Dear Marine and Coastal Act Project Team

Re: VNPA submission on the Marine and Coastal Act Consultation Paper

The Victorian National Parks Association welcomes the opportunity to comment on the reform of Victoria’s marine and coastal administrative, legislative and policy framework, as outlined in the Marine and Coastal Act Consultation Paper released on 30 August 2016.

From its beginnings in 1952, the VNPA has been closely involved in advocacy on marine and coastal planning, protection and management, including the coordination on the campaign in support of the establishment of the world’s first highly protected marine national park network in 2002. Since then, VNPA has also focused on the need for marine and coastal law reform, and was delighted when the establishment of a marine and coastal act become a policy commitment of the Victorian Labor Party in the lead up to the 2014 state election.

This VNPA submission outlines the marine and coastal reform that we believe necessary, while also commenting on elements of the Marine and Coastal Act Consultation Paper.

Should you or your staff wish for further information, please contact me on 0407 463 594 or chriss@vnpa.org.au.

Thank you for considering our submission on these very important matters.

Yours faithfully

Chris Smyth
Project Manager
Victorian National Parks Association
Victorian National Parks Association submission on the Marine and Coastal Act Consultation Paper

23 October 2016
RECOMMENDATIONS

Recommendation 1a: The Marine and Coastal Act should contain principles for ecologically sustainable development, ecosystem-based management and marine and coastal spatial planning, as well as the precautionary principle and the evaluation of cumulative impacts, and provisions that ensure the preparation of regional marine and coastal plans and management plans covering Victoria’s marine and coastal areas.

Recommendation 1b: The Marine and Coastal Act should establish a framework that plans for and manages the many uses of Victoria’s marine and coastal areas including fisheries, ports and marine national parks i.e. multi-user planning and management.

Recommendation 2: The Marine and Coastal Act should establish the Marine and Coastal Authority with the functions as outlined in this submission.

Recommendation 3: VNPA supports the preparation of the Victorian Marine and Coastal Strategy and recommends that it be prepared by the Marine and Coastal Authority.

Recommendation 4: A Marine and Coastal Authority should be established to drive the integration of marine and coastal planning through integrated, ecosystem-based regional marine and coastal plans to replace the current single-sectored, single-jurisdiction and disintegrated planning framework.

Recommendation 5: The Office of the Commissioner for Environmental Sustainability should prepare five-yearly state of the marine and coasts reports and use these as one measure of the performance of the Marine and Coastal Authority and other agencies engaged in the planning, protection and management of Victoria’s marine and coastal area.

Recommendation 6: The Minister should establish and appoint members to a number of Marine and Coastal Committees, with the proposed Marine and Coastal Authority to oversee their operations.

Recommendation 7: Traditional Owners should be provided with the opportunity and capacity to engage meaningfully in marine and coastal planning, protection and management of their Sea Country.

Recommendation 8: A Marine and Coastal Research and Information Service, under the auspices of the proposed Marine and Coastal Authority, should be established to develop a marine and coastal research strategy, direct and conduct research, and act as a clearing house for environmental, cultural, social and economic data about Victoria’s marine and coastal area to help build and transfer knowledge and educate the community.

Recommendation 9: That the Marine and Coastal Act establish a Science Panel to advise the proposed marine and coastal authority on marine and coastal science matters.

Recommendation 10: A Marine and Coastal Management Contribution Fund should be established that receives funds from the revenue generated on coastal crown land and in marine waters and is then used to cover in part the costs of marine and coastal planning and management.
Recommendation 11: Agencies with management responsibilities within the marine and coastal area should refer proposed actions that may be inconsistent with regional marine and coastal plans and management plans to the Marine and Coastal Authority for advice and potential amendment of the plans.

Recommendation 12: The Marine and Coastal Act should have provisions for ministerial consent and veto for the use and development of marine and coastal areas, after advice from the Marine and Coastal Authority, penalties for actions in contravention of marine and coastal plans, and powers for the Authority to apply for court injunctions where necessary.

Recommendation 13: Review and evaluation mechanisms should be included in the Act.

Recommendation 14: Parks Victoria’s funding and powers, and its role in the marine and coastal regions, should be strengthened.
1. INTRODUCTION

The need for reform
Three days out from the November 2014 state election, the Labor Opposition released its environment policy, which included a commitment to establish a Marine and Coastal Act:

An Andrews Labor Government will undertake a five-yearly State of the Bay report to monitor the health of coasts, bays and waterways. We will establish a new Marine and Coastal Act, bringing together all management and protections under the one system.

For more than 40 years there has been talk about the need for reform—an integrated approach to marine and coastal planning and management in Victoria—but most ‘solutions’ enacted have revolved around collaboration, interdepartmental committees, hope and a lot of faith in ‘the system’. There has been no appetite for major institutional reform.

The Labor Government’s commitment to a Marine and Coastal Act indicates it too sees the need for reform. The most recent significant reform in this area was the Coastal Management Act 1995, put in place by a Coalition government in the 1990s. It established the institutional arrangements—Victorian Coastal Council and regional coastal boards—and processes for policy development and the preparation and implementation of coastal strategies, action plans and management plans.

While the scope of the strategic planning under the Coastal Management Act 1995 covers all land along the coast, its management scope is focused on coastal crown land, and does not include objects or provisions for ecologically sustainable development, ecosystem-based management, the precautionary principle or cumulative impacts. The Planning and Environment Act 1987 drives both strategic and statutory land use planning processes for freehold and crown land.

There has been no attempt to develop similar ‘use planning’ for the state’s marine waters, with the various industry sectors managed under separate, mostly commodity-focused or sector-based legislation e.g. Fisheries Act 1995; Port Management Act 1995; Port Services Act 1995 (shipping comes under federal legislation); Petroleum Act 1998; Forests Act 1958. In 2009, a marine plan was proposed in the ‘Land and biodiversity at a time of climate change’ white paper, but that was not progressed by the Coalition Government subsequently elected in 2010.

