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Conservation, Forests and Lands Act 1987

CONSERVATION, FORESTS AND LANDS (ANGLESEA HEATH) REGULATIONS 2011

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SPECIAL

Conservation, Forests and Lands Act 1987

CONSERVATION, FORESTS AND LANDS (ANGLESEA HEATH) REGULATIONS 2011

I, Ryan Smith, Minister for Environment and Climate Change, make the following Regulations.

PART 1 – PRELIMINARY**1 Objectives**

The objectives of these Regulations are to provide for the –

- (a) care, protection, and management of Anglesea Heath; and
- (b) preservation of good order and the safety of persons in the Anglesea Heath; and
- (c) use of any improvements, services or facilities in Anglesea Heath.

2 Authorising provision

These Regulations are made under section 82 of the **Conservation, Forests and Lands Act 1987**.

3 Commencement

These Regulations come into operation on the day that they are published in the Government Gazette.

4 Expiry

These Regulations expire on the day that is 10 years after the day on which they come into operation.

5 Definitions

In these Regulations –

Aboriginal person has the same meaning as in the **Aboriginal Heritage Act 2006**;

Aboriginal tradition has the same meaning as in the **Aboriginal Heritage Act 2006**;

aircraft includes an aeroplane, helicopter, glider, hot air balloon, hang glider, paraglider and parachute;

Anglesea Heath means the land shown by hatching on the plan in the Schedule;

building includes structure, temporary building and temporary structure;

camp means –

- (a) to erect, occupy or use a tent or any similar form of accommodation including a swag; or
- (b) to erect, park, occupy or use a caravan, camper van or other movable form of accommodation or temporary structure –

for the purposes of accommodation;

contractor includes any sub-contractor of a contractor;

damage includes to alter, cut or deface;

fauna means any animal or part of any animal that is indigenous to Victoria excluding humans and fish;

flora means a plant or part of a plant in any stage of biological development, whether the plant or part of a plant is vascular or non-vascular and whether alive or dead;

firearm has the same meaning as in the **Firearms Act 1996**;

firewood means dead plant material not attached to a standing plant, shrub or tree;

indigenous fish means any kind or species of fish indigenous to Victoria;

parking area means any area set aside under regulation 8 for the parking of vehicles;

Parks Victoria means the body corporate established by Part 2 of the **Parks Victoria Act 1998**;

prohibited access area means an area set aside by a determination of the Minister under regulation 8(1)(a);

restricted access area means an area set aside by a determination of the Minister under regulation 8(1)(b);

take means –

- (a) in relation to flora, to kill, injure or disturb any live flora, or to remove or collect all or any part of any flora, whether dead or alive; and
- (b) in relation to fauna and other animals, to kill, injure or disturb any fauna or other animal or to remove any fauna or other animal whether alive or dead;

Traditional Owner means an Aboriginal person who is a member of a family or clan group that is recognised as having responsibility under Aboriginal tradition for an area or areas of land;

vehicle has the same meaning as in the **Road Safety Act 1986**.

6 Application of regulations

- (1) These Regulations do not apply to –
 - (a) a person employed under Part 3 of the **Public Administration Act 2004**, or an employee of Parks Victoria who is acting in the course of his or her duties;
 - (b) an authorised officer who is acting in the course of his or her duties;
 - (c) a contractor, agent, volunteer or other person carrying out any work for or acting on the authority or instruction of the Minister or an employee of the Minister who is acting in the course of his or her duties;
 - (d) an employee of Alcoa of Australia Limited who is acting in the course of his or her duties;
 - (e) a contractor, agent, volunteer or other person carrying out any work for or acting on the authority or instruction of Alcoa of Australia Limited who is acting in the course of his or her duties;
 - (f) a person acting in accordance with a lease, licence, tenancy, permit or authority granted or issued in relation to the Anglesea Heath under the Act, the **Mines (Aluminium Agreement) Act 1961** (as amended, replaced or superseded from time to time) or another Act relating to Crown land; or
 - (g) a person who is a member of a traditional owner group entity when that person is acting under and in accordance with an authorisation order given under Part 6 of the **Traditional Owner Settlement Act 2010**.

Note

Act and **authorised officer** have the same meaning as in the **Conservation, Forests and Lands Act 1987**: see section 23 of the **Interpretation of Legislation Act 1984**.

7 Exemption – Aboriginal tradition

- (1) Subject to subregulation (2), nothing in these Regulations is intended to affect a Traditional Owner's ability to undertake an Aboriginal tradition.
- (2) Subregulation (1) does not apply to regulations 11(1)(a), 11(1)(b) and 18.

