



Marine and Coastal Act

Consultation Paper
August 2016

VICTORIA
State
Government

Environment,
Land, Water
and Planning

MINISTER

Current institutional arrangements

MONITORING AND KNOWLEDGE
OF CONDITION

**Commissioner for
Environmental
Sustainability**

**Other Agencies
and Universities**

**Environment
Protection
Authority**

STATE-WIDE POLICY AND
STRATEGIC ADVICE

**Victorian
Coastal
Council**

**Science
Panel**

REGIONAL/ISSUE
BASED PLANNING


Melbourne Water

**Catchment
Management
Authorities
x5**

**Regional
Coastal
Boards
x3**

Departments

CONTROLS ON USE AND
DEVELOPMENT

EFFICIENT AND
SUSTAINABLE MANAGERS
 COASTAL

**Local
Government**


**s86
Committee**

**Traditional Owner Land
Management Boards**

**Category 1
Committees of
Management
(large)**

**Category 2
Committees of
Management
(small)**

Parks Victoria

EFFICIENT AND
SUSTAINABLE MANAGERS
 MARINE / WATERWAY

**Marine Sector Agencies
e.g. Fisheries, Ports, Transport
Safety Victoria, other**

COMMUNITY

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Foreword

A new marine and coastal system for Victoria: Marine and Coastal Act Consultation Paper

Victoria's marine and coastal environments are special and unique places, loved and cherished by most Victorians. They underpin our way of life, providing enormous social and economic benefits in addition to their intrinsic natural values. These special places deserve to be protected and managed so future generations can also experience and enjoy them.

Victoria has been a leader in coastal management over the years, not just in Australia but globally. We have made great strides to better understand and protect our coastal environments while facilitating sustainable use and sustainable development in the appropriate places. While the *Coastal Management Act 1995* has provided a great foundation, we must continually improve in the face of great challenges such as dealing with the impacts of climate change, population growth and ageing infrastructure. We also need a much greater focus on our marine environment – our coastal waters – which has often been overlooked in the past. We need to better understand these areas, identify the threats and then plan and manage to address them.

The development of a new Marine and Coastal Act and improved management and oversight arrangements presents a rare opportunity to establish the framework for a new system that enables us to best tackle these difficult challenges. As Chair of the Expert Panel established by the Victorian Government to guide the development of this new Act, it has been a great pleasure to work alongside fellow panel members who each bring a wealth of knowledge, experience and range of perspectives. The Expert Panel has heard from key stakeholders and partners as part of its

deliberations in order to get a greater understanding of how we can improve the current system. Their contributions were most valued and appreciated by the Expert Panel. This consultation paper is a result of these deliberations and outlines an integrated suite of proposals and ideas that represent the Expert Panel's suggested way forward in developing legislation, changing policy or adjusting the way we do things to improve the marine and coastal system in Victoria. It includes a series of questions where the Expert Panel wants to hear specifically from those potentially affected.

It is your turn now to share your thoughts and ideas for improving marine and coastal management in Victoria. On behalf of the Expert Panel, I encourage you to take the time to read and consider the issues and ideas put forward in this consultation paper and then share your thoughts with us. Whether this input is through attending a consultation session, leaving a comment on the Have Your Say website or writing a detailed submission, your thoughts, ideas and feedback is vital. Your feedback will help the Victorian Government shape and develop the best overarching system that sets us up to protect and enhance our marine and coastal environments well into the future.

Thank you in anticipation of your valuable comments.

Associate Professor Geoff Wescott
Chair, Expert Panel

Executive Summary

Victoria's 2,512 km of coastline and approximately 10,000 square kilometres of marine waters encompass diverse ecosystems and species, and are of significant social and cultural value to Victorians.

Victoria's coastline and marine waters support a range of activities that provide significant benefits to the economy. Marine and coastal environments underpin industries such as the tourism and commercial and recreational fishing sectors, which provide jobs to thousands of Victorians, particularly in regional areas.

Almost all (96%) of our coastline is Crown land, so all Victorians can access the coast and participate in its management and protection. Surveys show that four out of five Victorians visit the beach each year and most Victorians believe the coast is generally managed well.

The Victorian Government aims to be a leader in marine and coastal management. However, the current arrangements are complex, involving more than 60 different entities, and our marine management is not as well integrated as our coastal management. We must also come to grips with the effects of climate change and population growth if we are to continue to have a healthy coast and marine environment, appreciated by all, now and in the future.

To do so, the Victorian Government is delivering on its commitment to develop a new Marine and Coastal Act and improved management and oversight arrangements. To guide the development of this new Act and arrangements, an Expert Panel has been established to consider how the current system can be improved. This consultation paper outlines a series of proposed improvements the Expert Panel believes will bring the management and protection of marine areas, coasts and bays into a more holistic system.

Some of the proposed improvements will need to be enabled through a new Marine and Coastal Act, and some proposals may require minor changes to other legislation to ensure better integration within the entire system. Other proposed improvements do not require legislative change and can be achieved using existing mechanisms, changes to policy or

changes to the way we do things. Part III of this paper includes a summary of which proposals would require legislation and which could be achieved by other means.

This paper seeks feedback on the vision and objectives for marine and coastal management and discusses a number of alternatives to the current system. It recommends a system designed to deliver clear governance and institutional arrangements that better link capacity, resources and responsibility.

For example, building on the strengths of the existing advisory structures, this paper proposes that the current Victorian Coastal Council would be replaced with a strengthened statewide body, a Marine and Coastal Council, whose members would be drawn from the community, user groups and industry and importantly, it would include more representation from the marine sectors. The proposed new council would advise the Minister for Energy, Environment and Climate Change on development, sustainable management and implementation of policy and strategy under the Act, provide a conduit to the community and facilitate scientific research.

A proposed enhancement to the role of the five Catchment Management Authorities (CMAs) along the coast (in terms of both skills and expertise) would see them providing expert advice on issues such as coastal erosion as well as coastal flooding and inundation. CMAs would not, however, be expected to take on responsibilities for managing coastal protection assets; in the same way they are not responsible for managing flood mitigation infrastructure despite providing advice on flooding. In the Port Phillip and Westernport area, Melbourne Water has the role of providing advice on coastal flooding and it would be encouraged to provide advice on coastal erosion matters as well.

With an improved statewide Marine and Coastal Council and strengthened coastal CMAs, the three

current Regional Coastal Boards are proposed to be phased out at the end of their current terms. This will streamline and reduce duplication within the system with the relevant functions of the Regional Coastal Boards being performed by a combination of the Marine and Coastal Council (advice) and strengthened coastal Catchment Management Authorities (regional planning, facilitation and advice) as well as improved management arrangements and taking a more partnership-based approach to solving regional issues.

Traditional Owners have a unique role in shaping marine and coastal management through the implementation of agreements under the Native Title and Traditional Owner Settlement Acts. One formal way of doing this is through the establishment of Traditional Owner Land Management Boards. The proposed arrangements will see Traditional Owners increasingly participating in joint management of parks in marine and coastal environments with Parks Victoria.

About 30% of Victoria's public land along the coast is managed by Committees of Management (CoMs). Many of these are voluntary community groups, but others are agencies such as a local governments, Gippsland Ports, Phillip Island Nature Parks or Parks Victoria. This paper suggests a need for smaller Category 2 CoMs (with annual revenue less than \$1 m) being combined or consolidated into bigger, better-resourced Category 1 Committees or, where it is more appropriate, transferring their management responsibilities to local governments as CoMs or Parks Victoria. A process would be needed to work with the community and identify the specific issues and needs to determine the most appropriate future management model.

The proposals recognise that it would be imperative to harness and maintain community involvement. The ability to offer both formal and informal opportunities for community participation has been a key strength of the current system; it must be built on. However, there is a balance between encouraging participation and overburdening community members with too much responsibility, without the necessary expertise, support or resources to undertake the task. The risk is that small CoMs will struggle to generate the capacity to deal with the impacts of climate change and population growth.

The paper proposes that the new Act should enable communities and organisations to come together to solve shared problems at scales that are greater

than the boundaries of individual organisations. The proposal is for them to be able to enter into formal Regional and Strategic Partnerships (RASPs) led, with the approval of the Minister, by one of the partner agencies with the skills and resources required to address the issue and the capacity to bring the community along – subject to a prescribed process protecting people's rights and ensuring affected communities can have their say. RASPs would deal with regional planning or issue-based planning that crosses jurisdictional boundaries (for example, coastal hazard assessments, adaptation plans, visitation demand management strategies, environmental management plans).

Under the proposed system, the new Act would oblige the Minister to periodically assess the condition of marine and coastal environments through a 'State of the Marine and Coasts' report, consistent with the work of the Commissioner for Environmental Sustainability Victoria.

The new Act would enable the preparation of both strategy and policy for marine and coastal areas. The paper proposes an enhanced statewide Marine and Coastal Strategy, including an implementation plan that the Minister would be obliged to prepare with advice from the new Marine and Coastal Council. To better separate policy from strategy and to ensure greater emphasis on cross-cutting marine issues such as protecting marine habitats and ecosystem processes, the Minister would also be obliged to prepare a Marine and Coastal Policy for Victoria with guidance from the new council. The policy will clearly articulate statewide policy positions to provide guidance to decision makers within the system. The policy would not replace or duplicate accountabilities and policy setting for the management of specific sectors in coastal and marine areas and would be prepared in consultation with the relevant portfolios to ensure a holistic approach to marine and coastal management.

Victoria's marine waters are home to more than 12,000 species, most of which are found only in the waters of South Eastern Australia. This paper proposes to establish a Marine Spatial Planning Framework to provide an agreed process and approach for any future planning and dispute resolution in the marine estate. The proposed Marine Spatial Planning Framework would help guide the management and integration of activities in the marine environment and it would help integrate these with existing and proposed developments in these areas. The proposed framework would

thereby balance the environmental, economic and social values of Victoria's marine estate. Under the proposals, existing agencies would continue to manage their specific responsibilities in the various marine sectors, however, consistent with the objectives of the new Act.

The proposed new Act would complement the Victorian Government's broader work to address climate change and help set out clear arrangements for adapting to the effects of climate change in marine and coastal environments. For instance, the proposed Marine and Coastal Strategy and Marine and Coastal Policy would be aligned and support the statewide adaptation plan, and Regional and Strategic Partnerships would steer adaptive management and responses at various scales. The strategy would continue to update the planning benchmarks for sea level rise, which could be clearly articulated in the Marine and Coastal Policy.

The Minister would continue to have a veto on the use and development of Crown land in coastal and marine areas under the proposed new Act, but the consent process would be streamlined to focus on high-risk activities outside approved coastal management plans or other approved plans. It would also better integrate with processes under the *Planning and Environment Act 1987* to avoid duplication and to clarify roles and responsibilities, and it would include penalty provisions for non-compliance with consent conditions and for unauthorised use or development.

The proposed arrangements would make revenue and spending more transparent. Proposals include reviewing fees and charges to identify where the 'beneficiary pays' principle can be applied in a fair and reasonable way. Other suggested options include better targeting resources to where they are most needed by establishing a levy on certain coastal Crown land managers. This is a similar model to the successful NSW Public Reserves Management Fund, which collects a small proportion of revenue from caravan parks, levies and licences and redistributes the funding (via grants and loans) to maintain and improve public reserves across the state. A process to determine appropriate and clearly articulated cost-sharing arrangements for coastal infrastructure is also proposed to be established.

The proposed system would reinforce the need and benefits of community involvement in marine and coastal management with enhanced opportunities for formal and informal involvement. Clear and

transparent opportunities for community input to decision making would be provided. For example, formal appointments to Committees of Management and advisory bodies, opportunities to be involved in planning and policy development and informal participation through friends groups and Coastcare would be maintained.

The proposed system would enable state government agencies, local governments, Traditional Owners, catchment management authorities, water corporations, Commonwealth agencies, Committees of Management, port authorities, local communities and user groups to work towards a common set of objectives. Importantly, they would do this in ways that encourage all Victorians to participate in managing and protecting our coasts and our marine estate. Doing so will set up the architecture for Victoria to continue to be a leader in marine and coastal management.

Introduction

Victoria's coastal and marine areas are special places with significant environmental values. They are highly valued and loved by communities and user groups and are central to a range of economic activities. Victoria has some of the best managed coastline in Australia. In the past 20 years, we have guided the conservation, use and protection of the coast through the *Coastal Management Act 1995*. This has provided a solid foundation for the current system and has been recognised as a leading example of coastal management in Australia (House of Representatives Standing Committee on Climate Change, Water, Environment and the Arts, 2009).

However, there are issues and complexities in our current system that need to be addressed. The Victorian Government is proposing a new Marine and Coastal Act to bring all management and protection under one system, and develop new management and oversight for marine areas, coasts and bays.

The new Act, replacing the *Coastal Management Act 1995*, would provide the legislative basis to support the achievement of our vision of a healthy coast and marine environment in the face of future, long-term challenges. It would provide an effective and integrated framework for the management and planning of our coast and marine environments and support improved management and oversight arrangements to protect our coasts and marine areas now and for years to come.

This consultation paper consists of three parts. The first explores the strengths and weaknesses of the current system and highlights the key drivers for change. The second part outlines a range of potential reforms aligned to these drivers for change to improve the current system. It proposes options for both legislative reform, including what could be included in a new Marine and Coastal Act, as well as potential changes to policy, governance and management arrangements that can be achieved without legislative reform. The third part provides an overview of the suggested changes to the system,

clarifying what changes would be made through legislation and what could be progressed under existing legislation arrangements. It also sets out the roles and responsibilities under the proposed new system.

The Expert Panel

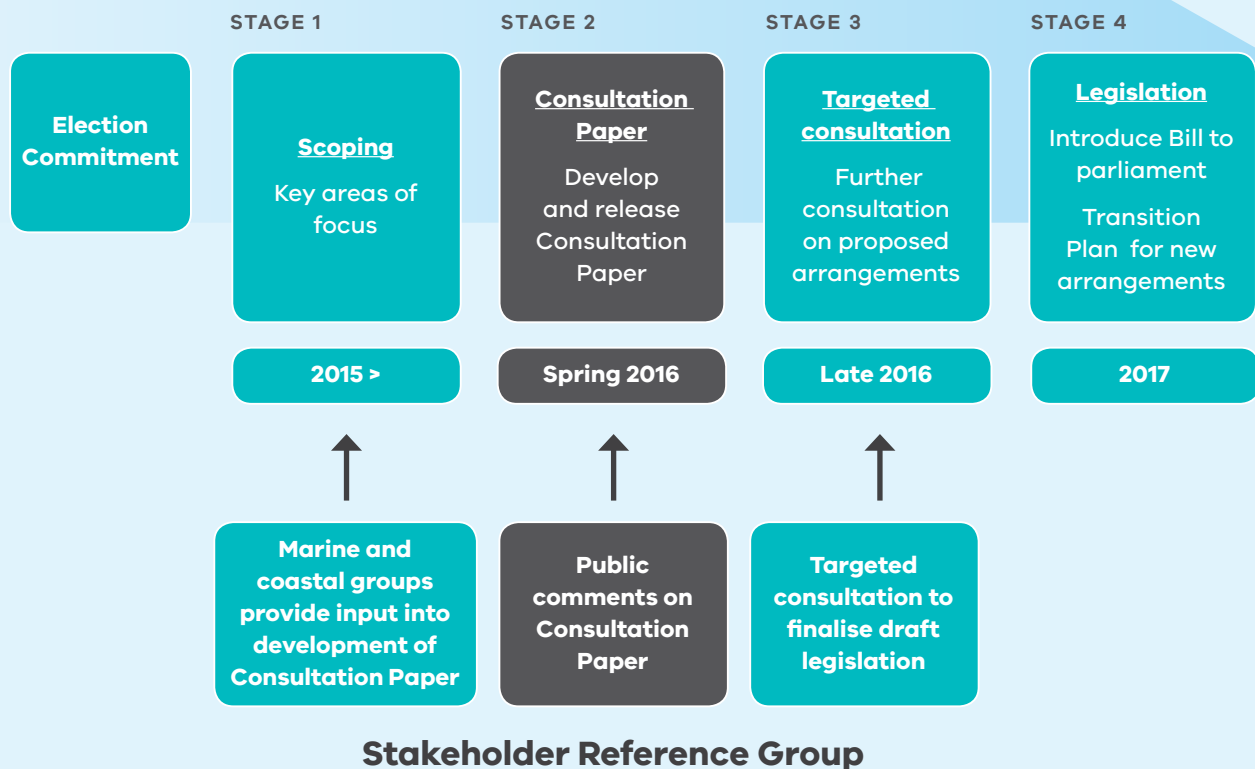
An Expert Panel was established to guide the development of the new act and arrangements. The former Minister for Environment, Climate Change and Water appointed the panel members based on their expertise and knowledge from a variety of disciplines including coastal management, planning, climate change, integrated coastal zone management, research, natural resource management and organisational leadership. The members also bring regional perspectives from experiences with the Victorian Coastal Council, regional coastal boards, Committees of Management, local government, research institutions and other key partner organisations. The panel members are:

- Associate Professor Geoff Wescott – Chair
- Ms Cathy Whelan
- Ms Libby Mears
- Mr Mark Edmonds
- Mr Nick Wimbush
- Ms Kate Nelson

The Department of Environment, Land, Water and Planning (DELWP) has provided project management, secretariat services, policy and other advice to the panel.

PROCESS AND TIMING

Guidance from Expert Panel



Stakeholder Reference Group

The Marine and Coastal Act Stakeholder Reference Group (SRG) was established to provide input and ideas to the Expert Panel to inform its deliberations. The SRG, chaired by Mr Max Hardy, included representatives from state and local government, advisory bodies, statutory agencies, Committees of Management and community and user groups. It met three times and provided valuable information that was considered by the Expert Panel in the preparation of this consultation paper. This paper, however, does not represent all the views and ideas of the SRG. The member organisations of the SRG are shown in Appendix One.

Getting involved

The Expert Panel guided the development of the issues and options discussed in this Consultation Paper, which present ways to improve the current system. However, the paper does not represent a final government position. This will be determined following the consultation period and further targeted consultation as needed.

We seek your views and comments, as well as your responses to the questions posed throughout this paper. These questions might be useful as a guide to writing a submission or you can get involved through our online consultation portal.

You can make a submission until **23 October 2016**:

Online Consultation:

www.haveyoursay.delwp.vic.gov.au

By email: Marine.CoastalAct@delwp.vic.gov.au

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

We encourage you to allow your submission to be made available to promote discussion. This means your name would be included in the list of submissions on the website and provided to external parties on request. Submissions may be subject to Freedom of Information and other laws. DELWP reserves the right to not publish information that could be seen to be defamatory or discriminatory.

If you make a submission in response to the Consultation Paper, parts of your submission may be used in subsequent reports or summaries. If you wish, we can do this in a way that does not identify you. If you prefer your name and submission to be confidential, you can specify this when you make your submission.





The current system

P A R T

1



Mornington Peninsula National Park
Image by Andrew Bray

1. Vision for a healthy coast and marine environment

Healthy coastal and marine ecosystems provide significant value to Victorians and they underpin our way of life. The range of natural, heritage and recreational values make these areas valuable to residents, visitors and tourists, and provide important economic values that support industries and jobs, especially in regional areas. Research has demonstrated a strong and important link between the quality of our coastal environment and the quality of life of many Victorians (Victorian Coastal Strategy 2014).

Victorians appreciate healthy coastal and marine environments, and actively participate in their management and protection. The vision of 'A healthy coast, appreciated by all, now and in the future' was developed by the Victorian Coastal Strategy 2014 and captures our aspirations for our coastal and marine environments. These aspirations include:

- Partnerships, collaboration and roles ensure better outcomes that provide the most vibrant coasts, bays and waterways for everyone.
- People and communities have opportunities to contribute to the protection of our coasts, bays and waterways.
- The vast majority of Victoria's coastline remains in public ownership reserved as Crown land.
- Monitoring, evaluation and reporting are used to measure progress and success.

The Expert Panel has enhanced this vision to provide a greater focus on the marine environment:

“A healthy coast and marine environment, appreciated by all, now and in the future”

Question 1

Is the Vision set out in the Victorian Coastal Strategy 2014 the appropriate vision to be used for the development of a new marine and coastal system? If not, how can it be improved?



Image by Andrew Bray

1.1 Environmental values

Victoria's islands and mainland coasts stretch just over 2,512 kilometres, with about 123 bays, inlets and estuaries. These estuaries are important fish nurseries or spawning grounds and support shorebirds and other aquatic flora and fauna.

The many beaches and dune systems along the coast provide habitat for coastal animals and plants including Victoria's famous Little Penguin. The coastal vegetation, including coastal Moonah woodland and other heathlands, is central to our coastal landscape.

Victoria's marine waters, extending three nautical miles from the coastline, cover more than 10,000 square kilometres and are home to more than 12,000 species of animals and plants, most of which are found only in the waters of South Eastern Australia. Rocky reefs and sandy seafloors, spectacular underwater canyons and plunging cliffs, majestic kelp forests and technicoloured sponge gardens, intertidal mudflats and tidal channels and sheltered bays are all part of the diverse environment.

Parts of the marine environment, such as Westernport, Corner Inlet and the near-shore areas along the western shore of Port Phillip Bay, are internationally recognised Ramsar sites. Our marine waters support iconic species such as the Southern Right Whale, Bottlenose Dolphin, Weedy Sea Dragon and Blue Devil Fish.

In addition to their intrinsic value and beauty, marine environments provide benefits to the Victorian community through natural coastal defences and carbon storage.

Victoria's unique marine ecosystems have significant heritage values, such as areas of cultural importance to Traditional Owners, historic shipwrecks and other cultural heritage sites (Victorian Coastal Strategy 2014).

1.2 Economic values

Tourism, commercial and recreational fishing, shipping and ports, boating and petroleum extraction are key marine and coastal based activities that benefit regional and state economies and support employment. The value of coastal commercial activities is estimated at \$9.8 billion per year as shown in Table 1 (Worley Parsons 2013). It is also estimated that Victoria's non-commercial coastal ecosystem services are valued at \$8.4 billion per year, similar to the value of commercial coastal activities (Worley Parsons 2013). These coastal ecosystems provide services in the form erosion protection, water filtration, purification and nutrient cycling services (Worley Parsons 2013).

Table 1: Economic value of selected commercial activities dependent on the Victorian coast (from Worley Parsons, 2013)

Industry	Economic contribution (\$ million)	Number of jobs direct (indirect)
Commercial ports	3,017	15,883*
Petroleum	3,600	1,280 (n/a)
Wind power	31	300 (900)
Tourism	3,154	23,010 (16,770)
Commercial fisheries	68	646 (1,054)
Total	9,870	41,000 (20,000)

* Estimate includes direct and indirect employment as separate figures not available for some ports

The direct economic contribution for the whole of Victoria from recreational fishing is \$2.6 billion with over half of that being in marine and estuarine locations. (Ernst & Young, 2015)

Victorians benefit from our coastal and marine areas in a variety of non-commercial, recreational and social ways, such as beach visits, swimming, scuba diving, boating, fishing and bushwalking, or simply being outdoors and enjoying the scenery and fresh air.

1.3 Traditional Owner values

The Traditional Owners of Victoria's coastlines have powerful and unique spiritual and ancestral bonds to the land, waters and sea. The coastal rights, interests and aspirations of Traditional Owners are encapsulated in the concept of 'Country' that encompasses spiritual, physical, heritage and story connections to the coastal landscapes, lakes, lagoons, beaches and the diversity of the marine life, plants and animals, as well as traditional activities such as fishing and hunting. Marine and coastal areas are also important for the broader Aboriginal community.

1.4 Social values

Many Victorians treasure memories of seaside summer holidays, family camping along the coast or a beach stroll at sunset. We have gazed in awe at the migrating whales and the penguin parade, have surfed the ocean waves, caught a wild fish, scuba-dived on the rocky reefs or sailed into the sunset.

