

Realising the value of Victoria's public land

Renewing Victoria's public land legislation



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.



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Minister's foreword

Public land is of great importance to all Victorians. From parks and forests to local sports fields and recreation reserves, public land supports Victorians' physical, social, and cultural wellbeing and Victoria's liveability.

Public land allows us to spend time in the great outdoors, provides us with opportunities for recreation, and protects our natural environment. It provides valuable resources and supports other activities that contribute to Victoria's economy, including tourism. Public land also supports the government to deliver services to Victorians, including education, health, and transport.

Connection with land and waters is fundamental to Traditional Owners' identity and culture, and public land has a critical role in this. The Victorian government has committed to enabling self-determination for Traditional Owners and other Aboriginal Victorians, including in relation to land, water, and heritage rights.

Realising and protecting the value of Victoria's public land is a key priority for this Government. In addition to supporting Traditional Owners' self-determination, public land can assist communities' recovery from crises, and their ongoing resilience, for example, through initiatives that assist regional economies by creating opportunities for nature-based tourism, or that enable the reuse of historic buildings by local communities.

Given the great significance of Victoria's public land to the whole community, it is essential that the management of this important asset is supported by modern legislation that recognises and reflects its value.

Victoria's public land legislation needs renewing and modernising to bring it into the 21st century, and the government has committed to doing this. The proposed reforms will not change any current land uses; however, we are improving the framework through which public land can be managed effectively for the benefit of the whole community into the future. This will:

- enable Traditional Owners' self-determination in relation to public land, including providing greater opportunities for Traditional Owners to manage public land and apply their cultural knowledge and practice
- introduce a new Public Land Act to support communities to realise the value of public land—for example, through streamlined processes for granting tenures and other approvals, guided by clear principles and subject to proportional checks and balances to ensure appropriate use of public land, and assisting regional economies by enabling appropriate use of public land
- provide appropriate tools to support the management of public land, including responding to future emergencies and crises, such as enabling the effective closure of public land to ensure the safety of the community in an emergency.

Importantly, any reforms to the legislative framework will continue to support the government's commitment to managing bushfire risk in a way that is integrated with public land management. A separate review process is currently underway to review the legislative framework for fuel management to enable more effective planning and delivery of bushfire management across different land tenures, and any reforms arising out of this will be integrated into the renewed public land legislation.

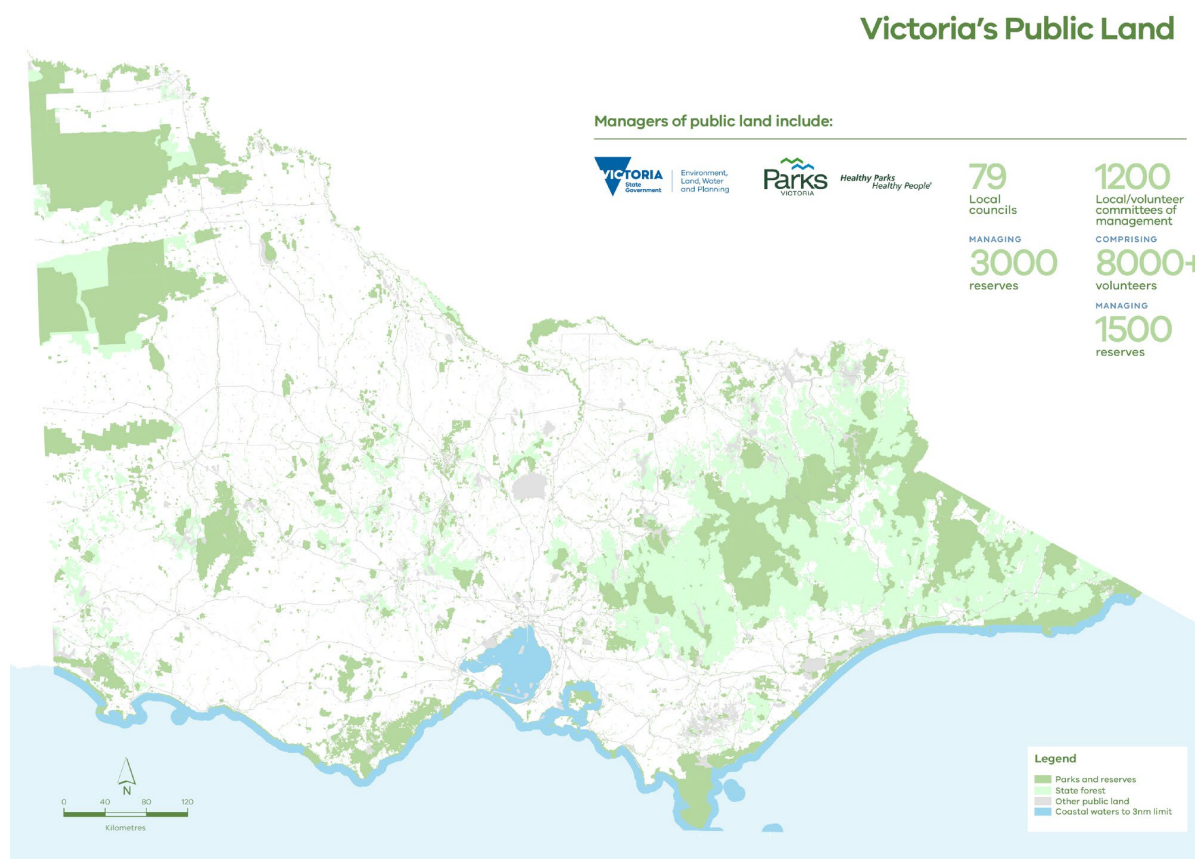
We invite submissions on the proposed directions for renewing and modernising Victoria's public land legislation. Your important contributions will help shape the final proposals that will be incorporated into the legislation. Thank you to all those who contribute to this submission process.