PART 2 – ADMINISTRATION OF ANGLESEA HEATH

8 Areas set aside as restricted or prohibited access areas

- (1) The Minister may, by determination, set aside a specified area in Anglesea Heath as being –
 - (a) a prohibited access area; or
 - (b) a restricted access area.

- (2) A person must not enter or be in a prohibited access area, unless that person does so under and in accordance with a permit issued by the Minister.
- (3) A person must not enter or be in a restricted access area unless that person does so –
 - (a) in accordance with the determination of the Minister under which the area is set aside; or
 - (b) under and in accordance with a permit issued by the Minister.
- (4) The Minister may issue a permit to a person to enter or be in a prohibited access area or a restricted access area.

9 Determination of the Minister

- (1) In a determination by the Minister made under these Regulations relating to the nature or use of an area of Anglesea Heath, the Minister may specify conditions on the use of that area.
- (2) If the Minister has made a determination under these Regulations, the Minister must cause signs or notices to be erected or displayed at or near the main entrances to an area indicating –
 - (a) if appropriate, that it is a prohibited access area or a restricted access area; and
 - (b) if appropriate, details of any specific use that the Minister has determined is permitted, prohibited or restricted in that area; and
 - (c) any conditions on the use of the area specified under subregulation (1).
- (3) The Minister may revoke or amend a determination made under these Regulations.
- (4) If the Minister revokes or amends a determination under subregulation (3), he or she must –
 - (a) in the case of revocation, remove any notice of the revoked determination displayed in accordance with subregulation (2); or
 - (b) in the case of amendment, cause a notice providing details of the amendment to be displayed at each of the places where a notice of the original determination is displayed under subregulation (2).

10 Permits

- (1) A permit issued by the Minister under these Regulations authorises the holder of the permit to use an improvement, service or facility or to enter or be in an area of Anglesea Heath –
 - (a) for the purpose specified in the permit; and
 - (b) for the period specified in the permit subject to any terms and conditions specified in the permit.
- (2) A permit issued by the Minister under these Regulations must be in writing.
- (3) The holder of a permit must comply with any terms and conditions of that permit.
- (4) The Minister may cancel a permit at any time –
 - (a) if the holder of the permit has –
 - (i) breached the conditions of the permit; or
 - (ii) otherwise breached these Regulations; or
 - (b) 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 Anglesea Heath; or
 - (c) for the purposes of management of Anglesea Heath.

- (5) If a permit is cancelled under subregulation (4), the Minister must cause the holder of the permit to be notified in writing of the cancellation of the permit within a reasonable time after the cancellation.
- (6) The cancellation of a permit under subregulation (4) comes into effect when the holder of the permit receives notice of that cancellation in accordance with subregulation (5).
- (7) A person must not interfere with or obstruct the entry or use by the holder of a permit and his or her invitees of any improvement, service, facility or area of Anglesea Heath that is the subject of the permit.

PART 3 – USE AND CONTROL OF ANGLESEA HEATH

11 Poisons, firearms, snares and traps

- (1) A person must not, in Anglesea Heath, possess, carry or use –
 - (a) poison; or
 - (b) a firearm; or
 - (c) a bow, spear gun, spear; or
 - (d) a trap, snare, or net (that is not authorised for fishing under the **Fisheries Act 1995** or the Fisheries Regulations 2009) or similar equipment.
- (2) Subregulation (1) does not apply to a person who keeps any equipment referred to in subregulation (1) concealed, and, if appropriate, unloaded in a vehicle which is lawfully in transit through Anglesea Heath.

12 Protection of flora

- (1) A person must not, in Anglesea Heath, fell, pick, take, destroy or damage any flora.
- (2) Subregulation (1) does not apply to a person who is –
 - (a) engaged in a sport or recreational activity in accordance with a determination made or permit issued under these Regulations; or
 - (b) acting under and in accordance with a permit issued under subregulation (3); or
 - (c) collecting firewood for the purposes of lighting or maintaining a fire in accordance with regulation 18 if –
 - (i) the person is collecting the firewood in an area that is set aside by a determination made under subregulation (4); and
 - (ii) the person is acting in accordance with that determination.
- (3) The Minister may issue a permit to a person authorising the holder to fell, pick, take, destroy or damage flora in Anglesea Heath.
- (4) The Minister may, by determination, set aside a specified area of Anglesea Heath as an area in which firewood may be collected.