Victorians understand the intrinsic value of coastal and marine environments and want to protect and preserve them to ensure beaches, estuaries and marine waters are clean and healthy for future generations. Four studies from the IPSOS-Eureka Social Research Institute have provided long-term insights the social and cultural attitudes of Victorians about the coast over a 16-year timeframe. They have found natural features of the coast are extremely important to Victorians (IPSOS, 2012).

Victorians' vision and aspirations for the coast must be central to the design of the reforms that will be pursued through the new Act and improved management systems.



The IPSOS Report on Victorians' values, attitudes and behaviours toward the coast revealed that, overall, Victorians are largely happy with their experience of the coast (IPSOS Report, 2012)

- According to Victorians, the top three things that contribute to a good coastal or marine experience all relate to a clean and unspoilt environment. These contributors included clean, clear water (37%); a lack of litter, rubbish and debris (37%); and a pristine, unspoilt, undeveloped / natural environment.
- All of those who visited the coast were asked to nominate what was the most enjoyable aspect of the trip. The most popular answer, given by just under one-fifth of respondents (19%), was enjoying the atmosphere, scenery, just being there followed by spending time with friends, family and walking / hiking (11% for each).
- Victorians make a substantial number of trips to the coast each year. Although a few participants were concerned that the Victorian coast was currently under threat, the general consensus was that it was healthy.
- Victorians were keen for coastal towns to retain their (often long-standing) sense of character and not develop into sprawling or high-rise metropolises with too many people.
- The majority of Victorians agreed that the Victorian coast is well managed (67% agreed); however, this measure has declined since the previous wave of research in 2007 (when 74% agreed).
- Coastal and marine management is generally not 'visible' to the community, leaving most unsure as to what is involved in actively managing these environments.

2. The current marine and coastal system

2.1 Management arrangements

The current institutional arrangements for the management and oversight of marine and coastal areas are complex. There are more than 60 entities responsible for on-ground, on-water or sector-based management in Victoria. Each has its own area and/or functions, which vary greatly depending on pressures from tourism, population growth, development, coastal processes and resource use.

More than two-thirds of coastal Crown land and parts of the marine environment have been declared as national park, coastal park, marine national park or marine sanctuary. These areas are protected under the *National Parks Act 1975* and managed by Parks Victoria (see Appendix Four).

Of these areas, thirteen marine national parks and eleven marine sanctuaries were established on 16 November 2002 to protect representative examples of our marine biodiversity. Together, the parks and sanctuaries, which are highly protected no-take areas, cover nearly 63,000 hectares or 5.3% of Victoria's marine waters.

Much of the remaining foreshore Crown land above the high water mark is reserved under the *Crown Land (Reserves) Act 1978* for various public purposes and it is largely managed by Committees of Management (CoM). All twenty two local governments along the coast have responsibilities as a CoM. Councils in urban areas usually manage all of the foreshore, whereas outside of urban areas, foreshores tend to be managed by a mix of volunteer CoMs, local governments and Parks Victoria.



Marine protected areas

Across the state, 30 marine protected areas protect environmental, historical or cultural features. These marine national parks, sanctuaries, reserves and other parks make up 11.7% of the Victorian marine environment (VAGO, 2013).

What is a Committee of Management?

Committees of Management (CoMs) are established under the *Crown Land (Reserves) Act 1978*. The role of a CoM is to 'manage, improve, maintain and control' an allocated Crown land reserve for the purposes for which it is reserved under the Act. The CoM is accountable for its actions and decisions to the Minister for Energy, Environment and Climate Change.

Approximately 30% of Victoria's public land along the coast is a Crown land reserve set aside for the benefit and enjoyment of the people of Victoria and managed by CoMs. These can be made up of voluntary community groups or bodies such as local governments, Gippsland Ports, Phillip Island Nature Parks or Parks Victoria.

Local governments along coastal Victoria are the CoMs for some coastal Crown land in their municipality. Urban municipalities are usually the CoM for the entire area of coastal land in their municipality.

Volunteer CoMs are defined into categories depending on the financial return generated from the reserve and the reserve's statewide significance. They typically generate revenue from fees and charges, leases and in some cases operating caravan parks/campgrounds. Category 1 are those CoMs that generate over \$1 m of annual revenue and can report under the *Financial Management Act 1994*. There are currently five Category 1 CoMs on Victoria's coast. All other CoMs on the coast are Category 2 CoMs that generate less than \$1 m in revenue.

Traditional Owner Land Management Boards increasingly have a more formal role in coastal management. For example, the recently established Gunaikurnai Traditional Owner Land Management Board delivers joint management of a number of coastal parks and reserves in Gunaikurnai Country.

Some small areas of Crown land above the high water mark and most marine areas within Victorian waters are technically 'unreserved' Crown land under the control of the *Land Act 1958*. These are under the administrative control of DELWP.

In these areas, issues and activities within the system are usually managed as specific sectors. For example, commercial and recreational fishing is managed by Fisheries Victoria, maritime transport and safety by Transport Safety Victoria, earth resource activities by the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) and water quality by the Environment Protection Authority. Parks Victoria, which manages marine protected areas in Victoria, also has a number of important waterway and local port functions, for example in Port Phillip Bay. All these management entities are established under legislation other than the *Coastal Management Act 1995* and most of these sectors have their own legislative, policy and management frameworks.

As part of the Victorian Government's Target One Million plan, the government is establishing Fisheries Victoria as a statutory authority.

2.2 Oversight arrangements

The institutional framework that provides overarching guidance for the management of marine and coastal environments is also complex. The Coastal Management Act itself provides for the establishment of a two-tiered advisory structure, with entities at both the state (Victorian Coastal Council) and regional (Regional Coastal Boards) levels.

Catchment Management Authorities, Melbourne Water and the Environment Protection Authority as well as State government departments such as DELWP and DEDJTR also provide oversight and direction.

The Commissioner for Environmental Sustainability Victoria has an increasing role in monitoring the condition of the broader environment, including coastal and marine areas.

2.3 Legislation

Victoria's coastal planning and management framework includes a number of pieces of legislation for the protection of the coast, bays and the marine environment. The *Coastal Management Act 1995* is the foundation stone of Victoria's coastal planning and management system. Details of the other relevant legislation are outlined in Appendix Three.

The current Coastal Management Act

The *Coastal Management Act 1995* sets the framework for planning and managing the coast with a four-tiered approach to policy and planning at a state, regional, local and site level and establishes state and regional advisory bodies to oversee the framework.

The Act provides for:

- the formal establishment of the Victorian Coastal Council and three regional Coastal Boards
- strategic policy and planning at the statewide level through the Victorian Coastal Strategy
- regional and issues-based planning through development of Coastal Action Plans
- the preparation of Coastal Management Plans for coastal Crown land
- consents for the use and development of coastal Crown land.

2.4 Policies, strategies, plans and agreements

A range of policies, strategies, plans and agreements support coastal and marine management in Victoria. Managing healthy coastal and marine environments is a shared responsibility across Commonwealth, state and local governments, agencies, Traditional Owners and volunteer groups.

The principles of sustainable development and Integrated Coastal Zone Management (ICZM) underpin management of Victorian coastal and marine environments. ICZM involves groups that manage and use the coast collaborating across geographic, policy and jurisdictional boundaries.



Policy and strategy

The Victorian Coastal Strategy provides a statewide strategic direction and a range of policies for the protection of significant environmental and cultural values, integrated planning and sustainable use of natural coastal resources and suitable development on the coast.

Regional Catchment Strategies, prepared by Catchment Management Authorities, direct the integrated management of land, water and biodiversity within catchments and out to three nautical miles. These are based on the principles of effective community engagement in decision-making, ecologically sustainable development, enhanced biodiversity values and improved natural resource management.

A range of other policies and strategies guide the management of coastal and marine areas. For example, estuary management is guided by the Victorian Waterway Management Strategy and its associated framework. Policy and strategy is also developed to guide the management of specific sectors and activities, particularly in marine environments.

Plans

Coastal Action Plans or Regional Coastal Plans identify strategic directions and objectives for use and development of coastal land on a regional scale. Three Regional Coastal Plans were released in 2015.

Coastal Management Plans allow the land managers to plan, implement and direct actions on the ground at a local scale.

A planning scheme is prepared by a local council or the Minister for Planning and approved by the Minister under the *Planning and Environment Act 1987*. It sets out policy and requirements for use, development and protection of land. The Victoria Planning Provisions

provide a statewide reference point from which planning schemes are sourced and constructed.

The Ngootyoong Gunditj Ngootyoong Mara South West Management Plan is a strong example of Traditional Owner management and planning of coastal country. This comprehensive plan is a strategic guide for managing and protecting more than 130 parks, reserves and Indigenous Protected Areas in south-west Victoria. The plan integrates Gunditjmara Traditional Owners' knowledge into park management developed through a partnership approach between Gunditjmara, Budj Bim Council, Parks Victoria and DELWP.

Agreements

The Gunaikurnai Settlement Agreement is the first agreement to be reached under the *Traditional Owner Settlement Act 2010* (TOS Act); it provides an example of the recognition of the rights and interests of a coastal Traditional Owner group. The agreement formally recognises the Gunaikurnai people as the Traditional Owners of an area in Gippsland in Victoria's east and includes:

- arrangements for joint management for a number of parks and reserves
- rights for Gunaikurnai people to access and use Crown land for traditional purposes, including hunting, fishing, camping and gathering in accordance with existing laws
- funding for the Gunaikurnai corporation.

DELWP and its natural resource management partner agencies continue to be involved in making and implementing agreements with Traditional Owner groups that give rise to a more formalised role in Traditional Owner management of natural resources. These agreements enable Traditional Owners to contribute to coastal and marine management more broadly than they could solely through formal joint management arrangements.



2.5 Victorian Government environmental reforms

DELWP is working to protect and preserve Victoria's coastal and marine environments in line with a number of concurrent reforms within the Environment, Climate Change and Water portfolio.

Biodiversity

DELWP is developing the long-term Protecting Victoria's Environment – Biodiversity 2036 plan to stop the decline of Victoria's biodiversity and improve our natural environment so it is healthy, valued and actively cared for. Coupled with the native vegetation clearing regulation review and a review of the *Flora and Fauna Guarantee Act 1988*, these improvements can support better coastal conservation, now and into the future.

Water

DELWP is developing a new water plan, Water for Victoria, which will set the strategic direction for water management in Victoria for decades to come. A discussion paper has been released, proposing a vision for the future of water management.

A Ministerial Advisory Committee has also been appointed by the Minister for Planning and the former Minister for Environment, Climate Change and Water to provide advice on the need and best way forward to prepare legislation to establish a dedicated Trust to protect river banks and improve water quality.

Catchments

Our Catchments, Our Communities sets out the Victorian Government's vision for integrated catchment management. It aims to provide strategic directions on how catchment management partners will work together to deliver better integrated catchment outcomes.

The strategy commits to catchment management that is community based, regionally focused and collaborative. It builds on our catchment management framework by setting directions in how we plan, invest and deliver on ground actions, and how we monitor and report on the impact of those actions on catchment health.

Climate Change

The Victorian Government has committed to becoming a leader in climate change action. To work towards this goal, it commissioned an independent review of the *Climate Change Act 2010*. The Victorian Government's response to this independent review was released on 9 June 2016. It sets out the government's acceptance of the vast majority of the review's recommendations and its intention to establish a world leading legislative foundation for its climate change agenda. Through the response, the government will:

- set a long-term emissions reduction target of net zero by 2050 in legislation, supported by process for setting interim targets every five years to ensure the long term target is met;
- develop five yearly Victorian Climate Change Strategies that incorporate both mitigation and adaptation;
- work in partnership with local government, community and business to pledge specific actions to reduce emissions, now and into the future; and
- develop integrated Adaptation Action Plans for key climate exposed sectors.



2.6 Strengths of the current system

It is important that we assess and reflect upon the effectiveness of Victoria's current system. We need to identify its strengths and weaknesses and understand the community's expectations. The current system has a number of key strengths:

The coastal reserve

About 96% of Victoria's coastline is in public ownership. This maintains equity of access to the coast and beaches. Public land along the coast also supports important ecosystems and acts as a natural buffer to allow for the natural dynamics of the coast. A public land coastal strip will become even more valuable as we face the challenges of climate change.

Clear and stable policy and planning legislative framework

The *Coastal Management Act 1995* has provided a stable policy and planning framework over the past 20 years that has enjoyed bipartisan support. Particular strengths of this framework are the ability to prepare statewide and local-scale policy and plans.

The Victorian Coastal Strategy

The Victorian Coastal Strategy (VCS) has provided clear strategic direction to the current system and has been recognised nationally as a good example of integrated coastal zone management (House of Representatives Standing Committee on Climate Change, Water, Environment and the Arts, 2009). From the first iteration in 1997, it has provided a positive platform for strategic management by setting the vision to guide planning and decision making. Now in its fourth iteration, the VCS continues to provide the policy framework to guide and empower the community to influence local planning policies. At a statewide level, the VCS is linked to the

Victoria Planning Provisions (private and public land) that set out the standard provisions for use and development of coastal land including:

- environmental and landscape values (coasts, coastal Crown land, coastal tourism, bays, waterways)
- environment risks (coastal inundation, erosion)
- controls and development.

The VCS established the Hierarchy of Principles around the themes of Protect, Direct, Sustain and Develop, which have been adjusted throughout the years. While it was intended that the VCS would provide an integrated policy for both marine and coastal issues, the marine policy aspects have received less attention than coastal issues.

Coastal Management Plans

The ability to prepare Coastal Management Plans (CMPs) has contributed to improvements in planning at the operational level and on-ground conservation activities at the local level. Coastal Management Plans enable a coastal Crown land manager to demonstrate to the community and government how the land is to be managed and how the goals of statewide and regional policy can be implemented on the ground.

The benefits of a Coastal Management Plan include allowing appropriate use and development of a coastal area to be determined, encouraging the community to have a say in how they think the land should be managed, educating the community about the values of the coast, improving the land for future generations to enjoy, giving greater certainty to future projects, providing support for grant applications and ensuring that changes in land managers do not have a major impact on the management of the coastal land.

Mornington Peninsula National Park
Image by Andrew Bray



Adapting to climate change

There have been some significant achievements in Victoria in understanding and preparing for the impacts of climate change on the coast. These have included research, data and map production, guidelines and pilot projects such as:

- Sea level rise planning benchmarks for not less than 0.8m by 2100 being introduced through the VCS.
- The VCS being included as a state policy guideline and its planning benchmarks as state strategy in the Victoria Planning Provisions and State Planning Policy Framework.
- The Victorian Coastal Inundation Dataset, which instigates the assessment of the risk from sea level rise and storm surges at different time periods (2040, 2070, 2100).
- The release of the Victorian Coastal Hazard Guide to provide guidance on how we manage coastal processes that impact us.
- Four local coastal hazards pilot projects that provide high-quality technical information on future erosion and inundation and the basis for decision makers to plan for future risks and develop strategies to manage these risks.

Community involvement and connection

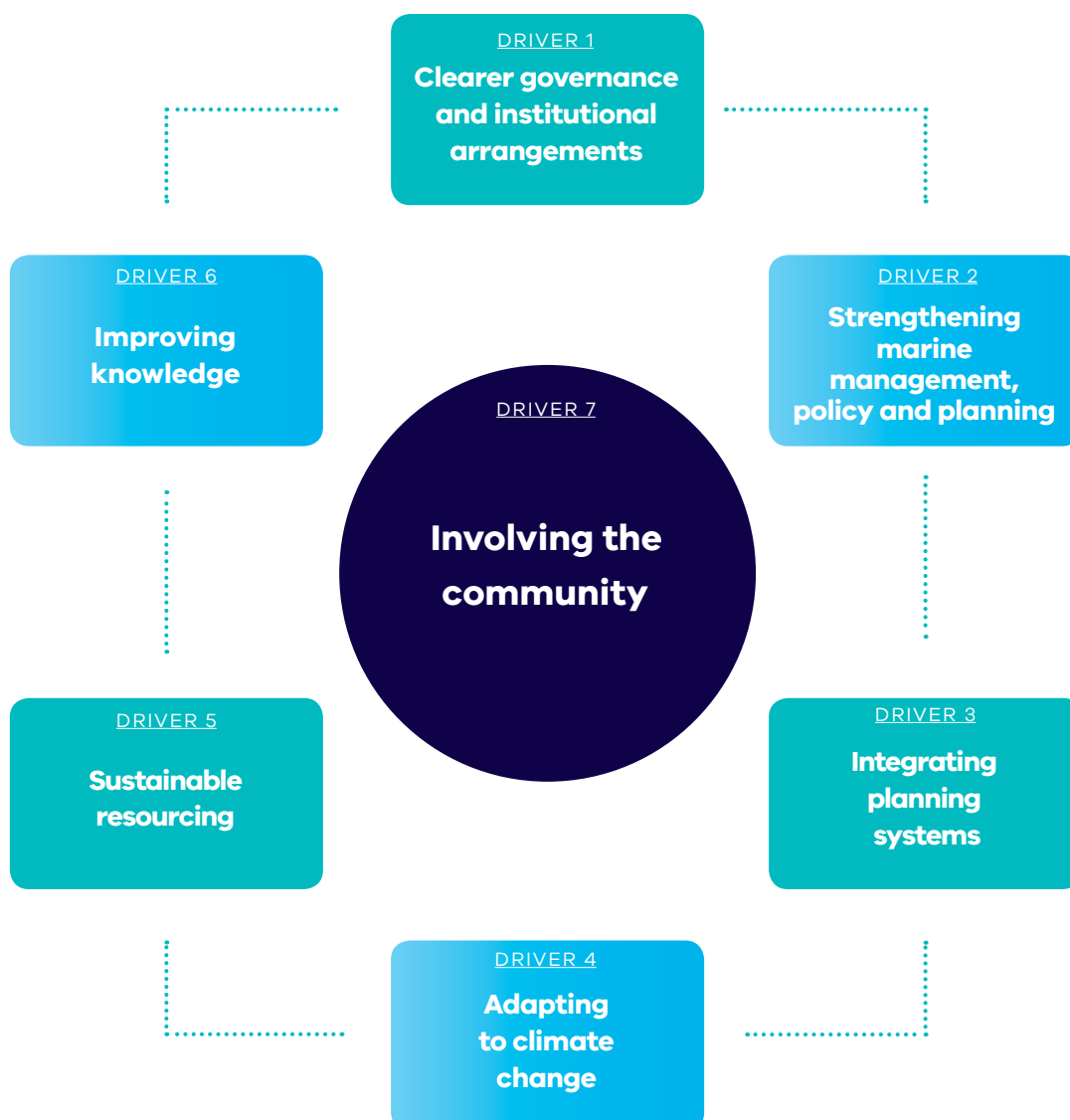
Community support, involvement, connection and commitment to protecting our coastal and marine areas have been a key strength of the current system and integrated management approach.

Community involvement has been achieved through a range of mechanisms, including individual appointments to advisory bodies, voluntary Committees of Management, participation in Coastcare activities such as revegetation, building boardwalks, monitoring coastal species and protecting cultural sites as well as consultation about proposed changes.

Traditional Owner involvement in coastal and marine issues is gaining momentum and has been facilitated by the development of initiatives and legislation including the *Traditional Owner Settlement Act 2010*.

3. The case for change: How the system can be improved

While the current system has a number of strengths, there are also a number of ways in which it can be improved. These areas of improvement have been summarised into seven key themes:



Drivers for Change 1 – Clearer governance and institutional arrangements

There are a number of challenges with the current governance and institutional arrangements for the management and oversight of coastal and marine areas.

Unnecessary complexity

Current management arrangements for coastal areas are often complex; they are the legacy of historical decisions and past governance arrangements rather than contemporary design. This can prevent effective management and planning, make it difficult for the community or user groups to know who to speak with and inhibit the implementation of strategic decisions. The complexity is also likely to make it difficult to address the challenges of climate change, increased population growth and managing ageing coastal infrastructure.

Question 2:

Do you think coastal and marine management arrangements are overly complex? If so, how has it negatively affected outcomes? Give specific examples if possible.

Unclear roles and responsibilities

The roles and responsibilities of entities within the system are often unclear, leading to ineffective management and planning. There is often confusion about who is responsible within a specific area or for a specific coastal issue. This can lead to overlap and inconsistency where multiple entities are performing similar roles or gaps where no entity takes responsibility for a function or an issue. This lack of clarity about who does what makes it difficult for coastal and marine managers to be responsive to community expectations or industry needs, or address key threats to natural, social or economic values.

For example, the current role of departments is not well articulated, especially for DELWP. The breadth of DELWP's current responsibilities includes: providing advice, strategic direction and policy guidance on specific issues to managers and decision makers; project managing coastal infrastructure works; direct land management responsibilities where no delegated manager is appointed; and processing consents for the use and development of coastal Crown land.

While the accountabilities for natural resource use, for example fisheries management, are well articulated, accountabilities, roles and responsibilities for other aspects of the managing the marine environment – the 'who does what' – are particularly ambiguous. For example, the responsibility for managing marine habitat could lie with one of a number of organisations. Responsibilities for local port and waterway management functions (excluding those under the *Water Act 1989*) are also sometimes unclear or complex. Work is underway by the Department of Economic Development, Jobs, Transport and Resources and initiatives such as the Lower Yarra River Use Future Directions Group are trying to resolve some of this confusion.

Inefficiencies and misalignment of responsibilities

With a number of entities performing similar roles, there are significant inefficiencies in the current system. While efforts have been made in some areas to share services such as rubbish collection and waste disposal, these are often hampered by institutional or legislative barriers, such as some institutions not being able to operate outside of the land they manage. Each entity has its own set of corporate services and internal capacity and expertise, which builds further inefficiencies into the system.

There are also significant misalignments between the accountabilities and responsibilities of some organisations and their capacity, skills and resourcing. A good example is smaller Category 2 Committees of Management that often have limited ability to generate revenue and rely purely on volunteer participation. Many of these committees do an excellent job with their limited resources but are unlikely to be able to deal efficiently with bigger challenges in the future, such as climate change and the impacts of population growth.

Multiple advisory bodies

Victoria currently has four coastal advisory institutions: the statewide Victorian Coastal Council and three Regional Coastal Boards. In addition, entities such as the Catchment Management Authorities or special ministerial advisory bodies such as the Gippsland Lakes Ministerial Advisory Committee have advisory functions on marine and coastal matters. These bodies often have overlapping areas of responsibility and have responded by staging the delivery and the level of services commensurate to resources available.

The advisory structure provided for in the *Coastal Management Act 1995* has helped support consistent and largely bipartisan approaches to coastal and marine management. This could be largely a result of its 'arm's length to government' nature. While this has been positive for coastal and marine management in Victoria, it has sometimes resulted in a disconnect between the setting of a strategic direction and its implementation.

Regional Coastal Boards have played an important role in coastal management over the past 20 years, including leading the development of three Regional Coastal Plans. However, given the overlap and resourcing challenges, the need to have permanent entities charged with providing advice, facilitation and planning is questionable. Resources for the Boards have failed to match their statutory responsibilities and the level of influence has declined. It is important, however, to continue to undertake regional or issue-based planning where there are demonstrated needs.

We are aiming for improvements that:

- establish responsive and flexible arrangements that bring entities together to solve problems efficiently at an appropriate scale
- ensure the capability, capacity and resources to deal with future challenges
- determine clear roles and responsibilities for marine protection and identify who manages the various aspects of the marine environment and any marine activities
- standardise processes that demonstrate transparency, technical capacity, accountability and reporting
- provide economic efficiencies of scale to allocate limited resources effectively
- shape organisations that are trusted by the community.



Drivers for Change 2 – Strengthening marine management, policy and planning

Our marine environment faces threats from invasive species, changing water quality, increased use and development, and climate change.

