



AN INQUIRY INTO
**THE COAST PROTECTION
BOARD AND COASTAL
LEGISLATION**

6th Report of the

**ENVIRONMENT, RESOURCES AND DEVELOPMENT
COMMITTEE**

"I am at the beach looking west with the continent behind me as the sun tracks down to the sea.

I have my bearings."

Land's Edge: A coastal memoir, *Winton* (1993: 3)

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PRESIDING MEMBER'S FOREWORD

This inquiry into the Coast Protection Board and coastal legislation was prompted by witnesses who appeared before the Committee in 2019, and the Hon. Mark Parnell who reminded the Committee of the upcoming 50th anniversary of the *Coast Protection Act 1972*. The Committee was pleased to commence this inquiry in early 2021.

Australia has continued to grapple with the global pandemic in 2021 and South Australia has experienced frequent and sudden changes to its restrictions, including a state-wide lockdown, in an attempt to limit the spread of Covid-19. Despite this, the Committee was fortunate to have been able to undertake regional trips to the south-east, Eyre Peninsula and Yorke Peninsula, and to also conduct a regional hearing in Mount Gambier.

It has been a privilege to visit and experience the extraordinary beauty of South Australian coastal areas; from Port MacDonnell in the south-east to Ceduna in the far west of the state. Equally, it has been a privilege to be able to hear, in person, of the challenges experienced by coastal councils in regional areas.

Seeing our beautiful coasts also highlighted to the Committee the importance of getting coastal protection and management right. The increase in tourism to regional coastal towns, due in part to the increase in backyard tourism because of Covid-19 related restrictions, has led to greater pressure on coastal environments. With sea level projected to rise, it is clear that South Australia's almost 50-year old coastal legislation is insufficient to protect these very special areas.

It was disappointing for members of the Committee to hear that some councils are allocating large portions of their ratepayers' budget towards simply maintaining coastal environments and infrastructure, leaving little capacity to address the multitude of challenges.

I would like to take this opportunity to thank the people who took time to help the Committee while it toured regional South Australia and metropolitan Adelaide. In particular, I thank those who accompanied us on the road as the Committee went from one stunning part of the coast to the next. The Mayors, Chief Executives and staff of the 18 regional councils were generous in their time, taking the Committee to sites and helping us understand the issues first-hand. Their passion and commitment to managing the coasts within their regions, and exploring opportunities for the benefit of all South Australians, was clearly evident. The Committee thanks representatives from the South Eastern Water Conservation and Drainage Board for accompanying the Committee on its tour of the south-east. The Committee also thanks Mr Jeff Tate, the Presiding Member of the Coast Protection Board, and Dr Murray Townsend, Manager of the Coast and Marine Branch in the Department for Environment and Water, who tirelessly accompanied the Committee on its regional visits and listened to the concerns of councils and residents. I hope the Committee's regional visits and this report will result in some positive outcomes that will foster leadership, collaborations and partnerships.

The Committee would like to thank the community groups who spoke to the Committee at Parnka Point, Lucky Bay and Black Point and all community groups, individuals and organisations who provided a submission or evidence to this inquiry.

I am also grateful to representatives from Flinders University who accompanied the Committee on a tour of the metropolitan beaches.

I commend the members of the Committee, Mr Michael Brown MP, Mr Fraser Ellis MP (until 2 March 2021), Mr Stephan Knoll MP, Hon. Tung Ngo MLC, Hon. Mark Parnell MLC (until 29 March 2021), Hon. Terry Stephens MLC and Hon. Robert Simms MLC, for their contributions to this report. All members have worked cooperatively on this report. Finally, I thank the Committee staff, Ms Joanne Fleer and Dr Merry Brown, for their assistance.



Nick McBride MP
Presiding Member

11 October 2021

EXECUTIVE SUMMARY

On 1 February 2021, the Environment, Resources and Development Committee (the Committee) resolved to conduct an inquiry into the current status and potential for reform to the *Coast Protection Act 1972* (the Act) and its associated regulations.

The Act will have its 50th anniversary in 2022. At the time, South Australia (SA) was at the forefront of coastal legislative reform, however, the Act has remained virtually unchanged since its inception.

SA has more than 5,000 kilometres (kms) of coasts, with some 90 per cent of SA's population living on or near the coast. It was clear from the evidence received and from visits to coastal areas across the state that the management of SA's coast is vitally important to all stakeholders.

There have been numerous attempts to amend the Act over many years. Victoria and New South Wales (NSW) successfully updated their coastal legislation recently to better meet contemporary pressures and impacts, such as sea level rise, to their coastal areas. The Committee heard that a broader definition of 'coast' to include marine, terrestrial and estuarine environments would be consistent with integrated management of SA coastal areas.

SA's coasts are highly contested areas with a number of agencies having jurisdiction over the geographic boundaries. There are, however policy gaps for integrated management of coastal areas, such as leadership and coordination for addressing impacts from climate change and sea level rise. The Committee also observed that the current fragmented approach to conservation, protection and development of coastal areas was a barrier to integration and that coastal management includes conservation, protection and development strategies.

The Committee found overwhelming support to amend and modernise the Act and that retaining a coastal-focussed board and agency, with relevant expertise and resourcing, was important to lead future coastal management strategy for the State.

The Committee also found that it was important to integrate coastal management, through leadership, collaboration and alignment with other legislative frameworks and agencies who have shared responsibility for various aspects of coastal management, noting that these frameworks were developed after the Act commenced.

The Committee heard that regional councils were allocating considerable portions of their annual budgets to simply maintaining coastal infrastructure and environments. The Committee concluded that there was a need for greater support to regional coastal areas for strategic policy setting and data collection, on-the-ground technical support, and improved processes to streamline the fragmented agency approach to coastal conservation, management, and planning and development.

The Committee also heard that compliance has been and continues to be difficult to enforce in some regions and that communities and councils expressed their frustration in trying to navigate where responsibility lies within planning and development processes and legislation.

Stakeholders highlighted the need for a strategic and collaborative approach to research and local data collection to help inform decision-making, and investing authority in the Board to lead with best practice coastal development.

Stakeholders also emphasised that the Board could improve its relationship with the community by involving stakeholders in decision-making and making its processes more transparent.

Finally, there was division amongst stakeholders about the level of authority vested in the Board in accordance with the *Planning, Development and Infrastructure Act 2016*. A number of stakeholders suggested it was currently appropriate, while others wanted the Board's authority reduced. The Committee considered that it is too early to make a judgement with regard to the Board's authority and suggested that a review of the Board's referral role take place after the implementation of revised coastal legislation.

RECOMMENDATIONS

The Committee recommends:

1. that state government:
 - a. retains the *Coast Protection Act 1972* and a statutory authority (the Board) that is mandated with leadership responsibility to conserve, protect and manage the coast;
 - b. commits to a Bill to amend the Act and presents a report to both Houses in late 2022/early 2023 in which it outlines how amendments to the Act will proceed and how state government will collaborate with stakeholders and the community on the development of a Statute Amendment Bill; and
 - c. commits to inserting a provision within the Bill that ensures the Act will be regularly reviewed.
2. that state government:
 - a. aligns the membership of the Board to ensure the skillset remains relevant to the functions as set out in the Bill;
 - b. ensures that Board members are vested with particular skills and expertise, or the Board be supported to make better use of advisory panels; and
 - c. considers the Board's functions in accordance with planning and development legislation and commits to resourcing appropriately-skilled support staff to provide evidence-based advice for decisions.
3. that state government commits to inserting a provision into the Bill on objects or principles that support integrated coastal management objectives and address contemporary coastal impacts, and are aligned with other statutes with jurisdiction in coastal areas.
4. that state government:
 - a. commits to positing the Board in legislation as the leader and authoritative voice for statewide integrated coastal management and strategy; including planning and development, coastal conservation and climate change adaptation policy; and developing, or causing to be developed, best practice coastal management techniques;
 - b. commits to inserting a provision into the Bill that gives the Board's statewide strategies and/or policies a statutory basis;
 - c. commits to amendments to ensure strategies and/or policies made under the *Planning, Development and Infrastructure Act 2016* and *Landscape South Australia Act 2019* are consistent with, and incorporate, the Board's strategies and/or policies to ensure an integrated and collaborative approach to coastal management;
 - d. considers amending the definition of 'coast' to ensure it is sufficient to enable the Board to undertake its functions in accordance with the draft Bill, and the

Planning, Development and Infrastructure Act 2016, and that the definition facilitates the Board in a leadership role in integrated coastal management;

- e. considers removing the need to develop management plans based on coast protection districts, but considers the role of the Board in developing authoritative documents (as needed) that are based upon environmental imperatives, such as bio- or geophysical, to address coastal hazards and impacts; and
 - f. commits to providing the Board with sufficient authority and resources to lead monitoring and adaptive policy responses for sea level rise, and development of statewide strategies and/or policies for managing coastal impacts, in partnership with regional authorities.
5. that state government:
- a. commits to providing the Board with appropriate authority and resourcing to undertake development of a statewide research strategy for coastal areas, and support for the strategic collection of local data, in collaboration with stakeholders; and
 - b. commits to including a legislative mechanism in the Bill to require the Board to commit to ongoing monitoring and review of sea level rise policy, and regular reporting and publishing of the data collected.
6. that state government:
- a. commits to developing an equitable, sustainable and sufficient funding model with the Board and other stakeholders that is long-term and aligns with statewide and regional coastal policies and strategies;
 - b. commits to a long term strategy in finding an intergovernmental and cross-agency solution to the issue of applicants requiring multiple referrals to different agencies for any one development application; including:
 - a) considering increasing technical expertise within regional areas; and
 - b) assessing the Limestone Coast Local Government Association pilot program of hosting a regional coastal officer; and
 - c. commits to maintaining a sufficient amount of staff with appropriate skills and expertise within the Coast and Marine Branch within the Department for Environment and Water to support the work of the Board and regional councils.
7. that state government:
- a. commits to making the Board's processes and decisions more transparent and inclusive of the public; and
 - b. considers incorporating provisions within the Bill that allow the Board to evaluate its performance against national and international indicators; such as coastal health.

8. that state government:
 - a. considers developing a framework, in collaboration with stakeholders, to clarify responsibility and decision-making for protection, development, monitoring and compliance in coastal areas and makes this publicly available; and
 - b. considers that any legislative reform to the powers and functions of the Board to regulate coastal works must consider and align with existing powers and objectives in the *Environment Protection Act 1993* and the *Planning, Development and Infrastructure Act 2016*.
9. that state government, following implementation of an amended Act:
 - a. in collaboration with the State Planning Commission, commits to a cross-agency review of the operation of the Board and its objectives, as a referral agency in accordance with the Planning and Design Code; and
 - b. commits to reviewing the role of the Board and state and local government authorities in approving and undertaking coastal protection works.
10. that state government commits to legislating community engagement and consultation within the decision-making processes of the Board.
11. that state government considers inserting a provision in the Bill that sets out a framework for the Minister's limited and publicly notifiable direction of the Board.

