

Committee of Management Guidelines

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Photo credit

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Acknowledgment

We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

We are committed to genuinely partner, and meaningfully engage, with Victoria's Traditional Owners and Aboriginal communities to support the protection of Country, the maintenance of spiritual and cultural practices and their broader aspirations in the 21st century and beyond.



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Chapter 1

About these guidelines

This chapter explains the purpose of these guidelines.

1.1 Introduction

Welcome to the *Committees of management guidelines*.

The purpose of these guidelines is to assist committees of management of Crown land reserves in Victoria to fulfil their duties and responsibilities.

The guidelines are written by the Department of Environment, Land, Water and Planning (DELWP).

Please visit the [committees of management](http://www.delwp.vic.gov.au/committees) page on the DELWP website at www.delwp.vic.gov.au/committees to check if you have the latest version. If you cannot access the internet, your local DELWP [regional office](#) can assist.

1.2 About these guidelines

The guidelines are **useful for all committees of management** as follows:

Local committees

The guidelines are particularly useful for Victoria's over 1,000 **local** committees. These voluntary committees manage reserves of significance to local communities, such as a local community hall, recreation or bush reserve. Management of these reserves is usually fairly straightforward.

The [committees of management](http://www.delwp.vic.gov.au/committees) page on the DELWP website is also very useful for these committees.

Major committees

The guidelines will also be useful for **major** committees. About 100 committees manage a reserve of regional or statewide significance. Management of these reserves is more complex and has a higher level of risk.

Major committees must comply with additional legal and administrative obligations. Additional guidance written for major DELWP agencies about, for example, model policies, is useful for these committees. This guidance is available from DELWP's [On Board](http://www.delwp.vic.gov.au/onboard) website at www.delwp.vic.gov.au/onboard.

Coastal committees

Local or major committees that manage coastal reserves require specific information to complement these guidelines. This information is available from your local DELWP [regional office](#) and from the [Marine and Coast](#) page on the DELWP website.

Crown land caravan and camping parks

Similarly, committees that manage Crown land caravan and camping parks must meet specific requirements. Information is available from your local DELWP [regional office](#) and from the [Crown land and caravan and camping parks](#) page on the DELWP website.

Committees subject to other regulatory regimes

All committees are accountable under the *Crown Land (Reserves) Act 1978* for the management of their reserve. The guidelines provide useful information about these obligations. However, some committees are also subject to other regulatory regimes. These committees also need to be familiar with their duties under those laws.

Examples include:

Incorporated associations

Approximately 140 incorporated associations manage Crown land reserves. This is different to being incorporated under the *Crown Land (Reserves) Act 1978*.

Incorporated associations are subject to a regulatory regime administered by [Consumer Affairs Victoria](#) under the *Associations Incorporation Reform Act 2012*.

Companies limited by guarantee

A small number of committees are companies limited by guarantee. These committees are subject to the *Corporations Act 2001* (Cth) and regulated by the Australian Securities and Investments Commission (ASIC). Specific guidance is available on the ASIC [website](https://www.asic.gov.au/). If clicking on the link does not work paste into your browser <https://www.asic.gov.au/>

Local councils

Local councils appointed as committees are subject to a regulatory regime primarily governed by the *Local Government Act 1989*. For further information see the [Know your council](#) website.

1.3 Using the guidelines

When using these guidelines, please remember that no guidelines can address every situation or issue your committee may need to manage. Guidance on specific issues is available from your local DELWP [regional office](#).

1.4 Other key sources of guidance from DELWP

Other key sources of information provided by DELWP for committees include:

Committees of management page on the DELWP website

The [committees of management](#) page on the DELWP website is a one-stop shop for committees looking for information to assist them in their role. You can easily download these guidelines from that page. You can also easily find additional (companion) guidance produced by DELWP and other organisations to read or download. Examples include:

- fact sheets and guidance notes
- model policies and templates
- resources such as newsletters, insurance fact sheets and policy wording, and the *Committees of management categorisation framework*
- links to information on other pages on the DELWP website
- links to useful information on other websites.

Landfolio self-serve kiosk

During 2020, DELWP is introducing Landfolio, an electronic self-serve information kiosk for committees. Using the kiosk, your committee will be able to access a range of information about the reserve and its management. It will also have the option to easily provide DELWP with information, such as annual returns, using the kiosk. See 6.2 'Landfolio self-serve kiosk' for details about the kiosk.

Local DELWP regional office

Your local DELWP [regional office](#) can provide a range of advice and assistance to your committee.

1.5 Electronic copy

An electronic copy of this document is available from the DELWP website (www.delwp.vic.gov.au/committees).



Chapter 2

About committees of management

This chapter looks at your committee's role and relationships.

2.1 Introduction

A Crown land reserve is public land set aside for the benefit and enjoyment of the people of Victoria. Examples include coastal foreshores, recreation reserves, public halls and rail trails.

Members of the public have been involved in the management of Crown land reserves in Victoria for over 150 years.

As a member of a committee of management, you contribute to the community in many ways – environmentally, culturally, socially and economically.

Across Victoria:

- Approximately 1,200 committees of management are made of up members of the public.
- These committees manage over 1,500 reserves.
- Other reserves are managed by organisations such as municipal councils, Parks Victoria, government departments, and companies limited by guarantee.

2.2 Overarching role of your committee

The overarching role of your committee, as set out in section 15 of the *Crown Land (Reserves) Act 1978*, is to:

‘manage, improve, maintain and control’ the reserve for the **‘purposes for which it is reserved’**.

The committee is legally accountable for its actions and decisions to the Minister for Energy, Environment and Climate Change. The Department of Environment, Land, Water and Planning (DELWP) supports and oversees committees on behalf of the Minister. This is set out in section 13A of the *Public Administration Act 2004*. It also occurs by convention.

For further information about the responsibilities and duties of your committee and its office bearers see 2.5 to 2.7 in this chapter.

2.3 Legal obligations

Your committee has a range of legal obligations. For example:

- It must fulfil its obligations as the delegated land manager of the reserve under the *Crown Land (Reserves) Act 1978*.
- It is bound by local, state and commonwealth government laws that govern the wider community, for example, employment, contract, tenancy and licensing laws.
- Victorian public sector laws apply to almost all committees, for example, privacy, record keeping and freedom of information laws.
- Almost all committees are **public entities**. This means they are bound by the *Public Administration Act 2004*.
- If your committee is one of the very few that is not a public entity, it will be bound by other laws that impose similar standards of conduct, such as honesty and integrity, and other regulatory obligations.

Example

Incorporated associations have obligations under the *Associations Incorporation Reform Act 2012*. This is different from being incorporated under the *Crown Land (Reserves) Act 1978*.

Local councils

Note that a local council is a public entity when acting as a committee of management. However, in its ordinary role as a municipal council it is not. See section 5(4) of the *Public Administration Act 2004*.

2.4 Powers of the committee

Your committee's powers to **manage, improve, maintain and control** the reserve are set out in section 15 of the *Crown Land (Reserves) Act 1978*. Some of your committee's powers include:

- Carry out works and improvements on the land once any necessary approvals are obtained.
- Employ people.
- Negotiate leases (if the committee is incorporated) and licenses for all or part of the reserve. Leases and licences are subject to the approval of the Minister or their delegate.
- Enter into contracts.
- Take legal proceedings. Contact your local DELWP regional office if the committee is considering doing so.
- Make financial transactions. If your committee is incorporated under the *Crown Land (Reserves) Act 1978*, this includes borrowing money provided the committee has the Victorian Treasurer's consent.
- Do anything else your committee is empowered to do in regulations issued by the Minister under section 13 of the Act.

2.5 Duties and responsibilities of the committee

Your committee works together as a team to manage, improve, maintain and control the reserve. The committee is **legally accountable to the Minister** for all its decisions and actions. In a broader sense, it is also accountable to reserve users and the general community for ensuring that the reserve is managed in the public interest.

The committee's role includes strategic planning, performance monitoring and reporting, and stewardship.

For committees that employ staff, the day-to-day management of the reserve is undertaken by a manager, for example the CEO. The committee appoints and monitors the performance of this manager.

Committees that manage a reserve without staff will play a significantly more 'hands-on' role.

Public interest

When performing its role, your committee must act in the **public interest** (the best interests of the whole community).

Act within the committee's purpose and power

Your committee must ensure that all its actions and decisions are consistent with its purpose, powers, and the laws and other obligations that bind it, such as government policy.

Report major risks

Your committee has a responsibility to report major risks to the effective management of the reserve to the Minister and the Secretary of the department through the regional office. Contact your local DELWP regional office for advice on this process.

Provide information to the department

Unless prevented by law, your committee has a duty to provide the department with any information it requests about the management of the reserve. For example, see section 13A of the *Public Administration Act 2004*.

2.6 Duties and responsibilities of individual members

As a committee member, your individual duties and responsibilities include:

- Attend at least 75 per cent of committee meetings.
- Participate in discussion and decision making in a constructive and courteous manner. For details, see Chapter 4 'Committee meetings'.

- Participate in committee activities and business.
- Participate in the preparation and implementation of strategic plans, such as management and business plans. Monitor the plans and report against them.
- Bring any relevant issues to the committee's attention.
- Act with integrity, consistent with the Code of Conduct for Directors of Victorian Public Entities and other required standards of conduct. For details, see Chapter 5 'Standards of conduct'.

2.7 Additional duties and responsibilities of office bearers

Certain committee members have additional duties as officer bearers, for example, as chair, secretary or treasurer. Some major committees that manage a reserve of regional or statewide significance appoint additional office bearers. Examples include deputy chair, assistant secretary and assistant treasurer.

To help maintain transparency and accountability, the role of chair and treasurer should **never** be held by the same person. If this is not possible, contact your local DELWP regional office for advice.

Role of the chair

For committees incorporated under the *Crown Land (Reserves) Act 1978*, the Minister appoints a member of the committee as chair. The committee may be invited to submit a nomination for the Minister to consider.

For unincorporated committees, either the Minister appoints a member as chair or permits the committee to do so.

The key responsibility of the chair is to facilitate the committee's operations. This includes:

- Provide guidance and leadership, ensuring the committee functions effectively as a team.
- Represent the committee publicly. The committee can also designate a committee member or employee to act as spokesperson on specified issues.
- Preside at committee meetings. For details see Chair's role at committee meetings4.3 'Chair's role at committee meetings'.
- Monitor whether the tasks arising from committee meetings are being carried out.
- Notify the Minister and the Secretary of DELWP of major risks to the effective management of the reserve. This action is taken by the chair on behalf of the committee. Contact the local DELWP regional office for the correct process to follow.
- Ensure that each new committee member receives a suitable induction process and kit. See 3.11 'Induction for new committee members'.
- Actively manage any disputes that arise between committee members.

Secretary

The committee appoints one of its members as secretary. The secretary's key responsibility is the administration of the committee. This includes:

- Record the minutes of all committee meetings.
- Receive incoming correspondence and bring it to the attention of the committee.
- Draft and despatch outgoing correspondence as approved by the committee.
- Keep committee members properly informed. For example, send agendas with notices of upcoming meetings, copies of correspondence and reports.
- Liaise with the chair between meetings to ensure that the committee attends to its business.
- Maintain and securely store committee records in accordance with the *Public Records Act 1973*.

Treasurer

The committee appoints one of its members as treasurer. The key responsibility of the treasurer is to keep the committee's financial records in good order. This includes:

- Maintain a bank account in the name of the committee. Signatories to the account should be the chair, the secretary and the treasurer, with any two out of three people to sign.
- Record and bank money received.
- Pay accounts, as authorised by the committee.
- Keep all invoices, receipts, bank statements and other financial records for audit purposes.
- Report details of the committee's current financial position at each committee meeting. This includes bank balances, transactions since the previous report, and any other information the committee may require.
- Prepare an annual financial report based on the last financial year (1 July–30 June).
- Submit the committee's annual return to DELWP, as approved by the committee. For details see Chapter 16 'Annual reporting'.

2.8 Volunteers and staff – maintaining role distinction

Sometimes, a committee engages a person who is not a committee member to undertake certain tasks. For example, a committee may engage:

- a reserve manager or CEO
- a volunteer or contractor with book-keeping skills.

This person's role must never be confused with that of a committee member. To help maintain role distinction and the committee's independence, employees, volunteers and contractors:

- Do not attend committee meetings unless invited by the chair. An invitation may be for the whole meeting or for specified agenda items.
- Do not take part in committee discussion unless invited to do so.
- Never take part in committee decision-making.

For details, see Invited guests.

2.9 Engaging with the community

Your committee manages the reserve for the benefit of the whole community. Useful ways to understand the community's aspirations for the reserve and to manage any unrealistic expectations, include:

- Talk with current and potential users of the reserve. For example, individuals and groups such as service clubs, interest groups, schools, sporting and recreation clubs, the chamber of commerce, and organisers of annual festivals and events.
- Be familiar with the local planning scheme.

Developing a management plan

When developing your committee's management plan for the reserve (see Chapter 7 'Management and business plans'), it is essential to consult the community. The level of consultation will be guided by the type of reserve, its activities and uses, the proposed development, and the extent of community interest, impact and influence.

Example

A proposed major development will require a high level of consultation, which may include public meetings, workshops and surveys.

Encouraging volunteers

Day-to-day community involvement with the reserve can be fostered by encouraging volunteers to support the work of the committee. Volunteers can make a valuable contribution through a wide range of activities, such as working bees. See Chapter 15 'Volunteers' for information about encouraging volunteer participation and working with volunteers.

Guide to engaging

Community engagement should be consistent with the [DELWP community charter 2018](#).

Examples of stakeholders are:

- regular and potential users of the reserve, both formal, such as sporting and recreational clubs, and informal users
- any holders of leases or licences
- the aboriginal community and Traditional Owners
- the general community
- the local council.

Another source of information about community engagement is the [Public participation in government decision-making: better practice guide](#) published by the Victorian Auditor-General's Office.

2.10 Role of the department

The department (DELWP) oversees and supports committees on behalf of the Minister.

DELWP can provide information or referrals on general matters, such as:

- fire protection
- environmental works, including the conservation and protection of flora and fauna, land restoration, and pest and animal control
- current grants programs
- native title
- insurance (for details, see Chapter 12 'Insurance')
- freedom of information
- conservation and protection of cultural heritage.

Contact your local DELWP [regional office](#) or the Customer Contact Centre on 136 186.

DELWP local regional office

The local DELWP [regional office](#) is your committee's 'relationship manager'. It can also provide advice on specific issues, such as:

- how to prepare management plans
- how to prepare leases, licences and contracts
- community engagement
- how committees are appointed
- issues that are adversely affecting the management of the reserve.

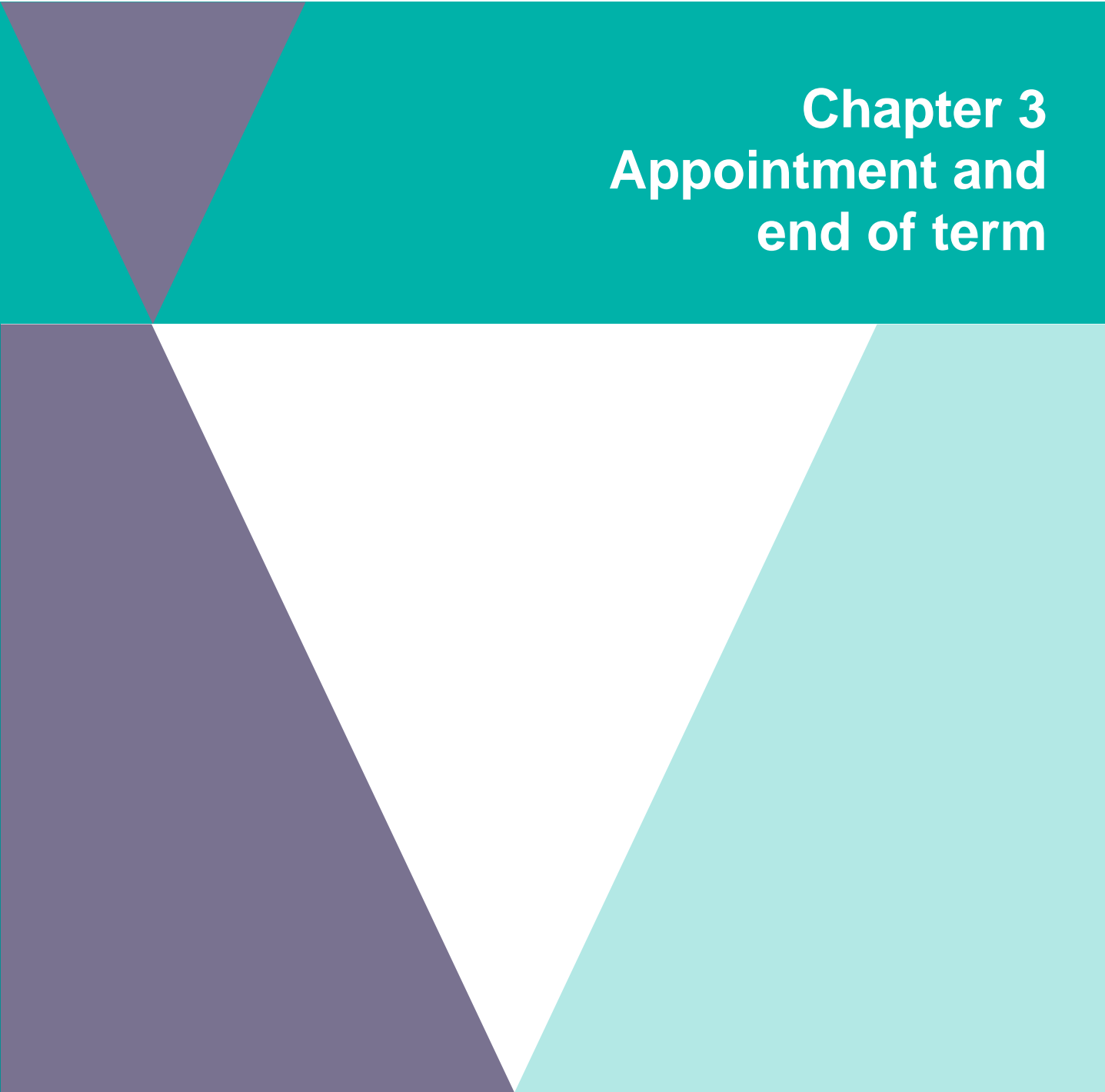
Correspondence to the Minister

Any official correspondence from your committee to the Minister should be sent to the relationship manager, who is usually the regional manager or program manager at your local DELWP [regional office](#).

2.11 Further information

For further information about the role, duties and responsibilities of the committee and its office bearers:

- Contact your local DELWP regional office.
- Check for additional resources on the committees of management page of the DELWP website.
- See the Victorian Public Sector Commission website for example:
 - Welcome to the Board has an introduction to the role of board and committee members.
 - Committees that hire executive staff can find information on recruiting a CEO, assessing their performance, and links to setting their remuneration.



Chapter 3

Appointment and end of term

This chapter looks at appointments and the beginning and end of your term as a committee member.

3.1 Introduction

As a committee member, it is important to understand:

- the appointments process
- resignation and removal from office
- hand-over processes, induction and capacity building.

3.2 Composition of a committee

Section 14(4) of the *Crown Land (Reserves) Act 1978* gives the Minister the power to appoint committees of management of Crown land reserves. The Minister may appoint a committee that consists of:

- three or more persons, or
- a local council, Parks Victoria, an eligible water corporation, a body established for a public purpose, a company limited by guarantee, an incorporated association or 'any combination of such persons and bodies'.

Instrument of Appointment

A committee is appointed by the Minister or their delegate via a written **Instrument of Appointment**. The appointment is:

- subject to the conditions, if any, that the Minister imposes
- for such term (length of time) as the Minister thinks fit. For committees incorporated under the *Crown Land (Reserves) Act 1978*, as most are, this is for a period of up to three years.

The committee's powers and responsibilities under the Act derive from the Instrument of Appointment.

3.3 Appointment of members

Where the Minister appoints a committee that is made up of three or more individuals, the committee is usually appointed for a **three-year** term. Sometimes, a casual vacancy arises and is filled for the remainder of the term of the committee. More details are set out later in this chapter.

Members of a committee are eligible to apply for reappointment when their term expires.

3.4 Who is chosen?

It is Victorian Government policy that all appointments to public sector boards and committees are **merit-based** and should, as far as practicable, reflect the **diversity** of the Victorian community. This means, for example, approximately 50 per cent women. The [Appointment and Remuneration Guidelines](#) state that:

'Opportunities to appoint women, Indigenous Australians, people with a disability, people from culturally and linguistically diverse backgrounds and lesbian, gay, bisexual, trans, gender diverse and intersex people should be actively explored'.

3.5 What is the appointments process?

The process of appointment or reappointment depends on the type of committee:

- community 'elected' (nominated)
- user group
- skills-based.

Community 'elected' (nominated)

The usual process for appointing members to a **local committee** is for the local community to 'elect' their preferred candidates. These nominations are then submitted for consideration by the Minister or their delegate, who is usually the local DELWP regional director. As part of this process:

- The committee is notified by DELWP in writing four months before its term expires.
- The committee advertises a public 'election' in the local newspaper and other forums, such as community notice boards and social media. The advertisement:
 - includes details of the date, time, place and purpose of the election
 - invites readers to stand as candidates for committee membership
 - encourages public attendance and voting at the election.
- If the committee holds an annual general meeting (AGM) and an election is due, the election is usually held straight after the AGM.
- If you wish to be a candidate in an election but cannot attend, you can nominate in advance in writing.
- For transparency, it is best for the election to be chaired by an independent person, preferably a local council representative. If a councillor is not available, another suitable independent person can be asked, for example, the captain of the local CFA brigade.
- Those in attendance vote to choose who will be **recommended** to the Minister (or their delegate) for appointment to the incoming committee. Proxy and postal votes are not permitted.
- Details of the elected nominees are submitted to the local DELWP regional office for approval by the Minister or their delegate, who will consider whether to appoint the nominee.

For further information, contact your local DELWP regional office.

User representative committees

If a committee is composed of representatives of user groups or other organisations:

- DELWP notifies the committee in writing four months before its term expires.
- Each user group on the committee is asked to nominate their proposed representative(s) for the incoming committee. For example, the local football club, hockey club and pony club that use the reserve each nominate their proposed representative.
- Each user group submits their nominee to the local DELWP regional office for approval by the Minister or their delegate.

The Minister or their delegate either approves the user group's nominee as a member of the committee or else notifies the user group of the need to submit another nominee for consideration

'Skills-based' committees

A skills-based selection process applies for **major committees** that:

- manage a reserve of statewide significance, and/or
- have significant financial responsibilities.

This is also increasingly the case for committees that manage reserves of regional significance.

Occasionally, a local committee may be appointed through a similar process, for example, if the reserve's management is becoming more complex.

Appointments process

The process for skills-based appointments is as follows.

- Selection is based on merit and skills sought and is consistent with the Victorian Government's Appointment and Remuneration Guidelines.

- Candidates submit an expression of interest (EOI) for advertised vacancies.
- The candidate may be selected for an interview.
- Usually, the department manages the appointments process and makes recommendations to the Minister or their delegate.
- The Minister or their delegate selects and appoints the new committee.

Advertising vacancies and submission of EOIs

For committees of statewide significance:

- Vacancies are generally advertised on the Victorian Government website for board vacancies, Get on Board at <https://getonboard.vic.gov.au>. This is different to DELWP's governance guidance website, On Board.
- Advertisements are also usually placed in print media, social media and/or by other means, such as recruitment services.
- Candidates submit their EOI electronically through Get on Board, unless agreed otherwise with DELWP.

For committees of regional significance, while there is a move towards using Get on Board, most vacancies are not yet advertised there. Instead, print or other media advertisements set out how to submit an EOI to DELWP.

Casual vacancies

A casual vacancy is one that arises during the committee's three-year term, for example, if a committee member resigns or is removed by the Minister.

A casual vacancy must be filled if the committee has less than three people remaining. It should also be filled if there is difficulty maintaining a quorum at committee meetings or if the skills needed on the committee are absent.

Casual vacancies are also usually filled if there is more than 12 months of the committee's term remaining or if the committee requests this to occur.

The Minister or their delegate makes the appointment in accordance with the relevant process. For further details, contact your local DELWP regional office.

3.6 Documents required before appointment

If you apply for appointment to a committee, you must provide the department with certain information during the appointments process. You cannot be appointed as the successful candidate unless:

- probity checks have been conducted by the department
- you have completed a Declaration of Private Interests form.

Probity checks

Personal and professional integrity is vital for a committee member. The Appointment and Remuneration Guidelines require applicants to undergo certain probity checks.

- The minimum probity checks the department must conduct before a person can be appointed to a committee of management are:
 - Australian Securities and Investment Commission
 - Australian Financial Security Authority.
- For some committees, a **National Criminal Record** (police check) is also required, with the applicant's written consent. Your local DELWP regional office has information on whether a police check is required for your particular committee.

Probity checks are used by the department when preparing a brief to the Minister or their delegate about the short-listed candidates. These checks give the Government and the public confidence that appointees have personal integrity and the capacity to manage financial and business affairs.

Probity check results, such as a prior criminal conviction, do not necessarily exclude a person from appointment.

Example

A conviction for a criminal offence may not preclude you from being appointed to the committee. The outcome will depend on the relevant circumstances, such as:

- the nature, age and circumstances of the offence
- the applicant's conduct since the offence and the likelihood of reoffending
- whether the offence is relevant to the requirements of the role.

Declaration of private interests

As part of the appointments process, you must submit a Declaration of Private Interests. On this form you declare any interests you have (financial or non-financial) that may cause, or be perceived to cause, a conflict with your role as a member of the committee.

It is important to note that having interests that may conflict with your role as a committee member does not usually preclude you from being appointed to a committee.

If you are appointed, your relevant interests are recorded in the *Register of Interests*. If a conflict arises with an item on the agenda at a committee meeting, you declare the interest. It is then managed in accordance with your committee's policy on *Conflict of Interest*. For details, see 5.4 'Conflict of Interest'.

The declaration form for appointments to **major** committees may include additional questions to that for **local** committees.

Information collected

Information collected as part of a candidate's application for appointment is subject to the *Privacy Protection and Data Act 2014* and the *Public Records Act 1973*.

3.7 Resignation

It is important to remember that **even after** you are no longer a member of the committee you are legally bound by confidentiality and proper use of information requirements. For details, see 5.6 'Confidentiality and proper use of information'.

Resigning from the committee

If you decide to resign from the committee, submit your resignation in writing to the Minister or, where applicable, their delegate. To arrange this, contact your local DELWP regional office for details of the correct process. Reasonable notice should be given, so a new committee member can be recruited if necessary. Also let the chair of the committee know that you intend to resign. If you resign, you must hand over all committee records in your possession to the committee.

Resigning as an office bearer but remaining on the committee

Sometimes, a member decides to remain on the committee but resign from their position as chair, treasurer, secretary or other office bearer.

- To resign as chair but remain on the committee, contact your local DELWP [regional office](#) for information about the correct procedure for submitting your written resignation.
- To resign as treasurer, secretary or other office bearer but remain on the committee, notify the committee in writing.

If you resign as an office bearer, you must hand over all committee records associated with your office, so that they can be given to the new office bearer and treated in accordance with the *Public Records Act 1973*.

If the secretary resigns, the committee should inform DELWP, so that the department can update its contact records.

3.8 Removal from office

It is important to remember that **even after** you are no longer a member of the committee you are legally bound by confidentiality and proper use of information requirements. For details, see 5.6 'Confidentiality and proper use of information'.

Under the *Crown Land (Reserves) Act 1978*, the Minister has the power to remove the whole committee or an individual committee member at any time. Misconduct or unsatisfactory performance are examples of when this might occur.

In addition, if the committee is incorporated under the Act, a member's position automatically becomes vacant if he or she:

- is absent from four consecutive meetings without the committee's permission
- becomes bankrupt or has property that becomes subject to control under bankruptcy laws
- is convicted of an indictable (serious) offence
- becomes incapable of performing their duties, for example, due to chronic illness
- is removed from office by the Minister.

Misconduct

A committee member has a duty to perform their role with a **reasonable degree of care, diligence and skill**. Integrity and other performance standards and values are set out in the *Public Administration Act 2004* and in the [Code of Conduct for Directors of Victorian Public Entities](#) (the Code) which is issued under the Act.

According to item 1.4 of the Code:

'A failure to behave in the ways described in the Code may be considered misconduct and in the most serious cases may lead to suspension or removal from office. Additionally, a Director [committee member] who improperly uses their position to gain an advantage for themselves or someone else or to cause detriment to the public entity [committee] will be liable for their actions under both civil and criminal law.'

Note that if your committee is subject to a different regulatory regime, such as corporations law, similar requirements will exist about integrity and reasonable standards of care, diligence and skills.

Unsatisfactory performance

The judgement that a fellow committee member is not carrying out their duties with a reasonable degree of care, diligence and skill is a difficult one to make. If this issue arises:

- The first step is for the chair or the committee as a whole to discuss the matter with the member involved. This may resolve the issue, with either the member accepting that more is required of them or resigning.

- If concerns continue about the performance of the committee member, the chair (or if the chair is the issue, another committee member) should contact the local DELWP regional office for advice.

Possible corrupt conduct

If you believe that another committee member or an employee of the committee may be involved in corrupt conduct you can contact the department's Integrity Manager. Email protected.disclosures@delwp.vic.gov.au or phone **1800 903 877**. The department's Integrity Manager will advise you of your options and of the process to take if a report is to be made to the Independent Broad-based Anti-corruption Commission.

