

7 Roles and Responsibilities of Riparian Agencies

7.1 Overview of this Chapter

This chapter responds to Task 4 of the Project Brief.

Various authorities and agencies have roles in relation to riparian land, as do communities and individual landholders. Some of these roles involve actual land management; others may be better described as control, monitoring, support or coordination.

Central to this analysis are the CMAs, which government has identified as ‘caretakers of riparian condition,’ although details of this role have not been spelled out. The Victorian River Health Strategy indicated that CMAs will themselves become managers of Crown frontages⁴⁰; but an alternative view is that CMAs will become monitors, coordinators and facilitators of other land managers. This chapter charts a course between these two views.

The chapter considers current deficiencies in riparian roles and responsibilities, which take two broad forms:

- Geographic gaps in land management, particularly for unlicensed linear Crown land
- Functional and coordination gaps, particularly between DSE and the CMAs

In addressing these gaps, the following principles have been adopted

- Agencies should be recognised as having a core business; any additional roles should be complementary to that core business and corporate culture
- Priority for filling geographic gaps should be set in accordance with the priorities identified in the Regional River Health Strategies (RRHSs)
- Any extension of an agency’s roles or area of responsibility must be separately resourced

The biggest geographic gap is management responsibility for linear unlicensed riparian Crown land. This is of particular significance when it aligns with areas of high priority under the relevant RRHS. For high-priority riparian Crown land it is recommended that:-

- Parks Victoria, Municipal Councils, and community-based Committees of Management be appointed as land managers, wherever appropriate
- CMAs be engaged to undertake management functions on behalf of DSE for high priority riparian land which cannot be placed under these agencies

For low-priority riparian Crown land, it is recommended that:-

- Existing delegated managers continue
- Further appointments be made as opportunities arise

- DSE builds its own capacity as default manager.

Functional gaps and inefficiencies should be addressed by improved high-level coordination, and cooperation and liaison between the CMAs and DSE.

In the longer term, a range of possibilities emerges for building CMAs' roles as caretaker of riparian condition. These may be regarded either as a set of 'pick and choose' options or, preferably, as an evolutionary process of strategic incrementalism.

Outside public sector agencies, there is also an expanding role for the community – not only as individual landholders, but also as volunteers and delegated managers.

7.2 Current Roles and Responsibilities

7.2.1 Description of the Topic

This section reviews the current roles, responsibilities and powers of government agencies involved in riparian management, and sets the scene for the following section, which explores the scope for improvements, basically within the current institutional framework

Related Sections

Section 7.3 considers roles and responsibilities in an immediate to shorter-term time frame

Section 7.4 considers further roles for the CMAs in the longer term

Section 7.5 looks in more detail at the role of community groups in relation to riparian management

7.2.2 Background to Current Arrangements

Several previous studies have considered riparian roles and responsibilities. Themes running through these studies include (a) the need for inter-agency coordination and (b) the presence of unfilled gaps in riparian management. Government policy has responded by identifying CMAs as 'caretakers of riparian condition.' – but the details of this role have not been enunciated.

The 1997 Review of Catchment Management

In June 1996 the government commissioned a Review of Catchment Management Structures in Victoria⁴¹.

The 1997 report provided the basis of the 1998 restructure of Catchment and Land Protection Boards into Catchment Management Authorities.

The Review considered two options:-

- An Integrated Advisory Option, in which advisory services would be consolidated, but the new body would have no role in managing regional resources or deliver services
- A Community-based Service Delivery Option, in which the advisory roles would be extended by inclusion of waterway management roles, expanded to include floodplain management, coordination of rural drainage, Crown frontage management and management of Heritage Rivers outside National Parks.

The Review recommended adoption of the Service Delivery Option. The recommendation was accepted by government, and the CMAs were subsequently formed.

Major benefits predicted included:-

- Enhanced community involvement
- Integration of planning and service delivery
- Filling existing resource management gaps including functions not adequately undertaken, notably Crown frontage management.
- Streamlining bureaucracy

The service delivery option ‘could include field extension, provision of advice, coordination, works, referral and enforcement where relevant.’

Basic Principles

The basic principles proposed by the 1997 study, although addressed to catchments as a whole, apply equally to riparian land:-

- Community Empowerment –
‘service delivery which maximises local involvement and ownership’
- Integrated Management –
‘integrated delivery of services in interrelated issues ... e.g. one stop shop approach’
‘capacity to regulate activities with potential to adversely impact on catchment conditions’
‘effective monitoring and review of the management and conditions of catchments and service delivery outcomes’
- Minimising Bureaucracy –

'Minimise need for on-going coordination'

'Maximise devolution of service delivery'

'Minimise overlaps in service delivery'

Resource Management Gaps

The 1997 Review team reported that:-

"A large number of submissions ... commented on several natural resource management areas which are either currently not managed or not managed well. These include ... management of Crown stream frontages. This is, in general, because management of these areas requires the coordination of a number of groups and/or authorities. Currently, for each of these functions, there is considerable confusion over roles and responsibilities, no statewide policy, a lack of ownership and resultant poor management. There is a need for one group to take responsibility for the issue and to coordinate the activities of other relevant groups."

In response, DSE (or DNRE, as it then was) should

"develop detailed policies, guidelines for management and effective transfer mechanisms for... the management of Crown frontages. These would then be incorporated ... in Service Contracts between the government and the CMA."

The 2000 SKM Report⁴²

Sinclair Knight Merz (SKM), in its 2000 'Summary of Regional Crown Water Frontage Review Projects' proposed an improved system for managing Crown frontages and stream frontages more generally. It recommended:-

- Responsibility for Crown frontage management should be vested in CMAs.
- CMAs would form community-based Committees of Management for stream systems
- The CMAs would retain fees raised from licences
- A system of status-neutral Frontage Management Agreements would be introduced
- CMAs would be funded to manage unlicensed Crown frontages, and undertake rehabilitation works
- Additional resources would be provided to CMAs for monitoring, enforcement, extension, education etc

The Victorian River Health Strategy

The Victorian River Health Strategy (2002) addressed the issue of a management framework for riparian land.

Key themes of relevance to this project included:-

- The nomination of CMAs as ‘caretakers of riparian condition.’ This role was not spelled out in any detail, but clearly included the possibility of CMAs becoming managers of Crown frontages.⁴³
- The recognition of subsidiarity in institutional arrangements – that is, the assignment of roles and responsibilities to state level, catchment level, or local level according to scale and capacity
- The integration of riparian management requirements into planning systems, and the encouragement of more effective cooperation between local government and the CMAs
- The importance of engaging regional communities in the planning and implementation of river health programs
- The adoption of a partnership approach to dealings between agencies, between government and the community, and between government and landholders.

Stakeholder Views

Officers of several government instrumentalities participated in a workshop during the course of this project (see Appendix 9.7), which considered some of these issues. A wide range of views was expressed, not always consistent, but including the following:-

- Current arrangements would work well, if DSE and CMAs were simply better resourced
- CMAs should not be a manager themselves, but the monitor of other agencies’ management
- DSE is best placed to undertake state-wide functions e.g. licence administration

Views of the wider stakeholder community were not sought in the course of this project.

7.2.3 The Department of Sustainability & Environment

The powers and functions of Government Departments derive largely from their role as agents of their Ministers and Secretaries. In this role DSE exercises considerable influence over riparian management.