TABLE OF CONTENTS

PRESIDING MEMBER’S FOREWORD	I
EXECUTIVE SUMMARY	III
RECOMMENDATIONS	V
TABLE OF CONTENTS.....	VIII
FIGURES AND TABLES	IX
ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE	X
FUNCTIONS OF THE COMMITTEE	X
REFERRAL PROCESS.....	XI
TERMS OF REFERENCE	XI
1 INTRODUCTION	1
1.1 REASON FOR THE INQUIRY	1
1.2 SCOPE OF THE REPORT.....	10
1.3 DISCLOSURE OF EVIDENCE	10
1.4 CONDUCT OF THE INQUIRY	10
2 DISCUSSION.....	11
2.1 TERMS OF REFERENCE 1: STRUCTURE AND FUNCTIONS OF THE BOARD	11
2.2 TERMS OF REFERENCE 2: PDI ACT AND THE BOARD.....	27
2.3 TERMS OF REFERENCE 3: POTENTIAL FOR REFORM	29
2.4 TERMS OF REFERENCE 4: ANY OTHER MATTER	32
3 CONCLUSIONS	33
REFERENCES.....	38
ABBREVIATIONS	41
APPENDIX A: OFF-SITE HEARINGS AND FACT-FINDING VISITS	42
APPENDIX B: LIST OF WITNESSES	44
APPENDIX C: LIST OF SUBMITTERS.....	46

FIGURES AND TABLES

FIGURE 1: DECISION-MAKING AUTHORITIES FOR TERRESTRIAL, COAST AND MARINE ENVIRONMENTS [NATURAL RESOURCES MANAGEMENT ACT 2004 HAS BEEN REPLACED BY THE LANDSCAPE SA ACT 2019 AND THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016 HAS REPLACED THE DEVELOPMENT ACT 1993] (GREEN ADELAIDE, 2021, P. 8)	5
FIGURE 2. MIDDLE BEACH BOAT RAMP DURING HIGH TIDE, WHICH IS THE ONLY TIME IT CAN BE USED.....	13
FIGURE 3. (ABOVE) ONGOING DIMINISHMENT OF THE PREVIOUSLY OPEN BEACH.	13
FIGURE 4. (RIGHT) PROPOSED SITE FOR A BOARDWALK AND OTHER TOURISM ACTIVITIES.....	13
FIGURE 5. PARNKA POINT: COMMITTEE MEMBERS WITH REPRESENTATIVES OF THE CLLMMAC CAP AND THE COORONG SHACK OWNERS ASSOCIATION.	15
FIGURE 7. THE COMMITTEE, COAST PROTECTION BOARD, DEW, SOUTH EASTERN WATER CONSERVATION & DRAINAGE BOARD, AND KINGSTON DISTRICT COUNCIL AT MARIA CREEK (LEFT-RIGHT: MAYOR KAY RASHEED, DC KINGSTON; MURRAY TOWNSEND, DEW; CHELSEA BURNS, DC KINGSTON; MARK DE JONG, DEW; DAVID WORTHLEY, DC KINGSTON; NAT TRAEGER, DC KINGSTON; MICHAEL BROWN MP; NICK McBRIDE MP; HON. TUNG NGO MLC; HON. TERRY STEPHENS MLC).	20
TABLE 1. SA’S MOSAIC OF STRATEGIES AND PLANS THAT ADDRESS (AT LEAST IN PART) COASTAL PLANNING.....	25
FIGURE 8. THE COMMITTEE DISCUSSED RESEARCH PARTNERSHIP OPPORTUNITIES WITH ACADEMICS FROM FLINDERS UNIVERSITY DURING A TOUR OF THE METROPOLITAN BEACHES (LEFT-RIGHT: DR RYAN BARING, FLINDERS UNIVERSITY; HON. TUNG NGO MLC; NICK McBRIDE MP; MICHAEL BROWN MP; HON. ROBERT SIMMS MLC; ASS. PROF. BEVERLEY CLARKE, FLINDERS UNIVERSITY; PROF. PATRICK HESP, FLINDERS UNIVERSITY).	31

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Environment, Resources and Development Committee (the Committee) was established pursuant to the *Parliamentary Committees Act 1991* on 3 December 2003.

Its membership for the duration of this inquiry was:

Mr Nick McBride MP (Presiding Member)

Mr Michael Brown MP

Mr Fraser Ellis MP (until 2 March 2021)

Mr Stephan Knoll MP

Hon. Tung Ngo MLC

Hon. Mark Parnell MLC (until 29 March 2021)

Hon. Robert Simms MLC

Hon. Terry Stephens MLC

Parliamentary Officer to the Committee: Ms Joanne Fleer

Research Officer to the Committee: Dr Merry Brown

FUNCTIONS OF THE COMMITTEE

Pursuant to section 15L of the *Parliamentary Committees Act 1991*, the functions of the Committee are:

- (a) to inquire into, consider and report on such of the following matters as are referred to it under this Act:
 - (i) any matter concerned with the environment or how the quality of the environment might be protected or improved;
 - (ii) any matter concerned with the resources of the State or how they might be better conserved or utilised;
 - (iii) any matter concerned with planning, land use or transportation;
 - (iv) any matter concerned with the general development of the State;
- (b) to perform such other functions as are imposed on the Committee under this or any other Act or by resolution of both Houses.

REFERRAL PROCESS

Pursuant to section 16(1) of the *Parliamentary Committees Act 1991*, any matter that is relevant to the functions of the Committee may be referred to it in the following ways:

- (a) by *resolution* of the Committee's appointing House or Houses, or either of the Committee's appointing Houses;
- (b) by the Governor, or by notice published in the Gazette;
or
- (c) of the Committee's own motion.

TERMS OF REFERENCE

Pursuant to section 16(1)(c) of the *Parliamentary Committees Act 1991*, the Committee will consider the current status and potential for reform to the *Coast Protection Act 1972* and its associated regulations; specifically:

1. The structure, functions and powers of the Coast Protection Board in accordance with the *Coast Protection Act 1972*;
2. The authority of the Coast Protection Board in accordance with Schedule 9 of the *Planning, Development and Infrastructure (General) Regulations 2017*, and criteria or triggers for referral;
3. How protection and development in coastal areas should be managed in the future; including, but not limited to investigating the Board's processes and procedures for:
 - a. Managing community and stakeholder expectations (i.e. communications and community engagement and handling of complaints);
 - b. Evidence-based decision-making; and
 - c. Managing review or appeal of decisions; and
4. Any other relevant matter.

1 INTRODUCTION

1.1 Reason for the inquiry

On 1 February 2021, the Environment, Resources and Development Committee (the Committee) resolved to conduct an inquiry into the current status and potential for reform to the *Coast Protection Act 1972* (the Act) and its associated regulations.

The South Australian *Coast Protection Act 1972* will have its 50th anniversary in 2022. At the time, South Australia (SA) was at the forefront of coastal legislative reform, however, the Act has remained virtually unchanged since its inception. It is, therefore, timely that the Act and its associated regulations be reviewed to ensure that this legislation remains relevant. The Committee also reviewed this Act being mindful of the statewide natural resources management and planning reforms under the *Landscape South Australia Act 2019* and the *Planning, Development and Infrastructure Act 2016* (being fully implemented in 2021).

1.1.1 Importance of SA's coasts

With more than 90 per cent of South Australians living on or near the coast, protecting the more than 5,000 kilometres (kms) of coast is important (Department for Environment and Water, 2020). Management of SA coasts is a highly contested area and stakeholders can be very passionate about how regional and metropolitan beaches are managed.

Active management of SA's coasts has occurred for nearly 50 years (Department for Environment and Water, 2020):

The sand along Adelaide's coast naturally moves northward, by the wind and waves. This causes sand to build up on our northern beaches such as Semaphore and causes sand loss and erosion along our southern and central coast such as West Beach and Henley Beach South.

The State Government manages the metropolitan coastline to enable the community to enjoy sandy beaches. Works to move sand has occurred across the metropolitan beach system for nearly 50 years.

(Department for Environment and Water, 2020)

Further, the state government has invested a significant amount of funding in managing regional and metropolitan beaches:

The South Australian Government has announced a new investment in both metropolitan and regional coasts with:

- Additional sand, including sourcing around 500,000 cubic metres of external sand from outside of Adelaide for the metropolitan coastline (\$20 million).
- Building a sand recycling pipeline from Semaphore to West Beach, as well as sand dune restoration and revegetation in partnership with local councils and community groups (\$28.4 million).
- Support for regional coasts to help repair, restore and sustain them in partnership with local councils (\$4 million).

(Department for Environment and Water, 2020)

1.1.2 Definitions of 'coast'

One of the challenges with adopting an integrated coastal management approach in SA has been the definition of 'coast'. Defining coast is important because it creates a geographic boundary around land and sea, that is subject to the statutes, in accordance with which decisions are made.

Coast, as defined in the Act, means all land that is:

1. Within the mean high water mark and the mean low water mark on the seashore at spring tides;
2. Above and within one hundred metres of that mean high water mark;
3. Below and within three nautical miles of that mean low water mark;
4. Within an estuary, inlet, river, creek, bay or lake subject to ebb and flow of the tide; or
5. Declared by regulation to constitute part of the coast for the purposes of this act.

(Government of South Australia, 1972)

There's the default definition—landward of high-water mark—but it has been modified by regulation, the Coast Protection Regulations 2015, in which the landward boundaries beyond the default are mapped based on the physical nature of the coastline. ...

... Out to sea it includes all state waters these days. The act [*Coast Protection Act 1972*] defines it to three nautical miles. The regulations expand that to include all state waters.

Dr M. Townsend, Manager, Coast and Marine Branch, DEW (Hansard February, 2021, p. 2)

1.1.3 The Coast Protection Act 1972

The Act was introduced to conserve and protect the beaches and SA coast from the impacts of inappropriate development and protection works along Adelaide's metropolitan coast:

Development which has occurred on the dune system has required protection against storm damage. Early protective works had a short lifetime because of the limited understanding of the coastal processes at work during a storm. Expenditure on storm damage repairs and protection works has been considerable over the years ... Sea walls now protect about 14 kilometres of the metropolitan coastline. These protection measures "locked up" the sand reserves and acted to accelerate the natural beach erosion on the metropolitan coastline.

The Culver Report [1970] recognised the need to act urgently to artificially maintain the metropolitan coast as well as provide adequate storm protection for properties constructed on the dune system. The Report recommended the establishment of the Coast Protection Board, which was constituted under the Coast Protection Act in 1972, to co-ordinate and facilitate these urgent activities. Since its formation, the Board has continued its role in maintaining and protecting the metropolitan coast with the technical and administrative assistance of the Coasts and Marine Section of the Environment Protection Agency of the Department for Environment, Heritage and Aboriginal Affairs [now the Coast and Marine Branch of the Department for Environment and Water].

(SA Coast Protection Board, 1993, p. 3)

The Act establishes a Coast Protection Board to protect the coast from erosion, damage, deterioration, pollution and misuse (s14 of the Act). The Board also has the authority to undertake appropriate works, to move sand to protect SA's beaches and facilitate public access to beaches (s21 & s21A of the Act).

The Act provides for a Coast Protection Fund implemented through a grants program and specifically envisages a shared contribution by councils to carry out protection works as required by the Act (s29 of the Act).

Prior to the establishment of planning and development legislation, the primary instrument used to control coastal development was district management plans (s20 of the Act). These aligned with regional coast protection districts, providing a regionally-based approach to management and development in coastal areas. However, with the establishment of the *Development Act 1993*, it was considered that the new planning strategy and council development plans reduced the need for, and importance of, district management plans:

The development of District Management Plans ceased in 1993 with the establishment of the Development Act 1993, which created a "one-stop-shop" for development control. Sections of the Act that gave the Board powers over prescribed activities were excised in 1993 in accord with the one-stop-shop approach. This reduced the need for and importance of district management plans, as the planning strategy and development plans became the primary documents guiding land use and development control. The Board redirected its resources into developing a policy framework and applying it to the planning system to guide coastal development (Coastal Planning Information Package (DEWNR 2013)).

The Coastal Planning Information Package will be amended in response to the current planning reform to reflect the Board's role under the PDI [Planning, Development & Infrastructure] Act 2016.

(Coast Protection Board, 2021, p. 6)

The Board has produced its own strategies, policies and guidelines, with some policy being incorporated into development and planning, but none has any statutory authority in accordance with its own Act. Thus, the Board is in the incongruous position of having statutory authority with respect to development applications, which are outside its own statute, and carefully defined authority (as set out below) to act in accordance with its own statute:

Part 4—Powers of Board

21—Authorised works

- (1) The Board is hereby authorised to execute all works in relation to land constituting or forming part of a coast protection district, as may be necessary or expedient for the purpose of implementing an approved management plan.
- (2) The Board is hereby authorised to execute any works that are in the opinion of the Board necessary or expedient for the purpose of repairing or restoring any damage to any portion of the coast resulting from a storm, or from pollution.

21A—Power to remove sand etc

The Board is authorised (and shall be deemed always to have been authorised) to remove sand and other material from one part of the coast (not being private land) to another part of the coast for the purpose of protecting, restoring and developing the coast or any part of the coast.

(Government of South Australia, 1972)

Since the Act's inception, further legislative reform in environment and native vegetation protection (*Environment Protection Act 1993* and *Native Vegetation Act 1991*), marine conservation (*Marine Parks Act 2007*), and management of terrestrial, riparian and marine resources (*Natural Resources Management Act 2004*, now the *Landscape SA Act 2019*, *River Murray Act 2003* and *Acquaculture Act 2001*) have all impacted on governance arrangements and management responsibilities for the coast (Australian Coastal Society, 2021). The Board has consequently been required to adapt and interact with these new legislative frameworks while continuing its fundamental role to protect the coast.

1.1.4 *Jurisdiction over the coast*

Management and care of SA's coast is subject to governance from many different but overlapping jurisdictions involving national, state and local government (see Figure 1). It is unsurprising therefore, that the community finds it challenging to determine which level of government or which agency is responsible for decisions and actions in coastal areas. Depending on the location of a proposed development, decisions may be made in accordance with up to 10 different pieces of legislation and the ultimate decision-maker is often unclear.

