

# Department of Sustainability and Environment

## **Forests (Recreation) Regulations 2010**

### 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 incorporating Guidelines for the Measurement of Changes in Administrative Burden.

**September 2009**

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## FORESTS (RECREATION) REGULATIONS 2010

### REGULATORY IMPACT STATEMENT

This Regulatory Impact Statement (RIS) has been prepared to fulfil the requirements of the *Subordinate Legislation Act 1994* to facilitate public consultation on the proposed Forests (Recreation) Regulations 2010.

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 business and the community.

The prime function of the RIS process is to help members of the public comment on proposed statutory rules before they have been finalised. Such public input can provide valuable information and perspectives, and thus improve the overall quality of the regulations. The proposed regulations remake the Forests (Recreation) Regulations 1999 and are being circulated to key stakeholders. Your feedback is sought. 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, 15 February 2010** to:

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## **ABBREVIATIONS**

**DSE** – Department of Sustainability and Environment

**MCA** – Multi-criteria Analysis

**NCC** – National Competition Council

**NCP** – National Competition Policy

**PV** – Net Present Value

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

**RIS** – Regulatory Impact Statement

**‘the Act’** – *Forests Act 1958*

**‘the current Regulations’** – Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (Steavenson Falls Scenic Reserve), Regulations 1999, Forests (You Yangs Regional Park) Regulations 2003, Forests (Thomson River Forest Reserve) Regulations 2005

**‘the proposed regulations’** – Forests (Recreation) Regulations 2010

**VEAC** – Victorian Environmental Assessment Council

**VCEC** – Victorian Competition and Efficiency Commission

**VPS** – Victorian Public Service

## EXECUTIVE SUMMARY

### *Purpose of a Regulatory Impact Statement*

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 Regulatory Impact Statement (RIS) to ensure that the costs of a 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 assesses the proposed regulations’ impact on small business, undertakes a competition assessment, and reports any changes in the administrative burden. Finally, it considers implementation and enforcement issues, details the evaluation strategy, and documents the consultation undertaken.

The Department of Sustainability and Environment (DSE) administers the *Forests Act 1958* (the Act) and its regulations. The current regulations – the Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (Steavenson Falls Scenic Reserve), Regulations 1999, Forests (You Yangs Regional Park) Regulations 2003, and Forests (Thomson River Forest Reserve) Regulations 2005 – give operational effect to elements of the *Forests Act 1958* in relation to managing visitor impacts of recreation and tourism in these forests, parks and reserves. The current Murrindindi and Steavenson Falls Regulations will expire on 12 April 2010 and need to be remade.<sup>2</sup>

This has afforded DSE the opportunity to improve the clarity and consistency of the regulations. The Forests (Recreation) Regulations 2010 (the proposed regulations) will consolidate the four current regulations and will incorporate recreation-focused regulations from the Forest (Miscellaneous) Regulations 2000, which will be revoked along with the You Yangs Regional Park and Thomson River Forest Reserve Regulations when the proposed regulations commence.<sup>3</sup>

The proposed regulations will replace a number of current regulations, remove duplication and update requirements informed by experience over the previous 10 years. The proposed regulations will also encompass the Delatite Arm Reserve, Sylvia Falls Scenic Reserve, Otway Forest Park, Cobboboonee Forest Park, Tarago Forest Reserve, and Yarra Tributaries Forest Reserve, which are not presently covered by recreation-related regulations. These

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<sup>1</sup> Department of Treasury and Finance, 2007, 2<sup>nd</sup> ed, *Victorian Guide to Regulation incorporating: Guidelines made under the Subordinate Legislation Act 1994 and Guidelines for the Measurement of Changes in Administrative Burden*, Melbourne

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

<sup>3</sup> Forests (Steavenson Falls Scenic Reserve) Regulations 1999, Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (You Yangs Regional Park) Regulations 2003, Forests (Thomson River Forest Reserve) Regulations 2005, Forests (Miscellaneous) Regulations 2000: Regulations 9, 11, 12, 13 and Schedule 1

areas are not currently covered by the regulations and therefore there is inconsistency across the management of and expected behaviours in Victorian forest reserves. In total, the proposed regulations will provide for the effective management of two forest parks and eight forest reserves, as well as regulating some aspects of camping in all State forests. Attachment A contains a full description of the proposed regulations.

While forests are broadly discussed throughout this RIS, it is important to bear in mind that the proposed regulations have a narrow focus on managing specific behaviours and human impacts. Moreover, in the context of Victoria's regulatory regime, the proposed regulations have an extremely minor impact.

### ***The Proposed Forests (Recreation) Regulations 2010***

The proposed regulations are in most respects similar to the regulations they would replace. Broadly, the proposed regulations seek to protect forests for the Victorian community by establishing a framework to manage human activities that may diminish the environmental values of forests. Fees are prescribed to recover some of the costs associated with management of the forests.

The proposed regulations seek to manage human activities so that environmental impacts on forests are minimised. They do this by managing recreational activities, behaviours and access to:

- State forests – by managing where someone can camp;
- Forest reserves – by prescribing requirements for camping, driving, swimming, climbing, horse riding and other recreational activities. They also seek to reduce the impact on the environment by prohibiting certain activities that may result in the destruction of flora and fauna; and
- Forest parks – by managing car parks, driving, camping, lighting of fires and protection of flora and fauna.

The proposed regulations deal with similar matters to the existing regulations that apply to the Murrindindi Scenic Reserve, Steavenson Falls Scenic Reserve, You Yangs Regional Park and the Thomson River Forest Reserve, but with some modifications based on operational experience under the existing regulations. The proposed regulations include eight forest reserves and two forest parks. These are the Delatite Arm Reserve, Murrindindi Scenic Reserve, Steavenson Falls Scenic Reserve, Sylvia Falls Scenic Reserve, Tarago River Forest Reserve, Thomson River Forest Reserve, Yarra Tributaries Forest Reserve, You Yangs Regional Park<sup>4</sup>, the Otway Forest Park, and the Cobboboonee Forest Park. The main effect of the regulations would be to achieve consistency in the rules and powers that apply to recreation in the specified forests, reserves and parks across Victoria.

DSE advises that negative human impacts are higher in the currently unregulated parks than the regulated parks. First, the two new reserves, the Tarago River Forest Reserve and Yarra

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<sup>4</sup> The You Yangs Regional Park is treated as a Forest Reserve for the purposes of regulation because it is managed in exactly the same way and differs only in that it is managed by Parks Victoria as the Committee of Management rather than DSE.

Tributaries Forest Reserve, are water catchment areas that can currently be accessed by the public and this is causing considerable concern from a water quality and fire protection perspective. Second, Sylvia Falls is currently hard to access but when access is improved to this area it is expected to receive much higher visitor numbers. Third, Cobbooboonee and Otways have recently been converted from general State forest to Forest Parks by the government. During the consultation process with the public the government agreed that it would provide extra protection for these areas. Fourth, Delatite Arm is a heavily used area where camping is currently occurring in an unregulated fashion along the Lake Eildon foreshore and significant erosion and disturbance to other users is occurring. The heavy use is also impacting on attempts to regenerate the forest back to native species where people are driving over revegetation areas and even camping on them.

The principal specific differences between the current and proposed regulations relate to new obligations on visitors. These additions reflect practical experience and the increasing expectation that governments appropriately manage environmental/animal welfare risks as well as managing risks to health and safety of visitors. The new requirements are:

- to remove litter;
- not to feed any fauna or animal that has not been brought lawfully into a park;
- not to possess or consume liquor in areas set aside by the Secretary in which the possession or consumption of liquor is prohibited;<sup>5</sup>
- not to swim in an area that has been set aside as an area in which swimming is prohibited;
- not to possess a poison, trap, snare, net or firearm, and not to shoot, trap or catch an animal or bird (this would not apply to a forest park, the Thomson River Forest Reserve and the Tarago River Forest Reserve); and
- not to behave in a manner that would cause unreasonable disturbance, injury or danger to another person.

The regulations would also enable the Secretary or a management committee to specify times or periods in which horse riding and rock climbing may be undertaken, and to determine fees for conducting a commercial activity in a forest reserve. The regulations would enable the Secretary to specify that fires are restricted in areas set aside for that purpose. The proposed regulations also specify that vehicles are not permitted on roads or tracks unless set aside for that purpose. In addition, a person may only enter the Yarra Tributaries Forest Reserve if they are undertaking a walk on Boundary Road and the Oat Patch Track, or driving a vehicle or riding a horse in accordance with the relevant regulations.

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<sup>5</sup> While the ability to set aside an area where the consumption of liquor is prohibited is not expected to be used immediately it is considered by the management committees of the reserves to be a useful and flexible tool should any problems arise. For example there have been examples at Delatite Arm of large groups congregating and consuming liquor, which has disturbed nearby campers and presented the danger of violence to people and damage to property.



## Fees

Similar to the current regulations, the proposed regulations will require a fee to be paid to camp in the Murrindindi Scenic Reserve and to park a vehicle in the Steavenson Falls Scenic Reserve. The current fees have not changed since 1999. The proposed fees adjust the current fees by the rate of consumer inflation. Given the minor nature of the fees (around \$66,000 is raised annually from both reserves), along with compliance and practicality issues, the proposed fees are based on partial cost recovery. The following table shows the current and proposed fees. It is also noted that a new fee for bicycles has been introduced in relation to the Murrindindi Scenic Reserve.<sup>6</sup> This fee has been set at the same rate as for motorcycles.

### Comparison of Current and Proposed Fees

Reserve	Current	Proposed
<b>Murrindindi Scenic Reserve</b>		
<i>Camping fee per vehicle per night</i>		
Bicycle	n.a	\$2.50
Motorcycle	\$2.00	\$2.50
Car	\$5.00	\$7.00
Small bus	\$15.00	\$20.00
Large bus	\$25.00	\$35.00
<b>Steavenson Falls Scenic Reserve</b>	<sup>7</sup>	
<i>Daily parking fee per vehicle</i>		
Motorcycle	\$2.00	\$2.50
Car	\$2.00	\$3.00
Small bus	\$5.00	\$7.00
Large bus	\$10.00	\$14.00

### Victoria's State Forests

Victoria's State forests provide many social and economic benefits to the Victorian community. They provide wood and non-wood products, recreational opportunities and other non-market goods and services. Forests also perform important environmental functions, such as protecting water catchments and providing habitats for plant and animal species. Forests provide habitat for a wide variety of terrestrial and aquatic living organisms and play a vital role in conserving species habitat and biodiversity. Forests make an important contribution to Victoria's economy through providing employment for local communities, regional development, recreation, tourism and forest industries.

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<sup>6</sup> The reason for including a fee for bicycles in the proposed Regulations is to correct an anomaly in the current fee structure. The use of camping facilities and associated impacts is the same for a cyclist as for other persons (regardless of how they arrived at the park). That is, the fee is aimed to recover costs of an overnight stay rather than acting as a road user charge proxy.

Victoria's forests are managed to provide a broad range of opportunities for recreation and tourism. These opportunities range from high visitation sites with significant infrastructure, to remote sites which may be limited to a walking track and cleared space for camping.

The social and cultural values offered by Victoria's forests are generally intangible, as they may be physical and mental experiences (i.e., non-use or existence values). Indigenous people have close ties to their land and forests are an integral part of expressing their cultural, social and spiritual values. The DSE acknowledges and respects Victoria's Native Title Holders and Traditional Owners and the rich culture and intrinsic connection they have to Country. The department also recognises and acknowledges the contribution and interests of other Indigenous people and organisations in the management of land and natural resources. The Victorian Government's broad objective is to manage the multiple (and often competing) roles Victorian forests serve in a sustainable way for all Victorians. *Our Forests, Our Future: Balancing Communities, Jobs and the Environment* was released in 2002 and is the Victorian Government's Policy Statement on forests. In that statement the Premier noted that "We recognise the many roles our forests play – in protecting biodiversity, as water catchments, as sources of timber and non-timber products, as the generator of employment in many small rural communities, in nature conservation, in recreation and eco-tourism and as carbon sinks".<sup>8</sup>

### ***Rationale for Government Intervention***

Victorian State forests have use and non-use values to the community. Use values include tourism and sightseeing. Non-use values include protection of watersheds, soil, habitat, biodiversity of species and air pollution reduction and carbon storage. Without some sort of control or regulation, the direct uses may adversely impact on the indirect values of forests. Human activity has profoundly altered the environment, and as a result the need to regulate human impacts on forests has long been recognised.

The environmental costs that arise from unsustainable uses or high impact activities in forests are well-established in the scientific literature, and have resulted in regulatory controls in Victoria and other jurisdictions. In economic terms, the rationale for managing forests is based on the concept of negative externalities and public goods. That is, the costs associated with certain forest activities by individuals or groups are not fully borne by them, but by the broader community.

The risks of non-intervention are that forest values (e.g., ecological, biological and recreational) would be over-exploited and/or diminished. If the regulations were not remade, then this would create uncertainty as to the obligations of visitors to Victoria's forests, parks and reserves, and there is a high probability that the ability of the Victorian Government to manage these areas would be adversely affected.

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<sup>8</sup> Victorian Government, Department of Natural Resources and Environment, 2002, *Our Forests, Our Future: Victorian Government Statement on Forests*, no pagination:  
[http://www.dse.vic.gov.au/CA256F310024B628/0/983D7233A6B7DEC4CA2574710015D695/\\$File/Our+Forests+Our+Future.pdf](http://www.dse.vic.gov.au/CA256F310024B628/0/983D7233A6B7DEC4CA2574710015D695/$File/Our+Forests+Our+Future.pdf)

## ***Objectives***

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

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

## ***Options to Achieve the Objectives***

Overall, a guiding principle is that a sound forest regulatory regime should impose minimum restrictions to effectively protect particular forest values and mitigate or remedy any clearly identified harms. The *Subordinate Legislation Act 1994* requires that non-regulatory options must be considered as part of a RIS. The scope of consideration of regulatory and non-regulatory options is limited because of the existing powers of the Act and the narrow focus of the proposed regulations. Nevertheless, an education campaign/visitor education, voluntary codes of practice, and prohibiting some or all of the high risk/high impact recreational activities in forest reserves were considered as possible options, along with the proposed regulations and variations to these.

## ***Preferred Option***

The analysis in this RIS supports the proposed regulation as the preferred option compared to the other viable options. This is because they are the most effective and efficient way to achieve the government's objectives. The main reasons why the alternatives are not preferred to the proposed regulations relate to inferior compliance, and because they do not strike an appropriate balance between managing the multiple roles of State forests.

This finding was concluded against the decision criteria described in section 4.2.4; that is, assessing costs versus benefits. Assessment of the options using the Multi-criteria Analysis (MCA) also suggests that the proposed regulations are superior to the alternatives, as shown below. Most importantly, the proposed regulations are assessed as the most effective in achieving the government's policy objectives.

Each of the proposed regulations was examined for the likely costs it would impose on parties affected by the proposal. Quantifiable and unquantifiable costs were considered. Apart from fees, the only quantifiable costs of the proposed regulations are administration and management costs. These costs include the quantifiable costs of requiring committees of management to keep financial and other records, making and erecting signs, issuing permits for a number of recreational activities including rock climbing, events and commercial activities, and issuing replacement permits. Users incur costs when they apply for permits.

The administrative costs associated with the regulations relate to costs incurred in relation to applying for the estimated 3,700 permits issued annually. These relate to camping (3,440), rock climbing and similar activities (80), events and functions (71), commercial activities (109), and flora and fauna related activities (4). The costs to forest users were estimated to be \$95,171 (PV) over a 10 year period for the costs associated with applying for permits. Only about 5 per cent of these costs fell on business, with the vast majority falling on individuals or clubs.

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 forests 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.

The substantive compliance costs 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 obstructing roads, harassing or destroying native animals, setting traps or laying poison, or selling goods or services within a reserved forest are not ‘normal’ activities and would therefore not impinge upon the conduct or behaviour of the vast majority of individuals. Similarly, the notional costs of not lighting a fire in a designated area, controlling a dog, entering or camping in a restricted area, or using soap or detergent near waterways is expected to be minimal for two reasons: first, the cost and barriers to comply with the regulations are small, and second, the expected frequency of such actions is also expected to be small.

The Victorian Government also incurs costs in relation to administering and enforcing the regulations. The table below shows that over a 10 year period, the costs relating to maintaining signage, administration of committees, and issuing permits are in the order of \$1.3 million (PV).

#### Costs imposed on Government and Forests Users of the Proposed Regulations, 10 Year Assessment Period

Regulation	Description of Regulation	Cost (\$)
	<i>Government Costs</i>	
30	Committee of managements’ record keeping	361,178
59,42	Erection and maintenance of signage	802,357
12,62	Replacement of permits	1,439
20	Issue of reaction permits	12,765
22	Issue of event permits	139,893
37	Issue of flora and fauna permits	8,236
	<i>Sub-total – Government administrative costs</i>	<i>1,325,869</i>
	<i>Forest User Costs</i>	
8,20,22,23,33,37	Application for permits – camping, event, etc	95,171
<b>Total</b>		<b>1,421,040</b>

Therefore, the total quantifiable costs to users of forests specified in the regulations and government costs associated with the proposed regulations are approximately **\$1.4 million** (PV) over a 10 year period, or an annual cost of around \$142,000 (PV).

In terms of benefits, it is important to stress that most of the benefits relate to the forest regulatory regime overall (i.e., forest legislation, 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 forest system. The direct and indirect use benefits from ensuring that forests are sustainably managed are likely to be substantial.

In terms of benefits, it is important to stress that most of the benefits relate to the forest regulatory regime overall (i.e., forest legislation, 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 forest system, along with managing health and safety risks.

At a higher level, the direct (education, recreation, research) and indirect (watershed protection, carbon storage, protection of ecosystems) use benefits from ensuring that forests are sustainably managed are likely to be substantial. Again, it should be stressed that the proposed regulations contribute to only a small proportion of these higher level benefits, but given that the overall benefits derived from a well-managed forest system are likely to be substantial, even a proportionally small contribution to the overall benefits is likely to be considerable.

The specific benefits of the proposed regulations relate to minimising the human impact caused by recreational activities in Victoria's forests. 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. Without these controls the forest ecosystems could be damaged, visitor experience could diminish or certain activities could even be prohibited (if they could not be properly managed).

The proposed regulations are relatively narrow in focus and compliance with the regulations is neither difficult nor costly. Groups affected by the proposal include visitors to the relevant forests, parks and reserves and businesses undertaking commercial activities in the forests. These groups are familiar with the rules and procedures, and the proscribed behaviours are generally atypical rather than the conduct shown by the vast majority of forest visitors.

In terms of the incidence of costs and benefits, the direct costs associated with the proposed regulations will be mostly borne by the government and by visitors to forests, parks and reserves. The indirect benefits associated with the proposal will mostly accrue to users and future users of Victoria's forests, as well as the broad community from the non-use value of forests (i.e., the intangible 'existence value' of forests).

The proposed regulations support and are consistent with Victorian Government policy as articulated in the *Our Forests, Our Future*, the *Environmental Policy for Victoria's State Forests* and in the *Forest Act 1958*.

### ***Small Business, Competition and Administrative Burden***

The proposed regulations predominantly relate to the conduct and behaviour, and restrictions placed on individuals. Only to a very small degree are businesses affected by the proposed

regulation, and amongst businesses the proposed regulations do not impose a disproportionate and undue burden on small businesses. Given that the proposed regulations closely resemble requirements that have been in place at some reserves for 10 years, it is not expected that the proposed regulations will raise any implementation issues or cause unintended consequences. The proposed regulations were considered against the National Competition Policy (NCP) competition test to identify any restrictions on competition. While the overall regulatory framework controlling the State forests imposes restrictions on competition, given the specific focus of the proposed regulations it is assessed that they will not impose restrictions on competition.

The *Reducing the Regulatory Burden* initiative commits the Victorian Government to reducing the administrative costs of regulation. Accordingly, this RIS uses the guidelines on the *Measurement of Changes in Administrative Burden* to inform its cost–benefit analysis and to measure any changes to the administrative costs. Administrative costs are those costs incurred by business to demonstrate compliance with the regulation or to allow government to administer the regulation (e.g., reporting, notification, or recording requirements). Since the proposed regulations do not impose any new information, reporting or record keeping obligations on business, the regulatory changes in the proposed regulations will not lead to a material change in the administrative burden on business or not-for-profit organisations in Victoria.

### **Conclusion**

This Regulatory Impact Statement 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;**
- **the proposed regulations do not impose restrictions on competition; and**
- **the proposed regulations will not lead to a material change in the administrative burden on industry.**

### **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 regulations.

The proposed regulations are being circulated to key stakeholders and feedback is sought. The DSE, which is responsible for administering the *Forests Act 1958* (the Act) and current regulations, welcomes and encourages feedback on the proposed regulations.

While in no way limiting comments, stakeholders may wish to comment on the proposed fees; 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 ISSUE TO BE ADDRESSED?

### Key points:

- Forests provide a wide range of benefits to the community, from the conservation of biological diversity, soil productivity and water quality to recreation experiences, timber production and stock grazing, and other market and non-market goods and services. The focus of this RIS is on recreational activities in State forests.
- The aim of government intervention in forest activities is to address environmental, social and inter-generational equity issues because the market alone would not deliver socially optimal and sustainable outcomes.
- In economic terms, the rationale for managing forests is based on the concept of negative externalities and public goods. That is, the costs associated with certain forest activities by individuals or groups are not fully borne by them, but by the broader community.
- The environmental costs that arise from environmental damage and degradation in forests are well established in the scientific literature, and have resulted in regulatory controls in Victoria and other jurisdictions.
- A sound forest regulatory regime should impose minimum restrictions to effectively protect particular forest values and mitigate or remedy any clearly identified harms.
- If the regulations are not remade, there is a high probability that the ability of the Victorian Government to manage recreational activities in Victorian forests would be adversely affected, thus potentially leading to environmental harms.

### 1.1 Background

Victoria's total land area is approximately 23 million hectares. Of this, about 8.3 million hectares or 36 per cent was forested. Approximately 3.4 million hectares were classified as State forest, representing 15 per cent of the land area in the State.<sup>9</sup> In Victoria State Forest is defined as all unoccupied Crown land dedicated as State forest under the *Forests Act 1958*. A Forest Reserve is State forest that is deemed to have special values that need protection in a reserve. Forest reserves are declared as such under section 50(1) of the *Forests Act 1958*. Forest Parks are also declared under section 50(1) of the Act, but generally allow more activities than those allowed in a Forest Reserve.

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<sup>9</sup> Department of Sustainability and Environment 2006, *Sustainability Charter for Victoria's State forests*, Melbourne, p.2.



Victoria's State forests, forest parks and forest reserves provide many social and economic benefits to the Victorian community. They provide recreational opportunities and other market and non-market goods and services. Forests also perform important environmental functions, such as protecting water catchments and providing habitats for plant and animal species. Forests make an important contribution to Victoria's economy through providing employment for local communities, regional development, recreation, tourism and forest industries.

Victoria's State forests are managed to provide a broad range of opportunities for recreation and tourism. These opportunities range from high visitation sites with significant infrastructure, to remote sites which may be limited to a walking track and cleared space for camping. Victoria manages its forests through legislation and regulations that establish rules and requirements for a range of private and business activities.

## 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. The socially efficient level of output is usually taken to be that which maximises the sum of the net benefits of the activity to producers and consumers, and more broadly, society.

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 (see Box 1). The 'tragedy of the commons' argument states 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 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.*

**Box 1: Externalities – The tragedy of the Commons**

‘Tragedy of the commons’ refers to a dilemma in which multiple individuals acting independently in their own self-interest can ultimately destroy a shared limited resource even where it is clear that it is not in anyone’s long term interest for this to happen.

The concept uses a metaphor of herders sharing a common parcel of land (the commons), on which they are all entitled to let their cows graze. It is in each herder’s interest to put as many cows as possible onto the land, even if the commons is damaged as a result. The herder receives all of the benefits from the additional cows, while the damage to the commons is shared by the entire group. If all herders make this individually rational decision, however, the commons is destroyed and all herders suffer.

The herders are assumed to wish to maximize their yield, and so will increase their herd size whenever possible. The utility of each additional animal has both a positive and negative component: *positive*: the herder receives all of the proceeds from each additional animal; and *negative*: the pasture is slightly degraded by each additional animal.

Crucially, the division of these costs and benefits is unequal: the individual herder gains all of the advantage, but the disadvantage is shared among all herders using the pasture. Consequently, for an individual herder the rational course of action is to continue to add additional animals to their herd. However, since all herders reach the same rational conclusion, overgrazing and degradation of the pasture is its long-term outcome. Nonetheless, the rational response for an individual remains the same at every stage, since the gain is always greater to each herder than the individual share of the distributed cost. The overgrazing cost here is an example of an externality.

The Tragedy of the Commons concept was developed by Garrett Hardin and first appeared in the journal *Science* in 1968.

*Source: Science, 13 December 1968, Vol. 162. No. 3859, pp. 1243 – 1248*

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 forests, and to establish systems of permits and/or licences.

The National Competition Council (NCC) assessed the market characteristics of State forests and argued that government intervention is justified on public interest grounds.<sup>10</sup> The NCC noted that forests provide 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. Governments intervene in forest use principally because some of these benefits are difficult for forest owners to trade as it is too costly to exclude those who have not paid for a particular benefit from enjoying it. In addition, those forest benefits that are readily tradable are, above a certain intensity of use, competitive with non-tradable (for example, ecological or recreational) benefits. Consequently, without government intervention, community welfare will tend to be reduced because forest owners have an incentive to produce too little of, for instance, biological diversity and aesthetic amenity, and too much of timber production and grazing.

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<sup>10</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

Historically, where non-tradable forest values are particularly prominent, such that almost no intensity of say timber production is possible without seriously compromising the adequate availability of such values, governments have retained forests in public ownership as national parks. In this respect a sound forest regulatory regime will impose minimum restrictions to effectively protect particular non-tradable forest values and mitigate or remedy any clearly identified harms.

Another rationale for government intervention in State forests is its characteristic 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 use from other boat owners. In a similar vein, aesthetic values are among many public goods provided by forests, along with carbon storage and biodiversity conservation. Economic theory explains why the free market will systematically under-provide such goods, and why collective action, typically by the government, is usually required to ensure their adequate provision.

Associated with these market failures, non-use forest values may tend to be underestimated. For example, it has been argued that most resource management decisions are most strongly influenced by the direct economic value associated with marketable forest or other products. As a result, the non-marketed benefits, for example biodiversity or watershed protection, are often lost or degraded. These non-marketed benefits are often high and sometimes more valuable than the marketed ones. For example, one of the most comprehensive studies to date, which examined the marketed and non-marketed economic values associated with forests in eight Mediterranean countries found “that timber and firewood generally accounted for less than a third of total economic value of forests and that the values associated with non-wood forest products, **recreation**, hunting, watershed protection, carbon sequestration, and passive use (values independent of direct uses) accounted for between 25 per cent and 96 per cent of the total economic value of the forests” (emphasis added).<sup>11</sup>

Finally, from a social point of view it could be argued that there is a public expectation that government has a leading role in protecting State forests. Arguably, since 1999 when the current regulations commenced, community expectations have increased regarding government's role in protecting Victoria's forest assets because of a heightened awareness of environmental issues. Finally, the *Crown Land (Reserves) Act 1978* also places a duty on the Victorian Government to manage reserved land.<sup>12</sup>

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<sup>11</sup> Millennium Ecosystem Assessment, 2005. *Ecosystems and Human Well-being: Synthesis*, Island Press, Washington, DC, p. 6

<sup>12</sup> Section 18A of the *Crown Land (Reserves) Act 1978* states that where any land temporarily or permanently reserved under section 4 of the *Crown Land (Reserves) Act 1978* is placed under the control and management of the Secretary pursuant to section 18(1) and 18(1B) of that Act the Secretary shall control manage and use the land for the purposes for which it is reserved.

### 1.3 Risks of Non-intervention

The risks of non-intervention are that forest values (e.g., ecology, biodiversity, recreational value) would be over-used and/or diminished. There is also a risk that uniformed or aberrant behaviour could damage the environment or public forest infrastructure (e.g., bushfires caused by lighting fires in undesignated areas). 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 risks associated with not remaking the regulations are that the regulatory framework established by the Act for managing recreation in Victoria's forests, parks and reserves 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 and 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 forests effectively would be adversely affected given the magnitude of the potential risks.

Weak or poorly enforced regulations are associated with poor management of forest values, which results in their degradation. A major study found that while the causes of forest degradation are complex and multi-factored, ineffective regulation of forests played a role.<sup>13</sup> Unrestricted access to forest parks and forest reserves would put habitat at risk and could also threaten visitor safety. Past experience has shown that some forest users light fires and fail to responsibly manage them (e.g. in the red gum forests along the Murray River). This poses a safety risk as unattended campfires can start larger bushfires. Many of the reserves under the proposed regulations are in high fire prone areas such as the Murrundindi and Steavenson Falls reserves, which recently burnt in 2008–09. In addition, uncontrolled fires in catchment areas could cause significant environmental and economic losses to Victoria if burnt.

### 1.4 Type and Incidence of Costs

The *Victorian Guide to Regulation* identifies three categories of regulatory costs: compliance costs, financial costs, and market costs.

Compliance costs can be divided into 'substantive compliance costs' and 'administrative costs'. Substantive compliance costs are those costs that directly lead to the regulated outcomes being sought and are often capital and production costs. These costs are often associated with content-specific regulation and include buying new equipment, maintaining the equipment and undertaking specified training in order to meet government regulatory requirements. The proposed regulations predominantly relate to substantive compliance costs. Administrative costs, often referred to as red tape, are those costs incurred by business to demonstrate compliance with the regulation or to allow government to administer the regulation. Administrative costs can include those costs associated with familiarisation with administrative requirements, record keeping and reporting, including inspection and

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<sup>13</sup> Verolme, Hans J.H., Moussa, Juliette, April 1999. *Addressing the Underlying Causes of Deforestation and Forest Degradation - Case Studies, Analysis and Policy Recommendations*. Biodiversity Action Network, Washington, DC.

enforcement of regulation. In the case of the proposed regulations, administrative costs mostly relate to applying for permits.

Financial costs are the result of a concrete and direct obligation to transfer a sum of money to the government or relevant authority. Such costs include administrative charges and taxes. For example, the fees for applying for a permit would be a financial cost of regulation. The proposed regulations impose financial costs in the form of fees for parking at Steavenson Falls Scenic Reserve and fees for camping overnight at Murrindindi Scenic Reserve.

Indirect or market costs are those costs that arise from the impact that regulation has on market structure or consumption patterns. These costs are often associated with licensing of certain activities, prescribing qualifications or limiting access to a certain profession or industry in some other way. When barriers to entry are created, this can allow incumbents to charge higher prices and can result in reduced service levels and stifle innovation. The proposed regulations do not impose market costs: these costs (where they exist) are imposed by the Act.

In a broader sense, in the absence of regulation it is likely that economic, social, and environmental costs/impacts would be incurred. The negative externalities associated with the ‘tragedy of the commons’ suggest that while individual levels of use/exploitation of forests may seem rational, the collective impact may result in damage to forest values. For example, activities could reduce the sustainability and amenity of forests by damaging the environment. Moreover, inappropriate use of forests could adversely affect wildlife habitats and the ecology of forest systems.

## **1.5 Nature and Extent of the Problem**

Forest reserves and forest parks are used for a wide range of recreational activities including rock climbing, camping, horse riding and four wheel driving. Recreational activities can have a negative impact on these areas, including damage to plants and rock features, erosion, and impacts on animals. Activities in forests, reserves and parks can also affect the visitors themselves, who may face safety risks or experience anti-social behaviour.

Forests play an important role in the provision of nature-based recreation and tourism. In 2005–06, approximately 6.5 million hectares of Victoria’s forested public land was available for recreation and tourism. The forests, reserves and parks covered by the proposed regulations make up only a small part of this, representing about 40,000 hectares or less than 1 per cent of this area. This included 99 per cent of state forest and 97 per cent of nature conservation reserves. Areas unavailable for recreation and tourism were mainly set aside for scientific research and conservation purposes, and for the protection of water catchment areas.

Victoria’s forests are managed to provide a broad range of opportunities for recreation and tourism. These opportunities range from high visitation sites with significant infrastructure, to remote sites, largely limited to bushwalking and camping activities. Visitor numbers, conflicts between uses, and demand for particular sites must be managed to ensure that the range and extent of these activities can continue for future generations. State forests 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 (it is estimated that approximately

1 per cent of private forests are available for recreation and tourism). In addition, Victoria's forests make an important contribution to nature-based tourism, with the capacity for further growth in commercial tour operations. More generally, visiting forests reserves and parks can generate a variety of social and economic benefits. Recreational activities involving individuals, families and clubs can improve health and increase social capital. Forest parks and reserves are a key resource for recreation and physical activity, the health and wellbeing benefits of which contribute to the quality of life. Parks and reserves also have educational value, providing opportunities for visitors to understand and experience the natural environment.

The area of forest available for recreation and tourism, and the types of activities permitted, is regulated to ensure the protection of environmental assets and biodiversity, cultural sites, and for public safety. In some cases, forests that are generally available for public recreation and tourism may be closed temporarily due to harvesting, extreme fire danger, fuel reduction burning, the control of feral animals or weeds, special events or bad weather. Road access, a lack of facilities or other practical considerations may also restrict or prevent public use of State and nature conservation forests.

Recreation and tourism in Victoria's forests provides a significant contribution to the State's economy. While data does not exist for the forests subject to the proposed regulations, by way of illustration, the Port Campbell National Park, Grampians National Park and Wilson's Promontory National Park alone are estimated to contribute \$487 million to Victoria's economy annually (though not all of these parks are forested).<sup>14</sup>

A wide range of forest-based recreation and tourism facilities are available for use by the general public in State forest and nature conservation reserves. For State forests, the number of areas, tracks and sites available for recreation and tourism activities generally increased between 2001-02 and 2005-06. Currently, there are more than 350 recreation sites (day-visitor areas and camping grounds) and 135 recreation tracks within Victoria's State forests. The level of recreational activity in State forests was highest for walking and running, picnicking and playing, camping, and recreational vehicle use. Other popular pastimes included riding or walking animals, cycling, driving, and nature study. In addition, forests provide aesthetic values, conservation values, flora and fauna viewing opportunities and an escape from busy urban environments.

