

Victorian Government Response to the

Victorian Environmental Assessment Council's
Historic Places Investigation Final Report

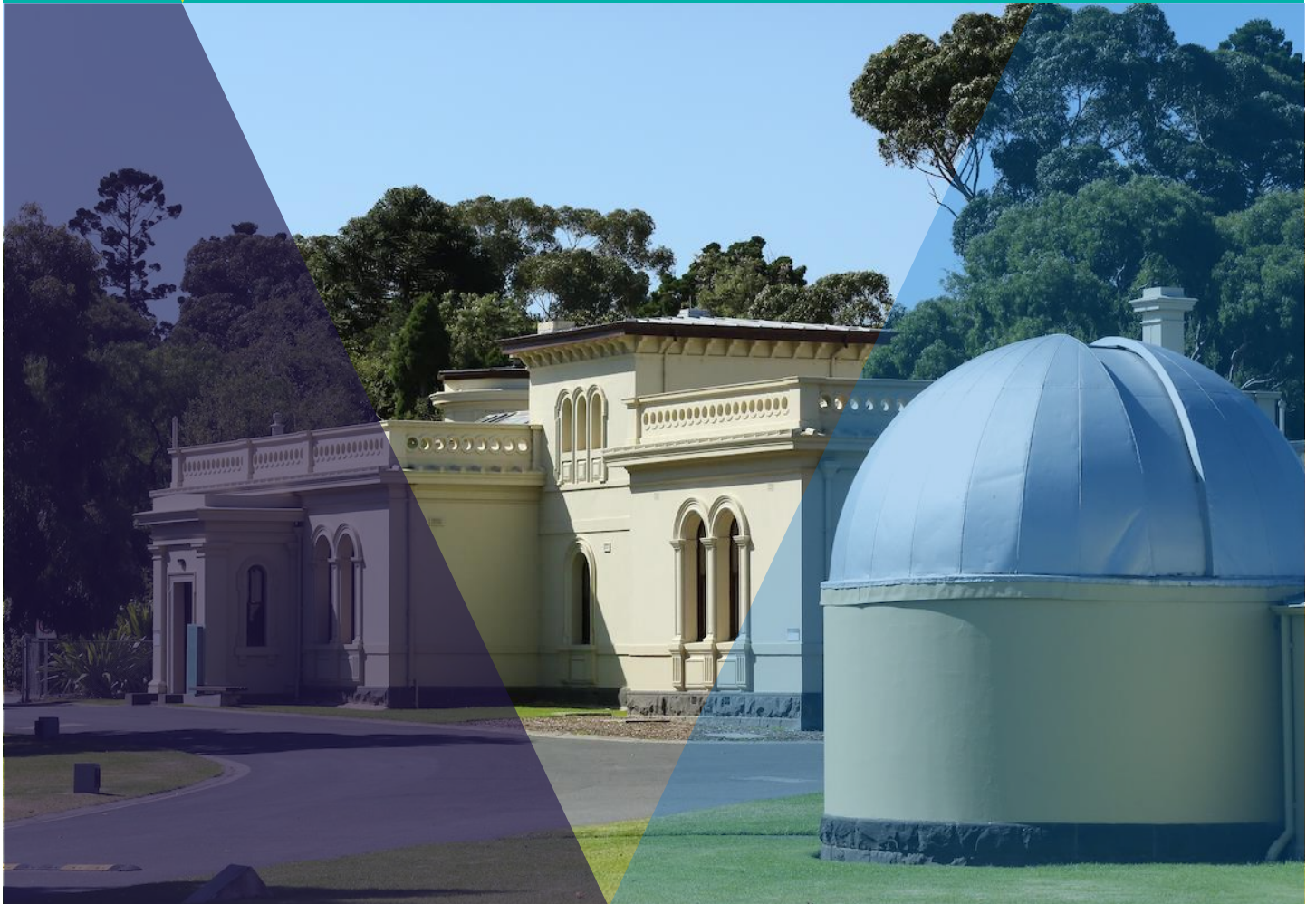


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Melbourne Observatory, Royal Botanic Gardens, Melbourne Gardens

The Melbourne Observatory was constructed in 1861-63, and expanded until 1902.

