



A Review of the Management of Riparian Land in Victoria

*A Report for the Department of
Sustainability and Environment*

15 May 2008

The Public Land Consultancy



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A REVIEW OF THE MANAGEMENT OF RIPARIAN LAND IN VICTORIA

Riparian land is land that abuts waterways such as rivers, creeks and wetlands. It is critically important for river health (for example by improving water quality and providing shade and organic inputs) and for terrestrial biodiversity (for example by providing ecological connectivity). The Government's recently released *Green paper on land and biodiversity at a time of climate change* recognises this importance and suggests several approaches to improve its management.

Enclosed is a report entitled *Review of Riparian Land Management in Victoria*, commissioned by the Department of Sustainability and Environment, to provide background and inform riparian policy development for the Green Paper. It represents a comprehensive discussion of the administrative and statutory issues with regard to riparian land management and proposes a range of options for improving their management.

The report, prepared by The Public Land Consultancy, contains the views of the consultant alone and does not contain the views of Government nor the Department of Sustainability and Environment.

The next step in the further development of approaches to riparian management will include discussions and consultation with stakeholders on the priority issues to be dealt with and how these should be progressed.

I hope that the report will provide significant food for thought and also provide valuable information for those with an interest in the management of rivers and their riparian zones as part of those discussions and consultations.

Yours sincerely

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By

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Review of the Management of Riparian Land in Victoria
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Out thanks also go to the people who participated in the Workshop on 8 August 2007, whose names are listed in Appendix 9.7

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1 Executive Summary

1.1 Foreword

At a time when society is urgently seeking practical responses to the challenge of climate change, the need to recognise riparian land as a crucial biodiversity resource is more pressing than ever.

Riparian land has long served a number of functions, but an imbalance between the weight given to these functions has often resulted in outcomes skewed against environmental sustainability.

This report seeks to make a contribution to the body of effort now being directed to redressing this imbalance.

Government Policy

The timing of this report coincides with the government's Green Paper 'Land and Biodiversity at a time of Climate Change,' which suggests three approaches likely to be adopted in the subsequent White Paper:-

- *Improve the management of riparian areas and encourage the development of stewardship arrangements with adjacent landholders and other potential managers*
- *Review the Crown frontage licensing process for the 2009 renewals to better reflect broader environmental outcomes*
- *Improve statutory and administrative instruments for managers to improve riparian zone management*

In seeking to support and inform these three approaches, this report addresses the legal, administrative, regulatory and institutional arrangements governing riparian land in Victoria, and proposes specific strategies to make those arrangements more effective.

The reform of governance systems will not, of itself, rehabilitate riparian land. Community awareness is the primary driver of change, and government financial resources are the primary mechanism of change – but for effective delivery of results we also need working instruments of governance.

* * * * *

1.2 Overview of this Report and the Issues it Addresses

1.2.1 Overview of Chapter 3 – Riparian Land Status

The better management of riparian land for biodiversity outcomes is often impeded by the complexities of riparian land status. This chapter recommends more rational systems of land status, and more effective mechanisms for reforming land status.

Riparian Crown Land

The present sub-categorisation of riparian Crown land is inordinately complex: although it is all Crown land, it is sub-divided into a matrix of sub-categories which do not necessarily reflect its values, promote good management, or enable good governance.

It is dealt with under two Acts – the Land Act 1958, whose principal object is to allow the disposal and occupation of surplus Crown land, and the Crown Land (Reserves) Act 1978, whose principal object is the protection of public values on Crown land to be retained for some public purpose. This arbitrary dichotomy does not support modern management objectives, and sends confused messages about the importance of riparian land.

It is recommended that all riparian Crown Land be reserved under the Crown Land (Reserves) Act 1978; that the gazetted purpose of the reservation be “Public Purposes (Protection of the Riparian Environment),” and that the legislative provisions relating to Crown frontage licences be transferred from the Land Act 1958 to the Crown Land (Reserves) Act 1978.

Riparian Freehold

Much riparian land is in freehold ownership. Agencies charged with protecting the public interest on such land may need to exercise some level of control over it which may or may not coincide with the interests of the landholder.