Facilities such as walking or riding tracks, picnic sites and camp grounds are provided solely for recreation or tourism, while roads and vehicular tracks are primarily managed for forest management purposes, but can also enable recreation and tourism activities. Tour operators also provide a range of nature-based activities for visitors to Victoria's forests.

It is important that the level of recreation and tourism in Victoria's forests is sustainable and does not impact on ecosystem health. The number of visits to Victoria's forests per annum is generally better known in nature conservation reserves than for State forest. Every year, Victorians enjoy an estimated 26.7 million visit days to forests in National Parks, State Parks and other parks and gardens across Victoria. It is estimated that every year over 4 million visit days are also spent in State forest. The annual number of visit days for recreation and

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<sup>14</sup> DSE, State of the Forests Report for Victoria: <http://www.dse.vic.gov.au/>

tourism activities can be used as an indication of the degree to which the community values forests for recreation and tourism purposes.<sup>15</sup>

Increasing numbers of visitors place greater demands on the natural and built features of forests, parks and reserves. A balance needs to be achieved so that recreation does not threaten the natural values. These values are often the very reason for visiting Victoria's State forests, forest parks and other forest reserves.

#### 1.5.1 Forest Parks, Parks and Reserves – Estimated recreational demand

The proposed regulations include eight forest reserves and two forest parks. These are the Delatite Arm Reserve, Murrindindi Scenic Reserve, Steavenson Falls Scenic Reserve, Sylvia Falls Scenic Reserve, Tarago River Forest Reserve, Thomson River Forest Reserve, Yarra Tributaries Forest Reserve, You Yangs Regional Park, the Otway Forest Park, and the Cobboboonee Forest Park. The You Yangs Regional Park is technically a Forest Reserve even though not named as one.

Visitor surveys are conducted by individuals who survey park and reserve visitors at entrances on randomly selected days throughout the year. The results are then extrapolated to a full year.

Visitor numbers and types of activities undertaken varies considerably between the forest parks and reserves covered by the proposed regulations. Typically, parks and reserves closest to Melbourne attract the largest number of visitors. The catchment reserves, that is, the Thomson, Tarago and Yarra Tributaries are the largest in area, but because they are in remote locations and are heavily forested they are the least visited. The Otways and Cobboboonee Parks are more than two hours drive from Melbourne and are therefore not visited as frequently, while Sylvia Falls can only be accessed by a difficult and unmarked walking trail. Delatite Arm is well frequented by campers but no data exists on specific numbers.

While data is incomplete for all of these, visitor days for 1997–98 to 2007–08 for the You Yangs Regional Park are shown in Table 2 and for the Steavenson Falls Scenic Reserve in Table 3. Activities at the You Yangs Regional Park include bushwalking, orienteering, canoeing and kayaking, mountain biking, rock-climbing and abseiling, and horse riding.

**Table 2: Annual You Yangs Regional Park Visitor Numbers**

Park/Reserve	1997-98	1998-99	1999-2000	2000-01	2001-02 to 2006-07 per annum	2007-08
You Yangs Regional Park	60,063	102,520	83,880	85,812	150,000	170,000

Source: Parks Victoria 2008, *About Us, Visitation Statistics*; and other Parks Victoria data.

Steavenson Falls is one of the tallest waterfalls in Victoria. The falls have been open to the public since 1866 when a track was first cut from Marysville. The most common recreational activities undertaken within the Steavenson Falls reserve are sightseeing, picnicking and

<sup>15</sup> op cit.

bushwalking. The most common recreational user groups are car-based day visitors, bushwalkers, school groups, and tour groups from the local resorts. Annual visitor numbers for the Steavenson Falls Scenic Reserve are around 115,000 visitors per annum (as shown below), which provides an indication of likely visitor demand in the future.

**Table 3: Annual Steavenson Falls Scenic Reserve Visitor Numbers**

Park/Reserve	2002	2003	2004	2005	2006
Steavenson Falls Scenic Reserve	125,640	No data	109,700	122,030	111,339

Source: Tourism Victoria. Most recent data available.

Approximately 75,000 people visit the Murrindindi Scenic Reserve per year.<sup>16</sup> Recreational activities in the Murrindindi Scenic Reserve include camping, picnicking and bushwalking. Approximately 100 campsites are spread along the banks of the Murrindindi River and there are a wide range of walking trails in the Reserve and surrounding forests.

The Thomson Reservoir catchment, including the Thomson River Forest Reserve, are visited by approximately 2,000 people annually.<sup>17</sup> Recreational activities are restricted to camping (for hikers only), horse riding, hunting of deer and four wheel drive activities.

### 1.5.2 Impacts from Recreational Activities in State Forests, Parks and Reserves

Negative impacts on the environment are an inevitable consequence of recreation.<sup>18</sup> Recreation activities can cause impacts to all resource elements in an ecosystem. Soil, vegetation, wildlife and water are four primary components that are affected.<sup>19</sup> Because various ecological components are interrelated, recreation impact on a single ecological element can eventually result in effects on multiple components. 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>20</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 fast growing segments in the tourism sector.

A review of the literature on the impacts of recreation in Australia, with an emphasis on forests, was undertaken by Sun and Walsh.<sup>21</sup> This review examined the available information on the impact of recreation and tourism on environments, particularly on vegetation and soil. It 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. Overall, they can affect the vegetation and other

<sup>16</sup> Source: DSE

<sup>17</sup> Source: DSE

<sup>18</sup> Yu-Fai Leung and Jeffrey L. Marion, 2000, Recreation Impacts and Management in Wilderness: A State-of-Knowledge Review, USDA Forest Service Proceedings RMRS-P-15-VOL-5. 2000, p. 23: <http://www.wilderness.net/toolboxes/documents/vum/Rec%20Impacts-Mgmt.pdf>

<sup>19</sup> *ibid.*, see summary of recreation impact in Table 1, p. 24

<sup>20</sup> *ibid.*

<sup>21</sup> D. Sun and D. Walsh, 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



recreational sites physically and biologically. Physical effects include track formation, soil loss and/or compaction and an increase in fire frequency. Littering and water pollution are also seen as impacts associated with bush walking and camping. Biological effects include causing damage to vegetation, increasing risk of myrtle wilt disease and the spread of the soil pathogen, *Phytophthora cinnamomi*, as well as assisting weed dispersal.

Another study, *Environmental Impacts of Tourism and Recreation in National Parks and Conservation Reserves*<sup>22</sup>, drew similar conclusions finding that soil erosion and compaction, vegetation damage, wildlife disturbance and habitat destruction, impacts of firewood collection and campfires, solid wastes and water pollution. This study concluded that “to minimise environmental impacts of tourism and recreation requires a combination of planning and regulation ...”<sup>23</sup>.

Potential visitor impacts on forests, parks and reserves include the direct impact on flora and fauna, soil erosion and rock damage, soil compaction, water pollution, fire, weed infestation, and uninformed or careless behaviour. These impacts are outlined below:

- *direct impact on flora*: damage to trees and plants may arise from trampling of vegetation, vandalism of trees, and removal of trees and wood for firewood. These factors lead to the loss of vegetation cover and affect animal habitats and the natural growth and decomposition cycles of logs and other organic matter;
- *direct impact on fauna*: e.g., wildlife disturbance, habitat destruction, and in extreme cases cruelty to animals;
- *erosion*: foot traffic and vehicle traffic affect 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;
- *damage to natural rock features*: e.g., from foot traffic and vehicle traffic, and careless and deliberate damage;
- *soil compaction and root system compaction*: e.g., from foot traffic and vehicle traffic;
- *water pollution*: visitors, pets and vehicles affect natural waterways and the quality of water that flows into drinking water reservoirs. For example, recreational activities and the impact of vehicles and campers in the Delatite Arm Reserve affects the quality of water in Lake Eildon, which will be a significant water catchment for Melbourne. Potential sources of pollution include human and animal (pets) waste, and soaps and detergents;
- *fire*: fire has a major impact on the natural forest environment as well as public safety and adjacent properties. Between 1978 and 1998, fires escaping from campfires and barbecues on public land accounted for 1,165 fires or 9.4 per cent of all fires, the fourth most common fire cause. Bushfires from campfires and barbecues burn

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<sup>22</sup> R. Buckley and J. Pannell, 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>23</sup> *ibid.*, p. 29

approximately 1,500 hectares of public land each year. Most of these fires start when a campfire is left unattended or not properly extinguished;

- *weeds*: weed infestation, such as widespread Boneseed and Bridal Creeper in the You Yangs Regional Park, presents a threat to forest vegetation. The introduction of non-indigenous plants threatens the integrity of natural ecosystems and the conservation of native species; and
- *uninformed or careless behaviour*: It is important to ensure that natural and built assets are not damaged and that other forest users are not 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 and vandalism.

Turning to the management of health and safety risks, a number of the proposed regulations are aimed at improving visitor safety (although there is some overlap with environmental objectives). For example, proposed regulation 7 makes it an offence to obstruct a road or track and proposed regulation 8(6) makes it an offence for a person to act in a manner in a State forest likely to cause danger or injury to any person. Similar regulations are proposed with respect to behaviour and setting aside appropriate areas for high risk activities (e.g., rockclimbing, abseiling, hang gliding) in forest reserves. In addition, the proposed regulations control the lighting and maintaining of fires, ensure that dogs must be on leads and prevents the use of firearms in forest reserves.

The risks associated with these activities are well established. For example the common accidents types which occur on public land for which DSE is responsible are:

- slips and trips (especially steps, pathways and wet surfaces) (about 70% of all claims);
- tree limb falls;
- bike riding; and
- diving (on average, DSE receives a serious diving accident claim every two to three years).

The common accident locations are:

- foreshores and beaches;
- bike tracks;
- recreation areas;
- playgrounds;
- swimming pools; and
- camping areas.

It is imperative therefore that DSE maintains a high level of risk management to ensure we fulfil our duty of care to the Victorian community.

### 1.5.3 *Managing the Impacts*

Maintenance of protective vegetation is essential for erosion control. Protection of forest reserves 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.

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.<sup>24</sup> 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. Access to 'open' catchments is carefully managed, with restrictions on certain activities and prohibitions on entering certain areas. Effective management of water catchments by periodic road closures and appropriate land use within forest reserves aims to minimise the impact from recreational activities to ensure the highest quality water sources.

Melbourne's water supply catchments are located in the mountain ranges east of the city covering more than 150,000 hectares including nine major storage reservoirs with a capacity of 1,773 billion litres<sup>25</sup>. Of particular relevance are the Thomson Reservoir Catchment, the Tarago Reservoir and the Yarra Tributaries. The Thomson Reservoir Catchment covers 48,700 hectares. The Reservoir has a capacity of 1,068 billion litres and is the largest of four major water supply catchments for Melbourne and the Yarra Valley, providing 27 per cent of Melbourne's water.<sup>26</sup> The total catchment area of the Yarra Tributaries is over 13,800 hectares. The individual catchments within the Yarra Tributaries include Cement Creek, Armstrong Creek West, Armstrong Creek East, McMahons Creek and Starvation Creek, accounting for 6 per cent of Melbourne's total water supply.<sup>27</sup> The Tarago Reservoir, near the township of Neerim South, covers 8,800 hectares and has a capacity of 37.5 billion litres. Water from the reservoir is currently being treated to a high standard by Gippsland Water for local customers in Neerim South, Warragul, Drouin and Rokeby. Water is also shared with local irrigators and the environment via releases to the Tarago River.<sup>28</sup>

Restrictions on the areas and periods in which fires may be lit and maintained as well as the provision of fireplaces will control the use of fires by visitors and minimise any fire risk. Measures to restrict the lighting of fires and the ability to close forest reserves or areas of reserves to manage fire threats are enabled by the current regulations. The recent Victorian bushfires underscore the need to manage fire risks.

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 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 removing or damaging of flora and bringing any seeds, trees or other vegetation in to forest reserves.

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<sup>24</sup> The Thomson River Forest Reserve, Tarago River Forest Reserve and the Yarra Tributaries Forest Reserve were created to manage the impacts of recreational uses within these catchments on water quality. As open catchments, recreational activities are allowed within the reserve but are restricted.

<sup>25</sup> Melbourne Water 2007, *Melbourne's Water Supply System*

<sup>26</sup> *ibid.*, p. 12

<sup>27</sup> Department of Sustainability and Environment 2008, *Harvesting in Water Catchments: managing resources sustainably*.

<sup>28</sup> *ibid.*, p. 14

High-traffic sports such as orienteering are subject to a number of controls. The number of events is limited and restrictions are placed on the event size (area), timing and number of participants. In addition, activities such as car rallies, concerts, or other events need to be managed to ensure that environmental impacts are minimised and that the amenity of other forest users is not impinged. Other activities such as removal of gravel, stone, seeds, leaves, and ferns need to be controlled to prevent damage to forests.

Strategies to manage safety risks in forest parks and reserves include information and education about the forest so that visitors understand key safety messages, restriction of activities to certain areas, provision of specific facilities such as fire places, and emergency planning, including the power to close or restrict entry to the whole reserve, or parts of it because of fire or other emergency.

#### 1.5.4 Offences in State Forests

The data does not permit disaggregation with respect to penalties or prosecutions in the forests, reserves and parks covered by the proposed regulations. DSE advises that warnings or cautions are given at least once a week by an authorised officer at each of the main reserves. However, table 4 below shows the number of prosecutions across Victorian State forests from 1998 to 2008 for activities covered by the proposed regulations. Two observations should be made: first, prosecutions are rare (only around 13 per annum across all State forests) because in the vast majority of cases users are cautioned; and second, offences are often difficult to detect given the large spatial area of the forest, reserves and parks.

**Table 4: Offences under the Act relating the forest produce, 1998–2008**

Description of Offences	Number
<b>Prosecution</b>	
Offences relating the fires, e.g., did not use a fire place	79
Destruction of a tree	3
Did not use a toilet within 100 metres of a waterway	2
Drove on a track closed from public access	7
Obstruct or place an object on a track	33
Dug a hole or pit on a track	4
Occupied part of a reserved forest	7
<b>Total</b>	<b>135</b>

Source: DPI/DSE Offence Database

## 2. OBJECTIVES OF GOVERNMENT INTERVENTION

### Key points:

- The Victorian Government’s broad objective is to sustainably manage the multiple (and often competing) uses that State forests provide for all Victorians.
- The specific objectives of government intervention are to maintain, conserve and protect forest ecosystems, while maintaining and improving their capacity to support recreation and tourism, which enhances the socio-economic benefits of State forests to Victorian communities.
- The proposed regulations assist to do this by proscribing certain actions or activities in Victorian forests that could harm the environment or interfere with the management of forests, and by ensuring that the impact on the environment arising from recreational use is minimised.
- The proposed regulations are made under sections 50(5), 99, and 99A of the *Forests Act 1958*.

### 2.1 Government Policy

*Our Forests, Our Future: Balancing Communities, Jobs and the Environment* was released in 2002 and is the Victorian Government’s Policy Statement on forests. In that statement the Premier noted that “We recognise the many roles our forests play – in protecting biodiversity, as water catchments, as sources of timber and non-timber products, as the generator of employment in many small rural communities, in nature conservation, in recreation and eco-tourism and as carbon sinks”.<sup>29</sup>

Overall, the Statement articulates government policy noting “sustainability as the foundation for managing the multiple roles of our forests in maintaining our natural heritage, biodiversity, health, well-being and prosperity”.<sup>30</sup> Supporting this statement, in 2004 the Victorian Government released its Sustainability Charter for Victoria’s State Forests. The Charter sets out the government’s vision and objectives for Victoria’s forests. The vision states that “In partnership with the community, the Victorian Government will protect the environment and promote social and economic development for all Victorians. We are committed to ensuring the long-term future of our forests, regional communities and the timber industry, so that future generations have the same opportunities to enjoy and appreciate our forests as we do today”.<sup>31</sup>

With respect to the socio-economic benefits of State forests, the Charter states that “Victorian communities have strong social, spiritual and cultural links to their State forests. Victoria’s State forests provide a diverse range of recreation and tourism opportunities. It is important

<sup>29</sup> Victorian Government, Department of Natural Resources and Environment, 2002, *Our Forests, Our Future: Victorian Government Statement on Forests*, no pagination

<sup>30</sup> loc cit.

<sup>31</sup> Department of Sustainability and Environment, 2006, *Sustainability Charter: for Victoria’s State forests*

that safe, yet satisfying, activities are provided for visitors to State forests. We must manage visitor numbers, conflicts between uses and demand for particular sites to ensure that the range and extent of these activities can continue for future generations”.<sup>32</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. The Policy identifies fundamental principles for the management of recreation and tourism on public land in Victoria. It 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.<sup>33</sup>

At the departmental level, DSE’s *Environmental Policy for Victoria’s State Forests* recognises that “State forests represent a wide range of values, uses, products and services to the people of Victoria and our goal is to improve stewardship of State forests while ensuring that they are managed sustainably from economic, social and environmental perspectives”.<sup>34</sup> The policy also commits DSE to sustainable forest management of, amongst other things, access roads for a range of activities, fire prevention, and managing recreation.

## 2.2 Regulatory Framework

### 2.2.1 Legislative Framework

DSE is responsible for the sustainable management of forests in Victoria, and administers the *Forests Act 1958* and a range of regulations authorised under that legislation. The *Forests Act 1958* is the key piece of legislation governing management of State forests including forest reserves set aside under section 50(1) of the Act. These include a forest park, state park, regional park, multi-purpose park, wilderness education area, historic area, flora and fauna reserve, flora reserve, scenic reserve, alpine reserve, roadside reserve or a reserve for any other purpose. There are approximately 100 parks and reserves declared under section 50.<sup>35</sup> Together, these encompass approximately 55,000 hectares. A detailed description of the reserves and parks covered by the proposed regulations are described in Attachment C. The Act governs the use of State forests for recreation as well as timber, grazing and other forest products. The Act also regulates fire management, forest management planning, and the setting of sustainable timber yields.

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<sup>32</sup> DSE, 2006, loc cit

<sup>33</sup> DSE, 20202, Policy for Sustainable Recreation and Tourism on Victoria's Public Land: <http://www.dse.vic.gov.au/dse/nrenrt.nsf/LinkView/9AF29927FB6EF83CCA256C61001794D640805DA7754769794A256DEA00241084>

<sup>34</sup> Department of Sustainability and Environment, 2007, *Environmental Policy for Victoria’s State forests*: [http://www.dse.vic.gov.au/CA256F310024B628/0/B5E310E54760EB41CA25736B00003FE5/\\$File/Environmental+Policy.pdf](http://www.dse.vic.gov.au/CA256F310024B628/0/B5E310E54760EB41CA25736B00003FE5/$File/Environmental+Policy.pdf)

<sup>35</sup> While it would be possible to regulate all parks and reserves, DSE adopts an approach that regulations should only be applied in cases where they are warranted. Only those parks and reserves that have relatively high visitor numbers (which provides an indication of human impact) are included in the proposed Regulations.

Other legislation relevant to Victoria’s State forests is shown in Attachment D, and includes the *Conservation, Forests and Lands Act 1987*, *Catchment and Land Protection Act 1994* and the *Land Conservation (Vehicle Control) Act 1972*.

Under section 31(1) of the *Conservation, Forests and Lands Act 1987*, the Minister “may make Codes of Practice which specify standards and procedures for the carrying out of any of the objects or purposes of a relevant law”. Under section 39 of that legislation, compliance with a Code of Practice is voluntary unless the Code of Practice is incorporated in or adopted by a relevant law or a condition specified in an authority given under a relevant law. Codes are discussed below in section 2.2.3.

### 2.2.2 Forest Management Plans

Forest Management Plans may be made under section 22 of the *Forest Act 1958*. They are typically made for areas where human impacts may affect the forests’ conservation value. Ten Forest Management Plans apply to 15 Forest Management Areas across Victoria. These include the State Forests of Mildura, Mid-Murray, Central Highlands, East Gippsland, Midlands, Otway, North East and Gippsland, Portland Horsham (proposed) and Bendigo. Forest Management Plans establish management principles and strategies for the balanced use and care of State forest according to sustainability principles. The plans contain conservation guidelines that specify minimum levels of planned protection to be provided for natural values in State forest and forest management zones. The plans establish priorities and permitted uses in different parts of State forest. Many of the management strategies developed in the Forest Management Plans are expressed through zoning decisions that set aside areas from timber harvesting or permit harvesting and other activities under specified conditions.

**Table 5: Relevant forest parks and reserves and the associated forest management plans**

Park/reserve	Plan
Murrindindi Scenic Reserve, Stevenson Falls Scenic Reserve, Sylvia Falls Scenic Reserve and the Delatite Arms Reserve	North East Forest Management Plan
The Thomson River Forest Reserve, Tarago River Forest Reserve and the Yarra Tributaries Forest Reserve	Central Highlands and Gippsland Forest Management Plans
Otway Forest Park	Otway Forest Management Plan (which will be replaced by the Great Otway National Park and Otway Forest Park Management Plan)
Cobboboonee Forest Park	Portland Horsham (proposed) Forest Management Plan (which will be replaced by a new management plan shortly)
You Yangs Regional Park	Parks Victoria Brisbane Ranges National Park Management Plan 1997

### 2.2.3 Codes of Practice and educational material

There are a number of Codes of Practice that currently apply to recreational activities in State Forests. These include the Bushwalking Code, Bush Camping Code, 4WD Touring Code, Mountain Bike Code and a Trail Bike Riding Code. Further, there are also Guidelines for Horse Activities in State Forests. Guidance and education material ('Forest Notes') are available for dog walking, horse riding, camping, riding a motorbike, mountain bike riding, bushwalking, four-wheel driving, events, hunting and function and seasonal road closures.

The codes aim to encourage forest users to use a minimum impact approach to the activities that they undertake. They have been in existence since 2003 but have failed to curb the damaging behaviour of individuals who do not respond to self regulation or abide by the codes. They have been widely read and taken up by interest groups and clubs and other socially conscious users, but not by individuals outside these groups.

### 2.2.4 Leases, licences and permits

Leases, licences and permits may be issued under the *Forests Act 1958* for a variety of activities undertaken in State forests. Under section 51, the Governor in Council may grant a lease of any area of Crown land for the grazing of cattle or for such purposes and of such area as on the recommendation of the Secretary as the Governor in council determines. A lease term is not to exceed 21 years and can be subject to any covenants, terms and conditions and to the payment of rent, royalty or fees.

Under section 52 of the *Forests Act 1958*, the Secretary may grant a licence or permit in respect of grazing cattle, harvesting timber, taking away forest produce specified in the licence (including bee keeping), or any other purpose relating to or connected with a State forest or forest produce. Such licences or permits may be subject to any covenants, terms and conditions that may be prescribed, any additional covenants, terms and conditions that the Secretary considers appropriate to impose in a particular case, and the payment of any rent, fees, royalties or charges that the Secretary may determine. Licences or permits issued may be granted for a term of not more than 3 years or for not more than 20 years with the approval of the Governor in Council.

### 2.2.5 Management Plans

Management plans also govern and provide direction for the management of specific forests (these management plans should not be confused with Forest Management Plans discussed above in Section 2.2.2). These include You Yangs Regional Park Draft Management Plan<sup>36</sup> (You Yangs Draft Plan), the Caring for Country – The Otways and You – Draft Management Plan<sup>37</sup>, Draft Recreation and Tourism Access Plan<sup>38</sup> and the Draft Heritage Action Plan<sup>39</sup>

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<sup>36</sup> Department of Natural Resources and Environment, 1997, *You Yangs Regional Park Draft Management Plan*, unpublished.

<sup>37</sup> Parks Victoria and DSE 2007, *Caring for Country – The Otways and You. Great Otway National Park and Otway Forest Park Draft Management Plan*, Parks Victoria and DSE, Melbourne,

<sup>38</sup> Department of Sustainability and Environment (2008) *Draft Recreation and Tourism Access Plan*

<sup>39</sup> Parks Victoria and DSE, 2008, *Great Otway National Park and Otway Forest Park Draft Heritage Action Plan*, Parks Victoria and DSE, Melbourne.



(Otways Draft Plan), and the Recreational Framework for Bunyip Public Land<sup>40</sup> (Bunyip Framework).

The You Yangs Draft Plan identified the environmental, cultural and recreational features of the park and appropriate management strategies to maintain and enhance these values. The Otways Draft Plan was recently released for public consultation. The plan proposes a vision, strategies and actions to achieve conservation of the important values of both the Great Otway National Park and the Otway Forest Park, to protect water supplies and to provide a broad range of recreational experiences and tourism opportunities. The Bunyip Framework applies to some 60,300 hectares of public land including areas of Bunyip, Tarago, Latrobe and Yarra State forests, Bunyip State Park, Kurth Kiln and Crossover Regional Parks and the Tarago Reservoir. This area includes the Tarago River Forest Reserve. The Bunyip Framework aims to provide a balance between the needs of different users and the protection of natural and cultural values. The Bunyip Framework will be used as a guide to prepare management plans for public land areas, including parks and State forests.<sup>41</sup> All plans have been developed in consultation with key stakeholders.

### 2.2.6 Fees and charges

Committees of Management of some forest reserves can impose fees for parking or camping. For example, regulation 5(3) of the Forests (Murrindindi Scenic Reserve) Regulations 1999 and regulation 6(3) of the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 enable fees to be charged for camping and parking. Table 6 below shows the current fees, which have been in place since 1999.

**Table 6: Current Park entry fee by vehicle type**

Vehicle type	Murrindindi Scenic Reserve Fees (\$)	Steavenson Falls Scenic Reserve Fees (\$)
Motorcycle	\$2.00	\$2.00
Car	\$5.00	\$2.00
Small bus	\$15.00	\$15.00
Large bus	\$25.00	\$25.00

The Committee of Management is required to display details of the fees and charges within or at the entrance to the reserve. A penalty (five penalty units) is in place for parking in the Steavenson Falls Scenic Reserve without paying the parking charge, or for entering the Murrindindi Scenic Reserve in a vehicle for camping without paying the fee. Approximately \$36,000 is collected each year from vehicle parking charges within the Steavenson Falls Scenic Reserve, and between \$23,000 and \$30,000 each year from camping fees in the Murrindindi Scenic Reserve (i.e., a total of around \$66,000). The fees are collected via an honesty box which is the most cost effective method of collection. Notwithstanding this, compliance is around 35 per cent or around one in three persons pay the fee.

## 2.3 Objectives

The broad objectives of the proposed regulations reflect the Government's overarching policy and legislative objectives regarding sustainable forest management. The specific objective is

<sup>40</sup> Parks Victoria 2006, *Recreational Framework for Bunyip Public Land*, Parks Victoria and DSE, Melbourne.

<sup>41</sup> *ibid* 5.

to establish appropriate arrangements for visitors to forests, parks and reserves that enable recreational use while:

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

#### **2.4 Authorising Provision**

The proposed regulations are made under sections 50(5), 99 and 99(A) of the *Forests Act 1958*. The main provision is section 99 of the Act, which generally provides the authority to make regulations for any matter or thing required or permitted by the Act to be prescribed, or necessary to be prescribed to give effect to the Act.

### 3. OPTIONS TO ACHIEVE THE OBJECTIVES

#### Key points

- Feasible non-regulatory and regulatory options for achieving the objectives are identified. These are as follows:
  - statutory rules and variations;
  - an education campaign/visitor education;
  - voluntary codes of practice;
  - prohibiting some high impact/high risk activities.
- Economic incentives or a negative licence regime were not considered feasible options.

#### 3.1 Regulatory and Non-regulatory Options

This section describes the viable non-regulatory and regulatory options for achieving the objectives set out in section 2.3 of this RIS. The *Subordinate Legislation Act 1994* (section 10(1)(c)) requires that non-regulatory options must be considered as part of a RIS. The scope of consideration of regulatory and non-regulatory options is limited because of the existing powers of the Act and the limited focus of the proposed regulations. Nevertheless, the following options were considered as viable:

- **Option A:** statutory rules;
- **Option B:** public information and education campaign, including forest management plans;
- **Option C:** user-group voluntary codes of practice; and
- **Option D:** prohibiting some high impact/high risk activity.

#### Option A – Statutory Rules

A statutory rule (also known as a regulation) is a regulatory vehicle used extensively by governments to give operational effect to primary legislation. Statutory rules can be an effective policy tool to achieve a range of policy objectives including: to prevent or reduce activity which is harmful to business, the environment or to other people, to ensure that people engaged in some occupations possess a requisite level of knowledge and competence, and to define rights, entitlements or obligations.

The *Subordinate Legislation Act 1994* Guidelines (the Premier's Guidelines) provides guidance regarding the matters suitable for inclusion in statutory rules. These include matters relating to detailed implementation of policy, general principles and standards (rather than the policy, principle or standard itself); prescribing fees to be paid for various services; prescribing forms (if it is necessary that they be prescribed) for use in connection with legislation; and prescribing processes for the enforcement of legal rights and obligations.

The proposed regulations would replace, update and consolidate the current regulations for specific forest reserves, as well as some elements of the Forests (Miscellaneous) Regulations 2000. The proposed regulations continue many of the provisions of the current regulations that apply to the You Yangs Regional Park, the Steavenson Falls Scenic Reserve, Murrindindi Scenic Reserve and the Thomson River Forest Reserve. Attachment B compares the current and proposed regulations. The proposed regulations are included as an attachment to this RIS. The major elements of the proposed regulations are summarised below.

The proposed regulations:

- establish powers for the Secretary of DSE and committees of management to manage forest parks and reserves;
- enable areas within forest parks and reserves to be set aside to ensure adequate care, protection and management of these parks and reserves;
- restrict entry and enable temporary closure of a forest park or reserve, or parts of these parks or reserves (including for reasons of ensuring public safety);
- enable permits to be issued for certain activities;
- establish offences and associated penalties for certain behaviours;
- enable authorised officers to enforce the proposed regulations; and
- prescribe fees for parking in Steavenson Falls Scenic Reserve and camping in Murrindindi Scenic Reserve

Broadly, the proposed regulations designate areas within forests, parks and reserves for specified purposes by restricting entry to areas and limiting levels of activity. For example, entry into an area of a reserve or park may be prohibited in order to protect or re-establish vegetation that is important for key faunal habitats. The proposed regulations also include prohibitions on damaging flora, fauna and rock features, lighting or maintaining fires, camping, introducing animals to a forest reserve or forest park, and a range of other activities that may damage a forest reserve or forest park or threaten the safety of users. Other restrictions take the form of conditions such as dogs being under effective control. Restrictions are applied to some activities (e.g., some commercial activities) by requiring that they only be conducted subject to a permit.

In a number of cases, there are no practicable regulatory alternatives other than to alter the scope or extent of the proposed regulations. With respect to alternatives to the proposed regulations, clause 2.04 of the Premier’s Guidelines states that, “where the authorising Act dictates the form of subordinate legislation required, for example, where the authorising legislation provides for fees to be prescribed by statutory rule, *there is no discretion* to set those fees by another method” (emphasis added).<sup>42</sup> This is relevant to the proposed regulations, which give operational effect to some very specific sections of the Act, including prescribing fees (options for setting the level of fees are discussed in section 4.A below) and duties and management committee.

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<sup>42</sup> Subordinate Legislation Act 1994 Guidelines, Revised 2007, Section 2.04

## **Option B – Education Campaigns, including enhancement of Forest Management Plans**

This option would involve a multifaceted campaign to inform forest users about the conservation and environmental value of Victorian forests and the potential for negative impacts associated with inappropriate or excessive levels of human activity.

Research on regulatory compliance and the practical experience of regulators indicates that non-compliance with the requirements of regulations can be the result of ignorance rather than any intentional desire to flout the law. Where the problem identified results from a lack of knowledge amongst consumers or participants in an industry, then an education program should be considered.

An education campaign is likely to be successful where the target can be easily identified and reached economically. A forest visitor education campaign could include advertising in mass-circulation magazines and newspapers, a media strategy focused on daily, electronic, specialist, suburban, regional and stakeholder media, using approaches including booked advertising, radio media releases and shell media releases, online communications via a campaign website, soliciting community groups or associations to disseminate information, or targeted mail-outs to affected groups.

Education campaigns represent a quick method of disseminating information about compliance requirements, may reduce costs to the government and the community because of a higher level of awareness about issues of concern, and may reduce resources expended on implementing regulatory programs and ongoing enforcement. Generally, an education campaign can inform the community about the virtues of a particular policy and therefore increase compliance.

Information campaigns are suitable for use when the problem or non-compliance results from misinformation or a lack of information and when a light-handed approach would be more appropriate. They can also be useful when target audiences can be easily and economically reached and in situations where the rationale of a particular policy is not well understood.

Given that the issue proposed to be regulated in relation to forests are of a serious nature (i.e., protection of forest eco-systems, habitat protection etc), information campaigns may be less effective than other regulatory approaches as they rely on voluntary compliance rather than being supplemented by the element of coercion, and public interest may warrant further action than just education, particularly when the issue being regulated is of a serious nature. In the case of forest visitors, groups may not be readily identified or reached. Finally, the community can become de-sensitised or weary of messages, thereby reducing the effectiveness of education campaigns, particularly if the problem is long-term. The cost of education campaigns vary considerably, and can reach many millions of dollars (e.g., safe driving campaigns).

A feasible alternative to a public education program is the development of government guidelines as part of forest management plans, and their promotion by means of visitor education in each relevant State forest or forest park or reserve. Forest management plans are non-statutory documents, and were an initiative of the Timber Industry Strategy<sup>43</sup> and the

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<sup>43</sup> Government of Victoria, 1986.

State Conservation Strategy.<sup>44</sup> A proposed management plan is prepared on the basis of all available information, present uses, public input and government policies, decisions and commitments. A community-based advisory committee is appointed by the Minister to advise on issues of concern to the public and ensure that these issues are addressed.

### **Option C – Voluntary Codes of Conduct**

Self-regulation (or voluntary codes of practice or standards) refers to the benchmark actions or procedures, as determined by the particular industry or profession that are generally acceptable within the peer group and the wider society. The relevant industry is solely responsible for enforcement. Self-regulation usually implies that firms in an industry or members of a group have accepted mutual obligations. These obligations are often described in a code or industry standards.

