

Land Use Activity Agreement between the State of Victoria and Taungurung Land and Waters Council Aboriginal Corporation

MINISTERIAL DIRECTIONS AS TO ADVISORY ACTIVITIES

INTRODUCTION

The State of Victoria and the Taungurung Land and Waters Council Aboriginal Corporation (Corporation) have entered into a Land Use Activity Agreement (the Agreement), under Part 4 of the *Traditional Owner Settlement Act 2010* (the Act).

This Agreement relates to certain areas of public land within Victoria. A map and written description of the Agreement Land is at Items 1, 2 and 3 of Schedule 2 of the Land Use Activity Agreement.

The Agreement categorises certain activities that can occur on this public land as Advisory Activities. The Advisory Activities are listed in Schedule 3 of the Land Use Activity Agreement.

Under section 34 of the Act, I have the statutory responsibility to provide written directions as to actions that must be taken by the State and its delegates (as Decision Makers) prior to carrying out an Advisory Activity, or authorising the carrying out of an Advisory Activity, as the case may be.

MINISTERIAL DIRECTIONS

Under section 34 of the Act, I direct as follows:

- (a) A Decision Maker (as defined in section 29 of the Act) who is proposing to carry out an Advisory Activity on any Agreement Land:
 - (i) must comply with, or exceed, the standards detailed in paragraphs (b), (c), (d) and (e) below; and
 - (ii) should apply the other considerations detailed in paragraphs (f), (g), (h) and (i) where relevant; and
 - (iii) should at all times exercise his or her decision-making power in accordance with the principles of natural justice.

Minimum Standard

- (b) A Decision Maker must notify the Corporation that has an Agreement over the area to which the Advisory Activity relates. Notification may be in writing, including electronic form (e.g. being posted on an official website), and must include:
 - (i) the name of the government department, agency or authority giving the notice;
 - (ii) a description of the activity, why it is required, what legislation gives effect to the activity, and activity timelines;
 - (iii) a description of the land or waters affected (allotment, section, parish, county, road address or description, geographical location GPS), a relevant topographic map, plans or specifications where appropriate, and if available, aerial or other photographs of the site;

- (iv) an invitation to comment that specifies to whom comments should be sent and the time-period within which comments will be accepted; and
 - (v) the name of a person who may be contacted for further information or explanation of the proposed activity.
- (c) The minimum time-period for the initial consultation between the Decision Maker and the Corporation is 28 days from the date of the notification.
- (d) Where comments are received from the Corporation, the Decision Maker must:
- (i) provide a response that acknowledges receipt of those comments;
 - (ii) actively consider those comments and, where practical, discuss those comments, and possible ways to resolve the issues with the Corporation; and
 - (iii) once a decision has been made, and where requested by the Corporation, the Decision Maker must send a subsequent letter detailing what, if any, action was taken in response to the comments received.
- (e) The Decision Maker must maintain records of all correspondence with the Corporation made with respect to these directions.

Other considerations

- (f) These directions describe formal procedures for engagement between a Decision Maker and the Corporation with respect to Advisory Activities. However, the Parties agree that engagement should go beyond formal procedures and establish a relationship between Parties that is flexible enough to respect and accommodate the needs of each party.
- (g) A notification and consultation process undertaken in accordance with these directions may include details of two or more Advisory Activities.
- (h) The Corporation has the right to choose not to receive notification for particular Advisory Activities. It may do this by writing to the Attorney-General.
- (i) There may be different procedures arranged for the notification of certain Advisory Activities, if it is by mutual agreement of the Attorney-General and the Corporation.

Application

- (j) These directions apply to the Agreement Land detailed at Items 1, 2 and 3 of Schedule 2 of the Land Use Activity Agreement.
- (k) These directions apply to the Land Use Activities that are listed as Advisory Activities in Schedule 3 of the Land Use Activity Agreement.
- (l) The requirement for the State and its delegates to follow these directions is effective from the date on which the Land Use Activity Agreement commences.



Hon Jill Hennessy
Attorney-General
07/08/2020