Independent review of the Victorian Ports System

# FINAL REPORT | NOVEMBER 2020

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# Preface

This Final Report is the culmination of an assignment which commenced just over a year ago when I was asked by Minister Horne to undertake an independent review of the Victorian ports system.

I have had a longstanding personal and professional interest in port matters, including some 15 years working on ports and marine policy and strategy for the State Government from the late 1990s.

I was delighted to be offered the opportunity to dip my toes into port waters again, having spent the last six or so years occupied with other matters.

I have always been struck by the uniqueness and scale of port infrastructure and operations and the absolute centrality of ports to the State’s trade effort and economy.

Because of their obvious strategic importance to the State, ports are fertile territory for public policy consideration.

Competition policy driven reforms of the past few decades have resulted in a system now only partially owned by the State. Nevertheless, the State retains a vital interest in its safe, effective and efficient operation.

The State also retains a number of important levers that enable it to influence the outcomes produced by the port sector, including control of the policy, planning, legislative and regulatory frameworks within which the ports operate.

The State can also determine how to best structure the governance and organisational arrangements for the elements of the ports system for which it retains direct responsibility.

This Review was established to examine these matters of governance and organisational design in the context of significant elapsed time since the last review of this type (the Russell Review of 2001) and major changes in the operating environment of the ports system over that period.

During the course of the Review, despite the restrictions imposed by COVID-19, I was able to connect with and benefit from the wisdom of a large number of stakeholders representing many different interests in the Victorian port system.

The overriding message I have taken away from this consultation process is that the system is not badly broken but that it could function far more effectively with some judicious reorganisation and adjustment to selected key regulatory settings.

Current organisational arrangements, particularly for the remnant Government- controlled components of the system, are not purpose-designed and are overly complex. Furthermore, the safety regulatory architecture of the system does not sufficiently take into account the day-to-day operational realities of the ports.

If the State believes that the smooth functioning of the ports system is essential to the prosperity of Victoria, it needs to give closer consideration to the design of its own role in ownership and operation of the system.

It is my hope that the discussion, findings and recommendations set out in this Final Report will assist the Government in realising a more capable, fit-for-purpose ports system able to meet the needs and expectations of the Government and the Victorian community well into the future.

Mark Curry Independent Reviewer 11 November 2020.

# Acknowledgements

I would like to acknowledge the assistance provided to me in the conduct of this Review by the staff of Freight Victoria (FV) in the Department of Transport (DoT).

The following FV staff all assisted with helpful information, advice and reviewing of draft materials:

* Praveen Reddy (Executive Director)
* Andrew Newman (Director, Ports, Freight and Intermodal)
* Rosemary Donley (former Acting Manager, Ports and Road Freight)
* Simon Rooney (Senior Project Manager, Commercial Ports and Road Freight)
* Lynn Kisler (Manager, Local Ports)
* Dao Thai (Manager Freight Policy and Strategy)
* Adam Vaughan (Project Officer)

Paul Salter, Director Legislative and Regulatory Reform Branch (DoT), also provided helpful commentary at key stages of the Review.

In particular, I would like to thank Andrew Newman for his enthusiasm and drive in establishing the review and helping to shepherd it through its various milestones, and Adam Vaughan for supporting me so ably as the other member of our (very lean) Review Team.

A special mention also to Sarah Bowtell who provided expert and responsive administrative support to the Review Team whenever it was required.

Finally, I would like to acknowledge and thank those many port stakeholders who willingly gave up their time to meet with me to pass on their knowledge and views and/or to prepare written submissions and materials for the Review.

I hope this Final Report does your input justice.

Mark Curry Independent Reviewer 11 November 2020

# Abbreviations

ACCC Australian Competition and Consumer Commission

APG Australian Pilotage Group

BBV Better Boating Victoria

DAE Deloitte Access Economics

DoT Department of Transport

DUKC Dynamic Under Keel Clearance system

ESC Essential Services Commission

FV Freight Victoria

GORCC Great Ocean Road Coastal Committee Inc

GORCAPA Great Ocean Road Coast and Parks Authority

GP Gippsland Ports Committee of Management Inc

MSA Marine Safety Act 2010

MPL Melbourne Port Lessor Pty Ltd

new Authority Victorian Ports Authority (proposed)

PDS Port Development Strategy

PMA Port Management Act 1995

PoHDA Port of Hastings Development Authority

PoMC Port of Melbourne Corporation

PoMO Port of Melbourne Operator (Port of Melbourne Operations Pty Ltd)

PoPL Port of Portland Pty Ltd

PPAR Port Pricing and Access Review

PPSP Port Phillip Sea Pilots

PV Parks Victoria

SEMP Safety and Environment Management Plan

TfV Transport for Victoria

THCs Terminal handling charges

TACs Terminal access charges (also infrastructure charges)

TIA Transport Integration Act 2010

TSV Transport Safety Victoria

VCA Victorian Channels Authority

VPCM Victorian Ports Corporation (Melbourne)

VPPM Voluntary Port of Melbourne Performance Model

VPS Victorian Ports Strategy (proposed)

VRCA Victorian Regional Channels Authority

VPA Victorian Ports Authority (proposed)

VTS Vessel Tracking System

VWMA Victorian Waterway Management Authority (proposed)

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# Executive Summary and recommendations

## Introduction

1. The Independent Review of the Victorian Ports System (the Review) was established to assess the utility of the State Government’s overarching policy, governance and organisational settings in contributing to the effective functioning and performance of the Victorian ports system.
2. Underlying the Review is a clear recognition of the importance of the ports system to the long-term prosperity of Victoria and the need to ensure it is set up to function at the highest possible levels of safety, efficiency and effectiveness.
3. The Review has taken the perspective of the State Government in identifying aspects of the system over which it has a level of control or influence that would enable the construction of a meaningful reform agenda.
4. The evolution of the Victorian ports system over the last 30 years shows a rapid transition from public sector to private ownership and control of landside infrastructure and operations, with step changes occurring in the 1990s.
5. This transition process moved substantially closer to completion with the long-term leasing of the management of the Port of Melbourne to a private operator in 2016.
6. The Review has taken a strong lead from port stakeholders in assessing the overall performance of the ports system and identifying key issues, challenges and opportunities for the system.
7. The Review process has involved well over 40 direct consultation sessions with stakeholders and two field trips to the east and west of the State.
8. Over 70 written submissions were subsequently received in response to a Discussion Paper released for public comment.

## Structural arrangements for the commercial trading ports

1. The Review found that the State’s current governance and organisational arrangements for Victoria’s commercial trading ports are functional, but sub-optimal, in terms of their ability to deliver on the Government’s objectives for the ports system.
2. The current organisational arrangements are not purpose-designed. They are a by-product of other processes designed to separate and transfer the commercial elements of the ports system to the private sector.
3. The arrangements work because of the professionalism and goodwill of key players within the system, not because they are well designed.
4. Problems with the current arrangements include:
   * unnecessary organisational complexity;
   * lack of clarity about roles and accountabilities for port users and stakeholders;
   * lack of a single or primary source of authority to effectively represent the State’s interests in the ports system;
   * lack of a State port entity of sufficient scale and scope to attract and
   * retain high level maritime policy and technical expertise;
   * inconsistent approaches to delivery and regulation of key port services across the ports system;
   * insufficient coordination and control of key port services within ports; and
   * unnecessary responsibility boundaries, particularly for navigational control and safety.
5. When taken together and cumulatively, these deficiencies not only detract from the efficiency of the system but also create a degree of risk exposure for the State.

### A new Victorian Ports Authority

1. The Review concluded that the most benefit for the State is to be gained by combining the key waterside entities, the Victorian Ports Corporation Melbourne (VPCM) and the Victorian Regional Channels Authority (VRCA), into a single body responsible for waterside access, navigational control and safety in all of the commercial trading ports.
2. The centrepiece of the Review’s recommendations is the establishment in legislation of a new State port entity, the Victorian Ports Authority (the new Authority).
3. The new Authority would be Victoria’s pre-eminent port authority and the State’s key source of advice on maritime operational matters.
4. It would have overarching responsibility for the channels and port waters of all the commercial trading ports and would represent the State’s maritime interests with the private land-based port managers operating in the ports system.
5. The new Authority’s functions would include:

* ensuring the provision and maintenance of channels and navigation aids in the commercial trading ports;
* ensuring the availability, continuity and high standard of key water-based
* services in the commercial trading ports;
* deploying, supervising and supporting harbour masters in port waters and in non-port State waters as required;
* permissioning/licensing of pilotage and towage service providers in the commercial trading ports;
* contributing to the strategic planning and development of individual ports and the whole port system as required;
* facilitating new trades and the growth of existing trades through the ports system;
* providing maritime advice and expertise to local port and waterway managers as required;
* facilitating the development of the cruise shipping industry in Victoria; and
* providing information and education services about the Victorian ports system to stakeholders and the general public.

### Corner Inlet

1. The Review found that it is appropriate at this stage to consider elevating the status of Corner Inlet from ‘local port’ to ‘commercial trading port’.
2. The key advantages of this reclassification would be to facilitate the commencement of integrated land-use and infrastructure planning processes and the establishment of appropriate governance arrangements ahead of major development occurring.
3. Reclassification to a commercial trading port should be implemented following an identified trigger event, such as achievement of a significant planning or project approval milestone.

## Port Safety Roles

1. The Review found that the current arrangements for the delivery and regulation of navigational safety in the ports system are complex and inconsistent across the different commercial trading ports.
2. The arrangements for harbour masters, pilotage and towage do not provide satisfactory assurance that these key operational safety roles will be delivered with sufficient consistency, coordination and reliability to ensure the safe operation of the ports.

### Harbour masters

1. The pivotal role of the harbour master in ensuring the safety of navigation in commercial port waters was confirmed.
2. The Review concluded that the creation of the new Authority would have the effect of supporting and reinforcing the harbour master role by consolidating and clarifying lines of accountability in the three key ports of Melbourne, Geelong and Hastings.
3. The Review further concluded that, subject to the application of new requirements creating clear lines of accountability and support between the harbour master and the new Authority, it would be appropriate for the private Port of Portland Pty Ltd (PoPL) to continue to employ the harbour master for that port.

### Pilotage

1. The Review found that there is a clear argument for stronger regulatory control of pilotage services, particularly in relation to development of and adherence to safe operating practices and a robust performance management framework.
2. In general, the State-owned entity employing the harbour master should have a stronger role in and control over the conduct of pilotage services in each of the ports.
3. The Review therefore recommends that the current pilotage registration provisions of the Marine Safety Act 2010 (MSA) be replaced by a non-exclusive licensing scheme for pilotage service providers, administered by the new Authority, for all the commercial trading ports.
4. The new provisions would also place the onus on the new Authority to ensure that licensed pilotage services are at all times available to service ships in ‘pilot required waters’ in the commercial trading ports.

### Towage

1. As with pilotage, the Review found that there should be stronger and more structured accountability from towage service providers to the entity employing the harbour master than can be achieved through Harbour Masters Directions alone.
2. The Review therefore similarly recommends that the towage regulation provisions of the Port Management Act 1995 (PMA) be replaced by a non-exclusive licensing scheme for towage service providers in the MSA, administered by the new Authority, for all the commercial trading ports.
3. As with pilotage, the new provisions would place the onus on the new Authority to ensure that licensed towage services are at all times available to service ships in the port waters of the commercial trading ports.

## Management arrangements for local ports

1. The Review concluded that there would be no net benefit in making significant changes to the direct management of Victoria’s local ports in the near term.
2. Current management arrangements for the east of the State (through Gippsland Ports) and for Port Phillip and Western Port Bays (through Parks Victoria) appear to be stable and sustainable, subject to continued Government funding support.
3. The rationalisation processes set in train by the advent of Great Ocean Road Coasts and Parks Authority (GORCAPA) in the west of the State should be allowed to play out, independent of the current Review.
4. It is, however, proposed that the new Authority for the commercial trading ports be mandated to provide technical advice and support to local port managers on a no-fee basis on request, or as directed by the Minister.
5. Further, it is proposed that the PMA be amended to permit local port managers to apply their services and resources outside their declared port boundaries on a commercial basis or as requested by other local port managers, subject to satisfactory arrangements approved by the Minister.

### Integration with managed waterways

1. More fundamentally, the Review concluded that there is more synergy between the functions of local port managers and waterway managers than between local port managers and commercial trading port managers.
2. The size of vessels and the related economic implications and safety risks associated with commercial trading ports are of a totally different scale to those of local ports and waterways.
3. The Review found that it would be more beneficial from a policy and program management perspective to group local ports and managed waterways together and to treat commercial trading ports separately.
4. Under this approach, it would also make sense to integrate the boating facilities management function currently administered by Better Boating Victoria (BBV) in the Department of Transport (DoT) to achieve a more holistic approach to the management of waterways and the boating infrastructure which is intended to provide access to them.
5. To support this new approach, the Review recommends that, initially, a new administrative unit be established in the DoT to be responsible for oversighting the management of:
6. all Victorian managed waterways;
7. all local ports (as a category of managed waterways); and
8. boating facilities infrastructure (in its capacity of providing access to managed waterways)
9. In the medium term, it is proposed that a new Victorian Waterway Management Authority (VWMA) be established that would complement the new Authority for the commercial trading ports and provide a stronger profile and sense of direction and priority to the local port/waterway management sector.

## Port planning

### Port Development Strategies (PDSs)

1. The Review found that the requirement under the PMA for PDSs to be prepared for commercial trading ports has been generally beneficial for the ports system.
2. It has been effective in providing transparency and predictability for port stakeholders and in promoting alignment with strategic planning and investment priorities of the State and Commonwealth Governments.
3. The usefulness of PDSs would be enhanced if they were based around common assumptions and projections of commodity types and volume growth likely to be potentially available to the different ports as the Victorian economy evolves and grows.
4. The Review recommends that, in the context of producing a Victorian Ports Strategy (VPS), the State Government (DoT) should prepare and periodically update trade projection data and make it available to the commercial trading port managers as a common platform for the purposes of producing more integrated and comparable PDSs.

### Safety and Environment Management Plans (SEMPs)

1. The Review also found that the SEMP provisions of the PMA have been largely effective in complementing generic regulatory frameworks by assisting port managers to identify and manage safety and environmental risks in a more coordinated manner than would otherwise be the case in the complex context of ports.
2. There is, however, a need to regularly review and update arrangements and guidelines for SEMPs to ensure they keep pace with the evolution of the generic regulatory frameworks (for example, the institution of a ‘general environmental duty’ in the environment protection legislation) and progressive adoption of accredited safety and environment management systems by port businesses.
3. The Review recommends that priority should be given to the principles of minimising duplication of systems and effort; allowing for scalability in proportion to level of risk; and maximising coordination of risk assessment and management processes across responsibility boundaries within ports.

### Planning protections

1. In relation to planning protections for ports, despite the improvements detailed in Planning Advisory Note 56, Planning for Ports and their Environs (October 2014), the Review finds that the approach to buffer controls for incompatible uses in the land surrounding the ports requires further strengthening.
2. It is recommended that a review of buffer planning provisions be commissioned by the Government, taking into account the experiences of the commercial trading port managers and relevant planning authorities, since their introduction nearly 10 years ago.
3. The Review noted that another unresolved issue is the lack of adequate recognition and protection in the Victorian planning system of land and access corridors required for a future Bay West port, identified as Victoria’s next major container port once the Port of Melbourne reaches capacity.
4. It is recommended that the approach to identifying and securing the necessary land and access for Bay West in the State’s planning system should be settled as soon as practicable, in consultation with Melbourne Water and Wyndham City Council.

### Coastal shipping

1. The Review concludes that a range of policy, regulatory and investment settings at Commonwealth and State levels require reform to arrest the decline in Australian coastal shipping.
2. Victoria’s ports could play a stronger role in promoting the development of coastal shipping by identifying, planning for and investing in supply chains and technologies suited to coastal shipping.
3. The Review supports the Government’s proposal to include strategies and initiatives to promote coastal shipping in the forthcoming Victorian Ports Strategy (VPS).
4. To complement the VPS work, the Review recommends that responsible port managers be required to explicitly address the potential to grow coastal shipping in the preparation of their PDSs.
5. The Review further recommends that the Government consider the development of a separate, complementary “Victorian Coastal Shipping Strategy” to properly address the broader scope of the problem.

### A new Victorian Ports Strategy

1. The Review concludes that a new State-wide ports strategy is needed to provide a sense of vision, direction and investment confidence for the ports system, port managers and port stakeholders.
2. The new VPS should be founded on sound economic analysis and trade projection data and should involve thorough consultation with port managers and stakeholders.
3. The Review recommends that the VPS has a 30-year time horizon and be designed to accommodate periodic updating.
4. It should be prepared as soon as practicable without compromising its quality and robustness.

## Landside Pricing and Access at the Port of Melbourne

1. In relation to the recent rapid increases in ‘infrastructure charges’ levied by the stevedores on transport operators, the Review supports the conclusion of the Deloitte Access Economics (DAE) review that a ‘light-handed’ voluntary standards approach is the most appropriate response at this stage.
2. The Review concludes that the stevedores do have market power with respect to the levying of infrastructure charges, now commonly termed terminal access charges (TACs), on transport operators, but that to date there is not strong evidence to suggest they are using this market power unfairly to inflate profits.
3. Despite the recent increases in TACs, stevedore rates of return have generally declined over the last 10 years and, according to the DAE analysis, the end-to-end supply chain cost of importing a container through the Port of Melbourne has not increased in real terms.
4. The Review therefore supports the implementation of the Voluntary Port Performance Model (VPPM) proposed by the Government.
5. However, in light of the most recent Australian Competition and Consumer Commission (ACCC) container stevedoring monitoring report, the Review notes the need to keep the voluntary standards approach under review and to bring the prospect of formal price regulation back onto the table should TACs emerge as a key driver of increased stevedore profitability.
6. The Review also notes the rapid increase in ‘unexplained costs’ levied on cargo owners by the shipping lines through Terminal Handling Charges (THCs).
7. Consequently, it is recommended that as a subsequent stage of implementation, the design of the proposed VPPM be extended to include shipping line THCs which, by definition, will encompass all port-based costs which are passed through to shippers by shipping lines.

## Port sector engagement

1. Given the importance of the successful functioning of the ports system to the Victorian economy and community, the Review concludes that the Government should give priority to instituting an effective method of regular engagement with the sector.
2. It is recommended that, initially, this take the form of a biannual port roundtable event, hosted by the Minister, with a broad invitation list to a wide range of port sector stakeholders.
3. Subject to a review of the effectiveness of this approach, an additional standing advisory committee structure should also be established.

## Conclusion

1. The Review has examined the current governance and structural and arrangements for the Victorian ports system to determine their fitness for purpose in delivering on the Government’s objectives.
2. The Review has concluded that, although the system is functional, it is poorly designed and not well suited to delivering consistent, high standard outcomes in its current form.
3. The Review further concludes that the current definition of the ports system, encompassing the large commercial trading ports and the small local ports, is not helpful from a policy and strategy design perspective.
4. The Review recommends that the commercial trading ports be treated on a standalone basis in the Government’s policy and planning settings and that the local ports be grouped with managed waterways.
5. The Review recommends the reorganisation of the ports system around two new bodies, a new Victorian Ports Authority (VPA) and, ultimately, a new Victorian Waterway Management Authority (VWMA).
6. This new set of arrangements is designed to more effectively group compatible functions, appropriately allocate responsibilities to capable entities and clarify and reinforce lines of accountability, such that the Government can have confidence in the ability of the ports system to deliver safe, efficient and effective outcomes for Victoria into the future.

## Recommendations

### A Vision for the Victorian Ports System

##### Recommendations

* 1. That the suggested vision statement and the stakeholder feedback on it for the current Review be taken into account by the DoT in preparing the new Victorian Ports Strategy (VPS).

### Organisational and Management Arrangements The commercial trading ports

#### Organisational Structure

##### Recommendations

* 1. That the VPCM and the VRCA be amalgamated to create a new State-owned port entity, the Victorian Ports Authority (the new Authority);
  2. That the new Authority be allocated overall responsibility for the channels and port waters of Victoria’s four commercial trading ports, including primary responsibility for navigational control and safety;
  3. That the object of the new Authority in its legislative charter be strengthened in relation to safety and efficiency to read “to ensure that port waters and channels are managed for use on a safe, fair and efficient basis”, or similar;
  4. That the new Authority be headquartered in Geelong with operational units outposted to the other commercial trading ports as required;
  5. That the legislative charter of the new Authority be drafted to ensure that, in performing its functions, it gives due regard to the infrastructure development needs of the regional ports and the State’s regional development objectives;
  6. That the new Authority be empowered to discharge its responsibilities and carry out its functions directly or, where appropriate, through arrangements established with an identified commercial port manager;
  7. That the new Authority assume responsibility, on behalf of the State, for the Channel Operating Agreement for the Port of Portland currently in place with the port’s private operator, the Port of Portland Pty Ltd (PoPL);
  8. That under this new arrangement, PoPL continue to employ the harbour master for the Port of Portland, subject to additional accountability requirements between the Portland harbour master and the new Authority (refer to Recommendation 17);
  9. That the new Authority also be mandated to:
* provide technical advice and support to local port and waterway managers;
* provide navigational control and safety services in State waters outside port waters;
* facilitate trade through the Victorian ports system;
* facilitate the development of cruise shipping in Victoria; and
* promote an improved understanding of the role and operations of the Victorian ports system amongst stakeholders and the general community;
  1. That the new Authority retain responsibility for the management of Station Pier, pending the identification of a suitable alternative manager.