To preserve your possible status as a person making a protected disclosure, you are advised not to discuss the matter before contacting the Integrity Manager.

3.9 Outgoing committee – the hand-over process

An outgoing committee has a duty to:

- hand over all committee records it holds
- properly brief the incoming committee to the extent that it requests.

The outgoing chair leads this process, with assistance from the outgoing secretary and treasurer. The process should be conducted in a professional, courteous and timely way by all outgoing and incoming members.

Committee records

The outgoing committee must hand over all committee records to the incoming committee, including any electronic versions. This includes all current and past documents kept as required by the *Public Records Act 1973*. For example:

- committee minutes and related papers
- correspondence received and copies of correspondence sent
- strategic and other plans, such as management, business and risk management plans
- all financial records, including annual budgets and other financial planning documents
- performance and other reports, for example annual reports
- documentation relating to contracts, for example, leases, licences and contracts for services
- employment records and contracts
- work schedules
- all registers, for example, assets register
- committee policies.

In addition, as part of the hand-over process, the outgoing treasurer:

- balances the books prior to hand over
- provides an appropriate briefing, including advising of any committed funds
- organises the changeover of bank account details
- advises service providers, such as gas, phone, and water providers, of the incoming committee's contact details
- advises the Australian Tax office of the incoming committee's contact details.

For further information about committee records, see 6.7 'Record keeping'.

Ongoing requirement for confidentiality and proper use of information

As an outgoing member it is essential to remember that requirements for confidentiality and proper use of information **continue to apply** even after you are no longer a committee member. For details, see 5.6 'Confidentiality and proper use of information'.

3.10 Incoming committee

New committee members are not formally appointed and cannot conduct committee business until approved by the Minister or their delegate.

The incoming committee should ensure that:

- all records held by the outgoing committee are handed over to them
- a suitable briefing is provided by the outgoing committee.

The new committee should also ensure that all necessary documentation is **in place, suitable and being implemented**. For example:

- committee policies, for example, on conflict of interest; gifts, benefits and hospitality; and meetings and decisions
- planning documents, such as management plans, business plans, and risk management plans.

It is good practice for your committee to review these documents when it commences its role. Changes, additions and updates may need to occur.

3.11 Induction for new committee members

As an incoming committee member, familiarise yourself with:

- the reserve your committee has been appointed to manage
- any user groups and the regular uses of the reserve
- your role and responsibilities, including the committee's decision-making processes and standards
- the Code of Conduct for Directors of Victorian Public Entities
- the committee's policies. Ask the chair for your own copy of these policies
- the *Committee of management guidelines* published by the department (these guidelines)
- the induction and other resources available on the committees of management page on the DELWP website, for example, the induction video.

You also need to develop an understanding of the key government policies and laws that apply to your committee.

Duty of chair

The chair should ensure that each new committee member has a suitable induction into their role. New members should also be provided with a suitable induction kit.

Contents of induction kit

Include key resources in a committee member's induction kit, such as:

- the Code of Conduct for Directors of Victorian Public Entities
- committee policies
- any key government policy of strategic relevance to your committee
- other key documents that are relevant to your committee and reserve, such as the management plan

- [Welcome to the Board](#) published by the Victorian Public Sector Commission (VPSC).

In addition:

- See the resources listed for inclusion in induction kits under the 'Induction' heading on the Victorian Government website page [Guide to public entity board governance](#).
- Check the [committees of management](#) page of the DELWP website for induction resources for committees. DELWP adds new information from time-to-time.

Assistance from DELWP

Your local DELWP [regional office](#) can be contacted for advice.

For major committees with complex management responsibilities, the department may provide:

- a briefing to the chair
- an induction program and kit to committee members.

3.12 Networking and ongoing capacity building

The department may be able to assist with opportunities for networking and capacity building during your committee's term in office. This could include professional development on topics such as risk management. It may also include, for example, introducing committees with similar interests for networking and mentoring purposes.

3.13 Further information

For further information:

- Contact your local DELWP [regional office](#).
- See the [committees of management](#) page of the DELWP website.
- The VPSC [website](#) also has information on these topics, for example, see [recruitment and appointment to the board](#).



Chapter 4

Committee meetings

This chapter looks at how to conduct meetings and make decisions.

4.1 Introduction

The purpose of committee meetings is for members to:

- exchange information and views
- consider issues
- make decisions that are in the public interest (the best interests of managing the reserve on behalf of the Victorian community).

Your committee is legally accountable to the Minister for all its decisions and actions. It also has a responsibility to act in the public interest, taking into account the needs of reserve users and the community.

4.2 Meetings and decisions policy

Your committee should have a *Meetings and decisions* policy. The policy needs to be consistent with your committee's legal obligations and good governance practice. To assist, DELWP offers:

- A model policy for local committees is available from the [Committees of management](#) page on the DELWP website.
- A model policy suitable for major committees that manage reserves of regional or statewide significance is available from the [Board meetings and decisions](#) support module on the department's [On Board](#) website.

4.3 Chair's role at committee meetings

The chair presides at committee meetings. If they are absent, the deputy chair presides. If no deputy chair is appointed/present, one of the members present acts as chair. This is decided by the committee members present.

The chair ensures that the meeting runs according to committee policy. This includes ensuring that:

- The *Register of Interests* and all relevant policies are available for use at the meeting.
- The standing items on the agenda about conflict of interest (see 4.6 and 4.8) and gifts, benefits and hospitality (see also 4.6) are properly dealt with.
- Committee members treat one another with respect and courtesy and participate actively and constructively in each decision.
- No decision is taken without the required quorum and processes. For details see 4.10.
- Committee meetings are effective and run on time.

Overall, the chair balances the need to ensure that each committee member has a fair opportunity to express their views and ask questions with the need to progress the meeting in a timely manner. In doing so, they take into account:

- the nature, complexity and importance of the issue being discussed and decided
- all other relevant circumstances.

You have a duty to cooperate with the chair and other members to ensure that meetings occur in this way.

4.4 Dispute resolution

If a dispute arises between committee members, the chair manages its resolution. All members cooperate in this process. For further information see 5.7 'Dispute resolution'.

4.5 Schedule of meetings

Your committee's *Meetings and decisions* policy should set out how often the committee usually meets each year. Additional meetings can be arranged as needed. The aim is to meet as often as necessary for the good management of the reserve.

- More frequent meetings may be necessary during some periods, for example, if a camping reserve has seasonal fluctuations.
- A reserve with complex management needs may require frequent meetings, for example, monthly meetings.
- For most reserves managed by a local committee, meetings may only be needed every few months.

DELWP usually recommends that committee meetings are held at least three to four times in every 12-month period.

The chair sets the meeting schedule in consultation with the other members. The schedule can be set for the year in advance. Alternatively, at the end of each meeting the committee can choose the date for the next meeting.

4.6 Meeting agenda

The agenda for each committee meeting is set by the chair in consultation with the other members. If the committee has a reserve manager or equivalent, such as a CEO, the chair will usually also consult them.

Agenda template

DELWP offers a **template** for a committee meeting agenda, which your committee can choose to use. It can be downloaded from the [committees of management](#) page on the DELWP website. A copy is available in Appendix A, which you may find useful to read.

Standing items at the start of the meeting

Certain 'standing items' should always occur at the start of a committee meeting. These include:

- **Apologies** – Who is unable to attend the meeting and has sent their apologies?
- **Quorum** – Are enough committee members present, in person or by remote attendance, for a valid decision? For details see 'Quorum' later in this chapter.
- **Changes to the agenda** – Do any changes need to be made to the agenda? If a proposed new item is not urgent and the agenda is full, or if it is contentious and some members are absent, the item may need to be deferred to the next meeting.
- **Gifts, benefits and hospitality** – Do any committee members present need to update their entries in the *Register of gifts, benefits and hospitality*? For details see 'Gifts, benefits and hospitality' in the next chapter.
- **Conflict of interest** – Does any member present need to update their entries in the *Register of Interests*? Does any member present have a conflict of interest with an item on the agenda? If so, has it been declared at the start of the meeting, *regardless of whether it is already entered in the register*? How will the committee manage the conflict? For details see 4.8 in this chapter.
- **Minutes of previous meeting** – Are the minutes of the previous meeting accurate and confirmed? What is the progress of any actions arising from those minutes? For details see 'Minutes' later in this chapter.

The meeting then proceeds with the priority items on the agenda, followed by routine reports and other business.

Priority and routine items

Priority items are matters of strategic significance, for example, decisions and progress reports about works on the reserve. They should be listed on the agenda before routine items. That way, everyone is fresh and there is enough time to deal with them properly.

Routine items are the basics that need to be covered at each meeting, including regular financial and operational reports. The chair, treasurer and secretary report to each meeting. Reports should also be received from any subcommittees. Major committees with a reserve manager or executive officers, such as a CEO and chief finance officer, receive written reports from these officers at each meeting.

Sending out the meeting papers

The agenda and any related papers, including the draft minutes of the previous meeting, should be circulated at least five working days, and preferably 10, before the meeting. This is to ensure that there is reasonable time for each committee member to fulfil their obligation to:

- read all the materials
- consider the issues
- fully prepare for the meeting.

4.7 Attendance at committee meetings

Committee members

You are expected to attend all committee meetings. A minimum attendance of 75 per cent is required unless good reason exists otherwise, for example, illness or family crisis. In these situations, contact the chair, secretary or other office bearer to tender your apology. It will be then recorded in the minutes.

If your committee is incorporated under the *Crown Land (Reserves) Act 1978*, you cease to be a committee member if you are absent without the committee's permission for four consecutive meetings.

Remote attendance

Attendance in person at a committee meeting is preferable. However, the committee may permit you to attend 'remotely' by any technological means that enables the committee to clearly and simultaneously communicate with one another. For example, remote attendance could be via conference call or internet video link, such as Skype.

If you wish to attend a meeting remotely, contact the chair beforehand to check if this is likely to be suitable. The committee's decision whether to allow you to attend in this way is made at the start of the meeting. Permission should not be withheld unreasonably. However, remote attendance should not be your standard way of attending, unless good reason exists, and it does not impede the proper functioning of the committee.

IMPORTANT!

If you are attending a meeting remotely and a document is tabled at the meeting to inform a proposed decision then, unless you can read (or be read) the document and properly comprehend it, abstain from the vote.

Nominees not permitted

You cannot nominate another person to attend a committee meeting on your behalf or to exercise any of your decision-making powers or rights as a committee member.

Invited guests

A person who is not a member of the committee may only attend a committee meeting if invited by the chair. Guests do not take part in committee discussion unless invited to do so by the chair and they never take part in any committee decision. This applies to external guests and to committee staff. The committee determines which item(s) or part item(s) the invited guest may attend.

Staff

If your committee employs staff, the chair should ensure that no staff member is present as 'a matter of course' during committee meetings. This helps the committee to maintain its independence,

Example

A committee with a reserve manager may decide to set aside a period of time during each committee meeting for discussion without that person in the room.

External experts

Sometimes, the chair will invite an external expert, for example, a conservation specialist, to take part in discussion about an item on the agenda. The chair should advise such guests that their attendance is conditional on them maintaining confidentiality about anything that happens or is discussed in the meeting.

Members of the public

Good relations with the local community are important. However, there is no public 'right of entry' to committee meetings. Some committees allow members of the public to be present during committee meetings, or part thereof. It is up to your committee whether:

- It allows the public to be present. And if so, whether this is for part or all of the meeting and on a regular basis or specific occasions.
- It does not allow the public to be present at its meetings.

If members of the public are permitted to attend a meeting, the chair should advise them about the conditions of their presence, which include, for example:

- Act with courtesy and respect towards others.
- Only take part in committee discussion if invited to do so by the chair.
- Be silent or leave when instructed to do so by the chair.
- Never attempt to put any motion or vote on any matter before the committee.

No external guest should be present during discussion and decision making on confidential items, such as an employee's salary and conditions.

If your committee wishes to encourage community engagement, a possible strategy is to publish details of its next meeting and inviting one or more of the following:

- written submissions
- questions in writing from the public for consideration at the meeting
- public attendance
- a period for questions from the floor with, say, a limit of two per guest. If this occurs, the chair should ensure it does not take over the agenda or 'drain' committee members before priority items are addressed. The chair can curtail the segment at any time.

For further information about encouraging community involvement see 2.9 'Engaging with the community' and 15.10 'Encouraging volunteers'.

4.8 Conflict of interest – standing agenda item

It is essential that any interests you have that could be, or could be perceived as, a conflict of interest with your role as a committee member are recorded in the committee's *Register of interests*.

In addition, if you have an interest in an item on the agenda, you must formally declare it at the start of the meeting, **even if it is already recorded in the register**. The committee will then determine how to manage the conflict in the public interest.

For details see 5.4 'Conflict of interest'.

Example

When Dan joined the committee a year ago, he recorded in the *Register of interests* that he is coach of the local football team, which has a licence to use part of the reserve. At the committee meeting that is about to begin, the committee will consider an application by the club to extend the term of its licence. Dan must declare his interest in this agenda item, formally reminding the other committee members that he is the team's coach. The committee will then decide how to manage this 'material' (serious) conflict of interest.

The standard procedure for a material (serious) conflict of interest is for the member with the conflict to leave the room for all discussion and decision making on the issue. For details, including when a lesser option may be appropriate, see 5.4 'Conflict of interest'.

4.9 Due consideration

Your committee has a duty to exercise a reasonable degree of **care, diligence and skill** when making decisions. Before making a decision, your committee should:

- find out all the relevant information
- objectively consider all relevant facts and criteria, and avoid irrelevant considerations
- consider all relevant options
- understand the full strategic, financial, community and other implications of the proposed decision.

Each committee member should balance respect for the expertise of others with their own duty to speak up, ask questions, and ensure that the correct decision is made.

Advice and reports

Your committee should ensure it has the information and advice necessary to fulfil its role effectively. Reports to the committee, such as regular financial reports, should be suitable for its needs. They should contain all the relevant information in a way that is easy-to-read and understand. As a committee, review the format of reports periodically. Just because a report has always been done a certain way, does not mean that it should continue to be so.

Courtesy and respect

Before a decision is made, there should be an appropriate opportunity for each member present to ask questions, express ideas and offer opinions. It is a fundamental requirement that all committee members treat one another with courtesy and respect. While the chair has a key role in ensuring that this occurs, all committee members share this duty.

A committee member who is addressing the meeting should not be interrupted by another member. However, the chair has the right to provide the member who is speaking with directions, for example, about the length of time being taken, keeping to the point and appropriate language. The chair can also provide directions to other members about refraining from interrupting, treating another member appropriately and related matters.

4.10 Decision making

Decisions must be valid and in the public interest

The committee must ensure that each decision it makes is:

- **valid**, including that it is consistent with:
 - the committee's role and powers
 - quorum and voting requirements
 - all applicable laws and procedures. For example, a contract may need to be in writing and, if your committee is incorporated, the common seal affixed.
- in the **public interest**, that is, the best interests of managing the reserve on behalf of the Victorian community
- consistent with **government policy** and any Ministerial directions issued to the committee
- **ethically sound and fair**. This includes being made in good faith, with honesty and integrity, without bias, in a financially responsible manner, and with a reasonable degree of care, diligence and skill. Act according to the Code of Conduct for Directors of Victorian Public Entities.

Quorum requirements

A **quorum** is the minimum number of members who must be present at a meeting, in person or remotely, and take part in making a decision for it to be valid. The quorum required in sections 14B and 15 of the *Crown Land (Reserves) Act 1978* is:

'the majority of the members for the time being in office'.

In other words, half plus one of the committee. For example, a committee of six has a quorum of four.

If there is no quorum within 30 minutes of the scheduled start of the meeting, or other reasonable waiting time agreed by the committee, the chair will:

- postpone the meeting, or
- conduct the meeting, or part of it, but defer all decisions to a subsequent meeting when a quorum is present.

It is important to remember that there may be a quorum for some decisions at a meeting but not for others.

If a member is **unable to vote on a particular decision**, the chair should check that a quorum still exists before the vote proceeds.

The most common reason for a member being unable to vote on a particular decision is if they are absent from the room due to a conflict of interest.

Sometimes, it will be necessary to defer a decision on certain items or to close the meeting early because a quorum cannot be maintained.

Proxy or absentee decision making is not permitted

Proxy or absentee voting is not permitted. Only committee members who attend the meeting in person or remotely are part of the quorum.

Voting requirements

Each decision is made by **formal vote**. It is not appropriate, for example, for the chair to glance around the room and say words to the effect of 'I think we are all in favour of that'. Under sections 14B and 15 of the *Crown Land (Reserves) Act 1978*, a decision is determined by:

'the majority of votes of members who are present and voting on the question'.

In the event of a deadlock, the chair or presiding member has a casting (second) vote.

While it is vital for the committee to consult together as a team, each member must decide individually whether to agree with or dissent from a proposed decision, and make their choice known through their formal vote.

Process

A committee decision is made by the simple process of:

- a motion (proposed decision) being 'moved' by a member and 'seconded' by another member
- the chair checking there is a quorum (see previous page) for a vote to occur
- the motion being passed if the majority of members voting are in favour of it.

Any member may move or second a motion. This could be as simple as:

'I move that the treasurer's report be accepted,' says Bill Smith.

'I second the motion,' says Lucy Tran.

It is good practice for the motion to be written down. This is particularly important if it is contentious, complex or wordy. The motion is then read out or circulated prior to voting. This ensures everyone is clear about what is to be decided.

After checking that there is quorum for the vote, the chair asks, 'All in favour?' (Counts three raised hands.) 'All against?' (Counts one raised hand.) 'The motion is carried.'

4.11 Minutes of the meeting

Minutes are the formal, written record of a meeting. They must be kept for each committee meeting. The secretary of the committee records the minutes or arranges for someone else on the committee to do so. The minutes must be an accurate record. They should be clear and succinct, with enough detail to enable a member who was not present to be informed of all decisions taken and actions arising. Briefly note the key factors in a decision but avoid details of 'who said what'.

Minutes template

DELWP offers a **template** for minutes of a committee meeting, which your committee can choose to use. It can be downloaded from the [committees of management](#) page on the DELWP website. A copy is available in Appendix B, which you may find useful to read.

What to record in the minutes

The minutes should include:

Attendance and quorum

- committee members attending, apologies, and confirmation of a quorum
- if a committee member leaves the room during the meeting, for example, due to a conflict of interest, the agenda item(s), or part thereof, for which they are absent
- any non-committee members attending and the agenda item(s), or part thereof, for which they are present.

Agenda items

- the time that each agenda item commences and finishes
- details of standing items, in particular, **conflict of interest** and **gifts, benefits and hospitality**.

Decisions

- each committee decision, including the exact wording of the motion

- a brief note of the key factors in the decision, avoiding details of ‘who said what’
- the vote, including who votes in favour, who dissents, and who abstains and why, for example, due to a conflict of interest
- if a member present is unable to vote on a particular decision, for example, due to a conflict of interest, confirmation that a quorum still exists for that decision
- any action items flowing from the decision; who is responsible for completing them; and any timelines.

Other matters may also need to be included in the minutes from time to time, such as a guest speaker.

The draft minutes should be sent to the chair for review, preferably within a few days of the meeting, and then to the other committee members. Include the page number and meeting date on each page.

The minutes are endorsed by the committee, with any necessary amendments, at the next meeting. *Only members who were present at a meeting can endorse the minutes.*

Once the minutes have been endorsed as a true and accurate account of the meeting, they are signed and dated by the chair at the bottom of each page on behalf of the committee. Once signed, they are a formal and contemporaneous record (record made at the time) that must never be altered.

The minutes and related papers, including copies of any documents tabled at the meeting, must be retained as an enduring record of the committee’s decisions. They must be stored and archived in accordance with the *Public Records Act 1973*. For details see 6.7 ‘Record keeping’.

An outgoing committee must hand the minutes of its meetings to the incoming secretary. Other record keeping requirements also apply. For details see 3.9 ‘Outgoing committee – hand-over process’.

Minutes are a public record but are not automatically open to the public

As with other documents produced by the committee, such as the *Register of interests*, committee minutes are a public document. However, this does not mean that they are automatically ‘open to the public’. For example, the minutes may contain information that is commercial-in-confidence.

Unless the committee agrees, a member of the public who wants to see the minutes would need to lodge an application under the *Freedom of Information Act 1982*. If this occurs, the committee can contact the department. DELWP can provide advice and assist your committee to assess whether its minutes are exempt from disclosure.

4.12 Other requirements and good practice

Confidentiality and proper use of information

Any information you receive in your role as a committee member must only be used for proper purposes.

- You must not use the information to gain advantage for yourself or anyone else or to cause detriment to the management of the reserve.
- You must keep the information confidential.

This is an ongoing requirement, **even after you leave the committee.**

Notifying the department of major risks

If the committee decides that there is a major risk to the effective management of the reserve, the chair must notify the local DELWP regional office.

Traditional Owner acknowledgement

It is good practice for your committee to acknowledge the Traditional Owners of the land at the start of each meeting. Your local DELWP regional office can assist with appropriate wording.

- If the Traditional Ownership of the land on which a committee meeting or event is taking place is **clear**, the Acknowledgement of Country is:

'Our (*type of event*) is being held on the traditional lands (or country) of (*name of the Traditional Owner group*) and we wish to acknowledge them as Traditional Owners. We would also like to pay our respects to their Elders, past and present [and the Elders from other communities who may be here today].'

- If the Traditional Ownership of the land is **not clear**, the Acknowledgement of Country is:

'We acknowledge the Traditional Owners of the land (or country) on which we are meeting. We pay our respects to their Elders, past and present [and the Elders from other communities who may be here today].'

Annual general meetings

Most committees hold an Annual General Meeting (AGM). This is different from a regular committee meeting. An AGM is a public meeting where the committee reports back to its community. The agenda for an AGM usually includes the following:

- The committee ratifies the minutes of the previous AGM.
- The chair reports on the committee's activities over the past 12 months (or since the last AGM was held).
- The treasurer presents a financial report.
- The committee outlines proposed activities for the next 12 months or term in office. This may include seeking the community's views on those plans.
- Time is set aside for members of the public to ask questions of the committee. However, this is not a forum for taking motions from the floor or voting on proposals.
- If the community is due to 'elect' a new committee for approval by the Minister or their delegate, this usually takes place at the end of the AGM. This generally occurs every three years.

Advertise the AGM to the extent that is appropriate for your committee's reserve. Advertisements can be placed in newspaper(s), public noticeboards, post, email and/or social media.

Committee members should receive the agenda, reports and minutes from the last AGM at least five business days, and preferably ten, before the meeting.

Template agenda

DELWP offers a **template** for an AGM agenda, which your committee can choose to use. It can be downloaded from the [committees of management](#) page on the DELWP website. A copy is available in Appendix C, which you may find useful to read.

4.13 Other guidance and resources

For further information see:

- The [committees of management](#) page on the DELWP website.
- The Victorian Public Sector Commission [website](#). See chapter 5.4 '[Contributing to board meetings](#)' in the publication [Welcome to the Board](#).

Information is also available to committees through your local DELWP [regional office](#).



Chapter 5

Standards of conduct

This chapter looks at standards of conduct for committee members.

5.1 Introduction

It is essential that the Victorian community has confidence in the integrity and decision making of your committee. Committee members must comply with:

- certain standards of conduct, such as honesty and integrity, and
- certain procedures, for example, ensuring that conflicts of interest are properly declared and managed.

5.2 Committee policies

Your committee must have suitable policies so that all members are clear on the requirements for good management. This includes policies on:

- code of conduct
- gifts, benefits and hospitality
- conflict of interest
- meetings and decisions (see previous chapter)
- dispute resolution.

DELWP has developed a policy pack for local committees that manage local reserves. Your committee can choose to insert its name into a DELWP model policy and adopt it at a committee meeting. The policy pack is available from the [committees of management](#) page on the DELWP website or contact your local DELWP regional office.

Major committees that manage reserves of regional or statewide significance have additional obligations and should use the model policies and guidance notes for major agencies. See DELWP's governance website, [On Board](#).

5.3 Code of conduct

Committee members

- Your committee must comply with the [Code of Conduct for Directors of Victorian Public Entities](#) (the Code). The Code is issued by the Victorian Public Sector Commission. It is binding on almost all committees. Remaining committees are bound by similar integrity principles, for example, under corporations law.
- The Code reflects the values, principles and integrity requirements in the *Public Administration Act 2004*. It includes elements that are essential to good public sector governance, such as:
- acting with honesty, integrity, and other standards of conduct
- limits on accepting or offering gifts in your role as a committee member (see 5.5 'Gifts, benefits and hospitality', later in this chapter)
- declaring conflicts of interest so that the committee can determine how to manage them in the public interest (see 5.4 'Conflict of interest')
- maintaining confidentiality and the proper use of information (see 5.6 'Confidentiality and proper use of information', in this chapter)
- following your committee's policies.

Committee employees

- Similarly, employees of committees are bound by the [Code of Conduct for Victorian Public Sector Employees](#). In a few cases they are bound by similar principles in a different regulatory regime, for example, corporations law.

5.4 Conflict of interest

Your committee should have a *Conflict of interest* policy that:

- meets good public sector governance practice
- sets out the requirements to declare and manage conflicts of interest
- provides guidance on strategies to manage conflicts of interest.

What is a conflict of interest?

Conflicts of interest are situations where a conflict arises between your public duty on a committee and your private interests. A conflict of interest may be:

- **Actual** (existing), **perceived** (it could look like a conflict to someone else) or **potential** (it could arise in the future).
- **direct** involving you, or **indirect**, for example, arising through a sporting club, family member, associate or friend with whom you are associated
- **financial**, for example, relating to money or shares, or **non-financial**, for example, relating to personal relationships, memberships or affiliations with clubs or other organisations, duty to an employer, and other personal interests.

Examples

Depending on the decision to be taken by a committee at a meeting, some other examples could be:

- being an annual camper on the reserve
- being a member of a recreational club that holds a lease over part of the reserve
- being the coach of a sporting club with a lease up for renewal at the meeting.

Red flags

Unmanaged conflicts most commonly affect committees through high-risk activities including:

- **procurement** – purchasing goods or services from a mate rather than going through a proper competitive process
- **recruitment** – favouring friends and family over other applicants for employment
- **financial management** – using committee resources for personal benefit, for example, not paying fees for storing a caravan on committee property or personal use of committee power tools or trailers
- **complaint management** – ignoring complaints about other committee members or employees.

Managing a conflict of interest

When a conflict is identified, it must be:

- declared
- managed by the committee in the best interests of managing the reserve on behalf of the Victorian community, rather than in the interests of a committee member or any other organisation to which a member owes a duty
- recorded in the minutes of the committee meeting, together with how it will be managed.

Conflicts must be declared so they can be appropriately managed by the committee. It is up to the committee, not the member with the conflict, to determine how to deal with a conflict of interest.

Declaring a conflict at the start of the meeting

At the start of each committee meeting, the chair must ask the members present to declare any interest they have in any item on the agenda, **even if it is already recorded in the register**. Conflicts may also be raised during a meeting when they become apparent.

If a member thinks someone else may have an undeclared interest, they should raise it with the committee chair.

The chair or the local DELWP regional office should be notified about other concerns regarding conflicts of interest.

Standard procedure for dealing with a conflict of interest

The committee's **standard procedure** for managing a material (serious) conflict of interest is to 'remove' the member with the conflict from all discussion and decision making on the matter. The member:

- leaves the room at the start of the relevant agenda item and does not return until the start of the next agenda item
- does not discuss the matter at all with any other member, either in the meeting or elsewhere, and
- does not participate in any committee decision on the matter.

The standard procedure is followed unless the committee determines and records in the minutes clear reasons why it is not in the public interest.

Lesser options

A **lesser option** will not usually be in the public interest for managing a material (serious) conflict of interest. Examples of where a lesser option may be in the public interest are:

Example: Discussion

If the member with the conflict was appointed because of their knowledge of the matter, then it may be in the public interest for them to be present for part of the committee's discussions.

Example: Decision

If the standard procedure of removing conflicted members from all discussion and decision making on the issue would mean there is no quorum for the decision **even if all committee members are present**, then a lesser option will be in the public interest. However, if 'unconflicted' member/s are absent, it will usually be in the public interest for the decision to be held over to the next committee meeting.

Contact the local DELWP regional office for advice if your committee is unsure about how to handle a conflict of interest. Also contact the department if the committee often has trouble meeting a quorum due to conflicts of interest.

Recording conflicts

Record in the minutes of the meeting any conflicts with agenda items and how the committee dealt with them. Good record keeping is crucial to ensuring transparency and good conflict of interest management.

Register of private interests

Your committee should have a *Register of private interests*. This is where the committee records the interests of all members that may give rise to a conflict of interest. You are responsible for ensuring that your interests as recorded in the register are correct and complete. The chair is responsible for ensuring that the register is stored in a manner that maintains the confidentiality of committee members.

At the start of each meeting, committee members should confirm or update their private interests as recorded in the register. This agenda item should be noted in the meeting minutes and the register updated if required.

Conflict of Interest Model Policy

DELWP offers a **template** for a Conflict of Interest model policy, which your committee can choose to use. It can be downloaded from the [committees of management](#) page on the DELWP website. A copy is available in Appendix D.

5.5 Gifts, benefits and hospitality

Committee members should avoid accepting and making offers of gifts, benefits and hospitality in their role as a committee member.

What is a gift?