Self-regulation has some benefits. As major industry participants or groups often set the industry standards, there may be greater awareness of obligations, and compliance may be high. In addition, self-regulation utilises the expertise and experience of those in the industry, and may encourage innovative behaviour of industry participants. Self-regulation also lowers administrative costs for governments.

Voluntary codes of practice or codes of conduct may influence the behaviour of some groups of visitors, if they are developed and promoted by the various user groups of State forests, parks and reserves.

However, the major disadvantage associated with voluntary codes is the absence of a mechanism to ensure compliance and enforcement. Disciplinary processes, where they exist, may not be transparent. Self-regulation is typically suitable for cases where the problem to be addressed is a low-risk event, or event of low impact. The impact of recreational activities in forests varies according to the type of activity and by the number of visitors. For example, some activities have an inherently high impact. These may include trail bike riding or horse riding, four-wheel driving, shooting (in terms of safety), orienteering or public events. Other activities, for example, visiting a viewing area or camp site, may have a lower impact in itself but because of the large number of visitors the aggregate impact may be large.

In addition, self-regulation is more effective where non-compliance can be observed and negative impacts are imposed on a person's or business's reputation (i.e., breaking an industry code for sustainability may reflect badly on a firm if made public). Overall, many recreational forest activities do not have a low-risk, low impact profile and need to be appropriately managed. This makes self-regulation unsuitable where many actions are unobservable, such as in Victoria's forests because they cover such a large area.

### **Option D – Prohibiting higher impact/high risk activities**

The Victorian Government could consider prohibiting certain activities in State forests, for example, prohibiting horse riding, lighting fires, consumption of alcohol in any areas, or events and functions. It could be argued that proscribing certain higher impact activities would reduce the human impact on Victoria's forest systems.

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<sup>44</sup> Government of Victoria, 1987a.

It should be stressed that prohibiting these activities in State forests does not represent current Victorian Government policy, but is included in this RIS for completeness in identifying options.

### **Non-viable Options**

A number of options were considered as not being feasible or practicable. These options include economic incentives and negative licensing.

Economic incentives<sup>45</sup> (rewarding good behaviour) would not be well-targeted (i.e., the proposed regulations will only affect a small minority of forest users and on policy grounds it would be difficult to justify a reward for a person for simply complying with requirements) and could be expensive. Negative licensing would not be practical given the wide range of activities covered and enforcement problems (would it be possible to ban a person from undertaking an activity or entering a forest?). For less serious offences, negative licensing would not represent a proportionate response. Moreover, a characteristic of negative licensing is that it is essentially reactive and deals with serious problems only after they have occurred.

In relation to the payment of fees, options could be considered to improve compliance (that is, it appears that only about one in three users are currently paying the ‘voluntary’ fee). Automated ticketed boom gates or placing staff at entrance points were considered as non-viable because the financial cost of these options would significantly exceed the revenue collected by increasing compliance. An unattended boom gate may also raise safety issues, especially during the fire season.

Relying on the legislation without the regulations is not strictly an alternative as this situation represents the ‘base case’, that is, the regulatory position that would exist in the absence of the regulations.

## **3.2 Groups Affected**

Groups affected by the options identified above include forest and park visitors (including special interest groups such as bird clubs, dog walkers, naturalist clubs, mountain bike clubs, and walking clubs), commercial providers (especially bus and tour operators), owners of surrounding property, organisers of events, competitions, social functions, and surrounding local governments and DSE officers. Attachment J 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**

Most other states and territories have significant areas of state forests and forest reserves. Similar forms of recreational opportunities are available in each of the jurisdictions. In accordance with constitutional arrangements for land management in Australia, separate jurisdictions have developed equivalent legislation to help manage recreational activity specifically and public access generally.

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<sup>45</sup> Economic incentives also include monetary penalties for non-compliance. Penalties are an important element of the proposed Regulations’ enforcement regime and are discussed later in the RIS.

Like Victoria, New South Wales, Queensland and South Australia have regulations that specifically refer to state forests and are established under a Forests Act or equivalent. New South Wales for example has a regulatory regime very similar to the current legislation used in Victoria. The NSW *Forestry Regulation 2004* is almost identical to the VIC *Forests (Miscellaneous) Regulations 2000* in the way that it regulates camping and the obstruction of roads and other activities generally on State Forest. The NSW *National Parks and Wildlife Regulation 2002*, like the existing regulations for the Murrindindi Scenic Reserve, Steavenson Falls Scenic Reserve, Thomson River Forest Reserve and You Yangs Regional Park, regulates camping, littering, the use of weapons and the like.

In Western Australia and the Northern Territory, forests are regulated under broader land management and Crown land regulations respectively.

Tasmania and the Australian Capital Territory have relatively small areas of forest reserve with 222,000 ha and 26,000 ha respectively. While regulations may exist under broader legislation, there are no specific regulations that could be clearly identified for comparative purposes.

For these reasons, comparisons are only made between Victoria and jurisdictions with regulations specific to management of recreation in public land where regulation exclusively deals with state forests and/or forest reserves. The equivalent regulations in each of the jurisdictions is included in Table 7

**Table 7 –Regulations for recreational activity in state forests/forest reserves**

Jurisdiction	Act	Regulation
Victoria	<i>Forests Act 1958</i>	Proposed Forestry (Recreation) Regulations
New South Wales	<i>Forestry Act 1916</i>	Forestry Regulation 2004
Queensland	<i>Forestry Act 1959</i>	Forestry Regulation 1998
Western Australia	<i>Conservation and Land Management Act 1984</i>	Conservation and Land Management Regulations 2002
South Australia	<i>Forestry Act 1950</i>	Forestry Regulations 2005
Northern Territory	<i>Crown Lands Act</i>	Crown Lands (Recreation Reserve) Regulations
Tasmania	<i>Forestry Act 1920</i>	Forest Management Plans
Australian Capital Territory	<i>Nature Conservation Act 1980</i>	

The tiered structure of the proposed Victorian regulations is designed to allow different regulations for forest parks and forest reserves but hinders direct comparisons with other jurisdictions. For example, camping in the proposed Victorian regulations is handled in the context of state forests and forest reserves. That said, each of the regulations in other jurisdictions covers a similar range of matters as the proposed Victorian regulations, including the protection of public safety, amenity and the environment.

A strict authority to temporarily close parks is not provided for in other jurisdictions. Such action is warranted in cases where public safety is at risk – e.g., through a bushfire or other events. The last decade has seen a dramatic increase in the number, size and severity of



bushfires in Victoria. The major fire events of the 2003 Alpine Fire, 2006 Grampians Fire, 2006/07 Great Divide fire and the recent Black Saturday fires are all evidence of increasing fire risk. The combination of drought, climate change and unnaturally high fuel loads in Victoria, has created an unprecedented bushfire risk which warrants a higher level of regulation compared to other jurisdictions. Furthermore, the proposed Victorian regulations allow areas to be set aside to provide for protection and management of the forest reserve and for public safety. Western Australia has a similar regulation however; in other jurisdictions authorised officers only have the power to direct people to leave an area, which is a less direct form of closing an area. In all jurisdictions except Queensland, agencies have the ability to restrict access.

The proposed Victorian regulations set higher standards than most other jurisdictions in relation to hygiene and use of soap and detergent in proximity to waterways. For example, faeces must be buried no less than 100 metres from a waterway, whereas in Queensland the requirement is 50 metres (and includes campsite).

Prohibition of swimming in certain areas is not specifically mentioned in other jurisdictions. Likewise, revegetation areas are not covered by other jurisdictions' regulations, although protection of revegetation areas could be achieved using restricted access provisions. With respect to dogs in forest parks and reserves, other jurisdictions have similar provisions but do not mention removal of faeces.

### *Fees*

In comparison to other jurisdictions, the proposed fees for camping at Murrindindi Scenic Reserve and parking at Steavenson Falls Scenic Reserve are comparable – albeit slightly lower – than other jurisdictions.

Camping fees vary significantly between jurisdictions and some include child and/or concession rates. Fees identified in schedules to regulations are included in the table below. In some cases regulations did not identify fees. In these cases there was usually a facility for the delegated authority to set fees.

**Table 8 – Fees for camping, entering or parking in a state forest/forest reserve**

Jurisdiction	Per person per night	Per vehicle per day	Per occupant of tour vehicle
Victoria	Not specified	Motorcycle \$2.50 / Car \$3.00 / Small Bus \$15.00 / Med. to Large bus / \$25.00	Not specified
NSW	Not specified	Not specified	Not specified
QLD	Educational \$2.70 / Other \$4.85	Not specified	Not specified
WA	Child \$2.00 / Adult \$6.50	Concession \$5.00/ Motorcycle \$5.00 / Car \$10.00	Concession \$1.50 / \$4.00
NT	Not specified	Not specified	Not specified
SA	Child \$1.00 / Adult \$3.00	\$5.00	Not specified

## 4. COSTS AND BENEFITS OF THE OPTIONS

### Key points:

- The ‘base case’ describes the regulatory position that would exist in the absence of the proposed regulations.
- The total quantifiable discounted costs to business/forest users and government costs associated with the proposed regulations are approximately **\$1.4 million (PV)** over a 10 year period, or approximately \$142,000 (PV) per annum.
- The cost imposed on forest users and business in relation to applying for permits is around \$95,171 (PV) over a 10 year period, which could be considered relatively minor given the value of economic activity and recreational value of forest parks and reserves.
- Costs to government of administering and enforcing the proposed regulations have been estimated to be \$1.32 million (PV) over a 10 year period.
- To the extent that the proposed regulations contribute to sustainable forest management, the benefits include direct use benefits (e.g., recreation), indirect use benefits (e.g., carbon storage, water filtration and soil protection) and non-use benefits (e.g., biodiversity).
- The alternative options to the proposed regulations generally impose fewer costs on forest users and business, but are assessed as delivering fewer net benefits in relation to the government’s objectives because of compliance and enforcement issues.

### 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 forests, parks and reserves, and particular offences (such as offences relating to damage to flora and interference with fauna) within forests, parks and reserves would not be prescribed;

- User Codes of Practice and Forest Management Plans would continue to be in place. As discussed above, these instruments provide useful guidance and are widely used by recreational groups; however, typically persons undertaking aberrant or unsocial behaviour are either unaware of such codes or do not pay attention to them.
- Other legislation, such as the *Summary Offences Act 1966*, may apply in particular circumstances.
- Fees would not be prescribed.

## **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. Conversely, 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’. Another category of regulatory costs are known as ‘financial costs’. These costs refer to the requirement to transfer money to the government, for example, fees, charges or levies.

As outlined in section 1.4, administrative costs, often referred to as red tape or administrative burden, are those costs incurred by businesses to demonstrate compliance with the regulation or to allow government to administer the regulation. These costs can include costs associated with administrative requirements such as record keeping, reporting or submitting applications. In relation to the proposed regulations, the costs associated with applications for permits are administrative costs, however the actual dollar amount of the fee represents a financial cost.

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, buying new equipment, undertaking specified training or 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 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 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.

### 4.2.3 Weighted Decision Criteria Analysis

In many cases the benefits specific to the proposed regulations proved difficult to quantify in monetary terms. 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 part 5–18 of the *Victorian Guide to Regulation*. This approach is useful where it is not possible to quantify and assign monetary values to the impacts of a proposed measure (e.g., measures that have social and environmental impacts). Furthermore, it represents a convenient way of comparing a range of alternative approaches.

This 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.

Four criteria were chosen and weightings selected. The first criterion reflects the government’s overarching objective, as established by the purpose of the Act, to manage forests sustainably. The second criterion reflects the government’s objective to help ensure that activities in forests are conducted in a safe and responsible way and that impacts on the environment are minimised. The third criterion reflects the government commitment to minimise the regulatory burden on business and community. The fourth criterion assesses the cost to government of various regulatory proposals. The criteria are described in Table 9 below.

**Table 9: Multi-criteria Analysis Criteria**

Criterion	Description of criterion	Weighting
Sustainable use of Victoria’s forest resources	This criterion reflects the main purpose of the overarching government objective in relation to forest management. That is, to maintain, conserve and protect forest ecosystems, while balancing the competing uses of forests and forest resources (e.g., balancing forest conservation against the human impacts associated with recreational activities). Given that this criterion reflects the primary objective of the proposal, it is assigned a relatively high weighting of 40.	40
Protecting the health and safety/amenity of forest users	Parallel with the forest management objective, the government seeks to ensure the persons visiting forests conduct themselves in a manner that minimises health and safety risks to themselves and others.	30
Cost minimisation	This criterion relates to ensuring that the costs imposed on the public and business of any regulatory measure are kept to a minimum. Given the importance the Victorian Government is placing on reducing the regulatory burden, this criterion is assigned a weighting of 15.	15

**Table 9: Multi-criteria Analysis Criteria (continued)**

Criterion	Description of criterion	Weighting
Cost to government	It is important that any options consider minimising costs to government, and hence the cost to the Victorian taxpayer/community. This criterion is assigned a weighting of 15.	15

For the purposes of an MCA assessment, 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.

In terms of assessment using the MCA, under the base case each criterion is awarded a score of zero reflecting the default position (i.e., the regulatory position in the absence of the proposed regulations). Accordingly, the base case scenario overall receives a net score of zero.

#### 4.2.4 Decision Criteria

Given the difficulty in measuring the intangible and tangible costs and benefits associated with forests, 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 therefore used in an attempt to assess the costs and benefits of the viable options. As noted above, the option with the highest score represents the preferred approach.

The benefits associated with the Government’s objectives of protecting and conserving State forests are extremely difficult to quantify in monetary terms, and many benefits may be intangible (e.g., positive feelings towards a healthy natural forest system). To assist in gauging a magnitude of possible benefits, this RIS also uses the travel cost method technique to inform the magnitude of likely benefits of the proposed regulations. This RIS also draws upon work prepared in relation to valuing Victoria’s red gum forests.

### 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 – Statutory Rules: the Proposed Regulations

#### Costs

Each of the proposed regulations was examined for the likely costs it would impose on parties affected by the proposal. It is assessed that there are no costs associated with the machinery regulations 1–6, while the regulations 7-10, 14-28, 32-41, 45-51, 53 and 56-57 concern offences and penalties, which strictly speaking, do not impose administrative or compliance costs on normal businesses or individuals (although it could be argued that if these regulations change behaviour, costs may be incurred). The remaining regulations deal with administrative costs associated with applications for permits and government costs.

The administrative costs associated with the regulations relate to costs incurred by forest users in relation to applying for the estimated 3,700 permits issued annually. These relate to camping (3,440), rock climbing and similar activities (80), events and functions (71), commercial activities (109), and flora and fauna related activities (4). Attachment E contains calculations and assumptions underpinning an estimate of **\$95,171 (PV)** over a 10 year period for the costs associated with applying for permits. Only about 5 per cent of these costs fell on business, with the vast majority falling on individuals or clubs.

The Victorian Government also incurs costs in relation to administering and enforcing the regulations. Attachment E discusses these costs and provides detailed calculations and assumptions. Table 10 below shows that over a 10 year period, the costs relating to maintaining signage, administration of committees, and issuing permits are in the order of **\$1.32 million (PV)**.

#### Costs imposed on Government and Forests Users of the Proposed Regulations, 10 Year Assessment Period

Regulation	Description of Regulation	Cost (\$)
	<i>Government Costs</i>	
30	Committee of managements' record keeping	361,178
59,42	Erection and maintenance of signage	802,357
12,62	Replacement of permits	1,439
20	Issue of reaction permits	12,765
22	Issue of event permits	139,893
37	Issue of flora and fauna permits	8,236
	<i>Sub-total – Government administrative costs</i>	<i>1,325,869</i>
	<i>Forest User Costs</i>	
8,20,22,23,33,37	Application for permits – camping, event, etc	95,171
<b>Total</b>		<b>1,421,040</b>

Therefore, the total quantifiable costs to users of forests specified in the regulations and government costs associated with the proposed regulations are approximately **\$1.4 million (PV)** over a 10 year period, or an annual cost of around \$142,000 (PV).

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 forests 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.

The proposed regulations also impose financial costs (fees) on visitors to Steavenson Falls Scenic Reserve and Murrindindi Scenic Reserve. These costs are discussed in section 4.A below.

### *Benefits of the Proposed Regulations*

#### Higher Level Forest Benefits

In terms of benefits, it is important to stress that most of the benefits relate to the forest regulatory regime overall (i.e., forest legislation, other regulations, codes or 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 forest system, along with managing health and safety risks.

At a higher level, the direct and indirect use benefits from ensuring that forests are sustainably managed are likely to be substantial. These benefits are summarised in Table 11 below. Again, it should be stressed that the proposed regulations contribute to only a small proportion of these higher level benefits, but given that the overall benefits derived from a well managed forest system are likely to be substantial, even a proportionally small contribution to the overall benefits is likely to be considerable.

**Table 11: Values/benefits associated with forests**

<b>1. Direct Use Benefits</b>	<b>2. Indirect Benefits</b>	<b>3. Non-use Benefits</b>
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

Source: Adapted from Bishop (1999) and Gregersen (1995)

In addition, it has been estimated that the use of public land contributes at least \$3.5 billion annually to the Victorian economy.<sup>46</sup> If the benefits were only a small fraction of this value, even a fraction of one per cent, then such benefits would be in the order of millions of dollars.

<sup>46</sup> Department of Sustainability and the Environment, *Our Environment Our Future*, April 2005.

## Recreation Benefits

Given that the proposed regulations seek to manage the human impact on forests associated with recreation, it is worth providing an illustration of the likely magnitude using the Travel Cost Method (TCM). It is important to highlight, however, that these benefits are primarily associated with broad government forest policy and the Act rather than the regulations themselves. That said, some proportion of these benefits to the proposed regulations can be made to the extent that they contribute to government policy objectives and improve the effectiveness of the Act.

The TCM is based on the assumption that consumers value the experience of a particular forest at no less than the cost of getting there, including all direct transport costs as well as the opportunity cost of time spent travelling to the forest. A TCM valuation of a particular site requires detailed questionnaires and interviews with forest users, however, for the purposes of this RIS some basic assumptions can be made simply to illustrate the likely magnitude of the recreation benefits of forests.

Visits to three of the forest reserves covered by the proposed regulations – Steavensons Falls and Murrindindi Scenic Reserves and the You Yangs – number around 355,000 per annum. Therefore, assuming that the travel time to and from Steavensons Falls (from Melbourne) is 4 hours, travel to and from the Murrindindi Scenic Reserve is 3 hours, while that for the You Yangs is 2 hours, an hourly rate \$31.80<sup>47</sup> would provide an annual recreational value of forests in the order of \$33 million per annum (it should be stressed that this figure is indicative only). This benefit is only one element (1.1 of Direct Use Benefits in the table above) of the overall benefits, and is not supposed to convey a precise value, but illustrates the magnitude of benefits associated with the forest reserves (compared to the costs imposed by the proposed regulations).

While estimates do not exist for the forests covered by the proposed regulations, a further illustration of the magnitude of the recreation and tourism benefits associated with forests and parks is that Port Campbell National Park, Grampians National Park and Wilson's Promontory National Park alone are estimated to contribute \$487 million per annum to Victoria's economy (though not all of these parks are forested).<sup>48</sup>

## 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

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<sup>47</sup> As a proxy for valuing an hour of a person'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 (Section C.2.1 Valuing staff time, p. C-5). Note labour on-costs and overhead costs are excluded from the calculation for forest users. This provides an hourly value of a person's time of **\$31.80** (i.e. \$1,208.50 divided by 38 hours). ABS Cat 6302.0 - Average Weekly Earnings, Australia, May 2009, Table 11B, full time, adult total earnings, Victoria - \$1,208.50. Series recommended by Victorian Guide to Regulation, p. C-3

<sup>48</sup> DSE, 2008, *Victoria's State of the Forests Report 2008*, Criterion 6: Maintenance and Enhancement of long term multiple socio-economic benefits to meet the needs of societies, p. 16



difficult to value and data is generally not available to provide an accurate estimate in monetary terms.

Given the difficulties in providing a monetary estimate for many of the benefits associated with the proposed regulations, an MCA analysis was undertaken. The weightings are discussed above in Table 9. In terms of effective forest management, this criterion is awarded a relatively high score of 75. The proposed regulations provide a well defined framework, establishing rights and responsibilities for various groups of forest users. Importantly, this framework is supported by an enforcement mechanism and sanctions may be applied. However, a full score of 100 is not awarded because there will still be some level of non-compliance with the regulations due to the difficulty enforcing them and there will also be some level of adverse environmental impact due to recreational activities.

The proposed regulations are also relatively effective in minimising health and safety risks and a score of 50 is assigned. Again, direction is provided as to appropriate behaviour and actions and these are enforceable. This criterion does not receive a full score because a more stringent regime would arguably further reduce these risks (the extreme case being that persons are prohibited from certain forests or from undertaking particular activities).

Although costs imposed on forest users are relatively modest, they are nevertheless greater than under the base case and are also the largest compared to other options; hence a score of -50 is assigned to this criterion.

Assessed against the Premier's Guidelines, statutory rules are a feasible and efficient regulatory vehicle for delivering the government's policy outcomes. Regulations do impose enforcement and administrative costs on government, and consequently this criterion receives a score of -20. If no regulations were in place then enforcement and compliance costs could be expected to be higher because DSE would need to devote additional enforcement/education resources given the lack of clarity of requirements. This results in a net overall score of +34.5

**Table 12: Multi-criteria Analysis Assessment of propose regulations**

Criteria	Weighting	Assigned Score	Weighted Score
Effective forest management	40	75	30.0
Minimising health & safety risks/amenity	30	50	15.0
Cost minimisation	15	-50	-7.5
Cost to government	15	-20	-3.0
<b>Total</b>	<b>100%</b>		<b>+34.5</b>

#### 4.3.2 Option B – Public Information and Education Campaign

As an alternative and non-regulatory means to meet the government's objectives, DSE could undertake an education campaign aimed at general users of state forests and a targeted campaign focusing on, for example, rock climbers, dog owners, horse riders, sporting and recreational clubs, walkers, and bird and naturalist clubs. This option could be enhanced by further developing and communicating forest management plans.

Education and social marketing can be an important complementary policy tool in achieving compliance (e.g., *Get on board with lifejackets* compliance with boating safety requirements) or behavioural change (e.g., *Only a Little Bit Over?* drink driving campaign, *Quit* tobacco campaign).

The cost of education campaigns vary considerably, ranging from campaigns costing many millions of dollars, to low-cost campaigns comprising targeted mail-outs to certain professions or licensees. The *Get on board with lifejackets* may be relevant in estimating an indicative cost for an information campaign, given that it targets a specific set of recreational users. The initial *Get on board with lifejackets* campaign cost in the order of \$750,000 over three years. Therefore, for the purposes of this RIS, a total cost over a 10-year period of \$1 million is assumed.

These target groups would not only need to be informed about park values and recommended practices but also be regularly advised of changes to specific park management strategies. For example, if an area were to be set aside for revegetation or for a habitat link, all prospective users would need to be advised so that previous activity patterns could be voluntarily changed. This would be required as compliance would be dependent on the knowledge of park users and more importantly on their acceptance of the need for such a strategy.

There would be eleven sites and committees affected by Option B; this includes the ten individual committees in relation to reserves and forest parks, along with DSE in relation to State forests, which would prepare a forest management plan.

The estimated 10-year cost, as compared to the base case, of developing visitor behaviour guidelines<sup>49</sup> as part of forest management plans is \$1.1 million.<sup>50</sup> These guidelines would need to be supplemented by a significant investment in informing visitors about their rights and responsibilities and the associated policies and risks. There are two principal ways of achieving this: first an significant advertising campaign; and second, establishing visitor centres at major forests, parks and reserves.

For the advertising campaign to be effective it would need to successfully convey complex messages, and achieve behavioural change. This would require a large campaign, valued at around \$7–10 million over 10 years (PV). The annual cost of a visitor centre is \$3.2 million. Accordingly, the estimated total 10-year cost of establishing visitor centres at the 10 major forests, parks and reserves (the You Yangs Regional Park already has a visitor centre) is estimated in the order of \$47 million.<sup>51</sup> The estimated 10-year cost of Option B therefore ranges from around \$7 million to \$47 million (PV). Option B would result in a substantial increase in non-fee cost of compliance on taxpayers as compared to the base case which is much greater than under Option A.

The main advantage of this alternative is that it could address information shortfalls. For example, it would clarify requirements under the Act and provide persons with guidance as

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<sup>49</sup> Such guidelines would be funded from the general taxpaying community

<sup>50</sup> See section A2.1.1 of Appendix 2 in this RIS for source of estimate

<sup>51</sup> These calculations are based on the establishment of 14 visitors centres. This is because some of the larger parks would require more than one visitor centre. The existing visitor at the You Yangs has been taken into account.

how to minimise their impacts on state forests. The main, and most significant disadvantage of this alternative is ensuring compliance and providing an enforcement mechanism. In terms of enforcement, this alternative may be less effective than other approaches as it relies on voluntary compliance rather than being supplemented by the element of coercion. It would be feasible to target this campaign at specific recreational groups; however, conveying the information to other forest users would be more difficult. An information campaign also raises practical difficulties given that some of the proposed regulations prescribe elements of the Act and do not relate to information problems (i.e., fees). Finally, the risks associated with non-compliance are relatively high, i.e., serial non-compliance could result in serious damage to the forest environment.

Given the practical difficulties associated with an education campaign, it is unlikely that this alternative alone would be as effective as other options given the voluntary nature of compliance and enforceability would prove difficult under this alternative. That said, DSE currently conducts targeted information campaigns, which are effective in addressing information gaps in problem areas. Therefore, an information campaign is considered a valuable complementary non-regulatory tool to improve compliance. However, by itself it is unlikely to achieve the government's objectives to a sufficient degree.

In practical terms this option would present difficulties given that the regulations prescribe parts of the Act, which are not voluntary. This is because section 52 of the Act requires licences and permits to be issued for the activities covered in the regulations.

An MCA assessment was undertaken of an education campaign. A score of 25 is assigned to both the effective management of forest and the minimising safety and amenity risks criteria. This score represents an improvement over the base case because a well resourced targeted campaign could encourage compliance by effecting some behavioural change; however, this alternative raises considerable compliance and enforcement issues, and in practical terms penalty notices and other matters would not be prescribed, thus weakening the effectiveness of the Act.

In terms of cost minimisation, a characteristic of information campaigns is that desired behavioural change occurs voluntarily, and therefore a person does not incur a cost in the conventional sense. Therefore this criterion is assigned a score of zero as this approximates the base case. However, this alternative could be potentially be the most costly option for government and also lack effectiveness; hence a score of -75 is assigned to this criterion. An information campaign would be feasible and reasonably cost-effective for government. Therefore, this criterion is assigned a score of 25. Together, these result in an MCA score of +6.25 for this alternative.

**Table 13: Multi-criteria Analysis Assessment of an Education Campaign**

Criteria	Weighting	Assigned Score	Weighted Score
Effective forest management	40	25	10.00
Minimising health & safety risks/amenity	30	25	7.50
Cost minimisation	15	0	0.00
Cost to government	15	-75	-11.25
<b>Total</b>	<b>100%</b>		<b>+6.25</b>

### 4.3.3 Option C – Voluntary Codes of Practice

The Victorian Government could establish a number of codes of conduct for forest users, or codes could be developed by industry groups. For example, the government in partnership with user groups or peak bodies could develop codes of conduct for higher impact recreation activities: namely, the Bushwalking Code, Bush Camping Code, 4WD Touring Code, Mountain Bike Code, and Trail Bike Riding Code. In addition, DSE has developed a series of Forest Notes explain requirements and obligations of certain forest users. These include notes on ‘Where can I take my dog’, ‘Where can I hunt in State forest’, ‘Where can I ride my motorbike in State forest’, ‘Horsing in State forest’, ‘Mountain bike riding in State forest’, ‘Camping in State forest’, ‘Bushwalking in State forest’, ‘Events and Functions in State forest’, ‘Seasonal Road Closures’, and ‘Recreation Activity Classifications’.

A voluntary code of practice or a number of codes could be developed to set out forest and park use and management provisions. There are a number of options that could be considered:

- a code covering all forest reserves set aside under the *Forests Act 1958* or a code of practice for each forest reserve. The code would set out what activities could be undertaken in what areas and set guidelines on appropriate use levels.
- a specific code dealing with nature conservation and fauna and flora protection. Such a code would focus on the natural resources and strategies to protect them.
- a code dealing with specific recreational uses (similar to existing Parks Victoria codes on activities such as camping) and how to manage conflicts between recreational uses.
- a code specifically addressing the cultural heritage values of the park. Such a code would be developed primarily by the indigenous people of each forest reserve and would advise visitors and users on the cultural heritage significance of the park.

The development of any of these options would require significant consultation and the establishment of mechanisms to monitor and amend codes as required.

The main benefit of codes is that they can utilise industry expertise and are usually associated with industry buy-in, which may encourage compliance. In addition, codes can be tailored to the needs of particular industries and are generally more flexible than regulations. The main disadvantage of this alternative — as with an education campaign — is the possibility of non-compliance and difficulties associated with enforceability, as well as whether or not the actions of members are observable.

Industry codes are generally cost effective methods of regulation; however major codes could each cost in the order of \$100,000 to develop, implement and communicate (by way of illustration the cost of developing the Code of Practice for Commercial Firewood Suppliers was \$250,000). This RIS identified more than 30 user groups. Obviously, some of the groups could establish codes at a much lower price, but given these numbers the development, updating, monitoring and communication of such codes could be in the order of between \$450,000 to \$1 million over a 10 year period.

While voluntary codes would be an improvement over the base case, this RIS finds that there is justification for further intervention to meet government objectives. Moreover, the government may lose discretion concerning areas it considers necessary to regulate. These

problems would be less pronounced under a compulsory code; however compliance and enforcement would remain significant issues. Again, industry or user codes may be relatively effective in addressing simple information gaps, but may have little effect on reducing aberrant or illegal behaviour. In addition, the majority of visitors to forests are not members of user associations and therefore may not be aware of the contents of these codes, nor feel obliged to comply with them. As a number of these user associations are Australia-wide rather than Victorian, it is also possible that local issues may not be adequately addressed in these codes. For similar reasons outlined relating to an education campaign, this alternative is not considered a superior option to the proposed regulations.

As noted above, voluntary codes of conducts are best suited to situations in which the risks associated with non-compliance are low. This RIS argues that the risks are not low in the case of forest management. Non-compliance could lead to damage to the environment, for instance, loss of habitat, destruction of vegetation, bushfire, or pollution of waterways. It could also lead to harm or injury to forest users, e.g., shooting injuries or nuisance caused by unsociable behaviour.

To make an assessment of this option compared to the alternatives, an MCA analysis was undertaken. A score of 35 was assigned to the effective management of forest criterion. Target codes can be effective regulatory options in cases where an industry or group of stakeholders are relatively homogeneous. Higher impact groups, such as horse riders, four wheel drivers and campers, could be specifically targeted. However, a large proportion of forest and park visitors do not belong to groups or associations and this would impinge upon the efficacy of such codes. Moreover, forest users and visitors are not a homogeneous groups (compare, for example, the activities of bird watching groups and trail bike riders).

Given that higher risk groups could be targeted, the minimising health and safety risks criterion received a score of 35; a higher score compared to a general education campaign.

As with an education campaign, codes of practice are relatively cost effective and impose low or no direct costs on stakeholders given that behavioural change associated with codes is essentially voluntary; hence a score of -10 is assigned to this criterion reflecting that some private costs would be incurred in developing and maintaining such codes.

Generally, codes are feasible to implement and impose moderate to minimal cost, however in the case of forests many users do not belong to user groups or associations. Therefore, a score of 25 is assigned to the 'cost to government' criterion. This score is positive because it would be practicable; however the score is moderated because it may be difficult to encourage some of the smaller groups to develop such codes. Together, these result in an MCA score of +26.75 for this alternative.

**Table 14: Multi-criteria Analysis Assessment of a Voluntary Codes**

Criteria	Weighting	Assigned Score	Weighted Score
Effective forest management	40	35	14.00
Minimising health & safety risks/amenity	30	35	10.50
Cost minimisation	15	-10	-1.50
Cost to government	15	25	3.75
<b>Total</b>	<b>100%</b>		<b>+26.75</b>

#### **4.3.4 Option D – Prohibiting high impact/high risk activities**

A RIS is required to assess alternative regulatory or non-regulatory options that are practicable. While the Victorian Government's current policy is committed to providing Victorians with access to state forests and reserves for recreation, an alternative to the proposed regulations could be to prohibit certain higher impact/risk activities from these forests. For example, horse riding, camping, public events or lighting fires could be prohibited from these forests.

In fact this situation has arisen in the past when the government considered that the negative environmental costs outweighed other benefits. In relation to State forests, this has occurred with respect to cattle grazing in environmentally sensitive areas.

In considering this alternative, for illustrative purposes two views can be put forward. The first is that prohibition of these activities may contribute broadly to the government's environmental objectives (no doubt human impacts would be reduced). The second view is that given that the Victorian Government currently provides a strict regulatory framework for forest management, any such ban is unwarranted because the current controls minimise environmental risks to an acceptable level. Moreover, other policy objectives such as communities' social and cultural links and the provision of jobs in regional areas may be diminished.

The costs associated with prohibiting certain recreation activities would result in direct loss of amenity for those participants and in some case direct economic loss for those businesses who operate in these forests. A ban would also disproportionately affect rural and regional Victoria. Further, any such ban may also run the risk that these activities, particularly those with a strong cultural and heritage foundation, could be conducted illicitly without any form of control.

Given the difficulty in calculating the cost and benefits of this option, an MCA assessment was undertaken. The sustainable management of Victoria's forest received a score of 50. This score is assigned because environmental impacts would be reduced. However, while environmental considerations are a key focus of the government's intervention in forest management, there are other government objectives including promoting the social (including recreation) and economic development of forests for all Victorians. Thus, achieving environmental objectives would come at a cost to other objectives.

The prohibition of any such activities would result in a significant lower benefit for those directly affected, however health and safety risks may be reduced compared to the proposed regulations. Consequently, a relatively high score of 75 is awarded to this criterion.

