

**APPENDIX A**  
**INTERNATIONAL, AUSTRALIAN AND NEW ZEALAND**  
**LEGISLATION**

The following discussion on marine pollution prevention conventions, acts and regulations is not intended to be a comprehensive treatise on all legislation that could be relevant to the generation, handling and disposal of wastes from vessels. The summary presented here is intended to provide the reader with an overview of the main legislation, its context, and its particular relevance to the planning, establishment and management of vessel waste reception facilities. Readers interested in more detailed assessment of the legislation should refer to relevant summary publications such those listed in the reference section of these Guidelines, or to the Conventions, Acts and Regulations themselves.

## **A.1 International Conventions and Legislation**

### ***A.1.1 UNCLOS III***

The *United Nations Convention on the Law of the Sea* in 1958 (UNCLOS I) and 1960 (UNCLOS II) was upgraded in 1982 (UNCLOS III). UNCLOS III sets out a general obligation to protect and preserve the marine environment, and take all measures necessary to ensure this where control exists. The adoption of laws and regulations to reduce and control pollution of the marine environment from vessels among other sources, gives Australia and New Zealand the powers to prevent or reduce pollution from domestic and international vessels within their waters. Specific reference to port waste reception facilities is not made.

### ***A.1.2 MARPOL 73/78***

Because of the international nature of the shipping industry, it has long been recognised that action to improve maritime safety and prevent marine pollution is more effective if carried out at an international level rather than by individual countries acting unilaterally and without co-ordination with others. Accordingly, a conference held by the United Nations in 1948 adopted a Convention establishing the International Maritime Organization (IMO) as the first international body devoted exclusively to maritime matters.

IMO is a technical Organization and most of its work is carried out by a number of committees and sub-committees. Of particular relevance in the context of the conventions relating to pollution from ships is the Marine Environment Protection Committee (MEPC) which was established in November 1973. Since 1959, the IMO has promoted the adoption of some thirty conventions and protocols, and adopted well in excess of 700 codes and recommendations concerning maritime safety, the prevention of pollution and related matters.

The principal convention which deals with the operational disposal of wastes from ships is the *International Convention for the Prevention of Pollution from Ships 1973 (Amended 1978)* known as *MARPOL 73/78*. This Convention deals with all forms of waste disposal from ships except the disposal of land generated wastes (eg dredge spoil) by dumping.

Acceptance of MARPOL 73/78 requires Parties to the Convention to co-operate in the detection of any violations and to take action against violators. Penalties "shall be adequate in severity to discourage violations". Ships may be inspected in the event of suspected discharges and incidents involving harmful substances must be reported without delay.

MARPOL 73/78 comprises five technical Annexes as detailed below. The date each Annex entered into force internationally is shown in brackets.

## **International (cont.)**

### **Annex I Regulations for the Prevention of Pollution by Oil (2 October 1983)**

This Annex comprises 26 Regulations, including requirements related to design, survey and inspection of ships, issue of an International Oil Pollution Prevention Certificate, oil discharge control and monitoring, reception facilities, ballast tank operation, oil residue (sludge) tanks, maintenance of an Oil Record Book, and shipboard oil spill emergency plans.

The Regulations which are particularly relevant to these Guidelines include:

- Regulation 9, which restricts discharges of oil and oily mixtures to effluent containing no more than 15 parts per million (ppm) oil. Residues which exceed this concentration must be retained on board the ship or be discharged to reception facilities.
- Regulation 12, which requires Parties to the Convention to ensure the provision of reception facilities for oily mixtures at ports where ships have such wastes to discharge. The facilities should be adequate to meet the needs of the ships using them without causing undue delay.
- Regulation 20, which permits authorised officers to inspect the ship's Oil Record Book and the International Oil Pollution Prevention Certificate.

### **Annex II Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk (6 April 1987)**

This Annex comprising 14 Regulations, details discharge criteria and measures to control pollution from noxious liquids. Over 250 substances have been evaluated for the environmental hazard they may cause if discharged into the sea. These substances are categorised in an International Bulk Chemical Code. Discharge into the sea of the most harmful chemicals (Category A) is prohibited and tank washings and other residues of less harmful substances (Categories B, C and D) may only be discharged under certain conditions. There are some substances, eg., water, wine, acetone, ethyl alcohol, for which no restrictions apply.

Regulations which are relevant to these Guidelines include:

- Regulation 7, which details reception facilities and cargo unloading terminal arrangements. Parties to the Convention must ensure the provision of facilities adequate for the reception of residues and mixtures containing noxious liquid substances, particularly Category A tank washings.
- Regulation 8, which specifies measures of control. Any slops tank residues containing any Category A substances must only be discharged at the reception facility.
- Regulation 9, which requires the Cargo Record Book to be completed whenever any operation is undertaken which could result in the discharge of noxious liquid substances, including during disposal at reception facilities. Authorised officers may inspect any ship whilst it is in port to check compliance with the Regulations, inspect the Cargo Record Book and check the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.

## **International (cont.)**

Noxious substances are divided into four categories as detailed in MARPOL 73/78, Annex II, Appendices II and III.

### **Annex III Regulations for the Prevention of Pollution by Harmful Substances carried by sea in Packaged Forms (1 July 1992)**

This Annex is principally oriented towards prevention of pollution by regulating packaging, marking and labelling and stowage.

The Regulations prohibit the discharge, by jettisoning, of such harmful substances except where the safety of life or the ship is involved. There are no requirements for the provision of reception facilities under this Annex..

