

# Department of Environment and Primary Industries

## **National Parks Regulations 2013**

### Regulatory Impact Statement

This Regulatory Impact Statement has been prepared in accordance with the requirements of the *Subordinate Legislation Act 1994* and the *Victorian Guide to Regulation*

**July 2013**

## NATIONAL PARKS REGULATIONS 2013

### REGULATORY IMPACT STATEMENT

In accordance with the *Victorian Guide to Regulation*, the Victorian Government seeks to ensure that proposed regulations are well-targeted, effective and appropriate, and impose the lowest possible burden on Victorian businesses and the community.

The Regulatory Impact Statement (RIS) process involves an assessment of regulatory proposals and allows members of the community to comment on proposed regulations before they are finalised. Such public input provides valuable information and perspectives, and improves the overall quality of regulations.

The National Parks Regulations 2013 (the proposed Regulations) remake the National Parks (Park) Regulations 2003 (the current Regulations). A copy of the proposed Regulations is provided as an attachment to this RIS.

Public comments and submissions are now invited on the proposed Regulations. All submissions will be treated as public documents and will be made available to other parties upon request. Written comments and submissions should be forwarded by no later than **5:00pm, Monday 19 August 2013** to:

Legislation Unit  
Land Management Policy Division  
Department of Environment and Primary Industries  
PO Box 500  
East Melbourne, Victoria 8002

or email:

[park.regulations@dse.vic.gov.au](mailto:park.regulations@dse.vic.gov.au)

This Regulatory Impact Statement was prepared for the Department of Environment and Primary Industries by Regulatory Impact Solutions Pty Ltd.

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## **ABBREVIATIONS**

**Council** – National Parks Advisory Council

**DEPI** – Department of Environment and Primary Industries

**DSE** – Department of Sustainability and Environment (now DEPI)

**Minister** – Minister for the Environment and Climate Change

**MCA** – Multi-criteria Analysis

**NCC** – National Competition Council

**NPV** – Net Present Value

**park** – the various national parks, state parks, wilderness parks, marine parks and sanctuaries and other parks, reserves and sanctuaries managed under the *National Parks Act 1975* from time to time.

**Premier’s Guidelines** – Subordinate Legislation Act 1994 Guidelines

**RIS** – Regulatory Impact Statement

**r.** – regulation

**s.** – section

**the Act** – *National Parks Act 1975*

**the Cape Howe Regulations** – the National Parks (Cape Howe Marine National Park) Regulations 2006

**the current Regulations** – National Parks (Park) Regulations 2003

**the proposed Regulations** – National Parks Regulations 2013

**VPS** – Victorian Public Service

## SUMMARY

### Purpose of a RIS

In Victoria the *Subordinate Legislation Act 1994* requires that new or remade regulatory proposals that impose an ‘appreciable economic or social burden on a sector of the public’ be formally assessed in a RIS to ensure that the costs of the regulatory proposal are outweighed by the benefits, and that the proposal is superior to alternative approaches. It has been assessed that the burden imposed by the proposed Regulations requires assessment in a RIS.

A RIS formally assesses regulatory proposals against the requirements in the *Subordinate Legislation Act 1994* and the *Victorian Guide to Regulation*.<sup>1</sup> The assessment framework of this RIS examines the problem to be addressed, specifies the desired objectives, identifies viable options that will achieve the objectives, and assesses the costs and benefits of the options, as well as identifying the preferred option and describing its effect. The RIS also undertakes a competition assessment. Finally, it considers implementation and enforcement issues, details the evaluation strategy, and documents the consultation undertaken.

### The proposed Regulations

The Department of Environment and Primary Industries (DEPI) administers the *National Parks Act 1975* (the Act) and its regulations. The current Regulations give operational effect to elements of the Act in relation to managing impacts of not-for-profit recreation and tourism by visitors in parks and are made under ss. 32AA, 37 and 48 of the Act. In particular, the current Regulations prescribe appropriate behaviours in respect of the preservation and protection of flora and fauna, park facilities, water supply, and the safety and education of park visitors. The specific objectives of government intervention are to maintain, conserve and protect park ecosystems and water catchments, while maintaining and improving their capacity to support recreation and tourism, which enhances the socio-economic benefits of parks to Victorian communities.

Organised tours and recreational activities carried out in parks on a for-profit basis are subject to a separate regime and are regulated under the National Parks (Tour Operator Licence Fee) Regulations 2011. The current Regulations will expire on 24 June 2013.<sup>2</sup>

In developing the proposed Regulations DEPI has taken the opportunity to improve their clarity and consistency. The proposed Regulations will consolidate the current Regulations with the *National Parks (Cape Howe Marine National Park) Regulations 2006* (the Cape Howe Regulations). They will also slightly reduce the compliance burden to visitors by not remaking certain regulations no longer considered necessary for responsible park management. [Attachment B](#) contains a full description of the proposed Regulations.

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<sup>1</sup> Department of Treasury and Finance 2011, *Victorian Guide to Regulation incorporating: Guidelines made under the Subordinate Legislation Act 1994*, 2.1 ed, August 2011, Melbourne

<sup>2</sup> In Victoria, regulations automatically expire or ‘sunset’ after 10 years.

The proposed Regulations are in most respects similar to the current Regulations they will replace. Broadly, the proposed Regulations seek to protect parks for the Victorian community by establishing a framework to manage human activities that may diminish park values. They do this by managing recreational activities, behaviours and access to parks.

As part of the RIS process the regulations were reviewed to examine whether they were still necessary and whether they could be improved (see [Attachment D](#) for a detailed list of changes). A number of changes are put forward in the proposed Regulations, namely:

- certain regulations do not apply to Traditional Owners when undertaking an aboriginal tradition. This is in line with other land management regulations;
- a regulation has been introduced regarding directions to promote safety to mirror similar provisions in Forest (Recreation) Regulations 2010;
- permit requirements have been simplified, e.g. removes the need for multiple permits if a person is the holder of an appropriate permit;
- removes the need to have a specific permit for an annoying/disturbing device if the holder already has an event permit;
- lifting the threshold for the requirement for a permit to 30 persons for an organised event in line with Forests (Recreation) Regulations 2010. Previously there was no threshold;
- removing overlap with the Forests (Fire Protection) Regulations 2004 with regards to maintaining and extinguishment of campfires;
- owing to a problem with trail or static cameras being used in parks for illegal hunting and monitoring the movement of compliance staff, DEPI has included a prohibition of their use except if used in accordance with legal hunting activities; and
- seven regulations have been removed (or modified) because there was no evidence that there was an associated problem and to remove duplication with other regulations or the Act, e.g. the prohibitions on umbrellas, jumping castles, and the use of playground equipment have been removed because no offence has occurred in the previous 10 years.

## **Victoria's park system and its management**

Victoria has an extensive system of protected areas managed under the Act and is one of the most diverse and accessible park networks in the world.<sup>3</sup> As of 30 June 2012 there were 138 parks in the parks system covering a total of nearly 3.45 million hectares.<sup>4</sup>

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<sup>3</sup> Parks Victoria, 2007, *Victoria's State of the Parks Report*, Melbourne, p. 40

<sup>4</sup> DSE, 2012, *National Parks Act Annual Report 2012*, October, Melbourne, p. 3

Victoria's parks protect and provide a number of important values. These encompass the *natural values* of protecting and conserving the natural environment, the *social and cultural values* of conserving cultural heritage, providing opportunities to enjoy and understand Victoria's environment and providing *economic values*.<sup>5</sup>

Parks Victoria is responsible, through a management services agreement with the Secretary of DEPI under Section 16A of the *National Parks Act 1975*, for managing the parks on behalf of the Secretary. In addition, a National Parks Advisory Council (Council) is appointed under s. 10 of the Act to advise the Minister for the Environment and Climate Change in relation to the administration of the Act.

Victoria's parks are managed to provide a broad range of opportunities for recreation and tourism. A range of visitor facilities are provided in parks; from simple walking tracks to car parks, toilet and picnic facilities and even large scale interpretive centres.

### **Nature and extent of the problem**

Parks are used for a wide range of recreational activities including sight-seeing, picnicking, bush walking, rock climbing, camping, and four wheel driving. In 2005 Parks Victoria was responsible for 54 visitor centres, 929 toilet blocks, 436 viewing lookouts, 555 information and picnic shelters, 52 playgrounds, 14,000 kilometres of roads, 3,700 kilometres of walking trails and more than 1,200 car parks.<sup>6,7</sup> It is estimated there were just over 33 million annual visits to national and state parks in Victoria in 2011.<sup>8</sup>

There is no quantitative data available about the number and size of areas within the parks system currently set aside for particular activities or where particular activities are not permitted. However, there are around 500 permits issued annually across all parks that provide permission for persons to undertake certain activities, including sports/recreation (50 per cent), events/wedding (40 per cent), as well as permits for other recreational activities.

Negative impacts on the environment are an inevitable consequence of recreation.<sup>9</sup> Physical effects include track formation, soil loss and/or compaction, an increase in fire frequency, littering and water pollution. Biological effects include causing damage to vegetation, assisting weed dispersal, and increasing risk of myrtle wilt disease and the spread of the soil pathogen *Phytophthora cinnamomi*. Activities in parks can also affect visitors themselves, who may face health and safety risks or experience anti-social behaviour.

Over the past three years 94 prosecutions have been made under the current Regulations. In 2011/12 a total of 412 penalty infringement notices and 116 warnings were issued in relation to the current Regulations.

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<sup>5</sup> Parks Victoria, 2007, *ibid.*, Ch.2

<sup>6</sup> This included both parks managed under the Act and the foreshores and waterways for which Parks Victoria is responsible.

<sup>7</sup> Parks Victoria, 2007, *ibid.*, p. 218

<sup>8</sup> DSE, 2011, *National Parks Act Annual Report 2011*, Melbourne, p. 16

<sup>9</sup> Leung YF and Marion JL 2000, *Recreation Impacts and Management in Wilderness: A State-of-Knowledge Review*, USDA Forest Service Proceedings RMRS-P-15-VOL-5. 2000, p. 23 at <http://www.wilderness.net/toolboxes/documents/vum/Rec%20Impacts-Mgmt.pdf> accessed on 23.11.12

A sound regulatory regime for parks should impose minimum restrictions on visitors to effectively protect particular park values and mitigate or remedy any clearly identified harm.

### **Cape Howe Marine National Park and Point Hicks Marine National Park**

The Act prohibits fishing in Point Hicks National Park as well as the possession of priority species (abalone and rock lobster). However, s. 45B of the Act provides a limited exemption to persons approved by the Minister from certain offences relating to having a priority species and to anchoring/mooring a boat carrying rock lobster pots at Point Hicks Marine National Park.<sup>10</sup> Such approval is only given subject to certain conditions which must be prescribed in the regulations. Regulation 68 of the current Regulations, which is proposed to be remade as r. 63 of the proposed Regulations, prescribes certain conditions for such an approval.

The Cape Howe Regulations bring into operation s. 45A(4) of the Act which provides severe penalties for being in charge of a commercial fishing boat at the Cape Howe Marine National Park. They were enacted to improve efforts to deter and detect illegal fishing as there has been a history of illegal commercial harvesting of sea urchin and abalone in the Cape Howe Marine National Park.<sup>11</sup> A RIS was prepared in 2006 for the Cape Howe Regulations<sup>12</sup> and a full analysis of the nature of the problem, options to address this and the impact of these regulations was undertaken as part of that RIS process.

Since the regulations were introduced there have been a number of prosecutions, which is a key measure of the effectiveness of these regulations. Anecdotally, DEPI report that there has also been a significant reduction in illegal fishing.

While discussions with Fisheries Victoria (FV) suggest that the current Cape Howe Marine National Park provisions have improved enforcement efforts in the area, they advise that the underlying issue of the threat of illegal fishing is still apparent and that these regulations are an effective method of dealing with the problem.

### **Objectives**

The Victorian Government's objective is to establish appropriate arrangements for visitors to parks that enable recreational use while:

- maintaining and conserving biodiversity and features of natural scenic significance in parks;
- protecting water supply catchment areas;

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<sup>10</sup> The National Parks Act prohibits boats carrying priority species (Rock lobster and abalone) from entering Marine National Parks. However, to enable boats carrying priority species to seek safe harbour around Point Hicks when certain weather conditions prohibit them returning to Mallacoota, the regulations prescribe an area of the park which they may enter and anchor. To ensure this provision is being used only for this circumstance and to assist in the compliance works against illegal fishing, fishers seeking to use this provision need to apply once a year and notify Parks Victoria by phone when they enter and leave the park. There are currently two approvals in place.

<sup>11</sup> DSE, 2006, *Regulatory Impact Statement proposed National Park (Cape Howe Marine National Park Regulations 2006*, Melbourne

<sup>12</sup> DSE, 2006, *ibid.*



- maintaining and improving the capacity of park ecosystems to support recreation and tourism; and
- promoting safe visitor use and enjoyment of parks.

To assist in ease of compliance and regulatory best practice, the government also seeks to create a consistent framework for the management of public land for recreational purposes across Victoria.

### Options to achieve the objectives

Given the relatively specific range of matters dealt with by the proposed Regulations, along with the inappropriateness of standalone options such as broad education campaigns or voluntary codes of conduct, options were limited to considering matters of regulatory design. As such, alternatives were considered with respect to:

- Option A – increasing penalties for high risk, high probability events;
- Option B – performance-based standards for camping and hygiene; and
- Option C – options for wheel chains.

In addition to these options, as noted above, the proposed Regulations were streamlined and simplified during this RIS process, and informed by practical experience and stakeholder feedback.

To inform the analysis, a Multi-criteria Assessment (MCA) assessment was conducted for Option A and Option B. These are summarised in Table 1 below. The preferred options, with the relatively higher weighted score, have been included in the proposed Regulations. The assessment methodology is described in the *Victorian Guide to Regulation*.<sup>13</sup>

**Table 1: Summary of MCA assessment scores**

Options	Weighted Score*
<b>Addressing high risk, high probability activities</b>	
Option A1 – higher penalties (incorporation into legislation)	25.0
Option A2 – proposed Regulations (infringement penalties in regulations)	<b>27.5</b>
<b>Camping and hygiene</b>	
Option B1 – performance-based standards	12.5
Option B2 – prescribed standards	<b>20.00</b>

\* Bold indicates preferred option.

With respect to Option C, there appears to be merit in changing the current regulatory approach to permit park managers to waive the requirement to carry wheel chains on certain days (i.e. when it is clear that weather conditions do not require them).

<sup>13</sup> DTF, 2011, *ibid.*, p. 85

## Preferred option

The proposed Regulations, incorporating the design options above score the highest MCA assessment rating, and represent the preferred approach. The costs for park users and government associated with the preferred approach are summarised in Table 2 below.

**Table 2: Regulatory and government costs of the proposed Regulations**

Regulation	Description of Regulation	Cost (\$)
	<i>Park user costs</i>	
rr. 16, 17, 36, 39, 40, 41, 55, 58, 61, 62, 63	Permit applications	21,249
r. 53	Wheel chain hire	438,500
	<i>Sub-total</i>	<i>459,749</i>
	<i>Government costs</i>	
rr. 14(3), (8)	Temporary closure of parks – signs and notices	15,000
rr. 9(2), 21(5), 51(5), 52(1)	Signage erection - set aside areas; fishing; vehicles; parking	20,000
	Enforcement – Authorised Officers	1,575,655
	<i>Sub-total</i>	<i>1,610,655</i>
<b>Total</b>		<b>2,070,404</b>

The total quantifiable costs to users of parks specified in the proposed Regulations and government costs associated with the proposed Regulations are approximately **\$2 million** per annum, or \$17.2 million (PV) over a 10 year period.

There are also non-quantifiable costs in the proposal, many of which relate to conduct or behaviour. The costs associated with ensuring appropriate behaviour in parks are considered minimal because the vast majority of businesses and individuals do not engage in aberrant or illegal behaviour. That is, activities undertaken by individuals such as harming animals and damaging or destroying trees are not ‘normal’ activities and would therefore not impinge upon the conduct or behaviour of the vast majority of individuals. [Attachment F](#) provides a qualitative assessment of these costs.

In terms of benefits, it has been estimated that three of Victoria’s national parks (Grampians, Port Campbell and Wilsons Promontory) alone contribute **\$487 million annually** to the state’s economy.<sup>14</sup> It is important to recall that these values relate to just three of Victoria’s 138 parks covered by the proposed Regulations. Even if the proposed Regulations make only a small contribution towards these values, the benefit deriving from the proposed Regulations is likely to be considerable. This suggests that the regulatory costs imposed by the proposed Regulations (in the order of \$2 million annually), which seek to protect the environment and manage health and safety risks, are reasonable given the value generated by Victoria’s parks.

<sup>14</sup> Parks Victoria, 2003, *ibid*.

## **Groups affected**

Groups affected by the options identified above include park visitors (including special interest groups such as bird watching clubs, dog walkers, naturalist clubs, and walking clubs), owners of surrounding property, organisers of not-for-profit events, social functions, surrounding local governments and Parks Victoria officers. Attachment H lists the stakeholders consulted and provides a broad picture of the user groups that will be affected by the proposed Regulations.

The proposed Regulations predominantly relate to the conduct and behaviour, and restrictions placed on individuals. Commercial businesses operating in the parks are separately regulated by the National Parks (Tour Operator Licence Fee) Regulations 2011. As the proposed Regulations have minimal impact on business, a small business impact assessment is not included in this RIS.

## ***Competition Assessment***

The activities covered by the proposed Regulations mostly relate to managing actions and behaviours of individuals and as such these do not restrict competition in the market for goods and services. The proposed Regulations are considered to meet the ‘competition test’ as set out in the *Victorian Guide to Regulation*.

## ***Implementation***

Given that the proposed Regulations closely resemble requirements that have been in place for 10 years, it is not expected that the proposed Regulations will raise any implementation issues or cause unintended consequences.

## ***Conclusion***

This RIS concludes that:

- the benefits to society of the proposed Regulations exceed the costs;
- the net benefits of the proposed Regulations are greater than those associated with any practicable alternatives; and
- the proposed Regulations do not impose restrictions on competition.

## ***Public consultation***

The prime function of the RIS process is to help members of the public comment on proposed regulations before they are finalised. Public input, which draws on practical experience, can provide valuable information and perspectives, and thus improve the overall quality of regulation.

The proposed Regulations are being circulated to key stakeholders. DEPI welcomes and encourages feedback on the proposed Regulations. While in no way limiting comments, stakeholders may wish to comment on:

- filling out forms for permits imposes administrative costs on applicants. Can the forms or processes be streamlined or simplified?
- would electronic lodgement of permit application forms assist applicants?
- the changes to event permits, wheel chain requirements and the use of trail cameras;
- with respect to the regulations dealing with the Cape Howe Marine National Park:
  - should the regulations prescribe classes of equipment be used instead of a class of boats?
  - should the regulations prescribe different area(s) of the park?
  - should different classes of boats be prescribed (e.g. boats above a certain length or displacement)?
- any unreasonable limitations or inconvenience on the rights of park users;
- any practical difficulties associated with the proposed Regulations; and
- any unintended consequences associated with the proposed Regulations.

All submissions will be treated as public documents and will be made available to other parties upon request.

## 1. WHAT IS THE PROBLEM/ISSUE TO BE ADDRESSED?

### Key points:

- There are 138 parks in the Victorian parks system covering a total of nearly 3.45 million hectares.
- Victoria's parks protect and provide a number of important values encompassing natural values, social and cultural values, and economic values.
- Victoria's parks are managed to provide a broad range of opportunities for recreation and tourism. The focus of this RIS is on the not-for-profit recreational use of parks.
- Government intervention in the management of parks can be justified both on grounds of market failure and for social and environmental reasons.
- The environmental costs that arise from environmental damage and degradation caused by recreation and tourism in parks are well established in the scientific literature. Activities in parks can also affect visitors themselves, who may face health and safety risks or experience anti-social behaviour.
- A sound land management regulatory regime should impose minimum restrictions to effectively protect park values and mitigate or remedy any clearly identified harms.
- The risks of non-intervention are that park values would be over-used and/or diminished and that uninformed or aberrant behaviour could damage the environment or park infrastructure. In addition, the regulatory framework established by the Act for managing recreation in Victoria's parks would be weakened.

### 1.1 Background

#### *Victoria's park system*

Victoria has an extensive system of protected areas managed under the *National Parks Act 1975* (the Act) which is one of the most diverse and accessible park networks in the world.<sup>15</sup> As of 30 June 2012 there were 138 parks in the parks system covering a total of nearly 3.45 million hectares.<sup>16</sup> The proposed Regulations would apply to all of the 138 parks. These comprise 45 national parks, three wilderness parks, 25 state parks, five coastal parks, three historic parks, two nature conservation reserves, eight regional parks and one farm, three marine and coastal parks, two marine parks, one marine reserve, one national heritage park, 13 marine national parks, 11 marine sanctuaries and 15 non-scheduled areas to which particular provisions of the Act apply.<sup>17</sup>

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<sup>15</sup> Parks Victoria, 2007, *Victoria's State of the Parks Report*, Melbourne, p. 40

<sup>16</sup> DSE, 2012, *National Parks Act Annual Report 2012*, October, Melbourne, p. 3

<sup>17</sup> DSE, 2012, *ibid*, p. 3

### *Park values*

Victoria's parks protect and provide a number of important values. These encompass the *natural values* of protecting and conserving the natural environment, the *social and cultural values* of conserving cultural heritage, providing opportunities to enjoy and understand Victoria's environment and providing *economic values*.<sup>18</sup>

A key natural value provided by parks is the protection of Victoria's biodiversity. This is achieved by the inclusion of a diverse range of ecosystems and bioregions, a significant proportion of Victoria's native flora, fauna and other vegetation (including those which are threatened) and significant geological features within the parks network.<sup>19</sup> Protecting these values is important because of their intrinsic worth. A further set of natural values provided and protected by parks are termed 'ecosystem services'. These services are the vital inputs for community well-being that ecosystems provide. Ecosystem services include high quality air, clean water, pollination, pest insect control, healthy soil and the prevention of soil erosion.<sup>20</sup>

Social and cultural values of parks include the preservation and protection of the physical cultural heritage and connection to country of indigenous peoples and traditional owners, the preservation and protection of physical cultural sites which post-date European settlement. Parks provide people with the opportunity to connect with the environment, socialise in open spaces, be inspired, seek solitude or participate in sporting or recreational pursuits. As well as providing enjoyment to visitors, parks can also provide health and social benefits.<sup>21</sup>

Aside from ecosystem services, parks also provide a range of other economic benefits such as the provision of tourism, sport, recreation and transport services to park visitors. The parks network is Victoria's major provider of nature-based tourism experiences.<sup>22</sup> In addition, spending by Parks Victoria on park infrastructure and in direct employment produces further economic benefits. Three of Victoria's national parks (Grampians, Port Campbell and Wilsons Promontory) alone contribute \$487 million annually to the state's economy.<sup>23</sup>

Visiting parks can generate a variety of social and economic benefits. Recreational activities involving individuals, families and clubs can improve health and increase social capital. Parks are a key resource for recreational and physical activity, the health and wellbeing benefits of which contribute to the quality of life. Parks also have educational value, providing opportunities for visitors to understand and experience the natural environment.