The cost of this option on businesses whose activities were prohibited would be considerable. Some businesses may cease to exist and others may be required to find more costly alternatives. Recreational activities would also similarly be affected. For example, if horse riding were banned, persons undertaking these activities would need to use private land (usually at a cost). This also raises equity of access issues as not all users may be able to afford this, while others may not have access to private land. A negative score of 75 is awarded because under the base case these activities could be conducted.

Prohibiting such activities by regulatory amendments has been demonstrated to be feasible; as stated earlier, this has occurred with respect to grazing in environmentally sensitive areas.

However, given that government would be proscribing a range of activities it is likely that it would incur additional costs associated with monitoring, enforcement and compliance, as well as potentially significant consultation costs. Given these costs the score assigned to this criterion is -50. Together, this assessment results in a net score of +22.75.

**Table 15: Multi-criteria Analysis Assessment of Prohibiting Activities**

Criteria	Weighting	Assigned Score	Weighted Score
Effective forest management	40	50	20.00
Minimising health & safety risks/amenity	30	75	22.50
Cost minimisation	15	-75	-11.25
Cost to government	15	-50	-7.50
<b>Total</b>	<b>100%</b>		<b>+22.75</b>

This option is discussed for illustrative purposes only. It does not represent Victorian Government policy. While it is possible to prohibit these activities by amending the regulations, any such changes would require a significant shift of government policy, which would no doubt be subject to extensive consultation and other processes.

## 4.A FEES

### 4.A.1 Principles of Fee Setting

In September 2007 the Victorian Government released its *Cost Recovery Guidelines* to clarify its policy principles underpinning cost-recovery arrangements.<sup>52</sup> The Guidelines establish a whole-of-government framework to fee setting, thereby ensuring that cost-recovery arrangements in Victoria are transparent, efficient, effective and consistent with legislative requirements and government policy. These Guidelines are guided by the principle that properly designed cost-recovery arrangements can deliver both equity and efficiency benefits to the community.

Cost-recovery may be defined as the recuperation of the costs of government-provided or funded products, services or activities that, at least in part, provide private benefits to individuals, entities or groups, or reflect the costs imposed by their actions. The Guidelines apply to cost-recovery arrangements of government departments and general government agencies and include the recovery of the costs incurred by government in administering regulation (e.g., registration, licensing, issuing of permits, monitoring compliance, investigations, enforcement activity, etc).

As stated in the *Cost Recovery Guidelines*, general government policy is that regulatory fees and user charges should generally be set on a full cost-recovery basis, however if it is determined that full cost-recovery is not consistent with other policy objectives of the Government, then it may not be appropriate to introduce a full cost-recovery regime. Consideration may be given to a regime of partial cost-recovery (if it can be demonstrated that a lower than full cost-recovery does not jeopardise other objectives) and/or to rely on other funding sources (e.g., general taxation) to finance the government activity. In this regard, the fees associated with forest recreation may be an example of where full-cost recovery may create incentives for avoiding paying the fees altogether or, at the margin, may discourage some of the less well off in the community from visiting Victoria's forests, which could potentially undermine the achievement of other government objectives.

### 4.A.2 Discussion of Cost-Recovery Options

When designed and implemented appropriately, the adoption of cost recovery has the potential to advance efficiency and equity objectives. However, the Guidelines note that “efficiency and equity considerations may need to be balanced against each other in determining the appropriate form of cost recovery”.<sup>53</sup>

As mentioned above, there are situations where it may be desirable to recover at less than full cost, or not to recover at all. These include circumstances where social policy or equity considerations are considered to outweigh the efficiency objectives associated with full cost recovery, and/or where full cost-recovery might adversely affect the achievement of other government policy objectives. Therefore the proposed feasible fees options considered were:

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<sup>52</sup> Department of Treasury and Finance, 2007, *Cost Recovery Guidelines: Incorporating the information formerly published in the Guidelines for Setting fees and User-Charges Imposed by Departments and Central Government Agencies*, Melbourne

<sup>53</sup> *ibid.*, p. 5



- Option A – full cost-recovery;
- Option B – partial cost-recovery;
- Option C – zero cost-recovery (this option is similar to the ‘base case’ because if the proposed fee regulations are not remade then no fees would be prescribed).

A Multi-criteria analysis (MCA) was used to assess the preferred fee option. Reflecting the Government’s *Cost Recovery Guidelines*, the criteria used considered efficiency, effectiveness, and equity as follows:

- Efficient – fees set at a level to promote the efficient allocation of economic resources and will not create distortions in the wider economy;
- Effective – fees set at a level to achieve the government’s broader forest policy objectives as they relate to recreational activities for effective forest management and minimising health and safety risks/amenity. They should also be simple to understand and set at level to compliance (this is especially important given that payment of fees are made to a ‘honesty box’); and
- Equitable – fees set at a level to promote the sharing of costs and benefits across society (this criterion predominantly relates to ‘vertical equity’, that is, should not be set too high as to discourage participation by the less well-off in the community. This criterion also captures positive externalities in relation to ‘environmental’ education, which may warrant a public benefit discount.)

Accordingly, the ‘efficiency’ and ‘effectiveness’ criteria were each assigned a weighting of 45 per cent reflecting their overall importance in achieving the Government’s policy objectives in relation to fee setting, while the ‘equity’ and criterion was assigned a lower weighting of 10 per cent (equity considerations are often more effectively targeted through direct outlays).

The major economic impact of regulatory fees is that they add to the cost of contestants and other licensees. At the margin, this may deter certain persons from participating in the industry. The key benefit of collecting fees is that they recover the cost from the direct beneficiary of the regulated activity. Table 16 below summarises the benefits and costs associated with the proposed fee regulations.

**Table 16: Benefits and Costs of the Fees**

Benefits	Costs
<ul style="list-style-type: none"> <li>• Cost-recovery from the direct beneficiaries of the regulation.</li> <li>• Fee levels in line with government policy, and promotes efficiency and equity.</li> <li>• Removes subsidies and cross-subsidies.</li> </ul>	<ul style="list-style-type: none"> <li>• Increase costs for consumers and businesses.</li> <li>• May effect compliance rates</li> <li>• Processing costs for the government.</li> <li>• May potentially discourage some businesses and consumers.</li> </ul>

#### 4A.2.1 Option A – Full cost-recovery

As mentioned earlier, the *Cost Recovery Guidelines* state that the general government policy is that regulatory fees and user charges should be set on a full cost-recovery basis. In this case, full costs represent the value of all the resources used or consumed in the management of the relevant reserves (as imposed by the regulations).

A departure from full cost-recovery would result in the Victorian community providing a small subsidy to users of these reserves. Given that full cost-recovery fully achieves the Government's objective on efficiency grounds, under MCA assessment framework a maximum score of 100 is assigned to this criterion.

In terms of 'effectiveness', if fee levels are set too high this may result in non-compliance. Given the remoteness of the reserves and the fact that an individual can 'choose' to comply (i.e., by purchasing a ticket from a machine or placing money in a box), non-compliance is a significant risk. Ease of payment is also a consideration. Change is not given at these reserves, so an individual who intended to comply may not comply if the charge is an odd denomination or difficult amount to pay. Perceived 'reasonableness' may also contribute to compliance.

Across Victoria, many forests, parks, and reserves are 'free', therefore to promote compliance, any charge for entry into these forests needs to be set at a 'reasonable' rate. In the case of the Steveason's Falls forest reserve, whose surrounding community at Marysville was destroyed by the Black Saturday bushfires, it is important that fees be set at a rate which allows locals to enjoy the resource, while maximising the broader tourism benefits. Consequently, a score of 25 is assigned to this criterion.

A lower score of -50 is assigned to the equity criterion because the fees are not based on a person's or business's ability to pay (known as 'vertical equity'). This results in a net score of +51.25.

**Table 17: Multi-criteria Analysis Assessment of Option A**

Criteria	Weighting	Assigned Score	Weighted Score
Efficient	45%	100	45.00
Effective	45%	25	11.25
Equitable	10%	-50	-5.00
<b>Total</b>	<b>100%</b>		<b>+51.25</b>

#### 4A.2.2 Option B – Partial cost-recovery

Partial cost-recovery seeks to balance the efficiency objective against the equity objective, while ensuring that the government's overall policy objectives are not jeopardised. Under this option, the proposed fees would recover approximately 50 per cent of the full amount incurred by the government.

The efficiency criterion is positive because park users would still make a contribution towards funding the management and infrastructure of the reserve. However, given that this departs from the government's general policy of full cost recovery, a score of 50 is assigned.

The effectiveness and equity criteria receive a considerably higher score at 75 than the full cost recovery option. This is because there is a very real risk that non-compliance may occur as a result of higher fees (there are no barriers at the parks, and the decision to purchase a ticket is essentially ‘voluntary’.) In terms of equity, lower fees will minimise the financial impact on the less well off in the community. An argument can also be made that encouraging such activities provides a positive externality for the community (i.e., the forest experience may lead to a greater understanding and care for the environment). This results in an MCA score of +63.75.

**Table 18: Multi-criteria Analysis Assessment of Option B**

Criteria	Weighting	Assigned Score	Weighted Score
Efficient	45%	50	22.50
Effective	45%	75	33.75
Equitable	10%	75	7.50
<b>Total</b>	<b>100%</b>		<b>+63.75</b>

#### 4A.2.3 Zero Cost Recovery - The ‘Base Case’

If no fees were recovered this situation would be similar to the ‘base case’. That is, if the regulations were not remade then no fees would be prescribed. Reflecting this position, all criteria are assigned a score of zero.

**Table 19: Multi-criteria Analysis Assessment of Option C**

Criteria	Weighting	Assigned Score	Weighted Score
Efficient	45%	0	0.00
Effective	45%	0	0.00
Equitable	10%	0	0.00
<b>Total</b>	<b>100%</b>		<b>+0.00</b>

#### 4.A.3 Summary of MCA

While the general principle provides regulatory fees and user charges should be set on a full cost-recovery basis, the analysis in this section concludes that there are good arguments to depart from this principle with respect to the proposed fees. The extremely minor nature of fees will not compromise allocative efficiency within markets or in the economy, while full cost recovery may compromise compliance of the overall fee system. For these reasons, the benefits associated with equity and effectiveness under the partial cost recovery option, on balance, provide that Option B is a superior option (see below).

**Table 20: Summary of Multi-criteria Analysis of Fee Options**

Regulatory Proposal	MCA Assessment
Option A: Full cost-recovery	+51.25
Option B: Partial cost-recovery	+63.75
Option C: Zero recovery	+0.00

#### 4.A.4 Calculation of the Proposed Fees

The fees in Table 21 below were calculated on a partial cost recovery basis to encourage compliance and to take into account possible equity considerations, in addition to taking into account the public good nature of forest visitation. As stated, the current fees have been in place since 1999 and are familiar with users. To maintain their real value, it is proposed that they be adjusted to take into account movements in consumer inflation. Since 1999 the consumer price index has increased by around 35 per cent. The fees in table 17 have been adjusted by this amount, with rounding taking in account practicability and ease of payment (i.e., payment is made via a contribution box). Detailed calculations showing the fee increase are contained in Attachment G. The proposed fees will raise around \$89,000 per annum.

**Table 21: Comparison of Current and Proposed Fees**

<b>Reserve</b>	<b>Current</b>	<b>Proposed</b>
<b>Murrindindi Scenic Reserve</b>		
<i>Camping fee per vehicle per night</i>		
Bicycle	n.a	\$2.50
Motorcycle	\$2.00	\$2.50
Car	\$5.00	\$7.00
Small bus	\$15.00	\$20.00
Large bus	\$25.00	\$35.00
<b>Steavenson Falls Scenic Reserve</b>		
<i>Daily parking fee per vehicle</i>		
Motorcycle	\$2.00	\$2.50
Car	\$2.00	\$3.00
Small bus	\$5.00	\$7.00
Large bus	\$10.00	\$14.00

Over a 10 year period it is estimated that the proposed fees will raise around \$700,000 (with full compliance).<sup>54</sup> The estimated costs associated with managing these reserves is around \$1.4 million. Therefore, the proposed fees will partial recover approximately 50 per cent of the total costs.

<sup>54</sup> Currently both reserves collect a total of around \$66,000 per annum. Adjusting for inflation, the proposed will increase by approximately 35 per cent, providing an annual total of around \$89,000. This amount over a 10 year period discounted by 3.5 per cent provides a total of around \$741,000.

#### 4B. IMPACT ON SMALL BUSINESS

**Key points:**

- The proposed regulations predominantly relate to the conduct, behaviours and restrictions placed on individuals – only to a very small degree are businesses affected.
- Given the relatively straightforward nature of the proposed regulations, it is unlikely that small business will be disadvantaged in terms of their complexity (i.e., they will not need to engage third parties to assist in understanding and compliance).
- It is not expected that the proposed regulations will raise any implementation issues or cause unintended consequences.

It is important to examine the impact on small business because the compliance burden often falls disproportionately on that sector of the economy.<sup>55</sup> This is because where the costs of compliance with regulations comprise a significant proportion of business costs, small businesses may be affected disproportionately by such costs compared to large businesses.

The proposed regulations predominantly relate to the conduct, behaviours and restrictions on individuals. Only to a very small degree are businesses affected by the proposed Regulation, and amongst businesses, the proposed regulations do not impose a disproportionate and undue burden on small businesses.

In the case of proposed regulations, businesses affected would include commercial bus operators (large and small buses) and any organisation (large or small) wishing to hold a commercial activity for profit. No information is available on the proportion of commercial bus operators or organisers of commercial activities that are likely to be small businesses. However, the costs imposed by the proposed regulations, including fees, are unlikely to comprise a significant proportion of business costs. That is, the proposed fees are unlikely to have an impact on small business as the majority of the fee is likely to be passed onto consumers, which is unlikely to affect demand given the minor nature of the impost. For example, if a large bus on average takes 35 people and a small bus takes 20 people, then the cost per person would be between 35 cents and \$1.

The relatively straightforward nature of the regulations makes it unlikely that small business would be disadvantaged in terms of their complexity (i.e., they will not need to engage third parties to assist in understanding and compliance). Similarly, it is unlikely that any requirements would cause small business to withdraw from the industry or fail to comply with the regulations. Given that the proposed regulations closely resemble requirements that have been in place at some reserves for 10 years, it is not expected that the proposed regulations will raise any implementation issues or cause unintended consequences.

Overall this RIS concludes that it is unlikely that there would be a disproportionate impact of the regulations on small businesses as compared to large businesses.

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<sup>55</sup> The Australian Bureau of Statistics (ABS) definition of a small business is one that has less than 20 full-time employees.

## 5. ASSESSMENT OF COMPETITION IMPACTS

### Key points:

- The National Competition Council has reviewed state legislation restricting activities in State forests. It acknowledged that there is a sound public interest rationale for government intervention in public forests.
- 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 Broader competition impacts

In 2003 the National Competition Council (NCC) reported on its assessment of state and territory regulation of their forests. The NCC noted that all governments have legislation providing for the management of publicly owned forests for the production of timber and other commodities, and that this legislation generally provides for designating public land as State forest, vesting management and control of State forests in a government agency, and prohibiting certain unauthorised activities in State forests and issuing various rights to access State forests and/or to extract resources from them. The NCC determined that legislation of this nature was a **low priority** for the National Competition Policy (NCP), thus implying that any restriction on competition was minimal and appropriate.<sup>56</sup>

### 5.2 The competition test

The guiding principle in assessing competition impacts is that the regulations should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs, and that the objectives of the regulations can only be achieved by restricting competition. The NCP ‘competition test’ was used to assess the proposed regulations against any possible restrictions on competition. The test asks whether the proposed regulations:

- allow only one participant to supply a product or service;
- require producers to sell to a single participant;
- limit the number of producers of goods and services to less than four;
- limit the output of an industry or individual producers;
- discourage entry by new persons into an occupation or prompt exit by existing providers;

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<sup>56</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. 1.93

- impose restrictions on firms entering or exiting a market;
- introduce controls that reduce the number of participants in a market;
- affect the ability of businesses to innovate, adopt new technology, or respond to the changing demands of consumers;
- impose higher costs on a particular class or type of products or services;
- lock consumers into particular service providers, or make it more difficult for them to move between service providers; and/or
- impose restrictions that reduce range or price or service quality options that are available in the marketplace.

Of the competition test criteria above, the only possible restriction may be in relation to imposing restrictions on firms entering or exiting a market. Broadly defined (i.e., the market for recreational services, for example, going to a cinema, playing golf, or fishing), the proposed regulations do not impose any restrictions on competition. In a more narrow sense, the following observations are made.

The relevant markets affected by the proposed regulations are those relating to bus operator services (affecting operators of small and large buses). It should be stressed that these activities are extremely minor in the overall context of the Victorian economy.

The cost impact of the proposed fees in relation to buses is likely to be minor compared with the revenue generated from bus operations. Moreover, a proportion of this cost is likely to be passed on to passengers. Therefore, these regulations are not likely to impose any restriction to competition.

With regard to obtaining permits for camping, rock climbing and similar activities, 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 forests are limited) and therefore the proposed regulations are unlikely to impinge upon competition generally.

While in a strict sense the *Forests Act 1958* may restrict competition in certain markets, the NCC acknowledges that there is a sound public interest rationale for government intervention in public forests. Assessed against the competition test, the proposed regulations do not impose restrictions on competition as they predominantly regulate actions or behaviour of individuals and where they affect commercial operators, any competition impacts are minor or negligible. Therefore, the proposed regulations are considered to meet the competition test as set out in the *Victorian Guide to Regulation*.

## 6. THE PREFERRED OPTION

### Key points:

- The proposed regulations are assessed as the preferred option compared to the viable options identified in this RIS because they are the most effective and efficient way to achieve the Victorian Government’s policy objectives.
- The main reasons why the alternatives are not preferred to the proposed regulations relate to likely inferior compliance and enforcement.
- The proposed regulations are relatively narrow in focus and prescribe specific elements of the Act, and compliance with the regulations is not difficult or costly.
- The direct costs associated with the proposed regulations will be mostly borne by visitors to forest reserves and parks, while the indirect benefits associated with the proposal will mostly accrue to users and future users of Victoria’s forests, as well as the broad community from the non-use value of forests. Visitors will of course receive private direct benefits (e.g., utility or amenity benefits) arising from their decision to visit a forest.
- The proposed regulations predominantly relate to the conduct, behaviours and restrictions on individuals – only to a very small degree are businesses affected. It is unlikely that small business will be disadvantaged in terms of lacking economies of scale and/or resources in order to comply with the requirements.
- The proposed regulations support, and are consistent with, Victorian Government forest policy and the *Forests Act 1958*.
- The proposed regulations are considered to meet the ‘competition test’ as set out in the *Victorian Guide to Regulation*.

The analysis in the preceding sections supports the proposed regulations as the preferred option compared to the viable options identified in this RIS. This finding was concluded against the decision criteria described in section 4.2.4; that is, assessing costs versus benefits. In this case the estimating the monetary value of the cost imposed by the proposed regulations against the recreational benefits as measured by the travel cost method.

Table 23 below shows that the proposed regulations in costs of around \$1.4 million (PV) over a 10 year period, or around \$142,000 annually (PV). Importantly, only a small part of the cost (around 7 per cent or \$9,500 (PV) per annum) is imposed directly on forest users. This compares with the cost of public information campaigns, which range from \$7 million to \$47 million (the latter cost includes establishing visitor centres) and with voluntary codes of practice, which range from around \$450,000 to \$1 million over a 10 year period.

It should also be noted that other compliance costs would be incurred by forest users as a result of the regulations seeking to set a framework for appropriate and environmentally conscience behaviour. These costs are not quantified but are likely to be low because the framework is set to change aberrant or inappropriate behaviour, and the cost of complying with the regulations is low. Having said that, given that it is assessed that compliance will be



highest for the proposed regulation, it also follows that these costs will also be highest for the proposal (i.e. those not complying with certain behaviours will not incur costs).

**Table 23: Costs of the proposed regulations, 10 Year Assessment Period**

Description of Regulation	Cost (\$)
Costs imposed on forest users (applications for permits)	95,171
Government Costs – enforcement and administration	1,325,869
<b>Total</b>	<b>\$1,421,040</b>

The benefits of the proposed regulations relate to the recreation benefits forest users enjoy. Governments could of course prohibit certain activities or close parks to public access. This may contribute to conservation and environmental objectives; however it would run counter to the legitimate use of public forests for recreation – a benefit all Victorians may enjoy.

The Travel Cost Method (TCM) was used to provide a broad measure of the likely benefits that forest users would enjoy. It is important to highlight, however, that these benefits are primarily associated with broad government forest policy and the Act rather than the regulations themselves. That said, some proportion of these benefits to the proposed regulations can be made to the extent that they contribute to government policy objectives and improve the effectiveness of the Act.

The TCM assessment, which examined visitor number to three forest reserves covered by the proposed regulations, suggests a notional ‘recreation’ benefit to visitors of around \$33 million per annum. This compares with the total annual cost of the proposed regulations of around \$1.4 million. This benefit is only one element (1.1 of Direct Use Benefits in the Table 11) of the overall benefits, and is not supposed to convey a precise value, but illustrates the magnitude of benefits associated with the forest reserves (compared to the costs imposed by the proposed regulations).

The other options would also have a recreational value of this order; however, to the extent that compliance is not as great as under the proposed regulations then the environment may be adversely affected (e.g., polluted streams, habitat destruction, soil compaction) or safety or amenity maybe compromised (e.g., shooting in areas with large visitors, inappropriate behaviour, persons entering areas during extreme fire risk).

Overall this RIS concludes that the proposed regulations represent an effective low cost way of managing behaviour. For example, the regulations may set down where someone may not camp (e.g., because it is too close to a natural feature such as a stream that are environmentally sensitive and pose a health risk to others if contaminated with faeces or refuse). If someone camps there, in the first instance, an authorised officer with usually ask them to camp in a designated area. This is usually the end of the matter. However, if a person refuses to move they may be issued with a penalty. It is this enforcement mechanism that primarily distinguishes the proposed regulations from the provision of information and codes of conduct.

Assessment of the options using the MCA framework also suggests that the proposed regulations are superior to the alternatives as shown in Table 24 below. Most importantly, the proposed regulations are assessed as the most effective and efficient in achieving the Government’s policy objectives.

**Table 24: Summary of Weighted Decision Criteria Analysis**

<b>Regulatory Proposal</b>	<b>MCA Assessment</b>
Base case scenario	<b>0.00</b>
Proposed Regulations	<b>34.5</b>
Education campaign	<b>6.25</b>
Codes of conduct	<b>26.75</b>
Prohibition of certain activities	<b>22.75</b>

The main reasons why the alternatives are not preferred to the proposed regulations relate to inferior compliance and enforcement, and because they do not strike an appropriate balance between managing the multiple roles of State forests.

The proposed regulations are relatively narrow in focus and prescribe specific elements of the Act, and in a number of instances there are no feasible alternatives. These include opening and closure of specific parks, limited conditions imposed on camping in State forests, control of parking, regulating some recreational activities and controls with respect to protecting the environment in forest reserves and parks (including in some water catchments), and the prescription of fees.

In terms of the incidence of costs and benefits, the direct costs associated with the proposed regulations will be borne by park and forest visitors (including parking or camping fees in some cases). Visitors will of course receive private benefits (e.g., utility or amenity benefits) arising from their decision to visit a forest (given that such decisions are voluntary it may be assumed that all visitors implicitly consider that any such costs are outweighed by the benefits associated with forest visitation). The indirect benefits associated with the proposal will mostly accrue to users and future users of Victoria's forests, as well as the broad community from the non-use value of forests.

The proposed regulations predominantly relate to the conduct, behaviours and restrictions on individuals – only to a very small degree are businesses affected. Given the relatively straightforward nature of the proposed regulations, it is unlikely that small business will be disadvantaged in terms of lacking economies of scale and/or resources in order to comply with the requirements. It is not expected that the proposed regulations will raise any implementation issues or cause unintended consequences.

Groups affected by the proposal include forest and park visitors (including special interest groups such as bird clubs, dog walkers, naturalist clubs, mountain bike clubs, and walking clubs), commercial providers (especially bus and tour operators), owners of surrounding property, organisers of events, competitions and social functions, surrounding local governments, and DSE officers.

The proposed regulations support and are consistent with Victorian Government policy as articulated in the *Our Forests, Our Future*, the *Sustainable Recreation and Tourism on Victoria's Public Land* policy and the Act. The proposed regulations are consistent with the objectives and actions in other jurisdictions, however there are some state specific variations that take into account the differences in forest environments.

The NCC has pointed out that there is a sound public interest rationale for government intervention in public forests. None of the viable options identified in this RIS restricts

competition. The proposed regulations are considered to meet the ‘competition test’ as set out in the *Victorian Guide to Regulation*.

## 6A. CHANGE IN ADMINISTRATIVE BURDEN

**Key points:**

- The proposed regulations do not impose any new information, reporting or recording keeping obligations on business.
- The regulatory changes in the proposed regulations will not lead to a material change in the administrative burden on business or not-for-profit organisations in Victoria.

The *Reducing the Regulatory Burden* initiative commits the Victorian Government to reducing the administrative costs of regulation. Accordingly, this RIS examines any changes to the administrative costs arising from the proposed regulations. For the purposes of the measurement of change in the administrative burden, the existing burden forms the 'base case' against which the change is measured.

Administrative costs are those costs incurred by business to demonstrate compliance with the regulation or to allow government to administer the regulation (e.g., keeping a register, lodging documents with government, or reporting requirements).

The proposed regulations remake the current regulations with minimal changes, and establish **no new reporting or information obligations**. Therefore, in accordance with the Guidelines issued by the Treasurer, *Measurement of Changes in Administrative Burden*, it is therefore determined that the regulatory changes in the proposed regulations will not lead to a material change in the administrative burden on business organisations in Victoria (see Attachment I for Statement of No Material Impact).

## 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 forests makes aberrant or non-compliant behaviour difficult to manage in all situations.
- DSE and 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

Authorised officers are appointed under section 83 of the *Conservation, Forests and Lands Act 1987* to enforce offences under the *Forests Act 1958* and associated regulations. Approximately 700 DSE and Parks Victoria officers have been appointed across Victoria to administer and enforce the *Forests Act 1958*. Two authorised officers manage the Steavenson Falls Scenic Reserve. Four authorised officers operate within the You Yangs Regional Park as well as other reserves in the area.

Such officers conduct patrols of Victorian forest parks and reserves, and as part of these duties enforce the requirements of the Act and regulations. Enforcement involves detecting possible breaches, gathering necessary evidence, taking personal details, and, depending on the significance of the breach, issuing a warning, an infringement penalty or intention to prosecute. Victoria Police officers also may assist in ensuring compliance.

Overall, DSE advises that compliance with the current regulations is high. In particular, there is a high level of compliance with the current regulations that apply to You Yangs Regional Park, the Steavenson Falls Scenic Reserve, the Murrindindi Scenic Reserve and the Thomson River Forest Reserve. Such levels of compliance may result from that fact that aberrant actions may be more readily observed in areas with large visitor numbers. In addition, information contained on signs, forest notes and information on the DSE and Parks Victoria websites, as well as regular patrols of State forest, forest parks and forest reserves may also promote compliance.

With respect to fees, payment is based on an ‘honour’ system and unfortunately compliance is relatively low (about one in three users pay the fee). Both the Steavenson Falls Scenic Reserve and Murrindindi Scenic Reserve were severely affected by the Black Saturday bushfires and are unlikely to have large visitor numbers in the immediate future. As part of the fire recovery process the fee collection method will be reviewed and improved where the safety of visitors is not compromised.

## 7.2 Penalties

A large focus of compliance with the proposed regulations is through the use of infringement penalties. The 83 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. In addition, if an agency believes a person has committed an offence but decides an infringement notice is not appropriate, they can issue an official warning in writing (with particular details outlined in the Infringements (Reporting and Prescribed Details and Forms) Regulations 2006).

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>57</sup>

## 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>57</sup> Under the *Monetary Units Act 2004*, the Treasurer has set a penalty unit from 1 July 2009 to 30 June 2010 at \$116.82.

## 8. EVALUATION STRATEGY

### Key points:

- The sustainability of Victoria’s forests, including the impacts of recreation and tourism, is comprehensively reviewed and measured on an on-going basis.
- The *Subordinate Legislation Act 1994* ensures that regulations are formally reviewed and evaluated after 10 years operation in a RIS, which allows the public to provide input when the regulations are remade.

Reporting undertaken by DSE includes publication of the *State of the Forests Report* and *State of the Environment Report*. These reports are produced every five years and cover a wide range of subjects such as climate change, land management, native flora and fauna, water, and air quality along with a number of important issues specific to Victoria’s environment. As part of this, DSE has developed *Criteria and Indicators for Sustainable Forest Management in Victoria*<sup>58</sup>, which describe the indicators used to monitor and review Victoria’s management of forests. They contain seven criteria and 74 indicators.

Indicator 6, the ‘Maintenance and enhancement of long term multiple socio-economic benefits to meet the needs of societies’, contains an indicator, which measures recreation and tourism in Victorian forests. These metrics consider:

- the area and percentage of forest land available for general recreation and tourism;
- the number, range and use of recreational and tourism activities available in a given region;
- the number of visits to State forests each year;
- the proportion of forest sites available for recreation and tourism which are impacted unacceptably by visitors.

In addition, DSE have advised that the effectiveness of the proposed regulations will be evaluated by assessing:

- visitation statistics;
- changes in abundance of flora and fauna;
- incidence of fires caused by visitors;
- water quality monitoring within water catchment areas;
- incidence of activities in areas not permitted or outside of times permitted; and

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<sup>58</sup> Department of Sustainability and Environment 2007, *Criteria and Indicators for Sustainable Forest Management in Victoria – Summary Document*, Victorian Government Department of Sustainability and Environment, Melbourne.

- enforcement statistics.

Random visitor surveys will be used to monitor reserves and parks that will be regulated for the first time. The results of these surveys will be used to evaluate the regulations. The surveys will monitor visitor numbers, will obtain user feedback, and ask users about regulatory issues.

The *Subordinate Legislation Act 1994* revokes statutory rules following 10 years of operation. This allows the government to examine whether there is still a problem that requires government intervention, and to take account of any changes or developments since the regulation was implemented. When regulations are remade, the government assesses whether the objectives of the regulation are being met, whether practical experience suggests ways in which they can be improved, or whether a different regulatory approach is warranted. As part of this evaluation process, the proposed regulations have been updated, simplified, and their coverage has been expanded to cover similar forests, parks and reserves that were previously not covered by specific regulations. Final development of the regulations is informed by public input through the RIS process.



## 9. CONSULTATION

In December 2008 key recreational/user groups, environmental groups, commercial user groups, and government agencies and associations were contacted and provided with a copy of the regulatory proposal. Attachment J contains a list of groups to which a copy of the proposal was sent. Comments were sought and submissions were received. Responses were broadly supportive of the proposed regulations and three main points emerged:

- all groups supported the preservation of the environment and water quality in catchments;
- bushwalkers, dog walkers and bike riders wanted to maintain access to State forests, reserves and parks;
- horse riders wanted to maintain the ability to conduct long distance treks with pack horses to protect cultural heritage.

These comments informed the remaking of the proposed regulations and changes were made in relation to the structure of the document. The restructure makes it clearer that bushwalking, dog walking, bike riding and horse riding activities will continue as they always have and no changes are proposed to the way they are regulated.

In addition, the remaking of the regulations benefited from the practical experiences and comments received from the Murrindindi Scenic Reserve Committee of Management and Beauty Spot and Steavenson Falls Reserves Committee of Management. The appropriateness of the infringement penalties and their levels was discussed and settled with the Infringement System Oversight Unit in the Department of Justice.

This RIS represents another step in the consultation process and DSE 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, 15 February 2010**.

## **10. CONCLUSION**

This Regulatory Impact Statement 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;
- the proposed regulations do not impose restrictions on competition; and
- the proposed regulations will not lead to a material change in the administrative burden on industry.

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## **12. ATTACHMENTS**

Attachment A – Description of proposed statutory rule

**DESCRIPTION OF PROPOSED STATUTORY RULE**

**Part 1 – Preliminary**

Proposed regulation 1 sets out the objectives of the proposed regulations. Proposed regulation 2 sets out the provisions of the *Forests Act 1958* that authorise the proposed regulations to be made. Proposed regulation 3 states the proposed regulations would commence on 12 April 2009. Proposed regulation 4 would revoke the regulations that currently apply to the You Yangs Regional Park, Murrindindi Scenic Reserve, the Steavenson Falls Scenic Reserve and the Thomson River Forests Reserve, which are listed in Schedule 1. Proposed regulation 5 sets out the definitions used in the proposed regulations. Proposed regulation 6 provides a general exemption for a Traditional owner to undertake an Aboriginal tradition within State forests and forest reserves without constituting a breach of the proposed regulations.

**Part 2 – State Forests**

Part 2 of the proposed regulations would prevent roads or tracks from being obstructed within State forests and regulate camping and certain conduct within recreation grounds in State forests.

Proposed regulation 7 replicates regulation 11 of the *Forests (Miscellaneous) Regulations 2000*. This regulation creates an offence for a person to obstruct or damage a road or track by construction or placement of an object or device, digging a hole in a road or track or preventing safe passage on a road or track. The proposed maximum penalty is 20 penalty units<sup>59</sup>. Certain persons are exempt from this offence including the Secretary; authorised officers; Parks Victoria and Melbourne Water Corporation when carrying out their duties; an employee of the Secretary, Parks Victoria, or Melbourne Water Corporation when acting in the course of his or her employment; a contractor of the Secretary when acting under the contract; an employee or contractor of Vicforests and who is acting in accordance with an approved Timber Release Plan; a volunteer authorised by the Secretary when acting in accordance with the authorisation; a person who is acting in accordance with a licence or permit; an officer or employee of the ambulance service when acting in the course of his or her duties; or an officer or employee or volunteer emergency worker of an emergency services agency when engaged in an emergency activity.