As Policy Coordinator

Two areas of DSE provide policy support to the Minister for Environment and Climate Change on matters relating to riparian land:-

- The Crown Land Management unit sits within DSE's Public Land Stewardship and Biodiversity Division. Its role is to support, appoint and overview delegated managers of Crown land, rather than to manage CL directly itself. CLM operates at both Head Office and regional levels.
- The Sustainable Water Environment and Innovation Division manages the state's investment and establish frameworks and policies to achieve Government's target for river health. The Division does not have a direct role in the management of riparian land, but can influence through its investment in river health.

As riparian land management gets higher priority, there will be need for better coordination between relevant DSE functional units.

As 'Default' Land Manager

Very little Crown land is actually managed by DSE. Most is managed under delegation, notably by Parks Victoria and Committees of Management including municipalities.

On Crown land for which there is no delegated manager or tenant control resides with the Minister responsible for the Land acts, so DSE is the 'default' manager by virtue of being that Minister's agent. Much riparian Crown land, both reserved and unreserved, falls into this category.

The 'default' management function within DSE falls to the Crown Land Management (CLM) unit, which has both head office and regional staff. CLM has two avenues of resourcing for land management: (a) recurrent budget appropriations, and (b) 'departmental' Committees of Management.

The latter are Committees established under section 14 of the Crown Land (Reserves) Act, but consisting of departmental officers rather than members of the public. These CoMs may be appointed over Crown reserves with a revenue source (e.g. telecommunications towers), and a mandate under section 15(1)(f) of the Act to expend such funds on the better management of Crown land in the region.

As Landlord

The formal landlord for Crown licences is the Minister, but DSE acts as the Minister's agent.

DSE regions determine whether a licence will be issued, to whom, whether it will be under section 130 or 138, what conditions it should contain, what rent is payable, etc.

The DSE Transaction Centre at Seymour is the administrator of data and systems relating to leases and licences of Crown land – including Water Frontage licences.

It performs this statewide function on behalf of all the DSE regions, which until about 2000 administered this function themselves. The consolidation of the function has allowed economies of scale, uniformity of systems, and the development of specialist skills.

The Transaction Centre issues invoices and collects rents, which are not retained by DSE, but credited to Consolidated Revenue.

As Budget Manager

Arguably, DSE's most significant role in relation to riparian land is as budget manager. In this role it obtains funding from State government, makes budget bids for Commonwealth funding (for example, NHT funding), and allocations to CMAs. (Melbourne Water is somewhat different, its revenue coming substantially from the Metropolitan rate).

As Public Risk Underwriter

DSE carries a public risk insurance policy which covers most Crown land and most delegated managers. This arrangement has several benefits over the purchase of insurance cover by individual delegated managers. The policy does not cover tenants, who must obtain their own cover.

Land Registry

Land Registry (known also as the Office of Titles) is the custodian of data relating to freehold land and its ownership. Title data includes no information on topography, and very little on abuttals. Land Registry therefore has no way of distinguishing riparian land from any other.

The Office of the Surveyor General

The Surveyor General within DSE is the State's principal source of survey-related policy and standards including the interpretation of policy and law relating to matters such as the doctrine of accretion. The S-G is the authoritative source of advice on Crown land, and his rulings are invariably accepted as definitive by the courts and the parliament.

Enforcement

DSE includes a specialist enforcement unit, whose traditional focus has been on fisheries and forestry enforcement, but whose services are available to other DSE functional areas. Its specialist expertise includes the collection of evidence and management of legal processes.

The Port Phillip Region of DSE has recently completed a 'Compliance Project' defining this link between the Crown Land Management functional area and the Enforcement functional area⁴⁴.

The project is based on the following principles:-

- It is essential to for any regulatory regime to be backed up by enforcement
- The primary strategy is to rectify the offence through extension and liaison
- There should be a direct and decisive route from non-compliance to prosecution
- A strategic approach to choosing which cases to enforce / prosecute – based on risk, cost/benefit, and profile.

The Port Phillip project has drafted a set of flow-charts, standard letters and procedure statements for dealing with offenders. This model may be extended to other DSE regions.

7.2.4 Catchment Management Authorities

CMAs have three sets of roles, all of which are relevant to riparian land:

- Under the Catchment and Land Protection Act 1994, they have certain catchment advisory and planning functions
- Under the Water Act 1989 they take on the role of Waterway Authorities and Floodplain Management Authorities
- Under the Planning and Environment Act 1989 they are referral authorities for the purpose of planning schemes.

CMAs' functions do not entail service delivery - with the exception of the Waterway Authority role.

Roles under the CaLP Act

The State's current CMAs grew from Catchment and Land Protection (CaLP) Boards, which in turn replaced previous bodies which dealt with soil conservation and vermin and noxious weeds.

These functions are listed in section 12(1) of the Catchment and Land Management Act 1994.

Roles under the Water Act

In 1998 CMAs were appointed under the Water Act as ‘Authorities with Waterway Districts.’ This further role was given to all non-metropolitan CMAs, and to Melbourne Water in the Melbourne Metropolitan area.

In this role, CMAs have additional powers and functions:

- Those available to all Water Authorities under part 7 of the Water Act, and
- Those available to Authorities with Waterway management districts under Part 10 of the Act. These may extend in some circumstances to drainage and floodplain management functions.

CMA functions under the Water Act are confined to ‘designated land’ and ‘designated waterways.’

Roles under the Planning & Environment Act

CMAs are Referral Authorities under the Planning and Environment Act – but only for land covered by the Rural Floodway Zone (RFZ) and the Land Subject to Inundation Overlay (LSIO). This is a small proportion of all riparian land.

Statements of Obligation

Functions are not duties – the difference being that an authority may exercise a function, but must exercise a duty. The gap between functions and duties may be filled by a ‘Statement of Obligation.’

Under section 186A of the Water Act, inserted into the Act in 2005, the Minister may issue a Statement of Obligations to a CMA acting as a Waterway Authority. Such statements of Obligation have been made for all CMAs⁴⁵.

These Statements require each CMA to act as ‘Caretaker of River Health’ rather than as ‘Caretaker of Riparian Condition.’

CMAs also have Statements of Obligation under the Catchment and Land Protection Act⁴⁶.

Melbourne Water’s Statement of Obligation is made under the Water Industry Act.⁴⁷

The CMAs and Land Management

Although CMAs have extensive powers and functions, many of which have a clear link to the management of land in the catchment, a CMA cannot be described as the ‘land manager.’ That role falls to the entity

with control over the land: the freehold owner, DSE, or a Committee of Management as the case may be.

Nevertheless, there are several circumstances in which the roles of CMAs touch very closely on actual land management:-

Through grants programs to land managers, most CMAs are only one step removed from being land managers themselves. Often riparian works are not only conducted with CMA grants, but to CMA specifications and by CMA contractors.

In the case of the Snowy River in East Gippsland, a DSE Project Officer has been assigned the role of liaising between DSE, the East Gippsland CMA and landholders, thus giving the CMA a direct input to the land manager's decision-making. This arrangement has facilitated renegotiation of Crown frontage licences along the Snowy river, and has led to the introduction of a form of tenure-neutral land management agreements (see section 4.6).

Special Case: the Barwon River

Only one CMA has formal land management responsibilities. The Corangamite Catchment Management Authority (CCMA) has had Crown land along the Barwon River vested in it under Schedule 7 (now repealed) of the Water Act 1989.

This unique situation is not the result of any deliberate decision, but is rather a continuation of arrangements entered into by Barwon Water as the CCMA's predecessor.

The case is of little assistance in addressing the question of whether CMAs should be land managers. On the one hand it demonstrates that a CMA can undertake that function effectively; but on the other hand there is nothing to suggest that some other agency (Parks Victoria, the City of Greater Geelong, or a local Committee of Management) could not manage the land equally well.

