



Australian Climbing Association (Vic) Inc.

30 May 2022

Attn: Margaret Gillespie
Chief Legal Counsel
Parks Victoria
Level 10, 535 Bourke Street
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From: Mike Tomkins
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cc: john.stevens@parks.vic.gov.au; jason.borg@parks.vic.gov.au; beverley.mcarthur@parliament.vic.gov.au;
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Dear Margaret,

Re: Withdrawal of Grampians and Black Range Set Aside Determinations - All Of The Park

On 9th March 2022, Matthew Jackson, CEO of Parks Victoria, signed and enacted new set aside determinations for the Grampians Gariwerd National Park and the Black Range State Park:

[Set Asides for Grampians Gariwerd National Park](#)

[Set Asides for Black Range State Park](#)

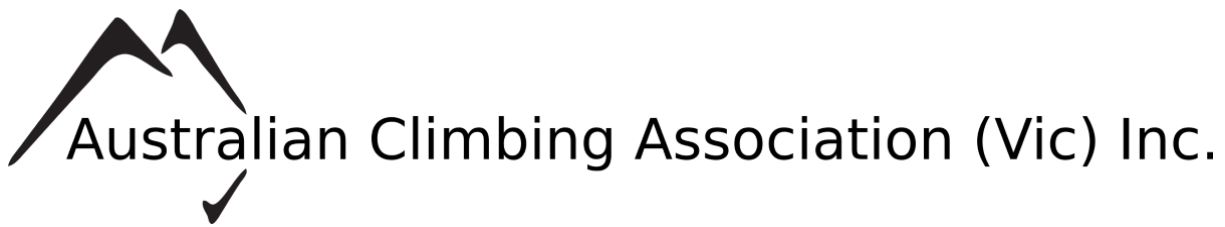
These determinations include “all of the park” prohibitions or restrictions for both parks, made under Regulations 20 and 65 of the *National Parks Regulations 2013*. Example below:

20	Areas where access is prohibited or restricted	To set aside an area of a park where access is prohibited.	All of the park as outlined in Table 5.2 (Attachment 1) of the <i>Greater Gariwerd Landscape Management Plan</i> .	At all times.	Park visitors are prohibited from the areas listed as outlined in Table 5.2 (Attachment 1) of the <i>Greater Gariwerd Landscape Management Plan</i> .
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We formally object to the introduction of all-of-the-park set asides on legal and regulatory grounds in accordance with our presentation in the attached *Appendix 1 - Legal and Regulatory Non Compliance*.

We advise that we are prepared to contest any climbing or bouldering infringement notice made under these determinations.

It is our view that valuable recreational activities such as rock climbing, bouldering and bushwalking will be decimated under these new determinations, without achieving any park protection objectives.



May I remind you that in 2020, climbing groups from around Victoria compiled and published a comprehensive climbing management guidelines document, based upon best practice within this activity, using lessons learned from highly-regarded climbing and bouldering locations around the world:

[Victorian Climbing Management Guidelines](#)

We firmly request that you:

- (a) Withdraw the implementation of all-of-the-park set asides, pending your review of legal and regulatory compliance.
- (b) Instigate an internal review of the justification for this proposed all-of-the-park exclusion approach.
- (c) Suspend the implementation of the associated rock climbing and bouldering measures prescribed within the Greater Gariwerd Landscape Management Plan.
- (d) Collaborate with climbing groups to modify Parks Victoria strategy in this area, guided by the well-established principles described within the Victorian Climbing Management Guidelines.

It is becoming apparent to many outdoor activity enthusiasts that Parks Victoria has attempted to fulfil its mission statement “Healthy Parks, Healthy People” by first excluding all of the people. Only then is the public allowed to enter the park in a limited fashion, under a complex series of conditions, including highly subjective ‘permissions’ being granted by Parks Victoria staff. It is our view that these management strategies contravene the relevant legislation and we have highlighted some legislative and regulatory failings to illustrate this. We will continue to pursue these matters at all levels, including approaching the Minister for Environment and any future Ministers for Environment.

We would be happy to collaborate further over these matters to assist Parks Victoria in their duties to protect and preserve our park landscapes, while ensuring provision and encouragement towards public enjoyment, recreation and education.