Proposed regulation 8 would permit camping in State forest and use of recreation grounds but only if the campsite is situated more than 20 metres away from a waterway and any portable toilet facilities are not within 100 metres of any waterway. The proposed maximum penalty is 10 penalty units. Soap or detergent must not be used or disposed of within 50 metres of any waterway and all litter must be cleared from the site. Persons who camp or use recreation grounds must not behave in a manner that is likely to cause unreasonable disturbance to any person or cause danger or injury to any person. A person must not camp in an area of a State forest for more than 28 consecutive nights. Additionally, if a person does not comply then that person must dismantle and remove the tent or structure or remove any moveable

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<sup>59</sup> The value of a penalty unit for a financial year is fixed by the Treasurer under section 5(3) of the *Monetary Units Act 2004*. The value of a penalty unit from 1 July 2009 to 30 June 2010 has been set at \$116.82

accommodation from the site if an authorised officer directs a person to do so. The proposed maximum penalty is 10 penalty units.

Proposed regulation 9 replicates regulation 13 of the *Forests (Miscellaneous) Regulations 2000*. This proposed regulation would restrict camping in certain areas of State forest during periods of the year. These areas and the restricted periods are set out in Schedule 2 of the proposed regulations. The proposed maximum penalty is 10 penalty units. However, a person may camp in an area of State forest described in Schedule 2 of the proposed regulations if he or she camps in an area set aside by the Secretary for camping in accordance with any condition or camps in accordance with a permit.

#### *Permits*

A permit issued by the Secretary under Part 2 of the proposed regulations must be in writing, subject to conditions specified in the permit, and applies for the period specified in the permit (10(1)).

The Secretary or a committee may accept the surrender of a permit under proposed regulation 11(1). Proposed regulation 11(2) allows the Secretary or committee to cancel a permit issued under Part 2 of the proposed regulations if the holder of the permit has breached conditions of the permit, breached the proposed regulations or if the continuation of the permit is likely to be detrimental to or interfere with the management and protection of the natural environment, features or visitors in a state forest, or for the purposes of management.

The Secretary must notify the holder of the permit in writing of the cancellation of the permit within a reasonable period of time after the cancellation (11(3)). The cancellation would take effect when the holder of the permit is notified of the cancellation (11(4)). It would also be an offence for a person to fail to comply with the conditions of a permit. The maximum penalty proposed is 10 penalty units.

Under proposed regulation 12, a person may apply in writing to the Secretary for a replacement permit if lost, stolen or damaged. The Secretary may issue a permit to a person to undertake the following activities:

- camp or occupy an area of State forest for a period longer than 28 days (proposed regulation 8(9));
- camp within an area of State forest described and during a period specified in Schedule 2 of the proposed regulations (proposed regulation 9(3));

### **Part 3 – Forest Reserves and Forest Parks**

#### *Division 1 - Preliminary*

Proposed regulation 13 lists the regulations that do not apply to:

- the Secretary when carrying out the duties or functions of the Secretary;
- a committee when carrying out the duties or functions of the committee in relation to a forest reserve for which it is appointed as a committee;
- an authorised officer when acting in the course of his or her duties;
- Parks Victoria, Melbourne Water Corporation and VicForests when carrying out their duties or functions;



- an employee of the Secretary, a committee, Parks Victoria, Melbourne Water Corporation or VicForests, when acting in the course of his or her employment;
- a contractor of the Secretary or a committee when acting under the contract;
- a volunteer authorised by the Secretary or a committee when acting in accordance with the authorisation;
- the holder of a lease or licence granted under the Act over any land in a forest reserve who is acting in accordance with the lease or licence and any employee, agent or contractor of any such holder who is acting in accordance with the terms of their employment, agency or contract and with the terms of the lease or licence;
- an officer or employee of the ambulance service when acting in the course of his or her duties;
- an officer or employee or volunteer emergency worker of an emergency services agency when engaged in an emergency activity.

This enables these persons to undertake forest and park management duties at times and in areas that would otherwise be restricted.

#### *Division 2 - General Use and Control of Forest Reserves and Forest Parks*

Proposed regulation 14 allows the Secretary, a committee or an authorised officer to close the whole or part of a forest reserve temporarily if necessary because of an emergency such as fire or flood. If the entire forest reserve is to be temporarily closed, then it must be made known to the public by notice in a newspaper or a broadcast and the determination must also be signposted at entrances to the forest reserve. It is an offence for a person to enter a forest reserve when temporarily closed. The maximum penalty proposed is 10 penalty units. The forest reserve must be re-opened to the public as soon as practicable after the circumstances resulting in the closure no longer apply.

Various proposed regulations within Division 2 of Parts 3 and 4 of the proposed regulations give the Secretary and committee the power to set aside areas within forest reserves for specific purposes. The impact of these proposed regulations is to restrict visitor entry and use of certain areas.

The specific purposes for which an area may be set aside are as follows:

- where the possession or consumption of liquor is prohibited (proposed regulation 17(1));
- where swimming is prohibited (proposed regulation 19(1));
- where rock climbing, abseiling, hang gliding, paragliding or similar activities is permitted (proposed regulation 20(1));
- for the protection, planting or re-establishment of trees or vegetation (proposed regulation 25(1));
- where vehicles may be driven or may only travel in a specified direction or at no more than a specified speed (proposed regulations 31(1));
- where vehicles may be parked (proposed regulations 31(3));
- where camping is permitted (proposed regulations 33(1));

- where a fire, or a fire of a specified type, may be lit or maintained (proposed regulations 34(1))<sup>60</sup>;
- where dogs are prohibited (proposed regulation 35(4));
- where the riding, driving, leading or bathing of horses or pack animals is permitted (proposed regulation 36(1)); and
- where fishing or yabbying is permitted (proposed regulation 38(3)).

These regulatory controls represent a management tool for balancing visitor needs against the need to minimise the impacts from high levels of recreational activities enjoyed by visitors to protect the environmental and recreational values of these forest reserves.

Division 2, Part 3 of the proposed regulations also sets out various offences created under the proposed regulations. These offences aim to protect the environmental values of forest reserves, minimise conflicts between visitor uses and unreasonable disturbance to other users, as well as public safety.

The proposed regulations would also create offences for a person to leave or deposit faeces in a forest reserve except in toilet facilities provided or by burying those faeces within 50 metres from any water course (proposed regulation 15) and dispose of soap, detergent or similar substances in a forest reserve within 50 metres from a water course (proposed regulation 16). The penalty that would apply is 10 penalty units. These offences are to ensure water quality is protected.

A person must not behave in a manner that is likely to cause unreasonable disturbance to any person, likely to be dangerous to public health or to cause danger or injury to any person (proposed regulation 18). The proposed penalty is 10 penalty units.

The proposed regulations also create offences for undertaking activities such as possessing or consuming liquor or swimming in areas where such activities are not permitted (proposed regulations 17 and 19).

A person must also not take part in rock climbing, abseiling, hang gliding, paragliding or other similar activities in a forest reserve unless such activities are undertaken in an area set aside and during the times or periods during which the area may be used for that purpose or under and in accordance with a permit (proposed regulation 20(3)). The maximum penalty proposed is 10 penalty units

Other animals (excluding a dog, horse or pack animal) are only allowed to enter a forest reserve if they are being transported through in a vehicle, or if the person is acting in accordance with a lease, licence or agreement issued under the Act (proposed regulation 21).

The proposed regulations also regulate events and functions within forest reserves. Similarly to the current regulations, it is an offence for a person to hold a non-commercial organised entertainment, sporting or recreational function, rally, festival, tour, fete, public meeting or similar event or function for thirty or more people within a forest reserve without a permit

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<sup>60</sup> Proposed regulation 34(2) would enable the Secretary or a committee to determine the times or periods during which the area set aside may or may not be used for the lighting or maintaining of a fire or a fire of a specified type.

from the Secretary or a committee (proposed regulation 22). The maximum penalty proposed is 10 penalty units.

Similarly to the current regulations, the proposed regulations specify that commercial activities are prohibited in a forest reserve. A commercial activity includes the sale of things or services, filming or taking photographs, the conduct of an organised entertainment, sporting or recreational function, distributing any type of advertising matter and using a public address system or similar device to deliver a verbal message (proposed regulation 23). This proposed regulation would not apply to a person who has a permit to conduct commercial activities and has paid any applicable fee. The maximum penalty proposed is 20 penalty units.

Similarly to the current regulations, the proposed regulations prohibit the construction of buildings and structures, the excavation or removal of soil and rocks, and the introduction of any soil and rocks into the forest reserve (proposed regulation 24).

It is also an offence to enter an area set aside for the purposes of revegetation or to knowingly disturb, interfere with or damage any natural objects under proposed regulations 25 and 26.

### *Division 3 – Powers of Authorised Officers*

Proposed regulations 27 and 28 of the proposed regulations enable an authorised officer to:

- direct a person to cease doing an activity immediately if satisfied on reasonable grounds that the person is undertaking an activity without a permit from the Secretary or a committee;
- direct a person to cease doing an activity immediately if satisfied on reasonable grounds that the person is acting contrary to a determination of the Secretary or a committee
- direct a person to leave a forest reserve or part of a forest reserve if satisfied on reasonable grounds that a person has breached the regulations;
- direct a person in charge of a vehicle in relation to the movement, direction, speed, stopping or parking of vehicles in a forest reserve, if satisfied on reasonable grounds that it is in the interests of safety to do so or for the management, protection or control of a forest reserve if that direction is consistent with any determination of the Secretary or committee made under proposed regulations 31 or 44 or any in other area of a forest reserve not subject to a determination made under proposed regulations 31 or 44.

It is also an offence for a person to fail to comply with a direction of an authorised officer, or for a person driving or in charge of a vehicle on a road or track in a forest reserve to comply with a direction of an authorised officer in relation to the movement, direction, speed, stopping or parking of the vehicle. The maximum penalty proposed is 20 penalty units.

## **Part 4 – Forest Reserves only**

### *Division 1 - Preliminary*

Proposed regulation 29 lists the regulations that do not apply to:

- the Secretary when carrying out the duties or functions of the Secretary;
- a committee when carrying out the duties or functions of the committee in relation to a forest reserve for which it is appointed as a committee;
- an authorised officer when acting in the course of his or her duties;

- Parks Victoria, Melbourne Water Corporation and VicForests when carrying out their duties or functions;
- an employee of the Secretary, a committee, Parks Victoria, Melbourne Water Corporation or VicForests, when acting in the course of his or her employment;
- a contractor of the Secretary or a committee when acting under the contract;
- a volunteer authorised by the Secretary or a committee when acting in accordance with the authorisation;
- the holder of a lease or licence granted under the Act over any land in a forest reserve who is acting in accordance with the lease or licence and any employee, agent or contractor of any such holder who is acting in accordance with the terms of their employment, agency or contract and with the terms of the lease or licence;
- an officer or employee of the ambulance service when acting in the course of his or her duties;
- an officer or employee or volunteer emergency worker of an emergency services agency when engaged in an emergency activity.

This enables these persons to undertake forest and park management duties at times and in areas that would otherwise be restricted.

### *Division 2 General Use and Control of Forest Reserves*

#### *Authority of Committees of Management*

The authority of the committee of management for forest reserves is set out in proposed regulation 30. Each committee is responsible for the care, protection and management of the forest reserve that the committee has been appointed to manage. The committee must consider these responsibilities when exercising any power, function or duty under the proposed regulations.

Similarly to the current regulations, each committee may expend any fees received by the committee on the care, protection and management of the forest reserve and payment of remuneration or fees to persons employed by the committee. Each committee is required to keep a full and particular account of all sums of money received and expended by it. Each committee must also give the Secretary a statement of such receipts and expenditure and the balance remaining whenever required, and provide further details if requested.

In addition, each committee must keep a full and particular account of all minutes of meetings and decisions agreed to by the committee in the exercise of its powers and provide the Secretary with a statement of such minutes and decisions whenever required and provide any further details if requested.

#### *Offences*

Division 2, Part 4 of the proposed regulations sets out various offences created under the proposed regulations. These offences aim to protect the environmental values of forest reserves, minimise conflicts between visitor uses and unreasonable disturbance to other users, as well as public safety.

Under proposed regulation 32, it is an offence for a person to drive or park vehicles in an area of a forest reserve where driving or parking of vehicles is not permitted. It is also an offence

to drive a vehicle in a direction contrary to, or at a speed in excess of that specified. These offences aim to minimise disturbance to wildlife, vegetation damage, soil compaction and erosion and consequent effects on water quality. The proposed maximum penalty is 10 penalty units.

Under proposed regulation 33, a person must not establish or occupy a camp in a forest reserve unless he or she camps in an area permitted or camps in accordance with a permit and has paid the fee for camping in Murrindindi Scenic Reserve. The proposed penalty is 10 penalty units.

It would also be an offence for a person to light or maintain a fire in a forest reserve (proposed regulation 34), except in a fixed fireplace or a liquid, gaseous or solid fuel barbecue as permitted under the Forests (Fire Protection) Regulations 2004, or in an area permitted and in accordance with any condition or restriction imposed for that area. The penalty proposed is 20 penalty units. This offence would ensure both public safety and protection of native vegetation, and minimise wildlife disturbance, soil erosion and water quality impacts caused by the escape of fires.

It is an offence for a person to bring or allow a dog into a forest reserve unless on a leash, is under that person's control at all times and is restrained from causing unreasonable disturbance to persons or damage to or interference with property (proposed regulation 35). It is also an offence to allow a dog to enter the whole or part of a forest reserve where dogs are prohibited. It is also an offence for a person to fail to remove any faeces deposited by a dog. The proposed maximum penalty for these offences is 10 penalty units.

For the proposed regulations, restrictions are placed upon the time of year and area in which a person may ride a horse. A person must not ride a horse outside of the time and area permitted or in a way that could endanger another person or animal (proposed regulation 36(4)).

The proposed regulations also create offences in order to protect flora and fauna. The flora and fauna features of forest reserves are protected under proposed regulation 37 through the following regulations:

- proposed regulation 37(1) prohibits a person from knowingly disturbing, interfering with, injuring or otherwise destroying any fauna or other animal;
- proposed regulation 37(2) prohibits knowingly disturbing, interfering with or destroying the nest, burrow, display mound, or lair of any fauna or other animal;
- proposed regulation 37(3) prohibits feeding or offering food to any fauna or other animal not lawfully brought into the forest reserve or allow any fauna or other animal to take food from a person;
- proposed regulation 37(7) prohibits a person intentionally or recklessly removing, cutting, or damaging any flora;
- proposed regulation 37(8) prohibits a person from knowingly bringing into or planting any seed, tree or other vegetation into a forest reserve.

These offences do not apply to someone who holds a licence or permit to do any of these activities. The proposed maximum penalty for these offences is 20 penalty units.

The proposed regulations also create offences for undertaking activities such as fishing or yabbying in areas where such activities are not permitted (proposed regulation 38).

It would also be an offence for a person to possess or carry any poison, trap, bow, gun, rifle or firearm or to shoot, trap, or destroy or interfere with any animal or bird in a forest reserve (proposed regulation 39). The maximum penalty proposed is 20 penalty units.

These offences aim to ensure public safety, minimise unreasonable disturbance to other parks users and protect the environmental values of forest reserves.

*Division 3 - Fees*

Under proposed regulations 40 and 41, the Secretary or a committee may impose fees for parking in the Steavenson Falls Scenic Reserve and camping in the Murrindindi Scenic Reserve. The fees are charged per day and depend on the type of vehicle. The fees are expressed in dollar figures.

It is proposed that the following fees will be applied:

**AREAS SUBJECT TO VEHICLE PARKING FEES - DAY PERMITS**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Name of park</i>	<i>Type of vehicle</i>	<i>Parking fee</i>
1.	Steavenson Falls Scenic Reserve	Bicycle	0
		Motor cycle	2.50
		Car	3.00
		Small bus	7.00
		Large bus	14.00

**AREAS SUBJECT TO CAMPING FEES - OVERNIGHT PERMITS**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item No.</i>	<i>Name of park</i>	<i>Type of vehicle</i>	<i>Parking fee</i>
1.	Murrindindi Scenic Reserve	Bicycle	2.50
		Motor cycle	2.50
		Car	7.00
		Small bus	20.00
		Large bus	35.00

Under proposed regulation 42, the Secretary or a committee is required to display the fees payable for parking and camping within or at the entrance to the Steavenson Falls Scenic Reserve and the Murrindindi Scenic Reserve. Details are to be displayed in a place where they can reasonably be seen.

## Part 5 – Forest Parks only

Certain persons are exempt from the application of Part 5 of the proposed regulations (proposed regulation 43). Such persons include:

- the Secretary when carrying out the duties or functions of the Secretary; and
- an authorised officer when acting in the course of his or her duties; and
- Parks Victoria when carrying out its duties or functions; and
- an employee of the Secretary or Parks Victoria when acting in the course of his or her employment; and
- a contractor of the Secretary when acting under the contract; and
- a volunteer authorised by the Secretary when acting in accordance with the authorisation; and
- the holder of a lease or licence granted under the Act over any land in a forest reserve who is acting in accordance with the lease or licence and any employee, agent or contractor of any such holder who is acting in accordance with the terms of their employment, agency or contract and with the terms of the lease or licence; and
- an officer or employee of ambulance services, when acting in the course of his or her duties; and
- an officer or employee or volunteer emergency worker of an emergency services agency when engaged in an emergency activity.

Proposed regulation 44 allows the Secretary to set aside an area within a forest park where the driving of vehicles is prohibited or vehicles may only travel in a specified direction at a specified speed. An area may also be set aside in which the parking of vehicles is prohibited. Vehicle access may also be restricted subject to the class of vehicle.

It is an offence under proposed regulation 45 to drive or park a vehicle or vehicles of a particular class in areas where vehicles are prohibited or to travel contrary to a specified direction, or at a speed in excess of a specified speed. The proposed maximum penalty is 10 penalty units.

Camping in a forest park is regulated by proposed regulation 8 as are all State forests. In addition, the Secretary may set aside an area of a forest park where camping is prohibited. A person must not camp in an area set aside by the Secretary where camping is prohibited under proposed regulation 46. The maximum penalty proposed is 10 penalty units.

The proposed regulations specify that fires are permitted in areas set aside by the Secretary for that purpose but are restricted in accordance with conditions imposed by the Secretary. It is an offence for a person to light or maintain a fire in contravention to any restriction imposed under regulation 47. The proposed maximum fee is 20 penalty units.

Dogs will generally be permitted in a forest park if the dog is restrained by a leash, under control of the person, and is restrained from causing an unreasonable disturbance to people, objects or other animals (proposed regulation 48). The owner or carer of a dog commits an offence under the proposed regulations if the dog is not under the control of that person. A person must remove from the park any faeces deposited by their dog. The maximum penalty proposed for both offences is 10 penalty units. Disabled persons who bring a dog into a forest park to assist with that person's disability are exempt from these offences.

Horse riding will generally be permitted in a forest park other than in an area set aside by the Secretary for the purpose of restricting riding (proposed regulation 49). A person must not ride a horse in a way that could endanger another person or animal. The proposed maximum penalty is 10 penalty units. The owner or carer of a horse or pack animal commits an offence under the proposed regulations if the horse is not under the control of that person. Some of these restrictions do not apply to a person who holds a licence, permit or other agreement under the *Forests Act 1958*.

It would also be an offence for a person to possess or carry any poison, trap, bow, gun, rifle or firearm or to shoot, trap, or destroy or interfere with any animal or bird in an area set aside for the purpose of prohibition (proposed regulation 50). The maximum penalty proposed is 20 penalty units.

The proposed regulations prohibit the interference with or destruction of any fauna, or their nest or burrow (proposed regulation 51(1) & (2)). Feeding any fauna or other animal that has not been brought lawfully into the forest park is prohibited, as is the destruction or damage of any flora and the introduction of plants and seeds into the forest park (proposed regulation 51(3), (7) & (8)). This regulation does not apply to someone who holds a permit or licence to do any of these activities.

## **Part 6 – Yarra Tributaries Forest Reserve**

Certain persons are exempt from the application of Part 6 of the proposed regulations (proposed regulation 53). Such persons include:

- the Secretary when carrying out the duties or functions of the Secretary; and
- an authorised officer when acting in the course of his or her duties; and
- Parks Victoria when carrying out its duties or functions; and
- an employee of the Secretary or Parks Victoria when acting in the course of his or her employment; and
- a contractor of the Secretary when acting under the contract; and
- a volunteer authorised by the Secretary when acting in accordance with the authorisation; and
- the holder of a lease or licence granted under the Act over any land in a forest reserve who is acting in accordance with the lease or licence and any employee, agent or contractor of any such holder who is acting in accordance with the terms of their employment, agency or contract and with the terms of the lease or licence; and
- an officer or employee of ambulance services, when acting in the course of his or her duties; and
- an officer or employee or volunteer emergency worker of an emergency services agency when engaged in an emergency activity.

Various proposed regulations within Part 6 of the proposed regulations give the Secretary the power to set aside areas within forest reserves for specific purposes. The impact of these proposed regulations is to restrict visitor entry and use of certain areas.

The specific purposes for which an area may be set aside are as follows:



- where vehicles may be driven or may only travel in a specified direction or at no more than a specified speed (proposed Regulation 56(1));
- where vehicles may be parked (proposed Regulation 56(2)); and
- where the riding, driving, leading or bathing of horses or pack animals is permitted (proposed regulation 58(1)).

These regulatory controls represent a management tool for balancing visitor needs against the need to minimise the impacts from high levels of recreational activities enjoyed by visitors to protect the environmental and recreational values of these forest reserves.

### *Offences*

Proposed regulation 54 creates an offence to access the Yarra Tributaries Forest Reserve, unless undertaking a walk on Boundary Road or the Oat Patch Track only, or driving a vehicle or riding a horse on certain roads or tracks or if that person is either undertaking timber harvesting operations or carrying out works on behalf of the Secretary, VicForests or Melbourne Water.

Under proposed regulation 56, it is an offence for a person to drive or park vehicles in an area of a forest reserve where driving or parking of vehicles is not permitted. It is also an offence to drive a vehicle in a direction contrary to, or at a speed in excess of that specified. These offences aim to minimise disturbance to wildlife, vegetation damage, soil compaction and erosion and consequent effects on water quality. The proposed maximum penalty is 10 penalty units

For the proposed regulations, restrictions are placed upon the time of year and area in which a person may ride a horse. A person must not ride a horse outside of the time and area permitted or in a way that could endanger another person or animal (proposed regulation 57(4)).

## **Part 7 – Miscellaneous**

### *Division 1 – Determinations and Permits*

Under proposed regulation 58, the Secretary or a committee may amend or revoke a determination in relation to a forest reserve made under the proposed regulations. The Secretary or committee must ensure that the details of any amendment are included on any signs or notices erected at the entrances to a forest reserve or at areas affected and any signs or notices are removed if a determination is amended or revoked.

Proposed regulation 59 requires the Secretary or committee to ensure that signs or notices informing the public of a determination in relation to a forest reserve are displayed as soon as practicable at the areas affected by a determination or at any entrance to a forest reserve. The signs or notices are to be displayed in a place and manner to ensure they are likely to be seen by any visitors or users of the forest reserve affected by the determination.

### *Permits*

A permit issued by the Secretary or a committee under Part 3, 4 or 5 of the proposed regulations must be in writing, subject to conditions specified in the permit, and applies for the period specified in the permit (60(1)).

The Secretary or a committee may accept the surrender of a permit under proposed regulation 61(1). Proposed regulation 61(2) allows the Secretary or committee to cancel a permit issued under Part 3, 4 or 5 of the proposed regulations if the holder of the permit has breached conditions of the permit, breached the proposed regulations or if the continuation of the permit is likely to be detrimental to or interfere with the management and protection of the natural environment, features or visitors in a forest reserve, or for the purposes of management of the forest reserve.

The Secretary or committee must notify the holder of the permit in writing of the cancellation of the permit within a reasonable period of time after the cancellation (61(3)). The cancellation would take effect when the holder of the permit is notified of the cancellation (61(4)). It would also be an offence for a person to fail to comply with the conditions of a permit. The maximum penalty proposed is 10 penalty units.

Under proposed regulation 62, a person may apply in writing to the Secretary or the committee that issued the permit for a replacement permit if lost, stolen or damaged.

The Secretary or a committee may issue a permit to a person to undertake the following activities:

- camp in a forest reserve (proposed regulation 33(2));
- rock climb, abseil, hang glide, paraglide or undertake other similar activities outside of the areas and times in which such activities are permitted in a forest reserve (proposed regulation 20(4));
- conduct one of the following non-commercial events or functions for thirty or more persons in a forest reserve: an organised entertainment, sporting or recreational function; a rally, festival, tour, fete; or hold a public meeting or similar event (proposed regulation 22(3));
- conduct one of the following commercial activities in a forest reserve (proposed regulation 23(7)):
  - offer for sale or hire any thing or service for profit; or
  - conduct an organised entertainment, sporting or recreational function; or
  - conduct a rally, festival, tour, fete for profit; or
  - hold a public meeting or similar event for profit; or
  - distribute or display any handbills, pamphlets, books, paper or advertising matter or put up or leave any placards or notices; or
  - deliver any address or use any amplifier, public address system, loud hailer or any similar device.
- allow a person to do certain activities that would otherwise be an offence including to remove, hunt, capture or take any fauna or other animal; cut, remove or take any flora (proposed regulation 37(10)).

The proposed regulation 63 allows for the continuation of permits issued under the regulations listed in Schedule 1.

Attachment B – Comparison of current and proposed regulation

**COMPARISON OF CURRENT AND PROPOSED REGULATION**

Current Regulations	Proposed Regulations
<b>State Forest</b>	
<b>Offence to obstruct road or track in State forest</b>	
<p>For the Forests (Miscellaneous) Regulations 2000 (r. 11 – Offence to obstruct road or track in State forest) a person must not in a State forest: construct or place any object that obstructs passage on a road or track, damage a road or track or a vehicle or dig a hole pit or trench in a road or track, obstruct a road or track in a manner that prevents safe passage on such a road.</p>	<p>Offence to obstruct road or track in State forest Similarly to the current regulations, a person must not in a State forest: construct or place any object that obstructs passage on a road or track, damage a road or track or a vehicle or dig a hole pit or trench in a road or track, obstruct a road or track in a manner that prevents safe passage on such a road.</p>
<b>Camping and use of recreation grounds in State forests</b>	
<p>For the Forests (Miscellaneous) Regulations 2000 (r.12 - Camping in State forests), camping is permitted but only if the campsite is more than 20 metres away from any waterway and if toilet facilities are not within 100 metres of any waterway.</p> <p>Recreation Grounds are not mentioned in current regulations.</p>	<p>Camping and occupation and use of recreation grounds in State forests Similarly to the current regulations, the proposed regulations permit camping in State forest but also the use of recreation grounds which aren't mentioned in current regulations. Only if the campsite is situated more than 20 metres away from a waterway and any portable toilet facilities are not within 100 metres of any waterway. The proposed maximum penalty is 10 penalty units. Soap or detergent must not be used or disposed of within 50 metres of any waterway and all litter must be cleared from the site. Persons who camp or use recreation grounds must not behave in a manner that is likely to cause unreasonable disturbance to any person or cause danger or injury to any person. A person must not camp in an area of a State forest for more than 28 consecutive nights.</p>
<b>Camping in State forest – areas subject to special camping restrictions</b>	
<p>For the Forests (Miscellaneous) Regulations 2000 (r.13 - Camping in areas which are subject to special camping restrictions), restrictions are placed upon the time of year and area in which one may camp, as outlined in Schedule 1 of the current regulations, but a person may camp in an area set aside by the Secretary for that purpose during the restricted</p>	<p>Camping in State forest - areas subject to special camping restrictions Similarly to the current regulations, restrictions are placed upon the time of year and area in which one may camp, as outlined in Schedule 2 of the proposed regulations, but a person may camp in an area set aside by the Secretary for that purpose during the</p>

period or if in possession of a permit to camp.	restricted period or if in possession of a permit to camp.
<b>Forest Reserves and Forest Parks</b>	
<p>The Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.4 – Application of Regulations) and the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.4 – Application of Regulations) do not apply to the Secretary, employee of the Secretary, an authorised officer acting in the course of his/her duties, and a person acting in accordance with an appropriate license or permit.</p> <p>The Forests (You Yangs Regional Park) Regulations (r.6 – Application of Regulations) 2003 do not apply to an employee of the Secretary, an authorised officer acting in the course of his/her duties, a person who is carrying out authorised volunteer works in the park, and a person acting in accordance with an appropriate license or permit.</p>	<p>Application of Part</p> <p>This Part does not apply to the following: The Secretary, an employee of the Secretary or a committee acting in the course of their duties, authorised officers, Parks Victoria, Melbourne Water, and VicForests employees acting in the course of their duties, a person carrying out works in the reserve on behalf of the Secretary, ambulance and emergency workers and volunteers, and a person acting in accordance with an appropriate license or permit.</p>
<b>Committee Authority</b>	
<p>The Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.22 – Committee authority) and the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.22 – Committee Authority) specify that the appointed committee of management must care for, manage and protect the park or reserve, expend any fees received for the park or reserve, keep full and accurate financial accounts and supply statements to the Secretary as requested. The Committee must care for, manage and protect the park, and if the regulations impose certain powers or functions on the Committee then the Committee must exercise that duty in consideration of the care, management and protection of the park.</p> <p>The Forests (You Yangs Regional Park) Regulations (r.7 – Committee authority) 2003 specifies that the Committee must care for, manage and protect the park, and if the regulations impose certain powers or functions on the Committee then the Committee must exercise that duty in consideration of the care, management and protection of the park.</p>	<p>Committee Authority</p> <p>The proposed regulations specify that the appointed committee of management must care for, manage and protect the forest reserve, expend any fees received for the forest reserve, keep full and accurate financial accounts, keep records of park management, and supply statements to the Secretary as requested. This section does not apply to a forest park, the Thomson River Forest Reserve, the Tarago River Forest Reserve, and the Yarra Tributaries Forest Reserve.</p>
<b>Temporary closure of a forest reserve to entry</b>	
<p>For the Forests (You Yangs Regional Park) Regulations (r.8 – Restriction of Entry) 2003, the Committee or an authorised officer may temporarily close the park or part of the park in the interests of public safety.</p>	<p>Temporary closure of forest reserve to entry</p> <p>Similarly to the current regulations, the proposed regulations permit the Secretary, a Committee or an authorised officer to temporarily close a forest reserve in the threat or event of a flood, fire or natural disaster, in the interest of public safety or in any other</p>

<p>Temporary closure of forest reserve to entry is not mentioned in the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 and the Forests (Murrindindi Scenic Reserve) Regulations 1999.</p>	<p>emergency. A notice must be published in any relevant newspapers, broadcast from a broadcasting station, and signs must be set out at the entrances to the forest reserve displaying the details of the determination.</p>
<p><b>Determination may be amended or revoked</b></p>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (Steavenson Falls Scenic Reserve) Regulations 1999 and the Forests (You Yangs Regional Park) Regulations 2003 the subregulation ‘Determination may be amended or revoked’ is not mentioned.</p>	<p>Determination may be amended or revoked The proposed regulations permit the Secretary or a committee to amend or revoke a determination made under the regulations, and any signs or notices that were previously erected detailing the determination made must be appropriately amended or removed.</p>
<p><b>The Secretary or the committee must display signs or notices of determination</b></p>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.6(5) – Entry, access and setting aside areas), Forests (You Yangs Regional Park) Regulations 2003 (r.8 – Restriction of entry) and the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.7(5) – Entry, access and setting aside areas), the Committee must ensure that signs or notices detailing any determinations made under the regulations are visibly displayed at the affected area of the park or reserve or at the entrance to the park or reserve.</p>	<p>The Secretary or the committee must display signs or notices of determination Similarly to the current regulations, the Secretary or a committee must ensure that signs or notices detailing any determinations made under the regulations are visibly displayed at the affected area of the forest reserve or at the entrance to the forest reserve.</p>
<p><b>Offence to fail to comply with a permit</b></p>	
<p>The Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (Steavenson Falls Scenic Reserve) Regulations 1999 and the Forests (You Yangs Regional Park) Regulations 2003 do not mention the subregulation ‘Offence to fail to comply with a permit’.</p>	<p>Offence to fail to comply with a permit The proposed regulations state that a permit issued under the proposed regulations must be in writing, subject to the conditions specified and must apply for the specified period. The holder of the permit must comply with the terms or conditions of that permit.</p>
<p><b>Surrender and cancellation of permits</b></p>	
<p>The Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (Steavenson Falls Scenic Reserve) Regulations 1999 and the Forests (You Yangs Regional Park) Regulations 2003 do not mention the subregulation ‘Surrender and cancellation of permits’.</p>	<p>Surrender and cancellation of permits The proposed regulations allow the Secretary or a committee to accept the surrender of a person’s permit or cancel a person’s permit issued under the regulations if that person has breached the terms of the permit or the regulations, and if a continuation of the permit will be detrimental to the protection and management of the forest reserve. The holder of the permit will be notified in writing of the cancellation and the cancellation comes into effect</p>

	when the holder of the permit is given notification.
<b>Secretary or committee may issue replacement permit</b>	
The Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (Steavenson Falls Scenic Reserve) Regulations 1999 and the Forests (You Yangs Regional Park) Regulations 2003 do not mention the subregulation ‘Secretary or committee may issue replacement authority’.	Secretary or committee may issue replacement permit If a permit issued under the proposed regulations is either lost, stolen or damaged, the holder of the permit may apply in writing to the Secretary or committee for a replacement.
<b>General use and control of Forest Reserves and Forest Parks</b>	
<b>Setting aside areas for the driving or parking of vehicles</b>	
For the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.7 – Entry, access and setting aside areas, the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.6(1) – Entry, access and setting aside areas) and the Forests (You Yangs Regional Park) Regulations 2003 (r.9 – Setting aside areas for specific purposes), the Committee may set aside an area within the reserve where the parking of vehicles is permitted but vehicles may only travel in a specified direction at a specified speed. Vehicle access may be restricted subject to the class of vehicle.	Setting aside areas for the driving or parking of vehicles Similarly to the current regulations, the proposed regulations specify that the Secretary or the Committee may set aside an area within the Reserve where the driving and parking of vehicles is permitted, but vehicles may only travel in a specified direction at a specified speed. Vehicle access may also be restricted subject to the class of vehicle.
<b>Vehicle driving and parking offences</b>	
For the Forests (You Yangs Regional Park) Regulations 2003 (r.17 – Vehicles), it is an offence to bring a vehicle into an area of a park or reserve where vehicles access is prohibited. Vehicles may only travel in a specified direction at a specified speed and parking may be restricted subject to the class of vehicle. Vehicles of a particular class must be parked in areas set aside for vehicles of that class or for vehicles generally.  For the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.6 – Parking), it is an offence to park a vehicle in the reserve unless the vehicle is parked in an area which has been set aside by the Committee for parking, and the person in charge of the vehicle pays the appropriate fee. For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r. 6(2) and (3) – Entry, access and setting aside areas), the Committee may determine that vehicle access is prohibited or restricted for vehicles generally or vehicles of a particular class. Areas set aside for parking purposes may be restricted subject to the time or period.	Vehicle driving and parking offences The proposed regulations specify that vehicles or vehicles of a particular class may only be driven and parked in areas set aside for that purpose with a determination of the Secretary or committee, and a person may not park a vehicle unless the appropriate fee is paid.