7.2.5 DSE and CMAs – the Division of Responsibility

Overview Matrix

The following table shows how responsibilities are divided between DSE and the CMAs for various different roles undertaken on three different types of riparian land:-

Role	Freehold	Unlicensed Crown Land	Licensed Crown Land
Overall control	Freehold owner	DSE (as agent of the Minister)	DSE (as agent of the Minister)

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<p>Policy and Planning</p> <ul style="list-style-type: none"> • State level • Regional level • Municipal level 	<p>DSE (VRHS, Biodiversity Strategy etc)</p> <p>CMA (Catchment Strategies and RRHSs)</p> <p>Councils (Planning Schemes)</p>	As for freehold	As for freehold
<p>On-the-ground management</p> <ul style="list-style-type: none"> • Weeds & pests • Revegetation • Stock control 	<p>Landholder (perhaps with CMA funding)</p> <p>Landholder (perhaps with CMA funding)</p> <p>Landholder (perhaps with CMA funding)</p>	<p>DSE (by default)</p> <p>DSE (by default)</p> <p>n.a.</p>	<p>Licence holder (perhaps with CMA funding)</p> <p>Licence holder (perhaps with CMA funding)</p> <p>Licence holder (perhaps with CMA funding)</p>
<p>Monitoring</p> <ul style="list-style-type: none"> • of frontage condition • of grant compliance • of delegated management • of tenants 	<p>CMA</p> <p>CMA</p> <p>n.a.</p> <p>n.a.</p>	<p>CMA</p> <p>n.a.</p> <p>DSE</p> <p>n.a.</p>	<p>CMA (but only of priority frontages)</p> <p>CMA</p> <p>n.a.</p> <p>DSE (as landlord)</p>
<p>Extension</p> <ul style="list-style-type: none"> • re land management practices • re licence issues 	<p>CMA</p> <p>n.a.</p>	<p>n.a.</p> <p>n.a.</p>	<p>CMA</p> <p>DSE (CLM)</p>
Enforcement			

• Grants	CMAs	n.a.	CMAs
• Licence	n.a.	n.a.	DSE (CLM)
• Weeds	DPI	n.a.	DSE (CLM)
Administration			
• Of grants	CMAs	n.a.	CMAs
• Of delegated management	n.a.	DSE	n.a.
• Of tenures	n.a.	n.a.	DSE (Transaction Centre)

Gaps and Issues

The main issues emerging from this analysis are: -

- Potential for better coordination of riparian policy across freehold and Crown land
- Lack of any effective management responsibility for Unlicensed Crown land
- Lack of any clear basis for CMA-funded works on unmanaged and unlicensed Crown land
- Potential for conflict / confusion with monitoring and enforcement on licensed Crown land
- Potential for better links between the CMA landholder extension function and the DSE landlord function
- Potential for rationalisation of administration of riparian land – e.g. integrated grant and licence data systems

7.2.6 Delegated Land Managers

The Minister for Environment and Climate Change may appoint delegated managers for reserved Crown land, using powers under the Crown Land (Reserves) Act. No delegated management is available for unreserved Crown land, hence the desirability of reserving all riparian Crown land (see Section 3.2)

Parks Victoria

Parks Victoria (PV) is a statutory authority established under the *Parks Victoria Act* 1998. This Act does not cause any specific land or classes of land to be placed under PV's control, but enables PV to accept a management role on behalf of the State, government agencies,

and other land owners. Under such arrangements, PV has been assigned various roles in relation to waterways and riparian land.

- Under the CL(R) Act, PV has been appointed as Committee of Management for numerous Crown reserves – mostly with conservation- or recreation-related purposes.
- Under a Management Services Agreement with the Secretary for DSE, PV is the manager of all National Parks, State Parks and Regional Parks.
- Under the Marine Act PV is waterway manager for the lower reaches of the Yarra, Maribyrnong and Patterson rivers.
- Under the Water Industry Act Parks Victoria has been delegated authority to issue licences for jetties and moorings
- Under the Port Services Act PV is the Local Port Manager for the downstream reaches of navigable streams flowing into Port Phillip and Western Port.

The type of land usually assigned to Parks Victoria will be land of state or regional significance, where there are high conservation or recreational values.

Comments

No support was expressed through this project for any systemic change to PV's functions, although it was suggested there could be a spatial extension of its responsibilities to more riparian land.

Over time, PV can be expected to take on more riparian land, within the scope of its current roles and responsibilities – for instance, in response to VEAC recommendations.

Councils as Delegated Managers

Municipal Councils cover every part of Victoria with the exception of French Island and the Alpine Resorts. All riparian land is therefore within one municipality or another. Waterways often form municipal boundaries, and the Local Government Act 1989 (section 3(3)) specifies that in these situations the boundary is the centreline of the waterway.

Councils' general powers and functions apply to riparian land as to any land within the municipality: these include the power to levy rates over occupied land, the power to make and enforce local laws, and the power to enforce the provisions of the relevant Planning Scheme.

Municipal councils may manage Crown land under delegation, as Committees of Management under the Crown Land (Reserves) Act.

The Crown land must be reserved, and the appointment may be over one or more reserves, or parts of reserves.

Although there may be some revenue source on the land (caravan park, kiosk etc) the upkeep of the reserve invariably involves a net payment from the council.

This is considered an appropriate arrangement where the land serves municipal purposes, or purposes which the municipality is prepared to support.

Comments

No support was expressed through this project for any systemic change to councils' functions, although it was suggested there could be a spatial extension of their responsibilities to more riparian land.

Over time, councils can be expected to take a planning, management or funding role for more riparian land, under their current suite of powers – for instance, as a result of urbanisation.

Community Committees of Management

Committees of Management for Crown land reserves are a well-established system governed by the *Crown Land (Reserves) Act 1978*. It is a system dating back to the 1800s, when the relevant provisions were found in the Land Acts of the day.

They have been appointed for many reserves near rivers – including reserves for camping, recreation, and watering of traveling stock.

A Committee of Management may consist of:-

- 3 or more persons – these are known as 'local' committees, and are usually incorporated under the CL(R) Act itself.
- Municipal Councils
- Bodies established for public purposes, such as Parks Victoria.

All three types of committee are found in rural and provincial areas, but there are few if any 'local' committees in metropolitan areas.

Committees can manage only reserved Crown land – including whole reserves, parts of reserves, and multiple reserves. The CL(R) Act provides them with powers to issue tenures, charge fees, and enforce regulations.

For further discussion of community-based riparian management, see section 7.5.

7.2.7 Monitoring and Enforcement

The stakeholder Workshop held in the course of this project considered the possibility of CMAs acting as ‘monitors’ of Crown licences. Feedback from the workshop indicates that this should be placed in the context of riparian monitoring in a wider sense.

All monitoring is for the purpose of informing some subsequent action – usually in the form of remediation of deficiencies identified by the monitoring. Remediation may take the form of policy development, program revision, extension or liaison with offenders, or enforcement through prosecutions.

The following table illustrates the range of monitoring which occurs in relation to activities on riparian land:-

Matter to be Monitored	Monitoring Agency	Purpose of Monitoring
Monitoring Water Quality	DSE using regional water quality monitoring partnerships	To assess the condition of water quality and identify water quality trends (including threats) and compliance against SEPP and other targets.
Monitoring Riparian Condition (through Index of Stream Condition)	CMAs	To assess the condition of the riparian zone throughout the state To assist in setting priorities for riparian protection and enhancement
Monitoring Tenants	DSE as landlord	To set licence conditions To enforce compliance with licence conditions
Monitoring Delegated Managers	DSE as Minister’s agent	To optimise management arrangements To ensure statutory compliance
Monitoring Grant Compliance	CMA as grant administrator	To ensure quality of works To ensure proper accountability for grant monies
Planning Scheme Compliance	Council as Planning Authority	To ensure compliance with Planning Scheme To initiate remedial actions including prosecutions

All types of monitoring rely on on-ground presence. This may be supported by office-based use of aerial photos and correspondence, but office monitoring without field monitoring will be ineffective.