Coastal management in South Australia is a shared responsibility between state and local governments with state government delegating many responsibilities to local governments, including local planning, non-major development decisions and day-to-day maintenance of beach access and coastal infrastructure, such as jetties and boat ramps.

The principal state agencies involved are the Department for Environment and Water (DEW), which includes native vegetation, coast protection, marine parks and natural resources management; the Department for Infrastructure and Transport (DIT), including boat ramps and jetties; Department of Primary Industries and Regions (PIRSA), aquaculture and fisheries; and the Environment Protection Authority SA (EPA), which regulates environmental harm to coastal land and marine waters.

Finally, the lines of responsibility for decisions and actions between the Board and departmental staff supporting the Board are unclear.

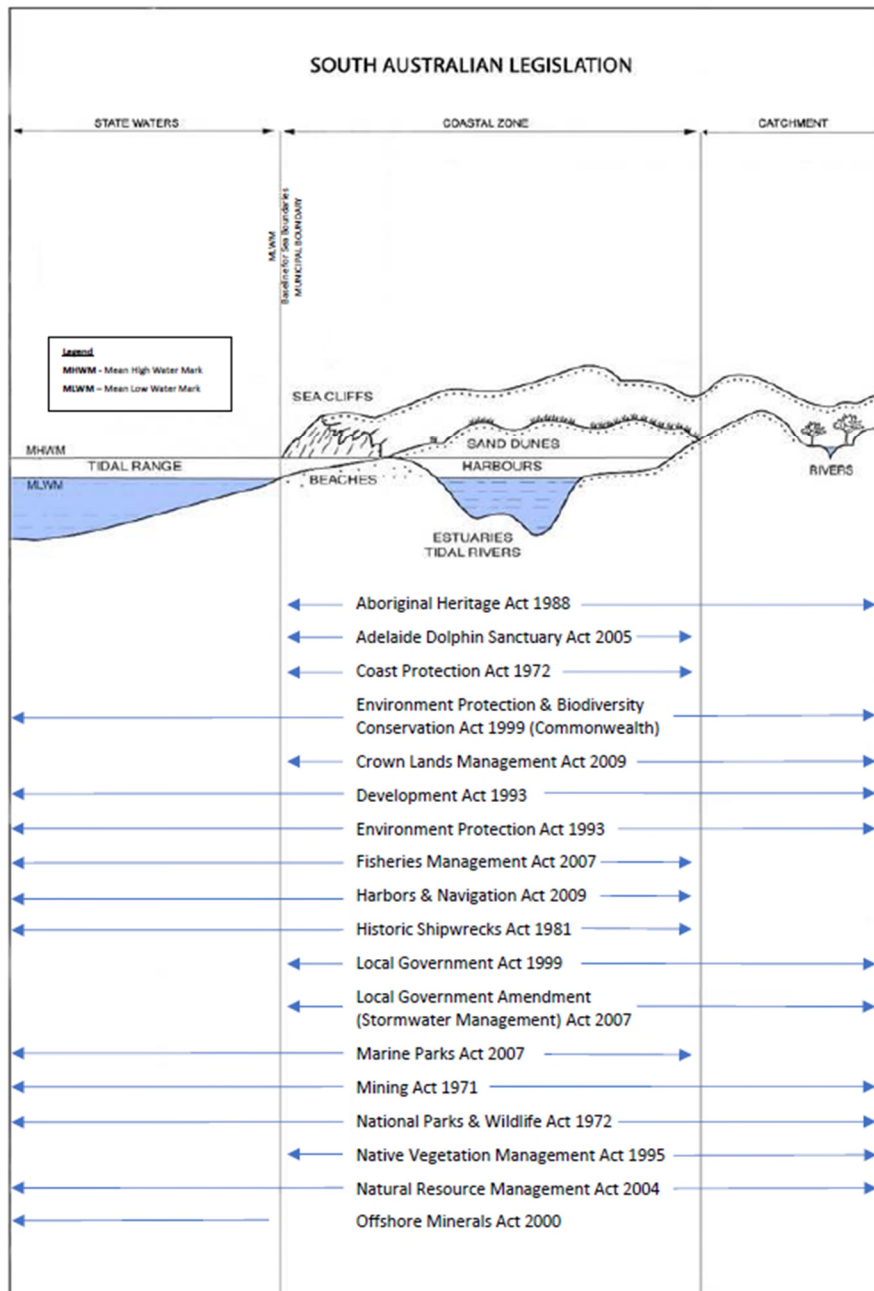


Figure 1: Decision-making authorities for terrestrial, coast and marine environments [*Natural Resources Management Act 2004* has been replaced by the *Landscape SA Act 2019* and the *Planning, Development and Infrastructure Act 2016* has replaced the *Development Act 1993*] (Green Adelaide, 2021, p. 8)

1.1.5 Functions of the Board

The Board was formed in accordance with the Act and its duties are set out within:

1. To protect the coast from erosion, damage, deterioration, pollution and misuse;
2. To restore any part of the coast which has been subjected to erosion, damage, deterioration, pollution or misuse;

3. To develop any part of the coast for the purpose of aesthetic improvement, or for the purpose of rendering that part of the coast more appropriate for the use or enjoyment of those who may resort thereto;
4. To manage, maintain and, where appropriate, develop and improve coast facilities that are vested in, or are under the care, control and management of, the Board;
5. To report to the Minister upon any matters that the Minister may refer to the Board for advice; and
6. To carry out research, to cause research to be carried out, or to contribute towards research, into matters relating to the protection, restoration or development of the coast.

(Government of South Australia, 1972)

The Board therefore has a well-defined remit to protect and, if necessary, restore SA's more than 5,000 kms of coast. The Board undertakes this responsibility by providing a strategic overview and, wherever possible, advice to coastal councils who carry out local coordination of management of the coastal areas within their boundaries. The overarching presence of the Board ensures that there is some consistent policy approach to coastal management across council boundaries.

The Board has, however, quite limited decision-making capacity in accordance with its own legislation. Outside of authorising and executing protection works and moving sand, much of its current role and function resides within planning legislation and policy. It has a consolidated set of non-statutory coastal policies and provides input into coastal development policy applied across the state through the State Planning Policies and the Planning and Design Code. Coastal management decisions are generally undertaken at the state or local level, guided by state and sometimes local government strategic policy frameworks.

For example, Adelaide's beaches have been actively managed in accordance with the Board's management strategies; including the [Adelaide's Living Beaches strategy](#) (2005) and [Securing the Future of our Coastline program](#) (Department for Environment and Water, 2021).

Fourteen (14) submitters expressed concerns about the management of Adelaide's metropolitan coast and were largely unclear about the role of the Board in this program, which is described as being "... managed largely as a stand-alone engineering project separate from the CPB" (Australian Coastal Society, 2021, p. 2).

The Board can influence councils' decisions through the provision of funding to carry out management tasks, but does not usually direct councils in accordance with its own Act. The Board provides support to some councils to fund local research and to develop strategic coastal adaptation plans, but not all councils have developed coastal adaptation plans.

Rather than a clear overarching policy mandate, the Board has a complex matrix of interrelationships that it maintains in order to fulfil its primary function of protecting SA's coasts:

Regarding the board itself, we do a lot of work on development of policies against which decisions are made; developing different strategies and provision of advice to the minister; and we authorise and carry out works to repair and restore the coast. There is a grants program every year for grants to councils, obviously from a budget allocation for that, and also some community grants as well. Where we do own land, obviously, there is a requirement to manage that land.

The board also funds research and monitoring of coastal processes and the latest information about coastal management.

J. Tate, Presiding Member, Coast Protection Board (Hansard February, 2021, p. 2)

1.1.6 *Structure of the Board*

The structure of the Board is mandated by the Act. Three Board members are state government employees from the Department for Environment and Water (DEW), Department of Infrastructure and Transport and SA Tourism Commission. Three Board members are appointed by the Minister who administers the Act (the Minister):

1. One being a person who is qualified for membership of the Board by reason of extensive knowledge of, and experience in, local government; and
2. One being a person who is qualified for membership of the Board by reason of extensive knowledge of, and experience in, the technical problems of coast protection; and
3. One being a person who is qualified for membership of the Board by reason of extensive knowledge of, and experience in, biological sciences and environmental protection.

(Government of South Australia, 1972)

One of these Board members will be appointed by the Minister to be Presiding Member. Board members are appointed for no more than four years and may be re-selected following the expiry of their term.

The Board does not maintain its own staff but has an agreement with DEW for the provision of support staff.

The Board may also appoint advisory committees as it considers necessary to provide expert advice to the Board on pertinent matters (s18). There is currently a Local Government Advisory Committee that provides advice to the Board.

The Board is subject to the control and direction of the Minister (s7).

1.1.7 *Functions of other coastal boards or councils in other jurisdictions*

Victoria's *Marine and Coastal Act 2018* provides a simple, integrated and coordinated approach to planning and managing the marine and coastal environment. The *Marine and Coastal Act 2018* also establishes the [Victorian Marine and Coastal Council](#), which is an advisory body on coastal and marine issues to provide independent specialist advice to the Victorian Minister for Energy, Environment and Climate Change.

The Victorian Minister for Energy, Environment and Climate Change, with advice from the Marine and Coastal Council, has developed a new statewide [Marine and Coastal Policy 2020 and Marine Spatial Planning \(MSP\) Framework](#):

The MSP Framework helps Victoria plan for how we support current and future uses of the marine environment, while also maintaining a healthy environment.

The MSP Framework details the essential elements and steps necessary for achieving integrated and coordinated planning and management of Victoria's marine environment. It provides an overarching structure to guide planning, management and decision-making by marine sectors.

(Department for Environment, Land, Water and Planning, 2021)

Similarly to the Victorian Marine and Coastal Council, the role of the [NSW Coastal Council](#) is to provide independent and expert advice to the NSW Minister with carriage of the NSW *Coastal Management Act 2016*; with an emphasis on auditing of coastal management programs:

Specific aspects of the Coastal Council's role include providing advice to the Minister on the certification of coastal management programs, on the implementation of a coastal management program following a performance audit, and on technical or scientific matters of strategic importance such as sea level rise.

...

The Minister may request the NSW Coastal Council to conduct a performance audit of a local council's implementation of its coastal management program (CMP). These audits will enable the NSW Government to determine whether CMPs are being effectively implemented.

(Department of Planning, Industry and Environment, 2021)

Queensland's *Coastal Protection and Management Act 1995* and the *Planning Act 2016* work together to guide land use planning and development assessment decisions on Queensland's coasts. There is no governing Board or Council that oversees or advises the Queensland Minister on coastal issues.

There is no specific legislation governing coastal management in Western Australia, but coastal policies are linked to development control with the [WA Coastal Zone Strategy](#) (2021), which "... provides a whole-of-government integrated framework for collective action to manage and adapt to threats and pressures along our coast" (Department of Planning, Lands and Heritage, 2021).

1.1.8 *The Board's influence and relationships*

The Act was established before the impacts from human activity in the marine and terrestrial environments, and the impacts of climate change, were well understood. Thus, the Act does not directly provide protection for coastal areas from these impacts. The Board has attempted to address this gap through policies and development guidelines, but as stated previously, these are not statutory documents. The Board, however, works to influence a network of other stakeholders involved, statutorily or otherwise, in the management of coastal, marine and terrestrial landscapes. Such influence is felt in the State Planning Policies and Planning and Design Code (which incorporates the [Board's 1991 policy on sea level rise](#)), but no formal mechanism exists to provide the Board with the authority to set a benchmark for best practice coastal areas management.

The Board's influence in decision-making is also felt through its provision of a yearly grants program to community and councils. The Board assesses grant applications, prioritises projects for funding and assists with specialist advice wherever possible on the projects that are presented to it. Providing funding is a critical role for the Board because of the Board's

statewide and strategic perspective on SA's coasts. The limited amount of funding made available is highly competed for, with funding being committed in full every year.