Current coastal policy, planning tools and advisory bodies focus on integrating the management of coastal land. These, however, have not translated as well to integrating the management of marine environments. While specific legislation, policy and management systems have developed for the direct management of specific marine sectors, such as commercial and recreational fishing, earth resources, shipping and ports as well as marine protected areas, issues that cut across these various sectors are often not looked at holistically, for example, the protection of marine habitats or specific ecological processes that underpin these activities.

The VCS attempted to provide long-term marine policy guidance within a fully integrated approach alongside other coastal policy issues. While the VCS has been considered largely successful in delivering clear land-based coastal policy and planning guidance, it has not been successful in leading and guiding marine management for Victoria and addressing cross cutting issues facing the marine environment.

The need for a statewide policy direction for marine environments has been highlighted by recent government investigations. A 2011 report by the Victorian Auditor-General's Office (VAGO) *Environmental Management of Marine Protected Areas* identified the immediate need for DELWP to develop a state marine environment policy to guide management of Victoria's marine environment. It recommended that the scope of this policy should be:

"one that encompasses all marine areas, integrates well across catchments and coastal areas, and enables consistent planning across both MPAs and other marine waters to achieve agreed outcomes." (VAGO, 2011)

The VEAC Marine Investigation Final Report 2014 also strongly highlights the need for clear statewide policy direction for marine environments in its recommendations:

"Recommendation 17: The development of statewide policy be prioritised, in consultation with stakeholders, to guide ecologically sustainable management and use of Victoria's marine environment." (VEAC, 2014)

There are also significant gaps in our knowledge of marine science, biological processes, species and ecosystems as well as human impacts and other threats to these natural marine systems. In the past 20 years, we have made valuable progress in our monitoring, research and scientific understanding of Victoria's marine ecosystems. However, our less accessible marine ecosystems are not as well understood as our terrestrial environments, resulting in the need to make decisions in the absence of complete information.

We are aiming for improvements that:

- can identify and address marine threats and cumulative impacts that improve the resilience of Victoria's marine ecosystems
- provide clear guidance, coordination and integration for the management of activities and uses in the marine environment
- acknowledge the intrinsic values, social importance and ecosystem services of marine environments for all Victorians
- put in place mechanisms to ensure government agencies that manage marine sector activities are fully engaged in the development and implementation of the policies and strategies that deal with cross cutting issues
- provide balance and consideration of the competing sectors to resolve potential disputes.

Drivers for Change 3 – Integrating planning systems

The systems that guide and regulate decision making around development and use of land in our coastal and marine areas (including the seabed and waters of Victoria) should integrate across jurisdictional and physical boundaries and across public and private land.

As outlined above, the statewide and regional level policy and strategy development requires stronger integration particularly for cross cutting issues in the marine environment.

At the local scale, planning through Coastal Management Plans (CMPs) could be better integrated with strategic municipal planning and with relevant science concepts such as geomorphological units known as coastal compartments. The review timeframes for CMPs do not align with timelines for review of statewide and regional policy. Currently, an approved CMPs does not approve the works proposed in the plan, but require further site-specific approval. Preparation of CMPs is not mandatory and as a result not all areas of the coast have a management plan. Addressing these issues provides opportunity to strengthen and improve the application of CMPs in a new coastal and marine system.

Developments on coastal and marine areas are subject to a range of different laws and regulations. For example, on the coast, site-specific approval processes under the *Coastal Management Act 1995* and *Planning and Environment Act 1987* can both apply to new proposals and there are opportunities for streamlining assessment and consent requirements across all relevant legislation. In these situations there is scope for greater efficiencies in the processing and consideration of use and development applications. A more aligned and streamlined system is needed to enable government, industry and the community to respond quickly and effectively to emerging coastal use and development challenges and opportunities driven by forces such as climate change and population growth.

Consent provisions under the *Coastal Management Act 1995* allow the Minister as the land owner to assess proposals against relevant policy and strategy and ensure that public benefits are protected. However, the Coastal Management Act does not specify any exemptions, meaning that all activities on the land require ministerial consent, even very small works projects and maintenance activities. The new act is an opportunity to clarify and simplify when and how

the Minister's consent is required. There has also been concern about the transparency of decision making, especially when there are no avenues for public notice under other legislation.

While there are other drivers to encourage or enforce good performance, the Coastal Management Act itself has limited enforcement provisions. These only apply if works are undertaken without consent and there is no express penalty for failing to comply with a consent's conditions.

We are aiming for improvements that:

- support ecologically sustainable development via an integrated and coordinated and transparent planning decision making system for the coast and marine waters
- establish use and development planning and decision making systems that are appropriate for coastal and marine areas and will respond and adapt to future challenges and opportunities
- provide clear policy guidance for the use and development of the coast and the marine environment
- make the planning and decision making process transparent, and give the community input to planning decisions
- ensure decision making is informed by scientific research.



Drivers for Change 4 – Adapting to climate change

Climate change will continue to affect Victoria's coastal and marine areas. Sea level rise, increases in the severity and frequency of storms and rising temperatures are leading to increased flooding of low-lying areas; erosion of dunes; loss of beaches, sand dunes, saltmarshes and mangroves; and increased salinity in estuaries, rivers and bays. In marine areas, the impacts include increased ocean temperature and increased ocean acidity that cause changes to critical marine habitats and ecosystems.

Compounding these climate change impacts are pressures from population growth. The increasing number of people wanting to access coastal and marine areas compromises the resilience of these areas and highlights gaps in our understanding of ecosystem integrity and resilience.

Although the *Victorian Coastal Strategy 2014* identified adapting to climate change as one of the key issues facing the coast, the legislation setting up that policy, the *Coastal Management Act 1995*, does not refer to climate change.

Victoria's current framework for planning and responding to the impacts of climate change on the coast could be improved to respond more effectively and with more certainty. In particular, there is a perceived lack of action because no one wants to be liable for a decision made without comprehensive information. A driver for change is working out how we can plan and make decisions with so much uncertainty.

There are gaps in our knowledge of existing threats to values on the coast. This, in turn, means that our ability to predict future threats to those values is very limited. Many local communities are unaware of, and unprepared for, both natural coastal changes and increased hazards due to climate change. As a result, the preparedness for emergency events is compromised through lack of understanding of current and future risks.

The Victorian coast has many old and ageing coastal protection assets such as sea walls and groynes. Many are no longer viable and it is a struggle to maintain those that still have a purpose. Many need to be assessed and upgraded to ensure they can mitigate rather than contribute to future risks. In addition, there is a lack of clarity around the responsibility for constructing new coastal protection assets. Questions are also periodically raised around the legal liability for future impacts of natural processes along the coast.

Most Victorians cherish our beaches, and expect to be able to access them. We aim to ensure public access to beaches, foreshores and the marine environment for future generations. However, about 4% of the coast is private land, which can restrict public access. The impacts of climate change are also likely to reduce areas of public land under current arrangements, further reducing public access. In other states, the common law doctrine of erosion and accretion has been amended through legislation, such that erosion events caused by sudden storm surges result in the boundary of land moving and reverting to the Crown. Similarly, the doctrine of accretion can also be amended to ensure public access and ownership.

We are aiming for improvements that:

- provide:
 - a framework that deals with uncertainty, prioritises action based on risk and is adaptive if circumstances/science/information change
 - a system to anticipate, plan for, identify and address future threats and pressures
 - a framework that defines clear accountabilities and responsibilities for action
 - a coastal strip that allows for natural coastal processes
- nurture communities that are able to cope with the impacts of climate change, increased coastal hazards and emergency events
- ensure that structures and built assets in the dynamic coastal zone are located appropriately and built to adapt to or withstand coastal hazards now and into the future.

Question 3:

Other jurisdictions have made legislative changes to better deal with the impacts of accretion and erosion. Are there any aspects of the approaches used in other jurisdictions, for instance NSW and Queensland, that would be relevant for Victoria to help achieve the above improvements?

Drivers for Change 5 – Sustainable resourcing

The funding arrangements for coastal and marine management in Victoria often do not align revenue with the costs of what is needed to achieve our vision. Revenue sources are often uncertain, inconsistent, subject to restrictions and unequally distributed, which leads to inefficient investment and a significant reliance on the work of volunteers.

More sustainable revenue sources are imperative for effective management and planning for coastal and marine environments. Current funding arrangements are ad hoc and often do not align accountability with capacity. While there is an underinvestment in marine management, the overall environmental budgets are unlikely to increase. Compounding these challenges, Victoria has significant coastal assets that need to be maintained; this need is likely to increase in the future with the impacts of climate change and pressures from population growth.

The coast is a popular asset and will continue to generate revenue through various fees, charges, leases and licences. However, we do not have a clear picture of current overall investment in coastal and marine areas. For example, the overall investment by local government in Port Phillip Bay for coastal management is difficult to quantify (Association of Bayside Municipalities, October 2015).

We are aiming for improvements that:

- provide revenue opportunities that support greater investment
- are cost effective and efficient
- ensure resource allocation is based on identified need
- contribute generated revenue directly back into coast and marine management
- establish more horizontal equity along the coast, connecting social and physical land use across land and sea
- clearly identify revenue and investment in the coast through data collection and reporting
- establish funding and resource allocation that is resilient to medium- to longer-term future challenges and changes.



Drivers for Change 6 – Improving knowledge

There are a number of ways in which we can better understand what we know and understand about marine and coastal areas.

Data and condition monitoring

Monitoring and reporting of the condition and health of the marine and coastal environments (natural, biophysical and physical) and the condition of built assets has been inconsistent, focussed on only a few factors (e.g. water quality) or only in specific locations for a particular issue. For example, marine and coastal ecosystems are under increased threat from invasive species, however, monitoring remains poor and is limited to ports and harbours (State of the Environment [SoE], 2013). The ability to use this knowledge to monitor the health of the system and evaluate the impacts of our management measures is also limited. This lack of comprehensive baseline data makes assessment of the condition of the coastal and marine systems difficult (SoE, 2013).

Knowledge translation and gaps

There are also significant gaps in our knowledge of the condition and health of coastal and marine environments. These gaps include marine science, biological processes, species and ecosystems, coastal processes and erosion, as well as human impacts and other threats to these natural marine systems. This results in suboptimal decision making and a lack of evidence-based decision making. For example, our ability to predict and prepare for risks from future climate changes is compromised by a lack of information on the value and resilience of natural ecosystems. In addition, our preparedness and ability to respond to emergencies in marine and coastal environments is limited by a lack of understanding of current and future risks.

There are also challenges with the translation of existing information into knowledge that informs decisions by coastal and marine managers. Information is often unavailable or it is in a form that limits who can engage with it. Indigenous knowledge, for instance, is also often not well understood or not used by marine and coastal decision makers; this is improving, however, particularly in park management planning. Our future system could be clearer about which entities should be responsible for ensuring that existing information provides the grounds for action.

Evaluation of the effectiveness of what is done

The effectiveness of policies and actions (such as the VCS) must be regularly evaluated so that continuous improvement can be applied. Successive VCSs have called for the development and implementation of a Monitoring, Evaluation and Reporting (MER) framework. Although elements of this framework have been attempted, an integrated and adaptive framework is yet to be developed and implemented. Being able to demonstrate the impact and outcome of the proposed system would be beneficial.

We are aiming for improvements that:

- provide a clear understanding of the current and changing condition of coastal and marine areas to inform policy, planning and management
- effectively translate knowledge into decision making and identify where there are gaps
- clearly determine the impact and outcome of policy, planning and management on improving the condition of our coastal and marine environments.

Drivers for Change 7 – Involving the community

Individuals, organisations and local communities make a huge contribution to the management of Victoria's coast, providing a legacy of great work that can be built upon and a significant resource pool on which to draw. Victoria's approach to community involvement in coastal management and decision making has been central to our ability to achieve our vision for the coast. The existing arrangements have also provided important opportunities for the community to become directly involved in all levels of coastal planning and management, be it formally or informally.

However, there have been a number of challenges. Reductions in the investment in programs such as Coastcare have meant that community involvement has reduced and become increasingly fragmented and less attuned with the natural system. Entities such as Committees of Management that provide for local individual involvement in decision making are unlikely to be able to deal with some of the larger challenges facing coastal management in the future. Opportunities to engage the community on matters specific to the marine environment have not been maximised and are often sectorial and do not engage the wider community.

It is important to find the right balance to encourage community involvement within the system while ensuring entities are equipped with the right resources and expert skills to perform their operational functions. Better integration through partnerships between government agencies and communities will be key in addressing future challenges facing marine and coastal management.

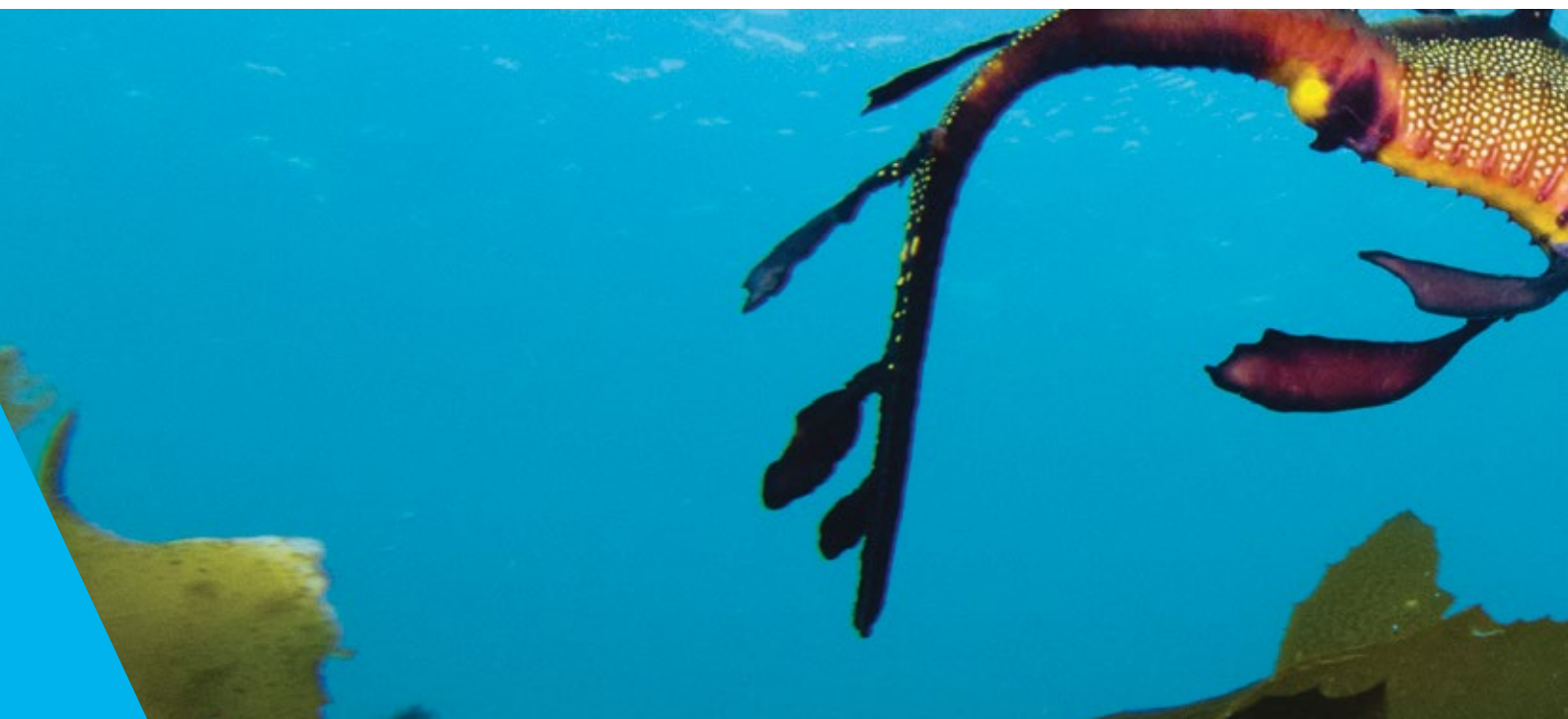
We are aiming for improvements that:

- deliver community engagement that balances all community values
- support stimulating investment (interest, resources and programs) in marine management
- engage, inform and encourage participation in coastal and marine management
- coordinate investment, alignment and resourcing for community capacity-building and volunteer programs in coastal and marine areas.



Question 4:

Do you think the seven Drivers for Change encompass the key issues? If not, what other key issues need to be addressed to improve Victoria's coastal and marine management system?





P A R T

Proposed reforms

2



In response to the challenges set out in Part 1, a series of reforms are proposed to improve our coastal and marine management system and build on the current system's strengths. This part of the Consultation Paper presents the Expert Panel's preferred system and proposed reforms; noting alternatives and asking questions where relevant. Part 2 aligns the recommended reforms with the identified drivers for change. Each section explains how the reforms aim to improve the overall system.

Some improvements will need to be enabled through the new Marine and Coastal Act, and some may require minor changes to other legislation to ensure better integration within the entire system. Other proposed improvements do not require legislative change and can be achieved using existing mechanisms, changes to policy or changes to the way we do things. Part 3 includes a summary of which proposals would require legislation and which could be achieved by other means.

Principles for guiding change

The proposed options and reforms are underpinned by a set of principles (Appendix Two) designed to provide the compass for how we manage coastal and marine areas. That suite of principles has evolved from a combination of coastal and marine objectives and contemporary natural resource management concepts to cater for flexibility, sustainability and ecosystem resilience. These principles inform the proposed reforms in the paper.





1. Clarifying functions of a marine and coastal system

In developing a new Marine and Coastal Act and improved management and oversight arrangements for coastal and marine areas, it is important to consider the entire system and its core functions. The Expert Panel identified the following core functions as essential for an improved system.

FUNCTIONS OF A MARINE AND COASTAL SYSTEM



2. Setting clear objectives for the marine and coastal system

Clear objectives are needed to guide how the marine and coastal system operates. The objectives listed below encompass what is needed to deliver an improved system. They take into consideration the principles for guiding change and the drivers for change (in Part 1); the existing objectives in the *Coastal Management Act 1995* and the VCS (Victorian Coastal Strategy); and objectives in contemporary marine and coastal legislation from other jurisdictions.

The following are recommended as the basis for the objectives of the new Marine and Coastal Act.

1. Protect and enhance marine and coastal environmental values, including ecological, geomorphological, geological, cultural and landscape features of significance, natural coastal processes, natural character, biological diversity, and ecosystem integrity and resilience.
2. Plan for, manage, maintain and improve Victorian marine and coastal ecosystems, waters and lands by building ecosystem resilience to climate change impacts, avoiding detrimental incremental and/or cumulative ecosystem impacts and working with natural processes where practical.
3. Reduce current and future risks from climate change by improving the resilience of coastal communities and assets and adapting to the impacts of increased hazards.
4. Promote integrated and co-ordinated coastal and marine advice, planning, management, monitoring, reporting and decision making across government, industry, user groups and the community.
5. Acknowledge Traditional Owners' rights and aspirations for land and sea country, and use these rights and aspirations to inform coastal and marine management.
6. Promote, plan for and manage the sustainable

use and development of Victoria's coastal and marine resources for recreation, conservation, tourism, commerce and industry in appropriate areas so that the ecological processes on which life depends and coastal character are maintained, and the total quality of life, now and in the future, is increased.

7. Improve community and user group stewardship and understanding of coastal and marine environments and natural processes, and engage the community and user groups in coastal and marine planning management and protection.
8. Ensure that all Victorians can enjoy a wide range of experiences, and diversity of natural coastal and marine habitats, now and in the future.

Question 5:

Do you think these objectives for a new marine and coastal system are appropriate to form the basis of the objectives for a new Marine and Coastal Act? Are there any issues that need to be considered when finalising these objectives?

3. Clearer governance and institutional arrangements

The recommended reforms seek to reduce complexity, provide clearer roles and responsibilities, minimise duplication, and better align responsibilities with capacity and resourcing. The reforms would support effective and integrated decision making for marine and coastal environments. They would also encourage collaborative partnerships to achieve the desired outcomes.

As outlined earlier, elements of the current advisory system have supported consistent and largely bipartisan approaches to coastal and marine management. This has been partly because they have been at ‘arm’s length’ from government.

While this has been a major positive for coastal management in Victoria, there have been a number of challenges. There has been a disconnect between setting strategic directions and implementing them, so we have not always been able to address identified issues. The limited involvement of marine sectors in these processes and the limited integration of marine issues have meant that, so far, the advisory institutions have been primarily focussed on coastal management issues.

There are also significant areas of overlap in the responsibility of advisory institutions, for example there is overlap between the Victorian Coastal Council and the Regional Coastal Boards, and between the Regional Coastal Boards and the CMAs. The coastal boards have often been unable to fulfil all their legislative functions due to resourcing constraints.

The suggested reforms seek to build on the current strengths while addressing these issues. While some reforms would require the new Act or other legislative reform, others could begin to be implemented using existing mechanisms or legislation.

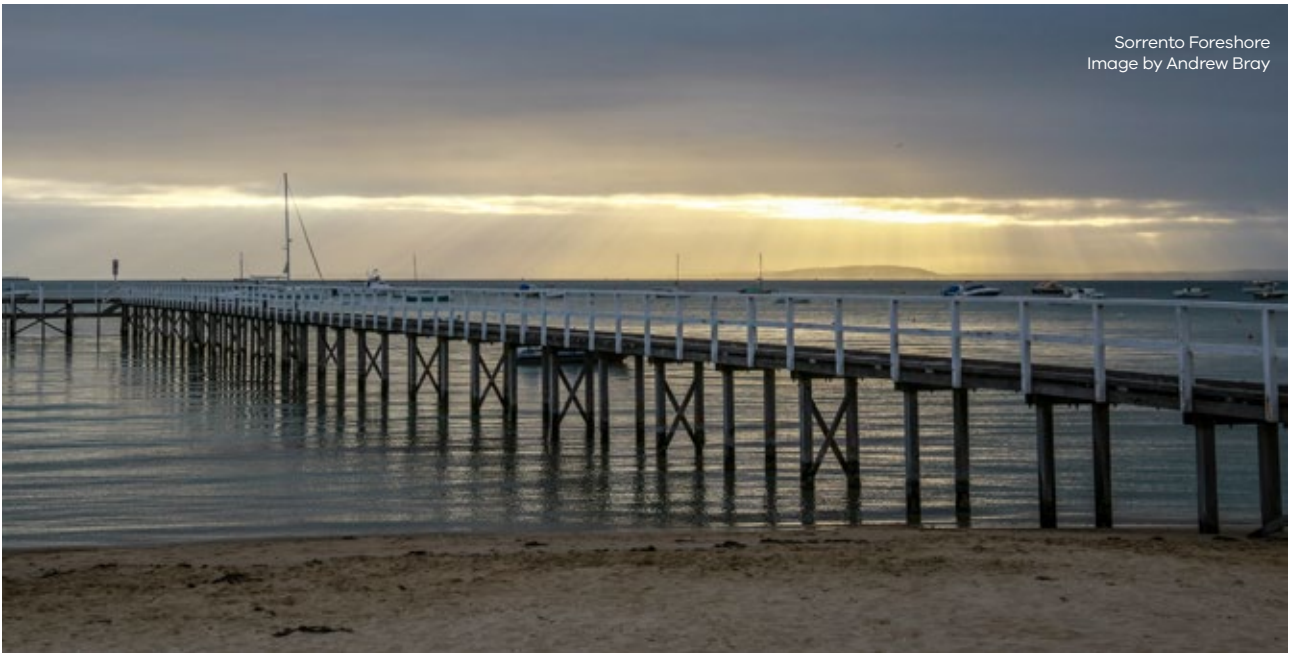
3.1 Establishing a Marine and Coastal Council

Building on the strengths of the existing advisory structures it is recommended to replace the current Victorian Coastal Council with a Marine and Coastal Council (Council). As a strengthened statewide advisory body, the Council would:

- provide expert advice, guidance and strategic direction to the development of overarching marine and coastal strategy and policies
- provide a conduit between government and community for marine and coastal issues
- facilitate scientific research and advice to promote best practice marine and coastal planning and management
- advise the Minister on the sustainable management of marine and coastal environments
- provide an oversight role advising the Minister on implementation of strategy and policy
- advise the Minister as requested on consents for use and development.