Duplication of field visits would be highly inefficient. As a field-based activity, monitoring is best undertaken by an agency with field staff.

Prosecution, on the other hand, is a specialist function requiring specialist staff authorised to conduct investigations and undertake court action.

7.3 Optimising Existing Arrangements

7.3.1 Description of the Topic

Building on the picture laid out in section 7.2 above, this section proposes options for improving riparian management, essentially through:-

- working towards the appointment of designated managers for all high priority riparian Crown land
- the strategic management of low priority riparian Crown land
- extending existing agency roles, essentially within their existing charters
- improving cooperation and coordination functions.

Related Sections

Section 7.4 considers further roles for the CMAs in the longer term

Section 7.5 looks in more detail at the role of community groups in relation to riparian management

7.3.2 Options for Management of High-Priority Riparian Land

A recurrent theme running through analyses and commentaries is the lack of effective management for much riparian land. This deficiency is most notable for those linear Crown land frontages not under licence.

To appoint a formal manager for all riparian Crown land in the state is probably an unrealistic target in the shorter term. A more realistic target would be the appointment of a formal manager for all land designated as 'high priority' in Regional River Health Strategies.

Various candidates for this management function are available:-

Parks Victoria

Parks Victoria has a well-established capacity for land management. Its core business is management of land of national or state significance - including much riparian land, notably State Parks, Regional Parks, and Nature Reserves with a river frontage. However, the criteria of significance which have caused land to be included in Parks Victoria's portfolio may not be the same criteria as those used for the RRHSs.

In some areas Parks Victoria also has certain river-related functions, such as management of recreational boating.

The addition of some linear Crown reserves to the Parks Victoria portfolio would thus be an extension of that agency's established core business.

Parks Victoria may be appointed as manager through the Crown Land (Reserves) Act, or as *de facto* contractor to the Secretary for DSE under the DSE/PV Service Agreement.

Municipal Councils

Local government also has a well-established capacity for land management. Every council already manages a portfolio of public land, including its own freehold reserves and Crown land for which it is Committee of Management. This land is usually of local or regional significance, and often includes urban land and land of recreational and community use.

The base funding for a council's land management functions is rate revenue – an appropriate source since the beneficiaries are, in general, the local community.

The addition of some linear Crown reserves to a typical Council's portfolio would seem to be an attractive option.

Councils may be appointed as manager of Crown frontages under the Crown Land (Reserves) Act, provided that all the land in question has been reserved.

Community Committees of Management

Community-based Committees of Management have been a central feature of Crown land management for well over 100 years. Most of these 'local' Committees of Management manage only a single discrete reserve – a public hall, a recreation reserve, a camping ground etc – but the basic statutory formula also serves as a basis for community-based management of multiple Crown reserves of state significance. One such community-based Committee of Management

which may serve as a model here is the Great Ocean Road Coast Committee (GORCC).

Given the emerging community enthusiasm for conservation causes, it would appear reasonable to envisage such committees managing riparian land along many major rivers in the state.

The CL(R) Act provides two statutory bases for community-based Committees:-

- Section 14(4)(a) provides for three or more persons to become a CoM, which may then be incorporated under section 14A
- Section 14(4)(e) provides for the appointment of bodies corporate already established for a public purpose under some other Act – such as Community Management Networks (CMNs) or LandCare groups incorporated under the Associations Incorporation Act 1981.

These options are further discussed in section 7.5.

Community Committees may be appointed as manager of Crown frontages under the Crown Land (Reserves) Act, provided that all the land in question has been reserved.

Catchment Management Authorities

CMAs already conduct land management functions, even though they do not control the land in question. They fund works undertaken by other land managers, they often specify those works, and even undertake works themselves using their own staff or contractors. Thus CMAs have the basis of a capacity to become land managers – either on a permanent or temporary basis.

The CMA grants programs are already used to achieve better riparian management in many circumstances, but there are some notable exceptions:-

- Crown land where there is no licensee.
- Crown land where the licensee chooses not to accept a grant
- Freehold riparian land where the landholder chooses not to accept a grant.

Various strategies are available to deal with these circumstances, including (in the first two cases) the appointment of a land manager. Candidates for appointment include the three already discussed (Parks Victoria, the local council, and a community Committee of Management) – but if these are unavailable or unsuitable, it may be expedient for the CMA itself to be given direct management responsibility.

There are two statutory mechanisms under which this may occur:-

- CMAs as Water Authorities may have Crown land vested in them under section 131 of the Water Act
- CMAs may be appointed as Committees of Management under section 14 of the CL(R) Act. (The Barwon River through Geelong is already managed by the Corangamite CMA, appointed under Schedule 7 of the Water Act 1989.)

Critical Works on Unmanaged Riparian Land

There is a third way of authorising CMAs to undertake works on Crown frontages – but without causing them to become the formal land manager.

- Under sec 18B, Crown Land (Reserves) Act, the Secretary for DSE can enter into a ‘Management Agreement’ with any person for the management of Crown land.

This option has the attraction of allowing the appointment to be limited in its scope. For instance, an 18B agreement could limit the duties and risk exposures of the CMA, and could be for a specified limited duration. A CMA could be authorised to undertake works on the land without incurring the obligations and responsibilities of a formal land manager.

The option also has the attraction of overcoming the present impasse where a CMA wishes to fund an abutting landholder to undertake works, but the landholder does not hold a Crown frontage licence. Under this option, the CMA would be authorised to conduct the works, and whom it engaged as a contractor would be immaterial.

An extension of this option could see CMAs engaged to conduct works on licensed Crown land, even where licensees are not willing to accept a grant and undertake the works themselves.

7.3.3 Options for Management of Low Priority Riparian Land

Despite the focus on high priority riparian land, other riparian land will also need management from time to time. This includes land hitherto held under licence, but where the licence is relinquished or not renewed. In these circumstances, three management options are available:-

Continue Existing Management Arrangements

If there is an existing designated manager (Parks Victoria, the local council, or a community Committee of Management) there may be no reason to upset the *status quo*. Parks Victoria and councils are

appointed for indefinite or unspecified terms, but community based Committees of Management are usually appointed for three-year terms. All should come under periodic review, but it may be anticipated that appointments will just roll over, unless some better arrangement presents itself.

Opportunistic Appointments

Opportunities may arise to review the appointment of existing managers, or to appoint new managers. These opportunities may arise from various causes – including development or subdivision of abutting freehold land, construction of council bike-paths, or the emergence of local volunteer groups keen to be involved in conservation works. In such cases, the opportunity should be taken to consider use of the options outlined above for high priority land.

DSE as Default Manager

For many years to come, it can be expected that there will be riparian land for which no designated manager can be found. The manager will be, by default, DSE. The Crown Land Management (CLM) division within DSE has two strategies for obtaining revenue to support this function:-

- Increase DSE's recurrent budget appropriations to fund high priority riparian management. CLM's capacity for riparian management could be better funded through tied Treasury appropriations, or through DSE's internal allocation of untied appropriations.
- Establish Departmental Committees of Management to raise revenue for riparian management. Under such an arrangement, Committees consisting of three Departmental officers would be appointed over revenue-generating Crown reserves (not necessarily riparian - for instance, sites of telecommunications towers) and instructed under section 15(1)(f) to expend such revenues on Crown land in the region which would otherwise go unmanaged.