1.1.9 Coastal protection, conservation, and integrated management

The Act addresses both coastal conservation and protection, but in practice the protection function has been the main focus of the Board (Australian Coastal Society, 2021). The role of proclaiming coast protection districts and developing management plans for coast protection districts has been superseded by state planning statutes and DEW has requested to the Committee that references to coast protection districts and management plans be repealed from the Act (Department for Environment and Water, 2021). Coastal conservation has, in practice, been carried out by the Landscape Boards (historically, the NRM Boards). However, the *Landscape SA Act 2019* does not contain provisions for Landscape Boards to prioritise coastal conservation (with the exception of Green Adelaide). Although the *Landscape SA Act 2019* requires the Minister to develop a statewide landscape strategy (s9(1)(c)), and the Green Adelaide Board may undertake a role in leading any of the priority areas in any part of the state (s26(1)(4)), there remains a gap in responsibility and leadership for statewide regionally-based coastal conservation and management.

1.1.10 Coastal management and legislative reform in Australia

In Australia there is currently no coastal policy or legislation at a national level, with responsibility vested in the states and territories. In addition to SA, NSW, Victoria and Queensland have dedicated coastal legislation which has notably been recently reviewed and updated; NSW in 2016 and Victoria in 2018. The key features of the eastern states legislation is an integrated approach to managing the coast, incorporating conservation and protection objectives and inclusive of marine and estuarine environments. The remaining states rely on planning legislation to incorporate coastal strategy and policy.

In practice, much of the responsibility for managing SA's coasts rests with local councils. Attempts to successfully integrate state and local government planning and coastal management policy has been difficult and the challenges are not limited to SA:

Attempts to achieve horizontal integration between state government coastal and marine management agencies, legislation and policy is evident primarily from new coastal legislation introduced in NSW and VIC in 2018. Similarly, these jurisdictions have attempted to achieve spatial integration across the coastal and marine sectors. What is lacking however is a broader agenda for national integration in coastal management.

(Harvey & Clarke, 2019, p. 32)

1.1.11 History of proposed amendments to the Act

The Act has been the subject of many attempts at amendment since its inception. A review was undertaken in 1988 by state government; a Green Paper was produced in 1992, initiated by the then Minister for Environment and Planning; and in 1998, the SA Coastal and Marine

Conference endorsed a resolution for a new Coastal and Marine Planning and Management Act (Australian Coastal Society, 2021).

This Committee held an inquiry into coastal development in 2007, which included five specific recommendations in respect of the need for changes to the Act. The state government response was received in April 2008 with the Minister supporting in principle that the government as, a matter of urgency, develops a comprehensive Bill to revise or replace the Act. Also, the Board's Living Coast Strategy (2004) "... promised the development of a new Coast and Marine Act but again nothing has happened" (Harvey & Clarke, 2019, p. 31).

1.2 Scope of the report

Many people hold strong opinions on, or are affected by, the management of sand on Adelaide metropolitan beaches. Fourteen submitters mentioned the management of sand on Adelaide's beaches as an issue. This inquiry was, however, not intended to debate and judge the merits of the technical science behind the decisions to manage Adelaide's beaches. Rather, the terms of reference seek to bring clarity to the complexities involved in decision-making processes and strategic level planning.

1.3 Disclosure of evidence

The Committee resolved on 15 February 2021 that evidence received would be published on the Committee's website as soon as practicable following receipt of the evidence. This report will also be made available on the Committee's website upon tabling in the Houses.

1.4 Conduct of the inquiry

The Committee considered a wide range of evidence from submissions, witness statements and published literature. The Committee visited coastal sites in the South East, Eyre Peninsula, Coorong, Yorke Peninsula, Adelaide Plains and metropolitan area (set out in Appendix A), heard from 30 witnesses (as per Appendix B) and received 54 submissions (listed in Appendix C).

The Committee met on 14 occasions for the purpose of considering evidence and deliberating this report. The procedural meetings of the Committee and hearings were held in Adelaide and Mt Gambier.

All views expressed by the Committee in this report are based on the evidence presented before it.

2 DISCUSSION

2.1 Terms of Reference 1: structure and functions of the Board

2.1.1 *Potential amendments to the Act*

Stakeholders were clear that the Act needs review, in collaboration with stakeholders, and amendment (Australian Coastal Society, 2021; Green Adelaide, 2021; Law Society of SA, 2021; SA Coastal Councils Alliance, 2021; Local Government Association of South Australia, 2021). Thirty-six (36) stakeholders were also consistent in their support for the need to maintain a statutory, evidence-based, and coastal-focussed decision-making body. Interestingly, even those submitters most critical of the current decision-making of the Board supported the need for an appropriately funded and properly-constituted entity to protect the coast (Dyson, 2021; Friends of Gulf St Vincent, 2021; Norman, 2021; Ronai, 2021; Western Adelaide Coastal Residents Association, 2021; Sanderson, 2021; Semaphore Largs Dunes Group, 2021).

The Committee found that:

- legislation with a coastal conservation and integrated management focus and an appropriately constituted board is required in SA to protect and manage the coast; and
- the current Act requires review, in collaboration with stakeholders, with a view to developing a Statute Amendment Bill and that it is appropriate to insert a provision relating to review of the Act after a suitable period of time has lapsed from its commencement.

Structure of the Board

Stakeholders were clear that Board members should have the skills, knowledge, and expertise to be able to ensure the Board's decisions and actions meet its functions.

Stakeholders highlighted that the Board should function in an advisory capacity to the Minister but pointed out it currently lacks the necessary depth of expertise and knowledge amongst its members. Stakeholders agreed, to varying degrees, that the Board lacked a range of management and technical skills that would assist its role in strategic planning, coordinating and decision-making. Twenty (20) stakeholders highlighted that the Board should have a mix of expertise in coastal/marine/estuarine biology/ecology, geomorphology and environmental protection and impact assessment. Other important skills included risk assessment, financial and asset management, adaptation planning (City of Charles Sturt, 2021), investment attraction (City of Port Adelaide Enfield, 2021), and incorporation of First Nations' knowledge and perspectives into decision-making (Trigg, 2021; City of Port Adelaide Enfield, 2021; Semaphore Largs Dunes Group, 2021). Due to the shared responsibility for coastal management, submitters also asked for increased representation from councils and/or formalisation of the local government advisory committee (Local Government Association of South Australia, 2021).

The Board currently undertakes a wide range of functions which may require different and often highly technical expertise to be properly administered (State Planning Commission, 2021). It is critical that the Board and staff supporting the Board maintain expertise to keep providing advice for its statutory position in planning and development. The planning and development authorities rely on the Board to provide evidence-based advice and decisions on proposed coastal development:

I think we would rely heavily on the Coast Protection Board and DEW as the state agency around the science and then that would subsequently implement or influence the planning policy within the Planning and Design Code.

A good example of that is that the coastal areas overlay for some towns and locations does include requirements for minimum finish floor levels, which factor in coastal flooding and sea-level rise in those kinds of aspects which then is used in that development assessment and is used within the referral to the Coast Protection Board. They then have direction around setting some of those minimum finish floor levels where they are documented in the code.

My understanding is that they would like to do some more in that space, around updating that mapping and identifying those minimum finish floor levels for other locations in the state, but we would certainly rely on the science that they provide as the lead agency within state government on such matters.

B. Steiner, Acting Manager, Planning Operations, Attorney-General's Department
(Hansard September, 2021, pp. 62-63)

The Committee found that:

- the structure and functions of the Board should be closely aligned, so that the community and stakeholders can perceive that Board members have appropriate expertise and can have confidence in the decisions of the Board;
- membership of the Board should be broadened to ensure it has the technical skills and knowledge to undertake the functions of the Board as prescribed by the Act;
- the Board, and staff supporting the Board, should be appropriately resourced and sufficiently technically skilled to provide advice and interpret evidence into decisions for coastal development, as required by planning and development legislation; and
- the strategic use of advisory panels can assist the Board by including members with pertinent skills and expertise to advise the Board.

Objects and/or principles of the Act

Currently, the functions of the Board, as set out in the Act, focus on protection of the coast. Stakeholders highlighted that integrated coastal management was an important provision that should be inserted within the Act. The Committee heard that the coast is impacted upon both by the marine and terrestrial environments and that management of the coast necessarily involves a partnership of all decision-makers with management responsibilities.

Middle Beach case study

The Committee visited Middle Beach with representatives from Adelaide Plains Council and submitters (Frost, 2021; Wasley, 2021) and heard that the boat ramp is inaccessible much of the year due to excessive sand build up. (Figure 2).



The Committee heard that the impact of commercial activity in the salt pans has seen a dramatic increase in mangroves and the ongoing diminishment of the previously open beach (Figure 3). The Council would like to explore opportunities to develop the mangrove sites near the caravan park as a tourism site (Figure 4) in addition to clarifying roles and responsibilities to address the health of the waterway and amenity of the beach. Council sought a solution from the Committee and suggested a role for the Coast Protection Board to engage with the Department for Infrastructure and Transport and other agencies to manage the issues and explore opportunities in the area in an integrated way.

Figure 2. Middle Beach boat ramp during high tide, which is the only time it can be used.



Figure 3. (Above) ongoing diminishment of the previously open beach.



Figure 4. (Right) proposed site for a boardwalk and other tourism activities.

South-eastern drains case study

The Committee heard a compelling argument for an integrated coastal management model that included drains and/or their outlets from the South Eastern Water Conservation & Drainage Board (SEWCDB). SEWCDB manages the extensive drainage network across the south-east of SA to protect productive agricultural areas against flooding. The challenges raised by the SEWCDB are with sand movement and sea level rise. The Committee heard that storm-related ocean surges can use drain outlets as conduits to flood inland areas, "... which have the potential to render agricultural land unproductive, and cause damage to property, buildings and state infrastructure" (South Eastern Water Conservation and Drainage Board, 2021). Sea level rise is likely to "... impede flows and cause additional risk of inland flooding" (South Eastern Water Conservation and Drainage Board, 2021).

The Committee heard that there is a need for long term collaboration/partnership between SEWCDB and the Board to develop and implement mitigation strategies.

Stakeholders highlighted that the Act lacks certain functions of the Board that are more applicable today than 50 years ago when the Act was first introduced. Incorporating objects into the Act that address climate change and planning for adaptation and resilience are important components of the Board's functions (Green Adelaide, 2021; SA Tourism Commission, 2021; Department for Environment and Water, 2021).

Stakeholders highlighted that the Act should be amended to articulate objects that align with other Acts that have jurisdiction over coastal areas (Department for Environment and Water, 2021; Green Adelaide, 2021). Stakeholders who submitted that objects were an important provision for the Act were also clear that Board members should have the skills, knowledge, and expertise to make decisions and actions to meet those objects.

The Committee found that:

- a review of the Act should consider inserting a provision for objects or principles that relate to integrated coastal management and sustainable coastal development:
 - the objects or principles should be aligned and complementary with the objects or principles in other statutes that have jurisdiction in coastal areas; and
 - the objects or principles should, at least, support integrated coastal management, and the impacts of climate change and other human activities on the coast.

Parnka Point case study

On 6 April 2021, the Committee met with representatives from the Coorong Lower Lakes Murray Mouth Advisory Committee Community Advisory Panel (CLLMMAC CAP) and the Coorong Shacks Association at Parnka Point, Coorong.

Concerns were raised about the ongoing health of the Coorong, Murray Mouth, and Lakes Alexandrina and Albert. The roles and responsibilities of various agencies who play a part in the management of this area were highlighted and discussed. Representatives argued for the Coast Protection Board to consider extending its role in developing and implementing policies and best-practice management for estuaries as part of its jurisdiction and in partnership with responsible authorities.

Concerns were also raised over the management of the dredging program at the Murray Mouth; where the dredged sand is currently piped along the coast to the Murray Mouth. Representatives of the CLLMMAC CAP highlighted the changing coastline at the Mouth, by providing evidence with aerial photos, and argued that the dredged sand deposited at the Mouth is creating further problems by limiting the tidal flow of sea water into the Coorong lagoons and compounding the issues of salinity.

The Parnka Point case study illustrates the need for an integrated management approach to coastal management. The Minister plays a role in management decisions for the Coorong,



Lower Lakes area in accordance with the River Murray Act 2003, but the Board has no direct decision-making authority within this area. Stakeholders pointed out that the Board ‘... should have a role in the development and implementation of policies and practices in relation to estuarine and associated coastal areas ... [and] the Board’s responsibilities must be exercised jointly with those of other authorities’ (Harvey, Hera-Singh, & Paterson, 2021).

The Committee felt a role exists for the Board to develop best practice management guidelines of coastal management issues, such as movement of dredged sand, because of a lack of coordination of management on these issues, particularly in estuarine areas.

Figure 5. Parnka Point: Committee members with representatives of the CLLMMAC CAP and the Coorong Shack Owners Association.