There are many existing statutes that can be applied to Victoria’s marine and coastal environment, including those in Table 1. Then there are the strategies for the coast, for transport, fisheries, ports and tourism, and various management plans, action plans, statutory plans and strategic plans, policies and so on, all of which can cut across marine and coastal environments. This fragmented approach to planning and management:

- Provides no clear vision for the integration of marine and coastal planning, protection and management or its integration
- Creates duplication across various agencies involved in marine and coastal matters
- Leads to objectives and outcomes that can be at cross purposes
- Creates visions limited to the narrow agendas of individual agencies or sectors
- Undermines ecologically sustainable development and ecosystem-based management.
Table 1 A selection of statutes that can be applied to marine and coastal environments

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<tr>
<td>Biological Control Act 1986</td>
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<td>Livestock Management Act 2010</td>
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<td>Coastal Management Act 1995</td>
<td>National Parks Act 1975</td>
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<td>Commissioner for Environmental Sustainability Act 2003</td>
<td>Parks Victoria Act 1998</td>
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<td>Cultural and Recreational Lands Act 1963</td>
<td>Planning and Environment Act 1987</td>
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<td>Environment Effects Act 1978</td>
<td>Pollution of Waters by Oil and Noxious Substances Act 1986</td>
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<tr>
<td>Fisheries Act 1995</td>
<td>Sustainability Victoria Act 2005</td>
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<tr>
<td>Game Management Authority Act 1984</td>
<td>Water Act 1989</td>
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The Victorian Government’s proposal for a Marine and Coastal Act provides a remarkable opportunity to address these and other weaknesses. A Marine and Coastal Act should establish the framework for integrated and spatial marine and coastal planning and management and drive:

- ecologically sustainable use of Victoria’s marine and coastal resources
- integrated and spatial marine and coastal planning across sectors and agency jurisdictions
- security of access and certainty of process for marine and coastal industries
- increased knowledge and understanding of Victoria’s marine and coastal environment
- community and industry stewardship of Victoria’s marine and coastal environment and effective community engagement in planning, protection and management.

The reform that is needed

From its beginnings in 1952, the VNPA has been closely involved in advocacy on marine and coastal planning, protection and management, including the coordination of the campaign in support of the establishment of the world’s first highly protected marine national park network in 2002.

Since then, VNPA has also focused on the need for the reform of Victoria’s marine and coastal planning, management and protection framework, and was delighted when a Marine and Coastal Act became a policy commitment of the Labor Government. Unfortunately, the scope of that reform has been constrained from the outset by the government’s ongoing refusal to allow consideration of commercial fishing, ports and marine national parks in the reform process.

VNPA’s advocacy for marine and coastal law reform has been articulated in VNPA’s Nature conservation review and The coast is unclear, both released in 2014. In summary our proposals include:

- marine and coastal act
- marine and coastal authority
- marine and coastal strategy
- integrated, ecosystem-based regional marine and coastal planning and management
- marine spatial planning
- state of marine and coastal reporting
- restructuring of coastal committees of management
- marine and coastal research and information service.
We are very pleased that the consultation paper touches on each of these, with the exception of the information service, and gives varying degrees of support to them save for the marine and coastal authority (more on that in the next section). Instead of an authority, it proposes renaming the Victorian Coastal Council to the Victorian Marine and Coastal Council.

The only other institutional reform proposed is the formation of what the paper calls Regional and Strategic Partnerships (RASPs). Agencies could ‘come together to solve shared problems...led by one of the partner agencies with the skills and resources required to address the issue and the capacity to bring the community along’.

The consultation paper also considers the options for covering the cost of marine and coastal management, how to better engage the community, the need to improve knowledge, marine spatial planning and adaptation to climate change.

This submission is largely structured around the dot points listed above, but also comments on those matters referred to in the previous three paragraphs.

2. A NEW INSTITUTIONAL FRAMEWORK

Institutional reform is severely constrained in the consultation paper, and it is difficult to determine the differences between the chart of the current system with that of the proposed system. The paper proposes a name change for the Victorian Coastal Council to the Victorian Marine and Coastal Council, and appears to turn over the responsibilities of regional coastal boards (they will go) to catchment management authorities, which would have to expand their marine and coastal expertise. The paper also indicates that membership of the council could be representative of ‘community, user groups and industry’, which would be a major and disturbing step away from the expertise base of the existing Victorian Coastal Council.

RASPs could be a useful way of dealing with emerging planning issues specific to a region but could also be undermined by agency power plays and dominated by influential regional interests. The RASPs could simply be a way of maintaining the divided responsibilities and fragmented institutional arrangements that various past plans and strategies have said needed integration, but usually through ‘coordination’ or perhaps, in this case, ‘partnerships’, rather than through the wholesale reform of a broken institutional framework. This submission believes that the RASPs should be established by the Marine and Coastal Authority for short-term action on specific planning and management issues within a region and that they include VNPA’s proposed Marine and Coastal Committees, local municipalities, the community and ‘distinct marine sectors’.

The Marine and Coastal Council, as proposed in the consultation paper, would have a greater focus on marine issues but its role would appear to be very similar to that of the existing Victorian Coastal Council, that is, one of providing advice to the Minister. Existing agencies would continue to go about prosecuting their agendas—single-sector and single-jurisdictional arrangements - and are encouraged to do so by the paper’s comments on ‘Accountability for functions’ on page 80: ‘Maintaining the management of specific sectors with current entities will maintain the clear accountabilities that are already provided for through specific legislation, for example fisheries management’. The fundamental reason for reforming marine and coastal planning and management is to overcome this approach—the paper fails dismally here.