7.3.4 Options for Coordination

There is no formal coordinating body for CMAs, as there is for other regionalised land managers. In contrast, Coastal Management Boards are coordinated by the Victorian Coastal Council (VCC), and Alpine Resort Management Boards are coordinated by the Alpine Resorts Coordinating Council (ARCC). The state's 78 councils are represented at state level by the Municipal Association of Victoria (MAV).

Two non-statutory arrangements currently facilitate liaison between CMAs :-

- Monthly meetings of the CMA CEOs
- The Waterway Managers' Forum

The CF&L Act (section 12) contains provisions allowing the establishment of formal councils to advise on the operation of other Acts, even where those other Acts themselves have no such provision. These bodies must be 'for the purposes of the CF&L Act'- a proviso which would be put beyond doubt if Part 10 of the Water Act was scheduled as a 'relevant law' under the CF&L Act.

A Ministerial Riparian Policy Council

State-wide coordination of riparian policy may be enhanced by a Ministerial Committee, established under section 12 of the CF&L Act, and consisting of the Chairpersons of all CMAs and Melbourne Water, or their representatives. Such a Council could meet twice per year and be charged with advising the Minister on the refinement of riparian policy as enunciated by government.

A Riparian Coordination Committee

State-wide coordination of CMAs' riparian programs may be enhanced by a Ministerial Committee, established under section 12 of the CF&L Act, and consisting of the CEOs of the CMAs and Melbourne Water, or their representatives. Such a Committee could meet quarterly, and be charged with advising the Secretary on the introduction of the type of measures recommended in this report.

DSE internal coordination

Several sections within DSE have an interest in riparian policy and riparian management. There may be a need for coordination, particularly between the Crown Land Division (both at the Head Office level and the Regional level) and the Sustainable Water Environment and Innovation Division, amongst others.

The need for coordination will only increase if the recommendations of this report accepted, and in the light of the impending 2009 licence renewal.

An option to be considered is therefore an internal Task Force to:-

- Coordinate the 2009 licence renewal
- Facilitate liaison between relevant DSE units
- Plan extension programs to community, CMAs, and landholders

- Support the proposed Ministerial coordinating committees

7.3.5 Options for Cooperation

Another recurrent theme running through past commentaries, and emerging at the stakeholder workshop conducted in the course of this project, is the need for better intra- and inter-agency cooperation, particularly between the CMAs and DSE.

CMA support for DSE

CMAs may take on advisory roles on behalf of DSE, provided those roles fall within their functions under the CaLP Act, and provided they do not involve the exercise of powers which the CMA does not hold.

DSE as landlord of licensed Crown frontages has very limited capacity for monitoring its tenants or the land they occupy. This seriously impedes capacity to set appropriate licence conditions and to enforce compliance with those conditions, once set.

CMAs' Statements of Obligations require them to "advise the Department on conditions for licences in respect of Crown frontages."

The extent of this advice is not spelled out, nor does DSE have any obligation to accept it. Some CMAs advise that DSE ignores advice; some DSE staff report that advice from the CMAs is unreasonable or legally unsound. These difficulties may well be overcome by the adoption of the liaison model developed in East Gippsland.

DSE support for CMAs

DSE may provide services to CMAs, and take on functions on behalf of CMAs, using its powers as agent of the Minister and the Secretary under various Acts.

Several riparian-related functions should remain centralised within DSE (even if in the longer term they might be transferred to the CMAs). These include:-

- Administration of tenures
- Enforcement and prosecution
- Database management
- Design of processes and documents

Advantages of centralisation include access to sources of specialist expertise, uniformity of approach, and efficiencies of scale.

Disadvantages include lower responsiveness and loss of local autonomy.

DSE-CMA liaison staff

Management outcomes along the Snowy River have been improved through an arrangement between the Crown Land Management section within the DSE Gippsland Region, and the East Gippsland CMA. Under this arrangement, a DSE officer is funded by the CMA, and acts as a liaison between DSE, the CMA, and Crown licence holders.

An attractive option is therefore to extend this model to other DSE regions.

7.3.6 Analysis

Nature of These Options

The options for management of high-priority riparian land by Parks Victoria, Councils, community-based Committees of Management or CMAs may all be adopted, although for any specific tract of land they are mutually exclusive alternatives.

The options of strengthening DSE’s capacity as ‘default’ manager and engaging CMAs to undertake critical works may be seen as complementary, although it would be possible to adopt one without the other.

Options for central coordination are not alternatives: some or all of them may be adopted.

Likewise, the various options for improved DSE / CMA cooperation are not alternatives: some or all of them may be adopted.

Option Legislative Basis	Advantages Strengths	Disadvantages Weaknesses	Cost Effort
<i>Options for Management of High Priority Riparian Land</i>			
<ul style="list-style-type: none"> • Appoint Parks Victoria as Committee of Management <p><i>Sec 14, CL(R) Act</i></p>	<p>Established land management capacity</p> <p>Good accountability to central government</p>	<p>No formal links to CMAs or local government</p>	<p>Cost of corresponding increase to PV budget appropriation</p>
<ul style="list-style-type: none"> • Appoint municipalities as Committees of Management <p><i>Sec 14, CL(R) Act</i></p>	<p>Established land management capacity</p> <p>Local management of locally significant land</p>	<p>May be seen as cost-shifting from state to local government</p>	<p>Largely ratepayer funded</p> <p>Effort of negotiating CoM appointments</p>
<ul style="list-style-type: none"> • Appoint 	<p>Captures extensive</p>	<p>Volunteer skills and</p>	<p>Highly cost effective</p>

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<p>community Committees of Management</p> <p><i>Sec 14, CL(R) Act</i></p> <ul style="list-style-type: none"> • Appoint CMAs as Committees of Management <p><i>Sec 14, CL(R) Act</i></p>	<p>community goodwill and commitment to conservation issues</p> <p>Gives CMA full range of powers (e.g. to issue tenures and make regulations)</p> <p>Follows an established model (CCMA as manager of the Barwon at Geelong – appointed under Sch 7 of the Water Act)</p>	<p>resources may be of uneven quality</p> <p>Burdens CMA with responsibilities (e.g. dealing with tenants and casual users)</p>	<p>Effort of establishing and supporting volunteer groups</p> <p>Cost of additional land management – /less income derived from tenures</p>
<p><i>Option for Critical Works on Unmanaged Riparian Land</i></p>			
<ul style="list-style-type: none"> • Engage CMAs under a Management Agreement with the Secretary for DSE <p><i>Sec 18B, CL(R) Act</i></p>	<p>Allows CMAs to undertake works without becoming the formal land manager</p> <p>Responsibility retained by DSE as 'default' land manager</p> <p>Enables works by an abutting landholder who does not hold a licence</p>	<p>Land is still without a formal manager</p>	<p>Will only be used where benefits exceed costs</p>
<p><i>Options for Management of Lower Priority Riparian land</i></p>			
<ul style="list-style-type: none"> • Make opportunistic management appointments <p><i>Sec 14, CL(R) Act</i></p> <ul style="list-style-type: none"> • Strengthen DSE's capacity as 'default' manager <p><i>Secretary's discretion</i></p>	<p>Progress towards management coverage of all riparian Crown land</p> <p>Continuity of existing arrangements</p>	<p>May tend to be ad-hoc</p> <p>Could divert attention from high priority reaches</p> <p>Unlikely to deliver results on the scale required</p>	<p>Low cost and effort</p> <p>No cost if funded through Departmental Committees of Management</p>
<p><i>Options for State-level Coordination</i></p>			
<ul style="list-style-type: none"> • Convene a Riparian Council of CMA Chairpersons 	<p>Would provide a formal, clear, uniform avenue of communication between Minister and CMAs</p>	<p>May overlap with Victorian Catchment Management</p>	<p>Low cost (say two meetings per year)</p>