The Hon. Lily D'Ambrosio MP

Minister for Energy, Environment and Climate Change

Renewing Victoria's public land legislation

Victoria's public land (including marine areas) covers approximately 9 million hectares, or nearly 40 per cent of the state. It is a vital community asset that supports Victorians' physical, social, and cultural wellbeing and Victoria's economic prosperity and liveability. This land is of fundamental importance to its Traditional Owners.



However, despite this, much of Victoria's current public land legislation is outdated and does not reflect contemporary views and values of public land. It is also complex and does not adequately support efficient and effective public land management. While some of the key Acts, the *Crown Land (Reserves) Act 1978*, *Forests Act 1958* and *Land Act 1958* were enacted 50 to 70 years ago, many of their provisions date back even earlier, as long ago as the 1800s. This means that many of their provisions reflect the priorities of the time in which they were drafted—settlement, alienation, occupation, or use—rather than contemporary views of public land as a vitally important community asset. They also do not recognise the Traditional Owners of Victoria's public land.

The government has committed to developing a new Public Land Act to replace these Acts and better support the management of a variety of public land. The new Public Land Act will operate alongside the *National Parks Act 1975*, which will be retained with some modernisation. This paper sets out the government's proposals to implement these reforms.

Renewing Victoria's public land legislation will ensure that it:

- enables Traditional Owners' self-determination in relation to public land
- supports communities to realise the value of public land through the appropriate use of public land
- provides appropriate tools to support the management of public land, including responding to future emergencies and crises to ensure community safety on public land.

Supporting Traditional Owners' self-determination

What is now Victoria's public land was owned and cared for by Traditional Owner groups for thousands of generations prior to European colonisation. Traditional Owners managed the land through a deep spiritual understanding of the environment and strong cultural practices.

The process of colonisation in Victoria irrevocably changed the lives of Victoria's Traditional Owners, with effects still being felt today. Victoria's earliest public land legislation sought to promote the sale of public land for its use for the Colony, without the consent of its Traditional Owners. The current Crown land Acts derive from this past.

The Victorian government has committed to enabling self-determination for Traditional Owners and other Aboriginal Victorians, including in relation to land, water, and cultural heritage rights. The reform of Victoria's public land legislation is an opportunity to enable Traditional Owners' self-determination by reframing the legislation and addressing key gaps and limitations in Victoria's public land legislation that currently limit this.

From an initial review of the legislation, and discussions with Traditional Owners to date, some of the key issues with the current public land legislation relate to limitations in Traditional Owners' opportunities to manage public land, and a lack of formal mechanisms to allow Traditional Owners to incorporate cultural knowledge into public land management. The current Crown land Acts also do not adequately recognise Traditional Owners.

The table below sets out proposals to address these issues, which will be finalised in partnership with Traditional Owners. These would sit within the broader framework for recognising and protecting Traditional Owners' rights, including through the *Traditional Owner Settlement Act 2010*.