The Expert Panel considered a number of options for the overarching institutional arrangements in addition to the proposed advisory body with an extended focus. One option was the establishment of a Marine and Coastal Authority. Another option was to move away from an independent advisory entity and rely more on government departments and agencies. The pros and cons of those options are discussed below.

The option for a Marine and Coastal Authority would have a advisory and policy setting role as well as taking on responsibilities for coastal and marine management and service delivery. This all-encompassing entity would significantly reduce



the complexity of the current system by having one large organisation but would have had a number of disadvantages. Such an organisation would likely be far less responsive to local and regional differences and less attuned to the issues and expectations of local communities and specific marine sectors. Having such a broad role-ranging from providing advice and developing policy, managing coastal infrastructure and natural environments, providing visitor services to managing distinct marine sectors such as fisheries or local ports-would require an organisation with a very large variety of skills and expertise it would cut across a range of ministerial portfolios and likely internalise a number of competing priorities and directions. This would make it far less agile to deal with emerging issues and the key challenges facing marine and coastal management, such as addressing the impacts of climate change and population growth.

The other option would have involved moving away from an independent advisory entity to rely more on departments and agencies, for example DELWP or Parks Victoria, to solely provide advice and guidance on statewide marine and coastal issues. While this model would reduce the number of entities involved in the system and would generate some minor resourcing efficiencies, there would be a number of disadvantages. Removing the statewide advisory function within the system would reduce the focus on marine and coastal issues in Victoria. As outlined earlier, having a statewide institution established to provide a focus on these issues has been a real strength of the current system and moving away from that would be a retrograde step. Removing the advisory function would also reduce an important conduit to the community; the Victorian Coastal Council has provided relatively stable branding for community involvement despite changing departmental structures.

The loss of an 'arm's length' to government advisory body would also make dealing with

complex and challenging issues difficult. There has been significant benefit in the current system of having such a body facilitate discussion between government, industry and the community on issues such as setting sea level rise planning benchmarks. With the challenges of climate change, population growth and ageing infrastructure only likely to make these issues more common, a body at arm's length to government will be useful for facilitating discussion and finding the best solutions.

Given the arguments above, an expanded advisory council is the preferred approach. The benefits of the new advisory council would be a greater focus on the integration of responses to cross-cutting marine issues, a strong conduit to the scientific and general community, and more focused oversight of policy and strategy implementation. The council would report to the Minister for Energy, Environment and Climate Change, and the trigger for providing formal advice on implementation of policy and strategy under the Act could come from either the council itself or the Minister. The council would not have a specific role directing the management of marine and coastal natural resources.

Between them, the 11 members of the current Victorian Coastal Council are required to have experience and knowledge in a variety of areas relevant to coastal management. It is proposed that the new Act would follow this model for the new body while including broader representation from within the community, user groups and industry and importantly, including the marine sectors. This wider membership would help the new Council be more influential and relevant within the system, especially in the marine environment. Options to improve this representation include requiring consultation with other relevant Ministers to ensure expertise from across coastal and marine management portfolios or expanding the list of skills and expertise required in the new Act.

The capacity to form expert advisory groups or

sub-committees on specific issues or regional-based matters (e.g. a Science Panel, Marine Science Panel, Audit and Risk Sub-committee) would enable the Council to highlight and provide potent advice on specific issues and challenges. To increase transparency, the Council would be able to formally table in Parliament any advice provided.

The Council would be required to prepare an annual report to be tabled in Parliament. This report would detail how the Council has performed its legislative functions (e.g. what advice has been provided, issues facilitated) to provide greater transparency to the community.

Another potential role for the new Council would be to advise on adherence to policy of use and development proposals. It may not be appropriate for all use and development proposals to be referred to the Council for advice, but its system-wide insight may be useful for high-risk, potentially high-impact proposals. The grouping of representation, expertise and knowledge proposed for the Council should have the potential to advise the Minister on proposals for use and development under the Act in the marine environment while policy in this area is more strongly developed (See section 3.2).

Question 6:

Do you think the required skills for the Marine and Coastal Authority members should be legislated? If so, what skills, backgrounds and expertise should be represented? Should there be a minimum number of members? Is the maximum of 11 members still appropriate?

3.1 Proposed improvements	Who or how
Replace the Victorian Coastal Council with a Marine and Coastal Council.	<p>The Council would:</p> <ul style="list-style-type: none"> • provide expert advice, guidance and strategic direction to the development of overarching marine and coastal strategy and policies • provide a conduit between government and the community for marine and coastal issues • facilitate scientific research and advice to promote best practice marine and coastal planning and management • advise on the sustainable management of marine and coastal environments • provide an oversight role advising the Minister on implementation of strategy and policy within the marine and coastal system advise the Minister as requested on consents for use and development.
Membership of the Marine and Coastal Council to include representation, knowledge and experience from broader marine and coastal sectors of the community, user groups and industry.	Specify the membership requirements of the new body in legislation or through the appointment process.



3.2 Preparing statewide policy and strategy for marine and coastal areas

The Victorian Coastal Strategy (VCS) has provided stable policy and guidance for decision makers on coastal management issues across Victoria. This has been a key strength of the current system and needs to be maintained. The Victorian Coastal Council has produced four draft Victorian Coastal Strategies that have been accepted by the Government of the day and become statewide coastal policy. Over time, however, the VCS, particularly its actions, has increasingly been seen as more the Victorian Coastal Council's strategy than the government's. This has made implementing these actions, and particularly resourcing them, increasingly difficult, and it has hampered the VCS's effectiveness. The new system would make it clearer that the strategy is a whole-of-government document, setting statewide direction that guides decision making and investment across the many areas within the system.

The VCS has delivered land-based coastal policy and planning guidance but it has been less successful in leading and guiding the management of marine environments. It has been unable to achieve significant participation and influence in all marine sectors, such as local and commercial ports, commercial and recreational fishing and the earth resources sectors. An improved system needs to provide a greater emphasis on developing statewide strategy for marine areas to better integrate decision making and address cross-cutting issues. There would be significant benefits in doing so. It would provide a mechanism to identify challenges and issues in the marine environment faced by various marine sectors, industry groups and recreational user groups and provide strategic direction on how these can be addressed in an integrated way.

The VCS has also intertwined strategy and the action-focussed ways in which challenges will be

addressed, with the statewide policy direction that guides decision making. There would be benefit in separating these elements out to provide greater ongoing certainty and guidance to decision makers on policy positions while making strategy more targeted and flexible, and outlining how and when specific challenges will be addressed. This is similar to the reforms currently proposed in NSW.

What is being proposed

The new Act would enable the preparation of both strategy and policy for marine and coastal areas that builds on the strengths of the VCS and recognises the need for a stronger emphasis on marine environments and greater distinction between policy and strategy.

Marine and Coastal Strategy

The Minister would be required to develop a Marine and Coastal Strategy every four years in consultation with relevant portfolios, agencies, industry, user groups and the broader community. The next Strategy would be the successor to the current Victorian Coastal Strategy 2014 but would have a much greater focus on marine issues that cut across sectorial boundaries. Importantly, the Strategy should be required to be released with an accompanying implementation plan, endorsed by all affected portfolio Ministers to more clearly outline how actions would be prioritised, resourced and implemented. This would promote its effectiveness in influencing and driving change throughout the system.

Marine and Coastal Policy

To better separate policy from strategy and to ensure greater emphasis on cross cutting marine policy issues, the Minister would also be required to prepare a statewide Marine and Coastal Policy for Victoria prior to the next Strategy. The Marine and Coastal Policy would clearly articulate statewide policy positions to provide guidance to decision

makers within the system. To ensure transparency on changes to statewide policy, the document could be changed through an action in the Marine and Coastal Strategy that clearly identifies how and why a policy position needs to be amended. To provide flexibility outside the Strategy timeframes, the Minister should also be able to amend the Policy subject to transparent consultation and notification process outlined in the Act.

The Marine and Coastal Policy would not replace or duplicate policy setting for the management of specific sectors but would focus on the cross-cutting policy issues to better articulate what all sectors need to take into consideration.

Developing the coastal component of the Marine and Coastal Policy would largely involve consolidating the various policy statements and the Hierarchy or Principles outlined in the VCS 2014. Developing the marine component would require new agreed positions to overcome the many policy gaps in the management of marine environments. This would provide a significant improvement over the current system by providing greater guidance to decision making for issues that affect marine environments or marine sectors.

The Minister administering the new Act would be accountable for the preparation of the Marine and Coastal Strategy and Marine and Coastal Policy with expert guidance from the Marine and Coastal Council. The involvement of other ministerial portfolios will also be critical. The aim should be to make it clear that these are whole-of-government documents, not those solely of an advisory body. DELWP would provide flexible and appropriate arrangements to develop the strategy and policy for the Minister’s approval, guided by the Council.

The process of developing the Marine and Coastal Strategy and Marine and Coastal Policy must ensure the collaboration of all ministers and agencies involved in decision making in marine and coastal areas to help promote its relevance and influence within the system.

3.2 Proposed improvements	Who or how
Preparation of a statewide policy and strategy for marine and coastal areas that builds on the strengths of the current Victorian Coastal Strategy but separates policy and strategy and recognises the need for a stronger emphasis on marine environments.	The Minister for the new Act would be accountable for the preparation of a Marine and Coastal Strategy and a Marine and Coastal Policy. These would be prepared with guidance and advice from the Marine and Coastal Council. The Strategy must be accompanied by an implementation plan.

Question 7:

Do you agree with the recommended time frames and approach for a new marine and coastal strategy and marine and coastal policy? Why?

3.3 Boosting the role of coastal Catchment Management Authorities

One of the key principles of the proposed system for managing the coastal and marine environment is integrated coastal zone management. This principle, outlined in Appendix Two, aims to integrate the water cycle and ecosystem processes from ocean to land to atmosphere.

The key regional organisations charged with integration of natural resources management issues in Victoria are the Catchment Management Authorities (CMAs). CMAs are set up under the *Catchment and Land Protection Act 1994* and, apart from in the Port Phillip and Westernport area, have responsibilities for integrated river and flood management under the *Water Act 1989*. In the Port Phillip and Westernport area, Melbourne Water has responsibilities for integrated river and flood management under the *Water Act 1989*.

The five coastal CMAs already have some responsibilities to plan for natural resource management along the coast, in estuaries and in the marine environment out to three nautical miles. However, these responsibilities have not been consistently undertaken across the five regions due to a range of factors, including overlap with the planning and advisory roles of Regional Coastal Boards. While Regional Catchment Strategies include a coastal section and some also look at catchment-based risks to marine environmental assets, there is significant scope for greater focus.

Boosting these coastal CMAs' skills and expertise in coastal and marine management and planning could deliver stronger leadership and better integration across catchment, coast and marine environments. In particular, there is an opportunity to be clearer about the CMAs' role in providing advice on key natural processes such as coastal flooding, inundation and erosion. The recently released Victorian Floodplain Management Strategy clearly articulates CMAs' accountabilities for providing advice on coastal flooding. However, CMAs do not provide advice on coastal erosion or geomorphic change. This is an area where the current system could be improved, noting that this advice is likely to be beyond the scope of individual local governments. CMAs are currently coordinating Regional Floodplain Management Strategies, which will include assessing flood risk issues along the coast.

What is being proposed

The role of the five CMAs along the coast would be enhanced (in terms of both skills and expertise) to deliver a stronger leadership role in integrating natural resource management across catchment, coasts and marine environments. Coastal CMAs would provide advice on certain natural resource management issues such as flooding, erosion and other threats affecting catchment, coastal and marine environments. They would also facilitate and engage the community on these issues and influence coastal and marine management. In the Port Phillip and Westernport area, Melbourne Water has the role in providing advice on coastal flooding and should be encouraged to also provide advice on coastal erosion matters.

To enhance their skills, the membership of coastal CMA boards would be reviewed to ensure appropriate coastal and marine expertise. This would likely require changes to the *Catchment and Land Protection Act 1994*. Further legal analysis will be required to ensure that there is no unintended implications of the changes. CMAs should ensure they have the expertise and resourcing to provide expert advice on issues such as coastal flooding and inundation that they are developing in their roles as co-ordinators of Regional Floodplain Management Strategies. To address the current gap in guidance on coastal erosion, coastal CMAs would also be supported to build their capacities. CMAs would not be expected to take on responsibilities for managing coastal protection assets much as they do not take on responsibilities for levee banks despite providing advice on flooding. CMAs would not take on specific roles managing or directing the management of specific natural resource uses such as fisheries management.

Some coastal CMAs already have community advisory or reference groups in coastal areas. These should continue to be supported and formed in other areas to provide a strong link between the community and the CMAs on coastal natural resource management issues.

One option to emphasise the additional focus would be for the five coastal CMAs to be formally renamed Coastal Catchment Management Authorities (CCMAs). This would reflect the additional emphasis in their role that is distinct from the inland CMAs. However, this may cause uncertainty about their existing roles that are not coastal-specific.

Regional Catchment Strategies should continue to be developed by the coastal CMAs but should be strengthened to better reflect integrated catchment, coastal and marine issues. This would mean expanding the scope of their Regional Catchment Strategies to consider threats from adjacent marine areas as well as upstream parts of the catchment, for example, the spread of marine pest species. This may require amendments to the Catchment and *Land Protection Act 1994* regarding the contents of Regional Catchment Strategies.

3.3 Proposed improvements	Who or how
Strengthening the role of coastal Catchment Management Authorities	The role of coastal CMAs would be strengthened to deliver integrated natural resource management across catchment, coasts and marine environments. Coastal CMAs would develop Regional Catchment Strategies and Regional Floodplain Management Strategies with a stronger marine and coastal component and provide expert advice on coastal flooding and erosion. Membership of coastal CMAs would be reviewed to ensure appropriate skills and expertise. Community reference groups on coastal NRM issues would be encouraged.



Question 8:

Do you think the proposed reforms would provide for greater efficiency in the advisory functions for natural resource management in marine and coastal areas? What other changes would be useful to help recognition of an enhanced focus on coastal and marine issues by Catchment Management Authorities (e.g. Coastal in the title)? Why?

3.4 Providing for Regional and Strategic Partnerships (RASPs)

To achieve our vision for marine and coastal areas, we need to foster co-ordination, co-operation and partnership between organisations and communities. Often this requires integration between organisations and communities at a scale that is greater than the boundaries of individual organisations. In this context, the *Coastal Management Act 1995* provided for integrated planning at the state, regional and local scales. This was a significant improvement over previous arrangements but can be improved further. There is a need for a bespoke, more agile, better resourced mechanism to bring parties together to resolve specific issues at a range of scales in between the state and local levels.

Under the Coastal Management Act, Regional Coastal Boards played an important role in leading regional scale planning by developing Coastal Action Plans and, more recently, by leading the development of three Regional Coastal Plans. Having achieved this, there now seems less need to have permanent entities charged with providing advice, facilitation and planning at the regional scale because:

- existing regional institutions, such as CMAs for natural resource management issues and integrated catchment management, provide similar functions
- local governments possess greater skills and expertise than they did in the past and they often now cover much larger areas
- regional groupings such as the Association of Bayside Municipalities, G21 and the Great South Coast Group have emerged to deal with a range of regional issues
- resourcing constraints have meant that Regional Coastal Boards have often been unable to perform their statutory responsibilities.

What is being proposed

Rather than providing for Coastal Action Plans, the new Act should enable agencies to come together to solve shared problems by forming Regional and Strategic Partnerships (RASPs), led by one of the partner agencies with the skills and resources required to address the issue and the capacity to bring the community along. RASPs

would deal with regional planning or issue-based planning that crosses jurisdictional boundaries (for example, coastal hazard assessments, adaptation plans, visitation demand management strategies, environmental management plans).

The Act should enable the Minister to instigate the establishment of a formal partnership of willing organisations if the Council recommends a RASP or if the statewide strategy identifies the need for one. The Council should be confined to only recommending a RASP in response to a request from, and after consultation with, relevant agencies and the community and after determining the significance of the problem.

The Minister should, with the agreement of the relevant organisation, be able to nominate an organisation to lead a RASP. Lead agencies would be selected based on their skills and their capacity to deliver the required plan by working with and engaging the community. For example, a local government might be best placed to lead a local coastal hazard assessment, while a CMA or Melbourne Water might lead in the management of natural resource management, coastal flooding or water quality issues and a department might lead for a land management issue. The Commonwealth Government could also be invited to participate. Any decision to form a RASP would be made having regard to the resources committed by, or made available to, the partner agencies.

The legislation should include a prescribed process for RASPs to develop plans, or other outputs, in ways that protect people's rights and ensure affected communities and user groups have the opportunity to be involved and have their say. Such a process should also help ensure that the outputs of the RASP can be embedded into the decision-making processes within the system. For example, a Coastal Management Plan, or a use and development consent, could be required to take a relevant plan produced by a RASP into account.

Such an approach would provide a flexible and efficient approach to tackling significant regional issues that transcend organisational or geographic boundaries. A RASP would not be entered into lightly. Many regional issues can be and should continue to be addressed through existing non-legislative regional forums and partnerships, such as G21, the Association of Bayside Municipalities, Great South Coasts Group or DELWP led Coastal Agencies Liaison groups. CMAs already provide a significant

role in facilitating partnerships between agencies and communities for natural resource management issues. These should continue to be supported and formalised where needed. However, where there is a need to focus on a significant shared problem or issue, and where agencies need to come to the table to partner and commit resources to solve the problem, a RASP would provide a transparent, legislated process and a means by which to bring the community along.

A partnership approach, where organisations come together to solve a shared problem for mutual benefit, would more likely see the resulting plan or output influence decisions within the system and would therefore be more likely to result in its actions being implemented. RASPs would only remain in existence until their outputs were completed, the responsibilities and accountabilities for implementation would be assigned to existing agencies. RASPs would not alter legislated roles and accountabilities that agencies might already have.

Existing Regional Coastal Plans and Coastal Action Plans would remain valid unless and until a RASP plan or output were to overlap it in content. In that case the newer RASP plan or output would apply.



3.4 Proposed improvements	Who or how
Enable Regional and Strategic Partnerships (RASPs) to deal with regional or issue based planning that crosses jurisdictional boundaries	<p>The Act would enable the Minister administering the new Act to initiate a RASP if identified in the Marine and Coastal Strategy or recommended by the Marine and Coastal Council in response to a request from, and after consultation with, relevant agencies and affected communities.</p> <p>The RASP would be initiated by the partner agencies coming together to solve a shared problem rather than being imposed from above.</p> <p>There would be flexibility to appoint lead agency depending on the issue, skills and resources required and capacity to bring the community along.</p> <p>A prescribed process for a RASP to develop a plan or output would protect people’s rights and ensure affected communities have an opportunity to have their say.</p>

3.5 Phasing out Regional Coastal Boards

With coastal CMAs strengthened and the system providing for the ability to form Regional and Strategic Partnerships (RASPs), the current Regional Coastal Boards would not be required. It is proposed that the three Regional Coastal Boards would be discontinued at the end of their current terms in June 2018. The relevant functions of the Regional Coastal Boards would be performed by a combination of strengthened coastal Catchment Management Authorities (regional planning, facilitation and advice), the Marine and Coastal Council (advice) and through RASPs (regional planning). The resources to support the current RCBs could be used to assist coastal CMAs as well as support the Marine and Coastal Council.

The Regional Coastal Boards should continue to focus on implementing the key priorities of the Regional Coastal Plans while a new system is developed and implemented. Actions such as the development of a Visitation Demand Framework would provide valuable guidance for the proposed new system.

3.5 Proposed improvements	Who or how
Reduce the complexity of advisory bodies by phasing out the Regional Coastal Boards.	The Regional Coastal Boards would be phased out in June 2018. Functions performed by strengthened Catchment Management Authorities on the coast, the Marine and Coastal Council and the Regional and Strategic Partnerships.

Skilled and capable coastal managers

As outlined in Part 1, Victoria has a range of organisations appointed as coastal Crown land managers. These primarily include Traditional Owner Land Management Boards (TOLMBs), Parks Victoria, larger (Category 1) and smaller (Category 2) volunteer Committees of Management and local governments appointed as Committee of Management. While Parks Victoria and TOLMBs largely manage coastal areas for their natural values, the arrangements in other areas are far more complex and the management responsibilities and accountabilities often do not align with the organisation's capacity, resourcing or expertise.

In designing new management arrangements, it is important to ensure that organisations responsible for coastal management are efficient and sustainable. It is also important that they have the capacity and expertise to deal with future challenges of increased impacts of climate change, population growth and changing community expectations. In general, and up to a point, larger entities are more likely to be able to deliver services more efficiently, provided they are not so large as to lose accountability and responsiveness to local communities and the people using the coast. Larger entities can also better prioritise the use of their revenue. Because revenue generated along the coast must often be reinvested into the area managed by the organisation, having the same organisation managing larger areas enables them to invest revenue where it is most needed, rather than simply reinvesting it exactly where it is collected.

Local governments have proven to be successful coastal managers for much of the coastline, particularly where suburbs, towns and foreshore areas merge. The coast becomes a part of the community's identity and is important for the health of residents and local economies. Local government plays a crucial role in maintaining this sense of identity and connection to the coast.

Category 1 CoMs have also proven successful where they have been established in parts of western Victoria. These CoMs have been able to achieve a balance between developing the skills and capacity necessary to deal with current and future challenges while staying accountable, connected and responsive to local communities. Often, however, there is a degree of overlap between some of the services they provide and the services, planning and ability to attract resources provided by local

governments. They also add complexity to a community's understanding of which organisation manages which part of the coast.

While local governments and Category 1 CoMs are likely to be well placed to deal with the future challenges outlined above, smaller Category 2 CoMs are not. These small CoMs will likely struggle to generate the revenue or develop the necessary skills and capacities needed to deal with future challenges, particularly in managing assets and adapting to the impacts of climate change.

The Expert Panel considered a number of options for on-ground coastal management from other jurisdictions. In particular, appointing one organisation such as Parks Victoria or a strengthened Marine and Coastal Council with regional service delivery functions was considered. It is unlikely that such an arrangement would be efficient, responsive to local communities or flexible enough in Victoria to deal with the future challenges, particularly in a resource-constrained environment.

As part of the any new arrangements, it is imperative to harness and maintain community involvement and stewardship in coastal management. The ability to offer both formal participation (such as through appointments to Committees of Management) and informal participation (such as through friends groups, Coastcare programs, public processes to develop plans or assess proposals, Community Advisory Groups) in coastal management has been a key strength of the current system; it needs to be built on. However, there is a need to find a balance between encouraging community participation and not overburdening community members with too much responsibility, without the necessary expertise, support or resources to undertake the task.

What is being proposed

The suggested new arrangements are an evolution of the current arrangements rather than a wholesale change. It is proposed to continue to have a mix of coastal Crown land managers, but that these be simplified to primarily include only local government, Category 1 CoMs, Parks Victoria and TOLMBs. Local government should be encouraged and supported in continuing to manage the areas of Crown land that they currently do.

The proposed arrangements would simplify coastal management arrangements by promoting a stronger role for local government and Category 1 CoMs. Further simplifications were considered, like

the approach used in New South Wales where local government is largely responsible for coastal Crown land management. While this could bring additional benefits such as being more easily able to integrate issues affecting the whole municipality or deal with challenges stemming from beyond the direct foreshore area, a more mixed approach is suggested.