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Minister's Foreword

I am pleased to present the Victorian Government Response to the Victorian Environmental Assessment Council's (VEAC) Historic Places Investigation Final Report. I would like to thank VEAC for their thorough investigation and comprehensive report.

The Victorian Government recognises the importance of Victoria's historic places, including significant heritage places on public land. We are committed to improving management of Victoria's historic places to support continued growth of regional economies and to preserve the historical, social and cultural values that these places provide.

Over two years, VEAC undertook an extensive investigation into ways to improve the management, protection and use of Victoria's historic places on public land. The investigation involved obtaining stakeholder input through two public submission periods and a Community Reference Group. VEAC's investigation has shown the importance of these historic sites for tourism and regional economies, and their social and cultural significance for Victorian communities.

To this end, the Victorian Government has supported fully, in principle or in part, 10 of the 11 recommendations made by VEAC. We will now begin prioritising and implementing these recommendations, with consideration of budget processes. The recommendation for a new Public Historic Places Commissioner has not been supported, however we will work with existing agencies to ensure that the reasons for recommending this role are covered through more effective and strategic resource allocation.

The Victorian Government will work to improve accountability and strategic planning to support managers of historic places, particularly in rural and remote areas. The Victorian Government is committed to looking after Victoria's historic places on public land for the benefit and enjoyment of all Victorians.



The Hon Lily D'Ambrosio MP
Minister for Energy, Environment and Climate Change



Introduction

The Victorian Environmental Assessment Council's (VEAC) Final Report on its investigation into Victoria's historic places was tabled in Parliament on 11 October 2016.

This government response addresses each recommendation made by VEAC in its Final Report. Responses should be taken to apply to the whole recommendation where no reference to the specific recommendation number and subsection is provided in brackets (e.g. R1 (a)).

The Andrews Labor Government is committed to protecting Victoria's historic places and has committed to a number of actions to achieve this. The government has committed \$35 million for the Living Heritage Program to safeguard and reactivate the state's key heritage resources. This includes \$30 million over four years in the Victorian Budget 2015-16 and a further \$5 million in the Victorian Budget 2017-18.

In addition, the *Victorian Heritage Act 1995* was reviewed in 2015, which included extensive consultation and is currently being amended and re-enacted to provide higher level protection for places and objects of state-level cultural heritage significance, reduce regulatory burden and simplify key statutory processes.

The Historic Places Investigation was initiated in March 2014 to find a way to improve the management of historic places on public land. There are more than 7 000 historic places on public land in Victoria, ranging from the World Heritage listed Royal Exhibition Buildings to small sites of local significance such as local halls, former mining or sawmilling sites or archaeological ruins. More than one third of the total number of places and objects of state significance included on the Victorian Heritage Register are on public land.

This response applies to all historic places on public land but some recommendations concern places that are assessed as having heritage values and are on the Victorian Heritage Register.

VEAC's investigation demonstrated the social and economic importance of Victoria's historic places, particularly for tourism. VEAC stated that the importance of publicly owned heritage assets is not reflected in their management on public land. VEAC found that limited resourcing is compounded by the absence of system-wide long-term planning. This has led to deterioration of significant historic assets through neglect, necessitating costly repairs. The recommendations include new initiatives and significant changes to address the lack of progress with management or conservation of historic places on public land in the past decades.

The Victorian Government acknowledges that clearly articulated policy, strategy and planning are required to better guide management. Implementation of this government response will assist in ensuring effective on-ground management of historic places, within the context of new legislation and policy, and be supported by any complementary investment and subject to the government's budget processes.

The government will ensure that appropriate actions are taken to implement the recommendations to the extent that they have been accepted, as required under the *Victorian Environmental Assessment Council Act 2001*. The agencies involved with the implementation of the government response, including the proposed interagency working group, will be responsible for prioritising the delivery of recommendations, where applicable and as appropriate.

Decisions about resourcing to implement these recommendations will be subject to budget processes in the context of the government's investment and service delivery priorities.

R1. Resources for implementation and for ongoing management

- a. Adequate resources be allocated for implementation of these recommendations, to ensure that the objectives of the report and recommendations are achieved, and to address deficits and future management needs
and
- b. adequate initial funding be allocated to establish the recommended trust (recommendation R3).

