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**Parks Victoria**  
Level 10, 535 Bourke Street  
Melbourne VIC 3000  
**Telephone 13 19 63**  
parks.vic.gov.au  
ABN 95 337 637 697

Chairperson  
Gunaikurnai Land and Waters Aboriginal Corporation  
27 Scriveners Road  
Kalimna West VIC 3909  
Email: admin@glawac.com.au

Date: 21 February 2024

Dear Chairperson

**RE: NOTICE CONCERNING WORKS ON NATIVE TITLE LANDS (RIGHT TO COMMENT)  
WALKING TRACK REPAIR: LAKES ENTRANCE – LAKE TYERS COASTAL RESERVE**

## The Proposal

Parks Victoria would like to undertake repair works to the walking track to the beach near Salmon Road, Lake Tyers Beach, within the Lakes Entrance – Lake Tyers Coastal Reserve. The track was damaged during the April 2022 storm event.

The project is expected to improve the access to the beach for visitors and the community using this section of the Coastal Reserve.

Works include:

- Removal of native vegetation.
- New drainage.
- Surfacing the track.
- Construction of a new boardwalk over a section of landslip.

Only the boardwalk is considered “a structure” which constitutes the establishment of a public work under Part 15, Division 4, Section 253 of the *Native Title Act 1993*. All other work does not trigger a Native Title assessment.



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The location of the area subject to proposal is outlined in the following attachment:

- Locality map
- Photos
- Boardwalk plan

## Description of The Native Title Land and Waters Affected

Allotment 51 and 52 Township of East Cunninghame.

The allotment is Crown land reserved in 1984 for conservation, recreation and education.

## Seeking Your Comments

The *Native Title Act 1993* (NTA) requires Parks Victoria to consult and seek comments from the Traditional Owners of Native Title lands and incorporate appropriate conditions into consent to use and develop the land.

A cultural heritage assessment is currently being undertaken. However, if you would also like Parks Victoria to raise some specific conditions on cultural heritage protection matters in the exercise of your native title right to protect cultural heritage as part of this formal commentary and approvals process, we will be happy to do so at your direction.

Further, your comments on how this proposal might affect your other native title rights and interests, and how that can be managed or addressed as part of this approvals process are also keenly sought.

These recognised rights and interests include the:

- right to have access to or enter and remain on the land and waters;
- right to use and enjoy the land and waters;
- right to take the resources of the land and waters for the purposes of satisfying personal, domestic or communal needs, but not for any commercial purposes;
- right to protect and maintain places and areas on the land and waters which are of importance according to Gunaikurnai traditional laws and customs;
- right to camp
- right to engage in cultural activities;
- right to engage in rituals and ceremonies;
- right to hold meetings and gatherings;
- right to teaching and learning about the physical, spiritual and cultural attributes of places and areas of importance.

Please note that the 'non-extinguishment' principle applies to these works and your native title rights will continue to exist over the site.

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Parks Victoria intends to advise the proponent that the project can proceed after 40 days from the date of this notification have elapsed. Should you wish to discuss this proposal please contact:

Sharna Foon  
Land Use and Statutory Planning Officer – Eastern Victoria  
Parks Victoria  
Email: sharna.foon@parks.vic.gov.au  
Phone: 8427 3600

## Legislative Basis for this Notice

The proposed activity is a valid future act pursuant to Section 24JA of the *Native Title Act 1993*.

Subdivision J of the *Native Title Act 1993* (NTA) allows for acts to be carried out on reserves provided that the act is in good faith with the purpose of the reservation. Where the act involves the construction of a public work, it is necessary that formal procedural notice be given to any Body Corporate and to any registered Representative Body.

This notice is also prepared and issued cognisant of the agreed terms outlined in Section 7.3 of the Indigenous Land Use Agreement between the State of Victoria and the Gunaikurnai Land and Waters Aboriginal Corporation dated 22 October 2010 and registered with the National Native Title Tribunal on 8 February 2011.

The proposed works are to be carried out over land that was validly reserved prior to 23 December 1996. The future act is in accordance with the purpose of the reservation.

The proposed works of a boardwalk are considered “a structure” which constitutes the establishment of a public work under Part 15, Division 4, Section 253 of the *Native Title Act 1993*.

The non-extinguishment principle applies.



**Sharna Foon**  
**Land Use and Statutory Planning Officer – Eastern Victoria**  
**Parks Victoria**

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## ATTACHMENT 1 – Lake Tyers Beach walk repair



Figure 1: Location of repair work



Figure 2: Drone photo from ocean looking north



Figure 3: Photo of section of walking track to be repaired with a boardwalk

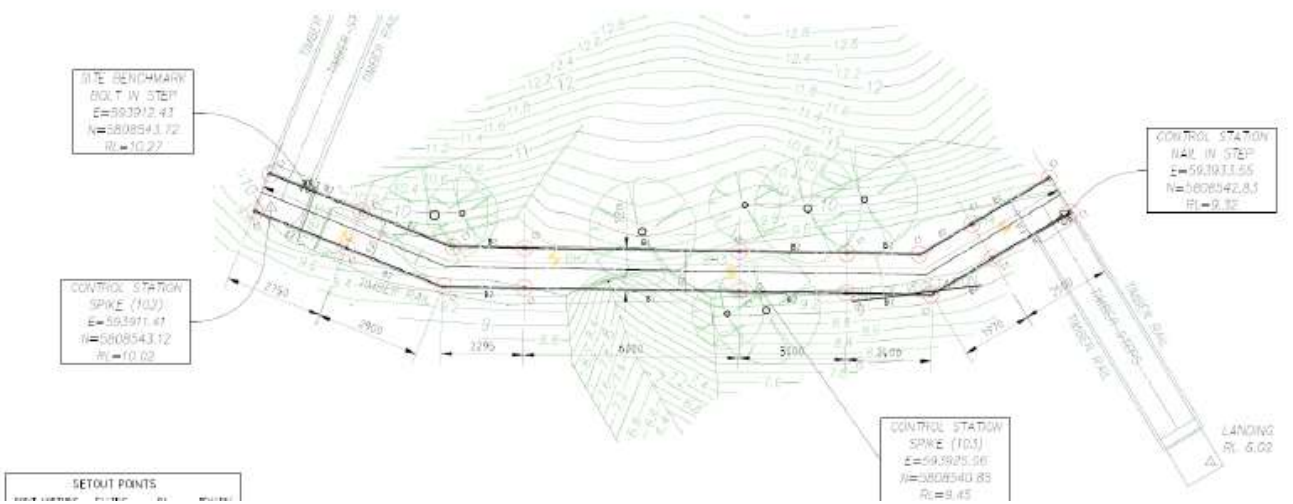


Figure 4: Plan of proposed boardwalk between existing steps