the element of uncertainty is not critical to the central tenet of the project.

However, in this case, given that the effective operation of the new facility will depend on the maintenance of the channel depth (if the desired 90% useability is to be achieved), then in the Panel's mind this uncertainty in relation to sediment transport becomes one of the lynchpin elements in the project.

If the sediment build up in the boating channel is greater than predicted in overall quantity, or occurs in significant quantities more regularly than expected due to ocean conditions, then it may significantly curtail the operation of the facility.

The risk to the facility operation is that the dredging technology selected is not up to the task quantity wise, or that the dredging technology is suitable but the operational cost on EGSC or the facility operator could be such as to render the facility unviable.

The Panel's concern is that the facility should not become an expensive (to build and maintain) and essentially failed project that becomes a financial burden on the people of East Gippsland. Given that there is some ocean access now via the existing ramp and/or inlet mouth, and good ocean access east in Eden and Bermagui and west via Lakes Entrance, the Panel does not consider that this is a risk worth taking.

5.4.3 Surfing

In relation to wave formation and surfing, the Panel considers there will be some impact of sediment movement, particularly on the Broken Board surfing area and possible the Nursery, but the degree of impact is difficult to determine. This issue is discussed further in Section 7.6.3.

5.4.4 Climate change

The Inquiry notes the approach taken to managing climate change in the project, that is, the facility will be constructed for today's conditions but constructed in such a way that it can be strengthened, or increased in height as increased sea level rise or storm activity eventuates.

At face value, this seems a reasonable approach. However the Panel is concerned that future climate change has not been given significant weight in

the project. The cost of future 'enhancements' has not been calculated, nor is there consideration of other implications that may arise such as increased coastal recession in the vicinity of Bastion Point.

The Panel is aware of the recent VCAT case in South Gippsland⁸, which establishes that sea level rise is a valid consideration in planning proposals under some circumstances.

Whilst the proposal at Bastion Point is very different, the risk of sea level rise affecting (damaging) the infrastructure and possibly making it less effective (before 'enhancements' can be made) remains.

5.5 Conclusions

In general the Panel concludes that the impact of Options 3, 3b and LS1 on coastal processes in the broader beach areas of Mallacoota and the Mallacoota inlet is unlikely to be significant.

The Panel is more concerned about the local sediment transport impacts on the Project and the level of uncertainty remaining in relation to this issue. The Panel considers that this issue is an element of project risk that has not been effectively resolved.

The Panel makes the following findings:

The Panel finds that Options 3, 3b and LS1 are unlikely to have significant detrimental sediment transport impacts on Betka Beach, the Mallacoota Main Beach or the Mallacoota Inlet.

The Panel finds that the sediment transport impacts of Options 3, 3b and LS1 on the Bastion Point environment (for example smothering) are difficult to quantify because of the rocky shoreline but are likely to be highly localised and unlikely to be significant.

The Panel finds that the uncertainty surrounding sediment entrapment rates behind the Option 3, 3b and LS1 breakwater pose an unacceptable level of risk to the project due to:

- **uncertainty around the practical operation of the facility if the sediment transport rates are higher than estimated;**
- **uncertainty in relation to maintenance dredging costs and overall project viability; and**

⁸ *Gippsland Coastal Board v South Gippsland & Ors* [2008] VCAT 1545

- **uncertainty in relation to safe facility operation in the event of a regular bar forming at the channel entrance.**

The Panel finds that the proposed breakwater is likely to have some adverse impact on waves in the vicinity of Bastion Point and particularly the 'Broken Board' surfing area. The Panel is unable to determine whether this impact will result in the 'loss' of the surfing area or some lesser level of impact.

The Panel finds that in relation to climate change, any facilities proposed in the Bastion Point area should be designed in accordance with sea level rise predictions adopted by the Victorian Government.

The Panel rates the alternatives under consideration as follows:

Table 11: Rating of options against Evaluation Objective 2

Issue	Do nothing	Option 3	Option 3b	Option LS1
Coastal processes	A	C	C	C

6. Marine ecology

Evaluation Objective 3: To avoid significant adverse impacts on the water quality and ecological character of Mallacoota Inlet and surrounding site during both construction and operational phases.

6.1 The issues

Based on the EES, submissions and information received during the Hearing, the Panel considers that the impacts on water quality and ecology of the Mallacoota Inlet are likely to be insignificant. Any issues related to marine ecology and water quality are likely to be localised in the vicinity of the boat ramp proposals.

6.2 Background

Marine ecology was addressed in the Biosis Research report *Ecology and geology of the area proposed for the Ocean Access Boat Ramp, Bastion Point, Mallacoota, Victoria* contained in Volume 3 Part 1 of the EES. This section only addresses 'in water' ecology as seabirds are addressed in Chapter 9.

The marine habitat classes and species of marine flora (22 species) and fauna (44 species) were recorded and are listed in the Appendix of the Biosis report. Biosis noted that although the area is small, four habitat types exist, being inter-tidal and sub-tidal reef, sandy beach and soft sub-tidal sediment.

No marine flora species of National or State significance were recorded during from the study area.

Biosis identified two *Environment Protection and Biodiversity Conservation Act* 1999 (EPBC) listed species, the Blue Whale and the Great White Shark as having the potential to occur in the area although they note the whale is not likely to come into water this shallow. The Eastern Potbelly Seahorse may occur in the area which although not listed under the EPBC Act or by the State Government is included on the IUCN 'Red List'.

Section 6.2 of the Biosis report lists the type of likely impact on marine habitat and mitigation measures. Impacts may occur from direct habitat disturbance and indirect impacts from changed environmental conditions (e.g. altered coastal processes).

Biosis also consider the impact of introduced marine species such as the Japanese seaweed Wakame and the Northern Pacific Sea Star.

6.3 Submissions and evidence

The Save Bastion Point Campaign (SBPC) addressed marine ecology and called Dr Tim O'Hara to give evidence. Dr O'Hara gave evidence that there is 36.5 km² of inter-tidal reef in Victoria, but that only 2.4 km² of this is in East Gippsland. He considers that this figure is an over estimation of the actual amount of inter-tidal reef in East Gippsland due to the mapping process.

Dr O'Hara gave evidence that whilst none of the marine species at Bastion Point are endemic, '*...the inter-tidal rocks between Bastion Point and Shipwreck Creek support a distinct biological assemblage (mixture of species) that can be distinguished from other sections of the coast...*'.

He further suggested that approximately a third of the Bastion Point reef could be lost or damaged by the proposal (at the Option 3 site) and that the constructed breakwater would be a less favourable habitat for marine life than the natural reef.

Ms Barbara Hall (Submission 214) provided a detailed submission in relation to marine life at Bastion Point and provided photographs (HS 41) of some of the species that exist. She submitted that the work done by Biosis did not give a true picture of the marine fauna present at Bastion Point.

She drew the Panel's attention to the publication '*Coastal Invertebrates of Victoria*' published by the Marine Study Group in 1984 which stated that 142 species of invertebrates had been recorded at Bastion Point, making it the 7th most species rich location in Victoria.

Submitters also drew the Panel's attention to the presence of the Mulberry Whelk. This whelk that feeds on oysters and other shellfish has not been recorded previously in Victoria but is common further north in southern NSW. It was suggested that the presence of the whelk could be an indicator of climate change.

A number of submitters, and notably Dr James Thyer (Submission 213), raised the issue of the viral disease Abalone Viral Ganglioneuritis (AVG). This is a viral disease that has infected wild stocks of abalone in the Victorian Western Abalone Zone west of Cape Otway and has recently been detected in Tasmania⁹. Submitters were concerned that increased boating as a result

⁹ Tasmanian Department of Primary Industries and Water - <http://www.dpiw.tas.gov.au/inter.nsf/Topics/SCAN-79Z2NA?open>

of the new ramp proposal may increase the risk of introduction of this virus with consequent severe threat to the East Gippsland wild abalone fishery.

6.4 Discussion

The Panel has considered the submissions and evidence put before it in relation to marine ecology. In general the Panel considers that the marine environment of Bastion Point was not perhaps assessed as comprehensively as it could have been.

Having said that, the Panel is not convinced that the marine ecology of Bastion Point is of such value at the regional, State or National level that it, of itself, would prevent the construction of Option 3 or one of its variations. If such a facility were to proceed, it should incorporate design and construction elements to minimise impacts on the marine ecology and encourage habitat restoration where possible.

In relation to AVG, the Panel wrote to Fisheries Victoria (part of the Department of Primary Industries) specifically requesting advice on this issue and the level of risk posed by the proposals in the EES. Fisheries Victoria responded by saying they did not wish to comment which was less than helpful to the Panel.

On this issue the Panel can only speculate that there would be an increase in the risk of AVG introduction if the boating numbers as predicted in the EES eventuate. However, the Panel can not conclude as to whether this risk is acceptable or not. The Panel does note that any quarantine protocols that would apply to the new facility, if built, also must apply to the existing ramp.

In relation to water quality, there is likely to be turbidity during construction of any option but this should be local and short term.

The risk of spills of hydrocarbons from boats and any dredging plant would need to be addressed in a project environmental management plan.

6.5 Conclusions

The Panel concludes that the marine ecology impacts, whilst locally significant, would not of themselves prevent construction of the facility.

Quarantine measures to prevent the introduction of AVG (and other marine exotics) should be developed and implemented as part of the general State response to such invasions.

The Panel finds that the environment effects on marine ecology of Options 3, 3b and LS1 could be managed and mitigation put in place to reduce residual impacts.

The comparison of options is shown in Table 12 below. The difference between the existing ramp and the proposed options is related to the need to remove reef and construct the new breakwater on existing habitat.

Table 12: Rating of options against Evaluation Objective 3

Issue	Do nothing	Option 3	Option 3b	Option LS1
Water quality and ecological character (marine)	A	B	B	B

7. Character and amenity

Evaluation objective 4: To avoid detrimental impacts on the character, amenity and infrastructure of Bastion Point, including its attractiveness for recreation, education and tourism.

7.1 The issues

Evaluation Objective 4 consists almost entirely of matters that relate to the subjective opinions of individuals and groups. The Panel has addressed the objective from the perspective of competing visions for Mallacoota, which rest on the different values within the community. The impacts of the options on the various aspects covered by the objective are social impacts, and thus this Chapter becomes one where Social Impact is at the heart of the analysis.

Evaluation Objective 8 ('To provide clear overall societal benefit, taking into account economic impacts, social outcomes and residual environment impacts') provides the only explicit mention of social impacts within the evaluation objectives in the Assessment Guidelines. The approach taken in this Report is to evaluate the Social Impacts within Objective 4, and then, as for all the other objectives, to take a summary forward to Objective 8, where the overall evaluation is performed.

Objective 4 refers to existing infrastructure at Bastion Point. The existing car-park and access road are part of the 'Do nothing' option, and are upgraded for the other options. Other aspects of infrastructure are the existing ramp itself (to be retained in the 'Do nothing' option, and to be removed in other options), and the existing viewing platforms and pedestrian stairways to provide beach access, none of which will be changed. Finally there is the existing toilet (which the East Gippsland Shire Council (EGSC) has advised will be relocated), the infrastructure proposals for boat washing and fish cleaning (which EGSC has advised will not be provided at Bastion Point), and lighting, which has had no justification, specification or analysis. In the Panel's opinion, the issue of detrimental impact on the infrastructure at Bastion Point therefore warrants no further discussion under Objective 4.

The key issues for Objective 4 are:

- what is social impact assessment?;
- a vision for Mallacoota;
- consultation;

- landscape value, wilderness character and aesthetics;
- recreation (surfing, fishing, swimming, rock-rambling, walking, and contemplation);
- tourism; and
- social impacts (beyond the issues above).

The first three of these issues set the scene: they do not constitute impacts by themselves. However a deeper understanding of them provides a sounder basis for the subsequent analysis of impacts.

7.2 What is social impact?

Mr Offor, who gave expert evidence for EGSC in relation to social issues, stated that the analysis of social impact, or Social Impact Assessment (SIA) as it is generally known in the field of Environment Impact Assessment, is an area that is not particularly well addressed in many EES's, and has not been undertaken in a formal manner for the Bastion Point EES.

Mr Offor referred to a paper by Professor Frank Varclay on SIA International Principles, prepared over a five year period as an official International Association of Impact Assessment (IAIA) project¹⁰. Mr Offor quoted to the Panel the 'Other Guiding Principles' in the document, which address the following principles: Precautionary Principle, Uncertainty Principle, Intragenerational Equity, Intergenerational Equity, Recognition and Preservation of Diversity, Internalisation of Costs, the Polluter Pays Principle, the Prevention Principle, the Protection and Promotion of Health and Safety, the Principle of Multisectoral Integration and the Principle of Subsidiarity.

Mr Offor's overheads provided a brief definition of Social impact, attributed to the Frank Varclay paper, as follows:

The consequences - both positive and negative - to human populations of actions resulting from the project that alter the ways in which people live, work, play relative to one another, organise to meet their needs and generally cope as members of society.

This includes cultural impacts involving changes to norms, values and beliefs that guide and rationalise their thinking about themselves and their society.

¹⁰ Frank Varclay, *Social Impact Assessment - International Principles*, Special Publication Series No 2, IAIA May 2003

Some key points made in the Varclay paper include:

- *SIA gives a rich picture of the local cultural context, and develops an understanding of local community values, particularly how they relate to the planned intervention;*
- *SIA should be an integral part of the development process, involved in all stages from inception to follow-up audit;*
- *Local knowledge and experience and acknowledgement of different local cultural values should be incorporated in any assessment.*

Mr Offor explained his terms of reference, which were to review submissions and project documentation, to prepare an expert witness statement that provides a qualitative description of the social issues raised in submissions and discuss these issues in the light of how communities respond to change, and to be available to present as an expert witness at the Panel Hearing.

Mr Offor explained that he had not undertaken a Social Impact Assessment of the project, but had relied on a site visit, a desktop review, the EES and supplementary documents, reading a sample of the submissions received, expert witness reports and a demographic profile from ABS census data.

The Panel is in a similar position: it cannot undertake a Social Impact Assessment. It has, however, the advantage of having all the submissions, and of having directly heard a wide variety of submission and expert witness statements during the Panel Hearings.

7.3 A vision for Mallacoota

Two contrasting visions for the future of Mallacoota have been directly or indirectly championed by submitters to the Panel.

The first of these, held principally by those who support the proposals for a new ocean access boat ramp with breakwater protection, is grounded in the view that a new ramp will underpin the promotion of increased recreational fishing, ocean game fishing, and the development of nature based tourism associated with Gabo Island, whale watching and the Marine Park. The construction phase of the new ocean access will deliver a much needed economic stimulus to Mallacoota, and increased tourism will bring attendant economic benefits. Finally the attractiveness of Mallacoota and its surroundings to eco-based tourism will not be affected to any significant degree, while the existing abalone industry will be protected, and boating safety will be improved.

The second view, held principally by those who oppose the proposals for a new ocean access boat ramp with breakwater protection, is grounded in the view that such development is incompatible with sustainable development, with eco-tourism, and with the existing values of most residents and visitors to Mallacoota. The wilderness experience of the landscape is cited as the significant aspect of the area, along with the value of the present undeveloped nature of the Bastion Point beach to the recreational, social and cultural life of the residents and visitors. The social and economic prosperity of Mallacoota is seen as dependent on the maintenance of the existing landscape and spiritual quality that exists at Bastion Point.

Underlying these visions for Mallacoota are the values that people hold and the way development proposals are perceived from the perspective of those values. There is little systematic information on which to gain an understanding of community values at Mallacoota. In the absence of such data reliance would need to be placed solely on the submissions, presentations to the Hearing and the numerous newspaper and other media sources quoted to the Panel.

However submitters have advised the Panel of several sources of information that may throw light on underlying values held by the community. These mainly concern surveys of tourist values, such as the IPSOS surveys undertaken for DSE.

The 2006 PhD study undertaken by Judi Inglis into community views, values and attachment to Croajingolong National Park provides a more general overview of community values. This study was cited in HS 33 made by Jenny Mason, and a 'Review of Findings' by Dr Inglis that includes a section on Bastion Point formed part of documents in a folder presented as part of that submission. Some key points made in the study report include, under the heading *Place Attachment*:

The majority of people in the local community who participated in the study have an identity attachment to the park and surrounding region developed through memories of an emotional, spiritual, symbolic or historic nature.

and under the heading *Environmental Ethics*:

The study has shown that environmental ethics, that is deep-seated views and values about nature and nature's value, can direct the way a person lives their life. These views and values permeate all aspects of social, cultural, economic and environmental decisions by the participants. Traditionally, business owners adhere to an anthropocentric view of the environment, where use for business purposes is more important than other considerations. However, in this study the business owners split

between those that held anthropocentric views and those who held ecocentric views.

and under the heading Bastion Point Results:

The study has shown that many in the community have a community identity attachment to Bastion Point, which means they consider the location to be a symbol of their community and of special significance to them. Previous studies have shown that altering landscapes such as Bastion Point can destroy community attachment, a symbol of community, confirmed in the study. Bastion Point represents both dependent attachment and identity attachment of the community.

Chapter 3, Policy Framework, sets out the principal policy considerations that apply to the Panel's considerations. The policy direction is one that favours an ecocentric view of nature, that values the wilderness character of the coast and that supports eco-tourism initiatives.

In particular, the Mallacoota Foreshore Management Plan (reviewed January 2005) has a section on the Vision for the Mallacoota Foreshore, which commences:

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.

The submissions on the EES split 87% against the proposals, and 13% in favour, based on an analysis reported by Mr Offor in his evidence. Both categories included submissions from local businesses as well as from residents and visitors. The Panel noted that the situation common to Hearings where there are a large number of submissions, where many are in the form of a standard letter or form, and where many others are a rewording of a few key points, was not a feature here. Indeed the submissions, both for and against, bore every sign that they were in general the careful and heartfelt views of the submitter. Having said that, the Panel found that the overall summary of Dr Inglis' study, in terms of the values attributed to Mallacoota residents, were confirmed by its reading of the submissions.

This brief and of necessity incomplete treatment of community values provides assistance in understanding the various submissions that contain such different readings of community values and likely impact.

It remains to be seen whether there may be a solution that can, to a significant degree, meet the needs of both camps.

7.4 Consultation

The EGSC has set out the consultation undertaken during the preparation of the EES in Volume 1 Main Report, Chapter 8 Consultation and Communication. It documents newsletters, workshops, liaison with key stakeholders, discussions with local residents and two meetings at Mallacoota attended respectively by those for and against the proposals. It contains a Stakeholder Perspective Matrix which provides a summary of the issues raised for and against the proposals, reported under Stakeholder Groups.

The issue of consultation was raised in many submissions, almost always in the context that it had been unsatisfactory. Four aspects of the consultation seem to warrant some analysis, as they have been interpreted in a variety of ways. They are the reliance on the results of the community ballot of 2000, the openness of those managing the EES process, the appropriateness of separate meetings at Mallacoota of those for and against the proposal, and confusion about the EGSC's preferred option.

7.4.1 The community ballot

The EGSC commissioned a community postal ballot in early 2000. The EGSC sent out ballot papers with a letter dated 24 January 2000, which supported the Coastal Engineering Solutions Pty Ltd (CES) recommendations for redevelopment of the ramp at the existing location. Voting on the ballot was not compulsory, and the closing date for completed ballot papers was 18 February 2000. Completed ballots were returned to the Victorian Electoral Commission. 66% (some 640 ballots) of those returning the ballot paper supported the redevelopment of the existing boat ramp, while 34% (some 325 ballots) were against (HS 8, EGSC Media Release 29/2/2000).

There was some confusion about the ballot, with a number of submitters who opposed the proposal questioning whether the ballot had been based on an upgrade with breakwaters, or a lower key upgrade. EGSC maintained that the ballot had been based on the design by CES. Mr Craig Ingram MP provided copies of the ballot paper and EGSC letter, along with extracts from the Mallacoota Mouth of 28 May 1999, 4 June 1999, 18 June 1999, 25 June 1999, 4 February 2000 and 11 February 2000 (HS 19), all of which had discussion on the CES proposal.

The ballot paper asked *'Do you support an upgraded ocean access for boats at the existing site at Bastion Point, as outlined by Coastal Engineering Solutions Pty Ltd in its report of October 1999?'* The ballot paper was accompanied by a letter from the EGSC which listed the features of the recommended upgrade,

which included *'a low rock sea wall on the northern side of the ramp'*, and a *'seawall on the south of the ramp built partially on the existing rock outcrop'*.

The 4 February 2000 issue of the Mallecoota Mouth included a full page article by Friends of Mallecoota urging people to vote no to the ballot, and giving reasons.

EGSC has relied on the results of the ballot as conclusive evidence that the majority of residents support the proposed upgrading, and this view is represented at a number of places in the EES, the Supplementary Reports, and the EGSC's expert witness statements.

In his expert witness report, Mr Offor submitted reasons why the figures for the ballot and submissions were so different. He first restated that *'in 2000 there was majority support for an improved facility at the current location in a form similar to Option 1 in the current EES.'* He then qualifies this statement as follows: *'It is of course not known what proportion of respondents took the opportunity to view the Coastal Engineering Solutions 1999 report prior to responding and, if they didn't, whether the design and scale of the proposal was fully appreciated based on the written text provided.'*

Mr Offor then noted that the 325 'No' votes on the ballot was not many less than the 408 objections to the EES proposals, while the 640 'Yes' votes on the ballot was very significantly greater than the 63 submission in support of the current proposals. Mr Offor then concluded:

'Clearly, there is a large proportion of the Mallecoota community that has remained silent on the current proposal, the majority of whom it would appear supported the 2000 proposal.'

Mr Offor advanced the following possible reasons for the silence of the large proportion of the Mallecoota community who were in favour of the proposal in 2000, but who did not make a submission on the EES:

- *A large number of people have changed their minds about the need for the project and are no longer supportive.*
- *Many people may have been uncomfortable voicing support (or opposition) for the project in a public manner.*

Mr Offor thought the first unlikely, as there appeared to be a widely held view in the submissions that something needs to be done about the current ramp, and there were no submissions stating that *'I voted for the proposal in 2000 but can no longer support it.'*

Concerning the second, Mr Offor stated *'I have certainly observed this situation over other controversial projects.'*

One submitter who was strongly against the present proposals told the Hearing that he 'foolishly voted Yes' on the 2000 ballot. While he had understood what was proposed, he wanted a low impact upgrade of the existing ramp. Back at the time of the ballot he couldn't believe the EGSC would pursue the high impact solution. His 'Yes' vote was intended to show support for some modest improvement.

Two ex-Councillors of EGSC made presentations to the Hearing, and stated that on the basis of their extensive discussions with residents they had each formed the view that there was general local community opposition to the proposals in the EES. On the other hand, supporters of the proposals advised the Hearing that the majority of residents supported the proposals.

One submitter cited the ABC Gippsland Online Poll conducted in June 2007. The web site extract dated 20/06/2007 provided by the submitter recorded that there were 18 responses to the poll. Question 45 asked 'What is your response to the proposed Bastion Point Ocean Access Boat Ramp?' 16% agreed with the proposition 'I am happy with what the East Gippsland Shire Council is proposing', 83% agreed with the proposition 'I would like the current facility to stay and be upgraded', while 1% agreed to the proposition 'I don't know'.