The government supports this recommendation in principle.

Considerable resources are needed for implementation of many of the recommendations made by VEAC, including establishment of the trust or similar body. Decisions about resourcing to implement these recommendations will be subject to budget processes in the context of the government's investment and service delivery priorities.

The Department of Environment, Land, Water and Planning (DELWP) will be responsible for implementing this recommendation.

R2. Accountability for public land historic places

A Public Historic Places Commissioner, supported by an Office for Public Land Historic Places, be established to:

- a. support the Heritage Council of Victoria and Executive Director Heritage Victoria in their functions related to the management of historic places on public land
- b. be responsible for strategic cross-agency planning for management of historic places on public land and provide a forum to coordinate implementation of strategic planning with public land managers
- c. within 18 months of appointment of the commissioner, prepare and publish a strategic plan to document the management needs of historic places on public land, identify priorities and targets, and develop programs to address the targets
- d. produce and publish an updated strategic plan every five years thereafter and report on the performance of programs in previous strategic plans
- e. as detailed in recommendation R6, develop and drive reform towards an historic places data set to inform and support management decisions
- f. establish a process for managing the efficient transition of suitable historic places to adaptive reuse where the transition is likely to be difficult and, where appropriate, manage such transitions when identified in strategic planning (see note ¹)
- g. work with key government agencies that manage historic places on public land to document a policy for adaptive reuse of heritage assets, drawing on existing policies
- h. as detailed in recommendation R10, establish a framework for lease of historic places
- i. oversee and report to ministers on the implementation of these recommendations
- j. advise the government on management of specific historic places on public land, as required

- k. establish a reference panel to provide advice to the commissioner, including but not limited to representatives from the Department of Environment, Land, Water and Planning, Parks Victoria, local government, government departments and agencies that manage public land historic places and the Heritage Council of Victoria

and

- l. the commissioner report to the Minister for Energy, Environment and Climate Change, and the Minister for Planning.

Note 1: It is not envisaged that the Public Historic Places Commissioner or the Office for Public Land Historic Places be a manager of any historic places.

The government does not support this recommendation.

The government agrees with VEAC that there is a range of issues related to existing management of historic places on public land. However, the proposed commissioner would be likely to create duplication, confusion and additional complexity in administration, especially if the commissioner's scope of responsibilities is narrowed to focus specifically on strategic cross-agency planning.

Establishment of a new commissioner and office would require resources that could be more effectively used by existing agencies. A more modest allocation of funds to these existing agencies for the functions proposed is likely to lead to a less complex management system. This will also ensure that capacity for strategic planning for historic places stays within current agencies rather than in a separate new agency.

DELWP will work with the relevant agencies to consider how best to perform the functions in parts b to k of VEAC's recommendation, and to consider ways to attract more resources for the management of historic places. The government will consider how the capacity, roles and responsibilities of these agencies can be strengthened and further clarified to address the issues raised by VEAC, and ensure issues and sites are appropriately managed and accounted for. It will be important to ensure that whilst addressing the issues raised by VEAC, there is a focus on positive capacity building and support for managers of historic places and how best to manage locally significant places such as those in rural and remote areas.

DELWP (Heritage Victoria and Land Management Policy) and the Heritage Council of Victoria will be responsible for implementing this recommendation in consultation with the relevant agencies. Land Management Policy in DELWP will be responsible for the establishment of an interagency working group.

R3. A trust for historic places on public land

The current committee of management Working Heritage be re-established as a trust for public land historic places under new or amended legislation and the roles of the trust be to:

- a. manage a portfolio of historic places on public land including properties currently under the care of Working Heritage
- b. establish a revolving fund to assist in the rejuvenation of historic places and properties on public land through repair, restoration and reuse, with the proceeds from leases and other revenue including sale of properties to be retained by the trust for the purposes of the trust
- c. in consultation with the public historic places commissioner (recommendation R2) and government agencies, identify public land with heritage values suitable for adaptive reuse and transition to lease, sale or other appropriate management arrangements

- d. create opportunities for self-generating income through:
 - i. accepting gifts and bequests made to the trust
 - ii. working collaboratively with other organisations or agencies to operate fundraising campaigns
 - iii. inviting sponsorship from local and national businesses
- e. assist government departments and agencies responsible for the management of historic places on public land by providing specialist advice on topics including restoration and leasing and financial support, if appropriate.