The Category 1 CoM model has generally proven successful in Victoria, for example Phillip Island Nature Parks on Phillip Island and along the Great Ocean Road. Category 1 CoMs have generally been financially self-sustaining and have generated resources to support a strong organisational structure and build expertise. Category 1 CoMs have also been quite responsive to statewide and regional direction and can provide a particular focus on coastal issues that some local governments have been unable to achieve where their priorities lie in areas away from the coast. They also provide a formal avenue for volunteers to take part in coastal management. There remain some downsides to the Category 1 CoM model compared with local government, for example they are less able to fully integrate with broader strategic planning across a municipality and often do not have the ability, tools and capacity to influence pressures on coastal management stemming from land beyond their management (although this still remains a challenge for many local governments).

The continuation of a mixed approach is recommended within an improved system building on the strengths of both Category 1 CoMs and local government. It will be important to ensure that both local governments and CoMs can continue to access and leverage off other investments in the areas they manage. Greater collaboration between land managers should be encouraged at a more local scale.

It is acknowledged that existing Category 2 CoMs have done great work in managing the coast with limited resources. This effort, involvement and enthusiasm can be enhanced in the new arrangements by reducing the administrative burden and releasing more resources to do further great work while also strengthening and providing further opportunities for volunteers in the system.

3.6 Transitioning from smaller Committees of Management (CoMs)

Smaller Category 2 CoMs should either be transitioned into larger Category 1 CoMs or the areas under their management should be transitioned to local governments as Committee of Management. In some cases Parks Victoria could be an alternative manager.

To determine the best way forward, it is proposed that a process be established to examine the best option for transitioning away from smaller CoMs in different areas. This process would be undertaken with local communities so they can have their say on the preferred approach and help ensure local knowledge and experience can be best retained. The process would take into consideration any directions from the Victorian Environmental Assessment Council's current Statewide Assessment and should clearly look at the costs and benefits of potential options. It should also have regard to the risks facing each CoM and should work through any cost-sharing arrangements for addressing these risks with the potential land manager (see section 7.4 for further discussion of cost-sharing arrangements).

Either DELWP or the Marine and Coastal Council would be the appropriate lead for this review.

3.6 Proposed improvements	Who or how
Transition smaller Category 2 CoMs into either larger Category 1 CoMs or to local government to manage as the CoM.	A process would be established to examine the best option for transitioning away from smaller CoMs in different areas. This process would be undertaken either by DELWP or the Marine and Coastal Council in consultation land managers and with local communities so they can have their say on the preferred approach.

Question 9:

What issues would need to be considered to enable a smooth transition from smaller CoMs to larger coastal managers or local government? What process should be followed? How would you ensure that the benefits of local input, knowledge and effort were not lost as part of the process?



View from Williamstown
Image by Andrew Bray

3.7 Maintaining and promoting volunteers in coastal land management at the local scale

The importance of informal and formal community participation in coastal management in Victoria is enormous. Improving the capacity and capability of the coastal land manager would not stop opportunities for volunteers to be involved in coastal management. Where local communities are willing and able, consideration should be given to maintaining and establishing formal and informal avenues for community stewardship.

This could be achieved through supporting participation in Coastcare groups, establishing local advisory groups, the appointment of section 86 Committees of Management under the *Local Government Act 1989* or appointments to Category 1 Committees of Management. This would provide for community participation in coastal management to continue while delivering some of the efficiency and capacity benefits provided by local government and Category 1 Committees of Management. It is also important to continue to acknowledge the significant achievements of volunteers. The Marine and Coastal Council could maintain this through a revised Victorian Marine and Coastal Awards process. They may also be a greater role for the not-for-profit sector in helping manage and protect our marine and coastal environments. Not-for-profit organisations often can effectively partner with community groups to make substantial improvements to environmental outcomes. Barriers to this sector's participation should be examined.

3.7 Proposed improvements	Who or how
Continue to preserve, maintain and promote volunteers in coastal land management through formal and informal opportunities such as Coastcare, Landcare, local advisory bodies, s.86 committees, Category 1 CoMs, Friends of groups, not-for-profit organisations and other means such as the Victorian Marine and Coastal Awards.	Where communities are willing and able, support should be given to maintaining formal and informal avenues for community stewardship.

3.8 Promoting greater use of shared services and better integration

For current Category 1 CoMs or where smaller ones are transitioning to Category 1 CoMs, collaboration for service delivery and better integration with local government should be encouraged and facilitated. Services such as waste management, vegetation management, compliance and monitoring could be more efficiently delivered in partnership between these organisations rather than each engaging their own contractors or undertaking these services in house. Better integration between these organisations should be encouraged to ensure coastal management is fully woven into key municipal policy and planning on broader issues such as tourism, recreation and open space.

3.8 Proposed improvements	Who or how
Encourage greater use of shared services and better integration between coastal land managers.	Category 1 CoMs would investigate further opportunities to collaborate with local government in delivery of shared services such as waste management, vegetation management, compliance and monitoring and integration of key policy and planning.



3.9 Strengthening the role of Parks Victoria

Parks Victoria is a key agency in coastal and marine management in Victoria. In the proposed system, Parks Victoria should maintain its role managing areas primarily for conservation, such as areas protected under the *National Parks Act 1975* including coastal parks, national parks, marine national parks and sanctuaries and various other areas. Parks Victoria also has important local port and waterway management roles as well as being a key agency promoting tourism and visitation in Victoria. A significantly increased formal management role has been advocated by some, however, taking on management of coastal spaces managed primarily for other purposes, such as urban areas or within townships, is outside Parks Victoria's core functions. Doing so would likely result in a system that is less responsive to specific community expectations and less integrated with broader issues. As a significant marine and coastal agency and manager of more than 70% of Victoria's coast, Parks Victoria's input and extensive knowledge will be crucial in developing of strategy, policy and planning to effectively manage Victoria's marine and coastal environments. Parks Victoria would continue to strategically plan for the management of areas within its responsibility, for instance undertaking park management planning and preparing a strategy to guide marine protected area management. Participation in the development of a Marine Spatial Planning Framework as well as in relevant Regional and Strategic Partnerships would also be needed. Parks Victoria will also play a key role in engaging the community and working with partners across industry and the not-for-profit sector.

3.9 Proposed improvements	Who or how
Strengthen Parks Victoria's role managing areas primarily for conservation such as areas scheduled under the National Parks Act and as a local port and waterway manager. Parks' Victoria will be more strongly involved in coastal and marine planning and integrated coastal and marine processes, such as Regional and Strategic Partnerships, developing a marine spatial planning framework and coastal management planning.	Parks Victoria would continue to manage areas of high natural value that are identified under existing legislation, e.g. marine protected areas under the <i>National Parks Act 1975</i> . Parks Victoria's role in informing strategy, policy and planning should be enhanced.

3.10 Promoting a greater role for Traditional Owners

The special role of Traditional Owners is increasingly being recognised in coastal and marine management and should be encouraged in Victoria. Through the establishment of agreements under the *Native Title and Traditional Owner Settlement Acts*, Traditional Owners have a unique role in shaping marine and coastal management through the implementation of these agreements. One more formal way of doing this is by establishing Traditional Owner Land Management Boards and joint management. As more boards are appointed, greater formal involvement in coastal and marine protected areas management should be promoted and facilitated, for example joint management of marine protected areas under the *National Parks Act 1975*. As identified in *Water for Victoria 2016*, it will be important to look at ways of building capacity for Traditional Owner groups, for instance through traineeships and greater participation in boards and committees.

3.10 Proposed improvements	Who or how
Support a broader role for Traditional Owners in marine and coastal management including through Traditional Owner Land Management Boards to be formally involved in coastal and marine protected area management.	Continue to support Traditional Owner Land Management Boards and encourage joint management of coastal and marine protected areas.



4. Strengthening marine management, policy and planning

The marine environment provides ecosystems services that support fisheries, aquaculture, tourism, recreation, trade, defence and carbon storage. The intrinsic value of Victoria's marine environment is equally important to the ecosystem services these environments provide.

Our marine ecosystems are increasingly challenged by threats from human use and development, the spread of marine pests and water quality impacts. In the decades to come, climate change impacts—including changes in sea temperatures, salinity sea level rise and increase in the frequency of extreme weather events—are expected to cause unique problems in our marine habitats. Managing these will be a key challenge.

Current coastal policy, planning tools and advisory bodies have been established or have developed with a focus toward the land, and have not always translated well to marine environments, with their multiple, sometimes competing, uses and fluid boundaries. Currently, many marine issues are considered individually rather than as part of a marine environment, particularly on the open coast. Decision making in upstream areas of the catchment often does not fully consider and address the impacts on downstream marine areas, for example the impacts of water treatment plants on nearby aquaculture areas.

In Victoria, a range of sectors and entities manage single sector resource uses or issues such as fisheries, tourism, shipping and earth resources. Specific legislation, policy and management systems have developed for the direct management of these sectors and issues. Many of these sectors are managed outside the Minister for Energy, Environment and Climate Change's portfolio. Fisheries and Biosecurity are the responsibility of the Minister for Agriculture's portfolio, shipping and local ports management are under the Minister for Ports, and tourism under the Minister for Tourism and Major Events.

With the focus on sectorial management in marine areas, issues that cut across these various sectors are often not looked at holistically, for example climate change impacts. Responsibilities for other issues, such as the protection of marine habitats, management of marine pests or specific ecological processes that underpin many marine activities are often not well articulated or are spread across multiple entities. This makes articulating clear accountabilities difficult. For example, it is not clear where overall responsibility for the management of the holistic health of the marine environment lies in the current system. In addition, there is currently lack of clarity about relevant powers to direct vessels or cease activities in order to manage threats from marine pests. Often each of the sectors has some role or responsibility in legislation and/or policy for aspects of marine environmental issues but without a clear imperative or authorisation to co-ordinate and take action.

The Victorian Coastal Strategy (VCS) attempted to provide long-term marine policy guidance within a fully integrated approach alongside other coastal policy issues. While the VCS has been considered largely successful in delivering clear land-based coastal policy and planning guidance, It has not been successful in solving challenges that cut across jurisdictional sector boundaries in the marine environment.



There is a need for clearer policy guidance to pull together all sectors in the marine environment and provide the coordination needed to achieve our vision for marine areas. Being able to identify and deal with those cross-cutting issues will enable better long-term outcomes for all sectors that balance and consider competing sectors objectives and needs.

Sectors such as shipping, commercial fishing, earth resources industries such as oil and gas, marine energy, tourism, recreational boating, commercial and recreational fishing and other user groups are increasingly seeking to use and develop marine resources. In the next 30 years, Victorians must respond to population increases, technological innovation such as carbon sequestration and climate change challenges that will put pressure on these limited marine resources. In comparison to other Australian jurisdictions, Victoria has been fortunate to have fewer conflicts for our marine resources. In the years ahead, competition is likely to increase.

Cumulative impacts arising from increased use from all sectors need to be considered within our policy and planning systems. Preserving the health and promoting the resilience of our marine ecosystems and water quality are more important than ever as we prepare for the changes that lie ahead. Clear policies to guide decision making around the challenges of managing the changes to marine habitats and ecosystems, particularly from the impacts of climate change, is required.

Planning in the marine environment has been sector based, for example the development of fisheries management plans, aquaculture management plans and management plans for marine national parks. The overwhelming majority of the Victorian seabed, however, is unreserved coastal Crown land and these plans do not provide decision makers with planning tools to manage across these various sectors, uses and protections of the large majority, (more than 94%) of our state waters.

Challenges in the future will require better integrating of these planning systems, for example by establishing a framework around which discussions between all marine sectors about marine planning can commence.

4.1 Greater marine focus in strategy and policy

A key improvement to the current system will be to identify and deal with cross-cutting issues facing the various marine sectors and the marine environment. As outlined earlier, the new Act would require both a Marine and Coastal Strategy that has a greater focus on the current challenges facing the marine environment as well as a Marine and Coastal Policy to provide clearly articulated policy positions on key statewide issues in the marine environment. This would provide greater overarching guidance for managing the environmental aspects of Victorian's marine environment as well as mechanisms for identifying and dealing with key challenges. This is a significant current gap in our marine and coastal management system.

Marine and Coastal Strategy

The Marine and Coastal Strategy could better clarify and streamline responsibilities and accountabilities for the protection of marine environments in particular its health. The new Strategy would need to be integrated and linked to:

- marine asset mapping already undertaken
- other statewide strategy such as the Protecting Victoria's Environment - Biodiversity Strategy 2036
- Commonwealth bioregional planning already undertaken in adjacent areas.

To provide a strong evidence base and information from which to develop a Marine and Coastal Strategy that targets the key challenges in the marine environment, the Victorian Environmental Assessment Council could be asked to assess the known values of Victoria's marine areas. VEAC could undertake this assessment without the need to make specific recommendations.

Marine and Coastal Policy

Prior to developing a Marine and Coastal Strategy, the Marine and Coastal Policy could be developed to better articulate existing policy positions on the management of the marine environment and fill existing gaps. The findings of the proposed VEAC assessment would also help identify gaps in marine policy that should be filled. While the specific marine policy issues and gaps to be addressed would need to be determined through the involvement of marine sector agencies, industry and the community, likely areas that the marine component of a Marine and Coastal Policy should cover include:

- marine habitat policy
- managing water quality
- adaptive management for the marine environment
- how to deal with issues and threats, e.g. potential marine energy development locations, prevention and management of marine pests
- the need for plans and sub-policies, e.g. marine habitat policy and marine bioregional plans
- potentially a Marine Spatial Planning Framework
- better definition of the areas to which it would apply.

The Marine and Coastal Policy would focus on cross-cutting issues and would not seek to duplicate or contradict specific policy setting within different sectors, e.g. marine protected area management or fisheries management.

It is intended that all agencies and sectors would act consistently with the objectives of the proposed Marine and Coastal Act to ensure it better integrates the whole system. It may be necessary to provide a mechanism to specify which decisions under other legislation would specifically need to take policies and strategies made under the proposed Marine and Coastal Act into account. These would need to be agreed with the relevant portfolio Ministers.

4.1 Proposed improvements	Who or how
A Marine and Coastal Strategy would provide an overarching strategy to manage challenges facing the marine environment. A Marine and Coastal Policy would provide clearly articulated positions on how we manage our marine environments. (As per proposal 3.2)	The Minister for Energy, Environment and Climate Change would prepare the Strategy and Policy, guided by the expert advice of the Marine and Coastal Council.
Direct management of marine sectors would continue to reside with existing specific agencies. These sectors should act in accordance with the objectives of the Act which could provide a mechanism to specify which decisions under other Acts should specifically take into account the proposed Marine and Coastal Act.	The Marine and Coastal Council may play an important audit and compliance role to promote decisions that are consistent with the objectives of the new Act.



Image by Andrew Bray



4.2 Developing a Marine Spatial Planning Framework

To prepare and balance increased use of the marine estate in the longer term, Victoria needs to commence the first stage of marine planning through a marine spatial planning framework. The framework would provide a process to holistically manage Victorian's marine estate in a sustainable and equitable way.

What is marine spatial planning?

Marine spatial planning is a concept for strategically managing the ecological sustainable development and use of marine waters. Marine spatial planning includes the three dimensional spatial and temporal planning of the marine estate for various uses to balance the environmental, economic and competing needs of the community while preserving the environment.

Marine zoning is one element within a suite of integrated marine spatial planning approaches. Other spatial management tools include permits, statutory Plans of Management, site plans, formal reservations, specified shipping areas or formal agreements with Traditional Owners. Non-spatial management measures include public education, community engagement and industry partnerships

It is proposed that development of a Marine and Coastal Policy would include development of a Marine Spatial Planning Framework, in consultation with relevant portfolio Ministers. The Marine Spatial Planning Framework is the first phase of the process for engagement and discussion between marine sectors, government agencies and marine resource users about the long-term marine planning requirements. The Framework would consider system design and ensure an agreed process is in place so that it can be used when needed to actively respond to competing use and resource challenges. It would provide a clear process to investigate and advise (through a risk-based approach) on the long-term priorities and timeframes for the development of regional marine plans and other planning tools. The Framework would not attempt to develop marine plans or tools themselves rather it would provide an agreed process about how the need for these would be identified. It would also ensure existing uses and reservations such as protected areas under the National Parks Act, aquaculture sites, licences and reserves under the Fisheries Act or tenures for energy and earth resources are recognised and respected.

A Marine Spatial Planning Framework for Victoria would:

- articulate an agreed approach to provide long-term strategic planning between government agencies, industry and user groups
- provide increased clarity or certainty for marine resource use and a clear dispute resolution process
- provide an agreed process to clarify what marine activities or developments can occur in an ecologically sustainable way
- provide a process for planning and zoning of Victoria's marine estate to provide a risk-based approach to determine if, where and when marine spatial plans are required in Victorian marine waters.

In recent years, the Commonwealth Government has made significant progress in marine planning for Commonwealth waters. For example, the South-east Marine Region Profile (DoE, 2015) provides a valuable description of the ecosystems, environmental values and uses of south-east waters beyond the Victoria's three nautical mile state boundary.

The proposed Marine and Coastal Policy and Marine Spatial Planning Framework would aim to better integrate planning and management of the marine environment across the State and Commonwealth jurisdictional boundary.

4.2 Proposed improvements	Who or how
Develop a Marine Spatial Planning Framework as part of development of the Marine and Coastal Policy	The Minister, with guidance from the Marine and Coastal Council, would be responsible for developing the framework as part of the Policy. Development would require participation of all the marine sectors to ensure it is responsive of the various issues and needs.

Question 10:

Do you think Victoria needs a marine spatial planning framework? If so, what would be the key elements and who should be involved?

4.3 Providing a greater focus on Port Phillip Bay and other priority areas

Port Phillip Bay is key asset for Victoria. It supports significant economic and social values as outlined earlier and has a range of important environmental attributes including a number of marine protected areas. An improved system would recognise the unique importance of the bay by making sure it is healthy and well managed. Holistic oversight and management of the bay has been difficult to achieve because of the large number of users and managers as well as the range of threats to its health. While the improvements to oversight and management arrangements proposed earlier will assist in improving its health, a particular focus should be placed on understanding and addressing the key threats.

A Port Phillip Bay Environmental Management Plan (EMP) was released in 2001. It outlined a vision, objectives and actions to maintain the health and amenity of the bay into the future. The plan helped government and other organisations work together to address key challenges to the health and management of Port Phillip Bay. This led to significant investment to improve the health of the bay, particularly its water quality.

DELWP is currently leading the development of a new Port Phillip Bay EMP in collaboration with Melbourne Water and the EPA. While the impetus for the development of the EMP is the State Environmental Protection Policy (Waters of Victoria), the challenges to be addressed in protecting the bay are broader than the issues an EMP under that instrument can deal with.

While increased nutrients (specifically nitrogen) have been identified as priority risks to the health of the bay, and they have been a key focus, other threats exist. Marine pests for instance can compete with native species, alter habitats and disrupt nitrogen cycling processes. Both nutrients and marine pests can threaten the biodiversity and amenity of the bay and its surrounds. Providing a legislative head of power for a Port Phillip Bay EMP to ensure it can deal with other challenges within the catchment would be an important improvement in identifying and dealing with the key challenges facing the health of the bay.

It is proposed that the Minister for Energy, Environment and Climate Change will be required to prepare an Port Phillip Bay EMP. The process for preparing an EMP could be similar to that for undertaking a Regional and Strategic Partnership. This would provide benefits in identifying the relevant partner agencies involved, appointing an appropriate lead with the capacity and resources to undertake the work, and requiring appropriate consultation with communities and those that may be affected to ensure they can have their say. Legislative backing to the EMP would help decision makers make the changes necessary to ameliorate the threats to the health of the bay.

Other priority areas

While the Act is proposed to only require an EMP for Port Phillip Bay, EMPs could be prepared using the RASP process in other priority locations such as Westernport Bay or Gippsland Lakes. In these locations a much broader view in addition to water quality would likely be needed, such as the approach taken by the recent review of the Gippsland Lakes Ramsar Site Management Plan by the East Gippsland CMA.

4.3 Proposed improvements	Who or how
Require a Port Phillip Bay Environmental Management Plan to be prepared.	The Minister for Energy, Environment and Climate Change would be obligated to prepare the plan. This could be undertaken similar to a Regional and Strategic Partnership and led by an appropriate agency.

Question 11:

Do you think there is a need to legislate for an EMP to be prepared for Port Phillip Bay? What other areas would benefit from an EMP?

5. Integrating planning systems

Planning for marine and coastal areas needs to integrate statewide, regional, local and site-specific mechanisms that cross boundaries and apply to public and private land when needed. Ideally, spatial planning for coastal and marine areas would be integrated, co-ordinated and transparent.

The suggested improvements in the preceding sections highlight how a new marine and coastal system can better integrate policy and strategy that guides decision making at the statewide and regional level. This section outlines improvements to better integrate planning at the local level including site-specific applications in marine and coastal environments.

The *Coastal Management Act 1995* provides for the development of Coastal Management Plans (CMPs) for an area of coastal Crown land. A CMP is one way that coastal land managers can provide the framework for coastal land management that includes local articulation of state and regional policy and reflection of local community aspirations.

CMPs as a concept and in practice have been generally well supported and would be retained in the new Act with a few improvements. Land managers have had issues with the three-year review period, believing it to be too frequent and not consistent with review of the statewide strategy. There has also been an issue that works identified through CMPs also require consent under section 37 of the *Coastal Management Act 1995* as well as sometimes a planning permit under the *Planning and Environment Act 1987*, creating duplication. There are opportunities to improve the use of CMPs in conjunction with the consent process with a view to reduce red tape for land managers. DELWP encourages all coastal managers to prepare CMPs but they are not mandatory so not all the coast is covered.

There has been research at both national and state levels to better identify how systems of geology, geomorphology, ocean processes and sediment

distribution can be grouped. These groupings are known as ‘coastal compartments’. Coastal compartments can help land managers prepare best-practice risk and erosion assessments and allow for easy comparison with adjoining areas as well as easy upscaling to larger regions. They are an important consideration in preparing a coastal management plan.

It is important that CMPs are integrated with wider municipal planning. The State Planning Policy Framework of planning schemes states that planning must consider as relevant any relevant Coastal Action Plan or management plan approved under the *Coastal Management Act 1995* or *National Parks Act 1975* in Clause 12, Environmental and Landscape Values. Many other planning schemes draw out coastal values in their Local Planning Policy Framework, which includes their Municipal Strategic Statement¹ and local planning policies.

Planning for, and management of, coastal public land should integrate seamlessly with the wider municipal planning context regardless of which entity manages the coast.

5.1 Strengthening Coastal Management Plans

The Expert Panel considers that the ability to prepare CMPs should be retained and strengthened under the new Marine and Coastal Act:

- A CMP would be required for all areas of coastal Crown land outside of National Park Act areas. Management plans prepared under the *National Parks Act 1975* would be required to comply with the management plan requirements of the new Act and take its objectives into account.
- CMPs could cover multiple coastal reserves and be prepared in partnership with several land managers. Updating the clear guidelines for their preparation would ensure coastal compartments were considered in determining the extent and area of a CMP.
- CMPs should be integrated with relevant regional and local strategic planning documents, e.g. planning schemes, open space strategies and climate change adaptation plans.
- CMPs could be further linked to Regional Catchment Strategies by consulting and involving coastal Catchment Management Authorities in their preparation and endorsement.

- CMPs would require periodic formal reviews to align with the statewide strategy development timeframes.
- The Minister would be provided with improved mechanisms to approve the use and development of land that is generally in accordance with an approved CMP, avoiding the need for subsequent site-specific planning permits and consent approvals. The Minister would be able to exclude specific larger or significant proposals from this process if it were determined that detailed site specific approvals were required.