#### Corner Inlet

##### Recommendations

* 1. That, subject to an identified planning or project approval trigger event, the portions of the lands and waters of the local port of Corner Inlet and Port Albert identified as necessary to support commercial port operations be declared as a commercial trading port under section 6(e) of the Port Management Act 1995 and be named the “Port of Corner Inlet” under section 6(a);
  2. That the new Authority be allocated responsibility for oversighting the management of the channels and port waters of the Port of Corner Inlet;
  3. That the new Authority enter into a Channel Operating Agreement for the Port of Corner Inlet under which Gippsland Ports (GP) would continue to manage the channels and navigation aids of the port and collect channel fees;
  4. That based on the advice of the new Authority, after consultation with Transport Safety Victoria (TSV) and GP, the Minister determine whether the harbour master should be employed by the new Authority or should continue to be employed by Gippsland Ports.

### Port Safety Roles

#### Harbour Masters

##### Recommendations

* 1. That the new Authority be established as the primary port entity in the State responsible for employing, deploying, supervising and supporting harbour masters;
  2. That, subject to adoption of Recommendation 9, through amendment to licence conditions, the Port of Portland harbour master be required to:

1. report immediately on any near misses or incidents in the port (and any remedial action taken) to the new Authority;
2. report periodically on performance against specified operational safety metrics for the port to the new Authority;
3. comply with navigational safety standards or codes developed and promulgated from time to time by the new Authority;
4. participate in State-wide or regional advisory or coordination processes as required by the new Authority; and
5. participate in training and/or professional development programs as required by the new Authority;
   1. That the licence conditions for the harbour master currently employed by GP be amended to establish additional accountability requirements between the harbour master and the new Authority, the same or similar to those applied to the Portland harbour master;
   2. That, subject to the authorisation of the Safety Director (TSV), the new Authority be empowered to deploy harbour master resources to Victorian State waters outside declared port waters, including managed and unmanaged waterways.

#### Pilotage

##### Recommendations

* 1. That the pilotage registration provisions in Part 7.1 of the Marine Safety Act 2010 (MSA) be replaced by a new non- exclusive licensing scheme for pilotage services in all of the commercial trading ports;
  2. That the scheme be administered by the new Authority in its capacity of primary responsibility for navigational control and safety in all of the commercial trading ports;
  3. That the scheme require the new Authority to use its best endeavours to ensure that licensed pilotage services are at all times available to service ships in ‘pilot-required waters’ in the commercial trading ports;
  4. That, should there be a gap in service availability in a particular port, the new Authority be empowered to directly procure or provide pilotage services until a suitable commercial service provider can be found;
  5. That the new Authority be required to issue a licence to any pilotage service provider that is able to meet the standards and requirements specified under the new scheme;
  6. That the Safety Director (TSV) retain responsibility for the professional licensing of individual pilots, developing appropriate standards for the training of pilots and pilot exempt masters and related matters;
  7. That the Safety Director (TSV) be responsible for auditing the new licensing scheme and the performance of the new Authority in administering the scheme.

#### Towage

##### Recommendations

* 1. That the towage regulation provisions in Part 4A of the Port Management Act 1995 (PMA) be replaced by a new non-exclusive licensing scheme in the Marine Safety Act 2010 (MSA) for towage service providers in all of the commercial trading ports;
  2. That the scheme be administered by the new Authority in its capacity of overall responsibility for navigational control and safety in all of the commercial trading ports;
  3. That the new scheme require the new Authority to use its best endeavours to ensure that licensed towage services are at all times available to service ships in the port waters of the commercial trading ports;
  4. That, should there be a gap in service availability in a particular port, the new Authority be empowered to directly procure or provide towage services until a suitable commercial service provider can be found;
  5. That the new Authority be required to issue a licence to any towage service that is able to meet the standards and requirements specified under the new scheme;
  6. That the Safety Director (TSV) be responsible for auditing the new licensing scheme and the performance of the new Authority in administering the scheme.

### The local ports

#### Direct management arrangements

##### Recommendations

* 1. That Gippsland Ports continue to operate in its current form, managing the local ports to the east of the State;
  2. That Parks Victoria continue to manage the local ports of Port Phillip and Western Port, in their current configuration;
  3. That from 1 December 2020, GORCAPA progress consolidation of local port management within its area of responsibility, in consultation with the current local port managers;
  4. That the proposed Victorian Ports Authority (the new Authority) be mandated in its legislative charter to provide technical support and expertise to local port managers on a no-fee basis, on request or as directed by the Minister;
  5. That the functions and powers of local port managers be amended under Part 2A of the Port Management Act 1995 to clarify that, subject to the approval of the Minister, a local port is able to apply its services and resources outside its declared port areas on a commercial basis or as requested in providing assistance to other local port managers.

#### Integration with waterways

##### Recommendations

* 1. That the Government reform arrangements for the oversight and management of local ports to separate them from commercial trading ports and to combine them with enhanced arrangements for waterway management;
  2. That to support these new arrangements:

1. an agreed vision and purpose be developed for managed waterways (including local ports);
2. a separate State strategy be developed for managed waterways (including local ports);
3. a new, sustainable funding model be developed for managed waterways (including local ports); and
4. existing legislative and regulatory frameworks be reviewed and revised to separate commercial trading port management functions from waterway (including local port) management functions and to separate waterway management functions from marine safety regulatory functions;
   1. That, in the short term, a new administrative unit be created within the DoT to oversight administration of managed waterways, including the current local ports;
   2. That the boating facilities management function of BBV be incorporated into the responsibilities of the new administrative unit, which would then be responsible for oversighting the State’s administration of:
5. all managed waterways;
6. all local ports (as a category of managed waterways); and
7. boating facilities infrastructure (in its capacity of providing access to managed waterways);
   1. That, as a subsequent stage of reform, the Government establish a new statutory authority, the Victorian Waterway Management Authority (VWMA), to administer and further develop the above functions.

#### Overview of proposed new organisational arrangements

##### Recommendations

* 1. That the proposed roles, objects and functions for the new Victorian Ports Authority (the new Authority) be used as a basis for its establishment in legislation;
  2. That the proposed roles, objects and functions for the new Victorian Waterway Management Authority (VWMA) be used initially as a basis for the establishment of a consolidated administrative unit within the DoT and be further developed as a basis for the ultimate establishment in legislation of the new VWMA.

### Port Planning

#### Port Development Strategies

##### Recommendations

* 1. That the Port Development Strategy (PDS) provisions in the PMA be retained;
  2. That the State Government (DoT) commission the preparation and periodic updating of trade assumptions and projections for Victoria’s ports system and make them available to the responsible port authorities as a common reference platform for the preparation of PDSs.

#### Safety and Environment Management Plans (SEMPs)

##### Recommendations

* 1. That the SEMP provisions in the PMA be retained;
  2. That a review of the Ministerial Guidelines for SEMPs be undertaken by the DoT as soon as practicable and include, inter alia, consideration of the implications for ports of the new ‘general environmental duty’ (GED) in the Environment Protection Act 2017;
  3. That, in reviewing the Ministerial Guidelines for SEMPs, priority be given to the principles of:
  4. minimising duplication of systems and effort;
  5. making practical allowance for scalability in proportion to different levels of complexity and risk at different ports; and
  6. maximising coordination of risk assessment and management across responsibility boundaries within ports.

#### Port Planning Protections

##### Recommendations

* 1. That the Minister for Ports and Freight write to the Minister for Planning, seeking his agreement to establish a committee under s151 of the Planning and Environment Act 1987 to advise on measures to improve protections for commercial trading ports from encroachment of incompatible uses, including but not limited to reviewing the boundaries for the ‘port environs’ and the planning scheme controls which apply within them; and
  2. That the Government, in consultation with Melbourne Water and Wyndham City Council, settle and implement an approach to identifying and securing the necessary land for Bay West in the State’s planning system as soon as practicable.

#### Costal Shipping

##### Recommendations

* 1. That the Government progress strategies and initiatives to promote coastal shipping through the forthcoming Victorian Ports Strategy (VPS);
  2. That the Ministerial Guidelines for the preparation of Port Development Strategies (PDSs) be amended to require responsible port authorities to explicitly address the potential to grow coastal shipping in the preparation of the PDSs for their ports; and
  3. That the Government consider the development of a separate, complementary “Victorian Coastal Shipping Strategy” to encompass the broader range of Government industry policy settings and initiatives necessary to progress the growth of coastal shipping in Victoria.

#### A Victorian Ports Strategy (VPS)

##### Recommendations

* 1. That the State Government (DoT) prepare and publish a new Victorian Ports Strategy (VPS) as soon as practicable, without compromising its quality and robustness;
  2. That the new VPS:
* be founded on sound economic analysis and trade projection data;
* involve thorough consultation with port managers and stakeholders;
* have a 30-year time horizon; and
* be designed to accommodate periodic reviews and updating as new conditions and data emerge;
  1. That the DoT (Freight Victoria) develop and implement additional mechanisms to ensure effective coordination and alignment between the new VPS and individual PDSs prepared by relevant port authorities.

#### Landside pricing and access at the Port of Melbourne

##### Recommendations

* 1. That the Government, through the DoT (Freight Victoria), finalise the current design of the VPPM in consultation with relevant industry stakeholders and proceed with implementation as soon as practicable;
  2. That, as a subsequent phase of implementation, the design of the VPPM be expanded to include shipping line THCs;
  3. That the voluntary standards approach represented by the VPPM be kept under review and that formal price regulation be reconsidered should TACs emerge as a key driver of increased stevedore profitability.

#### Port Sector Engagement

##### Recommendations

* 1. That, initially, regular port sector engagement be instituted in the form of a bi-annual port roundtable event, hosted by the Minister, with a broad invitation list to a wide range of port-sector stakeholders;
  2. That the design of the agenda for each roundtable event be flexible and adapted to ensure that the priority needs and interests of stakeholders are adequately addressed;
  3. That, subject to a review of the effectiveness of this approach, an additional standing advisory committee structure be designed and implemented.

# Introduction

The Independent Review of the Victorian Ports System (the Review) was formally launched by the Minister for Ports and Freight, the Hon. Melissa Horne, at a *Ports Roundtable* event on 30 January 2020.

The purpose of the review is to assess the utility of the State Government’s overarching policy, legislative and governance settings in contributing to the effective functioning and performance of the Victorian ports system (the Terms of Reference can be found at *Appendix A*).

The Review arose from a recognition that significant changes in the governance and institutional architecture of the port system have occurred since the last comprehensive review was conducted by Professor Bill Russell in 2001[[1]](#footnote-1).

A major recent milestone was the 50-year lease of the Port of Melbourne to a private operator in 2016, precipitating a further round of organisational changes for the State’s port entities.

In that time there have also been significant changes in the internal and external operating environments of the ports system and new challenges and opportunities have emerged.

Underlying the Review is a clear recognition of the importance of the ports system to the long-term prosperity of Victoria and the need to ensure it is set up to function at the highest possible levels of safety, efficiency and effectiveness.

Thus, the focus of the Review is on the design of the system and its fitness for purpose rather than the performance of individual actors in the system.

The current COVID-19 pandemic has only served to further highlight the critical role of the ports in the logistics supply chain, allowing essential goods to continue to flow in and out of the State to meet the needs of Victorian businesses and consumers.

On a related matter, the Victorian Freight Plan[[2]](#footnote-2) committed to the preparation of a new State-wide ports strategy. This strategy would provide a long-term plan for handling future exports and imports through Victoria’s current (and future) commercial ports.

The current Review was sequenced to precede the commencement of work on the new strategy. The intention was that any reforms arising will contribute to a more contemporary, fit-for-purpose policy and governance framework to support the preparation and delivery of the strategy.

# Review approach

The Review has taken the perspective of the State Government in identifying aspects of the system over which it has a level of control or influence that would enable the construction of a meaningful reform agenda.

These aspects typically involve current policy, legislative, governance, regulatory, planning and related settings.

The Review has also taken a strong lead from port stakeholders in assessing the performance of the ports system and identifying key issues, challenges and opportunities for the system.

Consideration of the evolution of the Victorian ports system, particularly over the last 30 years, has also been used to assist in understanding the historical context of the system and where it currently sits in the reform cycle.

The evolution process shows a rapid transition from public ownership and control of the land-based assets and operations of the ports to greater private ownership and control, with step changes in this direction occurring in the 1990s.

This transition process moved substantially closer to completion with the long-term leasing of the management of the Port of Melbourne to a private operator in 2016.

In the 15-year period after the first round of privatisations and corporatisations, some rebalancing of legislative, institutional and regulatory arrangements occurred, largely flowing from the findings of the Russell Review.

This rebalancing involved a shift back from a focus on purely commercial objectives to a more explicit accommodation of strategic State policy and regulatory objectives. However, the fundamental reform trajectory remained intact.

The Review has been cognisant of this recent history and trajectory and has not attempted to fundamentally reset broad reform directions.

Rather, the Review has attempted to address the challenge of how best to combine the benefits of competition within the port system with the benefits of collaboration and coordination of effort among the components of the system.

# Review process

An Independent Reviewer was engaged through Freight Victoria (FV) within the Department of Transport (DoT) to lead the Review and prepare a report, with recommendations for consideration by the Minister for Ports and Freight.

The external consultation phase of the Review commenced in early February 2020, immediately following the Minister’s Ports Roundtable event[[3]](#footnote-3).

A series of one-on-one consultations with key stakeholders was undertaken by the Independent Reviewer to gather information and views and inform the preparation of a Discussion Paper. Many of these sessions were conducted via video or teleconference due to the COVID-19 restrictions.

The Review team was able to make two field trips prior to full COVID-19 restrictions being applied, one to the Gippsland Ports in the east of the State (Lakes Entrance, Paynesville and Corner Inlet) and the other to ports in the west of the State (Warrnambool, Portland, Port Fairy).

Appendix B contains summary details of around 40 direct consultation sessions involving over 80 individual stakeholders undertaken by early June 2020.

The Discussion Paper (a copy can be found at Appendix C) was released for public consultation in early July 2020, with submissions sought by the end of July. The close date for submissions was subsequently extended to mid-August.

The Discussion Paper was structured with a series of questions throughout designed to focus commentary around the key issues and concerns identified to that point. It was directly circulated to all identified port stakeholders, with an invitation to provide written submissions.

Over 70 written submissions were received in response to the Discussion Paper (see Appendix D for summary details of respondents) and were drawn upon extensively in the preparation of this Final Report.

Direct stakeholder consultation sessions continued following release of the Discussion Paper and ran up until October 2020. Some of these sessions were follow-up discussions with stakeholders previously consulted and others involved stakeholders not previously engaged (Appendix E contains summary details of these).

# A vision for the Victorian Ports System

## Introduction

The Discussion Paper put forward a suggested vision statement for the Victorian ports system (see Box 1 below), for consideration and feedback by stakeholders.

|  |  |
| --- | --- |
| The Victorian ports system will be: | * A national leader in the provision of convenient, efficient, cost-effective port services to the State’s importers and exporters and other commercial and recreational users; * Innovative, progressively adopting state-of-the-art practices and technologies to drive continuous improvement in the performance of its functions; * Safe and environmentally responsible, utilising best-practice risk-prevention and management systems and with capacity to respond quickly and effectively to marine incidents; * Well planned and integrated with transport and logistics supply chains, ensuring the efficient and seamless delivery of capacity to meet the State’s growing and changing trade demands as and when required; * Collaborative and constructive in the approach it adopts to coexistence with neighbouring communities; and * Understood and supported by the broader community for the critical role it plays in supporting the economic performance of the State. |

Box A suggested vision for the Victorian Ports System

The reason for including the vision statement was to encourage stakeholders to consider the broader purpose of the ports system and, hopefully, to achieve some consensus about the State’s appropriate aspirations for it.

The thinking was that this would provide an appropriate context to assess the effectiveness of the State’s high-level policy, legislative and governance settings in facilitating desired outcomes.

## Stakeholder views

Although there was general support for the key elements captured in the suggested vision statement, most respondents also made suggestions for improvement.

For example:

* most local port stakeholders felt the statement was too focused on the large commercial trading ports, with insufficient guidance for the smaller ports;
* union stakeholders felt there was insufficient emphasis on the role of the human workforce in operating the ports;
* a number of stakeholders argued for a stronger emphasis on the role of ports in addressing climate change and environmental sustainability; and
* some stakeholders thought there should be a stronger emphasis on the economic importance of the ports and their connectivity to the broader freight and logistics supply chain.

The point was made in some submissions that the statement reads more like a list of objectives or principles and that a vision should be more succinct and capture the final outcome sought.

In this light, VPCM offered the following alternative suggestion:

“The Victorian Ports system will generate value to the Victorian people and the economy by being an effective link between the maritime and landside transport networks enabling seamless transition of people and goods to their destination.”[[4]](#footnote-4)

## Findings

The suggested vision statement put forward by the Review points to many of the important elements of a high-level statement of vision, goals and objectives for the Victorian ports system.

Although many of the suggestions for improvement are sensible, it is not proposed to attempt to recraft the statement in this Final Report.

The most appropriate vehicle for the elaboration of a high-level statement of vision, goals and objectives for the ports system is the new Victorian Ports Strategy (VPS), to be prepared in the near future.

The suggested statement and the stakeholder feedback on it for the current Review should be taken into account by the DoT in preparing the new VPS.

##### Recommendations

1. That the suggested vision statement and the stakeholder feedback on it for the current Review be taken into account by the DoT (FV) in preparing the new Victorian Ports Strategy (VPS).

|  |  |
| --- | --- |
| Commercial Ports | Port Management Authority |
| 1. Melbourne | PoMO/VPC(M) |
| 1. Geelong | Geelong Port/Graincorp/VRCA |
| 1. Hastings | PoHDA/VRCA/Bluescope Steel Ltd |
| 1. Portland | Port of Portland Pty Ltd |
| 1. Portland Bay | Glenelg Shire Council |
| 1. Port Fairy | Moyne Shire Council |
| 1. Warnambool | Warnambool City Council |
| 1. Port Campbell | Parks Victoria |
| 1. Apollo Bay | ColacOtway Shire Council |
| 1. Lorne | GORCC |
| 1. Barwon Heads | BarwonCoast CoM Inc |
| 1. Port Phillip | Parks Victoria |
| 1. Western Port | Parks Victoria |
| 1. Andersons Inlet | Gippsland Ports |
| 1. Corner Inlet & Port Albert | Gippsland Ports |
| 1. Gippsland Lakes | Gippsland Ports |
| 1. Snowy River | Gippsland Ports |
| 1. Mallacoota | Gippsland Ports |

# Structural and management arrangements

## The commercial trading ports

### 5.1.1 Governance and structure

#### Introduction

Prior to 1995, governance arrangements for Victoria’s ports were relatively simple. There were three state-owned port authorities responsible for managing the whole system.

The implementation of competition reforms since that time has resulted in a complex, mixed system of private- and public-sector ownership and control.

Where port assets have been sold or leased to the private sector, the terms and conditions have been set and, subject to meeting their contractual and regulatory obligations, the private-sector entities are free to determine how to structure themselves organisationally within these parameters.

In the case of the public-sector entities, the State is able to determine how these should best be structured to meet the State’s goals and objectives for the ports system.

In all, there are currently nine entities involved in the management of the four commercial trading ports, as follows:

#### State-owned entities

* Melbourne Port Lessor Pty Ltd (MPL)
* Victorian Ports Corporation Melbourne (VPCM)
* Victorian Regional Channels Authority (VRCA)
* Port of Hastings Development Authority (PoHDA)

#### Private Sector Entities

* Port of Melbourne Operations Pty Ltd (PoMO)
* Port of Portland Pty Ltd (PoPL)
* GeelongPort Pty Ltd (GeelongPort)
* GrainCorp Pty Ltd (Graincorp)
* Bluescope Steel Pty Ltd (Bluescope)

Focusing on the State-owned entities, some ownership or control of port land and landside infrastructure remains vested in three different entities:

* MPL as ‘landlord’ for the Port of Melbourne land (leased to PoMO);
* VPCM as Crown Land Committee of Management for Station Pier; and
* PoHDA as owner of the Port of Hastings landside infrastructure (except the Bluescope land/infrastructure).

State ownership of channels is vested in two different entities:

* VPCM for the Port of Melbourne (subleased to MPL and sub-subleased to PoMO); and
* the VRCA for the ports of Geelong, Hastings and Portland.

Operating rights for channels are spread across private and public sector entities:

* PoMO for the Port of Melbourne (under the port Concession Deed and sub-sublease from MPL);
* VRCA for the ports of Geelong and Hastings; and
* PoPL for the Port of Portland (under a Channel Operating Agreement with VRCA).

In terms of navigational control in the ports, primarily exercised through the agency of harbour masters and marine controllers:

* VPCM controls the port waters of Melbourne, including the shared channels at the entrance to Port Phillip Bay, which service Melbourne and Geelong;
* VRCA controls the port waters of Geelong and Hastings;
* PoPL controls the port waters of Portland, delegated through the Channel Operating Agreement with VRCA.

#### Stakeholder views

Most stakeholders consulted during the Review felt current arrangements were overly complex and could see benefits in some rationalisation.

A particular concern was that, under the current arrangements, two different bodies are responsible for navigational control of vessels in Port Phillip after they enter the Heads – VPCM hands over control of Geelong-bound vessels to VRCA as they pass from Port of Melbourne waters to Port of Geelong waters.

This creates complexity through the interface of different harbour control systems, including different Vessel Tracking Systems (VTSs) and a separately operated Dynamic Under Keel Clearance (DUKC) system.