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<p><i>Sec 12, CF&L Act</i></p> <ul style="list-style-type: none"> • Convene a CEOs' Riparian Coordination Committee 	<p>Would promote efficiencies and consistency of CMA approach to riparian operations</p>	<p>Council (VCMC)</p>	<p>Low cost (say four meetings per year)</p>
<p><i>Sec 12, CF&L Act</i></p> <ul style="list-style-type: none"> • Set up a Riparian Task Force within DSE 	<p>Will ensure maximum benefits at 2009 licence renewal</p>	<p>None perceived</p>	<p>Cost and effort of another committee</p>
<p><i>Secretary's discretion</i></p>	<p>Will assist cross-divisional and cross-regional implementation of riparian reforms</p>		
<p><i>Options for inter-agency Cooperation</i></p>			
<ul style="list-style-type: none"> • CMA on-ground licence monitoring support for DSE <p><i>Sec 18B, CL(R)Act or Sec 18 CF&L Act</i></p>	<p>Provision of effective link between landlord and tenant</p> <p>Sound basis for decisions about licence renewals / variations in 2009 and beyond</p>	<p>None perceived</p>	<p>Funding of additional CMA site inspections</p> <p>May need development of training and reporting systems</p>
<ul style="list-style-type: none"> • DSE liaison, administrative and enforcement support for CMAs <p><i>Secretary's discretion</i></p>	<p>Extension of East Gippsland liaison function to all DSE regions</p> <p>Development of standard systems (e.g. uniform landholder agreements; enforcement and prosecution protocols)</p>	<p>None perceived</p>	<p>Cost of DSE resource</p> <p>Effort of liaison amongst 10 CMAs</p>

7.3.7 Recommendations

R56 Appoint a formal land manager for all high-priority riparian Crown land by 2010

- Appoint Parks Victoria to manage high-priority riparian land of national or state significance
- Appoint municipal councils to manage high-priority riparian land of regional or local significance
- Appoint community-based Committees of Management for riparian land where community resources allow

- Appoint CMAs as Committees of Management for high-priority sites in need of active management, but where the above three options are not appropriate

R57 Engage CMAs (as agents of the Secretary for DSE) to undertake critical works on high-priority riparian land for which the designation of a formal manager is not necessary

- An engagement under section 18B Crown Land (Reserves) Act will allow CMAs to undertake works, even where there is no designated manager, and even where the abutting owner does not have a Crown frontage licence

R58 Strengthen DSE's capacity to respond to critical management issues on Crown land with no designated manager

- The use of 'Departmental' Committees of Management to capture revenue from non-riparian sources should be investigated

R59 Improve central coordination of CMA riparian functions

- Convene a Riparian Policy Council under section 12 of the CF&L Act, consisting of the Chairpersons of all CMAs
- Convene a Riparian Coordination Committee under section 12 of the CF&L Act, consisting of the CEOs of all CMAs

R60 Streamline DSE internal coordination of riparian functions

- Set up an intra-Departmental Riparian Task Force

R61 Engage CMAs to support DSE functions

- CMAs to monitor Crown frontage licences
- CMAs to provide extension services to licensees
- CMAs to advise DSE on licence conditions and compliance

R62 Provide DSE specialist services to CMAs

- DSE to appoint a CMA Liaison Officer in all DSE Regions
- DSE to provide specialist enforcement and prosecution services
- DSE to develop joint, interfaced DSE-CMA data systems

Priorities

Highest priority should be given to actions related to the 2009 licence renewal. These include:

- Establishing a DSE internal Task Force
- Engaging and funding CMAs to monitor licensed frontages on DSE's behalf

Other items are of high priority, but perhaps without the urgency connected with the 2009 renewal.

7.4 Building CMAs' Roles

7.4.1 Description of the Topic

This section considers additional functions which could be conferred on CMAs in the longer term.

It develops options for enhancing CMAs' role as caretaker of riparian condition across private and public land tenures.

The possibility of viewing new functions as a set of 'pick and choose' options is acknowledged, but the recommended approach (we call it 'strategic incrementalism') is to see new functions as evolutionary and sequential.

However they are introduced, these functions are currently not well resourced within DSE, so their transfer must be linked to new recurrent funding. Their incremental introduction will allow, at each stage, the construction of a case for new funding of the next stage.

Related Sections

Section 7.3 discussed options for enhancing or extending CMA functions in the shorter term.

Section 7.5 looks at the scope for enhanced community involvement.

7.4.2 Role Reassignment Mechanisms

Administrative Arrangements and Delegations

There are several ways of transferring roles and responsibilities from one agency to another. For any transfer, there must be two powers: the power to make the transfer of responsibility and the power to accept the transferred responsibility.

The Administrative Arrangements Act 1983 provides a process under which a reference in any Act to a Minister, Department or officer may be taken to be a reference to another Minister, Department or officer.

The Conservation Forests and Lands Act 1984 includes provisions allowing the Minister for Environment and Climate Change, and the Secretary for DSE to delegate powers, functions and duties to a nominated entity or officer.

Service Agreements

The purchaser-provider model which gained some currency in the 1990s served as a basis for the assignment of functions to Parks Victoria.

In accordance with this model, DSE enters into an annual service agreement with Parks Victoria. The Agreement commits funding to PV (from both the Metropolitan Parks levy and State budget sources) and includes requirements for delivery of outputs, service standards and reporting. Because DSE is PV's only client, the service agreement constitutes PV's entire annual business plan.

7.4.3 Strategies for Growth

This section assumes that CMAs are to take on further roles in the course of becoming 'caretakers of riparian condition.' Roles suggested for consideration include:-

- Acting as monitor of Crown licences on behalf of DSE
- Acting as proponent of critical works in high priority riparian land where no more appropriate manager can be identified
- Accepting appointment as Committee of Management for particular sites or reaches
- Acting as landlord of licensed Crown frontages
- Acting as manager of all Crown land not under licence and not under some other designated manager
- Becoming controller of the Land Acts, insofar as they apply to riparian Crown land
- Acting as Referral Authority under the Planning Scheme for works and changes of use on freehold land

The first few of these roles, which might be seen as 'short term' options, were discussed in section 7.3; the remainder are seen as 'longer-term' options are discussed in this section.

These additional roles could be seen as either *ad hoc* options to be adopted independently of each other, or as an evolutionary process.

The Pick and Choose Strategy

It would be possible to adopt any one of the options considered here, without it being seen as a step in an incremental process. Indeed, it would be possible for each CMA to go its own way, and adopt different sets of new roles.

Strategic Incrementalism

An alternative approach to the acquisition of new riparian roles and responsibilities would be through a program of strategic incrementalism. This would be an evolutionary strategy: each step would help illuminate and shape the next.

If carefully designed, each stage would see:-

- tangible output benefits
- development of relevant resources and skills
- experience to support advance to the next stage
- data to support resourcing bids
- no commitment to advance to the next stage

7.4.4 Options for Further Expanding CMA Roles

In section 7.3 it was recommended that CMAs take on a monitoring role on behalf of DSE, and that they undertake critical works for high priority riparian land where no more appropriate manager can be found. The possibility of CMAs being appointed as formal Committees of Management was also canvassed in 7.3, and is reiterated here as an option which continues to be open in the longer term.

Of these options, only the first (Referral Authority) relates to riparian freehold land; all the others relate to riparian Crown land.