### **Annex IV Regulations for the Prevention of Pollution by Sewage from Ships (yet to be accepted internationally)**

These Regulations prohibit the discharge of ship generated sewage unless it is treated with an approved sewage treatment plant or is discharged at a certain distance from land. Exceptions to this requirement include the situations where the ship is located in waters under the jurisdiction of a State and is discharging sewage in accordance with less stringent requirements imposed by the state.

In addition to discharge requirements, Annex IV contains requirements relating to periodic surveys and the issue of an International Sewage Pollution Certificate. Valid certificates must be carried on board the ship and be produced on demand.

Regulations of this Annex which are particularly relevant to these Guidelines include:

- Regulation 10, which requires Parties to the Convention to ensure the provision of facilities at ports and terminals for the reception of sewage. The facilities must be adequate to meet the needs of ships using them, without causing undue delay.
- Regulation 11, which specifies standard discharge connections to ensure that reception facility connection points and ship connection points are compatible.

### **Annex V Regulations for the Prevention of Pollution by Garbage from Ships (31 December 1988)**

These Regulations state that garbage produced on board a ship, including food waste, dunnage, packaging, etc, must be either kept on board and discharged ashore or discharged into the sea under specific conditions, such as the distance from the nearest land. Discharge of all plastics is prohibited.

- Regulation 7 of this Annex requires each Party to the Convention to ensure the provision of facilities at ports and terminals for the reception of garbage. The facilities must be adequate for the needs of ships using them without causing undue delay. Section 6 of the Annex includes guidelines for the implementation of reception facilities.
- From 1 July 1997, there will also be a Regulation (No. 9) requiring the display of placards notifying crew and passengers of garbage disposal requirements, the carrying of a garbage management plan and the maintenance of a Garbage Record Book with requirements similar to those that apply to Annexes I and II.

Acceptance of MARPOL 73/78 requires acceptance of the Articles of MARPOL 73/78 and Annexes I and II. Annexes III, IV and V are optional.

MARPOL 73/78 is only binding on countries which have adopted the provisions of MARPOL 73/78. Ships registered in flag states which have adopted the provisions of MARPOL 73/78, are required to comply with its provisions regardless of whether they are on the High Seas or within the Territorial Seas of any nation.

## **International (cont.)**

Ships of flag states which are not signatories to MARPOL 73/78 are only required to comply with the provisions of MARPOL 73/78 when visiting a country which has implemented complementary national or state legislation which would apply within their Territorial Seas or exclusive economic zone. This is known as Port State Control.

### ***A.1.3 SPREP***

The *Convention for the Protection of the Natural Resources and Environment of the South Pacific Region* of 1986 (SPREP) covers pollution from vessels and disposal of wastes relative to the marine environment in the South Pacific Region. Specific reference to port waste reception facilities is not made.

### ***A1.4 Torres Strait Treaty***

The *Torres Strait Treaty* Article 13, Protection of the Maritime Environment, addresses Australia's and Papua New Guinea's (the signatories') responsibility to take legislative and other measures necessary to protect and preserve the marine environment in, and in the vicinity of, the Torres Strait Protected Zone. These measures for the prevention and control of pollution or other damage shall include measures to minimise to the fullest practicable extent:

- a) the release of toxic, harmful or noxious substances from land-based sources, from rivers or through the atmosphere, or by dumping at sea;
- b) pollution or other damage from vessels; and
- c) pollution or other damage from installations and devices used in the exploration and exploitation of the natural resources of the seabed and subsoil thereof.

Measures taken must be consistent with obligations under international law. Consultation between parties is necessary to harmonise policies and coordinate implementation of measures.

### ***A.2.1 Commonwealth***

Australia is a full member of the IMO and a signatory to MARPOL 73/78 Annexes I, II, III and V. Australia's jurisdiction and marine environmental responsibilities extends to the economic exclusion zone (EEZ), 200 nautical miles (nm) offshore from Australian territory and beyond the 200 nm EEZ where the continental shelf (as defined in Article 76 of the 1982 Convention of the Law of the Sea) extends to the edge of the physical continental shelf. The shelf covers the continental margin (if any) to a point 350 nm from the baseline or 100 nm from the 2,500 metre isobath, which ever is the greater. Australia's territory includes seven external territories:

- a) the Coral Sea Island Territory
- b) Norfolk Island
- c) the Australian Antarctic Territory
- d) Heard and the Macdonald Islands
- e) Christmas Island
- f) Cocos (Keeling) Island
- g) Ashmore Island and
- h) Cartier Island.

In Australian territorial seas, the *Protection of the Sea (Prevention of Pollution from Ships) Act, 1983*, gives effect to the core provisions of MARPOL 73/78. The provisions of this Act dealing with Harmful Substances and Sewage (Annexes III & IV) have yet to be proclaimed.

MARPOL 73/78 and corresponding Federal/State legislation requires on-board treatment facilities for sewage and garbage (ie. incinerators) to be designed, operated and maintained in accordance with specified requirements. Approved facilities for on-board incinerators are addressed in the Quarantine Act.

Part II of the *Protection of the Sea Act* provides for penalties to be levied for discharges of oil, oil residues, or oily mixtures which contravene the Act. If convicted, the maximum fines under this Act are \$1M for corporations (eg ship owner) and \$200,000 for individuals (eg ship's master). The Act also provides penalties for other contraventions including failure to report a discharge, failure to properly maintain an Oil Record Book, and false entries in the Oil Record Book.

