



Victorian Environmental Assessment Council  
Level 6, 8 Nicholson Street  
East Melbourne VIC 3002

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Dear VEAC

### **Comments on Statewide Assessment of Public Land Draft Proposals Paper**

I welcome the opportunity to comment on Victoria's public land use classifications. Victoria has been a leader in allocation of public land for various purposes, particularly through the work of the Land Conservation Council, Environment Conservation Council and now Victorian Environmental Assessment Council. Victoria, due to its pattern of settlement and subdivision resulting in a large number of small public land parcels, also has many complexities.

Thus a review of the public land use classifications and the legislation that underpins their reservation is timely and essential. I will focus my attention on the 1) proposed changes to public land use categories (outlined in Table 1 of the Draft Proposals Paper), 2) legislative reform and 3) addition matters the Council needs to address.

#### ***Recommendation 1, Proposed changes to public land use categories***

The consolidation of categories is long overdue due the confusion of similar names for very different land use purposes (state park vs state forest), different names for essentially the same use and reservation (national park and state park) and some long winded names.

National Park. I strongly agree with the proposal to change the names of state park, wilderness park and national heritage park to national park. The concept of 'state park' is long outdated. State Parks have the same intent, uses and reservation under the National Parks Act 1975 as National Parks under that Act. There is often little difference in the size of state parks vs national parks. In any other state, they would be national parks. The term 'state park' has caused confusion about state vs national control (state parks being managed by the Victorian Government, national parks by the Australian Government). No other Australian state has such a distinction. However, the most critical issue for the values, enforcement and public understanding is the ongoing confusion between state park and state forest and the activities that can occur in each. The term national park is universal and the term in Australia has a consistent meaning which most of the public understands – nature conservation allowing compatible recreation.



In addition, three of the five coastal parks would also fit into this category having similar intents for management, reservation under the National Parks Act and a relatively large size. Discovery Bay Coastal Park, Cape Liptrap Coastal Park and Cape Conran Coastal Park should all have their names changed to national park, without any change to existing uses. Of the other two, Gippsland Lakes Coastal Park allows a range of activities not appropriate in a national park (notably duck hunting), while Point Cook Coastal Park is too small and modified for inclusion as a national park. Both of these parks should be included as conservation parks below.

Finally, Wilderness Parks which become National Parks should have a Wilderness Zone overlay added to ensure the wilderness values of these areas are maintained.

Conservation Park. I strongly recommend this name for the previously problematically named 'Schedule 3 parks', and for the Gippsland Lakes and Point Cook Coastal Parks. In addition, the terrestrial components of the Nooramunga Marine and Coastal Park and Shallow Inlet Marine and Coastal Park should also be given the Conservation Park title, with the marine components of those parks be termed 'marine parks' (or better, 'marine reserves' – see comments on the proposed marine park category below). Management and regulation of the Marine and Coastal Parks has been problematic, not least due to the complexities of having marine and substantial terrestrial components under the one reservation. It is time to acknowledge this has not worked as well as envisaged and provide a different reservation for the marine and terrestrial components, allowing the same uses as currently exist.

Recreation Park. This proposal attempts to combine two quite different intents of land use into one category and needs to be rethought. Regional Parks, Forest Parks and those Historic Parks in mostly vegetated landscapes have a purpose of providing recreational experiences in a largely natural setting. Metropolitan Parks are typically far more heavily used within the Greater Melbourne area and far more modified. Not only are two quite different concepts being brought together but the name 'recreation park' could easily be confused with the ubiquitous "recreation reserve" containing a sporting oval and playground that occur in every suburb and town in the state. Although not all regional parks contain forests, most do and the term 'forest park' would be a better term to use to merge the regional parks, forested historic reserves and existing Otways Forest Park. The Metropolitan Parks should remain a separate category.

Nature Reserve. While this is mostly a case of shortening the name of the category nature conservation reserve (and to avoid any ambiguity Table 1 should have noted this presumably includes reserves labelled as 'Flora and Fauna Reserves', 'Flora Reserves' and 'Wildlife Reserves – no hunting'), the inclusion of caves and geological and geomorphological reserves is logical. It's not clear whether "some natural features reserves" also proposed to be included in this category only includes caves and geological and geomorphological reserves or whether others are also proposed. If others are, it should be made explicit which ones.