5.1 Proposed improvements	Who or how
Coastal management plans (CMPs) would be retained and strengthened.	Coastal land managers would be required to develop CMPs, on a five yearly basis, in consultation with the community and DELWP.
The Minister can approve use and development proposed in CMPs at the time the CMP is endorsed	A CMP can be prepared for multiple coastal reserves and in partnership with several land managers.

Site-specific use and development controls for coastal and marine areas

Site-specific planning controls (such as a planning permit or a *Coastal Management Act 1995* consent) on coastal public land are important because they give the land owner (the relevant Minister on behalf of the Crown) and coastal manager the opportunity to assess proposals against coastal policy and strategy and to ensure public values are protected. The new Act would maintain the Minister’s current ‘veto’ power for use and development on coastal Crown land. A responsible authority must refuse to grant a permit if it is objected to by the Minister and must include all conditions required by the Minister.

Minister’s right as the land owner

The Coastal Management Act requires the consent of the Minister acting as the Crown land owner for use and development of Crown land on the coast and in the marine environment out to three nautical miles. As mentioned above, the Minister’s power in this area should be maintained.

However, the Act does not specify any exemptions, meaning that all activities on Crown land require Ministerial consent, even very small works projects and maintenance activities. This has led to attempts to streamline consents through a 'coverall' consent for low-impact activities that has been problematic and not broadly successful.

The new Act would clarify and simplify when and how the Minister's consent is required. This is particularly relevant in circumstances where a CMP (see section 5.1) has been developed and the *Planning and Environment Act 1987* also applies.

Assessment of the impacts of a proposal

On the coast (Areas covered by planning schemes under the *Planning and Environment Act 1987*)

Victoria has a strong municipality-based land use planning system provided by the *Planning and Environment Act 1987*. The planning system, which is primarily implemented through the Victoria Planning Provisions (VPPs) and local planning schemes, provides a strong framework for making decisions about appropriate use and development at a regional, local and site specific level. The planning system applies to public land across the coast and over the Gippsland Lakes and other waterways connected to the coast. In some municipalities, particularly in Port Phillip Bay, the planning system, through the planning scheme, applies 600 metres out into the marine environment.

To enable integrated decision-making the State Planning Policy Framework of planning schemes requires the Victorian Coastal Strategy, Coastal Action Plans and CMPs to be considered in land use planning and decision making, as relevant.

The *Coastal Management Act 1995* and the *Planning and Environment Act 1987* are also jointly triggered if a planning permit is required on coastal Crown land. A planning permit cannot be issued unless the Minister's consent under the *Coastal Management Act 1995* is provided. In granting consent the Minister must consider coastal policy developed under the Act.

The responsible authority (usually a Council), has legislative powers to refer planning permit applications on most areas of the coast to the Department of Environment, Land, Water and Planning under either s.52 notice (or 'advertising') requirements for planning permit applications or s.55 (Determining or Recommending referral authority)

of the *Planning and Environment Act 1987*, ensuring that relevant coastal expertise is provided to the responsible authority about whether a planning permit should be granted.

These strong statutory links between the two acts are a strength of the current system. However, the complexity of the arrangements has, at times, led to duplication of efforts, an unclear demarcation of issues relevant for consideration on a consent and planning permit and in some circumstances, inconsistent conditions on the two approvals.

The *Coastal Management Act 1995* also includes a minor penalty for unauthorised use and development of coastal Crown land (e.g. encroachment). This penalty is not commensurate with the significance of the offence, particularly for high-risk applications such as clearing mangroves or dredging a channel and is not an effective deterrent. The Coastal Management Act does not include an explicit penalty if conditions on a consent are not complied with. Compliance with a condition is relevant where the condition may be application of an agreed environmental management plan. Non-compliance with the condition in this example can lead to environmental pollution and damage.

In marine areas (Areas not covered by planning schemes under the *Planning and Environment Act 1987*)

The majority of the marine areas in Victoria out to three nautical miles are not covered by the planning system outlined in the *Planning and Environment Act 1987*. Each marine sector has approval processes under legislation for various use and development activities. Examples are fisheries licences, aquaculture licences and off-shore petroleum exploration licences. However, there remain many uses and developments that are not regulated through these sector-based mechanisms.

The *Coastal Management Act 1995*, through the section 37 consent requirement, has provided the default use and development approval for activities that occur on the Crown land sea bed, including proposals that are not regulated under other legislation, such as wave energy trials and dredging proposals. As mentioned above, in the terrestrial areas the consent process is supported by strong policy; in marine areas the process has at times fallen short mainly due to gaps in policy in regard to assessing impacts of proposals in the marine environment.

Currently, the *Coastal Management Act 1995* does not have an express provision for public notice to consider an application for the use and development of coastal Crown land. This has led to concerns about the transparency of decision making, especially when there are no avenues for public notice under other legislation.

The proposed Marine and Coastal Policy, including a marine spatial planning framework, would provide a sound basis to guide decision making for use and development in the marine environment. Consent for use and development proposals on Crown land in marine waters (that are not regulated through sectorial mechanisms) would still be required.

5.2 Keeping a consent provision in the new Act

The new Act would enable the Minister for Energy, Environment and Climate Change to have the final say on use and development proposal on Crown land in coastal and marine areas. This would ensure that the Minister's rights as the land owner are maintained noting that activities on Crown land must be consistent with any Land Use Activity Agreement that is in place under the *Traditional Owner Settlement Act 2010* (Vic).

The new Act would clearly articulate when consent provisions are:

- 'not required', e.g. it is an approved use and development in a Coastal Management Plan and or other relevant plan, or
- simply a 'yes or no' to fulfil land owner consent, e.g. for low-impact works where a planning permit under the *Planning and Environment Act 1987* is still required, or
- 'required' to assess the impacts of the application and its adherence to the relevant coastal and marine policy and planning for those proposals that are not regulated under other legislation.

When consent is required, the new Act would:

- provide a clearer definition on use and development that picks up the key things that need to be 'regulated', implementing the risk-based approach.
- include provisions for public notice to allow for a more transparent process (relevant for proposals in marine areas where the *Planning and Environment Act 1987* or other public notice provisions do not apply);
- maintain the absence of third party reviews to VCAT; that is, the Minister's decision is final as occurs currently.

Policy guidance such as the Significant Impact Guidelines for the *Environment Effects Act 1978* and the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth) could also be developed.

It is recommended that the penalty provisions be designed so that they better reflect the significance and level of risks of the proposed use or development. Penalties need to be set at a level where they act as an appropriate deterrent. There could also be some gradation of the penalty associated with its risk, for example a breach of condition, with little impact, may attract a lesser penalty, as opposed to complete unauthorised development or pollution and environmental damage attracting a maximum penalty.

Policy guidance such as the Significant Impact Guidelines for the *Environment Effects Act 1978* and the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth) could also be developed.

5.2 Proposed improvements	Who or how
<p>Maintain consent provisions for the Minister to have the final say on use and development on Crown land in coastal and marine areas.</p> <p>The new Act would clearly articulate when consent provisions are:</p> <ul style="list-style-type: none"> • not required • a 'yes' or 'no' consent or • required to assess proposals against coastal policy and strategy and ensure public benefits are protected. 	<p>DELWP would continue to assess consent applications under delegated power from the Minister.</p>
<p>Strengthen the enforcement of unauthorised use and development and including penalty provision for non-compliance with consent conditions.</p>	<p>To be considered in drafting a new Marine and Coastal Act</p>
<p>Reduce duplication in the processing and consideration of use and development applications.</p>	<p>Responsible Authorities and Departments would work together to clearly articulate roles and responsibilities in how they process and consider use and development applications.</p>
<p>Enable the development of a Marine and Coastal Policy to provide a very strong basis to guide decision making for use and development in the marine environment.</p>	<p>See 4.1 Strengthening marine management.</p>





6. Adapting to climate change

The coast is naturally dynamic and is constantly changing and evolving in response to waves, tides and wind. When these coastal processes affect things we value, we call them coastal hazards. Climate change impacts, such as increased sea level rise and more frequent storm events, will not produce new coastal hazards but will increase the severity and occurrence of the existing hazards.

Climate change will mean changes to the state of marine and coastal ecosystems. The impacts of rising ocean temperatures and increased ocean acidity will change the composition and spread of marine habitats and ecosystems. Similar ecosystem changes will occur on land as rising sea levels and increased human population squeeze out coastal ecosystems. The challenge is to recognise when these changes are happening and that a 'healthy' ecosystem today may not be the same as a 'healthy' ecosystem in the future. We need to manage the transition or change in the state of the system.

Adaptation is the process of adjusting to these new conditions in a way that makes an individual, community or system better suited or more resilient to its environment. Adaptation planning is a means to look to a future for the community under coastal change. It is about giving people a degree of certainty as to what they can expect in the future and a greater ability to cope with change. Each level of government and the community will need to undertake some form of risk assessment, resilience building and adaptation to future climate change impacts. Adaptation planning has already begun for many areas and sectors and this work will need to continue.

Some specific areas of uncertainty that are relevant to coastal and marine areas include:

- How best does marine and coastal legislation recognise climate change?
- How do we recognise and/or manage changes to the state of marine and coastal ecosystems?
- Do we need to define a process for adapting to climate change on the coast?
- Do we need a coastal strip that allows for natural coastal processes?
- How do we deal with impacts of these processes on private land?
- How do we deal with the potential loss of coastal Crown land due to climate change?
- How do we continue to ensure public access to beaches?
- Adapting to climate change may require upgrading and or building new protective assets in many locations to protect public assets, but which can be linked directly to private benefits. How do we provide greater flexibility as to how these structures and assets can be funded, now and in the longer term? (See section 7 Resourcing).

Climate change is likely to increase the severity and occurrence of coastal hazards such as erosion, flooding and storm events and, in turn, impose greater risks to life, property and coastal values. Not all assets will be able to be protected under future climatic conditions. One issue that's often raised, particularly as impacts become more severe, is legal liability.

Victoria's current response is through policy. The *Victorian Coastal Strategy 2014* states that as a general principle, use of the coast and the location of public and private assets should respect natural coastal processes. Further, the Crown does not have an obligation to reduce the impacts of coastal hazards, sea level rise and other natural processes on private land.



The issue of liability for the impacts of natural processes has been addressed in different ways in other jurisdictions. In NSW, section 733 of the *Local Government Act 1993* provides that councils are not liable for damage caused by flooding and natural hazards in the coastal zone as a result of the doing or omitting to do something in good faith, such as granting or refusal of a development application. Recent legislative amendments in NSW have retained this indemnity and NSW legislation clearly states that a council has acted in good faith if they act in accordance with an approved coastal management program. There is some opinion that Victoria's new Act should further clarify liability for the impacts of natural coastal processes.

Climate change reforms

The development of a reviewed Climate Change Act is happening in parallel with development of the Marine and Coastal Act. The two pieces of legislation are being considered very closely together to ensure that the processes and eventual legislation align.

Work has also commenced on developing a Climate Change Framework for Victoria. This framework will be used to guide the development of the strategies and actions for adapting to climate change in coastal and marine environments.

The Marine and Coastal Act should recognise specific issues relevant to the coastal and marine environments but link with processes and frameworks established under the revised Climate Change Act to ensure clarity and avoid duplication. For example to encourage and facilitate the recognition of 'blue carbon', rather than establishing a new framework and process to enable carbon sequestration agreements, the processes within the Climate Change Act should be considered and used.

The following proposals are improvements that would assist in guiding decision making for adaption to climate change in marine and coastal environments.

Question 12:

Do you feel that the policy statement in the VCS should be reflected in legislation through the new act? Why?

6.1 Introducing legislation that recognises climate change

The Victorian Climate Change Act is being reviewed. The independent review panel has recommended that 'Climate Change Objectives and Principles' be introduced and delivered across the whole of government and that climate change be considered in relevant decision making. There is an opportunity for the new Marine and Coastal Act to also formally recognise climate change as an issue of significance for coastal and marine areas. It is proposed to recognise climate change in the objectives of the Act.

Two of the proposed objectives for the new marine and coastal system specifically refer to climate change. These are:

- To plan for, manage, maintain and improve Victorian marine and coastal ecosystems, waters, and lands by building ecosystem resilience to climate change impacts, avoiding detrimental incremental and/or cumulative ecosystem impacts and working with natural processes where practical.
- To reduce current and future risks from climate change by improving the resilience of coastal communities and assets and adapting to the impacts of increased hazards.

6.1 Proposed improvements	Who or how
Recognise climate change in the objectives of the new Marine and Coastal Act	In the drafting of Marine and Coastal Act.

6.2 Providing greater guidance for decision makers in an uncertain environment

It is important for the new Marine and Coastal Act to be aligned with the reforms to the Climate Change Act currently being undertaken. The new Marine and Coastal Act and broader system should complement the Climate Change Act, for instance through providing greater guidance to decision makers in a variety of ways:

- Developing strong policy, guidance and technical

expertise to decision makers – The Marine and Coastal Strategy, the Marine and Coastal Policy and Regional and Strategic Partnerships would play a role in developing policy and guidance and implementing processes for adapting to climate change. This should take a risk management approach (prioritises action based on risk) and be adaptive if circumstances, scientific knowledge or other information change. The Strategy, Policy and RASPs should also align and be guided by statewide Adaptation Plans prepared under the Climate Change Act.

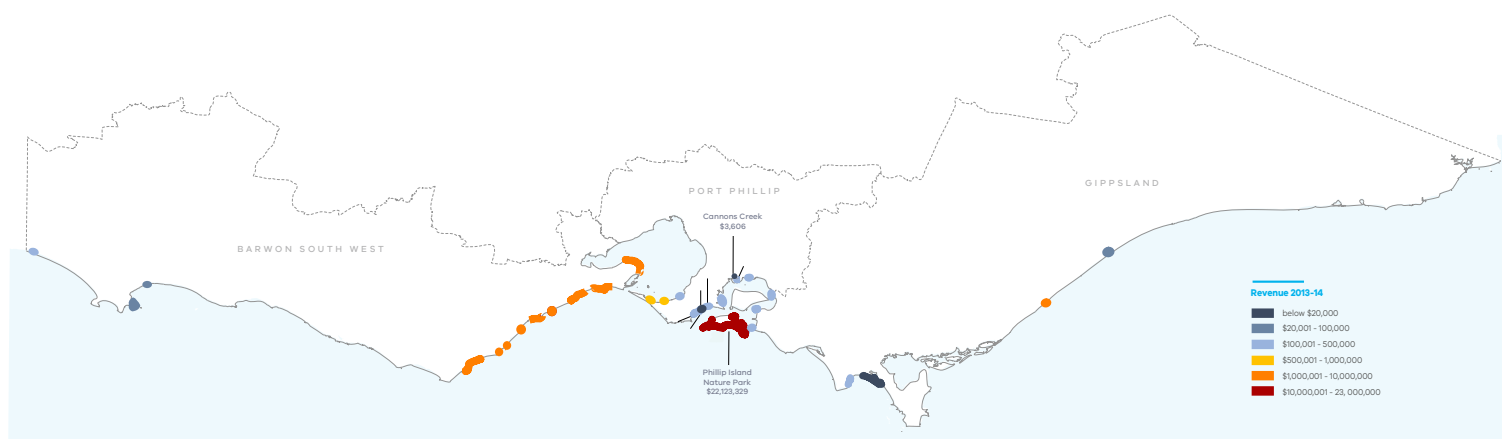
- Establishing the baseline of condition – To give greater certainty to scenario modelling of future climate change impacts and to aid realistic planning for climate change adaptation, the new Act would provide for establishing the baseline condition of marine and coastal areas and measuring these parameters over time (See section 8.1).
- Enabling benchmarks for planning to be set and updated through the Marine and Coastal Strategy and Marine and Coastal Policy – One way to create certainty for future planning is to set benchmarks through policy. Benchmarks should be regularly updated as science and knowledge of what is happening and what is expected to happen improves.

6.2 Proposed improvements	Who or how
Provide strong policy, guidance and technical expertise to decision makers on the process of adapting to climate change, aligned with the Climate Change Act.	Align the Marine and Coastal Strategy and Marine and Coastal Policy with the revised Climate Change Act. The Marine and Coastal Strategy, Marine and Coastal Policy and Regional and Strategic Partnerships would develop policy and guidance and implement processes for adapting to climate change.

7. Sustainable resourcing of the proposed system

As outlined earlier, resourcing arrangements for coastal and marine environments need to be improved to enable us to address the current and future challenges posed by an ageing asset base, increasing and changing demands resulting from population growth as well as the impacts of climate change. To do so requires a clear picture of what is generated and needed to deliver coastal and marine management. A good understanding of the opportunities to generate revenue and reduce costs is also needed. In addition to the current opportunities, it is likely that new charging and cost-sharing mechanisms will be needed to enable us to address the challenges and achieve our vision.

There is currently a lack of transparency in many of the funding arrangements, which makes it difficult to clearly identify what revenue is being generated and invested in coastal and marine management as well as to accurately document the costs. Some information is well documented, for example, through the annual reports provided by Category 1 and 2 CoMs (reflected in the map below), however, for areas managed by local government and Parks Victoria it is more difficult to ascertain exactly what is generated and spent. It is also difficult to quantify what is spent by other agencies and by departments such as DELWP.



Map 1: Revenue generated by category 1 and 2 Committees of Management, 2013/14

While the lack of transparency makes it difficult, there are clearly some efficiencies that can be achieved by improving the current system. These include: reducing some of the complexity of coastal Crown land managers; achieving economies of scale benefits for key services such as waste collection and vegetation management; reducing the number of advisory institutions; and reducing duplication within the land use planning system.

There are also likely to be further opportunities to implement the principle of beneficiary pays. Currently, significant revenue is generated from coastal and marine areas from leases, licences, permits, fees and charges. However, these are often ad hoc and inconsistent, for example, where car parking charges are collected or what fees are set for using coastal infrastructure such as boat ramps and caravan/camping parks. There are also significant gaps where the principle of beneficiary pays could be further implemented, for example, in the transfer of licences for private structures on coastal Crown land such as boat sheds, bathing boxes and private jetties or achieving cost recovery for issuing consents. In these cases, the fees do not reflect the value and benefit provided by the asset. There would be a benefit in undertaking a comprehensive review of these types of fees and charges to identify where inconsistencies can be reduced and where significant gaps can be addressed to generate additional revenue to invest into coastal and marine management.

While the reforms to institutional arrangements would enable a greater ability to invest revenue generated along the coast back in to other areas of the coast, they are still unlikely to address some of the inequities of the current system. Activities attracting fees and charges such as caravan parks are not evenly spread along the coast. Some areas have a high density of such assets; other areas have very limited opportunities. Importantly, the location of these activities or assets does not always align with where the costs are within the system. Some of the funds generated along the coast need to be directed to the areas of highest need. In NSW, this has partly been overcome by the introduction of a Public Reserves Management Fund Program that provides financial support by way of grants and loans to Crown land managers using revenue collected via a levy and other means.



Public Reserves Management Fund Program – NSW

The NSW Department of Primary Industries – Land administers the Public Reserves Management Fund Program, which is an annual program providing financial support for the development, maintenance and improvement of public reserves. The program provides grants or low interest loans to land managers through a competitive application process. Applications are assessed against a set of objectives and clearly articulated priorities.

Funding for the program is generated through revenue from leases and licences, loan repayments and a levy on coastal Crown land caravan parks. This levy generated approximately \$5.5 million in 2014-15.

There is also a need to better define cost-sharing arrangements for the maintenance, repair, renewal and construction of new and existing infrastructure on the coast. At present, there is no clear position on who should bear the costs of such works. This leads to delays in addressing identified needs, and a disconnect between the costs of building and maintaining assets and the beneficiaries of these assets. Examples of this can be coastal protection works on coastal Crown land that provide a public benefit but also a private benefit to adjacent landowners. Currently there is no clearly defined arrangement to share the costs of such works with the beneficiaries.

7.1 Increasing transparency of costs and revenue

To provide greater transparency of where money is raised and spent in marine and coastal areas, the Marine and Coastal Council would investigate mechanisms that would provide this information to the community. This would be undertaken in consultation with departments and partner agencies such as CoMs, local government, Parks Victoria and TOLMBs. It would be important that this does not duplicate existing reporting requirements and is efficient and effective. Greater transparency will help demonstrate how existing obligations to reinvest revenue generated on reserved coastal Crown land are being met.

7.1 Proposed improvements	Who or how
Increase transparency of where revenue is generated and spent through better reporting and awareness.	The Marine and Coastal Council would investigate measures that would provide greater transparency on the costs and revenue generated and spent in coastal and marine areas in consultation with departments and partner agencies such as CoMs, local government, Parks Victoria and TOLMBs.

7.2 Greater beneficiary pays

While a 'one size fits all' approach to fees and charges is not suggested, a comprehensive review of all fees charged by coastal Crown land managers should be undertaken. This should focus on where greater consistency, cost recovery or additional revenue could be achieved while maintaining fairness and equity for the use and enjoyment of marine and coastal areas. This review could be undertaken by either the Marine and Coastal Council or DELWP in partnership with the relevant agencies and local governments. Local government could also be encouraged to undertake similar reviews for fees and charges within their control. The outcome of such reviews could then guide changes to better achieve cost recovery and implement the beneficiary pays principle. Any changes would, however, need to

consider the equitable access and use of Victoria's coastal and marine areas by all Victorians, in line with the proposed objectives.

7.2 Proposed improvements	Who or how
Undertake a review of fees and charges to identify where the beneficiary pays principle can be applied better and more consistently.	The Marine and Coastal Council or DELWP.

7.3 Targeting resources to where they are needed most

An option to enable further direction of resources generated on the coast to address key management priorities is the establishment of a contribution levy for coastal Crown land managers. Such a model would complement rather than replace the reforms to move to larger, more efficient management arrangements along the coast, especially if access to the levy revenue was limited to those managers that contributed to it. Transparency of the revenue generated along the coast would be critical to the success of the funding mechanism.

Therefore a levy could be introduced to apply to Category 1 CoMs* where transparency is currently greatest. Monies received could then be distributed by DELWP on behalf of the Minister as grants or loans back to these Category 1 CoMs based on an agreed set of criteria to address priority coastal management issues. The Marine and Coastal Council could also be asked for advice on the development of these criteria.

Question 13:

Are there activities where you think the beneficiary pays principle could be further implemented in a fair and equitable manner?

*Excluding Phillip Island Nature Parks.

Such a model would help achieve better direction of revenue generated along the coast to the areas of greatest need in addition to improving the capacity and capabilities of land through the earlier proposals. Over time, all Category 1 CoMs would likely be recipients of these grants or loans as specific priority issues that they are responsible for emerge. This type of reform would provide access for these Category 1 CoMs to a larger pool of resources dedicated to coastal management to help deal with larger works outside the scope of annual budgets. Reform would also provide an effective mechanism from which to allocate ad hoc investments in coastal management from State and Commonwealth partners.

7.3 Proposed improvements	Who or how
Better target resources to where they are needed by establishing a levy on certain coastal Crown land managers.	The new Act could establish a levy with guidance from the Marine and Coastal Council. Funds could be provided by way of grants or loans by DELWP on behalf of the Minister to the Category 1 CoMs who contribute to it to address priority needs.

Question 14:

Do you think this approach would be effective at targeting resources to where they are most needed for coastal management? Which coastal Crown land managers should be subject to such a levy and eligible to access the proposed fund?

7.4 Better articulating cost-sharing arrangements

Management of marine and coastal environments is a shared responsibility. To do it well requires the participation of all levels of government, industry and the community. It is recommended to develop and better articulate agreed cost-sharing arrangements for coastal and marine issues, for example, coastal protection works. This could be initially achieved through the Marine and Coastal Strategy and through Regional and Strategic Partnerships. Alternatively, a clear process could be established whereby the beneficiaries of particular coastal infrastructure works could be identified and cost-sharing arrangements determined to reflect the level of benefit provided. It would be important to investigate mechanisms to enable any agreed contribution to be continued when properties change hands, for examples, for maintenance of coastal protection works that also benefit private properties.

