

# SUBMISSION

## Revised Siting and Design Guidelines

*This submission has been prepared by the Association of Bayside Municipalities, in partnership with the Municipal Association of Victoria, on advice from Victorian coastal councils.*

On behalf of Victorian coastal councils, the Municipal Association of Victoria (MAV) and the Association of Bayside Municipalities (ABM) welcome the opportunity to provide input to the revised *Siting and Design Guidelines for Structures on the Victorian Coast*.

Local government welcome revision of the 1998 Guidelines. For the past 20 years these guidelines have provided a valuable tool for coastal councils developing and assessing proposals for the siting, design and construction of new and renewed structures on the coast.

The revised Guidelines, structured around 13 fundamentals, provide direction and greater support to implementing the Victorian Coastal Strategy. They set higher design standards than the previous version, and provide a more considered process for developing site responsive designs that respond to contemporary thinking around coastal issues.

We note that the release of the draft guidelines over the Christmas-January shut down period for councils did not allow councils to submit an endorsed position, with Officer comment only informing this submission. Thank you for supporting our request for additional time, and providing an extra two weeks for councils to submit feedback.

Local government support DELWP's proposal to:

- Finalise the revised Guidelines, replacing the 1998 version as soon as possible.
- Gather feedback from local government over the next 12 months as the Guidelines are being implemented, and use this feedback to refine the document in early 2020 to reflect the upcoming Victorian Marine and Coastal policy.

We do not support the suggestion to 'pilot' the guideline for the remainder of the year. It is critical the Guidelines are considered 'final', and can be used effectively for design and approval processes. The suggestion of a pilot could be misleading, and imply the Guidelines are still in draft form, or up for debate.


Further feedback on the draft Guidelines is attached. For all enquiries please contact:

Jacquie White  
Executive Officer  
Association of Bayside Municipalities  
P. 9667 5536 | [jwhite@mav.asn.au](mailto:jwhite@mav.asn.au)

Sophie Segafredo  
Acting Manager Planning & Building  
Municipal Association of Victoria  
P. 9667 5541 | [ssegafredo@mav.asn.au](mailto:ssegafredo@mav.asn.au)



**Kerry Thompson**  
CEO  
Municipal Association of Victoria



**Cr. Tim Baxter**  
Vice President (*on behalf of President*)  
Association of Bayside Municipalities

## General feedback

Overall, local government supports the revision of the Siting and Design Guidelines.

We consider the overarching direction and objectives of the Guidelines and the thirteen (13) siting and design fundamental elements the associated design responses, to be predominantly consistent with, and complement, local government planning schemes and Municipal Strategic Statements with regards to coastal protection and development.

The revised Guidelines clearly build on the sound best practice established in the 1998 Guidelines. The document is logical in their format and layout, providing clarity in respect of what should be considered by defining 13 siting and design fundamental elements and associated design responses. The fundamental elements and design responses are provided in a clear and concise manner, each one accompanied by pictorial guidance which appropriately assists in understanding the outcomes required.

The use of colourful illustrations and photographs of local and overseas examples is informative. The enhanced graphic presentation is excellent, and will support engagement of the range of audiences accessing the Guidelines.

The examples of siting and design used in the Guidelines appear to be focused towards non-urbanised coastal land. It would be beneficial to provide a range of examples that reflect the diversity of coastal development proposals that span:

- urban coastal environments
- rural coastal environments
- industrial (e.g. where oil, gas or electricity must be moved through the foreshore area to processing plant or distribution infrastructure)
- marine related infrastructure (e.g. slipways and slip yards).

## Summary of feedback and suggestions

### Structure *page 2*

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The document would benefit from a contents page

### Language

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It is understood that the document is designed to provide guidance to a professional audience, involved in the siting, design, construction and approval of structures on the coast. The introduction on page 2 takes an emotive approach, from personal memories and feelings towards the coast to statements that could be perceived as suggestive of anti-development:

Councils advise that the emotive approach does not seem appropriate. The Guidelines require language that is prescriptive and without risk of perceived bias, lessening any negative weighting to development on the coast.