The government supports this recommendation in principle.

The government supports the intent of this recommendation. Some funding is currently provided for committees of management and Parks Victoria for some at risk assets through the Living Heritage Program. Establishing a new body as proposed by VEAC has the potential to provide an investment fund to assist with the management of historic places, particularly where there are significant risks.

Working Heritage is currently a successful model for revitalisation and management of historic places with adaptive re-use as a focus and cross subsidisation of some more remote properties that have difficulty raising revenue to assist with their management and restoration.

A sound financial model will be needed for any new body that ensures the ability to generate significant revenue. The government will consider establishment of a revolving fund and other methods of self-generating income such as accepting gifts and bequests that rely on gaining tax deductibility status.

The government will consider the type of legal entity to achieve the purposes determined. An interagency working group will be established to consider this and how best to set up the new body.

A number of issues need to be considered in establishing the new entity. It will be important to clearly define the responsibilities of the entity in relation to other heritage bodies such as the National Trust of Australia (Victoria). The focus should not only be on major historic properties but also ensuring the new entity takes on a range of properties or assets that have significant risks but may be in remote areas with limited scope to generate income.

Careful consideration needs to be given to the powers of the Minister in relation to the new body. The Minister will require clear powers to direct the new body regarding management of funds and property dealings such as purchasing, selling and leasing public land. Consideration also needs to be given to how to ensure that this body can best provide support to public land managers and not drain capacity from existing agencies in this area.

DELWP (Land Management Policy) will be responsible for implementing this recommendation in consultation with Working Heritage and other relevant agencies.

R4. Minimum standards for management of Victorian Heritage Register places on public land

Minimum standards be implemented through a policy of the Heritage Council of Victoria or through the Heritage (General) Regulations to:

- a. stipulate that minimum standards of maintenance and repair be sufficient to maintain the values for which each place or object was listed on the Victorian Heritage Register, according to its specific fabric or asset character, or category of registration, as documented in its Victorian Heritage Register statement of significance
and
- b. include general guidelines establishing the minimum standards of maintenance and repair required for each type or class of heritage asset, place or object, or category of registration.

The government supports this recommendation in principle.

Improved management of heritage places through implementation of this recommendation, has the potential to enhance tourism, as well managed and maintained heritage properties are an attraction for both visitors and volunteers.

The Victorian Government considers that the management of all historic places should be undertaken within the government's Asset Management Accountability Framework. This requires agencies to manage and maintain their assets in a way that supports effective and efficient service delivery. The Victorian Government Cultural Heritage Asset Management Principles should apply to heritage places.

Maintenance requirements for assets differ depending on the type and level of service they support, the risks and values of the asset. Asset maintenance requirements should be developed on a case by case basis as part of a comprehensive asset management plan for a given property.

The Victorian Government has reviewed the *Heritage Act 1995* and is in the process of re-enacting the Act with amendments. The amended Act will provide for the Heritage Council to develop guidelines for the conservation of historic places which could incorporate minimum standards.

Public land agencies generally prepare management plans for properties, such as Conservation Management Plans prepared by Parks Victoria, that guide management and decision making. The standards for heritage management can cover not just the fabric of places but other attributes such as experiences, the stories and intangible values and connections.

Stipulating minimum standards could impose considerable financial burden on many public land managers due to the extent of deterioration of many sites. Many public land managers, particularly committees of management, have limited resources to enable them to meet minimum standards and would need additional training and resources for monitoring and repairs or restoration. Consideration will be given to what the proposed minimum standards require in relation to the costs and risks, particularly when this is beyond the requirements for maintenance already employed.

The government will consider introducing standards for high risk situations where there is risk of serious or irreparable damage (as is the case in New South Wales). A proactive program of maintenance for minimum standards will be required.

DELWP (Heritage Victoria) and the Heritage Council of Victoria will be responsible for implementing this recommendation.

