

# VOLUNTEER MARINE SEARCH & RESCUE IN VICTORIA\*

## INTRODUCTION

- 1 This paper reviews the structure and adequacy of volunteer marine search and rescue (**VMSAR**) organisations within Victoria. These organisations play a crucial role in supplementing the marine search and rescue capacity of the Victoria Police. As such they are pivotal to safe-guarding life and marine property.
- 2 The *Final Report of the Victorian Parliamentary Inquiry into Marine Search & Rescue Services* (2014) concluded that all major stakeholders in the VMSAR sector were united in their view that these community, volunteer resources should be fully leveraged through a simplified, state-wide and fully integrated marine rescue agency.<sup>1</sup>

## SCOPE

- 3 This paper:
  - a. describes the current Volunteer Marine Search and Rescue sector in Victoria;
  - b. sets out the deficiencies within the current structure; and
  - c. puts forward a comprehensive plan to deal with these deficiencies and to create an integrated VMSAR association which will
    - (i) permit the full integration of all VMSAR Units within Victoria; and
    - (ii) accord with “best practice” governance and management frameworks.
  - d. is based upon a review of all published inquiries into the Australian VMSAR sector, including all submissions lodged with the Victorian Parliamentary Inquiry into Marine Search & Rescue Services (2014) and updated by interviews with current officers of Emergency Management Victoria and current and past members of VMSAR organisations in Victoria.

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<sup>1</sup> See *Parliamentary Inquiry into Marine Rescue Services in Victoria* (3 SEP 2014) Chapters 4 & 5 – see also paragraph 24 below and Appendix A hereto

## AIM

- 4 The aim of this paper is to facilitate the establishment of a modern Marine Search and Rescue Agency for the purpose of encouraging, maintaining and strengthening the capacity of volunteers to support marine rescue activities.

## THE CURRENT VMSAR SECTOR

- 5 The VSMR units in Victoria consist of :-
- 19 Australian Volunteer Coast Guard (AVCGA) flotillas; and
  - seven independent units (**the independents**);
  - four Surf Life-Saving Clubs with off-shore rescue capacity; and
  - one State Emergency Service (SES) Unit (Inverloch).
- 6 These units are primarily located on coastal waters with only two located on inland waterways, namely, Lake Eppalock and Lake Hume.<sup>2</sup>
- 7 The AVCGA flotillas are divided into three squadrons and are located as follows:-
- **West Victoria Squadron** – Portland, Warrnambool, Geelong, Queenscliff Werribee & Lake Eppalock (which also services Lake Eildon);
  - **Victoria Squadron** - Frankston, St Kilda, Hastings, Safety Beach, Carrum Sandringham and Lake Hume;
  - **Gippsland Squadron** – Mallacoota, Lakes Entrance, Port Albert, Port Welshpool, Marlo and Paynesville.
- 8 The independent units comprise the following groups:-
- Apollo Bay Marine Rescue;
  - Coast Watch Ocean Grove Marine Rescue;
  - Port Fairy Marine Rescue;
  - Southern Peninsula Rescue Squad (Sorrento);
  - Torquay Marine Rescue; and
  - Volunteer Marine Rescue Hastings & Mornington.
- 9 The independent units and the individual AVCGA flotillas are accredited as marine responders by Emergency Management Victoria (EMV).<sup>3</sup> As such, they have the benefit of direct Government funding and support, subject to them meeting certain contractual obligations imposed by service level agreements (SLA's).

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<sup>2</sup> Lake Connewarre can be accessed by Coast Watch Ocean Grove Marine Rescue

<sup>3</sup> Arrangements for Marine Search & Rescue in Victoria (EMV)

- 10 The AVCGA flotillas differ from the independent units in two important respects. Firstly, the AVCGA flotillas have no legal personality and, secondly, are tied to a hierarchical, national structure.

*No Separate Legal Personality*

- 11 The flotillas are organisational components of the Australian Volunteer Coast Guard Association Inc. - an association incorporated in the Australian Capital Territory (ACT). This legal entity holds legal ownership of all the flotilla assets, including rescue equipment (save for EMV supplied rescue craft) and bank accounts.<sup>4</sup> These assets can be taken at any time by the Squadron or National Boards in the exercise of disciplinary powers. This legal structure subordinates the general membership (based at flotilla level) to the control of the Squadron and National Boards. This structure also conflicts with one of the prime motivations for volunteering, namely, the volunteer's desire to identify with his/her local community.<sup>5</sup>
- 12 Consequently, this structure has produced internal tension within the AVCGA, particularly amongst the flotillas within its Gippsland Squadron. All the AVCGA's flotillas in the Gippsland Squadron began life as independent associations and identify strongly with their local communities. Individual incorporation remains the preferred model for these VMSAR units.

*A National Hierarchy*

- 13 The second feature which distinguishes the AVCGA from the independents is that its Victorian flotillas are tied to a national structure. Presently the AVCGA has flotillas based in the Northern Territory, South Australia, Victoria and Queensland.<sup>6</sup>
- 14 The AVCGA once had flotillas in New South Wales and Tasmania but those flotillas have been absorbed into State-based marine rescue organisations following State government reforms.
- 15 The same reform process is currently occurring in Queensland. It is planned that by July 2021, the twenty (20) AVCGA flotillas located in that State are

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<sup>4</sup> See Clause 84(c)(ii), (iii) & (vii) of the AVCGA Constitution

<sup>5</sup> See Clary, E; Snyder, M; Riley, R; Copeland, J; Stukas, A; Haugen, J & Meine, P; "Understanding and Assessing the Motivations of Volunteers: A Functional Approach" *J. Personal Soc. Psychol.* (1998), 74 at 1516-1530 Note: as a result of perceived insensitivity from the Squadron Board and a consequent desire for more autonomy, the AVCGA Port Douglas Flotilla incorporated itself in 2017. Its entire membership transferred to VMQR.

<sup>6</sup> The AVCGA currently has 46 individual flotillas nationwide. The breakdown is as follows: - Northern Territory – 1 (Darwin); South Australia – 6; Victoria – 19; Queensland – 20. Accordingly, with the departure of the QLD flotillas, the AVCGA will have only 26 flotillas, 19 in Victoria

to be merged with the twenty-five (25) squadrons<sup>7</sup> affiliated with Volunteer Marine Rescue Queensland (VMRQ) to form an independent State-based entity.