Compulsory acquisition is a familiar, but expensive and insensitive process for gaining control over freehold land.

It is recommended that agencies consider the adoption, in appropriate circumstances, of programs and strategies aimed at gaining a level of control over riparian freehold through the purchase of lesser interests in the forms of covenants, easements, and leaseholds.

Changing Riparian Land Status

There are three situations in which biodiversity or recreational values on riparian land may require some change of land status—

- where rivers have moved,
- where it is desirable to bring freehold frontages into public ownership, and

- where surplus public land is to be disposed of as freehold.

The riparian cadastre is further complicated by two curiosities of the common law - the doctrine of accretion and adverse possession. The mechanisms currently available to deal with these situations are cumbersome, and often inadequate to the task.

It is recommended that amendments be made to the Land Act 1958 and Crown Land (Reserves) Act 1978 enabling land exchanges in a wider range of circumstances.

In the more complex situations there is a need for a process by which reconfiguration of both Crown land and freehold may be planned. Planning schemes already provide a framework which has been used for various restructures (perhaps the best-known being at Phillip Island) but it is unsuitable for riparian reconfigurations.

To facilitate the rationalisation of riparian land, it is recommended that the Victoria Planning Provisions be amended to include an improved Restructure Overlay (RO).

1.2.2 Overview of Chapter 4 – Riparian Land Protection, Management and Works

Statutory Protections

Several existing Acts provide heads of power which could be brought to bear on the protection and enhancement of riparian land values. These include:-

- The Planning & Environment Act
- The Conservation Forests and Lands Act
- The Water Act Part 10
- The Environment Protection Act
- The Catchment and Land Protection Act
- The Land Act
- The Crown Land (Reserves) Act

This is a situation where multiple tools should be available to different riparian agencies, to be employed as and when circumstances arise. By and large, these are heads of power already in existence – what is needed in many cases is not the amendment of primary legislation, but the use of that primary legislation to make subordinate instruments.

It is recommended that:-

- all riparian Crown land be rezoned to Public Park and Recreation Zone (PPRZ) under the relevant planning scheme, unless it is already zoned Public Conservation and Resource Zone (PCRZ); and that all land (both Crown and

freehold) within 20 metres of a declared waterway be included in the Environmental Sensitivity Overlay (ESO)

- a new Riparian Management Code be written under the Conservation Forests and Lands Act, and subsequently recognised by or incorporated into various other statutory provisions
- all riparian Crown land be deemed to be ‘designated land’ for the purposes of Part 10 of the Water Act, and that by-laws be made relating to its use and development
- allowing stock into waterways be made a ‘scheduled activity’ for the purpose of the Environment Protection Act
- Special Area Plans be made under the Catchment and Land Protection Act specifying how and by whom degraded stretches of priority rivers are to be rehabilitated
- all unreserved riparian Crown land be reserved under the Crown Land (Reserves) Act, and that new regulations be made under the Land Act and/or the Crown Land (Reserves) Act (depending on whether frontage provisions are transferred from the former to the latter) regulating a range of public activities and behaviours.

Management: Stock Control and Fencing

The management of stock on riparian land is widely regarded as the most pressing issue facing riparian agencies charged with protecting natural resource systems.

There are at least half a dozen heads of power under which one might expect to find tools for regulating stock access to waterways. These include the Impounding of Livestock Act, the Fences Act, the Environment Protection Act, the Land Act and Crown Land (Reserves) Act, the Water Act and the Catchment and Land Protection Act. Each one, however, needs some amendment before it can effectively serve this purpose. A range of options for legislative amendment is explored, and six recommendations are made which, if adopted, would provide a range of tools available to be deployed in suitable circumstances.

Management: Stock and Domestic Water Rights

The problem of stock on riparian land is exacerbated by misunderstandings about an abutting owner’s rights to take water free of charge – a right which some hold to be jeopardised by the construction of a fence. Whether this is a correct interpretation of section 8 of the Water Act is a moot point.

It is recommended that policy be clarified on the question of who has rights to take stock and domestic water, and in what circumstances; that it be confirmed that such rights, where they exist, are not related to the presence or absence of a fence; and that a right to take water does not constitute a right to allow stock into the water. If any

doubt remains that the Water Act reflects this policy, then the Act should be amended accordingly.

