

Victorian Government Response to  
**Victorian Environmental Assessment Council's  
Report on the *Investigation into additional  
prospecting areas in parks***

February 2014



© The State of Victoria Department of Environment and Primary Industries 2014



This work is licensed under a Creative Commons Attribution 3.0 Australia licence. You are free to re-use the work under that licence, on the condition that you credit the State of Victoria as author. The licence does not apply to any images, photographs or branding, including the Victorian Coat of Arms, the Victorian Government logo and the Department of Environment and Primary Industries logo. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/3.0/au/deed.en>

Print managed by Finsbury Green February 2014

ISBN 978-1-74326-738-7 (Print)  
978-1-74326-739-4 (pdf)

#### **Accessibility**

If you would like to receive this publication in an alternative format, please telephone the DEPI Customer Service Centre on 136186, email [customer.service@depi.vic.gov.au](mailto:customer.service@depi.vic.gov.au) via the National Relay Service on 133 677 [www.relayservice.com.au](http://www.relayservice.com.au). This document is also available on the internet at [www.depi.vic.gov.au](http://www.depi.vic.gov.au)

#### **Disclaimer**

This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication.

Cover photo: Mitchell River National Park, taken by VEAC

## Minister's Foreword

I am pleased to present the Victorian Government's response to the *Investigation into additional prospecting areas in parks* report by the Victorian Environmental Assessment Council (VEAC).

The Government appreciates the thorough work VEAC has done for this investigation and recognises the important role VEAC plays in providing independent advice to the Victorian Government on matters of public land and environmental management. VEAC has drawn upon scientific and community knowledge of recreational prospecting on public land in its investigation.

In its report VEAC clearly acknowledges the enjoyment that some Victorians derive from recreational prospecting. VEAC found that recreational prospecting can be enjoyed whilst having low impact on the environment; however, there is potential for impacts on natural and cultural heritage values, particularly in and around waterways. The government response to VEAC's report has been written within this context and builds upon VEAC's findings and recommendations.

The Victorian Government is committed to environmentally appropriate use of our public land, including national parks, to ensure Victorians get maximum benefit from the state's world class natural assets.

Accordingly, in line with VEAC's recommendations there will be eight new areas opened to recreational prospecting. The Victorian Government has also taken a decision, based on VEAC's advice, to no longer allow any mechanical equipment to be used for recreational prospecting, or the processing of materials, anywhere in Victoria's national parks (this does not include metal detectors). There will also be a review of compliance with new regulations one year from the implementation of the new prospecting areas. These areas remaining open to recreational prospecting will be subject to the outcome of the review.

I would like to thank all those in the community who participated in the investigation or made submissions. The outcomes of this investigation by VEAC, and the recommendations of its report, will continue to be a valuable guide for the Victorian Government into the future.



**THE HON RYAN SMITH MP**

Minister for Environment and Climate Change

# Victorian Government Response to the Victorian Environmental Assessment Council's Report on the Investigation into additional prospecting areas in parks – May 2013

The Victorian Environmental Assessment Council's (VEAC) investigation into additional prospecting areas in parks was tabled in Parliament on 27 June 2013.

This Victorian Government response addresses each recommendation made by VEAC as required in the *Victorian Environmental Assessment Council Act 2001*.

Responses should be taken to apply to the whole recommendation where no reference to the specific recommendation number and subsection is provided in brackets (i.e. R1 (a)).

The Government will ensure that appropriate actions are taken to implement the recommendations to the extent that they have been accepted, as required under the *Victorian Environmental Assessment Council Act 2001*.