Leadership on climate change

Stakeholders identified a need for leadership in climate change impacts on coastal areas of SA. The Committee heard from regional councils of the need for accurate data on sea level rise to make well-informed decisions for coastal development and to better mitigate against impacts:

A key strategic role that the Coast Protection Board could take part in, in collaboration with the state government through its Climate Change Science and Knowledge Plan, is to develop transparent state-wide sea level rise estimations that are based on up to date localised, scientific observations and models.

This information then can be utilised by the Board in adopting a “monitor and respond” approach to coastal adaptation and to inform the setting of state-wide policy.

A mechanism could be included in the Coast Protection legislation to require frequent monitoring/review of sea level rise policy assumptions as more localised and updated data becomes available. The legislation could also require for this information to be made available to the public to increase transparency and to increase knowledge and understanding in the community.

(Local Government Association of South Australia, 2021, p. 11)

An example of the Board’s leadership in addressing sea level rise and its future impacts is the development of an issues paper:

... to identify opportunities for improvement of current arrangements for management of South Australia’s coastal zone, and more specifically a model management framework, to facilitate effective adaptation to the impacts of sea level rise.

(SA Coastal Councils Alliance, 2021, p. 6).

Finally, stakeholders identified the need for leadership and advocacy for coastal priorities (City of Marion, 2021). The Board is in a good position to incorporate a statewide perspective to coastal issues through its current network of relationships.

The Committee found that:

- a gap exists in statewide leadership in the development of a strategy that identifies coastal assets and vulnerabilities, and adaptation strategies to impacts caused by climate change and other human activities;
- the Board should maintain its statewide perspective, enhance its expertise, and provide leadership for prioritising and advocating for coastal issues; and
- a provision should be inserted into coastal legislation that the Board sets a benchmark for best practice coastal development, adaptation and mitigation of impacts in coastal areas.

Authority for coastal protection and management

Stakeholders had a great deal to say about the functions of the Board and its decision-making capacity. Stakeholders identified some confusion over roles and responsibilities regarding the management of the coast (Frost, 2021; City of Salisbury, 2021; Semaphore Largs Dunes Group, 2021; Kennare, 2021; Limestone Coast Local Government Association, 2021).

Stakeholders sought as a primary function for the Board:

... a more strategic whole of state policy direction and specific strategic advice relating to coasts. It is suggested that the Board be the high-level strategic leader, responsible for setting state-wide directions, priorities and best practice management techniques.

A holistic strategic coastal policy approach that aligns with state government climate change action, the Planning and Design Code and other state government policies may open opportunities for increased funding from State Government for coastal management.

An overseeing role to a whole of state approach to coastal management would be unique to South Australia and the LGA believes it could be extremely beneficial for the state given that actions undertaken on one part of the coast could potentially impact another part.

(Local Government Association of South Australia, 2021, p. 7)

However, a primary function as a strategic entity seems inconsistent with the Board's current roles in making decisions in accordance with its own Act regarding movement of sand, and decisions made about coastal development in accordance with the PDI Act.

Stakeholders suggested that there ought to be better separation of the Board and DEW; with the Board maintaining a strategic statewide approach and DEW a more operational one (Norman, 2021; State Planning Commission, 2021; Local Government Association of South Australia, 2021). However, given the current environment of a lack of strategic coastal policy with statutory authority, removing the Board's authority with respect to protective coastal works and development may result in an increase of unexpected detrimental coastal outcomes.

The Committee found that:

- the Board has a statewide and strategic role in protecting SA's coasts and that role is statewide and strategic, but that approval for, and undertaking of, on-ground works associated with managing the movement of sand is best placed (as it currently is) within the Board's authority; and
- scope exists to review an amended Act at an appropriate time in the future once the Board has enhanced its statewide and strategic leadership role, and authority invested in its strategies and/or policies.

Research and data collection

Stakeholders highlighted that the Board should have a statewide strategic perspective to apply to prioritisation and collaborative organisation of research and data collection. Currently, some research and data collection is led by individual councils, through the Board's annual grants program (e.g. the District Council of Robe), but stakeholders argued for a more strategic approach to research to leverage funding and guide expenditure. Stakeholders also highlighted that a function of the Board should be to invest in research and to publish data that feeds into decision-making (City of Charles Sturt, 2021). Some regional councils highlighted that local data collection for evidence-based decision-making was critical (Hansard April, 2021; Limestone Coast Local Government Association, 2021; Yorke Peninsula Council, 2021; District Council of Franklin Harbour, 2021) and indicated a preference for investment in research and monitoring over engineered solutions (Limestone Coast Local Government Association, 2021).

Adequate resourcing to the Board was regarded as important to carry out local data collection, such as oceanographic surveys, prior to development projects that may impact upon the coast (Black Point Progress Association, 2021).

District Council of Robe case study on research and data collection

The Committee heard that the council is proactively investing in partnerships, research, and data collection:

We have partnered with Flinders University and we have submitted a grant fund to the Australian Research Council for around about \$700,000 [corrected to \$537,329] to undertake longitudinal studies. [The total project budget for the longitudinal studies, including in-kind equipment, salaries etc is \$1,341,336] That is really around building a good evidence-based model for the state and to have a series of models that we can share [with] the state.

James Holyman, CEO, District Council of Robe (Hansard April, 2021, pp. 39-40)

In terms of the cost of doing some of that research, you used to pay somewhere around \$100,000, or just under, for wave buoys and measuring-type of equipment; you can now get them for \$10,000.

When we started our research to do bathymetry, so to understand shape of the seabed in Guichen Bay, that was going to cost us \$110,000. The company that were going to do it were happy to donate \$100,000 in kind to that, so roughly \$210,000. There is now new technology, and you can probably buy the equipment for around \$60,000 and we could run multiple passes rather than one. I think things will change and improve, but the sooner we start it and the sooner we start understanding the coastline, the sooner we can make wise decisions.

James Holyman, CEO, District Council of Robe (Hansard April, 2021, p. 41)

The Board contributed financially and with advice to this study. The Committee heard that the Board uses its network to leverage and connect funding sources and skilled people to facilitate research, but that there is no formal mechanism to ensure that there is a long-term model of collaborative research and data collection.

The Committee found that:

- there should be a lead entity to prioritise and collaboratively organise research and data collection for SA's coasts at a statewide level, and that the Board is an appropriate lead;
- the Board should be able to invest in research and data collection on behalf of the state (not in response to individual proposed development) and make the results publicly available;
- a review of the Act should consider the Board developing a statewide research and data collection strategy;
- there should be a mechanism to cause ongoing monitoring, review and publication of sea level rise data and associated policy; and
- the Board is well placed to organise efficiencies and effective collaborations based on bio- and/or geophysical units across local political or socio-economic boundaries.

Funding

Securing and managing long term funding for coastal areas was highlighted as important, not only for research and data collection, but for councils to continue programs of maintenance of infrastructure in coastal areas. Regional councils raised issues of expending considerable parts of their budgets in trying to carry out capital and maintenance works to allow continued access to beaches and coastal infrastructure (Kingston District Council, 2021).

Kingston District Council case study

Kingston District Council brings in almost \$4 million in rate revenue; but over the last 5 years has spent \$10 million on capital and operational coastal management

There are five main areas of erosion: Wyomi Beach, Cape Jaffa Marina, Kingston Jetty, seagrass management and the Maria Creek boat launching facility.

Cape Jaffa Marina is 13 years old and was developed with a private developer. It was closed to mariners in 2018. Significant sand built up at the mouth of the marina, which was the result of some poor decision-making and lack of active sand management. Eventually, the marina was re-opened in 2019 and is now home to a commercial fishing fleet, but is costing council between \$700-750,000 per year to operate the dredge and keep the marina open, and will continue to do so in the future.

Sand and seagrass are inundating the drainage outlet known as Maria Creek. The outlet has been closed to recreational fishers for approximately 20 months. Sand is also accumulating underneath the start of Kingston Jetty. Sand accumulation is saturated to the point of the groyne and the channel itself is blocked (leading to potential inundation problems). A concept study and business case indicates it will cost \$7.6 million to reinstate the facility and \$720,000 per year to maintain it. On top of the \$750,000 for the dredge, council will need to expend ~\$1.5 million in coastal maintenance costs each year for the foreseeable future:

Whilst we were reluctant initially to go with the Coast Protection Board's advice, we got a technical note which supported that. A sand nourishment campaign restores the natural amenity of the beach in a natural way. You may have heard that there was some community kickback, but overwhelmingly, the fact is that the beach is restoring to its natural amenity and the sand is naturally flowing through a sand nourishment campaign. Until such time as there is better data and better understanding of the coastal impacts, that softer sand nourishment campaign and dune revegetation is a far more acceptable way to go than to keep installing hard erosion control measures, until such time as we've got a good handle on our data.

Nat Traegar, CEO, Kingston District Council (Hansard April, 2021, p. 38)

Kingston Jetty is a state government-owned asset, over which Kingston District Council has a long-term lease. The repair bill following the 2016 significant weather event was \$2 million, but there is continual damage with the sand accumulation, and it needs further repair work.

I think that is the role of government, to reallocate resources based on need and I guess the opportunity that represents ... most of our councils are quite small, and some of their works have consumed large parts of their budget, but the state benefits from a healthy coastline. We even had that discussion with our members at our last board meeting. So,

non-coastal communities also benefit from a healthy coastline, particularly in Australia. We need to think carefully about how that burden is spread across our entire community.

Tony Wright, EO, Limesone Coast LGA (Hansard April, 2021, p. 30)

Partial removal of the groyne at Maria Creek versus full removal is something the council needs to consider. The council is waiting for a report to be presented on the engineering aspects of any removal of the groyne. Neither full, nor partial removal, will affect the flood management issues with Maria Creek, but ongoing management of Maria Creek is likely to be achievable within council's usual budget. Council pointed out that there would be a community engagement and regulatory process to consider with removing any part of the groyne.



Figure 7. The Committee, Coast Protection Board, DEW, South Eastern Water Conservation & Drainage Board, and Kingston District Council at Maria Creek (left-right: Mayor Kay Rasheed, DC Kingston; Murray Townsend, DEW; Chelsea Burns, DC Kingston; Mark De Jong, DEW; David Worthley, DC Kingston; Nat Traeger, DC Kingston; Michael Brown MP; Nick McBride MP; Hon. Tung Ngo MLC; Hon. Terry Stephens MLC).

Future funding models will need to be able to integrate contributions from all levels of government and private interests:

Current funding arrangements in South Australia are not supportive to sustainable management of the coast, nor the protection of coastal assets. There is a need to investigate alternative funding models, with particular attention to:

- all levels of government involved;
- long-term strategy and forward program of works, rather than annual grants;
- negotiated funding arrangements – based on multiple uses, multiple outcomes;
- public private partnership; and
- non-government financing.

Current funding, investment and support arrangements for coastal management issues are disparate, often inconsistent and inequitable and, fundamentally, not enough for the rapidly escalating task ahead.

(SA Coastal Councils Alliance, 2019/2020, p. 9)

Future funding arrangements must address the Board's priorities of addressing coastal hazard risks and protecting coastal assets:

The board can further promote the coast protection grant program to encourage coastal councils to undertake studies or projects that identify and address coastal hazard risks or repair damage caused by coastal hazards; ensuring high priorities for funding relating to works that address risks such as erosion or flooding, including foreshore protection, dune rehabilitation and coastal maintenance; and strategic studies which involve data collection and analysis, vulnerability and hazard assessment and/or provide coastal adaptation options to better inform decision-making, development assessment and potential changes to planning instruments such as regional plans.

J. Tate, Presiding Member, Coast Protection Board (Hansard September, 2021, pp. 66-67)

Stakeholders highlighted the need for an equitable funding model for all councils in coastal areas (Eyre Peninsula Local Government Association, 2021). The Committee heard that an increase of tourism into regional coastal areas has increased pressure on coastal environments, with an increase in tourists choosing to camp in unregistered locations and creating multiple access points to beaches¹. The [Eyes on Eyre](#) project has attempted to make sense of the infrastructure that is necessary to support the increase in tourism, but the project is beginning to fail due to difficulties navigating the development approvals process with multiple referral agencies.

The Committee found that:

- there is a need for some regional councils to reduce the proportion of budget being given to capital and maintenance for coastal works;
- consideration needs to be given to providing support and expertise at a regional level to assist regional councils with development application processes; and
- an equitable, sufficient and sustainable funding framework that addresses long term works programs, as well as research and data collection, should be established.

The Board's social licence

It was suggested that confidence in the Board's advice and decisions could be improved if better transparency and accountability could be incorporated into the Act.

