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Marine and Coastal Act Consultation
Policy and Strategy Unit
Department of Environment, Land,
Water and Planning
PO Box 500
East Melbourne Vic 3002

Dear Sirs

Marine and Coastal Act Review Consultation

The Law Institute of Victoria (LIV) thanks the Department for the opportunity to respond to its Consultation Paper. The LIV welcomes new more efficient and clear legislation.

The Consultation Paper identifies natural features and a clean and unspoilt environment as 'extremely important' values associated with Victorians' social and cultural perceptions and experiences of the coastline (pp.14-15). That emphasis on environmental values is reflected in the eight proposed objects of the new Marine and Coastal Act (p.37).

The LIV's submission focuses on 'Drivers for Change' Nos. 1 and 3, outlined in the Consultation Paper. Proper management of these two Drivers is likely to have cross-over effects on all seven identified 'Drivers for Change'.

Driver 1 – Clearer governance and institutional arrangements

The Consultation Paper has addressed the complexity of current management arrangements for coastal areas. At present, a single Crown land reservation can be affected by numerous statutory frameworks, often resulting in a multiplicity of competing objectives, purposes and management hierarchies.

The LIV welcomes a simplified institutional framework. The transition of leadership roles to Catchment Management Authorities and Local Governments is noted.

However, the LIV submits that the decision making processes should be reviewed to ensure that (in the case of Authorities and Council) conflicts of interest are avoided and that, where appropriate, affected persons (including those who have a proper interest in protecting the marine and coastal environment) can participate in review processes. At present, the overly complex and cumbersome legislative framework makes review of administrative decisions difficult, time consuming and costly.

Driver 3 – Integrating planning systems

The LIV supports the aims of the government concerning the need to streamline assessment and consent requirements across all relevant legislation, and particularly to establish "use and development planning and decision making systems that are appropriate for coastal and marine areas" (p.27).

It is desirable that the streamlined assessment and consent requirements recognise matters which are routine or minor such that these will be exempt from consent (similar to cl.62 of planning schemes).

The LIV also suggests that there be an appropriate management system, across the relevant authorities, which will ensure that the conditions of permits, licences and leases relating to public land are regularly checked for compliance.

Due to the complexity of the rules and legislative framework concerning different types of coastal reservations, the provisions of Crown leases which attach to them can be overlooked in the planning processes. Planning decisions that ignore mandatory Crown lease pre-conditions and/or lease conditions create added complexity & uncertainty.

The LIV suggests that consideration should be given to the integration of controls arising under the new Marine and Coastal Act or, at the very least, their reference into the Victorian Planning Provisions. The concept of a one stop shop should be investigated so that all development and use controls of land in or around coastal areas are contained in one easily accessible place. The introduction of new coastal zones could improve and highlight the need for care and protection of any protected coastal areas.

The new Marine and Coastal Act should also provide for access to the review of decisions under the *Victorian Civil and Administrative Tribunal Act 1988*.

In summary, therefore, the LIV affirms and support the Marine and Coastal Act Review, including its emphasis on key areas for reform, but requests that further consideration be given to the matters noted in this letter.

We look forward to participating further in this process and contributing to the development of subsequent legislation as a stakeholder. If you would like to discuss any of the matters raised in this letter, please contact me or Barton Wu, LIV Property and Environmental Law Section Lawyer, on 9607 9357.

Yours sincerely

Steven Sapountsis
President
Law Institute of Victoria