

Victorian Government Response

to the Victorian Environmental Assessment
Council's Assessment of Victoria's Coastal
Reserves Final Report



Photo credit (cover page)

San Remo Coastal Reserve, Victoria.

Matthew Browne

Acknowledgment

We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

We are committed to genuinely partner, and meaningfully engage, with Victoria's Traditional Owners and Aboriginal communities to support the protection of Country, the maintenance of spiritual and cultural practices and their broader aspirations in the 21st century and beyond.



© The State of Victoria Department of Environment, Land, Water and Planning 2021



This work is licensed under a Creative Commons Attribution 4.0 International licence. You are free to re-use the work under that licence, on the condition that you credit the State of Victoria as author. The licence does not apply to any images, photographs or branding, including the Victorian Coat of Arms, the Victorian Government logo and the

Department of Environment, Land, Water and Planning (DELWP) logo. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>

ISBN 978-1-76105-411-2 (pdf/online/MS word)

Disclaimer

This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication.

Accessibility

If you would like to receive this publication in an alternative format, please telephone the DELWP Customer Contact Centre on 136186, email customer.service@delwp.vic.gov.au or via the National Relay Service on 133 677 www.relayservice.com.au. This document is also available on the internet at www.delwp.vic.gov.au.

Introduction

The Victorian Environmental Assessment Council's (VEAC) *Assessment of Victoria's Coastal Reserves Final Report* was tabled in Parliament on 18 June 2020. This is the Victorian Government's response as required by section 26G of the *Victorian Environmental Assessment Council Act 2001*.

Background

VEAC commenced the Assessment of Victoria's Coastal Reserves on 3 June 2018. The purpose of the assessment was to:

- review the number and types (reservation status) of coastal reserves in Victoria;
- identify reserves with high environmental, cultural heritage, social and economic values and identify values at risk from the impacts of climate change;
- identify current and emerging uses of the coastal reserves; and
- compile an inventory, including spatial distribution, of values and uses of the coastal reserves.

The technical assessment collated and analysed information to assist the Victorian Government's administration, future planning and decision making for the coast. The assessment was not intended to review public land categories or recommend changes to current uses. In its final report VEAC made recommendations on ways to assist planning and management effectiveness covering the following topics:

- clarifying shoreline law;
- improving the alignment of Crown land parcels with public land use recommendations, management arrangements, and ambulatory boundaries;
- improving the transparency and accessibility of Crown land information; and
- developing decision support tools and management advice for coastal reserve managers.

VEAC's assessment and coastal public land management in Victoria

VEAC initiated its assessment by establishing a technical definition of coastal reserves in consultation with key stakeholders. Based on this definition the assessment determined coastal reserves comprise approximately 30 percent of the Victorian coastline (including islands and the foreshore of bays, inlets and the Gippsland Lakes), made up of 21,455 hectares on the coast and 40,315 hectares in the Gippsland Lakes.

VEAC undertook a systematic analysis of the diverse values of coastal reserves. The assessment considered values under the themes of geophysical environment, biodiversity, Aboriginal values and interests, Non-Aboriginal cultural heritage, resource uses and licenced occupations, tourism and recreation, and coastal development. The assessment also considered trends and emerging uses of coastal reserves to understand drivers of change and possible threats to these values. When considered alongside existing pressures, climate change, population growth and ageing infrastructure were considered the key threats to coastal reserve values.

The assessment considered climate change in the context of coastal reserves in substantial detail and assessed values at risk under projected climate change scenarios. VEAC's final report concluded that values in most coastal reserves will be impacted by climate change by 2100, if not sooner. These changes are anticipated to vary in the spatial distribution and rate they occur, with VEAC offering a range of indicators to monitor at a local level and likely impacts to be aware of when planning and managing coastal reserves.

VEAC's assessment found most coastal reserves are either temporarily or permanently reserved for 'public purposes' or 'protection of the coastline'. A small number are deemed to be reserved (acquired Crown land, either surrendered from freehold ownership or purchased, and temporarily reserved for 'public purposes'), or reserved as government roads. Approximately 1258 hectares of public land that meets the coastal reserve definition remains unreserved. The assessment highlighted the complexity and inconsistencies of the legislative foundations underlying coastal reserves and sometimes ambiguous or obsolete purposes for which they have been reserved. Feedback received by VEAC during consultation indicates this can create uncertainty for how these areas should be managed and developed.