Current gaps and limitations	Proposals to support Traditional Owners' self-determination
Insufficient recognition of Traditional Owners	The renewed legislation would include guiding objectives and principles to promote Traditional Owners' self-determination and recognise Traditional Owners' knowledge of, and rights and interests in, public land management: see Appendix A. New public land management categories, and purposes for managing each category would be underpinned by a purpose relating to protecting Traditional Owners' rights and interests in public land: see Appendix B.
Lack of formal mechanisms to incorporate cultural knowledge and practice in land management	The renewed legislation would include a mechanism to formally recognise strategies and plans developed by Traditional Owners (e.g. Country plans). This could provide a formal means for Traditional Owners to incorporate their cultural knowledge into public land management—for example, through cultural burning.
Limitations in land management opportunities	The renewed legislation would enable a spectrum of land management opportunities for Traditional Owners, including improving the current arrangements that provide for joint management between Traditional Owners and the State, and overcoming legislative barriers that currently prevent Traditional Owners from being directly appointed as public land managers.

A New Public Land Act

Realising the value of public land

A new Public Land Act will assist in overcoming some of the barriers and issues posed by the current legislative framework, which dates back to the 19th century, is overly complex, inadequately aligned with public land values and risks, and insufficiently flexible to deal with emerging challenges and opportunities.

Issues and challenges posed by Victoria's current public land legislation

Public land users

Currently, people seeking approvals to use public land face significant processes that are disproportionate to any risk to public land values, and may add greatly to the time to grant approvals. The following are examples of such situations:

- A licence to operate a food truck in the car park of a public park is subject to a Parliamentary disallowance process, adding at least four to six weeks to the time in which the licence could be granted.
- A community group seeking permission to hold a short-term event in a community hall needs approval from the Minister or Minister's delegate.

Delivering projects and infrastructure

The complexity and inflexibility of the legislation makes it hard to deliver new projects and infrastructure, or accommodate new uses on public land, for example:

- Changing the use of land that is permanently reserved requires an Act of Parliament, even where this is disproportionate to the nature of the land, adding at least 12 months to its timing and significant costs.
- Delivering new infrastructure for the community, such as bike trails or electricity cables, can be complex and slow due to the many different underlying land statuses and multiple Acts under which Victoria's public land is currently managed, potentially requiring tenures or approvals under four or more Crown land Acts.

Equipping public land managers to meet modern challenges

A new Public Land Act will also provide appropriate tools to equip public land managers to meet modern challenges facing public land, including climate change, the increasing complexity of public land use, and the need to respond to and support recovery from emergencies that impact on communities, such as bushfires.

Ensuring public safety during emergencies

The significance and scale of the 2019–20 bushfire season, and the more recent response to the coronavirus (COVID-19) pandemic highlighted the need for clear, effective legislative tools to ensure public safety on public land during emergencies and crises.

A key aspect of responding to such situations is the need to close areas of public land when necessary for public safety reasons. However, because public land is currently managed under multiple different Acts, and powers to close various types of public land vary, this can be overly complex and time consuming, which poses particular difficulties during emergency situations.

The renewed public land legislation would include clear, consistent powers and procedures for responding in times of emergency and other crises, including facilitating public land closures in the interest of public safety. This will also bring greater clarity regarding powers, roles, and responsibilities for planning for such events, and for assisting with recovery.

The renewed public land legislation will also include a simplified framework for public land managers, including the approximately 1200 committees of management, local councils, and other statutory land managers, which are currently appointed and manage public land under multiple Acts. This will provide the Minister with appropriate powers to oversee, direct and support public land managers, assisting both in times of emergencies and in ensuring everyday public land management is as effective as possible.

Proposed framework for a new Public Land Act

To renew Victoria's current public land legislation, the Crown Land (Reserves) Act, Forests Act and Land Act will be consolidated into a new Public Land Act with the following elements:

- **a simplified legislative framework, with clear objectives for public land management and setting out public land management (decision making) principles** (see Appendix A)
- **simple and clear public land categories and accompanying purposes**, which, while not changing any current uses or protections of public land, will provide greater clarity about the purposes for which an area of public land should be managed and what activities can occur in those areas (see Appendix B)
- **a modernised public land manager framework** to ensure land managers have sufficient autonomy and direction (aligned with risk) to manage public land in the best interests of the community, as well as to facilitate greater opportunities for Traditional Owners to be involved in public land management
- **contemporary public land management tools** to provide for strategic and management planning and to support community involvement in the management of public land
- **a streamlined framework for tenures (e.g. leases and licences) and other authorisations** focused on enabling appropriate uses while protecting public land values (see Appendix C)
- **modernised compliance, enforcement, and regulation provisions** to better support public land managers in protecting public land values.

Modernising the National Parks Act

The current National Parks Act will continue to operate alongside the new Public Land Act, with some modernisation to ensure significant parts of Victoria's diverse natural environment continue to be protected in the most effective way, including:

- better recognising and supporting Traditional Owners' connections to and management of National Parks Act land
- refining park categories and category purposes (see Appendix B)
- modernising the compliance and enforcement framework to be consistent with the new Public Land Act
- making technical refinements to the Act so that it is easier to read and use.

