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18 June - The effects of climate change on our physical environment are varied and many. One consequence of climate change of particular relevance for the planning system is sea level rise. Climate change contributes to sea level rise in two main ways:

- the melting of ice stored in glaciers and the polar ice sheets increases the amount of water in the ocean; and
- as the oceans warm, water expands, thereby raising the sea level.

As our climate changes, and sea levels continue to rise, there will be an increasing incidence of coastal flooding and erosion.



The Victorian Civil and Administrative Tribunal formed the view that rising sea levels are likely and will have an influence on the future shape of the Victorian coastline

A recent case before the Victorian Civil and Administrative Tribunal highlighted the importance of addressing the effects of climate change, including sea level rise, in planning decisions. **Gippsland Coastal Board v South Gippsland** concerned applications for permits for residential dwellings on rural allotments, outside the township of Toora in a farming zone.

The Tribunal described the land as being “low lying, prone to high water tables and water logging, subject to flooding and is at risk of inundation from sea level rise and coastal subsidence. It has been identified as potentially containing coastal acid sulphate soils.”

The Tribunal noted that the specific consideration of sea level rises, coastal inundation and the effects of climate change were not contained in the relevant Victorian Planning Provisions.

It contrasted this to the situation in South Australia, which was relevant in the case of *Northcape Properties Pty Ltd v District Council of York Peninsula*. In the *Northcape* case, South Australian development planning policy specifically required consideration of sea level rises in the first 100 years of a development’s life.

Despite the absence of specific planning provisions or policy relating to coastal recession or sea level rise in Victorian Planning Provisions at the time the decision in the *Gippsland* case was taken, the Tribunal noted section 60(1)(e) of the *Planning & Environment Act 1987*.

That provision requires that a responsible authority “considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development” when assessing planning permit applications.

The Tribunal formed the view that rising sea levels are likely and will have an influence on the future shape of the Victorian coastline and that the requirement in section 60(1)(e) was sufficiently broad to include the influence that climate change and coastal processes may have on proposed developments.

In considering the impact of climate change in the assessment of the planning permit in the Gippsland Coastal Board case, the following notable points were made:

- The Tribunal accepted the general consensus that some level of climate change will result in extreme weather conditions beyond the historical record that planners and others rely on in assessing future potential impacts.
- The Tribunal noted that the relevance of climate change to the planning decision-making process is still in an evolutionary phase.
- It stated that sea level rise and risk of coastal inundation are relevant matters to consider in appropriate circumstances but that each case will turn on its own facts and circumstances.

With respect to the specific case before the Tribunal, it accepted that “there is growing evidence of sea level rises and risks of coastal inundation” even though “there is uncertainty as to the magnitude of the sea level rise”.

The Tribunal applied the precautionary principle and concluded that “increases in the severity of storm events coupled with rising sea level create a reasonably foreseeable risk of inundation of the subject land and the proposed dwellings, which is unacceptable”. Accordingly, the Tribunal decided to refuse to grant the planning permit.

While the Tribunal’s decision in the Gippsland case is important for its explicit recognition of the additional risks posed by climate change and, particularly, sea level rise, its practical significance for planning decisions in Victorian coastal localities has been largely superseded by recent changes to the Victorian Coastal Strategy.

On 10 December 2008, following the Tribunal’s decision in the Gippsland Coastal Board,

Gavin Jennings (the Victorian Minister for Environment, Climate Change and Innovation) released the third iteration of the VCS, which is a vision for the long term use and management of Victorian Coastal waters. The release of the VCS was accompanied by an amendment to the VPPs, which serves to address the land use and development implications of the strategy.

The newly released VCS, which applies not only to the sea and seabed within state limits but also to all private and coastal Crown land directly influenced by the sea, has been designed in part to specifically respond to the challenges posed by climate change.

The VCS recognises that climate change poses real and serious threats to the Victorian coastline over the medium to long term, including the risk of sea level rise. Relying upon the precautionary principle, it is VCS policy that, in order to manage coastal hazards and the coastal impacts of climate change, planners should: plan for sea level rise of not less than 0.8 metres by 2100, and allow for the combined effects of tides, storm surges, coastal processes and local conditions such as topography and geology when assessing risks and coastal impacts associated with climate change.

The risks of climate change to the coastal environment are not limited to sea level rise. Other risks specifically contemplated by the VCS are the potential for enhanced storm surges (leading to damaging waves, erosion, wind and inundation) and rises in sea temperature (which impacts directly upon algal, plankton and fish abundance).



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Rather than focusing on measures designed to mitigate the effects of climate change, however, the VCS policy initiatives are geared towards adapting to climate change. To this end, the VCS outlines three adaptation options:

- protect (protection of beaches, dunes and infrastructure, land use and development);
- accommodate (planning and building policies and provision, redesign and rebuild); and
- retreat (relocation of infrastructure, land use and development).

In implementing these adaptation measures, it is VCS policy that priority be given to the most vulnerable areas along the coast (to be informed by the Victorian Government's Future Coasts program), and that decision-makers apply the precautionary principle to any planning and management decisions. The VCS goes on to explain that the precautionary principle is a "commonsense notion that requires decision-makers to be cautious when assessing potential health or environmental harms in the absence of the full scientific facts".

Many of the other specific policy measures introduced by the VCS are consistent with the emphasis on effective adaptation to the risks of climate change. For instance, it is VCS policy that decision-makers should:

- Ensure that new development is located and designed so that it can be appropriately protected from the risks and impacts of climate change;
- Avoid development within primary sand dunes and in low-lying coastal areas;
- Encourage the revegetation of land abutting coastal Crown Land using local provenance indigenous species to build the resilience of the coastal environment and to maintain biodiversity; and
- Ensure planning and management frameworks are prepared for changes in local conditions as a result of climate change and can respond quickly to the best available current and emerging science.

Notably, the new provisions to address sea level rise in the VCS are currently being considered by an Advisory Committee established by the Minister for Planning to consider the proposed sub-division of coastal land at Eastern Beach in Port Fairy. The Advisory Committee's decision will be issued in the coming months.

In many respects, the VCS is only the first step in managing decision-making in relation to the risks of climate change on Victoria's coastal waters. While it provides a broad decision-making framework, it is anticipated that other mechanisms and policy-instruments will be developed with respect to different aspects of coastal management. For instance, the VCS specifically contemplates amendments to the VPPs to address climate change and, if necessary, investigations into "the development of new provisions to manage coastal climate change risks and impacts".

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