A gift is a free or heavily discounted **item** or **service**, for example, an offer to paint your fence at a reduced rate.

A gift also includes **benefits** or **hospitality** that exceed common courtesy. For example, a cup of coffee is a common courtesy, but an offer of a \$100 bottle of wine is a **gift** offer.

Minimum requirements

Minimum requirements are that committee members:

- Never solicit gifts.
- Always refuse any bribery attempt and report the incident to the committee chair or the regional DELWP office.
- Keep community expectations in mind and never accept offers that could create a perception of bias.
- Never accept:
 - money or other items easily converted into money
 - gifts, including volunteer labour or discounted materials, from a person who is likely to be affected by a committee decision, now or in the future, for example, from a person likely to apply for a contract or tender with the committee
 - inducements offered indirectly through family.

Best practice

Best practice is to decline all but **token** gift offers. This helps to eliminate the possibility of perceptions of bias. It includes returning goods, benefits and hospitality that has been delivered.

A **token** offer is one that aligns with community expectations of common courtesy.

The Victorian Public Sector Commission rates any gift valued at \$50 or more as **non-token**.

Recording offers of gifts, benefits and hospitality

All offers of goods, benefits and hospitality valued at \$50 or more (non-token) should be recorded in the *Gifts, benefits and hospitality register*, **regardless of whether the offer is accepted or declined**.

Good record keeping should transparently document accepted and declined offers. This can help to identify if a person is being targeted, or if a business or person is making repeated offers in an attempt to influence committee decisions.

Restrictions on gift giving

The committee should never purchase a gift with committee funds unless it can *clearly* be justified in the public interest, which is rare. This applies to gifts to committee members and to non-committee members.

Any such expense should be recorded in the committee's records, as required by section 15(8) of the *Crown Land (Reserves) Act 1978*. Contact your local DELWP [regional office](#) for further information.

Gifts, Benefits and Hospitality Model Policy

DELWP offers a **template** for a Gifts, Benefits and Hospitality Model Policy, which your committee can choose to use. It can be downloaded from the [committees of management](#) page on the DELWP website. A copy is available in Appendix E.

5.6 Confidentiality and proper use of information

Any information you receive in your role as a committee member:

- must only be used for proper purposes. It must not be used to gain advantage for you, or any other person, or to cause detriment to the management of the reserve.
- must be kept confidential.

These are legal requirements. They continue to apply even after you are no longer a committee member.

Contact your local DELWP [regional office](#) for further information.

5.7 Dispute resolution

It is a normal part of the discussion and decision-making process to experience differences of opinion about decisions your committee needs to make. For guidance on meeting practice, refer to your *Meetings and decisions* policy (see previous chapter).

However, sometimes a '**dispute**' arises between committee members. This is when two or more committee members have difficulty working together, for example, due to a personality conflict or ideological differences, and it is adversely affecting the committee's performance.

At times, a dispute can result from or lead to serious integrity concerns, bullying or harassment. The chair needs to manage these situations, supported by all members of the committee.

Resolving a dispute can sometimes be assisted by contacting the local DELWP [regional office](#). The department can help to clarify matters about the committee's roles and responsibilities that may be contributing to the dispute, for example, clarify technical or policy issues.

However, if the dispute is an interpersonal conflict, the department will usually recommend that your committee contact the local office of the Dispute Settlement Centre of Victoria (DSCV). The DSCV is a free service of the Victorian Government. It may be able to help the parties resolve their personal differences in a way that enables them to continue to work together.

For further information see the [DSCV website](#), including the [contact details](#) for metropolitan and regional DSCVs.

It is good practice for your committee to have a *Dispute resolution* policy. DELWP offers a model policy to assist. It is available from the [committees of management](#) page on the DELWP website.

5.8 Further information

Further information on the topics in this chapter is available from guidance notes in the 'induction pack' on the [committees of management](#) page on the DELWP website or contact your local DELWP [regional office](#).



Chapter 6

Good work practices

This chapter looks at some basic good work practices for committees.

6.1 Introduction

Good work practices will help your committee manage the reserve in line with its legal obligations. Examples of how the department can assist your committee to have good work practices in place are:

- DELWP is introducing Landfolio, an electronic self-serve kiosk for committees. Your committee can use the kiosk to view information about the reserve and easily conduct certain transactions online (see below).
- DELWP can arrange for your committee to be incorporated under the *Crown Land (Reserves) Act 1978*. This is a safeguard for individual committee members.

Good record keeping and the proper handling of any public complaints are examples of other good work practices.

6.2 Landfolio self-serve kiosk

Landfolio is the department's new Crown land information management system.

Landfolio will hold the department's textual and spatial data for all of Victoria's Crown land parcels, reserves and tenures, which include leases and licences.

An exciting addition to Landfolio will be an e-Gov, **self-serve kiosk** for committees and other delegated land managers. It is scheduled to open during 2020 as an 'opt-in' resource.

Using the kiosk, your committee will be able to access information about the reserve(s) it manages, including any related leases and licences.

You will be able to access the self-serve kiosk from a mobile phone, tablet, laptop or desktop computer.

Your committee can still seek advice from the local DELWP regional office. The kiosk will not replace the need to contact the regional office directly for specific requests, information and complex issues.



What can your committee do on the kiosk?

The kiosk offers a new and flexible way for your committee to communicate with DELWP and undertake a range of land management activities, for example:

- View details of the reserve(s) it manages, including maps of the reserve.
- View details of leases and licences on the reserves(s), including maps of the area they cover.
- Submit financial returns, for example, your committee can choose to lodge its annual return or report through the kiosk instead of by post or email.
- Access grant information and apply for certain grants.
- Access standard document templates, for example, declarations of private interest.
- Access policies, procedures and guidelines.
- Process and view the status of tenure applications.

- Log issues related to the reserve, for example, dangerous trees.
- View and update contact details for committee members.

Contact your local DELWP regional office for further information.

6.3 Benefits and safety of incorporation

If your committee is not yet incorporated, it is **strongly recommended** that you contact DELWP and arrange for the committee to be incorporated under the *Crown Land (Reserves) Act 1978*.

Incorporation turns a committee into an entity that is recognised in law as a legal 'person'. This has many benefits and safeguards for your committee and for the people and organisations it deals with. For example:

- Legal action can be carried out by or against the entity, rather than individual committee members. It continues uninterrupted by changes in membership.
- An incorporated committee, rather than individual committee members, is liable for legal judgements made against the committee.
- Members of the public, tenants and contractors find it easier to deal with an ongoing body corporate than with a group of individuals who will join and leave the committee over time.

Example

If your committee intends to hire staff, check that it is incorporated. That way, the 'entity' is responsible for meeting the legal obligations of an employer, not you personally as a committee member.

Incorporation under the *Crown Land (Reserves) Act 1978*

Incorporation under the *Crown Land (Reserves) Act 1978* is:

- a simple, straightforward process
- undertaken by DELWP on behalf of the committee.

Common seal

An incorporated committee's official signature on legal documents, such as contracts, is its 'common' seal. This is a stamp which must have certain information included on it. It is also known as a corporate seal.

6.4 Legal advice

If your committee needs legal advice, it can choose which law firm to use. If unsure which firm to choose, consider using the Victorian Government Solicitors Office (VGSO). The VGSO only provides legal advice to the Victorian Government and its statutory authorities (phone 8684 0421). While DELWP cannot provide or pay for legal advice for committees, the local DELWP regional office can help your committee to talk through its options.

6.5 Working with children checks

A working with children check helps protect children from sexual or physical harm. It ensures that people who work with or care for children are subject to a screening process. A working with children check differs from a national police record check. Cardholders are monitored on an ongoing basis for any new relevant criminal offences or adverse professional conduct findings.

When must a working with children check be obtained?

Under the *Working with Children Act 2005*, if a **committee member, employee or volunteer** meets **all five** of the following criteria, a working with children check is required:

1. Engaged in work within the meaning of the Act, which includes engaging in voluntary work and providing practical training as well as paid employment.
2. Working at, or for, one of the services, places or bodies, or in one of the activities listed in the Act (see the table below for details).
3. Work which usually involves direct contact with a child or children. **Direct contact means** physical or face-to-face contact, or written (including postal), oral or electronic communication.
4. The contact with children is not occasional direct contact and is not incidental to the work.
5. Not otherwise exempt from needing a working with children check under the Act.

When is a working with children check not required?

The check is not required under the following circumstances:

- When an exemption under the Act applies.
- Where there is a private or domestic arrangement for family and friends (unless engaged as a kinship carer) which is unpaid.
- Supervising a student in practical training that has been organised by their educational institution. This includes work experience placements for students aged over 15 years.
- taking part in an activity with a child in the same way that a child participates, such as other players in a chess team.

What is child-related work?

If the role does not identify with any of the services or places listed in the categories below, then it is not considered child-related work. Therefore, a working with children check is not required.

Service or place of work	Details
Child care services	Child care services including: <ul style="list-style-type: none">• centre-based long day care• occasional care• family day care• in-home care• outside school hours care
Child employment – supervisors	Supervision of a child 14 years of age in employment under the <i>Child Employment Act 2003</i>
Child minding	Babysitting or child-minding services arranged by a commercial agency
Child protection services	Child protection services
Children's services	Children's services including kindergartens or preschools under the <i>Children's Services Act 1996</i> and <i>Education and Care Services National Law (Victoria)</i>

Service or place of work	Details
Clubs and associations	Clubs, associations or movements of a cultural, recreational or sporting nature that provide services or conduct activities for, or directed at, children or whose membership comprises primarily children
Coaching and tuition	Coaching or private tuition services of any kind specifically for children
Counselling services	Counselling or other support services for children
Educational institutions	Educational institutions for children, specifically: <ul style="list-style-type: none"> • state schools (all primary, secondary, technical and special state schools) • non-government schools (all primary, secondary and special non-government schools) • TAFE colleges and TAFE divisions of universities providing VCE and/or Victorian Certificate of Applied Learning (VCAL) subjects • some adult education providers offering VCE and/or VCAL subjects • other institutions providing children's study or training programs
Entertainment and party services	Commercial entertainment or party services for children unless they are merely incidental to or in support of other business activities
Foster care	Fostering children
Gym or play facilities	Commercial gym or play facilities for children unless they are merely incidental to or in support of other business activities
Kinship care	Caring for a child placed by Child Protection (under the <i>Children, Youth and Families Act 2005</i>)
Out-of-home care services	Out-of-home care services, under the <i>Children, Youth and Families Act 2005</i>
Paediatric wards	Paediatric wards of public, private or denominational hospitals as defined in the <i>Health Services Act 1988</i>
Photography services	Commercial photography services for children unless they are merely incidental to, or in support of, other business activities
Refuges	Refuges or other residential facilities used by children
Religion	Religious organisations
School crossings	School crossing services
Student exchange programs/ homestay arrangements	Student exchange or homestay arrangement under Part 4.5A of the <i>Education and Training Reform Act 2006</i> , including accommodation in a person's home
Talent and beauty competitions	Commercial talent or beauty competitions for children unless they are merely incidental to or in support of other business activities
Transport	Publicly-funded or commercial transport services specifically for children
Youth justice	Youth remand, residential, or justice centres, supervision units and probation services within the meaning of the <i>Children, Youth and Families Act 2005</i>

Guidance

The Victorian government has a [Working with children check](#) website. It includes information on:

- [Do my workers need a check?](#) This quiz applies to both workers and volunteers, including committee members. There is a list of the occupations covered by child-related work.
- [Organisation obligations](#)
- [What organisations need to know](#)
- [Fact sheet](#).

Cost

A working with children check is free for volunteers. As at 1 November 2019, the cost for paid workers is \$126.50.

Who applies for the check?

Workers and volunteers need to apply for their own checks. This is a simple process using the [How to apply](#) page on the working with children check website.

6.6 Dealing with public complaints

At some stage, your committee may receive a complaint from a member of the public about something it did or did not do. Most complaints will be resolved fairly easily and to everyone's satisfaction. Remember to record:

- the complaint
- the decisions and actions of the committee in response
- whether the person was satisfied with the outcome.

The committee will need to contact the local DELWP [regional office](#) with problems that prove more difficult to resolve.

Complaints to DELWP

From time to time, DELWP receives complaints from members of the public, or a member of the committee itself, about how the committee is operating. Depending on the nature of the complaint, DELWP may:

- work with the committee to resolve the issue
- conduct an investigation
- refer the allegation to the Ombudsman, Victoria Police or the Independent Broad-based Anti-corruption Commission (IBAC).

Complaints to the Victorian Ombudsman

The Victorian Ombudsman investigates complaints about administrative actions and decisions by government agencies and public authorities. This includes committees of management. Any person can make a complaint. The Ombudsman can review the lawfulness of the committee's actions or decisions, as well as the reasonableness and fairness of its actions in the circumstances. The Ombudsman can also conduct investigations of its own initiative.

Complaints to IBAC about corruption or serious improper conduct

The department takes allegations of corruption seriously. A person with a complaint about alleged improper or corrupt conduct of committee members or DELWP employees can provide any information they have about the conduct, and the employees involved, to the department's Integrity Manager (integrity@delwp.vic.gov.au or 1800 903 877).

A person may also choose to take their concerns directly to IBAC. For further information visit the [IBAC website](#) or call 1300 735 135.

Whistleblower protections – IBAC

The *Public Interest Disclosure Act 2012* provides protections for individuals who wish to make a disclosure about serious misconduct or corruption by a government agency or a public body such as a committee of management.

A disclosure is made directly to IBAC. It can be made by a member of the public or a member of the committee itself.

IBAC will assess the disclosure and may investigate, refer the matter to another body, or dismiss the matter. For further information visit the [IBAC website](#) or call 1300 735 135.

For the whistleblower to be protected, they must keep their disclosure confidential (not talk to anyone about it) and make it directly and only to IBAC. However if a person contacts the department's Integrity Manager (protected.disclosures@delwp.vic.gov.au or 1800 903 877) as described above protections may still apply.

6.7 Record keeping

Your committee has a responsibility to maintain good records, including records of its activities. Sound record keeping is an essential good practice. Your committee has legal record-keeping obligations under laws, which include:

- *Crown Land (Reserves) Act 1978*
- *Freedom of Information Act 1982*
- *Public Records Act 1973*
- *Privacy and Data Protection Act 2014*.

What records must be maintained by the committee?

Committees of management are 'public bodies' under the *Public Records Act 1973*. Their records are public records, regardless of age.

Public records that must be maintained by your committee include:

- minutes of meetings
- correspondence
- lease and licence contracts and related documentation
- financial records
- contracts
- employment records
- any other information that documents a decision, agreement or communication to the public by the committee.

Public records come in many formats. For example, they may be written notes, letters, emails, electronic documents, photographs, and information on websites.

Ultimately, it is the information, not the format, that determines whether it needs to be preserved as a record.

Public records are not automatically open to the public

Public records produced by your committee are a public document. However, they are not automatically 'open to the public'. For example, they may contain information that is commercial-in-confidence.

Unless your committee agrees, a member of the public who wants to see documents such as minutes of a committee meeting or an annual return would need to lodge an application under the *Freedom of Information Act 1982*.

Contact the department if this occurs. DELWP can advise and help your committee to assess whether the records are exempt from disclosure.

Financial records

As part of its record-keeping requirements, your committee must keep records of all its financial transactions. For further information, see:

- [Record-keeping for small business](#) on the Australian Taxation Office [website](#)
- the **Community Director's website** (<https://communitydirectors.com.au/>), including the page on [Record-keeping for treasurers](https://communitydirectors.com.au/tools-resources/community-finance-centre) (<https://communitydirectors.com.au/tools-resources/community-finance-centre>). If these links do not open in your usual browser, try a different browser.

Normal administrative practice is not a record

Some information produced or collected by a committee does not constitute a committee record and should not be treated as such, for example:

- working notes
- duplicate copies
- reference material collected from books, the internet, and newspapers.

Information which is not a committee record should be disposed of under normal administrative practice once its use is completed. **Avoid mixing this material in with committee records**, as this makes it difficult to manage committee records efficiently. Failing to dispose of this kind of material when its use is completed also makes it difficult for future committee members to locate the committee's actual records. Usually, normal administrative practice materials can be recycled or thrown out. However, if any sensitive information is included, it must first be shredded or otherwise made unreadable.

Creating and storing records

Committee records need to be full and accurate. This will:

- enable future committee members to take appropriate action and decisions
- protect the financial, legal and other rights of the committee
- protect people affected by any actions and decisions made by the committee.

To ensure its records are full and accurate, it is recommended that your committee:

- Store committee records in a readily accessible, clean, dry and secure place.
- Use a system that other people will be able to understand.
- Take written notes of important conversations. Where appropriate, send a 'confirming' email.
- Maintain a suitable filing system for your committee's size and the complexities of managing its reserve.

Example

For a local committee where the management of the reserve is not complex, electronic documents can be placed in a simple folder system. Hard copy records can be stored in manila folders with:

- A title that explains what the file is about. For example, 'Kamba Mechanics Hall Committee - committee meeting minutes – 2014'.
- The date the file was created.
- The person's name who created the file.
- Include printed copies of electronic documents and emails, photos and other records on the file.

Identify all records that are essential to your committee's function, such as minutes and contracts. Special care needs to be taken to prevent their loss or damage. If possible, store duplicates of these records in a different location to the originals.

Retention of records

All records created by your committee are public documents and must not be destroyed. Only the non-essential materials can be disposed of when no longer in use (see above, normal administrative practice.)

Handover of records from the outgoing to the incoming committee

Committee records are not the property of the committee members who created them. An outgoing committee must hand over all committee records to the incoming committee, so the incoming committee can properly carry out its duties. For details, see 3.9 'Outgoing committee – the hand-over process'.

Transfer of records to DELWP

Your committee must transfer all its records to DELWP if the committee ceases to exist. The records will be stored for periods determined by the Public Records Office of Victoria. DELWP will transfer certain records to the records office for permanent preservation.

6.8 Assets register

Your committee should maintain an up-to-date *Assets register*. This helps the committee to record and keep track of the assets it owns or manages, including:

- a description of the asset (record identifying information, such as the serial numbers, make and model of equipment)
- the date it was bought
- its estimated value
- its location.

An asset register can also provide information to help plan future asset investments. Check each asset item at least once a year. The asset's value should be adjusted each year to reflect depreciation for physical assets, such as buildings, equipment and stock. There is no requirement to record the value of the reserved land.

6.9 Public access to committee records - freedom of information laws

Being a public record is different from being 'open to the public'. Committee records can only be viewed by members of the public if the committee agrees or a successful application is made under the *Freedom of Information Act 1982*.

Under the *Freedom of Information Act 1982*, a person has the right to request access to documents generated or held by all government agencies, including committees of management. If your committee receives a request to access documents under this law, seek advice from DELWP's Freedom of Information Unit **as soon as possible**. The law only allows 30 days in which to process a request. The unit provides advice on enquiries and support for processing requests. It can be contacted on 7022 6530 or email FOI.Unit@delwp.vic.gov.au.

6.10 Privacy of personal information

The *Privacy and Data Protection Act 2014* requires your committee to comply with the 10 Information Privacy Principles in the Act when collecting, using, disclosing, storing or destroying personal information. These are available from the Office of the Victorian Information Commissioner website.

Personal information means recorded information or opinion about an identifiable individual. It includes, but is not limited to, the person's name, address, sex, age, financial details, marital status, education, criminal record or employment history.

Do not include a person's private contact details on publicly available documents and registers, such as the volunteer attendance register, without their permission.



Chapter 7 Management and business plans

This chapter looks at the committee's planning processes and documentation.

7.1 Introduction

Your committee must manage its reserve for the purpose for which the land is reserved. This involves planning how best to manage and develop the reserve in the public interest, that is, for the benefit of the whole community.

Example

Your committee will need to balance the public's use and enjoyment of the reserve with protection of its natural features and assets.

7.2 Types of plans

The types of plans that your committee develops and implements will depend upon:

- the size of your committee
- the nature of the reserve it manages
- the opportunities and issues it faces.

The standard planning documents are:

- **management plan** ('what we want to do'): this plan sets out your committee's 'strategic' vision for the use and development of the reserve over the next few years. For details, see 7.6.
- **business plan** ('how we will do it'): this plan sets out what your committee will do in the next twelve months, or other specified period, to implement its management plan, and the related budget. For details, see 7.8.

Subject to any legal and policy requirements (see 7.4), your committee can adapt the planning process to suit its needs and circumstances, deciding which plans to develop and the level of planning to be undertaken.

Example

- **Major committees** may decide to develop a **management plan** that sets out their vision for the use and development of the reserve over the forthcoming period, usually three to five years. Depending on the complexities faced by the committee, this process may take some months. The committee may also decide to develop a **business plan** that details the strategies/actions it will take (usually during the next 12 months) to help achieve the goals in its management plan, and the related budget.
- **Local committees** may decide to amalgamate these plans into a single document. Planning might simply cover the 12 months ahead. This could be as simple as a '**plan on a page**'.

7.3 Planning for success – benefits of a management plan

A management plan helps your committee to decide and record the actions it will take to manage and develop the reserve, including planned expenditure and maintenance requirements. The benefits of having a management plan include:

- A management plan provides an **agreed process** for your committee to determine its future management of the reserve, based on suitable research and engagement with stakeholders.
- Best outcomes are achieved when your committee's activities are planned and agreed rather than ad hoc.
- Planning helps your committee to consider and address the 'big picture'.

- There is greater certainty about future projects.
- There is an evidentiary basis for grant applications.

A management plan is a **transparent and accountable record** that enables the committee, the community, and the department to be clear about what the committee has agreed to do to manage and develop the reserve during its term.

7.4 Specific management plan requirements for some committees

Some committees have legal and government policy requirements about what plans must be prepared, what they must be called, what they must contain, and related requirements.

Coastal committees

Committees that manage coastal land have specific planning and management requirements under the *Marine and Coastal Management Act 2018*. Their management plans must accord with the requirements of the Act and with statewide government policy. DELWP provides guidelines for coastal and marine committees to prepare Coastal and Marine Management Plans. Guidance is available from the following pages of the DELWP website:

- [Marine and Coastal Act 2018](#)
- [Coastal management plans](#), in particular, see [Guidelines for the preparation of coastal management plans](#). Note that under the *Marine and Coastal Act 2018*, Coastal Management Plans will be replaced by Coastal and Marine Management Plans.

Your committee can also contact the local DELWP [regional office](#) for advice.

Crown land caravan and camping parks

Committees that manage Crown land caravan and camping parks have specific guidelines and policies that need to be considered when developing plans for the reserve.

Guidance is available from the [Crown land and caravan and camping parks](#) page of the DELWP website, in particular, see [Best practice management guidelines](#) (section 6: Management planning).

Your committee can also contact your local DELWP [regional office](#) for advice.

7.5 Management plans for other committees

For most other committees, what to include in the management plan will depend on factors such as:

- the nature and significance of the reserve
- the level of complexity, issues and opportunities the committee is facing in its management of the reserve.

Example

The planning documents of a major committee that manages a reserve of state-wide significance with complex management needs and high-risk levels will be more detailed than the plan prepared by a local committee which manages a local reserve with comparatively straight forward management needs.

Example

If a major development is part of your committee's strategic vision, planning documents will be more detailed than if the committee's long-term aim is to maintain the reserve as it currently is with only a few minor improvements.

7.6 Preparing the management plan

A management plan ensures that the use and development of the reserve will be consistent with the purpose for which it is reserved. It takes into account relevant factors, such as community aspirations for the reserve, the external operating environment, and budgeting and operational considerations.

To develop a management plan, it is useful to:

- Assess the current situation ('what do we have?').
- Consult (engage) with stakeholders. See 7.7.
- Take into account the external operating environment. See 7.7.
- Agree on your committee's long-term strategic vision for the reserve ('what do we want in the future?').
- Set objectives (what are the goals?), for example, 'increase usage of the reserve'.
- Decide on strategies/actions to achieve your objectives ('what needs to be done?'), for example, 'improve signage'.

Major committees that do not manage a coastal reserve or caravan and camping park may still find the [guidelines \(coastal\)](#) and [guidelines \(caravan\)](#) useful reading when developing their management plan. See 7.3.

Templates

Specific management templates exist for coastal committees and caravan and camping committees (see 7.4).

For other committees, the following templates are available from the [committees of management](#) page on the DELWP [website](#). Your committee can use one or other of these templates.

- **standard template** for committees that are developing a management plan and an (annual) business plan (see Appendix F).
- **'plan on a page' template**, for simpler planning needs (see Appendix G).

7.7 Tips for management planning

Community engagement

Your committee should engage with key stakeholders when preparing a management plan. This will ensure that the management plan meets the community's aspirations for the reserve and complements the development of other open space recreation areas in the area. Your committee should engage with:

The department

Before starting the management planning process, contact your local DELWP [regional office](#). The department can provide information and assistance on matters, such as:

- any required approvals
- whether there is a suitable planning template your committee can use.

User groups

User groups, such as:

- regular users of the reserve, including formal users, such as sporting and recreational clubs, and informal users
- any lease or licence holders.

Local councils

Your local council can provide the committee with important information about planning requirements, council services, and the strategic direction of the council's open space. The community benefits when council and committee plans are complementary.

Other stakeholders

Examples of other stakeholders relevant to consult during the planning process include:

- adjoining landowners
- Traditional Owners (for further information see 9.7 'Aboriginal cultural heritage' and 9.8 'Native title and Traditional Owner rights')
- the general community, for example, prospective new users, formal and informal
- service clubs and volunteer groups that may be interested in providing assistance, such as Rotary, Landcare and other environmental groups
- where appropriate, other government departments and statutory agencies, such as Parks Victoria.

Community engagement should be consistent with the [DELWP community charter 2018](#).

Also see [Public participation in government decision-making: better practice guide](#) published by the Victorian Auditor-General's Office (VAGO).

External operating environment

Your committee should consider the external operating environment when developing its management plan. This may include social, economic, environmental, technical, 'political' or other factors.

Example

Does the adjoining landowner or local council have plans for the land next to the reserve?

The local football club plans to increase membership by starting a women's team. What effect would this have on the clubrooms it leases on the reserve?

Council's open space strategy

Most local councils have an open space strategy to guide their development of formal open space, such as sports grounds, and informal open space, such as wetlands. If your committee manages an open space reserve, it is a good idea for its planning to take into account, and link with, the council's strategy.

- This approach enables a 'big picture' approach to municipal and Crown land reserves in the area.
- It avoids possible duplication of open space facilities.
- It may make it easier to access funding for the reserve's maintenance and development.

Planning for developments to the reserve

Avoid planning for any change or development to the reserve that is prohibited or will not receive the required approvals. If your committee is considering including developments in its management plan, check what approvals may be required. Your local council and local DELWP [regional office](#) can assist. For further information about what approvals may be required see Chapter 9, 'Developing the reserve'.

Strategies/actions

While your committee will intend to implement all of the strategies/actions in its management plan, it is a good idea to document which are **core** and which are **aspirational**. Give the core ones priority. If necessary, one or more of the aspirational ones may be put on hold, for example, if a major safety hazard arises that must be addressed, which significantly affects the budget.

7.8 Business plan

To complement its management plan, your committee can develop a business plan that sets out:

- the **actions** it will take (usually during the next twelve months) to implement the management plan
- the related **budget**.

Other plans your committee makes to address specific issues are incorporated into its business plan, for example:

- risk management (see Chapter 11 'Risk')
- emergency management and fire prevention (see 8.6 'Bushfire management').

Some committees also include information such as:

- longer term financial information, for example, the total income and expenditure required to achieve the management plan over its entire term
- timetable for planned actions
- 'SWOT' analysis of strengths, weaknesses, opportunities and threats
- implementation details, for example about applying for grants, entering into leases/licences, employing staff.

Contact your local DELWP [regional office](#) for further information and assistance.

7.9 Commencement of plans

Your committee's plans and any updates do not start to operate until:

- the committee has received any **approvals** required from the department, and
- the committee has formally **endorsed** the plan and this is recorded in the minutes.

Note:

- If your committee's management plan needs to comply with specific legal and government policy requirements (see 7.4), the plan cannot be finalised and commence until this occurs. For example, advertising and gazettal requirements apply to coastal committees.
- If your committee's management plan includes development works, these works cannot start until the committee has received all necessary approvals, for example, a planning permit may be required. For details, see Chapter 9 'Developing the reserve'.