16 These reforms are not random, they reflect the fact that marine rescue is a State responsibility under the *Intergovernmental Agreement for Search and Rescue* and the *Intergovernmental Agreement for Maritime Response Arrangements (IGA-SAR & IGA-MRA)* as endorsed and updated by the Australian Police Commissioners Conference in 2004. That being so, the AVCGA's national structure is of little to no benefit, particularly if its component parts are not aligned with the State-based system of MSAR responsibilities.<sup>8</sup>

17 The Queensland reform is particularly significant as it will essentially see the elimination of the AVCGA's national standing. After the departure of the Queensland flotillas, the AVCGA will consist of 19 Victorian flotillas and seven others. Queensland Fire & Emergency Services have advised that the creation of a single, integrated VMSAR service in Queensland may only be months away.<sup>9</sup>

18 The demise of the AVCGA's national posture will create reform opportunities. It sets the ground for a re-orientation of the AVCGA's remaining flotillas around State-based entities and should facilitate the divestment of the Association's assets to support this change. It is, therefore timely to undertake a review of the Victorian VMSAR sector, particularly as the MSAR reform process can be expected to continue along a State-based trajectory.

19 At present, the AVCGA's structure takes little account of the State-based lines of control for the MSAR sector. Under the *IGA-SAR & IGA-MSR* system:

- MSAR operations are the responsibility of accredited marine responders which operate under the direct control of State agencies;
- Victoria Police is responsible for the operational deployment of the accredited marine responders; while
- EMV is responsible, inter alia, for the operational readiness of the accredited marine responders (including direct operational funding and the auditing of this expenditure, training standards and insurance cover).

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<sup>7</sup> Squadrons in VMR Qld are the equivalent to flotillas in the AVCGA (save that they have separate incorporation).

<sup>8</sup> It was for this reason that the AVCGA recommended the creation of a new State-based entity (Coast Guard Victoria Ltd) to the 2014 Parliamentary Inquiry into Marine Search & Rescue Services in Victoria. Despite this recommendation, the AVCGA has taken no action to create this entity.

<sup>9</sup> See QF&ES – Marine Rescue Implementation Update, March 2021.

- 20 Consistent with these lines of control, EMV’s service level agreements purport to be made with each AVCGA flotilla (the accredited marine responder). However, as none of the AVCGA flotillas have a legal personality, in reality, EMV has no direct contractual link with the actual responders. From EMV’s viewpoint, this already undesirable position is exacerbated by the AVCGA’s system of hierarchical control.
- 21 The AVCGA’s extant constitution does permit the establishment of “State Councils” in those States where there is more than one AVCGA Squadron. The State Councils were intended to represent the Squadrons in the State in which they exist and to provide a single, unified voice to government. Unfortunately, the State Council’s sit outside the AVCGA’s hierarchical structure, having no formalised lines of accountability to the National Board. The Victorian based squadrons have resolved to close down the Victorian State Council. This seems a short-sighted decision, particularly given the reforms taking place in Queensland and the provisions of the *IGA-SAR & IGA-MRA* (refer paragraph 16 above).<sup>10</sup> In contrast, the SLSAA has long recognised the importance of State-based alignment through the creation of Life-Saving Victoria.

## **CURRENT ORGANISATIONAL DEFICIENCIES**

- 22 A volunteer marine rescue association should be judged by its capacity to:
- integrate all volunteer marine rescue responders;
  - retain and grow the volunteer base;
  - strengthen the capacity of volunteers to support marine rescue activities;
  - produce and communicate a shared strategic vision;
  - provide transparency in decision making - financial, personnel and operational;
  - be receptive to new technology;
  - engender greater community involvement in emergency management;
  - develop community resilience within the marine environment:
    - through the advancement of marine/boating safety:
      - by education; and
      - co-ordinated community engagement; and
    - by reflecting the diversity of the Victorian community;

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<sup>10</sup> It is noteworthy that CDRE Darby advised the Queensland Government that, as a short-term measure, the Queensland Government “could insist that the Queensland division of the AVCGA become a separate entity incorporated in Queensland (and separate from the national incorporated body).” See Darby Report, *Op.Cit* p. 49 This proposal is in line with the AVCGA’s own submission to the 2014 Victorian Parliamentary Inquiry. See paragraph 60 below.

- by building confidence with all stakeholders; and
  - by building community respect -
    - establish systems to ensure an organisational commitment to continuous improvement;
    - be structurally aligned with the State government authorities
- 23 **These standards are not being met by the current organisations.** Details of some of these deficiencies are set out below.

No Common Identity

- 24 The VMSAR responders are not united and they have no common identity. Community engagement is, consequently, underdeveloped. Compared with the SES and CFA, VMSAR has a low profile. This is partly because most operational activities occur well out of sight of the public's view. This will not change, hence a common identity and a united public profile is deemed essential.
- 25 The parochial rivalries between the independents and the AVCGA flotillas have significantly diminished of recent times, however, there remains little to no administrative or training collaboration between these entities.
- 26 The independents, being separately incorporated, enjoy greater autonomy than the AVCGA flotillas. This independence comes with a large measure of insularity which, in turn, has created significant challenges for the development of a shared strategic vision and consistency with regard to strategic policies, mutual support agreements, public communication plans and community engagement across the VMSAR sector (see paragraphs 47 & 48 below).
- 27 **In its submission to the 2014 Parliamentary Inquiry, the Victoria Police strongly recommended that the Committee of Inquiry should adopt the changes implemented in New South Wales and Tasmania, “*where all volunteer marine rescue organisations have been brought under one controlling umbrella organisation.*”<sup>11</sup>**
- 28 The Committee of Inquiry noted that all stakeholders either actively supported or were, at least, not opposed to the creation of a single, State-wide VMSAR body.

Conflicting Cultures & Inappropriate Governance

- 29 Substantive integration, too date, has been precluded by the different corporate frameworks and organisational cultures of the two broad groups.

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<sup>11</sup> Written Submission of the Victoria Police to the Parliamentary Inquiry into Marine SAR Services in Victoria (March 2014), p.3.