Although some stakeholders commented that this arrangement is made to work through the professionalism and goodwill of the officers of the two organisations, some boundary tensions were noted.

The arrangement begs the question:

“Would one integrated harbour control system for the whole of Port Phillip be better than two separate systems?”

Around half of those who responded to the Discussion Paper supporting rationalisation of the system preferred Option 1, involving a single entity responsible for all the State’s commercial trading port-related responsibilities.

SAL commented that:

*“The demarcation of responsibilities and* authority is difficult to understand and there is likely to be unnecessary dilution of maritime expertise across them. A strong case exists to develop a single accountable model with responsibility for all regions as outlined in Option 1”[[5]](#footnote-5)

The other half of the stakeholders supporting change preferred Option 2, involving integration of the two State owned entities responsible for waterside functions in the commercial trading ports, VRCA and VPCM.

Some of these stakeholders argued that Option 1 took the integration approach too far, without being clear about the benefits and possible downsides.

It was noted, for instance, that the waterside (channel management and navigational control) functions of a VRCA are quite different to the landside (business and infrastructure development) functions of a PoHDA, requiring different skillsets and underlying culture.

The VRCA commented that:

“A separation of function between in/on-water and landside commercial activities is a practical delineation to make . . . Management of land-based assets for commercial gain, is quite distinct from the management of in/on-water navigational services . . .” [[6]](#footnote-6)

The MPL, as ‘landlord’ for the Port of Melbourne lease, also has a specialised contract management and compliance function. This function would need to be carefully safeguarded in any broader rationalisation of the system.

PoMO argued strongly that administration of the port lease by MPL should remain a separate function. PoMO supported Option 2, commenting that:

“. . . having a single entity responsible for channels and navigational safety would ensure integrated, consistent policies, standards and management oversight . . .” [[7]](#footnote-7)

PoHDA strongly supported Option 2, but made a distinction between establishing and maintaining channel infrastructure and regulating its use:

“. . . commercial channel infrastructure and commercial landside infrastructure should, where possible, be managed by the one entity . . . Investment decisions can then be made on a whole of port basis, providing a greater opportunity for rational investment decision making and competition . . . Regulating the use of channel infrastructure should be done by a non-commercial entity with a safety focus.”[[8]](#footnote-8)

There was general support among stakeholders, including the current State-owned port entities, for the headquartering of a new integrated port authority in Geelong.

However, even with this concession, some stakeholders remained concerned that the Port of Geelong could be disadvantaged under restructured arrangements.

In relation to other possible functions attributable to a new integrated ports authority, a number of local port mangers supported the proposal that it be mandated to provide technical advice and support to the local ports on request.

For example, the Moyne Shire (local port manager for Port Fairy) commented:

“In particular, Council supports the suggestion . . . that additional technical resources be made available to assist in the management of local ports in Western Victoria . . . applicable to less routine challenges that arise from time to time including dredging, maintenance of Heritage Listed assets and legal processes for dealing with non-compliance by port users.”[[9]](#footnote-9)

The VRCA was also supportive of this proposal, commenting that the new entity would have:

“. . . both the capability and capacity to provide technical dredging and navigational support not only to the regional commercial ports, but also to . . . local ports . . .”[[10]](#footnote-10)

In its submission, VPCM identified facilitation of cruise shipping as another potential function of a new port authority, citing as a benefit:

“. . . a service to regional Victoria would be the ability . . . to better respond to the significant growth in cruise tourism by creating a unified Victorian brand and marketing to the visitor economy. Before COVID-19 the cruise industry was actively seeking opportunities to increase the variety of cruise itineraries to offer customers and as the sector recovers this will be pursued again in the next few years.”[[11]](#footnote-11)

### Findings

The Review concludes that the current organisational arrangements for managing the State Government’s responsibilities for the commercial trading ports are a by-product of other processes designed to separate and transfer the commercial elements of the ports system to the private sector (most recently the structuring of the 50-year lease of the operations of the Port of Melbourne).

The Review finds that the current arrangements are unnecessarily complex and obscure leading to duplication of effort, inefficiency, inconsistency and lack of clarity for stakeholders. There is no single source of authority able to effectively represent the State’s interests in the ports system.

Rather, there are multiple and sometimes competing sources of authority which tend to dilute the State’s influence and detract from its ability to attract and retain the necessary weight of maritime policy and technical expertise to play its role effectively.

Inconsistent operational approaches across multiple responsibility boundaries, particularly for navigational control and safety, have the potential to create risk exposures for the State.

Both options outlined in the Discussion Paper would address many of the above issues and would represent a significant improvement on the current arrangements.

As set out in the Discussion Paper, the State has a strong interest in the safe, efficient and effective functioning of the Victorian port system for the benefit and wellbeing of the Victorian economy and community.

In pursuing this interest over the last 30 years, the State has determined that efficiencies can be gained by outsourcing (through various privatisation processes) the landside operations of the commercial trading ports to private companies, without compromising safety and effectiveness.

This has seen the landside assets and operations of the ports of Geelong and Portland sold to private companies and, more recently, the long-term lease of the Port of Melbourne to a private company.

Some landside assets have remained in public hands – notably at the Port of Hastings and Station Pier in the Port of Melbourne – reflecting their relatively lower level of ‘commerciality’ and therefore reduced attractiveness for private-sector operators.

Through the course of these processes, the waterside assets of the ports (primarily the channels and navigation aids) and responsibility for navigational control have generally been retained under the control of State through various iterations of State-owned port entities (e.g. VCA, PoMC, VRCA, VPCM).

This reflects an implicit policy position that the State believes it needs to maintain a degree of direct control of the functions required to:

* + 1. guarantee unhindered channel access to the ports for international and interstate trading vessels; and
    2. ensure safety of navigation in port waters.

The Review concludes that the most benefit for the State is to be gained by combining the functions of the key water- based entities responsible for waterside access, navigational control and safety in the commercial trading ports.

This approach reinforces a system design which places responsibility for commercial port management and development (trade and infrastructure) with the relevant private sector port manager (or PoHDA in the case of Hastings) and retains control of the State’s strategic interests in underlying channel ownership and safety of navigation within a single State-owned entity.

### Proposals

The Review proposes that the VPCM and the VRCA be combined into a single “Victorian Ports Authority” (the new Authority)[[12]](#footnote-12) responsible for waterside access, navigational control and safety in all of the commercial trading ports.

It is proposed that the primacy of the safety role for the new Authority be reinforced by explicitly incorporating safety into its legislated objects, noting that safety is not currently mentioned in the objects of the VPCM or the VRCA.

Similarly, it is proposed that efficiency be made explicit in the new Authority’s objects, such that the term “fair and reasonable” (which currently appears in the objects of the VPCM and VRCA in relation to management of channels and port waters) be replaced by “safe, fair and efficient”.

Under the proposed model, the new Authority would directly manage navigational control and safety functions in the ports of Melbourne, Geelong and Hastings, including employment of the harbour masters for each of these ports.

This would facilitate stronger and more consistent State control of navigational safety standards and operations and could potentially create the conditions for the development of a single, integrated Vessel Tracking System (VTS) for the whole of the State.

Depending on the capability and appetite of the commercial landside port manager or managers, the new Authority could delegate (through lease or licensing agreements) responsibility for managing channels and navigation aids to the port manager(s).

In the case of the Port of Melbourne, responsibility for channels and navigation aids has already been allocated to PoMO under the terms of the Port Concession Deed and lease arrangements.

In the case of the Port of Portland, the Review proposes that the new Authority assume responsibility for the management of the Channel Operating Agreement which delegates responsibility for channel management and navigational control to the private operator, the Port of Portland Pty Ltd (PoPL). Under this arrangement PoPL also employs the harbour master.

To ensure a consistent approach to navigational safety across all of the commercial ports and address any residual concerns about the potential for conflict between safety and commercial objectives in the role, it is proposed that additional accountability requirements be established between the Portland harbour master and the new Authority.

These additional reporting and compliance requirements could be affected by amendment to the Harbour Master’s licence conditions, either at the discretion of the Safety Director (TSV) or on a mandatory basis through amendment to Part 6.1 of the Marine Safety Act 2010.

To address the concerns of some Geelong stakeholders who have valued the independence and advocacy of the VRCA, it is proposed that the new Authority be headquartered in Geelong to provide physical proximity of personnel and decision-making processes to the Port of Geelong.

It is further proposed that the legislative mandate of the new Authority include a requirement that it give appropriate priority to the infrastructure development needs of the regional commercial trading ports (an example would be the proposed deepening of the Geelong channel) and to the State’s broader regional development objectives.

The Review takes the view that, far from weakening Geelong’s position in the ports system, the proposed approach creates the potential for greater influence for Geelong and new opportunities to develop a niche as a centre of maritime expertise in the State.

This potential is reinforced by GeelongPort’s successful attraction of the Tasmanian TT-Line business to the port from late 2022 and, post-COVID, the likely growth of cruise-line destinations to the west of the State.

This latter potential could be further leveraged by the new Authority which, it is proposed, would have a significant role in the coordination and development of the cruise shipping industry in Victoria.

The combination of VPCM’s operational experience with Station Pier (Victoria’s premier cruise shipping terminal) and VRCA’s regional port knowledge and networks would ideally place the new Authority for this role.

For this reason, and due to the absence of a ready alternative, it is proposed that the new Authority retain responsibility for Station Pier at this stage.

The new Authority would also be mandated to provide technical support and expertise to the local port system on a no-fee basis where requested or directed.

For example, the new Authority could have a position of ‘harbour master for local ports’ to provide support on navigational safety issues in local ports.

It would also have significant expertise in hydrographic survey, dredging program design and procurement and marine asset management, which could be shared with the local ports.

It is also proposed that the new Authority have a general responsibility to promote the Victorian ports system, by encouraging trade growth through the system and by increasing the profile and understanding of the system amongst stakeholders and the general Victorian community

##### Recommendations

1. That the VPCM and VRCA be amalgamated to create a new State owned port entity, the Victorian Ports Authority (the new Authority);
2. That the new Authority be allocated overall responsibility for the channels and port waters of Victoria’s four commercial trading ports, including primary responsibility for navigational control and safety;
3. That the object of the new Authority in its legislative charter be strengthened in relation to safety and efficiency to read “to ensure that port waters and channels are managed for use on a safe, fair and efficient basis”, or similar;
4. That the new Authority be headquartered in Geelong with operational units outposted to the other commercial trading ports as required;
5. That the legislative charter of the new Authority be drafted to ensure that, in performing its functions, it gives due regard to the infrastructure development needs of the regional ports and the State’s regional development objectives;
6. That the new Authority be empowered to discharge its responsibilities and carry out its functions directly or, where appropriate, through arrangements established with an identified commercial port manager;
7. That the new Authority assume responsibility, on behalf of the State, for the Channel Operating Agreement for the Port of Portland currently in place with the port’s private operator, the Port of Portland Pty Ltd (PoPL);
8. That under this new arrangement, PoPL continue to employ the harbour master for the Port of Portland, subject to additional accountability requirements being established between the Portland harbour master and the new Authority (refer to Recommendation 17);
9. That the new Authority also be mandated to:

* provide technical advice and support to local port and waterway managers;
* provide navigational control and safety services in State waters outside port waters;
* facilitate trade through the Victorian ports system;
* facilitate the development of the cruise shipping industry in Victoria; and
* promote an improved understanding of the role and operations of the Victorian ports system among stakeholders and the general community;

1. That the new Authority retain responsibility for the management of Station Pier, pending the identification of a suitable alternative manager.

### 5.1.2 Corner Inlet

#### Introduction

The local port of Corner Inlet and Port Albert already displays many of the features of a commercial trading port.

It also appears to be poised for a development and expansion phase, largely in anticipation of the need for upgraded port facilities to support construction and operation of a major offshore windfarm project.

Confirming this potential, Qube Energy, the operator of the Barry Beach Marine Terminal (BBMT) in Corner Inlet, has recently sought advice on environmental approval processes required for a project to redevelop the terminal into a significant regional port facility “intended to handle bulk goods, break-bulk cargos and niche cargos to service the oil and gas industry and support clean energy projects”.[[13]](#footnote-13)

There are currently no specific criteria for determining when a port should be assigned the status of ‘commercial trading port’. Declaration is the responsibility of the Governor in Council on the recommendation of the Minister.

Responsible commercial trading port managers are required to prepare a Port Development Strategy (PDS) in accordance with Ministerial Guidelines which is referenced in the State Planning Policy Framework (SPPF).

They are also required to prepare a Safety and Environment Management Plan (SEMP), to engage the services of a harbour master and maintain channels to declared depths.

#### Stakeholder views

There was significant support from stakeholders for the declaration of Corner Inlet as a commercial trading port.

Maritime Safety Victoria (MSV) commented that:

“Declaring relevant sections of Corner Inlet... (including the declaration of Pilot Required waters) will formalise the many arrangements that are already occurring to support commercial trade in the area... The framework should be established now in anticipation of any increase in trade.”[[14]](#footnote-14)

Star of the South (the proponents of the offshore windfarm project) support declaration. They argue generally for the need to maintain flexibility for possible expansion of suitable port facilities to meet their future project needs and:

“support any early discussions and development that would enable timely establishment of appropriate harbour and access facilities in the region.”[[15]](#footnote-15)

In terms of an appropriate manager for Corner Inlet should reclassification be progressed, there was a mixture of views about the two options put in the Discussion Paper – retaining Gippsland Ports (GP) as port manager or appointing PoHDA.

BIAV supported retention of GP, noting that it:

“. . . already holds the necessary expertise and talent to drive growth and efficiency in a potential commercial port the size of Corner Inlet.”[[16]](#footnote-16)

Traditional Owner group, GLAWAC, also supported GP on the basis that:

“Significant planning [is] required to ensure any expansion doesn’t impact the cultural or environment status of Corner Inlet. Gippsland Ports understands these sensitivities and could progress more collegially than a new entity.”[[17]](#footnote-17)

### Findings

The Review considers that, to ensure that any significant development is effectively coordinated with State-wide strategic planning for the ports system and broader freight and logistics network, it is appropriate at this stage to consider elevating the status of Corner Inlet from ‘local port’ to ‘commercial trading port’.

Further, it is preferable that this reclassification be progressed some years ahead of project and/or other port-related activity growing significantly.

This would enable integrated land use and infrastructure planning processes to commence in a timely manner and appropriate governance arrangements to be established ahead of major development, rather than being rushed or lagging behind.

However, it is noted that assuming all necessary approvals are achieved, the proposed windfarm development and supporting port infrastructure may not commence construction for some five years or more.

While there appears to be no significant disadvantage to reclassification to a commercial trading port occurring as soon as practicable, the Review concludes that it would be preferable that an event, such as achievement of a significant planning or project approval milestone by a key proponent, be identified by the Government as a trigger for reclassification.

### Proposals

It is proposed that, subject to an identified planning or project approval trigger event, the portions of the lands and waters of the local port of Corner Inlet and Port Albert identified as necessary to support commercial port operations be declared as a commercial trading port under the Port Management Act 1995 (PMA) and be named the “Port of Corner Inlet”.

Consistent with the broader proposed reform for the management of the waterside operations of the State’s commercial trading ports, it is proposed that the new Victorian Ports Authority (the new Authority) be allocated primary responsibility for the channels and port waters of the new commercial trading port of Corner Inlet.

However, it is acknowledged that the current local port manager, Gippsland Ports (GP), already has extensive local knowledge and experience in managing the public landside and waterside (channels and navigation aids) infrastructure of the port.

GP already employs a Harbour Master responsible for navigational safety in the port and has well-established working relationships with the two private landside operators located in the port at Barry Point – Qube Energy and Ancon.

In this context, there would appear to be little advantage in transferring all direct management functions for the port to the new Authority at the time of reclassification as a commercial trading port.

In fact, there is the likelihood of unnecessary disruption and loss of momentum as a new manager familiarises itself with the local operations, requirements and challenges and establishes key management arrangements and relationships.

Therefore, it is proposed that the new Authority enter into a Channel Operating Agreement with GP, similar to the agreement that currently applies between VRCA and PoPL for the Port of Portland.

Under this arrangement, GP would continue to manage the channels and navigation aids of the port and collect channel fees.

The option would exist for the new Authority to employ the harbour master for Corner Inlet, or alternatively for GP to continue to employ the Harbour Master. This matter should be determined by the Minister on the advice of the new Authority, after consultation with TSV and GP.

##### Recommendations

1. That, subject to an identified planning or project approval trigger event, the portions of the lands and waters of the local port of Corner Inlet and Port Albert identified as necessary to support commercial port operations be declared as a commercial trading port under section 6(e) of the Port Management Act 1995 and be named the “Port of Corner Inlet” under section 6(a);
2. That the new Authority be allocated responsibility for oversighting the management of the port waters and channels of Corner Inlet;
3. That the new Authority enter into a Channel Operating Agreement for the Port of Corner Inlet under which Gippsland Ports (GP) would continue to manage the channels and navigation aids of the port and collect channel fees;
4. That based on the advice of the new Authority, after consultation with TSV and GP, the Minister determine whether the harbour master should be employed by the new Authority or should continue to be employed by Gippsland Ports.

### 5.1.3 Port Safety Roles

Arrangements for safety regulation in the Victorian ports system are complex. There are at least seven pieces of legislation and subordinate regulations involved in the creation of the current regime, including:

* Transport Integration Act 2010;
* Transport (Compliance and Miscellaneous) Act 1983;
* Transport (Safety Schemes Compliance and Enforcement) Act 2014;
* Port Management Act 1995;
* Marine Safety Act 2010;
* Marine (Drug, Alcohol and Pollution Control) Act 1988; and
* Marine (Domestic Commercial Vessel National Law Application) Act 2013

Of these, the Transport Integration Act 2010 (TIA), Port Management Act 1995 (PMA) and the Marine Safety Act 2010 (MSA) are the primary sources of the regulatory architecture for port safety.

The Review takes the view that, in addition to the articulation of sound, high-level principles and obligations, a robust safety regulatory regime for a complex operating environment such as ports needs to clearly assign practical responsibilities to entities with the requisite resources and capabilities to effectively discharge these responsibilities.

Such a regime also needs to create clear professional and organisational accountabilities and appropriate incentives (or at least remove any disincentives) to deliver optimum safety outcomes.

The Review has focused on the implementation of three key roles, and the interactions between them, as being critical to the safe operation of the commercial trading ports:

* harbour masters;
* pilotage services; and
* towage services.

### Harbour Masters

#### Introduction

Harbour masters are usually highly experienced mariners (often ex-ship masters) licensed by the Safety Director (TSV) under the MSA to ensure safe waterside operations in designated ports.

Section 230(2) of the MSA states that:

“A harbour master must carry out his or her functions . . . in a manner . . . that ensures the safety of persons and the safe operation of vessels . . .”.

There are currently five licensed harbour masters operating across the Victorian port system, engaged by four different port managers. The ports covered and the respective port managers are:

* the Port of Melbourne (VPCM);
* the Port of Geelong (VRCA);
* the Port of Hastings (VRCA);
* the Port of Portland (PoPL); and
* the Ports of Gippsland Lakes and Corner Inlet and Port Albert (Gippsland Ports).

Harbour masters create a local regulatory framework for their ports through the development and publication of ‘Harbour Master’s Directions’, which set out the rules for vessel and related service-provider operations in the port.

It is an offence under section 237 of the MSA to obstruct or fail to comply with a Harbour Master’s Direction.

#### Stakeholder views

The pivotal role of the Harbour Master in ensuring the safety of navigation in commercial port waters was confirmed by the stakeholder response to the Review.

There were mixed views about the need to review or reform employment arrangements and the adequacy of harbour master powers.

SAL felt that there were:

“no major concerns with current employment arrangements – there are various models for harbour masters which seem to all have their advantages and disadvantages . . . The most important aspect is that lines of authority, responsibility and reporting are clearly laid out and understood by all parties.” [[18]](#footnote-18)

On the other hand, VPCM argued that:

“. . . a Harbour Master needs to retain independence and apply judgement without any consideration of commercial matters . . . [and] should not be employed by private sector entities that have a strong for profit objective.” [[19]](#footnote-19)

In PoMO’s view, the harbour master role in different ports is best managed:

“within a consolidated State framework which sets minimum standards and expectations . . . [and] oversight by a single Victorian port authority with a single Board ensuring consistent governance and oversight” [[20]](#footnote-20)

PoPL strongly objected to the implication that there is any conflict inherent in the role of the Portland harbour master as a result of the direct employment arrangement in that port.

PoPL argues that the implications for the port of transferring employment to another entity would be enormous and:

“. . . would reduce safety outcomes and is incompatible with the Portland business model” [[21]](#footnote-21)

In terms of harbour master powers, some stakeholders felt that the current powers through Harbour Master’s Directions were adequate. Others, including VPCM, felt that harbour masters:

“. . . should also be responsible for the licensing of pilots . . . [and have] the power to conduct safety investigations and ensure . . . close out of non-conformances . . .” [[22]](#footnote-22)

MSV raised a different issue concerning the potential need to deploy harbour masters outside declared port waters, in Victorian coastal waters extending two nautical miles seaward:

“The state currently has very little oversight of vessel operations on those waters and little control or directive powers to address safety issues.” [[23]](#footnote-23)

### Findings

The Review concludes that the Safety Director (TSV) should continue to be responsible for licensing harbour masters for the State’s ports, but that direct employment by TSV (analogous to the Queensland model under which harbour masters are employed by Maritime Safety Queensland) would not be suitable in the Victorian context.