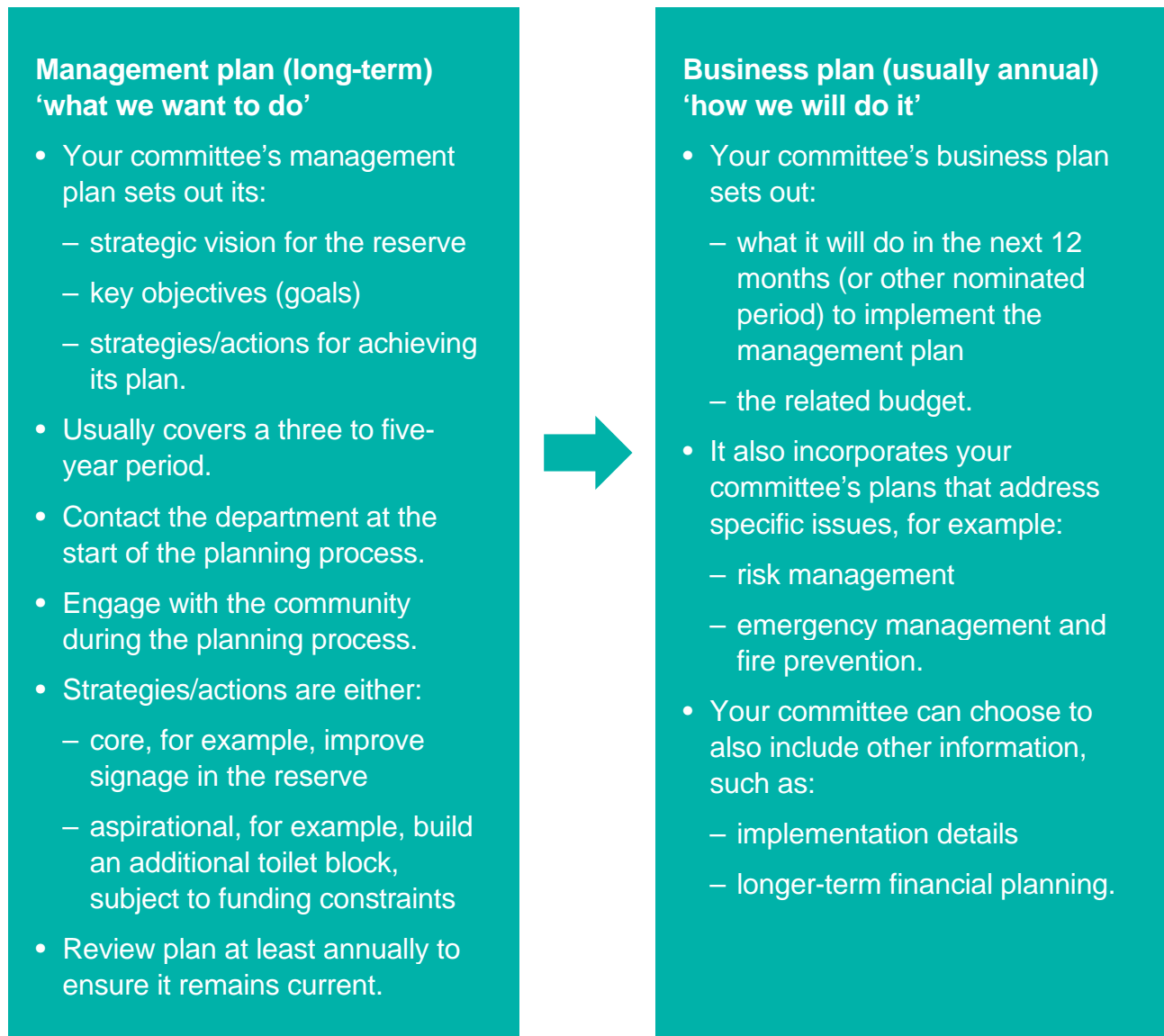
7.10 Annual review of plans

Your committee should review its management plan at least annually and update the plan as needed.

The business plan should also be monitored and reviewed at least annually.

7.11 Summary diagram

Below is a summary diagram of the planning process, which your committee can adapt to suit its circumstances. For example, local committees often amalgamate their planning into a simple 'plan on a page'.



7.12 Further information

The [committees of management](#) page on the DELWP [website](#) also contains additional information, such as templates for management plans.

Also see '[strategic planning](#)' on the Victorian Public Sector Commission [website](#).

Templates for management plans can be found in Appendix F and Appendix G in this document.



Chapter 8 'Day-to-day' management

This chapter looks at the day-to-day management of the reserve.

8.1 Introduction

In addition to developing and implementing its management plan for the reserve (see Chapter 7), your committee will need to deal with day-to-day management issues and tasks that arise.

When managing the reserve, your committee needs to ensure that:

- It complies with all relevant local, state and commonwealth laws. This may include the need to obtain a permit before undertaking certain works to maintain the reserve.
- It is aware of the services that the local council offers which may be of assistance (see 8.10).

Occasionally, a committee may need to ask the Minister to issue regulations under the *Crown Land (Reserves) Act 1978* that are specific to the reserve.

8.2 Local council

Laws issued by the local council (bylaws) affect your committee's management of the reserve. Local laws are often adopted to protect public health, safety and amenity in a municipality. For further information see [local laws](#) on the [Know your council website](#).

Your local council is an important source of information, advice and resources. It is a good idea for a member of your committee to introduce themselves to the relevant bylaws officers and seek their guidance on these local laws. A good relationship with the local council is vital. It will make your committee's job much easier.

Planning scheme

Your reserve is subject to the local planning scheme administered by the council. The scheme regulates the allowable use and development of all land in the municipality. Your committee should be familiar with the general outline of the planning scheme and aware of the zoning and other details that apply to the reserve.

Council strategies

It is also useful for your committee to be aware of relevant strategies that the local council has developed which may be relevant to your reserve and its management. For example, your council may have a strategy on open space and recreation.

It benefits the community when your committee's management of the reserve and the council's strategic approach to the management of other local recreational and open spaces complement one another.

Maintenance and minor works

Maintenance and minor works, such as routine painting, gardening and repairs, are not usually classified as development works and do not usually require external approval. However, your committee should **always check** with the local council planning officer for advice on whether any approvals are required.

Example

Work to restore an old building to its original condition may not be regarded as routine maintenance, for example, if heritage restrictions are in place. Approvals may be required.

Major works

Major works to extend, add, alter or otherwise change a built or natural asset usually require a planning permit. They may also require other local, state and/or commonwealth government approvals. The first step is to get the Minister's permission for any major works. For further information, see Chapter 9, Developing the Reserve.

Note that the information in Chapter 9, 'Developing the reserve', should also be borne in mind during the day-to-day management of the reserve. For example Aboriginal cultural heritage requirements may impact on, say, native vegetation clearing or the removal of contaminated soil.

8.3 Native vegetation clearing

Your committee must not remove, destroy or lop native vegetation without **first checking** if it requires a permit. A permit is required **unless** an exemption applies. Activities which **may** be exempt include:

- mowing or slashing of grass to no less than 10 centimetres for maintenance
- lopping and pruning for maintenance, if no more than a third of the foliage is removed from each plant
- removing planted vegetation, unless public funding was used to plant it for the purpose of land protection or biodiversity enhancement
- removing regrowth less than 10 years old on land lawfully cleared of native vegetation
- removing native vegetation for bushfire protection around buildings used for accommodation.

The [Native Vegetation](#) page on the DELWP website has information on native vegetation removal regulations. It also has guidelines and tools to assist, for example:

- [Guidelines for the removal, destruction or lopping of native vegetation \(2017\)](#)
- [Applicant's guide - Applications to remove, destroy or lop native vegetation](#)
- [Exemptions from requiring a planning permit to remove native vegetation - Guidance](#)

The DELWP website also has information on [vegetation management for bushfire protection](#).

For further information contact:

- your local council's statutory planning team
- your local DELWP [regional office](#).

If the proposed works would have significant impact on a matter of national significance, such as a threatened native grassland, they must also be referred to the Federal Government under the *Environment Protection and Biodiversity Conservation Act 1999*. For further information see the Federal Government's guidance on the law about [agriculture](#) practices and [environmental](#) considerations.

8.4 Protected flora controls

The *Flora and Fauna Guarantee Act 1988* requires that a Protected Flora licence or permit must be obtained to:

- collect protected flora
- undertake activities on public land that might kill, injure or disturb protected native plants.

The DELWP website has information on [Protected Flora Controls](#) and the [Flora and Fauna Guarantee Act 1988](#).

8.5 Contaminated land

Land can become contaminated from a variety of uses, for example, illegal dumping of rubbish or historic uses. Contaminated land can cause harm to human health and adverse environmental impacts.

Some land uses have a higher risk of contamination, particularly:

- chemical storage, for example, fuel and pesticides
- outdoor shooting ranges from use of lead shot
- unauthorised dumping of rubbish, including asbestos
- historic mines or mine tailing treatment sites
- depots and other chemical storage facilities
- the use of landfill of unknown quality or origin.

As of 1 July 2020, if your committee manages a reserve that includes contaminated land, it has a duty to minimise the risk of harm to human health and the environment. This new duty is part of the *Environment Protection Amendment Act 2018*. A [fact sheet](#) is available from the DELWP website.

If there is contaminated land, the actions your committee needs to take will depend on the type of contamination and the site-specific risks. Contact your local DELWP [regional office](#) for advice if the committee suspects that land on the reserve may be contaminated.

8.6 Bushfire management

Your committee should have a **bushfire management plan** which meets Country Fire Authority (CFA) requirements. On rural reserves, this may include fire prevention works that need to be carried out before the start of the bushfire season. The CFA will be a key source of information for your committee.

Your committee can also contact the local DELWP [regional office](#), for example, the fire management officer. The department may be able to assist with matters such as:

- assessing whether permits are required
- assessing biodiversity values.

For many reserves, the committee will also need to contact the local council. Depending on the council, the contact will be someone, such as an emergency management coordinator or a fire prevention officer. Your local CFA can advise on the best person to contact at the council if this is needed.

For further information on bushfire management planning visit the [CFA website](#).

The [public land \(emergency\) recovery](#) page on the DELWP website has a [fact sheet](#) on hazardous tree removal after a bushfire.

8.7 Trees and electric power lines

Your committee is responsible for:

- any low voltage electric line which solely services the reserve
- the maintenance of any trees on the reserve that may overhang its boundary and interfere with a low voltage private power line on a neighbour's property.

The electricity distribution company is responsible for maintaining any other electric power lines running through or into the reserve and for keeping trees clear of them.

Contact the Energy and Water Ombudsman (1800 500 509) if your committee is experiencing difficulties with a power company and you cannot resolve the issue. The committee must first attempt to resolve the issue with the power company and give them a reasonable opportunity to fix the problem.

8.8 Pest and weed control

Your committee, as the delegated land manager, has an obligation to:

- control all weeds and pests on the reserve
- ensure these do not invade neighbouring land.

The DELWP website has helpful information including pages on:

- [Invasive species on public land](#) and [Early invaders](#) and [Weed risk ratings](#)
- [Wildlife management and control authorisations](#)
- [Weeds, pests and overabundant species](#).

Your committee can contact the local DELWP [regional office](#) for advice. Local Landcare groups are also a good source of advice.

From time to time, funding may be available to assist in pest and weed control. Enquires can be made at your local DELWP [regional office](#).

8.9 Fencing

The *Fences Act 1968* sets out requirements for the construction, maintenance and repair of boundary fences.

- The Crown is exempt from the requirement that neighbours must share fencing costs. Neither DELWP nor committees have to contribute to the construction, maintenance or repair of fences, although they may choose to do so as a good neighbour.
- The reverse also applies. If your committee wants to construct a fence, it cannot use the *Fences Act 1968* to recover costs from a neighbour.

In certain circumstances, where Crown land is leased or licensed to a person or organisation, the lease or licence holder must contribute to the maintenance and repair of boundary fences.

Fencing along a shared boundary with Crown land

In most cases, the owners of adjoining land are not required to construct a fence along a shared boundary with Crown land. However, at times it may be in the landowner's best interests to do so, for example:

- where their land is being used for grazing, to prevent livestock entering the Crown land
- where the Crown land is open to the public, to prevent public access to the private land.

Any fencing constructed must be of sufficient standard for the intended use of the private land. For example, a stock proof fence would be required to retain any livestock within the private property's boundary.

8.10 Some local council services that can assist

Some of the services offered by your local council may assist the committee in its management of the reserve.

Conservation and environment

Local councils are actively involved in conserving and protecting the environment. The types of activities that councils regulate and undertake include:

- protecting land and biodiversity under the planning scheme
- developing and implementing local conservation plans.

Many council activities can directly benefit the reserve. For example, council activities may include:

- providing plants for revegetation
- developing a wildlife corridor
- running recycling programs
- developing walking and bicycle path networks.

Contact your local council to check the activities they offer that can help your committee. For example, some local councils may help with maintenance activities, such as mowing.

Physical services

Councils provide many physical services that support reserves, such as the development and maintenance of roads, footpaths, bike paths, drains, waste management, and parks and gardens.

Health and human services

The local council's environmental health officer can advise on requirements relating to:

- septic tanks
- health standards in food areas
- noise standards
- pollution standards
- pest control.

8.11 Reserve-specific regulations (issued by Minister)

In almost all cases, the combination of commonwealth, state and local government laws provides all the protection and controls necessary for your committee to successfully manage its reserve. Very occasionally, a committee will need to ask the Minister to issue regulations specific to the reserve. This would only be necessary if:

- existing laws do not cover some of the activities your committee needs to control
- the committee wants to charge fees, or
- the committee wants to set aside an area of the reserve, for example, restrict public access for revegetation.

Examples

The committee wants to restrict access to a dune area to allow for its fencing off and regeneration.

The committee wants to charge an entry fee to the reserve.

What to consider

Section 13 of the *Crown Land (Reserves) Act 1978* sets out the subject matter that regulations made by the Minister can address.

To decide if your committee needs to ask the Minister to make reserve-specific regulations to control certain activities on the reserve:

- List all the activities the committee wants to regulate.
- Liaise with the local council to determine which activities can be regulated by council bylaws.
- If any of the activities which need to be regulated cannot be regulated by council bylaws, contact your local DELWP regional office for advice.

Well before submitting an application (via DELWP) to the Minister, contact the department to discuss any reserve-specific regulations that your committee believes may be needed.

Enforcing regulations

Regulations for a reserve are not enforceable until they have been published in the *Government Gazette*. If there is a compliance issue, **never** place yourself in a dangerous situation. It is not the role of the committee to enforce the regulations. Instead:

- Contact the **relevant enforcement agency**, for example, Victoria Police, local council bylaws officers, and DELWP authorised officers.
- Contact **emergency services** if there is an actual or imminent threat to the people on the reserve or to the reserve or its assets. When the situation is under control, contact your local DELWP regional office as soon as possible.

8.12 Volunteer engagement

Volunteers can play an invaluable role in assisting your committee with the day-to-day management of the reserve. See Chapter 15 'Volunteers', in particular 15.10 'Encouraging volunteers'. See also 2.9 'Community engagement'.



Chapter 9

Developing the reserve

This chapter looks at the approvals required to develop the reserve.

9.1 Introduction

Many committees choose to develop their reserve by:

- upgrading existing facilities
- constructing new facilities
- landscaping the reserve.

Any proposed development must be consistent with the use and purpose for which the land is reserved and mindful of any impacts on activities undertaken at the reserve.

9.2 Approvals must first be obtained

Before your committee can develop its reserve by **extending, adding, altering, removing or otherwise changing an asset (built or natural)**, it must first obtain all necessary approvals. The approvals process is designed to ensure that only appropriate developments proceed. It includes the need to obtain:

- the Minister's consent (landowner consent)
- any required local council, state government and commonwealth government approvals.

Routine maintenance

Your committee should also check that what it considers to be routine maintenance does not require any approvals to be granted. For example, the removal of certain vegetation is regulated. See 8.3 'Native vegetation clearing'.

9.3 Obtaining the Minister's consent

Step 1 – Consult DELWP

Contact the department well in advance of developing any plans or seeking any approvals. Your local DELWP regional office can advise on the process for obtaining:

- the Minister's consent as landowner, and
- if applicable, other consents, for example, under the *Marine and Coastal Act 2018* and the *Planning and Environment Act 1987*.

The department can also provide information on other matters, such as the requirements of the *Aboriginal Heritage Act 2006* and Aboriginal Heritage Regulations 2018.

Step 2 – Apply for the Minister's consent

The Minister is the landowner of Crown land on behalf of the Victorian Government. The Minister's consent must be obtained for all developments.

- Your committee's application for 'landowner consent' must be in writing and include supporting material, such as site plans and works specifications.
- For coastal and marine Crown land, the Minister's consent must be obtained in accordance with the requirements of the *Marine and Coastal Act 2018*.

9.4 Planning and building approvals

When the Minister's consent has been obtained, your committee then needs to apply for the same planning, building and other approvals as a developer of private land. For example, the development may require:

- a planning permit
- a building permit, or
- both.

Planning permits

Planning permits give permission to develop or use land in a particular way. Your committee may need a planning permit for a new building, extension or renovation. The local council is responsible for issuing a planning permit.

Building permits

Under the *Building Act 1993* all building work requires a building permit, unless it is exempt under the Building Regulations 2018. Your committee can seek advice from the local council. It can also choose to consult a building surveyor for advice. For further information see the Victorian Building Authority (VBA) website:

- [Planning and building permits](#)
- [When is a building permit required?](#) (VBA practice note 32-2018).

Other approvals

The committee may need other approvals under:

- local council laws, for example, permits
- state government laws
- commonwealth government laws.

Your local council and DELWP [regional office](#) are excellent starting points for obtaining information about all approvals likely to be required from all levels of government (local, state and commonwealth).

Ownership of improvements

The land and permanent improvements to the reserve belong to the Crown.

If a tenant makes improvements (with the necessary approvals), these become the property of the Crown at the end of the lease unless the tenant removes the asset in accordance with the terms and conditions of the lease.

9.5 Heritage overlays and registers

Heritage overlays – local council

Places of heritage significance to a locality may be protected by a **heritage overlay** in the local council planning scheme. If the reserve is covered by a heritage overlay, a planning permit may need be obtained before any works or developments are undertaken. Contact the planning department of your local council for advice.

Victorian Heritage Register

The *Heritage Act 2017* protects Victoria's significant cultural heritage. This can include:

- archaeological sites and artefacts
- historic buildings, structures and precincts
- gardens, trees and cemeteries
- cultural landscapes
- shipwrecks and artifacts
- significant objects.

The Victorian Heritage Register is part of the Victorian Heritage Database, which also includes, for example, heritage places and objects classified by the National Trust.

Your committee needs consent for a permit or permit exemption from Heritage Victoria before proceeding with a development if it may affect a site or heritage object, for example, an historic building or tree listed on the Victorian Heritage Register. The consent of the Minister or their delegate as 'landowner' must be included on the application form. Your committee also needs to contact Heritage Victoria if the site or heritage object is nominated but not yet listed.

For further information contact [Heritage Victoria](#) on 9938 6894 or 9938 6891 or heritage.victoria@delwp.vic.gov.au

9.6 Liquor and gaming

If a proposed development includes the addition or expansion of liquor or gaming facilities, an appropriate licence is required. For details and further advice, contact the [Australian Business Licence and Information Service](#).

9.7 Aboriginal cultural heritage

[Aboriginal Victoria](#) provides information about Aboriginal cultural heritage.

Aboriginal places and objects

Aboriginal people have lived in Victoria for thousands of years, leaving physical evidence of their activities that now survive as cultural heritage places and objects. There are also cultural heritage places where there is no physical evidence of past cultural activities, such as places of spiritual or ceremonial significance; places with traditional plant or mineral resources; and trade and travel routes. Aboriginal places and objects can be found on both Crown land and private property, often near major food sources such as rivers, lakes, swamps and the coast. Aboriginal Victoria works in partnership with landowners, land managers such as committees of management, and Aboriginal communities to record, protect and manage these places and objects.

Is there a recorded Aboriginal Cultural Heritage Place on the reserve?

To find out if the reserve your committee manages or adjoining land has any recorded Aboriginal cultural heritage places or sites, for example, scarred trees, occupation sites and places of burial, the committee needs to access the Victorian Aboriginal Heritage Register. As land manager of the reserve, your committee can apply for permission to do so. Phone the Heritage Registry on [1800 762 003](tel:1800762003) to request an application form.

Aboriginal Heritage Act and regulations – state government

Before proceeding with any development work or other activities that disturb the ground or vegetation in a way that could impact on Aboriginal Cultural heritage, the committee must ensure that any approvals required under the *Aboriginal Heritage Act 2006* and Aboriginal Heritage Regulations 2018 have been obtained.

Example

Depending on the location of the reserve and the nature of the proposed activity or works, a Cultural Heritage Permit or Cultural Heritage Management Plan may be required. It is illegal to harm Aboriginal cultural heritage without appropriate authorisation.

Guidance

For further information, see the [heritage](#) section of the **Aboriginal Victoria** website, in particular:

- [Planning and heritage management processes](#)
- [Aboriginal places and objects](#)

- Aboriginal Cultural Heritage Register and Information System – which has an indicative map of areas known or likely to contain Aboriginal cultural heritage places and objects (shaded in green), and information on how to obtain exact locations with the help of Registered Aboriginal Parties.

DELWP has published a short Aboriginal Cultural Heritage Guide. It includes a one-page step-by-step summary that can help your committee understand if it may require approvals under the law and regulations. The guide is written for Landcare and similar groups, but the same principles apply for committees of management.

Working in collaboration with Traditional Owners

Committees of management are encouraged to work in partnership with Victorian Traditional Owners to manage Victoria's land. This will help to ensure that the history and cultural heritage contained within the landscape is preserved and protected for future generations. Aboriginal Victoria can provide your committee with the contact details of local Traditional Owner groups.

9.8 Native title and Traditional Owner rights

Native title may exist over areas of Crown land or waters in Victoria. If it exists, this needs to be taken into account during the application and approvals process for development of the reserve. In addition, under Victorian law, Traditional Owners may be party to:

- a **Recognition and Settlement Agreement**, an overarching agreement that provides traditional owners with certain rights over Crown land and waters
- a **Land Use Activity Agreement** that provides Traditional Owners with procedural rights for activities proposed to occur on Crown land or waters within their agreement area.

Before developing the reserve, your committee must ensure it is complying with any procedural rights requirements under the *Native Title Act 1993* (Cth) or the *Traditional Owners Settlement Act 2010* (Vic).

Assistance from DELWP

To help your committee ensure that it complies with these laws, contact your local DELWP regional office. In most cases, a Native Title Coordinator or staff member with relevant expertise will conduct a procedural rights assessment of the proposed activities and advise your committee what, if any, procedural rights apply.

Further information

Further information is available on the following pages of the DELWP website:

- Native Title
- Traditional Owner Settlement Act 2010
- Agreements with Traditional Owners.

Also see the Victorian Traditional Owner Settlement Act 2010 page on the Victorian Department of Justice and Community Safety website.



Chapter 10

Leases and licences

This chapter looks at when and how the committee can issue leases and licences over the reserve.

10.1 Introduction

The *Crown Land (Reserves) Act 1978* enables your committee to issue leases and licences over the reserve if all legal and policy requirements are met, including:

- The Minister's 'approval in principle' must be obtained via the department before negotiations begin.
- The lease or licence is consistent with the law and the principles in [Leasing policy for Victorian Crown land](#).
- DELWP's standard lease or licence template is used without alterations.
- Market value is charged unless an exemption applies, for example, for certain community uses.
- The Minister's approval is obtained for the final contract before the parties sign.

A handshake agreement to allow the occupation of Crown land is not acceptable.

10.2 Difference between a lease and a licence

Under the *Crown Land (Reserves) Act 1978*, your committee can issue leases and licences over the reserve it manages.

- **Lease:** A lease grants permission for **exclusive use and possession** of part, or all, of the reserve. It may include or exclude buildings. A lease is for a set period of time. The committee is the 'landlord' and the organisation or person leasing the land is the 'tenant'. The tenant pays rent to the committee as landlord.
- **Licence:** A licence grants permission for **non-exclusive use** of part, or all, of the reserve. It may include or exclude buildings. A licence is for a set period of time, either continuous or intermittent. The committee is the 'licensor' and the organisation or person accepting the licence is the 'licensee'. The licensee pays a fee for the licence. Where it will not interfere with the rights of an existing licence holder, more than one licence at a time may be granted over the same parcel of land.

10.3 Obtain Minister's approval in principle to negotiate

Your committee needs to obtain the Minister's approval in principle to issue a lease or licence before beginning negotiations with a proposed tenant or licensee. Contact your local DELWP [regional office](#) to start this process.

DELWP is responsible for the development and implementation of policy for the leasing and licensing of Crown land. The department advises the Minister or their delegate whether to grant approval in principle. The department will check to ensure that the proposed lease or licence:

- will not be detrimental to the purpose for which the land is reserved
- will preserve the environmental, historic, recreation, tourism, natural resource, social and culturally significant values of the land. For example, check the likely impact on existing users and activities.

To apply for approval, forward the details of the proposed lease or licence to your local DELWP [regional office](#), including:

- the purpose of the proposed lease or licence
- a plan that clearly and precisely marks the area of the proposed lease or licence within the reserve
- an explanation of why the proposed lease or licence will not be detrimental to the purpose for which the land is reserved and will preserve the environmental and other values listed in the paragraph above.

Remember that before entering into any lease or licence negotiations, your committee needs to discuss the proposed arrangements with its local DELWP [regional office](#).

10.4 Use DELWP's standard templates for leases and licences

Your committee may begin contract negotiations once approval in principle is received from the Minister. A draft copy of the contract document can be shared with the tenant. DELWP has developed **standard lease and licence documents** for use by all committees. These are available from your local DELWP regional office. When DELWP opens its Landfolio, its electronic self-serve kiosk during 2020, documents and guidance will also be available directly from it. See 6.2 'Landfolio self-serve kiosk'.

The standard documents include a requirement for the tenant or licensee to take out **public liability insurance** that indemnifies the committee from any loss, damage or injury resulting from the tenant's or licensee's activities. Tenants and licensees are not covered by DELWP's public liability insurance.

The standard contract documents must be used unless other documents are approved by DELWP. The lease or licence document must not be altered except to insert site-specific conditions into the schedules to the contract.

Check insurances

Your committee needs to:

- obtain proof of the proposed tenant's or licensee's public liability insurance cover
- retain the relevant certificates on file.

Leases and long-term licences should be regularly monitored for insurance conditions. Check that sufficient and appropriate insurance is held. See Chapter 12 'Insurance' for further information on insurance.

10.5 Rental rates for leases and licences

In general, commercial use of Crown land, whether a lease or licence, attracts **full market rates**. These are determined by a valuation from a qualified valuer. However, there are circumstances where a subsidy from market rates may be applied, such as when a community group occupies Crown land for community activities.

Contact the local DELWP regional office for advice on the rental policy applicable to a particular lease or licence proposal. Guidance will also be available from Landfolio, DELWP's electronic self-serve kiosk when it opens during 2020. See 6.2 'Landfolio self-serve kiosk'.

10.6 Obtain Ministerial approval of proposed lease or licence

Your committee must provide the final draft contract to the local DELWP regional office for review. This will enable DELWP officers to check that the contract terms and conditions are in line with the *Crown Land (Reserves) Act 1978* and with DELWP policy.

Once the proposed lease or licence has been checked and endorsed by DELWP your committee then:

- arranges for all parties to execute the contract by signing and sealing the contract in triplicate
- forwards the completed documents to the local DELWP regional office for Ministerial or delegate approval.

Once approved, one copy is retained by DELWP and two copies are returned to the committee.

10.7 Leases – when are they suitable?

Leasing enables the community to use, benefit from and enjoy Crown land, for example, by providing:

- recreational, cultural and sporting facilities
- commercial uses, such as restaurants, caravan parks and marinas.

A lease is for the **exclusive use** of part or all of a reserve. It is suitable where:

- Large facilities are being used entirely by a particular group, such as social clubrooms.
- Buildings or other facilities are being built by the person or organisation taking out the lease, for example, if a golf club builds a course on a reserve.
- A direct request has been made to the committee to lease an area, for example, a football club seeks to lease part, or all, of the clubrooms for exclusive use.
- Your committee decides to lease out an area for a particular purpose and seeks expressions of interest from prospective tenants, for example, to operate a kiosk.

Crown land leasing policy

The *Leasing policy for Victorian Crown land* aims to ensure that leased Crown land is managed sustainably and provides maximum benefits to the community. It centres around three broad principles that guide the leasing of Crown land.

Principle 1 – To provide benefits to the public through leasing

Granting exclusive occupation of Crown land under a lease should not occur except where it can be justified that there are benefits to the community from the lease. For example:

- **community** benefits, such as promotion of public health and wellbeing; improvement of sporting, recreational and cultural facilities; protection of public land values
- **economic** benefits, such as attracting investment; creation of employment; promotion of tourism
- **continuity** benefits, such as support for the implementation of government policies or government programs
- **innovation** benefits, such as the introduction of new skills or improved technology; provision of new services
- **environmental** benefits, such as protection of natural assets; improved biodiversity and environmental outcomes.

Principle 2 – To ensure consistency and transparency in leasing

Leasing process must be fair, open and impartial, whether the lease is allocated through a competitive selection process or through direct negotiations. To ensure this, a two-stage process applies to the granting of leases.

- First, all lease proposals require the approval in principle of the Minister before the committee, as landlord, agrees or commits to lease Crown land.
- Second, all leases require the Minister's approval of the terms and conditions of the lease, which must align with the permitted purpose, and conform to government policy and statutory requirements.

Principle 3 – To manage leased Crown land in an ecologically sustainable manner

Proposals to lease Crown land will need to demonstrate ecological sustainability including:

- responding to the challenge of climate change
- maintaining and restoring our natural assets
- providing opportunities for Victorians to connect with nature
- using resources more efficiently, and
- reducing biodiversity and environmental impacts, including contamination.