There will be no changes to the permitted uses and levels of protection currently afforded to land managed under the National Parks Act.

Transitioning to the new legislation

The implementation of the new public land legislation will be supported by appropriate transitional arrangements.

The renewal of Victoria's public land legislation will not:

- change currently accepted land uses
- reduce the protection currently afforded to Victoria's protected areas or change the extent of Victoria's existing public land
- affect the current protections afforded to Traditional Owners' rights and interests, including procedural rights under the Traditional Owner Settlement Act and native title rights
- affect current tenures—these will be retained under their current terms and conditions and future tenures will be issued under the new or modernised legislation.

Next steps

You are invited to provide a submission in response to this paper. To make a submission please visit the website engage.vic.gov.au, where you will have the option to respond to a survey. Alternatively, you may provide written comments, or upload a submission. In doing so, you may wish to answer some or all of the questions set out in Appendix D.

The submission period is open from 8 April 2021 to 14 May 2021.

Feedback received during this submission period will be used to develop the new legislation, along with ongoing discussions with Traditional Owners and targeted consultation with various stakeholders on detailed aspects of the new legislation of key relevance to them (e.g. current public land managers).

Appendix A: Public Land Act: Proposed objectives and principles

The new Public Land Act will include clear objectives to reflect a contemporary approach to managing public land, and provide strategic guidance. These will be supplemented by more detailed public land management (decision making) principles to guide public land managers to manage public land for the benefit of the community.	
Objectives of the Public Land Act Theme: Care of the public land estate Objective: To conserve* and enhance public land values, including natural, cultural, social, and economic values, for current and future generations * 'Conserve' may include both appropriate use and protection.	Land management principles • Land values: Land managers should work to conserve* and enhance the natural, cultural, social, and economic values of public land. • Climate change: Land managers should consider the potential to mitigate, build resilience to or avoid adverse impacts of climate change wherever possible, including considering the potential for public land to support biodiversity adaptation to climate change. • Precautionary principle: Land managers should consider that, if there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. • Intergenerational equity: Land managers should consider the impact of decisions on current and future generations. • Incremental decisions: Land managers should avoid adverse cumulative impacts of multiple or incremental decisions.
Theme: Traditional Owners' rights and interest in public land management Objective: To enable Traditional Owners' self-determination in relation to public land and recognise and respect their knowledge of, and rights and interest in, public land management	• Traditional Owners' self-determination: Traditional Owners' self-determination in relation to public land should be enabled wherever possible, including through involvement in public land management. • Accessing and caring for Country: Traditional Owners should be enabled to access and care for Country and its natural resources, and to practise culture.
Theme: Community's role in public land Objective: To contribute to community wellbeing by encouraging the enjoyment of, and involvement in, public land	• Range of activities: Land managers should provide a diverse range of opportunities for the community to use and enjoy public land to deliver multiple outcomes and balance multiple uses. • Community understanding: Land managers should share knowledge of public land and its values with the community and support the community's involvement in public land management. • Community engagement: Land managers should actively engage with the community in managing public land. • Aboriginal Victorians: Land managers should promote Aboriginal Victorians' employment, training and economic opportunities related to land.
Theme: Sustainable use of public land Objective: To provide for sustainable use of public land that contributes to the wellbeing of the community	• Economic and community development: Land managers should consider whether public land and its assets and resources can be used sustainably to enhance economic and community wellbeing. • Long-term impacts: Land managers should consider long-term and short-term environmental, social, and economic impacts of land management decisions.
Theme: Strategic, efficient, and effective land management Objective: To establish a framework for the strategic, efficient, and effective management of public land in the public interest	• Custodial role: Land managers' decision making should reflect their role as managers of public land in the public interest. • Decision making: Land managers should ensure decisions are evidence-based, risk-based, proportionate, and informed by the outcomes of previous decisions. • Collaboration: Land managers should confer and cooperate with other land managers wherever possible to care for public land. • Landscape actions: Land managers should consider uses, threats and values that cross landscapes, including the interface with private land. • Accountability: Land managers should be efficient, open, and accountable in dealing with public land.

Appendix B: Proposed public land categories and purposes

There is significant complexity in the framework for managing public land under the current Crown land Acts, with the various Acts creating a number of different legal categories or statuses for public land. This situation can make it less transparent for the community to understand how various areas of public land should be managed and used.