1. A Marine and Coastal Act

The proposed Marine and Coastal Act can establish a framework for integrated and spatial marine and coastal planning, protection and management. To do this, VNPA believes the Act should have the following objects:
Objects

- Establish the functions and powers of the Marine and Coastal Authority and define its geographical scope.
- Ensure the ecologically sustainable use and ecosystem-based management of Victoria’s marine and coastal resources.
- Ensure that the precautionary principle is applied and cumulative impacts are assessed and considered in decision-making processes.
- Provide for integrated and cooperative ecosystem-based marine and coastal planning, protection and management of Victoria’s marine and coastal environments involving governments, the community, marine and coastal industries and Indigenous peoples and that is fair, accountable and transparent.
- Ensure that the management actions of Victorian public agencies operating on coastal crown land and in coastal waters are consistent with the Act’s objects and the objectives of regional marine and coastal plans.
- Increase security of access and certainty of process for marine-based and coast-based industries.
- Promote ecologically sustainable development and improvements in the economic, social and cultural wellbeing of regional coastal communities.
- Increase knowledge and understanding of Victoria’s marine and coastal environment.
- Encourage community and industry stewardship of Victoria’s marine and coastal environment.
- Ensure Indigenous communities are engaged in regional marine and coastal planning and that their rights and knowledge are recognised and respected.
- Enable effective community engagement in marine and coastal planning and management and conservation activities.
- Ensure that marine and coastal planning, protection and management builds resilience to and adapts to climate change.

There are also a number of key principles that must be included in the Act—they do not appear in other natural resource based legislation in Victoria (not even in the new Bill establishing the Victorian Fishing Authority). They should. These are the principles of ecologically sustainable development, ecosystem-based management and marine and coastal spatial planning:

**Principles of ecosystem-based management, ecologically sustainable development and marine and coastal spatial planning**

The principles of ecosystem-based management for Victoria’s marine and coastal area are:

- maintain ecological processes including, for example, water and nutrient flows, community structures and food webs, and ecosystem links
- maintain biological diversity, including the capacity for evolutionary change
- maintain viable populations of all native species in functioning biological communities
- manage human use and minimise its impacts on ecosystems so that they do not degrade ecosystems function
- assess direct, indirect and cumulative impacts of human actions on ecosystems.

The principles of ecologically sustainable development are:

- ensure effective integration of both long-term and short-term economic, environmental, social and equitable considerations in decision-making processes
- ensure that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation
- uphold the principle of intergenerational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations
- ensure that the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision making
- promote improved valuation, pricing and incentive mechanisms.
The principles\(^1\) of marine and coastal spatial planning are:

- incorporate ecological principles and the attributes of healthy, functioning ecosystems into a decision-making framework with clearly defined targets for these ecological attributes
- maintain or restore native species diversity, habitat diversity and heterogeneity, key species, and connectivity
- maintain the delivery of ecosystem services that humans want and need
- account for regional, spatial and temporal scales and uncertainty about complex interactions and dynamic systems in the planning process
- apply ecological principles with social, economic, and governance principles.

Each set of principles should be used to inform the allocation of marine and coastal resources, and the designation, location and management of uses.

Ecosystem-based management is about managing the human impacts on marine and coastal ecosystems, not the ecosystems themselves, and considers these impact when making management decisions. The stocking of marine species, such as prawns, is not ecosystem-based management, it is ecosystem manipulation and has no place in a framework following ESD, ecosystem-based management and spatial planning.

The United Nations Convention on Biological Diversity (CBD) refers to it as:

> “a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way”\(^2\)

The Communications Partnership for Science and the Sea (COMPASS) defined it as:

> “an integrated approach to management that considers the entire ecosystem, including humans. The goal of EBM is to maintain an ecosystem in a healthy, productive and resilient condition so that it can provide the services humans want and need. EBM differs from current approaches that usually focus on a single species, sector or activity or concern; it considers the cumulative impacts of different sectors”\(^3\).

Foley and Halpern et al\(^4\) explain what ecosystem-based marine spatial planning is:

- Proactive, integrated, and comprehensive decision making process to determine how activities can best be organized to sustain use and maintain ecosystem health
- Combines ecological, economic, and social objectives
- Identifies areas that are appropriate for specific types of activities in order to reduce conflicts between users and the environment
- Adaptive process that adjusts with new data and changing conditions - Participatory process that actively involves stakeholders.

They also state that:

In order for ecosystem-based marine spatial planning to be a successful mechanism for maintaining ecosystem health, specific and measureable scientific guidelines must inform the goals and objectives of the process and be used to develop spatial plans.

They concluded:

The future of the oceans depends on successful, timely implementation of a comprehensive governance framework that moves away from a sector-by-sector management approach to one that 1) balances the

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increasing number, diversity, and intensity of human activities with the ocean’s ability to provide ecosystem services; 2) incorporates appropriate ecological, economic, social, and cultural perspectives; and 3) supports man.

A major tool of marine spatial planning is the zoning of uses for the spatial allocation of marine and coastal resources. Zones are already used in local government statutory plans for coastal freehold and crown land, and also extend 600 metres out from the shoreline. In the marine environment zones allocate waters for shipping lanes, fishing areas, port areas, telecommunication cables and pipelines. But there is no integration of the zoning process across the marine and coastal boundary or between the marine resource sectors. In the latter case these resources are allocated within each sector’s management and planning. This must change.

The consultation paper acknowledges the importance of marine spatial planning but recommends that it be mentioned in a Marine and Coastal Policy and as part of a Marine Spatial Planning Framework. When summarising the changes to legislation on page 79, the paper says that one of the changes will be to: ‘Enable marine spatial plans to be developed as required’. This is simply not strong enough. In another paragraph it indicates that ‘Coastal management plans MUST be prepared for all areas of coastal public land’. Marine and coastal spatial planning should be embedded in the Marine and Coastal Act to ensure that marine and coastal spatial plans are required throughout the marine and coastal area.

Regional marine and coastal plans should be the framework under which marine and coastal management plans are prepared and implemented. These management plans would generally be for areas smaller than a marine and coastal region and should be prepared by Marine and Coastal Committees (see section 6 of this submission).

Recommendation 1a: The Marine and Coastal Act should contain principles for ecologically sustainable development, ecosystem-based management and marine and coastal spatial planning, as well as the precautionary principle and the evaluation of cumulative impacts, and provisions that ensure the preparation of regional marine and coastal plans and management plans covering Victoria’s marine and coastal areas.