The language used to describe the site analysis fundamentals (pages 12-15) appears different to the terms and phrases used throughout the rest of the document. It is requested that a clear, commonly understood language is consistently applied throughout the document.

**“About the Guidelines”** on page 3 refers to the Guidelines building on the previous 1998 version *“with a refreshed approach”*. The revised Guidelines offer more than a “refreshed approach”. The Guidelines address gaps and limitations in the previous 1998 version, and guides siting and design in the context of future challenges for Victoria’s coast. Propose that the Guidelines should go beyond “current context and challenges”, and describe positioning / planning for future challenges for marine and coastal environments, and coastal communities.

Suggest the introduction includes acknowledgement of the increasing pressures on the coast from population growth and density, and a changing climate.

**Terminology:** suggest providing an explanation of ‘sustainability’ in the body of document rather than introducing it in the prioritisation table towards the end of the document. Councils request that DELWP give consideration to making sustainability a higher order fundamental element.

### Overarching legislative / policy context *pages 4-7*

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The Marine and Coastal Act 2018 sets out a requirement for the Siting and Design Guidelines to be revised.

We understand the Guidelines have been designed to adhere with the objectives in the Marine and Coastal Act 2018, and to the current Victorian marine and coastal policy – which at this point in time is the *Victorian Coastal Strategy 2014* (which was developed prior to the Act).

With the Victorian Coastal Strategy due to be replaced in 2019 by a Marine and Coastal Policy the Guideline introduction requires commentary about this legislative context. Importantly, the Guidelines must provide clarity on the legislative context over the next 12

months and beyond, articulating the transition from the Victorian Coastal Strategy to a Marine and Coastal Policy.

The objectives of the Act are different to the principles of the *Victorian Coastal Strategy*. There is no commentary in the Guidelines about this difference, or how it should be addressed in terms of siting and design considerations.

Achieving Marine and Coastal Act consent also requires applications to address specific questions regarding coastal adaptation planning. This includes requirements to have assessed projected sea level risk (where DELWP have prescribed the scenarios) – this is not indicated in the Guidelines.

***As communicated in the email to the ABM from Will Guthrie (DELWP) on 5/2/2019***

Councils welcome the proposal to update the Guidelines in early 2020, to reflect the Marine and Coastal Policy (once endorsed). This would allow councils to test the application and usability of the Guidelines over the coming 12 months. We welcome to the invitation to work with DELWP to inform the revision.

For the Siting and Design Guidelines to be an effective tool for coastal planners and managers the following changes are suggested:

- The Guidelines must include, as part of the policy and planning framework (page 6), commentary about the current transitional period from the existing Victorian Coastal Strategy, to the new Victorian Marine and Coastal Policy. Suggest that some wording around the ‘testing’ and ‘revision’ proposed over the next 12 months be included. This would enable local government (and other users) to gather and contribute their experiences and feedback. It would also help provide some clarity in terms of the current transitional legislative arrangements from the VCS to the new Policy.
- The Guidelines have a published sunset clause (eg. 12 months) between now and the Marine and Coastal Policy coming into effect.
- In developing the new Marine and Coastal Policy the Siting and Design Guidelines must be referenced, giving weight to their use and application by councils in all siting and design along the coast (rather than being interpreted as a ‘guide’ and risk being argued or ignored).
- A statutory mechanism, along with the requirement to consider the Guidelines is critical to their effective use and application. For example, a policy guideline within Clauses 12 and 13 of the Planning Scheme.
- The Guidelines are updated after the marine and coastal policy is enabled, to align with the current legislative context.

The Guidelines make no mention of the requirement to have regard to other policies and legislation (as in the previous *Siting and Design Guidelines - 1998*). The Guidelines need to acknowledge and accommodate existing strategies and management plans such as foreshore management plans and local structure plans (specifically the management of growth elements of those plans). Request that the supporting documents referenced throughout the document are hyperlinked and checked against the reference list.

Councils suggest clarifying the relationship to Coastal Management Plans, ensuring consistency with the *Guidelines for the Preparation of Coastal Management Plans*. The “approval” and consent” sections on page 7 needs to align with the approvals regime established in foreshore management plans.