## ADDITIONAL PROSPECTING AREAS

### Recommendation 1

(a) That recreational prospecting\* be allowed in the eight areas listed below and shown on maps B to G:

- 1 Yankee Creek, Lerderderg State Park
- 2 Morning Star, Lerderderg State Park
- 3 Jerusalem Creek, Lake Eildon National Park
- 4 Howqua Hills South, Alpine National Park
- 5 Howqua Hills East, Alpine National Park
- 6 Howittville, Alpine National Park
- 7 Wombat PO, Alpine National Park
- 8 Eustaces, Alpine National Park;

and

(b) be subject to the following conditions and restrictions:

- (i) only non-mechanical hand tools may be used
- (ii) explosives must not be used
- (iii) any excavation must be kept to a minimum and must not exceed one cubic metre
- (iv) sluices and motorised equipment must not be used for processing excavated material
- (v) any tree or shrub must not be damaged or removed
- (vi) any damage to ground layer vegetation must be kept to a minimum
- (vii) any damage to the land arising out of searching must be repaired on the same day as the damage is caused (including the reinstatement of litter, soil, rocks and debris removed during searching)
- (viii) any park infrastructure including roads, vehicle tracks, bridges, culverts, drains, constructed walking tracks, camping grounds, picnic areas or any other specifically designated areas must not be dug, excavated, damaged, disturbed or otherwise interfered with

- (ix) any Aboriginal place or object, and any non Aboriginal heritage place or object, must not be damaged, defaced, disturbed or otherwise interfered with (including any archaeological site or relic, or burial site)**
- (x) the discovery of any Aboriginal site or object must be notified to the Office of Aboriginal Affairs Victoria and objects must not be removed**
- (xi) the discovery of any archaeological relic must be notified to Heritage Victoria and relics must not be removed**
- (xii) seasonal and local access restrictions and other directions of the park manager must be observed**
- (xiii) the holder of a miner's right must produce the miner's right for inspection if asked to do so by any person acting under a delegation conferred under section 91(b) (ii) of the *Minerals Resources (Sustainable Development) Act 1990*;**

and

- (c) that these conditions and restrictions are included in an amendment to section 32D of the *National Parks Act 1975*;**

and

- (d) that an offence and penalty be established in the Act for non-compliance with conditions;**

and

- (e) prior to these recommendations being implemented**
  - (i) that consultation be carried out with the relevant traditional owner groups**
  - (ii) that a cultural heritage assessment be carried out and any other actions that are required for compliance with the *Aboriginal Heritage Act 2006* and the *Aboriginal Heritage Regulations 2007***
  - (iii) that any required information on the nature of activities on or near a waterway be submitted to the relevant waterway manager for review.**

**\* Recreational prospecting is searching for minerals or gemstones under a miner's right or a tourist fossicking authority as defined in the *Minerals Resources (Sustainable Development) Act 1990*.**

The Government supports this recommendation in principle.

Recreational prospecting will be permitted, once the necessary amendments to the *National Parks Act 1975* are made, in the eight areas recommended by VEAC in R1 (a). This activity will be subject to a review of the environmental and cultural heritage impacts in the new areas after the first twelve months of it being permitted. The review will involve collecting data on the nature and distribution of and participation in recreational prospecting in the eight new areas. It will build upon VEAC's investigation through further research. The review will include consultation with the relevant traditional owner groups. The outcome of this review will determine whether or not these additional areas will continue to be available for prospecting. The Department of Environment and Primary Industries will work with the Department of State Development, Business and Innovation and Parks Victoria to refine the details of this review.

The Government has taken this approach to acknowledge the work of VEAC's investigation and notes the view that while recreational prospecting can be low impact, it is clear that it can also result in damage to natural and cultural heritage values in waterways, and also in other vulnerable environments.

The recently released Victorian Waterway Management Strategy will direct investment into maintaining and improving the condition of river channels. The review recognises VEAC's findings that recreational prospecting has the potential to undermine this investment, with erosion and sedimentation causing damage in river channels and instream habitat.

## CLARIFYING LEGISLATION

### Recommendation 2

**That the status of legislative provisions relating to activities associated with recreational prospecting be assessed, clarified and updated as follows:**

- (a) that rules be clearly specified around the use of motorised equipment in processing gravel and other material for minerals excavated with hand tools**
- (b) that rules be clearly specified for permissible volumes of material, and timeframes for repair of damage**
- (c) that the status of excavation of gravels and soil and interference with vegetation associated with recreational prospecting in waterways be clearly specified in the by-laws or regulations arising from the Water Act related to activities and works on waterways**
- (d) that the areas of restricted and unrestricted Crown land where recreational prospecting is permitted be clarified and appropriately gazetted and regulated**
- (e) that consideration be given to provisions to improve enforcement such as definitions of recreational prospecting and recreational prospecting equipment, prohibiting carriage of prospecting equipment in certain areas, and scaling of penalties relating to failure to 'repair' according to the severity of damage.**

The Government supports this recommendation in principle.