Works: Current CMA Landholder Agreements

There is little if any consistency between the various CMAs' documents establishing agreements with landholders to undertake works, and then to maintain those works. Issues of concern include the legal validity of the documents, the survival of any agreement if the property changes hands, and duplications or inconsistencies between these contracts and Crown frontage licences.

It is recommended that all 10 suites of agreements be redrafted to meet a minimum set of legal and administrative standards; that the CMAs agree amongst themselves on a consistent set of technical standards.

At the same time, a commitment should be made to introducing a new form of status-neutral Riparian Agreement.

Management & Works: New Forms of Agreement

A continuing program of CMA-funded works on riparian land would benefit from a new form of legal agreement. It should be 'status-neutral' (that is, be applicable to both Crown and freehold land); it should 'run with the land' (that is, survive any change of land ownership); and it should simplify rather than duplicate or add to other statutory consents.

It is recommended that the CF&L Act be amended to allow the Secretary to enter into 'Riparian Agreements' which, in addition to being status-neutral and running with the land, could offer other attractive benefits for landholders: they could offer tax and rate relief (as is already the case for Trust for Nature covenants), and they could incorporate the requirements of other statutory consents.

Under this 'one stop shop' option, a Riparian Agreement could incorporate all the requirements of a Crown frontage licence, and therefore eliminate the need for the landholder concerned to hold such a licence. Likewise, it could eliminate the need for a separate water diversion licence.

One legal difficulty encountered by many current works agreements relates to fence-lines: often the best alignment for a fence is not the legal title boundary. It is recommended that the CF&L Act be amended to allow the negotiation of 'Give and Take' fence-lines which will enable a fence to be constructed on a practical boundary, allow each side of the fence to be administered as if the fence were on the actual title boundary, and yet ensure that the legal ownership and land status remain unaffected.

1.2.3 Overview of Chapter 5 – Crown Water Frontage Licences

There are some 30,000 kilometres of Crown frontages alongside rivers in Victoria¹. Of this, some 22,000 km is abutted by freehold land, and a substantial proportion of this length is subject of Crown water frontage licences. The other 8000 kilometres of riparian Crown land is State Forest, National Park etc.

A substantial proportion of riparian Crown land is licensed to abutting owners, mainly for grazing. There are almost 10,000 licences, nearly all issued for 5-year terms – the next renewal being due in October 2009.

If biodiversity values are to be adequately protected, several deficiencies in the licensing system need to be remedied. There is no explicit provision requiring an abutting owner without a licence to construct a fence; there is a history of issuing licences only to the abutting owner; the controls extend only to frontages, not to the bed and banks, and some abutting owners have a statutory right to graze the bed and banks without any licence.

Elsewhere in the report it is recommended that these licences be phased out in favour of status-neutral Riparian Agreements. Meanwhile, it is recommended that various minor amendments be made to the Land Act and the Water Act to clarify the law or allow more flexibility in its application.

One complication that impedes inter-agency cooperation is a view that the Information Privacy Act prevents DSE from providing data about Crown licences to CMAs. A simple method of rectifying this problem is recommended.

Economics of Crown Frontages

Economic theory suggests that landholders will choose to manage riparian land for biodiversity rather than for agriculture, if the net benefits of conservation are seen to outweigh the net benefits of agriculture. The parameters that influence this choice are identified and evaluated. Of particular interest is

- the rate on which Crown frontage rentals are set, and
- no allowance being made for the saving of fencing and watering costs which would have to be borne by the landholder if there were no Crown licence

A simple model is proposed for predicting how landholder behaviour would respond to changes in the various parameters, particularly the removal of the implied subsidy. The model can also be used to speculate about the total revenue stream from frontage licences if rents were to increase.

It is recommended that government undertake an independent review of frontage economics, in order to sustain a better informed dialogue with stakeholders. Contingent on the outcome of such a review, Crown rentals should be increased to the true market value.

It is also recommended that CMAs do not seek to retain this revenue, because it will be a diminishing income stream. Rather, funding for riparian works should be funded from budget appropriations as a public good.