Recommendation 1b: The Marine and Coastal Act should establish a framework that plans for and manages the many uses of Victoria’s marine and coastal areas including fisheries, ports and marine national parks i.e. multi-user planning and management.

2. A Marine and Coastal Authority

Although 92 pages in length, the consultation paper uses only one paragraph to dismiss a Marine and Coastal Authority by creating a straw man of an ‘all-encompassing entity’ that would do almost everything in marine and coastal planning, protection and management. It is a major flaw in the paper and the government’s vision, especially as the Stakeholder Reference Group supported an authority (interestingly, the question raised in this part of the paper asks: ‘Do you think the required skills for the Marine and Coastal Authority members should be legislated?’ Perhaps there’s hope yet).

The paper says on the matter (with VNPA’s response below each quote):

The option for a Marine and Coastal Authority would have a advisory and policy setting role as well as taking on responsibilities for coastal and marine management and service delivery. This all-encompassing entity would significantly reduce the complexity of the current system by having one large organisation but would have had a number of disadvantages.

It would have a number of advantages if given the right functions and powers.
Such an organisation would likely be far less responsive to local and regional differences and less attuned to the issues and expectations of local communities and specific marine sectors.

The consultation paper provides no evidence for this statement but later proposes the abolition of coastal boards, which have largely provided the engagement with local communities. It would appear that under the consultation paper’s proposals, their role may be taken up by catchment management authorities with coastal boundaries (they would have ‘coastal’ added to their name) or by establishing Regional and Strategic Partnerships.

The reference to ‘specific marine sectors’ implies that these sectors would continue to be allowed to unduly influence the conduct of marine and coastal planning and management. Including industry representatives on the proposed Marine and Coastal Council could achieve the same outcome. One of the reasons for the VNPA proposing a Marine and Coastal Authority is to help overcome the single-sector and single-jurisdiction approach that has dogged marine and coastal planning and management for decades.

The level of community engagement and responsiveness of any organisation will be influenced by its role, functions and administrative arrangements. The Marine and Coastal Authority would engage with communities through the consultation processes for preparing the marine and coastal strategy and regional marine and coastal plans that would be laid down in the legislation, and through the Marine and Coastal Committees that VNPA proposes in this submission to be established by the Minister with oversight of their operation by the Authority. It could also engage in specific planning and management issues by establishing short-term Regional and Strategic Partnerships that do not just involve agencies, as proposed by the consultation paper, but involve the community and ‘distinct marine sectors’ as well. This could be ensured by the legislation requiring such arrangements.

Having such a broad role ranging from providing advice and developing policy, managing coastal infrastructure and natural environments, providing visitor services to managing distinct marine sectors such as fisheries or local ports would require an organisation with a very large variety of skills and expertise it would cut across a range of ministerial portfolios and likely internalise a number of competing priorities and directions. This would make it far less agile to deal with emerging issues and the key challenges facing marine and coastal management, such as addressing the impacts of climate change and population growth.

The roles listed in the above quote are way beyond what the VNPA sees as the roles of the proposed Marine and Coastal Authority. The authority would not be involved in the direct management of infrastructure and natural environments, or of visitor services or distinct marine sectors. Yes, it would prepare the Marine and Coastal Strategy and regional marine and coastal plans, and those strategies and plans would need to be followed by those agencies with responsibility for managing ‘distinct marine sectors’. The authority would regularly audit the performance of those agencies and report on that to the relevant ministers. VNPA is disappointed that the government is resisting a Marine and Coastal Authority while establishing a Victorian Fishing Authority, which again is a single-sector or ‘distinct marine sector’ approach to the planning and management of marine and coastal areas.

In contrast to the position of the consultation paper, VNPA believes that the Marine and Coastal Act should establish the Marine and Coastal Authority, a statutory independent body that would replace the Victorian Coastal Council (and be our alternative to the consultation paper’s Victorian Marine and Coastal Council). The Authority would be responsible for driving integrated and spatial planning, protection and management of coastal crown land and the state’s coastal waters.

The Authority would have a board of eight members (including the Chair) who had the relevant expertise to oversee the Authority’s operations in marine and coastal planning, protection and management. A person would be eligible for appointment as a Board Member if they had suitable qualifications, experience and knowledge in an area relevant to the function of the Authority including:
(a) marine and coastal management and policy development
(b) ecologically sustainable marine and coastal resource use
(c) marine and coastal science
(d) marine and coastal related communications and education
(e) Indigenous knowledge of and relationships with marine and coastal environments
(f) environmental law
(g) public sector governance
(h) environmental auditing of programs, policy and processes
(i) fisheries
(j) offshore petroleum
(k) shipping
(l) Marine and coastal protection
(m) marine and coastal related tourism.

The functions of the Marine and Coastal Authority would be to:

(a) Administer the Act and any subordinate legislation or regulations made under it
(b) Prepare a 5-year Marine and Coastal Strategy that applies to all coastal land and state waters
(c) Develop, review and then monitor the implementation of 10-year regional marine and coastal plans that apply to coastal crown land and state waters
(d) Provide written advice to the Minister on marine and coastal policy, planning and management matters
(e) Establish a Marine and Coastal Information Service as a clearing house for information on marine and coastal planning, protection and management
(f) Undertake, commission, support or fund marine and coastal research and relevant communications and education projects
(g) Oversee the work of Marine and Coastal Committees appointed by the Minister
(h) Audit the performance of state agencies, local municipalities and Marine and Coastal Committees with certain marine and coastal management responsibilities in the implementation of regional marine and coastal plans and management plans.
(i) Provide advice to agencies and other bodies on their referral of development proposals that may impact on the operational objectives and targets of the regional marine and coastal plans.
(j) Establish Regional and Strategic Partnerships that include state agencies, local municipalities, marine and coastal committees, the community and marine industry as required.

The Authority would develop the plans and oversee their implementation by other agencies and bodies. It would evaluate the performance of management agencies and bodies to ensure that their actions were consistent with the objectives, targets and timelines of the Marine and Coastal Strategy, the regional marine and coastal plans and the Act. The audits of performance would be reported to the relevant ministers, with advice on how to improve performance.