In renewing Victoria’s public land legislation, it is proposed to adopt for the first time a simple, clear system for categorising Victoria’s public land. Public land will be categorised into one of the public land management categories set out below (including land managed under the National Parks Act). These categories are based on those that the Victorian Environmental Assessment Commission (VEAC) (and its predecessors, the Land Conservation Council and Environment Conservation Council) have been using in their assessments of public land for many years, with some minor refinements, so they will more clearly reflect how various areas of public land are being managed and used.

Each public land category contains a description of the typical features of land in the relevant category, and associated management purposes. These purposes will be a key tool for public land managers to determine how to apply the legislation in relation to each land area although they are not intended to prescribe all permitted land uses for a particular category and public land managers will also need to consider other factors when making management decisions, including the nature of individual reserves, community views and expectations, and regulations applying to the land.

Public land categories for land managed under the new Public Land Act

Land managed under the new Public Land Act will fall into one of the public land management categories set out in the table below. The purposes of each category should be read together with an over-arching purpose to protect the rights and interests of Traditional Owners and native title holders and their cultural values.

Public land category and description	Purposes	Current land types
Bushland reserve An area of land containing important elements of the natural environment or landscape that are of habitat or scenic significance	- Protect and restore the natural environment, including significant species, communities and habitats of native flora and fauna, remnant vegetation and areas with value as habitat linkages. - Protect and maintain natural or cultural features and natural landscapes. - Provide opportunities for informal recreation associated with the enjoyment of nature, or education, where consistent with the purposes above. - Provide for sustainable, controlled, low-intensity use of natural resources where consistent with the purposes above.	Includes natural features reserve sub-categories – bushland area, natural and scenic features area, streamside area (Crown Land (Reserves) Act, section 4)
Regional park Extensive areas of natural or semi-natural land close to population centres or major tourist routes or easily accessible areas	Regional park - Provide opportunities for informal recreation for large numbers of people associated with the enjoyment of natural or seminatural surroundings or semi-natural open space. - Protect and maintain natural or semi-natural features and scenic landscapes.	Includes existing regional parks and most of the parks in Schedule 3 of the National Parks Act that will not be included in the ‘conservation park’ category (see table below) (e.g. Beechworth, Steiglitz, Woodlands

Public land category and description	Purposes	Current land types
Metropolitan park Public park providing open space for recreation; may include natural or semi-natural environments to highly modified areas	• Protect the natural environment including biodiversity to the extent consistent with the above. • Provide opportunities for recreation, particularly informal recreation for large numbers of people associated with the enjoyment of natural or seminatural surroundings or semi-natural open space. • Protect open space. • Protect and maintain natural or semi-natural, cultural, or historic places and features and scenic landscapes. • Protect the natural environment including biodiversity to the extent consistent with the above. • Provide for organised recreation where consistent with the purposes above and according to the specific characteristics of each park.	historic parks; Lake Albacutya, Lysterfield and Tyers Parks) Includes land reserved under section 4(1) of the Crown Land (Reserves) Act for conservation, recreation, leisure, and tourism
Forest park Area of native forest providing opportunities for recreation and minor extraction of some natural resource products	• Provide opportunities for recreation and education. • Protect the natural environment including biodiversity. • Supply water and protect catchments and streams. • Protect and maintain natural, cultural, or historic features and scenic landscapes. • Provide for a range of forest uses including the supply of forest products, but excluding sawlogs and pulpwood.	Forest park (Crown Land (Reserves) Act, Schedule 5 Part 7)
Coastal reserve Generally linear areas of coastal public land (foreshores) adjacent to and sometimes extending a short distance into bays, estuaries, and the open coast often with facilities for intensive visitor use	• Provide opportunities for recreation and education associated with enjoyment of the coastal environment, and facilities associated with this purpose. • Protect natural coastal landscapes and ecosystems. • Protect and maintain natural, historic, or cultural features.	Coastal reserves (Crown Land (Reserves) Act, section 4)
Historic reserve An area of land containing important relics or historical associations ranging from large areas with several historic themes to small reserves with one theme	• Protect and maintain historic or cultural places, features, or objects. • Provide opportunities for recreation and education associated with appreciation of the history of the place, feature, or object. • Provide for sustainable, low-intensity use of natural resources where not incompatible with the purposes above.	Historic and cultural features reserve (Crown Land (Reserves) Act, section 4, Sch 5 Pt 4)