Part III of the Act provides for similar penalties to be levied for discharges of noxious liquid substances, packaged harmful substances, sewage and garbage, and contravention of provisions related to these substances. Both the master of the ship and the owner of the ship are liable to conviction in all cases.

The Act provides that authorised inspectors may board any ship within Australian Waters to:

- inspect and test any machinery or equipment of the ship;
- open and inspect any hold, bunker, tank, compartment, or receptacle on the ship;
- require the master of the ship to produce any documents or record books required by the Act (eg Oil Record Book);
- make copies of or take extracts from any such documents or records;
- examine and take samples of any substances on board the ship; and
- require any person to answer questions.

The *Quarantine Act 1908*, contains provisions which prohibit, among other matters, the introduction into Australia, except with the consent of the Director of Quarantine or in accordance with the Act or Regulations "all disease germs, microbes and disease agents and all cultures, viruses, or substances or articles containing or likely to contain any disease germs, microbes or disease agents". Thus the provisions of the Quarantine Act are the basis for controls on the storage, movement and disposal of garbage, dunnage, or other wastes which have been on board a vessel that has arrived in Australia from a place outside Australia.

A Chief Quarantine Officer has the power to delegate the disposal of material in a specified method. State legislation has been implemented to control vessel sewage discharges in the Port of Sydney and the discharge of garbage and other refuse at sea is covered by the provisions of MARPOL 73/78 and the complementary Commonwealth and State Legislation.

The *Great Barrier Reef Marine Park Act 1975* (GBRMPA) makes provision for and in relation to the establishment, control, care and development of a marine park in the Great Barrier Reef Region. In Subsection 38J, GBRMPA prohibits discharge of waste in the Marine Park except in the following circumstances:

- a) discharge is for the purpose of scientific research or is sewage and is authorised by a permission that is granted under the regulations
- b) sewage where the vessel does not contain a storage tank of a kind designed for the storage of human waste
- c) sewage where a vessel contains a sewage storage tank and the vessel is more than 500 metres seawards from the seaward edge of the nearest reef
- d) fresh fish or parts of fresh fish if the fish were caught within the marine park
- e) discharge was for the purpose of securing the safety of the vessel or for the purpose of saving life at sea
- f) discharge was for the purpose of combating specific incidents of pollution and was approved by a prescribed officer
- g) waste that escaped as a result of unintentional damage to the vessel
- h) accidental loss of fishing equipment and netting or material for the repair of netting where all precautions were made to prevent the loss

Wastes are defined in GBRMPA as those under the *Protection of the Sea (Prevention of Pollution from Ships) Act, 1983*, oil mixtures with an oil content greater than 15 parts per million and other matter declared by regulation. No other matter has been regulated as waste as of June 1996.

### **A.3 Australian State and Territory Legislation**

As described in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967*, the coastal waters of a State (or Territory) is described as the first 3 nautical miles of the Territorial Sea from the baseline and any waters that are inside the baseline and not within the limits of the State. In 1979 the State and Commonwealth Governments came to an arrangement known as the Offshore Constitutional Settlement (OCS) This arrangement resulted in the general application of State law to the 3 nm distance seaward from the baseline. In some cases not relevant to this document State jurisdiction extends to 200 nm. The Commonwealth has jurisdiction over the balance of the Territorial Seas. As a result, most of the Commonwealth legislation related to pollution from ships contains provisions allowing the individual States to make legislation regarding their territorial seas. The following is relevant Australian State and Territory legislation.

State and local governments generally determine regional and local requirements regarding the discharge of wastes. In some regions, the discharge of specific wastes (eg sewage) may be prohibited into receiving waterways resulting in facilities having to be provided to receive these wastes for disposal on shore.

## *New South Wales*

The New South Wales legislation that is directly relevant for the control of wastes from shipping is:

- *Clean Waters Act 1970*
- *Environmental Offences and Penalties Act 1989*
- *Marine Pollution Act 1987*
- *Maritime Services Act 1935*
- Management of Waters and Waterside Lands Regulations 1972
- *Pollution Control Act 1970*
- *Waste Minimisation and Management Act 1995*

Other legislation that may impact on various aspects of ship waste management is:

- *Local Government Act 1993*

The NSW Act which implements the key provisions of Annexes I and II of MARPOL 73/78 is the *Marine Pollution Act, 1987*. The Act does not contain provisions regarding the other Annexes of MARPOL 73/78 so the Commonwealth legislation and MARPOL 73/78 applies in respect of these, ie. Annexes III, IV and V.

The *Marine Pollution Act* also provides for penalties to be levied for breaches of the Act.

In accordance with Section 45 of the Act, the Minister may provide, arrange for the provision of, or direct the provision of reception facilities. The Minister may serve a notice on any oil terminal, oil depot, ship repair yard, or any other facility involving the loading or unloading of oil or liquid substances in bulk, or involving the disposal of oily wastes or liquid substances, requiring the owner or occupier to provide reception facilities for the wastes. The notice can require the owner or occupier to maintain the facilities in good order and make them available to ships requiring such facilities.

Under the *Clean Waters Act* it is an offence to pollute waters or permit any waters to be polluted. The definition of waters includes tidal waters and the definition of pollute is the introduction of any refuse, litter, debris or other matter " that makes the waters detrimental to the health, safety, welfare or property of any persons or interferes with the exercise or enjoyment of any right in relation to the waters ". The Act contains provisions which give the state environmental and marine authorities power to direct any statutory authority or local authority to clean up the pollution and recover costs from the polluter.