Discussion

The Panel is not persuaded that the 2000 ballot result, now eight years old, represents the views of residents and visitors on the current proposals. There are a number of possible reasons for the differences between the results of the 2000 ballot (generally supporting a proposal with breakwaters at the existing site) and the submissions on the EES (generally opposing the present proposals). Those possible reasons include that:

- the 2000 ballot did not provide an option for minor upgrading—it was either support the CES scheme for upgrading the existing site with breakwaters or vote against it;
- many people in 2000 may have been disinterested in the detail, and just voted for some improvement;
- the impacts of the present preferred proposal are too great, and a minor improvement at the existing boat ramp site is preferred; and
- those people who hold strong ecocentric values are sufficiently motivated to continue to state their opinions on the present proposals.

Given the number of traders, those involved in the abalone industry, residents and regular visitors and who have expressed either their support or objections to the present proposals in submissions and to the Hearing

directly, the Panel does not believe that fear or intimidation has played any significant part in preventing people from speaking out.

On the basis of all the submissions and expert witness statements made, the Panel is not convinced that there is a preponderance of community support for the proposals.

7.4.2 The openness of the EES process

Volume 2, Appendix 5 of the EES, Bastion Point Boat Ramp Chronology, provides an outline of the establishment of the Mallacoota Ocean Access Steering Committee ('the Steering Committee'). Under the year 2003, the Chronology states:

- *June: Council determined to arrange a meeting between the Council and the Mallacoota Community to discuss the formation of a representative Working Party to formulate a recommendation to Council on the way in which this matter might be progressed.*
- *September: Meeting with community members resolved to form a Committee to work with Council to explore mechanisms to raise a community contribution to assist funding of the required EES. It was recommended to Council that it commence the EES process. Council resolved to work with the Committee and to proceed with Stage 1 of the EES subject to matching funding being available from the Victorian Government.*

and under 2004:

- *March: Council determines to proceed with the conduct of Stage 1 of the EES and issues a Tender Brief for the appointment of a Project Manager. The Council appointed the Project Manager in June.*
- *July: Inaugural meeting of the Mallacoota Ocean Access Steering Committee was held.*

The Steering Committee was Chaired by a Councillor from EGSC and had members from EGSC as well as DSE, Tourism Victoria and representatives from the Mallacoota Ocean Access Committee (MOAC). The Steering Committee should not be confused with the Inter-Agency Contact Group, commonly called the Technical Reference Group, which comprised only representatives of EGSC and Agencies.

There was criticism in a number of submissions of the Steering Committee, concerning both its community representation and the bias it was said to have demonstrated. Key issues that have caused considerable community angst include the decision not to examine low impact upgrades of the

existing facility, and the failure to identify and evaluate the risk to boats leaving the protection of the breakwaters and returning into the breakwater channel. Clearly while the EGSC made the final decisions on the scope and outcomes of the study, the Steering Committee guided the preparation of the specialist studies and provided detailed advice to Council.

These two issues were documented from early in the process, but no low-scale option was included in the EES. The risk to boats leaving and entering the protection of the breakwater was not addressed in Volume 3, Part 2, Safety and Risk Issues (see also Chapter 4). The risk assessment of Sea Conditions, Weather conditions and Tides are given as extreme for the existing ramp and for all options. There is no acknowledgement of the dangers created by leaving the shelter of the breakwater into side-on waves, nor the narrowness of the entry for returning boats in the EES options. These dangers are minimised at the existing boat ramp because there is adequate room for boats to manoeuvre in relatively sheltered water. In view of the fact that the 1997 Mallacoota Ocean Access report by CES highlighted this risk (page 12 of 44) the omission is hard to understand.

Table 8.1 of the EES Main Report, Stakeholder Perspectives - Matrix summarises the key concerns raised with EGSC up until the time of writing. Stakeholders Groups listed in the table include Local Businesses, Recreational Fishers, Commercial Fishers, Surfers, Surf Life Saving Club, Coastcare/Friends of Mallacoota, Emergency Services/Management. There is no heading for 'residents of Mallacoota'. The significant issue of the safety of boats leaving and entering the breakwater is not listed. As the EES was not finalised and advertised until May 2007, there would seem to have been time to more seriously address the lack of a low impact upgrade of the existing boat ramp in the EES, given that this is an issue listed in the matrix, and had been a major concern throughout the preparation of the EES.

The Panel finds it difficult to come to any conclusion save that EGSC, and the Steering Committee it appointed, were convinced that the existing boat ramp represented an unacceptable risk, and were inclined to dismiss other viewpoints. This has resulted in an inadequate treatment in the EES of some significant issues.

7.4.3 The separate meetings at Mallacoota

The EGSC held two meetings on 11 August 2005 to gauge public support for the proposal. The meetings were attended by all but one Shire Councillor, and a number of senior staff. The first meeting, to whom those in favour of the proposals were invited, was attended by about 120 people, and the

second, to whom those opposed were invited, was attended by about 200 people.

There has been criticism that two separate meetings were held, rather than having a single meeting. The Panel understands (from the presentation made by Counsel, HS 4) that the 'consultation focussed on stakeholder groups, rather than public meetings where community debate could be confronting'.

The submission made by Mrs June Drake to the Hearing put this matter in another light. Mrs Drake recounted how letters and a petition signed by 40 business proprietors in Mallacoota and published in the Mallacoota Mouth on 11 June 1999 led to a great deal of angst among members of the Friends of Mallacoota, whose supposed attitudes to tourism and ocean access were the subject of the petition. Mrs Drake then set out action taken by the Friends' group to address the inflamed situation. The group invited all the businesses to a meeting chaired by the then Principal of the P-12 College, Mr Ted Hare.

A great deal of discussion ensued, and finally, although the participants agreed to disagree, all present had been able to express their views in a calm atmosphere. All those who attended the meeting felt that the situation had markedly improved.

Mrs Drake believes that having separate meetings '*did nothing to bring about productive discussion of the issues involved*'.

An interesting aspect of the meetings was made by a submitter to the Hearing, Mr Matthew Watts, who advised that he attended both meetings, having '*a foot in both camps*'. According to Mr Watts, both meetings were asked if they understood the three proposed options. Of those at the meeting in favour of the options, 75% of people indicated that they didn't, while at the meeting of those against the proposal, 75% indicated an understanding of the three proposed options. This would suggest that those against the proposals were better informed in this respect, while those in favour of the proposal might be categorised as being generally in favour of an improvement for ocean access.

The Panel has some understanding of EGSC's desire to avoid public meetings with the potential for conflict. The Panel has formed the view that the measures taken by EGSC overall to engage the community were largely counter productive, and caused further divisions rather than finding some form of consensus. It is likely that the engagement of a neutral consultant to run the community engagement program from the start would have led to very different results.

7.4.4 Confusion about the EGSC's preferred option

When the EES was exhibited in June 2007, the EGSC advised in Section 3.3 of the Main Report that Option 3 was its preferred site, as it provides the greatest overall benefits.

At the first Directions Hearing in Mallacoota on 12 September 2007, the Panel tabled a late submission from DSE, advising that the Department could not endorse Options 2 and 3 until it can be demonstrated that lesser impact options have been addressed. DSE then commissioned CES to investigate how the impacts seen to be unacceptable in relation to Option 3 might be mitigated. The impacts of Option 3 that seem to have been of greatest impact are those on Indigenous cultural heritage and native vegetation removal.

Maddocks, lawyers engaged by EGSC, in an email letter dated 2 October 2007 to the Panel set out by way of background, a number of matters, including that EGSC reluctantly agreed to act as proponent for the EES at the insistence of the Minister for Planning.

The supplementary report by CES dated January 2008 proposed two variations of Option 3, with the access road from the cutting to the beach for the existing boat ramp extended to the site of the Option 3 boat ramp. The option with the road taking a direct line across the beach was designated Option 3a, while the option with the road tucked back along the 'bank' edge of the beach was designated 3b.

At the second Directions Hearing on 20 February 2008 the CES Report was tabled. EGSC advised on 13 May 2008 that it did not accept that the Options 3a and 3b provided a better outcome than the preferred Option 3. On 28 May the Panel Chair directed that the CES Supplementary Report, along with a new Ancillary Structures Report, be placed on exhibition, with 30 June 2008 being the closing date for submissions.

The EGSC commissioned Allan Wyatt of Environmental Resources Management Australia (ERM) to prepare expert landscape and visual evidence related to the current options. On 19 June 2008, Maddocks for EGSC notified the Panel that Mr Wyatt considers that the visual impacts of the modified access road (presumably Option 3b) are less than those of the road as exhibited in the EES (Option 3). In the course of undertaking the assessment, it became apparent to Mr Wyatt that an alternative scheme may offer advantages. That scheme, referred to in the Panel report as Option LS1 was provided to parties with the other expert witness reports in late June 2008.

It is not clear whether the EGSC is committed to the implementation of the preferred option, or to the future management of the proposal.

This sequence of events, perhaps best described as 'design on the run' has left the community in doubt as to just what EGSC does prefer, and has made it difficult for parties to prepare for the Panel Hearing, given that there has been a 'moving target'. It was clear that a number of submitters were unaware or unclear about the status of the latest option (LS1).

7.4.5 Conclusion

The Panel has concluded that the consultation does not appear to have 'effectively engaged the local community' as required by the Assessment Guidelines. The Panel acknowledges the status of EGSC as a reluctant proponent, and that EGSC has had to husband scarce resources to undertake the EES. Notwithstanding that these constraints existed, the EGSC appears to have missed the opportunity to address significant issues raised by the community.

7.5 Landscape value, wilderness character and aesthetics

7.5.1 The Issues

From the perspective of landscape value, wilderness character and aesthetics, the key questions are:

- Is Bastion Point part of the town or part of the wilderness coast?;
- Does the existing use of the safe harbour detract from its wilderness quality?;
- Will the proposed breakwater impact on the wilderness and visual values of Bastion Point?; and
- Will the proposed road access impact on the visual values of Bastion Point?

7.5.2 Background

The policy context of Bastion Point has been discussed in Chapter 3. The principal thrust of the policy is recognition of the nationally significant wilderness landscape quality of the Croajingolong National Park coast within which the Bastion Point and beach area sit. Two specific examples make this point well.

The Australian Heritage Council's National Heritage List interim listing for Croajingolong (Place ID No. 101727) recognises the natural values of a wide area of Far East Gippsland, including Mallacoota, in particular the

Mallacoota Inlet. Bastion Point is mentioned as part of the 'aesthetic landscape'.

The Landscape Setting Types for the Victorian Coast provides, under the section of coast from Sydenham Inlet to the NSW border:

'Avoid any development on the coastal side of dunes and contain new works to inland inlets and rivers to ensure the coastline retains its rugged non-developed wilderness character.

'This area is of outstanding scenic quality and requires special landscape protection to ensure that development does not impact on landscape values.'

Pryor Knowledge (ACT) Pty Ltd undertook the study on recreational amenity and visual values for the EES, and the work is reported in Volume 3, Supplementary Reports (Part 2) Report A of the EES. The report contains a useful review of visual assessment methodologies, which focus on the importance of culture and values in assessing landscape and visual quality. The report also cites the landscape and visual assessment methodology used at the Dollar Wind Farm, and discusses it in the following terms:

For example, the paper suggests developments which take up less than 5% of the central binocular field of the eye are usually insignificant in most landscapes. The assumption of this physical science approach is that a) people will actually see the object because it exists, and b) that it is insignificant when seen at a certain size. Such assumptions are however hard to substantiate. We contend that what people really see is much more influenced by a wide range of psychological and cultural matters which has been the subject of much discussion.

The Pryor Knowledge report then proceeds to nominate seven viewing points, ranging from the viewing platform in the Mallacoota Camp Ground to sites on the foreshore. These are tabulated on page 14, and using the methodology from the Dollar Wind Farm, vertical and horizontal angles are reported in degrees. The vertical angles are all less than 1 degree. The text below the table states *'The above analysis shows that, depending on their design features, the proposed ramps will certainly be discernable horizontally, but insignificantly discernable vertically....However, we repeat our earlier comments that being discernable has in itself little to do with visual impact and degradation of visual integrity.'*

The Pryor Knowledge evaluation then uses the results of discussions with local stakeholders to determine the likely impact of the options. The report states that:

Those against the proposed ramp sites tended to focus on the minimal option based around the existing ramp site and expressed fears that an ocean access ramp may be the beginning of yet further developments... In our workshops, there was clearly a view that building a boat marina at Mallacoota was not in accord with local values, as residents did not want the region to become a Merimbula, or an Eden. It could therefore be assumed that the community is opposed to high rise and/or beach front buildings at, or near, Bastion Point.

and:

Other stakeholders however provided comments regarding options 1-3 as required under our Brief. Their views reinforce the fact that, from the perspective of community held 'values', there is evidence to support the idea that a new boat ramp at Bastion Point was not seen as visually degrading the area and suggested that option 3 was favoured over options 2 and 1...

The report then summarises the 'objective situation of Bastion Point in Mallacoota' including reference to the plebiscite in 2000 ('which suggests there are widespread values that do not see a boat ramp with breakwater as a visual degradation of the Bastion Point area') and the 2002 Victorian Coastal Strategy (which envisaged boat launching facilities being part of coastal activity and in Mallacoota).

The report concludes:

...on the basis of this information, which suggests that there are local values that favour a boat ramp as an acceptable use and do not see it as having a negative visual impact, our conclusion has to be that the visual impact of the three ramp options with breakwater walls will be low.

Mr Wyatt's work has been briefly outlined in Section 7.4.4 above. In relation to the boat ramp and breakwater features of Options 1, 2 and 3, Mr Wyatt agreed with the conclusions of Pryor Knowledge. He also made his own assessment of the visual impact of the three options. On the basis of the ramp and breakwater components, he did not favour Option 1, as the two breakwaters would create an engineered edge, blocking views to the existing rock outcrops that currently run out from the shore behind the proposed breakwater.

Mr Wyatt noted that Option 2 with its single breakwater is further removed from the viewing areas on the beach than Option 1, and is partly screened by the existing rock outcrops. He prefers it over Option 1.

Mr Wyatt noted that Option 3 is not only further removed than Option 2 from viewing locations; it also has other rock outcrops in the field of view which would also slightly reduce its visual impact.

Mr Wyatt concluded that a relocation of the existing boat ramp to the location shown in Option 3 would have the lowest visual impact of any of the proposals under consideration.

Mr Wyatt drew attention to the significant visual impact that road access to Options 2 and 3 would cause, as they cut down to the beach. He favoured Option 3b, and proposed Option LS1 which generally adopts the road and ramp details of Option 3b, with refinement of the car park arrangement to minimise vegetation removal and reduce vehicular movement conflicts.

7.5.3 Submissions

Is Bastion Point part of the town or part of the wilderness coast?

The Bastion Point foreshore is within Crown Allotment 1N, an area which is reserved for Public Purposes. This and other contiguous parcels are identified in the LCC recommendations as future coastal reserve with Parks Victoria as the proposed manager. The LCC recommendations have not been implemented (see the Opening Submission for EGSC, HS 4, overheads 51 and 53).

The Bastion Point foreshore is within the East Gippsland Shire, and is a Public Conservation and Resource Zone. *'The EGSC, through a Committee of Management, is responsible for the area under consideration, and has extensive responsibilities for management of the foreshore land, including Bastion Point'* (EES Volume 3 Part 2, Report A, page 5).

Throughout the Hearing the proponent, through its Counsel and expert witnesses, has presented Bastion Point and the beach as part of the Mallacoota township, reflecting urban values.

Those who were against the proposals emphasized the ecocentric value of the beach and point, as part of the wilderness experience.

Submission 170 on the EES stated:

The problem with our Shire is that we are treated like just another small country town and I believe we need full government recognition as a National Park Town with the Department of Parks having veto power over all future development. Other towns already have this protection such as Jabiru-Kakadu National Park, Yulara-Uluru, Lord Howe Island, Flinders Island etc.'

Does the existing use of the safe harbour detract from its natural beauty?

Counsel for EGSC submitted that *'Mr Wyatt considers that tractor, cars and trailers parked on the beach adjacent to the existing boat ramp are quite discordant elements'* (slide 135, HS 4). In the *Visual Assessment and Site Masterplanning Report* (June 2008) Mr Wyatt states that *'parking on the beach should be prevented as this also creates a visual impact on users of the public beach to the north'*.

Several submitters were concerned that sand removal involved stacking the sand in high piles, which caused visual impact and could be dangerous to children.

The prevalent view expressed in submissions against the proposals is captured by a fourteen year old (part of HS 33), who said *'People of all ages love Bastion Point just as it is.'* Another submitter (HS 51) stated *'At present the existing concrete ramp and users of this ramp pose little disturbance to the overall panoramic view from Bastion Point'*.

Yet another (HS 65) talks about the use of the area by people taking in the views, exploring the beaches, walking or running along the water's edge, swimming and surfing, and *'the Abalone divers going about their business in a very low impact manner'*. Another (HS 70) states that: *'The existing boat ramp reads as part of the beach and if boats are not being launched its footprint is negligible. Views in all directions are free of the clutter and control of human settlements. There is an absence of built form. There is a sense of isolation and freedom.'*

Will the proposed breakwater impact on the visual values of Bastion Point?

The DSE Preliminary Site Assessment Report (February 2005) stated:

Design variations and the use of local materials can partially mitigate visual impacts of breakwaters, however the sheer bulk and size of breakwaters proposed for Bastion Point in the Coastal Processes Study presents a much more difficult issue in relation to the mitigation of visual impacts.

The report continues:

...it is clear that such break-walls are likely to have significant visual impacts. ...the landscape and visual values of Bastion Point, and the broader Wilderness Coast area, will be key environmental considerations for the Department....It would be difficult to assess the relative benefits of such a proposal against its extensive visual impacts, unless there is

also the capacity to adequately compare its merits against those that would be achieved through lesser design options.

In the *Visual Assessment and Site Masterplanning Report* (June 2008) Mr Wyatt states that *'I agree with the Council's preferred location (Option 3) for the Boat Ramp, and as this location is further removed from the most sensitive viewing location along the adjacent beach, the proposed boat ramp location has a positive visual outcome.'*

The proponent has suggested that the use of local stone can ameliorate the visual impact of the breakwater, and the draft Environmental Management Plan submitted at the end of the Hearing includes *'Detailed design of the approved option to maximise the 'naturalness' of the breakwater.'*

Several of those submitters on the EES who were in favour of the proposals referred to the existing situation as 'a disgrace'. MADBATA was one of the few submissions that remarked on the potential visual impact of the proposals in the following terms *'Being of rock construction it is envisaged that the wall will blend in with the natural environment.'* In his presentation to the Hearing, Mr Craig Ingram made the point that *'The proposed site at Bastion Point is hardly pristine wilderness'*. Most submitters in favour of the proposals did not, however address the issue of the visual environment; their submissions focussed on safety, tourism, and economics.

Submitters on the EES were predominantly against the proposals, and these submitters expressed very strongly that the visual impact of the breakwater was unacceptable in such a pristine environment. The personal presentation by Jenny Mason to the Hearing included the paragraph: *'It is the unmodified nature of Bastion Point that gives it such precious value - the great expanse of wilderness coast line, within walking distance from our home. It somehow refreshes the soul, and restores a sense of equilibrium.'*

Neil Lazarow, in a personal submission (HS 85) states, in relation to visual values:

There is no doubt that the proposed development will be a blight on the natural landscape. To suggest otherwise, as the consultant does, is a fallacy. For example, the report recommend: "There is enough evidence to suggest strong local and even wider acceptance of a view that an ocean access ramp is not regarded as visually degrading at Bastion Point." No evidence is presented to support this finding.

Mr Gib Wettenhall in his presentation to the Hearing (HS 58) stated:

Perversely, the proponents regard the boat ramp as the key to unlocking the door to experiencing nature's bounty on Coota's doorstep. Rather,

we would argue that their heavy engineering solutions should more rightly be seen as agents of destruction and exploitation, subtracting from the Wilderness Coast's sum of beauty.

Will the proposed road access impact on the visual values of Bastion Point?

In the *Visual Assessment and Site Masterplanning Report* (June 2008) Mr Wyatt stated that *'In conclusion I believe that there are no landscape or visual reasons that would prevent the development of the Option 3 Boat Ramp allied with the change in road access to a route along the beach and with a revised carpark layout.'*

In his presentation to the Hearing, Mr Wyatt stated his view that the boardwalk edge to the beach road would create an appealing viewable edge to the road compared to engineered rock embankment. Construction of the road on piers would have the least environment and visual impact as the road would appear to 'float' over the beach.

As noted earlier, the proposed access road along the beach was a response to concerns about Aboriginal cultural heritage and the removal of native vegetation associated with Option 3. The proposals in the CES study commissioned by DSE were separately exhibited, while the revised proposal by Mr Wyatt has not been publicly exhibited, and was submitted with expert witness statements shortly before the Hearing.

The 75 supplementary submissions on the beach road options (and the Ancillary Structures report) were unanimous in opposing the beach road proposals. They included submissions from supporters of Option 3, including MOAC. In that submission Mr Lewis stated:

It is our contention that the lower road option if adopted would compromise public safety, as it would result in continuing conflict between boat operators and other Bastion Point users. This option will also reduce the visual amenity and is inconsistent with the proposal to restore the beach at the existing site.

Other submitters were not so restrained. One submitter considered the entire process, and in particular the proposals for the beach road in the CES report, *'as some kind of cruel, unnecessary joke and a reprehensible waste of public funds....I can only imagine that the DSE, forced by the Panel to make another submission after its initial submission was rejected by the EGSC, is attempting to demonstrate the absurdity of the entire Bastion Point Boat Ramp proposal.'*

The criticism of the beach road proposals included that it was an alienation of the beach, and that it would introduce further rock walls along the beach.

Dr Michael Drake made a presentation to the Hearing, which criticised the technical approach to the proposals, which gave no real consideration to the emotional or spiritual nature of Bastion Point. He stated that it was self-evident that the construction of a sealed, elevated, two-lane road across the beach and rocky area would totally destroy the appearance and use of the area. He stated visitors would prefer to ramble along the beach and rocky areas rather than use the elevated pedestrian boardwalk proposed, which has as its primary purpose to assist the boat operators.

7.5.4 Discussion

Is Bastion Point part of the town or part of the wilderness coast

The submissions leave the Panel in no doubt that Bastion Point, from the sense of identity of locals and their recreational use of the Bastion Point foreshore and beach, is part of the town. From the perspective of coastal and landscape policies, and the zoning of the foreshore as Public Conservation and Resource Zone, extreme care should be taken in any development of Bastion Point and the adjacent coast. In particular, the landscape and wilderness values of Bastion Point are very significant and should be accorded strong weight in assessing the potential impact of proposed development.