Points to consider

If your committee is considering granting a lease, take into account the following:

- Lease proposals require the approval in principle of the Minister before negotiations begin.
- A lease may only be considered if it is in the **public interest**. This means that, on balance, the public's interest in, and benefit from, the reserve will not be compromised by granting exclusive use of part or all of the reserve to a particular person or group.
- Leases must comply with DELWP requirements. In the first instance, discuss the details of any proposed lease with the local DELWP [regional office](#). Guidance material will be available from DELWP's Landfolio self-serve kiosk when it opens during 2020 (see 6.2 'Landfolio self-serve kiosk').
- The **committee** may only issue leases with a maximum term of **21 years** with the approval of the Minister. The term of the lease should reflect the use and nature of the service provided. Shorter terms may be appropriate for some uses, such as kiosks.
- The **Minister** may grant leases for a term in excess of 21 years and up to **65 years** where the tenant's investment is of a substantial nature. The Minister may authorise the committee to carry out the day-to-day management of the lease. Significant documentation may be required to justify granting this type of lease.
- Your committee must ensure that leases are issued in line with Crown land leasing policy; manage the leases it issues; and monitor the tenant's compliance with lease terms and conditions. Guidance material on how to assess the risk of individual leases and what monitoring is warranted will be available from DELWP's Landfolio self-serve kiosk when it opens during 2020 (see 6.2). The kiosk will also provide guidance for committees on enforcement activity and tools, such as a tenant self-reporting template.
- The committee must use standard DELWP lease contracts available from the local DELWP [regional office](#).

Note: If a tenant makes improvements with the necessary approvals, these become the property of the Crown at the end of the lease *unless* the asset is removed by the tenant in accordance with the terms and conditions of the lease.

Retail leases

The *Retail Leases Act 2003* binds the Crown. This means that any leases granted by your committee under the *Crown Land (Reserves) Act 1978* must also comply with the *Retail Leases Act 2003* if the lease is for retail premises.

In general, retail premises are premises from which goods are sold or there is retail provision of services, such as caravan parks, kiosks or shops. If you believe that the Retail Leases Act *may apply*:

- consult the [Retail tenants and landlords](#) page on the Victorian Small Business Commission's [website](#)
- consider seeking legal advice

10.8 Licences – when are they suitable?

Licences are for **non-exclusive** use of part or all of a reserve. They are suitable when many users of the reserve need regular access, for example, several sporting clubs want to use the reserve's oval at different times.

Your committee will need the Minister's in principle approval to negotiate a licence. See 10.3 in this chapter for details of what the department will check.

Same principles apply

The three broad principles for leasing described at 10.7 also apply to licences. Granting a licence must be consistent with:

- the public interest
- transparent decision making

- the ecologically sustainable use of the land.

Points to consider

The following points should be considered when negotiating a licence.

- Licence proposals require the approval of the Minister or their delegate. In the first instance, the details of any proposed licence should be discussed with your local DELWP [regional office](#).
- A licence may only be considered if it is in the **public interest**. This means that, on balance, the public's interest in, and benefit from, the reserve will not be compromised by the granting of the licence.
- Generally, a licence can be issued for **up to 10 years**. The term of the licence should reflect the nature of the proposed use of the land.

Use DELWP's standard template for licences

The committee must use DELWP's standard template for licence documents. For details, see 10.4 in this chapter.

10.9 Other guidance and resources

Further information:

- DELWP's Landfolio self-serve kiosk, which will become available during 2020, will offer a range of guidance and resources. See 6.2 'Landfolio serve-serve kiosk' for details.
- See the [Crown land leases, licences and permits](#) page on the DELWP website, in particular:
 - Leasing Policy for Victorian Crown Land
 - DELWP Crown land leasing guidelines.
- You may also like to check whether any other resources have been recently added to the [committees of management](#) page of the DELWP website.
- Information is also available to your committee through its local DELWP [regional office](#).



Chapter 11

Risk

This chapter looks at how your committee should identify, analyse, treat and monitor risks relating to the reserve.

11.1 Introduction

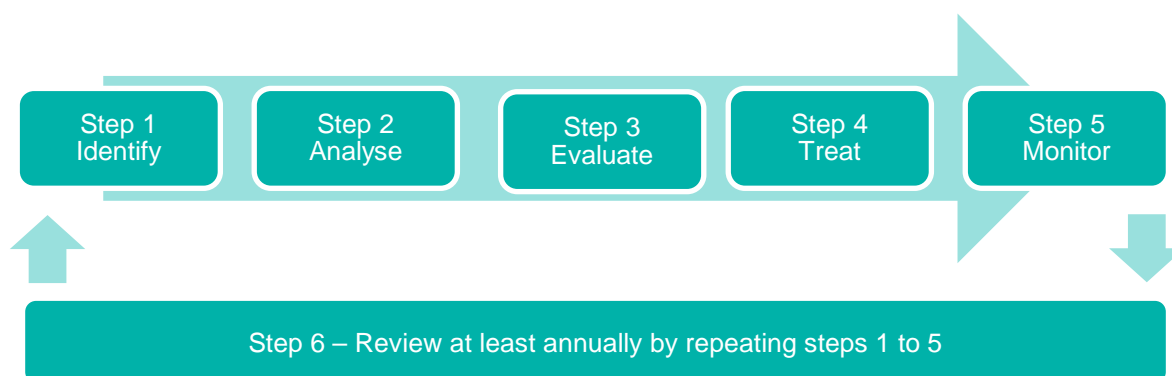
Your committee should develop and implement a **risk management plan**. This is an essential part of its management of the reserve. The committee has a **duty of care** to eliminate or reduce risk to as low as **reasonably practicable**.

This chapter is an introduction to the process of managing risk. It is designed to be useful reading for all committees. Local committees will find it suitable for most or all of their needs. Major committees, and committees that are agencies subject to the *Financial Management Act 1994*, *Associated Incorporations Reform Act 2012*, corporations law or other regulatory regime, also have obligations under those laws and any relevant government policies and best practice. The 'additional guidance' section at the end of this chapter has useful links for these committees.

Your committee can seek advice from the local DELWP [regional office](#).

11.2 Key steps in the risk management process

The key steps in the risk management process are to identify, analyse, evaluate, treat and monitor risk. And then to review risk at least annually.



11.3 Documenting the steps taken

It is an important part of the risk management process to:

- document the steps taken and the committee's reasons for reaching each decision
- retain supporting evidence, such as 'before' and 'after' photos
- record the committee's findings in its official **risk register**.

This will help your committee to show it has fulfilled its duty of care if any liability issues arise.

11.4 Risk register

Your committee's risk register is a formal record of the results of steps 1 to 4 in the risk management process. The committee then monitors these risks and keeps an eye out for any new risks that arise. At least once a year, the committee reviews its risk management plan by repeating steps 1 to 5.

Below is an example of a risk register. Your committee will almost certainly have more entries in its register.

Example of a completed risk register

In the rest of this chapter, the **shaded example** of a tree branch falling on campers in a tent is used to illustrate each step in the risk management process.

1a	1b	1c	2a	2b	2c	2d	2e
Risk category	Identified risk	Causes	Existing controls	Effectiveness of existing controls	Consequences	Likelihood	Risk rating (risk level)
Safety	Branch falls onto tent with campers inside	Public access to dangerous trees	Check for dangerous branches annually	Satisfactory	High	Medium	A
Safety	Injury to a new volunteer as a result of risky behaviour	New volunteers lack knowledge of safe work practices	New volunteers work alongside experienced volunteers	Satisfactory	Medium	Medium	B
Safety	Person injured at private function in hall for hire	Lack of safety measures and checks	Regular inspection of hall for physical risks	Poor	Medium	High	A
Assets and maintenance	Noxious weeds spread to adjoining land	Lack of adequate measures to restrict the growth and spread of weeds	Monthly spraying of weeds	Satisfactory	Low	Medium	C
Environment	Visitors damage protected flora	Visitors are unaware of or ignore protected flora laws and regulations	Signs warning not to damage or remove native vegetation	Good	Medium	Low	C
Finance and administration	Committee funds go missing	Inadequate financial systems, safeguards and monitoring	Financial records reviewed at every committee meeting	Good	Low	Low	D
Finance and administration	Computer containing committee records stolen	Inadequate IT back up and security measures	Computer records backed up on external hard drive stored off site.	Good	Low	Low	D
Relationship management	Dispute arises with reserve tenant	Breakdown in relationship with tenant	Regular meetings with tenant	Satisfactory	Medium	Medium	B

11.5 How to undertake the risk management steps

The following sections describe **how to undertake each step in the risk management process**. During each step in the process, **consult** with key stakeholders, such as users of the reserve, tenants, and the local council, to:

- gain information and suggestions about the risks that exist and how to reduce risk levels
- improve community awareness of public safety and other relevant risks.

Step 1 – Identify risk

The first step is to identify what could go wrong, and why. Work through each aspect of the reserve and its management. While public safety risks will figure highly, also identify the other risks your committee faces.

Record in risk register

In your committee's risk register, record:

- each risk your committee identifies
- the cause(s) of the risk
- the category the risk falls into.

Categories of risk

Your committee can use the following **categories** when considering the types of risks it faces:

- assets and maintenance
- safety
- environment
- finance and administration
- relationship management.

The committee can add to or change these categories. If doing so, take into account the nature of the reserve, the activities that occur on it, and structure of the committee. For example, a major committee, particularly one that employs staff, is likely to add categories such as 'Workplace wellbeing and safety', 'Legal and compliance', 'Procurement and contract management', and others.

Example

In this example, the safety risk that has been identified of a branch falling on campers in a tent, and the cause of the risk, has been recorded in the risk register in columns 1a, 1b, and 1c.

Step 1 – Identify risk		
1a	1b	1c
Risk category	Identified risk	Causes
Safety	Branch falls onto tent with campers inside	Public access to dangerous trees

Note on public safety

Public safety risks are particularly relevant. As a land manager, your committee owes a duty of **reasonable care** to people using the reserve and attending committee events at other locations. The committee must take all reasonably practicable action to avoid **foreseeable** risks of injury. Take a wide view of safety issues rather than focusing on a single issue. This will help to identify the key safety risks. Inspect the site, engage with stakeholders, such as visitors and other agencies, and take notes. Identify and record hazards, such as potential falls from height or slippery rocks.

Step 2 – Analyse risks

After step 1 has been completed, work through and add the following information to the risk register:

- List the **existing controls**, the actions currently being taken to eliminate or reduce the risk.
- Rate **how effective** these existing controls are.
- Rate how serious the **consequences** will be if the event happens.
- Rate the **likelihood** that the risk will occur despite the existing controls.
- Determine the **risk rating (level of risk)**. See the 'risk matrix', Table 1 in step 2e.

Step 2a: What are the existing controls?

For each risk identified in step 1, list the existing controls, that is, the actions currently being taken to reduce (mitigate) the risk.

Example

In this example, the existing controls (column 2a) have been added to the 'falling tree branch' entry in the risk register.

Step 1 – Identify risk			Step 2 – Analyse risk	
1a	1b	1c	2a	
Risk category	Identified risk	Causes	Existing controls	
Safety	Branch falls onto tent with campers inside	Public access to dangerous trees	Check for dangerous branches annually	

Step 2b: How effective are the existing controls?

Next, rate **how effective** the existing controls are. Your committee can use the effectiveness ratings (good, satisfactory, poor, uncontrolled) in the following chart or develop its own ratings

Effectiveness rating	Description
Good	The controls are effectively and reliably treating the cause of the risk. Nothing further needs to be done except monitor the controls.
Satisfactory	Most controls are in place and effectively treating the risk, but improvement can be made.
Poor	The controls in place are not very effective. They do not treat the root causes of the risk and/or they do not operate effectively and need to be significantly improved.
Uncontrolled	There is no risk control currently in place.

Example

In this example, the effectiveness of the existing controls for the 'falling tree branch' entry in the risk register have been assessed as satisfactory. This has been entered into the register (column 2b).

Step 1 – Identify risk			Step 2 – Analyse risk	
1a	1b	1c	2a	2b
Risk category	Identified risk	Causes	Existing controls	Effectiveness of existing controls
Safety	Branch falls onto tent with campers inside	Public access to dangerous trees	Check for dangerous branches annually	Satisfactory

Step 2c: How serious will the consequences be?

Next, assess how serious the consequences will be if the risk occurs. Your committee can use the consequence ratings (low, medium or high) in the following chart or develop its own ratings.

If there is more than one possible consequence, use the worst.

Consequence Rating	Description for each category
Low	Assets/maintenance – minor repairs or remediation Safety – minor injury possibly requiring on-site first aid only Environment – negligible/minor effect on environment; requires negligible/minor recovery; environment suffers harm for under one year Financial – under 10 per cent of annual income and/or cash balance Relationship management – local issue for committee resolution; user satisfaction affected for a short period.
Medium	Assets/maintenance – major repairs, remediation or construction work Safety – serious injury requiring medical attention Environment – moderate effect on environment; requires small scale recovery; environment suffers harm for one to five years Financial – between 10 and 40 per cent of annual income and/or cash balance Relationship management – issue raised at DELWP or local council; major issue with long term impact on user satisfaction.
High	Assets/maintenance – irreversible damage to reserve or loss of asset Safety – life-threatening or permanent injury or death Environment – major effect on environment; requires large scale recovery or is irrecoverable damage; environment suffers harm for five or more years Financial – over 40% of annual income and/or cash balance Relationship management – issue raised with police or at court level; issue causing irreparable damage to relationships with reserve users.

Example

If a tree branch were to fall on a tent with campers inside, the worst consequence would be a death, so rate the consequence as high. Your committee can now record this finding in its risk register (column 2c).

Step 1 – Identify risk			Step 2 – Analyse risk			
1a	1b	1c	2a	2b	2c	
Risk category	Identified risk	Causes	Existing controls	Effectiveness of existing controls	Consequences	
Safety	Branch falls onto tent with campers inside	Public access to dangerous trees	Check for dangerous branches annually	Satisfactory	High	

Step 2d: How likely is the risk to occur?

Next, assess the likelihood that the risk will occur despite what is being done to reduce the risk, in other words, the **existing controls**. Your committee can use the likelihood ratings (low, medium or high) in the following chart or develop its own ratings.

Likelihood Rating	Description
Low	Could occur at some time – less than once in 10 years
Medium	Might occur at some time – at least once in 3 years
High	Will probably occur in most circumstances – at least once a year

When assessing the likelihood (low, medium or high) that a **public safety risk** will occur some considerations include:

- **Determine if the hazard is accessible.** Is it reasonable to expect that someone might access the hazard? Is there free public access to a cliff top or an inviting pathway to dangerous water, or is access prevented by thick vegetation or other natural obstacles?

- **Measure how frequently people visit the site where the hazard exists.** An unfenced cliff top in a highly frequented area is quite different to an unfenced one in a remote area where visitor numbers are minimal.
- **Identify particularly vulnerable groups.** Do children frequently visit the reserve? Are visitors participating in activities such as surfing, bike riding, skiing, swimming or climbing that may increase risk?

Example

If a tree branch were to fall on a tent with campers inside, the worst consequence would be a death, so rate the consequence as high. Your committee can now record this finding in its risk register (column 2c).

Step 1 – Identify risk			Step 2 – Analyse risk			
1a	1b	1c	2a	2b	2c	2d
Risk category	Identified risk	Causes	Existing controls	Effectiveness of existing controls	Consequences	Likelihood
Safety	Branch falls onto tent with campers inside	Public access to dangerous trees	Check for dangerous branches annually	Satisfactory	High	Medium

Step 2e: What is the level of risk that remains?

Now, determine the **level of risk** (risk rating) that remains for each risk despite the existing controls. Your committee can do this easily by using the suggested:

- risk matrix
- risk levels (A, B, C, D).

Risk matrix

Note: this risk matrix uses the consequences and likelihood classifications set out in steps 2c and 2d. If your committee chose different ones, use those instead when developing the matrix.

The risk matrix shows the level of risk (A, B, C or D) **at a glance**, based on its likelihood and how serious the **worst consequences** would be.

For example, if your committee rated the likelihood of the risk as medium and the seriousness of the consequences if it does occur as high, then looking at the matrix shows that it is a Level A risk. This is the highest classification.

Table 1: Risk matrix

Likelihood of the risk occurring	Seriousness of the consequences		
	High	Medium	Low
High	A	A	B
Medium	A	B	C
Low	B	C	D

Risk level classifications – what do A, B, C and D mean?

Note: if your committee prefers, it can develop its own risk levels.

The meaning of the four risk levels in the matrix are:

Table 2: Risk level (risk rating)

Risk level	Classification of treatment priorities
A	Risk must be reduced. Risk must be managed to 'as low as reasonably practicable'.
B	Risk must be reduced unless the cost/difficulty of reducing it is grossly disproportionate to the benefits gained.

Risk level	Classification of treatment priorities
C	Risk may be reduced unless the cost or effort of reducing the risk is disproportionate to the benefits gained.
D	Maintain current systems of monitoring and review. Usually, no additional action is required to reduce the risk.

Example

Using the risk matrix, your committee would reach the following conclusion about the risk of a tree branch falling on campers in a tent:

- Your committee rated the seriousness of the consequences as high, because the **worst consequence** would be a death.
- It rated the likelihood of a tree branch falling on campers in a tent as medium.
- So the risk matrix shows it is a **Level A risk**. This means that the risk still remaining, despite the existing controls, must be reduced to 'as low as reasonably practicable'.

Your committee can record the risk level remaining, Level A, in the risk register (column 2e in the example below).

Step 1 – Identify risk			Step 2 – Analyse risk				
1a	1b	1c	2a	2b	2c	2d	2e
Risk category	Identified risk	Causes	Existing controls	Effectiveness of existing controls	Consequences	Likelihood	Risk rating (risk level)
Safety	Branch falls onto tent with campers inside	Public access to dangerous trees	Check for dangerous branches annually	Satisfactory	High	Medium	A

At the end of step 2, the level of risk still remaining for each risk has been analysed and added to the risk register. Your committee now has the information it needs to proceed to step 3 and evaluate which risks to 'treat' and how.

Step 3 – Evaluate which risks to treat and how

Next, your committee decides:

- which risks it will 'treat' (take action to eliminate or further reduce), and
- what these additional controls will be.

Your committee has a duty to do everything **reasonably practicable** to reduce risk. The most effective way to reduce or eliminate risk is to address its key causes. Any new controls that your committee decides to put in place should aim to reduce the likelihood of the risk occurring and/or the seriousness of the consequences if it does.

Level of risk

In step 2e, your committee worked out the level of risk (A, B, C or D) for each risk it identified.

Level A and B risks are the **priority** to treat. See the risk level classifications in Table 2 of step 2e.

Reasonably practicable

When deciding whether to treat a risk and what actions are reasonably practicable, **balance the level of risk** (A, B, C or D) with what is sensible and practicable in the circumstances. In doing so, take into account:

- the projected reduction in the level of risk
- the expense and difficulty involved
- any conflicting responsibilities the committee may have, such as other risks that need to be reduced
- any other relevant factors.

Projected reduction in risk level

A key factor in evaluating what, if any, new controls to implement is to project what the reduction in the **level of risk** (A, B, C or D) would be. This can be done **at a glance** by using the risk matrix (step 2e), based on:

- the projected reduction in the seriousness of the consequences (low, medium or high, as in step 2c)
- the projected reduction in the likelihood that the risk will occur (low, medium or high, as in step 2d).

Remember to keep a record of these decisions and document the reasoning behind them.

Example

Your committee determined that the risk of a tree branch falling on campers in a tent is a **Level A** risk. So, this risk is a priority to treat. The committee decides to fence off dangerous trees in the reserve and erect signage to warn campers of the risk. The committee determines that these new controls will reduce the likelihood of the risk occurring from medium to low. The seriousness of the consequences if the risk does occur will still be high. A glance at the risk matrix previously used in step 2 shows that the level of risk remaining *after* the new controls are in place will reduce to a **Level B** risk.

Step 1 - Identify			Step 2 - Analyse					Projected Reduction In Risk Level			
1a	1b	1c	2a	2b	2c	2d	2e				
Risk category	Identified risks	Causes	Existing controls	Effectiveness of existing controls	Consequences	Likelihood	Current level of risk (rating)	New treatment controls	Revised consequences	Revised Likelihood	Revised level of risk (rating)
Safety	Branch falls onto tent with campers inside	Public access to dangerous trees	Check for dangerous branches annually	Satisfactory	High	Medium	A	Check for dangerous branches annually New – Fence off dangerous trees and erect signage to warn campers of the risk	High	Low	B

Other considerations – expense, difficulty and conflicting responsibilities

Examples of some of the other factors to consider when determining what risks to treat and how, include:

- On balance, it may not be reasonable to eliminate a particular Level A risk, only to reduce it.
- The committee may decide not to treat a particular Level B or C risk because, on balance, the expense is not justified, especially if the committee needs the funds to reduce a Level A risk.
- Insurance is one way of transferring risk to a third party (the insurer). However, it only transfers financial risk. It does not reduce the consequences for others, such as campers who are struck by a falling tree branch.
- For some high-level risk activities, the committee may decide to discontinue the activity entirely.

If there is a high level of risk that cannot be eliminated or reduced report this to the local DELWP regional office.

Step 4 – Treat the risk

Once your committee has decided which risks to ‘treat’ and how:

- **Update** the risk register.
- **Implement** the new controls.

Your committee then monitors how well its new controls are working and the risks it still faces (step 5).

Step 5 – Monitor risks

The committee needs to regularly:

- monitor the risks in the **risk register** to ensure that:
 - the new risk controls are reducing the risks as projected in step 3. Are the revised likelihood, seriousness of consequences, and reduced level of risk accurate?
 - all of the risk controls, old and new, your committee has in place continue to remain effective.
- be alert for any risks that arise, escalate, or were previously missed. Regularly inspect the reserve.

High-level risks should be monitored closely. For example, a steep cliff face on the reserve that is at a high risk of crumbling should be monitored more closely than other lower level safety risks.

Reporting risks to the department

If a high-level risk cannot be treated effectively, your committee should report this to the local DELWP regional office. Advice can also be sought about any risk concerns.

Step 6 – Review risk management

Review the risk management plan **at least annually**:

- Use steps one to four to update the risk register.
- Then monitor risks as set out in step 5.

How often your committee conducts a risk review will depend on factors, such as:

- the nature of the reserve and the activities that occur on it
- the structure of the committee and its 'risk appetite' (the level of risk it is willing to accept)
- the number of high-level risks and their nature
- any other relevant factors.

For example, some major committees review their risk management plan at regular intervals during the year.

11.6 Documents to support the risk management plan

Ensure that the decisions the committee has taken during each step, and the reasons why, have been properly documented in its risk management plan.

Keep documents, including 'before' and 'after' photos, that provide evidence that your committee has done everything reasonably practicable to develop and implement a suitable risk management plan.

Risk identification, treatments and reasons

If any risks were identified but were removed from the list and not recorded in the risk register, document the reasons why.

Similarly, if any risk treatments were considered but rejected, document why, especially if they would have been more effective than what the committee chose.

Also document why the committee chose the risk treatments that it did, or why nothing will be done to treat the risk.

Example

'The risk of a visitor falling over the cliff edge was identified as a Level A risk following a fall by a visitor at Bandy's Lookout.' The committee considered:

- (a) erecting barriers along the 20 km of cliff frontage, and/or
- (b) erecting signage to warn visitors to stay back from the cliff edge.

It decided to erect barriers only at the designated look-out points. This decision was reached by balancing the cost of erecting 20 kilometres of barriers along the cliff face with the fact that very few visitors access the cliff except at the lookouts. In addition, warning signs to be erected at the lookouts and all visitor car parks will be seen by almost every visitor entering the reserve.'

Before and after photos are taken, the invoices from the construction of the barriers and for the warning signs are retained, and any other relevant evidence that the decision was properly considered and implemented are retained.

Consultation with key stakeholders

Make notes of what consultation occurred with key stakeholders, such as users of the reserve, tenants, and the local council. Consider this example. Your committee manages a reserve including a river accessed via land controlled by another public agency. The committee must be able to show that it cooperated with the agency to ensure the risk to public safety is being treated as much as reasonably practicable and accountability is appropriately assigned.

Expert advice

If expert advice was obtained by your committee, keep the documentation. If it was not followed, or was followed in a modified way, record the rationale for the modified approach. The decisions should also be included in the minutes of a committee meeting.

Evidence of what has been done to reduce the risk

Keep documents that prove that risk treatments have been completed, for example, invoices from contractors, notices of working bees, and 'before' and 'after' photos.

11.7 Summary example – what the risk management process can achieve

The table below demonstrates what the risk management process can achieve.

On the left is the original example risk register (11.4 'Risk register').

On the right are the new controls and projected reduction in the level of risk remaining

Example risk register – as set out in 11.4 'Risk register'								Example of projected reduction in risk			
Note: when the risk is treated, this information will be used to update the original entries in the risk register.											
Step 1 - Identify			Step 2 - Analyse					Projected Reduction In Risk Level			
1a	1b	1c	2a	2b	2c	2d	2e				
Risk category	Identified risks	Causes	Existing controls	Effectiveness of existing controls	Consequences	Likelihood	Current level of risk (rating)	New treatment controls	Revised consequences	Revised Likelihood	Revised level of risk (rating)
Safety	Branch falls onto tent with campers inside	Public access to dangerous trees	Check for dangerous branches annually	Satisfactory	High	Medium	A	Check for dangerous branches annually New – Fence off dangerous trees and erect signage to warn campers of the risk	High	Low	B
Safety	Injury to a new volunteer as a result of risky behaviour	New volunteers lack knowledge of safe work practices	New volunteers work alongside experienced volunteers	Satisfactory	Medium	Medium	B	New volunteers work alongside experienced volunteers New – Conduct occupational health and safety training for all volunteers	Medium	Low	C
Safety	Person injured at private function in hall for hire	Lack of safety measures and checks	Regular inspection of hall for physical risks	Poor	Medium	High	A	Regular inspection of hall for physical risks New – Require or provide hirer's insurance	Low	Medium	C
Assets and maintenance	Noxious weeds spread to adjoining land	Lack of adequate measures to restrict the growth and spread of weeds	Monthly spraying of weeds	Satisfactory	Low	Medium	C	No change – Monthly spraying of weeds	Low	Medium	C
Environment	Visitors damage protected flora	Visitors are unaware of or ignore protected flora laws and regulations	Signs warning not to damage or remove native vegetation	Good	Medium	Low	C	No change – Signs warning not to damage or remove native vegetation	Medium	Low	C
Finance and administration	Committee funds go missing	Inadequate financial systems, safeguards and monitoring	Financial records reviewed at every committee meeting	Good	Low	Low	D	No change – Financial records reviewed at every committee meeting	Low	Low	D
Finance and administration	Computer containing committee records stolen	Inadequate IT back up and security measures	Computer records backed up on external hard drive stored off site.	Good	Low	Low	D	No change – Computer records backed up on external hard drive stored off site.	Low	Low	D
Relationship management	Dispute arises with reserve tenant	Breakdown in relationship with tenant	Regular meetings with tenant	Satisfactory	Medium	Medium	B	No change – Regular meetings with tenant	Medium	Medium	B

11.8 Other guidance and resources

Information is available to committees through your local DELWP regional office.

The VMIA is the Victorian Government's insurer and risk adviser. The VMIA website has a range of guidance and learning resources on risk, such as fact sheets and learning modules.

The Victorian Public Sector Commission's website also has information on risk management.

There is also information on the DELWP website which may be useful to major committees and committees with additional regulatory and/or government policy obligations and best practice (e.g. AS/NZS ISO 31000:2009).



Chapter 12 Insurance

This chapter looks at your committee's insurance needs and what to do if a claim is made against it.

12.1 Introduction

Your committee needs adequate insurance to cover any claims arising as a result of its management of the reserve.

Insurance provided to your committee by DELWP

Your committee is covered by the department's insurance arrangements for the following types of insurance, subject to policy terms and conditions.

- Public and products liability
- Professional indemnity
- Group personal accident (volunteer cover).

See the table and information in 12.2 for details.

It is important to note that these insurances only cover liabilities that your committee may incur. They do not cover liabilities that any other person or organisation may incur, such as contractors, lease or licence holders, or users or hirers of the reserve or any buildings on it.

Also note that municipal councils who are committees are not covered for liability arising from municipal functions or when they have another policy of insurance in place that covers the same risk.

Insurance your committee may need to purchase

DELWP **does not provide** committees with any of the following types of insurance. Your committee should consider **whether it needs to purchase** any of the types of insurance below:

- Built asset (e.g. building and contents)
- 'Casual hirer's public liability'
- Workers compensation (needed if your committee employs staff and has an annual payroll of over \$7,500)
- Directors and officers
- any other insurance the committee may require.

See 12.3 for details.

Incidents and claims

Your committee needs to understand the process to follow if it becomes aware of a safety incident or other potential claim against it. No admission of liability should be made. DELWP will oversee the investigation process.

See 12.4 for details.

Please advise the DELWP Insurance team should any third party be injured, or their property lost or damaged while on your reserve:

- by email to risk.audit.insurance@delwp.vic.gov.au
- by phone via the customer contact centre on 136 186
- by mail to the Senior Insurance Officer, DELWP, PO Box 500, East Melbourne Vic 3002, or
- via the local DELWP [regional office](#).

12.2 Insurance provided to your committee by DELWP

Your committee is covered by the department's insurance arrangements for the types of insurance set out in the table below. Cover is subject to the terms and conditions of the policies.

Certificates of insurance and copies of policies

Certificates of insurance that show your committee is covered by these types of insurance can be downloaded from the *Insurance for your committee* section of the [committees of management](#) page on the DELWP website. Policy wordings can also be found there. Certificates are issued from 1 July each year and are valid for one year.