Referral Authority under Planning Schemes

If, as recommended elsewhere, land within 20 metres of all major waterways is zoned Environmental Sensitivity Overlay (ESO), then CMAs could be given a corresponding role in relation to matters that require planning permits under the overlay.

This would occur through an amendment to the Clause 66.03 of the Victorian Planning Provisions (VPPs) making the CMAs referral authorities for riparian ESOs.

To prevent all the CMA's own works from having to get a planning permit, the CMAs would be designated as 'Public Land Manager' under of the VPPs by an amendment to clause 72.

Monitor of Frontage Licences

See section 7.3

Undertaking Critical Works

See section 7.3

CoM for High Priority Reaches

The options of appointing other managers (Parks Victoria, Municipal councils, and community-based Committees of Management) remain open in the longer term, and it may be that over time all high priority riparian land has one of these agencies as its designated land manager. Nevertheless, the option remains open of appointing CMAs themselves as Committees of Management.

The workshop conducted in the course of this project raised misgivings about this option. It was suggested that a CMA's role as facilitator and mentor of other land managers would be compromised if it itself was also a land manager.

Landlord of Crown Frontage Licences

Over time, CMAs could move from being an advisor to DSE, in relation to Crown frontage licences, to being the actual delegated landlord on behalf of the Minister. This would establish a clear direct relationship between landholders as tenants and the CMA as caretaker of the riparian environment, and eliminate the need for coordination between CMAs and DSE over licence conditions, reviews, transfers etc.

Manager of all unmanaged Crown land

This option is for CMAs to take over the role now exercised by DSE, in relation to unmanaged riparian Crown land.

The unmanaged Crown frontages of concern here are defined by exception: they include everything except licensed frontages, those already under Committees of Management, and those forming part of larger Crown land parcels such as parks, under Parks Victoria.

There is no designated manager for this land, which means that the default manager is DSE as agent for the Minister.

By transferring responsibility from DSE the CMAs, the approach to this land could be raised from management by default (*i.e.* DSE's current role) to deliberate management by a designated land manager.

Mechanisms for such a transfer are available under the Crown Land (Reserves) Act, the Water Act, and the Conservation Forests and Lands Act.

Controller of the Land Acts, insofar as they apply to riparian Crown land

This is the option which sees CMAs given the maximum control possible over riparian Crown land.

Under this option, CMAs would become the Minister’s agent for operation of the Land Act and Crown Land (Reserves) Act, in lieu of DSE. They would take on all roles currently undertaken by DSE, including the appointment of all other CoMs, the granting of all tenures, the making of regulations, and acquisitions and disposals of land.

This option could be effected through Orders under the Administrative Arrangements Act.

7.4.5 Analysis of Options

Nature of these Options

The two strategies for adopting new roles (‘pick and choose’ or ‘strategic incrementalism’) are alternatives. One or the other could be adopted. Within each of these overall alternatives there are, of course, many sub-alternatives.

Under the ‘pick and choose’ strategy, the other options outlined above may be seen as alternatives, some of which may be adopted and others not.

Under strategic incrementalism, they may be seen as sequential and evolutionary – but not necessarily in the sequence in which they are discussed above.

Option <i>Legislative basis</i>	Advantages Strengths	Disadvantages Weaknesses	Cost Effort
<i>Strategies for adopting new roles and responsibilities</i>			
<ul style="list-style-type: none"> • ‘Pick and choose’ 	Flexibility. Different CMAs may adopt different roles Does not imply any ultimate end-point	Haphazard and <i>ad hoc</i> . No sense of direction. Possible inconsistencies across CMAs	n.a.
<ul style="list-style-type: none"> • ‘Strategic incrementalism’ 	Will provide a sense of direction to long-term policy Will allow each step to be refined in light	May be seen as heading towards some unknown or inappropriate end point	n.a.

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	<p>of accumulating experience</p> <p>Will allow evolutionary expansion of CMA resources and capabilities</p>		
<i>Further Roles in relation to Freehold land</i>			
<ul style="list-style-type: none"> Give CMAs a greater role under Planning Schemes <p><i>Amendment to VPPs</i></p>	<p>CMA control (as referral authority) for all riparian works and changes of use requiring a planning permit</p> <p>Will build on CMAs' current role as Referral Authority for LSIO land</p>	<p>Could expose all CMA works to planning permits - unless CMAs are recognised as Public Land Manager</p>	<p>Cost of amendment to VPPs</p> <p>Cost of inserting ESOs into all planning schemes</p> <p>Cost of statutory planning staff to handle referrals</p>
<i>Further Roles in relation to Crown land</i>			
<ul style="list-style-type: none"> Appoint CMAs as Committees of Management for specific parcels of riparian Crown land <p><i>Sec 14, CL(R) Act</i></p>	<p>In places where other designated managers (Parks Vic, Councils, community CoMs) cannot be found, this option could be used to ensure that all high priority riparian land has a designated manager</p>	<p>CMAs would for the first time become statutory land managers. This may be seen as a departure from their traditional roles and functions</p>	<p>Cost of improved management of land brought under CMAs as CoMs</p>
<ul style="list-style-type: none"> Appoint CMAs as landlord of all Crown water frontage licences <p><i>Admin Arrangements Act or Sec 14 CL(R) Act</i></p>	<p>Will implement government policy as set down in VRHS</p> <p>(If frontage provisions have been moved from Land Act) will allow CMAs to retain revenue</p> <p>Will ensure continuity of management if licences are revoked or not renewed</p>		<p>This further appointment should be made only with a further commitment of recurrent funding</p> <p>Need for some skill-base transfer from DSE</p> <p>Will require new reporting arrangements for DSE transaction centre, which will continue to administer licences</p>

<ul style="list-style-type: none"> • Appoint CMAs as manager of all unmanaged and unlicensed riparian Crown land <p><i>Sec 18B CL(R) Act</i></p>	<p>Will provide a clear manager for every piece of riparian land</p> <p>Will kill off old idea of 'default' management</p> <p>Will put CMAs in better position to advise DSE on budget needs</p>	<p>May encourage unreasonable expectations about the extent and speed of improved management</p>	<p>This appointment should be made only with a substantial commitment of recurrent funding – over and above DSE's 'default management' budget</p>
<ul style="list-style-type: none"> • Assign responsibility for CL(R) Act for riparian land <p><i>Admin Arrangements Act or legislative amendment</i></p>	<p>Will allow CMAs to</p> <ul style="list-style-type: none"> - appoint and control local and council CoMs on riparian Crown land - recommend regulations - control non-agricultural riparian tenures 	<p>Will cause CMAs to be held responsible for the deficiencies of all riparian land</p>	<p>This further appointment should be made only with a further commitment of recurrent funding</p> <p>Legislative amendment</p>

7.4.6 Recommendations

R63 Expand CMA Roles and Responsibilities through Strategic Incrementalism.

The 'strategic incrementalism' option is recommended in preference to the 'pick and choose' option which is seen as being uncoordinated and directionless, and lacking in vision.

The following roles should all be regarded as candidates for consideration in framing a strategy:-

- Engage CMAs to monitor Crown licences and advise DSE
- Engage CMAs for critical works on unmanaged Crown land
- Appoint CMAs as landlord of all licensed Crown frontages
- Engage CMAs to manage all unlicensed Crown land
- Make CMAs Referral Authorities under Planning Schemes

The option of re-assigning responsibility for the Land Acts from DSE to the CMAs is not recommended, because it would probably not deliver any net benefits.

Priority

Engaging the CMAs to monitor Crown frontages is urgent, if any significant advance in riparian management is to be achieved at the 2009 licence renewal

The other options are less urgent.