<b>Camping in forest reserves</b>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.5 – Camping), camping is not permitted unless a person has a written permit from the Committee to do so, or camps in an area set aside for that purpose.</p> <p>For the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.5 - Camping) and the Forests (You Yangs Regional Park) Regulations 2003 (r.18 – Camping), camping is not permitted unless a person has a written permit from the Committee to do so.</p>	<p>Camping in forest reserves The proposed regulations specify that camping is permitted in areas set aside for that particular purpose, if a permit has been issued, and if applicable, a fee has been paid and a permit has been issued by the Secretary or the Committee.</p> <p>The proposed regulations state a requirement for a receipt to be displayed in a vehicle if paying entry to a forest reserve.</p>
<b>Hygiene</b>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.7 – Hygiene) and the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.8 – Hygiene), it is specified that if toilet facilities are not available a person must bury all faeces no less than 100 metres from any waterway.</p> <p>Hygiene is not mentioned in the Forests (You Yangs Regional Park) Regulations 2003.</p>	<p>Hygiene Similarly to the current regulations for Murrindindi and Steavensons Falls Scenic Reserves, the proposed regulations specify that if toilet facilities are not available a person must bury all faeces no less than 100 metres from any waterway, and all litter must be cleared from the site.</p>
<b>Use of soap or detergent</b>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.5(6)(d) – Camping), soap, detergent or similar substances must not be used or disposed of less than 50 metres from a waterway.</p> <p>For the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 and the Forests (You Yangs Regional Park) Regulations 2003 the use of soap or detergent is not mentioned.</p>	<p>Use of soap or detergent Similarly to the current regulations for Murrindindi, the proposed regulations specify that soap, detergent or similar substances must not be used or disposed of less than 50 metres from a waterway.</p>
<b>Lighting or maintaining fires</b>	
<p>For the Forests (You Yangs Regional Park) Regulations 2003 (r.12 – Lighting of fires) and the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.9 – Lighting of fires), a fire may not be lit or maintained within the reserve unless it is in a fixed fireplace, or is in an area set aside by the Committee for that purpose.</p> <p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.8 – Lighting of fires), a fire may not be lit or maintained within the reserve unless it is in a fixed fireplace, must not</p>	<p>Lighting or maintaining fires Similarly to the current regulations, fires are permitted in areas set aside by the Secretary for that purpose during times specified by the Secretary. Fires must be in a fixed fireplace and a liquid, gaseous or solid fuel barbecue must be used.</p>

be within 50 metres of a fixed fireplace and a liquid, gaseous or solid fuel barbecue must be used.	
<b>Prohibition on possessing or consuming liquor</b>	
Prohibition on possessing or consuming liquor is not mentioned in the Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (Steavenson Falls Scenic Reserve) Regulations 1999 and the Forests (You Yangs Regional Park) Regulations 2003.	Prohibition on possessing or consuming liquor The proposed regulations state that liquor may not be possessed or consumed in areas set aside by the Secretary that prohibits the possession or consumption of alcohol.
<b>Behaviour</b>	
For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.10 – Behaviour), Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.11 – Behaviour) and the Forests (You Yangs Regional Park) Regulations 2003 (r.14 – Prohibited behaviour), a person must not behave in a manner that is dangerous to public health or another person and must not behave in a manner that may cause unreasonable disturbance to a person.	Behaviour Similarly to the current regulations, a person must not behave in a manner that is dangerous to a person or public health and must not behave in a manner that is likely to be a nuisance to any person.
<b>Swimming</b>	
Swimming is not mentioned in the Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (Steavenson Falls Scenic Reserve) Regulations 1999, and the Forests (You Yangs Regional Park) Regulations 2003.	Swimming The proposed regulations specify that a person must not swim in an area that has been set aside as an area in which swimming is prohibited.
<b>Rock climbing and similar activities</b>	
Rock climbing and similar activities are not mentioned in the Forests (Murrindindi Scenic Reserve) Regulations 1999 and Forests (Steavenson Falls Scenic Reserve) Regulations 1999.  For the Forests (You Yangs Regional Park) Regulations 2003 (r.19 – Rock climbing, etc.), a person may undertake rock climbing or similar activities in an area within the park set aside for that purpose, or acting in accordance with a permit.	Rock climbing and similar activities Similarly to the Forests (You Yangs Regional Park) Regulations 2003, a person may undertake rock climbing or similar activities in an area within the park set aside for that purpose, or acting in accordance with a permit. The main difference between the proposed regulations and the You Yangs Regional Park regulations is that the proposed regulations specify that there may be specific times or periods during which these activities may be undertaken, as determined by the Secretary or a committee.
<b>Dogs</b>	
For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.17 – Dogs), a person must not bring a dog into a park unless the dog is brought into a car park or for transit	Dogs Similarly to the current regulations, a person must not bring a dog into a park unless the



<p>through the reserve by a public route, restrained by a leash, is under control of the person, and is restrained from causing an unreasonable disturbance to people, objects or other animals.</p> <p>For the Forests (Steavenson Falls Scenic Reserve) Regulations 1999, (r.18 – Dogs) a person must not bring a dog into a park unless the dog is brought into a car park or for transit through the reserve by a public route.</p> <p>For the Forests (You Yangs Regional Park) Regulations 2003 (r.20 – Dogs), a person must not bring a dog into a park unless the dog is restrained by a leash, is under control of the person, and is restrained from causing an unreasonable disturbance to people, objects or other animals. A person must remove from the park any faeces deposited by the dog.</p>	<p>dog is restrained by a leash, is under control of that person, and is restrained from causing an unreasonable disturbance to people, objects or other animals. Dogs are not allowed in an area declared by the Secretary that prohibits dogs and a person must remove from the park any faeces deposited by the dog.</p>
<p><b>Riding, driving, leading or bathing horses or pack animals into a forest reserve</b></p>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.18 - Horses) and the Forests (You Yangs Regional Park) Regulations 1999 (r.21 – Horses), a person may only ride a horse in an area set aside by the Committee for that purpose.</p> <p>Horse riding is not mentioned in the Forests (Steavenson Falls Scenic Reserve) Regulations 1999.</p>	<p>Riding, driving, leading, or bathing horses or pack animals into a forest reserve</p> <p>For the proposed regulations, restrictions are placed upon the time of year and area in which one may ride a horse, but a person may do so in an area set aside by the Secretary for that purpose during the restricted period. A person must not ride a horse in a way that could endanger another person or animal. Subregulations (3) and (5) do not apply to a person transporting horses or pack animals through a forest reserve in a vehicle, or a person who has the appropriate permit.</p>
<p><b>Other animals</b></p>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.19 – Animals), other animals are not allowed to enter the reserve, and if a person allows an animal to enter the reserve and the animal is in their control, the animal must be removed at the direction of the Secretary, committee or an authorised officer.</p> <p>For the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.19 – Animals), a person must not bring any animal into the reserve apart from a dog under the appropriate subregulation.</p> <p>For the Forests (You Yangs Regional Park) Regulations 1999 (r.22 – Other animals), a person must not bring any animal into the reserve apart from a dog or horse under the appropriate subregulations, and if a person allows an animal to enter the reserve and the</p>	<p>Other animals</p> <p>Other animals are only allowed to enter the reserve if they are being transported through in a vehicle, or if a person holds a permit or license to do so.</p>

<p>animal is in their control, the animal must be removed at the direction of the Secretary, committee or an authorised officer.</p>	
<p><b>Events and functions</b></p>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.15 – Events and functions), Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.16 – Events and functions) and the Forests (You Yangs Regional Park) Regulations 2003 (r.24 – Events and functions) a permit from the Secretary or committee is required if thirty or more people wish to hold an organised entertainment, sporting or recreational function, rally, festival, tour, fete, public meeting or similar event or function within a s.50 reserve.</p>	<p>Events and functions Similarly to the current regulations, a permit from the Secretary or committee is required if thirty or more people wish to hold an organised entertainment, sporting or recreational function, rally, festival, tour, fete, public meeting or similar event or function within a s.50 reserve.</p>
<p><b>Commercial activities</b></p>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.14 – Commercial activities), Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.15 – Commercial activities) and the Forests (You Yangs Regional Park) Regulations 2003 (r.23 – Commercial activities), commercial activities are prohibited in the reserve, and include sale of items or services, conduct an event or function, distributing any type of advertising matter, taking photographs, film, or videos for commercial purposes, and using a public address system or similar device to deliver a verbal message. These subregulations do not apply to a person who has a permit or license to conduct commercial activities.</p>	<p>Commercial activities Similarly to the current regulations, the proposed regulations specify that commercial activities are prohibited in the reserve which includes the sale of items or services, the conduct of an event or function, filming or photographing for profit, holding a public meeting for profit, distributing any type of advertising matter and using a public address system or similar device to deliver a verbal message. This subregulation does not apply to a person who has a permit or license to conduct commercial activities.</p>
<p><b>Construction and excavation activities</b></p>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.12 - Construction and excavation activities) and the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.13 - Construction and excavation activities), a person must not construct a building or structure, or excavate, dig or remove rocks or soil.</p> <p>For the Forests (You Yangs Regional Park) Regulations 2003 (r.15 - Construction and excavation activities), a person must not construct a building or structure, excavate, dig or remove rocks or soil, or bring rocks or soil into the park unless that person possesses a relevant permit.</p>	<p>Construction and excavation activities Similarly to the current regulations, the proposed regulations prohibit the construction of buildings and structures, the excavation or removal of soil and rocks, and the introduction of any soil and rocks into the park without an authority under the <i>Mineral Resources (Sustainable Development) Act 1990</i>.</p>

<b>Protection of flora and fauna</b>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.16 – Disturbance of flora and fauna) and the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.17 – Disturbance of flora and fauna) a person must not interfere with or destroy any animal, bird, or their nest or burrow, carry or use any poison, trap or snare or bring into the reserve plants or seeds.</p> <p>For the Forests (You Yangs Regional Park) Regulations 2003 (r. 16 – Disturbance of flora and fauna or other natural objects), the following actions are prohibited: interference with or destruction of an animal or their nest or burrow, the introduction into the reserve of plants or seeds, and the removal or damage of any tree or plant.</p>	<p><b>Protection of flora and fauna</b></p> <p>The proposed regulations prohibit the interference with or destruction of any fauna, other animal, or their nest or burrow. Feeding any fauna or other animal that has not been brought lawfully into the park is prohibited, as is the destruction or damage of any fauna. Plants and seeds may not be brought into the park. This subregulation does not apply to someone who holds a license permit or authority to do any of these activities.</p>
<b>Revegetation</b>	
<p>For the Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.6(1)(f) – Entry, access and setting aside areas) and the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.7(1)(d)), the Committee may set aside an area for the protection, planting or re-establishment of trees or vegetation.</p> <p>Revegetation is not mentioned in the Forests (You Yangs Regional Park) Regulations 2003.</p>	<p><b>Revegetation</b></p> <p>The proposed regulations specify that an area of the forest reserve may be set aside by the Secretary or committee for the purposes of revegetation, including along roads or tracks. Under the subregulation entry to this area is prohibited.</p>
<b>Fishing or Yabbing</b>	
<p>For the Forests (You Yangs Regional Park) Regulations 2003 (r.9(1)(f)), the Committee may set aside an area where fishing and yabbing is permitted. Under r.16 (Disturbance of flora and fauna or other natural objects) interfering with a fish or yabby or their lair or nest is prohibited unless a person is fishing or yabbing in an area set aside by the Committee for that purpose.</p> <p>Fishing or yabbing is not mentioned in the Forests (Murrindindi Scenic Reserve) Regulations 1999 and the Forests (Steavenson Falls Scenic Reserve) Regulations 1999.</p>	<p><b>Fishing or Yabbing</b></p> <p>The proposed regulations specify that an area of the forest reserve may be set aside by the Secretary or committee for the purposes of fishing or yabbing, and a person may only fish or yabby in the area set aside for that purpose.</p>
<b>Traps, poisons and firearms</b>	
<p>For the Forests (Steavenson Falls Scenic Reserve) Regulations 1999, (r. 10 – Prohibited</p>	<p><b>Traps, poisons and firearms</b></p> <p>The proposed regulations prohibit the possession of a poison, trap, snare, net or firearm,</p>

activities), a person must not carry, use or discharge any firearm, long-bow or cross bow.  For the Forests (Murrindindi Scenic Reserve) Regulations 1999, and the Forests (You Yangs Regional Park) Regulations 2003 the subregulation ‘Traps, poisons and firearms’ is not mentioned.	and a person must not shoot, trap or catch an animal or bird.
<b>Interfering with rocks or similar natural objects</b>	
Interfering with rocks or similar natural objects is not mentioned in the current regulations.	Interfering with rocks or similar natural objects The proposed regulations specify that a person must not interfere with or destroy any natural objects.
<b>Entry and Access – Yarra Tributaries Forest Reserve</b>	
No existing regulation	Entry and Access – Yarra Tributaries Forest Reserve The proposed regulations specify that a person must not access the Yarra Tributaries Forest Reserve, unless undertaking a walk on Boundary Road or the Oat Patch Track only, or driving a vehicle or riding a horse on certain roads or tracks or if that person is either undertaking timber harvesting operations or carrying out works on behalf of the Secretary, VicForests or Melbourne Water.
<b>Fees</b>	
<b>Secretary or committee may determine fee for parking in the Steavenson Falls Scenic Reserve</b>	
For the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.6(3) – Parking), the Committee may impose and collect parking fees per vehicle per day in areas set aside for parking for cars, motorcycles and buses.	Secretary or committee may determine fee for parking in the Steavenson Falls Scenic Reserve The proposed regulations permit the Secretary or a committee to impose and collect parking fees per vehicle per day in areas set aside for parking for cars, bicycles, motorcycles and buses.  A notable difference between the proposed regulations and the current Steavenson Falls regulations is that fees for bicycles are included in the proposed regulations but not the current regulations.
<b>Secretary or committee may determine fee for camping in the Murrindindi Scenic Reserve</b>	
The Forests (Murrindindi Scenic Reserve) Regulations 1999 (r. 5(3) – Camping) permit the Committee to impose and collect camping fees per vehicle per day for cars, bicycles,	Secretary or committee may determine fee for camping in the Murrindindi Scenic Reserve Similarly to the Murrindindi Scenic Reserve regulations, the proposed regulations permit

motorcycles and buses.	the Secretary or a committee to impose and collect camping fees per vehicle per day in areas set aside for camping for cars, bicycles, motorcycles and buses.
<b>Secretary or committee may determine fee for a commercial activity</b>	
For the Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (Steavenson Falls Scenic Reserve) Regulations 1999, and the Forests (You Yangs Regional Park) Regulations 2003 the subregulation ‘Secretary or committee may determine fee for a commercial activity’ is not mentioned.	Secretary or committee may determine fee for a commercial activity The proposed regulations permit the Secretary or a committee to determine a fee for conducting a commercial activity in a forest reserve or Forest Park.
<b>Secretary or the committee must display signs and notices of fees payable</b>	
For the Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.6(4) – Parking), the details of fees payable for camping and parking must be visibly displayed at the entrance to the park or reserve.  For the Forests (Murrindindi Scenic Reserve) Regulations 1999 and the Forests (You Yangs Regional Park) Regulations 2003 the subregulation ‘The Secretary or committee must display signs and notices of fees payable’ is not mentioned.	Secretary or committee must display signs and notices of fees payable Similarly to the Steavensons Falls regulations, the proposed regulations specify that the details of fees payable for camping and parking must be visibly displayed at the entrance to the park or reserve.
<b>Powers of Authorised Officers</b>	
<b>Authorised officers may request person to leave a forest reserve</b>	
The Forests (Murrindindi Scenic Reserve) Regulations 1999 (r.21 – Requests to leave the reserve), Forests (Steavenson Falls Scenic Reserve) Regulations 1999 (r.21 – Requests to leave the reserve), and the Forests (You Yangs Regional Park) Regulations 2003 (r.10 - Directions to leave the park), all state that an authorised officer may direct a person to leave a park or reserve if there are reasonable grounds to believe that the person has contravened the regulations. An authorised officer may direct members of the public to leave the park in order to protect the park or to preserve order and decency.	Authorised officer may request person to leave a forest reserve Similarly to the current regulations, an authorised officer may direct a person to leave an area by which access is restricted or prohibited or if there are reasonable grounds to believe that the person in question is undertaking an activity without proper authority.  Unlike the current regulations, the proposed regulations do not mention directing members of the public to leave the park in order to protect the park or to preserve order and decency.
<b>Powers of authorised officers in relation to vehicles</b>	

<p>The Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (Steavenson Falls Scenic Reserve) Regulations 1999 and the Forests (You Yangs Regional Park) Regulations 2003 do not mention the subregulation ‘Powers of authorised officers in relation to vehicles’.</p>	<p>Powers of authorised officers in relation to vehicles An authorised officer may direct a person to comply with vehicle directions in relation to speed, stopping, parking, moving and direction if satisfied on reasonable grounds that it is in the interests of public safety or for the protection of the park to do so. All persons must comply with this direction.</p>
<p><b>Forest Parks only</b></p>	
<p><b>Application of Part</b></p>	
<p>No regulations currently apply.</p>	<p>Application of Part This Part of the proposed regulations does not apply to the following: The Secretary, an employee of the Secretary or a committee acting in the course of their duties, authorised officers, Parks Victoria, and VicForests employees acting in the course of their duties, a person carrying out works in the reserve on behalf of the Secretary, ambulance and emergency workers and volunteers, and a person acting in accordance with an appropriate license, permit or authority.</p>
<p><b>Setting aside areas for the driving or parking of vehicles</b></p>	
<p>No regulations currently apply.</p>	<p>Setting aside areas for the driving or parking of vehicles The proposed regulations specify that the Secretary may set aside an area within the reserve where the parking of vehicles is permitted but vehicles may only travel in a specified direction at a specified speed. An area may also be set aside in which the parking of vehicles is prohibited. Vehicle access may also be restricted subject to the class of vehicle.</p>
<p><b>Vehicle driving and parking offences</b></p>	
<p>No regulations currently apply.</p>	<p>Vehicle driving and parking offences The proposed regulations state that vehicles or vehicles of a particular class must not be driven and parked in areas where vehicles are prohibited, and may only travel in a specified direction at a specified speed.</p>
<p><b>Camping in Forest Parks</b></p>	

No regulations currently apply.	Camping in Forest Parks The proposed regulations specify that a person must not camp in an area set aside by the Secretary where camping is prohibited.
<b>Lighting or maintaining fires</b>	
No regulations currently apply.	Lighting or maintaining fires The proposed regulations specify that fires are restricted in areas set aside by the Secretary for that purpose in accordance with conditions imposed by the Secretary.
<b>Dogs</b>	
No regulations currently apply.	Dogs The proposed regulations specify that a person must not bring a dog into a park unless the dog is restrained by a leash, is under control of the person, and is restrained from causing an unreasonable disturbance, damage or interference to people, objects or other animals. A person must remove from the park any faeces deposited by their dog.
<b>Riding, driving, leading or bathing horses or pack animals into a forest reserve</b>	
No regulations currently apply.	Riding, driving, leading or bathing horses or pack animals into a forest park For the proposed regulations, restrictions are placed upon the time of year and area in which one may ride a horse, but may do so in an area set aside by the Secretary for that purpose during the restricted period. The Secretary may set aside an area of a forest park where the riding, driving, leading or bathing of horses or pack animals is prohibited. A person must not ride a horse in a way that could endanger another person or animal.
<b>Traps, poisons and firearms</b>	
No regulations currently apply.	Traps, poisons and firearms The proposed regulations prohibit the possession of a poison, trap, snare, net or firearm, and a person must not shoot, trap or catch an animal or bird.
<b>Protection of flora and fauna</b>	
No regulations currently apply.	Protection of flora and fauna The proposed regulations prohibit the interference with or destruction of any fauna or

	<p>other animal, or their nest/burrow. Feeding any fauna or other animal that has not been brought lawfully into the park is prohibited, as is the destruction or damage of any fauna and the introduction of plants and seeds into the park. This subregulation does not apply to someone who holds a license permit or authority to do any of these activities.</p>
<b>Transitional</b>	
NA	<p>Transitional provisions The proposed regulation allows for the continuation of permits issued under the regulations listed in Schedule 1</p>



Attachment C – Forest Parks and Reserves covered by the proposed regulations

**Forest Parks and Reserves covered by the Proposed Regulations**

**Otway Forest Park**

The Otway Forest Park comprises 39,265 hectares of mountain and foothill forests on the northern fall of the Otway Ranges, adjacent to the Great Otway National Park. It was proclaimed in October 2006 and includes former Otway State Forest areas, Karwarren Regional Parks and other smaller reserves. The Park was created in order to conserve its natural environment and cultural values as well as allowing access for recreational activities by tourists and visitors. The surrounding landscape includes timber plantations, beaches, cliffs and coastal views of the Great Ocean Road. The Park is managed by Parks Victoria and DSE. The *National Parks (Otways and other Amendments) Act 2005* established the basis for creating the Otway Forest Park and ensured the end of commercial sawlog and residual log harvesting in the area, which ceased in the Otway Forest Park in June 2008.

The Park lies within two of the four river basins in the region – the Barwon Basin and the Otway Coast Basin. Water supply catchments in this region provide water for a number of communities in south-western Victoria.

Popular recreational activities within the Park include camping, picnicking, mountain biking, horse riding, trail bike riding, swimming, four-wheel-driving and bush walking. There are dozens of walking tracks from which the visitor may view the Park's spectacular beaches, rivers, rainforests and waterfalls. Park facilities cater for day visitors and campers, including a number of designated campgrounds, picnic grounds and car parks.

The Park has a diverse array of vegetation that includes old growth forest, cool temperate rainforest and wet forest. Moist foothill forests dominate the Otways, containing Mountain Ash, Messmate and Mountain Grey Gum. Shrubby Dry Forest is also characteristic of the Otway Forest Park<sup>61</sup>.

The diverse habitats within the Otway Forest Park are home to a wide range of native fauna. Common species include the Eastern Grey Kangaroo, Koala and Platypus, the Spot-tailed Quoll, Long-nosed Potaroo, Glenelg Freshwater Mussel and the Smoky Mouse. Twenty eight threatened species have also been recorded in the Park.<sup>62</sup> Flora and fauna management is of crucial importance throughout the Otways to minimise habitat loss and monitor visitor and tourist activities that may impact on wildlife.

The Otways possess a rich Aboriginal cultural heritage. Prior to European settlement, numerous clans flourished throughout the region. Today, local Aboriginal people and communities work with DSE and Parks Victoria to build community awareness, protect aboriginal archaeological sites and preserve living cultural heritage.

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<sup>61</sup> Department of Sustainability and Environment and Parks Victoria 2008, *Caring for Country, The Otways and You, Great Otway National Park and Otway Forest Park Draft Management Plan*, Parks Victoria and the Department of Sustainability and Environment, Melbourne.

<sup>62</sup> *Ibid.*, p. 37

**OTWAY FOREST PARK – Proposed Set Asides**

Regulation to set aside an area		Basis (violation)	Purpose of Set Aside Determination	Whole or Part of Reserve?	Conditions
25(1)	Revegetation	25(2)	An area for the protection, planting or re-establishment of trees or vegetation, including along certain roads and tracks	Whole Park	
44(1)	Driving	45(1)	An area where vehicles must not be driven or where vehicles must not be driven except in a specified direction or at no more than a specified speed	All visitor nodes *	
44(2)	Parking	45(2)	An area in which vehicles must not be parked	All visitor nodes *	
46(1)	Camping	46(2)	An area where camping is prohibited	All visitor nodes *	
47(1)	Lighting or maintaining fires	47(2)	An area where a fire, or a fire of a specified type is restricted in accordance with any condition determined by the Secretary	All visitor nodes *	As per 47(1)
48(1)	Dogs	48(2)	An area where dogs are permitted if the dog is on a leash, chain or cord which is suitable to restrain the dog; and under the control of that person at all times; and restrained from causing unreasonable disturbance to persons or damage to or interference with property, animals or natural objects	All visitor nodes *	Please note that dogs are generally permitted outside the set aside area
50(1)	Traps, poisons and firearms	50(2)	An area where a person must not shoot, trap catch or otherwise destroy or interfere with any animal or bird; or carry or possess any poison, trap, snare, net, bow, gun, rifle or other firearm	1km radius of Visitor nodes*	An area where a person must not shoot or otherwise destroy or interfere with any trees

\* Dando's camping ground, Stevenson Falls camping ground and DVA, Beauchamp Falls camping ground, Birnam Station picnic area, Loves Creek picnic area, Paddy's Swamp trail bike visitor area.

## **Cobboboonee Forest Park**

The Cobboboonee Forest Park covers approximately 8,700 hectares of the former Cobboboonee State Forest and is situated in Victoria's south-west, ten kilometres north-west of Portland. The boundaries of the Park were determined after a comprehensive process of community consultation that began in 2006.

The Park will be managed by DSE to protect and conserve biodiversity, and will be used for firewood collection and recreation activities. A wide range of popular recreation activities will be permitted in the Cobboboonee Forest Park, including horse riding, motor bike riding, bush walking, camping and picnicking. Facilities available in the Park include designated camping and day visitor areas, picnic areas, car parks, and toilets. The Park offers a wide variety of walking tracks, ranging from short day walks to overnight and multi-day hikes. Camping facilities are available for those undertaking overnight and multi-day hikes.

Cobboboonee Forest Park and its surrounding areas are home to many threatened species such as the Red-Tailed Black Cockatoo, the Long-nosed Potoroo, the Masked Owl, the Barking Owl, and the Spot-tailed Quoll. Vulnerable species include the Brolga, Grey Goshawk, Musk Duck and the Swamp Skink.<sup>63</sup>

The Park contains many endangered and vulnerable vegetation species, such as the Dense Leek-orchid and the Blotched Sun-orchid. It is therefore essential that flora and fauna management is undertaken to minimise habitat loss and monitor visitor and tourist activities that may impact on wildlife and vegetation. In addition to protecting natural and catchment values and offering diverse recreation opportunities, the Park will provide for the sustainable harvesting of minor forest produce such as firewood and bee-keeping.<sup>64</sup>

The new Park also provides the opportunity to support employment for the Gunditjmara people who are recognised as the traditional owners of the land after Native Title determination in 2008.

Cobboboonee Forest Park will be permanently reserved under the Crown Land (Reserves) Act 1978 but will be managed by DSE under specified provisions of the Forests Act 1958. This approach emphasises permanent protection of the Cobboboonee Forest Park for public purposes, ensures that the granting of sawlog and pulpwood licences over the area is prohibited but allows for the granting of licences for the harvesting of minor forest produce by the community.<sup>65</sup>

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<sup>63</sup> Department of Sustainability and Environment and Parks Victoria 2008, *Regional Information - Otway - Local Species*

<sup>64</sup> Parliament of Victoria 2008, *National Parks and Crown Land (Reserves) Acts Amendment Bill 2008, Second Reading Speech*

<sup>65</sup> *Ibid.*, p. 40

**COBBOBOONEE FOREST PARK – Proposed Set Asides**

Regulation to set aside an area		Basis (violation)	Purpose of Set Aside Determination	Whole or Part of Reserve?	Conditions
25(1)	Revegetation	25(2)	An area for the protection, planting or re-establishment of trees or vegetation, including along certain roads and tracks	Whole Park	
44(1)	Driving	45(1)	An area where vehicles must not be driven or where vehicles must not be driven except in a specified direction or at no more than a specified speed	Cubby's Camp & Great South West Walk	
44(2)	Parking	45(2)	An area in which vehicles must not be parked	Cubby's Camp	
46(1)	Camping	46(2)	An area where camping is prohibited	Cubby's Camp	
47(1)	Lighting or maintaining fires	47(2)	An area where a fire, or a fire of a specified type is restricted in accordance with any condition determined by the Secretary	Cubby's Camp	As per 47(1)
48(1)	Dogs	48(2)	An area where dogs are permitted if the dog is on a leash, chain or cord which is suitable to restrain the dog; and under the control of that person at all times; and restrained from causing unreasonable disturbance to persons or damage to or interference with property, animals or natural objects	Cubby's Camp & Great South West Walk	Please note that dogs are generally permitted outside the set aside area
49(1)	Horses	49(3)	An area where the riding, driving, leading or bathing of horses or pack animals is prohibited	Cubby's Camp & Great South West Walk	
50(1)	Traps, poisons and firearms	50(2)	An area where a person must not shoot, trap catch or otherwise destroy or interfere with any animal or bird; or carry or possess any poison, trap, snare, net, bow, gun, rifle or other firearm	Cubby's Camp & Great South West Walk	

**Delatite Arm Reserve**

The Delatite Arm Reserve is located 150 kilometres north-east of Melbourne on the northern shores of the Delatite Arm Peninsula, adjacent to Lake Eildon and the Lake Eildon National Park. The Reserve consists of a number of camping areas and a pine plantation, which was planted in 1959 after the Lake Eildon weir was extended and filled in 1956. Camping along

the shores of Lake Eildon gained popularity and, during the early nineteen sixties, the design and development of the Reserve’s camping areas began.

The area was declared as a reserve and the *Forests (Delatite Arm Reserve) Regulations 1974* were introduced to control and regulate the effects recreational activities had on the lake shores and water quality. The Reserve is the second largest bush camping area in Victoria and is managed by DSE.

The most popular recreational activities undertaken in the Reserve aside from camping include water sports such as boating and waterskiing, fishing, trail bike riding, and mountain bike riding. Lake Eildon is a significant water catchment, and due to the popularity of recreational activities in the Reserve the impact of vehicles and campers on the reserve may affect the water quality of Lake Eildon.

The Reserve and the surrounding National Park are home to a considerable diversity of fauna such as Eastern Grey Kangaroos, wallabies, koalas, wombats and echidnas. Common birds include king parrots, gang-gang cockatoos, kookaburras, rosellas, wedge-tailed eagles and several species of water bird.<sup>66</sup>

Exotic and native (but non-indigenous) trees have been planted by the Forest Commission in order to beautify the lake shore. The Reserve has large areas of herb-rich forest, dry grassy woodland and undisturbed old growth forest. These forests are dominated by a diversity of eucalypt species including stringybarks, peppermints, Red Box and Candlebark, and a host of understorey species such as Silver Wattle, Blackwood and burgan. Orchids and wildflowers are also prolific when in season.

**DELATITE ARM FOREST RESERVE – Proposed Set Asides**

Regulation to set aside an area		Basis (violation)	Purpose of Set Aside Determination	Whole or Part of Reserve?	Conditions
25(1)	Revegetation	25(2)	An area for the protection, planting or re-establishment of trees or vegetation, including along certain roads and tracks	Part – some areas maybe fenced off for revegetation from time to time	
31(1)	Driving	32(1)	An area in which vehicles may be driven or may only travel in a specified direction or at no more than a specified speed	Whole	
31(3)	Parking	32(3)	An area in which vehicles may be parked	Whole	
33(1)	Camping	33(3)	An area where camping is permitted	Part – camping will be allowed in designated camping areas	
34(1)	Light or maintain fires	34(3)	An area where a fire, or a fire of a specified type, may be lit or maintained	Fires can only be lit in fixed fireplaces as per regulation 34(4)	

<sup>66</sup> Parks Victoria 1997, *Lake Eildon National Park Management Plan*, Parks Victoria and the Department of Sustainability and Environment.

Regulation to set aside an area		Basis (violation)	Purpose of Set Aside Determination	Whole or Part of Reserve?	Conditions
36(1)	Horses	36(3)	An area where the riding, driving, leading or bathing of horses or pack animals is permitted	Whole	
38(3)	Fishing or Yabbying	38(1)	An area where fishing or yabbying is permitted	Whole	

### Murrindindi Scenic Reserve

The Murrindindi Scenic Reserve is located on the Great Dividing Range at the northern end of the Toolangi State Forest, 34 kilometres from Healesville in north-east Victoria, and comprises approximately 815 hectares of forest. In 1981 the area was declared under Section 50 of the *Forests Act 1958* in recognition of the natural beauty of the area and for protection of the upper reaches of the Murrindindi River and its surrounds.<sup>67</sup>

The Reserve contains one waterfall and one rapid, considered to be an icon of the area commonly known as ‘the cascades’. The Murrindindi River flows north from the Great Dividing Range through the Reserve to join the Yea River but is unsuitable for swimming and canoeing due to its lack of depth.

The Reserve is managed by a Committee of Management, and is used for recreational activities and for the protection of the environment. The Reserve contains a wide variety of native vegetation, which includes Mixed Species Forest such as Messmate and Mountain Grey Gum, wet sclerophyll forest which is dominated by giant Mountain Ash, and rainforest species such as Myrtle Beach and Blackwood. Rare flora such as the only red flowering wattle to be found in the world exists naturally in the Reserve.

The Reserve is home to many species of native fauna, including wombats, echidnas and swamp wallabies. The Reserve is also home to about ninety species of bird, including the rare Powerful and Sooty Owls.

Recreational activities permitted in the reserve include camping, fishing, picnicking and bushwalking. Approximately 100 campsites are spread along the banks of the Murrindindi River and there are a wide range of walking trails in the Reserve and surrounding forests, ranging from short walks to day hikes<sup>68</sup>.

