

24 November 2016

Mr Phil Honeywood
Chairperson
Victorian Environmental Assessment Council
Level 6, 8 Nicholson Street
EAST MELBOURNE VIC 3002

Dear Mr Honeywood

Thank you for the opportunity to make a submission to the VEAC Statewide Assessment of Public Land.

Parks Victoria manages four million hectares of public land, or 17 percent of the State including 45 national parks, 24 marine parks and sanctuaries, Port Phillip and Westernport and 30 metropolitan parks. Parks Victoria's powers, responsibilities and accountabilities are currently conferred under a number of legislative instruments within a complex land management system.

Parks Victoria supports reforms that clarify responsibilities, powers and accountabilities for the management of the parks estate. It is worth noting that the current 'Strengthening Parks Victoria' project which is being run jointly with the Department of Environment, Land, Water and Planning is exploring how Parks Victoria can modernise its service offering, workforce and governance to deliver the vision of a world class parks agency. Strengthening Parks Victoria presents the opportunity for Parks Victoria to become an 'enabling' government agency, empowered and accountable. This will require the reform of the *Parks Victoria Act 1998*. Parks Victoria's submission has been drafted in this context and Parks Victoria requests that VEAC recognise this reform specifically in recommendations R2, R9 and R10.

Parks Victoria agrees that simplified crown land categories, standard regulations and improved systems will make it easier to interpret and apply crown land legislation and improve service to the Victorian community. However, the proposal will require significant resources and effort to implement. For instance, there will be both operational and administrative costs associated with changing park categories and legislation, and in communicating the benefit of change to the community.

The focus of Parks Victoria's response (appendix 1) addresses the Draft Proposals Paper and its specific recommendations. Several comments are also provided to inform the final Discussion Paper. Parks Victoria envisages the Draft Paper will be a valuable resource for government and the community and a point of reference in many years to come on the administration of public land. While some of the recommendations are administrative in nature, the alignment of categories of parks to legislation is logical and the proposals for improving and simplifying land administration are supported. Parks Victoria encourages the final report to emphasise the significant efficiency gains to be made in terms of public administration not only for those developing crown land but for how the community better understands how crown land benefits them.

Should you require further advice on this matter please contact Stuart Hughes, Director Park Planning and Policy on (03) 8427 3383. Yours sincerely

Your sincerely



Margaret Gillespie
Acting Chief Executive

Appendix 1: Proposed recommendations and Parks Victoria response

The following information provides a response to each draft recommendation from the VEAC discussion paper.

1. Public land classification

R1 The revised and consolidated system of primary public land use categories and overlays in table 1, which forms part of this recommendation, be adopted.

Parks Victoria supports a rationalised and consolidated system of public land use categories where there is a clear benefit such as aligning the category with legislation. As noted in the Discussion Paper Victoria's categorisation of public land is not overly complex. Park categories that are well understood by the community and that logically link to a landscape or place should not be subject to change for change sake. This is the case for the majority of the major existing park categories where the benefits of the proposed categories are inconsequential but the implementation costs are significant. It should be recognised that the proposed changes to the categories are mostly occurring on the Parks Victoria estate.

Discussion of proposed amendments to category names is set out below:

State Park to National Park

Changing the category of State Park to National Park does align the legislation with the park category as State Parks are managed for the same purposes.

Wilderness Park to National Park

Wilderness Parks should be considered differently to national parks as the objectives outlined in the National Parks Act are different than for national and state parks. However, the change of category to National Park could combine with park zoning to differentiate the purpose.

National Heritage Park to National Park

The one National Heritage Park, Castlemaine Diggings National Heritage Park should be retained given the unique values and the provision for mining activity.

New Recreation and Conservation Park categories

The Coastal Park, Regional Park, Metropolitan Park and Forest Park are categories that should remain. There appears little benefit in combining these categories as proposed given their different legislative basis under the National Parks, Crown Land Reserves and Forest Acts. If consolidation of categories is to proceed, the term 'Regional Park' is preferred for metropolitan, forest and regional parks.