The Review finds that, instead, the creation of the new Victorian Ports Authority (the new Authority) would substantially consolidate and clarify lines of accountability for Victoria’s harbour masters through the direct employment of the harbour masters for the three key ports of Melbourne, Geelong and Hastings.

The Review further finds that, although there is potential for conflict between safety and commercial imperatives for the Portland harbour master, it appears that this potential is well mitigated by PoPL and there are cogent historical and operational arguments for retention of the current employment arrangements.[[24]](#footnote-24)

18. The Review is satisfied that, in relation to the Portland harbour master, its core concerns of promoting and maintaining high standards, transparency and consistency of port navigational control and safety across the Victorian ports system can be addressed through the application of additional external accountability requirements on the harbour master position itself.

### Proposals

The Review proposes that the new Authority be clearly established in legislation as the primary port entity in the State responsible for employing, deploying, supervising and supporting harbour masters.

In this context, it is proposed that PoPL continue to employ the Portland harbour master, but that new licence conditions (refer Rec.9) be applied, either at the discretion of the Safety Director or by amendment to the PMA, to create clear lines of accountability for safety matters to the new Authority.

Under the new licence conditions the Port of Portland harbour master would be required to:

* 1. report immediately on any near misses or incidents in the port (and any remedial action taken) to the new Authority;
  2. report periodically on performance against specified operational safety metrics for the port to the new Authority;
  3. comply with navigational safety standards or codes developed and promulgated from time to time by the new Authority;
  4. participate in State-wide or regional advisory or coordination processes as required by the new or Authority; and
  5. participate in training and/or professional development programs as required by the new Authority

For consistency, the Review further proposes that the licence conditions for the harbour master currently employed by GP also be amended to establish additional accountability requirements between the harbour master and the new Authority, the same or similar to those applied to the Portland harbour master.

Subject to the reclassification of Corner Inlet to a commercial trading port, the harbour master there may be employed by the new Authority or by GP, the current employer.

As noted earlier, the Review proposes that this matter would be determined by the Minister on the advice of the new Authority, after consultation with TSV and GP. In the case that GP continues to employ the harbour master for Corner Inlet, the additional reporting and compliance requirements proposed above would continue to apply.

Finally, the Review proposes that, subject to the authorisation of the Safety Director (TSV), the new Authority be empowered to deploy harbour master resources to Victorian State waters outside declared port waters, including managed and unmanaged waterways.

##### Recommendations

1. That the new Victorian Ports Authority (the new Authority) be established as the primary port entity in the State responsible for employing, deploying, supervising and supporting harbour masters;
2. That, through amendment to licence conditions, the Port of Portland harbour master be required to:
   * 1. report immediately on any near misses or incidents in the port (and any remedial action taken) to the new Authority;
     2. report periodically on performance against specified operational safety metrics for the port to the new Authority;
     3. comply with navigational safety standards or codes developed and promulgated from time to time by the new Authority;
     4. participate in State-wide or regional advisory or coordination processes as required by the new or Authority; and
     5. participate in training and/or professional development programs as required by the new Authority;
3. That the licence conditions for the harbour master currently employed by GP be amended to establish additional accountability requirements between the harbour master and the new Authority, the same or similar to those applied to the Portland harbour master.
4. That, subject to the authorisation of the Safety Director (TSV), the new Authority be empowered to deploy harbour master resources to Victorian State waters outside the declared port waters, including managed and unmanaged waterways.

### Pilotage

#### Introduction

Currently pilots operating in Victorian port waters must be licensed by the Safety Director under Part 7.2, Division 3 of the Marine Safety Act 2010 (MSA) and must be employed or engaged by a pilotage service provider registered under Part 7.1.

The effect of the original registration process appeared to be limited to establishing identification and record keeping rather than enhancing safety performance, although a recent amendment to the Act requires that an applicant should only be registered:

“if the Safety Director is satisfied that the person has the competence and capacity to carry out pilotage services safely.” [[25]](#footnote-25)

Following the advent of competition for pilotage in Port Phillip with a new entrant in 2018, the then department, Transport for Victoria (TfV), conducted a review of the adequacy of regulatory arrangements.[[26]](#footnote-26)

A series of actions were subsequently endorsed by the Government and have been progressed, including:

* establishment of a TSV-led Pilotage Co-ordination Advisory Group (implemented);
* identification and progression of legislative amendments to improve the regulatory framework (implemented via the Marine and Fisheries Legislation Amendment Bill 2019 and effective from early 2020);
* review and revision of the pilotage training and licensing standard by TSV (new determination issued October 2019); and
* development of a pilotage Code of Practice by TSV (currently being drafted).

The Discussion Paper sought the views of stakeholders on the adequacy of the recent reforms and whether further reforms were necessary to ensure the safe delivery of pilotage services in the new competitive environment.

### Stakeholder views

There was consensus among stakeholders about the pivotal role played by pilots in ensuring safe navigation in commercial port waters. Some submissions argued that pilotage should have ‘essential service’ status.

Stakeholders acknowledged recent adjustments to regulatory arrangements in response to introduction of competition in Melbourne and were generally supportive, with divided views about the need for further reform.

Port Phillip Sea Pilots (PPSP) commented on ‘near misses’ in the ‘pilotage waters’ of Port Phillip and argues that the introduction of competition has created a greater risk of collision, particularly in or near the Pilotage Boarding Ground (PBG):

“where two or more vessels can be approaching the same geographical location . . . for pilot boarding scheduled to occur at the same time, embarking pilots from the two PSPs [Pilotage Service Providers].” [[27]](#footnote-27)

PPSP also comments on the proposed Pilotage Code of Practice, which it views as having the potential to address some of the perceived shortcomings in the legislative framework, but raises a range of drafting concerns.[[28]](#footnote-28)

The Maritime Union of Australia (MUA) also emphasises the important role of a Code of Practice and proposes:

“that Victoria adopt a Pilotage Code along the lines of the NSW pilotage Code Volume 1 . . .” [[29]](#footnote-29)

There was significant support for the idea of delegating responsibility for licensing of pilots from the Safety Director (TSV) to the harbour master in the relevant port. This seemed to be mainly based on the concern that TSV lacked the internal expertise and resources necessary for this function.

PoMO argued that:

“Harbour Master powers should include provision to licence Marine Pilots . . . with an ability to investigate incidents promptly . . . A delegation of responsibility . . . can deliver this function under the guardianship of the Marine Services (sic) Act 2010 . . .” [[30]](#footnote-30)

The VRCA argued that there is a case for reforming arrangements to improve the oversight of pilots by harbour masters. Further, a new Authority:

“could include in its remit . . . examining and licensing Pilots . . . [which] along with relevant audit and incident investigative powers, would bring consistency and standardisation . . . along with best practice safety standards.” [[31]](#footnote-31)

#### Findings

The Review finds there is a case for stronger regulatory control of the day-to-day operations of pilotage services in the ports, particularly in terms of implementation of safe operating practices and adherence to an effective performance management framework.

The harbour master has to work with and rely on the safe and effective delivery of pilotage services (in the case of Melbourne, multiple services operating in parallel) to be confident that the safety of his/her port can be ensured.

The Review concludes that the harbour master, or the State-owned entity employing the harbour master[[32]](#footnote-32), should have a greater role in and influence over the conduct of pilotage services in the relevant port than can be achieved through Harbour Masters Directions alone.

The Review further concludes that, although TSV is appropriately positioned to manage licensing of individual pilots and the development of related standards, there would be benefit in the transfer of responsibility for regulatory control of day-to-day service provision to a more operational entity, with greater in-house technical expertise and resources.

### Proposals

To address these findings, the Review proposes that the pilotage service registration provisions of the MSA (Part 7.1) be replaced by a non-exclusive licensing scheme for pilotage services in all the commercial trading ports.

It is further proposed that this scheme should be administered by the new Victorian Ports Authority (the new Authority) in its capacity of overall responsibility for navigational control and safety in the commercial ports.

The new provisions would place the onus on the new Authority to use its best endeavours ensure that licensed pilotage services are at all times available to service ships in ‘pilot-required waters’.

This latter proposal is analogous to the existing provisions for harbour masters in Part 6.1, s220 of the MSA, which require that the relevant State-owned port entity (currently VPCM or VRCA) “must ensure that a licensed harbour master is at all times engaged” for declared port waters.

Currently, there is nothing in theory preventing pilotage service providers from discontinuing operations in a particular port, leaving it without service for a period of time.

The Review proposes that this contingency should be addressed through licence conditions under the new scheme and, failing that, a requirement for the new Authority to step in and provide the service where possible.

The new provisions would be consistent with a competitive model in that the new Authority would be required to issue a licence to any pilotage service provider that was able to meet the standards and requirements set out under the new licensing scheme.

25. In the case of the Port of Portland, where the private port operator directly employs the pilots, it would be expected that PoPL would apply to the new Authority to convert its current pilotage service registration to a licence under the new scheme.

26. Under these proposals, TSV would retain responsibility for the professional licensing of individual pilots and developing appropriate standards for the training of pilots and pilot-exempt masters and related matters.

27. As part of its general responsibility for oversighting the marine safety regime, TSV would also be responsible for auditing the new licensing scheme and the performance of the new Authority in administering the scheme to ensure standards are maintained.

##### Recommendations

1. That the pilotage registration provisions in Part 7.1 of the Marine Safety Act 2010 (MSA) be replaced by a non-exclusive licensing scheme for pilotage services in the commercial trading ports;
2. That this new scheme be administered by the new Victorian Ports Authority (the new Authority) in its capacity of overall responsibility for navigational control and safety in the commercial trading ports;
3. That the new provisions require the new Authority to use its best endeavours to ensure that licensed pilotage services are at all times available to service ships in ‘pilot required waters’;
4. That, should there be a gap in service availability in a particular port, the new Authority be empowered to directly procure or provide pilotage services until a suitable commercial service provider can be found;
5. That the new Authority be required to issue a licence to any pilotage service that is able to meet the standards and requirements set out under the new scheme;
6. That the Safety Director (TSV) retain responsibility for the professional licensing of individual pilots and developing appropriate standards for the training of pilots and pilot-exempt masters and related matters;
7. That the Safety Director (TSV) be responsible for auditing the new licensing scheme and the performance of the new Authority in administering the scheme to ensure standards are maintained.

### Towage

#### Introduction

Section 73A of the PMA defines a towage service as “the service of supplying one or more towage vessels to assist in the navigation of other vessels by towing or pushing these vessels into, within or out of port waters.”

The market for towage services in Victoria’s ports is open to competition.

The only port in Victoria in which towage service provision is specifically regulated is the Port of Melbourne.

The regulatory framework for towage in the Port of Melbourne is established under Part 4A of the PMA, which stipulates that a person cannot provide a towage service in the Port of Melbourne unless the person is a ‘notified towage services provider’.

It is interesting to note that ‘notification’ is made to the VPCM under the PMA, in contrast to pilotage for which ‘registration’ is directed to TSV under the MSA.

Under Part 4A of the PMA, the VPCM may make a Towage Requirements Determination (TRD). The matters which may be dealt with in the determination and the process for its making are set out there.

The current TRD specifies compliance requirements for towage providers in relation to the standard of vessels, equipment and crewing that they are required to provide.

The three other commercial trading ports in Victoria (Hastings, Geelong and Portland) have no formal towage service regulatory regime, with service standards governed by a mixture of Harbour Master Directions, contract and other arrangements.

Towage services in the Port of Portland are owned and operated by PoPL, the private port operator.

Two service providers currently compete in the Port of Geelong and a limited form of competition has also recently emerged in the Port of Melbourne, via a ‘code-sharing’ type agreement between Svitzer and Smit Lamnalco, with the latter utilising the Svitzer tugs via a service-level agreement.

#### Stakeholder views

During initial stakeholder consultations for the Review, some stakeholders expressed the view that the current TRD regime in Melbourne is unnecessarily cumbersome and complex and that it does not achieve desired outcomes.

In general, concern was expressed that the current arrangements do not provide sufficient certainty of service delivery standards or service continuity.

In response to the subsequent Discussion Paper stakeholders expressed significant support for reform of current towage arrangements in Victoria’s commercial trading ports.

PoMO notes that the TRD lacks a number of important requirements, such as KPIs, audit provisions and accident and incident notification requirements and argues that:

“A regulatory framework supporting the licencing of towage services is required . . . The current TRD has had limited effect in managing effective towage operations in the Port of Melbourne . . . A towage licence regime is preferred, which would be best managed by the Harbour Master within the merged Victorian port authority . . .” [[33]](#footnote-33)

PoHDA considers that:

“towage arrangements across all ports should be subject to consistent licencing, regulation and oversight . . . with the licences issued by the entity responsible for the management of navigation . . .” [[34]](#footnote-34)

Specific concerns were also expressed about the need to address the problems that may arise from the advent of further competition; the lack of adequate emergency response towage capability; and the risk of loss of service continuity.

VPCM refers to a recent report by Kendall Carter Consulting[[35]](#footnote-35) which found that the current system of towage regulation does not provide for appropriate regulation in the event that a second towage operator entered the market in the port of Melbourne. By way of example, the report argues that:

“if a new entrant joined the towage market in port of Melbourne tomorrow, there is nothing to prevent them cherry picking by just supplying one tug on day shifts every weekday . . . [leaving] the incumbent having to meet the requirements of the TRD. . . and . . . at a competitive disadvantage.” [[36]](#footnote-36)

### Findings

As with pilotage, the Review finds there is a case for stronger regulatory control of the day-to-day operations of towage services and that such controls should be applied consistently across all the commercial trading ports.

The Review concludes that there should be clear and structured accountability for towage service provision to the harbour master, or the State-owned entity employing the harbour master[[37]](#footnote-37) in the commercial trading ports, above and beyond that required through Harbour Masters Directions.

### Proposals

The Review proposes that the towage regulation provisions (Part 4A of the Port Management Act 1995) be replaced by a non-exclusive licensing scheme in the MSA for towage services providers in all the commercial ports.

As for pilotage, it is further proposed that this scheme should be administered by the new Victorian Ports Authority (the new Authority) in its capacity of overall responsibility for navigational control and safety in all the commercial ports.

In the case of the Port of Portland, where the private port operator directly owns the towage business, PoPL would be required to apply to the new Authority for a licence under the new scheme.

As for pilotage, the new provisions would place the onus on the new Authority to use its best endeavours to ensure that licensed towage services are at all times available to service ships in the port waters of the commercial trading ports.

This contingency could be addressed through licence conditions and, failing that, a requirement for the new Authority to step in to procure or directly provide the service.

Again, the new provisions would be consistent with a competitive model in that the new Authority would be required to issue a licence to any towage service that was able to meet the standards and requirements set out under the licensing scheme.

26. Again, under these proposals, TSV would be responsible for auditing the new licensing scheme and the performance of the new Authority in administering the scheme to ensure standards are maintained.

##### Recommendations

1. That the towage regulation provisions (Part 4A of the Port Management Act 1995) be replaced by a non-exclusive licensing scheme in the MSA for towage service providers in the commercial trading ports;
2. That this new scheme be administered by the new Victorian Ports Authority (the new Authority) in its capacity of overall responsibility for navigational control and safety in the commercial trading ports;
3. That the new provisions place the onus on the new Authority to use its best endeavours to ensure that licensed towage services are at all times available to service ships in the port waters of the commercial trading ports;
4. That, should there be a gap in service availability in a particular port, the new Authority be empowered to directly procure or provide towage services until a suitable commercial service provider can be found;
5. That the new Authority be required to issue a licence to any towage service that is able to meet the standards and requirements set out under the new scheme;
6. That TSV be responsible for auditing the new licensing scheme and the performance of the new Authority in administering the scheme to ensure standards are maintained.

## The local ports

### Direct management arrangements

#### Introduction

Local ports are legacy assets/operations of the three predecessor port authorities, which had responsibility for such facilities along the entire Victorian coastline.

Under the port reforms of the mid-1990s, these assets were considered noncommercial and were transferred to the State Government to manage through Crown Land committees of management, appointed as local port managers under the Port Management Act 1995.

Local ports typically have a mix of minor commercial functions (e.g. commercial fishing, boat repairs, charter and ferry services) and recreational boating functions, including public access.

They generally do not support trade, other than some servicing of the Bass Strait Islands and the offshore oil and gas industry.

There are 14 local ports managed by eight different port managers along the Victorian coastline, as set out in Table 1 below

| Local port | Manager | No. of local ports | No. of waterways (incl. local ports) | Total port area (approx.) |
| --- | --- | --- | --- | --- |
| Portland Bay | Glenelg Shire Council | 1 | 1 | <1 km2 |
| Port Fairy | Moyne Shire Council | 1 | 1 | <1 km2 |
| Warrnambool | Warrnambool City Council | 1 | 3 | <1 km2 |
| Apollo Bay | Colac-Otway Shire Council | 1 | 1 | <1 km2 |
| Lorne | Great Ocean Road Committee Inc | 1 | 0 | <1 km2 |
| Barwon Heads | Barwon Coast Committee of Management Inc | 1 | 1 | <1 km2 |
| Port Campbell Port Phillip Western Port | Parks Victoria | 3 | 10 | 2,610 km2 |
| Anderson Inlet  Corner Inlet and Port Albert  Gippsland Lakes Snowy River Mallacoota | Gippsland Ports Committee of Management Inc | 5 | 7 | 954 km2 |

Table Local ports and managers

Broadly speaking, the management of Victoria’s local ports can be said to fall under three geographically contiguous models:

* a single specialised local-port manager (Gippsland Ports) responsible for the local ports to the east of the State;
* a single multi-purpose service delivery agency (Parks Victoria) responsible for the local ports constituted by Port Phillip and Western Port; and
* individual local councils and committees of management responsible for the local ports to the west of the State.[[38]](#footnote-38)

The local-port managers have all of the functions set out in section 44A(3) of the Port Management Act 1995 (except Parks Victoria which has some functions removed for the port of Port Phillip to avoid potential duplication of responsibilities with the commercial port).

All of the entities acting as local-port managers are established under other legislation and, except for Gippsland Ports, have other primary functions (e.g. local government, national park management, foreshore management, etc.).

All local-port managers (except the manager of Lorne, which has no waterway responsibilities) are also declared waterway managers under section 6 of the Marine Safety Act 2010, with functions and powers set out in section 216 of that Act.

The Department of Transport (DoT) has entered into management agreements with all port managers, except Parks Victoria, for management of the local ports.[[39]](#footnote-39)

The operating funding associated with these agreements supports port operations and maintenance for recreational and commercial users. Any additional funding for emergency or capital works is subject to availability.

None of the local ports’ operations are sustainable without the funding administered by the DoT and, despite the operating and maintenance funds that have been allocated over time, it is generally acknowledged that many of the local port assets are now approaching ‘end of life’.

Despite the underlying resourcing issue and the apparent complexity and inconsistency of approaches across the State, the Review’s initial finding was that the current local port management arrangements are quite well suited to the different historical and geographical contexts of the local ports system.

In relation to local ports in the west of the State, the Review was subsequently made aware of preparations for establishment of the Great Ocean Road Coast and Parks Authority (GORCAPA), which came into existence from 1 December 2020.

This new statutory authority will have responsibility for managing coastal Crown land and marine waters along the Great Ocean Road from Thompson Creek (near Torquay) to Warrnambool.

This area of responsibility takes in the Crown land currently managed by the port managers for the local ports of Lorne (GORCC), Apollo Bay (Colac Otway Shire), Port Campbell (Parks Victoria) and Warrnambool (Warrnambool City Council).

As a result, the Review was advised that from 1 December, management of the local port of Lorne will transfer from GORRC, which will be abolished, to GORCAPA.

The Review was further advised that, over time and subject to consultation with the relevant local managers and communities, it is intended that the management the other three local ports will also transfer to GORCAPA. It is therefore apparent that, independent of any findings of the current Review, the establishment of GORCAPA will set in train a process of consolidation of the management of three to four of the seven local ports in western Victoria.

This would leave the other three – Barwon Heads, Port Fairy and Portland Bay – to continue under existing management arrangements.

Noting that this is not currently under consideration, it is not inconceivable that eventually the local ports of Barwon Heads and Port Fairy (which would be adjacent to GORCAPA’s area of responsibility) could also be managed by GORCAPA. This would obviously need to occur by mutual agreement with the current managers.

However, it seems highly unlikely that the seventh local port, Portland Bay, would be a candidate for such inclusion as it is too distant from GORCAPA’s area of responsibility and the current local port manager, Glenelg Shire Council, is strongly opposed to relinquishing management responsibility to any other entity.

Prior to the Review becoming aware of the detail of the GORCAPA processes, the Discussion Paper was released seeking the views of stakeholders on the need for change to management arrangements and putting forward some options for consideration.

#### Stakeholder views

Stakeholders expressed a wide range of views about current management arrangements for local ports.

There was a general sentiment that some form of rationalisation maybe beneficial, but no consensus on what shape that should take.

Parks Victoria (PV), currently responsible for the local ports of Port Phillip, Western Port and Port Campbell, made the legitimate point that, in order to properly evaluate any options for change, there should first be:

“development of a Vision and Purpose for “local ports” that appropriately reflect the recreational and wellbeing benefits, and the economic benefits derived from the local ports.”[[40]](#footnote-40)

Some of the local-port managers to the west of the State made a strong point about the importance of community connection to their local port and generally expressed a desire to stay closely involved with port management.

Glenelg Shire sees no case for change to current arrangements and considers:

“the Local Ports program . . . [to be] adequately managed, resourced and supported . . .” [[41]](#footnote-41)

Colac Otway Shire took a different position, stating that:

“It is our view that the most efficient and effective model for management of the designated Local Ports . . . would be to have one dedicated agency managing all local Ports from Barwon Heads to the Local Port of Portland.” [[42]](#footnote-42)

There was, however, a common view that more ready access to additional technical support (e.g. harbour master services, dredging, marine asset management) would be helpful, as long as the benefits of local place-based management were not compromised.