### *Park management*

Under the Act the Secretary for DEPI is responsible for ensuring that these parks are controlled and managed in accordance with the Act. Parks Victoria was established under the *Parks Victoria Act 1998* and is responsible, through a management services agreement with

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<sup>18</sup> Parks Victoria, 2007, *ibid.*, Ch.2

<sup>19</sup> Parks Victoria, 2007, *ibid.*, Ch.3

<sup>20</sup> See Parks Victoria, 2007, *ibid.*, p. 61

<sup>21</sup> See Parks Victoria, 2007, *ibid.*, Ch 8 for further discussion of these benefits

<sup>22</sup> Victoria, 2007, *ibid.*, p. 202

<sup>23</sup> Parks Victoria, 2003, *The value of parks – the economic value of three of Victoria's national parks: Port Campbell, Grampians, Wilsons Promontory*, Parks Victoria, Melbourne

DEPI, which is authorised by s. 16A of the Act, for managing the parks and other areas under the Act on behalf of the Secretary.<sup>24</sup>

Parks Victoria's long term goals in respect to park management are for parks to be places in which:

- natural values and ecological processes are maintained and restored for their long-term viability;
- indigenous people's rights, aspirations and needs are acknowledged and indigenous culture is conserved and managed in partnership with traditional owners and indigenous communities;
- places and objects of significant heritage value from European settlement are conserved for current and future generations to enjoy and understand the legacy of previous generations; and
- environmentally sustainable and culturally appropriate recreational, social and economic benefits of parks are available to Victorian communities.<sup>25</sup>

In addition, a National Parks Advisory Council (Council) is appointed under s. 10 of the Act to advise the Minister in relation to the administration of the Act. The Council currently comprises two government and eight non-government members.<sup>26</sup> Section 14 of the Act provides for the appointment of advisory committees to advise the Minister, as required, on a specific park or parks. There are currently no advisory committees in place.

Victoria's parks are managed to provide a broad range of opportunities for recreation and tourism. Parks Victoria provides a variety of information, education and interpretation services in relation to the parks system to encourage visits, to increase the public's understanding of parks and of biodiversity, to manage risks that may occur in parks and to encourage a deeper connection from the public with the environment.<sup>27</sup> In addition, a range of visitor facilities are provided in parks. These range from simple walking tracks to car parks, toilet and picnic facilities and even large scale interpretive centres at parks with significant visitor numbers.

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<sup>24</sup> DSE, 2012, *ibid.*, p. 14

<sup>25</sup> Parks Victoria, 2007, *ibid.*, p. 16

<sup>26</sup> DSE, 2012, *ibid.*, p. 17

<sup>27</sup> DSE, 2012, *ibid.*, p. 12

### *Current Regulations*

The current Regulations are primarily a tool for the management of the impact of visitors to parks on park values and give operational effect to elements of the Act. The current Regulations will expire on 24 June 2013.

The current Regulations:

- prescribe appropriate behaviour in parks for the preservation and protection of flora and fauna;
- prescribe appropriate behaviour in parks for the protection of structures and park facilities;
- prescribe appropriate behaviour in parks for the protection of water supply catchment areas;
- prescribe appropriate behaviour in parks for the safety, enjoyment, recreation and education of visitors;
- prescribe the proceedings of the Council and other advisory committees; and
- prescribe conditions for various approvals under the Act.

The *National Parks (Cape Howe Marine National Park) Regulations 2006* (the Cape Howe Regulations) enable the passage of prescribed commercial fishing vessels through Cape Howe Marine National Park to allow access to an area where fishing is permitted. By the operation of s. 45A(4) of the Act all other commercial fishing vessels are prohibited in this area of the Cape Howe Marine National Park.

The proposed Regulations largely consolidate into one set of regulations and remake the current Regulations and the Cape Howe Regulations. Whilst there are no substantive changes the proposed Regulations do slightly reduce the compliance burden to visitors by not remaking certain regulations that are no longer considered necessary for responsible park management. These include regulations concerning inappropriate use of umbrellas, use of toilet facilities provided for the opposite sex, inappropriate use of playground equipment and jumping castles.

This RIS only is concerned with the management of parks for not-for-profit recreational use. Organised tours and recreational activities carried out in parks on a for-profit basis are subject to a separate regime and are regulated under the National Parks (Tour Operator Licence Fee) Regulations 2011. As at 30 June 2012, 286 tour operators were licensed to operate in areas under the Act.<sup>28</sup>

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<sup>28</sup> DSE, 2012, *ibid.*, p. 13



## 1.2 Rationale for government intervention

Public policy generally begins from the premise that any economic activity should be free of regulation unless it can be shown that it is subject to ‘market failure’, which if left unregulated, will not generate socially efficient levels of output.

### 1.2.1 Market failure rationale

External costs and benefits, referred to by economists as ‘externalities’, occur when an activity imposes costs (which are not compensated) or generates benefits (which are not paid for) on parties not directly involved in the activity (i.e. on third parties). Without regulation, the existence of externalities results in too much of an activity (where external costs or negative externalities occur) or too little of an activity (where external benefits or positive externalities arise) taking place from society’s point of view.

The concept of the ‘tragedy of the commons’ illustrates both market failure and externalities. The ‘tragedy of the commons’ situation is one that argues that free access to and unrestricted demand for a finite resource ultimately dooms the resource through over-use. This occurs because the benefits of use accrue to individuals or groups, each of whom is motivated to maximise use of the resource to the point at which they become reliant on it. At the same time, the costs of the exploitation are borne by all those to whom the resource is available (which may be a wider class of individuals than those who are exploiting it). This, in turn, causes demand for the resource to increase, which causes the problem to escalate to the point that the resource is ultimately exhausted. Ludwig von Mises articulated this problem in 1940 in the following way:

‘If land is not owned by anybody, although legal formalism may call it public property, it is used without any regard to the disadvantages resulting. Those who are in a position to appropriate to themselves the returns — lumber and game of the forests, fish of the water areas, and mineral deposits of the subsoil — do not bother about the later effects of their mode of exploitation. For them, erosion of the soil, depletion of the exhaustible resources and other impairments of the future utilization are external costs not entering into their calculation of input and output. They cut down trees without any regard for fresh shoots or reforestation. In hunting and fishing, they do not shrink from methods preventing the repopulation of the hunting and fishing grounds.’<sup>29</sup>

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<sup>29</sup> Mises L, Part IV, Chapter 10, Sec. VI, *Nationalökonomie: Theorie des Handelns und Wirtschaftens*, Geneva: Editions Union, 1940. The quote provided is that of Mises’s expanded English translation, Chapter XXIII: The Data of the Market, Sec. 6: The Limits of Property

A common regulatory solution to correct the externalities identified with tragedy of the commons is to establish rules and requirements governing the use of and access to certain areas, and where relevant, to establish systems of permits and/or licences.

Another rationale for government intervention in parks areas is their status as a public good. Public goods are characterised by the fact that no one can be effectively excluded from consuming them, and that increased consumption of the good by one individual does not reduce availability to others. For example, any boat owner operating in the vicinity of a lighthouse cannot be excluded from its safety benefits. Nor does the boat owner's use of the lighthouse service detract from its usefulness to other boat owners. Aesthetic values are among many public goods provided by Victoria's parks, along with biodiversity conservation and watershed protection. Economic theory explains why the free markets will systematically under-provide such goods, and why collective action, typically by the government, is usually required to ensure their adequate provision.

### *1.2.2 Environmental and social rationales*

As part of the National Competition Policy legislation review in the early 2000s, the National Competition Council (NCC) assessed the market characteristics of public land (in this case state forests) and argued that government intervention is justified on public interest grounds.<sup>30</sup> The NCC noted that such public land provides a wide range of benefits to the community, from the conservation of biological diversity, soil productivity and water quality to recreational experiences, timber production and stock grazing. Parks share many features with state forests. From a social point of view, there is a public expectation that government takes a leading role in protecting parks. Arguably, community expectations have increased regarding the government's role in protecting Victoria's natural assets because of a heightened awareness of environmental issues in recent years.

From a social point of view, it could be argued that there is a public expectation that government takes a leading role in protecting the public from harm in parks. Arguably, community expectations have also increased regarding government's role in protecting Victorians from potential health and safety harms.

## **1.3 Risks of non-intervention**

The risks of non-intervention are that park values would be over-used and/or diminished. There is also a risk that uninformed or aberrant behaviour could damage the environment or park infrastructure (e.g. bushfires caused by lighting fires in undesignated areas or park facilities being vandalised). In the absence of government intervention, there is a high probability that this would occur – centuries of human activity and the resultant environmental regulatory controls in practically all international jurisdictions provide testament to this.

Specifically, the risk associated with not remaking the current Regulations is that the regulatory framework established by the Act for managing recreation in Victoria's parks

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<sup>30</sup> National Competition Council, 2003, *Assessment of governments' progress in implementing the National Competition Policy and related reforms: Volume two – Legislation review and reform*, AusInfo, Canberra, p. 1.94

would be weakened. Enforcement mechanisms and the efficient operation of the Act would be adversely affected because there would be no basis for restrictions on activities such as camping, vehicle access, horse riding, damage to flora, interference with fauna, and other non-commercial activities. A range of offences would not be prescribed, and there would be a high probability that the ability of the Victorian Government to manage parks effectively would be compromised given the magnitude of the potential risks.

## **1.4 Nature and extent of the problem**

### *1.4.1 Recreational use of parks*

Victoria's parks are managed to provide a broad range of opportunities for recreation and tourism. Locations range from high visitation sites with significant infrastructure, to remote sites largely limited to bushwalking. Visitor numbers, conflicts between uses and demand for particular sites must be managed equitably to ensure that the range and extent of these activities can continue sustainably for future generations. The areas of parks available for recreation and tourism, and the types of activities permitted, are regulated to ensure the protection of park values and for public safety.

Parks are an important part of the public recreation estate, providing a broad range of recreational opportunities that may be excluded or are not catered for elsewhere because public access to private land for recreation and tourism is generally limited.

Parks are used for a wide range of recreational activities including sight-seeing, bush walking, camping, sporting activities and four wheel driving. In 2012 Parks Victoria was responsible for managing a portfolio of more than 27,000 assets including 45 visitor centres, 855 toilet blocks, 516 viewing lookouts, 687 information and picnic shelters, 55 playgrounds, 15,000 kilometres of roads, 3,700 kilometres of walking trails and more than 100 sporting facilities.<sup>31</sup> Facilities such as walking or riding tracks, picnic sites and camp grounds are provided solely for recreation or tourism. In contrast roads and vehicular tracks are primarily managed for park management purposes but can also enable recreation and tourism activities.

The current Regulations restrict many activities that, if left unmanaged, could negatively impact upon the parks' environment or visitor amenity and safety. However, the current Regulations provide that certain activities may be conducted under a permit. There are twelve types of permits which seek to manage such activities, and conditions are usually attached to these permits. In 2011/12 there were around 500 permits issued annually across all parks. Permits were issued for sporting/recreational activities (50 per cent), events/weddings (40 per cent), and for other minor recreational activities.<sup>32</sup>

The current Regulations also provide that the Secretary of DEPI may close a park in the event of an emergency, including a flood, fire, natural disaster, or any other emergency. This power was used over the 2012/13 summer holiday season in relation to the Victorian bushfires.

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<sup>31</sup> Parks Victoria, 2012, *Parks Victoria Annual Report 2011-12*, Melbourne, p. 7

<sup>32</sup> Minor activities included: interfering with non-fauna wildlife (none issued); operating annoying equipment (6); advertising, soliciting, public speaking, etc (6); launching an aircraft (none issued); cave permit (6); cut vegetation for duck hide (4); and entry into certain water supply catchment areas (2).

Finally, the regulations provide that the Secretary may make a determination to set aside an area in a park as a prohibited access area or a restricted access area. The most common form of ‘set aside’ areas include where: firewood may be collected; access is prohibited; access is restricted; a fire may be lit; camping areas; dogs may be brought in; and where vehicles are prohibited. Since 2009 nine new set aside areas have been determined in nine parks. These included setting aside in relation to prohibited access areas, lighting or maintaining a fire, and camping.

#### 1.4.2 *Estimated recreational demand*

A biennial survey is conducted of park visitors from Victoria, New South Wales, South Australia and overseas. The last survey for which data is available was conducted during 2010/11 and estimated there were just over 33 million annual visits to national and state parks in Victoria.<sup>33</sup> This represented a slight increase in visitor numbers since the previous survey. Increasing numbers of visitors place greater demands on the natural and built features of forests, parks and reserves.

In addition, visitor numbers were monitored at sites in the Port Campbell National Park and Bay of Islands Coastal Park during 2010/11. The total annual number of visitors to the Port Campbell National Park was estimated to be just over three million and the total annual number of visitors to the Bay of Islands Coastal Park was estimated to be almost 900,000.<sup>34</sup>

#### 1.4.3 *Offending in parks*

Over the past three years 94 prosecutions have been made under the current Regulations. Table 3 shows the total number of such prosecutions broken down by offence type. Most of these prosecutions related to dogs being in a park or being uncontrolled within a park. There were also a significant number of infringements for interfering with vegetation.

**Table 3: Prosecutions under the current Regulations (past 3 years)**

Offence	No. prosecutions
Dog in park/uncontrolled in park	44
Damaging vegetation	25
Vehicle in prohibited access area/ restricted access area	9
Using equipment likely to disturb a person	5
Parking in an area not set aside of parking	3
Enter/remain in water supply catchment	2
Interfering with wildlife	2
Possess/carry/use a trap/net/snare	1
Using equipment likely to disturb fauna	1
Dangerous activity	1
Lighting/maintaining a fire	1

Source: DSE 2012

Between 2003 and 2012 (the life of the current Regulations) there have been 1,457 penalty infringement notices issued for breaches of the current Regulations. The vast majority of

<sup>33</sup> DSE, 2011, *National Parks Act Annual Report 2011*, Melbourne, p.16

<sup>34</sup> DSE, 2011, *ibid.*, p. 16

these relate to having a dog in a park but there have also been a significant number issued for having a vehicle in an area not set aside for vehicles, lighting a fire or damaging vegetation. A number of penalty infringement notices have also been issued for being in a prohibited access area or water supply catchment area and for camping in an area not set aside for camping. Table 4 shows the total number of penalty infringement notices issued over the life of the current Regulations broken down by offence type. A total of 412 penalty infringement notices were issued during 2011/12.<sup>35</sup>

**Table 4: Penalty infringement notices issued (2003–2012)**

Offence	Current Regulation	No. issued 2003/12
Dog in park	r. 37(2)	679
Lighting a fire	r. 25(1)	164
Vehicle in a set aside area	r. 40(2)	157
Damaging vegetation	r. 13(1)	116
Camping in a set aside area	r. 34(1)	87
Person in a prohibited access area	r. 19(1)	72
Yarra Ranges water supply catchment	r. 58(1)	71
Speeding or driving in wrong direction	r. 40(3)	26
Person in a Restricted Access Area	r. 19(2)	23
Parking	r. 41(1)	12
Harassing wildlife	r. 9(1)	11
Interfering with structures	r. 18	11
Walking/riding off track	r. 20(1)	7
Launching boat from set aside	r. 43(2)	6
Fishing in a set aside	r. 12(1)	5
Digging or removing soil	r. 17(1)	3
Sport in a set aside	r. 26(1)	2
Horse in a park	r. 37(4)	2
Poison or trap	r. 10(1)	1
Wedding without permit	r. 27(2)	1
Polluting water in water supply catchment	r. 48(2)	1

Source: DSE 2012

In addition, there were 116 warnings issued in 2011/12 in relation to the current Regulations. Again these included offences relating to dogs and also the use of recreational fishing equipment in a marine national park/marine sanctuary and entering or remaining in a prohibited or restricted area.<sup>36</sup>

<sup>35</sup> DSE, 2012, *ibid.*, p.16

<sup>36</sup> DSE, 2012, *ibid.*, p.16

#### 1.4.4 Impacts from recreational activities in parks

Negative impacts on the environment are an inevitable consequence of recreation.<sup>37</sup> In fact, the impact of recreation on the environment is so well established that it has spawned its own branch of scientific study referred to as ‘recreation ecology’.<sup>38</sup> Users have also recognised and responded to the impacts of recreation/tourism and since the late 1980s ecotourism (the practice of low-impact, educational, ecologically and culturally sensitive travel) has been one of the fastest growing segments in the tourism sector.

A review of the literature on the impacts of recreation more broadly in Australia was undertaken by Sun and Walsh.<sup>39</sup> This review examined the available information on the impact of recreation and tourism on environments, particularly on vegetation and soil, and found that the most common recreational and tourist activities (such as bush walking, camping, horse-riding) can, if not well managed, adversely affect the values of Australian natural and semi-natural resources both physically and biologically. Physical effects include track formation, soil loss and/or compaction, an increase in fire frequency, littering and water pollution. Biological effects include causing damage to vegetation, assisting weed dispersal, and increasing risk of myrtle wilt disease and the spread of the soil pathogen *Phytophthora cinnamomi*. Another study, *Environmental Impacts of Tourism and Recreation in National Parks and Conservation Reserves*<sup>40</sup>, drew similar conclusions and concluded that “to minimise environmental impacts of tourism and recreation requires a combination of planning and regulation ...”.<sup>41</sup>

Parks Victoria staff have assessed the impact of park visitors on natural values in 288 parks and found these to be mixed.<sup>42</sup> In 23 per cent of parks no visitor impacts on natural values were recorded at all whilst in 14 per cent of parks visitor impacts were reported to be high. Commonly reported activities that impacted on natural values across all parks included off-road driving, riding or walking. Removing vegetation for firewood, poaching/collecting species, and illegal hunting were a concern in some parks, particularly those in central Victoria. Some parks had problems with inappropriate rubbish disposal and specific recreational activities, such as climbing and fossicking. Boating was a concern in parks along the Murray River and in the marine environment. In intertidal environments of marine protected areas there were reports of the trampling of sensitive communities and the disturbance of birds. In a few parks geological features had been subject to impacts from vandalism.

Activities in parks can also affect visitors themselves, who may face health and safety risks or experience anti-social behaviour.

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<sup>37</sup> Leung YF and Marion JL, 2000, *Recreation Impacts and Management in Wilderness: A State-of-Knowledge Review*, USDA Forest Service Proceedings RMRS-P-15-VOL-5. 2000, p. 23 at <http://www.wilderness.net/toolboxes/documents/vum/Rec%20Impacts-Mgmt.pdf> accessed on 23.11.12

<sup>38</sup> Leung YF and Marion JL 2000, *ibid.*

<sup>39</sup> Sun D and Walsh D., 1998, ‘Review of studies on environmental impacts of recreation and tourism in Australia’, *Journal of Environmental Management*, Vol. 53, Number 4, August 1998, pp. 323–338

<sup>40</sup> Buckley R and Pannell J., 1990, ‘Environmental Impacts of Tourism and Recreation in National Parks and Conservation Reserves’, *The Journal of Tourism Studies*, Vol. 1, No., May 1990, pp. 24–32

<sup>41</sup> Buckley R and Pannell J., 1990, *ibid.*, p. 29

<sup>42</sup> Parks Victoria, 2007, *ibid.*, p. 145

In addition, an increase in the use of trail or static cameras in parks has been identified by the park managers. These devices have been used to monitor the movement of game species in parks as well as the movement of compliance staff. This prevents effective enforcement of the regulations by authorised officers. The proposed Regulations therefore prohibit the use of trail cameras, unless used in accordance with either a permit to ‘interfere with animals’ under r. 17 or used by a person authorised to hunt in specific parks under the regulations. Those found in possession of or using trail cameras unlawfully will be subject to a penalty of up to 20 penalty units. Surveillance techniques and investigations by compliance staff will be used in practice to identify any unlawful users of trail cameras in parks.

Attachment A details the specific threats to park values and human health and safety from recreational visitors to parks and suggests ways in which these threats may be managed. A balance needs to be achieved so that recreation does not threaten the park values which are often the very reason for visiting Victoria’s parks. A sound regulatory regime for parks should impose minimum restrictions on visitors to effectively protect particular park values and mitigate or remedy any clearly identified harm.

#### *1.4.5 Specific issues in the Point Hicks Marine National Park and Cape Howe Marine National Park*

Section 45 of the Act sets out various offences relating to the carrying out of fishing activities in marine national parks and marine sanctuaries. In broad terms all fishing is prohibited in such parks.

##### *Point Hicks Marine National Park*

The Act prohibits fishing in Point Hicks National Park as well as the possession of priority species (abalone and rock lobster). However, s. 45B of the Act provides a limited exemption to persons approved by the Minister from certain offences relating to having a priority species and to anchoring/mooring a boat carrying rock lobster pots at Point Hicks Marine National Park.<sup>43</sup> Such approval is only given subject to certain conditions which must be prescribed in the regulations. Regulation 68 of the current Regulations, which is proposed to be remade as r. 63 of the proposed Regulations, prescribes the following conditions for such an approval:

- it is granted for 12 months;
- notification must be given to the Minister, by telephone, of the boat’s intention to leave/enter the park this must include the boat’s fishery access licence number;
- the boat must enter/leave the park by the shortest route; and
- the boat may only remain stationary in one specified area of the park.

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<sup>43</sup> The National Parks Act prohibits boats carrying priority species (abalone and rock lobster) from entering Marine National Parks. However, to enable boats carrying priority species to seek safe harbour around Point Hicks when certain weather conditions prohibit them returning to Mallacoota, the regulations prescribe an area of the park which they may enter and anchor. To ensure this provision is being used only for this circumstance and to assist in the compliance works against illegal fishing, fishers seeking to use this provision need to apply once a year and notify Parks Victoria by phone when they enter and leave the park. There are currently two approvals in place.

There are currently only two commercial fishing boats that have sought approval under the Point Hicks MNP provisions. A telephone call is the most efficient means of notification for commercial fishermen as it can be made by a mobile phone or a radio using ‘trunk’ mode when there is no mobile reception. The requirement to advise the Minister (Parks Victoria as his delegate) when they enter and leave is needed for effective compliance with the provisions under the Act. As the exemption for entering the park is only used during periods of bad weather, when fishing boats cannot complete their journey safely, the requirement is not overly burdensome and balances the need for compliance with the Act with the safety needs of commercial fishers.

### *Cape Howe Marine National Park*

The Cape Howe Regulations prescribe the class of boats (commercial fishing vessels) and the area where that class of boats is not permitted within Cape Howe Marine National Park. They however do not apply to fishers holding an appropriate authority to take fish from the Iron Prince and Gunshot reefs, which are bounded by the park. These provisions bring into operation, s. 45A(4) of the Act which provides severe penalties for being in charge of a prescribed class of boats in a prescribed area of the park. The Cape Howe Regulations were enacted to improve efforts aimed at deterrence and detection of illegal fishing in Cape Howe Marine National Park. There has been a history of illegal commercial harvesting of sea urchin and abalone in the Cape Howe Marine National Park which threatens the natural values of the park, the fishing industry and the wider community.<sup>44</sup> There were acknowledged enforcement problems of the Act prior to the enactment of the Cape Howe Regulations. The Cape Howe Regulations are proposed to be remade as rr. 65 and 66 of the proposed Regulations.

A RIS was prepared in 2006 for the Cape Howe Regulations<sup>45</sup> and a full analysis of the nature of the problem, options to address this and the impact of these regulations was undertaken as part of that RIS process.

#### *1.4.6 Travel allowances for the Council*

Sections 13(4) and 14(5) of the Act provide that a member of the National Parks Council and of an Advisory Committee shall be paid such travelling and other allowances as are prescribed. The current Regulations prescribe such travelling allowances, meal, and accommodation expenses. Private vehicle expenses are linked to the Australian Taxation Office travel expense rates, while meal and accommodation allowances reflect DEPI’s departmental rates. The proposed Regulations will continue to prescribe travelling allowances for Council and advisory committee members.

## **1.5 Residual problem to be addressed**

The preceding sections discuss the physical impacts and risks arising from human behaviour on National Parks. Another way to define the problem relates to the ‘instrumental’ form of

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<sup>44</sup> DSE, 2006, *Regulatory Impact Statement proposed National Park (Cape Howe Marine National Park Regulations 2006*, Melbourne

<sup>45</sup> DSE, 2006, *ibid.*



regulation. That is, the form of regulations that delivers the most efficient and effective outcomes to manage to impacts of human behaviour on National Parks.

Attachment C contains general obligations under other legislation. To a degree, the proposed Regulations replicate some existing statutory and common law offences. However, it provides a convenient and efficient regulatory mechanism and helps to clarify the jurisdiction and powers of authorised officers. In operational terms, legislative instruments may be preferable to formal criminal or summary prosecutions and also provide administrative certainty and consistency by bringing together a range of offences into one instrument. Similarly, it is more efficient to establish broad standards across all parks rather than making rules for each land area. Moreover, it is more efficient to define some offences in regulations rather than pursuing enforcement through the courts (for example, under common law).