Given the endorsement of Coastal Management Plans at State level suggest there be more reference to the relationship between Coastal Management Plans (Marine and Coastal Management Plans) and the Siting and Design Guidelines.

## **Role and purpose of the Guidelines**

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Clarity is required in relation to the weight of consideration that should be given to the Guidelines, specifically in making an assessment of a proposal affecting coastal land that is not Crown land.

For proposals on Coastal Crown Land the guidelines indicate that they are a mandatory consideration and as assessment against them *must* be made. On other freehold coastal land, their consideration appears discretionary, although there is some conflicting statements within the document, these being:

*'The guidelines apply to all development on Victoria's coast, whether on public or private land. Provides a set of fundamental considerations which underpin best practice on coastal crown land and guidance for siting and design more generally on coastal hinterland.'* (pg.3)

*'Regardless of title, developments located on the coast must have regard to these guidelines'* (pg. 3)

*'To be used as principle siting and design tool and an assessment tool for individuals and groups who are developing proposals for structures on the coast.'* (pg.3)

Guidelines must be considered in applications for planning approval on coastal crown land. Consideration may also be required for applications on freehold land (site approvals).

The guidelines focus on terrestrial development (buildings, bridges etc). The 1998 Guidelines also included information on marine structures such as breakwaters, groynes and other beach protection structures. Are these structure outside of the scope of the revised Guidelines?

## **First Principles** *pages 8-9*

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The concept of articulating first principles and fundamental elements, and examining the design and siting of structures in the coastal environment through this lens adds value to explaining what is being sought and why.

The 'uses' listed in the table (page 8) outline a very literal view of coastal land as being the coastal strip. This is at odds with the very broad definitions of coastal land provided in the Guideline introduction, the *Marine and Coastal Act* 2018 and the Victorian Coastal Strategy 2014. This creates confusion for the user, and limits the scope and application of effective siting and design principles to coastal development proposals.

Councils seek clarification as to how the complexities of a multi-functional rather than single use facility are dealt with? Multi-functional is widely recognised as a more cost-effective approach in a resource constrained environment? It is suggested that a prescriptive approach be adopted where the activity is considered contextual to the location and the

ability of the site to accommodate the activity without compromising the environmental, community or coastal values.

**Referring to the graphic on page 8 (middle row):** Councils suggest adding:

- water sports retailing, lessons and offices (eg. kite surfing, paddle boarding retail + schools)
- Function centres should be considered supportive where they are secondary to a primary coastal dependant or supportive use (e.g. function centre + sailing club or restaurant) – e.g. allows for weddings, events to take place in a location consistent with enjoyment and recreation of the foreshore.

This supports fundamental element #12 – increased function net positive outcome.

**Referring to the graphic on page 8 (last row):** Councils suggest adding:

- Explanation of terms, for example adding a list of activities like football fields or bowling greens, to the term “non-water-based sporting facility”
- Councils queried why boardwalks (facilitating environmentally sensitive accessibility) are in a different category to jetties?

**Clarity of purpose:** Councils noted the potential for the table of uses (pp 8) to confuse the purpose of the Guidelines – to provide guidance or prescriptive?

The format of the table mimics the regulatory planning scheme structure however it is not clear if the terms used are meant to be consistent with definitions in schemes? The 1998 Guidelines similarly provided guidance on preferred land uses, however, the presentation was as examples.

The introductory statement requires clarification – is it a prescriptive list or should appropriate uses still be determined by the situational context on the ground including consideration of local values?

**Terminology:** Councils suggest reconsidering use of the term “footprint” (page 9). There are numerous references that create confusion as the definition of ‘footprint’ being applied to the Guidelines. Footprint is currently referred to as:

- environmental footprint
- existing footprint
- structural footprint
- footprint (area and mass)

The common meaning for *environmental* footprint is the carbon footprint, whereas the Guidelines discuss physical built form, such as height, bulk and mass of a structure. If the environmental footprint is a matter to be considered then it needs to be described as its own genre rather than create confusion within the discussion of the traditional building footprint concept.



