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By email: engage@parks.vic.gov.au; info@parks.vic.gov.au

Chief Executive Office Parks Victoria
Level 10, 535 Bourke Street
Melbourne Victoria 3000
AUSTRALIA

Private and confidential

Dear Sir,

Submission Regarding the Dyurrite Arapiles Draft Management Plan

We act for Climbing Victoria.

Climbing Victoria is the peak body for rock climbing in Victoria. It is at the forefront of advocacy, news, and resources for the climbing community: see <https://www.climbingvictoria.com/>

Climbing Victoria, on behalf of its members, raises the following concerns regarding the proposed amendments to the Dyurrite Cultural Landscape management plan for Mount Arapiles-Tooon State Park ("Draft Plan").

1 Statutory basis for the Draft Plan

We note that the Draft Plan is being presented as an amendment to an existing management plan, with the process purportedly following that which is set out under section 48 of the *Parks Victoria Act 2018* (**Parks Act**).¹ Relevantly, the process in this section pertains to the creation of new management plans rather than the review of existing ones, which is governed by the process under section 51. Given the nature of the proposed changes, we query whether the process being undertaken by Parks Victoria is correct, as it appears to us that the more comprehensive consultation process under section 51 of the Act is required in the circumstances.

2 Inadequate consultation with climbers and other stakeholders

Regardless of whether Parks Victoria should be guided by section 48 or section 51, we have concerns as to the adequacy of consultation and the factors to be taken into account.

Consultation requires that a proposition be put with sufficient specificity and supporting information to allow it to be considered and to allow an affected party to formulate a response. The consultation

¹ *Parks Victoria Act 2018* s 48.

process to date has been deficient in that there is insufficient information upon which stakeholders can provide informed feedback. Specifically, we have the following concerns:

- a) The engagement between the Barengi Gadjin Land Council (**BGLC**) and the Gariwerd Reconciliation Network (**GWRN**) in 2020 does not represent adequate consultation with climbers. GWRN, while important, is not a representative body for climbers. As climbers are one of the main user groups of the park, their views must be represented accurately.
- b) Local businesses and the local council have not been included in the formal consultation process. This raises concerns about whether the views of those directly impacted have been properly considered. It is imperative that all stakeholders, particularly those whose livelihoods and activities are intertwined with the site, are consulted meaningfully.
- c) Parks Victoria has failed to provide sufficient material to allow any consideration of proportionality of the proposed access restrictions. Consultation requires that sufficient information be provided to allow stakeholders to understand the rationale behind proposed changes. Without this, the consultation process lacks the necessary foundation for informed decision-making.

3 Processes and frameworks

There appears to be a misalignment between the Draft Plan and the guiding frameworks that underpin the management of public lands by Parks Victoria. Specifically, the Draft Plan does not fully align with the existing policy documents that have guided the decision-making process.

The Draft Plan may undermine established frameworks designed to balance public participation, conservation, access, and cultural protection. A more consistent approach would not only better reflect the shared objectives of these policies but also meet the requirements of existing decision making frameworks, thus ensuring the safeguarding the environmental and cultural significance of Dyurrite/Arapiles while preserving public (including recreational) access to Dyurrite/Arapiles.

Adherence to these frameworks collectively embody the principles of equity, inclusivity, transparency, evidence-based decision-making, and stakeholder collaboration.

4 Protection of Aboriginal Cultural Heritage

It appears that the closures, as proposed in the Draft Plan, extend beyond what is necessary and proportionate to protect Aboriginal Cultural Heritage.

To be clear, Climbing Victoria respects the cultural heritage values of the park, especially as that is embodied in rock art sites, some quarry sites and scar trees, some of which have been registered. It supports the preservation of such Aboriginal places.

What constitutes an Aboriginal place under section 5 of the *Aboriginal Heritage Act 2006* (Vic) ("AHA"),² relevantly includes:

- '(c) *a natural feature, formation or landscape;*
- (d) *an archaeological site, feature or deposit; [and]*

² *Aboriginal Heritage Act 2006* (Vic) s 5(2).

- (e) *the area immediately surrounding any thing referred to in paragraphs (c) and (d), to the extent that it cannot be separated from the thing without diminishing or destroying the cultural heritage significance attached to the thing by Aboriginal people...*

However, the proposed closures appear to extend to substantial areas of the park that are not in proximity to heritage sites as identified in a number of Aboriginal Heritage Surveys. The approach set out in the draft plan is not proportionate.

While it is accepted that some exclusion zones might be appropriate to protect Aboriginal places, there is a need to balance that need for protection with the public use of the Park, including for climbing. The protection of Aboriginal places under the AHA is absolute – such a place is subject to statutory protection under that Act. However, the establishment of ‘appropriate’ buffer zones by a public land manager to protect such sites is subjective and needs to be the subject of a careful balancing exercise.

We also note that while traditional owner views on whether an Aboriginal Place is of cultural heritage significance may well be primary, once a site is identified, the additional protection that it ought to be given under the Parks Act needs to be balanced with the interests of other stakeholders. We assume that recent statements made by Matthew Jackson, then CEO of Parks Victoria, during the State Government Public Accounts and Estimates Committee hearing on Monday, November 20, 2024 is not intended to suggest that there is no balancing exercise to be applied.