The *Environmental Offences and Penalties Act* enables the enforcement of penalties for offences spread across a range of state pollution laws including the Clean Waters Act. Offences are classified in three tiers ranging from on the spot fines to \$1,000,000 or jail terms for serious offences.

## *New South Wales*

The *Maritime Services Act* gives the Minister the power to prevent, prohibit or regulate anything likely to cause the pollution of navigable waters and within three nautical miles of the coast and to prescribe equipment to be installed to prevent such pollution. The *Management of Waters and Waterside Lands Regulations* under the *Maritime Services Act*, make it an offence for vessels to discharge toilet or galley waste in Sydney Harbour unless the vessel has an Environment Protection Authority licence to do so. The Regulations also require vessels built after 1 July 1992, if using Sydney Harbour, to have holding tanks fitted.

The Regulations also require marinas that have nine or more berths in Sydney Harbour to provide waste collection facilities or come to an agreement with the Waterways Authority over the collection and disposal of such waste. These Regulations also prohibit the disposal of any refuse, rubbish or putrescible matter on any managed land, wharf, building, structure or in any enclosed waters.

The *Management of Waters and Waterside Lands Regulations* also specify minimum criteria related to the design, operation and maintenance of sewage holding tanks and treatment systems. However, these regulations are intended to apply to recreational and commercial vessels on Sydney Harbour and the Murray River rather than ocean going vessels.

Whilst the Australian Government must ensure the provision of vessel waste reception facilities at Australian ports none of the above legislation requires the operator of the port to own or operate collection and reception facilities. However, facilities are provided by the private sector to accommodate the collection, treatment and disposal of liquid wastes and garbage as described in Section 4.

### ***A.3.2 Northern Territory***

The Northern Territory legislation that is directly relevant for the control of wastes from shipping is:

- *Darwin Port Authority Act 1983*
- *Prevention of Pollution of Waters by Oil Act 1962*

Other legislation that may impact on various aspects of ship waste management is:

- *Fisheries Act 1982*
- *Litter Act 1972*
- *Marine Act 1981*
- *Petroleum (Submerged Lands Act) 1982*
- *Water Act 1992*
- *Water Supply and Sewage Act 1988*

The *Darwin Port Authority Act* provides for the control of the management and disposal of solid wastes.

It is noted that legislation concerning marine pollution is being developed and is programmed to be completed in early 1997.

### ***A.3.3 Queensland***

The Queensland legislation that is directly relevant for the control of wastes from shipping is:

- *Environmental Protection Act 1994 and Regulations 1995*
- *Transport Operations (Marine Pollution) Act and Regulations 1995*
- *Marine Parks Act 1982, 1988 and Regulations and Order*
- *Local Government (Planning & Environment) Act 1990, Regulations and Rules of Court*

The ***Environmental Protection Act 1994*** makes no specific reference to waste from shipping and boating but regulations require licensing for ports, marinas and boat building or repair facilities. Licensing is also required for a waste disposal facility, incineration facility, waste transfer facility, regulated waste storage (including oil, oil water emulsions and mixtures, paint sludges and residues, petroleum tank sludges), waste recycling facility or waste treatment facility. An approval may also be required from the local government under s 118B..

The *Transport Operations (Marine Pollution) Act 1995* prime purposes are: to protect the marine and coastal environment by minimising deliberate and negligent discharges of ship-sourced pollutants into coastal waters; and give effect to Annexes I, II, III and V of MARPOL 73/78. These purposes are achieved by: providing a complementary approach to that of the Commonwealth and other States; making provision about the discharge of sewage from ships; giving power to deal with shipping casualties that are polluting, or threatening to pollute, coastal waters; enhancing industry and community awareness of the effects of ship-sourced pollution on the marine and coastal environment; and, providing for the imposition of severe penalties on persons who pollute the marine or coastal environment. *Transport Operations (Marine Pollution) Act 1995* gives government power to check that records are kept to validate the acceptable disposal of residues (oil, noxious liquids, sewage and garbage) from ships.

*Transport Operations (Marine Pollution) Act 1995* prohibits the disposal of the following into coastal waters:

- oil
- garbage
- harmful substances
- noxious liquid substances
- sewage

Under Part 7 of *Transport Operations (Marine Pollution) Act 1995* vessels over 10 metres must be fitted with on-board holding tanks for sewage for new vessels from 1 January 1996 and existing vessels after 1 January 2000.

Part 10 of *Transport Operations (Marine Pollution) Act 1995* enables government to issue a directive to establish or have established by an owner or occupier of a port, terminal or establishment, reception facilities for the reception or disposal of residues of ships as well as maintain the facility to enable ships to dispose of residues.

The *Marine Parks Act* does not make any specific reference to waste or reception facilities but does restrict activities in specified areas.

The *Local Government (Planning & Environment) Act* does not make specific reference to waste or reception facilities but does give power to government to determine land use by zoning and hence can determine if a waste storage, treatment or disposal facility can be operated on a particular site.

