

## **St Kilda Marina – Summary of Relevant Legislation**

### **St Kilda Land Act 1965**

- The existing lease was granted under this Act
- Pre-dates CLRA and relates specifically to the Site and adjoining parcels
- Defines activities on the site as an area where:
  - Facilities are provided for boating and associated activities
  - Facilities are provided for the parking of motor vehicles and trailers
  - Facilities are provided for the recreation comfort and convenience of boat users, motor vehicle users and members of the public.
- Generally consistent with CLRA in relation to ongoing leasing.
- Council can grant leases for up to 50 years for the purpose of a marina subject to approval by Governor in Council

### **Crown Land Reserves Act 1978 (CLRA)**

- Council can grant leases for up to 21 years for any purpose subject to Ministerial approval
- The Minister may grant leases for up to 65 years, provided:
  - That development works are of a scale that justifies a lease term longer than 21 years
  - It is in the public interest
- The Site is deemed to be reserved for public recreation purposes under S4(1)
- States that the Coastal Management Act must be considered for Coastal Crown Land properties (refer below)

### **Coastal Management Act 1995 (to be replaced with Coastal and Marine Act 2018)**

- The site is coastal Crown land for the purposes of the CMA
- Imposes controls on the use and development of coastal Crown land, summarised as follows:
  - Minister's consent is required for use or development
  - In providing consent the Minister must have regard to the Victorian Coastal Strategy, any Coastal Action Plan, and the purpose for which the land is reserved under the CLRA.

### **Retail Leases Act 2003**

- Applies to leases entered into or renewed after 1 May 2003 where the tenant uses the premises predominantly for the retail sale or supply of goods and services
- Initial legal opinion: the use of the Site as a Marina is likely to constitute a retail use as this involves the provision of facilities and services to end users for a fee.

- Exemptions may apply as follows:
  - Where annual occupancy costs (rent and outgoings) are greater than \$1M
  - Where the tenant is a listed public company
  - Where the lease terms (excl. options) exceeds 15 years and the lease requires the tenant to carry out substantial works.
- Otherwise a retail lease contains provisions which operate for the benefit of the tenant.

### **Marine Safety Act 2010**

- Requires the appointment of a waterway manager whose functions generally revolve around the control and maintenance of waterways.
- Parks Victoria is the appointed water manager for the Local Port of Port Phillip

### **Other legislation to be assessed as part of the project works**

- **Planning and Environment Act 1987** (for a planning permit)
- **Fisheries Act 1995** (for sites used for significant commercial or recreational fishing activities)
- **The Heritage Act 1995** (application is currently being assessed)
- **Aboriginal Heritage Act 2006** - It needs to be established if a Cultural Heritage Management Plan (CHMP) is required.
- **Environment Effects Act 1978** - An Environmental Effects Statement (environmental, social & economic effects) may be required.
- **Climate Change Act 2017**
- **Environment Protection and Biodiversity Conservation Act 1999**
- **Flora and Fauna Guarantee Act 1988**

Note: Council Officers are currently working through the implications of the various pieces of legislation, particularly The St Kilda Land Act and Crown Land Reserves Act, with DELWP and the project legal team.