Freehold Titles and Crown Frontages

An important opportunity to review and revise Crown licences is presently being lost. Parcels of freehold land and abutting licensed Crown frontages are often viewed as component parts of a single rural property unit, yet the current licensing system fails

to recognise any connection between the licenced Crown land and the ‘parent’ freehold property. As a result, incoming landowners may be unaware that part of ‘their’ new property is Crown land, and DSE may be unaware that its tenant has changed.

A number of options for rectifying this situation are explored, and it is recommended that certain enhancements to DSE’s internal data systems be implemented, whereby inquiries at Land Registry preliminary to the sale or subdivision of freehold land trigger notifications to other areas of DSE alerting them that the Crown frontage may also be about to change hands. DSE and the relevant CMA may then use this as an opportunity to review and/or renegotiate the Crown licence.

Crown Frontages – the 2009 Renewal

The 5-yearly renewal of Crown licences, which is to occur in October 2009, presents a significant opportunity to advance the cause of good riparian management.

Any reform of riparian policy will require the eventual review of all Crown frontage licences. On review, some may continue unchanged; others may be reissued subject to new terms and conditions; some may be reassigned to other tenants; yet others will be cancelled. As there are some 10,000 licensed frontages across the State, this program of review may take as long as ten years. It is assumed here that the CMAs will conduct the on-ground inspections and consultations with landholders; DSE will remain as formal landlord and deal with the licensed land as the CMAs recommend.

A three stage strategy is proposed for implementing this review.

- Before October 2009, the highest priority cases should be reviewed, and some licensees given notice of major change or non-renewal at 2009.
- At 2009, licences should be renewed, but for a conditional term: 5 years, or until the sale or subdivision of the abutting freehold, or until the negotiation of a CMA grant – whichever event occurs first. All reviewed licences should be for the purpose of ‘protection of the riparian environment,’ rather than the current purpose, which in most cases is grazing.
- After 2009, the review will continue, on a strategic basis: if a parent freehold property is sold or subdivided, the opportunity should be taken to review the frontage licence; if the landholder accepts a grant, that is also an opportunity for review.

At the following 5-yearly renewal (2014) there should be a much reduced residual number of unreviewed frontage licences. The longer-term objective of the review will be for all licensed frontages to move onto the new status-neutral Riparian Agreements. For an intermediate period, two systems will be operating in parallel.

1.2.4 Overview of Chapter 6 – Aboriginal Rights and Values

Riparian land has particular significance for indigenous people. In Victoria, this significance has been recognised in law through the Commonwealth Native Title Act 1994 and the State Aboriginal Heritage Act 2006.

Native Title

Native Title exists only on Crown land, having been extinguished on freehold. In many parts of the State, native title is virtually confined to the riparian strip, which is the only remaining Crown land in the landscape.

Under the Native Title Act 1994, actions which may affect native title (including the undertaking of works, the grant of tenures and the making of regulations) must meet strict tests. Without clear compliance with the Act the validity of such acts cannot be assured.

It is recommended that the implementation of riparian policy be validated, and Aboriginal rights be formally recognised, through certain Indigenous Land Use Agreements (ILUAs) made between government and the Aboriginal community.

Aboriginal Heritage

All riparian land in Victoria is designated as an ‘Area of Cultural Sensitivity’ for the purposes of the Aboriginal Heritage Act 2006. Causing harm to Aboriginal heritage is a criminal offence under this Act, as is undertaking an act likely to harm Aboriginal heritage. One defence is through the preparation of a Cultural Heritage Management Plan (CHMP).

The Act prescribes certain circumstances in which a CHMP is mandatory. In other circumstances, it is left to the proponent to decide on a risk management strategy.

In order to ensure that Aboriginal heritage is recognised and protected, and that riparian land managers are not at risk of committing criminal offences, it is recommended that in addition to complying with the statutory requirements of the Act, CMAs develop ‘due diligence’ procedures for riparian works, even in circumstances where a CHMP is not mandated.

1.2.5 Overview of Chapter 7 – Roles and Responsibilities

Various authorities and agencies have roles in relation to riparian land, as do communities and individual landholders. Some of these roles involve actual land management; others may be better described as control, monitoring, support or coordination.

