

Land Use Activity Agreement

being part of the Recognition and Settlement Agreement under s 4 of the *Traditional Owner Settlement Act 2010* (Vic)

between

**Taungurung Clans Aboriginal Corporation
Indigenous Corporation Number 4191**

and

The State of Victoria

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Date

20 October

2018

**Taungurung Clans Aboriginal Corporation
Indigenous Corporation Number 4191**

(the Corporation)

and

The State of Victoria

(the State)

Background

- A. This Land Use Activity Agreement forms part of the Recognition and Settlement Agreement.
- B. This Land Use Activity Agreement specifies the Land Use Activities to be subject to the agreement, and categorises them as Routine Activities, Advisory Activities, Negotiation (Class A) Activities, Negotiation (Class B) Activities or Agreement Activities.
- C. The Act provides for the procedures that apply to Negotiation Activities and Agreement Activities specified in this Land Use Activity Agreement.
- D. The Act also provides for the Minister to make directions as to the notification of, and consultation with, the Corporation regarding any proposals to carry out Advisory Activities specified in this Land Use Activity Agreement.
- E. This Land Use Activity Agreement is not intended to result in or create any inconsistency with the *Aboriginal Heritage Act 2006* (Vic).

Agreed Terms

1. Definitions and Interpretation

1.1 Definitions

In this Land Use Activity Agreement, unless the context otherwise requires or a contrary intention appears:

Act means the *Traditional Owner Settlement Act 2010* (Vic);

Advisory Activity means a Land Use Activity specified as an Advisory Activity in Schedule 3;

Agreement Activity means a Land Use Activity specified as an Agreement Activity in Schedule 3;

Agreement Land means the land defined in Schedule 2, Item 1;

Agricultural Lease means a lease where the primary purpose of the lease is to use the land for:

- (a) cultivation for the purpose of selling the produce of the cultivation (whether in a natural, processed or converted state);
- (b) the maintenance of animals or poultry for the purpose of selling the animals or poultry or their natural increase or bodily produce;
- (c) the cultivation or propagation for sale of plants; or
- (d) keeping, or breeding aquatic animals or cultivating or propagating aquatic plants;

Alpine Resort has the same meaning as in s 2 of the *Alpine Resorts Act 1983* (Vic);

Business Day means Monday to Friday excluding public holidays in Victoria;

Carbon Sequestration Agreement means a carbon sequestration agreement under s 45 of the *Climate Change Act 2010* (Vic);

Commercial Lease means a lease of the kind listed in the definition of a Public Land Authorisation but that is not a Community Purpose Licence;

Commercial Licence means a licence of the kind listed in the definition of a Public Land Authorisation but that is not a Community Purpose Licence;

Commercial Permit means a permit of the kind listed in the definition of a Public Land Authorisation but that is not a Community Purpose Permit;

Commercial Purpose means any purpose other than:

- (a) the purpose of a Community Purpose Lease, Community Purpose Licence or Community Purpose Permit; and
- (b) the purpose of a Specified Public Work;

Community Purpose Lease, Community Purpose Licence, and Community Purpose Permit each means a Public Land Authorisation that:

- (a) either:
 - (i) is granted for a purpose that is solely or primarily for non-commercial community, social, religious, educational, health, charitable or sporting purposes; or
 - (ii) permits the use of land for providing services that are non-commercial in nature and aimed at improving community safety or welfare; and
- (b) is granted to an organisation that does not do any of the following:
 - (i) permit the distribution of profit to members;
 - (ii) operate gaming equipment under the *Gambling Regulation Act 2003* (Vic); or

- (iii) have, or plan to have, a gross annual turnover of more than \$1 million in operating the relevant premises;

Community Benefit has the same meaning as in s 27 of the Act;

Community Benefit Payment has the same meaning as in s 27 of the Act;

Corporation means the Taungurung Clans Aboriginal Corporation (Indigenous Corporation Number 4191), or successor entity, being a Traditional Owner Group Entity;

Decision Maker has the same meaning as in s 29 of the Act;

Earth Resource or Infrastructure Authorisation has the same meaning as in s 27 of the Act;

Effective Date means the later of:

- (a) the date of registration of the ILUA on the Register of Indigenous Land Use Agreements;
- (b) the date that notice of the registration of the Land Use Activity Agreement is published in the Government Gazette; and
- (c) the date on which the Natural Resource Agreement is published in the Government Gazette;

ERIA Conditions means the conditions set out in Schedule 4, as amended by the Parties from time to time;

ILUA means the indigenous land use agreement under Subdivision C of Division 3 of Part 2 of the *Native Title Act 1993* (Cth) at Attachment 2 of the Recognition and Settlement Agreement;

Infrastructure means any:

- (a) Specified Public Work;
- (b) other building or man-made structure; or
- (c) work that has changed the natural condition or topography of the land;

Item means an item in the relevant Schedule;

Joint Management Plan has the same meaning as in s 82A of the *Conservation, Forests and Lands Act 1987* (Vic);

Land Use Activity has the same meaning as in s 28 of the Act;

Land Use Activity Agreement means this agreement;

Law means:

- (a) common law and equity; and
- (b) Commonwealth, Victorian or local government legislation, regulations, by-laws and other subordinate regulations;

Minister means the Minister administering the Act;

Major Works means the clearing of or the carrying out of works on Agreement Land outside an Alpine Resort which is a Significant Land Use Activity and which is not Major Public Works;

Major Public Work means works, and associated activities done, or authorised by the State for a public purpose and that are carried out outside an Alpine Resort, and includes:

- (a) each of the following:
 - (i) the construction of:
 - (A) a New Vehicular Road, even if it is within a road reserve or road reservation;¹
 - (B) public recreation or sport facilities where earth moving is required;
 - (C) new educational, health or emergency service facilities, or similar; and
 - (D) Infrastructure through a public-private partnership;
 - (ii) Road Works, if any of the Road Works will be located partially on an area of land which:
 - (A) is outside a road reserve or road reservation; or
 - (B) if the road has no road reservation or road reserve, is outside the road and any Infrastructure which is required for the construction, establishment, operation or use of the road, but not exceeding one metre from the outermost edge of the road and its Infrastructure;
 - (iii) projects that:
 - (A) involve the granting of an estate in fee simple for a public purpose, other than a grant, vesting or transfer pursuant to s22A of the *Land Act 1958* (Vic);
 - (B) have been declared to be a major project, declared project or similar according to legislation, or has otherwise been enabled through an Act of Parliament;
 - (iv) Specified Public Works that involve the alienation of Crown land by the granting of a Commercial Lease for more than 10 years or a Community Purpose Lease for more than 21 years;
 - (v) any other works that will require the exclusion of the public for effective operation upon completion of the works; and

¹ Further detail in Item 4.6(a)(ii) Schedule 2.

- (vi) the carrying out of Specified Public Works by a Utility, including:
 - (A) electricity transmission or distribution facilities;
 - (B) gas transmission or distribution facilities;
 - (C) cable, antenna, tower or other communications facilities;
 - (D) pipelines or other water supply or reticulation facilities;
 - (E) drainage facilities, or levees or devices for the management of water flows;
 - (F) irrigation channels or other irrigation facilities; and
 - (G) sewerage facilities,

but excluding work that is of the type described in the Schedule to the Telecommunications (Low Impact Facilities) Determination 2018 (Cth), as amended from time to time; and

- (b) any activities that will have a similar impact on the Agreement Land, or on Traditional Owners Rights, as those activities listed above in sub-paragraph (a);

Minor Public Work means works, and associated activities done, or authorised by the State for a public purpose, that:

- (a) do not fall within the definition of a Major Public Work;
- (b) are works that are Infrastructure or relate to Infrastructure that is, or is similar to:
 - (i) a fish ladder;
 - (ii) a sport or recreation facility (unless earth moving is required);
 - (iii) a walking track;
 - (iv) other tracks (where the affected land has been disturbed from prior works);
 - (v) Road Works, if all of the Road Works will be located entirely on an area of land which:
 - (A) is inside a road reserve or road reservation; or
 - (B) if the road has no road reservation or road reserve, is the road and any Infrastructure which is required for the construction, establishment, operation or use of the road, but not exceeding one metre from the outer-most edge of the road and its Infrastructure;
 - (vi) a car park;
 - (vii) a pump, bore or other works on a waterway;

- (viii) lighting of public places;
 - (ix) a jetty or wharf;
 - (x) a tide gauge;
 - (xi) a navigation marker or other navigational facility;
 - (xii) a weather station or tower;
 - (xiii) a storage shed;
 - (xiv) a toilet block;
 - (xv) a picnic facility; or
 - (xvi) work that is of the type described in the Schedule to the Telecommunications (Low Impact Facilities) Determination 2018 (Cth), as amended from time to time; and
- (c) any activities that will have a similar impact on the Agreement Land, or on Traditional Owners Rights, as those activities listed above in subparagraph (b);

Negotiation Activity (Class A) means a Land Use Activity specified as a Negotiation Activity (Class A) in Schedule 3;

Negotiation Activity (Class B) means a Land Use Activity specified as a Negotiation Activity (Class B) in Schedule 3;

New Vehicular Road means any part of any new road, track, railway or bridge designed for the purpose of carrying vehicular traffic which is constructed on land that has not previously had a road, track, railway or bridge constructed upon it, but not including any Road Works;

Parties means the parties to this Land Use Activity Agreement, set out in clause 2;

Public Land has the same meaning as in s 3 of the Act;

Public Land Authorisation has the same meaning as in s 27 of the Act;

Recognition and Settlement Agreement means the recognition and settlement agreement of which this Land Use Activity Agreement forms a part, entered into by the Parties under s 4 of the Act dated on or about the date of this Land Use Activity Agreement;

Register of Indigenous Land Use Agreements has the same meaning as in s 253 of the *Native Title Act 1993* (Cth);

Responsible Person has the same meaning as in s 27 of the Act;

Road Works means the construction, installation, or improvement of Infrastructure associated with a road, including those items in the list below, and any road work activities that will have a similar impact on the Agreement Land, or on Traditional Owners Rights to those items listed below:

- (a) intersection and junction improvements;
- (b) pedestrian and cyclist facilities (including overpasses, underpasses, shared user paths and trails);
- (c) bridgeworks;
- (d) roadside rest areas and wayside stops;
- (e) new stand sites and stack sites;
- (f) overtaking lanes;
- (g) shoulder widening;
- (h) lane widening;
- (i) road realignment; and
- (j) duplication of a road;

Routine Activity means a Land Use Activity specified as a Routine Activity in Schedule 3;

Settlement Package means the agreements entered into by the Parties pursuant to the *Native Title Act 1993* (Cth), the *Conservation, Forests and Lands Act 1987* (Vic) and the Act being the Indigenous Land Use Agreement, the Traditional Owner Land Management Agreement, the Traditional Owner Land Natural Resources Agreement and the Recognition and Settlement Agreement;

Significant Land Use Activity has the same meaning as in s 27 of the Act;

State of Victoria or **State** means the Crown in right of Victoria;

Specified Public Work has the same meaning as in s 27 of the Act;

Taungurung and **Taungurung People** mean the Traditional Owner Group that consists of Aboriginal persons (Taungurung traditional owners) who:

- (a) are descended by birth through either parent from Aboriginal ancestors identified as being associated with Taungurung country during the mid-nineteenth century by any or all of birth, place of burial or other connection; and
- (b) have activated inherited rights as traditional owners through:
 - (i) self-identifying as a Taungurung person by asserting to be a Taungurung person; and

- (ii) having an active association with Taungurung country, which is demonstrated by participating in at least one of the following activities:
 - (A) taking an active role in corporate or other entities that represent Taungurung interests;
 - (B) taking part in group activities and events (such as meetings); or
 - (C) participating in the transmission of Taungurung knowledge to younger generations and other traditional owner groups; and
- (c) are recognised and accepted by other Taungurung people:
 - (i) as a member of the Taungurung; or
 - (ii) through demonstrating to the satisfaction of a panel of Taungurung people appointed by the full group how they satisfy paragraphs (a) and (b).'