Does the existing use of the boat ramp detract from Bastion Point's wilderness quality

The Panel acknowledges that the present boat launching and sand removal operations, along with some car parking on the beach, present as discordant elements in a scene that is otherwise natural. On the other hand, these elements are transitory, and there were many photographs tabled at the Hearings where none of these activities were present. Further, the use of the boat ramp seems to be accepted by most as part of the beach scene, and has been carried on there for many years.

There are a number of photos in the opening submission overheads presented by Counsel for EGSC showing the existing situation. Overheads 36 to 42 show the launching and retrieval of several boats by tractor and four-wheel drive vehicles. These operations are watched by up to 20 onlookers of all ages who seem to be enjoying the activity. A similar scene is shown in Photo A11 in Report A, Recreational Amenity and Visual Values (EES Volume 3, Part 2).

In terms of the values that are described in Section 7.3 above, whether ecocentric or anthropocentric, the existing boat ramp activity does not appear to cause any significant value conflict.

Will the proposed breakwater impact on the visual values of Bastion Point

Pryor Knowledge has questioned the visual analysis methodology used at the Dollar Wind Farm, and then proceeded to use it. The photographs they have presented in the EES have been criticised by submitters on technical grounds. The Panel had difficulty in reconciling what was shown in the photos as blurred objects in the distance compared with the sharp outlines of the same objects as seen by their own eyes from the same viewing locations.

The Panel is concerned that the selection of viewing points by Pryor Knowledge has resulted in minimising the impact of the breakwater proposals on those who use the Bastion boat harbour area for swimming, and those who enjoy rambling on the rocks and walking around Bastion Point. For all these pursuits, the proposals will present a significant visual intrusion.

The Panel had some difficulty in understanding the genesis of the Pryor Knowledge assumption that the community is opposed to high rise buildings at Bastion Point. Who would suggest such a notion, given that the zoning of the area in question does not permit residential or commercial buildings? Perhaps the answer lies in the simile used by some objectors, comparing the breakwater to a high rise tower laid out horizontally on the coast. Perhaps the genesis of this simile lies in the reported unsuccessful attempt in 1979 by an advocate of the present proposals to gain approval for an 11 storey convention centre on the site of the town's hotel (HS 58).

Mr Wyatt has also drawn attention to the serious impact of making an 8 metre high cutting into the bank for the inland road, as is required for Option 3, and to a lesser extent for Option 2. The cutting will require extensive batters, or if the batter slope is steeper to minimise the destruction of native vegetation, it will need to be stabilised with some form of facing.

Mr Wyatt did however agree with the conclusion by Pryor Knowledge that the visual impact of the breakwater walls will be low.

For the site inspection, a buoy was placed to mark the end of the breakwater at Option 3. On the morning of the site inspection and viewing of boat launching and retrieval, the starting position of the buoy was incorrect. Following the first launching demonstration, an attempt was made to relocate the buoy at the proposed toe of the breakwater, but conditions were too difficult and the buoy could not be correctly placed. In the event the Panel was able to observe that the finished level of the breakwater would be some 1.8 m above the general level of the inter-tidal reef exposed by the low tide.

The Panel acknowledges that, in the absence of high quality visual simulations of the way the breakwater would look from various positions, and the difficulty arising from getting a clear picture of the extent of the breakwater for Option 3, the precise extent of its visual bulk is uncertain. Notwithstanding this, the Panel observes that the breakwater will extend about 1.8 m above the general level of the inter-tidal reef observed at low tide. The design level of the breakwater is 2.8 m AHD (Australian Height Datum), while the inter-tidal reefs at and between the location of breakwaters for Options 1, 2 and 3 is at or below 1.0 m AHD, a level also shown as High Water Mark on 11 June 2008 (see Drawing Number 1435B by RW Surveying & Valuations, provided to the Panel by Maddocks on 24 June 2008).

With a tidal range of about a metre (except for extreme tides), and a mean low water at about -0.4 m AHD (see page 22 of Coastal Processes Study, EES Volume 3 Part 1) and the inter-tidal reef extending to 1.0 m AHD in the vicinity of the proposed breakwaters, no more than 1.4 m of rock outcrop will be visible for viewers from any location at low tide. The Panel had no difficulty picking up the different rock outcrops from the caravan park viewing platform about a kilometre from Bastion Point. The Panel is in no doubt about the visibility of the proposed 130 m long breakwaters, with a top level an additional 1.8 m in height above the inter-tidal reef.

The description of the visual impact of the photo montages in the Pryor Knowledge Recreational Amenity and Visual Values Report in the EES draws particular attention to whether views of the breakwaters will stand out above the horizon, or the background hills and vegetation. The Panel believes that the impact is more likely to be judged in terms of the degree to which the breakwater stands out above the existing inter-tidal reefs.

Finally, as documented in the Pryor Knowledge report, the value system of the observer is the critical component in the overall assessment of visual impact. In this respect the Panel has considered the underlying values of the community in Section 7.3 above. In the light of those values, the Panel's own observations and judgement on site, and the preponderance of submissions pointing to the high visual intrusion of the proposals, it is difficult for the Panel to conclude otherwise than that the visual impact of the breakwaters is high.

The Panel also notes the expert evidence of Dr Rosengren in relation to the geomorphological values of Bastion Point. Whilst broader than 'visual' values, the Panel considers the geomorphology and associated educational values as an important contribution to the overall landscape and significant natural features of Bastion Point.

Will the proposed road access impact on the visual values of Bastion Point

The road proposal on the beach is clearly a significant alienation of the foreshore. The degree to which it represents a visual impact is disputed, with many community submitters, and even MOAC, disagreeing with Mr Wyatt's assessment.

Mr Wyatt has put forward a piled road structure to minimise visual impact, with a pedestrian boardwalk on the beach side of the road. There are however no photo-montages or visual representation of the road from typical observer locations. The Panel is principally concerned with views from the beach, and from those using the foreshore for walking and other activities. One critical issue is whether sheet piling or rock rip-rap will be required to protect the piling and the bank face on the inland side of the road from wave action and erosion.

Mr Riedel advised the Hearing that sheet piling was not favoured in such locations, as it reflected any wave energy rather than absorbing it. He stated that rock rip-rap would be required along the road, either at the seaward face, or otherwise underneath it at the landward side.

The road level is shown about 0.6 m above the level of the sand surface at the landward edge of the beach. At the site inspection, the sand level below the bank was assessed to be at about 1.6 m AHD, a level confirmed by the surveyor present. Thus the road would be at about 2.2 m AHD, some 0.6 m lower than the breakwater.

What then will people on the beach see? For those playing and walking near the water's edge, and at mean tide at 0.0 m AHD, and an eye height of 1.5 m, an observer would be 0.7 m below the road. They would see the handrail to the boardwalk, the piles, the underside of the boardwalk, the underside of the road, and any rip-rap protection. To describe such a view as the road appearing to 'float' above the beach requires a stretch of the imagination.

The Panel considers that the road on the beach will present a significant visual impact, particularly from the perspective of values embedded in the general policy context of the coast and held by many in the community.

7.5.5 Conclusions

In summary, the Panel concludes that:

- the landscape and visual values of Bastion Point are very significant and should be accorded strong weight in assessing the potential impact of proposed development;

- the existing boat ramp does not appear to cause any significant value conflict;
- the visual impact of the proposed breakwaters will be high;
- the roads that open up a new cutting through the bank to access the beach will have high visual impact; and
- the road on the beach will represent a significant visual impact.

The Panel finds that the Do nothing option avoids detrimental impact to the landscape and visual values of Bastion Point, while the proposals will have a significant impact on the landscape and visual values, through the prominence of the breakwater and the road construction, whether in a cutting down to the ramp or along the beach.

The Panel finds that the landscape and visual values are very significant, and should be given considerable weight in the overall evaluation.

The Panel rates the alternatives under consideration as follows:

Table 13: Option evaluation - landscape

Issue	Do nothing	Option 3	Option 3b	Option LS1
Landscape value, wilderness character and aesthetics	A	C	C	C

7.6 Recreation (surfing, rock fishing, swimming, rock-rambling, walking, contemplation)

The issue of ocean fishing will be addressed under Section 7.7, Tourism, below. From the perspective of recreational amenity the key questions are:

- Will the surfing quality at Bastion Point be compromised by the proposals?; and
- Will the proposals compromise other recreational activities?

While issues of aesthetics and social impact are intimately connected with recreation, the Panel has drawn a somewhat artificial distinction to avoid double counting. Aesthetics have been considered in Section 7.5 above, and Social Impacts will be considered in Section 7.8 below. What remains and is addressed in this section is the physical impact on the opportunity for recreational activities.

7.6.1 Background

The Coastal Processes Study - Final Report (EES Volume 3 Part 1) reports on Surfing and Surf Breaks in Section 5.2. It shows the three main surfing areas, the Nursery Area, Broken Board and Offshore in Figure 5.2. With respect to Option 3 the report concludes that there would be no impact on the Nursery area or the Offshore area. It states that it is likely that conditions for surfing Broken Board would be too severe for boat launching, so theoretically surfing could continue. It states that the breakwater which cuts across the Broken Board area only removes a 30 m width of 'surfable' water.

In evidence at the Hearing, Mr Riedel advised that he expected some 30% of wave energy to be reflected by the breakwater, which would have some impact on the wave quality.

The Pryor Knowledge Report A on Recreational Amenity and Visual Amenity reports a workshop at which other users of Bastion Point were listed and comments made on how they might be affected by the proposals. The list covers:

- body surfers;
- families with toddlers;
- wading;
- sea and surf kayaking;
- wind surfing;
- snorkelling on the reef;
- rock fishing;
- rambling over the rocks and general sightseeing;
- walkers;
- bird watching
- dolphin and whale watching;
- arts such as photography; and
- education and learning.

A brief overview is then provided, which concludes:

...it appears that option 1 is the option most likely to have the greatest negative impact for the types of recreation and activity listed. The nature of the impacts upon community recreation will be those affecting the aesthetics and landscape values as discussed in the previous section, rather than the physical opportunity to continue the recreation which, under options 2 and 3 will remain essentially unaffected.

7.6.2 Submissions and evidence

Surfing

There were many written submissions which put forward the view that the proposed breakwaters would destroy Bastion Point for surfing. There was criticism of Figure 5.2 in the CES Coastal Processes Study, variously as incorrectly designating the areas, and stating that there was no 'Nursery' area. Other submissions suggested there would be no impact on surfing.

Counsel for EGSC referred to 'Surfing Victoria - The Ultimate Guide' by Loveridge, which names five breaks in Mallacoota. Four of these are shown in overheads 144 and 145: 'Broken Board' and 'Beach Breaks' at Bastion Point and the beach to the north, 'Beach Breaks' at Tip Beach around the point to the south of Bastion Point, and 'Beach Breaks' at Betka Beach further south. There was also some mention of breaks off Gabo Island.

Mr Rob Milner provided expert evidence on Planning to the Hearing, and stated, *inter alia*, that 'The impact upon the surf break is considered insubstantial, as Broken Board is one of a number of surf breaks available at Mallacoota and only operates during limited periods.'

Mr Craig Ingram MP, who grew up at Mallacoota, submitted that although he was not an expert surfer, he considered that the Option 3 breakwater would have zero impact on surfing. He stated that near Mallacoota there were a number of world class breaks, and Broken Boards was not one of them.

Counsel for SBPC referred to the expert witness statement of Mr Max Wells, summarising it as follows:

...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 the 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.

Mr Wells made a presentation to the Hearing, and concluded:

The proposed ocean access boat ramp will result in the destruction of a nationally significant surf break currently enjoyed by both local people and visitors to Mallacoota. This will result in a shift in a very unique culture, the permanent alteration of a pristine piece of Victorian

coastline, but most detrimentally, the elimination of one of the only recreational activities available to young people growing up in a remote location.

Mr John Foss presented the submission by the Surfrider Foundation, which has a membership of over 100,000 in Australia. Mr Foss founded the Victorian Branch. Along with information on the history of surfing, and the economic value of surfing, Mr Foss stated:

- *Every surfer who lives in and visits Mallacoota aspires to surf Broken Boards.*
- *Every inexperienced surfer begins at Bastion Point Beach and the Point areas and as they improve in ability and confidence they take on more challenging waves.*
- *The very fact that Mallacoota has a high quality surfbreak in town means that more people surf than on average and that more local surfers will progress and be able to ride big Bastion Point.*

At the Hearing Mr Leo Op Den Brouw described the breaks, stating that Broken Boards and The Point are names commonly used by surfers (HS 53). He prepared a transparent overlay showing the two areas, which overlap offshore from the Option 3 breakwater. Mr Op Den Brouw submitted that Broken Boards was suitable only for experienced and intermediate surfers, while The Point caters for beginners, intermediate and experienced.

Mr Op Den Brouw stated that these designations should not be considered fixed, as wave shapes can alter dramatically with tides, rips, and bottom profiles, particularly when they are based on sand over reefs.

Mr Op Den Brouw also marked on the overlay the paths of breaking waves, and the location where surfers would most likely be riding. Lines 3, 6 and 5 pass through the proposed location of the Option 3 breakwater, while line 4 passes across the end of the breakwater.

Mr Lazarow, a leading researcher on recreational surfing valuation, made a personal submission to the Hearing. Among other matters discussed by Mr Lazarow, he took exception to the evidence of Mr Milner quoted above. Mr Lazarow stated that the Broken Boards break was *'the jewel in the crown'*.

The site where Option 3 is proposed covers an opening in the inter-tidal reef known as the key-hole. It is a favourite route for surfers to access the Broken Boards wave area, saving them a long paddle from the cove where the existing boat ramp is located. Submitters drew attention to the inequity of closing off this surfer's route by the provision of the breakwater for boaters.

Snorkelers also use the keyhole for access to the southern inter-tidal reef areas.

Other recreational activities

There were a number of submissions that set out the many recreational pursuits that occur at Bastion Point, how these pursuits are cherished, and how they will be significantly impacted by the proposals. While some physical impacts are described (e.g. in relation to rock rambling and walking around Bastion Point), the main thrust of the submissions are that the proposals will impact on the 'sense of place' at Bastion Point and the resultant social impact. These issues will be addressed in Section 7.8 below.

Several submitters drew attention to the opportunity for disabled persons to access Bastion Point by car, and to drive onto the beach and then proceed to swim at the cove. Another submitter spoke of a daily walk with young children from the Casuarina Walk around to Davis Creek Beach and then around Bastion Point. Several drew attention to the inequity of diminishing recreational experience and potential of a wide range of users for the benefit of a few, and others raised concerns about sustainability and intergenerational equity. Another drew attention to the synergy between recreational experience and high quality landscapes - how they go hand-in-hand.

7.6.3 Discussion

Surfing

The Panel had a little difficulty in locating the precise end of the breakwater in relation to the end of the inter-tidal reef, and assessing the degree to which surf waves would be intercepted or affected by the breakwater. The difficulty lay in three areas.

Firstly whether the breakwater, nominally 130 m along its top, would have influence down to low water level or below. With the slope of the breakwater being 1 to 1½, a further 6 to 8 m of length is involved over this vertical distance.

Secondly, the contours of the inter-tidal reef outcrops given in the RW Surveying and Valuations drawing 1435B extend only to 0.5 m (against a datum of 1.0 m at high water mark on 11 June 2008, that is, about 0.6 m AHD) equivalent to 0.1 AHD. However from aerial photographs it can be seen that the outcrops extend a considerable distance underwater, and the amount visible above sea level will depend on the state of the tide.

Finally, notwithstanding these difficulties, the information provided on plans is confusing: the seaward extent of the breakwater shown in Figure 4.7 of the Coastal Processes Study is quite different to that shown in Mr Wyatt's Figure 3.3. In fact Mr Wyatt advised the Hearing that this Figure was not necessarily to scale. Mr Wyatt's representation does, however, accord closely with the view shown on the cover of the EES, with the breakwater jutting out significantly past the inter-tidal rock outcrop.

In the absence of the proponent calling any expert evidence on surfing, the Panel is inclined to give considerable weight to the submissions by Mr Op Den Brouw in regard to the location of surfing breaks at Bastion Point and their use. The breaks marked on his transparency shows how a significant number of the paths taken by the Broken Board break would be intercepted by the Option 3 breakwater. When those breaks arise further from shore, it is likely that they will be affected to a lesser extent by wave reflection from the breakwater.

The Panel does not believe that the Option 3 breakwater will destroy surfing at Bastion Point literally. Surfing will still be available from the Point and off the beach. However what will most likely be lost is the opportunity to ride a wave starting just north of Bastion Point, and continuing past the rocky outcrops and the cove and on to the beach. It is this long ride that is 'the jewel in the crown' referred to by Mr Lazarow.

The significance and reputation of Bastion Point as a surfing location would undoubtedly suffer if Option 3 were constructed, even though surfing opportunities would still exist. The social impact of the diminished attraction of Bastion Point to experienced surfers is considered in Section 7.8 below.

Other recreational activities

The Panel notes that there will be some physical impact to disabled persons, if the existing car access to the beach is discontinued. The walk around Bastion Point to Tip Beach and beyond will become more difficult. While this may not impact greatly on the access for hikers, those residents who presently walk daily with their young children may be adversely impacted by the proposed breakwater and turning circle.

As noted above, the principal impacts on other recreational activities are likely to be felt as social impacts, and will be considered in Section 7.8 below.

7.6.4 Conclusions

The Panel has concluded that there will be impacts on surfing if Option 3 proposals are pursued, and particularly on the Broken Board surfbreak.

The Panel finds that the impact of the proposals on the Broken Board surf break are likely to be considerable, while the physical impacts on other surfing and recreational activity are likely to be minor.

The Panel rates the alternatives under consideration as follows.

Table 14: Option evaluation - recreation

Issue	Do nothing	Option 3	Option 3b	Option LS1
Recreation	A	B	B	B

7.7 Tourism

The key questions are:

- Will the proposals increase game and recreational ocean fishing?; and
- Will the proposals impact on other forms of tourism?

7.7.1 Background

Council

The opening submission by Counsel for EGSC made no mention of the treatment of Tourism in the EES (see Section 7.7.3 below, and also Chapter 10 for some caveats relating to recreational fishing and tourist numbers). There is one overhead listing attractions of Mallacoota, and then reference to the findings of Mr Backen on tourism (under Economic Impacts) and Mr Offor on tourism (under Social Impacts).

Mr Backen

Mr Backen was commissioned by EGSC to report on the economic impacts of the proposal, and his expert witness statement and presentation at the Hearing covered a number of matters relating to estimates of likely future tourism levels. He stated that tourism was vital to the local community and that the two main drivers of tourism were nature based tourism and fishing. He stated the game fishing would appear a likely draw card, but there could be other opportunities, such as accessing natural features such as Gabo Island with its penguin colony and whale and dolphin watching, and the Cape Howe Marine National Park. He stated that increased boating and

fishing associated with the proposals would be a positive impact, with the increase in boating tourists offsetting the impact on nature based tourism.

Mr Backen drew attention to the seasonal nature of tourism at Mallacoota:

...with January being close to capacity, and February and March very busy. Other months still get a good number of tourists, however not enough to ensure all retail providers (including some restaurants) remain open all winter. Also, a number of accommodation providers close during these months.

Mallacoota is a well known fishing location. However, it is currently best known for its inlet river fishing. Fishing in the inlet has been limited to recreational boats. The lack of commercial boats has allowed fish stocks to be very good, and contributed to the reputation Mallacoota has as a fishing destination. The region does not seem to be well known for its ocean fishing although local businesses do market this as a recreational sport.

Mr Backen considered that a large proportion of tourists come to enjoy nature based activities, and questioned the impact of the proposals on the image of Mallacoota. He considered the negative impact of the proposals on nature base tourism and surfing tourism is likely to be marginal.

Mr Backen noted that the key industry at Mallacoota is abalone, and a key risk is recreational boats using the current ramp. He stated that the impact of an accident at the existing ramp on the abalone industry was unclear.

In relation to the potential for aquaculture in the area, Mr Backen thought this was not clear. The future development of the industry carries risk (for example increased risk of the spread of AVG), and the boat ramp won't guarantee the industry's success. However the new boat ramp is likely to make development of an aquaculture industry easier, a clear positive impact.

Tourism Australia

EGSC tabled brochures authored by Tourism Australia entitled 'National Landscapes', and 'Australia's Coastal Wilderness'. The emphasis of these brochures is on nature based tourism. Mallacoota is referred to, and there are photos of hikers, kayakers on inlets, and people accessing surf beaches. There is a long list of nature-based activities under the heading 'Things to see and do'.

Text under the heading 'Outcomes for Tourism Operators' states:

Operators in National Landscapes are likely to attract high-yield Experience-Seekers – visitors who stay longer and travel more widely than other visitors.

Tourism operators working in National Landscapes will have access to:

- *A unified, high profile brand from which marketing programs can be easily developed.*
- *A common marketing platform that all tourism operators in the National Landscape can use cooperatively.*
- *Toolkits to support marketing activities.*
- *Worldwide promotion through cooperative PR, media and digital activity targeting Experience Seekers.*

7.7.2 Submissions

Support for the proposals

MOAC submitted a letter from the Victorian Game Fishing Club Inc, dated September 1996, which detailed the success of a game fishing tournaments in the late 1970's and early 1980's. It documented how traversing the bar (on the inlet) became too dangerous in the mid 1980's, and Victorian game fishermen have gone on to southern NSW, at Bermagui in particular. It advised that the present ocean access boat ramp is discounted because it is unusable due to its siting, lack of protection, susceptibility to silting, shallow water and angle into the water. *'The provision of a safe and reliable ocean access could result in an injection of up to \$1 million into Mallacoota's economy from recreational offshore angling alone.'* It estimated that a single weekend fishing tournament with just 50 boats would inject an estimated minimum of \$125,000 into Mallacoota's economy.

Mr Ian Jones from the Victorian Game Fishing Association also spoke during MOAC's submissions to reinforce these earlier comments.

The Mallacoota and District Business and Tourism Association (MADBATA) represents over 40 local businesses, and the Hearing presentation stated that it is recognised by local government and other institutions as the main representative body for business in Far East Gippsland. It drew attention to the extreme seasonality in volume of trade, and considered that any infrastructure improvements that attract an increase in visitor numbers throughout the year are very important. MADBATA drew attention to the increased marine-based nature tourism opportunities: for regular day-trips

to Gabo Island where there is the largest 'little penguin' colony in the southern hemisphere, for whale-watching, to visit nearby Marine Parks, and to see the largest fur seal colony south of Skerries Rock (20 km along the coast from Mallacoota).

The MADBATA presentation (HS 22) also included advice that the Game Fishing Association of Victoria has indicated that it would hold at least one annual tournament at Mallacoota if ocean access was available.

Mr Craig Ingram in his presentation at the Hearing (HS 19) noted the opportunities for marine-based nature tourism: whales, seals, penguins, dolphins and coastal landscapes.