Insurance	Description	Who is covered by this insurance?
Public and product liability	<p>Provides insurance cover to your committee if a claim is made against it for personal injury or property damage to a third party, for example, a member of the public.</p> <p>Example:</p> <p>A member of the public trips over a hazard on the reserve.</p>	<p>Your committee of management is covered if a successful claim is made against it.</p> <p>Does not provide insurance cover for other organisations/persons See later in 12.2 for details.</p>
Professional Indemnity	<p>Provides insurance cover to your committee if a claim is made against it for an act or omission that is a 'breach of professional duty'.</p> <p>Example:</p> <p>A committee advises a professional tenant that they will generate a certain level of income, but visitor numbers are well below those advised.</p>	<p>Your committee of management is covered if a successful claim is made against it.</p> <p>Does not provide insurance cover for other organisations/persons. See later in 12.2 for details.</p>
Group personal accident	<p>Provides insurance cover to volunteers (including committee members) who are injured while engaged in voluntary activities as authorised by your committee.</p> <p>Example:</p> <p>A volunteer is injured while assisting at an authorised fundraising activity for the committee.</p>	<p>All authorised volunteers who are injured can submit a claim if they have a permanent or temporary injury and incur out of pocket for medical expenses and/or require home or other assistance. This includes committee members.</p>

Group personal accident insurance (volunteer cover)

This type of insurance is called 'group' because it insures a whole group of people: volunteers who are engaged in voluntary activities as authorised by your committee.

For this reason, your committee must maintain records of who volunteered and when, and the nature of the activity. An example of a **volunteer attendance register** is available in 15.3 'Volunteer attendance register!'.

Under this type of insurance, a volunteer who is injured and whose claim is successful will receive a lump sum payment. The amount of the payment will depend on the nature, severity, and duration of the injury. Injury includes physical injury, death and/or psychological trauma.

Insurance requirements for lease or licence holders, contractors, casual hirers and regular users of the reserve

Only your committee is covered by the department's insurance arrangements. For this reason, your committee needs to impose the following requirements and make the following checks.

Lease or licence holders

If your committee issues any leases or licences (see Chapter 10 'Leases and licences'):

- The committee needs to regularly check that the **public liability** insurance required as a condition of the lease or licence holder's contract is sufficient, appropriate and current.
- The committee can also require a tenant to insure any buildings they occupy if they are the sole occupant.

- Lease and licence holders should also have insurance to cover any of their property stored on reserve premises.

Contractors

Your committee must ensure that contractors have their own insurance before they are engaged to carry out work on the reserve. The type of insurance required by the contract will depend on the nature of the work being undertaken. For example, an arborist would need public liability and professional indemnity insurance. However, a person mowing the oval may only require public liability insurance.

Casual hirers

Some Crown land reserves have facilities that can be hired out for a one-off event, such as a party or a meeting. The insurance cover provided to your committee by DELWP **does not cover** claims by third parties (member of the public) for injury or property damage arising from the negligence involving the hirer. For example, it does not cover a situation where guests suffer food poisoning at a wedding in a hall hired out by the committee.

Your committee needs to check whether the potential hirer has a policy that covers public liability, and if so, whether it is adequate. If the potential hirer does not, the committee will need to either:

- require the hirer to take out this insurance
- refuse to hire out the facilities out to them, or
- take out adequate hirer's liability insurance itself.

Because often potential hirers do not have public liability cover, or it is not adequate, many committees purchase 'casual hirer's public liability' insurance (also called 'hirer's liability' insurance.). A committee can purchase this insurance on an annual basis. The premium will depend on the estimated number of bookings for the year that would require cover. The cost of the insurance policy can be recovered in the hire fee.

Regular users

Consider whether a lease or licence agreement is needed if the reserve is used by an organisation or group on a regular basis. These agreements come with standard insurance requirements. Groups such as regular sporting club users would usually be expected to enter into a lease or licence. See Chapter 10 'Leases and Licences' for details.

If a group will be using the reserve on an informal basis then, depending on the nature of the activity and level of risk, ask for evidence that it has public liability insurance. For example, the risk involved if a snake watchers group meets regularly at the reserve would usually be higher than for a bird-watchers group. See Chapter 11 'Risk' for information about risk.

Commonwealth, state or local government users of the reserve

Government departments maintain their own insurance. Unless they are a lease or licence holder of the reserve, for example if there is a school on a reserve, there is no need to ask for evidence of insurance.

What to verify on the insurance certificates of the above persons/organisations?

Check the following information on the insurance certificates of lease and licence holders, contractors, hirers and others.

Certificate Section	Item to check
Name of insured	The name on the insurance certificate must match the name on the contract of the licence or lease holder, contractor, hirer or other organisation/person.
Type of insurance	The insurance cover is for public liability or combined liability or general liability (public and products). Consider requiring a tenant to insure the premises.
Period of insurance	The period of insurance must cover the forthcoming 12 months.

Certificate Section	Item to check
Insured sum	Generally \$10 million public and product liability cover is required. A minimum of \$1 million per claim is required if professional indemnity insurance is requested.

12.3 Insurance your committee may need to purchase

The following insurance is **not provided** for your committee. Your committee should:

- consider the nature of the reserve and the structure of the committee, and
- decide **whether it needs to purchase** the insurances below or any other type of insurance.

Built asset insurance – building and contents

Your committee is responsible for **building and contents** insurance for:

- damage to buildings on the reserve (property insurance), and
- loss of, or damage to, contents and other assets owned by the committee (contents insurance).

If your committee has buildings on the reserve and it does not purchase this type of insurance, the building and its contents will be **uninsured**. This means that if damage, destruction or other loss, such as theft occurs, the committee will not be able to replace or repair the loss without paying the full cost of doing so. Your committee has a responsibility to take this into account in making its insurance decision.

As previously noted in 12.2, if the buildings on the reserve are occupied under a lease, the tenant can be required to insure the premises.

Your committee may also need to consider whether to insure other built assets on the reserve such as playground equipment.

Check with local council

While councils have no obligation to do so, some councils elect to insure buildings on reserves managed by locally elected committees. If your committee intends to insure the buildings on the reserve, contact your council first to confirm that they haven't already done so.

Workers Compensation insurance – WorkSafe insurance

Your committee must take out workers compensation insurance with WorkSafe Victoria if:

- it employs staff, and
- its annual payroll is expected to be more than \$7,500.

Call WorkSafe Victoria on 1800 136 089 or visit the easy-to-use [Insurance](#) page of the [WorkSafe](#) website for further information.

Directors and Officers insurance

Some committees take out Directors and Officers insurance. This insurance provides protection for any errors or omissions that a committee member or an executive staff member of the committee might make within the scope of their role.

Employment practices liability cover is often also included in this type of policy. It can help the committee in responding to employment-related disputes.

Advice on commercial insurance needs

Consider what other insurance your committee may need to purchase. For example, a major committee with a vehicle would need to consider car insurance.

As committees come in all shapes and sizes, no one list of insurance requirements will suit all committees. Terms of insurance policies also vary widely between different insurance companies.

If your committee is seeking an insurer from which to purchase cover, such as directors and officers insurance or buildings and contents insurance, we recommend speaking with an insurance broker, who can assist and guide with your needs. Go to www.needabroker.com.au.

12.4 Incidents and claims

Claims can arise if a member of the public is injured or a person or organisation suffers damage to their property:

- while on your committee's reserve, or
- at an event held elsewhere that is organised by the committee.

Becoming aware of an incident

Your committee may become aware of an incident from a variety of sources. These sources could include the injured person or property owner; their legal or other representative; police, ambulance or emergency services; the media; or a committee member or employee who observed the incident.

Notify the DELWP Insurance Team as soon as possible after becoming aware of an incident that may result in a claim. Contact details are at the end of this chapter. This is vital as a formal claim may not be received until many years later.

What to do if contacted by a potential claimant?

If a potential claimant, or their representative, reports an incident to the committee in person or by phone:

- **Record the following information:**
 - the date and time of the report, who made it and how, for example, by phone
 - the potential claimant's full name, address and other contact details
 - the date and time of the incident
 - any witnesses' names, addresses and other contact details
 - a description of the incident
 - the nature and extent of the injury or property damage. (Later, photograph where the incident occurred.)
- Advise the person that if they decide to submit a claim they need to do so in writing, for example by email.
- **Avoid** making any admission of liability. Never remark or comment on the incident (see Avoid any admission of liability below).
- **Notify** the DELWP Insurance Team as soon as possible. See contact details at the end of this chapter. The department will advise the next steps to take (see Investigating an incident below).

If a potential claim is received in writing:

- Do not reply to any letter or claim.
- Notify the DELWP Insurance Team.
- Provide all documents relating to the incident.

Avoid any admission of liability

In some circumstances, an admission of liability can **void the insurance policy**.

When responding to an incident, never admit liability. However, note that an apology couched the right way will not constitute an admission of liability. Either of the following phrases are ways of apologising without admitting liability:

- "I am sorry this has happened."
- "I know this has caused you concern/pain/anxiety."

Other things to avoid

To reduce the likelihood of unnecessary claims:

- **Do not** offer to pay any medical or other expenses.
- **Do not** agree that any equipment or facilities were faulty.
- **Do not** blame other committee members, employees or other parties.
- **Do not** argue or discuss the cause of the incident with the injured person or witnesses.
- **Do not** conduct an investigation or fill out the incident report form in the presence of the injured person.
- **Do not** discuss the incident with the media or make statements about the incident before receiving instructions from the DELWP Insurance Team.

Investigating an incident

All incidents that are potential claims need to be investigated as soon as possible after they occur. The longer the time that elapses between the incident and the investigation the less likely that information will be available/accurate.

Your committee's responsibility is to gather the facts of the case so that DELWP can consider whether there is a liability at law, or whether liability rests with another authority or person.

The **incident notification form** provided to your committee by DELWP will set out the information that needs to be gathered and recorded. For an example of the type of information required, see the six points described under '**Record the following information**' in 'What to do if contacted by a potential claimant?'

When new information or witnesses are found at any time after the incident, the DELWP Insurance Team should be notified as soon as possible by email to risk.audit.insurance@delwp.vic.gov.au.

Formal claims made against the committee

A formal claim for compensation is usually lodged in writing or by a writ or statement of claim. Make a note of how the letter or claim arrived. Was it by mail or hand delivered? If by hand, who delivered it? Do not make any remarks or comments about the incident to any person who delivers the letter or claim. **Do not reply to any letter or claim.**

Send the letter, writ or statement of claim and the incident report, including any names and contact details of witnesses and any notes or photos relating to the incident to DELWP.

Notify the DELWP Insurance Team as soon as possible, preferably by email to risk.audit.insurance@delwp.vic.gov.au or by mail to the Senior Insurance Officer, DELWP Insurance Team, PO Box 500, Melbourne Vic 3002.

12.5 Serious incidents/near misses involving employees

Incidents that cause or could have caused (a near miss) serious injury or death to an employee **must** be reported to WorkSafe as soon as possible on 132 360. It is a legal requirement that an **Incident Notification Form** must be completed and returned to WorkSafe **within 48 hours**. See the [guide to incident notification](#) on the [WorkSafe](#) website for further information.

12.6 Further information

For further information on insurance see the *Insurance for your committee* section of the [committees of management](#) page on the DELWP website, including the certificates of currency, the links to the insurance policy wording, and the 'Insurance for Committees of Team' fact sheet.

Contact details – DELWP Insurance Team

For insurance queries and as soon as possible after your committee becomes aware of an incident that may result in a claim, contact the DELWP Insurance Team:

- by email to risk.audit.insurance@delwp.vic.gov.au
- by phone via the customer contact centre on 136 186
- by mail to the Senior Insurance Officer, DELWP, PO Box 500, East Melbourne Vic 3002, or
- via the local DELWP [regional office](#).



Chapter 13 Employees

This chapter looks at the committee's obligations if it engages employees.

13.1 Introduction

Some committees engage employees, such as a reserve manager, to help with the running of the reserve.

- Major committees that manage reserves of regional or statewide significance are the most likely to engage employees.
- Local committees are less likely to engage employees, usually adopting a more 'hands-on' approach.

A committee will only employ paid staff if it has the **need** and the **financial resources** to do so, for example, some committees manage caravan parks.

All committees tend to supplement their activities with the use of volunteers (see Chapter 15 'Volunteers') and, where necessary, contractors (see Chapter 14 'Hiring contractors').

13.2 Only incorporated committees should employ staff

If your committee intends to engage employees, first check that it is incorporated.

It is simple for a committee to become incorporated under section 14A of the *Crown Land (Reserves) Act 1978*. The department can help your committee to do so. Contact your local DELWP [regional office](#).

Incorporation means that the committee is a legal entity. The committee has the legal obligations of an employer. This helps to protect individual committee members personally.

For further information about incorporation, see 6.3 'Benefits and safety of incorporation'.

13.3 Who is the employer?

The committee is the employer, not the department or the Victorian Government. This means that the committee must meet all the legal obligations of an employer.

13.4 Obligations of employers

Your committee must meet its obligations to each person it employs, regardless of whether they are:

- full-time or part-time
- ongoing, fixed-term, or employed on a casual basis.

Some of the key obligations and recommended workplace practices of an employer are set out in the following pages.

13.5 Job description

Although not a legal obligation, a written job description is a vital good workplace practice. It helps the committee to employ the right person for the job. It also provides a clear record for both the committee and the employee of what the job involves.

A job description is a statement that includes:

- the title of the job
- reporting and accountability requirements
- the main duties involved
- the skills required
- any other requirements of the role, such as a driver's licence
- length of employment, for example, two-year fixed-term contract.

Where appropriate, additional information such as the pay grade can be included in the job description.

13.6 Victorian Public Sector requirements

Almost all committees are **public entities**. This means they are subject to the *Public Administration Act 2004*. For example:

- The committee must treat its employees in line with the public sector employment principles in section 8 of the Act. Employment decisions must be based on merit; employees must be treated fairly and reasonably; equal employment opportunity must be provided; the human rights charter must be upheld; and there must be a reasonable avenue of redress against unfair or unreasonable treatment.
- Employees must follow the Code of conduct for Victorian public sector employees.

The Victorian Public Sector Commission has issued guidance for public sector employers and employees about their respective requirements.

The small percentage of committees which are not public entities have similar standards and codes of conduct under different regulatory regimes. Your committee can contact its local DELWP regional office for further information.

13.7 Executive employees

The Victorian Public Sector Commission provides advice on executive employment.

- The public entity executive resource suite contains information such as managing executive employment contracts, remuneration and employment. There is also a standard executive employment contract.
- There must be an annual performance assessment of all executives.
- The Victorian Government sets binding levels of executive remuneration for public entities. This process is managed by the Victorian Independent Remuneration Tribunal.

Call the Victorian Public Sector Commission on 03 9651 2020 with questions on executive employment.

13.8 Other employees – wages and conditions

The minimum wages and other minimum terms and conditions for a non-executive employee of the committee are set out in:

- an industrial award, or
- an enterprise agreement.

At a minimum, the terms and conditions of the award or enterprise agreement must meet the minimum terms and conditions in the National Employment Standards and the national minimum wage.

National Employment Standards

The national minimum wage and the national employment standards are the **minimum entitlements** for employees in Australia. The national employment standards set out 10 minimum terms and conditions of employment. Some of the topics covered are maximum weekly hours, annual leave, long service leave, public holidays, other types of leave (for example, domestic violence), flexible working arrangements, and notice of termination and redundancy pay. See Part 2.2 of the Fair Work Act 2009.

An award, enterprise agreement or other registered agreement cannot provide for conditions that are less than the national minimum wage or the National Employment Standards.

Awards

A modern award is a legal document which sets out the minimum terms and conditions of employment **on top of** the national employment standards. They include minimum wages, hours of work, overtime and penalty rates, allowances, rosters and breaks.

Many awards operate in Victoria. They are industry or occupation-based and apply to employers and employees who perform work covered by the award. Generally, employees of a committee of management are employed in the personal and other services industry. For further information contact the Fair Work Commission. See also below.

Enterprise agreements

If your committee has a number of employees, it may be appropriate to negotiate an enterprise agreement. However, this is unlikely to be a suitable option for all but a few major committees. Your committee can contact Industrial Relations Victoria about whether an agreement may be appropriate (irv.info@dpc.vic.gov.au).

An enterprise agreement made between a committee as employer and its employees:

- **cannot reduce terms and conditions included in the national employment standards**
- operates to the exclusion of the relevant modern award(s). However, each employee **must be better off overall** than under the award
- must have annual wage increases that comply with the Government's Wages Policy for the public sector (see 13.10 'Public sector industrial relations policies').

An advantage of having an enterprise agreement is that it allows tailoring terms and conditions that are specific for a particular employer, compared to an award that covers the whole industry or occupation.

For further information contact the Fair Work Commission (see also below).

Fair Work Commission

The Fair Work Commission:

- provides education, assistance, advice and guidance on workplace matters such as pay rates, leave, employee entitlements, awards and agreements, resolving workplace issues, and ending employment
- promotes and monitors compliance with workplace law
- investigates breaches of the Fair Work Act and related employment laws and obligations
- where appropriate, takes enforcement action.

Victorian Fair Work Ombudsman

For further information about award rates and conditions, or about enterprise agreements, contact Victoria's Fair Work Ombudsman (phone 131 394 from 8 am to 5.30 pm Monday to Friday).

The Fair Work Ombudsman's website has useful information on topics such as hiring employees, including the *Guide to hiring new employees* and the Fair Work Information Statement that must be provided to all new employees. There is also a *Guide to starting a new job*, which can be provided to new employees.

13.9 Employment contracts

Once your committee decides to engage a person as **an employee under an award or enterprise agreement**, it draws up **a contract of employment**.

- Open-ended contracts are applicable for employment of ongoing full-time and part-time employees where there is not a definite end date for the employment.
- The second type, fixed-term contracts, are used when a committee wishes to engage an employee for a specific period of time or task. These contracts include start and end dates of employment, for example, a six-month contract. Reasons for using fixed-term contracts may include, for example:
 - the replacement of an employee on approved leave
 - an unexpected increase in workloads
 - undertaking a specified task funded for a specified period.

Full-time or part-time fixed term employees are generally entitled to the same terms and conditions as permanent employees.

Your committee should be mindful it is government policy that:

- The engagement of fixed term employees cannot be used for the purpose of undermining the job security or conditions of ongoing employees.
- Public sector employers should give preference to ongoing forms of employment over fixed-term and casual arrangements wherever possible.

13.10 Public sector industrial relations policies

The Victorian Government's Public Sector Industrial Relations Policies 2015:

- apply to all public sector employers and their **non-executive** level employees
- outline the key **principles** underpinning the government's approach to industrial relations and its **position** on key issues.

Example – key principle

A key principle is promoting industrial relations based on consultation and cooperation between employers, employees and their unions, and the right of employees to belong to a union and have access to effective union representation.

Example – key position

A key position is a commitment to making employees redundant as a last resort and giving priority to redeployment of employees whose roles have been declared surplus to needs.

An important part of the 2015 policies are the Wages Policy and the Enterprise Bargaining Framework – for example, public sector employers must seek government approval to begin enterprise bargaining and abide by its cap on annual wage increases. The policies include model clauses for drafting enterprise agreements.

For further information contact Public Sector Industrial Relations on Irv.info@dpc.vic.gov.au.

13.11 Superannuation

An employer must contribute a sum equivalent to a set percentage of an employee's wages into a superannuation fund. The Australian Taxation Office provides information on superannuation and employer obligations.

13.12 Workplace requirements

Your committee must ensure that the work environment and treatment of its employees meets all legal requirements. For example:

Occupational health and safety

Under sections 21 to 23 of the *Occupational Health and Safety Act 2004*, the committee must, as far as reasonably practicable, provide a safe and healthy workplace, whether or not in a building or structure, for:

- all staff employed by the committee
- other persons who enter the workplace, including contractors and volunteers.

The committee must also ensure that no one is exposed to a health and safety risk due to the actions of an employee of the committee.

WorkSafe Victoria has information on how the committee can meet its legal obligations, for example:

- [Guide to occupational health and safety compliance and enforcement framework 2018](#)
- [Guide to occupational health and safety regulations 2017](#)
- [Occupational health and safety in boards](#), which has information on the OHS duties of boards and committees
- [Create a safe workplace](#).

Further information

See the [WorkSafe Victoria](#) website or phone 9641 1444 or 1800 136 089 (toll free).

Fair and respectful treatment in the workplace

The committee has a legal duty to make sure that everyone who works for it is treated fairly and with respect. For example, it is unlawful to:

- discriminate against a person based on personal characteristics such as age, gender, sexual orientation, or marital status. See the [full list](#) here.
- sexually harass or victimise a person or vilify someone because of their race or religion.

Further information

The [Victorian Equal Opportunity and Human Rights Commission](#) (1300 292 153) provides information about:

- [employers' responsibility](#) in the workplace under Victorian and federal laws
- [unlawful discrimination](#) and Victoria's *Equal Opportunity Act 2010*
- Victoria's [Charter of Human Rights and Responsibilities](#).

13.13 Record keeping

A key obligation of an employer is to maintain the employment records required by law.

Example

- Your committee must keep all the information it needs to prove that it is meeting the provisions of the award, enterprise agreement, or employment contract under which the employee is employed.
- As part of your committee's obligations, keep records of each employee's leave entitlements, leave accrued, and leave taken throughout the course of their employment.
- Time and wages records must be kept for seven years from the date of the first documented record.

13.14 Taxes and on-costs

Employment conditions change often. This information is provided as a guide only. A good source of up-to-date information is the [Australian Government Department of Employment](#).

Income tax

Once your committee employs staff, it must register with the [Australian Taxation Office](#).

The Australian Taxation Office has introduced a [Single Touch Payroll](#) system. This is a compulsory new way of reporting tax and superannuation. Your committee must use this system if it employs four or more staff. If it employs less than four staff, reporting options for [micro employers](#) can be used instead.

Payroll tax

Payroll tax is paid by employers to the Victorian Government. As at the 2018-19 financial year, your committee is liable for payroll tax if it has a monthly wages bill of more than \$54,166 or an annual bill of \$650,000. These rates increase regularly. For further information see the [State Revenue Office](#) website.

WorkCover insurance

WorkCover is a no-fault, compulsory insurance scheme that provides coverage to employers in the event of work-related injury or death to their employees. Your committee must have a WorkCover policy if it employs staff.

For further information see [Getting started with WorkCover insurance](#).

13.15 Employees of reserve users

If a person or organisation using the reserve hires staff, that person or organisation is the employer.

Example

If the committee has issued a lease to a tenant to operate a café on the reserve, the tenant is the employer of any staff that they employ to prepare meals or wait on tables.



Chapter 14

Hiring contractors

This chapter looks at hiring contractors to provide work or services for a fee.

14.1 Introduction

Most committees will need to purchase goods or have services performed on their behalf as part of their management of the reserve. For example, a committee may need to ensure that the reserve is mowed regularly.

Even if the committee has employees who can perform some of these functions (see Chapter 13 'Employees'), there will usually be services for which the committee will need or choose to:

- use volunteers (see Chapter 15 'Volunteers'), or
- hire a contractor (see this chapter).

If your committee intends to hire a contractor, it must follow processes that are transparent, accountable, and consistent with good public sector governance practice.

14.2 Hiring a Contractor

A contractor is a person, business or company hired by the committee to undertake works or services for an agreed fee, based on a quotation. The work may be for:

- a particular project, for example, building a playground, or
- ongoing works, for example, mowing lawns every month.

For information about the difference between an employee and a contractor see the [Employee or contractor](#) page on the Australian Government website business.gov.au. The website also has information about [contractor rights and protections](#).

14.3 Incorporate before hiring contractors

If your committee intends to hire a contractor, it is a good idea to first be incorporated. This helps to protect committee members personally. It is simple for a committee to incorporate under the *Crown Land (Reserves) Act 1978*. The department can assist your committee to do so. Contact your local DELWP [regional office](#). See 6.3 'Benefits and safety of incorporation' for further information.

14.4 Process of hiring a contractor

The information in this section applies to hiring contractors to provide services. It also applies to contracting to buy goods, and for entering other purchasing contracts, such as development works.

Before hiring a contractor, your committee needs to:

- Obtain an appropriate number of quotes. The higher the likely price, the more quotes should be obtained.
- For substantial contracts, the committee will need to call for expressions of interest and conduct a tender process. Advertise all tenders.
- Provide a clear written statement of the work or service to be performed and the terms and conditions of the contract, including key milestones and the completion date. For example, 'the contractor will mow the reserve every month for 12 months using their own equipment and fuel'.
- The committee should formally decide which contractor, either a person or organisation, will be awarded the contract. Do not leave it to just one or two committee members to decide on behalf of the committee.
- When making its decision, the committee must comply with the requirements for declaring and managing conflicts of interest. Remember, a conflict of interest exists whether it is real, potential or could be perceived as such by the community. See 4.8 'Conflict of interest – standing agenda item' and 5.4 'Conflict of interest'.
- Record the committee's formal decision in the committee minutes.

Advertising tenders

The opportunity to tender (apply) for a contract must be advertised. The amount, type and breadth of advertising should be proportionate to the nature and size of the contract on offer. The community must be satisfied that interested people and organisations have had a fair opportunity to learn about, and apply for, the tender.

Example

The opportunity to tender for a contract to provide substantial services to a major committee, such as to paint all the buildings in a significant new development, is likely to be of interest to potential tenderers outside the local community.

If a committee member will be submitting a quote or tendering for a contract, it is vital to advertise the opportunity. This will help to ensure that the selection process is, and is perceived to be, fair, transparent and accountable.

Choosing the contractor

The committee chooses the successful contractor by taking into account price, quality of work, timelines, and other relevant factors. Your committee's decision must be:

- consistent with your duties of honesty, integrity, and impartiality
- made formally and recorded in the minutes of a committee meeting.

See the [Code of Conduct for Directors of Victorian Public Entities](#) for further details.

Applications by committee members

Committee members are actively discouraged from submitting quotes or applying for tenders.

It is a conflict of interest for a committee member to apply for a contract with the committee. If a committee member intends to submit a quote or tender, ensure that the opportunity to apply for the contract is advertised appropriately.

Deal with the conflict of interest in accordance with the committee's *Conflict of interest* policy. See 4.8 'Conflict of interest – standing agenda item' and 5.4 'Conflict of interest' for details. This includes ensuring that the conflict is formally declared at a committee meeting and documented in the minutes, together with how the committee will manage the issue.

The committee member with the conflict **must never** be part of the discussion or decision-making process about the contract, either at the committee meeting or elsewhere.

Your committee will need to be particularly careful and thorough in how it manages and documents all aspects of the selection process.

In the rare event that a committee member is likely to be the successful applicant for a contract, your committee must be convinced that the **community** would perceive this appointment as fair and transparent.

Always contact the local DELWP [regional office](#) for advice before appointing a committee member as the successful applicant for a contract.

Payment of a contractor

Generally, a contractor submits an invoice on completion of a service or task, or at agreed intervals for a longer-term contract. Payment of the final invoice effectively ends the relationship between the contractor and the committee. Your committee should ensure that the service or work is performed to a suitable standard before paying for it. Payment of invoices should not be made at the start of the services or works.

14.5 Occupational health and safety

Although most obligations of an employer do not apply, the committee must still provide contractors with a safe and healthy working environment and ensure that no one is exposed to a health and safety risk because of the actions of a contractor. For further information see:

- sections 21 to 23 of the *Occupational Health and Safety Act 2004*
- the [WorkSafe Victoria](#) website or phone 9641 1444 or 1800 136 089 (toll free).

14.6 Work done by agencies

A committee may enter arrangements with an agency, such as the local council, for work on the reserve. All employer obligations for this work belong to the agency. Your committee should ensure that the agency's obligations as an employer are clearly written into its contract with the committee.

If work is undertaken by an agency for no fee, record the details including the reasons for the arrangement. For example, if a local council collects rubbish from a reserve for no fee or a fee less than the market rate.



Chapter 15 Volunteers

This chapter looks at the use of volunteers.

15.1 Introduction

Most committees use volunteers to help with the work that needs to be done on the reserve. Volunteers can be:

- committee members
- members of the community
- community organisations, such as Rotary clubs or Landcare groups.

15.2 Induction

Your committee should provide a suitable induction and support when a new volunteer starts with the committee or a volunteer is intending to undertake a new activity.

Mentors

Some committees assign a mentor to one or more volunteers. The volunteer can contact this person if they have a query. The mentor or another suitable person also accompanies the volunteer on their activity until it is established that the volunteer can safely and competently undertake the activity.

Activity to be undertaken

Ensure that the volunteer is aware and understands:

- the nature of the volunteer work they will be doing
- any hazards associated with the activity
- emergency procedures and contacts.

15.3 Volunteer attendance register

Keeping records makes it clear who are committee-approved volunteers. This is vital for ensuring that volunteers are covered by personal accident insurance when undertaking authorised activities on behalf of the committee.

Records should be kept of:

- the date, time and location of a volunteer's work
- the work undertaken.

The following table is an example of a volunteer attendance register. It can be used to record volunteer activities on the reserve for insurance, administrative, reward and recognition purposes.

To comply with privacy laws, a volunteer's contact details should be kept separately to this register.

Example volunteer attendance register

This is a basic volunteer register. Your committee can develop a register to suit its needs depending on matters such as the nature of the reserve, the activities being undertaken and the pool of volunteers.

Date	Name	Time in	Time out	Event (if applicable)	Task(s) performed	Volunteer's signature
17/4/12	John Smith	10:30am	12pm	Monthly working bee	Weeding Painting	

15.4 Insurance cover and obligations

Volunteers are covered by DELWP's group personal accident insurance policy if they are injured while taking part in voluntary activities as **authorised** by the committee.