The identified ancestors are set out in Schedule 15 of the Recognition and Settlement Agreement. The **Taungurung** are the Traditional Owner Group for this Land Use Activity Agreement;

Timber Release Plan means a plan prepared under s 37 of the *Sustainable Forests (Timber) Act 2004* (Vic), notice of which new or changed plan is required to be published under s 41 or s 43 of that legislation, and any reference to such a plan is to be taken as referring to the plan only to the extent it is over the Agreement Land;

Traditional Owner Group has the same meaning as in s 3 of the Act;

Traditional Owner Group Entity has the same meaning as in s 3 of the Act;

Traditional Owner Land Management Agreement means the traditional owner land management agreement entered into or to be entered into by the Parties under the *Conservation, Forests and Lands Act 1987* (Vic), and which forms part of the Settlement Package;

Traditional Owner Land Natural Resource Agreement means the traditional owner land natural resource agreement entered into by the Parties under s 81A of the Act, and which forms part of the Settlement Package;

Traditional Owner Rights means the rights set out in clause 6; and

Utility means:

- (a) a licensee under the *Water Industry Act 1994* (Vic);
- (b) an authority under the *Water Act 1989* (Vic);
- (c) a gas transmission company or gas distribution company under the *Gas Industry Act 2001* (Vic);

- (d) a distribution company, a transmission company or a generation company under the *Electricity Industry Act 2000* (Vic); or
- (e) a carrier under the *Telecommunications Act 1997* (Cth).

1.2 Interpretation

In this Land Use Activity Agreement, unless the context otherwise requires:

- (a) an expression defined in the Act has the same meaning when used in this Land Use Activity Agreement;
- (b) a reference to any person includes a reference to that person's personal representatives, successors and transferees (whether by assignment, novation or otherwise pursuant to law);
- (c) a reference to any group includes a reference to the members of that group from time to time;
- (d) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation or instruments of a legislative character issued under, that legislation or legislative provision;
- (e) the singular includes the plural and vice versa;
- (f) a reference to an individual or person includes a company, corporation, partnership, firm, joint venture, association (whether incorporated or not), body, authority, trust, state or government and vice versa;
- (g) a reference to a part, clause, sub-clause, or attachment is to a part, clause, sub-clause, schedule or attachment of or to this Land Use Activity Agreement;
- (h) the Background paragraphs and Schedules form part of this Land Use Activity Agreement;
- (i) a reference to any agreement, arrangement, understanding, document, deed or protocol is to that agreement, arrangement, understanding, document, deed or protocol (and, where applicable, any provisions) as amended, novated, supplemented or replaced from time to time;
- (j) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (k) headings are included for convenience and do not affect the interpretation of this Land Use Activity Agreement;
- (l) an agreement, representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally; and
- (m) the term *includes* in any form is not a word of limitation.

2. Parties

The Parties to this Land Use Activity Agreement are:

- (a) the Corporation; and
- (b) the State.

3. Registration and Effective Date

This Land Use Activity Agreement commences on the Effective Date.

4. Ministerial Consent

The consent of any Minister (other than the Minister entering into this Land Use Activity Agreement) required under s 30(3) of the Act is attached at Schedule 1.

5. Agreement Land

This Land Use Activity Agreement applies to the Agreement Land, as set out in Schedule 2.

6. Traditional Owner Rights recognised in the Recognition and Settlement Agreement

The traditional owner rights recognised in the Recognition and Settlement Agreement are the rights to:

- (a) enjoy the culture and identity of the Taungurung People;
- (b) maintain a distinctive spiritual, material and economic relationship with the land and the natural resources on or depending on the land;
- (c) access and remain on the land;
- (d) camp on the land;
- (e) use and enjoy the land;
- (f) take natural resources on or depending on the land;
- (g) conduct cultural and spiritual activities on the land; and
- (h) protect places and areas of importance on the land.

7. Undertaking Land Use Activities

- (a) This Land Use Activity Agreement applies to all Land Use Activities, and when undertaking a Land Use Activity, the State must:
 - (i) identify each Land Use Activity in accordance with Schedule 3;
 - (ii) comply with the procedures in:
 - (A) the Act, in relation to the Land Use Activity;
 - (B) any ministerial direction in substantially the form set out in Schedule 5, if the activity is an Advisory Activity;

- (C) Schedule 6, if undertaking two or more Land Use Activities that relate to a single enterprise or project; and
 - (iii) pay Community Benefits to the Corporation in accordance with Schedule 7.
- (b) The Corporation will use its best endeavours to acknowledge receipt of a valid notification of a proposed Negotiation Activity or Agreement Activity within 14 days from the date of receipt and will, within three months from the date of receipt, further respond:
 - (i) setting out their process to resolve the notification; or
 - (ii) requesting further information required to process the notification.
- (c) In an emergency situation where the State carries out a Land Use Activity as permitted by s 39 of the Act, the State will inform the Corporation, as soon as is practicable.
- (d) In the event that Schedule 3 does not include or specify a particular Land Use Activity, the Parties agree to negotiate in good faith as to the proper categorisation of that Land Use Activity (unless specifically excluded by this Land Use Activity Agreement), and will vary this Land Use Activity Agreement accordingly.
- (e) The State will notify the Corporation:
 - (i) when a titleholder accepts the ERIA Conditions in relation to an Earth Resource or Infrastructure Authorisation to which Schedule 3, Item 3.2 applies; and
 - (ii) when the Earth Resource or Infrastructure Authorisation to which the titleholder's acceptance relates is granted.

8. Review

As part of the initial outcomes review under clause 12.2 and the periodic outcomes review under clause 12.3 of the Recognition and Settlement Agreement, the Parties will:

- (a) consider additions to or changes regarding the categorisation of Land Use Activities under registered land use activity agreements entered into by other traditional owner group entities;
- (b) consider varying the categorisation of Land Use Activities under Schedule 3, if:
 - (i) either party considers a current categorisation is not adequately clear, or does not adequately reflect the impact on Traditional Owner Rights;
 - (ii) the Victorian Civil and Administrative Tribunal or any court makes a determination regarding the classification of a Land Use Activity; or
 - (iii) a change in law introduces, creates, or varies an activity which:

- (A) is similar in nature to a Land Use Activity which is already categorised as an Advisory Activity, Negotiation Activity or Agreement Activity, and may justify an amendment to the Act for the activity to be included as a Land Use Activity; or
- (B) would have an impact on Traditional Owner Rights;
- (c) consider the degree of compliance with the ERIA Conditions and whether any variation of this Land Use Activity Agreement or any other action is required to ensure compliance;
- (d) adjust the monetary thresholds of the formulae in Schedule 7 in accordance with the Consumer Price Index (Melbourne), land value increases (where applicable), and other indicators (as appropriate); and
- (e) For the avoidance of doubt, any variation of the kind referred to in clause 8(a) is not intended to apply to Land Use Activities that have been done or carried out before the variation or change.

9. Community Benefits

- (a) The Parties agree that:
 - (i) any Community Benefits paid in accordance with Schedule 7 are in full and final satisfaction of the State's liability with respect to undertaking the relevant Land Use Activity; and
 - (ii) where Schedule 7 does not apply, conditions to which the Land Use Activity is subject, including the provision of any Community Benefits, are to be negotiated between the relevant parties.
- (b) The Corporation agrees that where Schedule 7 applies to a Land Use Activity, it will not seek or receive payments, pecuniary or otherwise, in relation to the Land Use Activity, otherwise than in accordance with Schedule 7.
- (c) The Parties agree that the State will provide Community Benefits to the Corporation in accordance with Schedule 7 in relation to a Land Use Activity that is granted on or after 20 October 2018 but before the Effective Date, and that is:
 - (i) a Public Land Authorisation that is a Negotiation Activity (Class A), Negotiation Activity (Class B), or an Agreement Activity; or
 - (ii) a grant of an estate in fee simple;

provided it is not listed in Schedule 3, Item 9.2 or compensation has not otherwise been provided pursuant to the *Native Title Act 1993* (Cth).

10. Anti-avoidance

- (a) The State will not alter the terms, conditions, structure or description of a proposed Land Use Activity for the purpose of avoiding a category of Land Use Activity in Schedule 3.

- (b) The State agrees that the allocation of all Commercial Leases will be subject to a competitive allocation process, unless an exemption to enter into direct negotiations is approved by the relevant Minister or delegate, and that exemption is communicated in writing to the Corporation.
- (c) The State agrees that where the grant of a Commercial Lease is:
 - (i) an Advisory Activity; and
 - (ii) intended to be allocated through a direct negotiation process to a person (or related body) that has previously held an interest over the same area, of the Agreement Land;

then the State will notify the Corporation of this intent, and advise the relevant Minister, or delegate, of any concerns raised by the Corporation within a period of 28 working days from when the Corporation received the notification.

11. General

11.1 Variation

- (a) This Land Use Activity Agreement may only be varied by the Parties by mutual agreement in writing.
- (b) Without derogating from clause 11.1(a), the Parties may vary any deadlines in this Land Use Activity Agreement by an exchange of letters.