Central to this analysis are the CMAs, which government has identified as ‘caretakers of riparian condition,’ although details of this role have not been spelled out. The Victorian River Health Strategy indicated that CMAs will themselves become managers of Crown frontages²; but another view is that CMAs will become monitors, coordinators and facilitators of other land managers. This chapter charts a course between these two views.

The chapter considers current deficiencies in riparian roles and responsibilities, which take two broad forms:

- Geographic gaps in land management, particularly for unlicensed linear Crown land
- Functional and coordination gaps, particularly between DSE and the CMAs

In addressing these gaps, the following principles have been adopted:-

- Agencies should be recognised as having a core business; any additional roles should be complementary to that core business and corporate culture
- Priority for filling geographic gaps should be set in accordance with the priorities identified in the Regional River Health Strategies (RRHSs)
- Any extension of an agency's roles or area of responsibility must be separately resourced

The biggest geographic gap is management responsibility for linear unlicensed riparian Crown land. This is of particular significance when it aligns with areas of high priority under the relevant RRHS. For high-priority riparian Crown land it is recommended that:-

- Parks Victoria, Municipal Councils, and community-based Committees of Management be appointed as land managers, wherever appropriate
- CMAs be either appointed as Committees of Management or engaged to undertake management functions on behalf of DSE for high priority riparian land which cannot be placed under these agencies

For low-priority riparian Crown land, it is recommended that:-

- Existing delegated managers continue
- Further appointments be made as opportunities arise
- DSE builds its own capacity as 'default' manager.

Functional gaps and inefficiencies should be addressed by improved high-level coordination, and cooperation and liaison between the CMAs and DSE.

In the longer term, a range of possibilities emerges for building CMAs' roles as caretaker of riparian condition. These may be regarded either as a set of 'pick and choose' options or, preferably, as an evolutionary process of strategic incrementalism.

Outside public sector agencies, there is also an expanding role for the community – not only as individual landholders, but also as volunteers and delegated managers.

1.2.6 Overview of Chapter 8 – The Reform of Riparian Legislation

Primary Legislation

Three options are considered for introducing the numerous legislative reforms recommended in this report. The option of piecemeal amendments to various Acts, if and when those Acts come up for review, is rejected as being unlikely to deliver results in a timely manner, if at all.

The option of a separate, stand-alone Riparian Land Management Act (comparable to the Coastal Management Act or the Road Management Act) has its attractions, but seems to deliver no more than can be achieved by the third option, namely, the simultaneous and coordinated amendment of a series of existing Acts.

This third, preferred option would be effected through a Riparian Land Reform Act which, when proclaimed, would have the effect of amending other Acts, after which it would be rescinded.

To help illustrate how this option would work, Appendix 9.2 includes a set of drafting instructions for Parliamentary Counsel.

Subordinate Legislation

This report recommends the adoption of several pieces of subordinate legislation. These include:-

- A Code of Riparian Land Management Practice, under the CF&L Act, which would in turn be referenced by other items of subordinate legislation
- A revised Restructure Overlay (RO) and a revised Environmental Sensitivity Overlay (ESO) within the Victoria Planning Provisions
- New regulations for riparian Crown land – under the Land Act and/or the Crown Land (Reserves) Act
- Regulations to support the Riparian Agreements and Give and Take Fenceline Agreements, proposed for inclusion in the CF&L Act
- New by-laws under Part 10 of the Water Act, governing activities on designated land
- Regulations under the Aboriginal Heritage Act, exempting certain low-impact conservation works on riparian land from the requirements of that Act
- Regulations governing stock in waterways, if allowing stock into waterways is made a ‘scheduled activity’ under the Environment Protection Act.

To introduce each of these items separately would be cumbersome, confusing and costly. Stakeholder groups wanting to understand their meaning and impact would have great difficulty in comprehending the package as a whole and making useful contributions to its development.

The preferred option is for the proposed Riparian Land Management Act to contain provisions authorising the coordinated and simultaneous drafting and approval of these items. A process is outlined (in the drafting instructions for the Bill) which would allow an abbreviated and unified process, while satisfying all the essential requirements of modern legislative practice.