13 Introducing flora

- (1) A person must not knowingly bring, plant or introduce any flora in or into Anglesea Heath.
- (2) Subregulation (1) does not apply to a person who –
 - (a) brings firewood into an area that has been set aside by a determination made under subregulation (3) in accordance with that determination; or
 - (b) is acting under and in accordance with a permit issued under subregulation (4).
- (3) The Minister may, by determination, set aside a specified area of Anglesea Heath as an area into which firewood may be brought.
- (4) The Minister may issue a permit to a person to bring, plant or introduce flora in or into Anglesea Heath.

14 Interfering with rocks or similar natural objects

- (1) A person must not, in Anglesea Heath, intentionally excavate, remove, destroy, damage or interfere with any rock or similar natural object.
- (2) Subregulation (1) does not apply to a person acting under and in accordance with a permit issued under subregulation (3).
- (3) The Minister may issue a permit to a person authorising the holder to excavate, remove, destroy, damage or interfere with any rock or similar natural object in Anglesea Heath.

15 Digging or removal of material

- (1) A person must not –
 - (a) dig or remove from Anglesea Heath; or
 - (b) knowingly take into Anglesea Heath – any gravel, shell, grit, sand, soil or other similar material.
- (2) Subregulation (1) does not apply to a person acting –
 - (a) in accordance with a determination made under these Regulations; or
 - (b) under and in accordance with a permit issued under subregulation (3); or
 - (c) in accordance with regulation 24(1)(b).
- (3) The Minister may issue a permit to a person authorising the holder to dig or remove from Anglesea Heath or take into Anglesea Heath any gravel, shell, grit, sand, soil or other similar material.

16 Interfering with structure etc.

A person must not, in Anglesea Heath, destroy, damage, remove, displace or interfere with anything constructed, erected or provided in Anglesea Heath.

17 Pathways

- (1) The Minister may, by determination, set aside a specified area of Anglesea Heath as a pathway.
- (2) A person must not use an area set aside as a pathway unless the person does so in accordance with –
 - (a) the determination made under subregulation (1) setting the area aside; and
 - (b) any signs or notices erected by the Minister on or near the pathway; and
 - (c) any markings caused by the Minister to be made on the pathway.
- (3) A person must not use a pathway or an area adjacent to a pathway in a manner that will obstruct, hinder or prevent any other person using the pathway or an area adjacent to the pathway in accordance with these Regulations.
- (4) A person must, in Anglesea Heath, remain on a pathway if the Minister has erected a sign or notice on or immediately adjacent to that pathway requiring persons to remain on that pathway.
- (5) Subregulations (2) and (4) do not apply to a person who is acting in accordance with a permit issued or a determination made under these Regulations.

18 Lighting or maintaining fires

- (1) The Minister may, by determination, set aside a specified area of Anglesea Heath as an area in which a fire may be lit or maintained.
- (2) A person must not light or maintain a fire in Anglesea Heath.
- (3) Subregulation (2) does not apply to a person who lights or maintains a fire in Anglesea Heath during a time or period when the lighting of fires is not prohibited under any Act or regulations, and the person does so –

- (a) in a public fireplace; or
 - (b) in accordance with a determination made under subregulation (1); or
 - (c) under and in accordance with a permit issued under subregulation (5).
- (4) A person who lights or maintains a fire in accordance with a determination made under subregulation (1) or a permit issued under subregulation (5) must ensure that –
- (a) the ground and airspace within a distance of 3 metres from the outer perimeter and uppermost point of the fire are clear of flammable material; and
 - (b) if the fire is in a commercial appliance –
 - (i) the fuel used in the appliance is of a type that the appliance has been designed and manufactured to use; and
 - (ii) the fire is contained in the appliance; and
 - (iii) the appliance is placed in a stable position when the fire is alight; and
 - (c) the fire is extinguished before he or she leaves the place of the fire.
- (5) The Minister may issue a permit to a person authorising the holder to light or maintain a fire.
- (6) For the purpose of this regulation **fire** includes a fire lit or maintained in a barbecue or other cooking or heating appliance that uses solid, liquid or gaseous fuel.

19 Dangerous or disturbing activities

A person must not, in Anglesea Heath –

- (a) throw an object; or
- (b) play a game; or
- (c) engage in any other activity –

in a manner that is likely to cause danger or unreasonable disturbance to persons, flora, fauna or other animals or property unless that person does so –

- (d) under and in accordance with a determination made under regulation 29(1)(a) and in accordance with that determination; or
- (e) under and in accordance with a permit issued under regulation 29(5).