The economist Ronald Coase provides some insights into the efficiencies that derive from proscribing offences, including regulations. Coase examined ‘transaction costs’ in social bargaining. Most definitions of transaction costs include search and information costs, bargaining and decision costs, policing and enforcement costs, ‘hostility’ arising between parties, and the need to anticipate contingencies. A role of government is to try to allocate rights between parties so as to generate the greatest aggregate social product. Since rights are very rarely allocated *ex ante*, and parties will not know their rights unless they incur the expense of going to court, efficient government regulation may help to define these rights and thus minimise transaction costs to society.<sup>46</sup>

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<sup>46</sup> Johnston, A., 2011, ‘Facing up to Social Cost’, 20 *Griffith Law Review*, pp. 221–244

## 2. OBJECTIVES OF GOVERNMENT INTERVENTION

### Key points:

- The Victorian Government’s broad objective is to sustainably manage the multiple (and often competing) uses that parks provide for all Victorians.
- The specific objectives of government intervention are to maintain, conserve and protect park ecosystems and water catchments, while maintaining and improving their capacity to support recreation and tourism, which enhances the socio-economic benefits of parks to Victorian communities.
- By proscribing certain actions or activities the proposed Regulations ensure that the impact on the environment, provided facilities and other people arising from recreational use is minimised.
- The proposed Regulations are made under ss. 32AA, 37 and 48 of the Act.

### 2.1 Government policy

At the national level, *Australia’s Strategy for the National Reserve System 2009–2030* outlines the overarching policy approach to be taken by all Australian governments in relation to the establishment and management of the Australian National Reserve system to protect terrestrial biodiversity.<sup>47</sup> In Victoria this system is primarily represented by parks managed under the National Parks Act. This Strategy complements several related national policy initiatives.<sup>48</sup> In terms of marine policy, Victoria is a signatory to the National Representative System for Marine Protected Areas.

A significant number of other international conventions, national and state level policy initiatives and national and state based legislation also impact on the management and administration of Victoria’s parks.<sup>49</sup> Most significant of these is *Environmental Partnerships*<sup>50</sup>, the Victorian Government’s recent policy commitment and pathway for action by Government, business and the community on Victoria’s environment. *Environmental Partnerships* identifies the following aspirations for Victoria’s environment: that it be valued, that action be taken to protect, conserve and maintain it and that its benefits be enjoyed now and into the future. Priorities for action to achieve these aspirations are also identified. One of these is that the Government ‘manage our valuable parks, forests and other public land for the benefit of the community.’<sup>51</sup> This priority specifically recognises that park users will have competing interests that need to be balanced: “we will make sure people can carry out the activities they enjoy, such as kayaking, bushwalking, four-wheel driving,

<sup>47</sup> Australian Government, 2009, *Australia’s strategy for the National Reserve system 2009–2030*, National Reserve System Task Group

<sup>48</sup> Such as the *National Biodiversity Conservation Strategy*, the *Native Vegetation Framework*, the *National Forests Statement* and the *Convention on Biological Diversity*. See Australian Government 2009, *ibid*.

<sup>49</sup> For further details of these see [www.dse.vic.gov.au/parks-and-reserves/about-parks-and-reserves/victorias-parks-and-reserves-systems/statutory-and-policy-framework](http://www.dse.vic.gov.au/parks-and-reserves/about-parks-and-reserves/victorias-parks-and-reserves-systems/statutory-and-policy-framework)

<sup>50</sup> Victorian Coalition Government, 2012, *Environmental Partnerships*, Melbourne

<sup>51</sup> Victorian Coalition Government, 2012, *ibid.*, p.12

hunting, fishing and bird watching – but with the clear understanding that they won't be able to do everything everywhere."<sup>52</sup>

A further priority is to 'drive best practice environmental regulation and innovative market approaches'<sup>53</sup> by ensuring such regulation is 'targeted, proportionate and effective.'<sup>54</sup>

In addition, the *Sustainable Recreation and Tourism on Victoria's Public Land* policy provides direction to Government agencies on how to manage recreation and tourism on public land and waters within an Ecologically Sustainable Development framework.<sup>55</sup> The policy aims to, amongst other things, manage and monitor recreation and tourism use of public land to minimise impacts on natural and cultural values, and seeks to provide and maintain appropriate recreation and tourism services and facilities on public land to foster visitor enjoyment and education and to ensure visitor safety. This policy is currently undergoing review and a revised policy is being developed.

## **2.2 Regulatory framework**

### *2.2.1 Legislative framework*

The Act provides for the permanent reservation of certain areas of Crown land, with particular flora, fauna landscape or other features, for the public benefit and sets out the statutory basis for the protection, use and management of this land. Sections 17(2), 17D and 18 of the Act require the Secretary to manage the parks for a variety of purposes. Broadly these encompass the preservation and protection of the park in its natural condition, the protection of indigenous flora, the control of exotic flora and fauna, the preservation and protection of wilderness areas and particular park features, ensuring that measures are taken to protect the parks from fire damage, ensuring that measures are taken to protect water supply catchments and the promotion and encouragement of the use and enjoyment of parks by the public.

The current Regulations provide for the managing of the impact of visitors to parks by prescribing appropriate behaviour in parks and providing for a range of offences for inappropriate behaviour. The current Regulations also prescribe travel allowances for the Council.

The Cape Howe Regulations enable passage of prescribed commercial fishing vessels through Cape Howe Marine National Park to allow access to an area where fishing is permitted.

Visitors to parks must also comply with a range of other Acts of Parliament. [Attachment C](#) outlines the other current legislation relevant to visitors to Victoria's parks.

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<sup>52</sup> Victorian Coalition Government 2012, *ibid.*, p. 12

<sup>53</sup> *ibid.*, p. 31

<sup>54</sup> *ibid.*, p. 32

<sup>55</sup> DSE, 2002, Policy for Sustainable Recreation and Tourism on Victoria's Public Land

### 2.2.2 Management plans

Management plans have been approved for all or part of 42 national parks, three wilderness parks, 25 state parks, 17 other parks and reserves, 13 marine national parks and 11 marine sanctuaries.<sup>56</sup> Additional management planning for other areas is ongoing.

### 2.2.3 Codes of practice and educational material

Parks Victoria publishes *Park Notes* for a large number of parks managed under the Act. *Park Notes* provide visitors with information about the park as well maps and information about the range of activities that are permitted/restricted in the park. *Park Notes* are a useful educational tool to inform park visitors of areas set aside for particular purposes under the regulations and conditions that may be associated with these set asides.

DEPI produces a series of publications, *Forest Recreation Notes*, which seek to provide information on places to visit, minimal impact use and recreational activities in Victoria's forests.<sup>57</sup> Minimal impact use information includes codes on bushwalking, bush camping, 4WD touring, and mountain and trail bike riding, some of which also apply to land managed under the Act. These codes provide general information for users of parks and state forests. DEPI also provides information of a more general nature on hunting, dogs in forests, camping, bush walking, events and functions, seasonal road closures, and horse, motorbike and mountain bike riding; however these publications generally have a state forest focus. This information is freely available on DEPI's website.

## 2.3 Objectives

The broad objectives of the proposed Regulations reflect the Government's overarching policy and legislative objectives regarding park management. The specific objective is to establish appropriate arrangements for visitors to parks that enable recreational use while:

- maintaining and conserving biodiversity and features of natural scenic significance in parks;
- protecting water supply catchment areas;
- maintaining and improving the capacity of park ecosystems to support recreation and tourism; and
- promoting safe visitor use and enjoyment of parks.

A further Government objective is to create a consistent framework for the management of public land for recreational purposes across Victoria.

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<sup>56</sup> DSE, 2012, *ibid.*, p. 3

<sup>57</sup> DSE, see: <http://www.dse.vic.gov.au/forests/publications/forest-recreation-notes>

## **2.4 Authorising provision**

The proposed Regulations are made under ss. 32AA, 37 and 48 of the Act. The main provision is s. 48(f) of the Act, which provides that the Governor-in-Council may make regulations for or with respect to the control and management of parks.

### 3. OPTIONS TO ACHIEVE THE OBJECTIVES

#### Key points

- Options in this RIS are limited to design alternatives of the regulations because such requirements under the Act make such alternatives the only viable option to achieve the Government’s objectives.
- High level non-regulatory alternatives such as broad education campaigns or voluntary codes of practices are not considered as feasible stand-alone options.
- Design options this RIS examines include:
  - Option A: increased penalties for high risk, high probability activities
  - Option B: performance-based regulations for camping
  - Option C: requirements for wheel-chains at Baw Baw and Mount Buffalo.
- As a consultation document, this RIS seeks stakeholder feedback on alternatives to the proposed Regulations that may achieve the Government’s objectives in a more efficient and effective manner.

#### 3.1 Regulatory and non-regulatory options

##### 3.1.1 Alternatives to subordinate legislation

The *Subordinate Legislation Act 1994* requires that regulatory and non-regulatory options be considered as part of a RIS. Further, the *Subordinate Legislation Act 1994 Guidelines* (Premier’s Guidelines) provide guidance on alternative methods by which the government’s objectives may be achieved.<sup>58</sup> Alternatives to subordinate legislation include:

- providing better information to affected groups to raise awareness of their rights and/or obligations;
- introducing voluntary, or mandatory, codes of conduct for the activity;
- expanding the coverage of existing primary legislation;
- encouraging organisations and individuals to consider the impact of their activities on the community and environment; and
- developing efficient markets, where these would deal with the issue.

##### 3.1.2 Options – limited to a statutory rule

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<sup>58</sup> *Subordinate Legislation Act 1994 Guidelines*, Revised 2011, clause 51 in Appendix E, DTF 2011, *ibid*

Some form of statutory rule is the only viable option to achieve the Government’s objectives because only a statutory rule can ‘give effect’ to or ‘operationalise’ key elements of the Act. While these suppositions should generally be avoided, clause 51 of the Premier’s Guidelines expressly states that when the Act requires that a thing or matter be prescribed in a statutory rule it must be provided for in a statutory rule:

For example, where the authorising legislation provides for fees to be prescribed in statutory rules, *there may be no discretion* to set those fees by another method. (emphasis added)<sup>59,60</sup>

Given the limited discretion provided by the Act<sup>61</sup> this RIS will focus on the efficacy of design elements in the statutory rule rather than considering alternative non-regulatory options for achieving the government’s objectives. The scope for considering alternative options is further limited because of the narrow focus of the residual problem and by the narrow behavioural aspects which are the subject of the regulations.

Given the limited discretion provided by the Act, a number of high level options, namely education campaigns or codes of conduct, were considered as not being feasible or practicable as stand-alone options. Education campaigns are most suitable when the problem or non-compliance results from misinformation, or a lack of information. Parks Victoria already provides a large amount of public information to park users through its website, brochures and the Parks Victoria customer service helpline. While the DEPI *Forest Notes* are primarily aimed at state forest visitors, they also refer to national parks. Furthermore, information provision is unlikely to be effective as a standalone option owing to the difficulties associated with detecting compliance in the parks and the greater need for higher penalties to act as a sufficient deterrent.

More broadly, there is a general public understanding that national parks are places of special significance, and there appears to be general community acceptance that activities that impact upon the environment should be minimised or prohibited. Undertaking a further information campaign was not considered to offer any additional benefits as knowledge levels amongst park users is generally high.

Self-regulation (or voluntary codes of practice) and co-regulation (or mandatory codes of practice) can be useful for providing guidance with generally-worded ‘performance based’ regulation. There are a number of *Forest Notes* dealing with bushwalking, bush camping, 4WD touring, and mountain and trail bike riding already in existence. Adding an additional voluntary code of practice on top of these was not considered to offer much additional benefit; particularly as voluntary codes do not have any mechanisms to ensure compliance and enforcement. Nor was the inclusion of the various users *Park Notes* or *Forest Notes* into

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<sup>59</sup>*Subordinate Legislation Act 1994 Guidelines*, Revised 2011, clause 51 in Appendix E, DTF 2011, *ibid*.

<sup>60</sup> This is relevant to the proposed Regulations to the extent that they give operational effect to some very specific sections of the Act involving the prescription of travel reimbursements for the Council and advisory committees. There is no viable option other than prescribing such allowances in regulations. The allowances prescribed in the proposed Regulations reflect those in current Australian Taxation Office guidelines.

<sup>61</sup> Section 87(1)(ah) of the Act provides that the Governor-in-Council may prescribe “fees to be charged under this Act for any purposes not expressly provided for and for services rendered by officers of the Department within the meaning of the *Conservation, Forests and Lands Act 1987*.”

the proposed Regulations, as mandatory codes of practice, considered to offer much additional benefit.

However, modern regulatory theory suggests that using a range of regulatory tools and responses to address particular issues may be more effective than simply choosing a single regulatory tool. While not feasible or practicable as stand-alone options the educational material and codes of practice are considered complementary strategies to the proposed Regulations. The continuation of current levels of public information and education and leaving the various codes of practice to operate as ‘soft law’ parallel to the proposed regulations may be the most appropriate, and effective, way of incorporating these strategies into the overall regulatory regime.

### *3.1.3 Feasible options*

The structure of the current regulatory framework also has a practical influence on the regulations. Broadly, the regulations reside alongside the notion that a person can exercise their common law rights in a park; that is, the regulatory regime is generally permissive (it provides permission for a person to act as they wish). However, the regulations prohibit or restrict certain risky or higher impact activities. Within these broad restrictions, the regulations, in turn, seek to lower this burden by providing a range of permits that allows a person to conduct restricted activities in a manner that minimises risks or impacts.

The broad restrictions the current Regulations deal with may be summarised as follows:

- access to parks;
- protection, management, and use of parks;
- camping and hygiene;
- vehicles, vessels, aircraft; and
- Point Hicks and Cape Howe Marine National Parks.

#### *Access to parks*

The regulations prescribe details concerning the temporary closure of parks in the event of an emergency, direction to leave a park for reasons of safety, and setting aside particular areas where access is prohibited or restricted. Given current policy settings, feasible options regarding access to parks are limited. However, DEPI welcomes comments and feedback concerning:

- The efficiency and effectiveness of processes and notification of the temporary closure of parks; and
- The nature and extent of areas set aside for which access is prohibited or restricted.

#### *Protection, management, and use of parks*

The current Regulations protect and manage parks by regulating: the interference with animals; collection of bait; use, carriage or possession of poisons or traps; use, carriage or



possession of trail cameras; fishing; dogs, horses, cats and other animals in parks; protection of vegetation; introduction of vegetation; interfering with rocks or similar natural objects; digging or removal of material; interfering with archaeological or historical remains; caves; crossing areas by way other than an identified track; glass bottles, containers or utensils; possession of liquor; water activities; engaging in sport or recreational activities; snow sports; dangerous activities; operating annoying or disturbing devices or equipment; organised events; advertising, soliciting, public speaking, etc; erection or construction of buildings, structures etc.; entry, occupation and use of buildings or structures, and interfering with structures; and lighting and maintaining fires.

As noted above, information provision, signage, notice boards, information kiosks, educational material, combined with codes of practice for particular user groups, could potentially be used to modify behaviour of park visitors. To a considerable degree, many of these regulatory tools are already in place and complement the existing regulations. However, in the absence of an element of coercion (i.e. penalties provided for in statutory rules), such non-regulatory measures would appear to lack practicability as stand-alone options.

With this in mind, it was considered that feasible alternatives were limited to design options of the current Regulations. As part of the RIS process regulations were reviewed to examine whether they were still necessary and whether they could be improved (see [Attachment D](#) for a detailed list of changes). A number of changes are put forward in the proposed Regulations, namely:

- certain regulations do not apply to Traditional Owners when undertaking an aboriginal tradition; this is in line with other land management regulations.
- a regulation has been introduced regarding directions to promote safety to mirror similar provisions in Forest (Recreation) Regulations 2010.
- permit requirements simplified, e.g. removes the need for a specific permit to cross by other than a track for a person holding another permit, removes the need to have a specific permit for annoying/disturbing device if the holder already has an event permit.
- Introducing a threshold for the requirement for a permit to 30 persons for an organised event in line with Forests (Recreation) Regulations; previously there was no threshold.
- owing to a problem with trail or static cameras being used in parks for illegal hunting and monitoring the movement of compliance staff, DEPI has included a prohibition on their use except if used in accordance with legal hunting activities.
- seven regulations have been removed (or modified) because there was no evidence that there was a problem and to remove duplication with other regulations or the Act, e.g. the prohibitions on umbrellas, jumping castles, and playground equipment have been removed because no offence has been recorded in the previous 10 years.

DEPI welcomes feedback from any park users or stakeholder on whether or not the proposed Regulations could be improved or streamlined, or whether they are unduly onerous or restrictive.

Finally, examination of prosecutions and infringement data suggests that there are several areas under which certain park users continue to offend. The most common areas attracting penalties, as illustrated in Tables 3 and 4, are: dogs in parks/uncontrolled dogs in parks; lighting a fire; damaging vegetation; vehicles in a prohibited area; and camping outside a set aside area. While damaging vegetation, vehicles in prohibited areas and illegal camping can have serious localised effects, individually these events are unlikely to be catastrophic. However, lighting fires outside designated areas can lead to catastrophic bushfires, while uncontrolled dogs can attack park users or escape into the bush and remain at large, threatening native fauna or livestock in adjoining properties. Dogs in parks in some instances can also be associated with illegal hunting activity.

Based on the potential magnitude and probability of these risks, an option could be to include the regulations regarding dogs and lighting fires outside designated areas into the legislation. Given that the Subordinate Legislation Act Guidelines permit regulations to contain penalties up to 20 penalty units, inclusion in the legislation could see penalties substantially increased to act as a deterrent for potential offenders. Accordingly, Option A considers including certain offences in legislation to improve compliance.

#### *Camping and hygiene*

The regulations dealing with camping are supported by Parks Victoria *Park Notes* and signage in parks. The regulations themselves principally deal with locations where a camper may camp, preventing litter, and preserving water quality. Some of the regulations are somewhat prescriptive, for example, a person must not camp within 20 metres of any river, stream, watercourse, etc, and a person must bury faeces 100 metres or more away from any river, creek, stream, etc. Similarly, a person using soap or detergent must not dispose of it unless it is more than 50 metres away from any river, stream, well, etc.

This raises the question of whether the prescriptive thresholds contained in the camping and hygiene regulations are appropriate or would a more flexible performance-based approach be appropriate? Option B examines the current prescriptive approach and assesses it against a performance-based approach.

#### *Vehicles, vessels, aircraft*

Regulations relating to vehicles, vessels and aircraft seek to lower the impacts that these modes of transport can have on the environment. They also seek to manage road safety in terms of parking, traffic direction and wheel chains. Aside from regulations dealing with wheel chains, given the narrow and specific nature of the regulations there appears limited scope to consider feasible alternatives. For example, in theory the parking regulations could be removed and reliance for safe and orderly parking placed on signage alone. The main difference would be that no penalties could be applied if a vehicle parked outside a designated area, and hence there would be little deterrence to comply.

The current wheel chain regulations are relatively inflexible. By way of background, the Mt Baw Baw Alpine Resort is covered by the *Alpine Resorts (Management) Regulations 2009*; however the Mt Baw Baw National Park (in which the Mt St Gwinear cross country ski area is located) is not covered by the Alpine Resorts regulations. A provision within the National Parks Regulations is therefore required to ensure the safety of road users during the snow season in the Mt Baw Baw National Park, as well as the other national park with skiing such as the Mt Buffalo National Park.

The current Regulations provide that wheel chains must be carried during certain periods (snow season) and an Authorised Officer may direct a person to fit wheel chains when needed. The main difference between the Alpine Resorts regulations is that the Board may waive the requirement to carry chains by putting up signs on certain days. There is no such option to waive wheel chain requirements in the current Regulations.

Option C considers permitting an Authorised Officer to waive the requirement to carry wheel chains by putting signs up on certain days.

*Point Hicks Marine National Park and Cape Howe Marine National Park*

The current Regulations specify conditions of the Minister's approval for a vessel to enter the Point Hicks Marine National Park. Such approvals remain in force for 12 months and require a person to whom an approval has been given to provide certain details to the Minister upon his or her entry and departure of the marine park.

DEPI would be interested in the views of stakeholders as to whether the 12 month duration for an approval is an appropriate length of time and whether the details provided upon entering and departing from the park are appropriate or too onerous.

The current Regulations dealing with the Cape Howe Marine National Park were assessed in a RIS in 2006. These regulations prescribe the area of the Cape Howe Marine National Park for the purposes of s. 45A(4) of the Act and prohibit commercial fishing vessels from the area. Given that these regulations have now been in place for a number of years, DEPI is interested in the views of stakeholders concerning whether the regulations have been operating efficiently and effectively, in particular:

- should the regulations prescribe classes of equipment be used instead of a class of boats?
- should the regulations prescribe different area(s) of the park?
- should different classes of boats be prescribed (e.g. boats above a certain length or displacement)?

These propositions were examined in the 2006 RIS and not found to be a superior alternative to the proposed Regulations; however DEPI is interested in the views of stakeholders regarding whether practical experience over the last 6 years suggests that any of these approaches may have merit.

### 3.2 Groups affected

Groups affected by the options identified above include park visitors (including special interest groups such as bird clubs, dog walkers, naturalist clubs, mountain bike clubs, and walking clubs), owners of surrounding property, organisers of not-for-profit events, competitions and social functions, surrounding local governments and Parks Victoria officers. Attachment H lists the stakeholders consulted and provides a broad picture of the user groups that will be affected by the proposed Regulations.

### 3.3 Regulatory arrangements in other jurisdictions

Each of the Australian States and Territories has a system of national parks and other protected areas. In addition, the Commonwealth is responsible for a limited number of parks of national importance.

Broadly speaking these areas are managed in a similar way; with a government department having overall land management responsibility for such areas (although management responsibilities are often delegated to a separate parks manager), specific legislation setting out how such parks are to be established and, at a high level, managed with regulations or by-laws detailing how visitor impacts in these areas are to be managed. Some jurisdictions, such as Western Australia, manage parks as part of broader portfolio of public land management. Key elements of the regulatory regimes in place in each jurisdiction are summarised in Attachment I.

Certain parts of the proposed Regulations are specific to the regulatory regime in Victoria (e.g. setting of travel allowances for the Council and advisory committees) or to specific problems encountered in Victoria (e.g. illegal abalone fishing at Cape Howe and unexploded ordnances at Point Nepean). However, a substantial number of the behavioural restrictions in the proposed Regulations are found in similar regulations or by-laws operating in the other Australian jurisdictions. However, there are some specific points of difference:

- Victoria imposes no park entrance fees;
- in Victoria there are prescriptive regulations prohibiting certain activities that may pollute water catchments. Most other jurisdictions rely on broader non-polluting restrictions;
- most jurisdictions have wider prohibitions on nuisance conduct and many ban the use of generators;
- only Victoria and the Commonwealth specifically require people to stay on marked tracks; and
- many other jurisdictions impose restrictions on littering and the carrying out of research in parks and reserves.

## 4. COSTS AND BENEFITS OF THE OPTIONS

### Key points:

- The *Subordinate Legislation Act 1994* requires a RIS to assess the costs and benefits of proposed Regulations.
- The total quantifiable costs to users of parks specified in the proposed Regulations and government costs associated with the proposed Regulations are approximately \$2 million per annum, or \$17.2 million (PV) over a 10 year period.
- There are also non-quantifiable costs in the proposal, many of which related to conduct or behaviour.
- At a higher level, the direct and indirect use benefits from ensuring that parks are sustainably managed are likely to include education, recreational, cultural and environmental benefits.
- Other benefits specifically associated with the proposed Regulations relate to minimising risks to public safety and ensuring that recreation activities of groups or actions of individuals do not impinge upon the amenity of the broader public.
- In economic terms it has been estimated that three of Victoria's national parks (Grampians, Port Campbell and Wilsons Promontory) alone contribute \$487 million annually to the state's economy.
- Even if the proposed Regulations make only a small contribution towards these benefits, the benefit deriving from the proposed Regulations is likely to be considerable.
- This suggests that the regulatory costs imposed by the regulation (in the order of \$2 million annually), which seek to protect the environment and manage health and safety risks, are reasonable given the value generated by Victoria's parks.