### ***A.3.4 South Australia***

The South Australia legislation that is directly relevant for the control of wastes from shipping is:

- *Pollution of Waters by Oil & Noxious Substances Act 1987*
- *Harbors and Navigation Act 1993*
- *Environment Protection Act 1993*

Other legislation that may impact on various aspects of ship waste management is:

- *Public and Environmental Health Act 1987*
- *Water Resources Act 1990*
- *South Australian Ports Corporation Act 1994*

The *Pollution of Waters by Oil and Noxious Substances Act* implements the key provisions of Annexes I and II of MARPOL 73/78 but not the provisions regarding Annexes III, IV and V of MARPOL 73/78. The Act relates to the protection of the sea and certain waters from pollution by oil and other noxious substances. It also provides for penalties of up to \$200,000 for individuals and \$1,000,000 for corporations for contravention of the Act.

The *Harbors and Navigation Act* provides provisions to regulate the management of harbours, provide special provisions for the storage of dangerous goods, restrict or prohibit the discharge of pollutants into waters or depositing of waste in the vicinity of land or other structure in the harbour. The Act lists 31 South Australian harbours to which it applies.

The *Environment Protection Act* states that a person must not undertake an activity that pollutes, or might pollute, the environment unless the person takes all reasonable and practicable measures to prevent or minimise any resulting environmental harm. Schedule 1 of the Act provides a list of activities that are considered environmentally significant and anyone undertaking one of these activities must be authorised in the form of a license under the Act. Prescribed activities of environmental significance include maritime construction works, waste treatment and disposal, sewage treatment works or septic tank effluent disposal schemes and waste or recycling depots.

Operators of marinas are required (under draft codes of practice) to submit a waste management plan to the SA EPA and on approval become licensed with the EPA.

The *Public and Environmental Health Act* provides penalties for persons who discharge waste into a public place or who pollutes a water supply.

The *Water Resources Act* aims to maintain water quality and preserve wetlands and other ecosystems. Part 5 provides penalties for the disposal or escape of unauthorised material into surface or underground water

The *South Australian Ports Corporation Act* provides the South Australian Ports Corporation with the right to restrict the use of port waters by regulating the entry of vessels, the operation or use of vessels and aquatic activities. The Act also provides the Corporation with the right to require persons who have deposited any substance or thing that pollutes the waters within a Corporation port, to take action as specified to remove the substance or thing to mitigate the consequences of the pollution.

### ***A.3.5 Tasmania***

The Tasmanian legislation that is directly relevant for the control of wastes from shipping is:

- *Environmental Management and Pollution Act 1987*
- *Marine Act 1976*
- *Pollution of Waters by Oil & Noxious Substances Act 1987*

The *Environmental Management and Pollution Act* has among others, the objectives relative to the resource management and planning system:

- a) to promote the sustainable development of natural and physical resources and the maintenance of ecological process and genetic diversity; and
- b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
- c) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
- d) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

Under this Act it is possible to make provision of reception facilities a condition of development approval for new marinas. Ports are excluded from the provisions of Schedule II of the Act and hence the above objectives do not apply to ports.

The *Pollution of Waters by Oil and Noxious Substances Act* incorporates only Annexes I and II of MARPOL 73/78 with no specific reference to reception facilities. Proposed amendments should incorporate Annexes III and V, and possibly IV for probable enforcement by mid 1997.

The *Marine Act* makes specific reference to the handling and disposal of refuse from overseas vessels at declared overseas terminals. This is primarily for quarantine purposes and not for general waste disposal application. Refuse is not defined but is unlikely to be seen to include anything but general garbage.

### A.3.6 Victoria

The Victorian legislation affecting environmental quality of marine waters and hence the control of wastes from shipping includes:

- *Environment Protection Act 1970*
- *Catchment and Land Protection Act 1994*
- *Coastal Management Act 1995*
- *Pollution of Water by Oil and Noxious Substances Act 1986*
- *Marine Act 1988*
- *Land Conservation Act 1970*
- *Environment Effects Act 1978*
- *Planning and Environment Act 1987*
- *Fisheries Act 1995.*

Victoria's environment protection system is based on the *Environment Protection Act 1970*. The Act establishes a number of instruments to prevent pollution and minimise environmental risks arising from waste production. These include State environment protection policy (SEPP) which are statutory policy instruments for a specified part of the environment that:

- identify the beneficial uses of the environment that are to be protected,
- state environmental quality indicators and objectives to protect beneficial uses, and
- describe the program by which the environmental quality objectives are to be attained.

SEPP provides a context for environmental decision-making and a clear set of publicly agreed environmental objectives that all sections of the community must work together to achieve.

The *Environment Protection Act* provides for the licensing of premises that have actual or potential discharges to the environment. Premises that require licensing are scheduled under the *Environment Protection (Scheduled premises and exemptions) Regulations*. Marinas, ports and boat harbours are not listed as schedule premises. However, licensing would be required if such premises were to have on-site waste treatment or disposal facilities.

The *Catchment and Land Protection Act 1994* establishes a framework for the integrated management and protection of catchments that encourages community participation in the management of land and water resources. The objectives of the *Catchment and Land Protection Act* include the maintenance and long-term enhancement of land productivity while also conserving the environment to ensure that the quality of the State's land and water resources and their associated plant and animal life are maintained and enhanced.