The regional marine and coastal plans would, among other things, contain a set of planning zones with planning zone rules, objectives and targets, along with allowable uses for each zone. This transparent and accountable planning process would be carried out in close consultation with stakeholders, Marine and Coastal Committees, coastal municipalities, other agencies and the community, and allocate marine and coastal natural resources for ecologically sustainable uses. Oversight of the management of these zones would be conducted by the Marine and Coastal Authority, but the management functions would be with state agencies, Marine and Coastal Committees, local municipalities and coastal catchment management authorities.
Recommendation 2: The Marine and Coastal Act should establish the Marine and Coastal Authority with the function as outlined in this submission.

3. Marine and coastal strategy

The VNPA supports the proposal that the Victorian Coastal Strategy become the Victorian Marine and Coastal Strategy. The Victorian Marine and Coastal Strategy must provide for the long-term planning of the Victoria’s state waters and coastal land:

- to ensure the protection of significant environmental features of state waters and coastal crown land
- to provide clear direction for the future use of state waters and coastal land
- to identify suitable development areas and development opportunities in state waters and coastal land
- to ensure the sustainable use of natural marine and coastal resources.

Recommendation 3: VNPA supports the preparation of the Victorian Marine and Coastal Strategy and recommends that it be prepared by the Marine and Coastal Authority.

4. Integrated regional marine and coastal planning

Failures of the current system

When trying to introduce an integrated approach to Victoria’s coastal planning and management, the challenge is the complexity of the arrangements. In his second reading speech on the Coastal Management Bill 1995, Minister Mark Birrell expected the Coastal Management Act 1995 to reduce the complexity of management by reducing the number of bodies.

To some extent this has been achieved by reducing the number of committees of management at the local level, but there has been little change in the number of responsible government agencies or the number of statutes that apply to marine and coastal areas. The Act has not prevented the planning and management of Victoria’s coast becoming more complex, and the vision of integrated coastal zone management is as illusory as ever.

The institutional arrangements and provisions for process established by the Coastal Management Act 1995 have driven the preparation and implementation of the Victorian coastal strategy, regional coastal action plans, boating coastal action plans and estuary coastal action plans, and many coastal management plans. Coastal planning documents often mention the need to integrate and to collaborate across the various agencies and bodies with some responsibility for the planning, protection and management of the coast. However, their proliferation, along with those by different agencies with different purposes, makes the coastal planning and management far more complex and expensive than it needs to be.

Further complexities have been introduced by the outcomes of the Coastal Spaces Initiative, the greater use of coastal planning scheme provisions such as zones and overlays, the intervention of ministers, the rulings of VCAT, the advice of planning panels, regional catchment strategies and the involvement of various government agencies.

As with previous coastal strategies, the 2014 edition saw integrated coastal zone management as its guiding concept:

Underpinning this Strategy and influencing the way we manage the coast is the concept of ‘Integrated Coastal Zone Management’. Coastal processes are not bounded by land tenure, land management, jurisdictional or policy boundaries. Integrated Coastal Zone Management (ICZM) is about working across a geographic area (land to sea), across different land tenures (public and private), and across organisational and jurisdictions (national, State, regional & local). ICZM is the basis for coastal planning and management in Victoria and is achieved through formal and informal collaboration and coordination between all the different groups who use and manage the coast.
But as the authors of the *South-west coastal action plan (SWCAP)* found in 2002:

An issue that became apparent during the development of the SWCAP was the way in which decision-making processes with respect to land and resource management are undertaken by managing agencies...many separate decisions are made with respect to the strategic planning, use, development, management and provision of access along the coast. Such decisions taken in their own right and on their own merits may appear reasonable but, when considered as a cumulative series of actions, may result in a significant impact on access to resources and the sustainable management of resources.

Over many years much has been said in various planning strategies and action plans of the need for an integrated approach to coastal planning and management. The solutions put forward usually revolve around collaboration, interdepartmental committees, hope and faith, just as in the 2014 Victorian coastal strategy. VNPA doubts that the coastal planning and management framework can implement integrated coastal zone management when many separate agencies deal with each component and have their own agendas.

**A case study of a system failure**

A current example of these difficulties is the Government's implementation of the Target One Million Project, which aims to increase the number of anglers in Victoria to one million by 2020.

The policy on the Target One Million Project was released prior to the 2014 election and is now being implemented, pre-empting the state of the bays report, the Biodiversity Conservation Plan and the Port Phillip Bay Environment Management Plan, and while consultation on the Marine and Coastal Act is continuing and the draft legislation is not to be released until well into 2017. The implementation of the Target One Million policy could have enormous impacts on Victoria's marine and coastal environments, especially those of Port Phillip Bay. Features of the project are:

- an increase of angler numbers from an estimated 750,000 to one million, a 33% increase
- restocking of marine species in bays and inlets
- construction of artificial reefs
- closure of commercial fishing in Port Phillip Bay
- no more marine national parks.

The targeted 33% increase in angler numbers could see a 33% increase in the catch of fish, a 33% increase in boat numbers, and a 33% increase in the infrastructure needed to support them. An increase in boating activity will increase fishing pressure across Port Phillip Bay, while the infrastructure needs, such as jetties, boat ramps, marinas, car parks, access roads and other structures will take up further areas of a narrow and fragile publicly owned coastal strip.

Marine restocking of species in bays and inlets is the manipulation of ecosystems, the anathema of ecosystem-based management, and prioritises species that are targets for anglers that will create imbalance in marine food webs. The construction of artificial reefs will change seabed habitats and place even more pressure on fish by encouraging them to aggregate and making them more vulnerable to being caught.

The closure of commercial fishing in Port Phillip Bay, a fishery with seafood products that were assessed as ecologically sustainable by the independent and science-based Sustainable Australian Seafood Assessment Project, will reduce the locally available source of seafood for consumers but also remove an important data source about fish stocks. And, even though the commercial fishing has been independently assessed as ecologically sustainable, there has been no assessment of the ecological sustainability of angling—we don't know whether the existing angling fishing pressure is ecologically sustainable, let alone that pressure caused by one million of them.