#### Findings

The Review finds that current local-port management arrangements for the east of the State and the two large bays in the central coastal area are stable and sustainable in the medium term, subject to continuation of existing Government subsidies.

The Review concludes that it would be most appropriate to allow the rationalisation processes set in train by the advent of GORCAPA in the west to play out before considering any further adjustments to direct management arrangements in that area.

The Review also finds that a number of local-port managers would benefit from more ready access to technical maritime expertise and support.

#### Proposals

Beyond the changes to be progressed by GORCAPA, the Review does not propose any further substantive changes to direct management arrangements for Victoria’s local ports at this time.

The Review does, however, propose that the new Victorian Ports Authority (the new Authority) responsible for the waterside management of the commercial trading ports, be mandated to provide technical support and expertise to local-port managers on a no-fee basis, on request or as directed by the Minister.

Further, the Review proposes that greater flexibility be afforded to localport managers to share expertise and resources with each other by permitting a local-port manager to apply its services and resources outside its own declared port areas, subject to the establishment of appropriate arrangements approved by the Minister.

##### Recommendations

1. That Gippsland Ports continue to operate in its current form, managing the local ports to the east of the State;
2. That Parks Victoria continue to manage the local ports of Port Phillip and Western Port, in their current configuration;
3. That from 1 December 2020, GORCAPA progress consolidation of local port management within its area of responsibility, in consultation with the current local-port managers;
4. That the proposed Victorian Ports Authority (the new Authority) be mandated in its legislative charter to provide technical support and expertise to local-port managers on a no-fee basis, on request or as directed by the Minister;
5. That the functions and powers of local-port managers be amended under Part 2A of the Port Management Act 1995 to clarify that, subject to the approval of the Minister, a local port is able to apply its services and resources outside its own declared port areas on a commercial basis or as requested in providing assistance to other local-port managers.

### 5.2.2 Integration with managed waterways

#### Introduction

The more fundamental consideration explored in the Discussion Paper released by the Review was that of what actually constitutes a local port and where such facilities should sit in a public policy and programmatic sense.

The Discussion Paper put forward options ranging from removing the declarations of some of the very small local ports which seemed to lack the range or type of functions that might be expected of a port (e.g. Lorne, Barwon Heads and Snowy River) to a total rethink of the relationship between commercial trading ports, local ports and managed waterways.

The Discussion Paper noted that all local-port managers[[43]](#footnote-43) are also declared waterway managers under the MSA and that a number of the local ports encompass large bodies of water (e.g. the Gippsland Lakes, Corner Inlet and Port Albert, Port Phillip and Western Port) which arguably have characteristics more aligned to a managed waterway than a port, in the traditional sense.

#### Stakeholder views

As was the case for feedback on direct management arrangements, stakeholder responses were mixed. There was support for change but no real consensus as to the form that should take.

Some stakeholders, including Glenelg Shire, argued that there should be a clear set of criteria for classification as a local port and that perhaps some of the smaller local ports should not qualify, agreeing that:

“some of the existing smaller Local Ports simply are a promenading/recreational fishing pier, boat ramp or tourist attraction compared to other local ports that provide facilities for commercial operations . . . there needs to be a qualifying process of what falls under the definitions of a Local Port.” [[44]](#footnote-44)

Others countered this, arguing that revoking local port status would simply remove a source of funding and would be unlikely to lead to any significant improvements in overall standards and management arrangements for local ports or waterways more generally.

A number of stakeholders expressed interest in exploring the more sweeping option of restructuring the legislative framework to strengthen waterway management provisions and, potentially, moving all local ports under this umbrella.

MSV argued that:

“any review of the local ports framework must also consider the waterway management regime . . . [and should reform legislation to] provide a full suite of powers to all waterway managers, recognising that local ports are a subset of waterways . . .” [[45]](#footnote-45)

Parks Victoria (PV) was a particularly strong advocate of a new approach that would look more broadly than just the local ports and establish a consistent legislative framework for all waterways throughout the State:

“There is a need for a clear vision, purpose and policy for the Local Ports and waterways that support non-freight commercial activity, recreation and biodiversity services within Victoria . . .” [[46]](#footnote-46)

PV argues that such reforms:

“would have far reaching benefits across the State, including for inland waterway managers (e.g. Lake Eildon, Yarra River) [which] would have an appropriate head of power to manage berthing and mooring, refuelling of vessels, etc. under a consistent legislative framework for the State.” [[47]](#footnote-47)

PV goes on to note that, under a new legislative framework, it would be necessary, inter alia, to:

* maintain the functions and powers of local-port managers;
* transition across the Port Management (Local Port) Regulations 2015;
* develop a new, sustainable funding model for managed waterways, including local ports;
* carefully consider and manage the underlying land status in the local ports; and
* review existing port boundaries to address anomalies.[[48]](#footnote-48)

Some stakeholders also noted that a concurrent review of boating facilities management was being progressed by the DoT, with MSV commenting that there is:

“a need to align any approach to local ports and waterways reform with the current recreational boating reform strategy, particularly with respect to waterway management.” [[49]](#footnote-49)

#### Findings

The Review finds that there is, in reality, more synergy between the functions of local port management and waterway management than between local port management and commercial trading port management.

This observation is driven by the fact that local ports and waterways generally deal with small commercial or recreational vessels, whereas commercial trading ports are set up to accommodate far larger vessels (i.e. ships) carrying import and export cargos in and out of the State.

The size of vessels and the related economic implications and safety risks associated with commercial trading ports are of a totally different scale to those of local ports and waterways.

If this observation is supported, the logical implication is that it makes more sense to plan, govern, regulate and resource local ports and waterways together, and to treat commercial trading ports separately.

Under this approach local-port managers would be treated primarily as a category of waterway manager, where waterway managers could be allocated to categories according to level of assessed safety risk and/or commercial activity, for instance.

This notion of categories of waterway managers has previously been put forward in a Discussion Paper released by the State Government in 2016.50[[50]](#footnote-50)

The Review also finds that a further benefit of this approach would be its ability to incorporate the boating facilities management function, which is currently administered by Better Boating Victoria (BBV) and is the subject of a separate DoT review.

Current arrangements for the management of boating facilities (most notably, boat ramps) are complex and variable. This is due mainly to the wide range and variable capabilities and resourcing capacities of the current managers of the infrastructure and the lack of an overarching strategic framework to guide the activity.

The Review considers that the primary purpose of the boating infrastructure in question is to facilitate safe and convenient access to waterways. However, it is noted that the manager of the waterway is often different to the manager of the boating infrastructure, with different objectives and priorities.

As safe, convenient access to waterways often also depends on water-based infrastructure (e.g. navigation aids and dredging) and management (e.g. enforcement activities) which are the responsibility of the waterway manager, it can be seen that intended outcomes may sometimes be compromised.

The Review considers that these factors point to the need for a holistic approach to the management of waterways and the boating infrastructure which is intended to provide access to these waterways.

#### Proposals

The Review proposes that the Government reform arrangements for the oversight and program management of local ports, to separate them from arrangements for commercial trading ports and combine them with enhanced arrangements for waterway management.

The Review proposes that to support this new approach:

1. an agreed vision and purpose should be developed for managed waterways, (including local ports);
2. a separate State strategy should be developed for managed waterways (including local ports);
3. a new, sustainable funding model should be developed for managed waterways (including local ports); and
4. existing legislative and regulatory frameworks should be reviewed and revised to separate commercial trading port management functions from waterway (including local port) management functions and to separate waterway management functions from marine safety regulatory functions.

The Review proposes that, in the short term, a new administrative unit should be created within the DoT to oversight the administration of managed waterways, including the current local ports, and to progress the above initiatives.

The Review further proposes that the boating facilities management function (currently undertaken by BBV within the DoT) also be incorporated into the responsibilities of the new administrative unit, which would then be responsible for oversighting the State’s administration of:

1. all managed waterways;
2. all local ports (as a category of declared waterways); and
3. boating facilities infrastructure (in its capacity of providing access to declared waterways).

As a subsequent stage of reform, to increase the profile of the sector and provide a stronger advocacy focus for its development, the Review proposes that the Government establish a new statutory authority, the Victorian Waterway Management Authority (VWMA).

The new VWMA would assume responsibility for the functions identified above and would complement the role of the new Victorian Ports Authority (VPA) proposed for the commercial trading ports.

##### Recommendations

38. That the Government reform arrangements for the oversight and management of local ports, to separate them from arrangements for commercial trading ports and to combine them with enhanced arrangements for waterway management;

39. That to support these new arrangements:

1. an agreed vision and purpose be developed for declared State waterways (including local ports);
2. a separate State strategy be developed for managed waterways (including local ports);
3. a new, sustainable funding model be developed for managed waterways (including local ports); and
4. existing legislative and regulatory frameworks be reviewed and revised to clearly separate commercial trading port management functions from waterway (including local port) management functions and to separate waterway management functions from marine safety regulatory functions;

40. That, in the short term, a new administrative unit be created within the DoT to oversight the administration of managed waterways, including the current local ports;

41. That the boating facilities management function of BBV be incorporated into the responsibilities of the new administrative unit, which would then be responsible for oversighting the State’s administration of:

1. all managed waterways;
2. all local ports (as a category of managed waterways); and
3. boating facilities infrastructure (in its capacity of providing access to managed waterways);

42. That, as a subsequent stage of reform, the Government establish a new statutory authority, the Victorian Waterway Management Authority (VWMA), to administer and further develop the above functions.

## 5.3 Overview of proposed new organisational arrangements

### Introduction

1. The Discussion Paper released by the Review canvassed the New South Wales ‘port safety licensing model’ as a possible organisational/governance model for Victoria.

2. In NSW, the Minister responsible for ports is empowered under s12(2) of the Ports and Maritime Administration Act 1995 to issue a Port Safety Operating Licence to a port management body.

3. The purpose of the licence is to further detail the:

1. port safety functions exercisable by the licensee;
2. terms and conditions applicable to the exercise of the port safety functions; and
3. performance standards and quality assurance programs applicable to the provision of services associated with the discharge of the port safety functions.

Port Safety Operating licences in NSW are currently issued to the Port Authority of NSW in respect of the ports of Newcastle, Sydney Harbour, Botany Bay, Port Kembla, Eden and Yamba.

The model proposed for Victoria draws heavily on key elements of the NSW model in terms of the establishment of a single State-owned authority with overarching responsibility for the waterside functions of the port system.

However, it varies from the NSW model in some significant respects, reflecting differences in this State’s historical development and high-level policy settings.

The safety licensing model in NSW makes the licence holder (the Port Authority of NSW) directly accountable to the Minister for performance of its duties and obligations under the ‘port safety licence’ issued by the Minister for each port.

In the proposed Victorian model, no necessity is seen for establishment of a new port licensing regime.

Victorian marine safety legislation is based around a set of ‘principles of marine safety’ and the allocation of ‘safety duties’ to port management bodies and suppliers of infrastructure and services to port management bodies.

The new port authority proposed for Victoria would be a safety duty holder under the Victorian regime and would be subject to compliance with the principles and duties set out under the MSA.

The ‘Safety Director’ (TSV) would be responsible for ensuring compliance by the new Authority with its obligations under the MSA, through general oversight and a structured program of auditing.

Furthermore, the new Authority would have a clear legislative charter that specifies its functions and obligations, negating the need for a separate specification of these in a port licence.

Another important point of difference in the proposed Victorian model is a stronger emphasis on the role of competition in promoting efficiency in the delivery of port services.

As a result, the proposed Victorian model generally leaves the provision of key port services like pilotage and towage to the private market, subject to appropriate licensing arrangements to ensure effective operational coordination and safety performance.

In relation to the local ports, while no significant changes are proposed for their direct management in the immediate term, a more fundamental reorganisation of their positioning in the State’s policy and program settings is proposed.

This would involve the repositioning of the local-port managers as primarily a category of waterway manager and the revision of legislative frameworks, strategic planning and resource allocation processes to support the development of the State’s waterways, including access to managed waterways through boating infrastructure.

Supporting this new direction would be the establishment of a new, consolidated administrative unit within Government (DoT) responsible for administering the State’s current local ports, waterways and boating infrastructure programs.

As a subsequent stage of reform, it is proposed that a new statutory waterway management authority for Victoria be established, mirroring the proposed new authority for the commercial trading ports.

Figure 2 below contains a schematic overview of current and proposed organisational arrangements for the Victorian ports system.

### Commercial Trading Ports

The centrepiece of the Review’s recommendations for the commercial trading ports is the establishment in legislation of a new State port entity, the Victorian Ports Authority (new Authority).

The new Authority would be Victoria’s pre-eminent port authority and would be the State’s key source of advice on maritime operational matters. It would represent the State’s maritime interests with the private land-based port managers operating in the ports system.

The new Authority would have overarching responsibility for the port waters and channels of all commercial trading ports.

It would have the ability to discharge this responsibility through direct management or by entering into appropriate arrangements with other relevant (public or private) port managers.

The new Authority would be responsible for ensuring the availability, continuity and high standard of key water-based services in each of the commercial trading ports – namely harbour master, pilotage and towage services.

To achieve this, the new Authority would be responsible for employing the harbour masters in the ports of Melbourne, Geelong and Hastings and would have a supervisory and support role for the harbour masters in the Port of Portland and Gippsland Ports.

It would be responsible for permissioning/licensing of pilotage and towage service providers in each of the commercial trading ports.

The new Authority, where authorised by the Safety Director (TSV), would also be responsible for providing harbour-master services in Victorian State waters outside existing port boundaries, where required to ensure the safe navigation of large commercial trading, passenger or other vessels (e.g. cruise ships visiting regional destinations).

In addition to supporting the strategic planning and development of the Victorian ports system (e.g. by being responsible for preparation of the Port of Geelong PDS), the new Authority would use its knowledge, networks and resources to encourage new trades and the growth of existing trades through the ports.

Similarly, where requested or directed it would use its expertise and resources to assist local-port and waterway managers to effectively and safely manage their waters and infrastructure.

It is also proposed that the new Authority would have an important role in the planning, coordination and development of the cruise shipping industry in Victoria. In this context, it would continue to manage Station Pier, Victoria’s major cruise-ship terminal.

Finally, the new Authority would be responsible for information provision and education about the Victorian ports system, for port stakeholders and the public.

Like the VPCM and the VRCA, the new Authority would be constituted as a ‘transport corporation’ under the Transport Integration Act 2010 (TIA). The proposed core elements of the legislative charter of the VPA are set out in Box 2 below.

#### Objects

* ensure the port waters and channels of the commercial trading ports are managed for use on a safe, fair and efficient basis;
* ensure that essential port water-based services are available and provided to required standards in each of the commercial trading ports;
* support the strategic planning and development of the Victorian ports system;
* facilitate the growth of trade through the Victorian ports system;
* promote the development of the cruise ship industry in Victoria;
* support local-port and waterway managers in the safe management of their waters and infrastructure;
* promote public awareness and understanding of the role and functions of the Victorian ports system

#### Functions

* establish, manage, dredge and maintain channels;
* provide and maintain navigation aids;
* employ and/or provide supervision, guidance and support to harbour masters;
* provide, maintain and operate systems of navigational control;
* direct and control the movement of vessels inside port waters;
* direct and control the movement of vessels in designated State waters, outside port waters, where authorised to do so by the Safety Director (TSV);
* licence pilotage and towage service providers;
* directly engage/provide pilotage and towage services where necessary to ensure availability;
* prepare or assist port managers with the preparation of Port Development Strategies where appropriate;
* promote and market the Victorian ports system to potential users;
* coordinate the development and implementation of a Victorian cruise-ship strategy and directly provide supporting services and infrastructure where appropriate;
* provide technical advice and support about the safe management of port waters and channels to commercial-port managers;
* provide technical advice and support about the safe management of waterways and channels to local-port and waterway managers;
* provide information and education services to port stakeholders and the general community

In performing its functions, the VPA would be required to take into account:

* the need for consistency with the State’s policies and strategies for the development of the Victorian port and freight networks;
* the need to have regard to the infrastructure development priorities of the regional commercial trading ports, consistent with the State’s regional development objectives;
* to the extent possible, consistent with the above, the need to operate in a commercially sound manner having regard to a) the benefits of competition in markets for port services and b) the legitimate amenity expectations of persons living or working in the immediate vicinity of the ports.

Box Proposed legislative objects and functions of the VPA

### Local Ports

As a final stage of its proposed reforms for the local ports and waterway sector, the Review recommends the establishment of a new statutory Victorian Waterway Management Authority (VWMA)

The VWMA would be responsible for oversighting the management of:

* all managed waterways;
* all local ports (as a category of managed waterways); and
* boating facilities infrastructure (in its capacity of providing access to managed waterways)

Like the new Authority for the commercial trading ports, the VWMA would also be constituted as a ‘transport corporation’ under the TIA and would have the ability to directly deliver its functions or to delegate them to other appropriate bodies.

For the most part, it is expected that the VWMA’s functions would be delivered by local-port managers (currently appointed under the PMA) and waterway managers (currently declared under MSA).

Where no suitable body was available, the VWMA would be responsible for directly managing the local port or waterway.

It is proposed that the VWMA’s legislative charter be drawn from the core elements set out in Box 3 below.

#### Objects

* ensure that Victoria’s managed waterways are managed for use on a safe, fair and efficient basis;
* ensure that essential water-based services are available and provided to required standards on managed waterways;
* ensure that essential access and water-based infrastructure is provided and maintained to required standards in managed waterways;
* ensure the effective planning and development of Victoria’s managed waterways;
* facilitate increased utilisation of Victoria’s managed waterways for sustainable recreational, tourism and commercial activities;
* promote public awareness and understanding of the role and functions of Victoria’s managed-waterways system

#### Functions

* ensure that channels and approaches to landside infrastructure in managed waterways are established, managed and maintained;
* ensure that navigation aids are provided and maintained in managed waterways;
* ensure that the movement of vessels in managed waterways is effectively and safely controlled;
* ensure that adequate landside access infrastructure (e.g. boat ramps) is provided to allow safe and convenient access to managed waterways;
* directly manage waterways where no other appropriate manager can be identified;
* provide technical advice and support for the safe and effective management of waterways to local-port and waterway managers;
* prepare and regularly update a State-wide strategy for managed waterways (including local ports);
* develop and administer a sustainable funding and resource allocation model for managed waterways (including the local ports);
* promote and market the values of managed waterways to potential users;
* provide information and education services about managed waterways to stakeholders and the general community.

Box Proposed legislative objects and functions of the VWMA

##### Recommendations

1. That the proposed roles, objects and functions for the new Victorian Ports Authority (the new Authority) be used as a basis for its establishment in legislation;
2. That the proposed roles, objects and functions for the new Victorian Waterway Management Authority (VWMA) be used initially as a basis for the establishment of a consolidated administrative unit within the DoT and be further developed as a basis for the ultimate establishment in legislation of the new VWMA.

# Port planning

For ports to play their role in meeting the needs of Victorian importers and exporters, they must plan ahead to anticipate future trade and capacity demands and develop investment strategies and infrastructure delivery programs to meet these demands in a timely manner.

Ports do not operate in isolation; they are key hubs in the broader transport and logistics network of the State and the nation. They are connected to interstate and international ports and markets to seaward by channel infrastructure and to freight catchments and facilities on the landside by road and rail infrastructure.

For this reason, ports need to take into account and attempt to influence the planning and investment strategies of the State in order to optimise their own planning outcomes.

Conversely, given the acknowledged importance of the ports in supporting the economy, the State needs to take into account the planning and investment strategies of the ports, individually and collectively, to promote complementary investment in transport and logistics infrastructure and systems.

In other words, there needs to be an effective dialogue between individual port and State-level strategic planning to achieve balanced, optimal outcomes for the ports and the State.

## 6.1 Port Development Strategies (PDSs)

### Introduction

Under Part 6B of the PMA, relevant port authorities are required, at intervals of five years, to prepare a Port Development Strategy (PDS) for their commercial trading port.

The Minister is able to issue guidelines for the preparation of PDSs and may make directions in relation to their preparation.

According to the current Ministerial Guidelines:

“A port development strategy (PDS) is largely concerned with capacity planning for trade throughput at the port . . . [and] . . . Articulating a medium and long term ‘port development vision’ to the port’s stakeholders”.[[51]](#footnote-51)

The ‘relevant port authorities’ responsible for preparing PDSs under the PMA are:

* PoMO (for the port of Melbourne);
* PoHDA (for the port of Hastings);
* PoPL (for the port of Portland); and
* VRCA (for the port of Geelong).

PDSs are also an important land use planning tool and are formally referenced in the State Planning Policy Framework (SPPF), to be considered when planning for the port and its environs.

### Stakeholder views

There was strong support from stakeholders for the role played by PDSs in providing visibility to port users and service providers about the vision and directions being pursued by the port manager.

There were a number of suggestions put forward for improvements in arrangements for preparation of PDSs. These included:

* + 1. greater emphasis on planning for environmental sustainability;
    2. greater attention to workforce planning and employment implications;
    3. greater emphasis on supply chain connectivity, including rail and intermodal facilities;
    4. a stronger central coordination role by the DoT to ensure consistency of assumptions (e.g. re trade projections) and alignment with State and Commonwealth policy and strategy;
    5. annual reporting by the port manager on implementation of the PDS; and
    6. the need for an overarching State strategic framework to provide a context for individual port planning.