Mr Mark Rogers, the owner of the Shady Gully Caravan Park, stated that he had the biggest business in Mallacoota, and stores 120 private caravans for use at holidays. He promotes his caravan park as the ideal family holiday, and exhibits at three shows per year in other capital cities. He told the Hearing that many of his clients are boat owners, and have contributed to the \$30,000 (to support the preparation of the EES). He is asked constantly about access to Gabo Island and fishing charters, though the latter are more likely to be for inlet fishing. Mr Rogers reported that many of his customers want to fish offshore, but struggle to access the ocean. Good ocean access would take pressure of the lake. Mr Rodgers stated '*The Boat Harbour is on one of the best protected beaches in Victoria, but we don't recommend it to people because of the conflicts (between boaters and surfers).*'

Mr Kevin Lott is a commercial fisherman who has fished the coast line for ten years catching live fish for the Asian market. He told the Hearing that he has had considerable damage to his boat at the existing ramp, and all his incidents have occurred at the ramp. He said he fished for wrasse using a line. He knew of one other fisherman who fished for mowong, and one cray fisherman.

Objection to the proposals

The opening presentation to the Hearing (HS 9) on behalf of the Save Bastion Point Campaign (SBPC) noted the lack of discussion 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 lands. The definition of '*appropriate recreation and tourist use*' includes consistency with sustainable development principles, management of risk in relation to users skills, and does not unreasonably restrict other community users from access to public land.

SBPC commissioned Mr Ken Boundy, Principal, The Insight and Strategy Group to provide an Expert Witness Report addressing tourism impact of the proposed development. Mr Boundy provides high level strategic and marketing advice within the tourism industry. Mr Boundy was the Managing Director of the Australian Tourism Commission (and subsequently Tourism Australia) from May 2001 to December 2004. Mr Boundy was not called to present his evidence, so there was no opportunity to test it.

Mr Boundy provided data from Merimbula, Eden and Mallacoota to demonstrate that increased visitor numbers are unlikely to flow from ocean access boating in the winter months. He states:

In the Pryor Knowledge Report C, there has been insufficient weight placed on the negative impact of the development on existing tourists and certainly an underestimation of the increasingly appeal of unspoiled and preserved areas such as Mallacoota in general and the Bastion Point specifically.

Mr Leo Op Den Brouw, who for the last seven years has worked alternate months at Gabo Island as the Lighthouse Caretaker, cautioned against over-development at Gabo Island, stating that the attraction for most guests was its isolation and difficulty of access. Visitor numbers and commercial access permits are strictly limited. A draft management plan guides decisions on the islands capacity for tourism development (HS 30).

Mr Phil Reichelt told the Hearing that he has been involved as an abalone diver for 25 years. He said that fishing at Mallacoota was not great during the winter, as the fish want warm water. The bread-and-butter catch, flathead, shift north when the water is cold. He also stated that at Mallacoota the distance to the continental shelf was twice as far as at Eden, where you don't have to pay to use the ramp. He stated that the Co-op spent \$10,000 per year on maintenance of their tractor, and over 16 years they are using their second tractor which is close to its 'use-by date'. They purchased their tractors second hand for about \$25,000.

Mr Ray Davey (HS 40) drew attention to the 10 empty boat trailers during the Panel's site inspection, and stated that there had been 100 empty trailers on Boxing Day, and asked 'what is the problem?' (The Panel notes that the estimate of the number of trailers on Boxing Day by Mr Davey is considerably larger than the maximum number recorded in the survey presented by SBPC, some 47 trailers on 30 December 2006. It is likely that Mr Davey was referring to Boxing Day 2008 and perhaps the particular sea conditions on that day were particularly favourable.)

Mrs Drake in her presentation (HS 36) emphasised the importance of advertising and marketing Mallacoota as a niche market, with an emphasis on its natural attractions which can be enjoyed all year round. She submitted that the development of the visually intrusive proposals would devastate the acclaimed natural values of the area, and that the loss of overseas visitors could well be significant.

The submissions made on behalf of the VNPA stated, in part:

'Recent market research undertaken for the Victorian Coastal Council found that the natural environment resulted in high visitation satisfaction in comparison to areas with built of manmade structure.'

and

'An investigation into the wider impacts of increased boating and fishing activity is also required. There are concerns that visitations to Gabo Island may become unsustainable and there is no mechanism to ensure that the no landing policy at Tullaberg, where the white faced sea petrel is found, is enforced.'

Mr Rod Ingham, a former Science Teacher at Mallacoota, an annual visitor, and as a tour guide to many international visitors over the last two years, stated (HS 67):

As a tour guider to many international visitors over the last two years, the theme that rings out again and again is enthrallment with our unspoiled natural areas. The stare open mouthed at unblemished cliffs and empty beaches. The feel good to know that such things exist, in seeming abundance, even if they are taken to a mere sample. I tell incredulous US visitors that private ownership is not allowed on the coastal frontage. It is Crown Reserve. Use of coastal land is set aside for all - a birthright. Their reaction is invariably one of gratefulness that, at least somewhere in the world, such privileges exist - referring to our pristine scenery as much as our civic rights.'

Mr Matthew Watts, who has been a commercial fisherman, made a presentation to the Hearing (HS 50) and stated: *'To hope that an improved boat ramp is going to stop these boaters going further north to me seems wishful thinking. The fishing is generally better up the coast where water temperatures remain higher, and the ability to fish in a greater variety of weather conditions is assured.'*

Ms Luker, the co-owner of Karbeethong Lodge, made a presentation to the Hearing, and supplemented her written submission (89) on the EES. Ms Luker stated that she has a first degree in economics, and a graduate degree in marketing and communications. She stated that since taking over the lodge in 2001, the business is growing steadily, not only during peak season,

and they have expanded their visitor base from both domestic and international markets.

She disputed a number of the points made by MADBATA. In relation to the statement by MADBATA that it represented in excess of 40 businesses, Ms Luker said she was a member and MADBATA certainly hadn't consulted her. Her view was that the Association's views were those of a small coterie. In relation to the statement by MADBATA that the need for the proposals was widely accepted, Ms Luker stated that it is not, and she doesn't accept the proposals. In relation to the impression from MADBATA that Mallacoota is dying, Ms Luker said she didn't accept that. While it was true that some businesses had closed, a number of businesses are expanding, including her own. Her clientele are independent experience seekers, and not one of them has inquired about ocean access.

Ms Luker said that what is holding Mallacoota back is a high quality food and wine experience. Until recently, when a noodle shop opened, you couldn't buy abalone in Mallacoota. Ms Luker drew a parallel between the present proposals and the Franklin Dam proposal, where those supporting the scheme could not see that there was another way. Now, 25 years on, the area is the centre of a thriving tourist industry. She typified the proposals as backward looking and flawed.

Ms Luker summarised her key points: the information on tourism in the EES is fundamentally misleading; nature based tourism is one of the highest growth sectors in the tourism market; the future of tourism in Mallacoota lies in low impact wilderness tourism, not in a high impact, destructive boat ramp; and it follows that the potential negative impact on Mallacoota's tourism revenue if this proposal goes ahead, and the wilderness coast is compromised, is likely to be substantial.

7.7.3 Discussion

The Pryor Knowledge quantification of additional ocean boat launchings

The Pryor Knowledge Report C on Social, Economic and Infrastructure Impacts (EES Volume 3 Part 2) is the principal source of information exhibited on tourism, intertwined with economic modelling. On page 10 of the report the author states: *'The assumptions about additional launchings are not made using accurate data, but mostly rely on oral reports of 'likely' usage. Given the sensitivity of the model to this parameter we are not confident in the model's calculations.'*

Section 2 of the report commences with an assessment of the likely impact on visitation numbers to Mallacoota that would result from the development.

Survey information undertaken in 2002 is quoted, showing occupancy rates of tourist accommodation in Mallacoota. It is not specified whether the numbers quoted in the table relate to occupancy per night or per month. The calculations subsequently detailed show that in the case of campsites, it is per night (i.e. on average 55 campsites occupied per night for 30 days per month and 12 months per year = 19,800), while for other beds in motels, flats and units it is per month (i.e. 1002 being the sum of the monthly figures, when multiplied by the room occupancy of 2½ per room is quoted as the people in rooms per year, 2505.)

The Panel questioned the conversion of the camping site monthly figures from the third line (Average) to the fourth line (3000 camp sites), involving a multiplication by 30, and was told it represented totals over the 30 year analysis period. However from a closer examination of the subsequent figures it appears to be a conversion from months to days, as detailed above.

These occupancy rates have been transferred to the table on page 14, and added to give daily occupancy throughout the year. The motor boat owner rate for Victoria of 1 boat in every 32 people is quoted. The author has doubled this rate for Mallacoota on the basis that the number of boat owners is likely to be high. The revised rate of 1:16 has then been applied to the occupancy rate, resulting in a quoted estimate of 1200 visitor boats per year. This represents the number of visitor boat-nights throughout the year.

It seems to the Panel that beyond mere arithmetic inaccuracies, there has been no allowance made to translate camp site and room nights to people nights, using the ratios 4:1 and 2½:1 quoted in the report for camp sites and motel rooms respectively.

A figure of 5000 visitors to Mallacoota is given for the 6 week Christmas period (page 5). Applying the 1:16 ratio, the author equates this to 300 tourist boats in Mallacoota for the six weeks. This is added to the 280 registered boats in Mallacoota, to give a total of 580 over the Christmas period. Based on an estimate of 50-60 boats per day using the Bastion Point ramp, this represents 18% of the boats owned by tourists in town (as distinct from the 580 total boats in the town). This ratio is then applied to the 1200 visitor nights, giving about 200 boats over the year would use the present ramp from among tourists. It is then supposed that each boat would make three trips, leading to a usage of 600 tourist launchings.

This logic confuses visitor boat-nights with the total number of boats, and assumes 100% current usage of the Bastion Point ramp by visitors.

For example, if we were to adopt the 50 - 60 visitor boats per day using the Bastion Point ramp suggested by Pryor Knowledge and simply multiply by

42 days, there would be 2000 to 2400 launchings over the holiday period. If only 50% of boats were assumed to be owned by visitor, the number of visitor boat launchings would be 1000 to 1200.

Save Bastion Point surveyed the number of trailers in the Bastion Point car park over December -January in 2005 and 2006 (HS 14). The average was 10 per day, five times smaller than the figure adopted by Pryor Knowledge.

At this point the Panel felt that further consideration of the numbers and estimates in the Pryor Knowledge report were unlikely to add to its understanding of the likely present or future usage of the ramp.

Recreational offshore angling and nature based tourism

The estimation by the Victorian Game Fishing Club Inc of the dollar value of recreational offshore angling that could accrue to Mallacoota were safe and reliable ocean access provided could not be tested by the Panel. As has already been detailed under Chapter 4, the proposals do not guarantee safe ocean access, nor are conditions reliable—there may be sand build up or dangerous weather. The extent to which, under these constraints, the established markets for recreational offshore angling could be diverted from southern NSW is questionable.

These centres (for example Bermagui) have a strong established industry and true all weather harbours that offer a considerably higher degree of safety and ancillary facilities than that proposed under Option 3 at Mallacoota. The continental shelf game fishing grounds are also considerably closer to the harbours in NSW than they are to Mallacoota.

The Panel also wondered whether any substantial effort had been made to re-establish game fishing tournaments, given that they are potentially so lucrative. With the abalone cooperative undertaking several hundred launches every year without incident, the question must be asked why a similar approach using tractor assisted launches could not have been employed for a game fishing tournament. The Panel noted that fishing was seasonal, and the game fishing season overlapped the better time of the year for other tourists. In this respect it did not address the need to provide tourists in the off-peak seasons.

The Panel noted the potential for ocean-based nature tourism. There are several matters which limit the potential of such activity. Firstly, the capacity of Gabo Island to support tourist numbers is limited, and is already subject to restrictions. Secondly, one submitter has questioned whether Cape Howe Marine Park is attractive for divers.

In response to a written request from the Panel, Parks Victoria advised that the existing boat ramp meets their needs for patrol and other management duties they perform in the area.

Nature based tourism is a high growth area and it has the capacity to spread the tourist load into off-peak seasons. A number of businesses in Mallacoota are targeting this sector of the tourism industry, and are seeing increased visitor numbers. Eco-tourism is supported by a variety of government policies and strategies. The Panel was impressed by the level of management and marketing skill and knowledge exhibited by those advocating nature based tourism. The Panel gave considerable weight to the conclusions presented by Ms Luker, because they were presented and argued with tight logic and a depth of understanding and experience.

7.7.4 Conclusions

The Panel does not consider that the future of offshore recreational fishing and nature based tourism at Mallacoota are necessarily in conflict. However it does have considerable doubt as to the degree to which the present proposals will in fact promote offshore recreational fishing, and it has little doubt that the present proposals will have an adverse effect on the marketability of the 'wilderness coast' aspect of Mallacoota.

The Panel finds that the Do nothing option is consistent with the present eco-tourism marketing of Mallacoota, and will support a broad range of activities that comprise the potential growth sector for tourism.

The Panel finds that there is little evidence that the proposals will significantly increase offshore recreational fishing, and it is likely any increase will occur during the peak season so will not assist in off-peak tourism.

The Panel finds that it is likely that the proposals will have an adverse effect on the marketability of the 'wilderness coast' aspect of Mallacoota, and may result in a drop in tourism numbers in excess of the gains accruing to use of the new facility.

The Panel rates the alternatives under consideration as follows:

Table 15: Option evaluation - tourism

Issue	Do nothing	Option 3	Option 3b	Option LS1
Tourism	A	B	B	B

7.8 Social impacts

The following brief definition of social impact was provided in Section 7.2 above:

The consequences - both positive and negative - to human populations of actions resulting from the project that alter the ways in which people live, work, play relative to one another, organise to meet their needs and generally cope as members of society.

This includes cultural impacts involving changes to norms, values and beliefs that guide and rationalise their thinking about themselves and their society.

The consideration of the alternate visions for Mallacoota, the consultation undertaken for the EES, landscape values, recreation, and tourism detailed above all impinge on social impact. What then is left to say?

The Panel believes that it is the interplay of these issues, and the way they affect the community now and into the future, that remain to be considered. In particular, there is a need to consider:

- community cohesion (and its opposite, alienation);
- capacity building; and
- the community's trust in institutions.

7.8.1 Background

The EES does not address the issues of social impact, save for the consideration of the direct impacts of the proposals on particular activities, which have already been examined in sections above.

The Expert Witness Statement by Dr Vincent Clark discusses non-Aboriginal cultural heritage. He established that the Burra Charter includes social and spiritual values in its definition of cultural values (which apply to 'the sense of place'). Dr Clark noted the recent classification of 'Mallacoota Coastal and Inlet Foreshore precinct' (which includes the area of Bastion Point) as a significant cultural landscape by the National Trust of Australia (Victoria). This classification acknowledges the aesthetic, historic, scientific, social and spiritual values at a State level. Dr Clark rates Bastion Point as significant at a local level.

Mr Offor provided an Expert Witness Statement, and made a presentation to the Hearing supported by overheads (HS 112). Mr Offor noted that a number of submissions had expressed being upset and angry about the proposals, and that these feelings were exacerbated by bad process.

However he stated that similar feelings were present for most infrastructure proposals and little could be done to mitigate the impact.

Mr Offor then considered the more than ten years of prolonged uncertainty about the proposal, the stress and anxiety caused by the proposal within the community, the social tensions and divisions, and the annoyance and interference with normal habits that the proposal would incur. He advised that little could be done to mitigate these impacts, save to make a decision quickly, and if the proposal is approved, to engage the community positively.

7.8.2 Submissions

The submission to the Hearing by SBPC entitled 'Mallacoota today and our vision of its future' (HS 15) painted a picture of the people and lifestyle, noting the high number of community groups served by volunteers, ongoing advocacy of the town's natural assets, and community involvement in recycling and sustainable energy initiatives. The submission contended that intergenerational cooperation, coaching and informal mentoring are strong in both the arts and sporting activities at Mallacoota. It stated that 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.

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.

Dr Michael Drake, a retired medical practitioner, addressed the Hearing (HS 37) and advised that he had been the initial President of the Community Reference Group, the Advisory Committee to the Mallacoota Health and Support Service, and he had occupied that position for several years. The Health and Support Service organisation has a major interest in the mental and physical health of the younger members of the community. This interest was expressed tangibly by the employment of a full-time youth worker at that time. Dr Drake made the point that younger people, who can access the surf at Bastion Point without recourse to vehicular travel, get a twofold benefit from surfing. It is a peasant and healthy activity, but it also facilitates meeting older surfers with whom they form friendships and who act as mentors for the young. Dr Drake stated, in summary, that any activity that diminishes, or acts unfavourably, on surfing in Mallacoota would be most undesirable.

Ms Lorelle Roberts submitted a statement by Lindy Allen (HS 39(b)) to the Hearing. Ms Allen is a Director of Regional Arts Victoria, and was the Director and General Manager of the Festival of the Southern Ocean at Mallacoota in 1999-2000. Ms Allen drew attention to the cultural importance of the site of Bastion Point to the arts community, and the importance of the arts to the health and vitality of the Mallacoota community. Ms Allen then set out how the arts strengthen a number of aspects of local communities—the economy by improving skill levels and opportunities for employment, quality health, educational outcomes, building caring communities, enabling broad participation in community and democratic process, and supporting greater connectedness and integration.

Philip Counsel, a practicing Community Development worker, briefly outlined some of his previous work during six years with the Salvation Army with homeless people, with 'at risk' youth during ten years with the Reach Youth Foundation, as the Community Engagement Officer for Drug Initiatives at the City of Casey, and currently in Mallacoota as the Coordinator of the Office of Youth, Youth Participation Access Program 'Coota Connections' life-skills and mentoring programs. Mr Counsel outlined his work with isolated, marginalised and disconnected communities, and how principles of social justice, equality and empowerment can guide the development of social capital, the 'glue' that holds a community together.

Mr Counsel has lived in Mallacoota for four years and is a surfer. He told the Hearing how his background places him in a unique and well qualified position to examine and comment on the social implications of the proposals. Mr Counsel's submission details the interaction between young surfers and older surfers. He concurred with the conclusions of the Mallacoota Surfriders that the proposals will destroy the surfing amenity. He summarises his concerns as follows:

The proponent has failed to address the social impact that the building of the proposed boat ramp at Bastion Point will have on Mallacoota. If the proposal is accepted in its current form then this process will fail the youth of Mallacoota, the social health of Mallacoota, the Premier's Drug Prevention Council's own operating principles and strategies that deal with addressing the issues of problematic drug and alcohol misuse in society, the conclusions and recommendations brought out by the State's own Inquiry into Retaining Youth in Rural Towns and Communities and it will fail the principles, practices and reasons by which the Department for Victorian Communities was initially established, to strengthen communities, build social capital and reduce social disconnection. To accept this proposal will be to exacerbate the sense of

social disconnection in a community that is already disconnected due to its remote location and through the divisiveness within the township of Mallacoota caused by the handling of the issue.

Ms Sharyn Cambridge told the Hearing (HS 66) of her spiritual connection with Bastion Point in the following word:

I am not opposed to low impact improvement but I am opposed to the destruction of the beauty of Bastion Point and the irresponsible rape of a special and sacred place of rock, waves, sand and fish that grounds me, and many others like me, as a human being.

Mr Rod Ingham, a former Science Teacher at Mallacoota, an annual visitor for 30 years, and as a tour guide to many international visitors at Mallacoota over the last two years, set out some of the history of community participation in development proposals, directed at protecting the natural and heritage values of Mallacoota, and the deep and enduring community networks that have resulted. *'While 'capacity building' and 'community engagement' are modern buzzwords, they were hard currency in Mallacoota well before the terms had been minted in government circle.'* he told the Hearing.

Mr Phil Reichelt in his submission (245) stated how *'the biased representation on the Steering Committee and the secretive nature of the appointment has not allowed a more balanced sharing of views, therefore resolving conflict while working through design options. The results of this poorly managed process has further divided the local community and created an untrusting and negative feeling towards the East Gippsland Shire Council and Steering Committee.'*

7.8.3 Discussion

As Mr Offor has stated, most infrastructure projects engender some feelings of stress and anxiety in the affected community. In the Panel's view, what is observable here is a different level of community sentiment. It is sentiment which arises when experienced, well-informed and articulate people feel that their concerns have not been addressed, when they feel that the likely social impacts of the proposals have not been properly recognised, and when they feel that the fabric of their community is under threat.

The Panel has already concluded in Section 7.6.3 that the significance and reputation of Bastion Point as a surfing location would undoubtedly suffer if Option 3 were constructed, even though surfing opportunities would still exist. The Panel is concerned that the likely impact on the Broken Board surf break (the jewel in the crown) will be that older surfers will no longer come to Bastion Point as they presently do, and that there will be a reduction in cross-age mentoring that currently occurs. Additionally, there are a large

group of residents who view the future construction of one of the proposals involving a breakwater and boat ramp at the Site of Option 3 as an action that would destroy the sense of place that Bastion Point has for them.

The Panel does not agree with Mr Offor that little can be done to mitigate the stress and social tension within the community, except to make a decision quickly, and if the proposal is approved, to engage the community positively. What is needed, in the Panel's view, is for a decision which meets the test of net community benefit, and then in implementing that decision, that the knowledge and skills of the community are harnessed to ensure good process and real community participation thereafter.

7.8.4 Conclusions

The Panel has concluded that there will be significant social impact if one of the proposals involving a breakwater and boat ramp at the Site of Option 3 is built. If the present ramp is left as it is, it is likely that many in the community will feel that an opportunity has been lost, while advocates of the proposals will feel isolated and abandoned. If the decision is made not to proceed with the proposals outlined in the EES or as later refined by Options 3a, 3b and LS1, it will be highly desirable to recommence consideration of a modest upgrade of the present boat ramp. Such a course of action will need a very different approach to that employed to date, and has the potential to restore community trust and to strengthen the community's cohesion and capacity.

The Panel finds that the Do nothing option will have an adverse social impact on those who see the proposals as providing a needed facility and giving a boost to the town.

The Panel finds that adopting the proposals will cause significant social impact, by adversely affecting the natural values of Bastion Point and Mallacoota that a majority of submitters wish to protect.

The Panel rates the alternatives under consideration below:

Table 16: Option evaluation - social

Issue	Do nothing	Option 3	Option 3b	Option LS1
Social impact	B	C	C	C

7.9 Overall summary of impacts included under Evaluation Objective 4

The Panel rates the alternatives under consideration as follows:

Table 17: Summary of assessment - Evaluation Objective 4

Issue	Do nothing	Option 3	Option 3b	Option LS1
Landscape value, wilderness character and aesthetics	A	C	C	C
Recreation	A	B	B	B
Tourism	A	B	B	B
Social Impact	B	C	C	C

The Panel finds that the Do nothing Option avoids detrimental impacts on the landscape values of Bastion Point, and on the potential for future recreation and tourism, but will have some ongoing social impact to those who see the construction of the proposal and the increase in game fishing activity as desirable outcomes.

The Panel finds that the other options, involving a breakwater and ramp at Site 3, have significant landscape and social impacts, and will not avoid adverse impacts on recreation and tourism.

The Panel finds that the proposals meet Evaluation Objective 4 poorly overall, while the Do nothing option meets the objective well.