The “independents” jealously guard their individual, corporate status while they cannot abide the AVCGA’s quasi-military posture.<sup>12</sup>

- 30 On the first point, most of the independents explained to the Parliamentary Committee of Inquiry, that their members had chosen to join an “independent” marine rescue organisation because they valued their local autonomy. By the same token, the independents saw the benefit of being *affiliated* to an umbrella body which would represent the interests of marine rescue volunteers and which would provide a common identity for the MSAR sector. The independents, together with several Gippsland AVCGA flotillas, however, remained wary of the hierarchical command structure of the AVCGA and they expressly rejected its quasi-military posture.<sup>13</sup>
- 31 On this latter point, it should be noted that the AVCGA took as its organisational model, the United States Coast Guard Auxiliary (the **USCGA**). The USCGA is part of the USCG Reserve. All auxiliarists are deemed to be service personnel and are subject to military discipline, control and compensation. The USCGA falls under the administrative control of the Department of Home-Land Security during peacetime and the Department of Navy during wartime.
- 32 While not forming any part of the Australian Defence Force (**ADF**), the AVCGA’s constitution states that:<sup>14</sup>

The objects for which the Association is established are [*inter alia*]:

.....

- (v) To train personnel capable of assisting in the defence of the Commonwealth of Australia upon the seas and elsewhere.

- 33 Full, regular members of the AVCGA are required to pledge themselves to “faithfully serve the Commonwealth of Australia” and “to obey the lawful orders of [their] superior officers”.<sup>15</sup> The National Commodore of the AVCGA, provided this description of the Association to the Victorian Parliamentary Inquiry into Marine Rescue Services in 2014:

**We [that is, the AVCGA] are extremely structured. I suppose in some sense you could call us paramilitary – and we look it.**<sup>16</sup>

- 34 This military culture is not merely ornamental. It has infused the Association’s structure and produced a culture that relies upon “command-

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<sup>12</sup> See Chapter 5 of the Final Report of the Parliamentary Inquiry into Marine Rescue Services in Victoria (3 Sep. 2014).

<sup>13</sup> See Appendix A, page 22 below.

<sup>14</sup> AVCGA *Constitution (Version Nov. 2013)* clause 4(a)(v)

<sup>15</sup> *Ibid.*, clause 14(b)

<sup>16</sup> Economic Development, Infrastructure and Outer Suburban/Interface Services Committee, Frankston, 17 March 2014 – evidence of Commodore R. Campbell (AVCGA)

control". None of these features, ornamental or substantive, can be aligned with modern expectations of governance standards within the civilian volunteer sector.<sup>17</sup>

35 The problematic nature of command governance in civilian bodies has long been recognised. In their 1964 study of command governance in civilian organisations, Day and Hamblin<sup>18</sup> concluded that this style of governance fostered the following draw-backs:

- the development of a sense of remoteness between the Executive and ordinary members, leading to feelings of disempowerment amongst the members;
- a limited, one-way communications system (that is downwards) with an emphasis on "chain-of-command" formalities;
- rigidity in decision-making with limited or no creative, strategic or innovative input which, in turn, **renders the organisation prone to being overwhelmed by change**;
- **periodic conflict** characterised by outbursts of criticism from ordinary members. Such outbursts being invariably characterised as "rebellious" conduct by the Executive which then responds by shutting down discussion, rather than by mediating the concerns;
- the discouragement of any open communication between the leadership levels; and
- the development of a fractious organisational culture in which the leaders often take advantage of internal conflict to shore up their control and/or tenure.<sup>19</sup>

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<sup>17</sup> See for example the governance standards prescribed by the Australian Charities & Not for Profit Commission (ACNC) and P.D. Steane & M. Christie, "Non-Profit Boards in Australia: A Distinctive Governance Approach" (2001) 9 *Corporate Governance*; also P. Drucker, *Non-Profit Management & Leadership* (1990); and "Governance Do's & Don'ts: Practical Lessons from Case Studies on Twenty Canadian Non-profits" Institute on Governance, Ottawa, Canada; D. Garvin, "Building a Learning Organisation", *Harvard Business Law Review*, July/Aug 1993.

<sup>18</sup> Day, R C & Hamblin, R L "Some Effects of Close & Punitive Styles of Supervision" (1964) *American Journal of Sociology* 69 at 499-510; on same point (autocratic leadership structures) see L.D. Shaeffer, "The Leadership Journey" *Harvard Business Review* (October 2002); Lewin, Lippits & White, "Patterns of Aggressive Behaviour in Experimentally Created Social Climates", *Journal of Social Psychology* Issue 2, Vol. 10 (1939) at 269-308.

<sup>19</sup> These findings are supported by Herman & Penz, "Effective and Less Effective Non-profit Organisations", *American Review of Public Administration* (2000) 30 at 146-160. Note: The command-control culture of the AVCGA bears no relationship to military command authority as practised by the ADF. In the ADF, "command authority" is sustained by two key culturally specific principles, namely, the concepts of "transformational leadership" and "ethical leadership" – see, for example, the "Royal Australian Navy's Leadership Ethic"; ADDP 006 (2007) *Leadership in the ADF*; FM 6-22 (2006) *Army Leadership: Competent, Confident & Agile*; see also Wong, L. Bleise, P & McGurk, D "Military Leadership: A Context Specific Review" *The Leadership Quarterly* (2003) 14; 657-692; B. Oppermann & W. Nault, "Transformational

36 Independent inquiries into the AVCGA have, unsurprisingly, found that the Association displays all these deficiencies.<sup>20</sup> These inquiries have specifically reported that the AVCGA suffers from:

- an overly hierarchical command and control framework;
- an inadequate governance system, leading to
  - and entrenched leadership clique;
  - a divisive (toxic) organisational culture;
  - stale management practices;
  - inappropriate conflict resolution procedures;
  - improper and unfair control and disciplinary procedures; and
  - a deficit of strategic vision. -and
- limited age and gender diversity.