Land managers of coastal reserves include the Department of Environment, Land, Water and Planning (DELWP), Parks Victoria, local governments, other government departments and agencies, and committees of management. VEAC's assessment found the quality of information about management arrangements was inconsistent, difficult to obtain, and sometimes unreliable. This inconsistency in information was further exacerbated by the disconnect between Crown land parcels and areas of management responsibility, with some Crown land parcels having multiple land managers appointed to them.

VEAC outlined ways Aboriginal Victorians can seek formal recognition of their interests and rights in the coastal environment, through the *Native Title Act 1993* (Cth), Victoria's *Traditional Owner Settlement Act 2010* and the *Victorian Aboriginal Heritage Act 2006*. VEAC recognised institutional barriers have historically limited the opportunities available to Traditional Owners for planning and managing land and sea Country. VEAC endorses the contemporary Victorian Government's emphasis on a self-determination approach to facilitate greater Traditional Owner participation and decision making for marine and coastal areas, through Victoria's *Marine and Coastal Policy 2020* and other initiatives.

VEAC prepared an online inventory of coastal reserve values, uses, and climate change risks to assist future land use planning and management, in accordance with the terms of reference for this assessment. The inventory is available at VEAC's website: <http://www.veac.vic.gov.au/>.

Coastal reserves are exposed to and modified by the elements, intensely used and highly valued for social, cultural and economic purposes, and can support significant ecological communities. VEAC's assessment found that management of these inherently complex areas is made more challenging by a lack of clarity in the formal land status and reservation purposes of many coastal reserves, uncertainty about the legal implications of coastal processes interacting with land titles, and spatial information that hasn't kept up with either shifting topography or land management needs. VEAC also identified key areas where the government could provide greater support to land managers through a range of decision support tools and management advice. VEAC's recommendations reflect these findings.

The government acknowledges the range of stakeholder and community input that has informed VEAC's final report.

Victorian Government response to VEAC's recommendations

The Victorian Government **accepts** or **accepts in principle** all of VEAC's recommendations in the *Assessment of Victoria's Coastal Reserves Final Report*.

Several policies and initiatives have shaped the government's response to VEAC's recommendations. These include:

- the *Marine and Coastal Policy* (2020) and the Marine and Coastal Strategy (due to be released in 2021);
- the initiative to renew Victoria's Crown land legislation to better support community use of public land, while ensuring public land values are protected for current and future generations; and
- the ongoing program of work to improve Crown land information systems and the definition of Crown land parcels.

Many of the technical and administrative issues raised through VEAC's assessment apply broadly to all public land, not just those areas on the coast. Some of these issues are being considered through the current initiative to renew Victoria's public land legislation (a project initiated in response to VEAC's 2017 *Statewide Assessment of Public Land Final Report*).

Similarly, the timing of VEAC's final report coincides with a period of reform in marine and coastal policy and management following the enactment of the *Marine and Coastal Act 2018*. Initiatives within the *Marine and Coastal Policy* and the Marine and Coastal Strategy have either independently identified and responded to the issues raised by VEAC or can readily incorporate its recommendations.

In line with the objectives of the *Victorian Aboriginal Affairs Framework 2018-2023* the Victorian Government is committed to advancing Aboriginal self-determination, including through partnering with Traditional Owners in public land management.

Recommendations and government responses

Purposes of coastal reserves

Recommendation 1:

New or amended legislation specify purposes for coastal reserves based on government-accepted recommendations for the category in the Statewide Assessment of Public Land (2017).

The government accepts this recommendation in principle.

In 2017 the *Victorian Government Response to VEAC's Statewide Assessment of Public Land Final Report* accepted in principle VEAC's recommendation to incorporate revised public land categories in legislation (recommendation R1). The government supports including public land categories and associated purposes recommended by VEAC in legislation, subject to any necessary minor refinements. This will simplify the legislation, better support land managers and allow the public to more easily understand management objectives and permitted activities.