Overall, under Evaluation Objective 4, the options are rated as follows:

Table 18: Rating of Options - Evaluation Objective 4

Issue	Do nothing	Option 3	Option 3b	Option LS1
Detrimental impacts on character, amenity and infrastructure	A	C	C	C

8. Cultural heritage

Evaluation Objective 5: To avoid to the maximum extent practicable, adverse impacts on Aboriginal or post-settlement cultural heritage.

8.1 The issues

There are no sites of significance for European cultural heritage at Bastion Point, and the cultural and spiritual values of Bastion Point to non-indigenous members of the community (both local and those who visit Mallacoota) are addressed in Chapter 7, Evaluation Objective 4 (Character and Amenity).

Issues concerning Native Title are outside the scope of the EES and the Panel Inquiry, and will be the subject of separate processes.

The key issues for Aboriginal cultural heritage are:

- impacts on archaeological sites; and
- impacts on 'sense of place' and spiritual values.

8.2 Background

The EES for Bastion Point summarises the work by Dr Vincent Clark and Associates detailed in the reports 'Ocean Access Boat Ramp Bastion Point, Mallacoota, Cultural Heritage Investigation' (June 2005) and 'Report of Sub-surface Investigations for Aboriginal Archaeology' (June 2006). The brief for the first study was based on the requirements of the Victorian Archaeological and Aboriginal Relics Preservation Act 1972.

The Executive Summary to the June 2005 report stated that Option 1 would not cause a direct impact on any Aboriginal archaeological sites, that Option 2 would cause a severe impact on two sites and may damage a third, and that Option 3 would cause a severe impact to one site, and would damage two others.

Further investigations involving sub-surface testing was recommended prior to the adoption of either Options 2 or 3. General recommendations were also made, in particular that disturbance or destruction of sites should be avoided or, if unavoidable, should be kept to a minimum.

EGSC commissioned the second report which was confined to further sub-surface investigation on the alignment of the proposed access road for boat ramp Option 3. The Executive Summary stated that the proposal has the potential to cause serious impacts upon Aboriginal cultural heritage values at Bastion Point. In particular, Option 3 will cause an adverse impact on three sites that are located wholly or partially within the footprint of the proposed boat ramp and the access road to it.

Post completion of the July 2006 report, the Victorian Aboriginal Heritage Act 2006 came into force (28 May 2006). This Act requires the preparation of a Cultural Heritage Management Plan (CHMP), and the East Gippsland Shire Council (EGSC) commissioned Dr Vincent Clark and Associates to prepare a draft CHMP in July 2007. The scope of the draft CHMP is confined to consideration of Option 3, and was extended to consideration of Options 3a and 3b.

Contemporaneously, the EES had been exhibited and submissions received. The Department of Sustainability and Environment (DSE) had commissioned a further report of road options (3a and 3b), and these options were also considered in the draft CHMP. The results of this further commission were reported in the Expert Witness Statement dated 30 June 2008 by Dr Clark, and the draft CHMP dated 18 June 2008, both of which were provided to the Panel and the parties to the Hearing.

Figure 8 from the Draft CHMP provides the location of the Aboriginal cultural heritage sites, and is reproduced below:

Figure 8: Aboriginal cultural heritage sites



At the time of completing the CHMP, no Registered Aboriginal Party (RAP) was in place for the study area. Dr Clark consulted with Mr Alex Mongta and Michelle Mongta in the field survey on 10 May 2005. Mr Lenny Hayes of the Bidawel Native Title claimants group was also invited to attend. In the event Mr Alex Mongta and Michelle Mongta together with Mr Jason King took part in the sub-surface testing on 19-20 December 2005. Mr Peter Mongta and Mr Alex Mongta, representatives of the Nindi-Ngujarn Ngarigo Monero Aboriginal Corporation met with Dr Clark on site on 2 June 2008. The Corporation has lodged an application with the Aboriginal Heritage Council to become a RAP for areas in East Gippsland, including Bastion Point.

The draft CHMP documents that:

...the Aboriginal cultural heritage sites in the Area of the proposed boat ramp were very significant to Aboriginal people and that all attempts possible should be made to ensure their protection.

and:

Mr Peter Mongta and Mr Alex Mongta stated that they do not wish that the sites identified within the activity area be disturbed. They also expressed their concern that sites at Bastion Point may be damaged or lost due to changes to coastal processes and to an increased number of visitors, unless measures are put in place to protect the remaining Aboriginal cultural heritage. Both Peter and Alex Mongta expressed

strongly the view that they favoured this (option s 3a and 3b) over option 3 because it would have little or no impact upon identified Aboriginal cultural heritage values and has the potential to allow for protection measures for sites 8822-0001 to be implemented.

Dr Clark, in his Expert Witness Statement, advised:

- *that Mr (Alex) Mongta indicated to me that he is in favour of retaining or upgrading the existing boat ramp, in order to avoid any interference with Aboriginal heritage;*
- *that the cultural heritage significance of sites at Bastion Point has been assessed primarily in terms of scientific significance, because this has been the focus of investigations;*
- *that the sites have social and spiritual values for Aboriginal people, 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.*

8.3 Submissions

The first was made by Mallacoota and District Reconciliation Group. While many submissions cited Aboriginal cultural heritage concerns as a reason for not proceeding with options 2 and 3, and the later options 3a and 3b, two submissions to the Hearing were of particular significance.

A presentation to the Hearing was made by Ms Melinda Beacham. The Reconciliation Group has some 55 members, and has been active in initiating gatherings to involve the community in the reconciliation issue and improve relationships with the local Aboriginal people. With the support of EGSC and after consultation with Lenny Hayes, Alex Mongta and Peter Mongta, the Reconciliation Group has erected a plaque on the Pittosporum Walk to Bastion Point which will read *'While you are reflecting on the beauty of Mallacoota, remember that this has been an Aboriginal land for thousands of years. Please acknowledge their custodianship and show respect for their country in which we now live.'*

Ms Beacham spoke of the need to recognise, respect and value Aboriginal history as part of our Australian culture, placing the preservation and protection of Aboriginal history in the wider realm of our shared history.

Ms Beacham advised that the proposals need to be framed in a larger context, namely that associated with a sense of place:

This sense of place encompasses honouring the ancestors and having responsibilities to care for the land. Culture is the expression of a way of life and this place tells the story of the ancestors of this land.

Ms Beacham submitted that the integrity of the cultural heritage site should not be compromised by a large scale engineering project that will dominate the landscape, visually, audibly, aesthetically and spiritually.

Ms Beacham drew attention to the views of some Aboriginal elders who visited Bastion Point with representatives of the Reconciliation Group, who wished it to be noted that they were not opposed to the idea of ocean access for Mallacoota. They considered that a smaller scale upgrade of the existing ramp would have a lower impact on the whole environment of the cultural heritage site, and would be preferable to the present proposals.

The second submission was a verbal submission from Mr Peter Mongta and his daughter, Aileen Blackburn. In response to questions from the Panel, Mr Mongta confirmed that: *'It's one big site, not separate sites.'* He stated that he was not speaking on behalf of the traditional owners, and that there would need to be considerable consultation to come to a concluded view.

Nevertheless he advised the Panel that he thought any boat ramp upgrade should occur at the existing ramp, and that he opposed relocation to sites 2 or 3, even with the beach road. In response to a further question from the Panel concerning whether it was desirable to protect site 8822-0001 (along the west edge of the beach where the road associated with Options 3b and LS1 would be sited) from further erosion from the waves, Mr Mongta said words to the effect of: *'Let nature take its course.'*

8.4 Discussion

The investigation of Aboriginal sites is accepted by all the principal parties, and the detailed recommendations by Dr Vincent Clark for measures to avoid harm to Aboriginal cultural heritage if Option 3 is adopted, to minimise harm where it is not possible to avoid harm, and for salvage operations for site 8822-9263 that would be destroyed by Option 3 are not disputed. Similarly the recommendations if Options 3a or 3b were adopted, which included avoiding damage to site 8822-0001, were not disputed.

There is one conclusion reached by Dr Clark that is the subject of concern to the Panel. That is, the conclusion by Dr Clark that *'Alternative options 3a and 3b will cause little or no adverse impact on Aboriginal cultural heritage.'*

Dr Clark confirmed one difference between the *Victorian Archaeological and Aboriginal Relics Preservation Act 1972* (under which the site investigations and sub-surface investigations were undertaken) and the *Aboriginal Heritage Act 2006*. The latter act goes beyond consideration of relics to also consider the cultural values associated with places identified by Aboriginal people as

significant, whether those places were identified by their spiritual values or by the presence of Aboriginal artefacts.

The Panel sought advice from Dr Clarke on the broader issues of the sense of place associated with Bastion Point, particularly in the light of the comments made by Aboriginal elders about their preference for the existing boat ramp site to be maintained, and even upgraded to some degree. Dr Clark advised that the sub-surface investigations had been limited to Option 3, and that the Terms of Reference for the CHMP had confined consideration to Option 3 and its later derivatives (3a and 3b).

The Panel has a little difficulty in understanding how a CHMP can avoid exploring the sense of place of an area, particularly when that sense of place has been drawn to the attention of the consultant. It may be explained, to some extent, by Dr Clark's advice that the cultural heritage significance of sites at Bastion Point has been assessed primarily in terms of scientific significance, because this has been the focus of investigations (see above).

8.5 Conclusions

The conclusions on Aboriginal cultural heritage is conveniently summarised under two headings, Aboriginal artefacts, and 'sense of place'. In relation to the first, the Panel concludes that the Do nothing Option will have no impact on Aboriginal sites. Option 3 will destroy several Aboriginal sites, and has a significant impact. Options 3b and LS1 will have a modest impact on Aboriginal sites. In terms of 'sense of place' all options except the Do nothing have the potential to have a significant impact on Aboriginal cultural heritage values, though this potential has yet to be tested by thorough consultation with the Aboriginal people.

The Panel makes the following findings:

The Panel finds that the Do nothing Option will not disturb existing sites of Aboriginal artefacts, nor will it further impact on the spiritual values associated with the 'sense of place'. Accordingly it meets Evaluation Objective 5 (*To avoid to the maximum extent practicable, adverse impacts on Aboriginal or post-settlement cultural heritage*) well.

The Panel finds that Option 3 will destroy site 8822-9263 and will impact on two other sites of Aboriginal relics. It will impact significantly on the spiritual values associated with the 'sense of place'. Accordingly it meets Evaluation Objective 5 poorly.

The Panel finds that Options 3b and LS1 will have little impact on sites of Aboriginal artefacts, providing construction work is undertaken

sensitively. The options will, however, impact on the spiritual values associated with the 'sense of place'. Accordingly it meets Evaluation Objective 5 partially.

The Panel rates the alternatives under consideration below:

Table 19: Option evaluation – artefacts and sense of place

Issue	Do nothing	Option 3	Option 3b	Option LS1
Rating on artefacts	A	C	B	B
Rating on 'sense of place'	A	C	B	B

The overall rating is given below:

Table 20: Rating of Options - Evaluation Objective 5

Issue	Do nothing	Option 3	Option 3b	Option LS1
Cultural heritage	A	C	B	B

If, as the Panel is recommending, an upgrade of the existing ramp and car parking be undertaken, further site investigations may be required and the CHMP refined to consider any new areas and artefacts found.

9. Terrestrial ecological impacts

Evaluation Objective 6: 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.

Evaluation Objective 7: To avoid adverse impacts on migratory waterbirds and any other species that are of National and/or State significance.

9.1 The issues

- Vegetation loss and offset; and
- Impact on fauna species of State and/or National significance.

9.2 Vegetation

9.2.1 Background

The terrestrial ecology of the site is described and assessed in Volume 1, Section 5.3 of the EES. The specialist report by Biosis Research dated July 2005 and titled *Ecology and geology of the area proposed for the Ocean Access Boat Ramp, Bastion Point, Mallacoota, Victoria* is contained in Volume 3 Part 1 of the EES.

The planning application 162/2007/P for vegetation removal contains analysis of the offset requirements for vegetation removal for the exhibited road Option C (westerly alignment along the top of the coastal dunes) and its associated car park extension were constructed.

Biosis identified two Ecological Vegetation Classes (EVCs) in the Bastion Point area, being Coastal Dune Scrub (CDS) over most of the area and a small area of Warm Temperate Rainforest (WTR) in a gully close to and just north of the existing road down to the beach.

85 species of plants were recorded of which four (Coastal Greenhood, Rough-barked Apple, Giant Honey Myrtle and Whiteroot) were of state significance. No species of national significance were recorded.

The site was classified into 5 vegetation quality zones and these are shown on Figure 4 in the Biosis report of July 2005. This figure also shows the location of recorded rare species.

Ms Catherine Costello of Biosis in her evidence noted that the whole site is of State conservation significance, and that individual quality zones identified as part of the proposal are either of 'Very High' or 'High' conservation significance.

The possible options for the road access and parking for the proposed Ocean Access Facility have changed and been refined over time. Table 21 below summarises the vegetation clearing requirements for various road and car parking options.

Table 21: Vegetation clearing for the various options¹¹

Option	EVC	Likely area of clearing (ha)	Vegetation removal (habitat hectares)	Offset target (habitat hectares)
3 (exhibited)	CDS, WTR	1.18	0.74	1.2
3 (revised road to reduce impact on Aboriginal sites)	CDS, WTR	0.96	0.57	1.0
3b (beach road option) – just the carpark extension	CDS	0.68	0.4	0.7
LS1 (beach road plus redesigned parking)	CDS	0.425 ¹²	Not calculated	Not calculated

A potential offset area for the CDS vegetation was identified by the East Gippsland Shire Council (EGSC) on the coastal reserve south west of Bastion Point. Ms Costello concluded that this was likely to be suitable and that the offset required, even under the option requiring the greatest clearing, was not a large amount.

If WTR is to be cleared, a suitable offset for this will need to be identified, but Ms Costello concluded it is likely to be available in the Mallacoota area. Ms Costello also suggested that additional mitigation measures are likely to be needed to protect and enhance vegetation in the vicinity of the development.

¹¹ All figures taken from expert witness statement of Catherine Costello unless otherwise stated

¹² Expert witness statement of Alan Wyatt, p25

9.2.2 Submissions and evidence

A number of individual submitters were concerned regarding the loss of vegetation required for the access roads and car parking. These concerns related to the amount of vegetation and also other effects such as fragmentation. Ms Jenni Lee (301) put it thus: *'The remaining areas of vegetation will be significantly fragmented and reduced in size and as a result will be more susceptible to weed infestation and microclimate changes'*.

The Save Bastion Point Campaign (SBPC) called evidence from Mr Lincoln Kern, an ecological consultant. Mr Kern gave evidence on a number of issues including limitations on the Biosis survey work; elements of the project where vegetation loss has not been assessed; the status of the gully vegetation in the project area as WTR or Littoral Rainforest; the adequacy of the net gain assessment and whether suitable vegetation offsets are available or have been costed.

In their submission, DSE preferred the 'beach road' options put forward in their supplementary report to the earlier options that require more vegetation to be removed by longer access roads along the top of the embankment.

9.2.3 Discussion

Having reviewed the EES, evidence and submissions, the Panel considers that all of the options proposed are capable of meeting the requirements of the *Native Vegetation Management – A framework for action* policy. Whilst the area to be cleared is either very high or high conservation value, the total area to be cleared under any option is not large.

The Panel is satisfied that appropriate opportunities for vegetation offset do exist in the local area and this can be achieved by revegetation or vegetation enhancement. As noted in the economics chapter, the cost of such an offset has not been calculated and this is another uncertainty in the project.

The options that put the access road on to the beach are favoured in relation to minimising vegetation clearance, although as discussed elsewhere in this report they have other disadvantages.

On the issue raised in the evidence of Mr Kern relating to the categorisation of rainforest, the Panel is satisfied that based on present knowledge, the categorisation of the vegetation in the gully as 'Warm Temperate Rainforest' is appropriate.

The Panel has concluded elsewhere that it does not support the main options for providing a new boat ramp at the Option 3 site. If neither Option 3, 3b nor LS1 are adopted, the Panel envisages that further consideration may be given to a minor upgrade of the existing ramp, with features suggested in Chapter 12. These features include an improvement to the carpark, following a study of the demand for parking, and consideration of staged implementation. At that time a new planning permit for native vegetation removal will be required, based on the design adopted.

Planning permit application

A draft vegetation removal planning permit relevant to Option 3 was prepared by DPCD and circulated prior to the Hearing. It was then tabled for discussion in the Hearing. Both Mr Kern and Ms Costello were of the opinion that the draft planning permit was appropriately worded to manage any vegetation clearing resulting from the project.

Other parties had no comment on the draft planning permit.

If, Options 3 or 3b were to proceed, and it is the Panel's recommendation in chief that they do not, then this permit (shown in Appendix D) could be applied to the vegetation removal.

9.2.4 Conclusions

The Panel concludes that Options 3 and 3b have been refined to the extent possible in terms of avoiding and minimising native vegetation and offsetting remains the only remedy for vegetation loss. If Option LS1 is adopted (or the car park elements of it) there is further work to be done in seeking to avoid, minimise and offset any vegetation loss.

Beach options for the access road (3b, LS1) generally have less impact on native vegetation removal and are preferred when assessed against the Native Vegetation Framework.

However, given the Panel's conclusions in chief regarding the project, the Panel finds.

A planning permit for application 162/2007/P as shown in Appendix D could be issued by the Minister for Planning for native vegetation clearing associated with car park expansion for Option 3 and 3b if these options are pursued.

Minimal vegetation clearing associated with the expanded car parking as shown in Option LS1 is likely be acceptable subject to further detailed assessment and agreement on offsets with DSE.

The Panel rates the alternatives under consideration below:

Table 22: Option evaluation - flora

Issue	Do nothing	Option 3	Option 3b	Option LS1
Adverse impact on significant flora species and communities	A	C	B	B

9.2.5 Existing clearing above Option 3 ramp location

Whilst outside the Panel's terms of reference in relation to the Ocean Access Proposal, the Panel wishes to record its observations in relation to the clearing of groundcover on the cliff top above the Option 3 location.

Why this area, apparently on Crown Land adjacent to the golf course Hole 3, is being cleared of undergrowth was not brought to the Panel's attention but it appears to be an unusual location for clearing to occur. There is no access to the shoreline at this location due to the steep embankment, and indeed the clearing of undergrowth may contribute to bank instability. It gives every appearance of having been cleared to open up ocean views from the golf course.

Clearing in this area is also significant as it breaks the habitat connection along the shoreline at its narrowest point. This is an area requiring habitat restoration.

A review of 'Google Earth' shows this vegetation intact and would seem to indicate that the clearing is quite recent. The Biosis Report of July 2005 marks this area in Quality Zone 4 and of 'Very High' conservation significance.

9.3 Fauna

9.3.1 Background

The terrestrial ecology of the site is described and assessed in Volume 1, Section 5.3 of the EES. The specialist report by Biosis Research dated July 2005 and titled *Ecology and geology of the area proposed for the Ocean Access Boat Ramp, Bastion Point, Mallacoota, Victoria* is contained in Volume 3 Part 1 of the EES.

Appendix 5 of the Biosis report contains data on the species found on site and those like to occur based on habitat presence and previous observations.

The following species of National significance were present in the area:

- Southern Brown Bandicoot (foraging evidence was found, this could also be from the Long-nosed Bandicoot which is not nationally significant); and
- the Shy Albatross was recorded offshore.

Twelve species of National significance have been recorded in the area but were not present during site investigations. These species are discussed in Section 4.3.1 of the Biosis report.

Four species of State significance (all birds) were recorded in the study area during the assessment.

In relation to evaluation objective 7, three species of migratory species were recorded during the assessment being the Shy Albatross, the Little Tern and the White Tailed Sea Eagle.

In Chapter 6 of their report, Biosis identifies habitat disturbance, and to a lesser extent, direct fauna mortality as potential impacts. In relation to the latter Biosis suggest that the relatively small amount of habitat to be removed is '*...unlikely to significantly affect the survival of any species of vertebrate fauna.*'

In relation to the former, Biosis suggest a range of mitigation measures that may be undertaken to reduce the environment impacts on vertebrate fauna of habitat disturbance, the major one being to avoid (as far as practicable) the removal of native vegetation in the first place.

9.3.2 Submissions and evidence

As noted in Section 9.2.2 above Mr Lincoln Kern gave evidence for SBPC. He suggested that survey work was limited and recommendations for further survey work by Biosis were not picked up by EGSC. In particular the Southern Brown Bandicoot did not appear to have been adequately assessed.

Mr Kern also discussed the issue of fish cleaning and using seagulls and other waterbirds to remove the remnants. He expressed concern that this may increase the impact on other species such as Little Terns.

9.3.3 Discussion

The Panel has viewed the material submitted and provided in evidence to it, and in relation to Evaluation Objective 7, does not consider that any of the proposed options will have a significant adverse impact on migratory waterbirds. Whilst there may be a small loss of shoreline habitat and some impact if the local Silver Gull population increases, the Panel considers that

in the context of the broader East Gippsland coastal wilderness, this impact will be insignificant.

Similarly, the Panel considers the impact on other waterbirds of National and State significance is likely to be minimal relative to the impact of existing use at the current boat ramp. The Panel notes that EGSC does not support putting in additional fish cleaning facilities at Bastion Point.

In relation to terrestrial fauna, the Panel considers the risk to the identified species is directly related to the loss of habitat from vegetation clearing. If clearing is minimised and offsets provided as discussed in the preceding vegetation section, then the risk to any individual species should be negligible.

The Panel does note the comments of Mr Kern in relation to the role of this area as a significant wildlife corridor along the coast. The Panel considers that this is an important issue and maintaining and improving habitat linkages should be an important goal for the foreshore manager in this area.

9.3.4 Conclusions

The Panel does not consider that the proposed facility will place any terrestrial fauna species (including birds) at risk.

Minimising vegetation clearing as discussed in Section 9.2 and providing suitable offsets will be an important management response. The Panel finds:

Any vegetation offsets required to replace vegetation removed as part of the car park expansion envisaged in option LS1 should be planned to replace and/or enhance habitat for the Southern Brown Bandicoot and other local species.

The Panel rates the alternatives under consideration below:

Table 23: Option evaluation - fauna

Issue	Do nothing	Option 3	Option 3b	Option LS1
Adverse impact on significant fauna species and communities	A	C	B	B

9.4 Overall summary of impacts for terrestrial ecology

From the material above, the Panel summarises the overall impact on Evaluation Objectives 6 and 7 of the various options as follows:

Table 24: Rating of options – Evaluation Objectives 6 and 7

Issue	Do nothing	Option 3	Option 3b	Option LS1
Significant native vegetation and fauna	A	C	B	B

10. Economic impacts

Evaluation objective 8: To provide a clear overall societal benefit, taking into account economic impacts, social outcomes and residual environment impacts.

Social impacts have been addressed in Chapter 7 above, and residual environment impacts have been accounted for within each of the other issues addressed in previous chapters. The overall societal benefits are the sum of all the costs and benefits, positive impacts and negative impacts, detailed under the various issues.