National Parks Act Schedule 3 parks could be categorised as either Coastal park, Historic reserve or Regional park.

- Recreation park as a name is not supported. It is too narrow a description for the required balance of providing for recreation but also conserving ecological and cultural values.
- Conservation park as a name is not supported. It is too narrow a description for the range of uses and activities. Parks with high conservation value should either remain Coastal park or National Park for areas under Schedule 3 of the National Parks Act.

Other Land Categories

- Historic parks and Historic and cultural features reserves could be categorised as Historic reserve as proposed.
- Nature conservation reserves and Natural feature reserves could be categorised as Nature reserve, Natural feature reserve and Community use reserve as proposed.

- Water Frontage, Bed and Banks should be considered to remain as Stream frontage.
- Coastal reserve could be categorised as Natural feature reserve and Community use reserve as proposed, or coastal park where of sufficient size and environmental value.
- No mention of Education Areas - the confusion around the regulations around these has been an issue. A number of existing categories are not identified in the paper, specifically the majority of “public purpose” reservation types identified in section 4 of the *Crown Land (Reserves) Act 1978*, and hence no direction on how these would be treated under the proposed changes and potentially converted over time.
- Other categories that have been omitted include categories presently ‘created’ under the Wildlife Act (Wildlife Cooperative Management Areas, State Wildlife Reserves)

Coastal waters

The reservation of Victoria’s marine waters (outside of marine protected areas and aquaculture areas) as Coastal waters was recommended for the purposes of better capacity to manage emerging issues and proposals through regulation. This report should provide clear guidance for the current Marine and Coastal Act process. In addition, this contributes to the government accepted recommendation in the Environment Conservation Council Marine Coastal and Estuarine Investigation ‘(R12) A Coastal Waters Reserve be established for the major portion of Victoria’s marine area’ is implemented. A specific action should be added into R3.

2. Legislative reform

R2 Legislation be amended in the short term and new legislation established within five years to reflect the recommended revised system of public land use categories, to streamline implementation of government accepted recommendations, and to improve management effectiveness.

As for the earlier stages of the VEAC process Parks Victoria is supportive of legislative reform to streamline Crown land legislation.

Parks Victoria supports the legislative reform process to improve and streamline Crown land legislation. Parks Victoria is progressing reform to the legislation and governance under which it operates through the Strengthening Parks Victoria process with DELWP and Government. The need for legislative reform of the Parks Victoria Act must be recognised in recommendations (R2, R9 and R10) i.e. to ‘undertake reform of National Parks Act and Crown Land Reserves Act legislation taking into account legislation to reform the Parks Victoria Act and other tenure Acts for entities that manage public land’.

Potentially the Strengthening Parks Victoria process will provide amended legislation prior to this timeframe.

R3 The Crown Land (Reserves) Act be amended as follows:

a) amend the purposes in section 4 (1) to align with the revised and simplified system of public land categories	Support this recommendation subject to points raised in R2
(b) align the 1300 or so historical reservation purposes to the	Support this recommendation.