Any cost sharing arrangements will need to consider how ongoing management, maintenance and auditing costs will be met as well as articulate principles that need to be considered, for example, beneficiary pays and providing positive public benefit. The recently released Victorian Floodplain Management Strategy provides examples of how cost sharing arrangements can be better articulated for dealing with particular issues. For example, it is clearly stated that the cost sharing arrangements are proposed to differ for the maintenance of existing monitoring gauges based on who is using the information collected. For new gauges identified as a priority, the strategy clearly articulates that the capital costs would be shared by state and Commonwealth governments yet the maintenance costs will be the responsibility of local communities through the local government.

7.4 Proposed improvements	Who or how
Establish a process to determine appropriate cost-sharing arrangements for coastal infrastructure.	Agreed cost-sharing arrangements could be established through mechanism such as the Marine and Coastal Strategy and Regional and Strategic Partnerships.

7.5 Continuing to invest in capacity building, sharing technical expertise and volunteer programs

There is a continuing need to build capacity in existing entities and volunteer groups through investment in initiatives such as Coastcare and sharing of technical expertise and advice, as well as embedding experts to assist partner agencies. Successful examples of this include the Flying Squad that assisted local governments to undertake planning amendments or DELWP's provision of coastal engineering expertise to assist a Crown land manager's commission and manage coastal infrastructure projects. The sharing of resources in the marine environment, such as vessels and equipment, between agencies may also be an option to help tackle the challenge of the high costs associated with on-water management.

7.5 Proposed improvements	Who or how
Continue to build capacity, share technical expertise and support volunteer programs.	Departments and agencies to continue to provide expert guidance and technical expertise and invest in volunteer programs such as Coastcare.

Question 15:

How can cost-sharing arrangements be clearly articulated? Should this be a policy response involving commonwealth, state and local government? If so by which means? Alternatively, does it require a legislative response?

8. Improving knowledge of the condition of marine and coastal areas

Building our knowledge of the marine and coastal environment is essential to ensure that Victoria can achieve our vision and meet the objectives of the marine and coastal system. Access to long-term data and knowledge on the condition of the natural marine and coastal environment, including the biophysical and physical environment and built assets of public value, can improve the management of the marine and coastal system in a variety of ways.

Condition monitoring to establish a baseline would help identify change over time and the impacts of management actions and threats on the system. For the marine and coastal environment, such knowledge has multiple benefits:

- Adaptive management – Having a better understanding of the changing condition or environmental assets would help us identify threats, initiate response and monitor the effectiveness of these actions.
- Public land managers can fulfil a duty of care for public safety and respond to changing expectations – For example the condition of protective and recreational assets along coast can be monitored to inform prioritisation of repairs/upgrades or removal of these assets, based on condition or if they no longer provide an appropriate service.
- Emergency preparedness – Monitoring and knowledge of the extent of issues such as coastal flooding and erosion after storm events, algal blooms or marine pest incursions, once collated can build a story that allows more accurate predication of future emergencies. This knowledge can be used to plan to more effectively respond to these events.
- Planning for climate change – knowledge of condition over time gives more certainty to modelling of future scenarios of the impacts of climate change and allows realistic trigger points for action to be set.

- Achieving our objectives – It is important to know whether we are meeting our objectives, having an impact or achieving an outcome, e.g. protecting or enhancing marine and coastal environmental values.

8.1 Understanding the condition of marine and coastal areas

The Marine and Coastal Act would require the Minister to periodically assess the condition of the marine and coastal environment. This should be through a State of the Marine and Coasts Report, which would report on the condition, threats and benefits of natural marine and coastal values, including biophysical and physical elements (e.g. condition and extent of key habitats, catchment inputs and coastal processes such as sand movements) as well as built assets.

The Act would require the report to be prepared in alignment with the development of the Marine and Coastal Strategy so that it can better inform policy and priorities. The report should also be aligned with the *(Framework for the Victorian 2018 State of the Environment Report)*, prepared by the Commissioner for Environmental Sustainability Victoria, to improve our ability as a community to understand and respond to challenges. The State of the Bays report currently being prepared could be transitioned into the new State of the Marine and Coasts Report in the future. The Minister should assign responsibility for the preparation of the report to an agency with the skills and expertise needed to deliver it at the time. Alignment and consideration of other existing reports such as the Catchment Condition and Management Report will also be important.

DELWP, EPA, DEDJTR, the Commissioner for Environmental Sustainability Victoria, Parks Victoria, the Victorian Catchment Management Council, CMAs and other agencies, the Marine Science



Consortium and various universities would need to continue to monitor and compile information that can feed into the report. Where data gaps are identified, the Marine and Coastal Council could provide advice on how they could be addressed. Minimising reporting burden on these entities will be an important consideration in determining what and how information is collected and fed into this reporting system.

8.1 Proposed improvements	Who or how
Develop a State of the Marine and Coasts Report that sets the baseline condition and monitors change over time.	Accountability for preparation of this report should lie with the Minister administering the new Act.

8.2 Building capacity and knowledge transfer

To help ensure the information collected on the condition of marine and coastal environments informs decision making within the system, the Marine and Coastal Council should play a role in translating this information and advocating for its consideration. This could be through: ensuring the Marine and Coastal Strategy uses this information; identifying gaps in knowledge and monitoring; and commissioning research. A subcommittee of the Council (e.g. Science Panel or Marine Science Panel) would be an appropriate entity to undertake some of these key functions.

To do so, strong links and partnerships are needed with research bodies and universities to continue to foster capacity and technical expertise that is relevant to policy and decision making. Maintaining this in Victoria will be important. Links with Traditional Owner Groups will also need to be strengthened to improve the incorporation of

indigenous knowledge into decision making and marine and coastal planning and management. The Commonwealth, through bodies such as the Office of Water Science and Geoscience Australia, may also have data and information to inform marine and coastal planning and management.

8.2 Proposed improvements	Who or how
Improve knowledge translation for decision makers through ensuring that statewide strategy is informed by the report, gaps in knowledge and monitoring are identified, research is commissioned and technical expertise and capacity is fostered in partner organisations.	Core function of the Marine and Coastal Council.

Question 16:

Would legislating for a State of the Marine and Coasts Report help to achieve the system objectives? What issues would need to be considered in drafting a legislative obligation?

9. Boosting community involvement

Coastal and marine education for user groups and general members of the Victorian community is a critical element of a successful integrated marine and coastal management system. Victoria’s approach to community involvement in coastal and marine management and decision making has been central to the level of integration already achieved. Community engagement and involvement has comprised a range of activities including:

- representatives in volunteer CoMs and advisory bodies
- marine education
- citizen sciences such as community monitoring programs
- Coastcare
- other community and volunteer programs.

However, opportunities to engage the community on matters specific to the coastal and marine environment have not been maximised, are often sectorial based and have not engaged the wider community. The management and delivery of community engagement and involvement needs to better balance all community values into the future. Achieving this outcome would support stimulating investment (interest, resources and programs) in coastal and marine management now and into future.

The proposed system would build on the existing strengths of community involvement in marine and coastal management in Victoria. Formal and informal opportunities for the community to be involved in coastal and marine management should be maintained and enhanced. Clear and transparent opportunities for community input to decision making should also be provided.

The following table outlines how the proposed improvements to the marine and coastal system would facilitate greater community involvement and participation:

KNOWLEDGE

IMPROVING GOVERNANCE AND INSTITUTIONAL ARRANGEMENTS

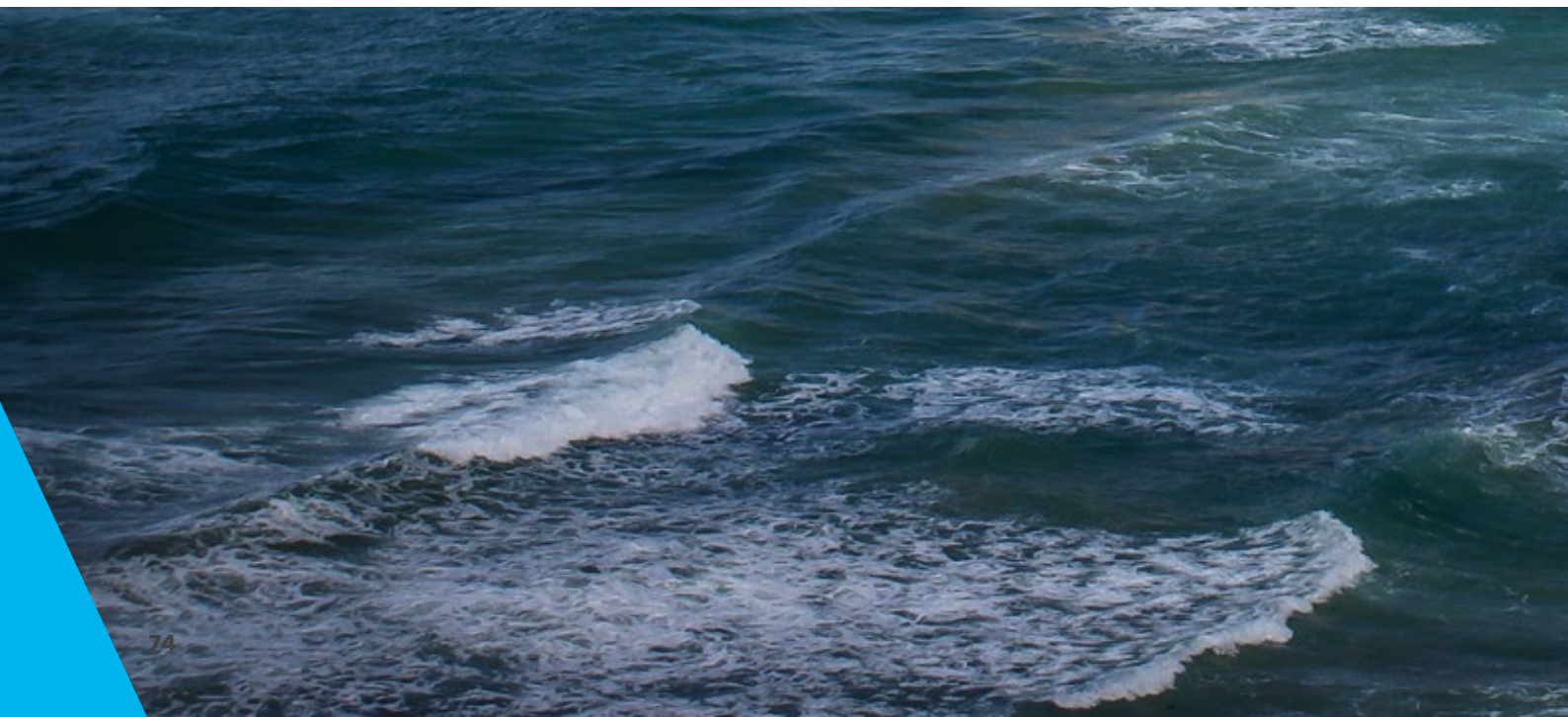
ADAPTING TO CLIMATE CHANGE

INTEGRATING PLANNING SYSTEMS

STRENGTHENING MARINE MANAGEMENT

How the proposed marine and coastal system will boost community involvement:

PROPOSED IMPROVEMENT	HOW IT BOOSTS COMMUNITY INVOLVEMENT
State of the Marine and Coasts Report.	<ul style="list-style-type: none"> • Provide broader community and user groups access to clear information about the condition of the environment.
Establishing a Marine and Coastal Council	<ul style="list-style-type: none"> • Provides a conduit between government and community on marine and coastal matters. • Contribute to the development of state-wide policy and strategy for marine and coastal areas. • Provides a formal process for representatives from the community, government and industry to participate in system-wide oversight.
Boosting the role of coastal Catchment Management Authorities	<ul style="list-style-type: none"> • The Regional Catchment Strategies would boost community involvement and engagement in natural resource management issues across catchment, coasts and marine.
Provide for regional and strategic partnerships (RASPs)	<ul style="list-style-type: none"> • Provides the opportunity to foster co-ordination, co-operation and partnership between organisations and communities. • Gives communities and user groups the opportunity to be involved and have their say during planning processes.
Fostering skilled and capable coastal managers	<ul style="list-style-type: none"> • Formal appointments to a CoMs or advisory groups and informal participation (such as through friends groups or the Coastcare program) in coastal management would be maintained. • Both Category 1 Committees of Management and Local government achieve a balance of developing the necessary skills and capacity to deal with current and future challenges whilst staying relatively connected and responsive to local communities. • Where communities are interested there is an option for appointment of section 86 Committees of Management under the <i>Local Government Act 1989</i> providing formal community participation. • Traditional Owner Land Management Boards will be increasingly important in coastal and marine management.
Strong policy and technical guidance for climate change	<ul style="list-style-type: none"> • Community participation in the process of adaptation planning enhances understanding of the risks to coastal and marine values and a greater ability to cope with change.
Coastal Management Plans maintained and strengthened	<ul style="list-style-type: none"> • Development of Coastal Management Plans will continue to have mandatory public consultation. • Required management plans in each coastal area would become the agreements between the community, land managers and government on how each area of coastal land would be managed.
Transparent and co-ordinated site specific controls	<ul style="list-style-type: none"> • Options for better integrating site specific use and development controls will include providing a system of public notice on applications that will be considered in making decisions.
Marine and Coastal Policy	<ul style="list-style-type: none"> • The Marine and Coastal Policy would encourage community stewardship and volunteer involvement in managing the marine environment. • The Marine and Coastal Policy would explore opportunities for the involvement of community and industry in research, education and citizen science.
Establishing a Marine spatial planning framework	<ul style="list-style-type: none"> • The Framework will provide a fundamental roadmap for comprehensive consultation with marine user groups and marine industry sectors. • It would provide the process for engagement and discussion between marine sectors, government agencies and marine resource users and the community about the long-term marine planning requirements.
Port Phillip Bay Environmental Management Plan	<ul style="list-style-type: none"> • Provides the opportunity to foster co-ordination, co-operation and partnership between organisations with a role in the management of Port Phillip Bay and communities. • Gives communities and user groups with an interest in the health of Port Phillip Bay the opportunity to be involved and have their say during the planning process.

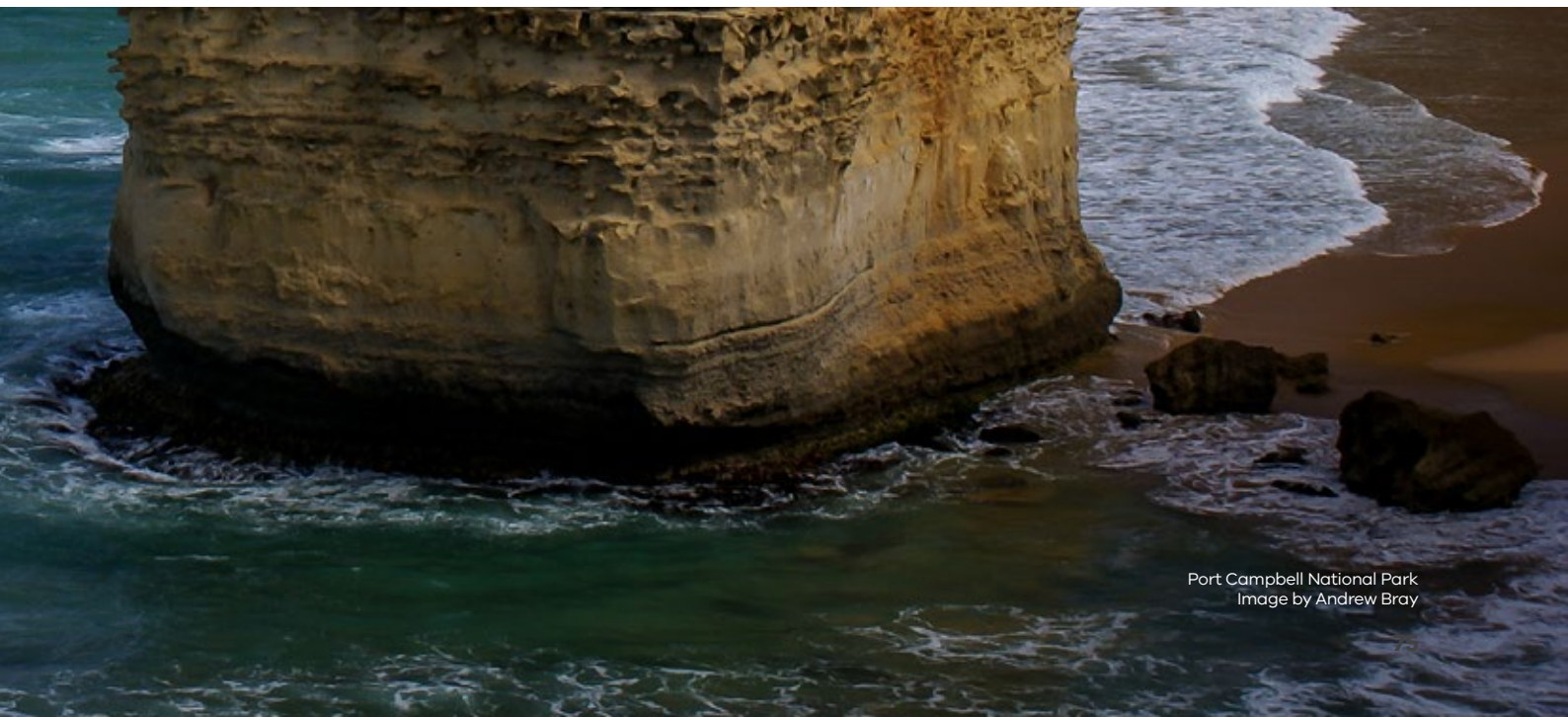




PART

Implications of the proposed reform

3



1. Summary of the proposed system

This diagram provides an overview of the proposed system. It shows the various institutional arrangements within the broader marine and coastal system and the functions they would deliver.

While the majority of the system exists within the portfolio of the Minister for Energy, Environment and Climate Change, a number of entities, such as other departments and most marine managers, would still be ultimately accountable to their relevant portfolio Ministers.

MINISTER

Possible Future Institutional Arrangements

MONITORING AND KNOWLEDGE
OF CONDITION

Commissioner for
Environmental
Sustainability

Other Agencies and
Universities

Environment
Protection
Authority

STATE-WIDE POLICY AND
STRATEGIC ADVICE

Marine and
Coastal
Council

Science
Panel

Sub-committee
(as needed)

REGIONAL/ISSUE
BASED PLANNING

Regional and Strategic
Partnerships (as needed)

Melbourne Water

Catchment
Management
Authorities x5

CONTROLS ON USE AND
DEVELOPMENT

Local
Government

Informal/formal
volunteer
involvement

EFFICIENT AND
SUSTAINABLE MANAGERS
 COASTAL

Category 1
Committees of
Management

Parks Victoria

Traditional Owner Land
Management Boards

EFFICIENT AND
SUSTAINABLE MANAGERS

 MARINE

Marine Sector Agencies
e.g. Fisheries, Ports, Transport
Safety Victoria, other

2. Comparison of current and proposed legislation

A number of the proposed reforms would require inclusion in the new Marine and Coastal Act. Replacing the current *Coastal Management Act 1995*, the proposed Act would maintain and build on some of the key provisions of the current Act while providing for a number of new areas.

Some of the key proposals that would need to be enabled through the proposed Act include:

- Expanded objectives for the system
- Obligations to act in accordance with the new Act
- Marine and Coastal Council
- Process to establish Regional and Strategic Partnerships
- Marine and Coastal Strategy
- Marine and Coastal Policy
- Port Phillip Bay Environmental Management Plan
- Coastal Management Plans
- Consent for use and development of coastal Crown land
- Obligation to prepare a State of the Marine and Coasts Report.

The following table provides a comparison of what could be included in a new Marine and Coastal Act with what is currently provided for in the Coastal Management Act.

The remaining proposals in the consultation paper would not require legislative changes to implement. These could be achieved either using existing legislative mechanisms, through policy or through changes to processes or investments. A summary of these is provided in Appendix Six, which highlights which proposed reforms would require legislative changes and which could be achieved through other means.

COASTAL MANAGEMENT ACT 1995

Objectives of the Act (Part 1)

Coastal planning and Management System (Part 2)

Victorian Coastal Council (Division 1)

Regional Coastal Boards (Division 2)

Coastal Planning (Part 3)

Victorian Coastal Strategy (Division 1)

Coastal Action Plans (Division 2)

Management Plans (Division 3)

Use and development of coastal crown Land (Division 4)

Other proposed legislative changes
(not in CMA Act 1995)

PROPOSED LEGISLATIVE CHANGES IN THE MARINE & COASTAL ACT (MACA)

- Expand objectives to recognise climate change and better reflect aspirations for marine areas.
- Obligation to act in accordance with objectives of the new Act.

Establish a Marine and Coastal Council

- Membership

Expanded to include representatives from the community, government and industry.

- Functions

Expert advice, conduit to community, knowledge transfer, advise on sustainable marine and coastal environments.

Remove Regional Coastal Boards

- Strengthen the role of coastal Catchment Management Authorities for natural resource management in marine and coastal environments.
- Allow the Minister to initiate Regional and Strategic Partnerships.

Amend
Catchment
and Land
Protection Act
as needed

- Prepare a state-wide Marine and Coastal Strategy.
- Prepare a Marine and Coastal Policy.

- Regional Catchment Strategies to expand consideration of marine and coastal natural resource management issues.

- Enable Regional and Strategic partnership plans to deal with regional and issues based planning that crosses jurisdictions.

- Enable marine spatial plans to be developed as required.

- Coastal management plans MUST be prepared for all areas of coastal public land.

- Enable use and development proposed in a Coastal Management Plan to be approved at the time the Coastal Management Plan is endorsed.

- Maintain consent provisions for the Minister to have the final say on Crown land in coastal and marine areas.

Amend
Catchment
and Land
Protection Act
as needed

- Require that a State of the Marine and Coasts Report be developed that sets the baseline condition and monitors change over time.
- Prepare Port Phillip Bay Environmental Management Plan

3. Better transparency and roles and responsibilities

Central to the success of the proposed system are roles and responsibilities that are more transparent. The proposed reforms seek to improve both accountability and transparency in a number of ways:

Improved transparency

- The establishment of a Marine and Coastal Council would strengthen transparency by providing better oversight of marine and coastal management, policy and planning. The proposed ability to formally table advice provided in Parliament would also increase transparency, as would tabling their annual report.
- The State of the Marine and Coasts Report would provide greater transparency by having clear baseline information.
- A clear and transparent process for developing and reviewing policy and planning, such as the Marine and Coastal Strategy, Marine and Coastal Policy and Coastal Management Plans, would provide greater transparency in how we plan and manage marine and coastal environments.
- The process of developing the Marine Spatial Planning Framework would clearly outline how all sectors and users of the marine environment, such as government departments, agencies, industry and community, would have input to designing a system. This would then enable a transparent planning system that would actively respond to competing use and resource challenges in the future.
- The system would provide for community consultation processes for coastal Crown land consents where no consultation is required through other approvals processes. This would provide greater transparency on decisions about the use and development of coastal and marine areas.

Accountability for functions

- A range of roles and responsibilities would be defined in legislation to provide better accountability. This includes the establishment of the Council, policy and planning, as well as for Regional and Strategic Partnerships (RASPs) where a clear process for assigning accountability/leadership for developing and implementing would be prescribed.
- Obliging the Minister to prepare and outline an implementation plan for the Marine and Coastal Strategy, with expert guidance from the Marine and Coastal Council, would ensure that it is clearer that it is a whole-of-government strategy, not just that of an advisory body.
- The expanded role of the coastal Catchment Management Authorities in integrating natural resource management across catchment, coasts and marine environments would reduce duplication and provide greater accountability at a regional scale.
- Maintaining the management of specific sectors with current entities will maintain the clear accountabilities that are already provided for through specific legislation, for example fisheries management.
- Simplified coastal management arrangements (local government and Category 1 CoMs) that reduce complexity will improve accountability, for instance through being required to prepare Coastal Management Plans.
- The formal role of Traditional Owner Land Management Boards in coastal and marine management would be clearer through joint management of coastal and marine areas.