<sup>67</sup> Department of Sustainability and Environment 2006, *Forests Notes – Murrindindi Scenic Reserve*

<sup>68</sup> *ibid.*, p. 43

**MURRINDINDI SCENIC RESERVE – Proposed Set Asides**

Regulation to set aside an area		Basis (violation)	Purpose of Set Aside Determination	Whole or Part of Reserve?	Conditions
25(1)	Revegetation	25(2)	An area for the protection, planting or re-establishment of trees or vegetation, including along certain roads and tracks	Part – some areas maybe fenced off for revegetation from time to time	
31(1)	Driving	32(1)	An area in which vehicles may be driven or may only travel in a specified direction or at no more than a specified speed	Part – some roads will be for management purposes only	
31(3)	Parking	32(3)	An area in which vehicles may be parked	Part – parking in designated parking areas only	
33(1)	Camping	33(3)	An area where camping is permitted	Part – camping will be allowed in designated camping areas	
34(1)	Light or maintain fires	34(3)	An area where a fire, or a fire of a specified type, may be lit or maintained	Fires can only be lit in fixed fireplaces as per regulation 34(4)	
35(4)	Dogs	35(1)	An area where dogs are prohibited	Whole	
38(3)	Fishing or Yabbying	38(1)	An area where fishing or yabbying is permitted	Whole	

**Steavenson Falls Scenic Reserve**

Steavenson Falls Scenic Reserve is located within the Marysville State Forest, approximately four kilometres south east of Marysville and 95 kilometres north east of Melbourne. The Reserve was declared under section 50 of the *Forests Act 1958* in 1959 to protect the falls and their surroundings and covers 190 hectares of the Marysville State Forest.

The Steavenson Falls Reserve Committee of Management manages the reserve in conjunction with the Department of Sustainability and Environment. The primary role of the committee is to provide advice and support to DSE on the direct management of the Reserve.

The major local attraction, Steavenson Falls, is one of the tallest waterfalls in Victoria, dropping 82 metres in three stages into the river valley below. Open to the public since 1866 when a track was first cut from Marysville, the falls are visited by 130,000 – 170,000 tourists each year, and part of the attraction is that since 1972 the track to the falls and the falls themselves are floodlit each night until 11:00pm. The falls are fed by the Steavenson River and the floodlights are powered by a turbine that draws water from the weir at the base of the falls.

The most common recreational activities undertaken within the reserve are sightseeing, picnicking and bushwalking. The most common recreational user groups are car based day visitors, bushwalkers, school groups, and tour groups from the local resorts. Popular walking tracks and lookouts within the Reserve include Keppel Walking track, De la Rue lookout, Oxlee Lookout and Keppel lookout. There are barbecue facilities at the base of the falls.

Recreational activities such as camping, horse riding, rock-climbing, abseiling and fishing are not permitted within the Reserve, in order to prevent potential environmental impacts such as soil compaction, vegetation damage, wildlife disturbance and water pollution.

Dense Eucalyptus forest covers the entire valley in the Steavenson Falls Scenic Reserve. Common types of fauna found in the Reserve are mountain ash, mountain grey gum, messmate and narrow-leafed peppermint, and lyrebirds are often seen in the area in the morning and after rain searching for insects and worms.

#### STEAVENSONS FALLS SCENIC RESERVE – Proposed Set Asides

Regulation to set aside an area		Basis (violation)	Purpose of Set Aside Determination	Whole or Part of Reserve?	Conditions
19(1)	Swimming	19(2)	An area where swimming is prohibited	Whole	
25(1)	Revegetation	25(2)	An area for the protection, planting or re-establishment of trees or vegetation, including along certain roads and tracks	Part – some areas maybe fenced off for revegetation from time to time	
31(1)	Driving	32(1)	An area in which vehicles may be driven or may only travel in a specified direction or at no more than a specified speed	Part – some roads will be for management purposes only	
31(3)	Parking	32(3)	An area in which vehicles may be parked	Part – parking in designated parking areas only	
35(4)	Dogs	35(1)	An area where dogs are prohibited	Whole	

#### Sylvia Falls Scenic Reserve

Sylvia Falls is located on the Great Dividing Range within the Toolangi State Forest, close to the Toolangi township. The Reserve follows the course of the Sylvia Creek and is bounded on the north side by Yea Link road and on the southern side by Coles Creek road. The Reserve was declared in recognition of the natural beauty of the area and for protection of the upper reaches of Sylvia Creek and its surrounds. The Reserve's one waterfall is considered to be a significant feature of the area.

The Reserve is home to about ninety species of birds, including the rare Powerful and Sooty Owls and mammals such as wombats and echidnas. Much of the area is covered in Mountain Ash wet sclerophyll forest but small pockets of cool temperate rainforest can also be seen.

The area was popular in the early twentieth century but after 1939 the walking track became overgrown. Today, only experienced walkers can find their way down to the falls as it is difficult to find the original walking track. The most popular recreational activities in the reserve are bush walking, sightseeing, bird watching, fishing and yabbing. Activities such as camping, horse riding and rock climbing are not permitted in order to prevent soil compaction, vegetation damage, wildlife disturbance, and to protect the water quality of the creek.



**SYLVIA FALLS SCENIC RESERVE – Proposed Set Asides**

Regulation to set aside an area		Basis (violation)	Purpose of Set Aside Determination	Whole or Part of Reserve?	Conditions
19(1)	Swimming	19(2)	An area where swimming is prohibited	Whole	
25(1)	Revegetation	25(2)	An area for the protection, planting or re-establishment of trees or vegetation, including along certain roads and tracks	Part – some areas maybe fenced off for revegetation from time to time	
35(4)	Dogs	35(1)	An area where dogs are prohibited	Whole	
38(3)	Fishing or Yabbying	38(1)	An area where fishing or yabbying is permitted	Whole	

**Tarago Forest Reserve**

The Tarago Forest Reserve is located twenty kilometres north of Warragul in the headwaters of the Tarago River, north of the Princes Highway and west of Neerim South. It covers approximately 8,800 hectares and includes the Tarago Reservoir which has a total capacity of 37,500 mega litres. The Reserve is managed by DSE in cooperation with Melbourne Water and Gippsland Water.<sup>69</sup>

The Reserve was created to protect the Tarago River catchment and quality of water supply and to manage the impacts of recreational use. Effective management and conservation of the reserve will protect the land and water quality values from the impacts of human activity, periodic road closures and appropriate land use within the reserve. The Tarago River catchment contains a portion of freehold land, which increases the potential for contamination to the water supply, resulting in the need for a water treatment plant and effective management of the Reserve.

As an open catchment, recreational activities are allowed within the Reserve but are restricted. Human activity affects the water quality. The water must be treated prior to being supplied to the community. Works on a new treatment plant began in November 2007 and it is scheduled for completion in mid-2009. The site for the plant is located in Drouin West, nine kilometres south-west of the Tarago reservoir<sup>70</sup>. The Tarago Reservoir contains brown trout and river blackfish. The Tarago River contains mostly brown trout, river blackfish, rainbow trout, spotted galaxias, broad-finned galaxias, mountain galaxias, tupong and southern pygmy perch.

The Tarago River flows through steep forest with dense blackberry growth in some areas. The water is mainly shallow (less than 50 centimetres) with small pools to 100 centimetres deep.

<sup>69</sup> Melbourne Water website 2008, *Reconnecting Tarago Reservoir*

<sup>70</sup> *Ibid.*, p. 47

**TARAGO RIVER FOREST RESERVE – Proposed Set Asides**

Regulation to set aside an area		Basis (violation)	Purpose of Set Aside Determination	Whole or Part of Reserve?	Conditions
19(1)	Swimming	19(2)	An area where swimming is prohibited	Part	
25(1)	Revegetation	25(2)	An area for the protection, planting or re-establishment of trees or vegetation, including along certain roads and tracks	Part – some areas maybe fenced off for revegetation from time to time	
31(1)	Driving	32(1)	An area in which vehicles may be driven or may only travel in a specified direction or at no more than a specified speed	Part - the roads listed in table below will be open	
31(3)	Parking	32(3)	An area in which vehicles may be parked	Part - the roads listed in table below will be open	
33(1)	Camping	33(3)	An area where camping is permitted	Gentle Annie camping ground	
34(1)	Light or maintain fires	34(3)	An area where a fire, or a fire of a specified type, may be lit or maintained	Fires can only be lit in fixed fireplaces as per regulation 34(4)	
36(1)	Horses	36(3)	An area where the riding, driving, leading or bathing of horses or pack animals is permitted	Part - the roads listed in table below will be open	
38(3)	Fishing or Yabbying	38(1)	An area where fishing or yabbying is permitted	Whole	

**AREAS SUBJECT TO VEHICLE RESTRICTIONS**

**Column 1**

**Column 2**

**Description of Access Period**

open for the whole of the year

- Road, Track or Trail Name**
- (i) Bunyip Road;
  - (ii) Dugout Road;
  - (iii) Forbidden Road;
  - (iv) Gentle Annie Track;
  - (v) Limberlost Road;
  - (vi) a section of Stolls Road;
  - (vii) Tarago Road;
  - (viii) Western Track;

open during the period from 1 November to

- (i) Bellbird Creek Track;

- 30 April in each year'
- (ii) BT Divide Road;
  - (iii) Darcy Track;
  - (iv) Lower Sisters Track;
  - (v) Massa Track;
  - (vi) North Hells Gate Track;
  - (vii) Phasmid Track;
  - (viii) Phasmid Ridge Track;
  - (ix) Proposch Road;
  - (x) Quartz Creek Track;
  - (xi) Silvertop Track;
  - (xii) South Hells Gate Track;
  - (xiii) Spion Kopje Creek Track;
  - (xiv) a section of Stolls Road;
  - (xv) Three Sisters Track.

**AREAS SUBJECT TO SPECIAL HORSE RIDING RESTRICTIONS**

<b>Column 1</b>	<b>Column 2</b>
<p><b>Description of Access Period</b></p> <p>open for the whole of the year</p>	<p><b>Road, Track or Trail Name</b></p> <ul style="list-style-type: none"> <li>(i) Bunyip Road;</li> <li>(ii) Dugout Road;</li> <li>(iii) Forbidden Road;</li> <li>(iv) Gentle Annie Track;</li> <li>(v) Limberlost Road;</li> <li>(vi) a section of Stolls Road.</li> </ul>
<p>open during the period from 1 November to 30 April in each year'</p>	<ul style="list-style-type: none"> <li>(i) Bellbird Creek Track;</li> <li>(ii) BT Divide Road;</li> <li>(iii) Darcy Track;</li> <li>(iv) Lower Sisters Track;</li> </ul>

- (v) Massa Track;
- (vi) North Hells Gate Track;
- (vii) Phasmid Track;
- (viii) Phasmid Ridge Track;
- (ix) Proposch Road;
- (x) Quartz Creek Track;
- (xi) Silvertop Track;
- (xii) South Hells Gate Track;
- (xiii) Spion Kopje Creek Track;
- (xiv) a section of Stolls Road;
- (xv) Three Sisters Track.

### **Thomson River Forest Reserve**

The Thomson River Forest Reserve is located to the east of the Baw Baw National Park in Gippsland, Victoria, and is approximately 4 kilometres from the Walhalla Historic Township.

The Reserve was created in order to effectively manage and conserve Melbourne's water supply catchments, enable periodic road closures within the area of the reserve, and ensure appropriate land uses within the Reserve. The land in the Thomson Reservoir Catchment falls within the Thomson River Forest Reserve, the Baw Baw National Park and Crown Land Reserves (Water Supply).

The Thomson River flows for 213 km in a south easterly direction, partly through the Reserve. There are nineteen native fish species in the river; four are listed by DSE as threatened species, one of these being the Australian grayling<sup>71</sup>.

The Thomson Reservoir Catchment within the Reserve has a capacity of 1,068,000 mega litres and is the largest of four major water supply catchments for Melbourne and the Yarra Valley, providing 27 per cent of Melbourne's water. It is an important source of water supply for metropolitan Melbourne and is the only major catchment open to public access<sup>72</sup>.

Access within the Thomson River Forest Reserve has been limited since the introduction of regulations in 1995. The Thomson Reservoir catchment, including the Thomson River Forest Reserve, are areas of high demand for recreational use although recreational activities are restricted to camping for hikers only, horse riding in small groups, hunting of Sambar Deer and four wheel drive activities.

### **THOMSON RIVER FOREST RESERVE – Proposed Set Asides**

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<sup>71</sup> Environment Victoria 2003, *Ecological condition of the Thomson River*

<sup>72</sup> Melbourne Water website 2008, *Water Supply Catchments*

Regulation to set aside an area		Basis (violation)	Purpose of Set Aside Determination	Whole or Part of Reserve?	Conditions
19(1)	Swimming	19(2)	An area where swimming is prohibited	Part	
25(1)	Revegetation	25(2)	An area for the protection, planting or re-establishment of trees or vegetation, including along certain roads and tracks	Part – some areas maybe fenced off for revegetation from time to time	
31(1)	Driving	32(1)	An area in which vehicles may be driven or may only travel in a specified direction or at no more than a specified speed	Part - the roads listed in table below will be open	
31(3)	Parking	32(4)	An area in which vehicles may be parked	Part - the roads listed in table below will be open	
33(1)	Camping	33(3)	An area where camping is permitted	Designated camping areas along the Australian Alps Walking Track	<p>a person may only camp in the Thomson River Forest Reserve if he or she is:</p> <ul style="list-style-type: none"> <li>- undertaking a walk on the Australian Alps Walking Track</li> <li>- in a designated area for no more than one night at a particular location and for no more than 3 consecutive nights. A person's campsite must be no less than 20 metres away from a waterway and vehicles are not to be brought into the Thomson River Forest Reserve for camping purposes</li> </ul>
34(1)	Light or maintain fires	34(3)	An area where a fire, or a fire of a specified type, may be lit or maintained	Fires can only be lit in fixed fireplaces as per regulation 24(4)	
36(1)	Horses	36(3)	An area where the riding, driving, leading or bathing of horses or pack animals is permitted	Part - the roads listed in table below will be open	
38(3)	Fishing or Yabbying	38(1)	An area where fishing or yabbying is permitted	Whole	

**AREAS SUBJECT TO VEHICLE RESTRICTIONS**

Column 1	Column 2
Description of Access Period	Road Name
Open for the whole of the year	<ul style="list-style-type: none"> <li>(i) Marshall Spur Road;</li> <li>(ii) Mt St Gwinear Road;</li> <li>(iii) Nine Mile Road;</li> <li>(iv) Thomson Jordan Divide Road;</li> <li>(v) Thomson Valley Road;</li> <li>(vi) Walhalla Road;</li> <li>(vii) Warburton Woods Point Road.</li> </ul>
Open during the period from 1 December to 30 April in each year	<ul style="list-style-type: none"> <li>(i) BB Jordan Divide Track;</li> <li>(ii) Casper Creek Track;</li> <li>(iii) Cream Can Hill Track;</li> <li>(iv) Jericho Track;</li> <li>(v) Mt Gregory Track;</li> <li>(vi) Park Road;</li> <li>(vii) Poole Road;</li> <li>(viii) Red Jacket Track;</li> <li>(ix) a section of Thomson Jordan Divide Track;</li> <li>(x) Upper Thomson Road;</li> <li>(xi) Victor Spur Track;</li> <li>(xii) Violet Town Track;</li> <li>(xiii) Whitelaws Track;</li> <li>(xiv) Basalt Hill Track;</li> <li>(xv) Easton Track;</li> <li>(xvi) Jims Track;</li> <li>(xvii) Johnson Hill Track;</li> </ul>

- (xviii) Matlock Creek Track;
- (xix) Pills Road;
- (xx) Poole Jordan Divide Track;
- (xxi) Red Jacket Spur Track;
- (xxii) Ross Creek Link Track;
- (xxiii) Ross Creek Track;
- (xxiv) Sucklings Road;
- (xxv) Trig Point Track;
- (xxvi) Turners Track.

**AREAS SUBJECT TO SPECIAL HORSE RIDING RESTRICTIONS**

<b>Column 1</b>	<b>Column 2</b>
<b>Description of Access Period</b>	<b>Road, Track or Trail Name</b>
Open for the whole of the year	<ul style="list-style-type: none"> <li>(i) Marshall Spur Road;</li> <li>(ii) Nine Mile Road;</li> <li>(iii) Thomson Jordan Divide Road;</li> <li>(iv) Thomson Valley Road;</li> <li>(v) Walhalla Road;</li> <li>(vi) Warburton Woods Point Road.</li> </ul>
Open during the period from 1 December to 30 April in each year	<ul style="list-style-type: none"> <li>(i) BB Jordan Divide Track;</li> <li>(ii) Casper Creek Track;</li> <li>(iii) Cream Can Hill Track;</li> <li>(iv) Jericho Track;</li> <li>(v) Mt Gregory Track;</li> <li>(vi) Park Road;</li> <li>(vii) Poole Road;</li> <li>(viii) Red Jacket Track;</li> <li>(ix) a section of Thomson Jordan Divide Track;</li> </ul>

- (x) Upper Thomson Road;
- (xi) Victor Spur Track;
- (xii) Violet Town Track;
- (xiii) Whitelaws Track;
- (xiv) Basalt Hill Track;
- (xv) Easton Track;
- (xvi) Jims Track;
- (xvii) Johnson Hill Track;
- (xviii) Matlock Creek Track;
- (xix) Pills Road;
- (xx) Poole Jordan Divide Track;
- (xxi) Red Jacket Spur Track;
- (xxii) Ross Creek Link Track;
- (xxiii) Ross Creek Track;
- (xxiv) Sucklings Road;
- (xxv) Trig Point Track;
- (xxvi) Turners Track.

### **Yarra Tributaries Forest Reserve**

The Yarra Tributaries Forest Reserve is located in the headwaters of the Yarra River, east of Warburton. The total catchment area of the Yarra Tributaries is over 13,800 hectares. The individual catchments within the Yarra Tributaries include Cement Creek, Armstrong Creek West, Armstrong Creek East, McMahons Creek and Starvation Creek, making up 6 per cent of Melbourne's total water supply.<sup>73</sup>

The Yarra Tributaries Forest Reserve is managed by DSE, in cooperation with Melbourne Water and was created to protect the catchment and quality of water supply and to manage the impacts of recreational use. The waterways to be protected include Cement Creek, Armstrong Creek, McMahons Creek, Mick's Creek, Big Flume and Starvation Creek. Effective management of the Tributaries will protect the land values and water quality from the impacts of human activity, and will provide for the conservation of the Reserve, periodic road closures and appropriate land use within the reserve.

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<sup>73</sup> Department of Sustainability and Environment 2008, *Harvesting in Water Catchments: managing resources sustainably*



Access to the Reserve is open to walkers undertaking a walk on the Oat Patch Track or Boundary Road only, and admission for vehicles and horses is restricted throughout the year according to the regulations.

The creeks of the Tributaries flow through wet mountain forest dominated by manna gum, with an understorey of blackwood and silver wattle. The most common species of fish found in the creeks is the River Blackfish, especially abundant in Armstrong Creek. Brown trout and short-finned eel are also found in the creeks.

Access into the Yarra Tributaries is currently limited to several access roads, resulting in little or no human activity within the catchment area.

#### YARRA TRIBUTARIES FOREST RESERVE – Proposed Set Asides

Regulation to set aside an area		Basis (violation)	Purpose of Set Aside Determination	Whole or Part of Reserve?	Conditions
55(1)	Driving	56(1)	An area in which vehicles must not be driven or may only travel in a specified direction or at no more than a specified speed	Part - the roads listed in table below will be open	
55(2)	Parking	56(2)	An area in which vehicles must not be parked	Part - the roads listed in table below will be open	
57(1)	Horses	57(3)	An area where the riding, driving, leading or bathing of horses or pack animals is permitted	Part - the roads listed in table below will be open	

#### AREAS SUBJECT TO VEHICLE RESTRICTIONS

Column 1 Description of Access Period	Column 2 Road, Track or Trail Name
open for the whole of the year	(i) 18M Track; (ii) Acheron Way; (iii) Ada River Road; (iv) Big Creek Road; (v) a section of Boundary Road; (vi) Brahams Road; (vii) Lasho's Link; (viii) McCarthy Spur Road; (ix) Muddy Creek Road; (x) New Turkey Spur Road; (xi) Patrol Road; (xii) Starvation Creek Road; (xiii) Warburton - Woods Point Road.

## You Yangs Regional Park

The You Yangs Regional Park contains the You Yangs, enormous granite peaks that rise up from the Werribee lava plains and are located 55 km south-west of Melbourne and 22 km north of Geelong. The highest peak (known as ‘Flinders Peak’) stands at 352 metres and was named after explorer Matthew Flinders who was the first European to visit and climb the You Yangs in 1802.<sup>74</sup>

The You Yangs Regional Park covers approximately 1960 hectares of the You Yangs Range. The Regional Park was proclaimed in August 1992 under the *Forests Act 1958* and the change to regional park status was made as the park is readily accessible from urban centres and provides recreational opportunities for a large number of visitors. Previously the park was reserved as a Forest Park under the *Forests Act 1958*.

The name ‘You Yangs’ comes from the Aboriginal word ‘Wurdi Younang’ or ‘Ude Youang’ which means ‘big mountain in the middle of a plain’.<sup>75</sup> The original occupants of the land are the Wathaurong people and forty five cultural sites were documented by the Victoria Archaeological Survey in 1986. A more recent survey identified more than 280 sites and noted that the Wathaurong people consider the whole area to be of cultural significance.

The Park has facilities for barbecues and picnics and many recreational activities that include bushwalking, orienteering, canoeing and kayaking, mountain bike riding, rock-climbing and abseiling, and horse riding. There are over fifty kilometres of environmentally sustainable mountain bike trails in the Park, five walking tracks and a horse riding trail.

The Park’s wide range of wildlife habitats are home to many species of fauna such as koalas, kangaroos, wallabies, echidnas and brush-tail possums. The Swamp Wallaby has been recorded as a locally significant mammal and five species of frog and ten species of reptile have also been recorded. The Large Ant-blue butterfly, which is listed as a threatened species under Schedule 2 of the *Flora and Fauna Guarantee Act 1988*, is also present in the park.

One hundred and sixty five species of birds have been recorded in the Park, three of which are locally vulnerable - the Masked Owl, the Hooded Robin and the Black Chinned Honeyeater. These bird species require the most consideration along with Peregrine Falcons, which breed in the rocky outcrops and cliffs, leaving them subject to potential disturbance from rock climbers.

The wide variety of native flora found in the Park includes several species of eucalypt, wattle, thirty species of orchid, and native shrub undergrowth. The Park has been subject to weed infestation, particularly by noxious Boneseed which is present throughout the park. The introduction of non-indigenous plants such as Boneseed has threatened the natural ecosystem and the conservation of native species. The Park contains the endangered Brittle Greenhood Orchid which is only found in two other locations in Victoria. The species has been threatened by a number of local factors including feral goats, rabbits and Eastern Grey Kangaroos yet the main threat to this orchid is competition from Boneseed.<sup>76</sup>

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<sup>74</sup> City of Greater Geelong website, *You Yangs Regional Park*

<sup>75</sup> loc cit

<sup>76</sup> Department of the Environment, Water, Heritage and the Arts 2003, *Boneseed (Chrysanthemoides monilifera ssp. monilifera) weed management guide*

## YOU YANGS REGIONAL PARK

Regulation to set aside an area		Basis (violation)	Purpose of Set Aside Determination	Whole or Part of Reserve?	Conditions
31(1)	Driving	32(1)	An area in which vehicles may be driven or may only travel in a specified direction or at no more than a specified speed	Part, as required to manage vehicles to certain directions of travel and speed	31(2) may specify the times or periods during which a person is or is not permitted to drive, 31(4) may apply to a specified class or classes of vehicles (including bicycles)
31(3)	Parking	32(3)	An area in which vehicles may be parked	Part, as required to manage vehicles to certain locations.	31(4) may apply to a specified class or classes of vehicles (including bicycles)
34(1)	Light or maintain fires	34(3)	An area where a fire, or a fire of a specified type, may be lit or maintained	Part	34(2) may specify the times or periods during which the area may or may not be used for the lighting or maintaining of fires of a specified type
20(1)	Rock climbing and similar activities	20(3)	An area where rock climbing, abseiling, hang gliding, paragliding or any other similar activity is permitted	Part	20(2) may specify the times or periods during which the area may or may not be used for the purposes for which it has been set aside
35(4)	Dogs	35(1)	An area where dogs are prohibited	Part	
36(1)	Horses	36(3)	An area where the riding, driving, leading or bathing of horses or pack animals is permitted	Part	36(2) may specify the times or periods during which the area may or may not be used for the purposes for which it has been set aside and subject to any conditions determined by the managing body
37(4)	Protection of flora and fauna	37(6)	For the protection of flora and fauna and where the entry of persons is prohibited or restricted	Part	This is currently used to restrict entry of persons: - For the protection of <i>Falco Peregrinus</i> (Peregrine Falcon) during their nesting season.
25(1)	Revegetation	25(2)	An area for the protection, planting or re-establishment of trees or vegetation, including along certain roads and tracks	Part (as required)	- for the protection of significant flora species <i>Pterostylis truncata</i> (Brittle Greenhood Orchid) during periods where they are vulnerable to trampling.
38(3)	Fishing or Yabbying	38(1)	An area where fishing or yabbying is permitted	Whole	

Attachment D – Regulatory Framework**REGULATORY FRAMEWORK: LEGISLATION RELEVANT TO VICTORIA'S STATE FORESTS**

Act	Summary of relevance to forest 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 including the <i>Forests Act 1958</i> . Codes of Practice for fire management and timber production are created under this Act.
<i>Land Act 1958</i>	Governs the management and disposal of unreserved Crown lands. Governs the grant of leases over, and licences to use, Crown lands for agricultural and non-agricultural purposes.
<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.
<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>Heritage Rivers Act 1992</i>	Makes provision for Victorian Heritage Rivers, which provides protection for public land in parts of rivers and catchment areas with significant nature conservation, recreation, scenic or cultural heritage attributes.
<i>Environment Protection Act 1970</i>	Establishes offences relating to activities that damage the environment.
<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 State forests.
<i>Litter Act 1987</i>	Disposal of litter in a reserve is prohibited and may result in the imposition of penalties under that Act.

Attachment E – Costs and benefits of the preferred option**COSTS AND BENEFITS OF THE PREFERRED OPTION: ASSUMPTIONS AND ANALYSIS****ISSUE OF PERMITS AND ADMINISTRATION – GOVERNMENT COSTS****Regulation 30 – Cost of keeping financial and other records by committees of relevant Forest Reserves**

Proposed Regulation 30 would result in increased minor costs of ongoing financial/other data management (i.e., minutes from meetings, actions recorded and work complete) for particular forest reserve committees. For costing purposes it is noted that there are three committees affected by proposed Regulation 30 in relation to financial and other records management including: Murrindindi Scenic Reserve, Steavenson Falls Scenic Reserve, and You Yangs Regional Park. Delatite Arm Reserve is not included in the costing as it does not have a management committee.

The cost of keeping financial and other records ‘in-house’ by the relevant forest reserve committees is based on the typical annual salary of accountants, auditors and company secretaries– which for 2008 is given as \$73,320.<sup>77</sup> Other assumptions made include: the number of weeks worked per annum (i.e. 44 weeks); the number of hours worked on average per week (i.e. 38 hours<sup>78</sup>); the on-cost multiplier (i.e. 1.165<sup>79</sup>) covering salary related cost such as superannuation, payroll tax and leave entitlements; and the overhead cost multiplier (i.e. 1.5<sup>80</sup>) covering indirect costs such as IT, accommodation, computers and vehicle expenses. The formula given to calculate the hourly cost of financial/other data management is given as: Hourly cost = [ $\$73,320 / (44 \times 38)$ ]  $\times 1.165 \times 1.5 = \$76.63$ . This figure was grossed-up by 4.5 per cent (reflecting public sector wage growth for 2008-09) to obtain the hourly rate of 2009-10.

The estimated person hours per annum required for ongoing data management for Murrindindi Scenic Reserve, Stevenson Falls Scenic Reserve and You Yangs Regional Park is 208hrs, 208hrs and 104hrs, respectively. The table below shows the costs of financial/other ‘in-house’ data management under proposed Regulation 30 over the next 10 years for all affected Forest Reserves. This is estimated to be **\$358,434** in present value terms.<sup>81</sup>

**Cost of financial/other ‘in-house’ data management for all affected Forest Reserves, 10-year assessment period**

Year	Present Value (discount rate – 3.5%) - Cost of financial/other data management per annum (\$)
2009-10	41,641
2010-11	40,233

<sup>77</sup> ABS, August 2008, *Employee Earnings and Hours, Australia*, Cat. No. 6306.0, Average weekly cash earnings (ordinary time), 221. Accountants, auditors and company secretaries (\$1,410.00 per week)

<sup>78</sup> *ibid.*

<sup>79</sup> Department of Treasury and Finance, 2007, 2<sup>nd</sup> ed, *Victorian Guide to Regulation* incorporating: Guidelines made under the Subordinate Legislation Act 1994 and Guidelines for the measurement of changes in administrative burden, Melbourne: Guide to valuing staff time (Section C.2.1, p. C-5).

<sup>80</sup> *ibid.*

<sup>81</sup> A real discount rate of 3.5% is used for present value calculations.

Year	Present Value (discount rate – 3.5%) - Cost of financial/other data management per annum (\$)
2011-12	38,872
2012-13	37,558
2013-14	36,288
2014-15	35,061
2015-16	33,875
2016-17	32,730
2017-18	31,623
2018-19	30,553
<b>Total 10 year cost (PV)</b>	<b>358,434</b>

In addition to ‘in-house’ costs there is an ‘external’ accounting fee of \$110 per annum per affected forest reserve. Given that there are three committees affected this would generate \$330 worth of accountancy fee costs. The present value of accounting fee costs would be \$2,744. Adding this to the ‘in-house’ cost of \$331,400 would make the total 10 year cost equal to **\$361,178** in 2009-10 present value dollars.

#### **Regulation 60 – Cost of Secretary and committees making and erecting signs and notices of determination at forest reserves and forest parks**

Proposed Regulation 60 would impose a cost on the Secretary (government) and committees of forest reserves in having to make and erect signs. The number of signs and notices erected and displayed per annum at forest reserves and forest parks is illustrated in the table below.

#### **Estimate of the number of signs and notices erected/displayed and annual cost incurred by the Secretary and committee of forest reserves**

Forest Reserves and Forest Parks	Number of signs erected and notices displayed per annum	Cost of constructing and erecting each sign and creating and displaying each notice (\$)	Annual cost of constructing and erecting signs and creating and displaying notices (\$)
Delatite Arm Reserve	10	1,000	10,000
Murrindindi Scenic Reserve	25	800	20,000
Steavenson Falls Scenic Reserve	6	1,200	7,200
Sylvia Falls Scenic Reserve	10	800	8,000
Otway Forest Park	20	600	12,000
Cobboboonee Forest Park	20	600	12,000
Tarago River Forest Reserve	5	1,000	5,000
Yarra Tributaries Forest Reserve	5	1,000	5,000
Thomson River Forest Reserve	5	1,000	5,000
You Yangs Regional Park	5	1,000	5,000
<b>Total</b>	<b>111</b>	<b>9,000</b>	<b>89,200</b>

The total 10 year costs of proposed Regulation 60 in conjunction with proposed regulations 50(3), 58(2) and 58(3) in present value dollars would be equal to **\$802,357** as shown below.

**Proposed Regulation 60 – Cost of signs and notices incurred by the Secretary and committee of Forest Reserves, 10 assessment period**

Year	Present Value (discount rate – 3.5%) - Erecting and displaying signs and notices (\$)
2009-10	93,214
2010-11	90,062
2011-12	87,016
2012-13	84,074
2013-14	81,231
2014-15	78,484
2015-16	75,830
2016-17	73,265
2017-18	70,788
2018-19	68,394
<b>Total 10 year cost (PV)</b>	<b>802,357</b>

**Proposed Regulations 12 and 63 – Cost of Secretary and committees issuing replacement permits**

Proposed regulations 12 and 63 would impose additional costs in relation to replacing permits. The cost of issuing a permit would include the cost of a clerk's time and the time taken to issue a permit.

The cost of issuing a replacement permit assumes that the typical annual clerical salary (non-managerial adult male), which for 2008 is given as \$50,918.<sup>82</sup> Other assumptions made include: the number of weeks worked per annum (i.e., 44 weeks); the number of hours worked on average per week (i.e. 38 hours<sup>83</sup>); the on-cost multiplier (i.e., 1.165<sup>84</sup>) covering salary related costs such as superannuation, payroll tax and leave entitlements; and the overhead cost multiplier (i.e., 1.5<sup>85</sup>) covering indirect costs such as IT, accommodation, computers and vehicle expenses. The formula given to calculate the hourly cost of financial/other data management in 2005–06 is given as: Hourly cost = [ $\$50,918 / (44 \times 38)$ ]  $\times 1.165 \times 1.5 = \$53.22$ . This provided an hourly rate of \$53.22. This figure was grossed-up by 4.5 per cent (reflecting public sector wage growth for 2008-09) to obtain the hourly rate of 2009-10.

The estimated time taken by clerical workers to issue a replacement permit is the minimum time (15 minutes).

The estimated annual number of replacement permits issued at State Forests, Section 50 Reserves or Forest Parks is given as: 6 for State Forests; 2 for You Yangs Regional Park; 2

<sup>82</sup> ABS, August 2008, *Employee Earnings and Hours, Australia*, Cat. No. 6306.0, Average weekly cash earnings (ordinary time), 5. Clerical and administrative workers (\$979.20 per week)

<sup>83</sup> DTF, *ibid.*, section C.2.1, p. C-5.

<sup>84</sup> *ibid.*

<sup>85</sup> *ibid.*

for Otway Forest Park; and 2 for Cobboboonee Forest Park. The total number of replacement permits per annum is therefore estimated to be 12. The table below shows the cost of replacement permits under proposed Regulation 18 over the next 10 years which would equal **\$1,439** in 2009-10 dollars.<sup>86</sup>

**Proposed Regulations 12 and 63 – Cost of replacement permits, 10 year assessment period**

Year	Present Value (discount rate – 3.5%) - Cost of replacement permits per annum (\$)
2009-10	167
2010-11	162
2011-12	156
2012-13	151
2013-14	146
2014-15	141
2015-16	136
2016-17	131
2017-18	127
2018-19	123
<b>Total 10 year cost (PV)</b>	<b>1,439</b>

**Proposed Regulation 20 – Cost of issuing permits for rock climbing and similar activities at forest reserves and forest parks**

The quantifiable cost of proposed Regulation 20(4) relates to the cost incurred by the Secretary or committee at the relevant Forest Reserve and forest parks in having to issue a permit for rock climbing or similar activities. The estimated time taken by clerical workers to issue a permit for rock climbing or similar activities is taken as that which reflects the minimum time (i.e., 20 minutes). The number of annual permits for rock climbing issued by relevant forest reserves is estimated to be 80 (i.e., namely those issued to licensed tour operators at You Yangs Regional Park).