Public land category and description	Purposes	Current land types
Wildlife and game reserve Areas of significant habitat and conservation values, particularly for waterbirds	• Protect and restore wildlife habitat and biodiversity and provide for sustainable seasonal hunting of game species. • Protect and maintain natural or cultural features and scenic landscapes. • Provide opportunities for recreation and education where consistent with the purposes above.	State Game Reserves (<i>Wildlife Act</i> 1975, section 15)
Water frontage, bed, and banks reserve Generally linear area of land adjacent to a waterway or lake, and bed and banks	• Protect and restore the natural environment including biodiversity. • Protect water quality, protect adjoining land from erosion, and provide for flood passage. • Where necessary, provide for the passage of artificial flows of water stored within the catchment or transferred from other catchments. • Protect and maintain natural, cultural, and historic features and scenic landscapes. • Provide opportunities for recreation and education where consistent with the purposes above. • Provide for sustainable, controlled, low-intensity use of natural resources.	Includes natural features reserve sub-categories stream frontage, bed, and banks; lake which can be retained as sub-categories (Crown Land (Reserves) Act, section 4)
State forest Extensive areas of land supporting native forest and other native vegetation with a range of diverse conservation and recreational values, and containing a range of resources to supply community demands	• Provide for a range of forest uses including recreation and education. • Provide for a range of forest products. • Protect the natural environment including biodiversity. • Supply water and protect catchments and streams. • Protect and maintain natural, cultural, or historic features and scenic landscapes.	State forest, including reserved forest and protected forest (Forests Act, section 3)
Water production reserve Land in the catchment of or adjacent to a water supply storage or offtake	• Protect water supply and operation of the water supply system, including: – maintain streams in a stable condition using environmentally sound techniques – provide for flood passage and drainage requirements of adjacent land, and, where necessary, provide for the passage of artificial flows of water stored within the catchment or transferred from other catchments. • Protect and restore the natural environment including biodiversity. • Protect and maintain historic features. • Provide opportunities for recreation and education where consistent with the above purposes.	Includes water production areas, water distribution and drainage areas (Crown Land (Reserves) Act, section 4, Schedule 5 Part 4)

Public land category and description	Purposes	Current land types
Alpine resort An area of land designated as an alpine resort under the <i>Alpine Resorts Act 1983</i>	As set out in the <i>Alpine Resorts (Management) Act 1997</i>.	Alpine resort (<i>Alpine Resorts Act 1983</i>)
Coastal waters reserve Area of intertidal and subtidal land and the waters above it within state jurisdiction not otherwise designated for a specific use	- Provide for the integrated management of Victoria's marine, estuarine and coastal area. - Provide opportunities for recreation. - Provide for sustainable use of natural resources.	Currently coastal waters are mostly unreserved and regulated under the <i>Land Act 1958</i>
Community use reserve Land to be used for a particular community purpose such as local parks and gardens, organised sports and recreation areas, campgrounds, rail trails, buildings such as public halls and libraries, and areas for environmental education	- Provide for a particular community use of land, and associated facilities, including public access where compatible with this use. - Protect the natural environment and protect natural, historical, or cultural features and scenic landscapes where compatible with the above purpose. - Provide for a specific use, as defined by Ministerial order (for example: park and garden, recreation, recreation trail, public building).	Includes community use area (all sub-categories) (Crown Land (Reserves) Act, section 4)
Utilities and government services reserve Land to be used for public utilities or government services such as transport infrastructure including roads; electricity and gas installations; schools; communications and survey fixtures; supply of minerals, stone, gravel, and sand; hospitals; police stations; water and sewerage services; cemeteries	- Provide for the provision of a particular public utility or government service. - Provide for a specific use, as defined by Ministerial order (for example: road; railway; port; airport; municipal building; hospital; production of stone, gravel, or sand; cemeteries and crematoria, etc.)	Includes services and utilities area (all sub-categories) and earth resources area (Crown Land (Reserves) Act, section 4)
Unassessed public land Land that requires further assessment prior to more specific categorisation	Land not included in any of the above primary land categories, requiring assessment for re-categorisation into one of the primary reserve categories.	Includes land that needs to be assessed before it is categorised (likely to include some current 'unreserved' land)
Uncategorised public land Land that cannot be included in the primary land categories for various reasons, particularly because it has been assessed as available and appropriate for sale	Land not included in any of the above primary land categories, which has been formally assessed as no longer required for public use, available for sale.	N/A

Public land categories for land managed under the National Parks Act

The National Parks Act governs the protection, management and use of national, state and wilderness parks, marine national parks, marine sanctuaries, and a variety of other parks and will complement the Public Land Act (which will govern a wider range of categories and uses). The National Parks Act will also reflect new public land categories. While this will not require significant changes to the Act, consistent with VEAC's recommendations in its *Statewide Assessment of Public Land: Final Report*, it is proposed to simplify the number of categories under the Act where there are similar levels of protection, purposes and uses. In particular, 'state parks' and 'wilderness parks' will be consolidated into the 'national park' category. This will also have the benefit of removing the potential for 'state parks' to be confused with 'State forest'. Nature reserves, which are currently spread over several Acts, will be incorporated into the National Parks Act with their own purposes.