1.3 A Fourteen-Point Strategy

In addressing the issues outlined above, this report makes a series of recommendations. The following table summarises fourteen principal themes which could underlie the implementation of the Government's riparian policy to be articulated in the forthcoming Biodiversity White Paper.

The fourteen are grouped according to the Chapter headings in the body of the report.

1.3.1 Proposals relating to riparian land status

Proposal	Reasons
<p>1 Reserve all unreserved riparian Crown land under the CL(R) Act</p> <ul style="list-style-type: none"> • Change the purpose of the Crown reservation from 'Public Purposes' to 'Public Purposes – Protection of the Riparian Environment.' • Shift water frontage provisions from the <i>Land Act 1958</i> to the <i>Crown Land (Reserves) Act 1978</i> 	<p>To establish that riparian Crown land is a biodiversity resource rather than a service utility</p> <p>To confirm that, in the main, riparian Crown land is not available for alienation</p> <p>To give riparian Crown land the same degree of legislative protection as applies to all other Crown reserves</p>
<p>2 Simplify methods of changing riparian land status</p> <ul style="list-style-type: none"> • Rationalise the range of procedures available for transactions involving riparian Crown land • Facilitate the reconfiguration of riparian freehold, where necessary, through Planning Scheme Amendments; modernise the Restructure Overlay (RO) in the VPPs for this purpose • Facilitate the acquisition of 'lesser interests' in riparian freehold, 	<p>To extend and simplify the range of land dealings available to support desirable riparian environmental outcomes</p> <p>To provide adequate tools for dealing with land along rivers which have changed course</p> <p>To exercise conservation-related controls over riparian freehold without becoming its owner</p>

including easements and covenants	To devolve responsibility for site-specific riparian reconfigurations from Parliament to executive government
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1.3.2 Proposals relating to riparian planning and management

Proposal	Reasons
<p>3 Adopt a suite of tools to manage stock access to streamside land</p> <ul style="list-style-type: none"> • Adopt a suite of complementary legislative and regulatory tools relating to fencing, livestock management, and stock-related water pollution • Review and clarify the ‘Private Rights’ to water in waterways for stock and domestic purposes 	<p>To provide DSE, CMAs, the EPA and municipalities with better powers to regulate stock on riparian land and to keep stock out of waterways</p> <p>To remove economic impediments currently mitigating against the introduction of off-stream stock watering</p>
<p>4 Introduce new status-neutral Riparian Agreements</p> <ul style="list-style-type: none"> • Introduce new legally binding Agreements which will apply to all riparian land under a landholder’s control, whether it is Crown land or freehold • Design the Agreement to replace both Crown frontage licences and CMA grant agreements • Through the new Agreements, provide for:- <ul style="list-style-type: none"> ○ payment for ecosystem services; ○ ‘give-and-take’ fence-lines; and ○ ‘one-stop-shop’ compliance with various riparian regulations 	<p>To facilitate good riparian outcomes independently of the often arbitrary distinction between Crown and freehold land</p> <p>To enable riparian fence-lines to be determined by environmental rather than cadastral criteria</p> <p>To provide legal protection for CMA-funded works on both Crown and freehold riparian land</p> <p>To simplify landholder dealings with government agencies and compliance with various other riparian regulations</p>
<p>5 Improve the recognition of riparian</p>	<p>To provide agencies and landholders with</p>

<p>land in regulatory regimes, including Planning Schemes</p> <ul style="list-style-type: none"> • Adopt a Code of Riparian Practice under the CF&L Act • Recognise the Code under Planning Schemes, Water Act by-laws, Licence conditions, CMA grants programs etc • Amend Planning Schemes to bring riparian land under the PPRZ zoning and ESO Overlay 	<p>a uniform benchmark for riparian land management best practice</p> <p>To have best practice legally recognised across the regulatory regime</p> <p>To promote a best practice culture for riparian management by engaging stakeholders in the development of the Code</p>
<p>6 Enable the application of existing, but latent, legislative powers to riparian problems</p> <ul style="list-style-type: none"> • Conservation Forests & Lands Act – make the extensive powers of this Act available to CMAs by nominating the Water Act as a ‘relevant law’ • Water Act – allow CMAs to use the extensive powers of this Act by ‘designating’ riparian land, as is already the case for Melbourne Water • Crown Land (Reserves) Act – open up management and regulatory options available under this Act by reserving all unreserved riparian Crown land 	<p>To access wider powers for the management of riparian land and protection of riparian environmental values by:-</p> <ul style="list-style-type: none"> ○ Empowering CMAs to make binding agreements, to adopt codes of practice, to issue PIN notices, and to recover enforcement costs under the CF&L Act ○ Empowering CMAs to make and enforce by-laws and regulations for riparian land in addition to designated waterways ○ Empowering DSE to appoint committees of management, make and enforce regulations, and enter into management agreements under the CL(R) Act