### 4.1 Base case

The 'base case' describes the regulatory position that would exist in the absence of the proposed Regulations. The base case of 'doing nothing' is not, strictly speaking, an alternative given that the Government has identified a problem that needs to be addressed. It is necessary to establish this position in order to make a considered assessment of the incremental costs and benefits of the viable options.

In terms of establishing the base case, in the event the current Regulations are not remade:

- the Act would continue to apply, although there would be no legal basis for numerous restrictions currently in place governing the use and management of parks. In particular offences relating to entering into or remaining in a prohibited or restricted access area or bringing a dog into a park would not be prescribed;

- *Park Notes* and park management plans would continue to be in place. These instruments provide useful guidance and are widely used by recreational groups; however, typically persons undertaking aberrant or antisocial behaviour are either unaware of such codes or do not pay attention to these;
- other legislation, see [Attachment C](#), may apply in particular circumstances; and
- Council and advisory committee travel reimbursements would not be prescribed.

For the purposes of this RIS the base case assumes that both the current Regulations and the Cape Howe Regulations sunset contemporaneously.

## 4.2 Methodology

### 4.2.1 Assessment of costs

The *Subordinate Legislation Act 1994* requires, *inter alia*, a RIS to assess the costs and benefits of proposed Regulations. This legislation also requires that a RIS identify practicable alternatives to the proposed Regulations and assess their costs and benefits as compared to the proposed Regulations. The RIS is not required to identify alternatives which are not feasible or practicable.

By their nature, regulations are designed to modify behaviour in order to achieve certain outcomes. This can impose costs on individuals or businesses known as ‘compliance costs’. In simple terms, compliance costs are the costs of complying with regulations. These can be divided into ‘administrative costs’ and ‘substantive compliance costs’.

Administrative costs, often referred to as red tape or administrative burden, are those costs incurred by individuals to demonstrate compliance with the regulation or to allow government to administer the regulation. These include costs associated with administrative requirements such as record keeping, reporting or submitting applications. For examples, the costs associated with applications for permits in the proposed Regulations are administrative costs.

Substantive compliance costs are those costs that lead directly to the regulated outcomes being sought. These costs are often associated with content-specific regulation and include, for example, specifying behaviours in order to meet government regulatory requirements. The vast majority of requirements in the proposed Regulations are substantive compliance costs aimed at modifying behaviours (e.g. a person ‘must not’ engage in specific activities or actions).

#### 4.2.2 Assessment of benefits

A number of methodologies can be used to measure or describe benefits; for example, net present value (NPV), MCA, consumer surplus models, willingness to pay, the travel cost method, measures of expenditure which provide an industry context, or qualitative descriptions.<sup>62</sup>

Measures such as ‘consumer surplus’ can be used to measure the level of benefit. Consumer surplus is the monetary gain obtained by consumers because they are able to purchase a product for a price that is less than the highest price that they would be willing to pay. The problem with consumer surplus measures, however, is that it requires a knowledge of the demand and supply curves of, in this case, park users (which are not an homogenous group). This information is not readily available and expensive to acquire.

Similarly, the ‘willingness to pay’ (WTP) method for a project or outcome usually relies on surveying consumer intentions. This method has been used to value environmental proposals, but has flaws because a ‘willingness to pay’ may not translate to a ‘commitment’ to pay; thus WTP measures are, at best, notional only of consumer value.

The travel cost method assumes the value of an environmental asset (e.g. a recreational site) is reflected in how much people are willing to pay to travel to visit the site. This, in turn, is calculated by the cost of travel. For example, there are 33 million trips to Victorian parks per annum, and assuming that each round trip is 30kms, this suggests that users place a value on Victorian parks in the order of \$715 million per annum.<sup>63</sup> Again, there are methodological issues with this method; however it does provide a broad indication of the magnitude of likely benefits.

#### 4.2.3 Discounted cash flow

Every effort was made to identify and quantify the costs and benefits imposed by the proposed Regulations. As far as possible, likely costs were identified and a Present Value (PV) of the costs was calculated. A discount rate of 3.5 per cent was used over a 10 year period (i.e. the life of regulations in Victoria). This allows future costs and benefits to be examined in terms of today’s dollar value.

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<sup>62</sup> Methodological issues were underscored in a recent Department for Environment, Food and Rural Affairs (UK) paper, which noted “challenges to valuing the benefits of National Park Authorities (NPA). It is often not possible to place monetary values on the benefits of NPAs due to the nature of the work and the lack of quantified outputs. Identifying a counterfactual is also difficult ... To conclude, it is not possible to provide a full cost benefit analysis of the NPAs due to data and methodological issues, however this paper has identified a number of areas where the NPAs provide benefits.” In many ways, this serves as an analogue concerning valuing the benefits if the proposed Regulations. DEFRA, 2011, National Park Authorities: Assessment of Benefits – working paper, London, p. 17

<sup>63</sup> If 33 million trips of 30kms are taken, the RACV rate for a medium car of 72.2 cents per kms would suggest a value of \$714.8 million. See RAVC Vehicle Reimbursement rates for a ‘medium’ vehicle: [http://www.racv.com.au/wps/wcm/connect/Internet/Primary/my+car/advice+\\_+information/vehicle+operating+costs/vehicle+reimbursement+rates](http://www.racv.com.au/wps/wcm/connect/Internet/Primary/my+car/advice+_+information/vehicle+operating+costs/vehicle+reimbursement+rates)

#### 4.2.4 Multi-criteria Analysis

Multi-criteria Analysis (MCA) is presented in this RIS as an alternative assessment tool to complement the quantitative analysis. The MCA approach is described in the *Victorian Guide to Regulation*.<sup>64</sup> This approach represents a convenient way of comparing a range of alternative options. The technique requires judgements about how proposals will contribute to a series of criteria that are chosen to reflect the benefits and costs associated with the proposals. A qualitative score is assigned, depending on the impact of the proposal on each of the criterion weightings, and an overall score can be derived by multiplying the score assigned to each measure by its weighting and summing the result. If a number of options are being compared, then the option with the highest score would represent the preferred approach.

For the purposes of the MCA assessment below, an assigned score of zero (0) represents the base case, while a score of plus one hundred (+100) means that the alternative fully achieves the objectives. A score of minus one hundred (–100) means that the proposal does not achieve any of the objectives.

For the purposes of assessing options relevant to reporting requirements and thresholds, the employee register, licence periods and fee design, the MCA assessment tool was used.

Two criteria relating to the costs and benefits were chosen and weightings selected (see Table 5). They broadly reflect the government's objectives and weighting priorities regarding the management of parks.

**Table 5: Multi-criteria Analysis Criteria**

Criterion	Description of criterion	Weighting
Effective management of Victorian parks for the community.	<p>This criterion seeks to measure the effectiveness of options by having regard to:</p> <ul style="list-style-type: none"> <li>• maintaining and conserving biodiversity and features of natural scenic significance in parks;</li> <li>• protecting water supply catchment areas;</li> <li>• maintaining and improving the capacity of park ecosystems to support recreation and tourism; and</li> <li>• promoting safe visitor use and enjoyment of parks.</li> </ul>	50
Cost	This criterion seeks to measure costs incurred by park visitors in complying with the regulations.	50

<sup>64</sup> DTF, 2011, *ibid.*, p. 85



#### 4.2.5 Decision criteria

Given the difficulty in measuring the intangible and tangible costs and benefits associated with parks this RIS uses a number of methodologies to inform its assessment of viable options.

The present value discounted cash-flow technique is used to measure the likely costs associated with administrative obligations, however substantive compliance costs proved difficult to quantify in monetary terms. The MCA assessment tool is used in an attempt to complement the assessment of the costs and benefits of the viable options. As noted above, the option with the highest score represents the preferred approach. Overall, the option with the highest net benefit is preferred compared to the alternatives. While value of expenditure surveys or the travel cost method do not measure benefits directly, they do provide a useful industry context of the likely direction and magnitude of benefits.

#### 4.3 Costs and benefits of options

In this section, the nature and incidence of the costs and benefits associated with the viable options are analysed. The costs and benefits are analysed in comparison with the base case. The relative costs and benefits of each option are assessed against the objectives identified in Part 2.3.

##### 4.3.1 Option A – Increased penalties for high risk, high probability activities

As illustrated in Tables 3 and 4, offences for dogs in parks and lighting fires continue to occur annually. In particular, the risks associated with the latter were underscored by the recent devastating bushfires in Tasmania, following which a man was charged for leaving a campfire unattended and starting a 10,000 hectare blaze.<sup>65</sup> These activities pose relatively high risks and there is a high probability that they will occur in the future. The current regulations impose fines of 20 penalty units for the unauthorised lighting of a fire and 15 penalty units for bringing a dog into a park. The *Subordinate Legislation Act 1994 Guidelines* (the Premier's Guidelines) require that penalties contained in regulations be no greater than 20 penalty units (i.e. \$2,503.80). Penalties greater than 20 penalty units should be contained in legislation.<sup>66</sup>

To improve compliance by acting as a greater deterrent this option examines increasing the level of penalty units to 50 by including the provisions in legislation.

It would be technically possible to extend the coverage of the Act by incorporating the proposal into the legislation. This option is identified in the *Victorian Guide to Regulation* as an alternative that should be considered. It is well-established, however, that the benefit of statutory rules as a regulatory instrument is their administrative efficiency and flexibility. For example, if the government decided to change the details of these particular regulations, this could be done by amending the regulations, which is a relatively straightforward and timely process. However if these requirements were incorporated in the Act, then any change would

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<sup>65</sup> ABC News Website, 'Tas man to be charged over unattended campfire' viewed 27 February 2013: <http://www.abc.net.au/news/2013-01-07/tas-man-to-be-charged-over-unattended-campfire/4455780>

<sup>66</sup> Paragraph 43 of the Premier's Guidelines (in Appendix E of the Victorian Guide to Regulation)

require a parliamentary amendment. For minor administrative matters, this is a time-consuming and a relatively complex procedure. Parliamentary amendments also consume more government resources than changes to statutory rules.

The Premier's Guidelines provide guidance as to the types of matters appropriate for inclusion in regulations rather than in Acts or in instruments which are not of a legislative character. The guidelines note that significant matters should not be included in subordinate legislation, although that subordinate legislation may deal with the same issue in terms of enforcement or related matters of administration or implementation.

An MCA was undertaken to assess this alternative. This alternative scores relatively highly because the substance of the measure is essentially the same as the proposed Regulations but may at the margin improve compliance by acting as a greater deterrent. Consequently a score of 75 is assigned to this criterion. The criteria relating to cost, however, is assigned a score of -25. Legislation is relatively costly and does not possess the flexibility the regulations do. In addition, higher penalties may result in a greater number of challenges in court thereby involving more public and private resources. While this alternative would no doubt be possible, the administrative mechanism of responding to government's or park users' needs in a cost-efficient and timely manner makes the proposed Regulations superior to this alternative. This results in a net score of **+25.0** as shown in Table 6 below.

**Table 6: Option A1 - Multi-criteria Analysis Assessment of incorporation into legislation**

Criteria	Weighting	Assigned Score	Weighted Score
Effective management of Victorian parks	50	75	37.5
Cost	50	-25	-12.5
<b>Total</b>	<b>100%</b>		<b>+25.0</b>

An MCA of the proposed regulations was conducted to allow a comparison with this alternative. In terms of effectiveness this option scores slightly less than the alternative owing to the lower deterrent; nevertheless past experience shows that this option is an effective compliance tool. This option is also less costly to administer than the alternative and infringement notices generally avoid resource intensive court prosecutions. A score of -15 is therefore assigned to the cost criterion. Taken together, this results in a score of **+27.5**.

**Table 7: Option A2 - Multi-criteria Analysis Assessment of the proposed Regulations**

Criteria	Weighting	Assigned Score	Weighted Score
Effective management of Victorian parks	50	70	35.0
Cost	50	-15	-7.5
<b>Total</b>	<b>100%</b>		<b>+27.5</b>

While the proposed Regulations represent a superior alternative, DEPI may also wish to consider the use of greater signage and enforcement officers in locations where these infringements regularly occur; particular in cases where breaches arise from ignorance rather

than intent. It is also noted that with respect to lighting fires serious criminal sanctions already exist for ‘bushfires arson’, attracting penalties of up to 25 years imprisonment.

#### **4.3.2 Option B – performance-based regulations for camping**

Regulation may take the form of prescriptive rules, which focus on the inputs, processes and procedures of a particular activity. One of the main advantages of prescriptive regulation is that it provides certainty and clarity. By setting out requirements in detail, it provides standardised solutions and facilitates straight forward enforcement. For example, the regulations dealing with camping and hygiene (rr. 46–48) prescribe distances from water with which certain activities must not be undertaken. However, because of their inflexibility, prescriptive regulation may be unsuitable in certain situations, e.g. where circumstances are subject to change.

Performance-based standards specify desired outcomes or objectives, but not the means by which these outcomes/objectives have to be met. The main advantages that performance-based standards have over prescriptive regulation is the greater flexibility afforded to regulated parties in achieving the desired outcomes, and their ability to be used in situations where circumstances may change over time. Nevertheless, they do have some disadvantages. For example, the greater flexibility and freedom offered by performance-based regulations is often cited as a problem for those being regulated as it can lead to uncertainty as to whether the actions they undertake are sufficient to satisfy the standards set by the regulations.

In the case of the proposed Regulations, performance-based standards could be formulated. A standard or principle could be developed that requires if certain activities are conducted then they must not impact upon the water resource (e.g. in some instances a safe distance from water might be 10 metres while in other locations it might be 75 metres). Such standards or principles could be supported by a code of practice to improve clarity.

It is feasible that codes of practice could be used to set down criteria that may reduce the subjective element of performance-based standards by establishing benchmarks by which performance can be measured. For example, such a code could provide guidance concerning gradients, geology and landscape and the appropriate distances that certain activities could be conducted from water.

The fundamental problem with this alternative is that regulatee and enforcement decisions would lack specificity and could be open to dispute. Establishing feasible performance-based standards also would be difficult. For this reason, prescriptive regulations are best suited to camping and hygiene situations which remove uncertainty and where compliance is not difficult.

Performance-based standards may generate uncertainty because circumstances giving rise to prosecutions may have a degree of subjectivity. This in turn may increase government enforcement costs because the interpretation of such standards may be challenged or determined in the court/tribunal system.

An MCA analysis was undertaken with respect to performance-based regulations. As discussed above, performance-based standards can be effective when supported by codes of practice; however, the degree of subjectivity in determining appropriate distances from water may create difficulty in achieving compliance. The key problem associated with

performance-based standards is that there may be uncertainty regarding what is required. Government enforcement may not be easy in borderline cases and this may result in difficulties in enforcing the standards. This criterion nevertheless could provide useful freedom and flexibility and a score of 50 is assigned. Performance-based standards would be more expensive to administer than the situation covered by the base case, and consequently a score of -25 is assigned to this criterion. Overall, this alternative receives a score of +12.5, as shown in Table 8.

**Table 8: Option B1 - Multi-criteria Analysis Assessment of the performance-based regulations for camping**

Criteria	Weighting	Assigned Score	Weighted Score
Effective management of Victorian parks	50	50	25
Cost	50	-25	-12.5
<b>Total</b>	<b>100%</b>		<b>+12.5</b>

The proposed Regulations provide enforcement officers with clarity and certainty, although by way of a ‘one size fits all’ approach. Given that the regulations have demonstrated their effectiveness in the past a score of 55 is assigned to this criterion. The greater certainty provided by prescribed distances also makes compliance less costly and removes elements of subjectivity. Therefore a score of -15 is assigned to the cost criterion. This results in a net score of +20.0, making the prescriptive approach a superior alternative than a more flexible (but less certain) performance-based approach.

**Table 9: Option B2 - Multi-criteria Analysis Assessment of the proposed Regulations (rr. 46–48)**

Criteria	Weighting	Assigned Score	Weighted Score
Effective management of Victorian parks	50	55	27.5
Cost	50	-15	-7.5
<b>Total</b>	<b>100%</b>		<b>+20.0</b>

#### 4.3.3 Option C – Requirements for wheel-chains at Baw Baw and Mount Buffalo

Option C1 is represented by the current Regulations, while option C2 introduces an ability for park managers to waive the requirement to carry wheel chains on certain days during the snow season.

Mt Baw Baw National Park (in which the Mt St Gwinear cross country ski area is located) is not covered by the Alpine Resorts Regulations in relations to snow chains. The current Regulations provide that wheel chains must be carried during certain periods (i.e. the snow season) and an Authorised Officer may direct a person to fit wheel chains when needed. This is in contrast with the Alpine Resorts Regulations 2009 whereby the Board may waive the requirement to carry chains by putting signs up on certain days. There is no such option to waive wheel chain requirements in the current Regulations. Therefore, the current

Regulations require that snow chains *must* be carried even if there is no snow during periods of the snow season.

An element of discretion and flexibility would allow park managers to waive this requirement when there road conditions part (e.g. during a particularly warm part of a season when there is no snow).

Wheel chains cost around \$25–\$30 for one day (and typically \$5 per day thereafter) and usually require a \$40–\$50 deposit or credit card imprint. In addition to financial costs, a person would incur time costs of about 20–30 minutes associated with hiring and returning wheel chains.

No data is collected on the number of park visitors that are required to hire chains during periods when weather conditions may not require the use of wheel chains. However, for illustrative purposes if the current regulations were amended to include an option whereby park managers could waive the requirement to carry wheel chains during certain periods, this would result in fewer ‘unnecessary’ expenses incurred by park visitors. If this meant that there were, say, 1,000 fewer wheel chain hires over a season (equivalent to 10 per cent of the estimated total use) then this would result in a saving to park users in the order of \$43,850 per annum, or \$365,000 (PV) over a 10-year period. While the financial element of this cost may affect wheel chain hire businesses, park users would have more discretionary dollars to spend on other tourism goods or services.

An MCA assessment of this option was not undertaken given the relatively straightforward nature of this alternative. Given that the alternative to waive wheel chain requirements on certain days will result in savings, while not compromising the government’s safety objectives then option C2 would appear to be the superior alternative. The option will also align regulatory arrangements with those currently contained in the Alpine Resorts Regulations 2009.

For the purposes of calculating the substantive compliance cost of the wheel chain regulation (r. 53) it is assumed that 10,000 wheel chains that are hired per season are hired as a direct result of the regulations (see Table 10 below).<sup>67</sup>

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<sup>67</sup> No data is directly collected concerning the number of winter visitors to Mt Buffalo and Mt St Gwinear (Baw Baw National Park). However, given that Mt Stirling, which had the least amount of winter visitors of the alpine resorts, attracts around 5,500 winter visitors, the assumption of 10,000 winter visitors for Mt Buffalo and Mt St Gwinear would appear reasonable.

### *Administrative costs – Permit Applications*

The proposed Regulations contain the ability to undertake certain activities that are generally prohibited or require permission. This involves applying for a permit under the regulations. The range of permits were examined and streamlined in places; however, given their relatively simple transactional nature further areas of streamlining or simplification were not identified. Approximately 500 permits are issued annually across all parks, with 90 per cent relating to sports/recreation activities and events/weddings. The permit application process varies significantly across the parks covered by the proposed Regulations. Parks Victoria, as delegate of the Secretary, issues the permits on almost all occasions. Permit applications are generally based on similar standard document but differ relative to the scale and nature of the activity. Event permits for instance may be more detailed in more popular parks such as Wilson’s Promontory and Mornington Peninsula National Parks where there is a higher risk of conflicting events as opposed to less visited parks such as the Murray Sunset National Park.

The annual administrative costs associated with applying for these permits are estimated at around \$21,000. Attachment E contains calculations and assumptions underpinning an estimate of \$177,000 (PV) over a 10 year period for the costs associated with applying for permits. Only about 12 per cent of these costs are imposed on business, with the vast majority incurred by on individuals or clubs.

Conservative assumptions of time taken to prepare and assess permit applications were therefore used in Attachment E. The proposed Regulations require all permits to be in writing. Parks Victoria does, however, generally provide and receive permit applications electronically to reduce administrative burden (postage, printing, etc). The RIS invites comments on how permit application processes could be improved.

### *Government costs*

The Victorian Government also incurs costs in relation to administrating and enforcing the regulations. Attachment E discusses these costs and provides detailed calculations and assumptions. Table 10 below shows that the annual costs relating to maintaining signage and enforcement are in the order of \$1.6 million.

*Summary of costs***Table 10: Annual costs imposed on park users and government of the proposed Regulations**

<b>Regulation</b>	<b>Description of Regulation</b>	<b>Cost (\$)</b>
	<i>Park user costs</i>	
rr. 16, 17, 36, 39, 40, 41, 55, 58, 61, 62, 63	Permit applications	21,249
r. 53	Wheel chain hire	438,500
	<i>Sub-total</i>	<i>459,749</i>
	<i>Government costs</i>	
rr. 14(3), (8)	Temporary closure of parks – signs and notices	15,000
rr. 9(2), 21(5), 51(5), 52(1)	Signage erection - set aside areas; fishing; vehicles; parking	20,000
	Enforcement – Authorised Officers	1,575,655
	<i>Sub-total</i>	<i>1,610,655</i>
<b>Total</b>		<b>2,070,404</b>

Therefore, the total quantifiable costs to users of parks specified in the proposed Regulations and government costs associated with the proposed Regulations are approximately \$2 million per annum, or \$17.2 million (PV) over a 10 year period.

There are also non-quantifiable costs in the proposal, many of which related to conduct or behaviour. The costs associated with ensuring appropriate behaviour in parks are considered minimal because the vast majority of businesses and individuals do not engage in aberrant or illegal behaviour. That is, activities undertaken by individuals such as harming animals and damaging or destroying trees are not ‘normal’ activities and would therefore not impinge upon the conduct or behaviour of the vast majority of individuals. [Attachment F](#) provides a qualitative assessment of these costs.

*Benefits of the proposed Regulations*Higher level park benefits

It is important to stress that most of the benefits relate to the overall regulatory regime for parks (i.e. the Act, other regulations, codes of conduct, etc), and that the benefits attributable to the proposed Regulations are limited to the extent that they contribute to the regulatory controls for managing a healthy, well functioning park system, along with managing health and safety risks.

At a higher level, the direct and indirect use benefits from ensuring that parks are sustainably managed are likely to be substantial. These benefits are summarised in Table 11 below.

**Table 11: Values/benefits associated with park ecosystems**

1. Direct use benefits	2. Indirect benefits	3. Non-use benefits
1.1 Education, recreational and cultural uses	2.1 Watershed protection	3.1 Biodiversity (wildlife)
1.2 Amenities (landscape)	2.2 Soil protection/fertility improvements	3.2 Culture, heritage
	2.3 Air pollution reduction (gas exchange)	3.3 Intrinsic worth
	2.4 Carbon Storage	3.4 Bequest value
	2.5 Habitat and protection of biodiversity and species	3.5.Option for future direct or indirect use
	2.6 Fire safety	

Source: Adapted from Bishop (1999)

Given the nature of many of these values/benefits, it is worth highlighting that there are methodological limitations to placing a monetary value on the benefits associated with the proposed Regulations.

#### Public safety and amenity

Many of the benefits specifically associated with the proposed Regulations relate to minimising risks to public safety and ensuring that recreation activities of groups or actions of individuals do not impinge upon the amenity of the broader public. These benefits are difficult to value and data is generally not available to provide an accurate estimate in monetary terms.

#### *Conclusion*

In economic terms it has been estimated that three of Victoria's national parks (Grampians, Port Campbell and Wilsons Promontory) alone contribute \$487 million annually to the state's economy.<sup>68</sup> It is important to recall that these values relate to just three of Victoria's 138 parks covered by the proposed Regulations. Hence, the total benefits (quantifiable and unquantifiable) are likely to be considerably greater than this amount.