20 Advertising and soliciting

(1) A person must not, in Anglesea Heath, solicit or collect money unless the person does so under and in accordance with a permit issued under subregulation (3).

(2) A person must not, in Anglesea Heath –

- (a) display any advertising; or
- (b) hand out or disseminate any advertising, commercial or promotional material –

unless the person does so under and in accordance with a permit issued under subregulation (3).

(3) The Minister may issue a permit to a person authorising the holder to solicit or collect money, display advertising or hand out or disseminate advertising, commercial or promotional material in Anglesea Heath.

21 Conduct of commercial activities or trades and businesses

(1) A person must not, in Anglesea Heath –

- (a) sell, trade or hire any goods or services or advertise, offer or display any goods or services for sale, trade or hire; or
- (b) take any photograph, film, video or audio recording or make any television or radio broadcast for commercial purposes; or

- (c) offer or display any vehicle for hire or carry passengers for reward; or
- (d) undertake any other commercial activity –
unless the person does so under and in accordance with a permit issued under subregulation (3).

- (2) Subregulation (1)(c) does not apply to a person operating a commercial passenger vehicle within the meaning of section 86 of the **Transport Act 1983**.
- (3) The Minister may issue a permit to a person authorising the holder to sell, trade or hire any goods or services or advertise, offer or display any goods or services for sale, trade or hire; or take any photograph, film, video or audio recording or make any television or radio broadcast for commercial purposes; or offer or display any vehicle for hire or carry passengers for reward; or undertake any other commercial activity in Anglesea Heath.

22 Use of soap and detergents

A person must not use or dispose of any soap, detergent or similar substance in Anglesea Heath within 50 metres of any river, stream, creek, reservoir, lake, dam, bore, well, spring or other water body.

23 Camping

- (1) The Minister may, by determination, set aside an area of Anglesea Heath as an area in which a person may camp.
- (2) A person must not camp in Anglesea Heath, unless that person does so –
 - (a) in an area set aside for camping by determination under subregulation (1) and in accordance with that determination; or
 - (b) in accordance with a permit issued under subregulation (3).
- (3) The Minister may issue a permit to a person authorising the holder to camp in Anglesea Heath.
- (4) If a determination made under subregulation (1) does not limit the period for which a person may camp in the area subject to that determination, it is a condition of that determination for the purposes of regulation 9(1) that a person must not camp in that area for more than 28 consecutive nights.
- (5) A person who camps in Anglesea Heath in accordance with a determination made under subregulation (1) or a permit issued under subregulation (3) must maintain his or her campsite in a clean and tidy condition; and

24 Hygiene

- (1) A person must not leave behind or deposit faeces in Anglesea Heath unless the person does so by burying those faeces 100 metres or more away from any river, stream, creek, well, spring, dam, lake, reservoir, bore or waterbody.
- (2) A person who occupies or uses an area of Anglesea Heath must remove all his or her litter from the site before vacating it.

25 Dogs, horses and other animals

- (1) The Minister may, by determination, set aside a specified area of Anglesea Heath as an area in which dogs, horses or other animals are permitted subject to any conditions specified in the determination.
- (2) A person must not bring a dog, horse or other animal into Anglesea Heath or allow a dog, horse or other animal to remain in Anglesea Heath.
- (3) If a dog, horse or other animal is found in Anglesea Heath, and is not under the control of the person responsible for the dog, horse or other animal, that person is guilty of an offence and liable to a penalty of not more than 2 penalty units.

- (4) Subregulation (2) does not apply to a person who has a dog, horse or other animal in Anglesea Heath if –
- (a) the dog, horse or other animal is in an area of Anglesea Heath that is set aside by a determination made under subregulation (1) and in accordance with that determination; or
 - (b) the dog, horse or other animal is in Anglesea Heath –
 - (i) to assist a disabled person with respect to that person's disability; or
 - (ii) to be trained to assist disabled persons with respect to disabilities; or
 - (c) the dog, horse or other animal is confined in a vehicle; or
 - (d) the animal is bait for fishing purposes; or
 - (e) the person does so under and in accordance with a permit issued under subregulation (5) –
- and the dog, horse or other animal is effectively controlled for the purpose of preventing nuisance, injury, unreasonable disturbance or damage to any person, fauna or other animal, flora, garden, building, fencing or other improvement.
- (5) The Minister may issue a permit to a person authorising the holder to bring a dog, horse or other animal into Anglesea Heath or an area of Anglesea Heath or to allow a dog, horse or other animal to remain in Anglesea Heath.