The table below shows the cost of issuing permits for rock climbing and similar activities under proposed Regulation 20(4) over the next 10 years for relevant forest reserves – which would equal **\$12,765** in present value 2009-10 dollars<sup>87</sup>.

**Cost of issuing permits for rock climbing and similar activities at forest reserves, 10 year assessment period**

Year	Present Value (discount rate – 3.5%) - Cost of issuing permits for events and functions per annum (\$)
2009-10	1,483
2010-11	1,433
2011-12	1,384
2012-13	1,338
2013-14	1,292
2014-15	1,249

<sup>86</sup> A real discount rate of 3.5% is used for present value calculations.

<sup>87</sup> A real discount rate of 3.5% is used for present value calculations.



Year	Present Value (discount rate – 3.5%) - Cost of issuing permits for events and functions per annum (\$)
2015-16	1,206
2016-17	1,166
2017-18	1,126
2018-19	1,088
<b>Total 10 year cost (PV)</b>	<b>12,765</b>

### Regulation 22 – Cost of issuing permits for events and functions at forest reserves and forest parks

The quantifiable cost of proposed Regulation 22(3) relates to the cost incurred by the relevant forest reserves committee in having to issue a permit for events and functions. The estimated time to issue a permit for an event or function is taken as that which reflects the minimum time (i.e., 4 hours). Clerical time to issue a permit is assumed to be 30 minutes and costed at the clerical rate (i.e., \$53.22 per hour) with the remaining 3 hours and 30 minutes involving site checks/attendance costed at the ranger/field staff rate (i.e. VPS3 casual hourly rate at January 2010 is  $\$32.67 \times 1.75 = \$57.17$ ). The number of permits for events and functions to be issued by each of the forest reserves is given as: 1 for Delatite Arm Reserve; 1 for Murrindindi Scenic Reserve; 4 for Steavenson Falls Scenic Reserve; 0 for Sylvia Falls Scenic Reserve; 50 for You Yangs Regional Park; 6 for Otway Forest Park; 1 for Cobboboonee Forest Park; 4 for Tarago Rivers Forest Reserve; 1 for Thomson River Forest Reserve; and 3 for Yarra Tributaries Forest Reserve. The total number of permits for events and functions per annum is therefore estimated to be 71.

The table below shows the cost of issuing permits for events and functions under proposed Regulation 22(3) over the next 10 years for relevant forest reserves – which would equal **\$139,893** in present value 2009-10 dollars.<sup>88</sup>

### Regulation 22 – Cost of issuing permits for events and functions for forest reserves and forest parks, 10 year assessment period

Year	Present Value (discount rate – 3.5%) - Cost of issuing permits for events and functions per annum (\$)
2009-10	16,252
2010-11	15,703
2011-12	15,172
2012-13	14,658
2013-14	14,163
2014-15	13,684
2015-16	13,221
2016-17	12,774
2017-18	12,342
2018-19	11,925
<b>Total 10 year cost (PV)</b>	<b>139,893</b>

<sup>88</sup> A real discount rate of 3.5% is used for present value calculations.

### Proposed Regulation 37 – Cost of issuing a permit for flora and fauna related activities at forest reserves

The quantifiable cost of proposed Regulation 37(10) relates to the cost incurred by a forest reserve (excluding forest park) secretary or committee in having to issue a permit for flora and fauna related activities. The estimated time taken by clerical workers to issue a permit for a flora or fauna related activity is taken as that which reflects the minimum time (i.e., 4 hours). Again, clerical time to issue a permit is assumed to be 30 minutes and costed at the clerical rate with the remaining 3 hours and 30 minutes involving site checks/attendance costed at the Ranger/field staff rate.

The annual number of permits for flora and fauna related activities to be issued by each of the relevant forest reserves is given as: 1 for Delatite Arm Reserve; 0 for Murrindindi Scenic Reserve; 0 for Steavenson Falls Scenic Reserve; 0 for Sylvia Falls Scenic Reserve; 2 for You Yangs Regional Park; 1 for Tarago Rivers Forest Reserve; 0 for Thomson River Forest Reserve; and 0 for Yarra Tributaries Forest Reserve. The total number of permits for flora and fauna related activities per annum is therefore estimated to be 4.

The table below shows the cost of permits under proposed Regulation 37(10) over the next 10 years – which would equal **\$8,236** in present value 2009-10 dollars.<sup>89</sup>

### Proposed Regulation 37 – Cost of permits for flora and fauna related activities for relevant forest reserves, 10 year assessment period

Year	Present Value (discount rate – 3.5%) - Cost of issuing permits for flora and fauna related activities per annum (\$)
2009-10	957
2010-11	924
2011-12	893
2012-13	863
2013-14	834
2014-15	806
2015-16	778
2016-17	752
2017-18	727
2018-19	702
<b>Total 10 year cost (PV)</b>	<b>8,236</b>

<sup>89</sup> A real discount rate of 3.5% is used for present value calculations.

## APPLICATION FOR PERMITS - FOREST USER COSTS

### Administrative Costs imposed on forest users in relation to obtaining a permit

As a proxy for the value of an applicant's time, an hourly rate was derived from average weekly earnings in Victoria.<sup>90</sup> The formula given to calculate the hourly cost of is given as: Hourly cost = [average weekly earning (Victoria)/ 38 hours], which provides  $\$1,208.50/38 = \$31.80$ . This figure was grossed-up by 4.5 per cent to obtain an hourly figure for 2009-10. For camping permits an average hourly wage rate is used for time cost as such permits are obtained typically on a non-commercial basis.

The total number of permits for camping; rock climbing and similar activities; events and functions; commercial activities; and flora and fauna related activities – is given as 3,440, 80, 71, 109 and 4, respectively – (excluding replacement permits<sup>91</sup>). The total number of non-camping permits is given as  $80+71+109+4 = 264$ . It is assumed that a camping permit take 5 minutes to complete, while others take 15 minutes. Over 10 years, the present value of the total estimated transaction cost to those obtaining permits, would be **\$95,171**.<sup>92</sup>

### 10 year (time) cost for obtaining permits by visitors (excluding replacement permits)

Year	Present Value (discount rate – 3.5%) - Administrative costs of obtaining permits (\$)
2009-10	11,057
2010-11	10,683
2011-12	10,321
2012-13	9,972
2013-14	9,635
2014-15	9,309
2015-16	8,994
2016-17	8,690
2017-18	8,396
2018-19	8,113
<b>Total 10-Year cost (PV)</b>	<b>95,171</b>

<sup>90</sup> ABS Cat 6302.0 - Average Weekly Earnings, Australia, May 2009, Table 11B, full time, adult total earnings, Victoria - \$1,208.50. Series recommended by Victorian Guide to Regulation, p. C-3

<sup>91</sup> The need for replacing permits is due to the individual's or organisation's own actions (i.e. misplacing, losing or damaging an original authority) and not a cost of the regulations.

<sup>92</sup> A discount rate of 3.5% is used for present value calculations.

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.

**Qualitative Assessment of the Substantive Compliance of the proposed regulations**

<b>Proposed regulation</b>	<b>Proposed regulation description</b>	<b>Nature of cost</b>
<b>Regulation 8</b>	A person can only camp or use a recreation ground in an area of State forest subject to certain restrictions including the number of consecutive nights permitted and portable toilets	Minor cost to some campers in not being able to camp more than 28 consecutive nights or restricted use of portable toilets. Minor cost to some campers in having to obtain a permit for portable toilets or to camp more than 28 consecutive nights. Minor cost to taxpayers in issuing permits without fees.
<b>Regulation 9</b>	A person must not camp in an area of State forest described in Column 1 of Schedule 3 during the period of restriction that is specified in Column 2 of Schedule 2 – unless a permit is provided by the Secretary and conditions in the permit adhered to	Minor cost to some visitors of inconvenience caused by camping area restrictions in State forests or from having to obtain a permit. There is an additional minor cost for taxpayers of issuing permits without fees and the inconvenience of campers in obtaining permits. Given that the extent of inconvenience and number of permits to be granted is unpredictable, this cost remains unquantifiable.
<b>Regulations 10 and 60</b>	Holder of a permit must comply with the permit and the terms and conditions set out in the permit issued.	Very minor cost of some visitors having to comply with the conditions of permits issued for parks and reserves. Given that the extent and amount of resource expenditure by visitors to comply with conditions of permits remains unknown, this cost remains unquantifiable.
<b>Regulation 11 and 61</b>	Secretary or committee may cancel permits.	Cost to visitors where permits issued for parks and reserves are cancelled through no fault of holder but rather due to potential detriment or interference with the management and protection of, the natural environment, features, or visitors in a park or reserve. This cost remains unquantifiable as the incidence of ‘no-fault’ permit

Proposed regulation	Proposed regulation description	Nature of cost
		cancellation for management reasons in the future remains unpredictable. Cancellation for disciplinary reasons is not a cost of the regulations because the holder has the choice of whether or not to comply with the law.
<b>Regulation 14</b>	The Secretary, a committee or an authorised officer may determine to close the whole of, or part of, a forest reserve or forest park to the public temporarily in the interest of public safety or emergency or where there is a flood, fire or other natural disaster.	Minor costs to visitors who travel to a park or reserve unaware that it has been closed (despite public notice given). Where only part of a forest reserve is closed, visitors can enjoy other parts of the forest reserve and costs would be mitigated. However in the case where the whole forest reserve is closed (and visitors are unaware) then such costs would be greater. As the extent and frequency of closures is unpredictable, this cost remains unquantifiable.
<b>Regulations 14 and 53</b>	Secretary or committee may amend a determination as to parts of a park or a reserve to which entry is restricted or prohibited in relation to forest reserves	Minor cost to visitors with the imposition of restrictions imposed by amendments to determinations made to relevant parks and reserves. Given that future amendments to determinations remain unknown, this cost remains unquantifiable.
<b>Regulation 19</b>	Secretary or committee may determine parts of a park or a reserve where swimming is prohibited	Minor cost to some visitors of inconvenience caused by swimming prohibitions. This cost would be mitigated by permits made available by the Secretary or committee to traditional owners to swim in a forest reserve (excluding Steavenson Falls Scenic Reserve and the Thomson River Forest Reserve). There is an additional minor cost for taxpayers of issuing permits and the inconvenience of traditional landowners obtaining permits. Given that the extent of swimming prohibitions and the number permits granted is unpredictable, this cost remains unquantifiable.
<b>Regulation 20</b>	Secretary or committee may determine parts of a park or a reserve where rock climbing, abseiling, hang gliding, paragliding or other similar activities	Minor cost to some visitors from being unable to conduct rock climbing and similar activities in a preferred area. Given the extent of restrictions is unknown, this cost remains unquantifiable.

Proposed regulation	Proposed regulation description	Nature of cost
	is permitted	
<b>Regulation 21</b>	Restriction on bringing ‘other’ animals (i.e. apart from a dog, horse or a pack animal) to forest reserves – apart from transporting such ‘other’ animal through the park or reserve in a vehicle, or where permitted by a lease, licence or other agreement issued under the Act or a corresponding previous enactment.	Minor cost to some visitors of inconvenience caused by restrictions regarding ‘other’ animals. Given that the incidence of ‘other’ animals being brought into parks and reserves (apart from transport or the case of lease/ licence/agreements) is unknown, this cost remains unquantifiable.
<b>Regulation 22</b>	Events and functions not to be conducted within a park or reserve for 30 or more persons at forest reserves – unless a written permit is provided by the Secretary or committee	Minor cost to some visitors of not being able to conduct not-for-profit activities. This cost would be mitigated to the extent that permits are issued by the Secretary or committee. Given that the incidence of events and functions for 30 persons or more being otherwise held is unknown, this cost remains unquantifiable.
<b>Regulation 23</b>	Commercial activities for profit (as listed under sub-regulations (1)(2)(3)(4) and (5)) not to be conducted within a forest reserve – unless a written permit is provided by the Secretary or committee.	Minor cost to some visitors of not being able to conduct commercial activities for profit. This cost would be mitigated to the extent that permits are issued by the Secretary or committee. Given that the incidence of commercial activities for profit otherwise being held (and the nature of such an activity) in the future is unknown, this cost remains unquantifiable.
<b>Regulation 24</b>	Construction and excavation activities not to be conducted within a forest reserve	Minor cost to some visitors of not being able to engage in construction and excavation activities excluding those excavating, digging or removing any soil, rocks or stones acting in accordance with a permit under Part 5 of the <i>Mineral Resources (Sustainable Development) Act 1990</i> or sub regulation 15(1)(b). Given that the incidence of when such activities would otherwise occur is unknown, this cost remains unquantifiable.

Proposed regulation	Proposed regulation description	Nature of cost
<b>Regulation 30</b>	If requested by the Secretary a committee of a Forest Reserve must provide any further details of minutes of meetings and decisions made to care for, protect and manage a forest reserve.	Minor cost of committees having to supply further information (excluding committees at a forest park, the Thomson River Forest Reserve, the Tarago River Forest Reserve and the Yarra Tributaries Forest Reserve. Since the level of ‘further information’ is not predictable then this remains unquantifiable.
<b>Regulations 31 and 44</b>	Secretary or committee may determine parts of a park or a reserve in which a vehicle may be driven and parked.	Very minor cost to some visitors of inconvenience caused by driving and parking restrictions. Given that the frequency and extent of restrictions is unknown, this cost remains unquantifiable.
<b>Regulations 33 and 46</b>	Secretary or committee may determine parts of a park or a reserve in which a camp may be established or occupied at forest reserves (excluding a forest park, the Thomson River Forest Reserve, the Tarago Forest Reserve and the Yarra Tributaries Forest Reserve)	Minor cost to some visitors of inconvenience caused by camping area restrictions or from having to obtain a permit. Given the frequency and extent of restrictions, this cost remains unquantifiable.
<b>Regulations 34 and 47</b>	Secretary or committee may determine parts of a park or a reserve where a fire, or a fire of a specified type, may be lit or maintained and at what times at a Forest Reserve (excluding a forest park). Regulation 34(4) specifies exactly how a fire should be lit or maintained	Minor cost to some visitors (mainly campers) of inconvenience caused by fire lighting/maintaining restrictions except at Otway and Cobboboonee parks. This cost would be mitigated by permits made available by the Secretary or committee to traditional owners to light or maintain fires. There is an additional minor cost for taxpayers of issuing permits and the inconvenience of traditional landowners obtaining permits. Given that the extent of restrictions and number of permits granted is unpredictable, this cost remains unquantifiable.
<b>Regulation 25</b>	Secretary or committee may determine parts of a forest reserve to be set aside for protection, planting, re-establishment of trees or vegetation.	Very minor cost to some visitors of inconvenience caused by restrictions on entry to areas set aside. This cost would be mitigated for traditional landowners where a Secretary or committee has provided a permit. There is an additional minor cost for taxpayers of issuing permits and the inconvenience of traditional landowners

Proposed regulation	Proposed regulation description	Nature of cost
		obtaining permits. Given that the extent of restrictions and number of permits granted is unpredictable, this cost remains unquantifiable.
<b>Regulations 35 and 48</b>	Secretary or committee may determine parts of a park or a reserve where dogs are prohibited (excluding a forest park)	Minor cost to some visitors of inconvenience caused by dog restrictions except at Otway and Cobboboonee parks. Given that the extent of dog restrictions is unknown, this cost remains unquantifiable.
<b>Regulations 36, 49 and 57</b>	Secretary or committee may determine parts of a park or a reserve where the riding, driving, leading or bathing of horses or pack animals is permitted (excluding a forest park, the Thomson River Forest Reserve and the Tarago River Forest Reserve).	Minor cost to some visitors of inconvenience caused by restrictions regarding horses or pack animals. Given that the extent of horse pack animal restrictions is unknown, this cost remains unquantifiable.
<b>Regulations 37 and 51</b>	Restrictions on interaction with flora and fauna within a forest reserve (excluding a forest park)	Minor cost to some visitors being restricted in their interaction with flora and fauna except at Otway and Cobboboonee parks and except where a written permit is provided by the Secretary or committee for particular interactions under regulation 37(1)(2) and (3) or where a person is acting under and in accordance with any permit or licence required by the <i>Fisheries Act 1995</i> , the <i>Firearms Act 1996</i> , the <i>Wildlife Act 1975</i> and the <i>Flora and Fauna Guarantee Act 1988</i> and any regulations made under those Acts. Given that the incidence of when such interactions would otherwise occur is unknown, this cost remains unquantifiable.
<b>Regulation 38</b>	Secretary or committee may determine parts of forest reserves to be set aside for fishing and yabbying (excluding a forest park)	Minor cost to some visitors of inconvenience caused by restrictions on fishing and yabbying except for Otway and Cobboboonee parks. This cost would be mitigated for traditional landowners where a Secretary or committee provides a permit. There is an additional minor cost for taxpayers of issuing permits and the inconvenience of



Proposed regulation	Proposed regulation description	Nature of cost
		traditional landowners obtaining permits. Given that the extent of restrictions and number of permits granted is unpredictable, this cost remains unquantifiable.
<b>Regulations 39 and 50</b>	Person must not shoot, trap, catch or otherwise destroy or interfere with any animal or bird; or carry or possess any poison, trap, snare, net, bow, gun, rifle or other firearm within a forest reserve (excluding a forest park, the Thomson River Forest Reserve and the Tarago Forest Reserve)	Minor cost to some visitors in not being able to hunt or carry hunting equipment. This cost would be mitigated for traditional landowners where a Secretary or committee provides a permit. There is an additional minor cost for taxpayers of issuing permits and the inconvenience of traditional landowners obtaining permits. Given that the extent of restrictions and number of permits granted is unpredictable, this cost remains unquantifiable.
<b>Regulation 46</b>	Secretary may determine areas of a park to be set aside where camping is prohibited at forest parks	Minor cost to some visitors of inconvenience caused by camping area restrictions. This cost would be mitigated for traditional landowners where a Secretary or committee provides a permit. There is an additional minor cost for taxpayers of issuing permits and the inconvenience of traditional landowners obtaining permits. Given that the extent of restrictions and number of permits granted is unpredictable, this cost remains unquantifiable.
<b>Regulation 47</b>	Secretary may determine areas of a park to be set aside where fire or a fire of a specified type is restricted at forest parks– with restrictions determined by the Secretary.	Minor cost to some visitors (mainly campers) of inconvenience caused by fire lighting/maintaining restrictions. This cost would be mitigated for traditional landowners where a Secretary or committee provides a permit. There is an additional minor cost for taxpayers of issuing permits and the inconvenience of traditional landowners obtaining permits. Given that the extent of restrictions and number of permits granted is unpredictable, this cost remains unquantifiable.
<b>Regulation 48</b>	Secretary may determine areas of a park to be set aside where dogs are permitted at forest parks	Minor cost to some visitors of inconvenience caused by dog restrictions. Given that the frequency and extent of restrictions is unpredictable, this cost remains unquantifiable.

Proposed regulation	Proposed regulation description	Nature of cost
<b>Regulation 49</b>	Secretary may determine areas of a forest park to be set aside where riding, driving, leading or bathing of horses or pack animals is prohibited.	Minor cost to some visitors of inconvenience caused by prohibitions on horses and pack animals. Sub-regulations 549(3) and (5) do not apply where such activities are undertaken in accordance with a lease, licence or other agreement issued under the Act or a corresponding previous enactment over land in a forest park. Given that the frequency and extent of future prohibitions and the number of leases or licences etc are both unpredictable, this cost remains unquantifiable.
<b>Regulation 50</b>	Secretary may determine areas of a forest park to be set aside where a person must not shoot, trap, catch or otherwise destroy or interfere with any animal or bird; or carry or possess any poison, trap, snare, net, bow, gun, rifle or other firearm.	Minor cost to some visitors in not being able to hunt or carry hunting equipment. This cost would be mitigated for traditional landowners where a Secretary or committee provides a permit. There is an additional minor cost for taxpayers of issuing permits and the inconvenience of traditional landowners obtaining permits. Given that the extent of restrictions and number of permits granted is unpredictable, this cost remains unquantifiable.
<b>Regulation 51</b>	Restrictions on interaction with flora and fauna within a forest park – unless a written permit is provided by the Secretary or committee for particular interactions under regulation 51(1) (2) (4) (7) and (8)	Minor cost to some visitors being restricted in their interaction with flora and fauna. This cost is mitigated where a permit is provided by the Secretary or committee and the person is acting under and in accordance with any permit or licence required by the <i>Fisheries Act 1995</i> , the <i>Firearms Act 1996</i> , the <i>Wildlife Act 1975</i> , the <i>Flora and Fauna Guarantee Act 1988</i> and any regulations made under those Acts. Given that the incidence of when such interactions would otherwise occur is unknown, this cost remains unquantifiable.

Attachment G – Costs and benefits of feasible alternatives

**COSTS AND BENEFITS OF FEASIBLE ALTERNATIVES**

**Costs and benefits of Option B – Development of forest management plans and visitor education**

Option B relates to the development of forest management plans and visitor education in order to achieve the objectives stated in section 2.3.

*Forest Management Plans (development of visitor behaviour guidelines)*

In the absence of regulations, the promotion of forest management plans would encapsulate all matters relating to the maintenance and development of State forests, forest parks, and parks and reserves. Such matters would include guidelines for timber harvesting, conservation of flora and fauna, and visitor behaviour. These guidelines could be developed in conjunction with consultation with stakeholders including various user groups/associations. However, with respect to the objectives, and for the purpose of estimation, only the cost of visitor behaviour guidelines is considered to be relevant. It is assumed for costing purposes that the development of visitor behaviour (recreation management) guidelines per forest management plan would be approximately \$100,000 in 2008–09 dollars (one off 10 year cost). Given that there are 11 sites/committees<sup>93</sup> affected, the estimated cost over 10 years is **\$1,100,000**.

*Visitor education*

In conjunction with visitor behaviour guidelines, Option B would also involve the cost of visitor education. Such education would require the establishment of a visitor centre at each of the forest parks and reserves totalling 9, (i.e., not including You Yangs Regional Park, which already has a visitor centre). The capital cost of establishing a visitor centre is estimated to be \$750,000. State forests would utilise existing visitor centres in relation to Option B, however it is assumed that an additional 5 centres would be required, as the existing number would be insufficient. The recurrent annual cost of such centres is broken down into the various components as illustrated in the table below.

One important consideration is that of the Capital Asset Charge (CAC). The CAC is designed to encourage the parks and reserves to optimise the use of their asset base and is treated as an operating expense representing the cost of servicing the funds that the parks and reserves would have utilised to build their asset base which forms the basis of their visitor education operations.<sup>94</sup> Therefore, as with the depreciation expense, the CAC enables departments to recognize explicitly the full costs of their assets base. The inclusion of costs “relating to departmental assets in the total costs of providing outputs motivates departments to minimize these costs through more productive use of their assets, or disposal of underutilized assets.”<sup>95</sup> The CAC is applied at a rate of 8 per cent per annum on the written down value of physical assets. For the purpose of this RIS the CAC has been calculated as 8 per cent of \$750,000 per site (i.e., \$66,000 per annum).

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<sup>93</sup> Includes the 10 individual committees in relation to reserves and forest parks + DSE in relation to State forests, affected by Option B, who would prepare a forest management plan

<sup>94</sup> Victorian Department of Treasury & Finance (2001)

<sup>95</sup> <http://www.dtf.vic.gov.au/DTF/Bfmrwp.nsf/Web+Pages/9C823966D9060AAFCA256A9600166EF3>

Furthermore, in year 1 and 5 of the regulations there would also be an additional one-off cost of video production. Video would be provided to visitors as an additional source of information at each of the visitor centres and would be produced once every 5 years. The 10 year cost of a visitor centre in 2008–09 dollars would be \$3,271,267 per site. Given that there are 14 sites that would need to be addressed by Option B, the cost would be \$3,271,267 x 14 centres or **\$45,797,742**.

**Annual recurrent cost of a visitor centre designated for visitor education – 2008-09 to 2018-19 and total 10 year cost (NPV)**

Year	Gas, electricity water, sewerage (\$)	Capital asset charge (\$)	Maintenance (\$)	Depreciation <sup>96</sup> (\$)	Salary costs <sup>97</sup> (\$)	Leaflet printing <sup>98</sup> (\$)	Total annual recurrent cost (\$)
2008-09	100,000	60,000	25,000	25,000	166,677	12,900	399,577
2009-10	93,351	56,011	23,338	23,338	155,595	12,042	363,674
2010-11	90,194	54,117	22,549	22,549	150,333	11,635	351,376
2011-12	87,144	52,287	21,786	21,786	145,249	11,242	339,494
2012-13	84,197	50,518	21,049	21,049	140,338	10,861	328,013
2013-14	81,350	48,810	20,338	20,338	135,592	10,494	325,056
2014-15	78,599	47,159	19,650	19,650	131,007	10,139	306,204
2015-16	75,941	45,565	18,985	18,985	126,576	9,796	295,849
2016-17	73,373	44,024	18,343	18,343	122,296	9,465	285,845
2017-18	70,892	42,535	17,723	17,723	118,160	9,145	276,178
<b><i>PV of 10-Year cost</i></b>							<b>3,271,267</b>

Note: Total annual recurrent cost includes \$10,000 in 2008-09 and \$8,135 (PV) in 2013-14 for video production costs.

The total annual cost of Option B, combining the cost of visitor behaviour guidelines and visitor education over 10 years, would be equal to \$1,100,000 + \$45,797,742 = **\$46,897,742** in 2008-09 dollars.

<sup>96</sup> Calculated using straight line depreciation for a \$750,000 asset with an asset life of 30 years

<sup>97</sup> This is the cost of ranger staff VPS3 (average salary \$54,765 + on-costs and overheads) required to man a visitor centre 7 days a week (i.e. 2,912hrs a year). Given that the hourly cost is = [\$54,765/(44 x 38)] x 1.165 x 1.5 = \$56.13 – then the annual cost in 2008-09 is equal to \$56.13/hr x 2,912hrs per year or \$166,676.88 per year.

<sup>98</sup> \$1,500 per 5,000 leaflets. Assumes an average of 43,000 leaflets on average per visitor centre = total number of visitors at the 10 parks and reserves divided by 10 (i.e. 432,500 visitors all parks and reserves/10 parks and reserves).

### Costs and benefits of Option C – Codes of Conduct

Under Option C the Government would ‘encourage’ the various forest user associations to develop visitor codes of conduct to achieve the aforementioned objective. It is assumed for the purposes of this RIS that during any five year period 32 associations<sup>99</sup> would pursue the creation or update of codes of conduct for their members. Assuming that there are 1,000 members per association and that the opportunity cost (i.e., time cost)<sup>100</sup> of establishing codes of conduct is estimated to be 92 hours per code (i.e., including 20 hours for consultation) the following cost is estimated per code of conduct for every 5 years:

- cost of administration and preparation of a code of conduct at 72hrs x \$63.74 per hour;
- cost of consultation at 20hrs x \$63.74;
- cost of designing and printing 5,000 brochures approximately \$1,500; plus
- cost of mailing documentation to members via post at 1000 members/association x \$0.50

This provides a total cost of \$7,863.73 per code. Therefore the cost of preparing codes of conduct for 32 associations would be **\$251,639.32** in 2008-09. It is assumed that these codes would need to be reprinted and updated after five years (i.e., around 2013-14). These costs in present value terms are **\$204,709**. The total cost would therefore be approximately **\$456,348** over 10 years in present value (2008-09) dollars.

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<sup>99</sup> Based on stakeholder consultation it is estimated that there would be 32 user groups affected by Option C.

<sup>100</sup> It is understood that codes of conduct are organised by volunteers (typically association members) however there is still a ‘time cost’ of such work/effort.

## Attachment H – Proposed Fees for Forest (Recreation) Regulations 2010

**PROPOSED FEES FOR FORESTS (RECREATION) REGULATIONS 2010 – ADJUSTED FOR CONSUMER PRICE INFLATION**

Year	CPI*	Murrindindi Scenic Reserve				Steavenson Falls Scenic Reserve			
		Motorcycle (\$)	Car (\$)	Small bus (\$)	Large bus (\$)	Motorcycle (\$)	Car (\$)	Small bus (\$)	Large bus (\$)
1999		<b>2.00</b>	<b>5.00</b>	<b>15.00</b>	<b>25.00</b>	<b>2.00</b>	<b>2.00</b>	<b>5.00</b>	<b>10.00</b>
2000	2.8%	2.06	5.14	15.42	25.70	2.06	2.06	5.14	10.28
2001	6.0%	2.18	5.45	16.35	27.24	2.18	2.18	5.45	10.90
2002	2.9%	2.24	5.61	16.82	28.03	2.24	2.24	5.61	11.21
2003	3.4%	2.32	5.80	17.39	28.99	2.32	2.32	5.80	11.59
2004	2.0%	2.37	5.91	17.74	29.56	2.37	2.37	5.91	11.83
2005	2.4%	2.42	6.05	18.16	30.27	2.42	2.42	6.05	12.11
2006	3.0%	2.49	6.24	18.71	31.18	2.49	2.49	6.24	12.47
2007	2.4%	2.55	6.39	19.16	31.93	2.55	2.55	6.39	12.77
2008	4.2%	2.66	6.65	19.96	33.27	2.66	2.66	6.65	13.31
2009	2.5%	2.73	6.82	20.46	34.10	2.73	2.73	6.82	13.64
<b>Proposed Fees</b>		<b>2.50</b>	<b>7.00</b>	<b>20.00</b>	<b>35.00</b>	<b>2.50</b>	<b>3.00</b>	<b>7.00</b>	<b>14.00</b>

1. Year-ending March Quarters, Measures of Consumer Price Inflation - Historical Data (Bulletin Table G01) and Trimmed Mean and Weighted Median Measures to two Decimal Places (ABS Cat. 6401.0 - Consumer Price Index, Australia)
2. The Forests (Steavenson Falls Scenic Reserve) Regulations 1999, S.R. No. 39/1999 and Forests (Murrindindi Scenic Reserve) Regulations 1999, S.R. No. 40/1999 were made on 13 April 1999
3. Rounding has not followed strict mathematical conventions, but has been made to promote ease of payment and compliance.

The estimated 10-year financial cost of the proposed fees is \$1.4 million (PV).

**10 year cost of prescribed per vehicle parking and camping fees plus permit fee for commercial activities (PV)**

<b>Fee type</b>	<b>Incidence</b>	<b>Net present cost (\$'000)</b>
Camping permit	Campers at Murrindindi Scenic Reserve	6.5
Daily camping fee	Campers at Murrindindi Scenic Reserve	558.5
Daily parking fee	Parking visitors at Steavenson Falls Scenic Reserve	617.1
Commercial activity permit	Organisers of commercial activities at forest reserves	222.0
<b>Total</b>		<b>1,404.2</b>

Note: Figures do not add, due to rounding.

Attachment I – Statement of no material impact

**STATEMENT OF NO MATERIAL IMPACT**

**Administrative Burden Statement**

In accordance with the *Victorian Guide to Regulation – Measurement of Changes in Administrative Burden* issued by the Treasurer in April 2007, it has been determined that the regulatory costs imposed by the Forests (Recreation) Regulations 2010 (the proposed regulations) will not lead to a material change in the administrative burden on business or not-for-profit organisations in Victoria.

The proposed regulations remake and will replace the Forests (Miscellaneous) Regulations 2000, Forests (Murrindindi Scenic Reserve) Regulations 1999, Forests (Steavenson Falls Scenic Reserve) Regulations 1999, Forests (Thomson River Forest Reserve) Regulations 2005, Forests (You Yangs Regional Park) Regulations 2003 and do not impose any new administrative costs (e.g., reporting arrangements, record keeping, or information obligations) on business or not-for-profit organisations in Victoria.



Attachment J – Groups of Stakeholders Consulted

**GROUPS OF STAKEHOLDERS CONSULTED**

**Recreational/user groups**

Wathaurong Aboriginal Co-operative, Horse riding Clubs Association of Victoria, Australian Trail Horse Riders Association, Little River and District Pony Club, Birds Australia, Bush Users' Group, Field Naturalists Club of Victoria, Four Wheel Drive Victoria, Camping Association of Victoria & Aust Camping Association, Federation of Victorian Walking Clubs, VicWalk, Victorian Climbing Club, Victorian Hang-gliding and Paragliding Association, Mountain Bike User Group, Geelong Mountain Bike Club, Victorian Orienteering Association, Field and Game Association - Victorian Branch, Shooting Sports Council of Victoria, Sporting Shooters Association of Australia (Vic), Victorian Hound Hunters Inc., Victorian Deer Association, Australian Deer Association, Gippsland Deer Stalkers Association, Portland Field Naturalist Club, Warrnambool 4WD Club, Green Triangle Enduro Club, Dual Sport Motorcycle Riders Association.

**Environmental Groups** – Environment Victoria Inc, Wilderness Society, Victorian Association of Environmental Education, Friends of You Yangs, Otway Rangers Environmental Network, Neerim and District Landcare group, Cobboboonee Community Forest Panel

**Commercial user groups** – Victorian Association of Forest Industries, Hancocks Victorian Plantations, Lawyers for Forests Inc, Mountain Rivers Tourist Association, Victorian Apiarists Association, Prospectors and Miners Association of Victoria, Victorian Outdoor Education Association, Victorian Tourism Operators Association

**Government Agencies, Statutory Authorities and Associations** – Parks Victoria, Tourism Victoria, VicForests, Melbourne Water, Goulburn Murray Water, Gippsland Water, Department of Justice, Department of Treasury and Finance, Native Title Services Victoria, Public Land Council of Victoria, Municipal Association of Victoria, Victorian Traditional Owners Land Justice Group, Victorian Local Governance Association, Victorian National Parks Association, National Native Title Council, Tarago Catchment Management Plan Co-ordination