Even if the proposed Regulations make only a small contribution towards these values, the benefit deriving from the proposed Regulations is likely to be considerable. This suggests that the regulatory costs imposed by the regulation (in the order of \$2 million annually), which seek to protect the environment and manage health and safety risks, are reasonable given the value generated by Victoria's parks.

<sup>68</sup> Parks Victoria, 2003, Ibid



However, given the difficulties in estimating a monetary value of the benefits associated with the proposed Regulations, the decision criterion relied upon in this RIS was the MCA assessment tool, which shows that the proposed Regulations are the preferred option.

## 5. ASSESSMENT OF COMPETITION IMPACTS

### Key points:

- The activities covered by the proposed Regulations mostly relate to managing actions and behaviours of individuals and as such these do not restrict competition in the market for goods and services.
- The proposed Regulations are considered to meet the ‘competition test’ as set out in the *Victorian Guide to Regulation*.

### 5.1 The competition test

At the Council of Australian Governments meeting in April 1995 (reaffirmed in April 2007), all Australian governments agreed to implement the National Competition Policy. As part of the *Competition Principles Agreement*, all governments, including Victoria, agreed to review legislation containing restrictions on competition under the guiding principle that legislation (including acts, enactments, ordinances or regulations) should not restrict competition unless it can be demonstrated that:

- (a) the benefits of the restriction to the community as a whole outweigh the costs; and
- (b) the objectives of the regulation can only be achieved by restricting competition.

The *Victorian Guide to Regulation* adopts these fundamental principles and states that a legislative measure is likely to have an impact on competition if any of the following questions can be answered in the affirmative:

- is the proposed measure likely to affect the market structure of the affected sector(s), i.e. will it reduce the number of participants in the market, or increase the size of incumbent firms?;
- will it be more difficult for new firms or individuals to enter the industry after the imposition of the proposed measure?;
- will the costs/benefits associated with the proposed measure affect some firms or individuals substantially more than others (e.g. small firms, part-time participants in occupations, etc)?;
- will the proposed measure restrict the ability of businesses to choose the price, quality, range or location of their products?;
- will the proposed measure lead to higher ongoing costs for new entrants that existing firms do not have to meet?; and
- is the ability or incentive to innovate or develop new products or services likely to be affected by the proposed measure?

## 5.2 Competition assessment

With regard to obtaining permits for camping, bushwalking and similar activities, not-for-profit events and functions and flora/fauna related activities, the requirements and costs imposed by the proposed Regulations – which are minor – are unlikely to restrict competition. In arriving at this assessment it is also important to recognise that the private sector does not compete in this market to any large degree (i.e. recreation activities in private parks are limited) and therefore the proposed Regulations are unlikely to impinge upon competition generally.

It is also noted that while there is a general prohibition on advertising, soliciting, etc (r. 41), permits may be obtained to conduct such activities, and in any case, such activities are conducted on a small scale (approximately six per annum). It is also worth noting that the National Competition Council in its review of forest legislation commented that forests possessed special characteristics and restrictions of economic activities in them were justified.<sup>69</sup>

Assessed against the competition test, the proposed Regulations do not impose restrictions on competition as they predominantly regulate actions or behaviour of individuals. Therefore, the proposed Regulations are considered to meet the competition test as set out in the *Victorian Guide to Regulation*.

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<sup>69</sup> National Competition Council, 2003, Assessment of governments' progress in implementing the National Competition Policy and related reforms: Volume two – Legislation review and reform, AusInfo, Canberra, p. 1.94

## 6. THE PREFERRED OPTION

### Key points:

- The proposed Regulations are the preferred option in comparison to the other viable options identified in this RIS.
- The total quantifiable costs of the proposed Regulations are in the order of \$17.2 million (PV) over a 10 year period (or around \$2 million per annum). This includes government costs incurred in enforcing the proposed Regulations.
- The economic benefits generated by park visitation are difficult to quantify, but various estimates would suggest that such benefits are larger by several orders of magnitude compared to the costs imposed by the proposed Regulations.
- Other benefits associated with the proposed Regulations include environmental and social benefits.
- The proposed Regulations support, and are consistent with, Victorian Government policy and the Act.

Given the relatively specific range of matters dealt with by the proposed Regulations, along with the inappropriateness of standalone options such as broad education campaigns or voluntary codes of conduct, options were limited to considering matters of regulatory design. As such, alternatives were considered with respect to:

- Option A – increasing penalties for high risk, high probability events;
- Option B – performance-based standards for camping and hygiene; and
- Option C – options for wheel chains.

In addition to these options, as noted above, the proposed Regulations were streamlined and simplified during this RIS process, and informed by practical experience and stakeholder feedback.

An MCA assessment was conducted for Option A and Option B. These are summarised in Table 12 below. The preferred options, with the relatively higher weighted score, have been included in the proposed Regulations.

**Table 12: Summary of MCA assessment scores**

Options	Weighted Score*
<b>Addressing high risk, high probability activities</b>	
Option A1 – higher penalties (incorporation into legislation)	25.0
Option A2 – proposed Regulations (infringement penalties in regulations)	<b>27.5</b>
<b>Camping and hygiene</b>	
Option B1 – performance-based standards	12.5
Option B2 – prescribed standards	<b>20.00</b>

\* Bold indicates preferred option.

With respect to Option C, there appears to be merit in changing the current regulatory approach to permit park managers to waive the requirement to carry wheel chains on certain days (i.e. when it is clear that weather conditions do not require them). If this meant that there were 1,000 fewer wheel chain hires over a season (equivalent to 10 per cent of the estimated total use) then this would result in a saving to park users in the order of \$43,850 per annum, or \$ 365,000 (PV) over a 10-year period. This option effectively achieves the governments road safety objectives but at a lower cost than the current arrangements.

The costs for park users and government associated with the preferred approach are summarised in Table 13 below.

**Table 13: Annual costs imposed on park users and government of the proposed Regulations**

Regulation	Description of Regulation	Cost (\$)
	<i>Park user costs</i>	
rr. 16, 17, 36, 39, 40, 41, 55, 58, 61, 62, 63	Permit applications	21,249
r. 53	Wheel chain hire	438,500
	<i>Sub-total</i>	<i>459,749</i>
	<i>Government costs</i>	
rr. 14(3), (8)	Temporary closure of parks – signs and notices	15,000
rr. 9(2), 21(5), 51(5), 52(1)	Signage erection - set aside areas; fishing; vehicles; parking	20,000
	Enforcement – Authorised Officers	1,575,655
	<i>Sub-total</i>	<i>1,610,655</i>
<b>Total</b>		<b>2,070,404</b>

The total quantifiable costs to users of parks specified in the proposed Regulations and government costs associated with the proposed Regulations are approximately **\$2 million** per annum, or \$17.2 million (PV) over a 10 year period.

There are also non-quantifiable costs in the proposal, many of which relate to conduct or behaviour. The costs associated with ensuring appropriate behaviour in parks are considered minimal because the vast majority of businesses and individuals do not engage in aberrant or

illegal behaviour. That is, activities undertaken by individuals such as harming animals and damaging or destroying trees are not ‘normal’ activities and would therefore not impinge upon the conduct or behaviour of the vast majority of individuals. Attachment F provides a qualitative assessment of these costs.

In terms of benefits, it has been estimated that three of Victoria’s national parks (Grampians, Port Campbell and Wilsons Promontory) alone contribute **\$487 million annually** to the state’s economy.<sup>70</sup> It is important to recall that these benefits relate to just three of Victoria’s 138 parks covered by the proposed Regulations. Even if the proposed Regulations make only a small contribution towards these benefits, the benefit deriving from the proposed Regulations is likely to be considerable. This suggests that the regulatory costs imposed by the proposed Regulations (in the order of \$2 million annually), which seek to protect the environment and manage health and safety risks, are reasonable given the value generated by Victoria’s parks.

This RIS concludes that:

- the benefits to society of the proposed Regulations exceed the costs;
- the net benefits of the proposed Regulations are greater than those associated with any practicable alternatives; and
- the proposed Regulations do not impose restrictions on competition.

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<sup>70</sup> Parks Victoria 2003, *ibid*

## 7. IMPLEMENTATION AND ENFORCEMENT ISSUES

### Key points:

- Overall compliance with the proposed Regulations is expected to be high (particularly in areas where actions are observable), however the large spatial area occupied by Victorian parks makes aberrant or non-compliant behaviour difficult to manage in all situations.
- Parks Victoria enforcement officers are responsible for monitoring and enforcing the proposed Regulations.
- A range of infringement penalties aims to ensure flexible and proportionate compliance.
- Given that the proposed Regulations are substantially similar to the current arrangements, no implementation or transitional issues are expected to arise.

### 7.1 Monitoring and enforcement

Parks Victoria rangers are the Authorised Officers who predominately enforce these regulations. There are currently 721 field based staff, including nine marine rangers. Enforcement is conducted through a combination of regular patrols by field based staff to co-ordinate compliance efforts. Authorised Officers are appointed under s. 83 of the *Conservation Forests and Land Act 1987*.

Victoria Police officers also may assist in ensuring compliance. Department of Primary Industry (DPI) fisheries officers also play a major role in enforcement activities in marine national parks and marine sanctuaries.

Tables 3 above shows that over the past three years there were 94 prosecutions under the regulations, while Table 4 summarises penalty infringements over the life of the regulations. A total of 412 penalty infringement notices were issued during 2011/12 alone.

### 7.2 Penalties

A focus of compliance with the proposed Regulations is through the use of infringement penalties. The 85 infringement penalties in the proposed Regulations seek to improve enforcement and provide government agencies with the flexibility to proportionally penalise persons for minor offences. They are used to address the effect of minor law breaking with minimum recourse to the machinery of the formal criminal justice system.

Penalty infringements aim to improve flexibility with respect to compliance by seeking to impose a proportional response on non-compliant persons. The penalties range from 5 penalty units for less serious infractions to 20 penalty units for more

serious matters.<sup>71</sup> The proposed Regulations prescribe seven offences set at 5 penalties units; 36 are set at 10 penalty units; two are set at 15 penalty units; and 40 are set at 20 penalty units. Attachment G sets out the proposed penalties.

The penalties in the proposed Regulations have been developed in consultation with the Infringements System Oversight Unit (ISOU) in the Department of Justice.

### **7.3 Implementation**

The current Regulations have operated for 10 years and stakeholders are familiar with them. Given that the proposed Regulations are substantially similar to the current arrangements, no implementation or transitional issues are expected to arise.

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<sup>71</sup> Under the *Monetary Units Amendment Act 2012* the Treasurer has set a penalty unit rate from 1 July 2013 to 30 June 2014 at \$144.36, 5 penalty units would currently be \$721.80, 10 penalty units would be \$1,443.60, 15 penalty units would be \$2,165.40 and 20 penalty units would currently be \$2,887.20.



## 8. CONSULTATION

Sixty-one key recreational user groups, environmental groups and associations were informally consulted in developing the regulatory proposal. Attachment H contains a list of these groups. Responses were broadly supportive of the current Regulations which, by and large, are remade in the proposed Regulations.

A key issue that emerges from discussions between DEPI and recreational user groups is their wish to see more consistency in the regulation of public land. These comments informed the remaking of the proposed Regulations.

This RIS represents another step in the consultation process and DEPI welcomes comments or suggestions with respect to the nature, extent, and likely impacts of the proposed Regulations, and any variations that may improve the overall quality of the proposal.

The *Subordinate Legislation Act 1994* requires that the public be given at least 28 days to provide comments or submissions regarding the proposed Regulations. To provide adequate time to comment on the regulatory proposals in this RIS, the consultation period will be 28 days, with written comments required by no later than **5.00pm, Monday 19 August 2013**.

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## **10. ATTACHMENTS**

## Attachment A – Nature and management of threats to National Parks

**THREATS TO PARK VALUES AND HUMAN HEALTH AND SAFETY FROM RECREATIONAL VISITORS AND WAYS THESE MAY BE MANAGED**

Threat	Ways to manage threat	Regulation(s) being remade
<b>To natural values<sup>72</sup></b>		
<p><b>Erosion</b></p> <p>Off-road driving, riding or walking all effect erosion, particularly around paths and tracks. Some activities on higher slopes, if not managed or adequately controlled, have the potential to greatly increase erosion beyond natural processes. Erosion of river banks can occur from boating in sensitive areas.</p>	<p>Maintenance of protective vegetation is essential for erosion control. Protection of parks from human induced soil erosion and associated soil instability requires restriction of activities in vulnerable areas, revegetation and measures to stabilise facilities, tracks and paths in affected areas. The design and maintenance of roads, tracks, paths and viewing points can also mitigate the impact of erosion, as can limiting vehicles and horse riders to particular areas where the impact on soil stability is lowest.</p>	<p>r. 28 (Crossing area by way other than an identified track) r. 47 (Vehicles) r. 48 (Parking of vehicles)</p>
<p><b>Soil quality</b></p> <p>Soil compaction and root system compaction can be caused by off-road driving, riding or walking. Soil quality can be damaged by the digging up and removal of material from the ground.</p>	<p>The restriction of activities in vulnerable areas and the prevention of persons from digging up soil etc in parks are ways to manage these threats. Limited exceptions for non-threatening activities (e.g. the burial of faeces, some shell collection, some bait collection and the building of sandcastles) keeps this response proportional to the threat posed.</p>	<p>r. 10 (Areas where access is prohibited or restricted) r. 25 (Digging or removal of material) r. 28 (Crossing area by way other than an identified track) r. 47 (Vehicles) r. 48 (Parking of vehicles)</p>

<sup>72</sup> Note that to the extent that these threats impact on ecosystem services these also threaten the economic value of parks.

Threat	Ways to manage threat	Regulation(s) being remade
<p><b>Damage to natural rock features</b></p> <p>For example from off-road driving, riding or walking and careless and deliberate damage from vandalism. Also damage from climbing.</p>	<p>The restriction of activities in vulnerable areas and the prevention of interference with rocks are ways to manage this threat.</p>	<p>r. 10 (Areas where access is prohibited or restricted)  r. 23 (Interfering with rocks or similar natural objects)  r. 24 (Caves)  r. 28 (Crossing area by way other than an identified track)  r. 47 (Vehicles)  r. 48 (Parking of vehicles)</p>
<p><b>Introduction of weeds</b></p> <p>Weed infestation presents a threat to park vegetation and is considered the second largest cause of biodiversity loss in Australia.<sup>73</sup> The introduction of non-indigenous plants threatens the integrity of natural ecosystems and the conservation of native species. Visitors to parks may bring in weed seeds on their shoes or on other items they may bring with them. The threat of such seeds spreading is greater with new trails created by off-road driving, riding or walking.</p>	<p>Prevention of new weed infestations is commonly achieved by preventing weed seeds from entering non-contaminated park land by prohibiting items likely to be contaminated being brought into parks and requiring visitors stay on marked tracks.</p> <p>Providing exceptions for certain non-threatening items (e.g. walking sticks) keeps the restrictions proportional to the threat.</p>	<p>r. 10 (Areas where access is prohibited or restricted)  r. 22 (Introducing vegetation)  r. 28 (Crossing area by way other than an identified track)  r. 47 (Vehicles)  r. 48 (Parking of vehicles)</p>
<p><b>Direct impact on flora</b></p> <p>Damage to trees/plants arising from trampling of vegetation, vandalism of trees, and removal of trees and wood for firewood leads to the loss of vegetation</p>	<p>Flora management involves active management of parks and reserves such as by setting aside areas for recovery and conservation, and removing non-indigenous plants and</p>	<p>r. 10 (Areas where access is prohibited or restricted)  r. 21 (Protection of vegetation)</p>

<sup>73</sup> Martin P, 2003, *Killing Us Softly – Australia’s Green Stalkers, A Call to Action on Invasive Plants, and a Way Forward*, CRC for Australian Weed Management, Glen Osmond

Threat	Ways to manage threat	Regulation(s) being remade
<p>cover and affects animal habitats and the natural growth and decomposition cycles of logs and other organic matter. This may be caused by direct interference or by off road driving, riding or walking. Enforcement data suggests there is an ongoing problem with interference with vegetation in some parks.</p>	<p>revegetate degraded areas. Spraying, hand-pulling and controlled burning are the usual methods for managing weeds. The ability to restrict entry can assist in the success of such operations and ensure public safety as well as placing controls on the removal or damage to flora.</p> <p>Providing limited exceptions for the collection of firewood in certain areas keeps such a response proportionate to the threat posed.</p>	<p>r. 28 (Crossing area by way other than an identified track)  r. 47 (Vehicles)  r. 48 (Parking of vehicles)</p>
<p><b>Direct impact on fauna</b></p> <p>Wildlife disturbance and habitat destruction. In extreme cases cruelty to animals or total removal of animals from the environment by poaching or illegal hunting.</p>	<p>Prohibiting persons from disturbing wildlife and wildlife habitats, and from using certain poisons and traps, provides a tool for park managers to manage this behaviour.</p> <p>Providing limited exemptions for the collection of animals for bait and for legal hunting activities conducted in three specified parks ensures the prohibition is proportionate to the threat.</p>	<p>r. 10 (Areas where access is prohibited or restricted)  r. 14 (Interfering with animals)  r. 14A (Collection of bait)  r. 15 (Use, carriage or possession of poisons or traps)  r. 28 (Crossing area by way other than an identified track)  r. 54 (Gippsland Lakes Coastal Park – Hunting)  r. 55 (Cape Conran Coastal Park – Duck Hunting)  r. 56 (Lake Albacutya Park – Hunting) r.47 (Vehicles)  r. 48 (Parking of vehicles)</p>
<p><b>Direct impact on fish</b></p> <p>Depletion of fish stocks by over-fishing and the use of certain fishing equipment. Enforcement data suggests there is an ongoing problem with the use of inappropriate equipment for fishing and fishing in</p>	<p>The ability to set aside areas in which the taking of indigenous fish and the use of certain fishing equipment is banned enables the park manager to protect sensitive stocks from overfishing.</p>	<p>r. 16 (Fishing)  r. 17 (Use of fishing nets)  r. 53 (Lysterfield Park)  r. 63 (Conditions of approval)</p>

Threat	Ways to manage threat	Regulation(s) being remade
restricted areas.	See section 1.4.5 of this RIS for further discussion of the nature of the problems arising at Point Hicks National Park and Cape Howe Marine National Park.	r. 66 (Prescribed area and prohibition on being in charge of certain boats)
<p><b>Pollution of marine environment</b></p> <p>Damage to marine environment by boats anchoring at sea and inappropriately disposing of rubbish.</p>	It is important that park managers have the power to control where vessels may launch/land/moor etc.	r. 50 (Vessels)
<p><b>Introduced fauna</b></p> <p>The introduction of non-native animals to parks can have a very detrimental effect on native wildlife. These animals may prey on native wildlife or compete for food or habitat. Introduced predators, such as feral cats and dogs, have contributed to the decline and sometimes the extinction of native wildlife species.<sup>74</sup></p> <p>Even the short term presence of these animals may pose a threat. For example by the introduction of disease, predation on fauna and disturbance to tracks and vegetation.</p> <p>Enforcement data suggests there is an ongoing problem with dogs in parks.</p>	<p>Placing restrictions on which animals can be brought into parks, requiring any animals brought in a park to be suitably controlled and providing a power to destroy any such animals found at large reduces the likelihood of non-native animals escaping into parks.</p> <p>The use of warning signs and increased enforcement of dog walking regulations during high-risk periods has helped protect Hooded Plovers and nesting chicks in sensitive areas.<sup>75</sup></p> <p>Enabling certain areas to be set aside for recreational activities with dogs and horses, providing exceptions for animals for the disabled, for animals in transit and for dogs used for legal hunting in three specified parks keeps the restrictions proportional to the threat.</p>	<p>r. 18 (Horses in parks)</p> <p>r. 18A (Dogs in parks)</p> <p>r. 18B (Exceptions relating to dogs and horses in parks)</p> <p>r. 19 (Cats in parks)</p> <p>r. 19A (Other animals in parks)</p> <p>r. 20 (Destruction of animals)</p> <p>r. 28 (Crossing area by way other than an identified track)</p> <p>r. 54 (Gippsland Lakes Coastal Park – Hunting)</p> <p>r. 55 (Cape Conran Coastal Park – Duck Hunting)</p> <p>r. 56 (Lake Albacutya Park – Hunting)</p>

<sup>74</sup> Parks Victoria, 2007, *ibid*, p. 127

<sup>75</sup> DSE, 2011, *ibid.*, Melbourne, p. 8



Threat	Ways to manage threat	Regulation(s) being remade
<p><b>Water pollution</b></p> <p>Visitors, pets and vehicles affect natural waterways and the quality of water that flows into drinking water reservoirs. Potential sources of pollution include human and animal (pets) waste, and soaps and detergents.</p>	<p>Melbourne’s water catchment areas consist of a combination of ‘open’ and ‘closed’ catchments. To protect water quality public access and movement is restricted to particular areas within the catchments. Access to ‘closed’ catchments is generally not permitted except on designated walking tracks and roads. Many of these catchments have been closed to the public for 100 years.</p> <p>Access to ‘open’ catchments is carefully managed, with restrictions on certain activities (use of detergents, disposal of faeces and camping near waterways) and prohibitions on entering certain areas. Effective management of water catchments by periodic road closures and appropriate land use within parks aims to minimise the impact from recreational activities to ensure the highest quality water sources.</p>	<p>r. 10 (Areas where access is prohibited or restricted)  r. 28 (Crossing area by way other than an identified track)  r. 41 (Camping)  r. 44 (Hygiene)  r. 45 (Use of soap or detergent)  r. 46 (Water supply catchment areas – pollution of and interference with water)  r. 57 (Kinglake National Park)  r. 58 (Yarra Ranges National Park)</p>
<p><b>Fire</b></p> <p>Fire has a major impact on the natural environment as well as public safety and adjacent properties. The devastation caused by the Black Saturday bushfires in Victoria underscores the need to manage fire risks and prevent fires from starting.</p> <p>Nine of the fifteen fires examined by the Victorian Bushfire Royal Commission were started either directly or indirectly as a result of human activity and broader data presented to the Commission suggests</p>	<p>Restrictions on the areas in which fires may be lit, as well as the provision of fireplaces, will control the use of fires by visitors and minimise any fire risk. The Forests (Fire Protection) Regulations 2004 also include provisions relating to the maintaining and extinguishment of fires lit in national parks.</p>	<p>r. 40 (Lighting or maintaining fires)</p>

Threat	Ways to manage threat	Regulation(s) being remade
<p>that about a third of bushfires are lit by people with mischievous or criminal intent.<sup>76</sup> Enforcement data suggests there is an ongoing problem with visitors to parks lighting or maintaining fires in inappropriate areas. This was brought into sharp relief, with at least one of the recent bushfires in Tasmania being reported as having been started from an unattended campfire.</p>		
<p><b>To social/cultural values</b></p>		
<p><b>Uninformed or careless behaviour</b></p> <p>Other park users should not be subject to excessive noise, risk from uncontrolled animals or other behaviours that could put them at risk. Aberrant behaviour can affect visitor experience directly through the size of a group or the noise they make, or indirectly, through environmental impacts such as littering. Enforcement data suggests there is an ongoing problem with visitors to parks abusing park officers.</p>	<p>Delineating areas in parks for different activities is an effective tool for managing competing uses of park space. Permits may also be necessary on occasion to ensure visitor numbers are kept at a sustainable level.</p> <p>High-traffic sports and events may need to be limited and restrictions placed on the event size (area), timing and number of participants to ensure that environmental impacts are minimised and the amenity of other park users is not impinged.</p> <p>The prohibition of certain activities which cause a nuisance to other park users (e.g. using excessively noisy equipment at night or having dogs off leash) is a further tool to control such behaviour.</p> <p>The prevention of persons bringing glass items and alcohol</p>	<p>r. 18 (Horses in parks)  r. 18A (Dogs in parks)  r. 18B (Exceptions relating to dogs and horses in parks)  r. 19 (Cats in parks)  r. 19A (Other animals in parks)  r. 29 (Glass bottles, containers and utensils)  r. 30 (Possessing liquor)  r. 34 (Dangerous activities)  r. 35 (Operating annoying or disturbing device or equipment)  r. 36 (Organised events)  r. 37 (Advertising, soliciting, public speaking etc)  r. 40 (Lighting or maintain fires)</p>