There was some commentary from stakeholders about the fact that VRCA rather than one of the port ‘land owners’ was designated as the ‘relevant authority’ to lead the preparation of the PDS for the Port of Geelong.

This arrangement was generally supported on the basis that VRCA was best placed as an ‘honest broker’ to arbitrate between the different priorities of the two port land managers (GeelongPort and Graincorp) and should continue to be responsible for the preparation of the PDS.

### Findings

The Review finds that the requirement for PDSs to be prepared for commercial trading ports is effective in providing transparency and predictability for port stakeholders and in promoting alignment with strategic planning and investment priorities of the State and Commonwealth governments.

The Review further finds that the usefulness of PDSs would be enhanced if they were based around common State-level assumptions and projections of commodity types and volume growth potentially available to the different ports as the Victorian economy evolves and grows.

On the question of the most appropriate port authority to be responsible for preparing the PDS for the Port of Geelong, the Review concludes that this should remain with the VRCA or its proposed successor, the new Victorian Ports Authority (the new Authority), unless the private land-based operators can agree to an alternative approach.

### Proposals

The Review proposes that the State Government (DoT) prepare and periodically update State-level trade projection assumptions and data and make it available to the commercial trading port managers.

The trade projection data produced through this process would not be intended to constrain an individual port in developing its own more specific business growth plans and projections but would provide a common reference platform for preparation of PDSs.

This work could be commissioned in the context of producing the proposed Victorian Ports Strategy (VPS) and would mean that PDSs could be more usefully integrated with State strategic planning and investment programming.

##### Recommendations

1. That the PDS provisions in the PMA be retained;
2. That the State Government (DoT) commission the preparation and periodic updating of trade assumptions and projections for Victoria’s ports system and make them available to the responsible port authorities as a common reference platform for the preparation of PDSs.

## 6.2 Safety and Environment Management Plans (SEMPs)

### Introduction

Under Part 6A of the PMA all ports, commercial trading and local, are required to have in place a SEMP.

The obligation to prepare SEMPs falls on ‘port managers’ as defined in the PMA.

SEMPs are intended to facilitate the systematic examination of port-wide activities by port managers to ensure that hazards and risks are identified and controlled, by the port manager or by other responsible parties.

SEMPs identify the roles and responsibilities of the various parties and assist port managers to identify, assess and respond to hazards and risks in a coordinated, effective and practical way.

The SEMP requirements are intended to complement, not override or replace, existing requirements under generic marine safety, occupational health and safety and environmental legislation and regulation.

The review Discussion Paper sought feedback from stakeholders on whether the SEMP requirements were effective in ‘adding value’ (i.e. improving safety and environment outcomes) beyond the more generic safety and environment regulatory requirements established in other legislation.

### Stakeholder views

The majority of respondents were supportive of the role played by SEMPs in enhancing the understanding of safety and environment risks encountered in the port context and facilitating a more coordinated approach to their management.

The assurance provided by the requirement for independent audit of SEMPs was noted as an important benefit.

There was a small minority view that SEMPs were an unnecessary duplication of the generic regulatory requirements and/or accredited safety management systems already adopted by many port managers.

There was also some support for the adjustment of SEMP requirements to be more commensurate with the scale of port operations and potentially even removing requirements altogether for very small local ports.

PoHDA draws these views together, commenting that it considers:

“the primary benefit of a SEMP. . . to be assurance it provides to Government that a port manager is appropriately managing its risks. As the SEMP draws upon . . . systems required for. . . generic safety and environmental compliance it does not create an unreasonable amount of additional work . . . for entities with ISO 45001 and 14001 there is an argument that these. . . accreditations could be provided as evidence of compliance in most areas covered by a SEMP. . . requirements for each port operator should be appropriate to the risk profile for each port.” [[52]](#footnote-52)

The Environment Protection Authority Victoria (EPA) made a strong point about the need to update the Ministerial Guidelines for SEMPs to take into account the provisions of the amended Environment Protection Act 2017.

In particular, the introduction of a General Environmental Duty (GED) is likely to have a number of implications for the operation of ports and port managers as ‘duty holders’:

“The GED is the cornerstone of the new EP Act and introduces a broadscale, positive obligation on ‘a person who is engaging in an activity’ to proactively prevent and minimise risks of harm to the environment and human health from pollution and waste ‘so far as reasonably practicable’. This shifts the current approach of managing impacts after they have occurred to focussing on preventing harm.” [[53]](#footnote-53)

### Findings

The Review notes that ports encompass a wide range of water-based, land-based and transitional activities and multiple stakeholders (managers, tenants, service providers, customers). This makes them complex to manage from a safety and environmental risk perspective.

The Review finds that the SEMP provisions of the PMA have been effective in complementing the generic regulatory frameworks by assisting designated port managers to identify and manage safety and environmental risks in a more coordinated manner than would otherwise have been the case in this the complex context.

The Review finds that there is a need to regularly review and update arrangements and guidelines for SEMPs to ensure they keep pace with the evolution of the generic

Regulatory frameworks and the accredited safety and environment management systems being progressively adopted by port managers and other port-related businesses.

### Proposals

The Review proposes that the SEMP provisions of the PMA be retained.

The Review further proposes that the next review of the Ministerial Guidelines for SEMPs should be undertaken by the DoT as soon as practicable and should include, among other things, consideration of the implications for ports of the new ‘general environmental duty’ (GED) in the Environment Protection Act 2017.

The Review of the SEMP Guidelines should also give priority to the principles of minimising duplication of systems and effort; allowing for scalability in proportion to level of risk; and maximising coordination of risk assessment and management across responsibility boundaries within ports.

##### Recommendations

1. That the SEMP provisions in the PMA be retained;
2. That a review of the Ministerial Guidelines for SEMPs be undertaken by the DoT as soon as practicable and include, inter alia, consideration of the implications for ports of the new ‘general environmental duty’ (GED) in the Environment Protection Act 2017;
3. That, in reviewing the Ministerial Guidelines for SEMPs, priority be given to the principles of:
4. minimising duplication of systems and effort;
5. making practical allowance for scalability in proportion to different levels of complexity and risk at different ports; and
6. maximising coordination of risk assessment and management across responsibility boundaries within ports.

## 6.3 Port planning protections

### Introduction

Ports tend to be land constrained to various extents and often experience encroachment from adjoining land uses, requiring port managers to engage in planning processes when inappropriate land uses are proposed within the port environs.

It is now over 10 years since the then Minister for Planning established the Port and Environs Advisory Committee under section 151 of the Planning and Environment Act 1987 (the P&E Act) with a brief to ensure that:

1. future developments on port land and port environs are protected by adequate buffer areas to prevent land-use conflicts at the perimeter; and
2. planning controls that apply to port land are generally consistent and not unduly onerous.[[54]](#footnote-54)

It was the work of that Committee that provided the basis for the changes that were subsequently made to the Victoria Planning Provisions (VPPs) and relevant planning schemes to provide stronger protections for the ongoing operations of Victoria’s commercial trading ports.

These are the changes detailed in Planning Advisory Note 56, Planning for Ports and their Environs (October 2014).

Figure 3 shows a map of the Port of Melbourne with the port land, port environs and Environmental Significance Overly (ESO) areas indicated.

The operation of the current planning provisions was recently tested in a proposal to redevelop a former power station at 50 Mackie Street, North Geelong to a seven-level office building.

The redevelopment proposal, situated close to operational port facilities in the ‘port environs’, was initially approved by the City of Greater Geelong (the responsible planning authority), then appealed to VCAT by objectors representing the port’s interests.

In July 2019 the Minister for Planning ‘called in’ the application and appointed a Committee under s151 of the P&E Act to examine the planning merits of the proposed development, one of the key issues being the impact of the proposal on the operation and development of the port.

The Committee concluded that, in relation to the port:

“protecting its ongoing operations is the primary land use planning consideration . . . the site should be used for port-related uses that contribute directly to the operation of the port, or for non-port-related uses that contribute to a buffer function between port operations to the north and sensitive uses to the south.” [[55]](#footnote-55)

The Committee also considered some other planning issues, but basically was not satisfied that the proposal met the port-related requirements and recommended that the planning permit not be granted.

In a separate but related development, the Review notes that the Department of Environment, Land, Water and Planning (DELWP) has recently been consulting on a new planning control that may have application to ports.

The draft “Buffer Area Overlay”, is intended to address the challenge of encroachment and could:

“be used to identify areas where there is potential for off-site impacts on safety or human health from industry, warehouse or other uses, to ensure that use and development within buffer areas is compatible with those impacts.” [[56]](#footnote-56)

In terms of protections for future ports, in its 2017 advice to Government on securing future port capacity, Infrastructure Victoria (IV) recommended that detailed planning for a second major container port at Bay West should begin around 2040.

In the meantime:

“The Victorian Government should make necessary land use and zoning changes around the proposed Bay West port area as soon as possible. This should include providing for current and future industrial, commercial and residential land to ensure required land is available when needed in the long term.” [[57]](#footnote-57)

The IV advice goes on to recommend that the Government should also settle and protect a preferred transport corridor to the proposed port site, or alternatively:

“the Government could identify the connections for the three main port location concepts at Bay West and protect all the potential transport corridors.” [[58]](#footnote-58)

### Stakeholder views

Many respondents to the Discussion Paper expressed the view that the current statutory planning regime still provides inadequate protection for ports from encroachment on their activities.

There was reasonable consensus that the new ‘Port Zone’ had largely addressed the need for appropriate planning controls on port land but that the approach to buffer controls for incompatible adjacent land uses remained problematic.

PoPL noted that it was currently experiencing complaints from residents in the ‘port environs’ of the Port of Portland relating to noise and dust and argued that:

“The provisions relating to residential encroachment should be strengthened to prevent further encroachment and residents that choose to move into areas that are encroaching on the port should not be able to seek redress for issues or concerns arising from port operations.” [[59]](#footnote-59)

PoMO noted increasing pressure from urban intensification around the Port of Melbourne and provided the Review with several examples of ‘land-use challenges’ relating to residential developments in the ‘port environs’ in the last decade.

PoMO proposed the following:

“[1] the establishment of a Ministerial advisory body or similar group such as the recently established ‘Melbourne Airport Environs Safeguarding Standing Advisory Committee’ to support a holistic and committed approach to addressing competing land use and statutory planning tensions . . .

[2] urgent action to review the existing statutory planning framework and to establish strengthened protection for future growth and development opportunities for the long-term strategic benefit of the State . . .” [[60]](#footnote-60)

In commenting on the lack of recognition and protection in the State Planning Policy Framework (SPPF) for Bay West, one stakeholder argued that there is an urgent need for protection as other long-term land-use values and strategies (e.g. a proposal for a Biosphere Reserve) are already potentially impacting on its viability and feasibility.

### Findings

The Review concludes that the ports continue to be vulnerable to the introduction of incompatible uses in the port environs (land surrounding the ports) which, if allowed, create the real potential to restrict their efficient, curfew-free operation.

The Mackie Street case demonstrates that there is still significant ambiguity, at least for local planning authorities, in the application of Ministerial Direction No.14 – Port Environs and the relevant provisions of the SPPF.

The Review finds that neither the current planning control, the Environmental Significance Overlay (ESO) nor the proposed Buffer Area Overlay (BAO) are sufficient to adequately protect the ports from encroachment in all circumstances.

The ESO addresses the introduction of sensitive uses in the buffer area but only through built form controls, not land-use controls. In other words, it cannot prevent a sensitive use (e.g. an apartment block) establishing close to the port.

The proposed BAO could control land use in the port buffer, but only where there is evidence of impacts on human health and safety. It does not address developments which may suffer amenity impacts only. Such developments (e.g. an office block similar to the Mackie Street proposal above) may still have the effect of encroaching on port operations.

The Review concludes that further work is required to purpose design a planning control or set of controls for application in the port buffer areas which is or are fully effective in protecting the ports from encroachment on their operations.

This is particularly pressing in the case of the Port of Melbourne which is the most vulnerable of the ports to urban encroachment (Figure 4 shows a map of residential approvals in the land surrounding the port since 1999).

Current strategic settings assume that the Port of Melbourne has sufficient growth potential to meet the container-handling capacity needs of the State until at least 2050 before an overflow port would be required (i.e. Bay West).

Failure to address the encroachment problem at this stage could progressively constrain the port’s operations and significantly limit its growth capacity potential, at major long-term cost to the State’s economy.

The Review finds the other key planning issue identified, the lack of planning scheme recognition and protection for a future Bay West port, to be a related and equally pressing matter.

Even though Bay West is not expected to be required for some 30 years, competing land uses and values are already emerging in the area of interest which could constrain its effective realisation.

The Review concludes that early, coordinated action is required to strengthen port buffer protections for existing ports and protect future port land requirements in the planning system to secure the State’s required port trade capacity to 2050 and beyond.

Given that detailed planning for Bay West will not need to commence until around 2040, the Review concludes that the most prudent approach would be to adopt the IV alternative of identifying the connections for the three main port location concepts at Bay West and protecting all of the potential transport corridors.

Settling the approach to be taken to the protection of Bay West could be appropriately progressed through the development of the proposed Victorian Ports Strategy (VPS) and will require significant consultation with key stakeholders, particularly Melbourne Water and Wyndham City Council.

### Proposals

The Review proposes that a review of current port buffer planning provisions be commissioned by the Government, taking into account the experiences of the commercial trading port managers and relevant planning authorities since the introduction of the provisions almost a decade ago.

This review could appropriately take the form of a committee established under section 151 of the P&E Act, with terms of reference to advise the Minister for Planning on protections for the ports from encroachment of incompatible uses, including appropriate boundaries for the ‘port environs’ and the planning controls which should apply within them.

The Review further proposes that an approach to identifying and securing the necessary land (including transport corridors, industrial land and buffers) for Bay West in the State’s planning system should be settled and implemented by the Government as soon as practicable.

##### Recommendations

1. That the Minister for Ports and Freight write to the Minister for Planning, seeking his agreement to establish a committee under section 151 of the P&E Act to advise him on measures to improve protections for commercial trading ports from encroachment of incompatible uses, including but not limited to reviewing the boundaries for the ‘port environs’ and the planning scheme controls which apply within them; and
2. That the Government, in consultation with Melbourne Water and Wyndham City Council, settle and implement an approach to identifying and securing the necessary land for Bay West in the State’s planning system as soon as practicable.

## 6.4 Coastal shipping

### Introduction

Coastal shipping operated by Australian flagged vessels has been in decline in Australia for many years.

In 2018 coastal container movements represented around 15 per cent of the Port of Melbourne’s total (full and empty) container trade. The majority was Bass Strait trade, which is supported by the Tasmanian Freight Equalisation Scheme.

There are also a number of bulk commodities that are serviced by coastal shipping through Victorian ports, such as gypsum, sugar, cars, project cargo, equipment and liquid bulk products.

There is no legislative framework in Victoria for coastal shipping. The applicable legislative framework is the Commonwealth Coastal Trading (Revitalising Australian Shipping) Act 2012.

The Victorian Government made an election commitment to undertake a Victorian Coastal Shipping Review as part of the development of a Victorian Ports Strategy.

The commitment was to identify options for policy reform and to strengthen Victoria’s coastal shipping industry, acknowledging its potential to support regional economic growth and grow employment for Victorian seafarers.

Nearly all submissions to the Victorian Coastal Shipping Review acknowledged, at least implicitly, that action at a national level through reform of the Commonwealth legislation and regulatory regime, would be required to stem the further decline of coastal shipping in Australia and Victoria.

In this regard, it is noted that Commonwealth Department of Infrastructure, Transport, Regional Development and Communications (DITRDC) has recently released a Discussion Paper setting out a number of reform proposals for consultation.[[61]](#footnote-61)

The Victorian review did, however, conclude that there are some areas of potential action to support coastal shipping that could be considered to be within the remit of the Victorian Government and could involve the participation of the ports.

These include:

* 1. identification of potential markets where coastal shipping could be competitive; and
  2. development of port planning requirements and investment in landside capacity orientated to coastal shipping activity.

The Victorian Minister for Ports and Freight wrote to the Federal Minister for Infrastructure, Transport and Regional Development in January 2020 outlining the Victorian position and advising that these latter areas would be given further consideration as part of the development of a Victorian ports strategy during 2020.

### Stakeholder views

Respondents to the Discussion Paper expressed a range of views about the prospects for coastal shipping and the role ports could or should play in its promotion.

VPCM expressed the view that coastal shipping is generally not competitive with other modes and that:

“It is a matter for Government policy to determine if broader network costs should be adjusted to facilitate coastal shipping.” [[62]](#footnote-62)

There was general agreement that if measures to promote coastal shipping were to be progressed, they were best progressed through the development of the proposed Victorian Ports Strategy (VPS).

However, the MUA queried whether the scope of the VPS would be sufficiently broad to deal with:

“the full spectrum of Victorian Government policies, legislation, regulation, guidance, strategy and funding to support Australian coastal shipping (which is far more comprehensive than what ports and the ports system can do by itself . . .” [[63]](#footnote-63)

The MUA suggested that an alternative would be to develop a separate ‘Australian Coastal Shipping Strategy’ to sit alongside the VPS. [[64]](#footnote-64)

A number of stakeholders also pointed to the importance of Port Development Strategies (PDSs) prepared by individual ports in shaping the future role of coastal shipping.

It was argued that PDSs could be used to identify suitable market opportunities and plan for investment in facilities for coastal shipping.

On the other hand, PDSs could work against coastal shipping by prioritising other trades. For example, the Tasmanian Logistics Committee noted with concern the proposals in the Port of Melbourne PDS to relocate Toll and Searoad from Webb Dock up the river to Swanson Dock, which it argues would disadvantage Tasmanian exporters.[[65]](#footnote-65)

It was noted that where coastal shipping was effective, it was generally providing a dedicated service with regular access, appropriate end-to-end infrastructure and complementary logistics arrangements. It usually could not compete with land transport modes in non-specialised supply chains.

New technologies, such as advanced autonomous RoRo vessels, auto-docking and direct-ramp access, were also raised as a potential means of reducing barriers to coastal shipping.

### Findings

The Review notes that coastal shipping is already playing an important role in Victoria, particularly for the movement of Tasmanian freight to and from the mainland and in handling some other specialised bulk trades through the Port of Melbourne.

The Review concludes that the ports are but one potential vehicle for influencing outcomes for coastal shipping and that revision of the Commonwealth legislative framework governing coastal shipping is arguably of far greater importance. The efforts of the ports alone would be insufficient to enable coastal shipping to turn the corner and move back into a growth phase.

The Review further notes that, as a result of privatisation processes over the last few decades, the State Government now only directly controls some components of the ports system, limiting the scope of its potential interventions.

Nevertheless, the Review concludes that Victoria’s ports system could play a stronger role in promoting the development of coastal shipping by proactively identifying, planning for and investing in compatible supply chains and technologies.

To be effective, the efforts of the ports in this regard would need to be complemented by clear and tangible policy, regulatory and investment signals from the State Government in support of the intention to grow coastal shipping.

### Proposals

The Review supports the Government’s proposal to include strategies and initiatives to promote coastal shipping in the forthcoming VPS.

The Review proposes that, as a practical extension of the VPS work, responsible port authorities should be required to explicitly address the potential to grow coastal shipping in the preparation of PDSs for their ports. The PDSs could then act to support the VPS strategies and initiatives with complementary port-by-port business planning and investment proposals.

The Review further proposes that the Government consider the development of a complementary but separate “Victorian Coastal Shipping Strategy” to encompass the broader range of Government industry policy settings and initiatives necessary to effectively progress the growth of coastal shipping in Victoria.

##### Recommendations

1. That the Government progress strategies and initiatives to promote coastal shipping through the forthcoming Victorian Ports Strategy (VPS);
2. That the Ministerial Guidelines for the preparation of Port Development Strategies (PDSs) be amended to require responsible port authorities to explicitly address the potential to grow coastal shipping in the preparation of the PDSs for their ports; and
3. That the Government consider the development of a separate, complementary “Victorian Coastal Shipping Strategy” to encompass the broader range of Government industry policy settings and initiatives necessary to progress the growth of coastal shipping in Victoria.

## 6.5 A Victorian Ports Strategy (VPS)

### Introduction

The State Government has committed, through the Victoria Freight Plan – Delivering the Goods (2018), to produce a new Victorian Ports Strategy (VPS) to provide refreshed guidance about the State’s strategic thinking for the ports system and its implications for individual ports.

### Stakeholder views

When stakeholders were asked, through the Discussion Paper, about the need for a new State-wide strategy for the Victorian ports system, there was near-unanimous agreement that it was of high importance, with a range of reasons cited.

At a high level, the role of the new VPS was seen to revolve around the articulation of the value of ports to the Victorian economy and communities; the coordination of port planning and investment with broader State transport and supply chain infrastructure; and the facilitation of trade, including minimisation of barriers for new trades.

Some priority content areas nominated for the new VPS included:

* + 1. identification of future port locations and related industrial-land supply;
    2. identification and protection of future transport corridors;
    3. buffer planning and other statutory protections for ports;
    4. identification and protection of environmental assets;
    5. development of port rail connections and supporting intermodal facilities (e.g. WIFT, BIFT, Inland Rail, Webb Dock Rail Link, the port rail shuttle network);
    6. development of measures to enable/maintain flexible 24/7 operations (through removal of curfews and other operational restrictions);
    7. facilitation of the handling of larger vessels in Port Phillip;
    8. facilitation of the growth of coastal shipping;
    9. measures to maximise the capacity of the Port of Melbourne and delay the need for a second container port;
    10. planning for Bay West;
    11. safety, efficiency and security of port operations;
    12. transparency and effectiveness of port organisational structures and governance, including commercial arrangements, costs and charges
    13. measures to address congestion near ports; and
    14. efficient movement and management of empty containers;

### Findings

The Review concludes that a new Statewide ports strategy is needed to provide a sense of vision, direction and investment confidence for the ports system, port managers and port stakeholders.