1.3.3 Proposals relating to Crown water frontage licences

Proposal	Reasons
<p>7 Adopt a 3-stage strategy to review all Crown frontage licences – (including those which may be replaced by new</p>	

<p><i>Riparian Agreements)</i></p> <ul style="list-style-type: none"> • Before 2009 – extension program to familiarise licence-holders with the policy; immediate renegotiation or cancellation of highest priority cases • At 2009 – cancel some licences, change conditions of others, renew the remainder for a conditional term: ‘5 years, or until transfer of parent property, or until acceptance of a CMA grant’ • After 2009 – progressively review all remaining licences; reviewed licences to be for 10 year term; replace with new status-neutral Riparian Agreements where possible 	<p>To ensure a transition from grazing-focussed culture to a conservation-focussed culture</p> <p>To bring every water frontage licence in the State up to a minimum environmental standard</p> <p>To cancel or re-assign those licences which cannot be brought up to standard</p> <p>To provide tangible, localised links between government policy and on-the-ground outcomes</p> <p>To gain landholder support by linking the review to financial incentives and the introduction of new, rationalised status-neutral Riparian Agreements</p>
<p>8 Use market-based approaches to setting Crown licence rentals</p> <ul style="list-style-type: none"> • Offer payments for ecosystem services on riparian Crown land, where their provision goes beyond a landholder’s basic duty of care • Consider raising Crown licence rentals to remove hidden subsidies 	<p>To encourage landholders to retain management responsibility for Crown frontages, even when grazing is removed</p> <p>To promote a cultural shift towards landholder provision of ecosystem services</p> <p>To remove economic disincentives currently working against the conservation of frontages</p>
<p>9 Reform and streamline the administration of Crown frontage licences</p> <ul style="list-style-type: none"> • Streamline DSE records systems to link data relating to frontage licences to data relating to their ‘parent’ freehold titles • Recognise and utilise (where appropriate) the option of issuing no licence, or issuing the licence to a tenant/manager other than the 	<p>To support riparian environmental programs by establishing and maintaining effective landlord-tenant relationships</p> <p>To enable immediate liaison with new property owners to ensure they understand their responsibilities as frontage licensees</p> <p>To help ensure that the abutting landowner does not assume automatic or monopoly control of the Crown frontage</p>

abutting owner	
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1.3.4 Proposals relating to Aboriginal rights and values on riparian land

Proposal	Reasons
<p>10 Recognise native title to riparian Crown land</p> <ul style="list-style-type: none"> • Seek to negotiate a State-wide ‘Alternative Procedure Agreement’ for all riparian Crown land in the state • As a fall-back, negotiate a series of Area Agreements and Body Corporate Agreements 	<p>To formally acknowledge the rights of Aboriginal people in relation to riparian Crown land</p> <p>To provide certainty about the native title status of riparian Crown land</p> <p>To establish firm rules for all future actions which may affect native title</p>
<p>11 Protect Aboriginal heritage on riparian land</p> <ul style="list-style-type: none"> • Fully comply with the letter and intent of the Aboriginal Heritage Act 2006 • Adopt due-diligence procedures, standards and protocols for riparian works which respect Aboriginal heritage. • If necessary, make new regulations under the AH Act specifically for riparian conservation works. 	<p>To ensure protection of Aboriginal heritage values in accordance with government objectives as adopted in the Aboriginal Heritage Act 2006</p> <p>To ensure that all riparian conservation programs can proceed without the inadvertent commission of criminal offences</p> <p>To reduce the burden of compliance costs under the current Aboriginal Heritage Regulations 2007</p>