The use of mechanical devices for processing excavated material for recreational prospecting will be banned in parks reserved under the Victorian *National Parks Act 1975*, including the eight new areas proposed by VEAC. This ban does not include the use of metal detectors. Metal detectors can still be used in areas where recreational prospecting is permitted.

The Government will establish a working group led by the Department of Environment and Primary Industries to recommend the most appropriate way to ensure an effective compliance regime is established and that any necessary legislative amendments are made, including the ban on the use of mechanical devices as detailed. The working group will also consider the government response to recommendation 13 of the Economic Development and Infrastructure Committee's inquiry into greenfields mineral exploration. The working group will be informed by the outcome of the review in response to recommendation one and will report to the Minister for Environment and Climate Change. The working group will also consist of the Department of State Development, Business and Innovation, Parks Victoria, Heritage Victoria, the Victorian Aboriginal Heritage Council and the Office of Aboriginal Affairs Victoria.

## AUTHORISATIONS FOR PARKS VICTORIA EMPLOYEES

### Recommendation 3

**That relevant Parks Victoria staff are trained and authorised under s91(b)(ii) of the *Minerals Resources (Sustainable Development) Act 1990* to enforce provisions of that Act relating to the miner's right.**

The Government supports this recommendation in principle.

Implementation of this recommendation will depend on any relevant legislative amendments proposed by the working group (see recommendation 2). Parks Victoria will lead this with support from the Department of Environment and Primary Industries, the Department of State Development, Business and Innovation and Heritage Victoria.

## RESOURCING

### Recommendation 4

**That sufficient resources be provided to enable implementation of these recommendations, if accepted, including enforcement, adequate on-ground supervision of recreational prospecting in the additional areas, improved information and communication, and research and monitoring.**

The Government supports this recommendation in principle.

Should significant additional enforcement above current levels be proposed by the working group, it will be shared by the relevant departments and agencies. Parks Victoria will lead this with support from the Department of Environment and Primary Industries, the Department of State Development, Business and Innovation and Heritage Victoria.

## RESEARCH INTO THE IMPACTS OF RECREATIONAL PROSPECTING

### Recommendation 5

**That further research into the potential effects of recreational prospecting in national and state parks should be undertaken and supported, with a priority on impacts on waterways in parks, impacts on ground flora, and impacts on Aboriginal and non-Aboriginal cultural heritage.**

The Government supports this recommendation in principle.

Longer term research will be guided by the outcome of the twelve month review of the new areas. The working group will be guided by the direction of any longer term research to be conducted. Further research will need to be targeted and cost effective, and commensurate with assessed risks. The Department of Environment and Primary Industries will lead this with support from Parks Victoria, the Department of State Development, Business and Innovation, the Victorian Aboriginal Heritage Council, the Office of Aboriginal Affairs Victoria and Heritage Victoria.

## INFORMATION AND COMMUNICATION

### Recommendation 6

**That improved community information is developed as follows:**

- (a) statewide and regional maps providing up to date information about public land where prospecting is permitted**
- (b) information clearly outlining heritage responsibilities for both Aboriginal and non-Aboriginal cultural heritage**

- (c) appropriate safety information;**

**and**

- (d) in addition to printed material, that the information is also available through improved websites which also link to local information such as seasonal road closures and other road conditions, and other temporary access restrictions due to wildfires or planned burns, or to avoid disturbance to sensitive flora and fauna.**

The Government supports this recommendation in principle.

The working group will review and advise on need for each component of this recommendation. Communication material will need to be targeted, cost effective and commensurate with assessed risks. The Department of State Development, Business and Innovation will lead this with support from the Department of Environment and Primary Industries, Parks Victoria, the Victorian Aboriginal Heritage Council, the Office of Aboriginal Affairs Victoria and Heritage Victoria.

Customer Service Centre **136 186**

[www.depi.vic.gov.au](http://www.depi.vic.gov.au)