Finally, the ban on marine national parks is short-sighted and ill-advised. Establishing the world's first network of marine national parks in 2002 was a critical first step in providing better protection for marine life. But the network is not complete, and scientific analysis commissioned by VNPA has...
shown the need for additional marine national parks and sanctuaries at a number of places in Victoria’s marine waters.

Policies like Target One Million should only be implemented if they are considered consistent with an overall Marine and Coastal Strategy and individual regional marine and coastal plans. Its current implementation exemplifies the problems we have with the single-sector and single-jurisdiction approach to marine and coastal planning and management without reference to an overall plan with operational objectives and targets that take into consideration the needs of all users of the marine and coastal environment. The Target One Million project should be shelved until we have regional marine and coastal plans with clear operational objectives targets and timeline.

**Catchment management authorities and integration**
The consultation paper also recommends a greater role for the five catchment management authorities with coastal boundaries. Their engagement with coastal and marine planning has been ad hoc and very limited due to a lack of marine and coastal expertise on their boards and a general focus on land and riparian areas away from the coast. The consultation paper suggests that they be more engaged around the issues of flooding, inundation and coastal erosion. Where this relates to stream flows, VNPA supports that engagement as it should be the responsibility of the authorities to ensure that the management and use of catchments does not cause the degradation of marine and coastal areas. Where it comes to issues of erosion and sea level rise associated with climate change, this is something that should be more the responsibility of those agencies and other bodies with direct management responsibility for marine and coastal areas. Coordinated action on climate change impacts could be coordinated by Regional and Strategic Partnerships.

**The way forward**
To avoid the disintegrated and single-sector approaches that have plagued marine and coastal planning and management for decades, and to enhance the protection, maintenance and restoration of marine and coastal nature, will require collaborative, well-planned and adequately resourced actions by all levels of government, the community and stakeholders. To effectively do so will require legislative and institutional reform. It will also require integrated planning and management, the aim of many a legislator and policy maker down through the years. But integrated marine and coastal planning and management is unachievable under the current coastal planning and management structures in Victoria. There are too many responsible agencies, municipalities, committees of management and planning and management processes. The simple solution is to simplify the framework and integrate it from the start. A key to achieving this is the development of integrated and ecosystem-based regional marine and coastal plans.

The objectives of ecosystem-based regional marine and coastal plans should be to:

(a) establish a framework for the planning, protection and management of state waters and coastal crown land

(b) ensure that decisions in relation to marine and coastal resource allocation are environmentally, socially, culturally and economically balanced, and that threats are minimised

(c) identify, preserve and protect important places, significant species and ecological communities in state waters and coastal crown land

(d) establish planning zones that, if possible, are:
   i. based on marine and coastal ecosystems
   ii. informed by Indigenous knowledge of Sea Country
   iii. integrated with municipal statutory planning zones

(e) ensure that ecosystem-based marine and coastal planning and management is integrated with existing marine and coastal planning and management processes across relevant industry and government bodies and the planning schemes of coastal municipalities
(f) provide a framework for the identification and review of marine protected areas and their integration with regional marine and coastal planning processes

(g) ensure effective engagement by Indigenous people in regional marine and coastal planning and management decision making, including the recognition of their customary rights to hunt, fish and gather

(h) improve expertise and capabilities in marine and coastal management, science, technology and engineering

(i) foster community engagement in regional marine and coastal planning and management and an increased community understanding of Victoria’s marine and coastal environments, biological diversity, ecological processes and resources.

The contents of regional marine and coastal plans should include:

(a) a description of:
   i. the marine and coastal region’s ecosystems and their values
   ii. the marine and coastal region’s natural, social, cultural and economic values
   iii. existing uses and their economic social, and cultural benefits to the region
   iv. existing impacts on the marine and coastal region
   v. existing actions to minimise those impacts

(b) maps identifying:
   i. the boundaries of the marine and coastal region to which a regional marine and coastal plan applies
   ii. the marine and coastal region’s ecosystems and their uses
   iii. spatial marine and coastal planning zones, and the resource allocation to each use in those zones, including priority areas for subsistence and economic use by Indigenous communities

(c) a matrix of permissible and non-permissible uses within each of the spatial planning zones

(d) a list of measurable operational objectives and management actions that must be achieved and implemented by the responsible marine and coastal management agencies

(e) a performance assessment system to monitor and review the progress of the responsible marine and coastal management agencies referred to in (d) above

(f) an assessment of potential threats to the environmental, economic, cultural and social values and benefits in the marine and coastal region

(g) actions to optimise the economic, social and cultural benefits from the natural resources in the region

(h) actions to engage and collaborate with stakeholders, Indigenous communities and the wider community.

In preparing the regional marine and coastal plans, the Marine and Coastal Authority would engage interested parties and the general community by:

(a) holding community fora within the marine and coastal region during the preparation of the policy statement and draft regional marine and coastal plan

(b) liaising and consulting regularly with representatives of marine and coastal industries, Indigenous communities and conservation organisations during the preparation of the policy statement and draft regional marine and coastal plan.

On completion, the final regional marine and coastal plan would be tabled in parliament and be a disallowable legislative instrument.

Recommendation 4: The Marine and Coastal Authority should drive the integration of marine and coastal planning and management through integrated, ecosystem-based regional marine and coastal plans to replace the current single-sectored, single-jurisdiction and disintegrated planning framework.
5. State of marine and coastal reporting

Victoria's bays have a great many environmental values and beneficial uses. A rigorous and regular program of monitoring and reporting can help ensure they still do into the future. At the 2014 election the following commitment was made: the ‘...Andrews Labor Government will undertake a five-yearly State of the Bay report to monitor the health of coasts, bays and waterways’.