purposes of revised public land categories through a schedule that replaces them with the purposes of the relevant revised category	A schedule for particular purposes (and objects) will be clearer for governance and management.
(c) remove the distinction between temporary and permanent reservation, retaining a parliamentary role for revocations of land in revised categories of nature reserves, natural features reserves, recreation parks and coastal land in any category	<p>Support this recommendation for removing the distinction between temporary and permanent reservation subject to points below:</p> <p>The parliamentary role needs to consider carefully the criteria for determining which types of revocations i.e. in part or in full, and the land categories for which parliamentary involvement is necessary.</p> <p>The application of this recommendation is dependent on rigorous due diligence process for reserve establishment which has not always occurred. Where it has not occurred DELWP and Parks Victoria are often involved in complex issue resolution that would be more complicated if legislation is required for each tidy up excision. Refer also R7.</p>
(d) where land is reserved in accordance with a government-accepted LCC/ECC/VEAC recommendation, provide for the creation of the reserve to have the effect of removing the underlying land status including permanent reservations, government roads and reserved forest	<p>Support this recommendation.</p> <p>Consolidation of parks and reserves into one land tenure so that the whole of each park is administered under one Act. At present some parks/reserves have multiple land tenures causing management difficulties, confusion with compliance, and overly complex administrative burdens.</p>
e) reduce the complexity and improve consistency and transparency associated with leasing and licensing by aligning Ministerial approval processes and parliamentary scrutiny to appropriate revised land categories	<p>Support this recommendation.</p> <p>Support amendments, however the paper only briefly considers the different legislative processes involved and it is not clear how these would be treated under the proposed changes. Currently only relates to specific types of Crown land reserved under section 4 of the <i>Crown Land (Reserves) Act 1978</i> for “public parks and gardens”, “ecological significance” historic significance” etc.</p>
f) ensure that legislation can provide for the issue of short-term licences and permits for up to 3 years directly by committees of management for uses that are not inconsistent with the purpose of the reserve or not to the detriment of the reserve	<p>Support this recommendation.</p> <p>Currently requires a Governor in Council process to enable direct licences by a committee of management. Guidance should be provided by DELWP regarding how this would be appropriately governed.</p>
(g) provide for staged transition of trusts managing restricted Crown grants to a modern legal and governance framework such as a committee of management	<p>Support this recommendation.</p> <p>The committee of management system has been under review by DELWP for a number of years, as it is recognised that it does not provide the extent of powers and governance required for Crown land management.</p>
(h) remove the three year limit to appointment terms for committees	Support this recommendation.

of management incorporated under section 14A of the Act.	Require committees to be competency based reflecting the skills required for sound governance.
Add a recommendation –A specific action should be added into R3 for Coastal waters to provide guidance for the Marine and Coastal Act process	The reservation of Victoria’s marine waters (outside of marine protected areas and aquaculture areas) as Coastal waters would provide better capacity to manage emerging issues and proposals through regulation. This report should provide clear guidance for the current Marine and Coastal Act process. In addition, this contributes to the government accepted recommendation in the Environment Conservation Council Marine Coastal and Estuarine Investigation ‘(R12) A Coastal Waters Reserve be established for the major portion of Victoria’s marine area’ is implemented.

R4 Associated with the Crown Land (Reserves) Act amendments in R3, the Wildlife Act be amended to remove requirement for further classification of areas reserved under the Crown Land (Reserves) Act.

Parks Victoria supports this recommendation.

The current requirement provides added complexity regarding any commercial agreements on the site.

R5 Standard regulations be developed for each public land category in the revised system, together with amendments to the Crown Land (Reserves) Act that provide a simplified means to revoke any existing regulations when new regulations are made.

Parks Victoria supports the recommendation for standard regulations subject to the points below:

The current issue for on-ground management is the many areas that are not formally reserved, meaning regulations cannot be made, creating issues for visitor management and enforcement. This is particularly important for regulating use of popular visitor sites, whether formal or informal, including camping areas.

Refer also to Rec 7.

Ideas that should be investigated:

- amending the Land Act to enable regulations to be made under the Land Act for Government approved LCC/ECC/VEAC recommended areas. If possible this would enable regulations to apply to land without the need to wait until reservation which is time and resource intensive
- further require all Regulations for crown land to be subject to the Subordinate Legislation Act i.e. not be Ministerial Regulations and be subject to review every 10 years; and
- address the inconsistent powers between NP Act and CLR Act. Need to be able to regulate the “carrying on a trade or business” within a park which is currently only possible to regulate through making regulations requiring a permit to “occupy land or facilities”.

R6 The Land Act and the Forests Act be amended to provide for all state forest to be administered under one Act and be reserved under a single land tenure with provisions similar to those currently applying to reserved forest.

Parks Victoria supports this recommendation subject to the point below:

Clarification of any impacts arising from the proposed amendments on Park Victoria existing delegated powers from the Minister and Secretary relating to the issuing of permits, licences and LTOs under the *Forests Act 1958*.

R7 Office of Surveyor-General Victoria consider ways to simplify preparation of gazettal plans for reserves that are created to implement government-accepted LCC/ECC/VEAC recommendations.