The *Coastal Management Act 1995* establishes a framework for the strategic planning and management of Victoria's coast and provides for a co-ordinated approach to the use and development of coastal Crown land. The objectives of the Act are:

- (a) to plan for and manage the use of Victoria's coastal resources on a sustainable basis for recreation, conservation, tourism, commerce and similar uses in appropriate areas;
- (b) to protect and maintain areas of environmental significance on the coast including its ecological, geomorphological, geological, cultural and landscape features;
- (c) to facilitate the development of a range of facilities for improved recreation and tourism;
- (d) to maintain and improve coastal water quality;
- (e) to improve public awareness and understanding of the coast and to involve the public in coastal planning and management.

## *Victoria (cont.)*

Victoria's *Fisheries Act 1995* provides for integrated and innovative approaches to the management of fisheries. The objectives of the Act include the protection and conservation of fisheries resources, habitats and ecosystems including the maintenance of aquatic ecological processes and genetic diversity.

The *Environment Protection Act*, the *Catchment and Land Protection Act* and the *Coastal Management Act* operate in conjunction with a range of other legislation that also affect the management and quality of Victoria's natural resources (eg *Water Act 1989*, *Planning and Environment Act 1987*, *Fisheries Act 1995*, *Petroleum (Submerged Lands) Act 1982*). Under the *Environment Effects Act 1978* all public works that may have an effect on the environment require an Environment Effects Statement to be submitted and assessed. The *Planning and Environment Act 1987* establishes a framework for planning the use, development and protection of land in Victoria in the present and long-term interests of all Victorians.

The *Pollution of Water by Oil and Noxious Substances Act 1986* and the *Marine Act 1988* protect the sea and certain waters from pollution by oil and other noxious substances and enacts the MARPOL convention in Victoria. These Acts primarily addresses shipping based sources of pollution and complement other State legislation that deal with land based sources of marine pollution.

The *Land Conservation Act 1970* establishes a process for strategic planning of public land use, including coastal waters, in Victoria operating through the Land Conservation Council.

The *Flora and Fauna Guarantee Act 1988* seeks to address threatening processes, such as pollution, and threatened species in order to ensure the continuing survival of Victoria's biodiversity.

### *A.3.7 Western Australia*

The Western Australian legislation that is directly relevant for the control of wastes from shipping is:

- *Albany Port Authority Act 1926*
- *Dampier Port Authority Act 1985*
- *Environmental Protection Act 1986*
- *Fremantle Port Authority Act 1902*
- *Geraldton Port Authority Act 1968*
- *Marine and Harbours Act 1981*
- *Pollution of Waters by Oil and Noxious Substances Act 1987*
- *Port Headland Port Authority Act 1970*

Other legislation that may impact on various aspects of ship waste management is:

- *Health Act 1911*
- *Local Government Act 1960*
- *Litter Act 1979*

The *Environment Protection Act* has provisions dealing with solid waste disposal.

The *Marine and Harbours Act* controls the dumping and discharge of wastes and ballast from vessels.

The *Health Act* provides for the preservation of public health concerning waste disposal.

The various port authority acts all contain provisions regulating the discharge of wastes and ballast into the waters under their jurisdiction.

## New Zealand

### *A.4.1 National*

New Zealand is a full member of IMO and is a signatory to MARPOL 73/78. New Zealand is currently putting measures in place to enforce MARPOL 73/78 through Marine Protection Rules that govern discharges of oil and noxious liquids substances in waters within New Zealand's jurisdiction to the 200 nautical mile limit, and Regulations to govern discharges inside the 12 mile limit. Once approved, these Rules and Regulations will allow the Government to ratify the Articles of MARPOL 73/78 and Annexes I and II immediately, and in time, with further work on enforcement provisions, adopt Annexes III, IV and V.

New Zealand has two key Acts that provide administering authorities with guidance and powers to address marine pollution and reception facility matters.

The *Maritime Transport Act 1994* among other purposes, has as its aims relative to reception facilities:

- protect the marine environment;
- enables New Zealand to implement international maritime agreement obligations; and to
- continue/enable New Zealand to implement international convention obligations relating to pollution of the marine environment.

The *Maritime Transport Act 1994* is administered by the Ministry of Transport, which contacts the Maritime Safety Authority to carry out the bulk of the operational activities. The *Maritime Transport Act 1994* has a primary focus on maritime transport, activity, safety, marine pollution, oil spill response and the protection of marine environment. It provides for the preparation of Marine Protection Rules and Regulations by the Maritime Safety Authority. The *Maritime Transport Act 1994* also provides for the Director of Maritime Safety to require reception facilities with subsequent penalties for non-compliance.

The *Resource Management Act 1991* promotes the sustainable management of natural and physical resources. Administered by the Ministry for the Environment, the *Resource Management Act 1991* gives the responsibility for managing resources and their use to local authorities. It provides a number of mechanisms to deal with the control of discharges from ships and offshore installations within the 12 mile territorial sea limit, and for reception facility provision including:

- The New Zealand Coastal Policy prepared by the Minister of Conservation;
- Regional Policy Statement, Regional Coastal Plan and Regional Plans prepared by Regional Councils;
- Regulations controlling discharges from ships and offshore installations and marine dumping of wastes, prepared by the Minister for the Environment;
- Regional/District Councils preparing Rules;
- Conditions placed on councils for activities being carried out in coastal marine area.

The *Resource Management Amendment Act 1994* enables Government to repeal the current *Resource Management Act 1991* restrictions on controlling discharge from foreign ships and to introduce specific "restrictions" relating to marine pollution.

New Zealand has a number of other Acts which complement the above two key Acts.