Some regional stakeholders (District Council of Franklin Harbour, 2021; Lucky Bay Shack Owners Association, 2021) expressed concerns about the Board's bathtub modelling that does not take into account relative sea level rise and data on vertical uplifting based on localised data:

It is imperative to all shackowners that we maintain a healthy coast and be considered by CPB as important partners. This would require an improved and more open communication model from CPB.

(Lucky Bay Shack Owners Association, 2021, p. 2)

¹ Due to a combination of the increasing use of social media by social influencers in promoting SA coastal areas, the increased use of [Wikicamps](#), and measures under Covid-19 which have increased the amount of self-drive tourism.

Stakeholders felt that better transparency from the Board in its interactions with the community was desirable (District Council of Streaky Bay, 2021; Duhring, 2021; Semaphore Largs Dunes Group, 2021). Stakeholders highlighted that there was a lack of clarity in the roles and responsibilities of various decision makers in coastal protection and management (City of Salisbury, 2021; City of Port Adelaide Enfield, 2021; Norman, 2021). Stakeholders also highlighted that the Board's decisions lacked transparency (Sanderson, 2021).

Stakeholders emphasised the notion of independence of the Board and queried whether the Board should have its own staff (City of Port Adelaide Enfield, 2021; Norman, 2021). Stakeholders also suggested that it was unusual for a Minister to be able to direct a Board without a legislated framework within which to do so (Law Society of SA, 2021).

The Committee found that:

- there was a need for clarity around the roles and responsibilities of the various agencies that have jurisdiction in coastal areas;
- any amendment to the Act should contain provisions that the Board be transparent and accountable, and that lines of authority for decision making are clear; particularly for the Board and the Minister; and
- improved communication and transparency including regular revision and publication of data (including localised data) on sea level rise, could allay the concerns of some regional communities.

Governance

Stakeholders suggested that a review was needed of the Board's 'Adelaide Living Beaches' strategy to determine its effectiveness across the state and adopt an adaptive approach to implementation of the strategy (City of Charles Sturt, 2021). Stakeholders highlighted that they believed the Adelaide Living Beaches strategy had failed (Dyson, 2021) and that perhaps there is a need to create action plans to address areas that haven't been as successful (City of Charles Sturt, 2021).

Stakeholders also highlighted that the Board should evaluate its own progress using national or international-standard sustainability indicators (Semaphore Largs Dunes Group, 2021). The Board should have reporting obligations and legislation should specify the content of the annual report; including, for example, measures on coastal health (Law Society of SA, 2021; Trigg, 2021). A review of the Act should be undertaken every five years (Semaphore Largs Dunes Group, 2021).

The Committee found that:

- there was room for improvement in the Board's processes of governance; and
- there was a need to review how best to evaluate the Board's strategies (and adopt an adaptive approach) and the Board's progress towards achieving the objects of the Act.

Enforcement and compliance

Stakeholders also felt that compliance needs to be adequately resourced (Eyre Peninsula Local Government Association, 2021). Offence and penalty provisions should be more significant and include civil and criminal provisions (Law Society of SA, 2021).

Currently the Board and the EPA are co-regulators for development applications, including certain capital dredging works, and there is some degree of overlap:

The EPA often works closely with DEW staff from the Coast and Protection Branch, particularly in relation to the role of seagrass/macro algae in ecosystem and coastal processes where referrals are sent to both the EPA and CPB, for instance via the assessment referral processes for dredging. The loss of seagrass is one of the issues that increases the rate of sand movement, so there is a need to integrate consideration of such issues.

(Environment Protection Authority (SA), 2021, p. 5)

Monitoring compliance with development approvals and illegal developments along the coast is a shared responsibility with the planning authority, and councils are calling for more support to assist in restricting and rectifying illegal building works and enforcing compliance (Yorke Peninsula Council, 2021).

Ceduna Waters case study

An illegal development occurred at Ceduna Waters and one of the remedies sought was that the developer should reinstate the sand dunes. Unfortunately, an undesirable outcome of this has been that the dunes are overrun by nitrate bush which created a monoculture condition over the dunes. The council has been left with legacies from the failed development, including long-term storm water issues that are likely to be severely exacerbated by a significant storm event. The council felt that remedies should have focussed on fixing issues other than reinstating the sand dunes.

Yorke Peninsula case study

The Yorke Peninsula Council area covers 484 kms of coast. The Committee heard that breaches of development laws are quite common in coastal areas, but that regional councils face significant challenges in regulating and enforcing compliance.

The Council does everything within its power to restrict damage and misuse of the coast and adheres to advice from the CPB Board in regard to measures to protect property, however, more support is needed to assist in restricting and rectifying illegal building works and enforcing compliance with legislation and lease agreements on land owned by the Crown.

(Yorke Peninsula Council, 2021, p. 1)

The Committee would like to see clear lines of authority and responsibility for all tiers of government responsible for approvals, licensing, regulation and compliance of coastal management activities.

The Committee found that:

- regional councils are struggling to meet enforcement and compliance obligations to combat illegal developments and protection works along SA's regional coasts;
- the Board has an important role to play in protecting SA's coasts and that the current authority with regards to coastal protection works programs and enforcement of the Act is retained in legislation; and
- it is important for any legislative reform to align with the existing powers and objectives in the *Environment Protection Act 1993*, the *Planning, Development and Infrastructure Act 2016*, and the *Landscape SA Act 2019*.

2.1.2 Review of policy

Regional coastal planning

Stakeholders pointed out a need to maintain and further develop a statewide perspective for regionally-based ongoing coastal management, with the Board as the lead agency (Kingston District Council, 2021). Since the *Development Act 1993* commenced, the Board ceased producing coastal management plans that address development and management of the coast (Department for Environment and Water, 2021; Australian Coastal Society, 2021).

A broader perspective and integrated management approach might provide a mechanism for better collaboration of development and implementation of landscape action plans and council adaptation plans, which may help with sharing technical expertise and cost.

Coastal planning in SA is a mosaic of strategies and plans developed at the state, regional and local levels (see Table 1 below):

- the state Natural Resources Management (NRM) Plan (which will be superseded by a state landscape strategy) sets strategic direction and priorities for natural resources management, but is not specifically for the coast;
- the Coast Protection Board is developing a statewide strategy for coasts and has a policy document (revised in 2016);
- at a regional level, landscape plans and strategies (based on the regional NRM plans) exist, but only Green Adelaide's has a statutory priority for coasts:
 - coastal action plans (primarily coastal conservation assessment and action plans) have been developed by some of the NRM Boards (now Landscape Boards) and are aimed at conserving the coastal environment;
- plans for regional planning and development may be developed at a later stage by either the Joint Planning Boards or, in the absence of Joint Planning Boards, the State Planning Commission in accordance with the *Planning, Development and Infrastructure Act 2016*; and
- councils may develop local coastal adaptation plans that identify coastal hazards and guide actions to mitigate impacts and promote resilience and adaptation:

- the Local Government Association (LGA) of SA has produced guidelines to help councils with coastal adaptation planning, but there is no requirement for councils to develop them:

The guidelines explore key areas of risks for councils including legal liability, financial impacts, planning and asset management. They present a six-step decision pathway to support councils in assessing and quantifying the likely impacts of inundation and erosion.

(Local Government Association of SA, 2021a)

Table 1. SA's mosaic of strategies and plans that address (at least in part) coastal planning

	Conservation planning (mostly)	Coastal management (including climate change adaptation planning)	Planning and development
Statewide	Coast Protection Board Strategy (in progress) Coast Protection Board Policy (2002, revised in 2016)		
	State Landscape Strategy (in progress replacing the state NRM Plan)		State Planning Policies Planning and Design Code State Planning Commission's Coastal Practice Guidelines (in progress) Coast Protection Board's Coastal Planning Information Package (being revised)
Regional	Regional landscape plans (previously regional NRM plans)	LGA coastal adaptation plans; e.g. Limestone Coast Coastal Adaptation Plan	Joint Planning Boards or State Planning Commission Regional Plans (yet to commence)
	Coastal Action Plans; e.g. Southern Fleurieu, Limestone Coast, Coorong and South East		
Councils (outside metropolitan area)		Council coastal adaptation plans	Council development plans; now incorporated into the Planning and Design Code
Metropolitan	Green Adelaide Regional Landscape Plan (in progress) Metropolitan and Northern Adelaide Coastal Action Plan	Adelaide Living Beaches Strategy (2005-2025) Securing the Future of Our Coastline Program	Metropolitan councils' development plans; now incorporated into the Planning and Design Code

As can be seen in Table 1 (above), the Board's strategy and policies have attempted to bridge the gap between conservation and development, while simultaneously addressing adaptation planning, including through supporting some councils and regional LGAs to develop their own plans. The current strategies and plans are based on socio-economic or political boundaries, and only two, the Board's statewide coastal strategy (in development) and council coastal adaptation plans, are specifically focussed on the coast. Furthermore, not every council or region has developed coastal adaptation plans.

In identifying the need for a strategic and long-term approach to coastal management, some councils have expressed a strong desire for re-establishing coast protection districts and development of associated management plans (a regional planning approach) (SA Coastal Councils Alliance, 2021). Submitters have also called for clarity and integration with landscape plans under the *Landscape SA Act 2019* (City of Port Adelaide Enfield, 2021).

The connection between board policies and these plans is relatively informal. If there were a desire to formalise consistency between the board's policies and planning and landscape strategies to derive maximum utilities from these frameworks, there may be another approach that could be adopted in relation to the coast. This may involve putting the board's policies on a statutory footing, with the requirement that these other documents are developed to be consistent with these policies.

J. Tate, Presiding Member, Coast Protection Board (Hansard September, 2021, p. 70)

While the Board states that "there is not an obvious need for a third set of plans specifically for the SA coast ..." (Hansard September, 2021, p. 70), it acknowledges there is a gap for some coastal areas that may require particular management strategies. Such management strategies would help bring together conservation planning and identification of coastal assets and hazards, and attempt to balance sustainable development with mitigation of coastal impacts:

To address the likelihood that there will be parts of the coast that warrant particular attention beyond the umbrella of statewide plans, the capacity to declare special management areas, which would have specific plans developed and implemented, could be one way of addressing that perceived need. These might have a finite life, being no longer required once implemented.

J. Tate, Presiding Member, Coast Protection Board (Hansard September, 2021, p. 70)

Further, and perhaps more importantly, specific coastal plans that can be based on bio- or geophysical boundaries are needed. Collaboration between councils and potentially regions would be fostered by coastal plans crossing socio-economic and political boundaries.

A further gap is the lack of leadership with respect to:

- the need for an integrated coastal management approach that is based on bio- and/or geophysical properties of the coast, as well as socio-economic and cultural imperatives;
- taking a sustainable approach to marine and coastal resources (including recognising opportunities for the blue carbon economy); and
- the recognition of the need for integration of all levels of government in marine, coast and land planning and management:

Future effective coastal and marine management will require intergovernmental integration, intersectoral integration, spatial integration and science-management integration. Lack of integration between policies, priorities and actions of various agencies is most immediately apparent at the regional and local level: it is here that the links between actions and the implications of lack of integration are most readily seen. It is therefore proposed that an Act should advance a policy of planning and implementing coastal and marine management on a regional scale. Coastal and marine management has to be a shared activity between State and local governments.

(Caton & Carvalho, 1999, p. 3)

Stakeholders suggested an ecosystems services approach should be incorporated into the Board's policies with funding of conservation to provide climate adaptation and emissions reduction (Green Adelaide, 2021). Further, the Board's (updated) strategic plan should be used as a benchmark for planning and policy decisions with the hierarchy of adaptation to remain (Green Adelaide, 2021).

The Committee found that:

- regional coastal planning is fragmented and divided by socio-economic or political boundaries and that there is a need for some planning to take place according to bio- or geophysical requirements;
- consideration should be given to removing the need to develop management plans based on coast protection districts;
- consideration should be given to inserting a new provision into the Act to declare special coastal areas, and develop plans in accordance with those areas; and
- collaboration with regional landscape boards and Green Adelaide, together with regional planning authorities and councils, is required to ensure a coherent set of policies that applies to the management of coastal areas.

Community engagement and communication

Also dealt with in more detail in section 2.3 below, stakeholders felt that community engagement and communication should be a central function of the Board. Stakeholders did point out that between the two major strategies/programs, 'Adelaide Living Beaches' and 'Securing the Future of our Coastline', the Board was improving with community engagement and communication (Dyson, 2021).