<sup>76</sup> Parliament of Victoria, 2010, *Victorian Bushfires Royal Commission 2009 Final Report: Summary*, Melbourne, p. 12

Threat	Ways to manage threat	Regulation(s) being remade
	into certain areas of parks is a further method for controlling uninformed and careless behaviour and protecting public safety.	r. 41 (Camping) r. 47 (Vehicles) r. 48 (Parking of vehicles) r. 50 (Vessels) r. 51 (Use of aircraft)
<p><b>Vandalism to provided facilities</b></p> <p>It is important to ensure that built assets are not damaged.</p>	Prohibiting the carrying out of inappropriate activities in provided facilities is an important tool to manage such behaviour.	r. 39 (Entry, occupation and use of building or structures) r. 59 (Kingslake National Park and Yarra Ranges National Park – interference with structures)
<p><b>Interference with archaeological and historical sites</b></p> <p>Human activity can damage vulnerable archaeological and historical sites.</p>	Prohibiting interference with archaeological and historical sites enables such behaviour to be managed.	r. 26 (Interfering with archaeological and historical sites)
<p><b>Competing uses</b></p> <p>There are many activities that visitors wish to undertake in a park, ranging from quiet contemplation to vigorous sporting pursuits. These may conflict with each other.</p>	<p>The carrying out of these activities needs to be managed so that the safety and enjoyment of all park users is protected. Methods for managing such competing uses include issuing permits for specific activities and having the ability to set aside certain areas of a park as areas for particular activities.</p> <p>It is also important park managers have the ability to manage which areas vehicles can drive and park in, where aircraft may launch or land and where vessels can launch/land/moor etc.</p>	r. 31 (Water activities) r. 32 (Engaging in sporting or recreational activity) r. 33 (Snowsports) r. 34 (Dangerous activities) r. 35 (Operating annoying or disturbing device or equipment) r. 36 (Organised events) r. 37 (Advertising, soliciting, public speaking etc)

Threat	Ways to manage threat	Regulation(s) being remade
		r. 38 (Erection or construction of buildings, structures etc) r. 41 (Camping) r. 47 (Vehicles) r. 48 (Parking of vehicles) r. 50 (Vessels) r. 51 (Use of aircraft) r. 53 (Lysterfield Park)
<b>Inappropriate photography</b>  The taking of inappropriate photographs by park visitors.	Having the ability to ban the use of such equipment provides the park manager with the ability to manage such behaviour.	r. 15A (Use, carriage or possession of a static camera)
<b>To health and safety</b>		
<b>Occurrence of a flood/fire/natural disaster or emergency</b>  In case of a flood/fire/natural disaster or emergency it may not be safe for visitors to be present in park due to natural hazards.	Having the ability to close particular parks to the public and to request those present to leave the park if a flood/fire/natural disaster or emergency occurs enables the parks manager to protect public safety following such events.	r. 8 (Temporary closure of park)
<b>Localised threats to health and safety</b>  Certain areas of a park may be dangerous for visitors for example mountainous areas with unstable rocks or areas with hazardous water conditions.	Having the ability to set aside certain areas of a park as areas to which access is prohibited or restricted if there is a localised threat to public safety enables the parks manager to protect public safety. Requiring visitors stay on designated paths and tracks also reduces the risk of accidents occurring in less well maintained areas.	r. 10 (Areas where access is prohibited or restricted) r. 24 (Caves) r. 28 (Crossing area by way other than an identified track)

Threat	Ways to manage threat	Regulation(s) being remade
<p><b>Dangerous sports</b></p> <p>‘Extreme sports’ are a growing category of recreation. These, along with traditional activities such as snow sports, provide enjoyment and recreational benefits for participants; but they are inherently risky and potentially high impact activities.</p>	<p>Having the ability to set aside certain areas of a park as areas to which particular sports can/cannot be carried out and requiring permits to be obtained to undertake certain sports enables the parks manager to control the impact of dangerous sports on other park users.</p>	<p>r. 31 (Water activities) r. 32 (Engaging in sporting or recreational activity) r. 33 (Snowsports) r. 34 (Dangerous activities)</p>
<p><b>Road safety</b></p> <p>Roads in mountainous areas can become very dangerous in wet or icy conditions. This can significantly increase the risk of vehicle accidents resulting in injury, death or damage to vehicles and other property.</p>	<p>Requiring that wheel chains be carried at certain times of the year and used if the weather conditions require this is an important tool for managing this health and safety risk.</p>	<p>r. 47 (Vehicles) r. 48 (Parking of vehicles) r. 49 (Wheel chains)</p>
<p><b>Unexploded ordnances at Point Nepean</b></p> <p>The Point Nepean National Park was previously defence property, and contains disused firing ranges. It contains various potentially hazardous structures and there are risks that unexploded ordnances remain in the park.</p>	<p>The park manager requires the power to require people to not enter and to leave potentially dangerous areas</p>	<p>r. 52 (Point Nepean National Park)</p>

Attachment B – Overview of proposed Regulations

**PROPOSED NATIONAL PARKS REGULATIONS 2013**

The proposed National Parks Regulations 2013 are primarily concerned with managing human behaviours and activities which may negatively impact on a park's environmental values and/or visitor safety and amenity. In doing so, the proposed Regulations seek to balance competing interests by managing activities through a permit system and by restricting or prohibiting certain activities and behaviours. That said, the regulatory regime starts from the premise that park users should be allowed to conduct a broad range of activities *unless* they are prohibited or restricted by the Act or regulations.

The following section provides an overview of the proposed Regulations:

**Proposed Regulations**

*Part 1 – Preliminary*

**Regulation 1** sets out the objectives of the regulations, which are to provide for the management and control of parks, and to regulate or prohibit certain conduct in relation to parks, so as to promote, amongst other things, the preservation and protection of parks, flora, fauna and indigenous fish in parks, and various other features of and facilities in parks; the protection of designated water supply catchment areas and other water supply catchment areas; and the safety, enjoyment, recreation and education of visitors to parks.

**Regulation 2** provides the authority under which the regulations are made. These regulations are made under sections 32AA, 37, and 48 of the Act.

**Regulation 3** provides the date the proposed Regulations come into operation.

**Regulation 4** revokes the current Regulation and the National Parks (Cape Howe Marine Park) Regulations 2006, which will be incorporated into the proposed Regulations (see Schedule 1).

**Regulation 5** contains definitions for the purpose of interpreting the regulations. Definitions include 'Aboriginal person', 'Aboriginal tradition', 'aircraft', 'animal', 'assistance dog', 'camp', 'fauna', 'fire', 'flora', 'game licence', 'horse', 'hunt', 'indigenous fish', 'indigenous fish preservation area', 'litter', 'liquor', 'motorised wheel chair', 'occupation permit', 'occupation site', 'pollute', 'prohibited access area', 'public fireplace', 'skiing', 'taxon', 'the Act', 'timber', 'traditional owner', 'traditional owner group', 'trail camera', 'vehicle', 'vegetation', 'vessel', 'website' and 'wheel chair'. Parks are also described with reference to schedules in the proposed Regulations.

**Regulation 6** provides for the interpretation of 'park' for which the proposed Regulation will apply.

**Regulation 7** deals with the application of certain regulations to persons. They provide that a person acting under and in accordance with the terms and conditions of any permit,

authorisation, lease, licence or consent granted under the Act, or agreement entered into under the Act, is not subject to these Regulations to the extent that the activities authorised by the permit, authorisation, lease, licence, consent or agreement are inconsistent with these Regulations. Certain persons such as servants or agents of the Crown are also exempt from certain regulations.

**Regulation 8** provides exemptions from certain regulations for a traditional owner when undertaking an Aboriginal tradition.

**Regulation 9** provides the Secretary with authority to make a determination to set aside an area in which an activity or conduct is permitted, required, restricted or prohibited. The Secretary may include in the determination any conditions subject to which the activity or conduct must or must not be carried out. Signs or notices must be erected informing park users that the area has been set aside.

**Regulation 10** makes it an offence not to comply with conditions in an area set aside by a determination.

**Regulation 11** provides that the Secretary may issue a permit to a person to engage in an activity or conduct that is prohibited or restricted by certain regulations. Such permits may authorise the holder to enter and use an area of a park specified in the permit for the purpose specified in the permit, for the period specified in the permit; and subject to any terms and conditions in respect of that entry or use that are determined by the Secretary and specified in the permit. Such permits must be in writing.

**Regulations 12** provides the Secretary with reasons and process for which he or she may cancel a permit.

**Regulation 13** makes it an offence not to comply with terms and conditions of a permit.

#### *Part 2 — Access to parks*

**Regulation 14** provides the Secretary with authority to temporarily close a park to the public in the event of flood, fire, natural disaster or other emergency, or in anticipation of flood, fire, natural disaster or other emergency. The regulation also sets down the process the Secretary must follow in the event of a temporary closure of a park. An offence is created for an unauthorised person who enters a park subject to closure. **Regulation 15** provides an authorised officer, for reasons of safety, to direct a person to leave the park or part of a park, or to remain in part of a park.

**Regulation 16** provides the Secretary with authority to make a determination to set aside an area of a park as an area to which access is prohibited, or as an area to which access is restricted. In making such a determination the Secretary must consider the purposes of the preservation, protection or management of a park or public safety within a park.

#### *Part 3 — Protection, management, and use of parks*

**Regulation 17** deals with interfering with animals. A person must not, in a park, disturb, harass, remove, hunt, capture, take, kill, injure or otherwise destroy or interfere with any animal. In addition, a person must not, in a park, destroy, disturb or interfere with the nest, bower, display mound, lair or burrow of any animal. Further, a person must not, in a park, feed, offer food or offer any object as food to any animal.

**Regulation 18** provides that the Secretary may by determination set aside an area in a park as an area for the collection of animals for use as bait. In this regulation, ‘park’ means any park or part of a park other than any marine national park or marine sanctuary, or an indigenous fish preservation area.

**Regulation 19** provides that a person must not, in a park, possess, carry or use any poison, or possess, carry or use any trap, snare, net or similar equipment. Certain exemptions apply in relation to fishing and for a holder of a relevant permit.

**Regulation 20** provides that a person must not, in a park, possess, carry or use a trail camera, unless they hold a relevant permit.

**Regulation 21** provides that the Secretary may by determination set aside an area in a park as an area for the preservation of indigenous fish. A person must not take or attempt to take fish in an indigenous fish preservation area. Penalties apply for doing so.

**Regulation 22** provides that a person must not bring a dog or a horse into a park or allow a dog or a horse to remain in a park. Certain exemptions apply. If a dog or a horse is found in a park and the dog or the horse is not under the immediate control of any person, the owner of the dog or the horse is guilty of an offence. The Secretary may by determination set aside an area of a park as an area into which dogs or horses may be brought, and in which dogs or horses may be allowed to remain.

**Regulation 23** provides that a person must not bring a cat into a park or allow a cat to remain in a park. This regulation does not apply if the cat is confined in a vehicle, which is in transit through the park, by a route that is usually open to the public for transit through the park. If a cat is found in a park and the cat is not under the immediate control of any person, the owner of the cat is guilty of an offence.

**Regulation 24** provides that a person must not bring any animal into a park or allow an animal to remain in a park. Certain exemptions apply, such as use of bait or animals confined in a vehicle, which is in transit through the park, by a route that is usually open to the public for transit through the park. If an animal is found in a park, and is not under the immediate control of any person, the owner of the animal is guilty of an offence.

**Regulation 25** provides that an authorised officer may seize a live animal that is not fauna and deliver it to a member of staff of the municipal council within whose municipal district the park is situated or other appropriate person or body or persons if that authorised officer is satisfied on reasonable grounds that the live animal has been brought into or allowed to enter or to remain in a park in contravention of these Regulations and the animal has been found at large. If an authorised officer has made reasonable attempts to seize an animal and has been unable to do so, an authorised officer may shoot or otherwise destroy the animal speedily and humanely.



**Regulation 26** provides that a person must not, in a park, cut, fell, pick, remove, take or destroy any vegetation. A person must also not damage any vegetation. However, the Secretary may by determination set aside an area of a park where fallen or felled trees may be cut and taken away for use as firewood within the park.

**Regulation 27** provides that a person must not knowingly bring in any vegetation to a park. In addition, a person must not plant any vegetation in a park. Exemptions apply for manufactured wooden articles such as a fishing rod or walking stick. The Secretary may by determination set aside an area of a park where timber or wood products may be brought in for use as firewood within the area.

**Regulation 28** provides that a person must not, in a park, deface, remove or otherwise interfere with any rock or similar natural object. A person must also not damage any rock or similar natural object in a park.

**Regulation 29** provides that a person must not dig or remove from a park any gravel, shell, grit, sand, soil or other similar material. A person must also not knowingly bring into a park any gravel, shell, grit, sand, soil or other similar material. Certain exemptions apply.

**Regulation 30** provides that a person must not, in a park, excavate, remove, deface, or otherwise interfere with any archaeological or historical remains or relics, nor must a person, in a park, damage any archaeological or historical remains or relics.

**Regulation 31** provides that a person must not smoke in any cave in a park, or carry into any such cave any substance, material or article or perform any act that may be hazardous to any person or to the preservation of the cave.

**Regulation 32** provides that a person must not, in a park, leave a track identified for walking or riding if the Secretary has erected a sign or notice on that track requiring persons to remain on the track. Exemptions are available for certain permit holders.

**Regulation 33** provides that the Secretary may by determination set aside an area of a park as an area where a person must not possess or carry a glass bottle, glass container or glass utensil.

**Regulation 34** provides that the Secretary may by determination set aside an area of a park as an area where a person must not possess liquor.

**Regulation 35** provides that the Secretary may by determination set aside marine waters as waters in which bathing is restricted; or any one or more of the following activities is prohibited or restricted: the possession of hand held spears or spear guns; the use of surf-skis, surf boards, body boards, skiffle boards, kite boards, wind-surfers or other similar devices; or the use of underwater breathing equipment. Penalties apply if any of these restrictions are breached.

**Regulation 36** provides that the Secretary may by determination set aside an area of a park as an area in which sport or recreational activities are prohibited. A person must not engage in a sport or a recreational activity in any area of a park set aside under this regulation. The

Secretary may also by determination set aside an area of a park as an area in which sport or recreational activities are restricted; however, the Secretary may issue a permit to a person to engage in an activity that is prohibited or restricted by a determination.

**Regulation 37** provides that the Secretary may by determination set aside an area of a park as an area for skiing or tobogganing. A person must not walk or toboggan in an area of a park set aside by the Secretary for skiing. A person must not walk or ski in an area of a park set aside by the Secretary for tobogganing.

**Regulation 38** provides that a person must not, in a park, throw an object, play a game, or engage in any other activity in a manner that is likely to cause danger to other persons or to animals.

**Regulation 39** provides that a person must not, in a park, use or operate any device or equipment that produces noise likely to cause inconvenience or nuisance to any person. The Secretary may by determination set aside an area in a park as an area in which a person may use or operate devices or equipment that produce noise likely to cause inconvenience or nuisance to any person. Certain exemptions apply.

**Regulation 40** provides that a person must not conduct or organise an event or function in a park that involves 30 or more persons, if that event or function is entertainment or a show, a festival, wedding or similar ceremony, fete or public meeting, or a demonstration, training class or similar event, or a car rally, fishing competition or other competitive event. Exemption from this regulation applies for relevant permit holders.

**Regulation 41** provides that a person must not, in a park, solicit or collect money; display a sign for the purposes of advertising; or hand out or disseminate any advertising or commercial or promotional material, including pamphlets or handbills. A person must not, in a park, deliver any address, that may disturb or annoy other park visitors. A person may undertake these activities with a relevant permit.

**Regulation 42** provides that a person must not, in a park, erect, construct or install a building or other structure (whether temporary or not). Certain exemptions apply, for example, for campers and relevant permit holders.

**Regulation 43** provides that a person must not occupy, use or enter a building or a structure in a park. This regulation does not apply to a person who is camping in accordance with regulation 46, certain permit holders, and if the occupation, use or entry is consistent with the purposes for which the building or structure is provided (e.g. a toilet block), and the person occupying, using or entering the building or structure does not exclude, or attempt to exclude, other persons from occupying, using or entering the building or structure.

**Regulation 44** provides that a person must not remove, cut, displace, deface or interfere with anything constructed or erected in a park. A person must not damage anything constructed or erected in a park.

**Regulation 45** provides that a person must not light or maintain a fire in a park. However, the Secretary may by determination set aside an area of a park as an area in which a person may light or maintain a fire in a place other than a public fireplace. This regulation does not

apply to a person who lights or maintains a fire in a park at a time and during a period when the lighting of fires in that park is not prohibited under any Act and the person does so in a public fireplace, in an area that is set aside for fires, or on a vessel in an area of the park that is seaward of the low water mark.

#### *Part 4 — Camping and hygiene*

**Regulation 46** provides that the Secretary may by determination set aside an area of a park as an area for camping, and a person must not camp in a park in an area that is not set aside. In addition, a person must not camp in the area for more than 42 consecutive nights. A person who camps on a site within an area of a park set aside must maintain the site in a clean and tidy condition. A person who camps on a site within an area of a park set aside must, before vacating the site, clear all litter and personal equipment for which the person is responsible from the site.

**Regulation 47** provides that a person must not leave behind or deposit faeces unless if the person is in an area in which toilet facilities are provided and readily available, the person does so in those facilities, or if the person is not in an area in which toilet facilities are provided or readily available, the person does so by burying those faeces 100 metres or more away from any river, stream, creek, well, spring, dam, lake, reservoir, bore or water body. There are also other restrictions in relation to leaving faeces in a park.

**Regulation 48** provides that a person who uses any soap, detergent or similar substance in a park must not dispose of the soap, detergent or similar substance unless the person does so at least 50 metres away from any river, stream, well, spring, creek, dam, bore or watercourse, and at least 50 metres landward of the high water mark.

**Regulation 49** provides that a person must not do anything that is likely to pollute water in a designated water supply catchment area.

#### *Part 5 — Occupation Sites*

**Regulation 50** provides that a person must not occupy an occupation site unless the person does so under and in accordance with an occupation permit. A person to whom an occupation permit is granted must pay the fee or charge determined for the permit under section 21(2) of the Act. A person who occupies an occupation site must maintain the site in a clean and tidy condition. A person who occupies an occupation site must, before vacating the site, clear all litter and personal equipment for which the person is responsible from the site. Penalties apply for a person who does not act in accordance with this regulation.

#### *Part 6 — Vehicles, vessels and aircraft in parks*

**Regulation 51** provides that the Secretary may by determination set aside a road or track in a park as an area to which the entry of vehicles or a class of vehicles is prohibited or to which the entry of vehicles or a class of vehicles is restricted.

**Regulation 52** provides that the Secretary may erect a notice or sign in a park that specifies that vehicles or a class of vehicles may be parked or left standing subject to restrictions; or

may not be parked or left standing. A person must not park or leave a vehicle standing in contravention of a sign or notice.

**Regulation 53** provides that the Secretary may by determination set aside an area of a park as an area in which wheel chains must be carried in a regulated vehicle. The Secretary may for an area set aside determine the period during which wheel chains must be carried in that area. During any period in which wheel chains must be carried in an area set aside, an authorised officer may, for reasons of safety or for the control or protection of the park, direct the person using a regulated vehicle to properly fit wheel chains to at least two drive wheels of that vehicle.

**Regulation 54** provides that the Secretary may by determination set aside an area of a park as an area in which, in relation to the launching, landing, loading, unloading, mooring, anchoring or operating of vessels the carrying out of such of those activities as are specified in the determination is prohibited in the area. This applies to either all vessels or for those classes of vessels that are specified in the determination, or the carrying out of such of those activities as are specified in the determination is restricted, as set out in the determination, in the area, either for all vessels or for those classes of vessels that are specified in the determination. A person must not launch, land, load, unload, moor, anchor, or operate a vessel in an area of a park to which a determination of the Secretary under this regulation in contravention of the determination

**Regulation 55** provides that a person must not, in a park launch or land an aircraft or deliver anything by an aircraft. The Secretary may by determination set aside an area of the park as an area in which a person may launch or land; or deliver anything by an aircraft or a class of aircraft specified in the determination. An exemption may apply to the holder of a permit issued for the purposes of this regulation.

#### *Part 7 — Protection, management and use of specific parks*

**Regulation 56** provides that the Secretary may by determination set aside an area of Point Nepean National Park as an area in which dangerous or unexploded ordnance is known or suspected to be present. A person who is not a member of the Australian Defence Force must not enter any area set aside. In addition, a person must not, while within Point Nepean National Park, enter any shaft, underground tunnel or magazine, building or fortification, or any area to which access is restricted because of use or intended use by the Australian Defence Force in contravention of any sign or notice erected from time to time by the Secretary, or by climbing or breaching any fence or locked gate, or by removing any grille.

**Regulation 57** provides that a person must not take or attempt to take fish from waters within Lysterfield Park. A person must not swim or bathe in Lysterfield Park, other than in an area that has been set aside.

**Regulation 58** provides that permits, in the duck hunting area of Gippsland Lakes Coastal Park, the taking wild duck or stubble quail during the open season for wild duck or stubble quail (as applicable); or in possession of a dog during the 48 hour period immediately before the commencement of the open season for wild duck or stubble quail; or using a dog for the purposes of flushing or retrieving wild duck or stubble quail during the open season for wild duck or stubble quail. This regulation also permits hog deer hunting area of Gippsland Lakes

Coastal Park during the open season for such deer. Hunters must have appropriate firearms licences and hunting permits. The Secretary may issue a permit to a person to cut vegetation in the duck hunting area of Gippsland Lakes Coastal Park, for the purpose of establishing a duck hide.

**Regulation 59** permits, in the duck hunting area of Cape Conran Coastal Park, the taking of wild duck or stubble quail during the open season for wild duck, or in possession of a dog during the 48 hour period immediately before the commencement of the open season for wild duck, or using a dog for the purposes of flushing or retrieving wild duck or stubble quail during the open season for wild duck or stubble quail. Hunters must have appropriate firearms licences and hunting permits.

**Regulation 60** permits hunting in the area of Lake Albacutya Park, and allows a person to undertake the hunting or taking rabbits, foxes or cats, taking wild duck during the open season for wild duck, and to be in possession of a dog during the 48 hour period immediately before the commencement of the open season for wild duck; or using a dog for the purposes of flushing or retrieving wild duck during the open season. Hunters must have appropriate firearms licences and hunting permits.

**Regulation 61** provides that a person must not enter or remain in any area of the designated water supply catchment area in Great Otway National Park. The Secretary may by determination set aside an area of the designated water supply catchment area in Great Otway National Park as an area for the purposes of a walking track, picnic area, cycling or for other purposes.

**Regulation 62** provides that a person must not enter or remain in any area of the designated water supply catchment area in Kinglake National Park. The Secretary may by determination set aside an area of the designated water supply catchment area in Kinglake National Park as an area for the purposes of a walking track, picnic area or for other purposes. This regulation specifies a number of exemptions.

**Regulation 63** provides that a person must not enter or remain in an area of the designated water supply catchment area in Yarra Ranges National Park. The Secretary may by determination set aside an area of the designated water supply catchment area in Yarra Ranges National Park for the purposes of a walking track, picnic area or for other purposes. This regulation specifies a number of exemptions.

**Regulation 64** provides that, subject to the Act and these Regulations, a person must not interfere with any structure or installation under the control and management of Melbourne Water Corporation in a designated water supply catchment area in Kinglake National Park and Yarra Ranges National Park.

**Regulation 65** defines ‘the Park’ to mean Point Hicks Marine National Park for the purposes of Part 8.

For the purposes of section 45B(3) of the Act, under **Regulation 66** an approval by the Minister under section 45B(2) is subject to a number of conditions set out in this regulation, including details to be provided to the Minister, the area where a vessel can remain stationary, and directions to take the shortest practicable routes when entering and exiting the park.