11.2 Agreement to bind the Corporation's successors

The Corporation will do all things that the State reasonably requires it to do to ensure that any corporation that succeeds the Corporation and is appointed by the Taungurung People as the Traditional Owner Group Entity becomes bound by and has the benefit of this Land Use Activity Agreement.

11.3 State's obligations conditional

The performance of the State's obligations under this Land Use Activity Agreement is conditional on the Corporation being the Traditional Owner Group Entity at the relevant time for the purpose of any particular obligation.

11.4 Communications

- (a) The Parties will send any correspondence or notices in connection with this Land Use Activity Agreement to the relevant Party's representative specified in Schedule 14 of the Recognition and Settlement Agreement.
- (b) A Party may change its contact details from time to time by notice in writing to the other Party.
- (c) Any correspondence or notices in connection with this Land Use Activity Agreement will be taken to be delivered or served as follows:
 - (i) in the case of delivery in person or by courier, when delivered;

- (ii) in the case of delivery by post, three Business Days after the date of posting;
- (iii) in the case of facsimile transmission, on receipt by the sender of a transmission report from the despatching machine showing: the date of transmission, the relevant number of pages, the correct telephone number of the destination facsimile machine and the result of the transmission as satisfactory; and
- (iv) in the case of electronic mail, if the message is correctly addressed to and successfully transmitted to that party's electronic mail address (e-mail address), when acknowledgment of receipt is recorded on the sender's computer.

11.5 Entire understanding

The Settlement Package contains the entire understanding between the Parties as to its subject matter. There are no other representations, warranties, explanations, arrangements or understandings (whether written or oral, express or implied, or before or after the signing of this Agreement) between the Parties which qualify or supplement the written terms of the Settlement Package.

11.6 Counterparts

This Land Use Activity Agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

11.7 Governing Law

- (a) This Land Use Activity Agreement is governed by Law.
- (b) The Parties irrevocably and unconditionally submit to the jurisdiction of the courts of the State of Victoria and any courts that may hear appeals from those courts and waive any right to object to proceedings being brought in those courts.

11.8 Compliance with Laws

Each party must, in performing its obligations under this Land Use Activity Agreement, comply with the Law.

11.9 Time to act

If the time for a Party to do something is not specified in this Land Use Activity Agreement, the Party will do what is required within a reasonable time.

11.10 Severability

Any part, clause, sub-clause, paragraph or sub-paragraph of this Land Use Activity Agreement which is invalid or unenforceable will be read down, if possible, to be valid and enforceable. Where that part, clause, sub-clause, paragraph or sub-paragraph cannot be read down it will be severed without affecting the remaining parts of this Land Use Activity Agreement.

Executed as an Agreement

Signed by the Honourable Martin Pakula
MP, Attorney General for and on behalf of
the State of Victoria in the presence of:



Signature of witness



Martin Pakula

DEAN COWIE

Name of witness (please print)

26.10.18

Date:

Signed for and on behalf of Taungurung
Clans Aboriginal Corporation (ICN 4191) in
accordance with section 99-5 of the
Corporations (Aboriginal and Torres Strait
Islander) Act 2006 (Cth)



Signature of director

GRANT HANSEN

Name of director (printed)



Signature of director

PATSY SMITH

Name of director (printed)

Date:

26/10/18

Date:

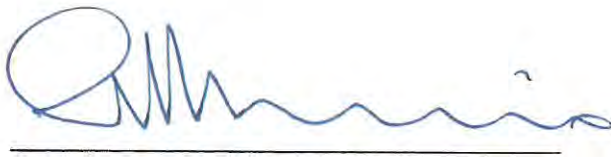
26/10/18

Schedule 1 Ministerial Consents

I, **Lily D'Ambrosio**, Member of Parliament, and as the Minister administering the:

- (a) *Crown Land (Reserves) Act 1978 (Vic)*;
- (b) *National Parks Act 1975 (Vic)*;
- (c) *Forests Act 1958 (Vic)*;
- (d) *Land Act 1958 (Vic)*;
- (e) *Pipelines Act 2005 (Vic)*; and
- (f) *Wildlife Act 1975 (Vic)*;

consent, pursuant to section 30 of the *Traditional Owner Settlement Act 2010 (Vic)*, to the entry into a Recognition and Settlement Agreement between the State of Victoria and the Taungurung Clans Aboriginal Corporation (Indigenous Corporation Number 4191), pursuant to that Act, and which includes this Land Use Activity Agreement made under Part 4 of that Act.



The Hon Lily D'Ambrosio MP

Minister for Energy, Environment and Climate Change

Dated 23/10/18

I, **Timothy Pallas**, Member of Parliament, and as the Minister administering the:

- (a) *Mineral Resources (Sustainable Development) Act 1990 (Vic)*;
- (b) *Petroleum Act 1998 (Vic)*;
- (c) *Geothermal Energy Resources Act 2005 (Vic)*;
- (d) *Greenhouse Gas Geological Sequestration Act 2008 (Vic)*; and
- (e) *Offshore Petroleum and Greenhouse Gas Storage Act 2010 (Vic)*;

consent, pursuant to section 30 of the *Traditional Owner Settlement Act 2010 (Vic)*, to the entry into a Recognition and Settlement Agreement between the State of Victoria and the Taungurung Clans Aboriginal Corporation (Indigenous Corporation Number 4191) pursuant to that Act, and which includes this Land Use Activity Agreement made under Part 4 of that Act.



The Hon Timothy Pallas MP

Minister for Resources

Dated 19 OCT 2018

I, **Jaala Pulford**, Member of Parliament, and as the Minister administering the:

- (a) *Wildlife Act 1975 (Vic)*;
- (b) *Forests Act 1958 (Vic)*; and
- (c) *Fisheries Act 1995 (Vic)*;

consent, pursuant to section 30 of the *Traditional Owner Settlement Act 2010 (Vic)*, to the entry into a Recognition and Settlement Agreement between the State of Victoria and the Taungurung Clans Aboriginal Corporation (Indigenous Corporation Number 4191), pursuant to that Act, and which includes this Land Use Activity Agreement made under Part 4 of that Act.

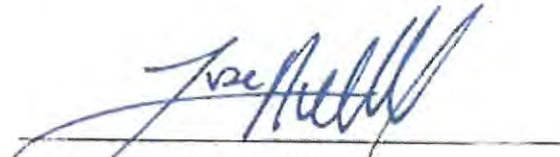


The Hon Jaala Pulford MP

Minister for Agriculture

Dated 23/0/18

I, **Lisa Neville**, Member of Parliament, and as the Minister administering the *Water Act 1989* (Vic), consent, pursuant to section 30 of the *Traditional Owner Settlement Act 2010* (Vic), to the entry into a Recognition and Settlement Agreement between the State of Victoria and the Taungurung Clans Aboriginal Corporation (Indigenous Corporation Number 4191), pursuant to that Act, and which includes this Land Use Activity Agreement made under Part 4 of that Act.

A handwritten signature in blue ink, appearing to read 'Lisa Neville', written over a horizontal line.

The Hon Lisa Neville MP

Minister for Water

Dated 15/10/18

I, **Robin Scott**, Member of Parliament, and as the Minister administering Division 6 of Part I of the *Land Act 1958* (Vic), consent, pursuant to section 30 of the *Traditional Owner Settlement Act 2010* (Vic), to the entry into a Recognition and Settlement Agreement between the State of Victoria and the Taungurung Clans Aboriginal Corporation (Indigenous Corporation Number 4191), pursuant to that Act, and which includes this Land Use Activity Agreement made under Part 4 of that Act.



The Hon Robin Scott MP

Minister for Finance

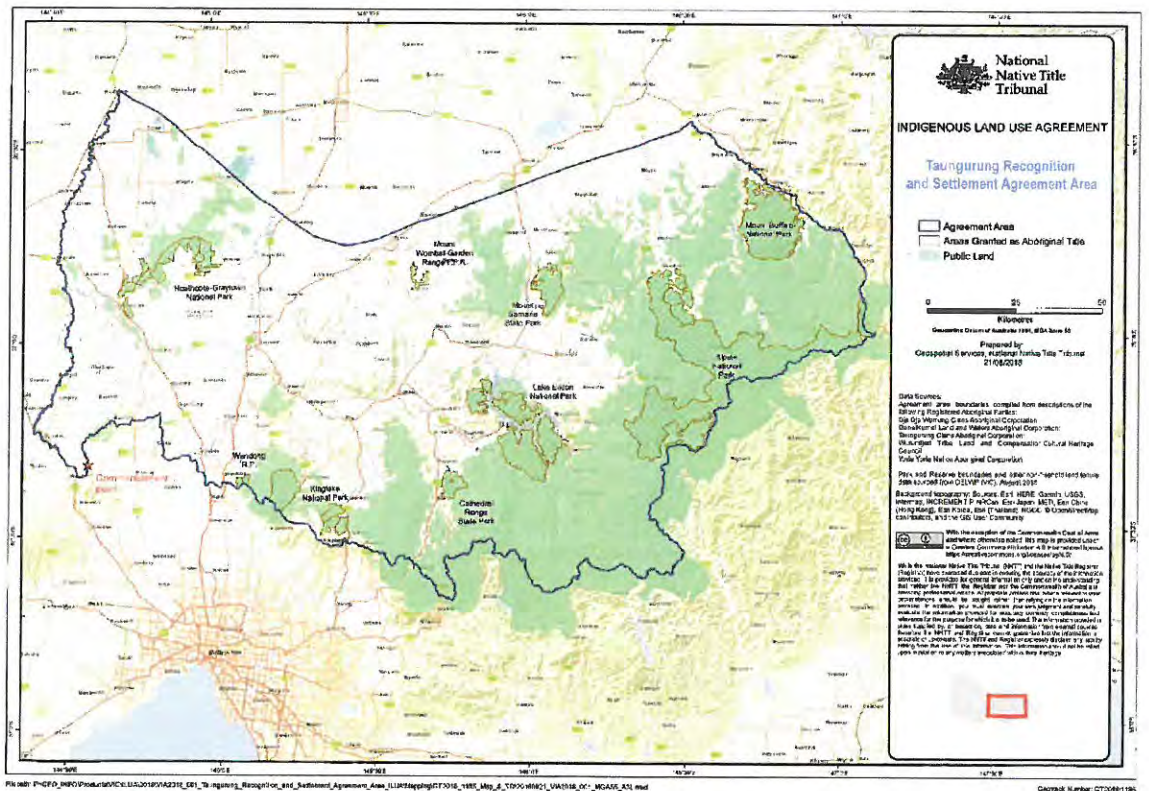
Dated 15/10/18

Schedule 2 Agreement Land

1. Definition of Agreement Land

- (a) The Agreement Land is all Public Land which falls within the external boundary:
- (i) depicted on the map set out in Item 2 of this Schedule; and
 - (ii) described in writing in Item 3 of this Schedule,
- subject to the exclusions in Items 4 and 5 of this Schedule.
- (b) Where there is any inconsistency between the map in Item 2, and the written boundary description in Item 3, the written boundary description in Item 3 will prevail.