### The Darby Report

37 After a comprehensive review of the AVCGA in Queensland, Commodore Darby DSC, AM, RAN (retired) made the following findings:-

- **Organisational Governance** – [Members of the AVCGA] were quite scathing of their State and National Executives who they believe have lost connection with the Association’s aims. [p.7]

The Constitutional arrangements whereby representatives are elected as Squadron representatives and then to the senior management boards leaves many members feeling significantly disenchanted and disempowered. Many members’ view of the AVCGA constitution is that it results in a “closed shop” of executives who, from the outside, seem dismissive of member concerns **and react to criticism by seeking to remove those asking legitimate questions.** [5.4]

The lack of board diversity represents a risk [5.5]

The constitutional arrangements for election to Squadron and then National Boards are ... flawed. The arrangements permit a ‘closed shop’ to be established where tenure in the position is paramount and the wishes of elected members can be avoided. For example, once a Squadron Commodore is elected, he or she may select up to four other positions on the executive who then have voting rights and can

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Leadership in the Navy”, *Naval War College Review* Vol. 74 [2021] 1, Art 10

<sup>20</sup> Volunteer Marine Rescue – Review of the structure, adequacy and long term viability of New South Wales Volunteer Marine Rescue Organisations (July 2008); Review into Volunteer Marine Rescue Organisations in Queensland – Campbell Darby, DSC, AM (November 2018); See also Appendix A and the Report of Cameray Consultants.

block any motions by elected Flotilla Commanders at squadron Board meetings. A similar pyramid structure is replicated at the National level [10.4]

Problems in the AVCGA - *lack of transparency, poor communications, lack of diversity at board level, limited (or no) strategic vision or goals, and possible conflicts of interest. ...[these] issues can be sheeted home to poor governance, stale management practices and a dated constitutional framework.*

***The AVCGA pyramid election and appointment process for senior officers has allowed a toxic environment to flourish.*** The environment is one in which it appears that a select few are able to hold onto and reinforce their positions of power arguably at the expense of what is best for the organisation and its objectives. The strong feeling from the rank and file is that there is a disconnect between the actions of the Executive (especially at the National level) and the objects of the association in providing boating safety services. [19.2]

***The constitution and by-laws are used to stifle open debate and any challenges to the Executive's authority.***<sup>21</sup> And if the member(s) continue to push an issue (especially by going outside Coast Guard) then the Squadron/National level sometimes take action to have them removed (including Flotilla Executives) from their positions. There are numerous documented examples of such instances. If not resolved, the negativity and disenchantment amongst flotillas will continue with more seeking to leave the AVCGA ***creating issues for Government.*** [19.3]

- **Removal of Office Holders** – It seems that the Association is quick to remove members or office holders who openly question decisions and seek full transparency ...this is the manner in which dissension is stifled. .... even when legal opinion has shown such actions to be without due cause the Association ...does not reinstate officials... [10.5]
- **Transparency and financial commitments** – Requests by Flotillas for evidence of market testing or tendering for services to ensure the

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<sup>21</sup> It should be noted that, as a result of concerns raised by members in QLD, the National Board sought legal advice from its National CAPT (Legal) in 2017. The advice provided was to the effect that the Board could not use the by-law to prevent otherwise qualified members from running for elected office at lower board levels. This advice was accepted and stood for more than two years as national policy. It was disregarded by the Victoria Squadron in 2019, leading to similar difficulties as experienced in QLD. The Squadron's action was in breach of the AVCGA Constitution clause 89, but while noting this, the National Commodore/Board took no action. This is a classic example of unethical leadership.

best value for money were generally dismissed on the grounds of commercial-in-confidence. [10.7]

- **Strategic Review and AVCGA Future Direction** – The initiation of reform seems to have emanated from the rank and file not from the National Board and I have some doubts as to the extent that the National Board will accept major constitutional reform. In discussion with the AVCGA State Chairman and State Manager they provided no information on future reform or strategic vision when specifically questioned about whether any such work was being contemplated. [10.11]
- **Commonality, Consistency and Coherency** – Coast Guard Flotillas largely operate as individual and somewhat isolated entities..... Units are generally planning their future capability independently of other units and in the absence of any meaningful strategic vision or direction. The only internally common processes relate to training. [21.1]

38 These problems are not confined to Queensland as they reflect the basic inadequacies of the AVCGA’s governance structure.<sup>22</sup> Interviews undertaken for the purposes of this review have revealed that all senior EMV officers believe that the deficiencies identified in the Darby Report apply, with equal force, to the AVCGA in Victoria. This view is based upon those officers’ direct observations of the AVCGA’s conduct in Victoria. This view is also endorsed by many current and former members of the AVCGA in Victoria.<sup>23</sup>

#### Cameray Consultants’ Report

- 39 The AVCGA’s stagnant and unethical leadership and the board-stacking and election controlling tactics were starkly displayed at the November 2017 meeting of the AVCGA’s National Board at Melbourne. The minutes of that meeting evidence a disturbing level of organisational dysfunction, even reporting that a Board member assaulted a member of the National Executive.
- 40 Immediately after that divisive meeting the National Executive received a recommendation that it should engage an independent consultant to comprehensively modernise the AVCGA’s constitution and governance structures. The National Executive declined to follow that recommendation and, instead, engaged Cameray Consultants to undertake a “Strategic Review”.

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<sup>22</sup> See paragraphs 34 to 37 (inclusive) above and paragraphs 39 to 46 (inclusive) below.

<sup>23</sup> See Appendix A, Chapter 5 of the *Final Report of the Parliamentary Inquiry into marine Rescue Services in Victoria* & the Submission of Anthony Hacking (Westernport Flotilla); the submission of David Collins (former FCO); and the evidence of the FCO of the Port Welshpool Flotilla.

- 41 The Report of Cameray Consultants found a high level of member dissatisfaction with AVCGA’s leadership at the Squadron and National Board levels throughout all States. The members reported the following concerns:<sup>24</sup>
- a. poor internal communication;
  - b. a lack of transparency (particularly financial transparency);
  - c. a para-military style of control, whereby members are removed from their positions or disciplined without any proper/due-process;
  - d. a closed-shop approach to leadership positions (facilitated by constitutional provisions and by the self-serving interpretation of a by-law);
  - e. autocratic decision-making – a process of decision-making that equates decisions to “commands” that cannot be questioned;
  - f. an out of date constitution; and
  - g. a lack of gender diversity.
- 42 Cameray Consultants also interviewed National Board members and found that they had little appreciation of their “board duties”. The report found that National Board members were confused as to whether they should reflect the interests of their Squadrons or act as “directors” and represent the interests of the entire membership and stakeholders.<sup>25</sup>
- 43 Cameray Consultants subsequently recommended that the AVCGA’s first priority was **to modernise its constitution and by-laws**. The second priority was to establish “*a transparent, 2-way communication framework.*”<sup>26</sup> Three years on there has been only one change - the introduction of a Members’ Code of Conduct. The AVCGA now requires each member to sign a copy of the Code before a witness and lodge the executed form when applying for membership or upon renewal of membership. This is perceived by many members as another control mechanism which puts all responsibility on the individual member while

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<sup>24</sup> See Attachment G – AVCGA Strategic Review by Cameray Consultants – in the unredacted copy of the *Review into Volunteer Marine Rescue Organisations in Queensland* (30 NOV 18). It is worth noting that the Cameray Consultants’ Report recommended, as its number one priority for the AVCGA, the creation of – “a modern constitution and by-laws”. Three years later this has not been done. See also – *Submission to the Parliamentary Inquiry into Marine Rescue Services in Victoria* by Anthony K. Hacking (14 March 2014).