## Feedback on Siting and Design Fundamentals

Introductory paragraph on page 10 states:

*“Every new project is a chance to inspire and contribute to our coastal cultural identity. Coastal projects can’t be hidden, and they form part of our experience. So, they need to be carefully designed to enhance that experience and positively contribute to the environment.”*

Councils queried if describing coastal structures as ‘projects’ is incongruent with the list of structures in the previous section (page 8). Suggest that terminology refers to the siting and design of coastal structures / infrastructure / development, as opposed to siting and design of ‘projects’.

Propose that the section on page 71 “Prioritising the Fundamentals” on be incorporated in to the “Siting and Design Fundamentals” section. The prioritisation is critical and valuable information to consider in reading the rest of the document.

### **Site analysis and fundamentals** *page 12*

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The ‘prioritisation’ on page 70 would be better situated as part of this section, providing a process for assessment, thinking and working through the fundamentals.

Table 2 provides ‘yes’ and ‘no’ tick-boxes relating to Site Analysis and Site and Design Considerations. There is a lack of explanation or reference relating to this Table in terms of its purpose, requirement to be completed, who it should be completed by or how it should be completed. It appears to relate to the Design Responses relevant to each fundamental, but this is unclear.

We are also uncertain of the outcome of its completion. For example, if there are any boxes ticked ‘No’ what will be the ramifications of this? Further explanation is required regarding how the analysis and prioritisation should work in assessing proposals.

### **Prioritisation of the Fundamentals** *page 70*

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The section on prioritising the fundamentals helps to clarify the relationship between the hierarchy of principles contained in the Victorian Coastal Strategy 2014 and the Guidelines.

## **Feedback on Fundamentals and design responses** *pages 16 onwards*

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### **Fundamental #3 – Morphology**

For built up areas the Guidelines state the design of buildings should be responsive to the existing urban and landscape character of the area.

Suggest the Guidelines should specify development needs to be sympathetic to the surrounding coastal landscape and character of the built environment.

Morphology needs to reflect the near shore marine as well as coastal environment. Currently reads as coastal only.

#### **Fundamental #4 – Hydrology**

Councils seek clarification on the design response “accommodate and maintain natural drainage patterns of the area” which appears inconsistent with suggestions made on page 65 “replace traditional stormwater outfalls with wetlands and bio filtration systems to enhance vegetation and habitats, and ensure environmentally-responsible discharge of water”.

Hydrology needs to reflect marine as well as coastal environment. Currently reads predominantly coastal.

#### **Fundamental #5 – Vegetation and Ecology**

The design considerations (page 13) state “Has existing native vegetation been retained and protected?” Councils suggest this statement could be re-worded to “Has existing indigenous vegetation been retained and protected other than where disturbance is unavoidable”, recognising that in some cases disturbance to vegetation is required.

Ensure language of native, natural and indigenous vegetation is consistent and considered throughout the document. These terms are used interchangeably throughout the document which creates ambiguity. Vegetation design responses needs to consider marine vegetation and ecology where relevant. The content currently reads as predominantly coastal.

#### **Fundamental #6 – Climatic Conditions**

This section refers to the impact of wind, weather and sun on buildings. This has generated significant commentary from Councils, who are seeking much greater consideration of the changing climate and what impact future climate conditions might have? Suggest that climate change needs to be its own section (fundamental).

Councils suggest including additional design responses such as solar panels (where appropriate), green walls and roofs.

The design responses state “locate building entries and openings on the leeward side, with a preference for areas that provide winter sun and summer shade”. This may be a suitable design response in some situations, but not in all. Design response needs to allow for alignment with Victoria Police [Crime prevention through environmental design principles](#) where relevant. Suggest including text “where possible”.

Locating building access away from the beach is also impractical for lifesaving clubs who need direct access to the beach.

#### **Fundamental #7 – Views**

This section needs to take into consideration views associated with essential services and safety, such as that provided by lifesaving clubs. There should be a distinction between structures that provide community services like lifesaving towers, public viewing structures and private dwellings.

