

14 May 2021

Land Management Policy Division  
Department of Environment, Land, Water and Planning  
[pllreview@delwp.vic.gov.au](mailto:pllreview@delwp.vic.gov.au)

To the Land Management Policy Division

### **Public land legislation review**

The Municipal Association of Victoria (MAV) welcomes the opportunity to provide a brief submission to the public land legislation review currently being undertaken by the Department of Environment, Land, Water and Planning (DELWP).

In April, DELWP released its "Realising the value of Victoria's public land" consultation paper. The paper provides a high-level overview of the proposed framework for a new Public Land Act that will replace the Crown Land (Reserves) Act, the Forests Act and Land Act. The only elements of the new legislative framework discussed in any level of detail are the proposed objectives and principles of the new Act, the proposed public land management categories, and the proposed mandatory requirements and considerations when issuing tenures and other authorisations relating to public land.

We understand from recent discussions with DELWP that there are other proposed changes of direct interest to local government that were not addressed in the consultation paper. We appreciate and have accepted DELWP's offer to hold a dedicated consultation session with councils to discuss some of these changes.

The primary purpose of this submission is to identify questions and concerns we have about the potential impact of the proposed reforms on councils' liability insurance cover and liability exposure. We ask that DELWP work with the MAV and the Victorian Managed Insurance Authority (VMIA) to address these concerns prior to implementing the legislative reforms.

We are also keen to understand next steps in terms of consultation on the proposed new Public Land Act given there will likely be many provisions that will impact and be of great interest to local government. Councils are an integral part of the public land management system including via their roles as Crown land committees of management, as managers of council freehold land, as planning authorities and as representatives of local communities.



While we support and are keen to see reforms that simplify and improve public land management, we are equally keen to ensure the reforms do not result in unintended consequences or new risks and burden for councils.

#### Liability insurance

Currently where councils are the Committee of Management appointed under the Crown Land (Reserves) Act, they are covered for liability under the VMIA policy rather than the council policy\*1. Councils' insurance policy has an exclusion for Crown land to reflect this. The wording of the exclusion clause in the policy would need to be amended to reflect this change in legislation and to refer to the new Public Land Act, in addition to the Crown Land (Reserves) Act. This would need to be coordinated with the insurance policy renewal process to ensure there is no gap in coverage. However, this change to the wording would not necessarily resolve all issues arising from the proposed reform.

It is noted that there is an additional reform being considered to provide an enabling power for the Minister to formally transfer responsibility for the care, control, and management of some public land to a council, with the council's agreement. The document provided states that the land would then be managed using the powers in the Local Government Act 1989 and Local Government Act 2020.

We need further information regarding this proposed reform. In particular - where the responsibility for public land is transferred by the Minister to councils, will VMIA continue to cover this land under its policy? We understand that the land will not be vested in the council, but rather will remain Crown land. Therefore, it is the MAV's view that it should continue to be covered by the State's insurer, VMIA. If it is not covered by VMIA this may create a barrier to councils being willing to agree to the transfer of responsibility of this land to councils, as it has the potential to significantly increase the risk profile of councils.

We would welcome the opportunity to discuss this submission with you further. The MAV contact is Claire Dunn, Built and Natural Environment Policy Manager, at [cdunn@mav.asn.au](mailto:cdunn@mav.asn.au).

Yours sincerely

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\* Currently all Victorian councils are with MAV Insurance however this could change in the future