2. Map of Agreement Land



3. Written description of Agreement Land

The Agreement Land includes all Public Land within the external boundary described as:

(Prepared by Geospatial Services, National Native Title Tribunal (20 August 2018))

The agreement area covers all the land and waters within the external boundary described as:

Commencing at a point at Longitude 144.591492° East, Latitude 37.317968° South on Coach Road (Rochford Road) at the meeting point of the Registered Aboriginal Party (RAP) boundaries of the Taungurung Clans Aboriginal Corporation and Wurundjeri Tribe Land and Compensation Cultural Heritage Council Inc., and proceeding generally south-westerly along the boundary of the RAP boundaries of the Taungurung Clans Aboriginal Corporation following Coach Road (C324) and Romsey Road (C321) to the junction of that boundary with the eastern boundary of the RAP boundaries of the Dja Dja Wurrung Clans Aboriginal Corporation at approximately Longitude 144.553920° East; then northerly along that RAP boundary to its junction with the southern boundary of the RAP boundaries of the Yorta Yorta Nation Aboriginal Corporation, further described as:

then north-westerly to a point on the centreline of the Calder Freeway at Latitude 37.33219° South; then generally north-westerly along the centreline of that freeway to the crossing point of the Campaspe River southwest of the Karlsruhe township; then generally north-westerly and north-easterly along the centreline of that river to Lake Eppalock; then continuing generally northerly through that Lake following the old course of the Campaspe River (represented by the western boundaries of the parishes of Langwornor and Knowsley) to a point on the dam wall (crossed by the Knowsley-Eppalock Road); then generally northerly once again along the centreline of the Campaspe River to its intersection the boundary of the RAP boundaries of the Yorta Yorta Nation Aboriginal Corporation at Longitude 144.706365° East, Latitude 36.351122° South.;

Then generally south-easterly and generally north-easterly along the southern boundary of the RAP boundaries of the Yorta Yorta Nation Aboriginal Corporation through the following coordinated points:

Longitude° East	Latitude° South
144.748564	36.375966
144.827784	36.409705
144.874657	36.439462
144.943727	36.495469
144.966816	36.505216
144.997460	36.527920
145.031644	36.552158
145.065407	36.577185
145.149131	36.639586
145.188921	36.658343
145.233089	36.688274

Longitude° East	Latitude° South
145.321270	36.737870
145.376480	36.751805
145.405302	36.759004
145.431622	36.762269
145.454617	36.759180
145.528357	36.745569
145.589756	36.725830
145.655721	36.702770
145.698987	36.693722
145.749703	36.679551
145.876651	36.641675
145.935435	36.624952
146.072054	36.581876
146.223013	36.540762
146.362852	36.507233
146.399405	36.493434
146.485957	36.471218

Then continuing north-easterly along that RAP boundary in a line towards Longitude 146.545493° East, Latitude 36.431346° South until its junction with the centreline of the Ovens River (southwest of Everton); then generally south-easterly along the centreline of the Ovens River, Ovens River East Branch and Mount Smythe Creek to its headwaters at approximately Longitude 147.111785° East, Latitude 36.994792° South; then north-east to a point on the Great Alpine Road (B500) at Latitude 36.992095° South (located approximately 150 metres south of Blowhard Hut) also being a point on the western boundary of the VID6007/1998, VID482/2009 Gunai/Kurnai People (VCD2010/001) native title determination and the western boundary of the Parish of Yertoo; then generally south-westerly along the external boundary of that determination to its junction with the northern boundary of the RAP boundaries of the Wurundjeri Tribe Land and Compensation Cultural Heritage Council Inc., further described as:

Then generally south-westerly along the western boundaries of the Parish of Yertoo, the northern boundaries of the parishes of Kybeyan and Bolaira; western boundaries of the parishes of Howitt Plains, Magdala South, Licola North and Licola, northern

boundaries of the parishes of Binnuc and Moolpah to its westernmost point on the Warburton – Woods Point Road;

Then generally westerly along the northern boundary of the RAP boundaries of the Wurundjeri Tribe Land and Compensation Cultural Heritage Council back to the commencement point, further described as:

Generally westerly and north-westerly along the Warburton – Woods Point Road, following the northern boundary of the Yarra Ranges National Park to the Marysville – Woods Point Road; then generally westerly along that road to Cambarville Road; then generally northerly along that road to Snowy Hill Road; then generally northerly along that road to a point at Longitude 145.880496° East, Latitude 37.522742° South; then west to a point on Lake Mountain Road at Longitude 145.874537° East, Latitude 37.522742° South; then generally south-westerly and northerly along that road to a point at Longitude 145.867726° East, Latitude 37.527606° South, being a ridge on the Great Dividing Range; then generally westerly along that ridge to a again a point on Lake Mountain Road at Longitude 145.838990° East, Latitude 37.529262° South; then generally south-westerly along that road, the Marysville – Woods Point Road and Tommys Bend Road to an unnamed track on the northern boundary of the Yarra Ranges National Park; then generally south-westerly along the northern boundaries of the that National Park (defined by a number of tracks along the ridge of the Great Dividing Range) to the junction of Strickland Spur Track and Road 8; then generally southerly along that Road 8 (also being the boundary of the Yarra Ranges National Park and following the Great Dividing Range to a point on an unnamed track at Longitude 145.747122° East, Latitude 37.622365° South; then generally south-easterly along that unnamed track and Road 10 to Road 14; then generally north-westerly along that road and Road 7 to an unnamed track at Longitude 145.717747° East, Latitude 37.670334° South; then generally north-westerly along that track to Road 27; then generally northerly along that road following the Great Dividing Range to the junction with Mt Vinegar Road and Road 8; then generally north-westerly along that road to an unnamed track and a point on the Yarra Ranges National Park boundary at Longitude 145.658791° East, Latitude 37.614534° South; then generally northerly along that unnamed track and again Road 8 to the Maroondah Highway; then generally north-easterly along that highway for about 45 metres to Monda Road; then generally north-westerly, generally south-westerly and again generally north-westerly along that road, being the top of the Great Dividing Range to an unnamed track at Longitude 145.523554° East, Latitude 37.561548° South; then generally north-westerly along that unnamed track to Sylvia Creek Road at Longitude 145.513084° East, Latitude 37.554991° South; then generally westerly and generally north-westerly along that road, Myers Creek Road, Healesville – Kinglake Road, Old Toolangi – Mt Slide Road, Old Toolangi Road, again the Healesville – Kinglake Road to Glenwood Drive; then generally south-westerly and generally north-westerly along Glenwood Drive, again the Healesville – Kinglake Road; then generally westerly along that road, crossing the Melba Highway to with the junction of the Heidelberg – Kinglake Road and the Whittlesea – Kinglake Road at Kinglake township; then generally north-westerly along the Whittlesea – Kinglake Road to the Whittlesea – Yea Road at Kinglake West; then generally north-westerly along Road 16 and Road 3 to Board Road; then generally south-westerly and generally north-westerly along that road and Disappointment Road (both also referred to as Mount Disappointment Forest Drive) to its junction with Escreets Road and Main Mountain Road; then generally north-westerly, generally south-westerly, again generally north-westerly along Main Mountain Road, South Mountain Road and North Mountain Road to Rail Street in Heathcote Junction township; then south-westerly to a point on a the North Eastern railway line at Longitude 145.028375° East, Latitude 37.372232° South; then north-easterly along that railway line for

about 100 metres to its connection with a dismantled railway at Longitude 145.027836° East, Latitude 37.371297° South; then generally westerly, generally southerly and generally north-westerly along that dismantled railway line to Arkells Lane at Longitude 144.990815° East, Latitude 37.371864° South; then westerly along that lane to Longitude 144.979458° East, Latitude 37.370238° South; then generally south-westerly and generally north-westerly along the ridge of the Great Dividing Range, through Longitude 144.970239° East, Latitude 37.375472° South on the Northern Highway to the junction of the Old Sydney Road, Beauview Road and Poulterers Lane; then generally northerly along that Lane and the Northern Highway to Union Lane; then westerly along Union Lane for about 200 metres to Longitude 144.959391° East, Latitude 37.353333° South; then generally north-westerly and generally south-westerly along the ridge of the Great Dividing Range for about 15 kilometres through the following points :

- Longitude 144.942914° East, Latitude 37.343025° South on Mill Road;
- Longitude 144.936355° East, Latitude 37.322544° South on Gehreys Lane;
- Longitude 144.924647° East, Latitude 37.315504° South on Paynes Road;
- Longitude 144.895033° East, Latitude 37.300332° South on High Park Road;
- and
- Longitude 144.851277° East, Latitude 37.310890° South on the Kilmore – Lancefield Road

Then north-westerly along the Kilmore – Lancefield Road to an unnamed track at Longitude 144.828250° East, Latitude 37.301141° South; then generally northerly along that track to the Old Kilmore – Lancefield Road at Longitude 144.827739° East, Latitude 37.298715° South; then generally northerly following the ridge of the Great Dividing Range for about 1400 metres to the junction of the Goldie Mine Road (Split Gully Road) and an unnamed track at Longitude 144.831468° East, Latitude 37.286533° South; then generally northerly along that unnamed track following the ridge of the Great Dividing Range for about 6 kilometres to the Willowmavin – Tantaraboo Road (Tantaraboo Road) at Longitude 144.829381° East, Latitude 37.235477° South; then north-westerly along that road to a point on the ridge of the Great Dividing Range at Longitude 144.827667° East, Latitude 37.233880° South; then generally north-westerly and westerly following the ridge of the Great Dividing Range to a point on Mt William Road at Longitude 144.818373° East, Latitude 37.225435° South; then generally northerly and generally westerly along that road, Lancefield - Pyalong Road and Allisons Road to an unnamed stream at Longitude 144.755476° East, Latitude 37.206133° South; then generally north-westerly along that stream to its junction with another unnamed stream at Longitude 144.752528° East, Latitude 37.204409° South; then generally south-westerly and westerly along that stream to the Lancefield – Tooborac Road at Longitude 144.741957° East, Latitude 37.209589° South; then northerly and westerly along that road and Mitchells Road to a point at Longitude 144.730062° East, Latitude 37.207109° South; then following the ridge of the Great Dividing Range for about 7.2 kilometres generally south-westerly, generally westerly and generally north-westerly passing through Longitude 144.695106° East, Latitude 37.215634° South on the Burke and Wills Track to the junction of Long Ryans Road and the Bourke and Wills Track at Longitude 144.675082° East, Latitude 37.208051° South; then generally north-westerly along the Bourke and Wills Track to a point on the ridge of the Great Dividing Range at Longitude 144.665764° East, Latitude 37.205964° South; then generally south-westerly and generally southerly following the ridge of the Great Dividing Range passing through the following points back to the commencement point:

- Longitude 144.657631° East, Latitude 37.214696° South on Reillys Road,

- Longitude 144.624075° East, Latitude 37.232045° South on Ridge Road;
- Longitude 144.580711° East, Latitude 37.259574° South on Dohertys Road;
- Longitude 144.574223° East, Latitude 37.28144° South on Three Chain Road; and
- Longitude 144.586983° East, Latitude 37.309182° South on Jim Road;

Note

Data Reference and source

- Agreement boundary compiled by National Native Title Tribunal based on information or instructions provided by the applicants, and the boundaries of the following Victorian Registered Aboriginal Parties:
 - Dja Dja Wurrung Clans Aboriginal Corporation as modified on 7 February 2013;
 - GunaiKurnai Land and Waters Aboriginal Corporation as modified on 6 June 2018;
 - Taungurung Clans Aboriginal Corporation as modified on 10 February 2017;
 - Wurundjeri Tribe Land and Compensation Cultural Heritage Council as modified on 10 February 2017; and
 - Yorta Yorta Nation Aboriginal Corporation as registered on 14 September 2007.
- External boundary (Schedule 1) of the VID6007/1998, VID482/2009 Gunai/Kurnai People (VCD2010/001) Native Title Determination as determined in the Federal Court of Australia on 22 October 2010.
- Parish boundaries sourced from Dept of Environment, Land, Water and Planning (May 2015).
- Roads and watercourses based on VicMap topographic vector data (1:25,000) sourced from Dept of Environment, Land, Water and Planning (Aug 2018).
- Great Dividing Range based on that boundary as defined by the Registered Aboriginal Parties data for Taungurung Clans Aboriginal Corporation and Wurundjeri Tribe Land and Compensation Cultural Heritage Council.
- Where the boundary follows a feature such as a road or watercourse, the boundary is the centreline of that feature unless otherwise specified.

Reference datum

Geographical coordinates have been provided by the NNTT Geospatial Services and are referenced to the Geocentric Datum of Australia 1994 (GDA94), in decimal degrees and are based on the spatial reference data acquired from the various custodians at the time

Use of Coordinates

Where coordinates are used within the description to represent cadastral or topographical boundaries or the intersection with such, they are intended as a guide only. As an outcome of the custodians of cadastral and topographic data continuously recalculating the geographic position of their data based on improved survey and data maintenance procedures, it is not possible to accurately define such a position other than by detailed ground survey.

4. Areas to which this Land Use Activity Agreement does not apply

4.1 Existing Infrastructure

Except as set out in Item 4.6, Agreement Land does not include any Public Land:

- (a) on which Infrastructure exists as at the Effective Date; and
- (b) the Infrastructure has the effect of excluding or restricting public access, either practically or by regulation, continuously or from time to time, including any land:
 - (i) on which a constructed road, railway or tramway is located;
 - (ii) utilised for a cemetery or crematorium;
 - (iii) on which public recreation facilities that are for organised sporting activities have been constructed;

and any land:

- (iv) that is necessary for, or incidental to, the operation of the Infrastructure;
- (v) that is adjacent or proximate to Infrastructure that is covered by a modification or extension of that Infrastructure;
- (vi) that comprises the leased area, where the Infrastructure is on leased land;
- (vii) on which the Infrastructure has been demolished to enable the Infrastructure to be replaced or refurbished, and will be used for the same purpose; or
- (viii) on which a Major Public Work is located.

4.2 Reservations associated with Existing Infrastructure

Except as set out in Item 4.6, Agreement Land does not include any Public Land that is a road, railway or tramway reserve or reservation, where the road, railway or tramway has been constructed as at the Effective Date.

4.3 Land vested in Victorian Rail Track or a municipality

Except as set out in Item 4.6, Agreement Land does not include any Public Land, which as at the Effective Date, is vested in:

- (a) Victorian Rail Track by an Act of Parliament; or
- (b) a municipality under s 16 of the *Crown Land (Reserves) Act 1978 (Vic)*.

4.4 Planned future use

- (a) The land listed in Item 4.4(b) is land purchased or acquired by the State in fee simple, on or before the Effective Date, for the purpose of carrying out a Major Public Work or for the purpose described in Item 4.4(b). This land has, or will be, converted to Public Land, but, except as set out in Item 4.6, will remain excluded from the Agreement Land.
- (b) The following is not included in the Agreement Land:
- (i) Parts of Allotment 14L, Section C, Parish of Bright in relation to which sale offers were negotiated and accepted in 2012. The relevant parts are shown on Plan No B/15.03.12 provided at Attachment 1;
 - (ii) Allotment 13, Section 4, Parish of Porepunkah in relation to which a sale offer was negotiated and accepted in 2012;
 - (iii) Crown Allotments 107K and Q1, Parish of Bylands, which are to be used for the purpose of constructing and operating the new Kilmore-Wallan Bypass; and
 - (iv) Crown Allotment 2004, Township of Rushworth, Parish of Moora, which the State proposes to use in the expansion of Goulburn Valley Health's residential aged care and community support facilities.

4.5 Proposed Crown land sales

The land in the table below (being the land described in Schedule 4 of the ILUA) is not part of the Agreement Land:

Property Address	Property Details
Brown Street, Jamieson	Crown Allotment 5, Section 12 Township of Jamieson
Whittlesea-Yea Road, Flowerdale	Portion of Road Reserve and portion of Allotments 53 and 4J, Section C Parish of Flowerdale
Collivers Lane, Rushworth	Abuts the northern boundary of Crown Allotments 10 and 11, Section B, Parish of Whroo
Burnewang Road, Rochester	Crown Allotments 2006 and 2007 Parish of Bonn
796 Back Eildon Road, Eildon	Portion of road reserve adjoining 796 Back Eildon Road, Eildon

4.6 Circumstances in which Items 4.1 to 4.4 do not apply

- (a) Items 4.1 and 4.2 will cease to apply to any Public Land, and provided it is not otherwise excluded, the land will be included in the Agreement Land, if the Infrastructure referred to in Item 4.1(a) or 4.2:
 - (i) is removed so as to permit safe public access to the former footprint of the Infrastructure; or
 - (ii) is Infrastructure over which part of a New Vehicular Road, or a Road Work which is a Major Public Work, is to be constructed, in which case, the entire area subject to the works, and the entire activity, will be subject to this Land Use Activity Agreement.
- (b) Infrastructure referred to in Item 4.1(a) or 4.2 does not include any Infrastructure that would fall within the definition of Minor Public Work.
- (c) Item 4.3 will cease to apply and provided it is not otherwise excluded, the land will be included in the Agreement Land, if the land is surrendered to, or otherwise resumed, by the State.
- (d) Items 4.4(b)(i) and (ii) will cease to apply, and provided the relevant land is not otherwise excluded, the land will be included in the Agreement Land if the sales have not been concluded within 12 months of the Effective Date.
- (e) Items 4.4(b)(iii) and (iv) will cease to apply, and provided that the relevant land it is not otherwise excluded, the land will be included in the Agreement Land, if the planned future use has not been actively progressed within 12 months of the Effective Date.
- (f) If any Public Land to which Item 4.1, 4.2, 4.3 or 4.4(b)(iii) or (iv) applies, is to be granted as an estate in fee simple, then:
 - (i) the relevant Item will cease to apply to that Public Land upon the earlier of:
 - (A) the land being offered for sale to the public; or
 - (B) a contract, deed or other agreement being entered into to effect the grant;
 - (C) if it is vested land, when it is surrendered to or otherwise resumed, by the State; and
 - (ii) the grant will be a Land Use Activity in accordance with Schedule 3, Item 5.3.

5. Excluded Areas

- (a) On or after the Effective Date, any Public Land that is granted as an estate in fee simple will be excluded from the Agreement Land, on and upon the grant being made, provided that the Decision Maker has complied with Division 3 of Part 4 of the Act.

- (b) Item 5(a) does not apply to any grant made pursuant to s 19 of the Act.
- (c) Land which is subject to the *State Aid to Religion Abolition Act 1871* (Vic) on the Effective Date is excluded from the Agreement Land.

Schedule 3 Land Use Activities

1. Purpose of this Schedule

- (a) This Schedule specifies which Land Use Activities subject to this Land Use Activity Agreement are Routine Activities, Advisory Activities, Negotiation (Class A) Activities, Negotiation (Class B) Activities or Agreement Activities.
- (b) If a Land Use Activity is capable of falling under more than one category in this Schedule 3, a categorisation that provides a higher level of procedural rights to the Corporation takes precedence over a categorisation that provides a lower level of procedural rights to the Corporation.

2. Public Land Authorisations

2.1 Land Use Activities categorised

This Item specifies the category of Land Use Activities set out in s 28(a) of the Act, being the:

- (a) granting of a Public Land Authorisation; or
- (b) amendment or variation of a Public Land Authorisation which allows a change to an activity carried out under that authorisation.

2.2 Authorisations associated with Major Public Works

If a Public Land Authorisation is associated with a Major Public Work, then:

- (a) the grant, amendment, or variation of that Public Land Authorisation is not a separate Land Use Activity, but is to be considered a component of the Major Public Work;
- (b) all requirements with respect to the Major Public Work, as contained in this Land Use Activity Agreement, and the Act, must be complied with; and
- (c) for the purpose of clarity, no action (including notice of the grant, amendment or variation) in addition to Item 2.2.(b) is required, and Community Benefits (if any) are to be payable solely with respect to the Major Public Work.

2.3 Activity categorised according to purpose and term

- (a) The grant, amendment, or variation of a Public Land Authorisation that appears in column 1 in the table below, is categorised according to the term of the authorisation, as shown in the corresponding columns.
- (b) In calculating the term of an authorisation the parties are required to take into account any right of renewal, or extension, as part of the term.