We feel this section is ambiguous and requires greater clarity:

- Whose view is being talked about?
- Focus is on structures not vegetation, landscaping, etc (and clarification on both is required).

The statement “Our preference for being able to see the ocean and the coast is reflected in property prices, where the cost of properties with ocean and beach views is considerably



higher than elsewhere” implies that the view is therefore worth protecting and any change to the view will devalue the property. Request removing reference to property prices and coastal views.

The statement “retain existing views to and from the water or along the coast” should be expanded to provide more guidance and information – views from public land, private land?

### **Fundamental #9 – Local Character and Sense of Place**

Query if the 1<sup>st</sup> paragraph is needed, or of assistance in this setting?

*“Victorians clearly value the often longstanding character of coastal settlements (Ipsos, 2012). There also continues to be strong support for maintaining coastal character through inland development, rather than creating continuous urban settlements along the coast.”*

Propose the following:

- Remove ‘clearly’. Suggest using “Victorians value the often longstanding character of coastal settlements (Ipsos, 2012).” Ipsos is a longitudinal study of community attitudes towards the coast (use, value, etc). The research suggests that Victorians surveyed strongly value the character of coastal settlements.
- What is the source of the statement there is “strong support”, to ensure that the Guidelines are factual, rather than any perception of opinion.
- Seek advice from DELWP regarding the current competing demands on, and conflicting messages, to councils regarding managing /minimising coastal development through siting and design, while also being encouraged and funded to develop regional urban centres (often on the coast). How will this be managed through Fundamental #9, or the Guidelines more broadly?

### **Fundamental #10 – Heritage**

Councils support coastal development reflecting Aboriginal cultural heritage. Suggest additional text that any ‘reflection’ of Aboriginal cultural heritage must be done in consultation with local Traditional Owner Groups.

Councils seek further clarification on:

- “identify and protect Aboriginal heritage places” (page 54). Councils have advised that in many circumstances Traditional Owners do not want Aboriginal heritage sites identified. This statement needs to be written in a more sensitive manner, either based on known sites, or that design would be in consultation with Traditional Owner groups so that protection, rather than identification can be the focus where appropriate.
- coastal heritage definitions (outside of legislated heritage protections). The community can value and interpret the significance of ‘coastal heritage/local histories/character’ in many and sometimes contradicting ways, as places and knowledge change or are lost over time. This can pose a major challenge in confirming the value of coastal heritage and how it is to be protected or retained in different planning settings.

### **Fundamental #12 – Increased function net positive outcome**

Suggest that the ‘design response’ needs to include reference to:

- Integrated coastal zone management
- (dot point 6) replacing traditional stormwater management approaches by applying water sensitive urban design principles

## Gaps and suggestions

### Climate change and managing risk

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The Guidelines provide minimal to no commentary on climate change, and how siting and design might be considered in the context of:

- coastal climate adaptation
- local coastal hazard assessments, and risk assessments
- population projections – in terms of projected local population changes that might impact on structures, facilities, access into the future.
- Sea level rise
- Erosion
- Storm surge
- Heatwaves

Specifically, Councils suggest Fundamental #4 (Hydrology) and Fundamental #6 (Climatic Conditions) need to consider key climate change challenges such as sea level rise, erosion, storm surge, heatwaves.

### Bushfire risk

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There appears to be no direct reference to bushfire risk in the Guidelines.

Councils strongly suggest that consideration of bushfire risk on coastal land should be a priority design and siting fundamental. Specifically, bushfire risk needs to be considered on coastal land within a designated Bushfire Prone Area or Bushfire Management Overlay in order to comply with *Clause 13.02 of the Victorian Planning Provisions – Bushfire Planning*, which seeks to prioritise the protection of human life.

A number of coastal towns face potential for a landscape scale bushfire including bushfire penetration into the townships. The Guidelines should be amended to reflect this issue. The Bushfire Management Overlay has the potential to significantly influence the design and siting of structures i.e. choice of building materials to improve the chance of the building surviving a fire and greater clearing of native vegetation through meeting defendable space requirements. This is an issue that clearly needs to be considered as part of any development on coastal land.