2.2 Terms of Reference 2: PDI Act and the Board

The Board has defined decision-making capacity in accordance with its own Act and a Power to Direct in accordance with the *Planning, Development and Infrastructure Act 2016* (PDI Act). This means the Board has the authority to direct the planning authority to impose conditions or refuse a development application that lies within the spatial planning framework's coastal areas overlay. The now repealed Act, the *Development Act 1993*, contained criteria that put a framework around the types of development applications referred to the Board. The PDI Act, however, removed the criteria and created a coastal areas overlay as part of its spatial

planning framework, with the Power to Direct on development (other than minor) located within bounds of the coastal areas overlay.

Stakeholders were divided on the level of authority the Board should have in relation to development applications. At one extreme, stakeholders were satisfied with the Board's current level of authority (Australian Coastal Society, 2021; Muenchow, 2021; City of Port Adelaide Enfield, 2021; Law Society of SA, 2021), and even suggested the Board's role should be strengthened to encompass major developments (SA Coastal Councils Alliance, 2021; Department for Environment and Water, 2021). At the other end, stakeholders sought a reduction in the authority of the Board in relation to referrals under the PDI Act (Copper Coast Council, 2021; Eyre Peninsula Local Government Association, 2021; Lucky Bay Shack Owners Association, 2021). Other stakeholders considered it was too early to tell whether the coastal areas overlay referral mechanism was appropriate, and that monitoring and review of referrals to the Board were being undertaken (State Planning Commission, 2021; Coast Protection Board, 2021):

Once the board completes its formal 12-month review of the Planning and Design Code referral process in March next year, it will consider options to improve its operational effectiveness, if that is shown to be required. In the meantime, the 2013 DEW [Department for Environment and Water] document, Coastal Planning Information Package, is being revised to assist councils and applicants better understand the role and responsibilities of the board as the statutory authority established responsible for the state's coast and as a prescribed referral body under the PDI [Planning, Development & Infrastructure] Act [2016], plus to update information on coastal planning policy and the referral process

J. Tate, Presiding Member, Coast Protection Board (Hansard September, 2021, p. 69)

Other stakeholders highlighted issues associated with streamlining processes for development (City of Charles Sturt, 2021). Stakeholders pointed out that referrals to multiple authorities in accordance with the PDI Act increased cost and time for applicants (District Council of Streaky Bay, 2021) and that potential existed for conflict in approvals, with one agency directing refusal while others approved (District Council of Streaky Bay, 2021).

While many council stakeholders acknowledged the different PDI Act referral bodies, such as the EPA and the Native Vegetation Council, as being necessary to apply and achieve state and national policy and legislative objectives, there was a clear desire to streamline this process, particularly for regional areas (SA Coastal Councils Alliance, 2021).

Case study – Eyes on Eyre

The [Eyes on Eyre](#) project is a partnership of all tiers of government that commenced in response to the increase in visitation to the area. Although a great deal of planning has been done, the Committee heard that the project is at risk of failing during its implementation due to a lack of coordination amongst councils. The Board may need to take a leadership role to ensure that implementation is undertaken with a statewide perspective and that councils can carry out on-ground works in a coordinated and efficient manner. This is simply one example where the Board could potentially harness its current relationships and networks to lobby for a funded position that could undertake work during the implementation phase.

Stakeholders highlighted the need for a coordinated approach to assessment of development applications to improve efficiencies and certainty with regard to referrals and grants. Stakeholders suggested they would like to see the Native Vegetation Council and the Coast Protection Board combined to reduce administrative costs in development applications, and in disbursement of grants (District Council of Streaky Bay, 2021). A practical approach might be through case management of development applications that involve multiple referral agencies because advice can be inconsistent between agencies (Eyre Peninsula Local Government Association, 2021).

The Committee noted the SA Productivity Commission is undertaking a review of development referral processes under the PDI Act with a [draft report](#) released for consultation in July 2021.

The Committee found that:

- stakeholders were divided on whether the Board should retain, increase or decrease its authority in relation to the PDI Act;
- not enough time has elapsed to enable a decision on whether the Board should retain its current authority;
- it would be appropriate to review the role of the Board under the PDI Act once the policy framework has been strengthened through amendments to the Act; and
- a review of the Act should consider how state government might assist regional councils, lacking specific planning and development expertise, with complex projects that do not receive major project status, but still require the involvement of multiple state referral agencies.

2.3 Terms of Reference 3: potential for reform

How protection and development in coastal areas should be managed in the future; including, but not limited to investigating the Board's processes and procedures for:

- a. Managing community and stakeholder expectations (i.e. communications and community engagement and handling of complaints);
- b. Evidence-based decision-making; and
- c. Managing review or appeal of decisions

2.3.1 *Community engagement and consultation*

Currently, there are no provisions within the Act that set out a framework for community engagement and consultation (Law Society of SA, 2021; Hoyland, Salter, & Summers, 2021; Western Adelaide Coastal Residents Association, 2021). Stakeholders, however, expect to be consulted whenever development is proposed along the coast, particularly because they expect their knowledge and experience to be integrated into the decision-making process; particularly perspectives and knowledge from First Nations people (Black Point Progress Association, 2021; Trigg, 2021).

Councils were positive about their engagement with the Board and DEW staff (City of Salisbury, 2021; Copper Coast Council, 2021; Limestone Coast Local Government Association, 2021), and some stakeholders pointed out that the Board had engaged in a sufficient amount of consultation (Australian Coastal Society, 2021; Dyson, 2021). Other stakeholders however highlighted that it was neither the job of the Board to run a community engagement program, nor to handle complaints (Muenchow, 2021). One stakeholder considered the Board's relationship with the community to be adversarial (Ronai, 2021).

Stakeholders highlighted that an amended statute should emphasise the environment and the public's interaction with it, and that there was a need for a coordinating body that can engender public trust (Semaphore Largs Dunes Group, 2021).

Stakeholders felt that the complaints procedures were unclear (Ronai, 2021) and that there was little or no feedback to complaints that were submitted (Semaphore Largs Dunes Group, 2021; Save West Beach Sand, 2021).

The Committee found that:

- a provision should be included in an amendment Bill for the Board to undertake community engagement in accordance with community engagement guidelines as set by the state as a minimum; particularly for engagement with First Nations people;
- the Board should consider ways to incorporate community skills and knowledge into their decision-making and to make this framework clear to the community; and
- the complaints process should be transparent and a formal framework for complaints handling should be published on the Board's website.

2.3.2 *Evidence-based decision-making*

There are a number of decision-makers who rely on the Board for scientific or technical information to incorporate into decisions (Australian Coastal Society, 2021); usually councils and the state planning authority. The Board provides coastal scientific expertise through its policy documents, reports and other publications, made publicly available on its website. Further, DEW staff can be contacted for specialist technical advice on coastal protection issues.

The Board, however, did work with the NRM Boards (now the Landscape Boards) to provide evidence for decision-making in relation to coastal conservation. Future research and data collection on coastal conservation priorities may need more of the Board's focus and commitment to meet living shorelines and blue carbon economy objectives (Green Adelaide, 2021).

The Committee heard that councils were keen for local and accurate data to help them make decisions about sustainable coastal development and protection of coastal assets (Local Government Association of South Australia, 2021). This included up to date and localised data and modelling for sea level rise. Stakeholders suggested the Board should collaborate with state government through its [Climate Change Science and Knowledge Plan](#) to develop statewide sea level rise estimations (Local Government Association of South Australia, 2021).

Further, the Board should adopt "... a monitor and respond approach ..." to coastal adaptation and impact mitigation (Local Government Association of South Australia, 2021, p. 11).



Figure 8. The Committee discussed research partnership opportunities with academics from Flinders University during a tour of the metropolitan beaches (left-right: Dr Ryan Baring, Flinders University; Hon. Tung Ngo MLC; Nick McBride MP; Michael Brown MP; Hon. Robert Simms MLC; Ass. Prof. Beverley Clarke, Flinders University; Prof. Patrick Hesp, Flinders University).

The Committee found that:

- an important function of the Board should be carrying out regular monitoring, reviewing and publication of data on sea level rise for SA and adopting an adaptive policy response to evidence; and
- the Board should have authority and be resourced appropriately to develop and be responsible for a statewide plan for managing coastal impacts.

2.3.3 *Review or appeal*

Concerns from stakeholders about review or appeal fell into two camps: 1. that the community felt unable to challenge the Board's decisions about the management of Adelaide's beaches; and 2. that the Board and councils be sufficiently funded and resourced with expertise to be able to respond to challenges or appeals in accordance with the PDI Act.

Stakeholders expressed concern over what they perceived to be the "...unchallenged movement of sand along the Adelaide coastline ..." (Semaphore Largs Dunes Group, 2021,

p. 1). In particular, stakeholders were concerned over why impact assessments were not undertaken in consultation with the community prior to moving of sand between Adelaide's beaches (Port Adelaide Residents Environment Protection Group, 2021; Semaphore Largs Dunes Group, 2021; Western Adelaide Coastal Residents Association, 2021). The community was concerned about the removal of sand from some beaches and posited that the Board should have priority access to sand from developments (Kennare, 2021).

A decision by the Board to refuse an application for development approval is subject to appeal with the Board appearing as first respondent to the appeal. Stakeholders also identified that sufficient funding should be available for the Board and councils to defend decisions in the [Environment, Resources and Development Court](#) (Yorke Peninsula Council, 2021; Eyre Peninsula Local Government Association, 2021).

2.4 Terms of Reference 4: Any other matter

Submitters raised a few technical issues that should be addressed in developing an amending Bill; including the need for a framework for Minister's direction of the Board (Law Society of SA, 2021).

3 CONCLUSIONS

Clear messages were received by the Committee from the community and stakeholders about the challenges of the Act as it currently is. Submissions were broad-ranging, from identifying problems with the Act to providing possible solutions to those problems.

The Committee found that there was a need to amend the Act; particularly, to contemporise the Act so that it addresses the main challenges faced by SA's coasts today. The Committee heard that the Act is no longer adequate to meet the challenges posed by contemporary issues, such as climate change.

Recommendation 1:

that state government:

- a) retains the *Coast Protection Act 1972* and a statutory authority (the Board) that is mandated with leadership responsibility to conserve, protect and manage the coast;
- b) commits to a Bill to amend the Act and presents a report to both Houses in late 2022/early 2023 in which it outlines how amendments to the Act will proceed and how state government will collaborate with stakeholders and the community on the development of a Statute Amendment Bill; and
- c) commits to inserting a provision within the Bill that ensures the Act will be regularly reviewed.

The Committee found that the membership of the Board needs to align better with the functions of the Board and that if the functions are amended, that the membership of the Board needs to be amended as well.

The Committee found that Board members need to have the skills and expertise to undertake the functions as set out in the Act and be supported by staff that have technical expertise, or the Board needs to make better use of advisory panels that have the skills and expertise.

Recommendation 2:

that state government:

- a) aligns the membership of the Board to ensure the skillset remains relevant to the functions as set out in the Bill;
- b) ensures that Board members are vested with particular skills and expertise, or the Board be supported to make better use of advisory panels; and
- c) considers the Board's functions in accordance with planning and development legislation and commits to resourcing appropriately-skilled support staff to provide evidence-based advice for decisions.

The Committee found that a contemporary Act should contain objects or principles that align with legislation from other jurisdictions, and will enable the Board to evaluate its performance.

Recommendation 3:

that state government commits to inserting a provision into the Bill on objects or principles that support integrated coastal management objectives and address contemporary coastal impacts, and are aligned with other statutes with jurisdiction in coastal areas.

The Committee found that a contemporary Act should allow for more integrated coastal management. The Committee heard that the land, coast and marine environments cannot be managed in isolation and that a new approach is required to ensure that these ecosystems are managed cohesively and systemically. Further, the Committee heard that impacts from the decisions of one council may be felt in a neighbouring council area and that decisions should be made with a systemic perspective.

The Committee found that an amended Act that re-defines the coast and provides for leadership, consistency and integration with the current conservation and development policy frameworks would ensure that coastal conservation and management issues were addressed.

The Committee found that the Act should be amended to allow for a Board that can provide a strategic, statewide perspective on coastal climate change adaptation and that the Board be provided with enough funding and authority to enable it to provide policy advice for current and emerging coastal issues across the whole of the State.

The Committee found that the Board should take the lead in statewide management of coastal impacts from climate change.