Examples

A volunteer is injured while helping at an authorised fundraising activity for the committee.

A volunteer is injured while taking part in a working bee that he or she is authorised to participate in.

DELWP Insurance team – incident reporting

If a volunteer is injured, advise the **DELWP Insurance team** as soon as possible:

- by email to risk.audit.insurance@delwp.vic.gov.au
- by phone via the customer contact centre on 136 186,
- by mail to the Senior Insurance Officer, DELWP, PO Box 500, East Melbourne Vic 3002, or
- via the local DELWP regional office.

See 12.4 'Incidents and claims' for further information, including what file notes need to be made and retained for insurance purposes.

WorkSafe Victoria – incident reporting

It is a legal requirement that any incident involving volunteers must be reported within 48 hours of the incident to WorkSafe (13 23 60).

- led to serious injury or death
- **might have led to** serious injury or death.

See WorkSafe's [guide to incident notification](#) for details. Also notify the DELWP Insurance team as above.

15.5 Volunteer and emergency contact details

Your committee may find it useful to collect information from volunteers such as their name and contact details and the name and contact details of an emergency contact.

The committee may also find it useful to offer volunteers the opportunity to provide information such as:

- their areas of interest, skills, experience and capabilities
- whether they agree to being in photos and articles that may identify them, to help promote the reserve and volunteering.

Privacy requirements must be complied with. See 15.6 below.

15.6 Privacy requirements

When collecting, using and storing information about a volunteer, your committee must comply with the requirements of the *Privacy and Data Protection Act 2014*. For privacy reasons:

- Keep the information collected about a volunteer **separate from the volunteer attendance register**.
- Provide volunteers with a **privacy collection notice** (see below for what kind of information to include).
- Ensure that information collected about volunteers is stored securely and protected from unauthorised access, alteration, use or disclosure. If the information is somehow leaked or used by an unauthorised person for a purpose other than what it was provided for, it is a breach of privacy.

Privacy collection notice

If your committee will be collecting information about a volunteer, such as entries in the Attendance register, provide volunteers with a **privacy collection notice**. The law requires the notice to contain certain information. Your committee may find the wording below useful to use.

Example

Privacy collection notice

The *Privacy and Data Protection Act 2014* requires us to give you the following information.

- a) The name of the committee of management is XXX. To contact the committee XXX'
- b) You have a right to see the information we collect on you.
- c) Information we collect about you is used to help us meet our obligations in managing the reserve, including our health and safety and insurance obligations. It may also help us to organise our volunteer activities and understand your skills, interests, experience and suitability for various volunteer activities.
- d) We do not disclose your information to other individuals and organisations except to the extent required to facilitate your role with us as a volunteer. We never sell your information to third parties.
- e) This information is not required to be collected by any law. However, the information you provide will assist the committee to meet its obligations under health and safety laws and its insurance obligations.
- f) There are no consequences for you if you do not provide the information requested. However, for health, safety and insurance reasons your involvement in volunteer activities may be restricted or unable to occur if the information is not provided.

15.7 Reimbursement of expenses

Volunteers are only entitled to receive reimbursement for expenses. If volunteers were to be reimbursed for more than their expenses, it would change the nature of the relationship. A committee-volunteer relationship would become an employer-employee or contractor relationship. See chapter Chapter 13 'Employees' and chapter Chapter 14 'Hiring contractors'.

Keep careful records of reimbursement for expenses, including receipts, so that if audited the committee can prove that everyone involved was acting with integrity.

15.8 Occupational health and safety

Committees have a duty of care to provide a healthy and safe working environment for volunteers under sections 21 to 23 of the *Occupational Health and Safety Act 2004*.

See the [WorkSafe Victoria](#) website or phone 1800 136 089 (toll free) for further information. The WorkSafe website also has information, such as [Volunteer health and safety: a handbook for community service organisations](#).

Volunteer Australia issues a [volunteer rights and checklist](#). Your committee may also find it useful to look at Safe Work Australia's [Essential Guide to Work Health and Safety for Volunteers](#), which discusses health and safety for volunteers in other Australian states and territories.

There is a legal requirement to report certain serious incidents and near misses to WorkSafe within 48 hours. See WorkSafe's [guide to incident notification](#).

15.9 Volunteers on subcommittees

Your committee may establish subcommittees to assist with its duties. A subcommittee can be:

- 'standing' (ongoing), such as a finance subcommittee
- a working group established for a particular task, such as a spring planting subcommittee.

Subcommittees have no power in their own right. They **cannot make decisions on behalf of the committee**. Their recommendations must be brought back to the full committee to be considered, approved, amended or rejected.

It is therefore possible for subcommittees to include a mixture of committee members and non-committee members, such as volunteers with relevant skills and knowledge.

15.10 Encouraging volunteers

Engaging with the community is a good way to encourage volunteers to assist with the reserve. This benefits the committee, provides enjoyment and fulfilment for the volunteer, and is consistent with the purpose of the reserve.

Some ways of sparking volunteer interest include:

- Encourage involvement in working bees, tree plantings and similar activities.
- Seek assistance from community members who have specific knowledge about flora, fauna, cultural significance and history, recreational needs, and other areas of expertise relevant to the reserve.
- Provide lunch for volunteers at reserve working bees. It is a good idea to include vegetarian options.
- **Advertise** your need for volunteers through the services listed on the [Volunteering Victoria](#) website.
- Report activities in the local newspaper and on social media.
- Utilise social media, such as a Facebook page for the reserve and an Instagram account, to generate volunteer interest and communication.

Always get permission from anyone identifiable in the photo before posting it or identifying them in any way in your posts. It is possible that using this kind of information without getting consent can result in physical harm, embarrassment or other problems for the individual.

Other suggestions for encouraging volunteer interest and participation are:

- Encourage attendance at an Annual General Meeting, which is a public event.
- Committee members are appointed by the Minister or their delegate. For local committees, this usually means an 'election' is held. This is a public event. Encourage the community to participate. The successful candidates are then nominated for approval by the Minister.
- Where appropriate, invite members of the community to attend committee meetings.

For further information on encouraging volunteer participation see 2.9 'Engaging with the community'.



Chapter 16

Annual reporting

This chapter looks at annual reporting requirements for committees.

16.1 Introduction

Committees of management:

- have annual reporting requirements
- must comply with any financial management framework issued by the department that applies to them.

For most committees, this involves reporting to the department each year, as specified below.

16.2 Annual reporting to the department

Section 15(8) of the **Crown Land (Reserves) Act 1978** requires committees to:

- keep accurate financial records, which should be fit for auditing
- explain the committee's financial position to the department, if required
- provide the department with an annual statement of its expenditure, receipts and balance in hand.

The annual information that a committee must provide to the department will depend on:

- the type of reserve, for example, whether it is of local, regional or statewide significance
- the level of finances the committee deals with.

The department will give your committee clear advice about the information and level of detail that the committee is required to provide. For annual returns, a template will be usually provided (see below).

As part of its oversight and support role on behalf of the Minister, the department can also ask your committee for information about its operations and finances at any time throughout the year. Your committee must provide this information. This obligation exists under section 13A of the *Public Administration Act 2004* and by convention.

Annual returns

If your committee manages a reserve of local or regional significance, each year the department will mail or email:

- a simple **annual return** template
- instructions on how to complete and return the template.

The template will ask for:

- financial information, such as your committee's income, expenditure, and assets
- non-financial information, such as any issues or achievements that you would like us to know about.

The department can analyse this information to improve its oversight and support of:

- your committee
- committees generally.

Landfolio self-serve kiosk

The department's electronic self-serve kiosk, Landfolio, will open for committees of management during 2020. For details, see 6.2 'Landfolio self-serve kiosk'. When Landfolio opens, committees can complete and submit their annual returns online, if they choose to do so. Annual returns that have been submitted will also be available to the committee for reference.

Committee to approve annual return for submission to DELWP

Your committee should formally approve the annual report before submitting it to DELWP. Table the report at a committee meeting and record it in the minutes.

Unless your committee agrees, a member of the public who wants to see your committee's annual return needs to lodge an application under the *Freedom of Information Act 1982*. If this occurs, contact DELWP as soon as possible for assistance. There is a 30-day legal timeframe for processing the application.

Annual reports

A small number of committees must provide more detailed information about their operations and finances in the form of an **annual report**. These committees manage:

- a reserve of statewide significance
- funds of over \$1,000,000 dollars as a cash balance and/or annual revenue.

Each year, the department issues clear instructions to the relevant committees about what must be included in the annual report. This additional information is required because these committees have:

- a high level of financial and operational responsibility
- additional obligations under Part 5 of the *Public Administration Act 2004*, for example, see the requirements in section 81(1)(i)-(j) about financial records, fraud controls, and auditing.

These committees provide their **annual report** to the department. The exception is Phillip Island Nature Park Board of Management, which reports to Parliament. See later in this chapter.

The self-service kiosk, Landfolio, will also enable committees to submit annual reports to the department online.

16.3 Reporting obligations for other committees

A small number of committees do not provide an annual statement or return to the department unless directed under section 15(8B) of the *Crown Land (Reserves) Act 1978* or section 13A the *Public Administration Act 2004*. However, these committees have reporting obligations under other regulatory regimes, primarily those described below.

Reporting to Consumer Affairs

Approximately 140 committees are incorporated associations under the *Associations Incorporation Reform Act 2012*. **This is different from being incorporated under the *Crown Land (Reserves) Act 1978*.**

As part of their financial record keeping and reporting obligations under the *Associations Incorporation Reform Act 2012*, incorporated associations lodge an annual statement under Part 7 with the Registrar of Incorporated Associations.

Incorporated associations remain accountable to the Minister for their management of the reserve. It is open to the department to:

- arrange to issue the committee with an annual return or annual report template
- collaborate with Consumer Affairs Victoria about how best to ensure the reserve is being managed in the public interest.

Further information

Consumer Affairs Victoria: see incorporated associations, including annual statement.

Companies limited by guarantee

A very small number of committees of management are companies limited by guarantee. These committees are subject to the reporting and other obligations in the *Corporations Act 2001*. This is a Commonwealth Act. Compliance is regulated by the Australian Securities and Investments Commission (ASIC) website or copy and paste into your browser <https://asic.gov.au/>

Example

The National Trust of Australia (Victoria) is an Australian Public Company, Limited by Guarantee. The Trust is also registered as a charity with the Australian Charities and Not-for-Profits Commission (www.acnc.gov.au).

Further information

For further information see the ASIC [website](https://asic.gov.au) or paste into your browser <https://asic.gov.au>. The following pages are of particular relevance:

- [Financial reporting](https://asic.gov.au/regulatory-resources/regulatory-index/financial-reporting/) page or paste into your browser <https://asic.gov.au/regulatory-resources/regulatory-index/financial-reporting/>
- [Financial reporting and audit page](https://asic.gov.au/regulatory-resources/financial-reporting-and-audit/) or paste into your browser <https://asic.gov.au/regulatory-resources/financial-reporting-and-audit/>
- [Directors and financial reporting](https://asic.gov.au/regulatory-resources/financial-reporting-and-audit/directors-and-financial-reporting/) page or paste into your browser <https://asic.gov.au/regulatory-resources/financial-reporting-and-audit/directors-and-financial-reporting/>

See also the fact sheet on [What is a company limited by guarantee](#) on the Betterboards.net website.

Annual reporting to Parliament

The *Financial Management Act 1994* requires 'public bodies' to:

- provide an annual report that is tabled or reported in Parliament by the Minister
- comply with a range of other financial management and reporting obligations during the year.

The Standing Directions to the Act exempt committees of management from these requirements, except for:

- Phillip Island Nature Park Board of Management
- agencies that are committees of management but also have annual reporting obligations under the Financial Management Act 'in their own right', for example, Parks Victoria and water corporations.

Further information

On Board website: see [Annual reporting](#) and [Financial management](#)

Department of Treasury and Finance: see [Financial Management Act Standing Directions](#) and [Financial reporting](#).

16.4 Further information

Your local DELWP regional office can provide further information about annual reporting to the department.



Chapter 17

Finances

This chapter looks at financial obligations, considerations and record keeping.

17.1 Introduction

Your committee has a responsibility to manage and record its finances responsibly, in accordance with:

- any relevant legal and policy obligations
- good public sector governance practice.

17.2 Revenue/income and spending

Committees can receive revenue/income from a range of sources, such as grants, user fees, rentals, fundraising activities and donations.

It is a legal requirement that any money your committee receives must only be spent on the management of the reserve consistent with the requirements of the *Crown Land (Reserves) Act 1978*. This means that it must be:

- consistent with the **purposes** for which the land is reserved, and
- consistent with the **powers** of the committee under section 15 of the Act.

Example

Your committee must not spend revenue received for the reserve to sponsor a person who is riding around Australia to raise awareness and funds for a charity.

Further to this legal requirement, any revenue that your committee receives for a **specific purpose** can only be used for **the purpose for which it is received**.

Example

If your committee receives a grant for pest and weed control, the money must be used for that purpose, not to buy paint for the maintenance of a building on the reserve.

Holding over funds

Committees are not required to spend all their revenue in the year it is received. It is wise to carry forward some funds into the next year. It is also acceptable to accumulate the funds required for large developments, major renovations or other projects the committee is planning.

Committees should not carry excessive funds for no foreseeable purpose. Crown land reserves are a public asset and funds should be spent to maintain or enhance them.

17.3 Sourcing funds

Your committee can source funds to help its management of the reserve in a number of ways, for example:

- income from leases and licences issued by the committee over part, or all, of the reserve (see Chapter 10 'Leases and licences')
- hiring out buildings on the reserve, for example, for a social event
- applying for suitable grants
- crowd-funding
- events and activities
- a wide range of other fundraising activities.

17.4 Regulations enabling fees and charges

Occasionally, the Minister will issue regulations that are specific to the reserve (see 8.11 'Reserve-specific regulations issued by Minister'). These regulations may enable fees to be charged in certain situations. If your committee is authorised under the regulations to charge a fee, it may either be:

- **non-discretionary** such as, 'every adult seeking admission to the grandstand must pay a \$2.50 fee', or
- **discretionary** such as, 'the committee may from time-to-time determine a fee for admission to the grandstand'.

Any fees and charges must:

- be in line with similar rates in the area, so that maximum public benefit is gained for use of a public asset
- avoid using lower overheads associated with Crown land to disadvantage competing activities on private land.

If normal rates do not seem appropriate, reasonable fees for the purpose will have to be set. Non-profit community groups, for example, may receive a discount rate. 'Similar rates' is defined as fees and charges that are in line with DELWP fees and charges or are on a par with the general rates operating in the area at the time.

17.5 Mandatory expenses

Utility charges

The committee will be invoiced for the supply and use of any utility services, such as water, electricity, sewerage, and gas.

Council rates

Under the *Local Government Act 1989*, Crown land used exclusively for public purposes is usually non-rateable. This exempts many committees from council rates. However, the definition of 'public purposes' usually includes unrestricted public access. **Limiting public access to a reserve in any way may make it subject to rates.**

It is the council's decision whether your reserve meets the criteria for non-rateable land, based on use and access. If rates apply, councils often set differential rates. A council may have a general rate, a farming rate that is half the general rate, and a recreation rate that is one-quarter of the general rate. If your reserve is subject to rates, it will usually be eligible for the recreational rate. If differential rating does not apply, your committee **may** be eligible for a rate reduction under section 4(1) of the *Cultural and Recreational Lands Act 1963*.

Leased and licensed areas

Areas that are leased are subject to council rates. However, depending on the purpose and extent of public access, land that is licensed may not be subject to council rates. The tenant or licensee is responsible for payment if leased or licensed land becomes subject to rates. Committees should specify this in the lease or licence documents. See Chapter 10 for further details on leasing and licensing.

Fire Services Property Levy

The Fire Services Property Levy helps fund the services provided by the Metropolitan Fire Brigade and the Country Fire Authority. This levy is collected by the local council. Under the *Fire Services Property Levy Act 2012*, Crown land which is not leased or licensed to another person is exempt from the fire services property levy. This means your committee does not pay the levy. However, if the committee leases or licenses the reserve or part of the reserve, the lessee or licensee may become liable for the levy. For details see the state revenue office [website](#).

17.6 Purchasing contracts

A committee can only enter a contract that directly relates to reserve management and that falls within its powers. Typical types of purchasing contracts include:

- buy services, for example, lawn mowing
- buy goods, for example, plants and garden supplies
- undertake a development project or works, for example, to construct a new clubhouse.

The information in Chapter 14 'Hiring contractors' about the hiring process deals with ensuring that a **fair, transparent and accountable** process occurs when purchasing services (see 14.5). This process should also be followed for purchasing goods, and for other purchasing contracts, such as development projects or works.

See Chapter 9 'Developing the reserve', for information about the consent and approvals that may be required, such as planning permits, for development projects or works.

Remember: committee members are actively discouraged from applying for contracts with the committee. If a committee member does apply for a contract, follow the conflict of interest process *strictly*. Do not award a contract to a committee member without first contacting the local DELWP regional office to seek advice on the matter.

17.7 Borrowing money

If your committee is incorporated under the *Crown Land (Reserves) Act 1978*, it has the power to borrow and invest money provided it receives the approval of the Victorian Treasurer. Approval is not given automatically and may be subject to terms, conditions and limitations. Requests for loans are rare as the fixed assets on the reserve belong to the Crown and cannot be borrowed against.

For details on how to seek the Treasurer's approval, contact your local DELWP regional office.

17.8 Taxation

The Australian Taxation Office website has a comprehensive range of resources available on the tax system.

Australian Business Number

In 1999, all Victorian committees of management were allocated an Australian Business Number (ABN) by the Australian Tax Office. If your committee has since become incorporated, then its ABN needs to be amended.

Example

If 'Smiths Reserve Committee of Management' became incorporated after 1999, its ABN must be updated so that its registered name is 'Smiths Reserve Committee of Management Incorporated'.

A committee's ABN can be checked at abr.business.gov.au. To update a committee's details go to 'Are your ABN details up to date?' or go to Update your ABN details. Forms can also be downloaded and then lodged by mail, along with proof of the treasurer's authority to represent the committee, such as a copy of their letter of appointment.

Occasionally, a committee will cease to exist. It is the committee's responsibility to Update your ABN details to reflect this.

Goods and Services Tax

Committees of management are non-profit organisations. The requirement to register for Goods and Services Tax (GST) largely depends on the scale of a committee's operations, and whether the committee is considered to be carrying out an enterprise. For further information visit the [Australian Taxation Office](#) website, for example the [GST](#) and [Annual GST returns](#) pages for non-profit organisations.

Land tax

Crown land is exempt from land tax. However, the tenant may be obliged to pay tax if land is leased from the Crown.



Appendices

Appendix A: Template – meeting agenda

Committees of Management

Your committee can choose to use this template for a meeting agenda. To use the template, cut and paste the table below into a word document.

[insert name of committee]	
Agenda – committee meeting	
Date and time <i>[if applicable, also insert meeting no.]</i>	
Location	
No.	Item (for decision, noting, recording, endorsing, etc.)
1.	Opening formalities
1.1	Opening and welcome, including Acknowledgement of Country
1.2	Apologies
1.3	Confirmation of quorum
1.4	Confirmation of agenda (including any proposed additions)
2.	Register of gifts, benefits and hospitality
	Members confirm that their entries in the register are complete and correct or agree to update their details.
3.	Register of interests
	Members confirm that their entries in the register are complete and correct or agree to update their details.
4.	Conflict of interest
4.1	Declarations: Members declare any interest (private interest or duty to another organisation) concerning any item on the agenda.
4.2	Management: Committee determines (i) whether the conflict is 'material' (serious) and (ii) how it will be managed.
5.	Minutes of previous meeting
5.1	Endorse minutes of previous meeting, noting any amendments. (Only members who were present can endorse.)
5.2	Actions arising: Review the progress of actions arising from the previous minutes.
6.	Priority item A – [insert title, e.g. Shelter shed]
	Description: <i>[Insert– e.g. 'Need for minor repairs to the shelter shed on the reserve, including repainting.']</i>
7.	Priority item B – [insert title]
	<i>[As above]</i>
8.	Reports and operational matters
8.1	<i>[Insert – e.g. Chair's report (dated XXX) – attached]</i>
8.2	<i>[Insert – e.g. Treasurer's report, including financial report (dated XXX) – attached]</i>
8.3	<i>[Insert – e.g. Secretary's report, including correspondence sent and received (dated XXX) – attached]</i>
9.	Other business
	<i>Items not on the agenda can be raised for discussion, subject to the chair's permission</i>
10.	Next meeting
	<i>Decide or confirm the date, time, and location of next meeting.</i>
11.	Meeting adjourns
	Meeting closes.

Appendix B: Template – minutes of meeting Committees of Management

Your committee can choose to use this template for minutes of a committee meeting. To use the template, cut and paste the table below into a word document.

[insert name of committee]			
Minutes – committee meeting			
Date and time [if applicable, also insert the meeting no.]			
Location			
Chair (or presiding member)			
Committee members present [List committee members in attendance. If a member is absent for any item(s), or part item(s), record this beside their name. If they attend remotely, note this also e.g. video call]			
Invited guests present (if any) [List any invited guests in attendance. Record the item(s), or part item(s), they are present for. If they attend remotely, note this - e.g. teleconference.]			
Apologies [List names and any relevant titles – e.g. chair.]			

Start time	No.	Item	Actions arising (if any) who is responsible; due date
[Insert]	1.	Opening formalities	
	1.1	The meeting was opened by the chair.	
	1.2	Apologies as listed above.	
	1.3	Confirmation of quorum: [Insert – e.g. 'There being X committee members present the required quorum of Y is satisfied.']	
	1.4	The committee confirmed the agenda [Insert if applicable: 'with the following changes ...']	
[Insert]	2.	Register of gifts, benefits and hospitality	
		'All committee members present affirmed that their entries in the <i>Register of gifts, benefits and hospitality</i> are complete and correct [Insert if applicable: except for XXX, who agreed to provide up-to-date details without delay.]'	
[Insert]	3.	Register of interests	
		'All committee members present affirmed that their entries in the <i>Register of interests</i> are complete and correct [Insert if applicable: except for XXX, who agreed to provide up-to-date details without delay.]'	
[Insert]	4.	Conflicts of interest	
		'The committee noted that there were no conflicts of interest (real, potential or perceived) concerning any item on the agenda.' OR, if a conflict of interest is declared, record: <ul style="list-style-type: none"> • who declared the conflict • a description of the interest and conflict (\$ value does not need to be recorded) • the committee's decision on whether the conflict is 'material' (serious), and • the committee's decision on what action will be taken to manage the conflict. 	
[Insert]	5.	Minutes of previous meeting	
	5.1	The committee endorsed the minutes of the previous meeting [insert meeting date and/or number] as complete and accurate. [Insert if applicable: 'subject to the following amendments ...']	
	5.2	[Insert – e.g. 'The committee noted the current status of actions arising from the previous meeting'.]	

[Insert]	6.	Priority item A – [insert title, e.g. Shelter shed]	
		<p>Description <i>[Insert – e.g. ‘Need for minor repairs to shelter shed on the reserve, including repainting.’]</i></p> <p>Key factors <i>[Briefly note key factors in the committee’s decision. Avoid details of ‘who said what’.</i> Example: ‘The condition of the shelter shed is deteriorating. It also looks unsightly. Boards are starting to fall off and it needs repainting. Unless minor repairs occur soon, the shed is likely to require more extensive repairs within a few months and may become hazardous. It would also be preferable to fix it before winter’.]</p> <p>Decision/outcome The committee voted that <i>[Insert - e.g. ‘A working bee will be held on 1 March. It will be organised by X and Y in consultation with other committee members. Z will seek donations of paint from the local hardware store and elsewhere.’]</i></p> <ul style="list-style-type: none"> • Voting in favour: <i>[Insert names of members voting in favour OR insert ‘All’]</i> • Voting in dissent: <i>[Insert names of members voting in dissent (and, if requested, briefly note key factors material to their decision here or above in ‘key factors’) OR insert ‘Nil’]</i> • Abstained from vote: <i>[Insert if applicable – e.g. ‘As a result of a conflict of interest, X was absent for all discussion and decision making on this item’.]</i> <p><i>[The member moving/seconding the motion can also be recorded if the committee so chooses.]</i></p>	
[Insert]	7.	Priority item B – [insert title]	
		<i>[As above.]</i>	
[Insert]	8.	Reports and operational matters	
	8.1	<p><i>[Insert – e.g. Chair’s report (dated X)]</i> Key factors: <i>[Briefly note. Avoid details of ‘who said what’.</i> Example: ‘No changes to the report as written’.]</p> <p>Decision/outcome: <i>[Insert – e.g. ‘The committee noted the Chair’s report.’]</i></p>	
	8.2	<p><i>[Insert – e.g. Treasurer’s report - including financial report (dated X)]</i> <i>[As above.]</i></p>	
	8.3	<p><i>[Insert – e.g. Secretary’s report – including attached list of correspondence sent and received]</i> <i>[As above. Include any decisions about correspondence.]</i></p>	
[Insert]	9.	Other business	
	9.1	<p><i>[Insert title and brief description]</i> Key factors: <i>[Briefly note. Avoid details of ‘who said what’.]</i> Decision/outcome: <i>[Insert, depending on whether for decision, noting, etc.]</i></p>	
	9.2	<i>[As above]</i>	
[Insert]	10.	Next meeting	
		The next meeting is as follows: <i>[insert date, time, and location.]</i>	
[Insert]	11.	Meeting Adjourns	
		The meeting was closed by the chair.	

Appendix C: Template – annual general meeting agenda Committees of Management

Your committee can choose to use this template agenda for an annual general meeting of the committee. To use the template, cut and paste the table below into a word document

[insert name of committee]	
Agenda – Annual General Meeting	
Meeting for the financial period of 1 July <i>[insert year]</i> to 30 June <i>[insert year]</i>	
Meeting date: [insert]	
Meeting time: [insert]	
Location: [insert]	
List of present members of the committee: [insert]	
Contact for enquiries: [insert name and contact details for enquiries about the AGM]	

Item	Responsible person
1. Welcome, including Acknowledgement of Country.	Chair
2. Apologies	Secretary
3. Minutes of last annual general meeting	
4. Annual management report	<i>[usually presented by the chair]</i>
5. Annual financial report	<i>[usually presented by the treasurer]</i>
6. Questions from the floor	Chair
7. Election of new committee (including, if applicable, reappointments)	
8. Thanks to outgoing committee of management	
9. Other business	
10. Close of meeting	

Minutes for an AGM

The minutes of an AGM will follow the same items as the agenda template

Appendix D: Template – conflict of interest model policy

Committee of Management

About this policy

This model policy is suitable for small voluntary (category 3) committees of management of Crown land reserves. It is available from the Committees of Management support module on DELWP's governance website, On Board (www.delwp.vic.gov.au/committees)

Major agencies in the Department of Environment, Land, Water and Planning (DELWP) portfolio, including category 1 and 2 committees, have additional obligations and should use the standard model policy in the Conflict of Interest support model on DELWP's governance website, On Board (www.delwp.vic.gov.au/onboard).

Your committee should use the standard model policy instead of this one if it manages annual revenue of more than \$250,000 *or* has a cash balance of more than \$250,000 current for three consecutive years *or* manages Crown land of regional or state-wide significance *or* manages coastal land *or* has otherwise been advised by DELWP that it is a category 1 or 2 committee (e.g. because it is managing a large development).

[insert name of committee]

Conflict of interest – committee policy

1. Scope

This policy sets out the committee's procedures for the declaration and management of conflicts of interest.

2. Definitions

Conflict of interest

A conflict of interest is a conflict between a committee member's:

- public duty to manage the reserve in the best interests of the community; and
- their **private interests**.

Conflict of duty

A conflict of duty (also known as a conflict of role) is a type of conflict of interest that can occur *even if a member does not have any private interest at stake*. It is a conflict between a committee member's:

- **public duty** to manage the reserve in the best interests of the community; and
- their duty to **another public sector or private organisation**. It exists due to the member's role with the other organisation (e.g. as a committee member, employee, volunteer, or organisation member).

How broad is the definition?

The following applies to all conflicts of interest, including conflicts of duty:

Real, potential or perceived

A conflict of interest exists whether it is:

- **real** – it currently exists;
- **potential** – it may arise, given the circumstances; or
- **perceived** – members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the committee member's performance of his/her duty to the committee, now or in the future.

Direct or indirect

A private interest can be direct or indirect. A **direct** interest is held by the committee member. An **indirect** interest is held by a relative or close associate of the member, for example:

- an immediate family member (e.g. spouse, partner, child, parent, sibling);
- a regular household member; or
- another close associate (e.g. friend, relative, business associate, rival, enemy).

Pecuniary or non-pecuniary

A private interest can be pecuniary (financial) or non-pecuniary (non-financial), or a mixture of both. It can arise from a wide range of personal or professional/business-related sources.

Pecuniary interests - include actual, potential, or perceived financial gain or loss. Money does not need to change hands. The interest exists if the committee member (or a relative or close associate):

- owns property;
- holds shares, investments or other business interests;
- has a position in a company bidding for government work;
- receives benefits such as concessions, discounts, gifts or hospitality from a particular source;
- holds office in a corporation (public, private or trustee), incorporated association, or other entity; or
- has any other relevant financial interest, for example:
 - is entitled to receive income derived from a contract;
 - is a beneficiary or trustee of a trust; or
 - is entitled to receive income from an office held for payment/reward or from a trade, vocation, or profession.