R5. Summary heritage action statement and condition reporting

- a. a project be undertaken by the Heritage Council to establish a concise significance statement that identifies the heritage fabric of importance to be retained for each place on the Victorian Heritage Register
- b. in the interim, urgent assessments may be undertaken by the land manager in consultation with a heritage professional with appropriate expertise
and
- c. strategic plan reporting (identified in recommendation R2) include a statement of the condition of values identified in a, above.

The government supports this recommendation in principle.

Implementation of this recommendation is important to help guide strategic planning and proactive management of heritage places that are at risk.

Simple assessments of the significant fabric of a place and its condition are already a part of the registration of state significant places under the *Heritage Act 1995*. Contemporary heritage studies and assessments, commissioned by land managers, local government or Heritage Victoria are now required to list “what is significant”, under the Planning Practice Note ‘Applying the Heritage Overlay’ and the Heritage Victoria Guidelines.

However, these assessments are static and do not go into the level of detail implied in this recommendation. Heritage Victoria and some land managers will need significant time and additional resources for comprehensive assessments and audit of heritage places. Some volunteer committees of management in particular are unlikely to be able to implement without assistance. Given the significant deterioration of many places on public land and the level of resourcing required, implementation will be undertaken gradually commencing with pilots to guide the roll out. The government will build on audits that have already been done by Heritage Victoria to assess at risk places.

Tools have been developed by Heritage Victoria to support the self-assessment of condition of heritage assets.

The Heritage Council, DELWP (Heritage Victoria) and public land managers will be responsible for implementation.

R6. Reliable well-managed data to inform strategic management planning

Information from existing heritage data sets:

- a. be linked into a single comprehensive statewide data set for Victoria’s historic places on public land that is:
 - i. reliable and authoritative, with minimal ambiguity and duplication of information and records
 - ii. responsive and up-to-date, and continues to be so
 - iii. spatially precise and accurate
- b. supported by the recommended public historic places commissioner (recommendation R2), be augmented with standardised information on key variables to inform management planning, monitoring and reporting, including:
 - i. the spatial extent of each place including accurate boundaries, land tenure (e.g. title reference, Crown land parcel and reservation or vesting information)

- ii. public land or object ownership and manager (e.g. responsible government agency or department, Crown land committee of management¹)
- iii. current use and whether the site is occupied for a specific purpose
- iv. site or object condition, threats and planned monitoring where significant threats are identified and the site or object is considered at risk, and
- v. details of any conservation management plans
- c. the structural, custodial and ownership relationships of this data set to other statutory registers and heritage data sets held by public land managers and owners be clearly documented
- d. sensitive site information and confidentiality be managed as required under existing protocols
- e. this information be accessible, as appropriate, to owners and managers of historic places on public land and to the public
- f. the above information be reported annually or supplied as an adjunct to other government asset management reporting requirements.

Note ¹: The Council's intention is for the Department of Environment, Land, Water and Planning to develop and maintain the data set and information outlined above for Crown land reserves managed by community-based committees of management.

The government supports this recommendation in principle.

The government supports the establishment of a state wide data system for historic places on public land which maintains protocols for site sensitive and confidential information and streamlined reporting.

Reliable well-managed data is clearly essential for strategic management planning. Work has commenced to improve data systems through better integration of the heritage and planning system and upgrading Heritage Victoria's heritage places database, Victorian Heritage Register, through the design of the SMART planning system. VEAC's recommendations have been included in the requirements for the new system.

VEAC's data will be a valuable addition to work that is under way to improve data systems for the management of historic places on public land.

Care will be needed to ensure any access to Aboriginal heritage data is well considered and appropriately safeguarded.

The government will consider responsibility for the dataset and its maintenance in implementing this recommendation.

Data systems for historic places will link with the government's Asset Management Accountability Framework to avoid duplication. In addition, links will be made to the Victorian Aboriginal Heritage Register (VAHR) rather than contain VAHR data. This would ensure safeguards around the use of cultural heritage information and sensitive Aboriginal heritage information.

DELWP (Heritage Victoria, Planning and Land Management Planning) will be responsible for implementing this recommendation.