Parks Victoria supports this recommendation subject to the points below:

A simplified process for the gazettal of reserves is supported. However there are steps that need to mitigate risks that Parks Victoria is expected to manage land that has not been through due diligence process - 1) the process of boundary identification to ensure that issues such as encroachments or occupations are dealt with; 2) that gazettal of reserves does not assume the determination of the land manager i.e. DELWP are the default Crown land manager; and 3) a due diligence assessment process is undertaken for any land proposed to be assigned to PV management (as per PV/DELWP process for assignment of land to PV management).

Ideas for office surveyor general to consider:

- using electronic desktop system that is capable of rapid modification for changes to reserves e.g. ambulatory boundaries through accretion and/or correction of errors.
- further detailing of Crown land area including the provision of survey plans for all commercial agreements granted in line with previous Land Victoria advice regarding lease registration.
- a streamlined and simplified program for dealing with land swaps, the acquisition of inliers, and identifying unwanted land when it is the interests of the Crown.

R8 Land in Aboriginal title and public land under joint management be designated through a legislated 'Aboriginal land' public land overlay.

Support this recommendation to designate Aboriginal Land but not to show it as a public land overlay.

In recognition of the fact that Aboriginal title and joint management arrangements are not currently acknowledged in the classification system, the proposed new category of *Aboriginal Land* is welcomed. However, Aboriginal title is a grant in fee simple (i.e. freehold), and notwithstanding all the caveats, constitutes ownership. It is therefore not appropriate to define *Aboriginal Land* as a public land overlay, but a more definitive or differently described land category.

R9 Within five years, new protected area legislation be developed based on the existing National Parks Act, or by amendments to that Act, to include revised categories of national parks, conservation parks, nature reserves, marine protected areas, and other categories and overlays classified as protected areas.

Parks Victoria supports the legislative reform process to improve and streamline Crown land legislation. Parks Victoria is progressing reform to the legislation and governance under which it operates through the Strengthening Parks Victoria process with DELWP and Government. The need for legislative reform of the Parks Victoria Act must be recognised in recommendations (R2, R9 and R10) i.e. to 'undertake reform of National Parks Act and Crown Land Reserves Act legislation taking into account legislation to reform the Parks Victoria Act and other tenure Acts for entities that manage public land'.

R10 Within five years, new land legislation be developed to replace the current Land Act and Crown Land (Reserves) Act.

Parks Victoria supports the legislative reform process to improve and streamline Crown land legislation. Parks Victoria is progressing reform to the legislation and governance under which it operates through the Strengthening Parks Victoria process with DELWP and Government. The need for legislative reform of the Parks Victoria Act must be recognised in recommendations (R2, R9 and R10) i.e. to 'undertake reform of National Parks Act and Crown Land Reserves Act legislation taking into account legislation to reform the Parks Victoria Act and other tenure Acts for entities that manage public land'.

3. Priorities for further assessment or review

R11 Public land use in the following Victorian regions with clusters of endangered EVCs be assessed for their potential to improve the representativeness of the protected area system:

- (a) South west region (includes Glenelg Plain, Dundas Tablelands, Wimmera (south), Warrnambool Plain and Victorian Volcanic Plain (west) bioregions)
- (b) Strzelecki Ranges and Gippsland Plains bioregions
- (c) Central Victorian Uplands and adjoining bioregions.

In addition to the above priority areas VEAC could consider:

The adequacy of the Marine Protected Area system in meeting Comprehensive, Adequate and Representative principles given the extensive increase in habitat mapping and ecological knowledge gained since the creation of the system in the early 2000's.

Review of the biodiversity values of bushland reserves, natural features reserves and NCRs to determine if reserves should be reclassified based on biodiversity values.

R12 Following a review of the number and types of coastal reserves outside the protected area system, reserves with high environmental, social and economic value be identified and values at risk from the impacts of climate change be identified, as specified in the Victorian Coastal Strategy 2014.

Parks Victoria supports this recommendation.

R13 Review values, uses and appropriate land category for State forest where commercial harvesting of sawlogs has ceased.

Parks Victoria supports this recommendation.