### Public safety and risk

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Request that the Guidelines offer greater commentary of the importance of public safety in any design response, to ensure proposals protect the environment and the community.

## **Definition(s) of coastal land**

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To avoid confusion, the Guidelines would benefit from a definition of 'coastal land'. What constitutes coastal land?

The current definitions in the Guidelines are very broad and open to interpretation.

In the introduction to the Guidelines, it is stated that:

*The guidelines apply to all development on Victoria's coast, whether on public or private lands and;*

*references to the coast encompass coastal, estuarine and marine environments on public and private land (as outlined in the Victorian Coastal Strategy, 2014).*

The Victorian Coastal Strategy provides the following explanation of what is meant by the coast:

*The coast does not exist in isolation. A broad definition of the coast allows flexibility in application and should be applied relative to the context, issue or location in question. For the purposes of this Strategy, references to 'the coast' encompass coastal, estuarine and marine environments on both public and private land. This applies to:*

- *the marine environment – nearshore marine environment, the seabed, and waters out to the State limit of three nautical miles (5.5 kilometres)*
- *foreshores – or coastal Crown land up to 200 metres from the high water mark*
- *coastal hinterland – land directly influenced by the sea or directly influencing the coastline, and with critical impacts on the foreshore and nearshore environment (these influences range from visual to drainage impacts)*
- *catchments – rivers and drainage systems that affect the coastal zone, including estuaries*
- *atmosphere – near, around and over the coast as defined above*

The *Marine and Coastal Act 2018* defines both 'marine and coastal Crown land' and the meaning of 'marine and coastal environment' as the area to which the legislation applies. The former being land reserved under the *Crown Land (Reserves) Act 1978* for the purposes of the protection of the coastline and the latter including that area of the outer extent of Victorian coastal waters and 5 kilometres inland of the high water mark of the sea.

There needs to be consistency and clarity in terms of what is defined as 'coast' and 'coastal land', and 'marine' for the purpose of these Guidelines.

## **Industrial coastal development and other infrastructure**

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The Guidelines need to acknowledge and consider industrial marine related structures and industries. Such structures provide economic value at some coastal localities. This includes providing guidance for future industrial activities and structures and any associated infrastructure that passes through the foreshore area / coastal environment eg. pipelines for the movement of off-shore gas and oil to processing plants and distribution networks, gas plants, etc.

The proposed guidelines should address emerging marine and coastal activities such as geothermal power generation or new energy industries such as wind energy or tidal and wave power.

## Urban and rural coastal environments

Overall the Guidelines have a leaning towards 'rural' coastal environments. The Guidelines need to reflect the diversity of Victorian coastal environments to better reflect the challenges of the urban context. Councils suggest there are sub-sets of the urban context with 'dense urban' facing different challenges to 'natural urban'. Recognition of these different contexts needs to be worked into the document.

Councils are seeking guidance in relation to the full range of different coastal environments as they exist – ranging from highly modified and urbanised to wilderness environments and the distinction between planning for existing and preferred coastal character. There also needs to be recognition that coastal values change along the coast through the range of environments.

## Editorial feedback

Page	Text	Suggested correction
1	Contents page	Include contents page to allow quick access to specific fundamentals
7	The VCS 2014's long-term vision is for 'a healthy coast, appreciated by all, now and into the future' and, in relation to the siting and design and design of structures on the Victorian coast, the vision requires:	Remove repeat of 'and design'
7	Enabled by the MACA, Regional and Strategic Partnerships (RASPs) are a mechanism specifically designed to address cross-jurisdictional issues and to facilitate cross-jurisdictional co-operation in tackling challenges arising from erosion, flooding, rising sea level, frequent floods, coastal storms and population growth.	Suggest adding a comma
7	In Victoria, proposals for the use and development of coastal Crown land are considered through a coordinated approach under the legislative framework of <i>the Coastal and Marine Act 2018</i> and <i>the Planning and Environmental Act 1987</i>	Suggest adding a comma
70	A number of supporting documents are referenced throughout the document. It would be useful if these were hyperlinked in the electronic version, or website addresses provided.	The documents do not appear to all be listed in the reference list.