5 Protection of flora

An ecologist and botanist with extensive local experience has provided a critical assessment of the Dell Botany Report to Climbing Victoria. In his view, that report is not sufficient to justify the exclusions in the Draft Plan on the grounds of flora protection.

His observations, drawn from years of local experience, challenge the assertions made in the Dell Botany Report regarding several species, most notably:

- **Cyphanthera anthocercidea:** Contrary to the report's claims, this species is not threatened by climbers or current weed infestations but rather by the absence of fire, which is a natural cue for its germination and recruitment. He suggests that a temporary climbing ban post-bushfire could be justified, but a general ban is not proportionate or effective.
- **Acacia glandulicarpa:** He questions the inclusion of this species in the list of flora purportedly threatened by climbing activities, noting that it is typically found in Mallee vegetation, not the rocky areas of Mount Arapiles.
- **Prostanthera arapilensis:** this is an endemic species to Dyurrite, observed away from rock walls, which means that climbing activities do not impact its growth and suggesting that site closures for its protection are unnecessary.
- **Acacia rupicola:** This is commonly found in frequently used areas, showing no signs of threat from climbing.
- **Comesperma polygaloides:** This is typically a flat land species, not associated with cliff faces, and therefore not at risk from climbing activities.

- **Goodia medicaginea** and **Pterostylis biseta**: Both species are not threatened by climbers, with the former flourishing post-soil disturbance and the latter observed in healthy numbers during a botanical hike.

A formal report can be commissioned. Please let us know if you require it or whether the above explanation is sufficient.

In light of this expert analysis, we contend that the rationale for flora protection as a basis for the climbing bans is misguided. We urge Parks Victoria to consider this expert evidence and reassess the necessity and scope of the climbing bans in relation to flora protection.

6 Impact on local economy

The economic and social fabric of the communities surrounding Mount Arapiles-Tooan State Park is intricately linked to climbing tourism. With over 3,300 climbing routes, the park attracts upwards of 50,000 climbers annually, both from within Australia and internationally. This influx of climbers has historically been a boon to the local economy, with direct spending by climbers prior to the 2019 restrictions estimated at \$12.3 million per annum.³ This figure accounts for immediate expenditures such as accommodation, food, and climbing equipment.

However, the true economic contribution of climbing tourism extends far beyond these immediate expenditures. When considering the indirect effects, such as the purchase of climbing guides, photography, the attraction of media attention, and the overall promotion of Mount Arapiles as a premier climbing destination, the total economic impact is likely to be substantially greater. Drawing parallels from the Grampians, where similar bans led to a 36% decline in climbing activity, one can anticipate comparable reductions in both direct and indirect economic benefits at Mount Arapiles, and it is reasonable to project that the total economic impact could potentially double the direct spending estimate, highlighting the critical role of climbing tourism in the vitality of the local economy.

In light of this, it is imperative that any decisions regarding access to climbing routes at Mount Arapiles are made with a full understanding of the economic consequences. The absence of comprehensive economic and social impact assessments in the decision-making process precludes a proper assessment of this consideration.

7 Further information

In summary, Climbing Victoria is unable to make a full submission at this time as it has not been provided with information supporting the closures proposed under the Draft Plan.

If Climbing Victoria were to make a submission now, on the basis of information known to it, the key points it would make are:

1. The Aboriginal places identified in surveys conducted to date:
 - a. Are protected under the AHA; and
 - b. The closures contemplated under the Draft Plan are neither necessary nor appropriate;

³ See Economic Assessment of Rock Climbing at the Grampians National Park and Mount Arapiles, H Rowlands 2021. A copy of this report can be provided on request.

- c. More constrained buffer zones (say 5 – 10 metres for rock art) are more appropriate;
- 2. There is no real risk to flora; and
- 3. There has been insufficient attention paid to the economic and social impact ramifications of the proposed closures.

Accordingly, we respectfully request a copy of the decision to finalise and consult upon the Draft Plan, as that presumably contains reference to all the information being relied upon.

If you have any queries, please let us know.

Yours faithfully
Gilbert + Tobin



Marshall McKenna
Partner



Alexander Danne
Partner





3 April 2025

Attention:

The Hon. Steve Dimopoulos

Minister for Environment & Minister for Outdoor Recreation

Cc: Graeme Dear, CEO Parks Victoria

Hon. John Pandazopoulos, Chair Parks Victoria

Dear Sir,

Proposed Dyurrite-Arapiles Draft Management Plan Solutions

The widespread closures proposed in the Draft Plan have been met with strong opposition from both the Australian and international climbing communities.

As the consultation period for the Draft Plan has now closed, we are writing to propose solutions to resolve this dispute without the recourse to legal action.