<sup>25</sup> Darby Report – Attachment G; Darby reports that several had no understanding of their conflicts of interest. Judging from their lack of scrutiny, none of the board members have the ability to assess the Association’s financial statements and financial performance and to process this assessment into any form of strategic plan.

<sup>26</sup> *Ibid.* - the findings of the Cameray Consultants’ Report add veracity to the findings of the Darby Report and the Victorian Parliamentary Inquiry

failing to address the systemic problems identified by Cameray Consultants and CDRE Darby.

Poor Management Practices

44 The AVCGA’s “command-control” culture has precluded the Association from adopting modern management standards.<sup>27</sup> It is particularly telling that the AVCGA has no formalized planning systems with respect to such basic matters as:

- Organisational culture;
- Community profile & maintenance of community links;
- Capability analysis;
- Unit and facility development;
- Membership retention and attraction;
- Sponsorship and fundraising;
- Organisational governance and transparency;
- Two-way internal communication and reporting;
- Integration or assimilation with other Volunteer Marine Rescue Responders;
- Interoperability arrangements with MSAR and disaster responders;
- Confidence building measures with stakeholders;
- Growing the organisation; and
- Measuring performance in these areas through key performance indicators (**KPI’s**) and basic statistical analysis.

45 The AVCGA is focused on internal control, administration and training and those tasks are performed without any transparency. The AVCGA does not publish an annual report, setting out its goals and achievements for the past year and plans for the next.

46 The fact that the National Board has seen no necessity for imparting this basic information to its members and stakeholders, highlights the Board’s narrow sense of accountability. The AVCGA’s command culture prioritises the accountability of the members to the Executive not the accountability of the Executive to the members and stakeholders. Furthermore, the AVCGA has repeatedly demonstrated that its command structure is averse to any form of criticism. The AVCGA has no commitment to “continual improvement” and no mechanisms for ensuring such improvement.

**Observation:** a corporate culture that prioritises accountability to the members and to community stakeholders is indispensable for the success of

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<sup>27</sup> See paragraphs 35, 36 (above) & 44-46 (below).

any organisation, particularly one operating under government financial and operational control.

### No Shared Strategic Planning/Vision

- 47 The independents are locally based entities. While most are “affiliated” with the Surf Life-Saving Association of Australia (the **SLSAA**), that affiliation is for the purposes of training and accreditation. There is no framework to enable their experience and knowledge to be leveraged into strategic planning for the VMSAR sector.
- 48 While the AVCGA is not constrained in that manner, it has made no attempt to critically analyse its operating environment or to engage in strategic planning. As noted in paragraphs 44-46 (inclusive) above, the AVCGA does not produce any of the basic management tools for the formulation of strategic plans, let alone for the implementation, or the performance monitoring, of such plans.
- 49 This lack of strategic vision is glaringly apparent in the AVCGA’s annual financial statements, which stand in strong contrast to the financial statements of like organisations, such as Marine Rescue NSW and the SLSAA. The AVCGA’s accounts record nothing more than items of recurring expenditure, with no provision for planned development or governance reviews. Further, there is no transparency in the accounts with respect to the funding of the Australian Volunteer Coast Guard Academy and staff. Neither the AVCGA nor the Academy have ever produced a business plan.

**Observation:** sector-wide strategic planning is not possible under the current structures. The independents are confined by their local character, while the AVCGA is prevented from doing so by its out-dated governance framework and deficient management. Moreover, there can be no strategic leveraging without unity.

### The AVCGA’s Inappropriate Rank System

- 50 The AVCGA rank structure is both a handicap to its growth and an impediment to the integration of the independent VSMAR Units. The rank structure is so badly designed that it is emblematic of the AVCGA’s organisational dysfunction
- 51 The rank structure spreads command authority to an absurd extent and at the wrong level. The structure contains a plethora of commodore ranks and other odd ranks (e.g. deputy commodores and vice-captains).<sup>28</sup>

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<sup>28</sup> Note the conclusion contained in paragraph 33 above.

- 52 If ranks are to be used, then they should be used to facilitate modern governance practice by making it clear that operational leadership resides with the VMSAR unit *commanders* while cultural and strategic leadership and regulatory oversight resides with the *directors* of the association.
- 53 The present AVCGA hierarchical structure does not allow for this. It presents the rank system as a command continuum. Accordingly, the higher some dedicated members have progressed up the command ladder the more they have demonstrated their unsuitability for their changed roles.
- 54 The inappropriate rank structure is a significant obstacle to organisational reform. The independents will accept strategic governance, by affiliation with a State-based umbrella body, but they will not accept command control from “superior officers”.

### The AVCGA’s Resistance to Reform

- 55 Despite consistent criticism over a lengthy period, no meaningful change has been implemented by the AVCGA. The National Board remains largely a closed shop. The eligibility criteria set out in the AVCGA’s constitution prevents the injection of new-blood, new insights and new energy. There remains no board diversity, no independent input and no system for continuous improvement.
- 56 The AVCGA Squadron Boards, conditioned to this culture, continue to make abrupt and ill-considered decisions with regard to the removal, standing down or the disciplining of valued and long standing members. Any questioning of a Squadron Board decision is perceived by the Board as an unacceptable attack upon it (as is any reform proposal). The Squadron Boards have neither questioned this culture nor developed any systems to promote strategic planning.

#### **STATEMENT OF THE NATIONAL CAPTAIN (LEGAL) TO THE BOARD OF THE AVCGA VICTORIA SQUADRON – (JULY 2019)**

... this type of harmful conduct is too readily taken by the AVCGA. During the four years that I served as CAPT (Legal), approximately 90% of my time was taken up with dealing with legal problems emanating from disputes between flotilla officers and squadron officers, this even extended to resolving defamation proceedings.