**Regulation 67** provides that for the purposes of the conditions set out in regulation 66, notification to the Minister may be given by telephone, on the telephone number disseminated for that purpose by the Minister.

#### *Part 9 — Access to Cape Howe Marine National Park*

**Regulation 68** provides definitions of ‘Abalone Fishery (Eastern Zone) Access Licence’, ‘commercial fishing vessel’, ‘Commonwealth Statutory Fishing Right’, ‘Iron Prince and Gunshot Reefs area’, ‘Ocean Fishery Access Licence’, and ‘Rock Lobster Fishery (Eastern Zone) Access Licence’ for the purposes of Part 9.

For the purposes of section 45A(4) of the Act, **Regulation 69** prescribes the area of Cape Howe Marine National Park, which is that part of the park that is shown by hatching in Schedule 6; and the prescribed class of boats which is commercial fishing vessels.

#### *Part 10 — Allowances for National Parks Advisory Council and Advisory Committees*

**Regulation 70** prescribes travelling and other allowances for members of the National Parks Advisory Council and members of advisory committees.

### **Schedules**

**Schedule 1** revokes National Parks (Park) Regulations 2003 and National Parks (Cape Howe Marine National Park) Regulations 2006 for the purposes of r. 4.

**Schedule 2** prescribes the Gippsland Lakes Coastal Park Hunting Areas for the purposes of r. 58.

**Schedule 3** prescribes the Cape Conran Coastal Park Hunting Area for the purposes of r. 59.

**Schedule 4** prescribes the Lake Albacutya Park Hunting Area for the purposes of r. 60.

**Schedule 5** prescribes the Point Hicks Marine National Park Permitted Stopping Area for the purposes of r. 65.

**Schedule 6** prescribes the Prescribed Area of Cape Howe Marine National Park for the purposes of r. 69.

## Attachment C – Regulatory framework

**REGULATORY FRAMEWORK: LEGISLATION RELEVANT TO VICTORIA'S PARKS**

Act	Summary of relevance to parks recreation
<i>Conservation, Forests and Lands Act 1987</i>	Provides a framework for land management and the necessary administrative, financial and enforcement provisions for a number of Acts of Parliament including the <i>National Parks Act 1975</i> . Codes of Practice for fire management are created under the <i>Conservation, Forests and Lands Act 1987</i> .
<i>Catchment and Land Protection Act 1994</i>	Establishes a framework for the integrated management and protection of catchments, including the development of regional catchment management strategies and regulates particular land management activities. Sets up a system of controls on pest animals.
<i>Environment Protection Act 1970</i>	Establishes offences relating to activities that damage the environment and statutory nuisance.
<i>Fisheries Act 1995</i>	Establishes the framework for the protection, conservation and promotion of access to Victoria's fisheries and aquatic resources and promotes quality recreational fishing opportunities.
<i>Flora and Fauna Guarantee Act 1988</i>	Establishes a legal and administrative structure to conserve native flora and fauna. Provides for management of threatened species and potentially threatening processes that may affect native species.
<i>Land Conservation (Vehicle Control) Act 1972</i>	Provides for vehicular traffic and declaration of erosion hazard areas to prevent soil erosion and damage to public land, including parks.
<i>Litter Act 1987</i>	Disposal of litter in a reserve is prohibited and may result in the imposition of penalties under the <i>Litter Act 1987</i> .
<i>Public Health and Wellbeing Act 2008</i>	Sets out a variety of offences relating to statutory nuisances.
<i>Summary Offences Act 1966</i>	Sets out a variety of offences relating to damage to persons and property, public order, the lighting of fires and statutory nuisances.
<i>Water Act 1989</i>	Governs the protection of underground and surface water resources, including water catchments, and water allocations for domestic, industrial, agricultural and environmental purposes.
<i>Wildlife Act 1975</i>	Protects Victoria's wildlife and makes it an offence to keep/trade in native species without a permit/licence.  Together with the Wildlife (Game) Regulations 2012 regulates the hunting of game in Victoria.

## Attachment D – Summary of changes in National Parks Regulations 2013

**SUMMARY OF SUBSTANTIVE CHANGES BETWEEN 2003 AND 2013 NATIONAL PARKS REGULATIONS**

2003 Regulation	2013 Regulation	Change
r. 5	r. 5	Definitions have been changed slightly, including the introduction of Aboriginal person and tradition, trail camera, occupation site and permit, website and vegetation. Certain redundant definitions have been removed including, intertidal zone, firewood, specified marine national park or marine sanctuary and unregulated land.
r. 8	r. 14	Reflecting technological developments, there is no longer a requirement to publish a closure notice in a newspaper. The requirement now is to publish this information on website and gazette. Publishing in print and other media is now operational discretion.
new	r. 8	Regulations do not apply to Traditional Owners when undertaking an aboriginal tradition. This is in line with other land management regulations.
new	r. 15	This regulation introduces directions regarding safety to mirror similar provisions in Forest (Recreation) Regulations 2010.
r. 11	removed	Removed overlap by merging part of Fishing Nets Regulation with regulation about traps, nets and snares. Yabby collection is now permitted except in Indigenous Fish Preservation Area.
r. 20	r. 32	This regulation removes the need for a specific permit to cross by other than a track. Now this is permitted if the person holds a permit for something else that would require the person to cross an area not on a track.
r. 22	r. 39	Simplified operating annoying/disturbing devices. Removed offence about disturbing fauna (overlap). Removed need to have specific permit if the holder already has an event permit.
r. 25	r. 45	Removed overlap with Fire Regulations and existing Forests (Fire Protection) Regulations. The provision now just regulates where a fire may be lit, not the size, type, etc which was already covered by other sets of regulations.
r. 27	r. 40	Reduced burden by lifting the threshold for the requirement for a permit to 30 in line with Forests (Recreation)



2003 Regulation	2013 Regulation	Change
		Regulations. Previously there was no threshold.
r. 30	r. 42	Removed specific prohibitions of jumping castles.
r. 32	removed	Removed regulation of use of toilets. Covered by other law and not used in past 10 years.
r. 33	removed	Removed regulation regarding use of playground equipment. Damage to equipment suitably is covered by other regulations.
r. 41	r. 52	Removed one parking offence as overlapped with Land Conservation (Vehicle Control) Regulations 2013.
r. 42	r. 53	Brought Wheel chain regulation into line with Alpine Resorts (Management) Regulations including ability for Secretary to waive need to carry chains for day visitors.
r. 45	removed	Umbrellas offence not used in past 10 years.
r. 47	r. 31	Significantly reduced to now only prohibit smoking within caves. Existing regulations already covered access.
r. 64	removed	Covered by the Act, no need for regulation.
r. 65	removed	Reasonable opportunity provision inconsistent with other regulations requiring the payment of a fee or holding a permit i.e. resort entry for Alpine Resorts.
r. 66	removed	Not required as a permit would not be issued without payment of a fee. Otherwise it is an offence under the Act. No need for regulation.
New	r. 20	Due to a problem with Trail or Static cameras being used in parks for illegal hunting and monitoring the movement of compliance staff, DEPI has included a prohibition on their use except if used in accordance with legal hunting activities.
	throughout	Major changes in drafting style from previous land management regulations as directed by OCPC. Each offence provision must now be separate; hence there are more regulations by number, but not by content.

Attachment E.1 – Assumptions

**ASSUMPTIONS**

1. Annual costs are discounted by 3.5 per cent as suggested in the *Victorian Guide to Regulation*, Appendix C, ‘Choice of discount rate’, p. 19.
2. As a proxy for valuing an hour of a licence applicant’s time, the following formula is given:

$HR_x = (AE_x/AW_x \times AH_x)$ , where:

$AE_x$  = average weekly earnings multiplied by 52;

$AW_x$  = number of weeks worked per annum (44 weeks);

$AH_x$  = average weekly hours for full time workers (41 hours)

See *Victorian Guide to Regulation* (Appendix C, ‘Valuing staff time’, p. 15). Labour on-costs and overhead costs are excluded from the calculation of a permit applicant time valuation of time for activities associated with ‘private consumption’ of the activity. This provides an hourly value of a person’s time of **\$39.24** (i.e. \$1,361.60 x 52 divided by (44 x 41)). In the case of businesses, labour on-costs are included. The \$39.24 figure is grossed-up by a factor of 1.75 to take account of these costs (Appendix C, ‘Valuing staff time’, p. 14). This provides an hourly rate for businesses of **\$68.68**.

3. Enforcement costs proved difficult to estimate and posed methodological challenges. There are currently 329 enforcement officers authorised by Parks Victoria able to enforce the regulations. An assumed annual salary of \$54,734 (VPSG-2.27 as from 1 January 2013), which has been grossed-up by a factor of 1.75 to account for labour and corporate on-costs, was adopted. Of this salary bill, it is assumed that 5 per cent of authorised officers’ duties involve enforcing the proposed Regulations. While this estimate is considered reasonable other factors such as what proportion should be attributable to the Act (rather than the regulations alone) and other numerous other laws and regulations that authorised officers are required to enforce make a precise estimate difficult.
4. No data is directly collected concerning the number of winter visitors to Mt Buffalo and Mt St Gwinear (Baw Baw National Park). However, given that Mt Stirling, which had the least amount of winter visitors of the alpine resorts, attracts around 5,500 winter visitors, the assumption of 10,000 winter visitors for Mt Buffalo and Mt St Gwinear would appear reasonable.
5. For the purposes of calculating administrative costs associated with permits applications, the RIS assumes that it takes an applicant’s one hour. DEPI advises that around 75 per cent of the some 500 permits are relatively straightforward and would take 60 minutes or less to complete; the time taken to complete the remainder vary and in some instances can take 5–6 hours to complete.

Attachment E.2 – Calculations

<b>Summary of Costs Imposed by the National Park Regulations 2013</b> (Discounted 10-Year Period)		
<b>Regulation</b>	<b>Type of Cost</b>	<b>Cost (\$)</b>
Permit Applications	Administrative	\$176,718
Wheel chains	Substantive compliance costs	\$3,646,831
Government costs	Administrative/Substantive compliance costs	\$13,395,182
	<b><i>Total</i></b>	<b>\$17,218,732</b>
	<b><i>Annual Cost</i></b>	<b>\$1,721,873</b>

<b>Costs Imposed by the Proposed National Parks Regulations 2013</b>					
<b>Administrative costs - Permit applications</b>	<b>Price</b>		<b>Quantity</b>		<b>Cost (\$)</b>
<i>Description</i>	<i>Tariff</i> <sup>1</sup>	<i>Time</i> <sup>2</sup>	<i>Population</i> <sup>3</sup>	<i>Frequency</i>	
R. 16 - enter a cave	39.24	1.0	6	1	235
R. 17 - Interfering with animals (hunting permit)	68.68	1.0	0	1	0
R. 36 - Engaging in sport or recreational activity	39.24	1.0	249	1	9,771
R. 39 - Operating annoying or disturbing devices or equipment	39.24	0.5	6	1	118
R. 40(1) - Organised event 30+ people	39.24	1.0	198	1	7,770
R. 40(2) - Wedding, ceremony 50+ people	39.24	0.5	17	1	334
R. 41 - Advertising, soliciting, public speaking	68.68	6.0	6	1	2,472
R. 55 - Landing, launching, delivering by aircraft <sup>5</sup>	39.24	1.0	0	1	0
R. 58 - Duck hunting in Gippsland Lakes Coastal Park (cutting a hide)	39.24	0.5	4	1	78
R. 61, 62, 63 - Entry into certain water catchment areas	39.24	6.0	2	1	471
				<b>Total</b>	<b>21,249</b>

<b>Discounted (10-years)</b>					
<b>Year</b>	<b>Cost (\$)</b>			<b>Discounted Cost (\$) <sup>4</sup></b>	
1	21,249			20,530	
2	21,249			19,836	
3	21,249			19,165	
4	21,249			18,517	
5	21,249			17,891	
6	21,249			17,286	
7	21,249			16,701	
8	21,249			16,137	
9	21,249			15,591	
10	21,249			15,064	
				<b>Total</b>	<b>176,718</b>

## Notes

1. A proxy for the applicants time has been calculated in accordance with the Victorian Guide to Regulation. Tariffs for businesses include an uplift factor of 1.75 - see assumptions in Attachment E.1.
2. Times are approximate and have been informed by input from DSE and confirmed by desktop exercises.
3. Data provided by DEPI and Parks Victoria
4. Annual costs are discounted by 3.5 per cent as suggested in the Victorian Guide to Regulation, Appendix C, 'Choice of discount rate', p. 19
5. No permits were issued in relation to r. 17 (interfere with non-fauna) or 55 (launch land aircraft).

**Costs Imposed by the Proposed National Parks Regulations 2013**

Administrative costs - Approvals for Point Hicks Marine National Park	Price		Quantity		Cost (\$)
	<i>Tariff</i> <sup>1</sup>	<i>Time</i> <sup>2</sup>	<i>Population</i> <sup>3</sup>	<i>Frequency</i>	
R. 66 & r. 67 - Notification to the Minister	68.68	0.17	2	30	687
				<b>Total</b>	<b>687</b>

Discounted (10-years)			
Year	Cost (\$)		Discounted Cost (\$) <sup>4</sup>
1	687		664
2	687		641
3	687		619
4	687		599
5	687		578
6	687		559
7	687		540
8	687		522
9	687		504
10	687		487
		<b>Total</b>	<b>5,712</b>

## Notes

1. A proxy for the applicants time has been calculated in accordance with the *Victorian Guide to Regulation*. Tariffs for businesses include an uplift factor of 1.75 - see assumptions in Attachment E.1.
2. Times are approximate and have been informed by input from DEPI and confirmed by desktop exercises.
3. Data provided by DEPI and Parks Victoria
4. Annual costs are discounted by 3.5 per cent as suggested in the *Victorian Guide to Regulation*, Appendix C, 'Choice of discount rate', p. 19

<b>Costs Imposed by the Proposed National Parks Regulations 2013</b>					
<b>Substantive compliance costs - Savings from fewer wheel hires</b>	<b>Price</b>		<b>Quantity</b>		<b>Cost (\$)</b>
<i>Description</i>	<i>Tariff</i> <sup>1</sup>	<i>Time</i> <sup>2</sup>	<i>Population</i> <sup>3</sup>	<i>Frequency</i>	
R. 53 - Wheel chains (time costs)	39.24	0.42	10,000	1	163,500
Wheel chains (hire costs)	27.50		10,000		275,000
				<b>Total</b>	<b>438,500</b>

<b>Discounted (10-years)</b>				
<b>Year</b>	<b>Cost (\$)</b>			<b>Discounted Cost (\$) <sup>4</sup></b>
1	438,500			423,671
2	438,500			409,344
3	438,500			395,502
4	438,500			382,127
5	438,500			369,205
6	438,500			356,720
7	438,500			344,657
8	438,500			333,002
9	438,500			321,741
10	438,500			310,861
			<b>Total</b>	<b>3,646,831</b>

1. A proxy for the applicants time has been calculated in accordance with the Victorian Guide to Regulation. Tariffs for businesses include an uplift factor of 1.75 - see assumptions in Attachment E.1
2. Consultation suggests that chain hire and drop off takes around 25 minutes, although times can vary.
3. See assumptions in Attachment E.1.
4. Annual costs are discounted by 3.5 per cent as suggested in the Victorian Guide to Regulation, Appendix C, 'Choice of discount rate', p. 19

**Costs Imposed by the Proposed National Parks Regulations 2013**

<b>Government Costs</b>	<b>Price</b>		<b>Cost (\$)</b>
<i>Description</i>	<i>Cost</i> <sup>1</sup>	<i>Frequency</i> <sup>2</sup>	
Signage erection - r.9(2) set aside areas, r. 21(5) fishing; r. 51(5) vehicles; r. 52(1) parking	5,000	3	15,000
Temporary closure of park - r. 14(3), (8) signs and notices	1,000	20	20,000
Enforcement costs	1,575,655		1,575,655
		<b>Total</b>	<b>1,610,655</b>

<b>Discounted (10-years)</b>		
<b>Year</b>	<b>Cost (\$)</b>	<b>Discounted Cost (\$)</b> <sup>3</sup>
1	1,610,655	1,556,188
2	1,610,655	1,503,564
3	1,610,655	1,452,719
4	1,610,655	1,403,593
5	1,610,655	1,356,128
6	1,610,655	1,310,269
7	1,610,655	1,265,960
8	1,610,655	1,223,150
9	1,610,655	1,181,787
10	1,610,655	1,141,824
	<b>Total</b>	<b>13,395,182</b>

## Notes

1. Costs for signage and park closures are estimates based on advice from DEPI. Enforcement costs are based on assumption that 5% of authorised officers' time is attributable to the proposed Regulations (see assumptions in Attachment E.2).
2. Data provided by DEPI and Parks Victoria
3. Annual costs are discounted by 3.5 per cent as suggested in the Victorian Guide to Regulation, Appendix C, 'Choice of discount rate', p. 19

Attachment F – Summary of substantive compliance costs**SUMMARY OF SUBSTANTIVE COMPLIANCE COSTS**

The table below describes and makes a qualitative assessment of the substantive compliance costs associated with the proposed Regulations.

<b>Proposed reg<sup>n</sup></b>	<b>Description of proposed regulation</b>	<b>Nature of cost</b>
7C(3)	Requirement that a person issued with a permit under the proposed Regulations (to undertake an activity otherwise prohibited) complies with the conditions of the permit.	Very minor cost to some visitors having to comply with the conditions of permits. Given that the extent and amount of resource expenditure by visitors to comply with conditions of permits remains unknown this cost remains unquantifiable.
8	Enables the Secretary to temporarily close a park for reasons of flood, fire, natural disaster or emergency.	Minor cost to visitors who travel to a park unaware that it is closed. As the extent and frequency of such closures is unpredictable this cost remains unquantifiable.
9	Requirement that a person to comply with a direction of an authorised officer to leave a park or cease a particular activity.	Minor cost to some visitors of inconvenience caused by leaving a park/ceasing an activity. Given that the frequency and event of any directions is unknown this cost remains unquantifiable.
10	Requirement that a person not enter into or remain in an area declared a Prohibited Access Area or a Restricted Access Area.	Minor cost to visitors who travel to a park unaware that part of the park has access to it restricted or prohibited. Visitors can enjoy other parts of the park and costs would be mitigated. As the extent and frequency of such determinations is unpredictable this cost remains unquantifiable.
14	Restrictions on interaction with fauna and wildlife habitats in a park.	Minor cost to some visitors in being restricted in their interaction with fauna and wildlife habitats. This cost would be mitigated to the extent that a permit is obtained, a person takes bait with a hand operated bait pump in an area set aside for this (r. 14A) or a person conducts legal hunting activities at Gippsland Lakes Coastal Park (r. 54), Cape Conran Coastal Park (r.55) or Lake Albacutya Park (r. 56). Given that the incidence of when such interactions would otherwise occur is unknown this cost remains unquantifiable.



Proposed reg <sup>n</sup>	Description of proposed regulation	Nature of cost
15	It is prohibited to possess, carry or use any poison, trap, snare, net or similar within a park.	Minor cost to some visitors in inconvenience in not being able to carry poisons or hunting equipment. Given that the extent of inconvenience is unpredictable this cost remains unknown. This cost can be mitigated if a permit is obtained to interfere with an animal that is not fauna or its habitat (r. 14(1B)).
15A	It is prohibited to use, carry or possess static cameras in park.	Minor cost to some visitors in inconvenience in not being able to use static cameras in a park. Given that the extent of inconvenience is unpredictable this cost remains unknown
16	It is prohibited to fish in an area set aside by the Secretary as an indigenous fish preservation area.	Minor cost to some visitors of inconvenience caused by restrictions on fishing in an area set aside for indigenous fish preservation. This cost remains unquantifiable. The cost may be mitigated if equipment is determined to be acceptable for use for fishing in a specified indigenous fish preservation area.
17	Restrictions on which types of fishing nets can be used to fish in park.	Extremely minor cost to some visitors of inconvenience caused by restrictions on use of certain types of fishing nets. The cost can be mitigated by the use of permitted nets. This cost remains unquantifiable.
18, 18A, 18B, 19 and 19A	The Secretary may set aside part of a park for dog walking or horse riding. Outside of such designated areas animals are prohibited. Exemptions apply to animals for the disabled, those confined to a vehicle/vessel in transit or those permitted by a permit issued under r. 14(1B).	Minor cost of inconvenience caused by prohibition on horses, dogs, cats and other animals in parks. This cost would be mitigated in any areas set aside for such animals and to the extent that a permit is issued for such activity. Further mitigation is possible for the use of dogs for legal hunting activities at Gippsland Lakes Coastal Park (r. 54), Cape Conran Coastal Park (r. 55) or Lake Albacutya Park (r. 56).
20	Enables the seizure and destruction of animals found at large in a park in breach of the proposed Regulations.	Potential cost to animal owner of having an animal found at large in a park seized and/or destroyed. Cost could be mitigated by not bringing animal into park and keeping any permitted animal under suitable control.
21	Restrictions on interaction with flora within a park.	Minor cost to some visitors in being restricted in their interaction with flora. Cost could be mitigated to the extent that firewood is collected in an area set aside for firewood collection or

Proposed reg <sup>n</sup>	Description of proposed regulation	Nature of cost
		a duck hide is cut for legal hunting activities at Gippsland Lakes Coastal Park (r. 54).
22	A person must not knowingly bring in or introduce certain flora to a park.	Minor cost to some visitors of inconvenience caused by these restrictions.
23 and 25	Restrictions on interference with rocks and natural objects and on excavation activities in a recreational area.	Minor cost to some visitors in not being able to engage in these activities. Given that the incidence of when such activities would otherwise occur is unknown this cost remains unquantifiable. Costs could be mitigated to the extent a person collects shells in an area set aside for shell collection, collects bait by a hand bait pump in an area set aside for this, builds a sandcastle, anchors an umbrella/shade with sand or buries faeces in an appropriate manner.
24	Requirement that a person not enter into or remain in any cave in a park to which entry is declared prohibited or restricted or carry out certain hazardous activities in a cave.	Minor cost to some visitors in not being able to engage in these activities. Given that the incidence of when such activities would otherwise occur is unknown this cost remains unquantifiable. Costs could be mitigated to the extent a person obtains a permit to enter into one of these caves.
26	It is prohibited to interfere with archaeological or historical remains in a park.	Minor cost to some visitors in not being able to engage in these activities. Given that the incidence of when such activities would occur is unknown this cost remains unquantifiable.
28	If a sign states a person is to walk/ride on a marked track it is prohibited to leave such a track.	Minor cost to some visitors in not being able to engage in such activities. These costs are mitigated to the extent that a person conducts legal hunting activities at Gippsland Lakes Coastal Park (r. 54), Cape Conran Coastal Park (r. 55) or Lake Albacutya Park (r. 56).
29 and 30	It is prohibited to possess a glass bottle/container/utensil or liquor in an area the Secretary has set aside as a non-alcohol or no-glass area.	Minor cost to some visitors in not being able to engage in such activities. Given that the incidence of when such activities would otherwise is unknown this cost remains unquantifiable.
31	The Secretary may designate an area in a park where swimming or other water	Minor cost to some visitors of inconvenience caused by swimming and water activities prohibitions.

Proposed reg <sup>n</sup>	Description of proposed regulation	Nature of cost
	activities are prohibited.	
32	The Secretary may set aside an area of a park as an area in which a particular sport or recreational activity is not permitted.	Minor cost to some visitors of inconvenience caused by sport and recreational activity prohibitions. This cost can be mitigated where the Secretary provides a permit to undertake the activity or where the activity takes place as part of a permitted event. Given that the extent of inconvenience is unpredictable this cost remains unknown.
33	The Secretary may set aside an area of a park as an area in which only skiing/snowboarding or only tobogganing is allowed	Minor cost to some visitors of inconvenience caused by not being able to walk/toboggan/ski/snowboard in other areas. Given that the extent of inconvenience is unpredictable this cost remains unknown.
34	A person must not engage in any activity that is likely to cause danger to any person or animal in a park.	Minor cost to some visitors in complying with these nuisance and behavioural restrictions. Given that the extent of inconvenience is unpredictable this cost remains unknown.
35	A person must not operate any noisy equipment in a park at night which is likely to cause inconvenience or nuisance to a person. Exemptions are provided for the operation of medically necessary equipment, lawful operation of a vehicle or vessel and equipment which is operated in accordance with a permit provided by the Secretary.	Minor cost to some visitors in complying with these nuisance and behavioural restrictions. This cost can be mitigated where the Secretary provides a permit. Given that the extent of inconvenience is unpredictable, this cost remains unknown.
36	Not for profit organised events for more than 30 people and private events for more than 50 people are not to be conducted in a park unless a permit has been obtained from the Secretary.	Minor cost to some visitors of not being able to conduct not-for-profit and private activities. This cost would be mitigated to the extent that permits are issued by the Secretary. Given that the incidence of such events being held (and the nature of such activities) in the future is unknown this cost remains unquantifiable.