Column 1	Column 2	Column 3	Column 4
Type of Public Land Authorisation	Term of Up to and including 10 years	Term of over 10 years, and up to and including 21 years	Term of over 21 years
Community Purpose Permit	Routine Activity	Advisory Activity	Advisory Activity
Community Purpose Licence	Routine Activity	Advisory Activity	Advisory Activity
Community Purpose Lease	Advisory Activity	Advisory Activity	Negotiation Activity (Class B)
Commercial Permit	Routine Activity	Negotiation Activity (Class B)	Negotiation Activity (Class B)
Commercial Licence	Routine Activity	Negotiation Activity (Class B)	Negotiation Activity (Class B)
Commercial Lease	Advisory Activity	Negotiation Activity (Class A)	Agreement Activity

2.4 Category of specific Public Land Authorisations

Notwithstanding Item 2.3, the grant, amendment or variation of a Public Land Authorisation that is:

- (a) **(Routine Activities)** a Licence issued over an unused road is a Routine Activity;
- (b) **(Advisory Activities)** any of the following:
 - (i) a Public Land Authorisation that is for a Minor Public Work;
 - (ii) a consent under s 62 or s 70 of the *Marine and Coastal Act 2018* (Vic);
 - (iii) a licence for:
 - (A) bee farming;
 - (B) grazing or stock;
 - (C) forest produce (for example, the taking of tree ferns, leaves, flowers, sleepers, eucalyptus oil, seed, posts, poles and timber); or
 - (D) extractive materials (for example the taking or use of gravel, limestone, sand, or salt);

- (iv) recreation or event permits (for example, car rallies, rave parties, rogaining/orienteering or mountain biking); or
 - (v) an Agricultural Lease covering less than 40 hectares;
- is an Advisory Activity.
- (c) **(Negotiation Activities (Class B))** An Agricultural Lease covering 40 hectares or more is a Negotiation Activity (Class B).
 - (d) **(Agreement Activities)** A Public Land Authorisation that is a Carbon Sequestration Agreement is an Agreement Activity.

3. Earth Resource or Infrastructure Authorisation

3.1 Land Use Activities categorised

This Item specifies the category of Land Use Activities set out in s 28(b) of the Act, being the:

- (a) granting of an Earth Resource or Infrastructure Authorisation; or
- (b) amendment or variation of a Earth Resource or Infrastructure Authorisation which allows a change to an activity carried out under that authorisation.

3.2 Routine Activities

The grant, amendment or variation of an Earth Resource or Infrastructure Authorisation:

- (a) that allows for the exploration or prospecting for an earth resource; and
- (b) where the applicant agrees in writing that the exploration or prospecting is to be carried out in accordance with any ERIA Conditions that are currently in effect,

is a Routine Activity.

3.3 Advisory Activities

The grant, amendment or variation of an Earth Resources or Infrastructure Authorisation that is:

- (a) granted, amended or varied under the *Mineral Resource (Sustainable Development) Act 1990 (Vic)* for the purposes of extracting stone from:
 - (i) an existing reserve set aside for that purpose: or
 - (ii) a reserve recommended by the Victorian Environmental Assessment Council (or its predecessors, or successors) and approved by Government; or

- (b) a pre-licence survey under Part 4 Division 2 of the *Pipelines Act 2005* (Vic) for a proposed pipeline that is for the purposes of the establishment, use or operation of any Specified Public Work,

is an Advisory Activity.

3.4 Negotiation Activities (Class A)

The grant, amendment or variation of an Earth Resource or Infrastructure Authorisation that allows:

- (a) the mining, extraction, injection, utilisation, treatment or processing of an earth resource, on or below the surface of the land, for the purposes of commercial development or production, other than a prospecting licence; or
- (b) the exploration or prospecting for an earth resource, where the exploration or prospecting is not to be carried out in accordance with the current ERIA Conditions,

is a Negotiation Activity (Class A).

4. Works on the Agreement Land

4.1 Land Use Activities categorised

This Item specifies the category of Land Use Activities set out in s 28(c), (d), (e) and (f) of the Act, being the:

- (a) clearing;
- (b) planned controlled burning;
- (c) carrying out of works; or
- (d) revegetation,

of or upon land.

4.2 Routine Activities

Maintenance and other low impact works are Routine Activities, including the maintenance of:

- (a) Minor Public Works or other Infrastructure;
- (b) grounds, the seabed, roads and tracks (for example, weed control, grass cutting); and
- (c) fences, gates and signage and replacement of existing fences, gate, and signage (but not including the erection of new fences, gates or signage that prohibits access by traditional owners wishing to exercise Traditional Owner Rights).

4.3 Advisory Activities

- (a) The construction of a Minor Public Work is an Advisory Activity.
- (b) The land management activities listed below are Advisory Activities:
 - (i) planned controlled burning;
 - (ii) revegetation or regeneration works and associated activities;
 - (iii) rehabilitation or regeneration of vegetation, or a lake, river, creek, stream or other waterway;
 - (iv) destruction of rabbit warrens; and
 - (v) sand bypassing and dredging.
- (c) Any Land Use Activity carried out in an Alpine Resort that is not a Routine Activity is an Advisory Activity.

4.4 Negotiation Activities (Class B)

The carrying out of a Major Public Work is a Negotiation Activity (Class B).

4.5 Agreement Activities

The carrying out of Major Works:

- (a) for Commercial Purposes; and
- (b) where a Public Land Authorisation is not required;

is an Agreement Activity.

5. Grants of freehold, and reservations over Public Land

5.1 Land Use Activities categorised

This Item specifies the category of Land Use Activities set out in s 28(g), (h) and (la) of the Act, being the:

- (a) grant of an estate in fee simple; and
- (b) reservation or revocation of any reservation,

in or over land.

5.2 Advisory Activities

A change in the status of land that is listed below is an Advisory Activity:

- (a) the classification of a State Wildlife Reserve under s15(2) of the *Wildlife Act 1975* (Vic); or

- (b) the:
 - (i) reservation of land;
 - (ii) revocation of the reservation of land; or
 - (iii) change in the boundary of a reservation;under the *Crown Land (Reserves) Act 1978 (Vic)*.

5.3 Agreement Activities

The grant of an estate in fee simple is an Agreement Activity, other than:

- (a) a grant made pursuant to s 19 of the Act;
- (b) a grant made to facilitate a project that is for a public purpose; or
- (c) any transfer or vesting made pursuant to s 22A of the *Land Act 1958 (Vic)*.

6. Activities under the *Forests Act 1958 (Vic)*

6.1 Land Use Activities categories

This Item specifies the category of Land Use Activities set out in s 28(r), (s), (t), (u) of the Act, being the changing of the status of land under the *Forests Act 1958 (Vic)*.

6.2 Advisory Activities

Any action taken under ss 45, 49, 50(1) or 58 of the *Forests Act 1958 (Vic)* is an Advisory Activity.

7. Timber release plans, management plans and work plans

7.1 Land Use Activities categorised

This Item specifies the category of Land Use Activities set out in s 28(i), (j), (k), (l), (m), (n), (o), (p) and (q) of the Act, being the:

- (a) publication of a new or changed Timber Release Plan; or
 - (b) declaration or preparation of a management or work plan,
- under various pieces of legislation set out below.

7.2 Advisory Activities

The declaration or preparation of a management plan or working plan under the:

- (a) *Fisheries Act 1995 (Vic)*;
- (b) *National Parks Act 1975 (Vic)*;
- (c) *Wildlife Act 1975 (Vic)*;

(d) *Marine and Coastal Act 2018* (Vic);

(e) *Water Act 1989* (Vic); or

(f) *Forests Act 1958* (Vic);

is an Advisory Activity.

The publication of a notice of a change to a Timber Release Plan under the *Sustainable Forests (Timber) Act 2004* (Vic) is an Advisory Activity.

7.3 Negotiation Activities (Class B)

The publication of a notice of a new Timber Release Plan under the *Sustainable Forests (Timber) Act 2004* (Vic) is a Negotiation Activity (Class B).

8. Fisheries Authorisations

8.1 Land Use Activities categorised

This Item specifies the category of Land Use Activities set out in s 28(ka), (kb), and (kc) of the Act, being the issuing of certain licences and permits under the *Fisheries Act 1995* (Vic).

8.2 Routine Activities

The issuing of permit referred to in s 28(kc) of the Act is a Routine Activity.

8.3 Advisory Activities

The issuing of a licence referred to in s 28(ka) or (kb) of the Act is an Advisory Activity.

9. Land Use Activities to which the terms of this Land Use Activity Agreement do not apply

The Parties agree that this Land Use Activity Agreement does not apply to those Land Use Activities specified below.

9.1 Land Use Activities consistent with Joint Management Plan

(a) Any Advisory Activity will be exempt from the terms of this Land Use Activity Agreement, if:

(i) it will occur wholly on land that is subject to a Joint Management Plan; and

(ii) the Land Use Activity is consistent with the terms of the Joint Management Plan.

(b) The Corporation may, at any time before a Land Use Activity occurs, notify the State that Item 9.1 will not apply to:

(i) a particular Land Use Activity; or

(ii) a class of Land Use Activities,

in which case it will not apply, and all relevant parties will be required to comply in full with the terms of this Land Use Activity Agreement.

9.2 Transitional Exclusions [NOT USED]

10. Additional Exclusions

This Land Use Activity Agreement does not apply to:

- (a) Land Use Activities carried out pursuant to a Public Land Authorisation or an Earth Resources or Infrastructure Authorisation that was granted or commenced before the Effective Date (except if the Land Use Activity is a Major Public Work and construction commences after the Effective Date); or
- (b) Land Use Activities carried out pursuant to a Public Land Authorisation or an Earth Resources or Infrastructure Authorisation granted in accordance with this Agreement; or
- (c) Leases over Crown land within the boundaries of an Alpine Resort, and any Land Use Activities carried out pursuant to those leases.

Schedule 4 Conditions for Earth Resource or Infrastructure Authorisations to be Routine Activities

The ERIA Conditions set out below will be in effect for a period of 18 months from the Effective Date, after which date they will expire, and no longer be operational or binding. For any period where there are no ERIA Conditions agreed and in force between the Parties, Item 3.4 of Schedule 3 will apply to the grant, amendment or variation of any Earth Resource or Infrastructure Authorisation to which this Schedule 4 applies. The Parties have agreed to consider the adoption of revised ERIA Conditions as part of the first principles review referred to in clause 12.4 of the Recognition and Settlement Agreement.