This would have implications for Parks Victoria if areas were to transfer to its management. It should be part of a regular review of land uses and management determined accordingly.

R14 An inventory of road and rail reserves be developed and significant native vegetation values mapped as outlined in recommendations R4 and R5 of VEAC's Remnant Native Vegetation Investigation (2011), and a similar inventory be compiled for riparian public land and linear coastal reserves outside the protected area system.

Parks Victoria supports this recommendation.

The proximity of Aboriginal cultural values to waterways should also be in scope as a very high percentage of what's recorded in the Aboriginal Heritage Registry is located within 500m – 1km of a waterway in Victoria.

R15 An inventory of state government-owned freehold land be undertaken to identify distribution and extent, ownership, and values and uses; and a register be compiled and maintained.

Parks Victoria supports this recommendation.

In addition, land so identified with high conservation and/or recreation value should be considered for returning to Crown land.

4. Improved information and information systems

R16 Crown land information systems be consolidated, modernised and redeveloped.

Parks Victoria strongly supports the consolidation of Crown land database and systems to provide for a single point of truth. The following points should be considered:

- consistency should be paramount for change and implementation of a new data model and data workflow, with Parks Victoria to have direct access to the system.
- up-to-date linked systems that show if LCC recommendations have been accepted and implemented and be available publicly similar to the State planning system.
- broader access to a version of DELWP's Crown land manager mapping system for all committees of management and other government mapping systems, and consistent customer relationship management systems between government entities and potentially committees of management.

R17 A range of spatially referenced information products be developed for the public on activities on public land.

Parks Victoria supports this recommendation.

This recommendation is consistent with the Parks Victoria Spatial Strategy for 2016-2019. Existing databases such as asset and visitor experience will be part of the data model in addition to park regulations and set-aside determinations in a proposed spatial database. Parks Victoria is willing to be the owner of information products and spatial data for activities in PV managed land.

R18 Spatial information on all government accepted LCC/ECC/VEAC public land use recommendations continue to be verified and maintained by VEAC, and their status be periodically formalised.

Parks Victoria supports this recommendation.

Support as a performance monitoring tool with information or data updates provided to land managers.

5. Supporting community-based committees of management

R19 Community-based committees of management be supported with a system of regional coordinators located in DELWP.

Parks Victoria supports this recommendation.

Consideration should be given to rationalising the governance cost of Committees of Management by having far fewer but larger CofM, by for example amalgamation of small CofM areas with local government and/or existing agencies.

Given the acknowledgment that community-based committees contribute to public good outcomes, are under resourced and need to be supported, it would seem reasonable to include the need to develop an appropriate and sustainable business model for joint management, beyond the current governance support for Traditional Owner Land Management Boards through settlement agreements.

6. Further commentary on the discussion paper

Discussion paper (2.4.3 Land in Aboriginal title)

- It states in this section that “the grant of Aboriginal title operates similarly to principles of hand back/lease back...”. The hand back principle is correct but the lease back principle is not – the state does not pay any lease for the rights transferred back to it once title is granted.
- It also states that “[the grant of Aboriginal title] provides for areas to effectively remain public land despite granting an underlying form of Aboriginal title...”. This is a more accurate way of describing it, with the underlying ownership vesting with Traditional Owners. This is a very important distinction to make so that the hand back is seen to be more than symbolic, and is delivering on the intent of the Traditional Owner Settlement Framework to achieve land justice.

Discussion Paper (Section 2.4.5 Subterranean land and submerged land)

- This does not consider the “unreserved Crown land” which is submerged land that has recognised uses and management including local port management functions under the Port Management Act 1995 or waterway management functions under the Water Industry Act 1994.

Discussion paper (5.4.7 Licenced uses and leases of Crown land and Appendix 13)

- Note that the data is not complete.
- It does not incorporate Parks Victoria commercial agreement revenue, or potentially any revenue generated by other committees of management of Crown land, and appears to be limited to mainly DELWP tenures. Incorporating other commercial agreement information, including revenue and capital investment committed under agreements, would provide a truer representation of the value provided.