## New Zealand (cont.)

The Local Government Amendment (No.4) to the *Local Government Act 1974* gives a territorial authority the duty to encourage efficient waste management and to adopt a Waste Management Plan. This plan is to make provision for the collection and reduction, reuse, recycling, recovery, treatment, or disposal of waste in the district. This district is given the responsibility for waste disposal facilities within or beyond the district, amongst a range of other functions relating to waste management. The amendment also gives a role to the Medical Officer of Health regarding collection and disposal systems, and the power for territorial authorities to prepare bylaws.

The *Territorial Sea and Exclusive Economic Zone Act 1977* provides for the Governor-General of New Zealand to make regulations ... "Prescribing measures for the protection and preservation of the marine environment". In addition, a breach of any regulation is a criminal offence with fines up to \$10,000.

The purpose of the *Biosecurity Act 1993* is to restate and reform the law relating to the exclusion, eradication and effective management of pests and unwanted organisms. The Act has relevance to marine pollution in terms of the introduction of organisms that may affect the marine environment and the need to quarantine risk goods such as agricultural substances. In some particular port locations there may be a need to provide appropriate Reception Facilities to collect and dispose of risk goods and quarantine disposals.

The *Environment Act 1986* defines pollution and places a function on the Ministry for the Environment (among other things) to advise the Minister on all aspects of environmental management and provide advice on pollution control and the coordination of the management of pollutants in the environment.

The *Marine Pollution Act 1974* was repealed by s481 of the *Marine Pollution Act 1974* but every Order in Council and Regulation made under that Act continues until revoked. Certain parts of the *Marine Pollution Act 1974* also remain in force until Marine Protection Rules made under the *Marine Pollution Act 1974* have been promulgated. There are marine pollution bylaws that remain in existence until revoked by the Maritime Safety Authority Rules.

Similar to the *Marine Pollution Act 1974*, parts of the ***Harbours Act 1950*** have been repealed by the *Resource Management Act 1991* and *Maritime Transport Act 1994*. The bylaws relating to dumping of contaminants within territorial waters s232 (36) are amended by s477 of *Maritime Transport Act 1994*. These bylaws exist until 1998 but bylaw making powers are now contained in the *Maritime Transport Act 1994*.

New Zealand's three tier system of government splits the responsibility of managing marine pollution. The overall responsibility to address marine pollution lies with the Minister of Transport, Minister for the Environment and Minister of Conservation with implementation of these responsibilities delegated to a number of agencies through the above Acts.

## **New Zealand (cont.)**

### ***A.4.2 Regional and District***

A Regional Council has the responsibility to prepare a Regional Policy Statement, a Regional Coastal Plan and Regional Plans to implement statutory Government policy. It also has responsibility for preparing Regional Rules in its plans and issuing Resource Consents for activities in the coastal marine area.

A District Council has the responsibility to prepare a District Plan to assist with the implementation of regional policy and plans. It prepares District Rules and issues Resource Consents for activities within its district.

The *New Zealand Coastal Policy Statement* (NZCPS) has been prepared by the Department of Conservation and approved by the Minister of Conservation. The purpose of this policy statement is to guide regional and district councils in their day to day management of the coastal environment.

The relevant policies relate to matters to be included in a Regional Coastal Plan and address limiting of adverse environmental effects from vessel waste disposal or maintenance. The NZCPS requires:

- adequate and convenient rubbish disposal facilities in ports, marinas and other such busy areas;
- the provision of facilities for the collection and appropriate disposal of residues from vessel maintenance;
- all new ports and marinas to provide adequate and convenient facilities to collect sewage from boats;
- encouragement of those in charge of vessels to discharge sewage and rubbish into collection facilities;
- regional coastal policies and plans to consider a minimum distance off-shore within which sewage should not be discharged from vessels, and to the prohibition of the discharge of non-biodegradable rubbish into the sea;
- for vessels to be able to take and use sea water for normal operation and fire fighting.

The NZCPS also indicates guidelines will be issued identifying how international obligations will be carried out.

The Regional Policy Statement is a tool to implement the New Zealand Coastal Policy Statement. It identifies policies and methods to deal with matters including the discharge of contaminants into or onto water and discharges of water into water, the avoidance of effects of activities on the environment, the maintenance and enhancement of water in coastal waters and waste management. A Regional Coastal Policy can include Regional Rules which can relate to water quality, discharges of contaminants into water or on land, the provision of waste reception facilities and the need for sewage reception facilities to be included in new developments.

District Plans where applicable can similarly regulate the provision of waste reception facilities. Waste management plans and bylaws as provided for in the Local Government Amendment No.4 provides district councils with the ability to collect and dispose of district waste in an efficient and integrated manner. This could include the provision of reception facilities for ship waste in ports, marinas and boat harbours.

Regional or District Council when considering Resource Consent Applications can require the provision of waste reception facilities at new marinas and boat harbours.