Non-pecuniary interests - may arise from personal or family relationships or from involvement in sporting, social, or cultural activities, etc. They include a tendency towards favour or prejudice resulting from friendship, animosity, or other personal involvement with another person or group. If personal values are likely to impact on the proper performance of public duty, this can also lead to a conflict of interest. Enmity as well as friendship can give rise to a conflict of interest.

3. Register of Interests

The committee maintains a *Register of Interests* which includes both the direct and indirect interests of each member that **may give rise to a conflict of interest**. *The chair ensures that the register is:*

- kept up-to-date;
- brought to each committee meeting; and
- stored in a manner that maintains the confidentiality of members.¹

At the start of each committee meeting, the chair asks for all members to state whether their interests as recorded in the register are complete and correct. If there are no changes, the minutes note that 'all committee members present confirmed that their entries in the *Register of Interests* are complete and correct'. If any changes are declared, these are recorded in the minutes for entry into the register.

The *Register* template is set out in Appendix 2.

4. Declaring conflicts of interest at the start of a meeting

In addition to checking whether the *Register of Interests* is complete and correct (see above), at the start of each committee meeting the chair asks if any member present has an interest (a private interest or a duty to another organisation) in respect to any item on the agenda. If a member has an interest he/she must declare it, including the nature of the interest and the conflict that results, or may result, from it. An interest must be declared even if it is already recorded in the *Register*.

¹ Like other documents produced by the committee (e.g. minutes of committee meetings), the register is a public record. However, this does not mean that it is automatically 'open to the public'. Unless the committee agrees, a member of the public who wants to see the register would need to lodge an application under the *Freedom of Information Act 1982*. If this occurs the committee will contact the department, which can provide advice and assist the committee to assess whether the register is exempt from disclosure under the Act.

A member who becomes aware during the meeting that he/she has an undeclared interest must declare it immediately.

A member who believes that another member may have an undeclared interest should raise this as a query, so as to enable the other committee member to declare the interest, if it exists.

5. Options for managing a conflict of interest

The committee manages all conflicts of interest in the **public interest** (the best interests of managing the reserve for the benefit of the community). Depending on the conflict of interest, options include:

1. **Remove** – the member with the conflict leaves the room and does not participate at all in the 'conflicted' matter.
2. **Record** – details of the conflict of interest are recorded in the minutes. Monitoring occurs to check whether this remains the appropriate option.
3. **Restrict** – the member's involvement in discussion and/or decision-making on the matter is restricted to the extent that matches the public interest. Monitoring occurs to check whether this remains the appropriate option.
4. **Recruit** – an impartial third party is engaged to provide advice (e.g. a probity adviser, lawyer, or governance expert from the department or the Victorian Public Sector Commission).
5. **Relinquish or resign** – the member relinquishes their private interest or steps down from their role with the other organisation on a temporary or permanent basis. Alternatively, the member resigns from the committee itself.

The process for determining which option is in the public interest for a particular conflict is set out in items 6 to 8.

6. Is the conflict material?

When deciding how to manage a conflict of interest, the committee first determines whether the conflict is **material** (serious). In doing so, the committee takes into account all the relevant factors and circumstances, including:

- the **objectives** and **functions** of the committee;
- the **matter** that is to be discussed and determined;
- the **nature** of the conflict (e.g. is it real, potential, or perceived?);
- the **severity** of the conflict, including:
 - the amount, scope, and likelihood of any expected benefit (e.g. is it a large benefit primarily to the committee member or a small benefit that thousands of people including the member will receive?); and
 - any other relevant circumstances (e.g. if the conflict relates to a member's partner working at an organisation about which the committee is to make a decision: is the partner currently working there as the CEO? Or did they leave a few years ago from a large organisation in which their work was not connected to the decision being made by the committee?);
- the **potential** effect of the conflict, including:
 - the extent to which the member's ability to make an impartial decision in the public interest could be compromised (or could reasonably be seen to be compromised); and
 - the overall likelihood that the conflict of interest may affect public confidence in the integrity of the committee and its decisions.

7. Managing material conflicts of interest

The committee's **standard procedure** for managing a material conflict of interest is to **remove** the member from all participation in the matter. The member will:

- leave the room at the start of the relevant agenda item and not return until the start of the next agenda item;
- not discuss the matter at all with any other member (either in the meeting or elsewhere); and

- not participate in any committee decision on the matter.

The standard procedure will be followed unless the committee determines and records in the minutes clear reasons why it is not in the public interest.

Stronger option for managing a material conflict

If the public could reasonably form the view that a material conflict is of unacceptable frequency and/or duration then to maintain public confidence and protect the reputation of the committee it may be necessary, in the public interest, for the member to:

- relinquish their private interest;
- resign or stand down on a temporary basis from the other organisation to which he/she has a duty; or
- resign from the committee.

If the committee is unsure whether a stronger option is in the public interest the department will be contacted for advice.

Lesser options for managing a material conflict

A lesser option (record, restrict or recruit) will not usually be in the public interest for managing a material conflict of interest. If the committee is unsure whether a lesser option is in the public interest it will err on the side of caution.

If the committee decides on a lesser option then, in addition to minuting why it is in the public interest, careful monitoring occurs to ensure that the lesser option remains appropriate.

Examples

Examples of where a lesser option may be in the public interest, taking into account all the relevant circumstances, are:

- **Discussion:** If the member with the conflict was appointed on the basis of their knowledge of the matter then it may be in the public interest for them to be present for part of the committee's discussions. (However, if an 'unconflicted' member is absent who also has this expertise then it will usually be in the public interest for discussion to occur at the next meeting instead.)
- **Decision:** If the recommended procedure of 'remove' would mean that there is no quorum for the decision even if all 'unconflicted' members are present then a lesser option will be in the public interest.² (However, if 'unconflicted' member/s are absent then it will usually be in the public interest for the decision to be held over to the next committee meeting instead.)

8. Managing non-material conflicts of interest

For a non-material conflict of interest, there is more likelihood that a lesser option (record, restrict or recruit) will be in the public interest. In making its decision, the committee will take into account all relevant factors and circumstances - e.g. the lower the severity of the conflict, the more likely that a lesser option will be in the public interest.

If the committee decides on a lesser option then, in addition to minuting why it is in the public interest, careful monitoring occurs to ensure that it remains appropriate – e.g. the committee may initially decide to only 'record' the conflict but after monitoring may decide instead to 'restrict' the member by allowing them to participate in some aspects of the discussion but removing them from others and from all decision-making on the issue.

If the committee is unsure whether a lesser option is in the public interest it will err on the side of caution and decide on the standard procedure of **remove** (i.e. the member leaves the room and does not participate in any discussion or decision-making on the matter).

9. Recording in minutes

If a committee member declares a conflict of interest, the following information is recorded in the minutes:

² If this is a common occurrence, the department should be notified.

- a description of the interest and the conflict (the dollar value of a financial interest does not need to be included);
- whether the conflict is material;
- the action that the committee will take to manage the conflict in the public interest;
- if a lesser option or stronger option is to be taken, why it is in the public interest; and
- if the member leaves the room during discussion and/or decision-making on the 'conflicted' matter, the time that he/she leaves and returns and the item, or part thereof, for which he or she was absent.

10. Breach of this policy

A committee member who may have breached this policy will notify the chair immediately:

- If the chair is of the view that a breach has not occurred, the committee determines at the next scheduled committee meeting, and records in the minutes, whether a breach has occurred.
- If the chair is of the view that a breach has occurred, the chair arranges for the committee to determine on an urgent basis, and record in the minutes, whether a breach has occurred.
- If the committee decides that a breach has occurred, the chair notifies the department (i.e. the Regional Director) in writing as soon as practicable, including whether the breach relates to a material conflict.

A member who believes that another member may have breached this policy but not yet notified the chair will either approach the other member, who will then notify the chair, or will notify the chair directly. (In the case of a possible breach by the chair, the member nominated by the committee to assist the chair with conflict of interest queries is notified instead).

11. Review of this policy

The committee ensures that this policy is up to date with current laws, government policy, etc. The last review was completed on *[insert]*.

12. Further information

The Committees of Management support module (www.delwp.vic.gov.au/committees) on DELWP's governance website, On Board (www.delwp.vic.gov.au/onboard) or the department's local regional office.

Appendix 1: Register of Interests template

Name of committee member	Description of interest	Interested parties	Is the interest current?
[e.g. John Smith]	[e.g. sister-in-law co-owns a company which could potentially become a contractor to this committee.]	[e.g. sister in law]	[e.g. Yes]
[e.g. Lorna James]	[e.g. Owner of eco-lodge business]	[e.g. committee member]	[e.g. Yes]

Appendix E: Template – code of conduct (including gifts) model policy Committee of Management

About this policy

This model policy is suitable for small voluntary (category 3) committees of management of Crown land reserves. It is available from the Committees of Management support module on DELWP's governance website, On Board (www.delwp.vic.gov.au/committees)

Major agencies in the Department of Environment, Land, Water and Planning (DELWP) portfolio, including category 1 and 2 committees, have additional obligations and should use the standard model policy in the Code of Conduct support model on On Board (www.delwp.vic.gov.au/onboard).

Your committee should use the standard model policy instead of this one if it manages annual revenue of more than \$250,000 or has a cash balance of more than \$250,000 current for three consecutive years or manages Crown land of regional or state-wide significance or manages coastal land or has otherwise been advised by DELWP that it is a category 1 or 2 committee (e.g. because it is managing a large development).

[insert name of committee]

Code of conduct (including gifts) – committee policy

1. Scope

This policy sets out the committee's code of conduct.

2. Standard of conduct

Committee members act in the **public interest** at all times (the best interests of managing the reserve). Each member is required to:

- act honestly, with integrity, in a financially responsible manner, with a reasonable degree of care, diligence and skill, in compliance with the *Crown Land (Reserves) Act 1978*, and in good faith in the best interests of managing the reserve;
- maintain confidentiality, even after their appointment expires or otherwise terminates;
- avoid improperly using their position or any information acquired in their role as a committee member to gain advantage for themselves or another person or to cause detriment to the committee; and
- if standing for election to parliament or local council, formally notify the committee and avoid using any committee resources in connection with their candidature.³

The above requirements are based on the 'duties of directors' in section 79 of the *Public Administration Act 2004* (PAA) and the Directors' Code of Conduct, which mirrors these obligations and is legally binding on all committee members. For details, see Appendix 1.

3. Committee policies

Committee members are required to comply with the committee's policies, in particular, this policy and the policies on:

- Meetings and decisions
- Conflict of interest
- Dispute resolution.

³ If standing for election, see DELWP's guidance note on this topic in the Public Administration Act 2004 support module on On Board.

4. Gifts, benefits and hospitality

Unless good reason exists otherwise, committees members avoid accepting or giving gifts in their role as a member.

- A 'gift' is a free or heavily discounted item or service (e.g. an offer to paint your fence at a reduced rate).
- The term 'gift' also includes a benefit or hospitality that exceeds common courtesy (e.g. an offer of a cup of coffee is a common courtesy, an offer of a \$100 glass of wine is a gift offer).

The more valuable or significant a gift, the less likely that it will be in the public interest to accept or give it. When in doubt, committee members err on the side of caution. The local regional office of the department can be contacted for advice. Any gift that is accepted or given must be recorded in the minutes of the next committee meeting.

The following requirements apply:

When a gift offer must be refused

A committee member must:

- never solicit gifts
- always refuse and report any attempt to bribe them
- never accept any gift that may cast doubt on their integrity or impartiality or that of the committee.

Examples of gifts that must never be accepted include:

- gifts from a donor who is likely to be affected by a decision that the committee makes, now or in the future (e.g. from a person who is likely to apply for a contract or tender with the committee)
- money or other items that are easily converted into money.

The above restrictions apply to gifts offered to a member directly or indirectly (e.g. grand final tickets offered to a member's spouse by someone who is seeking a licence from the committee).

Gift giving

The committee never purchases a gift from committee funds unless it can *clearly* be justified in the public interest, which is rare. This applies to gifts to committee members and to non-committee members. Any such expense is recorded in the committee's records.⁴

5. Collective accountabilities and responsibilities

The overall role of the committee is to manage, improve, maintain and control the reserve for the purpose for which it is reserved, for the benefit of the whole community. The committee:

- acts in accordance with its collective accountability to the Minister;⁵
- ensures that all of its actions and decisions are consistent with its functions and powers under the *Crown Land (Reserves) Act 1978*;⁶
- informs the local DELWP regional office of any known major risks (existing or emerging) to the effective management of the reserve;⁷ and
- unless prohibited by law, provides the Minister and Secretary of DELWP with any information relating to the committee and its operations that he or she requests.⁸

⁴ In accordance with s 15(8) of the *Crown Land (Reserves) Act 1978*.

⁵ Consistent with section 85(1) of the PAA.

⁶ Consistent with section 81(1)(a) of the PAA.

⁷ Consistent with section 81(1)(b) of the PAA.

⁸ Consistent with sections 13A and 81(1)(c) of the PAA.

6. Public sector employment principles

[Insert the following wording if the committee has employees.]

The committee treats all staff in accordance with the public sector employment principles.⁹ The committee also ensures that its staff comply with the Code of Conduct for Victorian Public Sector Employees.

7. Review of this policy

The committee ensures that this policy is up to date with current laws, government policy, etc. The last review was completed on *[insert]*.

8. Further information

The Committees of Management support module on DELWP's governance website, On Board (www.delwp.vic.gov.au/committees) or contact the department's local regional office.

Appendix 1: Directors' Code of Conduct

The requirements of the Directors' Code of Conduct are:

- *Act with honesty and integrity.* Be open and transparent in your dealings; use power responsibly; do not place yourself in a position of conflict of interest; strive to earn and sustain public trust of a high level.
- *Act in good faith in the best interests of the public entity.* Demonstrate accountability for your actions; accept responsibility for your decisions; do not engage in activities that may bring you or the public entity into disrepute.
- *Act fairly and impartially.* Avoid bias, discrimination, caprice or self-interest; demonstrate respect for others by acting in a professional and courteous manner.
- *Use information appropriately.* Ensure information gained as a director is only applied to proper purposes and is kept confidential.
- *Use your position appropriately.* Do not use your position as a director to seek an undue advantage for yourself, family members or associates, or to cause detriment to the public entity; ensure that you decline gifts or favours that may cast doubt on your ability to apply independent judgement as a director of the public entity.
- *Act in a financially responsible manner.* Understand financial reports, audit reports and other financial material that comes before the committee; actively inquire into this material.
- *Exercise due care, diligence and skill.* Ascertain all relevant information; make reasonable enquiries; understand the financial, strategic and other implications of decisions.
- *Comply with the establishing legislation, or its equivalent, for your public entity.* Act within the powers and for the functions set out in your public entity's establishing legislation and/or ministerial charter.
- *Demonstrate leadership and stewardship.* Promote and support the application of the Victorian public sector values; act in accordance with the Directors' Code.

⁹ The applicable principles in section 8 of the PAA are:

- (a) employment decisions must be based on merit;
- (b) employees must be treated fairly and reasonably;
- (c) there must be equal opportunity employment;
- (ca) Victoria's Charter of Human Rights and Responsibilities must be upheld; and
- (d) employees must have a reasonable avenue of redress against unfair or unreasonable treatment

Appendix F: Optional template – management plan

This template is a companion to the *Committee of management guidelines*.

About this template

Your committee can use or adapt this template to develop a **management plan** which sets out the committee's strategic vision for the reserve. The template is designed for use by committees with complex management needs, such as most major committees that manage reserves of regional or statewide significance.

DELWP also offers a simpler 'plan on a page' template that is usually more suitable for local committees.

The *Committees of management guidelines* published by the department include a chapter on management and business plans.

All of the above documents are available from the [committees of management](#) page on the DELWP [website](#).

Note that some committees, such as coastal and marine committees and committees that manage Crown land caravan and camping parks, have specific requirements and templates for developing their management plan, which they should use instead.

Before preparing your committee's management plan, contact your local DELWP regional office for advice.

[insert name of committee of management]

Management plan

Part 1 – Overview

1.1 Purpose of the plan

This management plan sets out the committee's strategic vision for managing and developing the reserve and how it will be achieved.

1.2 About the reserve

<Insert short introduction – for example, 'Yea reserve is an important community recreation reserve in Zetown'.>

For details of the reserve, including location, hectares, any tenures (leases etc.), existing infrastructure, and current informal and formal activities and usage of the reserve, see **Part 4 – Background information**

Information about the reserve, and any tenancies, will also be available from Landfolio, the new electronic self-service kiosk provided by the Department of Environment, Land, Water and Planning (DELWP), when it opens during 2020.

1.3 Role of committee

The role of the committee is to '**manage, improve, maintain and control**' the reserve for the purposes for which it is reserved under the *Crown Land (Reserves) Act 1978*. The committee does so in the public interest for the benefit of the local community as a whole.

1.4 Process used to develop plan

To develop this plan the committee:

- assessed the current situation, including the existing facilities and use of the reserve ('what do we have?')
- determined its strategic (long term) vision for the future of the reserve ('what do we want?')
- set objectives (goals) and decided on strategies and actions ('how do we get there?')

Community engagement

In preparing this plan, the committee engaged with the community. For details, see Part 4.

Operating environment

In preparing this plan, the committee took into account the external operating environment, for example, social, environmental, economic, 'political' and other considerations. For details, see Part 4.

1.5 Committee's strategic vision

The committee's strategic vision for the reserve is – for example, 'Yea reserve is an important community recreation reserve in Zetown' <insert - – example, 'To provide a recreational space that meets the current and future needs of the local community and is valued and well used'.>

1.6 Objectives (goals)

<Objectives are the key goals for implementing the committee's strategic vision. Usually, a plan would include two or three objectives. The objectives set out below are examples only. Your committee may have entirely different objectives (goals) that are not related to these topics.>

Objective 1

'The goal is to maintain and improve infrastructure throughout the reserve.'

For details of this objective and the strategies/actions to achieve it, see **Part 2**.

Objective 2

'The goal is to increase use of the reserve. This includes increasing informal recreational use of the reserve and increasing the number and variety of sporting and recreational groups using the reserve.'

For details of this objective and the strategies/actions to achieve it, see **Part 3**.

1.7 Strategies and actions – core and aspirational

The committee has developed strategies and actions to achieve each objective (goal). These are either **core** or aspirational. The committee aims to implement all of them. However, if budget or other constraints arise, **core** strategies and actions have priority. Those that are aspirational will be the most likely to be delayed or not implemented, for example, if a major safety hazard arises that must be addressed, which significantly affects the budget.

1.8 Duration, commencement and review

This plan covers the period <insert date range, usually between three and five years.>

The plan and any subsequent updates starts operating when:

- the committee has received any approvals necessary from the department, and
- the committee has formally endorsed the plan and this is recorded in the minutes.

Note:

- If any legal and government policy requirements apply to the plan, it cannot be finalised and commence until these requirements have been met.
- If the plan includes development works, these works cannot start until the committee has received all necessary approvals, for example, a planning permit may be required.

Annual review of management plan

This plan will be reviewed by the committee at least annually and updated if required.

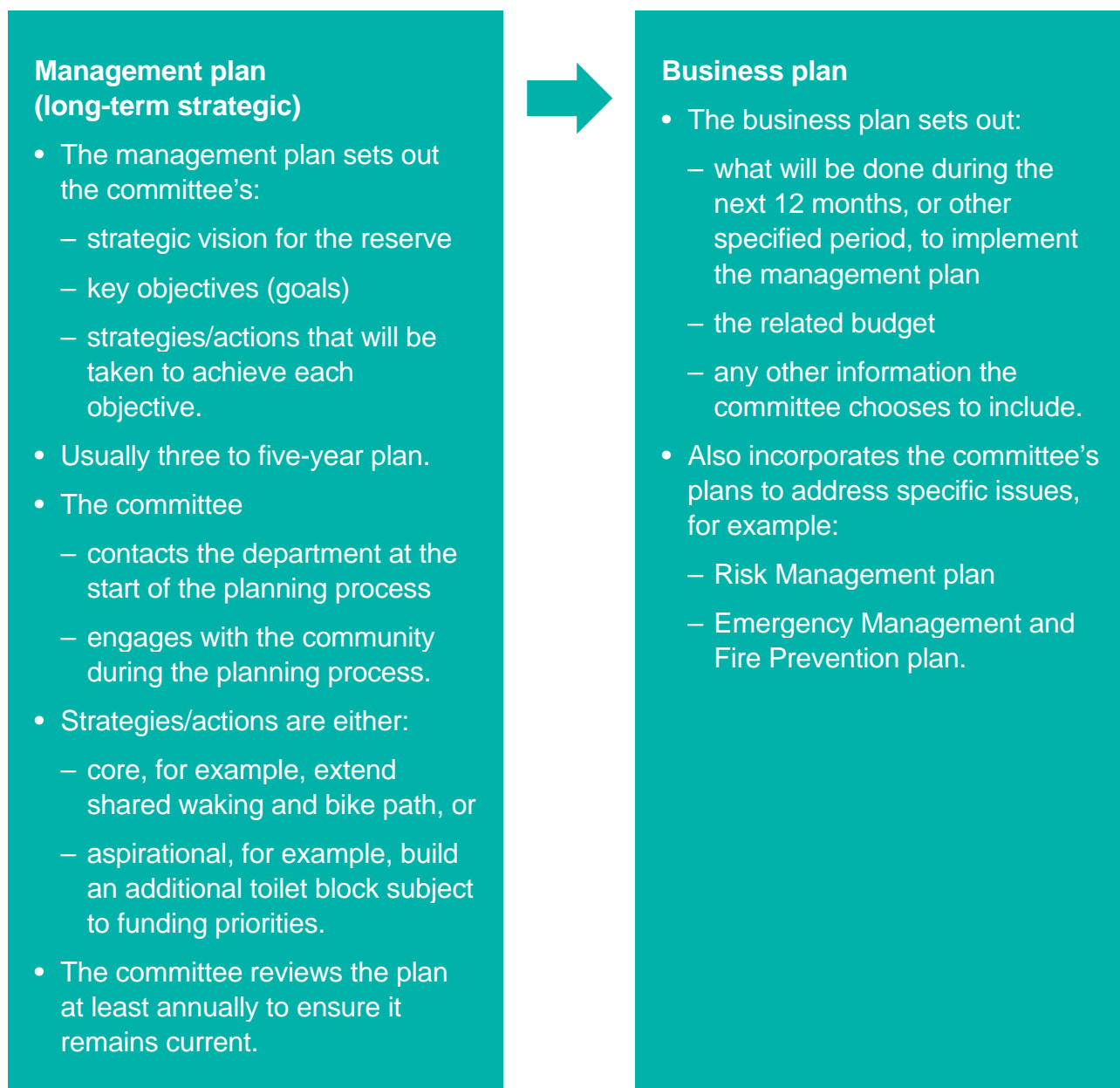
1.9 Business plan

To ensure the committee achieves its long-term vision for the reserve expressed in this management plan, the committee will also develop a business plan that sets out:

- what will occur in the next 12 months, or other specified period, to implement this management plan
- the related budget
- any other information the committee chooses to include, such as implementation details.

The business plan also incorporates plans made by the committee to address specific issues, such as the Risk Management plan, and the Emergency Management and Fire Prevention plan.

1.10 Overview diagram



Part 2 – Objective 1 plus strategies and actions to achieve it

<Below is example only. Your committee may have an entirely different objective (goal) unrelated to infrastructure.>

2.1 Objective 1

'The goal is to maintain and improve infrastructure throughout the reserve.'

2.2 Strategies and actions to maintain infrastructure

See Part 4 for description of existing infrastructure.

Strategies/Actions	Type	Timeframe <May be included in the annual business plan instead>	Project leader <May be included in the annual business plan instead>
The committee will maintain the reserve's existing infrastructure. This includes, but is not limited to, lighting, seating, signage, paths, toilets.	Core	12 months	Jay Smith Ann Winn

2.3 Strategies and actions to improve infrastructure

During community engagement there was significant support for toilet facilities to be built at the east end of the reserve; for more shared walking and bike paths, particularly leading to the sports ground; and for a bird-watching hide to be built near the lake.

Strategies/Actions	Type	Timeframe <May be included in the annual business plan instead>	Project leader <May be included in the annual business plan instead>
Extend shared walking and bike path network to the sports ground and elsewhere.	Core	Two years	Ann Leigh
Improve signage to lake, sports ground, other key areas.	Core	12 months	Bea Black
Build new toilet facility at eastern end of reserve.	Aspirational	Three years	Frank Mann
Build bird watching hide near the lake.	Aspirational	Three years	Jay Smith

Part 3 – Objective 2 plus strategies and actions to achieve it

<Below is example only. Your committee may have an entirely different objective (goal) unrelated to infrastructure.>

3.1 Objective 2

Objective 2: The goal is to increase use of the reserve. This includes increasing informal recreational use of the reserve and increasing the number and variety of sporting and recreational groups using the reserve.

See 4.1 About the reserve for a description of current usage of the reserve.

During community engagement there was significant support for a designated off-leash area for dogs as a way to increase usage by dog walkers. Several sporting and recreational groups were identified as potential new users of the reserve, for example, the Zetown bird-watchers club.

3.2 Strategies and actions to increase usage of the reserve

Strategies/Actions	Type	Timeframe <May be included in the annual business plan instead>	Project leader <May be included in the annual business plan instead>
Designate an off-leash area for dogs well away from the lake. Install clear signage.	Core	12 months	Ann Leigh
Investigate opportunities for increased social use by local residents, for example, community events and festivals such as the RSPCA Paws Walk.	Core	18 months	Jay Smith
Seek expressions of interest from sporting and recreational groups that would like to become formal users of the reserve.	Core	18 months	Frank Mann and Bea Black

Part 4 – Background information

4.1 About the reserve

<Insert details - for example, location, hectares, any tenures (leases etc.), existing infrastructure, current formal and informal activities that occur on the reserve, whether the plan covers the entire reserve or designated areas.>

4.2 Community engagement

<Insert which key stakeholders the committee consulted and how - for example, the local DELWP regional office, local council, adjoining landowners, current and prospective users of the reserve, traditional landowners, any lease and licence holders, general community.>

<Community engagement should be consistent with the [DELWP community charter 2018](#). Your committee can also take into account the publication by the Victorian Auditor-General's Office on [Public participation in government decision-making: better practice guide](#).>

4.3 External operating environment

<Insert information about the external operating environment that the committee has taken into account – such as relevant social, economic, environmental, technical, 'political' or other factors. For example:

- Note any community-made plans that may impact on the reserve, such as the plans of user groups like the football club, and the local council's plans for the adjacent land.
- Most local councils have an open space strategy to guide their development of formal open space such as sports grounds, and informal open space such as wetlands. If your committee manages an open space reserve, it is a good idea for its planning to take into account and link with the council's strategy. This enables a 'big picture' approach to municipal and Crown land reserves in the area and avoids possible duplication of open space facilities. It may also make it easier to get funding to maintain and develop the reserve.>

Appendix G: Optional template – Plan on a page

This template is a companion to the *Committee of management guidelines*.

About this template

This '**plan on a page**' template may be useful for **local committees** who want to document their plans for the use and development of the reserve. It is designed to be easy to complete in a short time and only take up a page or so. When preparing a plan-on-a-page, your committee can contact the local DELWP regional office for advice.

DELWP also publishes a standard template for committees with more complex planning needs. Typically, these are major committees that develop a long-term management plan and also develop an (annual) business plan.

Note that some committees, such as coastal and marine committees and committees that manage Crown land caravan and camping parks, have specific requirements for management plans, and templates for developing these plans, which they should be used instead.

The *Committees of management guidelines* published by the department include a chapter on management plans.

All of the above documents are available from the committees of management page on the DELWP website.

[insert name of committee of management]

Plan for the reserve

1. What does this plan do?

This plan sets out the committee's vision for the future of the reserve and how it will be achieved.

It will be reviewed every 12 months.

2. Description of the reserve – what do we have?

<Describe the reserve and its location. Information is available from the local DELWP regional office or, when it opens during 2020, the department's electronic self-serve kiosk, Landfolio.>

3. Current facilities

<What are the current facilities on the reserve?>

4. Current users

< How is the reserve is currently used? For example, is it used by groups such as the cricket and football club on a seasonal basis? By casual users such as walkers, bike riders, and bird watchers?>

5. Role of the committee

The role of the committee is to 'manage, improve, maintain and control' the reserve for the purposes for which it is reserved under the *Crown Land (Reserves) Act 1978*. All of the committee's decisions and actions need to be made the public interest – for the benefit of the whole community.

6. What is our plan for the reserve's future – our vision and goals?

< Example>

We want the reserve to be a place that is used and enjoyed by a wide range of the local community.

Our goals are:

- a. To maintain and improve infrastructure throughout the reserve.

- b. To increase use of the reserve. This includes increasing informal recreational use of the reserve and increasing the number and variety of sporting and recreational groups using the reserve.

7. How do we achieve our plan - what actions will we take?

<What will the committee do to make its goal(s) happen? What is the budget?>

<Example>

Actions	Timeframe	Project leader	Estimated cost	Source of funding
Improve signage to lake, sports ground, other key areas.	12 months	Bea Black	\$1,000	The committee already has sufficient funds to cover this cost.

8. What did we consider?

In developing its plan, the committee took the following factors into account. <Briefly describe, for example>

Community engagement

<What consultation occurred? For example, did the committee consult reserve users such as the local cricket club?>

External environment

<What external factors were considered, for example, the local council's plan for the land adjoining the reserve?>

XXX

<Insert any other relevant considerations.>

