

15 June 2015

Victorian Environmental Assessment Council
Level 6, 8 Nicholson St
East Melbourne 3002
Victoria, Australia

Dear VEAC

Submission to Statewide Assessment of Public Land Investigation

I write in my private capacity, but do so relying on my background and experience as a police officer, as result of which I became aware of the particular issue relating to the management of public land about which this submission concerns. Despite this occupational connection, the views expressed herein are, of course, my own.

In the course of research relating to a trespass investigation I was engaged in, the question of Victoria Police's control and management of the land on which the police station sits, and which I work from, arose. As a result, I became aware that certain crown lands temporarily reserved for certain purposes under the *Crown Land (Reserves) Act 1978* are not managed by committees of management formally appointed (in whatever form that may take under s. 14(4) of the Act) under the Act, but rather management responsibility is recognized by the Department of Environment Land Water and Planning (DELWP), in accordance with longstanding practice by its predecessors¹, to a body or organisation by implication by virtue of the purpose for which the crown land is reserved. It is this general aspect of governance; namely, the practice and validity of implied management and the associated issues arising from it that is the focus of this submission.

By way of example, Boroondara Police Station, in common with the majority of the State's police stations, is sited on Crown Land (Allotment 2001 in the Parish of Boroondara). This crown land was temporarily reserved for policing purposes in the Victorian Government Gazette in November 2001, before the station opened for operations in September 2002. According to DELWP's portal, management for the land is said to be implied in the Department of Justice and Regulation (DOJ), while the Crown Land Report I obtained through the Landata website indicates Victoria Police is the "Administrator" of the land. Victoria Police is of course a portfolio within the DOJ. Enquiries I made though both Victoria Police and DELWP were unable to establish the basis, legislative, policy or otherwise on which the practice of implied management by the DOJ, and through the Department, Victoria Police is recognized by DELWP, other than by historical practice or convention. If the practice has clear legal sanction, DELWP may be able to advise the Council as to its specific basis.

Apparently the practice referred to above also applies to crown land reserved for other public purposes², such as land reserved for municipal purposes where management of such land is implied in the relevant local government, notwithstanding that a municipal Council may be expressly appointed as a committee of management under s. 14(4) of the Act. The chief difficulty with this

¹ 1. David G. Jones, *A Handbook for Committees of Management of Crown Land Reserves*, (East Melbourne: Public Land Management Branch, Land and Forests Division, Dept. of Conservation, Forests and Lands, 1988), p. 8.

² http://www.lgpro.com/downloads/LGPRO_Handouts_inc_TP.pdf, p. 23

situation is it seems to me on the research I have undertaken is its uncertain legal validity, or the lack of transparency as to its legal validity. Frankly, I do not have the expertise to assess the risks or possible consequences associated with this state of affairs, and it may be the practice has survived on the notion that the presence of a problem is not obvious until it actually becomes a problem; however, if the consequences of such risk/s were to be realized, whatever they may be, the question of whether it or they could have been easily prevented would inevitably arise. Again, DELWP may be able to address the Council on any specific risks inherent in this practice.

Such ambiguity could indeed be easily avoided, either through legislative amendment to permit or recognize the existing practice of implied management relating to purpose of the relevant reservation, or by further amendment to enable utilization of the existing power of formal appointment of a committee of management under the Act. In the case of land reserved for policing purposes and occupied by police stations, although Victoria Police is not a body corporate and therefore cannot own land, amendment of s. 14(4) would allow the chief commissioner of police to be appointed as a committee of management under the Act, and his functions in this regard then delegated to the appropriate Victoria Police employee, department or work unit for the sake of managerial efficiency under s. 19 of the Victoria Police Act, subject of course to the accountability to the chief commissioner.

Time has prevented me from further developing some of the thoughts expressed in this submission. Nonetheless, to summarise, I request the Council consider recommending, after seeking the advice of DELWP, for the sake of transparency, that the law be amended to address the governance concern I may have raised in connection with the practice of implied management of crown land.

I am happy to speak further to any member of the Council's staff in relation to this submission if clarification of anything in it is sought.

Yours faithfully

Bruce Pingo

Report on a Crown Land Parcel

This is a report on the parcel from 1 October 2001. It is a statement of the current legal status of the parcel. For historical research further documentation is available through Land Victoria, 570 Bourke Street Melbourne.

Land Description

Allotment: 2001 Section:
Township:
Parish: Boroondara

Standard Parcel Identifier (SPI): 2001\PP2209

Land Parcel Boundaries

End Of Land Description Details

Status Details-

Number of Status: 2

Status: 1 of 2

Currency: CURRENT
Parcel Status: Crown land (reserved)
Reserve Purpose: PUBLIC PURPOSES (POLICE PURPOSES)
Reserve Type: Temporary
Park:

Administrator: Victoria Police

Related instruments

Gazette	Year: 2001	Page: 2819	Number: G45
Act	Year:		Number:
Special Gazette	Date:	Page:	Number:
Order in Council	Date: 07-NOV-2001		
Reference Plan	GP882		
Title Reference:			Volume Folio:
Status Remark			

Status: 2 of 2

Currency: SUPERSEDED
Parcel Status: Crown land (unreserved)
Reserve Purpose:
Reserve Type:
Park:

Related instruments

Gazette	Year:	Page:	Number:
Act	Year:		Number:
Special Gazette	Date:	Page:	Number:
Order in Council	Date:		
Reference Plan			
Title Reference:			Volume Folio:
Status Remark			

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Report on a Crown Land Parcel

End Of Status Details

End Of Crown Land Status Report

CROWN DIAGRAM	PP2209_2001
Location of Land Parish : BOROONDARA Allotment : 2001	This plan has been created to assist in locating a Crown land parcel Warning: No warranty is given as to the accuracy or completeness of this plan Any derived dimensions are approximate
Standard Parcel Identifier (SPI) : 2001\PP2209 Vicmap Parcel PFI : 53046392	Coordinate Position MGA : 328500, 5814610 (55) Melways Directory Reference : 45 H4 (ed. 35)

Compiled from VICMAP cadastral mapping data
Date: 22/05/2009

