

Our Ref: ARB/BES 680
Your Ref:

22 May 2024

The Hon. Steve Dimopoulos
Minister for the Environment
Parliament House
Melbourne VICTORIA

BY EMAIL

Email: steve.dimopoulos@parliament.vic.gov.au

Copy: stephen.chapple@delwp.vic.gov.au

Dear Minister

Re: Erosion between Point Nepean and Sorrento

We act for the Nepean Ratepayers' Association (**NRA**).

Together with Mr Colin Watson, President of the NRA, we met (without prejudice) in Melbourne earlier today with Mr Stephen Chapple and three other senior officers of your Department of Energy, Environment and Climate Action (**Department**).

We now write to you openly.

As we expect you may be aware, our client considers that, based on the work of, *inter alia*, Water Technology Pty Limited, the root cause of the continuing erosion of the coastline between Point Nepean and Sorrento was and is the Port Phillip Bay Channel Deepening Project undertaken in 2008-2009.

Rather than focusing on causation and potential litigation, however, our discussion today centred on how best to address the risks to which this important stretch of Victorian coastline is and will continue to be exposed.

We suggested to Mr Chapple that, to best explore responses to this problem in a non-adversarial manner and having regard to the interests of all concerned, the parties should participate in a "without prejudice" mediation conformably with paras 2(f), (h) and 5 of the *Victorian Model Litigant Guidelines*.

We proposed that such a mediation should:

- be conducted by a mutually agreed eminent and independent person (such as a retired superior Court Judge based in Victoria);
- be conducted at the Department's offices in Melbourne;
- be paid for by the State government – at least insofar as the cost of the mediator is concerned;
- initially only involve representatives of the NRA (and us), a nominated representative from your Ministerial office, an authorised Departmental officer and, potentially, a representative of the local Council;
- be conducted subject to suitable agreements as to confidentiality; and
- involve at least one pre-mediation conference with the mediator to establish ground rules and agree on logistics.

We invite you and your Department to respond formally to this suggestion by 1 July 2024.

We would be pleased to confer with you or your Departmental staff to further develop this idea with a view to any mediation being commenced by 1 September 2024.

Yours faithfully



Andrew Beatty/Ballanda Sack
Director/Senior Special
Counsel
andrew@beattyhughes.com.au ballanda@beattyhughes.com.au

Beatty, Hughes & Associates
ABN 44 273 924 764