The **attached** "legal submission" by Gilbert +Tobin dated 14 February ventilates the concerns raised broadly by many members of the community. If the concerns in this submission are not addressed it seems inevitable to us that any Parks Victoria decision regarding Park access will:

- (a) fail to adequately reflect stakeholder interests;
- (b) almost certainly, undermine lawful procedural fairness for Victorian Park Users; and
- (c) almost certainly be the subject of lengthy and detailed legal challenges

Notwithstanding this, we are committed to achieving constructive and mutually acceptable outcomes for all Park Users, including responsible preservation of cultural heritage sites and fair and continued recreational Park usage for all Victorians. To support collaboration and a productive path forward, we present proposed solutions in this letter.

Proposing Solutions

1. Rescind the Draft Plan and prepare a new management plan

The consultation process to date has been flawed to the extent that the amended plan is unable to be remedied.

A new plan will require a new **Decision Framework** which is impartial, de-politicized, adheres to evidence based decision-making, protects cultural heritage in accordance with legislation, engages the key stakeholders in accordance with government policy, and to enable informed comment allows access to relevant information without the need for FOI requests.

Completing a new plan will ensure that all relevant factors, including social, environmental, and cultural considerations, are properly addressed. It will also provide an opportunity to re-engage with the broader community and key interest groups across Victoria, ensuring their voices are

meaningfully incorporated into the decision-making process - particularly given the precedent this process is likely to set across Victorian public lands usage.

Additionally, we refer to the matters outlined in the legal submission which further support the need for an entirely new plan.

2. Establish a cooperative framework

A cooperative framework that includes Parks Victoria, Climbing Victoria, Traditional Owners, and other relevant stakeholders and Park Users must be established.

This collaborative approach will enable the development of site-specific management strategies that balance the protection of cultural heritage with reasonable access for recreational activities such as climbing. It will also ensure that cultural sensitivities are respected, and that the preservation of heritage is achieved in a customary way, without undue restrictions on public use for Victorian Park Users.

Ensuring open dialogue will ensure a fairer and more inclusive society and decision-making process.

3. Engaging the local community in a respectful and inclusive manner

It is important that sufficient information is shared to foster a deeper understanding and appreciation of the cultural heritage and the significance of local landscapes among both Indigenous and non-Indigenous people.

The Wimmera region has complex dynamics, and creating opportunities for mutual learning and dialogue can bridge gaps and promote reconciliation. Through education and inclusive practices, we can nurture respect and responsibility for the land, leading to stronger community cohesion.

The past actions of Parks Victoria have so far done the opposite of this.

Key actions to achieve success with the above must include in our respectful opinion:

- Prepare a new independently peer reviewed Decision Framework that is based on sound principles, and aims to protect Cultural Heritage in ways that minimizes the impact on users of the Park. Such a document must be made public as a key part of any new or amended Plan.
- As part of this, implement appropriate protective buffer zones around Aboriginal Places that are in proximity with climbing locations. Refer to the Climbing Victoria document “Cultural Heritage, Climbing and Buffer Zones at Dyurrite”
- A public statement from the Minister to help lead the solution and correction of Parks Victoria’s historic conduct, and to clarify misleading statements and actions made by Parks Victoria, including regarding the Draft Plan. The exit of the previous Parks Victoria CEO has commenced and assisted this process, but more leadership is needed. Additionally, we recommend avoiding public statements that characterise Park Users, individuals, or groups as perpetrators of colonisation. Such language has no place in the fair and inclusive management of a park for the benefit of all users.
- Commit to depoliticise and depersonalise all issues.

Climbing Victoria’s Support in Response

Implementation of the proposals and actions above will allow Climbing Victoria, via its member organisations and community contacts, to draw broadly on the support of the climbing community to contribute the following to underpin an enduring collaboration:

- Raising funds and volunteer labour to assist with the implementation of tracks, signage, installation of natural barriers around buffer zones.
- Advocate for the climbing community to respect the buffer zones and the protection of the cultural heritage at Dyurrite
- Support the role of a dedicated ranger to monitor and protect sensitive areas
- Support the publishing of supplemental information on climbing and cultural heritage at Dyurrite
- Work with the climbing community and Traditional Owners to find ways to make Traditional Owners feel welcome, safe and respected at Dyurrite and doing this in a spirit of working towards reconciliation.
- Work in good faith to find solutions if there is intangible cultural heritage at Dyurrite
- Support measures to provide urgent protection of any cultural heritage that is at immediate risk, so long as it is explained what those immediate risks are.

Climbing Victoria remains open to other suggestions that would help achieve a successful implementation of an acceptable New Plan.

Conclusion

In this letter we have proposed practical solutions for consideration and discussion. Our commitment remains to achieving a balanced resolution without the need for further action.

We look forward to engaging in further discussions with Parks Victoria and others to contribute to the development of a balanced, well-considered management plan that addresses the needs and interests of all Victorians interested in using and preserving the great open spaces Victoria holds – including significant cultural, environmental and recreational values.

Yours sincerely,

Climbing Victoria

ATTACHED:

Cultural Heritage, Climbing and Buffer Zones at Dyurrite

Legal Submission Letter 14 February from Gilbert +Tobin