In section 8, the consultation paper goes further by proposing a state of the marine and coasts report. By doing this, the Victorian Government can ensure that future monitoring and reporting of the state of the marine and coastal environment is rigorous, consistent, transparent and integrated, and in a form that is useful to both government agencies and the community.

The first state of the bays report, due for release in November 2016, is focusing on the state of Victoria's two main bays but can establish the framework for the development of the next Victorian Marine and Coastal Strategy and regional marine and coastal plans. The report is being prepared by the Office of the Commissioner for Environmental Sustainability. This should continue with subsequent marine and coastal reports to provide an independent measure of the performance of VNPA's proposed Marine and Coastal Authority, and other responsible agencies, with regards to their efforts to improve the health of marine and coastal environments.

Recommendation 5: The Office of the Commissioner for Environmental Sustainability should prepare five-yearly state of the marine and coasts reports and use these as one measure of the performance of the Marine and Coastal Authority and other agencies engaged in the planning, protection and management of Victoria's marine and coastal area.

6. Marine and Coastal Committees: Restructuring coastal committees of management

A mix of bodies, including the Department of Environment, Land, Water and Planning, Parks Victoria, coastal municipalities and community-based committees of management currently manages coastal crown land reserves in Victoria. This governance framework is in need of simplification, with greater integration, less duplication, more effective and targeted management and based in coastal communities. This has been in part supported by the consultation paper.

The merging of smaller committees of management to form the Otway Coast Committee, the Great Ocean Road Coast Committee, Barwon Coast and the Bellarine Bayside committees has proven beneficial. This governance model should be enhanced, consolidated and extended to the remainder of the coastal crown land reserves that have a largely recreational focus along the Victorian coast.

Crown land which is largely used for recreational purposes should be managed by Marine and Coastal Committees and be established under the proposed Marine and Coastal Act. They would be regarded as Category 1 committees of management in the context of the consultation paper. Crown land currently with Category 2 committees of management would become the responsibility of the Marine and Coastal Committees or, where it is difficult to establish such community-based committees, be managed by the local municipality. Their responsibility would include coastal crown land and the adjoining coastal waters out to at least the extent of the nearshore zone and possibly out to 600 metres, which would coincide with the extent of planning zones in coastal municipal statutory planning schemes (some councils will take on the responsibility of marine and coastal committees along some areas of the coast).

Those existing coastal crown land reserves that have conservation values and are in need of a conservation focus to management, should be managed by Parks Victoria, with their incorporation into an existing park under the National Parks Act 1975 or their establishment as a new protected area under that Act. Coastal crown land in conservation areas may be used for recreation, but it should only be at a scale and location that does not undermine its conservation values.
The area managed by a Marine and Coastal Committee may also have some conservation values that will need protection. There may also be some commercial uses, the management of which could also fall to the Marine and Coastal Committee. For example, local ports and jetties used by commercial fishers, charter operators and tourist operations, and the lease of buildings for hospitality and accommodation services.

The Marine and Coastal Committees and their members would be nominated by the community and appointed by the Environment Minister, while the proposed Marine and Coastal Authority would oversee their operations. The Committees would prepare and implement marine and coastal management plans, which are based on the objectives and targets of the regional marine and coastal plans and consistent with the Marine and Coastal Strategy. They would assess and approve the permits for the use of their management area, presuming that use is consistent with the management plan, and collect fees to be used in the management of marine and coastal areas. The Marine and Coastal Authority would support and monitor their performance.

Recommendation 6: That the Minister establishes and appoints members to a number of Marine and Coastal Committees, with the proposed Marine and Coastal Authority to oversee their operations.

7. Traditional Owners and marine and coastal planning

The Traditional Owners of marine and coastal areas should be given the opportunity and the capacity to engage meaningfully in regional marine and coastal planning. Effective engagement and consultation mechanisms with Traditional Owners on matters relevant to the planning, protection and management of their Sea Country should be outlined in the Act. Such matters may include:

- areas for exclusive Traditional Owner use
- fisheries of customary and special significance
- Traditional Owner use of marine and coastal resources
- when a referred action is proposed for their Sea Country
- engagement in Sea Country management
- Indigenous fisheries strategies
- Joint management of conservation areas in their Sea Country.

Recommendation 7: Traditional Owners should be provided with the opportunity and capacity to engage meaningfully in marine and coastal planning, protection and management of their Sea Country.

8. Marine and Coastal Research and Information Service

Improving knowledge of the condition of marine and coastal areas is the theme of section 8 in the consultation paper. There are many gaps in our scientific knowledge of coastal and marine environments. The Science Panel of the Victorian Coastal Council identified three emerging issues for which scientific understanding is inadequate. Common to each, the panel said:

...is the need to focus on processes that occur at long time scales and potentially over wide areas of the coast. Both of these dimensions will provide challenges to coastal management, as they operate at scales that cross jurisdictions and planning windows\(^5\).

The three emerging issues\(^6\) were:

- understanding the effects of increased climatic variability
- understanding the importance of links between catchments, estuaries and broader coastal waters for maintaining marine ecosystem health
- understanding the cumulative ecological consequences of coastal development to meet human needs.


\(^6\) Victorian Coastal Council Science Panel, loc. cit.
There were three other panel concerns in terms of Victoria’s technical capacity to respond to emerging environmental issues:

- understanding the condition of Victoria’s coastal environments, and linking that to a clear decision-making framework
- matching Victoria’s technical capacity to meet scientific needs by maintaining and developing appropriate expertise
- the continuing operation of the Science Panel to provide independent, strategic, scientific advice for the whole coast.