By doing this work I learned the following:

- All these disputes did immense harm to the AVCGA (particularly in QLD). This harm was self-inflicted. The disputes were unnecessary and could readily have been avoided if basic leadership principles had been applied and/or basic respect accorded.
- The information given to me by the relevant Squadron Boards (which were usually located in QLD) seldom corresponded with the objective facts, when those facts finally emerged.

- A defensive/combatative reaction to disputes never works, particularly in a volunteer organisation. Unless these disputes are properly resolved (as distinct from being slapped-down by command power) they just simmer along behind the scenes, causing on-going damage.
- Several of our prominent leaders think that leadership strength is measured by the ability to defend their command authority, without any other thought. Their strategic vision is limited to using their tactical acumen to entrench their authority.
- The expression of any grievance by a member is seen as a personal attack on the relevant Board, rather than as an opportunity to listen and respond.
- The most significant fact I learned was that the AVCGA's poor governance structures facilitate this culture of defensive, internecine combat.

I ask all members of the Squadron Board to seriously reflect on my comments.

### The Risk to Government

- 57 From a governmental perspective, internal conflict, poor governance and dysfunction constitute a “risk to Government”. CDRE Darby observed:-

There is a risk to Government in working with organisations without strong governance frameworks and practices. From a corporate governance best practice approach the lack of diversity on the Boards [of the AVCGA] is poor practice notwithstanding the view that there is significant expertise ... in the organisation. Similarly, the on-going long-term tenure of the Coast Guard leadership is a source of risk. I also formed the view that a number of .... Board members did not fully appreciate their corporate governance roles and accountabilities.  
[p.10]

- 58 It might be added that these risks are not limited to Government but extend to the public, as users of the rescue service, and the volunteers who provide the service.

**Observation:** The AVCGA's resistance to implementing proper governance frameworks must raise concerns with government.

- 59 In summary, the AVCGA's governance and organisational frameworks:
- a. do not accord with modern standards;
  - b. preclude integration with other VMSAR organisations; and

- c. give ultimate control to a non-Victorian based entity (to the detriment of member rights and government facilitation under the *IGA-SAR & IGA-MRA*)<sup>29</sup>.

60 In 2014, the AVCGA recognised that these features were a significant handicap to the goal of integration. Consequently, the AVCGA recommended to the 2014 Parliamentary Inquiry that its flotillas and the independents should be integrated into a new State-based entity which would:

- be incorporated under the *Corporations Act 2001(Cwth)* (as distinct from the State and Territory incorporated associations legislation);
- be a company limited by guarantee (like Marine Rescue NSW and Life-Saving Victoria);
- be a company with several independent directors and an independent chairman of directors (that is, have constitutionally mandated Board diversity with independent input); and
- have a VICPOL representative.

**Observation:** what was obvious to the AVCGA in 2014 should be more so now. This begs the question – Why has the AVCGA failed to implement its own reform proposal?

## CONCLUSION

61 The Victorian VMSAR sector would be greatly enhanced by the establishment of a new organisation, integrating the existing AVCGA flotillas and independents into a single, capable and respected volunteer marine search and rescue agency, governed by a modern organisational framework.

62 To achieve this goal, the corporate frameworks of the two broad VMSAR groups, the independents and the AVCGA flotillas, must be aligned.

63 The case for reform is clear and, to this end, the following proposal is submitted.

## THE PROPOSAL

64 The proposed structure set out in this paper is an amalgam of the highly successful structures adopted by Life-Saving Victoria and Marine Rescue New South Wales. These bodies command significant public respect and a high level of government support. These organisations are recognised as having set the bench-mark for organisational governance and best practice in volunteer management.

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<sup>29</sup> There is no utility in the AVCGA being governed by the law of the ACT. The AVCGA does not operate in the ACT. This legal regime is irrelevant to all marine responders in Victoria. Only a national corporate law regime (i.e. the *Corporations Act 2001*) would enable the integration of the independents and serve the interests of the AVCGA flotillas.

65 Life-Saving Victoria administers a total of 35,600 volunteers, 7,500 of whom are operationally qualified. It has recently committed to strengthen its best practice governance by engaging a “*Governance, Integrity and Legal Specialist*” to review its “*current governance framework and to ensure continuous improvement in this area.*”<sup>30</sup> This approach is a light year ahead of any other entity within the Victorian VMSAR sector.

66 Under a very similar governance framework, Marine Rescue NSW has achieved the following in the last reporting period:

- A volunteer membership in excess of 3,100, attached to 44 separate VMSAR Units<sup>31</sup>;
- 2,732 rescue missions performed in the financial year ending 30 June 2019, involving the rescue of 6,815 persons;
- The highest proportion of female volunteer participation (26%) in the entire volunteer emergency services sector;
- A record 613,000 front-line volunteer service hours in the last financial year;
- The granting of 358 medals to volunteer members in the last financial year;
- Increased its rescue fleet to 91 rescue craft;
- The employment of 28 full-time paid staff members (a paid staff to volunteer ratio of 1:107); and
- As at 30 June 2019, held assets of \$25,325,697

67 It is apposite to note that Marine Rescue New South Wales chooses to describe itself in these terms.<sup>32</sup>

Marine Rescue New South Wales is an independent volunteer marine rescue organisation, with strong corporate governance and a professional management structure underpinning our operational performance.

68 The proposed governance changes set out below are based upon these “best practice” frameworks and accord with the recommendations put forward in *The Final Report of Parliamentary Inquiry into Marine Rescue Services in Victoria* (see Appendix A hereto).

#### Marine Rescue Victoria

69 All Victorian VMSAR Units (that is the seven independent units and the 19 AVCGA Flotillas) will be individually incorporated. The Units will have

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<sup>30</sup> *Life-Saving Victoria, Annual Report for 2019.*

<sup>31</sup> The AVCGA in Victoria has a total membership of about 700.

<sup>32</sup> Marine Rescue NSW Annual Report 2019

full control over their assets, subject only to EMV funding provisions and their obligations under the SLA's. The VMSAR Units will affiliate with a new entity called Marine Rescue Victoria (**MRV**).