The Panel agrees with other authorities who have pointed to the common rubric of the terms 'societal benefit', 'triple bottom line', 'sustainable development' and 'net community benefit'. All these terms are an expression of the need to undertake holistic assessment that brings together every aspect of a proposal. For this reason the Panel will address only part of Evaluation Objective 8 here, the economic impacts. Chapter 11 will then be where all the impacts are summarised, and the 'clear overall societal benefit' is evaluated.

10.1 The issues

- demand for upgraded boat ramp;
- economic benefits, including non-market benefits;
- capital cost;
- operating cost;
- Benefit Cost Ratio; and
- finance source and management.

10.2 Background

Pryor Knowledge

The EES Volume 1 - Main Report summarises the work undertaken by Pryor Knowledge (ACT) Pty Ltd, advising that Pryor Knowledge had reviewed and updated the 1998 Coastal Engineering Solutions Pty Ltd (CES) *Economic Benefit and Demand Analysis* (referred to hereafter as the CES Economic Report).

The Pryor Knowledge review of the CES Economic Report commences (page 6, Report C, Social, Economic and Infrastructure Impacts, EES Volume 3, Part 2) with some general caveats. In particular, with respect to the share of recreational fishing visitors that might be attracted to a new boat ramp at Mallacoota, Pryor Knowledge cautions that other places such as Bermagui and Eden will not only try to retain their share of the market, but will try to increase it. It also notes that the Benefit Cost Ratio calculated by CES assumes that the benefits will accrue throughout the 30 year life, while the costs are simply construction and routine maintenance. Pryor Knowledge cautions that the benefits will take time to build up, and may reduce over the 30 year period, whether due to reduced fish stocks, or the move towards sustainable tourism. Also, over a 30 year time frame, there is likely to be the need for substantial upgrades of the facility. Finally, Pryor Knowledge cautions that the underutilisation of tourist accommodation in the winter months occurs at the same time that the attractiveness of ocean fishing is least likely.

Pryor Knowledge also lists three potential threats that could negatively impact on the calculated net benefits in the report, namely:

- that focussing considerable investment in one area of tourism could make attempts to diversify the tourism in the local economy more difficult;
- the need for further public infrastructure in the town to cater for the needs of the additional tourist demand; and
- the additional costs to cover the increased usage of Mallacoota by visitors (pollution, environment degradation, litter, crime, noise etc).

The Pryor Knowledge Report sets out in Appendix A the economic modelling assumptions it has used. Key figures are:

- the construction cost for Option 3 of \$1.8 million;
- annual operating costs of \$50,000 per year for the 30 year life;
- 1200 additional launches per year;
- expenditure retained locally of \$369,600 per year (based on 1200 launches with 3.5 persons per boat);
- assumptions for tractor savings of \$143,750 per year;
- savings in sand removal costs of \$35,000 per year; and
- income of \$12,000 per year from car parking / launching fees.

Pryor Knowledge reported that, using the same model employed in the CES Economic Report, with a 5% discount rate and charging fees for boat launching and car parking, Option 3 will generate:

- an economic internal rate of return of around 30%;

- a net present value of \$5.9 million; and
- a benefit cost ratio of 3.44.

The report then returned to the caveats mentioned earlier, and suggested that *'the very positive outcomes derived from the approach of the modelling initially applied in the 1998 economic report might be overly optimistic in the light of more down-to-earth considerations excluded from that model'*.

The report concluded that *'...we believe there is sufficient evidence to suggest that an ocean access ramp would provide an overall economic benefit to Mallacoota'*.

Jack Backen, Urbis

Jack Backen of Urbis was engaged by the East Gippsland Shire Council (EGSC) to provide economic advice, and he reported in July 2008.

He presented a series of overheads at the Hearing (HS 94), which summarised ABS and other data concerning the general level of population growth and economic activity in Mallacoota. He provided a 'Summary of Impacts' that rated impacts as follows:

Boating and Fishing	Positive
Commercial fishing	Positive through risk aversion. Potential to expand aquaculture
Nature based tourism	Marginal Negative or none
Loss of Surfing Tourists	Marginal Negative or none
Cost of Construction	Indirect negative, but marginal

Mr Backen's conclusion was that Mallacoota's economy is stagnant, with an aging population and flat employment. For this to change, the town clearly needs a capital injection. The overall economic impact of the proposed boat ramp will be positive through increased fishing and boating tourists, and lower risks to the commercial fishing industry.

During the Hearing, and at the request of the Panel, EGSC provided advice on the current costs of the proposals (EGSC also advised that the number of camping sites at Mallacoota was about 800, not the 3000 quoted in the Pryor Knowledge report). The advice provided on costs of different elements was as follows (the asterisk signifies that a 30% contingency sum is included):

Table 25: Project costs

Submission	Description	Cost
HS 75	Inland road*	\$206,167
HS 75	Beach Road*	\$191,717
HS 95(a)	Expert Reports for the EES	\$209,197
HS 95(b)	Board Walk pedestrian access with the Beach access Road*	\$377,000 to \$565,500
HS 95(c)	Carpark as per Option LS1*	\$219,765
HS 95(c)	Carpark original concept*	\$216,850
HS 95(c)	Inland road(with retaining walls)*	\$315,367
HS 95(c)	Beach road (with increased cost for base pavement)*	\$200,687
HS 100	Maintenance dredging annual operating cost	\$50,000

Dr Riedel

Dr Riedel advised the Hearing (HS 74) of updated costs for the ramp and breakwater, amounting to direct costs of \$1.517 to \$1.782 million with 20% contingency), with 15% to 20% design, project management and supervision costs for a remote location, armour for the access road across the beach of \$300,000, and an additional 15% construction allowance for the remote location.

Dr Riedel also advised the Hearing (HS 100) that he had been able to identify a commercial dredge in the United States of America that would be ideal for Mallacoota. Two models were available, the P-30 and the P-50. The P-30 handles 40 m³/h to 80 m³/h through a 4 inch slurry hose, weighs 1.5 tonne and has a footprint of 5.5 m x 1.8 m. The P-50 handles 70 m³/h to 125 m³/h through a 6 or 8 inch slurry hose, weighs 2 tonnes and has a footprint of 6.5 m x 2.4 m. These dredges have their own anchor and cable system for manoeuvring, and would be taken out of the water when not being used. Dr Riedel estimated that if siltation rates were between 10,000 m³ and 20,000 m³ per year, as he expects, the dredge would be required perhaps one day per week. After a storm which filled the ramp with sand to a depth of one metre over its 75 m length, dredging could take three days. Dr Riedel did not have

a cost for the dredge, but suggested it could be operated by a local marine contractor.

In relation to the issue of the source of finance, and the future management of the proposal if it is constructed, Counsel for EGSC advised (HS 4, overhead 179) that various funding options are available such as the 'Boating Safety and Facilities Program' of Marine Safety Victoria (MSV); a specific budget bid through the State Government ERC processes; or the Commonwealth Regional Partnerships Program. In relation to charging user fees, EGSC could consider such fees, but it has not been resolved.

As noted by Counsel for the Save Bastion Point Campaign (SBPC), Counsel for EGSC has submitted that it would be premature for the Panel to consider the entity that will manage the proposed development.

10.3 Submissions and evidence

SBPC retained Economists at Large & Associates to review the economic model used in support of the EES and the firm prepared an Expert Witness report in July 2007. Mr Francis Grey, a Principal at Economists at Large, made a presentation to the Hearing (HS 116). The Expert Witness Report outlined the key concerns that Economists at Large had with the economic conclusions in the EES. These concerns are:

- *Numbers of assumed additional boat launches used in the modelling;*
- *Use of savings in costs due to the boat ramp as net benefits, when in fact these represent losses to the community;*
- *Capital cost estimates and inflationary impacts on these since the report was written;*
- *Fuel price increases and impacts on forecasted returns;*
- *No value for losses of, and to surfers and other recreational beach users due to proposed new ramp and breakwater development;*
- *Lack of sufficient sensitivity analysis;*
- *The opportunity cost of capital - could this money be better spent elsewhere?*

The Expert Witness Report details how the Pryor Knowledge work concludes that it is likely that the boat ramp will result in 1200 tourist boat launches per year, up from the estimated 600 at present. However the model then calculates the benefits from an additional 1200 launches (A number of other submitters have highlighted this error). Mr Grey stated that there is an overall lack of traceability of data, meaning that the rigour of the calculations underlying the economic analysis is difficult to test.

The Expert Evidence Statement by Mr Ken Boundy was referred to in Section 7.7.2 in relation to the likely impact on tourism. He believes that, based on the reasons that tourists come to Mallacoota shown by the tourism survey at Mallacoota in 2007/2008, reductions in visitation of eco-tourists could be well in excess of 1% if the proposal proceeds and this would offset the claimed economic benefits of the proposal.

Mr Boundy made two further specific concerns about the economic modelling by Pryor Knowledge:

- the study has failed to account for substitution effects on other boating areas; and
- the figure of \$220 per day for visitor expenditure is used, when this is the value per visit. The actual figure is \$79 per day.

SBPC also retained Dr Boyd Blackwell, an economist specialising in beach and foreshore economics. Dr Blackwell submitted an Expert Witness Report, and made a presentation to the Hearing (HS 111). Dr Blackwell's focus was on quantifying the negative impact on non-users of the proposal.

Mr Bob Shooter made a submission to the Hearing (HS38) in which he advised that many locals, including himself, had purchased a tractor '*or sacrificial vehicle*' to launch their boats. He stated that a reasonable tractor could be purchased for \$6000 to \$10,000, but that saltwater exposure means that they deteriorate quickly and are expensive to repair. He told the Panel that the Shell Service Station has a tractor which they hire to boaters at a cost of \$40 per launching, and another \$40 for retrieval. However, he advised, the tractor is now out of action for major repairs and is unlikely to operate again.

Dr John Roy, formerly Leader, Infrastructure Planning Project, CSIRO Division of Building, Construction and Engineering, made a submission as a concerned resident of Mallacoota (Submission 68) and presented at the Hearing (HS 45). Dr Roy was critical of the failure to conduct any surveys of potential new users, and of the economic analysis, in particular pointing to:

- *Gross over-expenditure per new visitor;*
- *Failure to relate number of new users to expected cost per launch;*
- *Some double counting of new users in benefit evaluation;*
- *Failure to account for the loss of amenity caused by the ramp to those using Bastion Point for other purposes;*
- *Unacceptable confusion of public and private costs/benefits of the ramp.*

Dr Roy provided an analysis of the existing and future user costs and benefits, exclusive of the cost of constructing the proposed ramp. He concluded taking into account the factors above, that there would be a net loss of \$86,000 per year in operating costs. A charge of \$40 per launch (including retrieval) would be needed to break even.

Dr Roy also provided a copy of a letter from the Department of Primary Industries to the Mallaquito Boardriders, advising that for the 2004/2005 period, and it is estimated that over 1300 commercial fishing vessel landings occurred at Bastion Point; the gross value of production for the above commercial fisheries equates to approximately \$17 million for the 2003/2004 period and that Fisheries Victoria staff regularly use the ramp to launch their patrol boat, and approximately 10 launches occurred over the 2004/2005 year.

Mr Tim Fraser, a resident who grew up in Mallaquito and has been involved in leadership positions on a number of community organisations at Mallaquito, provided advice about the Co-op charges to abalone divers. He stated that divers pay a fee of \$55 per day (covering both launching and retrieval). The fees cover maintenance of the tractor, and the part-time wages of two employees (\$12,000 per annum). The cost of the tractor is in the order of \$20,000 to \$30,000.

Dr James Thyer made a submission on the EES (Submission 213) and a presentation to the Hearing (HS 62). He also tabled a number of supporting documents (HS 63), and an electronic version of an Excel spreadsheet which allows input of different values for various parameters, and calculates the economic performance of the proposals. Dr Thyer documented many errors in the Pryor Knowledge work. He concluded that the EES does not give confidence that the project is justified on economic grounds, and could well harm Mallaquito's long term tourist potential.

Mr Lazarow (HS 75) quoted research that he had undertaken as part of his Doctoral studies, and published in the Journal of Coastal Research, that the observed market expenditure by resident recreational surfers in Mallaquito related to Bastion Point was approximately \$230,000 per year. That figure did not include any market expenditure by visitors, nor does it allow for non-market values. Mr Lazarow stated his view that if the proposal was built, local surfers will probably spend more of their money outside of Mallaquito, resulting in a leakage of money from the local economy. Further, the loss of surf quality may mean that visitor numbers may diminish. In combination, these two factors are likely to nullify any economic gain that may be realised from the proposed facility.

10.4 Discussion

The Panel has found it difficult to follow the logic in the Pryor Knowledge report, as detailed in Section 7.7.3 above. The lack of 'traceability' of data was also remarked upon by Mr Grey (see Section 10.3 above). Overall, the myriad deficiencies in the analysis provided by Pryor Knowledge makes any evaluation of the economic merits of the proposal fraught with uncertainties. The fact that later expert witnesses for EGSC did not attempt any quantification of economic benefits did not assist the Panel.

Further, though major errors and inadequacies were pointed out by submitters, EGSC has not attempted to address these issues.

The issue addressed in Expert Evidence and by submitters concerning the failure to account for amenity loss in the economic assessment is noted. The Panel takes the view that these impacts are better reported under the relevant amenity issue without trying to establish a monetary value and this has been the approach taken in the report. Introduction of a monetary valuation, with its attendant difficulties, may represent double counting when the intrinsic value has already been assessed. This logic does not apply to the failure to account for the reduction in economic activity that might be caused by the construction of the proposal, as a result of the area becoming less desirable as a wilderness destination. In the Panel's view, a similar economic treatment should be adopted for this loss in activity as has been done for the gain in recreational ocean fishing activity. The principal difficulty here lies in making a meaningful assessment of the likely decrease in demand, given the absence of any relevant surveys.

The actual construction cost can be determined from the data provided during the Hearing (see Section 10.2 above). If the mean value is taken where a range is quoted, then the construction cost would be \$1.95 million (including rock armour to beach road), with 15 % additional for remote location, taking it to \$2.24 million, and with 17.5% design and management costs, a total of \$2.63 million. Costs not addressed in these estimates include:

- the cost of the dredge, assumed to be \$200,000 originally;
- the cost of native vegetation net gain offsets, which were not addressed in the EES; and
- the cost of implementing the Cultural Heritage Management Plan.

Dr Riedel also suggested that in the order of 8,000 tonnes of rock may be required to construct the breakwater for Option 3. This could translate to 800 loaded and 800 empty truck movements on the Mallacoota Road and there maybe additional road maintenance costs for EGSC.

Conservatively, the cost of proposal LS1 would be of the order of \$3 million.

The adopted value of 1200 additional launches per year has been shown to be in error and should be 600. The expenditure per person per night of \$220 associated with these new launches has been shown to be in error, and should be reduced to \$79. The tractor savings of \$143,750 per year have been queried by Dr Roy, while Dr Thyer contends that on ABS data, the value of 80% retained locally on food should be reduced to 20%, and to 10% for petrol.

The Panel does not believe that the data provided by the proponent is of sufficient robustness to allow any positive economic conclusions to be drawn. For example, if the errors above were factored into the Cost-Benefit model, the costs would rise by a factor of 5/3 (\$3m/\$1.8m), while the benefits would reduce by a factor somewhat below 1/6 ((600/1200) × (\$79/\$220)), dismissing for the moment arguments about the locally retained percentage of expenditure. Thus the Benefit-Cost Ratio would reduce to a value one tenth of that given by Pryor Knowledge, from a value 3.44 to a value of 0.34. Needless to say, this represents a negative net present value.

The Panel has reflected upon the purported economic benefit of the new ramp and breakwater, that it would lead to an additional 600 recreational ocean fishing boats per year. This represents only two additional boat launchings per day if spread throughout the year. If, as it much more likely, it is confined to warmer months, it may be only six launchings per day over four months. Viewed in this context, it is more obvious why building a \$3 million facility for six launchings a day over four months of the year is uneconomic.

However even this poor return on investment is, in all probability, based on an incorrect assumption that the benefits of additional recreational boating activity will not be offset by a reduction in other tourists. Questions about the safety of the proposals discussed in Chapter 4 reinforce the Panel's doubt that the anticipated benefits can be achieved.

The Panel is also persuaded by the arguments put forward by Mr Boundy, Mr Rod Ingham and Ms Luker that sustainable tourism is more likely to be achieved at Mallacoota through a focus on nature based tourism rather than recreational ocean boating, and hence the economic argument in favour of the proposal is flawed.

Uncertainty about who would manage the implementation of the proposals, and how they might be funded, is consistent with the EGSC's role as an 'unwilling proponent', but does little to engender confidence in local residents that their interests will be protected.

10.5 Conclusions

The Panel concludes that the quantification of costs and benefits put forward by the proponent are not of sufficient robustness to allow any positive economic conclusions to be drawn, other than to observe that the Benefit Cost Ratio (BCR) calculated in the Pryor Knowledge report appears to be overstated by at least a factor of ten, resulting in, at best, a BCR of 0.34. On the basis of the corrected Pryor Knowledge model inputs, the Net Present Value will be negative.

The Panel concludes that the economic case for the proposals based on increased recreational ocean boating is flawed, and that the economic prosperity of Mallacoota rests on sustainable nature based tourism, and low impact activities compatible with nature based tourism.

The 'Do nothing' option requires no capital expenditure, while protecting the market for sustainable eco-tourism.

The Panel finds that the Do nothing Option will not jeopardise the low-impact based tourism future of Mallacoota, while the proposals are likely to have a negative Net Present Value, and a Benefit Cost Ratio below 0.34. A 1% decrease in current visitors would wipe out any gains that are likely to be attracted through increased ocean access.

The Panel rates the alternatives under consideration as follows:

Table 26: Rating of options – Evaluation Objective 8

Issue	Do nothing	Option 3	Option 3b	Option LS1
Economic impacts	A	B	B	B

11. Overall societal benefit and review of options

Evaluation objective 8: To provide a clear overall societal benefit, taking into account economic impacts, social outcomes and residual environment impacts.

As described in Chapter 2, the Panel has approached the task of assessing the environment effects of the proposal with a discussion of the keys issues under each evaluation objective and a written and tabular conclusion.

In this section the Panel draws together the tables from the individual evaluation objective chapters and makes overall conclusions about the individual options considered.

11.1 Overview of evaluation objectives

In each Chapter the Panel assessed the options as follows:

- A (green) The option meets the objective well;
- B (orange) The option meets the objective partially; or
- C (red) The option meets the objective poorly.

These results are compiled into Table 27 below.

Table 27: Summary of evaluation objectives and option response

Issue	Do nothing	Option 3	Option 3b	Option LS1
Objective 1: Safety	B	C	C	C
Objective 2: Sediment movement	A	C	C	C
Objective 3: Water quality and ecological character (marine)	A	B	B	B
Objective 4: Character, amenity and infrastructure	A	C	C	C
Objective 5: Cultural Heritage	A	C	B	B
Objective 6 and 7: Terrestrial ecology	A	C	B	B
Objective 8: Economic considerations component	A	B	B	B

To obtain an overall societal benefit of the various options, Table 28 below has been prepared by a review of the component objectives above.

Table 28: Overall societal benefit of options

Issue	Do nothing	Option 3	Option 3b	Option LS1
Objective 8: Overall societal benefit	A	C	B/C	B/C

A more detailed analysis of the overall societal benefit is provided for each option in Section 11.2 below.

11.2 Panel's overall evaluation of the options

11.2.1 Option 3

Option 3 meets five of the evaluation objectives poorly, and two partially. It meets no evaluation objective well. The major failings of Option 3 are:

Safety: boats leaving the protection of the breakwater are likely to be exposed to dangerous side-on swells that are obscured by the breakwater, boats entering the ramp channel are at risk of striking the inter-tidal reef if they miss the narrow entrance in heavy sea conditions. The new facility is likely to be attractive to inexperienced boaters, who may then be exposed to very difficult conditions at sea.

Cultural Heritage: the access road will destroy site 8822-9263 and will impact on two other sites of Aboriginal relics. It will impact significantly on the spiritual values associated with the 'sense of place'.

Landscape: the breakwater and access road to the beach will have a significant impact on the landscape and visual values.

Social: the proposals will cause a high level of social impact by adversely affecting the significant natural values of Bastion Point and Mallacoota.

Coastal processes: the Panel has real concerns that the useability of the new facility may be seriously compromised by sediment inflow and result in an ongoing unacceptable cost to the Mallacoota and East Gippsland community, or at worst, a situation where sediment inflow is such that it effectively prevents use of the ramp.

Neither the benefits of increased tourism and recreational opportunities nor the positive net present value described in the EES, and by material put to the Panel on behalf of the proponent at the Hearing, are likely to be realised.

The Proponent, in the Panel's view, has not correctly considered the policy position relating to the proposal and the safety inadequacies that are likely to be a product of the design. In the case of the economic analysis, the purported result has been fatally compromised by the many inaccuracies in the analysis.

The Panel finds that Option 3 meets none of the evaluation objectives well, and most poorly. Overall it is unacceptable; having no demonstrated overall societal benefit, and should not be considered further.

11.2.2 Option 3b

Option 3b differs from Option 3 only in relation to the road connection from the existing car park. Although it significantly lessens the impact on Aboriginal sites, it still impacts on the Aboriginal 'sense of place'. Most importantly, in striving to reduce one impact it introduces another. While the road access for Option 3b avoids the cutting through the frontal dune which would be such an eyesore for Option 3, it introduces a road along the beach, with its attendant significant landscape impacts and the alienation of the beach.

Option 3 meets three of the evaluation objectives poorly, and four partially.

The Panel finds that Option 3b meets none of the evaluation objectives well and three highly significant objectives poorly. Overall it is unacceptable; having no demonstrated overall societal benefit, and should not be considered further.

11.2.3 Option LS1

Option LS1 differs from Option 3b only in relation to the treatment of the car park, and some further detailing of the beach road.

Option LS1 meets three of the evaluation objectives poorly, and four partially.

The Panel finds that Option LS1 meets none of the evaluation objectives well, and three highly significant objectives poorly. Overall it is unacceptable, having no demonstrated overall societal benefit, and should not be considered further.

The car parking elements of Option LS1 may have merit and this is discussed further in Section 12.

11.2.4 Do nothing

The Do nothing option meets six of the Evaluation Criteria well, and only one (Safety) partially. In spite of its relatively good safety record, and the self-regulating nature of the way the facility presents, the Panel cannot be entirely comfortable with the potential for accidents at the existing ramp.

The Panel finds that the Do nothing option meets all of the evaluation objectives well, save for Safety where it meets the objective partially. Overall it has considerable net community benefit, and is the only acceptable option presented in the EES.

11.3 Panels conclusions and recommendations in chief on options

Based on the Panel's assessment of the options presented in the EES and later options and its consideration of submissions and evidence, it considers that none of the options for providing a new facility at the locality of Option 1, Option 2 or Option 3 should be taken forward.

The Panel considers that 'Do nothing' option has considerable net community benefit, and is the only acceptable option presented in the EES.