Natural features reserve. This name is a construct of the previous attempt of consolidation/simplification of similar categories by the LCC in the 1980s. However, the name 'natural features reserve' has never taken off and has no resonance with the public. The term 'natural features' is not used day to day. As 'Bushland Reserves' (as they are known on the ground) make up the majority of this category by number and 'bushland' has much greater day-to-day use than 'natural features', this category would be better known as 'bushland reserve'. There would be no problem with including the existing 'streamside reserves' and 'natural and scenic features reserves' under the 'bushland reserve' category.

Coastal reserve. Considering the contiguous coastal public land frontage in Victoria, which if not a park under the *National Parks Act*, is coastal reserve with a high degree of familiarity, it seems strange to propose to break this up into two different categories. Rather, retaining a category called 'Coastal Reserve' and implementing, regulating and communicating the zoning between 'conservation' and 'community use' as previously recommended by the ECC's Marine, Coastal and Estuarine Investigation makes more sense.

Game reserve. Naming a category of public land to reflect one form of recreational activity that is currently seasonably allowable implies a level of primacy for that activity over others. Wildlife Reserves that currently allow hunting have multiple purposes including the protection of habitat and non-game species (including sites of international significance), passive recreation and research. While there is a need for a change of name (the current 'Wildlife Reserve' name would imply to most that all wildlife is protected, which it is not in these reserves). Perhaps 'Wetland Reserve' is a more neutral term.

Special Protection Zones in State Forest. Although these were not a specific public land use categories recommended by the LCC, EEC or VEAC, Special Protection Zones (SPZs) are an important public land use category that needs to be recognised and addressed in this review. SPZs are not legislated and considered 'informal reserves' (as opposed to Dedicated reserves) but were nonetheless the most commonly applied new reserves in the Regional Forest Agreement (RFA) process in Victoria. This was in direct contravention of the guidelines of the *Nationally Agreed Criteria for the Establishment of a Comprehensive, Adequate and Representative Reserve System for Forests in Australia* (known as the JANIS criteria<sup>1</sup>) which guided the RFAs and National Forest Policy Statement. The JANIS criteria clearly stated "In situations where it is not possible or practicable to include conservation values into Dedicated Reserves"<sup>2</sup>, yet the majority of SPZs identified as part of this process could have been

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<sup>1</sup> [http://www.agriculture.gov.au/SiteCollectionDocuments/rfa/publications/nat\\_nac.pdf](http://www.agriculture.gov.au/SiteCollectionDocuments/rfa/publications/nat_nac.pdf)

<sup>2</sup> Section 1.4.2, page 7.



declared as Dedicated reserves, either as additions to parks under the *National Parks Act 1975* which they adjoined or as new nature conservation reserves. Victoria was the only state with RFAs that used informal reserves at the expense of formal reserves and no justification was ever provided for contravening the JANIS criteria. SPZs are not considered protected areas under the IUCN definition (and not reported by Victoria as such). They are not considered part of the National Reserve System

VEAC has rightly recommended including most SPZs as dedicated reserves in investigations it has undertaken post-RFAs in the Otways and the Red Gum Forests of northern Victoria. However, most of the North East, East Gippsland, Gippsland, Central Highlands and the non-Otways component of the West Victoria RFA has not been subject to a VEAC investigation since those RFAs. Thus significant areas of SPZs remain in those regions which are not afforded legal protection they way dedicated reserves are.

This VEAC statewide review should recommend adding those SPZs adjoining parks under the National Parks Act to those parks, and other SPZs as new Nature Conservation Reserves, in line with the explicit intent of agree national policy. This is particularly timely as the RFAs, which are 20 year agreements will soon be up for review.

Water frontage, bed and bank: Greater legal clarity is required as to the 'beds and banks' component of this category (indeed it's not clear whether VEAC is recommending two different legal entities here under the one category).