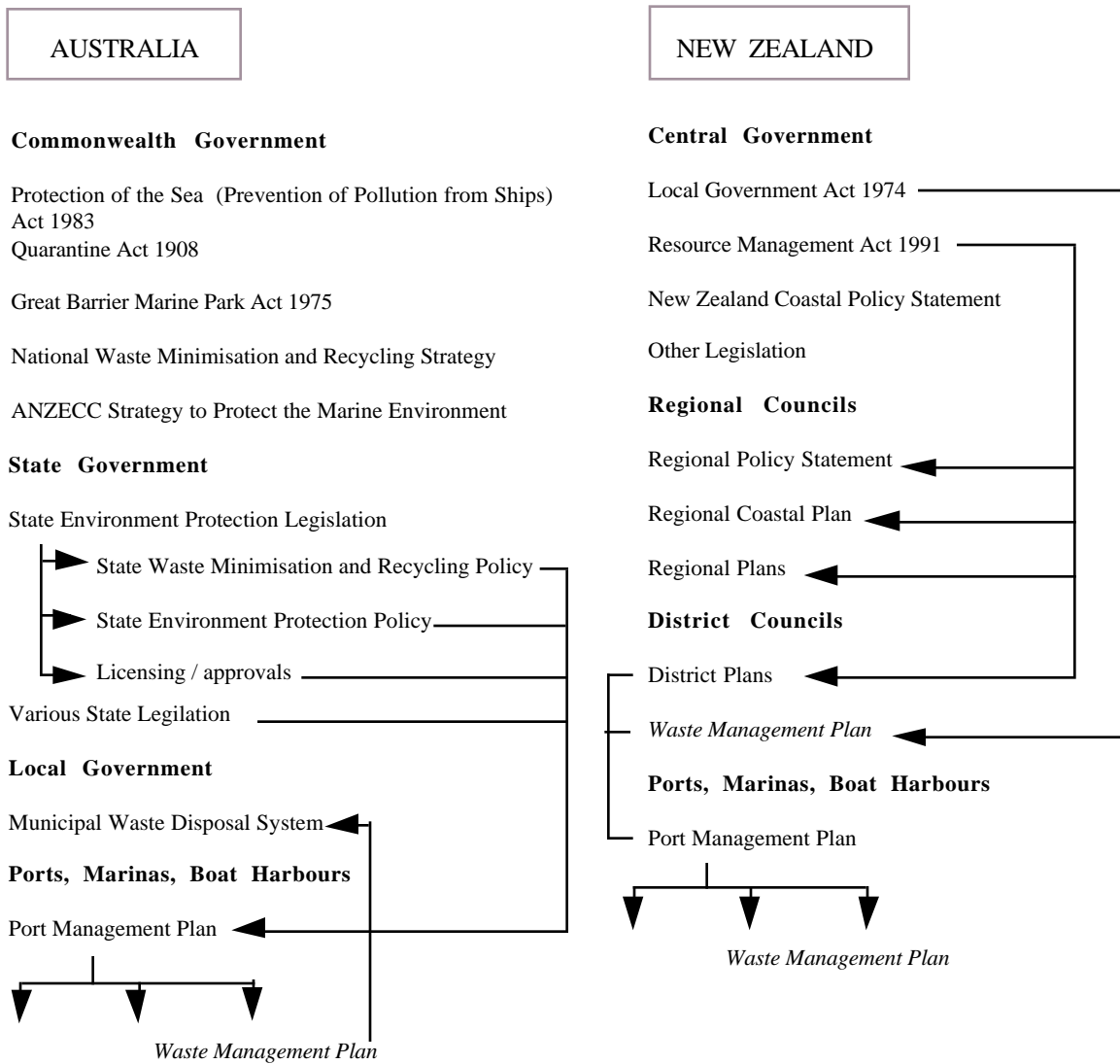
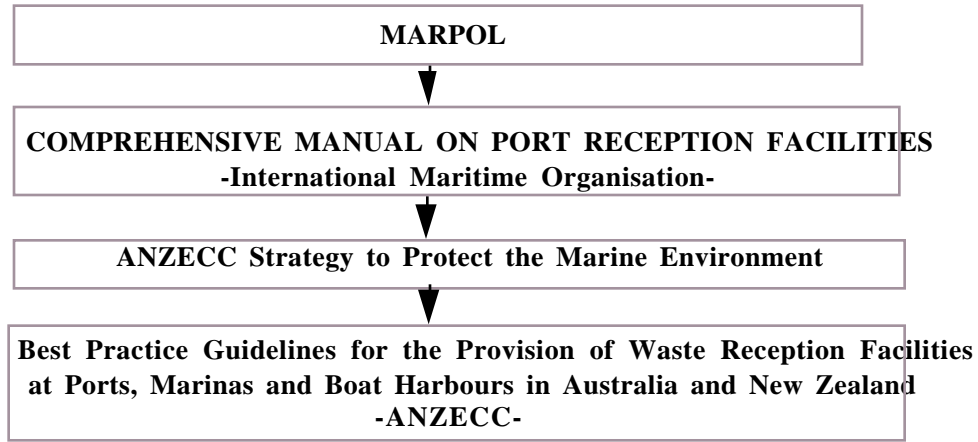
Regulations under the *Resource Management Act 1991* address the control of discharges of oil and noxious liquid substances and the prevention of pollution by garbage and sewage from ships.

Marine Protection Rules under the *Maritime Transport Act 1994*, set the standards for the provision of port reception facilities for oil and noxious liquid substances. These rules include:

## **New Zealand (cont.)**

- the required facilities for ports generally, oil cargo loading ports, ports unloading high density oils, ports with ship repair yards and tank cleaning facilities, dry cargo terminals used by combination carriers and ports handling ships proceeding to or from Antarctica.
- the required facilities for the reception of Noxious Liquid Substances
- Unloading port arrangements for Noxious Liquid Substances

**New Zealand (cont.)**



**Figure A.1 - Schematic diagram of legislative, statutory and policy arrangements for waste management at ports, marinas and Boat Harbours.**