Land Use Activity Agreement
between the State of Victoria and
Dja Dja Wurrung Clans Aboriginal Corporation

MINISTERIAL DIRECTIONS AS TO ADVISORY ACTIVITIES

INTRODUCTION

The State of Victoria and the Dja Dja Wurrung Clans Aboriginal Corporation have entered into a Land Use Activity Agreement (the Agreement), under Part 4 of the Traditional Owner Settlement Act 2010 (Vic) (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) 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 25 October 2013.

[Signature]

Hon. Robert Clark MP
Attorney-General
Date: 24/10/13
ANNEXURE 1

The Agreement Land is the area described in Item 1 of Schedule 2 of the Land Use Activity Agreement executed on 28 March 2013.
Advisory Activities

(a) A Public Land Authorisation (s 28 (a) of the Act) that is a:

(i) Lease, Licence or Permit for Minor Public Works;

(ii) Bee farm and range Licence or Permit (apiary);

(iii) Grazing or stock Licence;

(iv) Licence for forest produce (e.g. tree ferns, leaves, flowers, sleepers, eucalyptus oil, seed, posts, poles and timber);

(v) Licence for extractive materials (e.g. gravel, limestone, sand, salt);

(vi) Permit for recreation events (e.g. car rallies, rave parties, rogaining/orienteering, mountain biking);

(vii) An agricultural Lease covering less than 40 hectares, including Leases for plantations and aquaculture (specified agricultural Lease);

(viii) Licence for the construction of works on a waterway, or a bore;

(ix) Community Purpose Licence or Permit for more than 10 years;

(x) Community Purpose Lease for 21 years or less;

(xi) Commercial Lease for 10 years or less,

excluding an authorisation that is associated with Major Public Works or that is listed at Item 1(a)(i) or 1(a)(ii) of this Schedule.

(b) An Earth Resources Or Infrastructure Authorisation (s 28 (b) of the Act) that is:

(i) Issued under the Mineral Resource (Sustainable Development) Act 1990 (Vic) for the purposes of extracting stone from an existing reserve set aside for that purpose, or from a reserve recommended prior to the Effective Date for that purpose by the Victorian Environmental Assessment Council or its predecessors and approved by Government;

(ii) 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 Works (see s 27, Limited Land Use Activity (b) of the Act).
(c) A management plan or working plan that is prepared under the:

(i) *Fisheries Act 1995 (Vic)* (s 28);

(ii) *National Parks Act 1975 (Vic)* (s 17, 17B, 17D or 18);

(iii) *Wildlife Act 1975 (Vic)* (s 18 or s 32);

(iv) *Water Act 1989 (Vic)* (s 31);

(v) *Forests Act 1958 (Vic)* (s 22).

(d) A change in the status of land that is the:

(i) reservation, revocation of the reservation or change in the boundary of a reservation of land that is under the *Crown Land (Reserves) Act 1978 (Vic)*;

(ii) classification of a State Wildlife Reserve under s 15(2) of the *Wildlife Act 1975 (Vic)*;

(iii) dedication, excision, setting aside, declaration or proclamation, or the revocation, variation or alteration of a declaration or proclamation, of land under ss 45, 49, 50(1) or 58 of the *Forests Act 1958 (Vic)*.

(e) A land management activity that is the:

(i) Planned controlled burning of the land (s 28 (d) of the Act);

(ii) Regeneration works and associated activities (s 28 (f) of the Act);

(iii) Rehabilitation of vegetation, or a river, creek or stream (s 28 (e) or (f) of the Act);

(iv) Destruction of rabbit warrens (s 28 (f) of the Act).

(f) The construction of Infrastructure (s 28 (e) of the Act), that is a Specified Public Work, or that does not require a Public Land Authorisation, other than a Major Public Work, that is, or is similar to, a:

(i) Fish ladder;

(ii) Sport or recreation facility (unless earth moving is required);

(iii) Walking track;

(iv) Other track (where there is an existing footprint);

(v) Road improvement (from one class to another);
(vi) Car park;
(vii) Pump, bore or other works on a waterway;
(viii) Lighting of public places;
(ix) Jetty or wharf;
(x) Tide gauge;
(xi) Navigation marker or other navigational facility;
(xii) Weather station or tower;
(xiii) Storage shed;
(xiv) Toilet block;
(xv) Picnic facility;
(xvi) Work that is of the type described in the Schedule to the Telecommunications (Low Impact Facilities) Determination 1997 (Cth), as amended from time to time;
(xvii) Other minor works carried out by or on behalf of the Crown which fall within the definition of Specified Public Work.

(g) A change or modification to an approved Timber Release Plan (s 28 (j) of the Act).