

Aboriginal Victoria's comments on the VEAC Statewide Assessment of Public Land

Thank you for providing Aboriginal Victoria the opportunity to comment on the Statewide Assessment of Public Land Draft Proposals Paper.

The *Aboriginal Heritage Act 2006* (AHA) provides for the protection and management of Aboriginal cultural heritage in Victoria. Any proposals that will affect Aboriginal cultural heritage must be consistent with the AHA and recognise the statutory decision-making processes and structures within that legislation.

It is important to ensure that Traditional Owners are kept informed and provided real opportunity to voice opinions and influence any decisions which may impact upon their cultural heritage. In matters which impact upon Aboriginal cultural heritage a Traditional Owner-led approach is recommended. The Discussion Paper references Traditional Owner 'rights and interests' in section 5.2, which documents the importance of tangible Aboriginal cultural heritage, the connection to the land as well as the intangible spiritual connection to the past and DELWPs inclusion plan and its commitment to Caring for Country. Despite the inclusion of these points in the discussion paper, the recommendations are limited in their effectiveness in the meaningful application of these points.

Draft Recommendation 1:

- Outside the *Traditional Owner Settlement Act 2010* (five Traditional Owner groups) agreements and *Native Title Act 1993* (two Traditional Owner Groups), there is no suggestion as to how VEAC will categorise public land as 'Aboriginal land'.

Draft Recommendation 2:

- Read in conjunction with chapter three of the discussion paper and the 'four options for consolidating or changing the existing public categories', the discussion paper and recommendations suggest amendments and changes that are already provided for under the AHA. Amending the *National Parks Act* 'to add explicit provision for protection of Aboriginal cultural heritage', does not in itself lead to effectiveness in regards to Aboriginal cultural heritage management.
- Existing mechanisms in the AHA for the protection and management of Aboriginal cultural heritage during land use or land management activities include: cultural heritage management plans, cultural heritage permits, Aboriginal heritage agreements and Aboriginal cultural heritage land management agreements.

- Best practice Aboriginal cultural heritage protection and management would see the creation of efficient and effective internal policies and procedures within the relevant departments and agencies that align with existing statutory mechanisms.

Draft Recommendation 8:

- Section 5.2 of the discussion paper emphasises the importance of Traditional Owner connection to Country through the land. It also stresses the existence of Aboriginal cultural heritage (known or unknown) on public land across Victoria.
- The recommendation that only land in 'Aboriginal title' and that which is 'jointly managed' would be designated through a legislated 'Aboriginal land' public land overlay (TOS and NT) excludes other areas of public land, especially where there is a Registered Aboriginal Party (RAP) and their role as decision-makers over their cultural heritage has been established under the AHA. The effect of establishing a binary system of Aboriginal land and other land based on legislation takes away from the understanding of Aboriginal cultural heritage and the connection to Country through the land.
- Under the AHA (s148) it is the role of RAPs to advise the Minister administering the *Planning and Environment Act 1987* on proposed amendments to planning schemes which may affect the protection, management or conservation of places or objects of Aboriginal cultural heritage significance.

Draft Recommendations 15, 16, 17 and 18 are considered in conjunction with each other:

- Section 144 of the AHA establishes the Victorian Aboriginal Heritage Register (VAHR). There are currently approximately 15,000 registered Aboriginal places on Victorian public land.
- Access to the VAHR is limited to those persons and groups specified by s146. Crown land managers and local government employees are able to access the VAHR under s146e-f for the purposes of obtaining information to carry out functions and duties of land management.
- Inclusion of knowledge of and/or known Aboriginal cultural heritage values in descriptions, inventories and/or classifications of public land and to make this information accessible to the public may result in an unnecessary duplication of the information in the VAHR. Moreover, care needs to be taken that a breach of section 147A of the AHA is avoided.
- s146A of the AHA provides the opportunity for certain information in the register to be determined as sensitive. Access to sensitive information on the VAHR is not possible without written approval from the relevant RAP or the Victorian Aboriginal Heritage Council. The discussion paper notes the concerns raised over the sensitivity of some cultural heritage information but does not include a recommendation to address this.

- *Any changes to descriptions of purposes and values associated with public land categories to reflect Aboriginal interests* should be first confirmed by Traditional Owners. There is currently no provision in the discussion paper for involving RAPs in decisions about their cultural heritage.
- Rather than Aboriginal cultural heritage values being included in a new register, there could be greater focus on aligning current systems to achieve the desired outcome of the VEAC database.

Conclusion

The above approach to considering Aboriginal cultural heritage in classification of public land categories would certainly reflect the desired benefit of ‘reflecting the growth in knowledge and understanding of Aboriginal rights and interests’. By ensuring that recommendations are better aligned with the AHA, VEAC would demonstrate an understanding of the sensitivity of such knowledge and values and the careful legislation that protects and manages cultural heritage within Victoria.

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We acknowledge the traditional Aboriginal owners of country throughout Victoria and pay our respect to them, their culture and their Elders past, present and future.