As recommended earlier, the VPS should be underpinned by the preparation of State-wide trade projections which should be shared with responsible port authorities and periodically updated.

More generally, there should be a strong emphasis on coordination and articulation between the new VPS and individual PDSs to promote alignment and reduce duplication of effort.

The Review concludes that the VPS should be prepared as soon as practicable but should be of high quality, robust and not rushed.

### Proposals

The Review proposes that the State Government (DoT) prepare and publish a new Victorian Ports Strategy (VPS) as soon as practicable, without compromising its quality and robustness.

Further, the Review proposes that the new VPS should be founded on sound economic analysis and trade projection data and involve thorough consultation with port managers and stakeholders.

The new VPS should have a 30-year time horizon but should also be designed to accommodate periodic reviews and updating (e.g. every five years) as new conditions and data emerge.

Finally, the Review proposes that arrangements to ensure effective coordination and alignment between the new VPS and individual PDSs prepared by responsible port authorities be further developed.

##### Recommendations

That the State Government (DoT) prepare and publish a new Victorian Ports Strategy (VPS) as soon as practicable, without compromising its quality and robustness;

That the new VPS:

* be founded on sound economic analysis and trade projection data;
* involve thorough consultation with port managers and stakeholders;
* have a 30-year time horizon; and
* be designed to accommodate periodic reviews and updating as new conditions and data emerge.

57. That the DoT (Freight Victoria) develop and implement additional mechanisms to ensure effective coordination and alignment between the new VPS and individual PDSs prepared by relevant port authorities.

# Landside pricing and access at the Port of Melbourne

## Introduction

The Port Pricing and Access Review (PPAR) was commissioned by the State Government to examine the causes of recent increases in ‘infrastructure charges’ levied by stevedores on transport operators and to recommend an appropriate response for the Government’s consideration.

Deloitte Access Economics (DAE) was engaged to undertake the review and finalised their report early in 2020.[[66]](#footnote-66)

Summary findings of the review were made available to stakeholders at an Industry Roundtable event hosted by the Minister in late January 2020. The full report remains confidential.

The key finding of the review was that there is no compelling case for the immediate introduction of price regulation.

However, the introduction of voluntary protocols for notifying and justifying future price increases and the development and monitoring of performance indicators for landside access were recommended to help improve transparency and service standards.

It was further recommended that the operation of this new voluntary system be reviewed after an appropriate period and that, if satisfactory outcomes were not achieved, further consideration be given to introducing a stronger regulatory approach.

In response to the findings of the review, Freight Victoria (DoT) has progressed the development of a Voluntary Port of Melbourne Performance Model (VPPM) and is currently finalising design and implementation arrangements in consultation with industry stakeholders.

## Stakeholder views

Stakeholder responses to the findings of the PPAR, as outlined in the Discussion Paper for the current review, were quite mixed.

About one third of the respondents broadly agreed with the findings, one third disagreed and one third were unsure.

A number of respondents noted that it was difficult to form a clear view in the absence of access to the full DAE report which, presumably, contained the evidence and arguments for the conclusions reached.

Unsurprisingly, views were split along the lines of stevedore interests versus cargo interests, with the former in support of the ‘light-handed’ voluntary standards approach and the latter preferring a more immediate move to mandatory price regulation

In relation to the outline of the pricing component of the VPPM set out in the Discussion Paper, again stakeholder views were very mixed.

Some stakeholders felt that the protocols outlined would improve transparency, predictability and timeframes to adjust to changes in prices. Others felt that the fundamental problem of market power held by the stevedores over terminal access would be unaffected and that prices would continue to rise in an unsustainable manner.

In relation to terminal access performance indicators, most stakeholders felt that they could be useful in improving service standards and consistency, although they would not directly address the issue of price increases.

A particular argument raised by some significant peak body stakeholders was that the problem of unchecked infrastructure charge increases could be best resolved by requiring the stevedores to levy the charge on the shipping line rather than the transport operator.

For example, FTA/PSA argue that:

“stevedores should be forced to either absorb operating costs or pass them on to their commercial client (shipping lines) . . . Shipping lines then have the choice to absorb or pass this onto shippers . . . through negotiated freight rates and associated charges.” [[67]](#footnote-67)

A number of stakeholders felt that there would be value in extending the coverage of the VPPM beyond stevedoring operations to other port-related service inputs or delivery activities. Some examples were land rentals, empty container terminal operations and shipping line services.

### Findings

The Review concludes that the stevedores do have market power with respect to the levying of terminal access charges (TACs) on transport operators. Transport operators have no choice as to the terminal they must access to drop off or pick up a container.

The more important question is whether the stevedores are using this market power unfairly to inflate prices and profits. The evidence and analysis presented by DAE leads them to the conclusion that, to date, this does not appear to be the case

The DAE analysis finds that the end-to-end supply chain cost of importing a container through the Port of Melbourne has not increased in real terms over the last 10 years, despite the recent increases in TACs.

This is because these increases have been offset by the effects of consolidation in the shipping industry and more competition in stevedoring which have led to reduced blue-sea freight rates and stevedore quayside costs.

It appears, instead, that the stevedores have used increases in TACs to rebalance revenues, compensating for reduced revenues from quayside activities.

Ultimately, the TAC is passed through to the shipper by the transport operator. As the shipper has benefitted from decreased quayside lift charges, passed through by the shipping line in Terminal Handling Charges (THCs), it seems that the stevedores are not gouging the shippers in overall cost terms.

For these reasons, the Review supports DAE’s conclusion that it is more appropriate to pursue a ‘light-handed’ voluntary standards approach at this stage, rather than a more heavy handed price regulation approach.

On a note of caution, however, the Review notes the most recent ACCC container stevedoring monitoring report which finds that, after a steady decline over the last decade, average returns on tangible assets and operating profit margins for the stevedores have actually increased in 2019-20:

It appears the main driver of increased revenues . . . was further increases in Terminal Access Charges (TACs, formerly called ‘infrastructure charges’) . . . The ACCC is concerned that the benefit of greater competition between stevedores to provide services to shipping lines will be eroded by increasing TACs . . .” [[68]](#footnote-68)

This recent development points to the need to keep the voluntary standards approach represented by the VPPM under review and to bring the prospect of formal price regulation back onto the table should TACs continue to be a key driver of increased profitability.

In relation to the argument that the solution to the problem is that the stevedore should be required to direct the infrastructure charge to the shipping line, its primary ‘commercial customer’, the Review agrees that if this could be achieved it may help to suppress cost increases.

However, it is not clear to the Review how this outcome could be logically enforced, as it seems that the transport operator is, in fact, also a commercial customer of the stevedore, consuming the service of landside terminal access.

Another relevant question raised in the DAE work is that of ‘unexplained costs’ levied by the shipping lines, which have also risen rapidly in recent years. These unexplained costs are also passed through to the shippers in THCs.

THCs include stevedore quayside lift charges, port-manager charges (e.g. wharfage and channel fees) and in-port service-provider costs (e.g. pilotage, towage, line boats), as well as the so-called ‘unexplained costs’.

As explained by Shipping Australian:

“Every port and terminal applies its charges in its own way and each shipping line decides for itself what costs are included in its freight rate and what costs are included in its Terminal Handling Charge”. [[69]](#footnote-69)

The problem here appears to be one of lack of transparency, as it seems that the constituent components of the THC are not clearly and consistently itemised by the shipping lines in their invoicing. Consequently, the validity of these charges cannot be readily verified by the shipper and compared across different shipping lines.

The Review concludes that this amounts to an information asymmetry market failure which has the potential to reduce price competition between shipping lines and, therefore, inflate costs for shippers.

The extent to which this apparent market failure is actually inflating prices is unclear. It does appear, however, that greater transparency in relation to THCs would be beneficial to the efficient operation of the port supply chain.

### Proposals

The Review proposes that the VPPM, as currently proposed, be finalised in consultation with the stevedores and other relevant stakeholders and implemented as soon as practicable.

The Review further proposes that, as a subsequent stage of implementation, the design of the VPPM be expanded to include shipping line THCs which, by definition, will encompass all port-based costs which are passed through to shippers by shipping lines.

Local THCs for the Port of Melbourne are generally published on shipping line websites and could be collated and published in a comparable format as an extension of the VPPM.

Finally, the Review proposes that the voluntary standards approach represented by the VPPM be kept under review and that formal price regulation be reconsidered should TACs emerge as a key driver of increased stevedore profitability.

##### Recommendations

1. That the Government, through the DoT (Freight Victoria), finalise the current design of the VPPM in consultation with relevant industry stakeholders and proceed with implementation as soon as practicable;
2. That, as a subsequent phase of implementation, the design of the VPPM be expanded to include shipping line THCs;
3. That the voluntary standards approach represented by the VPPM be kept under review and that formal price regulation be reconsidered should TACs emerge as a key driver of increased stevedore profitability.

# Port sector engagement

## Introduction

The Victorian ports system is composed of a diverse range of port managers, operators and service providers – public and private – and other key stakeholders who are customers of the ports or interface with them in providing intermediate services.

In the past there have been various formalised structures to enable the Government to communicate and consult effectively with key sector interests and stakeholders, to promote better alignment of objectives and a joint problem-solving approach.

Currently, there is no standing forum for structured engagement with the ports sector (or for the broader freight and logistics sector).

## Stakeholder views

The great majority of respondents to the Discussion Paper supported the establishment a formal industry advisory body to keep the Minister appraised of developments and issues in the ports sector and to provide expert advice.

One stakeholder argued for such a body as one means of redressing:

“the progressive erosion of industry knowledge and expertise within government as the private sector has assumed a greater role following privatisation of the Port of Melbourne.”

PoMO supported the establishment of a standing consultative body:

“to raise the profile of ports and freight across all relevant portfolios.” [[70]](#footnote-70)

There was a split view among stakeholders on the issue of whether such a body should be specific to the ports sector or should be incorporated in a broader freight and logistics advisory forum. Good arguments were put forward for both positions.

There was also a range of suggestions about the operational design and membership of such a forum.

### Findings

Given the importance of the successful functioning of the ports system to the Victorian economy and community, the Review concludes that the Government should institute a more regular, formalised method of engagement with the sector.

The design of such an engagement method is dependent on the specific objectives of the engagement from the Government’s perspective.

The Review suggests that these objectives might include:

* + 1. the need for the Government to convey information about its policies and priorities to the sector;
    2. the need for the sector to convey information about developments and issues in the sector to the Government; and
    3. the need for the Government to gain the benefit of direct access to technical and strategic advice only available from the sector to assist it in the development of robust Government policy and strategy

Even having clarified objectives, there remains a range of difficulties associated with establishing an appropriate engagement mechanism, including the selection of appropriate representation from such a large and complex sector.

There is also the issue of competition and competing agendas among key stakeholders (e.g. between stevedores and between stevedores and unions) which may constrain information flows and the provision of balanced advice.

To function effectively, such an engagement mechanism would also require significant resourcing and dedicated management, inputs not necessarily available in a resource constrained environment.

### Proposals

Given the current absence of any formal standing sector engagement arrangement and the other factors outlined above, the Review proposes that, at least initially, a reasonably simple and straightforward approach be adopted.

This could take the form of a regular, well publicised bi-annual port roundtable event, hosted by the Minister, with a broad invitation list to a wide range of port sector stakeholders.

This approach would draw on the experience of the one-off port roundtable event hosted by the Minister in late January of this year. This event was well attended and, anecdotally at least, seen to be useful in terms of the exchange of information and views on contemporary issues of concern to the ports sector.

The Review proposes that substantial effort should be put into the design of the agenda for each roundtable to ensure that the needs and interests of stakeholders are adequately addressed.

The Review also considers it important that any such stakeholder engagement mechanism is used to expose a broad range of relevant senior Government departmental representatives (i.e. beyond the DoT) to the needs and issues of the ports sector.

Further, the Review proposes that, subject to a review of the effectiveness of this approach and feedback from stakeholders, an additional standing advisory committee structure should be designed and implemented in the future.

##### Recommendations

1. That, initially, regular port-sector engagement be instituted in the form of a bi-annual port roundtable event, hosted by the Minister, with a broad invitation list to a wide range of port-sector stakeholders;
2. That the design of the agenda for each roundtable be flexible and adapted to ensure that the priority needs and interests of stakeholders are adequately addressed;
3. That, subject to a review of the effectiveness of this approach and feedback from stakeholders, an additional standing advisory committee structure be designed and implemented.

# Conclusion

The Review has examined the current governance and structural arrangements for the Victorian ports system to determine their fitness for purpose in delivering on the Government’s objectives.

The Review has concluded that, although the system is functional, it is poorly designed, overly complex and not well suited to delivering consistent, high standard outcomes in its current form.

The Review further concludes that the current definition of the ports system, encompassing the large commercial trading ports and the small local ports, is not helpful from a policy and strategy design perspective.

The Review recommends that the commercial trading ports be treated on a standalone basis in the Government’s policy and planning settings and that the local ports be grouped with managed waterways.

The Review recommends the reorganisation of the ports system around two new bodies, a new Victorian Ports Authority (VPA) and, ultimately, a new Victorian Waterway Management Authority (VWMA).

This new set of arrangements is designed to more effectively group compatible functions; appropriately allocate responsibilities to capable entities; and clarify and reinforce lines of accountability.

The proposed new arrangements should provide the Government with confidence that the governance and organisational design of Victoria’s ports system is equal to the task of delivering safe, efficient and effective outcomes for the State’s economy and community well into the future.

# Appendix A Terms of reference

## Purpose

Conduct a high-level review of the Victorian Ports System to support the development of a strategic policy and governance framework to guide the long-term development of the sector and to identify specific reforms to improve system efficiency and effectiveness in the short to medium term.

## Background

Port assets in Victoria are managed through a mixture of private and public-sector entities. There are four commercial ports along the coast – at Hastings, Melbourne, Geelong and Portland – which handle a range of containerised, bulk and break-bulk trades.

Following the Port of Melbourne Lease Transaction in 2016, only the Port of Hastings and Station Pier remain as directly state- managed landside port asset. The landside facilities of the ports of Geelong and Portland were privatised in the 1990s. Channel infrastructure at all four Victorian ports remains in state ownership with port waters in the ports of Melbourne, Hastings and Geelong managed directly by a state-owned entity, while the private Port of Portland manages

its own port waters under an agreement with the State.

In addition to the four commercial trading ports, there are 14 local ports along Victoria’s coast which are managed by eight different local port managers. These ports include a range of different facilities which accommodate some minor commercial and recreational assets.

Since the conclusion of the Port of Melbourne Lease Transaction a range of policy and planning issues have emerged to which Freight Victoria is responding through a number of targeted policy review projects.

The specific policy matters currently being examined include:

* + Governance arrangements for state-owned port entities
  + Regulation of key port services (pilotage and towage)
  + Pricing and access arrangements at the Port of Melbourne
  + Development of coastal shipping

The work to date has highlighted the more general need for a consistent overarching strategic policy and governance framework for the Victorian ports sector to ensure that the outcomes of these more targeted review projects can be properly contextualised and aligned.

While a range of port-related matters were outlined in the Victoria Freight Plan –*Delivering the Goods* (2018) released in July 2018, the Plan did not propose any substantive changes to strategic direction or governance settings for Victorian ports. The legislative settings for both local and commercial ports have not been substantially reviewed since the Russell Review was completed in 2002.

The Victoria Freight Plan – *Delivering the Goods* (2018) did, however, commit to the preparation of a comprehensive Victorian Ports Strategy in the short term (Priority 4 – Plan for Victoria’s future port capacity) which will include a long-term plan for handling future exports and imports across Victoria’s current (and future) commercial ports.

In order to provide a strategic context for the development of the Ports Strategy and to enable integration of the outputs of the various pieces of work now under way into one consistent narrative, it is now proposed to undertake an Independent Review of Victoria’s ports system. The Review will assess the functioning and performance of the system and consider the policy and governance directions necessary to ensure it is best equipped to meet the State’s trade requirements effectively, efficiently and sustainably into the future.

Following completion of the Independent Review there will be a report back to the Economic Policy Committee detailing the outcomes and recommendations of completed work and proposing next steps in the development of a Government response, through the proposed Ports Strategy and other relevant policy reform initiatives.

## Objectives

To consult with key port stakeholders, including port users (importers, exporters, freight forwarders), port service providers (including transport), port owners/operators, port regulators and port-impacted communities, to assist in assessing the current functioning and performance of the Victorian port system

To incorporate the findings of a number of specific policy reviews currently under way (e.g. governance and pricing reviews) into the above assessment

Based on the above, to identify current strengths and weaknesses of the ports system and key emerging issues and challenges and to assess the efficacy of possible future policy and strategy directions and settings

To develop and consult on a strategic vision, goals and objectives for the ports system to inform the development of the Victorian Ports Strategy and the broader port policy reform agenda and to clarify the appropriate role for government and other key stakeholders in achieving these outcomes

In this context, to make specific recommendations regarding improvements to, or reform of, the ports system in the short to medium term to ensure it is able to operate efficiently and effectively in the interests of all Victorians into the future

## Approach

An Independent Reviewer will be appointed to coordinate and oversight the review process, including a program of consultation with key port stakeholders. The work of the Independent Reviewer will be resourced and supported by Freight Victoria within the Department of Transport.

## Timelines

The review process will run for approximately six months, with formal stakeholder consultation commencing from February 2020. The Independent Reviewer will provide a report on the review process and findings to the Government by mid-2020.