- 70 MRV will be an incorporated body (with its registered office in Victoria).<sup>33</sup> All its directors must reside within Victoria.
- 71 **All VMSAR units will affiliate with Marine Rescue Victoria** and thereby be bound by its rules and by-laws. They will wear a common working uniform, designed to OH&S standards, and which will have community recognition. Rescue vessels shall have a common livery and fly an MRV pennant. This common identity will not displace local autonomy. Each VMSAR Unit will have full control over the design and delivery of VMSAR services within their designated Areas of Operations (**AOO**), subject to EMV planning.
- 72 MRV shall be governed by a board of directors. The chairperson of the board will be elected at the AGM by the elected Board members and have the title, President Marine Rescue Victoria. There will be seven other elected directors, to be elected by the VMSAR Units.
- 73 The President and the seven (7) ordinary directors shall constitute the "Board". The Board will be empowered to appoint up to three (3) independent directors, who will, on appointment, join the Board. The independent directors will be persons of high standing within the community, who possess recognised qualifications in corporate governance or financial administration or commerce or law or technical systems or training.
- 74 Gender diversity must be considered when appointing the independent directors. The independent directors will be the only appointed positions. They will be appointed by the seven elected directors. **They will not owe their appointment to any individual.**
- 75 Directors will be encouraged to undertake formal training and professional development in corporate governance and any other disciplines relevant to their roles as directors.

#### Succession Planning

- 76 The President MRV and the ordinary directors will be elected for a term of two (2) years. The President and the ordinary directors may be re-elected but they can serve no more than three (3) consecutive terms (with no exceptions).
- 77 **A director may not hold any executive position at any other level of the Marine Rescue sector. The allegiance of the directors will be solely to marine rescue services in Victoria.**

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<sup>33</sup> Life Saving Victoria and Marine Rescue NSW are companies limited by guarantee.

78 The board will form committees of management. The committees shall be as follows:-

- Finance, Risk and Audit Committee;
- Governance/Strategic Management Committee;
- Legal and Compliance Committee;
- Development Committee;
- Training – Direction & Oversight Committee; and
- Honours & Awards Committee.

#### Delegates

79 Each affiliated VMSAR unit may appoint a delegate to attend all meetings of MRV. EMV, WATPOL, the SES and the LSV, may also appoint delegates. The delegates shall have the right to raise issues and to address the MRV Executive. Delegates will have no voting rights.

#### Paid Staff Members

80 A truly proficient organisation requires several paid staff members. The MRV Board shall be empowered to employ a Chief Executive Officer (CEO) on a level of remuneration commensurate to the role. The CEO will also act as the company secretary. The CEO will attend all meetings of the Board and can participate in debate but will have no voting rights.

81 The CEO shall have no affiliation with any other level of MRV. The CEO must have suitable qualifications for the role and, ideally, shall have managerial experience in the State emergency services sector. The CEO may engage managers/administration assistants. These rules will prevent any apprehension of cronyism.

82 Through this administration, MRV will provide enhanced services to both its affiliated VMSAR Units and to individual unit members. For example, it will provide training accreditation for all training courses through a contracted Registered Training Organisation (RTO). The training courses will be standardised for all marine rescue responders and will be supported by a unified web portal and training material.

#### The Locally Based Volunteer Marine Search & Rescue Units

83 The membership of MRV will be concentrated in locally based VMSAR units (formerly the AVCGA flotillas plus the independent units). These units shall be individually incorporated, initially under a standard constitution.

84 The members may alter the constitution to suit their requirements by special resolution.

#### Detachments

- 85 The VMSAR Units shall be organised into regional detachments for the purpose of establishing and maintaining a high level of interoperability between the constituent units. Inter unit exercising is essential to ensuring a credible capability in an emergency.

#### Transfer of AVCGA Assets

- 86 The AVCGA Inc. should transfer all assets in the possession of its Victorian flotillas to the newly incorporated VMSAR Units. It should also transfer, on an equitable basis, a percentage of its consolidated accounts to MRV. This is consistent with the AVCGA's constitution which acknowledges that while the Association holds property and assets in its legal name it does so as trustee for the individual Flotillas.<sup>34</sup>

#### Functional Based Approach

- 87 The proposed structure is still based upon a hierarchy. However, the hierarchy is not a continuum. It has two clear levels, each level having a distinct function. These two levels are - the operational level based on the VMSAR Units and the strategic level based on the MRV Board.
- 88 The proposal recognises that the majority of volunteers wish to involve themselves operationally at the local unit level. The skill sets required to meet this operational function are becoming increasingly complex. The members who choose to work at this level are the life blood of the organisation. The incorporation of the local units will ensure that the members at the VMSAR Unit level are accorded respect and are honoured for their service.
- 89 Further, the role for command authority under this structure is significantly reduced. Members at all levels will have to lead. They will have no entitlement to merely command volunteers.
- 90 This structure further recognises that the skill sets required for corporate governance, policy and strategic development and compliance and auditing are different from those required at the operational level. A great skipper or a great VMSAR unit commander or a great trainer may not necessarily be a good strategic planner or corporate leader.
- 91 The proposed structure makes it clear that strategic and governance roles are quite distinct from operational roles. The board-stacking and election-control mechanisms permitted by the AVCGA's constitution and by-laws will cease to exist.

#### Harnessing External Expertise

- 92 The proposed structure also recognises that there is a wealth of external expertise available to Marine Rescue Victoria. The ability to appoint

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<sup>34</sup> See AVCGA Constitution clauses 84(c)(iii)&(vii). See also the winding-up provisions in clause 85

independent directors will enhance the standing, public profile and performance of the sector.<sup>35</sup>

- 93 There is also scope in this proposal to align the VMSAR sector more closely with other volunteer organisations which similarly provide assistance in times of danger and crisis. This would raise the profile of the VMSAR sector and provide greater capacity for the Government to influence governance by developing an architecture and language common to all volunteer organisations.
- 94 This latter aspect will become increasingly important with the rising prevalence of natural disasters. In the immediate future, the words “interoperability” and “civilian-military co-operation” will become the new bywords for disaster relief operations for all volunteer responders.