The government intends that the new system of public land categories will include a category of 'coastal reserve' with associated purposes.

DELWP is currently working on developing renewed public land legislation for Victoria, including incorporating clear public land categories in legislation.

Implementation

DELWP is responsible for implementing this recommendation.

Government-accepted coastal reserve recommendations

Recommendation 2:

- a. Crown land legislation reforms or other legislative processes be utilised to:
 - i. formalise government-accepted recommendations for coastal reserves (and foreshore reserves) and Gippsland Lakes Reserve (noting the exclusion of any areas formally set aside subsequently for other uses such as state game reserves, nature reserves, recreation reserves), and
 - ii. revoke remnant portions of 'protection of the coastline' reserves from low water mark offshore where the area landward of low water mark was incorporated into a park under the National Parks Act and incorporate the revoked area into the coastal water reserve.
- b. For any areas used as coastal reserve that do not have LCC/ECC/VEAC government-accepted recommendations a process be established to assess these areas for reservation as coastal reserves and this assessment specifically includes:
 - i. beds of the Gippsland lakes,
 - ii. unreserved coastal Crown land
 - iii. land deemed reserved or transferred to the Crown, and
 - iv. unused and unmade government roads (or parts thereof) abutting the coastline.

The government accepts this recommendation.

The government accepts recommendation R2(a). Implementation of government accepted recommendations will provide legislative, regulatory and administrative clarity and certainty with respect to the management of those areas of public land for which recommendations have not been formally implemented. Further, it will align with the obligation under section 26A of the VEAC Act to implement the recommendations of a VEAC investigation to the extent that they have been accepted in a government response. The current backlog of unimplemented government-accepted recommendations for public land, including coastal reserves, reflect the resource-intensive administrative and technical requirements to process land use recommendations through to formal reservation under current legislation.

As noted in the response to recommendation R1, revised public land categories and associated purposes are proposed to be incorporated into the renewed public land legislation. The transition to the new simplified categories will provide a streamlined opportunity to formally implement LCC/ECC/VEAC government-accepted recommendations.

In response to recommendation R2(b), the government accepts that areas used as coastal reserves that do not have LCC/ECC/VEAC government-accepted recommendations need to be assessed and categorised to support the most appropriate uses of these areas. The renewed public land legislation will include a simplified process to categorise public land which will support the outcomes of such assessments.

Any change to public land reservations/categorisations will not impact on the rights of Traditional Owners.

Implementation

DELWP is responsible for implementing this recommendation, in consultation with relevant government departments and agencies.

Extend coastal reserves offshore

Recommendation 3:

Consideration be given to extending coastal reserves 200 metres offshore from low water mark in locations where the shoreline currently forms an ambulatory boundary with offshore unreserved Crown land categorised as coastal water reserve.

The government accepts this recommendation.

The government acknowledges the potential uncertainty associated with managing and regulating coastal reserves with ambulatory boundaries and agrees that consideration of the benefits and implications of extending coastal reserve boundaries offshore is worthwhile on a case by case basis.

Local circumstances will need to be considered when implementing this recommendation in particular locations. Recreational and commercial fishing would not be affected by any changes to reserve boundaries resulting from implementing this recommendation.

Implementation

DELWP is responsible for implementing this recommendation, in consultation with other departments.

Clarify shoreline law

Recommendation 4:

Consideration be given in the current reform of land legislation to codifying the law relating to ambulatory coastal boundaries

The government accepts this recommendation in principle.

The government acknowledges that ambulatory coastal boundaries are a source of uncertainty for land managers, landowners and other stakeholders. The government will consider options to provide greater certainty around this issue, including but not limited to legislation.

Implementation

DELWP is responsible for implementing this recommendation, including consultation as required.

Improve alignment of Crown land parcels to uses, management and the shoreline

Recommendation 5:

In parallel with recommendation R2a, a program be undertaken to align Crown land parcel boundaries with:

- a) government-accepted public land use recommendations for coastal reserves
- b) management arrangements, particularly in townships, across municipal boundaries and in the Gippsland Lakes, and
- c) the shoreline, particularly where parks or reserves are defined by an ambulatory boundary such as high water mark or low water mark, and in the Gippsland Lakes.