1.3.5 Proposals relating to riparian roles and responsibilities

Proposal	Reasons
<p>12 Retain, strengthen and expand the roles and responsibilities of all</p>	

<p>agencies with existing riparian roles</p> <ul style="list-style-type: none"> • Aim to have a designated land manager appointed for all high-priority unlicensed riparian land – Parks Victoria, the relevant municipality, community-based Committees of Management or the CMAs themselves • Allow the CMAs to evolve as regional ‘caretakers of riparian condition’ through an incremental program of role expansion:- <ul style="list-style-type: none"> ○ engage CMAs to monitor Crown frontage licences on behalf of DSE ○ empower CMAs to undertake works on high-priority unmanaged and unlicensed riparian land ○ Appoint CMAs as the formal landlord for Crown frontage licences • Adopt a Service Agreement between the CMAs and DSE under which DSE will continue to provide centralised services including Crown licence administration 	<p>To ensure that all high priority riparian land has a clearly identified manager</p> <p>To build on the established community goodwill towards the CMAs as ‘caretakers of riparian condition’</p> <p>To allow CMAs to evolve through a staged, evolutionary, manageable process of attaining skills, developing systems and building budgets</p> <p>To recognise the principle of subsidiarity – or the assignment of roles to their correct level in a hierarchical system</p> <p>To retain state-level responsibility, control, policy coordination, and accountability to the electorate</p> <p>To benefit from economic efficiencies through provision of centralised specialist support systems</p> <p>To remove inefficiencies arising from duplications of functions, poor role definition, and cross-agency referrals</p> <p>To recognise and engage local government as a key provider of riparian outcomes at the local level</p>
<p>13 Further develop the partnership model for engaging the private sector in riparian management</p> <ul style="list-style-type: none"> • Encourage responsible landholder involvement in riparian management through:- <ul style="list-style-type: none"> ○ payment for the provision of ecosystem services, particularly on abutting Crown frontages ○ simplification of regulatory compliance through status-neutral Riparian Agreements ○ deterrence of mismanagement 	<p>To encourage and build on widespread community support for sound riparian environmental management</p> <p>To use market-related mechanisms to influence landholder decision-making in favour of good riparian management</p> <p>To build on the positive aspects of the well-established Crown water frontage licensing system</p> <p>To utilise voluntary inputs for riparian</p>

<p>through the withdrawal of benefits or imposition of cost penalties</p> <ul style="list-style-type: none"> • Develop avenues for responsible community involvement in riparian management through:- <ul style="list-style-type: none"> ○ Expansion of support programs for riparian-focussed community groups ○ Promotion of three models of community involvement, under the Crown Land (Reserves) Act, the Catchment and Land Protection Act, and the Associations Incorporations Act 	<p>management in circumstances where taxpayer-funded resources would otherwise be limited</p> <p>To be able to offer a range of sound legal frameworks for community-based riparian management in a range of circumstances</p>
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1.3.6 A proposal for the reform of riparian-related legislation

Proposal	Reasons
<p>14 Implement legislative change through an omnibus Act</p> <ul style="list-style-type: none"> • Introduce all the recommended legislative changes through a single Riparian Land Reform Act which will amend six or eight existing Acts, and can then be repealed. • As a provision of the Riparian Land Reform Act, introduce a single public consultative process for the making of subordinate legislation (regulations, bylaws and codes under various Acts, and amendments to the VPPs under the Planning and Environment Act) 	<p>To provide a clear platform for the expression of government policy objectives for the riparian environment</p> <p>To maximise the gains for riparian management by ensuring that legislative reform occurs simultaneously and holistically</p> <p>To establish a suite of complementary riparian legislation, but without adding another layer of complexity</p> <p>To provide stakeholders and the public with a single, clear and comprehensive opportunity to participate in the implementation of riparian policy</p> <p>To ensure that subordinate riparian legislation is consistent, complementary, and is made expeditiously.</p>

Review of the Management of Riparian Land in Victoria
May 2008

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