Recommendation 4:

that state government:

- a) commits to positing the Board in legislation as the leader and authoritative voice for statewide integrated coastal management and strategy; including planning and development, coastal conservation and climate change adaptation policy; and developing, or causing to be developed, best practice coastal management techniques;
- b) commits to inserting a provision into the Bill that gives the Board's statewide strategies and/or policies a statutory basis;
- c) commits to amendments to ensure strategies and/or policies made under the *Planning, Development and Infrastructure Act 2016* and *Landscape South Australia Act 2019* are consistent with, and incorporate, the Board's strategies and/or policies to ensure an integrated and collaborative approach to coastal management;
- d) considers amending the definition of 'coast' to ensure it is sufficient to enable the Board to undertake its functions in accordance with the draft Bill, and the *Planning, Development and Infrastructure Act 2016*, and that the definition facilitates the Board in a leadership role in integrated coastal management;

e) considers removing the need to develop management plans based on coast protection districts, but considers the role of the Board in developing authoritative documents (as needed) that are based upon environmental imperatives, such as bio- or geophysical, to address coastal hazards and impacts; and

f) commits to providing the Board with sufficient authority and resources to lead monitoring and adaptive policy responses for sea level rise, and development of statewide strategies and/or policies for managing coastal impacts, in partnership with regional authorities.

The Committee found that the Board is a natural lead for developing a statewide research and data collection strategy for coastal areas in collaboration with stakeholders. Further, that the Board recognises and leverages region-wide funding efficiencies and collaborations wherever possible, and supports the strategic collection and publication of localised data.

The Committee found that there is a need to ensure that coastal development policy, and other strategic policy settings, should be subject to ongoing monitoring and review to ensure that policy, including sea level rise policy, is regularly reviewed and updated in accordance with current data.

Recommendation 5:

that state government:

a) commits to providing the Board with appropriate authority and resourcing to undertake development of a statewide research strategy for coastal areas, and support for the strategic collection of local data, in collaboration with stakeholders; and

b) commits to including a legislative mechanism in the Bill to require the Board to commit to ongoing monitoring and review of sea level rise policy, and regular reporting and publishing of the data collected.

The Committee heard that some councils are struggling to meet the costs of protecting and maintaining coastal assets from their base budgets and are struggling to source technical information from within their regions and access advice from DEW.

In particular, the Committee found that regional councils are struggling with a lack of expertise and resources to drive coastal developments through the development applications process.

The Committee found there is a need to increase support to regional coastal councils through access to technical expertise and a more strategic, longer-term funding model.

Recommendation 6:

that state government:

a) commits to developing an equitable, sustainable and sufficient funding model with the Board and other stakeholders that is long-term and aligns with statewide and regional coastal policies and strategies;

b) commits to a long term strategy in finding an intergovernmental and cross-agency solution to the issue of applicants requiring multiple referrals to different agencies for any one development application; including:

i) considering increasing technical expertise within regional areas; and

ii) assessing the Limestone Coast Local Government Association pilot program of hosting a regional coastal officer; and

c) commits to maintaining a sufficient amount of staff with appropriate skills and expertise within the Coast and Marine Branch within the Department for Environment and Water to support the work of the Board and regional councils.

The Committee found that the community would be better served by a Board that invested in making its decisions transparent and accountable.

The Committee also found that community perceptions of the Board would likely be further improved if the Board undertook performance evaluations against objects or principles within its Act.

Recommendation 7:

that state government:

a) commits to making the Board's processes and decisions more transparent and inclusive of the public; and

b) considers incorporating provisions within the Bill that allow the Board to evaluate its performance against national and international indicators; such as coastal health.

The Committee found that the Board has an important role to play in protecting SA's coasts and that the current authority with regards to coastal works programs and compliance is initially retained in legislation.

The Committee, however, would like to see, two years post implementation of new coastal legislation, the State Planning Commission review the lines of authority for all tiers of government responsible for approvals, licensing and regulation of coastal works programs and compliance.

The Committee found that it was essential that a strong, strategic policy framework underpin decision-making.

The Committee found that stakeholders were divided on whether the Board should retain, increase or decrease its authority in relation to the PDI Act. The Committee found that not enough time has elapsed to determine whether the Board should retain its current authority. Further, as amendments to the *Planning, Development and Infrastructure Act 2016* are outside the scope of this report, the Committee did not make any recommendations to either increase or decrease the Board's authority in this respect.

The Committee did, however, find that flexibility with respect to accessing civil and criminal penalties for illegal development should be considered in any review undertaken in respect of the PDI Act.

The Committee found it was essential that the Board and the agency supporting it, maintains the necessary technical expertise in order to undertake its role as a referral agency.

Recommendation 8:

that state government:

- a) considers developing a framework, in collaboration with stakeholders, to clarify responsibility and decision-making for protection, development, monitoring and compliance in coastal areas and makes this publicly available; and
- b) considers that any legislative reform to the powers and functions of the Board to regulate coastal works must consider and align with existing powers and objectives in the *Environment Protection Act 1993* and the *Planning, Development and Infrastructure Act 2016*.

Recommendation 9:

that state government, following implementation of an amended Act:

- a) in collaboration with the State Planning Commission, commits to a cross-agency review of the operation of the Board and its objectives, as a referral agency in accordance with the Planning and Design Code; and
- b) commits to reviewing the role of the Board and state and local government authorities in approving and undertaking coastal protection works.

The Committee found that the Board has a role to play in community engagement and consultation and that a framework for engagement guidelines, community decision-making and complaints handling should be made publicly available.

Recommendation 10:

that state government commits to legislating community engagement and consultation within the decision-making processes of the Board.

Recommendation 11:

that state government considers inserting a provision in the Bill that sets out a framework for the Minister's limited and publicly notifiable direction of the Board.

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ABBREVIATIONS

Board	Coast Protection Board
Committee	Environment, Resources and Development Committee
Act	<i>Coast Protection Act 1972</i>
DEW	Department for Environment and Water
EPA	Environment Protection Authority (SA)
Minister	Minister with authority for the <i>Coast Protection Act 1972</i>
NRM	Natural resources management
PDI Act	<i>Planning, Development and Infrastructure Act 2016</i>
SEWCDB	South Eastern Water Conservation and Drainage Board

APPENDIX A: OFF-SITE HEARINGS AND FACT-FINDING VISITS

Coorong and South-east – 6-8 April 2021

Coorong District Council

Parnka Point

Kingston District Council

Maria Creek, Kingston Jetty, Wyomi Beach, Cape Jaffa

City of Mount Gambier – public hearing

District Council of Grant

Pelican Point, Carpenter Rocks, Blackfellow Caves

Wattle Range Council

Southend, Beachport

District Council of Robe

Robe Obelisk, Hoopers Beach, Drain L, Fox Beach, Long Beach

Eyre Peninsula – 31 May-3 June 2021

City of Whyalla

Whyalla Foreshore, Stony Point, Windy Loo Campground, Fitzgerald Bay

District Council of Franklin Harbour

Cowell, Lucky Bay

District Council of Cleve

Arno Bay

City of Port Lincoln

Axel Stenross, Laguna Beach Marina

District Council of Lower Eyre Peninsula

Coffin Bay, Kellidie Bay, Mt Dutton Bay

District Council of Tumby Bay

District Council of Elliston

Sheringa Beach, Locks Well, Port Kenny

District Council of Streaky Bay

Tractor Beach, Perlubie Beach

District Council of Ceduna

Smoky Bay, Thevenard

Yorke Peninsula – 15-16 June 2021

Adelaide Plains Council

Middle Beach Boat Ramp, Middle Beach Caravan Park

Copper Coast Council

North Beach, Moonta Bay, Simms Cove Sea Walls, Port Hughes boat ramp

Yorke Peninsula Council

Port Victoria, Point Turton, Coobowie, Black Point, Pine Point, Ardrossan, Port Clinton

Adelaide – 16 September 2021

Semaphore, West Beach, Glenelg, Brighton

APPENDIX B: LIST OF WITNESSES

<p>15 February 2021 – Kingston Room, Old Parliament House, Adelaide</p> <ol style="list-style-type: none"> 1. Jeff Tate, Presiding Member, Coast Protection Board 2. Cate Hart, Executive Director, Environment, Heritage and Sustainability, DEW 3. Murray Townsend, Manager, Coast and Marine Branch, DEW
<p>1 March 2021 – Kingston Room, Old Parliament House, Adelaide</p> <ol style="list-style-type: none"> 4. Nick Harvey, Chair, SA Branch, Australian Coastal Society Ltd
<p>7 April 2021 – City of Mount Gambier Council Chamber, Mount Gambier</p> <ol style="list-style-type: none"> 5. Maureen Christie, Secretary, Friends of Shorebirds SE Inc 6. James Holyman, Chief Executive Officer, District Council of Robe 7. Nat Traeger, Chief Executive Officer, Kingston District Council 8. Tony Wright, Executive Officer, Limestone Coast Local Government Association
<p>7 June 2021 – Kingston Room, Old Parliament House, Adelaide</p> <ol style="list-style-type: none"> 9. Keith Parkes, Chairperson, South Australian Coastal Councils Alliance 10. Adam Gray, Executive Officer, South Australian Coastal Councils Alliance 11. Lea Bacon, Director, Policy, Local Government Association 12. Stephen Smith, Planning Reform Partner, Local Government Association
<p>21 June 2021 – Kingston Room, Old Parliament House, Adelaide</p> <ol style="list-style-type: none"> 13. Ian Dyson, Principal, Economic and Environment Sedimentology 14. Ruth Trigg, Director, Centre for Culture, Land and Sea 15. Geoff Short, Member, Western Adelaide Coastal Residents' Association 16. Jim Douglas, Member, Western Adelaide Coastal Residents' Association 17. Bert Brown, Member, Western Adelaide Coastal Residents' Association
<p>19 July 2021 – Kingston Room, Old Parliament House, Adelaide</p> <ol style="list-style-type: none"> 18. John Dundon, Save West Beach Sand 19. Mark Pierson, Friends of Gulf St Vincent
<p>23 August 2021 – Kingston Room, Old Parliament House, Adelaide</p> <ol style="list-style-type: none"> 20. Brenton Gear, Director, Green Adelaide 21. Tony Flaherty, Coast and Seas Team Leader, Green Adelaide 22. Kathryn Bellette, Director Strategy and Assessment, Environment Protection Authority 23. Jackie Agnew, Senior Environment Protection Officer, Environment Protection Authority 24. Graeme Jackson, Director, Legal, Commercial and Assurance Services, Department for Infrastructure and Transport 25. Ana Glavinic, Director, Technical Services, Department for Infrastructure and Transport

6 September 2021 – Kingston Room, Old Parliament House, Adelaide

26. Helen Dyer, Chair, State Planning Commission
27. Brett Steiner, Acting Manager, Planning Operations, Attorney-General's Department
28. Jeff Tate, Presiding Member, Coast Protection Board
29. Neil McFarlane, Director, Climate Change, Coast and Marine, DEW
30. Murray Townsend, Manager, Coast and Marine Branch, DEW

APPENDIX C: LIST OF SUBMITTERS

No.	Name
1	City of Salisbury
2	Australian Coastal Society
3	Muenchow
4	Copper Coast Council
5	Thom
6	Frost
7	District Council of Franklin Harbour
8	City of Charles Sturt
9	SA Tourism Commission
10	Sanderson
11	Black Point Progress Association
12	City of Marion
13	Ronai
14	Kingston District Council
15	Norman
16	Duhring
17	City of Port Adelaide Enfield
18	Hayland, Salter, Summers
19	State Planning Commission
20	Johnston
21	Lucky Bay Shack Owners Association
22	District Council of Streaky Bay
23	Wasley
24	Green Adelaide
25	Semaphore Larges Dunes Group
26	Fitzgerald
27	Sambell
28	Law Society of SA
29	Eyre Peninsula Local Government Association

30	Kennare
31	Local Government Association (SA)
32	Friends of Gulf St Vincent
33	Western Adelaide Coastal Residents' Association
34	Estuary Care
35	Primary Industries and Regions
36	South Eastern Water Conservation and Drainage Board
37	Limestone Coast Local Government Association
38	Coorong Shack Owners' Association
39	Yorke Peninsula Council
40	Rural and Regional Council Liberal Party SA
41	Port Adelaide Residents' Environment Protection Group
42	Save West Beach Sand
43	Trigg
44	Anonymous
45	Wakelin
46	Allen
47	Dyson
48	Paterson, Harvey, Hera-Singh
49	Coast Protection Board
50	Department for Environment and Water
51	SA Coastal Councils Alliance
52	Environment Defenders Office (SA)
53	Nature Conservation Society (SA)
54	Conservation Council (SA)