**Dated: March 2021**

## APPENDIX A

### **Final Report of the Parliamentary Inquiry into Marine Rescue Services in Victoria – Chapter 4**

As a public company, Marine Rescue NSW is independent of government and its members elect the Board of Directors from among the membership. **The current Board of Directors has significant legal and business experience, including as members of other company boards.**

The current Chair of Marine Rescue NSW, Mr James Glissan ESM, QC, is a Queen’s Counsel and Adjunct Professor of Law. Two of the Directors are accountants and two are businessmen with significant commercial experience. Marine Rescue NSW is supported by an administrative structure, comprising a total of 21 paid staff, including a Commissioner, Deputy Commissioner, six Regional Controllers and three Regional Training Managers, to enable the organisation to operate effectively as an emergency service. The current Commissioner, Mr Stacey Tannos ESM, has worked for more than 20 years in the New South Wales emergency services sector ....

**In the absence of a single state-wide volunteer MSAR organisation, the adoption of the proposed governance model for Victoria would involve the establishment of a public company comprised of independent (but centrally accredited) volunteer MSAR organisations. Those organisations would**

<sup>35</sup> This was the view of the Parliamentary Inquiry into Marine Rescue Services in Victoria (3 SEP 2014) Chapter 4; see Appendix A hereto. Independent directors can be expected to competently scrutinise accounts and compliance reports – skills not evident under the current system. See also S. Lipe, “*Corporate Governance in Non-Profit Organisations*”, (1999) unpublished LLM thesis, University of Melbourne.

**maintain their separate identities but would also become part of the public company. Each accredited MSAR organisation would contribute a single representative to the Board of Directors, which would in turn elect a Chair of the Board.**

As in NSW, an injection of government funding would be required to create an administrative structure, including a Commissioner, Deputy Commissioner and Regional Controllers and Training Managers. This reform would in a sense create a new organisation with which Victoria's accredited volunteer MSAR organisations would be 'affiliated'. Such a reform would represent a significant change to the current model under which Victoria's volunteer MSAR organisation have no ... affiliation or (in the case of some of the smaller and single unit MSAR organisations) are affiliated with organisations that do not have blue water MSAR as their primary purpose, such as the LSV, VICSES and CFA.

The Committee also notes that the Ernst & Young report emphasised the need for a balance between adding unnecessary bureaucracy, resolving deficiencies and **creating a governance structure to maximise safety outcomes**. The Committee is of the view that reforming the current volunteer MSAR governance and oversight arrangements as outlined above would achieve such a balance.

**Recommendation 4.6:** That the Victorian Government provides the necessary funding to support the establishment and ongoing operations of a representative governing body for the volunteer MSAR sector in the form of an appropriate entity, such as a public company, comprising each of the state's accredited volunteer MSAR organisations. The new body should include:

- a Board of Directors, comprising a Director from each of the state's accredited volunteer MSAR organisations and a Chair, elected by and from the Board of Directors;
- an Operational Executive team, including a Commissioner, Deputy Commissioner and Regional Controllers; and
- the word 'Volunteer' in its title to ensure that there is appropriate and ongoing level of public recognition of the commitment and status of the state's MSAR volunteers.

**Recommendation 4.7:** That the Victorian Government provides for the transfer of the State Marine Search and Rescue Committee's current and proposed responsibilities to the new representative governing body. Those responsibilities would include the administration of an accreditation and ongoing capability assessment scheme by the Operational Executive Team.

**Recommendation 4.13:** That in the event that a new governing body is

established to represent the state's accredited volunteer MSAR organisations (Recommendation 4.6), it is, together with its accredited MSAR organisations, defined as a 'responder agency' under section 3 of the *Emergency Management Act 2013*. That, in the event that a single state-wide MSAR organisation is established, it is included in the definition of a 'responder agency' under section 3 of the *Emergency Management Act 2013*. That, irrespective of the establishment of a single state-wide volunteer MSAR organisation (but subject to the establishment of a formal accreditation and ongoing capability assessment scheme), the Victorian Government introduces legislation and / or policy to ensure that:

- volunteer MSAR organisations are subject to the same requirements to consult and collaborate with Emergency Management Victoria and to report to the Emergency Management Commissioner as other responder agencies (for example, the requirements contained in sections 4B, 4C, 4D, 4E and 4F of the *Victoria State Emergency Services Act 2005*); and
- MSAR volunteers are covered by the same suite of legislative obligations and protections that currently exist for volunteer members of the state's other responder agencies.

### **Final Report of the Parliamentary Inquiry into Marine Rescue Services in Victoria – Sept. 2014; Chapter 5**

Those stakeholders who supported or recommended the creation of a single state-wide organisation typically identified such an organisation as having the potential to address or mitigate many of the challenges currently facing the volunteer MSAR sector.

These stakeholders proposed a number of methods for the consolidation of Victoria's MSAR organisations.

Mr Adam Stephens, President of Torquay Marine Rescue Service, considered that any amalgamation proposal should be for a newly established MSAR organisation due to the different communities that MSAR units provide services to.

Similarly, Port Fairy Marine Rescue stated that it would welcome a restructure of the sector, provided that MSAR organisations **could maintain control of their assets and administration.**

Although Volunteer Marine Rescue Mornington & Hastings (VMR Mornington & Hastings) did not directly address the question of a single, state-wide MSAR organisation, the Committee notes that the group has a reputation for 'best practice' in a number of areas and may therefore be unlikely to support the option of amalgamating with AVCGA or of forming part of a single state-wide organisation based on the model suggested by AVCGA.

The Committee also received evidence from individual AVCGA volunteers and flotillas which suggested that they would be unlikely to support the merger of Victoria's other volunteer MSAR organisations into AVCGA. **For example,**

**AVCGA's Port Welshpool flotilla described AVCGA's current structure as 'outdated and [relying] heavily on naval traditions, uniforms and procedures that do not reflect current public thinking'.**

**Similarly, Mr David Collins, a former Flotilla Commander in AVCGA, referred to his concerns with 'the management of volunteers and the application of discipline procedures' within AVCGA. He suggested that there was a need for a volunteer MSAR organisation with an alternative structure.**

#### **5.4.3 The benefits of establishing a single organisation**

**Marine Rescue NSW informed the Committee that the establishment of a single state-wide volunteer MSAR organisation had proven to be an overwhelmingly positive reform, which had resulted in a range of benefits for the sector and for the boating public, including:**

- better service coordination and the elimination of duplication; a state-wide vessel replacement program which had produced a 'standardised' fleet and enhanced the transportability of volunteers' skills;
- a significant increase in the number of MSAR volunteers and a reduction in the average age of volunteers;
- improved training and related support for volunteers; and
- interoperability with other emergency services agencies.

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