R7. Improving arrangements and support for community-based committees of management

- a. Ensure that legislation can provide simply and efficiently for the issue of short-term licences and permits for up to 3 years directly by committees of management for uses that are not inconsistent with the purpose of the reserve or to the detriment of the reserve
- b. templates or guidelines be developed to assist committees of management with the negotiation and issue of licences and permits described in a above
- c. a program be established for the Department of Environment, Land, Water and Planning to work with community-based committees of management to document risks to heritage values as described in recommendation R6
- d. the *Crown Land (Reserves) Act 1978* be amended to remove the three year limit to appointment terms for committees of management incorporated under section 14A of the Act
- e. committees of management managing historic buildings and historic places be provided with:
 - i. ongoing access to technical heritage expertise
 - ii. assistance in preparing strategic plans, business plans (where appropriate) and financial plans
 - iii. assistance in the production of conservation management plans or statements
 - iv. support with maintenance and adaptation for complementary reuse
- f. information on the following matters be included in annual returns of committees:
 - i. the condition of any on-site structures
 - ii. certificate of currency of all insurances
 - iii. connection of utilities and services.

The government supports this recommendation in principle.

The government acknowledges the important role that committees of management play in managing many of Victoria's historic places, often with limited resources. This arrangement provides a cost effective model of management that also builds community and social capital.

Implementation of this recommendation has the potential to enhance tourism, as well managed and maintained historic properties are an attraction for both visitors and volunteers. Building the skills and capacity of committees of management and providing support for maintenance and adaptive re-use of properties will assist with this.

The government will consider the current administrative complexity for committees with regard to leases and licences to provide opportunities for increased revenue streams to assist management, for example there should be an ability to issue licences without reference to the Minister.

Implementation of part f of this recommendation will assist in monitoring any issues related to insurance.

The Living Heritage Program provided dedicated funds of \$500 000 per annum over three years for works to at risk State listed heritage places managed by committees of management. There is separate funding of \$500 000 per annum for three years available for heritage sites managed by Parks Victoria. Committees of management can also access additional heritage grant funding amounting to \$1 million per annum over four years.

Amendment of the *Crown Land (Reserves) Act 1978* will be considered together with potential amendments following the government response to VEAC's Statewide Assessment of Public Land in May 2017.

DELWP (Land Management Policy) will be responsible for implementing this recommendation.

R8. Continuing work to recognise and protect shared values

The continuation and expansion of the work of the Joint Working Group of the Victorian Aboriginal Heritage Council and the Heritage Council of Victoria be supported, and the recognition of Aboriginal and non-Aboriginal cultural heritage values ('shared values') be supported as an essential element in the management of public land in Victoria.

The government supports this recommendation.

The Heritage Council and Victorian Aboriginal Heritage Council are continuing the important work to recognise and protect shared values and are committed to working together into the future. Consistent with work at the national level, this work will help with holistic understanding of heritage and the cultural landscape in Victoria.

It is imperative that appropriate and ongoing consultation take place with Traditional Owners and the wider community. If the work results in the need to amend existing registrations in the Victorian Heritage Register, or new registrations on the Victorian Aboriginal Heritage Register, additional work will be considered by Aboriginal Victoria and Heritage Victoria.

Care will be needed to ensure that this work does not add to the complexity of management through needing to protect sites under different legislative regimes.

Aboriginal Victoria (Department of Premier and Cabinet) and relevant DELWP agencies will be responsible for the implementation of this initiative with guidance provided by the Heritage Council and Victorian Aboriginal Heritage Council.

R9. Criteria for identifying historic places of local significance

Criteria for assessment of local cultural heritage significance be formally established and published noting:

- a. the current nationally agreed criteria (referred to as the HERCON criteria)
- b. the existing guidelines for the assessment of heritage significance and inclusion of places on the Schedule to the municipal Planning Scheme Heritage Overlay.

The government supports this recommendation.

The government supports the increased emphasis on recognition and protection of historic places of local heritage significance.

Agencies manage a wide range of historic places with various levels of significance and social values and these all contribute to community heritage. Places of local significance and values make up the majority of the public land historic portfolio managed.

For some managers and members of the community, the distinction between places of state and local significance is not clear and the recommendation for greater clarity and formal definition will be very useful for management and protection. This will also assist community understanding and expectations.

Current criteria are provided in a Planning Practice Note on the application of the Heritage Overlay developed by DELWP. This information will be reviewed in consultation with key stakeholders including the Heritage Council, the Municipal Association of Victoria and the National Trust.