The table below lists the public land management categories for land managed under the National Parks Act. The purposes of each category should be read together with an over-arching purpose to protect the rights and interests of Traditional Owners and native title holders and their cultural values.

Public land category and description	Category purposes	Current land types
National park Extensive area or areas often with national significance with outstanding natural values and diverse land types contributing to representativeness of parks and reserves in the state	• Protect the natural environment including biodiversity. • Protect and maintain natural, cultural, or historic places or features, and natural landscapes. • Provide opportunities for informal recreation associated with the enjoyment of nature, or education, where consistent with the purposes above.	National park State park Wilderness park (National Parks Act, Schedule 2, 2A, 2B)
Marine national park Generally extensive area of intertidal and subtidal land and the waters above it, together with the associated flora and fauna, with outstanding natural values representing the diverse marine environments in the state	• Protect the natural environment including biodiversity. • Protect and maintain natural, cultural, or historic features and natural landscapes. • Provide opportunities for informal recreation associated with the enjoyment of nature, and education, where consistent with the purposes above.	Marine national park (National Parks Act, Schedule 7)

Public land category and description	Category purposes	Current land types
Conservation park Land often linear in shape with natural features, flora and fauna of landscape or conservation significance	• Protect the natural environment including biodiversity • Protect and maintain natural, cultural, or historic features and natural landscapes. • Provide opportunities for informal recreation associated with the enjoyment of nature, and education, where consistent with the purposes above.	Various 'other parks' (National Parks Act, Schedule 3) Includes most National Parks Act Schedule 3 'other parks' such as coastal park. Beechworth Historic Park, Woodlands Historic Park, Steiglitz Historic Park, Haining Park, Lake Albacutya Park, Lysterfield Park and Tyers Park: included in Regional park, (see Appendix B). Langwarrin Flora and Fauna Reserve: included in Nature reserve, below.
Marine sanctuary Generally small area of intertidal and subtidal land and the waters above it, together with the associated flora and fauna, accessible to the public and with special natural and educational values	• Protect the natural environment including biodiversity. • Protect and maintain natural, cultural, or historic features and natural landscapes. • Provide opportunities for informal recreation associated with the enjoyment of nature, and education, where consistent with the purposes above.	Marine sanctuary (National Parks Act, Schedule 8)
Marine park/marine and coastal park Area of coastal and/or intertidal and subtidal land and the waters above it, together with the associated flora and fauna, of high conservation significance and diverse values for recreation and sustainable resource uses	• Protect the natural environment including biodiversity. • Protect and maintain natural, cultural, historic, or geomorphic features and coastal landscapes. • Provide opportunities for informal recreation associated with the enjoyment of nature, and education, where consistent with the purposes above. • Provide for sustainable use of natural marine resources where consistent with the purposes above.	Marine and coastal park/marine reserve (National Parks Act, Schedule 4)
National heritage park Landscapes with outstanding historic cultural and natural values	• Protect and maintain places or features of historic cultural interest and scenic landscapes. • Protect the natural environment including biodiversity associated with the above places, features, or landscapes.	National heritage park (single current example: Castlemaine Diggings National Heritage Park, National Parks Act, Schedule 4, and Crown Land (Reserves) Act, Schedule 5 Part 2)

Public land category and description	Category purposes	Current land types
Nature reserve An area of land or wetland of particular importance for its significant flora, fauna, natural habitat, geology, or geomorphology	• Provide opportunities for informal recreation and education, where consistent with the purposes above. • Protect the natural environment, including significant species, communities and habitats of native flora and fauna. • Protect and maintain natural, cultural, or geomorphic features and natural landscapes. • Provide for low-levels of informal recreation associated with the enjoyment of nature, and education, where strictly consistent with the purposes above.	Includes nature conservation reserve and natural features reserves sub-categories cave, geological and geomorphological features area Includes Crown Land (Reserves) Act section 4 nature conservation reserves (variously described) Includes a small number of National Parks Act Schedule 3 and 4 reserves (i.e. Langwarrin Flora and Fauna Reserve, Deep Lead Nature Conservation Reserve (No. 1))

Appendix C: Mandatory requirements for granting tenures

The current Crown land Acts contain many outdated powers to issue tenures and other authorisations relating to public land (e.g. licences and leases), including bespoke provisions for specific uses. This has led to an unnecessarily complex and inefficient framework for tenures and authorisations—including up to 20 different tenure types across the different Acts, each with different requirements—so that process and prescription is not well aligned with the potential risks to public land values. The new Public Land Act will streamline, simplify, and consolidate the current tenures and other authorisation powers currently found in the Crown land Acts.