Proposed reg <sup>n</sup>	Description of proposed regulation	Nature of cost
37	Advertising, soliciting money and public speaking are not to be conducted in a park unless a permit has been obtained from the Secretary.	Minor cost to some visitors of not being able to advertise, solicit money or publicly speak. This cost would be mitigated to the extent that permits are issued by the Secretary. Given that the incidence of these activities otherwise being held (and the nature of such activities) in the future is unknown this cost remains unquantifiable.
38	Construction activities not to be conducted in a park.	Minor cost to some visitors in not being able to engage in construction activities. Given that both the incidence of when such activities would otherwise occur is unknown these costs remain unquantifiable.
39	A person is restricted from entering or using buildings and structures in a park other than for their specified purpose and in a non-exclusive way.	Minor cost to some visitors of inconvenience in complying with these restrictions.
39A	It is prohibited to remove, cut, displace, deface or interfere with anything constructed or erected in a park.	Minor cost to some visitors in complying with these restrictions. Given that the extent of inconvenience is unpredictable this cost remains unknown.
40	The lighting of fires in a park is limited to public fireplaces, appliances on vessels and to areas designated by the Secretary for fire lighting.	Minor cost to some visitors (likely to be campers) of inconvenience caused by fire lighting/maintaining restrictions. Given that the extent of inconvenience is unpredictable this cost remains unknown.
41	Camping in a park is limited to areas set aside by the Secretary for camping. Additional restrictions apply to where a campsite and portable toilet can be situated in relation to a waterway, littering and on the maximum amount of time a person may camp. Further restrictions may apply to particular sites depending on the determination made by the Secretary setting	Minor cost to some visitors of inconvenience caused by restrictions on camping area, camping duration, littering, situation of campsite and use of portable toilets.

Proposed reg <sup>n</sup>	Description of proposed regulation	Nature of cost
	that site aside for camping.	
44 and 45	Restrictions on the depositing of faeces, and the use of soap or detergent near a waterway, in a park.	Minor cost to some visitors of inconvenience caused by these restrictions.
46	Restriction on activities likely to pollute water in a water supply catchment area.	Minor cost to some visitors of inconvenience caused by these restrictions.
46A	Requirement that those occupying an occupation site (campsite) comply with conditions of their occupation permit (camping permit).	Very minor costs to some visitors having to comply with the conditions of occupation permits. Given that the extent and amount of resource expenditure by visitors to comply with conditions of occupation permits remains unknown this cost remains unquantifiable.
46B	Restriction on providing goods, facilities or services in a park without permission from the Secretary.	Minor cost to some visitors of inconvenience caused by these restrictions.
47	The Secretary may designate part of a park where the driving of vehicles, or certain types of vehicles, is either prohibited or restricted. Restrictions apply as to how vehicles may be driven.	Very minor cost to some visitors of inconvenience caused by driving restrictions. Given that the frequency and event of restrictions is unknown this cost remains unquantifiable.
48	The Secretary may set aside part of a park for the parking of vehicles. It is prohibited to park outside such an area. There is an exemption for parking on or at the side of the road.	Very minor cost to some visitors of inconvenience caused by parking restrictions. Given that the frequency and event of restrictions is unknown this cost remains unquantifiable.

Proposed reg <sup>n</sup>	Description of proposed regulation	Nature of cost
49	The Secretary may set aside part of a park as an area where wheel chains must be carried at certain times of the year.	Some cost to visitors in carrying wheel chains into these areas at certain times of the year. See the discussion of these costs in section 4 of this RIS.
50	The Secretary may designate part of a park where the launching, operating, mooring etc of boats is prohibited or restricted.	Minor cost to some visitors of inconvenience caused by complying with the restrictions.
51	The Secretary may designate part of a park for the launching or landing of aircraft or the delivery of anything by aircraft. Conducting such activities outside of a designated area is prohibited. Exemption applies if the person has a permit for the activity from the Secretary.	Minor cost to some visitors of inconvenience caused by complying with the restrictions. This cost would be mitigated to the extent that a permit is issued by the Secretary.
52	Entering or remaining in certain parts of the Point Nepean National Park where there may be unexploded ordnances or dangerous structures is prohibited.	Minor cost to some visitors of inconvenience caused by complying with the restrictions.
53	Restrictions on fishing, swimming and bathing at Lysterfield Park.	Minor cost to some visitors of inconvenience caused by complying with the restrictions. Cost can be mitigated by swimming or bathing in areas of park set aside for this activity.
57 and 58	Restrictions on entering water supply catchment area Kinglake National Park and Yarra Ranges National Park.	Minor cost to some visitors of inconvenience caused by complying with the restrictions. Costs can be mitigated to the extent a permit is obtained from the Secretary to enter the water supply catchment area, to the extent that the Secretary sets aside an area where picnicking, walking or other activities are permitted or to the extent a person stays on certain designated roads through these parks.
59	Restriction on interfering with structures or installations managed by Melbourne Water	Minor cost to some visitors of inconvenience caused by complying with the restrictions. Costs

Proposed reg <sup>n</sup>	Description of proposed regulation	Nature of cost
	at Kinglake National Park and Yarra Ranges National Park.	can be mitigated to the extent a permit is obtained from the Secretary.
63 and 64	Boats granted Ministerial approval to fish for rock lobster in the Point Hicks Marine National Park under s. 45B of the Act must notify the Minister by telephone when they leave and enter the park and must comply with other restrictions around how they travel through the park.	Some cost to rock lobster fishing boats in complying with these conditions. See the discussion of these costs in section 4 of this RIS.
66	Brings into operation s. 45A(4) of the Act by prescribing that a certain class of boats (commercial fishing vessels) are prohibited from being in certain areas of the Cape Howe Marine National Park.	Some cost to commercial fishermen in complying with these conditions. See the discussion of these costs in section 4 of this RIS.

## Attachment G – Proposed penalty infringements

**PENALTIES CONTAINED IN THE PROPOSED REGULATIONS**

<b>Reg<sup>n</sup></b>	<b>Descriptions</b>	<b>Penalties Units</b>
10	Offence not to comply with conditions of determinations setting areas aside	10
13	Offence not to comply with terms and conditions of a permit	10
14	Temporary closure of park – A person must not enter or remain in a park to which a determination	20
15	Directions regarding safety	20
16(3)	Must not enter areas where access is prohibited	10
16(4)	Must not enter areas where access is restricted	10
17(1)	A person must not, in a park, disturb, harass, remove, hunt, capture, take, kill, injure or otherwise destroy or interfere with any animal	20
17(2)	A person must not, in a park, destroy, disturb or interfere with the nest, bower, display mound, lair or burrow of any animal.	20
17(5)	A person must not, in a park, feed, offer food or offer any object as food to any animal.	10
17(6)	A person must not, in a park, permit or allow food in the person's possession to be taken by any animal.	10
19(1)	A person must not, in a park, possess, carry or use any poison	20
19(2)	A person must not, in a park, possess, carry or use any trap, snare, net or similar equipment.	20
20(1)	A person must not, in a park, possess, carry or use a trail camera.	20
21(2)	A person must not take or attempt to take fish in an indigenous fish preservation area.	20
22(1)	A person must not bring a dog or a horse into a park or allow a dog or a horse to remain in a park.	15
22(3)	Dog or a horse is found in a park and the dog or the horse is not under the immediate control of a person	15
23(1)	A person must not bring a cat into a park or allow a cat to remain in a park.	20
23(3)	A cat that is not under the immediate control of any person.	20
24(1)	A person must not bring any animal into a park or allow an animal to remain in a park.	10
24(4)	Not under the immediate control of any person	10
26(1)	A person must not, in a park, cut, fell, pick, remove, take or destroy any vegetation.	20
26(2)	A person must not, in a park, damage any vegetation.	20
27(1)	A person must not knowingly bring in any vegetation to a park.	20
27(2)	A person must not plant any vegetation in a park.	20
28(1)	A person must not, in a park, deface, remove or otherwise interfere with any rock or similar natural object.	20
28(2)	A person must not, in a park, damage any rock or similar natural object.	20
29(1)	A person must not dig or remove from a park any gravel, shell, grit,	20



Reg <sup>n</sup>	Descriptions	Penalties Units
	sand, soil or other similar material.	
29(2)	A person must not knowingly bring into a park any gravel, shell, grit, sand, soil or other similar material.	20
30(1)	A person must not, in a park, excavate, remove, deface, or otherwise interfere with any archaeological or historical remains or relics.	20
30(2)	A person must not, in a park, damage any archaeological or historical remains or relics.	20
31	A person must not smoke in any cave in a park, or carry into any such cave any substance, material or article or perform any act that may be hazardous to any person or to the preservation of the cave.	10
32(1)	A person must not, in a park, leave a track identified for walking or riding if the Secretary has erected a sign or notice on that track requiring persons to remain on the track.	5
33(2)	A person must not possess or carry a glass bottle, glass container or glass utensil in an area of a park set aside	5
34(2)	A person must not possess liquor in an area of a park that has been set aside	20
35(2)	A person must not bathe in an area subject to a determination	10
35(3)	A person must not possess hand held spears or spear guns in an area subject to a determination	10
35(4)	A person must not use a surf-ski, surfboard, body board, skiffle board, kite board, wind-surfer or other similar device in an area subject to a determination	10
35(5)	A person must not use underwater breathing equipment in an area subject to a determination	10
36(2)	A person must not engage in a sport or a recreational activity in any area of a park set aside	10
36(4)	A person must not engage in a sport or a recreational activity in any area of a park subject to a determination	10
37(2)	A person must not walk or toboggan in an area of a park set aside by the Secretary for skiing.	5
37(3)	A person must not walk or ski in an area of a park set aside by the Secretary for tobogganing.	5
38	A person must not throw an object, play a game, or engage in any other activity in a manner that is likely to cause danger to other persons or to animals.	20
39(1)	A person must not, in a park, use or operate any device or equipment that produces noise likely to cause inconvenience or nuisance to any person.	10
40(1)	A person must not conduct or organise an event or function in a park that involves 30 or more persons	10
40(2)	A person must not conduct a wedding or other ceremony in a park that involves 50 or more persons.	10
41(1)	A person must not solicit or collect money, display a sign for the	10

Reg <sup>n</sup>	Descriptions	Penalties Units
	purposes of advertising, or hand out or disseminate any advertising or commercial or promotional material, including a pamphlets or handbills.	
41(2)	A person must not, in a park, deliver any address, that may disturb or annoy other park visitors.	10
42(1)	A person must not, in a park, erect, construct or install a building or other structure (whether temporary or not).	10
43(1)	A person must not occupy, use or enter a building or a structure in a park.	5
44(1)	A person must not remove, cut, displace, deface or interfere with anything constructed or erected in a park.	20
44(2)	A person must not damage anything constructed or erected in a park.	20
45(1)	A person must not light or maintain a fire in a park.	20
46(2)	A person must not camp in a park in an area that is not set aside	10
46(3)	A person who camps in an area of a park set aside must not camp within 20 metres of any river, stream, well, spring, creek, dam, bore or watercourse; and within 20 metres landward of the high water mark unless otherwise specified in the determination	10
46(4)	a person must not so camp in the area for more than 42 consecutive nights.	10
46(5)	A person who camps on a site within an area of a park set aside must maintain the site in a clean and tidy condition.	10
46(6)	A person who camps on a site within an area of a park set aside under sub regulation (1) must, before vacating the site, clear all litter and personal equipment for which the person is responsible from the site.	10
47(1)	A person must not leave behind or deposit faeces, unless certain circumstances apply	20
47(2)	A person must not leave behind or deposit faeces in: a designated water supply catchment area; an area in a marine national park or a marine sanctuary that is seaward of the low water mark; etc, except in a facility provided for that purpose.	20
48(1)	A person who uses any soap, detergent or similar substance in a park must not dispose of the soap, detergent or similar substance, except in certain circumstance	10
49(1)	A person must not do anything that is likely to pollute water in a designated water supply catchment area.	20
49(3)	A person must not do anything that is likely to pollute water in an area set aside	20
49(4)	A person must not, in a designated water supply catchment area: touch, or allow any part of his or her body to come into contact with, that water; wash anything in or near that water; etc	20

<b>Reg<sup>n</sup></b>	<b>Descriptions</b>	<b>Penalties Units</b>
50(1)	A person must not occupy an occupation site unless the person does so under and in accordance with an occupation permit	10
50(2)	A person to whom an occupation permit is granted must pay the fee or charge determined for the permit under section 21(2) of the Act.	10
50(3)	A person who occupies an occupation site must maintain the site in a clean and tidy condition.	10
50(4)	A person who occupies an occupation site must, before vacating the site, clear all litter and personal equipment for which the person is responsible from the site.	10
51(3)	A person in charge of a vehicle must not enter an area set aside in contravention of the determination.	20
51(4)	A person in charge of a vehicle must not remain in an area set aside in contravention of the determination.	20
51(6)	A person who is in charge of a vehicle in a park must not operate that vehicle in contravention of a notice or sign	10
52(2)	A person must not park or leave a vehicle standing in contravention of a sign or notice.	10
53(3)	A person must not use a regulated vehicle in an area set aside unless the vehicle is carrying wheel chains capable of being properly fitted to at least two driving wheels of the vehicle.	20
53(5)	A person who is given a direction by an authorised officer must comply with that direction.	20
54(2)	A person must not launch, land, load, unload, moor, anchor, or operate a vessel in an area of a park to which a determination of the Secretary applies in contravention of the determination.	20
55(1)	A person must not, in a park launch or land an aircraft or deliver anything by an aircraft.	20
56(2)	A person who is not a member of the Australian Defence Force must not enter any area set aside in Point Nepean National Park	10
56(4)	A person must not, while within Point Nepean National Park, enter or remain in an area in contravention of a direction of an authorised officer	10
56(5)	A person must not, while within Point Nepean National Park, enter any shaft, underground tunnel or magazine, building or fortification or any area to which access is restricted because of use or intended use by the Australian Defence Force, etc	10
57(1)	A person must not take or attempt to take fish from waters within Lysterfield Park	5
57(2)	A person must not swim or bathe in Lysterfield Park, other than in an area set aside	5
61(1)	A person must not enter or remain in any area of the designated water supply catchment area in Great Otway National Park.	20
62(1)	A person must not enter or remain in any area of the designated water supply catchment area in Kinglake National Park.	20

<b>Reg<sup>n</sup></b>	<b>Descriptions</b>	<b>Penalties Units</b>
63(1)	A person must not enter or remain in an area of the designated water supply catchment area in Yarra Ranges National Park.	20
64	Subject to the Act and these Regulations, a person must not interfere with any structure or installation under the control and management of Melbourne Water Corporation in a designated water supply catchment area in Kinglake National Park and Yarra Ranges National Park.	20

Attachment H – Groups of stakeholders consulted

**CONSULTATION**

Australian Deer Association (Victoria)	Tourism Victoria
Australian Trail Horse Riders Association	Tourism Alliance Victoria
Australian Conservation Foundation	Trust for Nature
Boating Industry Association of Victoria	Victorian Apiarists Association
Bicycle Network Victoria	Victorian Association of Environmental Education
Victoria Brumby Association	Victorian Association of Forest Industries
Confederation of Australian Motorsport Conservation Volunteers Australia	Victorian Climbing Club
Canoeing Victoria	Victoria Farmers Federation
Environment Victoria Inc	Victorian Hang-gliding and Paragliding Association
Field and Game Association	Victorian Local Governance Association
Field Naturalist Club of Victoria	Victorian National Parks Association
Four Wheel Drive Victoria	Victorian Outdoor Education Association
Future Fish Foundation	Victorian Orienteering Association
Motorcycling Victoria	Victorian Recreational Fishing Peak Body
Sporting Shooters Association of Australia	Victorian Speleological Association Inc
Mountain Cattlemens Association of Victoria	Yachting Victoria
Municipal Association of Victoria	Bushwalking Victoria
National Trust of Australia (Victoria)	Wilderness Society
Native Title Services	Australian Camps Association
Outdoor Recreation Victoria	BirdLife Australia
Prospectors and Miners Association of Victoria	Seafood Industry Victoria
Victorian Snowsports Association	Corangamite CMA
Prom Campers Association	East Gippsland CMA
Friends Network Committee	Glenelg Hopkins CMA
Victorian Rogaining Association	Goulburn Broken CMA
Gamecon	Mallee CMA
Australian Motorcycling Trail Riders Association	North Central CMA
Mountain Bike Australia	North East CMA
Victorian Apiarists Association	Port Phillip & Westernport CMA
	West Gippsland CMA
	Wimmera CMA

## Attachment I – Comparison of regulatory regimes across Australian jurisdictions

**COMPARISON OF REGIMES FOR THE REGULATION OF THE BEHAVIOUR OF VISITORS TO SIMILAR PARKS/RESERVES ACROSS THE AUSTRALIAN JURISDICTIONS**

	<b>Vic</b>	<b>NSW</b>	<b>QLD</b>	<b>SA</b>	<b>WA</b>	<b>ACT</b>	<b>NT</b>	<b>TAS</b>	<b>CTH</b>
<b>Responsible government department</b>	Department of Environment and Primary Industries (DEPI)	Office of Environment and Heritage (OEH)	Department of National Parks, Recreation, Sport and Racing (DNPRSR)	Department of Environment, Water and Natural Resources (DEWNR)	Department of Environment and Conservation (DEC)	Territory and Municipal Services Directorate (TAMS)	Parks and Wildlife Commission NT	Department of Primary Industries, Parks, Water and Environment (DPIPWE)	Department of Sustainability, Environment, Water, Population and Communities
<b>Park manager</b>	Parks Victoria	National Parks and Wildlife Service and the Marine Parks Authority	DNPRSR	Parks SA	DEC	Parks and City Services (PACS)	Parks and Wildlife Commission NT	Parks and Wildlife Service Tasmania	Director of National Parks and Parks Australia
<b>Relevant legislation</b>	<i>National Parks Act 1975</i>	<i>National Parks and Wildlife Act 1974</i>	<i>Nature Conservation Act 1992</i>	<i>National Parks and Wildlife Act 1972</i>	<i>Conservation and Land Management Act 1984</i>	<i>Nature Conservation Act 1980, Pt 8</i>	<i>Territory Parks and Wildlife Conservation Act</i>	<i>National Parks and Reserves Management Act 2002</i>	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>Relevant regulations/by-laws</b>	National Parks Regulations 2013	National Parks and Wildlife Regulation	Nature Conservation (Protected Areas Management)	National Parks and Wildlife (National Parks) Regulations	Conservation and Land Management Regulations	None	Territory Parks and Wildlife Conservation	National Parks and Reserved Land Regulations	Environment Protection and Biodiversity Conservation Regulations

		2009	Regulation 2006	2001 and National Parks and Wildlife (Parking) Regulations 2012	2002		By-Laws	2009	2000, Pt 12
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**COMPARISON OF PROVISIONS IN REGULATIONS/BY-LAWS REGULATING THE BEHAVIOUR OF VISITORS TO SIMILAR PARKS/RESERVES ACROSS THE AUSTRALIAN JURISDICTIONS**

Provision	Vic	NSW	QLD	SA	WA	ACT <sup>77</sup>	NT	TAS	CTH
Ability to temporarily close park	y	y	y	y	y	n	n	n	n
Ability to prohibit/restrict access to part of park	y	y	y	n	y	y	y	y	y
Ability to set aside part of a park for certain activities	y	n	n	y	y	n	n	y	n
Restrictions on interference with fauna	y	y	y	y	y	n	y	y	y
Restrictions on use/carriage of hunting equipment	y	y	n	y	y	y	y	y	y
Restrictions on interference	y	n	y	n	y	n	y	n	y

<sup>77</sup> These controls are set out in the Act itself.

Provision	Vic	NSW	QLD	SA	WA	ACT <sup>77</sup>	NT	TAS	CTH
with fish									
Restrictions on bringing non-native animals to parks	y	y	y (also on grazing and stock mustering)	y	y	y	y	y	y
Restrictions on interference with flora	y	y	n	y (and use of chain saws prohibited)	y	y	n	n	n
Restrictions on bringing non-native vegetation to parks	y	y	y	n	n	y	y	n	y
Restrictions on interference with rocks/natural objects and removal of material	y	n	n	y (and use of metal detectors prohibited)	y	y	y	y	y
Restrictions on activities in caves	y	y	n	y	y	n	n	n	y
Restrictions on interference with archaeological remains	y	n-but interference with cultural heritage restricted	n	n	n	y	y	y	y
Restrictions on bringing glass/alcohol to a park	y	Y (alcohol)	n	n	Y ( and drug use)	n	y (restrictions on carrying certain objects into	n	y (Kakadu only)



Provision	Vic	NSW	QLD	SA	WA	ACT <sup>77</sup>	NT	TAS	CTH
							a park)		
Restrictions on leaving marked tracks	y	n	n	n	n	n	n	n	y
Restrictions on water activities and sporting/recreational activities/snow sports/dangerous activities	y	y (sport/rec activities)	n	y (swimming and certain specified rec activities)	y (sand boarding and cross country events only)	n	y (swimming and certain water activities)	y	y (designated adventurous activities)
Restrictions on operating noise making equipment	y (at night only)	y (broader prohibition on nuisance conduct)	y (use of sound equipment and generators at all times)	y (use of generators prohibited and broader nuisance restrictions)	y (use of generators prohibited and broader nuisance restrictions)	n	y (use of generators prohibited and broader nuisance restrictions)	n	y (use of generators and public address systems)
Restrictions on organised not for profit events	y	n	y	y	y	n	y	y (to the extent these cause damage or disturbance)	y
Restrictions on advertising etc	y	n	n	n	y	n	n	y	n
Restrictions on erection of structures	y	y	y	n	y	y	n	y	y
Restrictions on use of provided facilities	y	n	y	n	n	y	n	n	n

Provision	Vic	NSW	QLD	SA	WA	ACT <sup>77</sup>	NT	TAS	CTH
Restrictions on lighting/maintaining fires	y	y	y	y	y	y	y	y	y
Restrictions on camping	y	y	y	y	y	y	y	y	y
Restrictions on hygiene practices/use of detergent/activities in water catchments	y	n	y (and use of pesticides and herbicides controlled)	y (polluting activities as specified)	y (pollution of water supplies and other specified polluting activities)	n	y (polluting activities)	y	n
Restrictions on use of vehicles	y	y (off road driving prohibited)	y	y	y (also off roading and car rallies)	y	y	y	y
Restrictions on parking	y	y	n	y	y	y	y	n	y
Requirement to carry wheel chains at certain parks	y	y	n	n	n	n	n	n	n
Restrictions on use of vessels	y	n	y	y	y	y	y	y	y
Restrictions on use of aircraft	y	n	y	y	y	n	n	y	y
Imposition of fees to enter parks	n	y (some parks)	n	y (some parks)	y (vehicle and aircraft entrance some parks)	n	y	y	n
Restrictions on commercial activities	n (dealt with by other)	y	y	y	y	y	y	n	y

Provision	Vic	NSW	QLD	SA	WA	ACT <sup>77</sup>	NT	TAS	CTH
	regulations)								
Restrictions on littering	n	y	y	y	y	y	y	y	y
Restrictions on research	n	y	n	y	n	n	n	n	y

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