While the Do nothing option has considerable net community benefit, the safety aspects in particular remain of concern. The Proponent has not investigated any minor upgrade of the existing ramp, and the Panel considers that such investigation may improve some of the adverse features of the existing ramp. This matter is considered further in Section 12.2.

The Panel recommends that:

The environment effects of Options 1, 2 and 3 as exhibited, Options 3a and 3b, and Option LS1 are such that there is no overall societal benefit in progressing these options further and they should be discarded.

12. Terms of Reference and parameters for upgrading the existing boat ramp

12.1 Terms of Reference

The Panel's Terms of Reference, and its response, are set out below:

The Inquiry is required:

- *To inquire into and make findings regarding the potential environmental effects of the proposal.*

Response: The Panel has made detailed inquiries into the proposal, and the variations prepared by DSE and EGSC submitted following the exhibition of the EES. Its findings are set out with reasons at the conclusion of Chapters 4 to 10, each addressing one of the evaluation objectives set out in Assessment Guidelines for the EES.

Chapter 11 draws the separate components together in an overall assessment. Only Options 3, 3b, LS1 and Do nothing were subject to detailed analysis, as Options 1, 2 and 3a were seen by the Panel (and most submitters) as being sub-optimal in relation to those taken forward.

The Panel has concluded that the potential environment effects of Options 3, 3b and LS1 are significantly adverse and unacceptable. The impacts of the proposed breakwater and the road infrastructure through the dunes or along the beach met the evaluation objectives only poorly, with respect to safety, sediment movement, landscape and social impact as detailed in Chapter 11. Additionally, Option 3 has significant impacts on Aboriginal cultural heritage sites. These three options did not meet any evaluation objective well.

The Do nothing option, however, had few significant adverse impacts, meeting all the evaluation objectives well, except for Safety which was assessed as only partially meeting the evaluation objective.

This is not to say that the Panel is recommending that the Do nothing Option be adopted. As discussed in Section 12.2, there is scope for a sensitive upgrading of the existing ramp, and opportunity for a number of initiatives that would improve safety at the existing ramp and car park.

- *To advise whether the potential adverse environmental effects of the proposal are capable of being effectively managed to achieve*

acceptable outcomes, having regard to applicable legislation and policy.

Response: The Panel has included in its evaluation of the options consideration of management opportunities to ameliorate the impacts described above. Measures to ameliorate or manage the significant adverse impacts of Options 3, 3b and LS1 (for example the offsets for native vegetation removal), have been included in the proposal and accounted for in this evaluation. On the key points of concern (policy, safety, landscape, social, Aboriginal cultural heritage and economics) further management measures are incapable of achieving acceptable outcomes.

The Do nothing option, however, is amenable to management measures. Such measures were excluded from consideration by the Proponent. The Panel, however, has had many submissions regarding ways to improve the existing ramp. The Panel does not feel that it can or should specify what could be done by way of improving the existing ramp. However, based on the information before it and the experience of the Panel, it does think it appropriate to provide guidance that may assist any further work that may be undertaken. This is set out in Section 12.2 below.

With regard to applicable policies, a review of Coastal Policy is set out in Chapter 3 above. The Panel's conclusion is that, contrary to the position set out by EGSC, Coastal Policy does not support the development of a regional ocean access boat ramp at Bastion Point. Where the policies do support regional boat ramp facilities at Mallacoota, the Panel considers they are clearly referring to the existing facilities on the Inlet adjacent to the Mallacoota township. Even if one was to interpret the policy as supporting ocean access as proposed at Bastion Point, the strategy heavily qualifies any decision making to account for safety, social and environment issues.

- *To recommend whether the proposal should be approved, either as generally described in the EES or with modifications in relation to siting, design or environmental management measures.*

The Panel recommends that none of the options proposed (Options 1, 2, 3, 3a, 3b, or LS1) be approved. The only option that the Panel thinks should be further considered is low scale improvement at the existing ramp. Guidelines for such improvements are set out in Section 12.2 below.

12.2 Minor Upgrading of the Existing Ramp

During the Hearing, it was put to the Panel that, in the event that it did not recommend that the proposals be approved, it should respond to the issue of a minor upgrade. Given that such a wealth of material has now been provided to the Panel, it would be remiss not to make some use of all this information.

The Panel considers that such an approach is explicitly countenanced in the Minister's Terms of Reference (the third dot point in Section 13.1) which encourages the Panel to consider the project in the EES '*...or with modifications in relation to siting, design...*'.

The Panel is not in a position to recommend specific proposals, as submitters in favour of the new ramp proposals at the Option 3 site have not addressed how the existing ramp could be improved. Therefore the Panel is loath to go beyond some general guidelines regarding both the nature of the facilities to be provided and the process for developing detailed proposals. These will be set out below.

Breakwaters

The two breakwaters proposed for Option 1 have several things in common with the Breakwater for Option 3: they would restrict the view by those launching their boats of the wave conditions beyond the breakwater, they would narrow the slot available to those returning, and they would make a significant visual impact on a wilderness landscape. They would also detrimentally affect the use and enjoyment of the cove area as a popular family beach, and would probably affect the nursery surfing area. As well as these, they require a major capital cost.

The Panel does not consider that breakwaters should be considered in the minor upgrading of the existing ramp. This may restrict useability to current levels, but as discussed in Chapter 4, the Panel thinks this appropriate.

Ramp slope and width

The present ramp is generally considered to be too narrow. Any contemplated upgrade should review its width and consider options to widen it.

The slope of the existing ramp is 1 in 12, flatter than the slope of 1 in 8 recommended for ramps, and which allow four wheel drives to launch and

retrieve boats without inundation of their rear axles. However achieving such a steep angle at all tide conditions would require at least two locations where such a slope could be accessed: one at higher tides, and one at lower tides. The Panel sees two difficulties here. Firstly, the likely sand movement at the existing ramp is such that any structure will be alternatively covered and stripped of sand, depending on sea conditions. There is limited ability to cheaply and conveniently clean sand from the ramps. Secondly, a structure would need to be provided to take vehicles the further distance to the low tide 1 in 8 slope. That structure would present a visual impact that may well be unacceptable.

The alternative is to consider management measures to better use a ramp with a 1 in 12 slope. Although much has been said about the deficiencies of the existing ramp, the Panel has been impressed by the fact that it has maintained its structural integrity to a large extent for 30 years, with only minimal maintenance. It seems that the original constructors of the ramp heeded the advice to 'design with nature', and have produced a low scale facility which has survived the ravages of an inhospitable coast. The Abalone Co-Operative manages its boat launching and retrieval from the existing ramp, and did not seek to change its present arrangements nor to support the new proposals through the EES and Panel process.

The use of a dedicated tractor or similar vehicle to assist with all launchings (or at least all launchings in the peak summer period) would address many of the problems caused by the flatter slope of the existing facility. It would also reinforce other management guidelines suggested below.

The Panel recommends that in any minor upgrading of the existing ramp, consideration should be given to widening the ramp, and to maintaining its present slope, but providing assisted launching and retrieval for all boats.

Sand and kelp removal

Sand and kelp removal are currently undertaken at the existing ramp. The Panel has little reason to suggest that any more economical or low impact maintenance measures can be undertaken than those employed at present. The Panel notes that the potentially dangerous practice of heaping up significant quantities of sand is no longer done, and that what sand that is handled is removed continuously in small amounts. The only aspect here that occurs to the Panel is whether the sand should be taken to the tip as cover, or returned to the beach environment. This aspect could be worth further consideration.

Management of conflicts between different user groups

The potential conflicts between different users is an issue that poses serious risk of injury or death. The accident history of the ramp environment suggests that the likely frequency of a serious accident is extremely rare. However the situation can be improved and a better management regime would assist.

Reference has been made to the Special Use Zone and limited success of that initiative at Bastion Point. The examples provided at the Hearing from Cape Byron and Torquay and others suggested by the Panel include:

- the presence of beach 'marshals' at peak times to assist car and boat traffic flow and to manage pedestrian conflicts, both at the car park and at the beach abutting the ramp. Local people could be employed over summer for this task with appropriate training;
- the restriction of boats to those being able to demonstrate they are familiar with local conditions (perhaps via a local licensing system);
- the management of times for boat launching and retrieval and for other beach uses, coordinated to minimise conflicts;
- the sounding of a horn by boats launching or approaching the ramp from seaward;
- 'lane marking' of the SUZ in the water during peak times with buoys to ensure swimmers, surfers and boaters respect its boundaries and operation; and
- the use of a special vehicle to undertake the launching and retrieval operations.

These and other measures that may be suggested during wider consultation may all contribute to significantly improving the risk profile of the special use zone.

The Panel recommends that measures to improve the risk profile of the Special Use Zone be considered and implemented.

Road and parking requirements

The Panel considers that the proposal for road traffic and parking (but not including the beach access) presented in Mr Wyatt's drawing LS1 have considerable merit. Alternatively, the level of parking that needs to be catered for has not been subject to detailed study, nor has the impact of allowing some parking along the road been evaluated.

The access from the existing car park to the beach raises questions about how best to manage this component of the access. The Panel has been advised of

a vehicle and trailer recently jack-knifing as it traversed the steep slope down to the beach. If all launching operations were undertaken by specialised equipment with knowledgeable operators, would the beach access need any upgrading? Questions have been raised about the appropriateness of any parking on the beach, while submitters have mentioned that the present vehicular access to the beach enables disabled persons to enjoy bathing in the safe waters of the Cove.

The Panel recommends that further studies be undertaken to resolve the issues of:

- **the need for and extent of parking to be provided, and whether any provision should be staged to ensure no oversupply is provided;**
- **the form of the road and parking layout that will minimise visual intrusion and native vegetation removal, with consideration given to the car park layout in Option LS1;**
- **whether the road sloping down to the beach needs to be sealed in some fashion; and**
- **whether beach parking should be restricted or prohibited, or more effectively and actively managed to improve circulation, safety and amenity.**

Ancillary facilities

The Panel agrees with the views of the EGSC that boat wash-down and fish cleaning facilities should not be provided at the ramp. Night lighting has been proposed at the new facility, and the issue may arise again with respect to upgrading the existing facility. No supporting material to demonstrate the need for lighting was presented to the Panel, while a considerable number of submissions condemned the proposal. Some few drew attention to the complete lack of need for such lighting.

The EGSC pointed out the location where the toilet might be relocated, off the board walk beach access. The Panel considered that in the absence of detailed drawings the impact could not be adequately assessed, nevertheless formed the view that the site suggested would present quite high impacts due to the clearing and site levelling required for even a small toilet. The need for new and improved toilets should be further explored.

The Panel recommends that ancillary facilities be limited to consideration of an alternative toilet location, subject to assessment of the need for the relocation, a feasibility design to allow an assessment of impact at any targeted location, and thorough consultation.

Study process

Mr Offor, who provided expert evidence on social issues for the proponent, advised that mitigation of the social impacts associated with the proposal could be assisted, to the extent possible, by a good participative process, by providing clear, accurate information about the proposal and mitigation, by engaging youth positively, and by setting up an advisory committee representing a cross-section of the community.

This advice is endorsed by the Panel not only in relation to mitigating the social impacts of the proposal, but as a general prescription for good consultation. However it does not go far enough. There is a great need for the EGSC to engage with the Mallacoota community in such a way that the level of distrust displayed at the Hearing by so many responsible and committed members of the community is overcome. Such engagement will need to be based on ensuring that those entrusted with directing and managing any further development of the existing ramp are free from bias and association with any special interest. In practice this will exclude nearly everyone who has been involved to date: there will be a need for an external facilitator or consultant who has not been previously involved to fill that role. EGSC will still be the decision-maker, but should not be involved in framing independent advice, if it wishes to restore trust in the local community.

Any advisory committee should include representation from the business and tourism interests, conservation interests, the Abalone Co-operative, a commercial operator with proven expertise and experience in eco-tourism and marketing, someone with experience in youth outreach, and someone with experience in land conservation.

The Panel recommends that the EGSC establish a broadly based community advisory committee and appoint an independent facilitator to assist EGSC in developing the detailed design of the minor upgrade of the existing ramp, consistent with the general scope set out above.

In relation to future approvals, the Panel does not consider that the type of upgrade envisaged above is likely to require an Environmental Effects Statement. Whilst not having the power or wish to restrict the Minister for Planning's determination on such an issue, the Panel's considered opinion is that such an upgrade could be managed via the Coastal Management Act consent process. A suitable environmental management plan could be prepared as part of this process.

Other approvals such as the native vegetation permit and Cultural Heritage Management Plan will still be required.

12.3 Conclusion

The Panel concludes that it has satisfied its Terms of Reference, and established that a minor improvement to the existing boat ramp is as much as should be done at Bastion Point. Advice on guidelines for any further studies to make such minor improvements to the existing boat ramp at Bastion Point is provided, should such a course of action be contemplated.

13. Summary of findings and recommendations

13.1 Findings

The Panel has made the following findings in this report.

Policy

The Panel finds that a new ocean access facility at Bastion Point of the type suggested in the exhibited Options and Option LS1 do not have coastal policy support.

Safety

The Panel finds that while the advantages for safety arising from Option 3 are considerable, they are more than offset by the unacceptable risks introduced by Option 3. These unacceptable risks are firstly to boats entering and leaving the ramp in a confined space bounded by the inter-tidal reef on one side and the breakwater on the other, in the presence of breaking waves side on to the direction of travel of the boat; and secondly through Option 3 being attractive to inexperienced boaters and leading them to put to sea in conditions that are, or may become, dangerous.

Coastal Processes

The Panel finds that Options 3, 3b and LS1 are unlikely to have significant detrimental sediment transport impacts on Betka Beach, the Mallacoota Main Beach or the Mallacoota Inlet.

The Panel finds that the sediment transport impacts of Options 3, 3b and LS1 on the Bastion Point environment (for example smothering) are difficult to quantify because of the rocky shoreline but are likely to be highly localised and unlikely to be significant.

The Panel finds that the uncertainty surrounding sediment entrapment rates behind the Option 3, 3b and LS1 breakwater pose an unacceptable level of risk to the project due to:

- uncertainty around the practical operation of the facility if the sediment transport rates are higher than estimated;
- uncertainty in relation to maintenance dredging costs and overall project viability; and

- uncertainty in relation to safe facility operation in the event of a regular bar forming at the channel entrance.

The Panel finds that the proposed breakwater is likely to have some adverse impact on waves in the vicinity of Bastion Point and particularly the 'Broken Board' surfing area. The Panel is unable to determine whether this impact will result in the 'loss' of the surfing area or some lesser level of impact.

The Panel finds that in relation to climate change, any facilities proposed in the Bastion Point area should be designed in accordance with sea level rise predictions adopted by the Victorian Government.

Marine ecology

The Panel finds that the environment effects on marine ecology of Options 3, 3b and LS1 could be managed and mitigation put in place to reduce residual impacts.

Landscape and visual

The Panel finds that the Do nothing option avoids detrimental impact to the landscape and visual values of Bastion Point, while the proposals will have a significant impact on the landscape and visual values, through the prominence of the breakwater and the road construction, whether in a cutting down to the ramp or along the beach.

The Panel finds that the landscape and visual values are very significant, and should be given considerable weight in the overall evaluation.

Recreation

The Panel finds that the impact of the proposals on the Broken Board surf break are likely to be considerable, while the physical impacts on other surfing and recreational activity are likely to be minor.

Tourism

The Panel finds that the Do nothing option is consistent with the present eco-tourism marketing of Mallacoota, and will support a broad range of activities that comprise the potential growth sector for tourism.

The Panel finds that there is little evidence that the proposals will significantly increase offshore recreational fishing, and it is likely any increase will occur during the peak season so will not assist in off-peak tourism.

The Panel finds that it is likely that the proposals will have an adverse effect on the marketability of the 'wilderness coast' aspect of Mallacoota, and may result in a drop in tourism numbers in excess of the gains accruing to use of the new facility.

Social impacts

The Panel finds that the Do nothing option will have an adverse social impact on those who see the proposals as providing a needed facility and giving a boost to the town.

The Panel finds that adopting the proposals will cause significant social impact, by adversely affecting the natural values of Bastion Point and Mallacoota that a majority of submitters wish to protect.

The Panel finds that the Do nothing Option avoids detrimental impacts on the landscape values of Bastion Point, and on the potential for future recreation and tourism, but will have some ongoing social impact to those who see the construction of the proposal and the increase in game fishing activity as desirable outcomes.

The Panel finds that the other options, involving a breakwater and ramp at Site 3, have significant landscape and social impacts, and will not avoid adverse impacts on recreation and tourism.

Cultural heritage

The Panel finds that the Do nothing Option will not disturb existing sites of Aboriginal artefacts, nor will it further impact on the spiritual values associated with the 'sense of place'. Accordingly it meets Evaluation Objective 5 (*To avoid to the maximum extent practicable, adverse impacts on Aboriginal or post-settlement cultural heritage*) well.

The Panel finds that Option 3 will destroy site 8822-9263 and will impact on two other sites of Aboriginal relics. It will impact significantly on the spiritual values associated with the 'sense of place'. Accordingly it meets Evaluation Objective 5 poorly.

The Panel finds that Options 3b and LS1 will have little impact on sites of Aboriginal artefacts, providing construction work is undertaken sensitively. The options will, however, impact on the spiritual values associated with the 'sense of place'. Accordingly it meets Evaluation Objective 5 partially.

Terrestrial ecology

A planning permit for application 162/2007/P as shown in Appendix D could be issued by the Minister for Planning for native vegetation clearing associated with car park expansion for Option 3 and 3b if these options are pursued.

Minimal vegetation clearing associated with the expanded car parking as shown in Option LS1 is likely be acceptable subject to further detailed assessment and agreement on offsets with DSE.

Any vegetation offsets required to replace vegetation removed as part of the car park expansion envisaged in option LS1 should be planned to replace and/or enhance habitat for the Southern Brown Bandicoot and other local species.

Economics

The Panel finds that the Do nothing Option will not jeopardise the low-impact based tourism future of Mallacoota, while the proposals are likely to have a negative Net Present Value, and a Benefit Cost Ratio below 0.34. A 1% decrease in current visitors would wipe out any gains that are likely to be attracted through increased ocean access.

Overall societal benefit

The Panel finds that Option 3 meets none of the evaluation objectives well, and most poorly. Overall it is unacceptable; having no demonstrated overall societal benefit, and should not be considered further.

The Panel finds that Option 3b meets none of the evaluation objectives well and three highly significant objectives poorly. Overall it is unacceptable; having no demonstrated overall societal benefit, and should not be considered further.

The Panel finds that Option LS1 meets none of the evaluation objectives well, and three highly significant objectives poorly. Overall it is unacceptable, having no demonstrated overall societal benefit, and should not be considered further.

The Panel finds that the Do nothing option meets all of the evaluation objectives well, save for Safety where it meets the objective partially. Overall it has considerable net community benefit, and is the only acceptable option presented in the EES.

13.2 Recommendations

The Panel recommends in chief on the proposals in the EES:

The environment effects of Options 1, 2 and 3 as exhibited, Options 3a and 3b, and Option LS1 are such that there is no overall societal benefit in progressing these options further and they should be discarded.

The Panel recommends in relation to upgrading the existing ramp:

The Panel does not consider that breakwaters should be considered in the minor upgrading of the existing ramp.

The present ramp is generally considered to be too narrow. Any contemplated upgrade should review its width and consider options to widen it.

The Panel recommends that measures to improve the risk profile of the Special Use Zone be considered and implemented.

The Panel recommends that further studies be undertaken to resolve the issues of:

- **the need for and extent of parking to be provided, and whether any provision should be staged to ensure no oversupply is provided;**
- **the form of the road and parking layout that will minimise visual intrusion and native vegetation removal, with consideration given to the car park layout in Option LS1;**
- **whether the road sloping down to the beach needs to be sealed in some fashion; and**
- **whether beach parking should be restricted or prohibited, or more effectively and actively managed to improve circulation, safety and amenity.**

The Panel recommends that the EGSC establish a broadly based community advisory committee and appoint an independent facilitator to assist EGSC in developing the detailed design of the minor upgrade of the existing ramp, consistent with the general scope set out above.

A Terms of Reference

TERMS OF REFERENCE

INQUIRY UNDER ENVIRONMENT EFFECTS ACT 1978

BASTION POINT OCEAN ACCESS BOAT RAMP

1. BACKGROUND

The East Gippsland Shire Council proposes to construct an ocean access boat ramp at Bastion Point, Mallacoota. The boat ramp would comprise a two-lane boat ramp extending approximately 130 metres seaward from the high water mark, with at least one breakwater. Ancillary works to create road access and upgrade car parking capacity at Bastion Point are also proposed.

On 17 August 2000, the Minister for Planning determined that an Environment Effects Statement (EES) would be required for the proposal under the *Environment Effects Act 1978*. The EES was prepared by the proponent in response to Assessment Guidelines issued for the Bastion Point Ocean Access Boat Ramp in December 2004.

The development of the boat ramp requires consent to be granted under the *Coastal Management Act 1995*. In addition, a Planning Permit is needed for removal of native vegetation. Planning Permit Application No. 162/2007/P will be determined by the Minister for Planning, at the request of the East Gippsland Shire Council, under Section 97C of the *Planning and Environment Act 1987*.

The EES and planning permit application are expected to be exhibited for public comment from 4 June 2007 until 16 July 2007.

These terms of reference are for an Inquiry into the Bastion Point Boat Ramp appointed under section 9(1) of the *Environment Effects Act*. It is intended to appoint the same persons as a panel under Part 8 of the *Planning and Environment Act*.

After the Inquiry provides its report to the Minister for Planning, the Minister will make an Assessment of the environmental effects¹ of the project under the *Environment Effects Act*. This Assessment will inform the subsequent decisions whether to approve the project under the *Coastal Management Act* and the *Planning and Environment Act*.

¹ Under the seventh edition of the *Ministerial guidelines for assessment of environmental effects* (June 2006), environment for the purposes of assessment includes the physical, biological, heritage, cultural, social, health, safety and economic aspects of human surroundings, including the wider ecological and physical systems within which humans live.

2. TASK

The Inquiry is required:

- To inquire into and make findings regarding the potential environmental effects of the proposal.
- To advise whether potential adverse environmental effects of the proposal are capable of being effectively managed to achieve acceptable outcomes, having regard to applicable legislation and policy.
- To recommend whether the proposal should be approved, either as generally described in the EES or with modifications in relation to siting, design or environmental management measures.

3. METHOD

The Inquiry must consider the exhibited EES, any submissions received in response to the exhibited EES, the proponent's response to submissions and other relevant information provided to or obtained by the Inquiry.

The Inquiry must conduct a public hearing and may make other such enquiries as are relevant to its consideration of the potential environmental effects of the proposed Bastion Point Ocean Access Boat Ramp.

The Inquiry must be conducted in accordance with the following principles:

- The inquiry hearings will be conducted in an open, orderly and equitable manner, in accordance with the rules of natural justice, with a minimum of formality and without the necessity for legal representation.
- Parties without legal representation will not be disadvantaged – cross-examination will be strictly controlled and prohibited where not relevant by the inquiry chair.
- The inquiry process will aim to be exploratory and constructive, where adversarial behaviour is minimised.