In order to remove any ambiguity in the public ownership of this land, the term 'reserve' should be reinserted into the title of this/these categories, i.e. water frontage reserve, stream bed and bank reserve. Note also that River Red Gum investigation gave some frontages of major rivers the term 'River Reserve' which presumably falls under this proposed category but should retain the 'river reserve' identity. To further remove ambiguity, mapping of beds and banks (the only public land category not to be mapped) should be undertaken and the public land clearly identifiable on freely available maps online.

Community Use Reserve. It seems strange to include all Highway Parks and Lakes in this category. While some of these are no doubt used for this purpose, many are indeed true natural features reserves and managed mainly for that purpose. The Stratford Highway Park in Gippsland for instance comprises a significant stand of nationally endangered Gippsland Plains Woodland and allows camping and picnics in a small area of the reserve. It is managed for conservation and accommodates these low impact, small footprint activities much like a bushland reserve, natural conservation reserve or state park might. For other Highway Parks with more intensive use and more limited natural values their reservation as a community use area might be appropriate but an assessment should be done to determine this. Many lake reserves are currently surrounded by private farming land with little public access so it would be hard to describe them as community use areas, while others are effectively



managed for conservation. Again, an assessment of the suite of current lake reserves is needed to determine which might be best placed in a community use reserve category and which should be retained in a natural features reserve-type category.

Marine Park. Merging the various categories of multi-use MPAs in Victoria which were not Marine National Parks or Marine Sanctuaries makes sense (noting my comments about re the need to split the marine and terrestrial components of the existing Marine and Coastal Parks). However, the term chosen for this category is the common short hand term for most MPAs - i.e. 'marine park'. This is likely to cause confusion with Marine National Parks which should be avoided, particularly as uses (fishing vs no take) are very different<sup>3</sup>. I propose the term 'marine reserve' would be much more desirable for this category.

Other Crown land. Some uncategorised Crown land still exists in Victoria, including land with high conservation values, as does vegetated Crown land proposed to be sold but which never eventuated (such as in East Gippsland). A category should be designated for such land, and their appropriate use should be determined as part of a future investigation.

#### ***Recommendation 8. Aboriginal title***

This recommendation is somewhat ambiguous as Aboriginal groups also own freehold land so it is important to remove this ambiguity by clearly stating this only refers to existing public land.

#### ***Recommendation 9. Modified and consolidated protected area legislation***

This is strongly supported and long overdue. Including all public land protected areas under the one Act aligns with other Australian jurisdictions and simplifies reservation, administration, management and enforcement. What is ambiguous with this recommendation at present is while it implies all categories that would be considered 'protected areas' would be included. 'Natural features reserves' would probably comprise the majority (by number) of protected areas in Victoria, yet are not listed in Recommendation 9. Clearly, creating a 'certified plan' for each natural features reserve in Victoria (as currently occurs with each park under the National Parks Act) would be a huge task unless other reforms to processes of reservation occur. As a number of natural features reserves are

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<sup>3</sup> For more information on this issue see Fitzsimons, J. & Wescott, G. (2016) *Big, Bold and Blue: Lessons from Australia's Marine Protected Areas*. CSIRO Publishing, Melbourne.



currently leased for grazing, in some cases without a clear ecological purpose for doing so, this will need reforming and would require the administrator of new protected area legislation to approve this and provide justification for allowing activities that would not be consistent with a protected area classification.

***Recommendation 11. New investigations***

This is strongly supported as most public land in these regions have not been assessed for decades. However, the region for R11 (a) should also include 1) the Bridgewater bioregion, 2) Greater Grampians bioregion, 3) the entire Wimmera bioregion (not just the southern section) and 4) the entire Victorian Volcanic Plain bioregion (with the exception of the parts of this bioregion covered by the Angahook-Otway and Metropolitan Melbourne investigations).

In addition, VEAC should consider reviewing the coastal, marine and estuarine environments in the next 5 years to ensure the protected area network it is comprehensive, adequate and representative – mapping has improved dramatically since the last investigation, while international conventions and criteria have also been more explicit since then.

I trust these comments will be taken into consideration in preparing final recommendations for this investigation. I would be happy to provide further information to Council if required (email [james.fitzsimons@deakin.edu.au](mailto:james.fitzsimons@deakin.edu.au)).

Yours sincerely

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