DELWP (Heritage Victoria) will be responsible for implementation of this recommendation.

R10. Improving government leasehold arrangements

The public historic places commissioner (recommendation R2) work with key government agencies leasing heritage assets on public land to:

- a. assist in developing business plans for potential leasehold sites that articulate realistic parameters for the successful establishment and operation of each site under lease
- b. create guidelines or a framework that provide for lease conditions for heritage assets that acknowledges the lessee has increased costs of adapting and maintaining heritage assets and ongoing maintenance responsibilities
- c. facilitate mid-term negotiations with lessees to maintain heritage assets up to the end of any current lease agreement
- d. amend any existing policy or regulations restricting commercial arrangements to provide for the above e.g. *Retail Leases Act 2003*, *Leasing Policy for Crown Land in Victoria 2010*, noting that maintaining a heritage asset can be measured as both an economic and social benefit to the public.

The government supports this recommendation in part.

Improved government leasehold arrangements for heritage places are supported, particularly the focus on measures to support adaptive reuse of heritage places. However, the government has not supported the establishment of a new commissioner.

Consistent policy development across agencies will be encouraged to support implementation of this recommendation. An improved policy and legislative framework for leasing and licencing will be considered that addresses VEAC's recommendations, as well as greater support at local level to build the skills and capacity of public land managers in this area.

Part a of this recommendation is partly supported. The DELWP *Leasing Policy for Crown Land in Victoria 2010* provides guidance to prospective tenants for high risk and/or long-term lease applications to assist the preparation of business cases. This could be more readily applied to sites with heritage assets. Greater rigour in assessing the fit for purpose status of sites will assist in identifying risks to tenants, landlords and the State.

The government supports part b of this recommendation but notes resources will be needed to bring places up to a defined standard to enable leasing that can then generate income. Consideration of this would be an important role of the proposed trust or similar entity. Depending on capacity and level of need, DELWP may provide heritage advice and/or recommendations on maintenance of the assets for inclusion in proposed lease conditions. This advice informs how the asset is to be managed in accordance with the lease. DELWP will develop a heritage guideline that formalises this arrangement to ensure greater consistency in understanding of expectations, roles and responsibilities for heritage values for landlords and tenants. Consideration needs to be given to detailed cost modelling and analysis for this.

Part c of this recommendation is supported. According to the DELWP *Leasing Policy for Crown Land in Victoria 2010*, all structures and improvements are to be maintained by the tenant at the tenant's cost during the lease term. Standard form DELWP Crown land leases contain a maintenance schedule that specifies works agreed by the landlord and the tenant.

With regard to mid-term negotiations, in accordance with current DELWP leasing policy, proposals to issue a new lease to an incumbent tenant will generally not be considered until at least 50 percent of the term of the lease has expired. A renewal of lease to an incumbent tenant is subject to the same considerations as a new lease, that is a competitive process applies to the leasing of Crown land. This approach was developed in response to State and National Competition Policy.

A competitive process improves probity, and is better able to address conflicts of interest and transparency in the decision-making process. It also provides an opportunity for interested parties to compete for a lease.

Direct negotiations may occur in certain circumstances including where, after an assessment of the site, it can be determined that direct negotiation with a prospective tenant would maximise benefits to the community and/or government.

Part d of this recommendation needs further consideration by government as legislative change is required. DELWP (Land Management Policy) will be responsible for implementation of this recommendation.

R11. Identifying heritage places on public land to address under-representation of some place types on the Victorian Heritage Register

As part of planning for a future Victorian Heritage Strategy, under-representation of some place types on public land on the Victorian Heritage Register be addressed by:

- a. conducting a review to identify thematic gaps and identify suitable candidate places
- b. as applicable, establish a project to nominate suitable places to the Victorian Heritage Register.

The government supports this recommendation in principle.

Whilst this is an important issue and may promote heritage tourism, there is currently a backlog of places that need to be assessed for potential addition to the Victorian Heritage Register.

Implementation of this recommendation should not be at the expense of putting an additional burden on committees of management and other public land managers.

Implementation of this recommendation will be seen as a long-term project.

DELWP (Heritage Victoria) and the Heritage Council of Victoria will be responsible for implementation of this recommendation.