7.5 Engaging the Community

7.5.1 Description of the Topic

This section considers community or landholder-side contribution to riparian land management, beyond the contributions which may be made by individual landholders.

It recommends that DSE and CMAs jointly auspice three different pilot schemes for landholder-based delegated management of riparian Crown land:-

- Crown Land (Reserves) Act Committees of Management
- CMA subcommittees under the Catchment and Land Protection Act
- Incorporated Associations

Related Sections

Section 7.2.4 outlines various forms of delegated management

Sections 4.5 deal with relationships with landholders acting as individual property owners

7.5.2 The Volunteer Role

Community involvement may occur at various levels:-

- consultation
- voluntary management, under agency control
- paid management, under contract
- a degree of formal control, under delegation

Government policy strongly supports community involvement on various levels. Often this takes the form of an advisory or consultative role⁴⁸; but it may take the form of actual assignment of management responsibility.

Management Support

The community may be a resource for active land management. 'Friends of' groups have long been associated with many parks; LandCare groups have become a well-established part of the rural community; and Conservation Management Networks (CMNs) are

now emerging as an avenue of community involvement well-suited to riparian land management.

Formal Responsibility

The strongest available relationship involves the formal appointment of a community group as a land manager. This can (and does) occur under the Crown Land (Reserves) Act. The group must be either:-

- three or more individuals, appointed as Committee of Management, and then incorporated under section 14A of the CL(R) Act, or
- a body which is already incorporated “for a public purpose” under the Associations Incorporation Act.

7.5.3 Issues

Competence

Questions of skill levels, application and probity have arisen in relation to community organisations – including Committees of Management of Crown land. An effective system of monitoring and accountability is necessary to ensure that the best results are achieved from voluntary inputs.

Accountability

Community groups may not be willing to come under what they may see as undue bureaucracy. It is necessary to ensure they comply with basic standards of accountability, without dampening their enthusiasm. This can be established by providing administrative support from within a government agency for bookkeeping, records, statutory obligations etc.

Risk Management

The major risks to which community groups may be exposed can be ameliorated by:-

- Incorporation: which shifts most risk exposure from individual members to the body corporate (bodies established under any of the options outlined below will be incorporated)
- Insurance: which can be expensive, but cheaper if bought in bulk – as is the case with DSE’s public risk policy for Committees of Management and Conservation Volunteers.

7.5.4 Options

Common to all the options below is the need for administrative support. Community groups often lack the skills or willingness to

take on what they see as administrative overheads. Support could be provided by:-

- DSE or the relevant CMA providing in-house officer time or
- funding the community group to engage its own secretary/bookkeeper, and providing that person with appropriate training.

Committees of Management under the CL(R) Act

There are 1500 'local' Committees of Management across the state – predominantly in rural areas. They manage a diverse assortment of Crown reserves of local significance: public halls, recreation reserves, showgrounds, racecourses, caravan parks, war memorials and so forth.

Traditionally, this formula was applied only to land of local significance, and on a 'one-committee-for-one-reserve' basis. It may, however, be effectively applied outside these traditional limitations, as demonstrated by the Great Ocean Road Coastal Committee (GORCC).

Committees are appointed by the Minister for Environment and Climate Change under section 14 of the Crown Land (Reserves) Act 1978. The Act allows a wide variety of Committee structures.

The Act is silent on how members may be selected for appointment, although were traditionally appointed by a form of election. Modern practice is to call for expressions of interest on a skills basis.

A Committee may retain revenue generated on the reserve (for instance from grazing), and on this basis many Committees are self-sustaining. For an entirely natural reserve, where there is no revenue source, Committees must rely on grants or donated voluntary resources.

"19J" Committees under the CaLP Act

Section 19J was inserted into the Catchment and Land Protection Act 1994 in October 2006, and has not yet been utilised.

A section 19J Committee may be set up to advise the CMA, or to exercise powers delegated to it by the CMA.

Incorporated Associations

The Associations Incorporations Act provides a well-accepted and widely-used formula for the governance of entities as diverse as sporting clubs, historical societies and environmental societies.

If its constitution is correctly structured, such a group could:-

- Apply for grants from State, federal and private sector

- Enter into management contracts with a CMA or with the Secretary for DSE
- Accept appointment as a Crown Land Committee of Management.

Conservation Management Networks

Conservation Management Network is the name given to a model for community-based conservation developed by the CSIRO Division of Wildlife and Ecology and Greening Australia⁴⁹. For our purposes they fall into the category ‘Incorporated Associations’ discussed above.

The model comprises consortiums of the general community and land managers, facilitated by a government coordinator, and focussed on a network of land parcels (private land or public land or both) with the objective of improving some biodiversity indicator or outcome.

There are currently five CMNs in Victoria, including one for the Broken Boosey Creek system around Nathalia. Some are informal networks housed by the relevant DSE region; others are incorporated bodies established under the Associations Incorporations Act 1991.

7.5.5 Analysis of Options

Nature of these Options

The options in this box are independent. None, some, or all of them may be adopted.

Option Legislative basis	Advantages Strengths	Disadvantages Weaknesses	Cost Effort
<ul style="list-style-type: none"> • Set up ‘Local’ CoMs <p><i>Crown Land (Reserves) Act 1978, Section 14A</i></p>	<p>DSE has control over membership and conditions of appointment</p> <p>Accountable to DSE</p> <p>Volunteer ethic</p> <p>Strong community links</p>	<p>Cannot function outside specified Crown reserve</p> <p>No official connection to CMA</p>	<p>May be self-sustaining from reserve revenue</p> <p>May apply for grants</p> <p>Low-level admin support from DSE</p>
<ul style="list-style-type: none"> • Set up CMA Committees <p><i>Catchment and Land Protection Act 1994, Section 19J</i></p>	<p>CMA has control over membership and terms of reference</p> <p>Accountable to CMA</p> <p>May be remunerated</p>	<p>No official connection to DSE</p> <p>May tend to stray from its official charter</p>	<p>Members entitled to be paid fees</p> <p>Administrative support from CMA</p>

	Not necessarily tied to particular areas/parcels of land		
<ul style="list-style-type: none"> Engage independently created community associations (e.g. Conservation Management Networks) <p><i>Created under the Associations Incorporations Act 1981; appointed under section 14, Crown Land (Reserves) Act</i></p>	<p>Autonomous.</p> <p>Strong community links</p> <p>May build on goodwill associated with LandCare and CMAs</p> <p>May be appointed as CoMs for Crown land</p> <p>Not necessarily tied to particular land</p> <p>May enter into management contracts</p>	<p>Primary accountability is to its own membership</p> <p>Government / CMA has no direct control</p> <p>Little control over who may become a member</p>	<p>Facilitator salary from DSE</p> <p>May apply for grants</p>

7.5.6 Recommendations

R64 Actively encourage and auspice community groups for formal involvement in riparian management

DSE and CMAs should actively seek to make better use of the reservoir of community resources and goodwill available for the management of public land, through...

- Establishing local Committees of Management under the Crown Land (Reserves) Act
- Establishing Advisory Committees under section 19J of the CaLP Act
- Giving encouragement and support for community-based Incorporated Associations
- Providing DSE administrative support for Community-based riparian management

R65 Sponsor an independent research study into community involvement

The Secretary for DSE should commission an independent / academic longitudinal study of community involvement in riparian land management, with a view to evaluating the merits of the four community involvement models recommended above

Priorities

There is no particular urgency to appoint community-based riparian managers, but given the growing community concern for conservation issues, and capacity for voluntary involvement, it would be a pity if progress in this direction was deferred.