As part of the process for assessing whether a tenure or other authorisation should be granted, the new Public Land Act will require consideration of the potential impact of the tenure on public land values, through mandatory requirements and considerations, as set out below. While this is not intended to significantly change the types and range of tenures and authorisations that are issued, the requirements will provide clarity to the assessment process, and ensure appropriate checks and balances are built into the new, less prescriptive framework.

Other legislative requirements may also be relevant to the assessment process (e.g. the Traditional Owner rights framework established under the Traditional Owner Settlement Act and any rights relating to tenures Traditional Owner groups may have under Recognition and Settlement Agreements made under that Act).

Requirements and considerations	Explanation
A proposed tenure must:	
not detrimentally impact on the use and management of the land for the purposes associated with the relevant public land category applying to that land	This requirement is intended to provide a ‘public benefit’ test. Under the new Public Land Act, all land will be categorised into one of 16 public land categories (e.g. coastal reserve, State forest), with associated purposes to guide its management (see Appendix A). This requirement focuses on whether the proposed tenure will support or impact on those purposes. If it will not meet this requirement, a process will apply to refer the tenure to either the Minister or Parliament for approval or disallowance.
be consistent with any public land rules made under the new Public Land Act	Under the new Public Land Act, the Minister will have the power to issue public land rules—these will be rules directed at all or particular land managers, specifying how they may exercise powers under the Public Land Act (e.g. requiring land managers to set particular conditions for a class of lease), or how they should operate more generally (e.g. governance requirements). The rules will be developed following appropriate consultation and be publicly available. Public land managers will be required to act consistently with a relevant public land rule. This will address a key gap in the current Crown land Acts, in that they provide few tools for the Minister to guide and direct public land managers. Such rules will enable prescription for certain land uses if required, within the broad, flexible framework to be established by the new Public Land Act.
not be inconsistent with any strategy or management plan applying to the land	The renewed public land legislation will include powers to issue strategies and management plans, to ensure a strategic and consistent approach to public land management. This requirement is intended to support this strategic and management planning framework.

Requirements and considerations	Explanation
In deciding whether to grant a tenure, a decision maker must consider:	
whether the proposed tenure would support the use and management of the land for the purposes associated with the relevant public land category applying to that land	Similar to the requirement above relating to whether the proposed tenure would detrimentally impact on the use and management of the land for the purposes associated with the relevant public land category applying to that land, but specifically allows for consideration of potential positive outcomes of the tenure.
the potential for adverse cumulative impacts of multiple or incremental decisions over time	This mandatory consideration is intended to support the protection of public land values.
the impact on current and potential uses of the land, and whether it will support multiple uses of land where appropriate	This mandatory consideration is intended to support multiple uses of public land where possible.
whether the area of occupation is the reasonable minimum to support the purpose of the tenure	This mandatory consideration is intended to minimise impacts of tenures on public access and use of public land.
whether it is appropriate to use public land rather than private land for the proposed tenure, given its intended purpose, and any potential impacts on the community, either positive or negative	This mandatory consideration is intended to minimise impacts of tenures on public access and use of public land.
whether the tenure would provide suitable economic return for the use of public land	This mandatory consideration is intended to encourage a strategic use of public land resources, including consideration of direct and indirect financial and other economic benefits for the State from the proposed tenure.
for long-term leases, whether the tenure would be in the best interests of the State.	This mandatory consideration is intended to provide an additional 'public benefit' test for such tenures.

Appendix D: Questions

You are invited to make a submission on the proposals set out in this consultation paper. Please visit the website www.engage.vic.gov.au, where you will have the option to respond to a survey. Alternatively, you may provide written comments, or upload a submission. In doing so, you may wish to address the following:

1. Please provide feedback on the proposed new objectives and accompanying public land management principles (Appendix A). In doing so, you may wish to suggest any changes to the wording of the proposed new objectives and public land management principles, or note other objectives or principles that should be considered to ensure the proposed new Public Land Act reflects a contemporary approach to managing land and provides strategic guidance.
2. Please provide feedback on the proposed mandatory requirements for granting tenures and authorisations (Appendix C). In doing so, you may wish to suggest any changes to the wording of the proposed mandatory requirements for granting tenures and authorisations, or note other requirements that should be considered.

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