It would be necessary to continue to clarify roles and responsibilities within the system and agreed accountabilities. This could be negotiated and achieved by articulating responsibilities and accountabilities for key functions as part of the Marine and Coastal Strategy and through RASPs. The following table provides a general overview of the roles and responsibilities within the proposed system.

General overview of the roles and responsibilities within the proposed system:

WHO	ACCOUNTABLE FOR
Minister for the Marine and Coastal Act	<ul style="list-style-type: none"> Statewide Marine and Coastal Strategy Statewide Marine and Coastal Policy A Regional and Strategic Partnership Preparation of a Port Phillip Bay Environmental Management Plan State of the Marine and Coasts Report Consents for the use and development of Crown land in coastal and marine areas Allocations from a levy on coastal Crown land managers.
WHO	ROLES
State Government Agencies	<ul style="list-style-type: none"> Gather data on condition and maintain data management systems Develop the marine and coastal strategy and marine and coastal policy Maintain appropriate legislative and regulatory frameworks Provide guidance, technical expertise and information to inform and support decision makers on coastal and marine issues, in particular adaptation for climate change Provide expert advice and guidance on coastal assets and contribute to the management of state-significant assets Contribute skills and expertise to, and as requested lead, Regional and Strategic Partnerships Contribute skills and expertise to development of a marine spatial planning framework Direct management of marine resource use (continuing to reside with existing agencies/ departments) Act in accordance with the objectives of the new Act Work with Responsible Planning Authorities to clearly articulate roles and responsibilities in processing and considering use and development applications in marine and coastal areas.
Marine and Coastal Council	<ul style="list-style-type: none"> Provide expert advice, guidance and strategic direction to the development of the marine and coastal strategy and marine and coastal policy Provide a conduit between government and community for coastal and marine issues Facilitate scientific research and advice to promote best practice marine and coastal planning and management Advise on the sustainable management of marine and coastal environments Provide oversight of implementation within the marine and coastal system from strategy development to actions on the ground Advise the Minister as requested on use and development applications.
Coastal Catchment Management Authorities and Melbourne Water	<ul style="list-style-type: none"> Integrate natural resource management across catchments, coasts and marine Contribute skills and expertise to, and as requested lead, Regional and Strategic Partnerships Prepare Regional Catchment Strategies with stronger marine and coastal components (CMAs) Provide expert advice on coastal flooding and erosion.
Local Government	<ul style="list-style-type: none"> Contribute skills and expertise to, and as requested lead, Regional and Strategic Partnerships Manage areas of coastal public land including preparing coastal management plans for those areas, and manage and maintain assets Responsible Authority and Planning Authority under the <i>Planning and Environment Act 1987</i> Work with agencies to clearly articulate roles and responsibilities in processing, and considering use and development applications in marine and coastal areas Integrate strategic municipal planning with coastal management planning.
Committees of Management	<ul style="list-style-type: none"> Manage areas of coastal public land including preparing coastal management plans for those areas and manage and maintain assets Contribute skills and expertise to Regional and Strategic Partnerships Assist in integrating coastal management planning with strategic municipal planning.
Parks Victoria	<ul style="list-style-type: none"> Manage (jointly where TOLMBs are established) for areas primarily for conservation, such as areas scheduled under the <i>National Parks Act 1975</i>, e.g. National Parks and Marine National Parks Prepare management plans under the <i>National Parks Act 1975</i> for coastal parks that comply with the requirements of the new Act and take the objectives of the new act into account Contribute to development of strategy, policy and planning Facilitate tourism and other opportunities Contribute skills and expertise to, and as requested lead, Regional and Strategic Partnerships Contribute skills and expertise to development of a marine spatial planning framework.
Traditional Owner Groups and Traditional Owner Land Management Boards	<ul style="list-style-type: none"> Implementation of agreements under the Native Title and Traditional Owner Settlement Acts Joint management of coastal and marine protected areas by Traditional Owner Land Management Boards.

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Appendix One

Member Representative Organisations of the Stakeholder Reference Group

Victorian Coastal Council
Regional Coastal Board representative
Great Ocean Road Coast Committee
Balnarring Beach Foreshore Committee of Management
Gippsland Local Government Network
Association of Bayside Municipalities
G21 Geelong Region Alliance
Great South Coast Group
Municipal Association of Victoria
Port Phillip & Westernport Catchment Management Authority
Department of Economic Development, Jobs, Transport & Resources
Fisheries Victoria
Parks Victoria
Environment Protection Authority
VRFish
Victorian National Parks Association
Australian Coastal Society
Australian Marine Science Association
Museum Victoria
Melbourne Water
Federation of Victorian Traditional Owner Corporations
Native Title Services Victoria

Appendix Two

Principles for guiding change

The options and reforms proposed are underpinned by a set of principles designed to provide the compass for how we manage coastal and marine areas. The suite of principles has evolved from a combination of coastal and marine objectives and contemporary natural resource management concepts to cater for flexibility, sustainability and ecosystem resilience.

Ecosystem-based approach: The maintenance, and where appropriate restoration, of marine and coastal ecosystem structure and function is fundamental to current and future use and enjoyment of Victoria's land and sea environments and resources, and the ecosystem services and intrinsic biodiversity values that they provide. An ecosystem-based approach should therefore underpin Victoria's coastal and marine planning and management system, incorporating:

- avoiding detrimental cumulative or incremental ecosystem impacts
- working with natural processes where practical
- building ecosystem resilience to climate change impacts where we can.

Ecological sustainable development: Use and development that affects Victoria's coastal and marine environments should be focussed on improving the total quality of life of Victorians, across current and future generations, in a way that maintains the ecological processes on which life depends.

Integrated Coastal Zone Management: Planning and management should be coordinated and integrated, as appropriate, across:

- the coastal zone from ocean to land and atmosphere
- the water cycle, including from estuaries, oceans, bays and coastal waters groundwater and waterways, where this affects coastal and marine environment and water quality
- industry sectors and users of the coastal zone and marine waters
- land tenures where this affects
- long-term and short-term environmental, economic, social and health considerations.

Precautionary principle: If there are threats of serious or irreversible environmental damage, lack of full certainty should not be used as a reason for postponing measures to prevent environmental degradation. i.e. we will err on the side of caution

Proportionate and risk-based: Risk management and regulatory approaches should be proportionate to the risk involved, targeted where they have greatest effect; investment in risk management, and who pays, should reflect the benefits that result.

Evidence-based decision making: Marine and coastal planning and management decisions should be based on best available, relevant environmental, social and economic understanding, recognising that information will often be limited.

Adaptive management: A systematic process for continually improving management policies and practices by learning from the outcomes of operational programs and incorporating new information.

Appendix Three

Land management legislation

There are three key pieces of legislation that determine the status of coastal Crown land:

- *Crown Land (Reserves) Act 1978*
- *National Parks Act 1975*
- *Land Act 1958*

Traditional Owner legislation

Formal recognition of Traditional Owner rights and interests in Victoria occurs primarily through the *Native Title Act 1993* (Cwth) (NT Act) and the *Traditional Owner Settlement Act 2010* (Vic) (TOS Act). The NT Act provides for recognition of the traditional rights and interests to land and waters of Aboriginal and Torres Strait Islander people.

The TOS Act is unique to Victoria and provides for settlement of native title through agreements. These agreements can include partnerships between the state and a Traditional Owner group on a range of matters including access, use and management of natural resources and land.

The *Victorian Aboriginal Heritage Act 2006* (AH Act) recognises Aboriginal people as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage. At a local level, Registered Aboriginal Parties (RAPs) are the voice of Aboriginal people in the management and protection of Aboriginal cultural heritage in Victoria.

Other legislation

Other key legislation that affects coastal and marine planning and management in Victoria includes:

- *Planning and Environment Act 1987*
- *Catchment and Land Protection Act 1994*

Laws to protect our biodiversity include:

- *Flora and Fauna Guarantee Act 1988*
- *Wildlife Act 1978*

Victoria's pollution laws include:

- *Environmental Protection Act 1970*
- *Marine Act 1988*
- *Pollution of Waters by Oil and Noxious Substances Act 1986*

Legislation that controls resource use activities in coastal/marine areas includes:

- *Fisheries Act 1995*
- *Geothermal Energy Resources Act 2005 (GERA)*
- *Greenhouse Gas Geological Sequestration Act 2008 (GGGSA)*
- *Marine Safety Act 2010*
- *Mineral Resources (Sustainable Development) Act 1990 (MRSDA)*
- *Offshore Petroleum and Greenhouse Gas Storage Act 2010 (OPGGSA)*
- *Petroleum Act 1998 (PA)*
- *Pipelines Act 2005 (PiA)*
- *Port Management Act 1995*
- *Transport Integration Act 2010*
- *Underseas Mineral Resources Act 1963 (UMRA)*

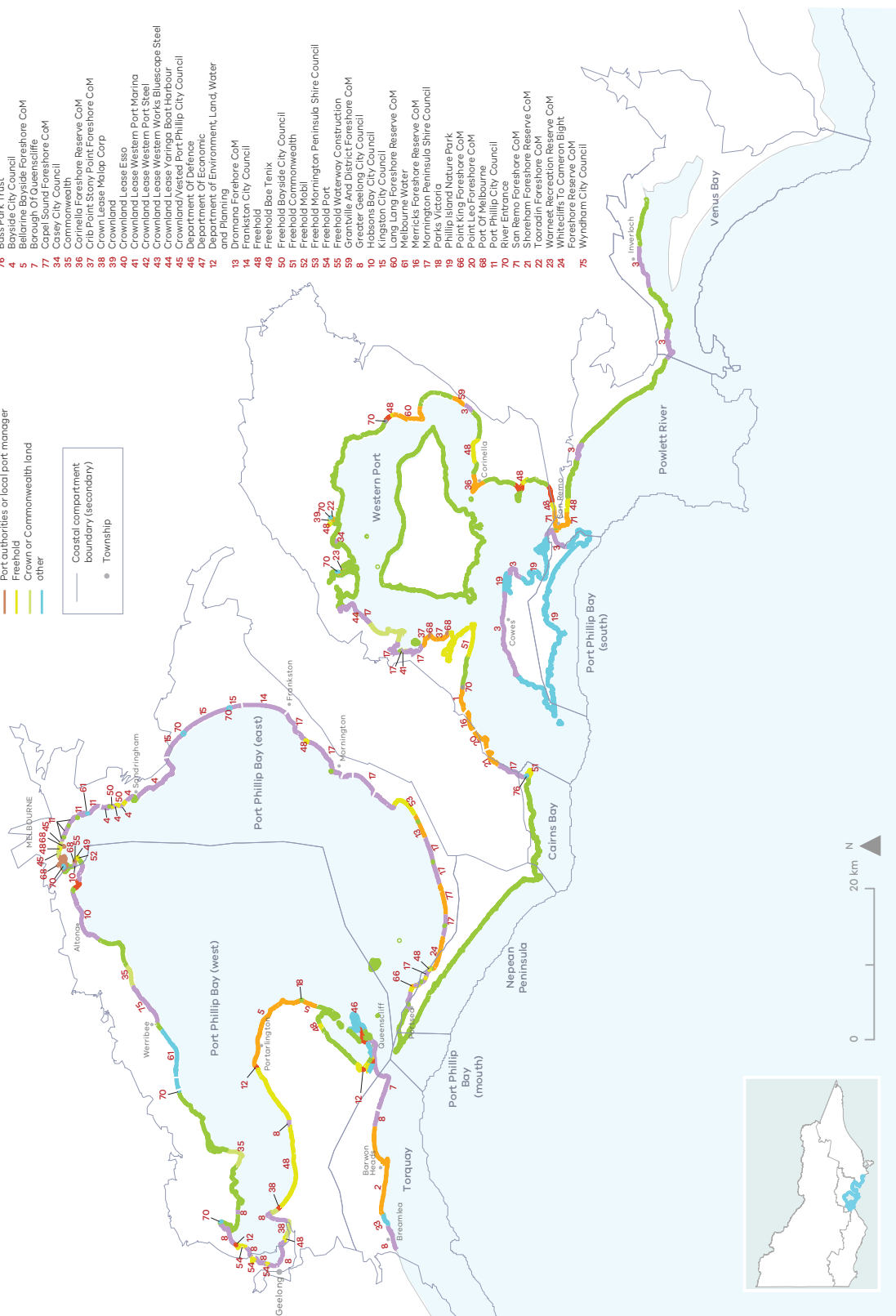
There are many Commonwealth legislative instruments as well as international agreements that guide decision making for the Victorian coast and marine environment, including the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*, the *Offshore Petroleum Greenhouse Gas Storage Act 2006*, the *Native Title Act 1993* and the *Fisheries Management Act 1991*.

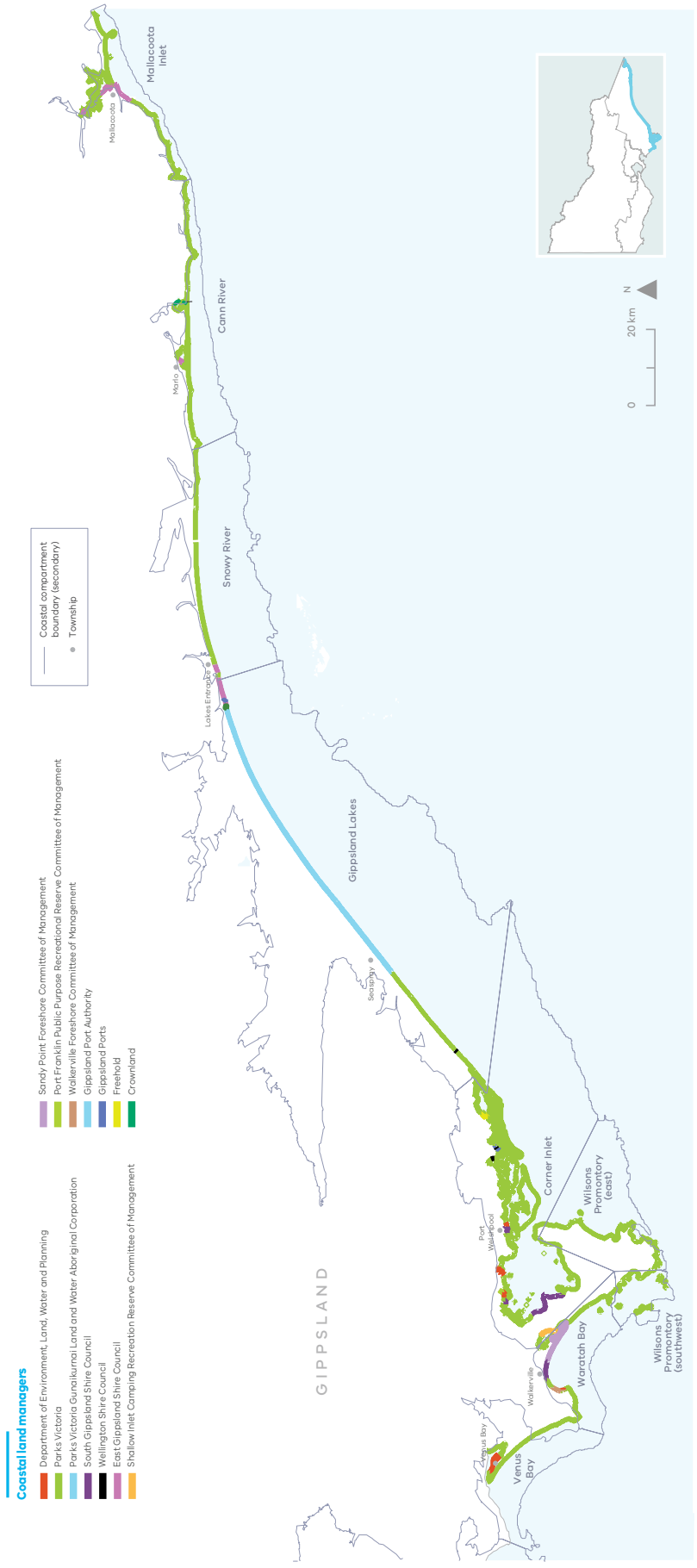
Coastal land managers

- | | | |
|-----|-----------------------------------|--|
| 31 | Barrington Foreshore Reserve CoM | |
| 32 | Barwon Coast CoM | |
| 33 | Barwon Regional Water Corporation | |
| 34 | Bass Coast Shire Council | |
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Land manager type

- Department of Environment, Land, Water and Environment
■ Parks Victoria
■ Committee of management
■ Local council
■ Port authorities or local port manager
■ Freehold
■ Crown or Commonwealth land
■ other







Appendix Five

Glossary

Adaptation

adaptation is the process of becoming adjusted to new conditions in a way that makes an individual, community or system better suited or more resilient to its environment.

Adaptation planning

a means to look ahead to the future despite change – giving people a degree of certainty as to what they can expect in the future and a greater ability to cope with change.

Catchment

the area of land that drains to a watercourse or estuary.

Catchment Management Authority

established under the Catchment and Land Protection Act 1994 to achieve integrated and sustainable catchment management. There are five coastal CMAs in Victoria.

Coast (Victorian)

Broadly defined to include: the sea and the seabed to the state limit three nautical miles or 5.5 km; land and inland waters in the coastal catchment.

Committee of Management (CoM)

Established under the Crown Land (Reserves) Act 1978. The role of a CoM is to “manage, maintain and control” an allocated Crown land reserve on behalf of the Minister.

Crown land

Public land not vested in a public authority, including land temporarily or permanently reserved under the Crown Land (Reserves) Act 1978.

Cultural heritage

qualities and attributes possessed by places and objects that have aesthetic, historic, scientific or social value for past, present or future generations.

Ecosystem good and services

ecosystem goods (such as food) and services (such as waste assimilation) are the benefits people obtain, directly or indirectly from ecosystems. The services are classified into four different categories (regulating, supporting, provisioning and cultural services).

Expert Panel

a committee of six members appointed to provide expert coastal, marine, policy and planning advice on the development of the marine and coastal act project.

Foreshore

the coastal fringe; generally the land between the coastal road and the low water mark.

Freehold land

refer to ‘private land’.

Infrastructure

physical structures which facilitate use of the coast, such as roads, paths, piers, toilet blocks.

Invasive species

an animal pest, weed or disease that can adversely affect indigenous species and ecosystems.

Marine pest

refer to ‘invasive species’.

Marine Spatial Planning Framework

a framework to guide where future planning might be needed and resolve dispute in the marine estate.

Marine spatial planning

is a concept for strategically managing the ecological sustainable development and use of marine waters. Marine spatial planning includes the three dimensional spatial and temporal planning of the marine estate for various uses to balance the environmental, economic and competing needs of the community.

Planning scheme

is a legal document prepared by the local council or the Minister for Planning and approved by the Minister under the Planning and Environment Act 1987. A planning scheme sets out policy and requirements for use, development and protection of land. It consists of a written document and any maps and plans it refers to.

Private land

land under freehold tenure (privately owned).

Public land

unalienated land of the Crown (refer to Crown land) or land vested in a public authority.

Traditional owners

people who, through membership in a descent group or clan, have responsibility for caring for particular Country. A Traditional Owner is authorised to speak for Country and its heritage as a senior Traditional Owner, an Elder or, in more recent times, as a registered native title claimant.

Appendix Six

Which Reforms are required in legislation and which are non-legislative Instruments

Proposed reform		Legislation	Policy /Other
3	Improving governance and institutional arrangements		
3.1	Replace the Victorian Coastal Council with a Marine and Coastal Council	<input checked="" type="checkbox"/>	
3.2	Preparation of a state-wide policy and strategy for marine and coastal areas	<input checked="" type="checkbox"/>	
3.3	Strengthening the role of coastal Catchment Management Authorities	<input checked="" type="checkbox"/>	
3.4	Enable regional and strategic partnerships (RASP) to be established with relevant partners to deal with regional or issue based planning that crosses jurisdictional boundaries	<input checked="" type="checkbox"/>	
3.5	Reduce the complexity of advisory bodies by phasing out the Regional Coastal Boards.	<input checked="" type="checkbox"/>	
3.6	Smaller Category 2 CoMs should be transitioned into larger (Category 1) CoMs or the areas under their management be transitioned to local government to manage as the Committee of Management.		<input checked="" type="checkbox"/>
3.7	Continue to preserve, maintain and promote volunteers in coastal land management through formal and informal opportunities such as Coastcare, Landcare, local advisory bodies, s.86 committees, 'Friends of' groups and other means.		<input checked="" type="checkbox"/>
3.8	Encourage greater use of shared services and better integration between coastal land managers.		<input checked="" type="checkbox"/>
3.9	Maintain Parks Victoria's role managing areas primarily for conservation such as areas scheduled under the National Parks Act.		<input checked="" type="checkbox"/>
3.10	Support Traditional Owner Land Management Boards to be involved in coastal and marine protected area management.		<input checked="" type="checkbox"/>
4	Strengthening Marine Management		
4.1	A Marine and Coastal Policy will be undertaken, providing an overarching strategy to manage marine environments. It will be integrated and linked to a marine spatial planning framework and inform the Marine and Coastal Strategy.	<input checked="" type="checkbox"/>	
4.2	Develop a marine spatial planning framework.		<input checked="" type="checkbox"/>
4.3	Require a Port Phillip Bay Management Plan.	<input checked="" type="checkbox"/>	
5	Integrating Planning Systems		
5.1	Coastal management plans (CMP) will be retained and strengthened.	<input checked="" type="checkbox"/>	
	a. The Minister can approve use and development proposed in CMPs at the time the CMP is endorsed.	<input checked="" type="checkbox"/>	

	Proposed reform	Legislation	Policy /Other
5.2	Maintain consent provisions for the Minister to have the final say on use and development on Crown land in coastal and marine areas	<input checked="" type="checkbox"/>	
	a. The new act will clearly articulate when consent provisions are: <ul style="list-style-type: none"> not required simply a YES or NO consent, or required to assess proposals against marine and coastal policy and strategy, and ensure public benefits are protected. 	<input checked="" type="checkbox"/>	
	b. Strengthening the enforcement of unauthorised use and development and including penalty provision for non-compliance consent conditions.	<input checked="" type="checkbox"/>	
	c. Reduce duplication in the processing and consideration of use and development applications.		<input checked="" type="checkbox"/>
6	Adapting to Climate Change		
6.1	Recognise Climate Change in the objectives of the new Marine and Coastal Act	<input checked="" type="checkbox"/>	
6.2	Provide strong policy, guidance and technical expertise to decision makers on the process of adapting to climate change		<input checked="" type="checkbox"/>
7	Resourcing the proposed system		
7.1	Increase transparency of where revenue is generated and spent through better reporting and awareness.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
7.2	Undertake a review of fees and charges to identify where the beneficiary pays principle can be applied better and more consistently.		<input checked="" type="checkbox"/>
7.3	Targeting resources to where they are needed most.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
7.4	Establish a process to determine appropriate cost-sharing arrangements for coastal infrastructure.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
7.5	Continue to build capacity, share technical expertise and support volunteer programs		<input checked="" type="checkbox"/>
8	Improve knowledge transfer		
8.1	Require that a State of the Marine and Coasts Report be developed that sets the baseline condition and monitors change over time	<input checked="" type="checkbox"/>	
8.2	Improve knowledge translation for decision makers through ensuring state-wide strategy is informed by the report, gaps in knowledge and monitoring are identified and research is commissioned, and technical expertise and capacity is fostered in partner organisations.		<input checked="" type="checkbox"/>

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