Part A - General

This Schedule applies to:

1. an Earth Resource or Infrastructure Authorisation granted for the purpose of exploration or prospecting, including:
 - a. An exploration licence, prospecting licence or retention licence granted under the *Mineral Resources (Sustainable Development) Act 1990* (Vic);
 - b. An exploration permit or retention lease granted under the *Petroleum Act 1998* (Vic), *Geothermal Energy Resources Act 2005* (Vic), or *Greenhouse Gas Geological Sequestration Act 2008* (Vic);
 - c. A special access authorisation or a special drilling authorisation granted under the *Petroleum Act 1998* (Vic);
 - d. A greenhouse gas assessment permit, greenhouse gas holding lease, petroleum exploration permit or petroleum retention lease granted under the *Offshore Petroleum and Greenhouse Gas Storage Act 2010* (Vic);
 - e. Any other authorisation granted under these Acts for the purpose of exploration.
2. If a titleholder accepts the conditions in this Schedule, no additional conditions under the *Traditional Owner Settlement Act 2010* (Vic) or this Land Use Activity Agreement are to be imposed on the titleholder in relation to the works carried out by the titleholder under their Earth Resource or Infrastructure Authorisation on Agreement Land.

Definitions applying generally

3. In this Schedule:

Alpine Resort has the same meaning as in s 2 of the *Alpine Resorts Act 1983*.

authorisation means an Earth Resource or Infrastructure Authorisation of the type listed in Item 1 of this Schedule.

Department means Victorian Department of Economic Development, Jobs, Transport and Resources or successor department.

titleholder means:

- a. In Part A, the holder or applicant (as applicable) for an Earth Resource or Infrastructure Authorisation granted under any of the statutes in Item 1.
- b. In Part B, the holder or applicant (as applicable) for an Earth Resource or Infrastructure Authorisation granted under the:
 - i. *Petroleum Act 1998* (Vic);
 - ii. *Geothermal Energy Resources Act 2005* (Vic);
 - iii. *Greenhouse Gas Geological Sequestration Act 2008* (Vic);
 - iv. *Offshore Petroleum and Greenhouse Gas Storage Act 2010* (Vic).
- c. In Part C, the holder or applicant (as applicable) for an Earth Resource or Infrastructure Authorisation granted under the *Mineral Resources (Sustainable Development) Act 1990* (Vic) other than a prospecting licence holder.
- d. In Part D, the holder of a prospecting licence granted under the *Mineral Resources (Sustainable Development) Act 1990* (Vic).

Access to land subject to Land Use Activity Agreement

4. Subject to the titleholder's:
 - a. conditions and plans contained within and under their authorisation;
 - b. public and occupational health and safety requirements applying to works under the authorisation; and
 - c. obligations under a law of Victoria or the Commonwealth applying to works under the authorisation,

a titleholder must minimise interference with the entry, occupation and use of any part of the land subject to their authorisation, by traditional owners in exercise of traditional owner rights recognised under a Recognition and Settlement Agreement to which that land is subject.

Consultation and Communication

5. The titleholder acknowledges that it has a duty to consult with the Corporation throughout the period of their authorisation.

Information

6. The titleholder will keep the Corporation informed about progress of the project works and promptly provide to the Corporation:
 - a. notification of the grant of the authorisation;
 - b. notification of any approvals, renewals, amalgamations or relinquishments in relation to the authorisation;

Schedule 4 – Conditions for Earth Resource or Infrastructure Authorisations to be Routine Activities

- c. notification of an assignment or transfer of the authorisation, or any interests or obligations under that authorisation;
 - d. a copy of any plan or any variation to a plan required under the authorisation (e.g. a standard or area work plan, operation plan and/or environment plan);
 - e. for an exploration licence under the *Mineral Resources (Sustainable Development) Act 1990* (Vic), where a work plan is not required, a copy of a work schedule which includes a description of the exploration site work activities that are planned; and
 - f. information reasonably requested by the Corporation which relates to the exploration and to the titleholder's obligations under the authorisation, save that the titleholder may withhold commercially sensitive information.
7. The titleholder will provide a summary of all site works completed on Agreement Land to the Department as part of the annual report.
 8. For titleholders under Part C, the summary will include the details set out in Items 2 and 3 in Table A to this Schedule.
 9. Where a statute or regulation under a statute which an Earth Resource or Infrastructure Authorisation is granted does not stipulate annual reporting requirements, the information required in Item 6 must be provided to the Department at the time specified by the Department in writing.

Work schedules, work plans and other documents

10. If requested, the titleholder must make reasonable attempts to consult with the Corporation (with a view to explaining and clarifying details) regarding the work schedule, the standard or area work plan, or any other information provided to the Corporation under Item 6.
11. The titleholder must notify the Corporation and the Department at least 7 days prior to commencing works on Agreement Land.
12. The titleholder must provide the Corporation with a copy of the work schedule for any program of works, at the same time as the titleholder consults with the Department (being at least 21 days prior to the commencement of site works).

Procedures relating to amounts payable under this Schedule 4

13. The amounts payable under this Schedule are exclusive of GST.
14. All amounts payable under this Schedule must be indexed annually according to the consumer price index for Melbourne, as published by the Australian Bureau of Statistics from time to time.
15. Evidence of payments made under this Schedule must be provided to the Department as part of the titleholder's annual reporting requirements related to their authorisation, as applicable.
16. Where requirements under an Act under which an Earth Resource or Infrastructure Authorisation is granted do not stipulate annual reporting requirements, evidence of

payments must be provided to the Department at a time specified by the Department in writing.

Part B – Specific conditions on petroleum, geothermal and greenhouse gas exploration**Definitions**

For the purpose of this Part of Schedule 4:

17. **Units of work** are defined in relation to the following table:

Activity	Unit of Work
Drilling of a well	One
2D seismic survey covering 100 linear kilometres or less	One
2D seismic survey covering more than 100 linear kilometres	Two
3D seismic survey covering 50 square kilometres or less	One
3D seismic survey covering more than 50 square kilometres	Two

An **average work program** means a total work program under the authorisation, which includes up to and including three units of work.

An **exceptional work program** means a total work program under the authorisation, which includes more than three units of work.

Payment for exploration activities

18. The titleholder must pay the Corporation the following amount:
- a. for an average work program, an upfront fee of \$5,798.47 is payable as a fee for the duration of the Earth Resource or Infrastructure Authorisation, as applicable; or
 - b. for an exceptional work program, an upfront fee of \$8,697.70 payable for the duration of the Earth Resource or Infrastructure Authorisation, as applicable.
19. A payment under Item 18 becomes payable at the renewal of the permit or lease.
20. A payment under Item 18 must be made no later than 30 days following the registration of the Earth Resource or Infrastructure Authorisation.
21. To avoid doubt, payments under Item 18 are not refundable in whole or part.

Part C – Specific conditions on mineral exploration

22. The titleholder must pay the Corporation in accordance with Table A of this Schedule for works carried out under a licence.
23. The payments required under Item 22 become payable by the titleholder following the grant of the Earth Resource or Infrastructure Authorisation.

24. Notwithstanding Item 23, payment under Item 1 of Table A is not due until the titleholder accesses Agreement Land.

Part D – Specific conditions on prospecting licence holders

25. The titleholder must pay the fees in accordance with Item 4 of Table A in Schedule 4.
26. To avoid doubt, no additional fees to those set out in Item 25, are payable under this Land Use Activity Agreement, for carrying out works under a prospecting licence on Agreement Land.
27. To avoid doubt, payments under Table A associated with a licence for mineral exploration or a prospecting licence are not refundable in whole or part.

Schedule 4 - Table A

Schedule 4 – Payments made pursuant to interests granted under the Mineral Resources (Sustainable Development) Act 1990 (Vic)				
Item	Tenement	Activity / Milestone over Agreement Land	Description	Rate (not including GST)
1	Exploration Licence or Retention Licence	After access to Agreement Land following Grant of Licence for: <ul style="list-style-type: none"> • Survey work, or • Hand tools 	<p>Access to Agreement Land defined in Clause 1.1 of this Land Use Activity Agreement.</p> <ul style="list-style-type: none"> • Including geological, geophysical, geochemical and/or other technical investigations. • Surface rock samples or surface soil samples taken by hand tools. 	<ul style="list-style-type: none"> • \$2,145.43 per year for all activities in Item 1.
2	Exploration Licence or Retention Licence	Drilling	Exploration drilling, < 300 mm diameter hole at the surface.	<ul style="list-style-type: none"> • \$2.32 per drill hole for depths < 5m; • \$5.80 per drill hole for depths > 5m & < 20m; • \$11.60 per drill hole for depths > 20m & < 100m; • \$57.98 per drill hole for depths > 100m & < 200m; • \$115.97 per drill hole for depths > 200m.
3	Exploration Licence or Retention Licence	Excavating/clearing	Large core bulk sample drilling. Excavating, incl. costeaning, trenching, channelling, access tracks, and clearing of vegetation.	<ul style="list-style-type: none"> • \$11.60 per cubic metre. • \$1.16 per square metre
4	Prospecting Licence	All activities permitted under a Prospecting Licence	Standard fee.	<ul style="list-style-type: none"> • Upfront fee of \$3,096.38 payable at grant of licence or \$619.28 for each year of a Prospecting Licence, paid annually upfront.

Schedule 5 Draft Ministerial Directions as to Advisory Activities

INTRODUCTION

The State of Victoria and the Taungurung Clans Aboriginal 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. Annexure 1 includes a map/description of the land (Agreement Land).

The Agreement categorises certain activities that can occur on this public land as Advisory Activities: a list of Advisory Activities is included under Annexure 2.

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 under section 29 of the Act) who is proposing to carry out an Advisory Activity (listed in Annexure 2) on any Agreement Land (as in Annexure 1):
 - (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;
 - (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 in Annexure 1.
- (k) These directions apply to the Land Use Activities that are listed in Annexure 2.
- (l) The requirement for the State and its delegates to follow these directions is effective from **[insert date]**.

Attorney-General
Date:

Schedule 6 Process as to multiple Land Use Activities

- (a) In accordance with s 37 of the Act, where one or more Decision Makers are intending to undertake two or more Land Use Activities that:
 - (i) each require agreement to be reached under Division 3 of Part 4 of the Act; and
 - (ii) relate to a single enterprise or project,then the process set out in this Schedule 6 is to apply.
- (b) If a Public Land Authorisation is granted, amended or varied in order to allow a Major Public Work to occur, then Schedule 3, Item 2.2 will apply.
- (c) In each other case, and at the request of all relevant Decision Makers, the Corporation is required to treat negotiations and decisions relating to notified Land Use Activities that fall within this Schedule, as a joint process, and:
 - (i) the Decision Maker(s) may provide a single notification for the enterprise or project, provided that it contains all of the information required for each Land Use Activity;
 - (ii) the Parties will attempt to reach agreement on the entirety of the enterprise or project; and
 - (iii) the Corporation is otherwise entitled to the procedural rights, and Community Benefits, for each Land Use Activity, as would ordinarily apply under this Land Use Activity Agreement.