4. OUTCOMES

To prepare a report for the Minister for Planning presenting:

- The Inquiry's response to the matters detailed in section 2;
- Relevant information in support of the Inquiry's recommendations; and
- A description of the proceedings conducted by the Inquiry and a list of those consulted and heard by the Inquiry.

5. TIMING

The Inquiry is required to report to the Minister for Planning in writing within eight weeks of its last hearing date.

6. FEES

The members of the Inquiry will receive the same fees and allowances as a panel appointed under Division 1 of Part 8 of the *Planning and Environment Act 1987*.

APPROVED:

A handwritten signature in black ink, appearing to read 'Justin Madden', written over a horizontal line.

JUSTIN MADDEN MLC
Minister for Planning

DATE:

B EES process

B1 Assessment process

EVENT	DATE	COMMENT
Determination that an EES required	17 August 2000	
Inter-agency Group ('Technical Reference Group') established	17 July 2004	Membership from DSE (planning and environment functions), Gippsland Coastal Board, Gippsland Ports, Aboriginal Affairs Victoria, Tourism Victoria, East Gippsland Shire
Notification that the project not a controlled action under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>	26 March 2004	
Draft Assessment Guidelines released for comment	4 October – 5 November 2004	
Final Assessment Guidelines released	December 2004	
Vegetation removal planning permit called in	1 May 2007	
Terms of Reference for EES Inquiry approved	1 June 2007	
EES Exhibition	4 June – 16 July 2007	
Inquiry appointed	11 September 2007	Mr Nick Wimbush Mr Leon Collett Mr Robin Saunders
1 st Directions Hearing	12 September 2007	Held in Mallacoota
2 nd Directions Hearing	20 February 2008	Held in Melbourne

EVENT	DATE	COMMENT
3 rd Directions Hearing	31 March 2008	Held in Melbourne
Exhibition of additional material	2 – 30 June 2008	CES Report commissioned by DSE Ancillary facilities report commissioned by EGSC
Replacement Inquiry member appointed	9 July 2008	Mr Barry Lafontaine appointed following the passing of Mr Collett
Inquiry Hearings	14 - 18 July	Held in Mallacoota
Inquiry Hearings	22-25 July 28-30 July 4-5 August	Held in Melbourne

B2 Appearances

The main parties and groups appearances are listed below. Individual submitter appearances are shown in Appendix C.

PARTY	APPEARANCE
East Gippsland Shire Council (Proponent)	Ms Juliet Forsyth, Barrister and Mr Henry Jackson, Barrister instructed by Maddocks Lawyers and assisted by Ms Kate Nelson, EGSC They called the following expert witnesses: <ul style="list-style-type: none"> • Dr Peter Riedel (coastal engineering), • Mr Rob Milner (town planning), • Dr Vincent Clark (Aboriginal heritage), • Mr Tim Offor (social impact), • Mr Alan Wyatt (landscape), • Ms Catherine Costello (ecology); and • Mr Jack Backen (economics)
Save Bastion Point Campaign	Ms Emily Porter, Barrister, instructed by Ms Elizabeth McKinnon, Environment Defenders Office and assisted by supporters of SBPC. They called the following expert witnesses: <ul style="list-style-type: none"> • Dr Tim O'Hara (marine ecology,

	<ul style="list-style-type: none"> • Dr Neville Rosengren (coastal geomorphology), • Mr Lincoln Kern (ecology), • Max Wells (surfing), Dr Wayne Stephenson (coastal processes), • Dr Simon O'Connor and Dr Boyd Blackwell (economics), • Bernadette George (social impacts and planning)
Department of Planning and Community Development	Mr Andrew Horner
Department of Sustainability and Environment	Mr Matthew Townsend, Barrister, assisted by Mr Anthony Costigan, DSE
Mallacoota Ocean Access Committee	Mr Ian Lewis and Mr John Rudge
Mallacoota and Districts Business and Tourism Association	Mr Stephen Waixel
Mallacoota District Reconciliation Group	Ms Melinda Beacham
Australian Conservation Foundation	Mr Chris Smyth
Victorian National Parks Association	Ms Megan Clinton
Mallacoota Surf Life Saving Club	Mr Nigel Allison

C List of submitters

The following table lists submitters and those heard during the EES process.

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Felicity	Albrecht		X		
Joan	Allan		X	X	
Meg	Allan		X		X
David	Allan		X		X
Kelly	Allen		X		
Nigel	Allison		X		X
Ian	Anderson		X		
Diana	Appleton		X	X	
David	Appleton		X	X	
Hendrik	Arendsen		X		
John	Ariens		X		X
Kim	Armstrong		X		
Martin/Maree	Ascher		X		
Patric	Ashby		X	X	
Marjory	Asquith		X	X	
		Australian Conservation Foundation			X
Tracey	Avery		X		
Joan	Bagley		X		
Charles	Bailes		X		
Estelle	Bailey		X	X	
K. Vernon	Bailey		X		
David/Helen	Baker		X		
Leah	Bakes		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Sam	Banks		X		
James/Ingerid	Barnes		X		
Michael	Bartholomew		X		X
Gary	Bateman		X		
Melinda	Beacham		X		
Jackie	Beale		X		
Ruth	Bergman		X		
Graeme	Berry		X		
Rata	Berry		X		
Margaret R. Foodman	Beryl Oldams		X		
John	Black		X		
David	Blake		X		X
Gary	Blasche		X		
D & G	Blewitt		X		
Rosemary	Blight		X		
Katharina	Blomer		X	X	
Graeme	Box		X		
Max	Brackley		X		
Brian	Brackley		X		
Justin	Brady		X		
M M	Brandl		X	X	
Roma	Brawn		X		
Duncan	Brookes		X	X	

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Miranda	Brookes		X	X	
Donna	Brookes		X	X	
Stuart	Brookes		X		
Murray	Brookes		X		
Cate	Brooks		X		
Lisa	Broome		X		
Anne/James	Brown		X		
Doris	Bruce		X		
Roger	Bruce		X		
Les	Bruce		X		
Heggie	Bruce		X	X	
Angus	Buchanan		X	X	
Rosemary	Buchanan		X	X	
Eileen	Buckland		X		
Ann	Bullen		X	X	
Darryl	Burns		X		X
John	C Coulson		X		
Rory	Cahir		X		
Susan	Cahir		X		
Frank	Cahir		X		
Patrick	Cahir		X		
Jack	Cahir		X		
Janet	Campbell		X		
John	Car		X		
Bev	Car		X		
K	Carleton		X		
Paul	Carrick		X		
Simon	Carthew		X	X	
Mark/ Carolyn	Carthew		X	X	
Michael/Laura	Carthew		X	X	

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Laurie	Cavill		X		
David	Chalmers		X		
Luke	Chamberlain		X		
Graeme/Dot	Charles		X		
Jocelyn	Chey		X	X	
Naomi	Chey		X		
Stephen	Chey		X	X	X
Alison	Cleary		X		
Megan	Clinton		X		
Grant	Cockburn		X		
Carolyn	Cole		X		
Betty	Coles		X	X	
R. G	Coles		X		
Peter	Coles		X		
Sharyn	Cambridge		X		X
Geoff	Collet		X		
John	Condon		X		
Christine	Condon		X		
Marie	Connellan		X		
Catharina	Cook		X		
Richard	Cooper		X		
Caroline	Copley		X		
Richard	Corbet		X		
Leigh	Corris		X		
Marion	Coulson		X		
Laura	Coulson		X		
Philip	Counsel		X		X
Mike/ Pat	Coupar		X		
Sue	Cram		X		
WD & MR	Crawford		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Marianne	Crocker		X	X	
Dorothy	Crocker		X	X	
John	Crocker		X	X	
Mavis	Crocker		X		
Caroline	Cropley		X		
Vernon	Darby		X	X	
Ray	Davey		X	X	X
Jeanette	Davey		X	X	
Lisette	Davey		X		
Jeanette	Davey		X		
Leonie	Daws		X	X	
Chris	De Bruine		X		
Susie	Dee		X		
George	Dick		X		
Karl	Dickson		X		
Tim	Dolby		X		
David	Douglas		X		
DF	Douglas		X		
Michael	Drake		X	X	X
John	Drake		X		
Saskia	Drake		X		
Peter	Drake		X	X	
Anne	Drake		X	X	
June	Drake		X	X	X
Peter	Drake		X		
Frances	Dunbar		X		
R. F	Dunbar		X		
Catherine	Eadie		X		
David	Eagleson		X		X
VW &SA	Edgar & Johns		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Joan	Edwards		X	X	
Rosalind	Ellinger		X	X	
John B	Erwin		X	X	
Robyn	Erwin		X		X
John	Erwin		X		
Vanesa	Fellows		X		
Hayden	Fellows		X		
Anthony	Fernando		X		
Denise	Fernando		X		
Margret	Files		X		
Richard	Finch		X		
Duncan	Finlay		X	X	
Marilyn/ Richard	Fisher		X	X	
Dale	Fisher		X		
Bob	Fisher		X		
Anna	Fiske-Somerville		X		
Lynne	Flakemore		X		X
Ford	Julie		X	X	
Colin and Sally	Fraser		X		
Tim	Frazer		X	X	X
Robyn	Frazer		X	X	
John	Frazer		X	X	
Paulina	Fusitu'a		X		
Richard & Helen	Gair		X		
B J	Gallagher		X	X	
Frank	Gaschk		X		
Maurice	Geer		X	X	
Angelike	Gehl		X		
George/Pam	Gibbons		X		
Margret	Gibson		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Max	Gibson		X	X	
Elizabeth	Girvan		X		
Naomi	Gordon		X		
Kim	Gordon		X		
Lorraine	Gould		X		
Jim	Green		X		X
Mary	Greene		X		
Maurice	Greer		X		
B	Greig		X		
Joycelyn Lee	Grunden		X		
Bruce	Grunden		X		X
Hank	Haldma		X		
Alan	Hall		X	X	
Barbara	Hall		X		X
Ross	Halligan		X		
Phillipa	Hamilton		X	X	
Lawrence	Hamilton		X		
Natalie	Handsjuk		X		
Keith	Hargreaves		X	X	
Tracey	Hargreaves		X	X	
Mitchell	Hargreaves		X	X	
R & M	Harrison		X	X	
Lynne	Harwood		X		
Tony	Hastings		X		X
Don & Lily	HaX		X		
Phyllis	Heggie		X		
Rachel	Henderson		X		
Gell	Hendrickson		X	X	
Barry	Herford		X	X	
Nicole	Herford		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Eszter	Hidas		X		
Eszter	Hidas		X		
Ian	Hobson		X		
Kim	Hock Lim		X		
Gail	Hodgson		X		
Clint	Hodson		X		
Peter	Holman		X	X	
Greg	Hopkins		X		
Craig	Horne		X		
Victoria	Horton		X		
Peter/Mary-Lou	Howie		X	X	
Sandra	Incerti		X		
Rod	Ingham		X		X
Craig	Ingram		X		
Eric	Janneson		X		
David	Jenkins		X		
Adam	Jency		X		
Jenny	Mason		X		
John	Jessop		X		
Greta	Jessup		X		
Greg/ Margaret	Johnson		X		
Mark	Jones		X		
Thea	Jones		X		
Ian	Jones		X		
Ruby	Jordan		X		
Sue	Kaleb		X		
Minna	Kataja		X		
Stephen	Katsineris		X		
Dennis/Sally	Kearney		X		
Alaine	Kent		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Denzil	Kent		X		
Ross	Kilborn		X		
Joan	Kimm		X	X	
Anna	Kimm		X		
Mervyn	Kimm		X		
Andrew	Kimm		X		
Lyn	Kitto		X		
Simon	Kong		X		
Alistaire	Kroger		X		
Peter/Margret	Kurz		X		
John/Irene	Kushelew		X		
Gayle	Lambert		X		
Gayle	Lambert		X		
B A	Laughlin		X		
Helen	Laxton		X		
Michelle	Lay		X		
Robyn	Laughlim		X		
Neil	Lazarow		X		
Clare	Lee		X		
Jenni	Lee		X	X	X
Greg	Lee		X		
Ian	Lewis	Mallacoota Ocean Access Committee	X	X	X
Christine	Liedtke		X		
Elaine	Limer		X		
John Hilvert	Linda Bruce		X		
Patricia	Lisle		X		
Dean/Tracy	Litheland		X		
Carol	Loiterton		X	X	
Robert	Lorenzon		X		
Ernst	Lortz		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Kevin	Lott		X		X
Rosemary	Luker		X	X	X
Chris	Lymes		X		
Ronda	Lynch		X		
K.	Lynch		X		
Wayne	Macauley		X		
Neil	Mackinnon		X		
Roslyn	Macvean	Save Bastion Point	X	X	
		Mallacoota Business & Tourism	X		X
		Mallacoota District Reconciliation Group	X		X
Dylan	Mallica		X		
Bronya	Marillier		X		
Allison	Marion		X		
Jenny	Mason		X	X	X
Les	Mason		X		
Rod	Mason		X		
Ele	Mason Sakkas		X		
Rini	Mason-Sakkas		X		
Robert/Christine	Mather		X		
Janet	McCooley		X		
Luke	McCrone		X		
Philip	McEntee		X		
Bruce/Ann	McGregor		X		
		Mallacoota Surf Lifesaving Club	X		X
Deborah	McRae		X		
Peter/Leonie	Meadows		X		
Helen	Meredith		X		
Simon	Michaels		X		
Kahli Louise	Migotto-Brown		X		
Nicole	Migotto-Brown		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Janice	Millen		X		
Chris	Mills		X		
Todd	Minchinton		X		
John	Mineham		X		
Nicolene	Mitchell		X		
Andrew/Barbara	Morland		X		
Margret	Morris		X		
Gayle	Morrow		X		
Maureen	Murray		X		
Liza	Newby		X		X
Ria	Newland		X		
Jean	Nickels		X		
Ralph	Nickels		X		
Jean	Nickels		X		X
Barbara	Nielson		X		
Andrew	Nixon		X		
Andrew/Lesley	Nixon		X		
Estelle	Noone		X		
Robert	Nowak		X		
Marion	O. Colton		X		
Yolande	Oakley		X		
Elizabeth	O'Donoghue		X		
Holly	O'Halloran		X		
Rory	O'Halloran		X		
Robyn Laughlim	Oke		X	X	
Heather	Oke		X		
Bianca	Op Den Brouw		X		
Leo	Op Den Brouw		X		X
Jane	O'Shea		X	X	
Teresa	Owen		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
J.	Panggrazio		X		
Lisa	Parker		X		
DJ & VC	Parker		X		
Jacob	Parker		X		
Wendy	Parker		X		
Julie	Parker		X		
AM	Parker		X		
Bruce	Pascoe		X		X
	Pearce Family		X		
Annette	Peisley		X		
Rebecca	Peisley		X		
Frank	Peisley		X		
Mark	Pekin		X		
Neville	Penrose		X		
Katherine Elise	Perry		X	X	
David	Perry		X		
Andrew	Perry		X		
Eleanor	Perry		X		
Ethel	Fairweather Perry		X	X	
Michael	Perry		X	X	X
Arlene	Petty		X		
Belinda	Phillips		X	X	
Jeremy	Pickett-Heaps		X		
Audreja	Pinkmeier		X		
Dulcie	Pletes		X	X	
Gary	Proctor		X		
Arran	Provis		X		
Leslie	Pumpa		X		
Jim	Pumpa		X		
Lorraine	Pyke		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Rowan	Rafferty		X		X
John	R Roy		X		X
Gail	Rands		X		
Lou	Rankin		X		
		Red Bluff Surfriders	X		
David	Rees		X		
Phil	Reichelt		X		
Trudy	Reichelt		X		
Sophie	Reichelt		X		
Miriam	Riverlea		X		
Lorelle	Roberts		X		X
A	Roberts		X		
I. M	Roberts		X		
Steve	Robertson		X		
Mark	Rodgers		X		
Paul	Rodoreda		X	X	X
Sue	Romane		X		
Richard	Routh		X		
Roger	Rumbottle		X		
Tony	Rush		X		
Laurice	Ryan		X		
Stephen	Ryan		X	X	
Jim	Sakkas		X	X	
Peter/Gail	Sands		X	X	X
Madaleine	Sands		X		
Don	Saunders		X		
Amanda	Schott		X	X	
Bob	Semmens		X	X	
Geoff	Sharpe		X		
Nikki	Shields		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
R J & J A	Shooter		X		X
Mark	Simnett		X		
W. G. P	Simpkin		X		
Greg	Smith		X		
Colin	Smith		X		
Greg	Smith		X		
Alistaire	Snell		X		
Robert	Somerville		X	X	
Martine	Spencer		X		
Janet	Stalvies		X		
Colin	Stephen		X		X
Catherine	Stephenson		X		
Shane	Stevens		X		
Robert	Stevens		X		
Tony	Stevens		X		
Heather	Stevens		X		
Maurice	Stieger		X		
Ernie	Stranger		X		
Charles	Stringer		X	X	
Lester	Sturgess		X		X
		Surf Rider Foundation	X		X
Mark Keating	Susan Brown		X		
Max	Sylvester		X		
Tony	Symes		X		X
Michael	Tahana		X		
Robert	Tate		X		
	The Cumberlidge Family		X		
	The Jennings Family		X		
	The Parker Family		X	X	X
Rod	Thomas		X		X

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Bob	Thornycroft		X		
Ann	Thoroughgood		X	X	
James	Thyer		X		X
Julius/Felicity	Timmerman		X		
Chris	Tola		X		
Linda	Tracey		X		
Valmai	Trapp		X		
Linette	Treasure		X		X
Claire	Trebilco		X		
Christopher	Trevillian		X		
Desma	Trevillion		X		
Jeffrey	Trewin		X		
Chris/Helen	Trueman		X		
David/Andrea	Turner		X		
Katherine	Turner		X	X	
Nicola	Turschwell		X		
Chris	Turvey		X		
Yvonne/Ethlenne	Van der Merve		X	X	
Hans	Van der Sant		X		X
Fiona	Van Munnen		X		
John	Van Polen		X		
Natasha	Vasey-Ellis		X		
Susan	Vatcher		X		
Ken	Vatcher		X		X
John/ Mary	Vett		X		
		Victoria National Parks Association	X		X
Paloma	Viola		X		
Jane	Visser		X		
Kate/ John	Visser and Family		X	X	
Catherine	Wadsworth		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
John	Walls		X		
Glen	Warren		X		
Narelle	Warren		X		
Glenn	Washbourne		X		
Anne	Watkins		X	X	
Sally	Watts		X		
Mathew	Watts		X	X	X
Maree	Webb		X		
Geoff	Weeks		X		
Sophie	Weldon		X		
Gib	Wettenhall	Save Bastion Point	X	X	X
Jan	Wild		X		X
Brad	Wilkinson		X		
S	Williams		X		
Ray	Wilson		X		
John	Wilson		X		
Dale	Winward		X		
Diana	Wolfe		X		X
Briony	Wood-Ingram		X		X
Jill	Wood-Ingram		X		
Rory	Wood-Ingram		X		
Phoebe	Wood-Ingram		X		
Peter	Woodruff		X	X	
Anna	Woodruff		X		
Tim	Woodruff		X		
Prudence	Wootton		X		
Richard	Wootton		X		
Christene	Wright		X		
Jan	Wright		X		
Wes	Wright		X		

FIRST NAME	FAMILY NAME	ORGANISATION	SUB 1	SUB 2	HEARD
Ken	Wylie		X		
Ean	Yeoh		X		
Peter	York		X		

D Draft planning permit

PLANNING PERMIT

Granted under Division 5 of
Part 4 of the Planning and
Environment Act 1987

Permit No: 162/2007/P

Planning Scheme: East Gippsland

Responsible Authority: Minister for Planning

ADDRESS OF THE LAND

Crown Allotments 1N & 1K, Parish of Mallacoota

THE PERMIT ALLOWS

Removal of Native Vegetation in accordance with the endorsed Plan

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. The development as shown on the endorsed plan must not be altered without the written consent of the Minister for Planning.
2. Vegetation removal must occur in accordance with the endorsed plan and the native vegetation offset plan endorsed by the Department of Sustainability & Environment.
3. Prior to the commencement of works a native vegetation offset plan is to be prepared to the satisfaction of the Department of Sustainability & Environment. The native vegetation offset plan must be endorsed in writing by the Department of Sustainability & Environment. The vegetation plan must include the following information:
 - A site map, drawn to scale, that displays the area, or areas, upon which the native vegetation offsets are to be provided;
 - A table that describes how the required proposed offsets have been calculated and which demonstrates that the required native vegetation offsets will be met by the vegetation plan;
 - The form and ratio of offset being provided through remnant vegetation protection and by revegetation of other areas;
 - A description of the proposed mechanisms or covenants that are to be adopted to ensure that the native vegetation offsets are permanently protected;
 - The time lines proposed for undertaking the revegetation works and describe any proposed staging of the works;
 - Describe plant species to be planted and the general planting densities, mix of indigenous species from within the relevant Ecological Vegetation Class, (EVC), and the planting techniques to be adopted;
 - Where protection of existing vegetation is proposed the means of ensuring it's physical protection and describe if additional fencing is required;
 - A description of the ongoing maintenance and management procedures, including the management body, if this is not to be Council, of the native

vegetation offset areas for a period of ten years from endorsement of the plan. The maintenance and management procedures will include descriptions of weed control and replacement of planted seedlings that do not survive.

4. Prior to the commencement of works the area from which native vegetation is to be removed must be defined by marking tape, to the satisfaction of the Department of Sustainability and Environment.
5. Retained vegetation is to be protected from damage during construction with no machinery, other than hand held machinery or tools, to be permitted to enter within the area of vegetation that is to be protected from clearing.
6. During clearing and construction works adequate steps must be taken to prevent soil erosion, sediment movement offsite or into drainage lines, to the satisfaction of the Department of Sustainability and Environment.
7. The permit will expire if the development is not commenced within two years and completed within four years of the date of this permit.

The periods referred to may be extended if a request is made in writing before the permit expires or within three months afterwards to the Minister for Planning.

Date Issued: _____

**Date Permit comes into
operation:**

**Signature of the
Minister for Planning**

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit. The permit was granted by the Minister administering the *Planning and Environment Act 1987* under section 96I of that Act.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the *Subdivision Act 1988* and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.
2. A permit for the use of land expires if—
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the *Planning and Environment Act 1987*, or to any combination of use, development or any of those circumstances requires the certification of a plan under the *Subdivision Act 1988*, unless the permit contains a different provision—
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

Any person affected may apply for a review of—

- a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or
- a decision of the responsible authority refusing to extend the time within which a plan under the *Subdivision Act 1988* is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the *Planning and Environment Act 1987*; or
- the failure of the responsible authority to extend the time within one month after the request for extension is made.

An application for review is lodged with the Victorian Civil and Administrative Tribunal.

An application for review must be made on an Application Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.

An application for review must state the grounds upon which it is based.

An application for review must also be served on the Responsible Authority.

Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.