The Marine and Coastal Research and Information Service would help to address these knowledge gaps and others, and improve the integration of research that is conducted in Victoria’s marine and coastal areas. It would establish a consistent methodology and parameters for the environmental, social and economic research in Victoria’s marine and coastal environments that it and other bodies would conduct. It would also be a clearing-house for advice to stakeholders, planning and management bodies and the broader community. The service would:

- prepare and implement a Marine and Coastal Research Strategy and Action Plan
- conduct comprehensive mapping of current settlements, ‘coastal nature conservation priority areas’, and predicted sea-level rise for the whole Victorian coastline
- combine this with mapping of projections of where both settlements and biodiversity will, and can, move to as a result of sea level rise
- monitor the implementation of growth boundaries around existing settlements to ensure a balance between biodiversity protection and development priorities
- oversee marine and coastal research projects and be a source of funds for such projects
- liaise with and seek the advice of the Science Panel and research organisations to ensure the consistent application of research methodologies and the release of research findings into the public domain
- ensure that citizen science is encouraged and conducted in a way that the data gathered can be integrated with other data collected.

The information service would also develop a variety of public information resources and services that would act as a one-stop shop for information on coastal protection, planning and management. A dedicated website for the purpose would include:

- all current coastal planning, protection and management documents
- maps of all marine and coastal habitats with information about their natural values
- maps of all coastal conservation and crown land reserves
- development proposals for the coast
- data on threats and impacts along the coast.

**Recommendation 8**: A Marine and Coastal Research and Information Service, under the auspices of the proposed Marine and Coastal Authority, should be established to develop a marine and coastal research strategy, direct and conduct research, and act as a clearing house for environmental, cultural, social economic data about Victoria’s marine and coastal area to help build and transfer knowledge and educate the community.

**9. Science Panel**

The Victorian Coastal Council currently has a Science Panel to advise it on a broad range of marine and coastal science relevant to its work including marine and estuarine ecology, climate change processes, environmental chemistry, coastal and marine engineering, oceanography and geomorphology. The great value of this should be reaffirmed by it being formally established under the Marine and Coastal Act.
Recommendation 9: That the Marine and Coastal Act establish a Science Panel to advise the proposed Marine and Coastal Authority on marine and coastal science matters.

10. Funding marine and coastal planning, protection and management

The planning and management of Victoria's coastal crown land and marine waters is underfunded. Although much is funded from the Victorian state budget, the amount provided from that always falls short of what is needed when the budget is pushed and pulled in various directions by the demands from various sectors. In 7.1-7.3 the consultation paper considers how to account for costs and revenue in marine and coastal planning and management, to better target the use of expenditure, and to fill the gap between current funding and what is needed.

VNPA believes that the funds generated from perhaps recreational and commercial fishing licences, boat licence fees, building and land leasing arrangements, mooring fees, stamp duty from the sale of boat sheds, commercial fishing licence fees, royalties from petroleum extraction, for cables and pipelines crossing the crown land reserves, tour operator fees and other revenue sources could find their way into a Marine and Coastal Management Contribution Fund, not consolidated revenue. This should not replace funds already provided from consolidated revenue but add value to those funds. The funds for example, could be distributed to Marine and Coastal Committees through grants and loans.

Recommendation 10: A Marine and Coastal Management Contribution Fund should be established that receives funds from the revenue generated on coastal crown land and in marine waters and is then used to cover in part the costs of marine and coastal planning and management.

11. Referrals

An important element in ensuring that the objectives and targets of regional marine and coastal plans are upheld is a referrals process. The preparation of the Marine and Coastal Strategy and regional marine and coastal plans would allocate resources and establish planning zones with allowable uses. From time to time, however, uses may be proposed that are not covered by the original plans or be at a scale or by a method not envisaged by the plan.

Any such proposal that would be inconsistent with the plan and comes under the responsibility of another agency, that agency would refer the proposal to the Authority for assessment and comment. In preparing its comments on the proposed action, the Authority could consult with the relevant Marine and Coastal Committee and other relevant agencies. The Authority could, in some circumstances, determine that the proposal would require an amendment to the plans and that would involve a public consultation process. Proposals that may require amendments could be:

- changes in gear and the location of a fishery or a new fishery targeting a previously untargeted species
- a new shipping lane
- creation of or expansion of a marine national park
- major dredging and the dumping of waste and spoil
- harbour, marina and boat ramp construction or expansion
- petroleum rig construction and removal
- laying of pipelines and telecommunications cables
- scuttling of vessels
- coastal development likely to impact on the marine and coastal area
- a new ocean outfall
- artificial reefs.

Amendments could also occur where new information has come to light that requires changes to the operational objectives, targets and zones of a plan.
Recommendation 11: Agencies with management responsibilities within marine and coastal regions should refer proposed actions that may be inconsistent with regional marine and coastal plans and management plans to the Marine and Coastal Authority for advice and potential amendment to plans.

12. Consents and enforcement
The consultation paper discusses Ministerial consent or veto with regards to the use and development of the marine and coastal areas and for the issuing of permits. VNPA generally supports these sentiments expressed in the paper. We also believe that there is a role for a Marine and Coastal Authority in providing advice to the minister on such matters.

The Act should also contain significant penalties for actions that undermine the regional marine and coastal plans and any marine and coastal management plan. Where the penalties may not be deterring the action, then the Authority should be able to seek a court injunction to prevent the action.

Recommendation 12: The Marine and Coastal Act should have provisions for ministerial consent and veto for the use and development of marine and coastal areas, after advice from the Marine and Coastal Authority, penalties for actions in contravention of marine and coastal plans, and powers for the Authority to apply for court injunctions where necessary.

13. Review and evaluation
To ensure that regional marine and coastal planning and management is adaptive to new information and meeting the needs of the community and marine and coastal areas, review and evaluation mechanisms should be included in the Act.

Recommendation 13: Review and evaluation mechanisms should be included in the Act.

14. Strengthening the role of Parks Victoria
VNPA supports the need to strengthen the role of Parks Victoria, as outlined in the consultation paper, but also the need to ensure it has sufficient resources and authority to carry out that role, including direct reporting to the Minister. This is sadly lacking at the moment.

We are yet to be persuaded that Parks Victoria should be managing local ports, jetties, etc. (referred to in the consultation paper) that are not associated with conservation reserves. Management of these could become part of the role of the VNPA’s proposed Marine and Coastal Committees.

Recommendation 14: Parks Victoria’s funding and powers, and its role in marine and coastal regions, should be strengthened.