The government accepts this recommendation in principle.

The government agrees that Crown land boundaries should align with government-accepted recommendations, management arrangements and shoreline ambulatory boundaries, as this brings benefits to the administration, planning and management of coastal reserves and assists in the provision of accurate and definitive information to stakeholders and the community. Further consideration will be given to the most effective means to more clearly define these boundaries.

Land Use Victoria has an ongoing program to improve the definition of Crown land parcels. Realignment and the creation of new Crown land parcel boundaries requires reliable and accurate data, typically being cadastral surveys performed by licensed surveyors. Any acceleration of this resource-intensive work is subject to funding.

Implementation

DELWP is responsible for implementing this recommendation.

Improve transparency and accessibility of Crown land information

Recommendation 6:

Improve public access to Crown land reservation details including purpose for coastal reserves including areas transferred to the Crown and deemed reserved under section 5 of *Crown Land (Reserves) Act 1978*.

Recommendation 7:

Ensure detailed spatial information on coastal reserve management responsibilities are made publicly available.

Note: consider making this information available for all coastal public land.

The government accepts recommendations 6 and 7.

The government notes that providing clear information on Crown land reservation statuses can be complex. Improving public access to this information will benefit stakeholders and the community.

As noted in the response to recommendation R1, reforming the public land legislation will provide an opportunity to clarify the current complex array of land statuses and reservation purposes by implementing a simplified system of public land categories. Each land category will have associated, clear purposes, which will guide land managers in the day-to-day management of the land. The land categorisation system will apply to those areas deemed to be reserved under the *Crown Land (Reserves) Act 1978* and will clarify the legal status of public land, which will support the improvement of spatial information about management responsibilities.

Implementation

DELWP is responsible for implementing this recommendation.

Recommendation 8:

Coastal and Marine Management Plans prepared under the *Marine and Coastal Act 2018* be required to include the following:

- a) Crown land reservation status and purpose, and
- b) current LCC/ECC/VEAC government-accepted public land use recommendations.

Note: Any existing plans should be made publicly available.

The government accepts this recommendation.

The government supports including Crown land information in coastal and marine management plans to facilitate greater access to and awareness of this information. The guidelines for developing coastal and marine management plans under the *Marine and Coastal Act* will include a requirement to include reservation status, purposes and government accepted recommendations.

Implementation

DELWP is responsible for implementing this recommendation.

Decision support tools and management advice

Recommendation 9:

Coastal reserve managers be supported with guidance and decision-making tools to assist with:

- a) asset management, particularly for coastal protection structures
- b) assessing competing values and uses
- c) defining uses that are functionally dependent on being located on marine and coastal Crown land
- d) clarifying approval processes for uses in coastal reserves and the role of the *Marine and Coastal Act* in relation to the *Crown Land (Reserves) Act* being the primary mechanism for licensing and leasing in coastal reserves
- e) how to manage risks and prepare for future climate change impacts.

The government accepts this recommendation.

The government acknowledges that management decisions for coastal reserves are often complex and subject to close community and stakeholder interest. The government agrees that coastal reserve managers should be supported with guidance and decision-making tools to assist them with these management decision processes. Statewide guidance is provided through the *Marine and Coastal Policy 2020*, and the government is developing a *Marine and Coastal Strategy* (anticipated to be finalised in 2021) which will include actions to support land managers in implementing the policy. The government is also developing a range of best-practice tools and guidelines to meet the needs of coastal reserve managers. These include:

- Siting and Design Guidelines for Structures on the Victorian Coast (complete)
- Guidelines for the Management of Existing Bathing Boxes and Boatsheds on Marine and Coastal Crown land (in development)
- Coastal and Marine Management Plan Guidelines (in development)
- Guidance material to support introduction of *Marine and Coastal Act* regulations (to be developed)
- Guidelines for supporting use of the Victorian Coastal Adaptation Framework (to be developed)

The government will use the issues highlighted by VEAC in recommendation 9 to inform the development of further tools and guidance as part of the *Marine and Coastal Strategy* and future coastal policy initiatives.

Implementation

DELWP is responsible for implementing this recommendation.