Kind Regards,

Mike Tomkins
President
Australian Climbing Association Victoria Inc.
president.vic@climb.org.au

Appendix 1 - Legal and Regulatory Non-Compliance

1. National Parks Act 1975

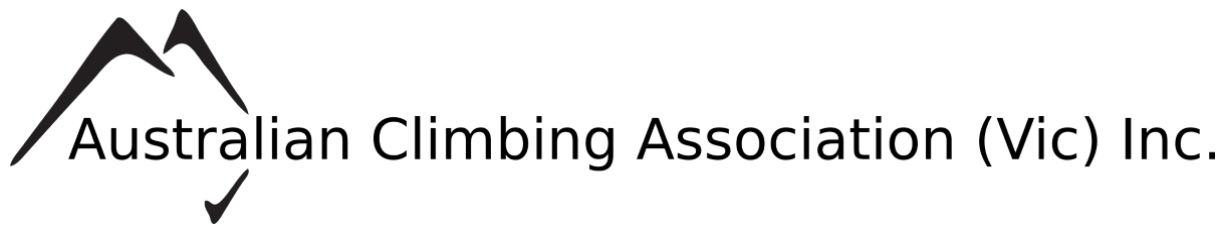
We contend that “all of the park” prohibitions or restrictions contravene the *National Parks Act 1975*. The excerpts shown below, give examples of how the Act requires the parks to be presented. It is the view of



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our legal advisors that all-of-the-park prohibitions or restrictions fail to satisfy the requirements of this overarching legislation:

National Parks Act 1975 No. 8702 of 1975 Authorised Version incorporating amendments as at 1 December 2021		
Preamble <p>WHEREAS it is in the public interest that certain Crown land characterized by its predominantly unspoilt landscape, and its flora, fauna or other features, should be reserved and preserved and protected permanently for the benefit of the public: And whereas it is in the public interest that certain areas of Crown land with landscape or other features of particular interest or suitability for the enjoyment, recreation and education of the public or in matters appertaining to the countryside should be reserved permanently and made available for the benefit of the public and in particular that there should be so reserved and made available—</p> <p>(a) areas with scenic, historical, archaeological, biological, geological or other features of scientific interest that are worthy of preservation but, whether by reason of the limited size of the areas or the limited significance of the features, are not suitable for reservation as national parks;</p> <p>(b) areas that demonstrate man's effect on his environment whether through his agricultural or pastoral pursuits or otherwise;</p> <p>(c) areas in or adjacent to urban areas of natural beauty or interest or otherwise suitable for recreational use;</p> <p>(d) areas of natural beauty or interest primarily for recreational and educational use but parts of which may be used for primary industry, hunting, shooting, fishing or other uses appropriate to the areas; and</p> <p>(e) areas in their natural state for scientific study or reference:</p> <p>And whereas for those purposes it is expedient to consolidate amend and make further provision in the law relating to national parks and to make provision for certain other parks.</p>	4 Objects of Act <p>The objects of this Act are—</p> <p>(c) to make provision in accordance with the foregoing for the use of parks by the public for the purposes of enjoyment, recreation or education and for the encouragement and control of that use.</p>	17 National parks and State parks <p>(c) to make provision in accordance with the foregoing for the use of parks by the public for the purposes of enjoyment, recreation or education and for the encouragement and control of that use.</p>



Park management strategies must comply with all relevant legislation. Any actions proposed under legislation such as the *Parks Victoria Act 2018* and the *Aboriginal Heritage Act 2006*, must not step outside the requirements of the *National Parks Act 1975*.

The powers in question are powers strictly pertinent to ensuring the objects of the *National Parks Act 1975* are achieved. With respect to the Grampians, the powers of Parks Victoria are those powers granted to them by the *National Parks Act 1975*, not the *Parks Victoria Act 2018*, because they are acting in this matter as delegates of the Minister. If the *National Parks Act 1975* or its subordinate *National Parks Regulations 2013* give broad powers to the delegate, they are still very much constrained by objects of the *National Parks Act 1975*. As one or more of those objects prescribes presentation of the park to the public, then any attempt to close off the park would be ultra vires.

2. National Parks Regulations 2013

We note that several amendments were made to the *National Parks Regulations 2013* in December 2020. One such amendment, noted below, adds a facility to introduce “whole of a park” determinations.

Reg. 20(3)
inserted by
S.R. No.
137/2020
reg. 8.

- (3) Without limiting regulation 10(1), a determination under subregulation (1) may specify—
- (a) that it applies to the whole of a park or a specified area of a park; and
 - (b) that it applies on specified days, or for specified times or periods; and
 - (c) that it applies to a specified class of vehicle, vessel or aircraft; and

These amendments were made without the prior consideration of a Regulatory Impact Statement.

We can illustrate that excluding the public from the “whole of a park” on the scale of Gariwerd/Grampians will have an economic impact that is significantly greater than the RIS threshold of \$2M per annum, along with considerable social impact.

A peer reviewed economic study has shown that: “the estimated direct and indirect rock climbing tourism benefits to regional communities in 2018 are \$12.3 million for Mount Arapiles (Dyurrite) and \$11.9 million for the Grampians (Gariwerd)”

[Economic Assessment of Rock Climbing at the Grampians National Park and Mount Arapiles](#)

We have referred this matter to the Commissioner for Better Regulation.

Further associated links:

<https://www.vic.gov.au/better-regulation-victoria>



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<https://www.vic.gov.au/regulatory-impact-statements>

<https://www.vic.gov.au/towards-best-practice-guide-regulators>