# Appendix B List of stakeholders interviewed in initial stage of the Review

| Date | Stakeholder | Representative/s | Title |
| --- | --- | --- | --- |
| 27/11/2019 | Essential Services Commission (ESC) | Marcus Crudden | Director, Price Monitoring and Regulation |
| 27/11/2019 | Department of Treasury and Finance (DTF) | Anthony Rossitor | Senior Economist Service Delivery and Reform Group |
| 27/11/2019 | Department of Treasury and Finance (DTF) | Fotos Andreou | Director |
| 27/11/2019 | Department of Treasury and Finance (DTF) | Craig Tarling | Senior Analyst |
| 29/11/2019 | Department of Premier and Cabinet (DPC) | Miriam Slattery | Director |
| 29/11/2019 | Department of Premier and Cabinet (DPC) | William Fairweather | Policy Officer |
| 29/11/2019 | Department of Premier and Cabinet (DPC) | Elizabeth Brant | Manager |
| 3/12/2019 | Melbourne Port Lessor (MPL) | Brett McKenzie | General Manager – Port Lessor |
| 3/12/2019 | Melbourne Port Lessor (MPL) | Steve Rundin | Commercial Manager – Port Lessor |
| 5/12/2019 | Marine Pollution (DoT) | Michael Holloway | Manager Marine Pollution |
| 18/12/2019 | Victorian Regional Channels Authority (VRCA) | David Shennan | Harbour Master |
| 18/12/2019 | Victorian Regional Channels Authority (VRCA) | Stuart Christie | Development Manager |
| 18/12/2019 | Victorian Regional Channels Authority (VRCA) | Peter Mannion | CEO |
| 18/12/2019 | Victorian Regional Channels Authority (VRCA) | Ian Clydesdale | Commercial Manager |
| 9/01/2020 | Parks Victoria (PV) | Kylie Trott | Director, Melbourne Division |
| 9/01/2020 | Parks Victoria (PV) | Jo Richards | Regional Director, Marine and Maritime |
| 16/01/2020 | Australian Competition and Consumer Commission (ACCC) | David Cranston | Director, Airports, Post, Ports and Road Reform Section |
| 16/01/2020 | Australian Competition and Consumer Commission (ACCC) | Deric Flores | Senior Analyst |
| 4/02/2020 | Better Boating Victoria (BBV) | Gary Gaffney | CEO |
| 4/02/2020 | Transport Safety Victoria (TSV) | Cameron Toy | Director, Maritime Safety |
| 12/02/2020 | Victorian Ports Corporation Melbourne (VPCM) | Rachel Johnson | CEO |
| 12/02/2020 | Victorian Ports Corporation Melbourne (VPCM) | Kell Dillon | EGM Marine and Navigation and Harbour Master |
| 12/02/2020 | Victorian Ports Corporation Melbourne (VPCM) | Jeff Bazelmans | EGM Business, Information and Strategy |
| 14/02/2020 | Victorian Regional Channels Authority (VRCA) | Peter Mannion | CEO |
| 17/02/2020 | Victorian Ports Corporation Melbourne (VPCM) | James Cain | Chair |
| 17/02/2020 | Victorian International Container Terminals (VICT) | Tim Vancampen | CEO |
| 17/02/2020 | Victorian International Container Terminals (VICT) | Patrick Chan | General Manager – Commercial |
| 17/02/2020 | Freight Trade Alliance/ Australian Peak Shippers Association (FTA/PSA) | Paul Zalai | Director |
| 19/02/2020 | Port of Hastings Development Authority (PoHDA) | Malcolm Geier | CEO |
| 18/02/2020 | Victorian Transport Association (VTA) | Peter Anderson | CEO |
| 18/02/2020 | Victorian Transport Association (VTA) | Greg Cain | Industry Services Manager |
| 24/02/2020 | Customs Brokers and Forwarders Council of Australia (CBFCA) | Zoran Kostadinoski | Regional Manager VIC/TAS/SA |
| 25/02/2020 | Warrnambool City Council | Ben Storey | Manager Facilities & Projects |
| 25/02/2020 | Glenelg Shire Council (Port of Portland Bay) | Scott Easson | Port Manager |
| 25/02/2020 | Port of Portland | Greg Tremewen | CEO |
| 25/02/2020 | Moyne Shire (Port Fairy) | Paula Tovey | Team Leader Environmental Sciences |
| 25/02/2020 | Moyne Shire (Port Fairy) | David Mattner | Port Manager |
| 26/02/2020 | Barwon South West Local Ports Forum\* | See Footnote Below | See Footnote Below |
| 26/02/2020 | Colac Otway Shire (Apollo Bay) | Peter Brown | CEO |
| 26/02/2020 | Colac Otway Shire (Apollo Bay) | Simon McBeth | Port Coordinator |
| 3/03/2020 | Port of Melbourne Operations (PoMO) | Brendan Bourke | CEO |
| 3/03/2020 | Port of Melbourne Operations (PoMO) | Caryn Anderson | Executive General Manager |
| 3/03/2020 | Shipping Australia Limited (SAL) | Rod Nairn | CEO |
| 3/03/2020 | Shipping Australia Limited (SAL) | Melwyn Noronha | General Manager – Technical Services & Industry Policy |
| 16/02/2020 | Gippsland Ports CoM (GP) | Chris Waites | CEO |
| 16/02/2020 | Gippsland Ports CoM (GP) | Robin Buckham | Chair |
| 16/02/2020 | Gippsland Ports CoM (GP) | Joanne Butterworth-Gray | Board Member |
| 16/02/2020 | Gippsland Ports CoM (GP) | Ralph Kenyon | Board Member |
| 16/02/2020 | Gippsland Ports CoM (GP) | David Holding | Executive Manager Marine Operations |
| 16/02/2020 | Gippsland Ports CoM (GP) | Bevis Hayward | Harbour Master |
| 16/02/2020 | Gippsland Ports CoM (GP) | Stephen Martin | Executive Manager Corporate Services |
| 18/03/2020 | Victorian Regional Channels Authority (VRCA) | Kate Roffey | Chair |
| 18/03/2020 | Container Transport Alliance Australia (CTAA) | Neil Chambers | Director |
| 23/03/2020 | Qube | Maurice James | Managing Director |
| 24/03/2020 | Linx Cargo Care | Anthony Jones | CEO |
| 25/03/2020 | GeelongPort | Brett Winter | CEO |
| 25/03/2020 | DoT | Kathryn Grech | Principle Strategist |
| 27/03/2020 | Parks Victoria (PV) | David Ritman | Team Leader Maritime Planning |
| 27/03/2020 | Parks Victoria (PV) | Graham Davies | District Manager Port Phillip Western Port |
| 27/03/2020 | Parks Victoria (PV) | Victor Teoh | Senior Manager Local Ports and Waterways |
| 27/03/2020 | Victorian Regional Channels Authority (VRCA) | David Shennan | Harbour Master |
| 27/03/2020 | Victorian Regional Channels Authority (VRCA) | Stuart Christie | Development Manager |
| 27/03/2020 | Victorian Regional Channels Authority (VRCA) | Peter Mannion | CEO |
| 27/03/2020 | Victorian Regional Channels Authority (VRCA) | Ian Clydesdale | Commercial Manager |
| 30/03/2020 | Victorian Farmers Federation (VFF) | Simon McNair | Grains Manager |
| 1/04/2020 | Port of Hastings Development Authority (PoHDA) | Jennifer Acton | Chair |
| 1/04/2020 | Committee for Geelong | Jennifer Cromarty | CEO |
| 1/04/2020 | Committee for Geelong | Kirsten Kilpatrick | Board Member |
| 8/05/2020 | Maritime Union of Australia (MUA) | Ian Bray | Assistant National Secretary |
| 8/05/2020 | Maritime Union of Australia (MUA) | Rod Pickette | Consultant Policy Adviser |
| 8/05/2020 | Maritime Union of Australia (MUA) | Shane Stevens | Victorian Branch Secretary |
| 8/05/2020 | Maritime Union of Australia (MUA) | David Ball | Victorian Deputy Branch Secretary |
| 28/05/2020 | Patrick Terminals | Michael Jovicic | CEO |
| 28/05/2020 | Patrick Terminals | Victoria Moore | General Counsel and Company Secretary |
| 28/05/2020 | Patrick Terminals | Nikki Santry | Business Development Manager |
| 1/06/2020 | Ports Australia | Michael Gallacher | CEO |
| 1/06/2020 | Ports Australia | Ash Sinha | Policy Director |
| 1/06/2020 | Ports Australia | Margaret Barbouttis | Policy and Operations Director |

\*Attended by port managers from local ports as well as representatives from the DoT, DJPR and TSV

Scott Easson (Glenelg Shire), Paula Tovey, David Mattner (Moyne Shire); Benjamin Storey, Don Allen (Warrnambool City), Natasha Johnson, Rhianna Burns (Parks Victoria), Simon McBeth, Marcus Pola (Colac Otway Shire), Caleb Hurrell (GORCC), Warren Chapman (BCCoM), Michael Holloway, Linda Palmer (DoT), Richard Stafford-Bell (DJPR), Geoffrey Swanton (TSV)

# Appendix C Discussion Paper (July 202)

[See separate attachment]

# Appendix D List of submissions to the Discussion Paper

| Number | Organisation | Confidential |
| --- | --- | --- |
| 1 | Melbourne Port Lessor | No |
| 2 | WorkSafe Victoria | No |
| 3 | Glenelg Shire Council | No |
| 4 | Gunaikurnai Land and Waters Aboriginal Corporation | No |
| 5 | Deakin University | Yes |
| 6 | Brisbane And Sydney Customs Brokers | No |
| 7 | OneFortyOne | Yes |
| 8 | Rail Freight Alliance | No |
| 9 | Michael Palm (Community Member) | Yes |
| 10 | MnT | No |
| 11 | Great Ocean Road Coast Committee | Yes |
| 12 | Wellard Limited | No |
| 13 | Samantha Bamford (Community Member) | No |
| 14 | Moyne Shire | No |
| 15 | Tasmanian Logistics Committee | No |
| 16 | Hydrogen Energy Supply Partners (HESC) Project Partners | No |
| 17 | Dominic L’Huillier (Consultant) | No |
| 18 | Australian Marine Oil Spill Centre (AMOSC) | No |
| 19 | Shoal Group | No |
| 20 | South West Fibre | Yes |
| 22 | Victorian Ports Corporation (Melbourne) | No |
| 23 | Wimmera Southern Mallee Regional Transport Group/ Wimmera Development Assoc. | No |
| 24 | Wilmar Sugar | Yes |
| 25 | Patrick Terminals | Yes |
| 26 | Boating Industry Association of Victoria (BIAV) | No |
| 27 | Graincorp | Yes |
| 28 | Warrnambool City Council | No |
| 29 | Victorian Association of Forest Industries Inc (VAFI) | No |
| 30 | Maritime Safety Victoria | No |
| 31 | Mornington Peninsula Shire | No |
| 32 | Burra Foods | No |
| 33 | Officeworks | Yes |
| 34 | Portland Beach Safety & Restoration Alliance | Yes |
| 35 | Victorian Farmers Federation | Yes |
| 36 | City of Greater Geelong | No |
| 37 | Freight Trade Alliance/ Australian Peak Shippers Association (FTA/PSA) | No |
| 38 | Port of Hastings Development Authority (PoHDA) | No |
| 39 | Gippsland Ports | Yes |
| 40 | Environmental Protection Agency (EPA) Victoria | No |
| 41 | Property Council of Australia | No |
| 42 | International Forwarders & Customs Brokers Association of Australia Ltd (IFCBAA) | No |
| 43 | GHD Advisory | Yes |
| 44 | Victorian International Container Terminal (VICT) | Yes |
| 45 | Avalon 2020 | No |
| 46 | Victorian Regional Channels Authority (VRCA) | No |
| 47 | Committee for Geelong | No |
| 48 | Port Phillip Sea Pilots | No |
| 50 | Grain Trade Australia | No |
| 51 | Australian Maritime Officers Union (AMOU) | No |
| 52 | Maritime Union of Australia (MUA) | No |
| 53 | Port of Portland | No |
| 54 | Parks Victoria | No |
| 55 | DELWP | Yes |
| 56 | Viva Energy | Partial |
| 57 | Commercial Freight and Logistics Pty Ltd Australia | No |
| 58 | Vopak LNG | Yes |
| 59 | Australasian Railway Association | No |
| 60 | Maribyrnong Truck Action Group (MTAG) | No |
| 61 | Victorian Transport Association (VTA) | No |
| 62 | Geelong Port | Yes |
| 63 | Committee for Melbourne | No |
| 64 | Shipping Australia Limited (SAL) | No |
| 65 | Star of the South | No |
| 66 | Australian Pilotage Group (APG) | No |
| 67 | AustCotton | Yes |
| 68 | Colac Otway Shire | No |
| 70 | Geelong Manufacturing Council | No |
| 71 | Port of Melbourne Operations Pty Ltd | No |
| 72 | Australian Logistics Council (ALC) | No |
| 73 | Australian Maritime Safety Authority | No |
| 74 | Melbourne Maritime Heritage Network (MMHN)/Offshore & Specialist Ships Australia (OSSA) | No |

# Appendix E List of further direct stakeholder consultations

| Date | Stakeholder | Representative/s | Title |
| --- | --- | --- | --- |
| 4/08/2020 | Australian Pilotage Group | David McDonald | General Manager |
| 4/08/2020 | Australian Pilotage Group | Trent Lonsdale | Managing Director |
| 3/08/2020 | Gippsland Ports | Chris Waites | CEO |
| 3/08/2020 | Gippsland Ports | Robin Buckham | Chair of Board |
| 3/08/2020 | Gippsland Ports | Chris Badger | Board Member |
| 3/08/2020 | Gippsland Ports | Joanne Butterworth-Gray | Board Member |
| 3/08/2020 | Gippsland Ports | Ralph Kenyon | Board Member |
| 3/08/2020 | Gippsland Ports | Vivien Williamson | Board Member |
| 5/08/2020 | Geelong Stakeholders | Jennifer Cromarty | Committee for Geelong (CEO) |
| 5/08/2020 | Geelong Stakeholders | Edwina Prybl | Viva Energy (Head of External Communications) |
| 5/08/2020 | Geelong Stakeholders | Brett Winter | GeelongPort (CEO) |
| 5/08/2020 | Geelong Stakeholders | David Peart | Geelong Manufacturing Council |
| 5/08/2020 | Geelong Stakeholders | Patrick Prendergast | GrainCorp (Ports Operations Manager) |
| 5/08/2020 | Geelong Stakeholders | Peter Mannion | Victorian Regional Channels Authority (CEO) |
| 5/08/2020 | Geelong Stakeholders | Stuart Christie | Victorian Regional Channels Authority (Development Manager) |
| 5/08/2020 | Geelong Stakeholders | Ian Clydesdale | Victorian Regional Channels Authority (Commercial Manager) |
| 5/08/2020 | Geelong Stakeholders | David Shennan | Victorian Regional Channels Authority (Harbour Master Geelong) |
| 6/08/2020 | Hastings Stakeholders | Peter Fitsioris | Bluescope Steel (Shipping and Marine Manager) |
| 6/08/2020 | Hastings Stakeholders | David McCord | Esso (Long Island Plant Manager) |
| 6/08/2020 | Hastings Stakeholders | Malcolm Geier | Port of Hastings Development Authority (CEO) |
| 6/08/2020 | Hastings Stakeholders | Peter Mannion | Victorian Regional Channels Authority (CEO) |
| 6/08/2020 | Hastings Stakeholders | Shane Vedamuttu | Victorian Regional Channels Authority (Harbour Master Hastings) |
| 13/08/2020 | Portland Stakeholders | Greg Tremewen | Port of Portland (CEO) |
| 13/08/2020 | Portland Stakeholders | Andrew Hayes | Port of Portland (Harbour Master) |
| 13/08/2020 | Portland Stakeholders | Peter Mannion | Victorian Regional Channels Authority (CEO) |
| 13/08/2020 | Portland Stakeholders | David Shennan | Victorian Regional Channels Authority (Harbour Master Geelong) |
| 9/11/2020 | Port of Portland | Greg Tremewen | Port of Portland (CEO) |
| 9/11/2020 | Port of Portland | Lindsay Ward | Palisade Investment Partners |
| 15/9/2020 | Great Ocean Road Coast and Parks Authority (GORCAPA) | Libby Sampson | Senior Project Manager, Barwon South West |
| 15/9/2020 | Great Ocean Road Coast and Parks Authority (GORCAPA) | Paul Jane | Project Manager |
| 15/9/2020 | Great Ocean Road Coast and Parks Authority (GORCAPA) | Joanna Gilligan | Director, Major Projects, Barwon South West |
| 30/9/2020 | Transport Safety Victoria (TSV) | Cameron Toy | Director, Maritime Safety |

# List of references

*The Next Wave of Port Reform in Victoria, An Independent Report to the Minister for Ports,* Department of Infrastructure, 2001

*Delivering the Goods, Victorian Freight Plan,* Transport for Victoria, 2018

*Review of the Regulatory Framework for Pilotage in Victoria, Summary Report, Final,* Transport for Victoria, 2018

*A Review of Port Towage Regulation and Arrangements in Melbourne*, Kendall Carter Consulting, March 2019

*Safe and Accessible Victorian Waterways – Discussion Paper*, DEDJTR, November 2016

*Port Development Strategy Ministerial Guidelines*, Transport for Victoria, July 2017

*Advisory Committee Terms of Reference, Review of Planning Controls Port Environs*, Minister for Planning, 16 September 2009

*Redevelopment of 50 Mackey Street, North Geelong (Powerview Pty Ltd proposal)*, Advisory Committee Report, Planning Panels Victoria, 1 April 2020

*Advice on securing Victoria’s port capacity*, Infrastructure Victoria (May 2017)

*Coastal Trading Reform for Cargo Vessels – Discussion Paper*, DITCRD, September 2020

*Port Pricing and Access Review (PPAR), Final Report,* Deloitte Access Economics, 24 January 2020 (Commercial-in-confidence)

*Container stevedoring monitoring report 2019-20,* ACCC, October 2020

1. The Next Wave of Port Reform in Victoria, 2001 [↑](#footnote-ref-1)
2. Delivering the Goods, 2018 [↑](#footnote-ref-2)
3. Some consultations with internal Government stakeholders commenced in late 2019 [↑](#footnote-ref-3)
4. Submission #22, Victorian Port Corporation (Melbourne), p3 [↑](#footnote-ref-4)
5. Submission #64, Shipping Australia Limited, p2 [↑](#footnote-ref-5)
6. Submission #46, Victorian Regional Channels Authority, p4 [↑](#footnote-ref-6)
7. Submission #71, Port of Melbourne Operations Pty Ltd, p3 [↑](#footnote-ref-7)
8. Submission #38, Port of Hastings Development Authority, p5 [↑](#footnote-ref-8)
9. Submission #14, Moyne Shire, p1 [↑](#footnote-ref-9)
10. Submission #46, Victorian Regional Channels Authority, p5 [↑](#footnote-ref-10)
11. Submission #22, Victorian Port Corporation (Melbourne), p6 [↑](#footnote-ref-11)
12. The Victorian Ports Authority is a suggested name only. The Government could choose another name or apply a trading name, such as “Ports Victoria”. [↑](#footnote-ref-12)
13. Reasons for decision under Environment Effects Act 1978 (Referral Number 2020R 12), 03/08/2020 [↑](#footnote-ref-13)
14. Submission #30, Maritime Safety Victoria, p1 [↑](#footnote-ref-14)
15. Submission #65, Star of the South, p9 [↑](#footnote-ref-15)
16. Submission #26, Boating Industry Association of Victoria, p2 [↑](#footnote-ref-16)
17. Submission #4, Gunaikurnai Land and Waters Aboriginal Corporation, p2 [↑](#footnote-ref-17)
18. Submission #64, Shipping Australia Limited, p3 [↑](#footnote-ref-18)
19. Submission #22, Victorian Port Corporation (Melbourne), p9 [↑](#footnote-ref-19)
20. Submission #71, Port of Melbourne Operations Pty Ltd, p8 [↑](#footnote-ref-20)
21. Submission #53, Port of Portland Pty Ltd, p2 [↑](#footnote-ref-21)
22. Submission #22, Victorian Port Corporation (Melbourne), pp10-11 [↑](#footnote-ref-22)
23. Submission #30, Maritime Safety Victoria, p5 [↑](#footnote-ref-23)
24. Refer to Submission #53, Port of Portland Pty Ltd (including supplementary submissions) for detail of these arguments [↑](#footnote-ref-24)
25. Marine Safety Act 2010, section 241(1) [↑](#footnote-ref-25)
26. Review of the Regulatory Framework for Pilotage in Victoria, Summary Report, Final, TfV, 2018 [↑](#footnote-ref-26)
27. Submission #48, Port Phillip Sea Pilots, pp9-10 [↑](#footnote-ref-27)
28. ibid, p12 [↑](#footnote-ref-28)
29. Submission #52, Maritime Union of Australia, p15 [↑](#footnote-ref-29)
30. Submission #71, Port of Melbourne Operator Pty Ltd, p7 [↑](#footnote-ref-30)
31. Submission #46, Victorian Regional Channels Authority, p5 [↑](#footnote-ref-31)
32. The exception being the Port of Portland, where the private Port of Portland Pty Ltd would continue to be employ the harbour master. [↑](#footnote-ref-32)
33. Submission #71, Port of Melbourne Operator Pty Ltd, pp8-9 [↑](#footnote-ref-33)
34. Submission #38, Port of Hastings Development Authority, p14 [↑](#footnote-ref-34)
35. “A Review of Port Towage Regulation and Arrangements in Melbourne”, Kendall Carter Consulting (March 2019) [↑](#footnote-ref-35)
36. Submission #22, Victorian Port Corporation (Melbourne), p12 [↑](#footnote-ref-36)
37. The exception again being the Port of Portland, where the private Port of Portland Pty Ltd would continue to employ the harbour master. [↑](#footnote-ref-37)
38. The exception being Port Campbell which was transferred to the management of Parks Victoria after the local council withdrew several years ago. [↑](#footnote-ref-38)
39. In the case of Parks Victoria, letters are exchanged between the parties annually. [↑](#footnote-ref-39)
40. Submission #54, Parks Victoria, p4 [↑](#footnote-ref-40)
41. Submission #02, Glenelg Shire Council, p4 [↑](#footnote-ref-41)
42. Submission #43, Colac Otway Shire, p1 [↑](#footnote-ref-42)
43. With the exception of the local port of Lorne. [↑](#footnote-ref-43)
44. Submission #02, Glenelg Shire Council, p5 [↑](#footnote-ref-44)
45. Submission #30, Maritime Safety Victoria, pp1-2 [↑](#footnote-ref-45)
46. Submission #54, Parks Victoria, p3 [↑](#footnote-ref-46)
47. Ibid [↑](#footnote-ref-47)
48. ibid [↑](#footnote-ref-48)
49. Op. cit., Maritime Safety Victoria, p2 [↑](#footnote-ref-49)
50. Safe and Accessible Victorian Waterways – Discussion Paper, DEDJTR, November 2016, pp29-32 [↑](#footnote-ref-50)
51. Port Development Strategy Ministerial Guidelines, July 2017 [↑](#footnote-ref-51)
52. Submission #38, Port of Hastings Development Authority, pp14-15 [↑](#footnote-ref-52)
53. Submission #40, Environment Protection Authority Victoria, p1 [↑](#footnote-ref-53)
54. Advisory Committee Terms of Reference, Review of Planning Controls Port Environs, 16 September 2009 [↑](#footnote-ref-54)
55. “Redevelopment of 50 Mackey Street, North Geelong (Powerview Pty Ltd proposal)”, Advisory Committee Report (1 April 2020) [↑](#footnote-ref-55)
56. Consultation material produced by DELWP, published on the Engage Victoria website [↑](#footnote-ref-56)
57. “Advice on securing Victoria’s port capacity”, Infrastructure Victoria (May 2017), p172 [↑](#footnote-ref-57)
58. Ibid [↑](#footnote-ref-58)
59. Submission #53, Port of Portland Pty Ltd, pp4-5 [↑](#footnote-ref-59)
60. Submission #71, Port of Melbourne Operator Pty Ltd, p13 [↑](#footnote-ref-60)
61. Coastal Trading Reform for Cargo Vessels – Discussion Paper, DITCRD, September 2020 [↑](#footnote-ref-61)
62. Submission #22, Victorian Port Corporation (Melbourne), p19 [↑](#footnote-ref-62)
63. Submission #52, Maritime Union of Australia, p26 [↑](#footnote-ref-63)
64. Ibid [↑](#footnote-ref-64)
65. Submission #15, Tasmanian Logistics Committee, pp1-2 [↑](#footnote-ref-65)
66. Port Pricing and Access Review (PPAR), Final Report, DAE, 24 January 2020 (Commercial-in-confidence) [↑](#footnote-ref-66)
67. Submission #37, Freight & Trade Alliance and the Australian Peak Shippers Association, p6 [↑](#footnote-ref-67)
68. Container stevedoring monitoring report 2019-20, ACCC, October 2020 [↑](#footnote-ref-68)
69. Shipping Australia website [↑](#footnote-ref-69)
70. Submission #71, Port of Melbourne Operator Pty Ltd, p15 [↑](#footnote-ref-70)