Schedule 7 Community Benefits

1. Land Use Activities to which this Schedule applies

- (a) Subject to Item 1(c), this Schedule applies to all Negotiation Activities and Agreement Activities where:
 - (i) the State is:
 - (A) the Responsible Person; or
 - (B) issuing a Public Land Authorisation; and
 - (ii) a State Agency is issuing a Public Land Authorisation (other than a Carbon Sequestration Agreement) or approving a new Timber Release Plan.
- (b) In all other cases, the Community Benefits will need to be negotiated directly between the Corporation and the Responsible Person.
- (c) This Schedule does not apply to:
 - (i) Earth Resource or Infrastructure Authorisations;
 - (ii) Carbon Sequestration Agreements; or
 - (iii) a Negotiation Activity that is the subject of an application for VCAT determination under s 53 of the Act.

2. Community Benefits formula

The Parties agree that:

- (a) if an agreement is made under Division 3 of Part 4 of the Act in relation to a Land Use Activity described in Item 1 of this Schedule; and
- (b) that agreement provides that Community Benefits are to be provided to the Corporation,

then the State will provide Community Benefits to the Corporation in accordance with the table in Item 4 of this Schedule.

3. Non-monetary Community Benefits

The State may, by agreement with the Corporation, provide all or part of an agreed monetary quantum of Community Benefits in non monetary form.

4. Community Benefits formula

The Parties agree that each formula specified in the right hand column of the table below applies to the corresponding Land Use Activity specified in the left hand column.

Negotiation Activity	Applicable Formula
Commercial Leases for more than 10 and up to and including 21 years (excluding Major Public Works)	Formula A
Major Public Works (including Infrastructure undertaken by a Utility)	Formula A (where a Lease, Licence or Permit applies) Formula B
Commercial Licences and Commercial Permits for more than 10 years	Formula A
Agriculture Leases covering 40 hectares or more, including Leases for plantations and aquaculture	Formula A
Community Purpose Leases for more than 21 years	Formula A
New Timber Release Plans	Formula C
Agreement Activity	Applicable Formula
The grant of an estate in fee simple, other than a grant:	Formula D
(a) pursuant to s 19 of the Act;	
(b) made to facilitate a project that is for a public purpose; or	
(c) transfer or vesting made pursuant to s 22A of the <i>Land Act 1958</i> (Vic).	
Commercial Leases more than 21 years (excluding Major Public Works)	Formula E
Major Works and/or clearing of land for Commercial Purposes (where a Public Land Authorisation is not required, and excluding Major Public Works)	Formula F

5. Formulae

FORMULA A

ACRONYMS: Rental Received (RR)

Community Benefits (payable each

year that the Lease rental is received) =

$$\begin{aligned} &(\$ \text{ amount of RR}^1 \text{ in } \$0 - \$20,000 * 25 \%) \\ &+ (\$ \text{ amount of RR in } \$20,001 - \$100,000 * 10 \%) \\ &+ (\$ \text{ amount of RR in } \$100,001 - \$500,000 * 5 \%) \\ &+ (\$ \text{ amount of RR in } \$500,001 - \$1,000,000 * 2.5 \%) \\ &+ (\$ \text{ amount of RR above } \$1,000,001 * 0.5 \%) \end{aligned}$$

+ Solatium (RR * 10 %)

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)²

¹Public Works (where a Lease applies) and Commercial Leases will be at market value as determined by the issuing authority, based on the market valuation as specified in Valuer-General's valuation report. For Community Purpose Leases discounted below the market value, the Community Benefits will be based on the discounted rate actually paid. A discount may be applied on account of the community purpose of the Lease at the discretion of the issuing authority. Rental as determined by the issuing authority, and under certain circumstances (e.g. times of hardship due to drought etc), the issuing authority may reduce or exempt the rental payable in any particular year. That is, the Community Benefits will be based on the actual rental payments received by the issuing authority in each year.

² As provided for under s 52 of the Act.

FORMULA B

ACRONYMS: Unimproved Market Value (UMV)

$$\begin{aligned} \text{Community Benefits} = & \left\{ \begin{array}{l} (\$ \text{ amount of UMV}^1 \text{ in } \$0 - \$100,000 * 25 \%) \\ + (\$ \text{ amount of UMV in } \$100,001 - \$500,000 * 10 \%) \\ + (\$ \text{ amount of UMV in } \$500,001 - \$1,000,000 * 5 \%) \\ + (\$ \text{ amount of UMV in } \$1,000,001 - \$10,000,000 * 2.5 \%) \\ + (\$ \text{ amount of UMV above } \$10,000,000 * 0.5 \%) \end{array} \right\} + \text{Solatium (UMV * 10 \%)} \end{aligned}$$

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)²

¹ UMV means market value of the area required for the public work, less the value of physical or structural improvements (i.e., buildings), as specified in Valuer-General's valuation report (or as otherwise agreed by both parties).

² As provided for under s 52 of the Act.

FORMULAC

Community Benefits (payable each year that the Timber Release Plan is current) =

Dividend 1 * <u>adjusted area harvested² by VicForests within TRP that is covered by LUAA³ in that year</u> *	(\$ TO group share of Dividend ⁴ in \$0 - \$20,000 * 25 %)
Total adjusted area harvested ² by VicForests in that year	+ (\$TO group share of Dividend ⁴ in \$20,001 - \$100,000 * 10 %)
	+ (\$TO group share of Dividend ⁴ in \$100,001 - \$500,000 * 5 %)
	+ (\$TO group share of Dividend ⁴ in \$500,001 – \$1,000,000 * 2.5 %)
	+ (\$TO group share of Dividend ⁴ above \$1,000,001 * 0.5 %)

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)⁵

1. Dividend
 - Annual Dividend - as reported in VicForests Annual Report.
 - Note that VicForests is required to pay a dividend in accordance with a determination of the Treasurer of Victoria under the *State Owned Enterprises Act 1992*. An obligation to pay a dividend only arises after consultation between the VicForests Board and the Treasurer of Victoria and a formal determination is made by the Treasurer.
2. Adjusted area harvested (hectares) - is defined as the area harvested within the financial year in which the dividend is paid adjusted for both clearfell logging and thinning harvesting activities. For the purposes of this formula, area thinned by VicForests will be weighted at 50% of the equivalent clearfell area. This is to reflect that fact that thinning activity normally results in the harvesting of 50% of the basal area, compared to clearfell logging. For example, if VicForests harvests 5,000ha (clearfell) and 2,000ha (thinned) the adjusted area harvested will be calculated as follows: 5,000ha + (2,000ha * 0.50) = 6,000ha.
3. LUAA – Land Use Activity Agreement negotiated between the State and a traditional owner (TO) group.
4. TO share of adjusted dividend – the proportion of the Dividend that is payable to the Corporation in that year for that TRP covered by the LUAA.
5. As provided for under s 52 of the Act.
6. Formula includes 10% solatium.

FORMULAD

ACRONYMNS: Market Value (MV); Unimproved Net Market Value (UNMV)

UNMV = Sale price less financial value of third party interest(s)¹ less MV of improvements.²

Community Benefits:

if \$ amount of UNMV is less than \$2,600 = \$1,300

or

(\$ amount of UNMV in \$0 - \$100,000 * 50 %)

+ (\$ amount of UNMV in \$100,001 - \$500,000 * 25 %)

+ (\$ amount of UNMV in \$500,001 - \$1,000,000 * 10 %)

+ (\$ amount of UNMV in \$1,000,001 – \$10,000,000 * 2 %)

+ (\$ amount of UNMV above \$10,000,000 * 0.5 %)

+ Solatium (UNMV * 10 %)

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)³

¹ Value, most likely expressed as a percentage of market value, of third party interests as specified in Valuer-General's valuation report (or as otherwise agreed by both parties). Examples of third parties that might have an interest in Crown land include local councils, non-state tenants, and community or not-for-profit organisations.

² Value, expressed in dollar terms, of physical or structural improvements, i.e. buildings, as specified in Valuer-General's valuation report (or as otherwise agreed by both parties).

FORMULAE

ACRONYMNS: Rental Received (RR)

Community Benefits (payable each year that the Lease rental is received) =

$$\left. \begin{array}{l} (\$ \text{ amount of RR}^1 \text{ in } \$0 - \$20,000 * 50 \%) \\ + (\$ \text{ amount of RR in } \$20,001 - \$100,000 * 25 \%) \\ + (\$ \text{ amount of RR in } \$100,001 - \$500,000 * 10 \%) \\ + (\$ \text{ amount of RR in } \$500,001 - \$1,000,000 * 5 \%) \\ + (\$ \text{ amount of RR above } \$1,000,001 * 1 \%) \end{array} \right\} + \text{Solatium (RR * 10 \%)}$$

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)²

³ As provided for under s 52 of the Act.

¹ Rental received: for Commercial Leases this will be at market value as determined by the issuing authority, based on the market valuation as specified in Valuer-General's valuation report. Under certain circumstances (e.g. times of hardship due to drought etc), the issuing authority may reduce or exempt the rental payable in any particular year. That is, the Community Benefits will be based on the actual rental payments received by the issuing authority in each year.

² As provided for under s 52 of the Act.

FORMULA F

ACRONYMNS: Unimproved Market Value (UMV)

$$\begin{aligned} \text{Community Benefits} = & \left\{ \begin{array}{l} (\$ \text{ amount of UMV}^1 \text{ in } \$0 - \$100,000 * 25 \%) \\ + (\$ \text{ amount of UMV in } \$100,001 - \$500,000 * 10 \%) \\ + (\$ \text{ amount of UMV in } \$500,001 - \$1,000,000 * 5 \%) \\ + (\$ \text{ amount of UMV in } \$1,000,001 - \$10,000,000 * 2.5 \%) \\ + (\$ \text{ amount of UMV above } \$10,000,000 * 0.5 \%) \end{array} \right\} + \text{Solatium (UMV} * 10 \%) \end{aligned}$$

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)²

¹ UMV means market value less the value of physical or structural improvements, i.e. buildings, as specified in Valuer-General's valuation report (or as otherwise agreed by both parties).

² As provided for under s 52 of the Act.

Attachment A Exclusion to a Land Use Activity Agreement

The Parties agree to exclude from the operation of the Land Use Activity Agreement the parts of Allotment 14L, Section C, Parish of Bright, shaded in blue and purple, and circled below.