26 Vehicles

- (1) The Minister may, by determination, set aside a specified area of Anglesea Heath as an area in which vehicles, or a specified class of vehicle, may not be driven or ridden.
- (2) The Minister may, by determination, set aside a specified area in Anglesea Heath as an area in which vehicles must not be parked.
- (3) The Minister may issue a permit to a person authorising the holder to drive or ride a vehicle in Anglesea Heath.
- (4) A person must not drive or ride a vehicle in Anglesea Heath unless that person does so –
 - (a) in an area set aside by a determination made under subregulation (1) and in accordance with that determination; or
 - (b) under and in accordance with a permit issued under subregulation (3).
- (5) A person must not park a vehicle in Anglesea Heath in contravention of a determination made under subregulation (2).
- (6) A person must not park a vehicle in Anglesea Heath in a manner that –
 - (a) obstructs other persons or other vehicles; or
 - (b) is likely to damage any flora or destroy or injure fauna or other animals; or
 - (c) is in contravention of any sign or notice erected by the Minister.

27 Fishing

- (1) A person must not take, catch or remove from or fish in an area of Anglesea Heath that has been set aside by a determination made under subregulation (3).
- (2) Subregulation (1) does not apply to a person who fishes in an indigenous fish preservation area using equipment that is specified in the determination made under subregulation (3) setting that area aside as an indigenous fish preservation area in accordance with that determination.
- (3) The Minister may, by determination set aside a specified area of Anglesea Heath as an indigenous fish preservation area or an area in which fishing is prohibited.

28 Organised events

- (1) A person must not, in Anglesea Heath, conduct –
 - (a) an entertainment or show; or
 - (b) a festival, tour, carnival, fete, or public meeting; or
 - (c) a demonstration, training class or similar event; or
 - (d) an animal show or competition; or
 - (e) a wedding or similar ceremony –
unless the person does so –
 - (f) under and in accordance with a permit issued under subregulation (3); or
 - (g) in accordance with a determination made under subregulation (4).
- (2) A person must not, in Anglesea Heath, conduct a private event that is not a wedding or similar ceremony for 100 or more persons unless the person does so under and in accordance with a permit issued under subregulation (3).
- (3) The Minister may issue a permit to a person authorising the holder to conduct an activity, event or function referred to in subregulation (1) or (2) in Anglesea Heath.
- (4) The Minister may, by determination, set aside a specified area of Anglesea Heath as an area in which one or more of the activities referred to in subregulations (1)(a), (1)(b), (1)(c), (1)(d), or (1)(e) may be conducted.

29 Engaging in sport or recreational activity

- (1) The Minister may, by determination, set aside a specified area of Anglesea Heath where –
 - (a) one or more sports or recreational activities may be conducted; or
 - (b) the conduct of one or more sports or recreational activities is prohibited.
- (2) A person must not engage in a sport or recreational activity in an area of Anglesea Heath set aside under a determination made under subregulation (1)(a) in contravention of that determination.
- (3) A person must not interfere with or prevent the conduct of a sport or recreational activity to which a determination made under subregulation (1)(a) relates in an area of Anglesea Heath set aside by that determination.
- (4) A person must not engage in a sport or recreational activity in an area of Anglesea Heath set aside under subregulation (1)(b) unless the person does so under and in accordance with a permit issued under subregulation (5).
- (5) The Minister may issue a permit to a person authorising the holder to engage in a sport or recreational activity in Anglesea Heath.

30 Aircraft

- (1) The Minister may, by determination, set aside an area of Anglesea Heath as an area in which a person may –
 - (a) launch or land; or
 - (b) deliver anything by –
an aircraft or a specified class of aircraft.
- (2) A person must not, in Anglesea Heath –
 - (a) launch or land an aircraft; or
 - (b) deliver anything by aircraft –
unless that person does so –
 - (c) in an area set aside by a determination made under subregulation (1) and in accordance with that determination; or

(d) under and in accordance with a permit issued under subregulation (3).

- (3) The Minister may issue a permit to a person authorising the holder to launch or land an aircraft or to deliver anything by aircraft in Anglesea Heath.

31 Research or scientific study

- (1) A person must not in Anglesea Heath conduct any formal research or scientific study.
- (2) Subregulation (1) does not apply to a person who is acting under and in accordance with a permit issued under subregulation (3).
- (3) The Minister may issue a permit to a person authorising the holder to conduct formal research or scientific study in Anglesea Heath.

32 Possession of liquor and glass containers and bottles

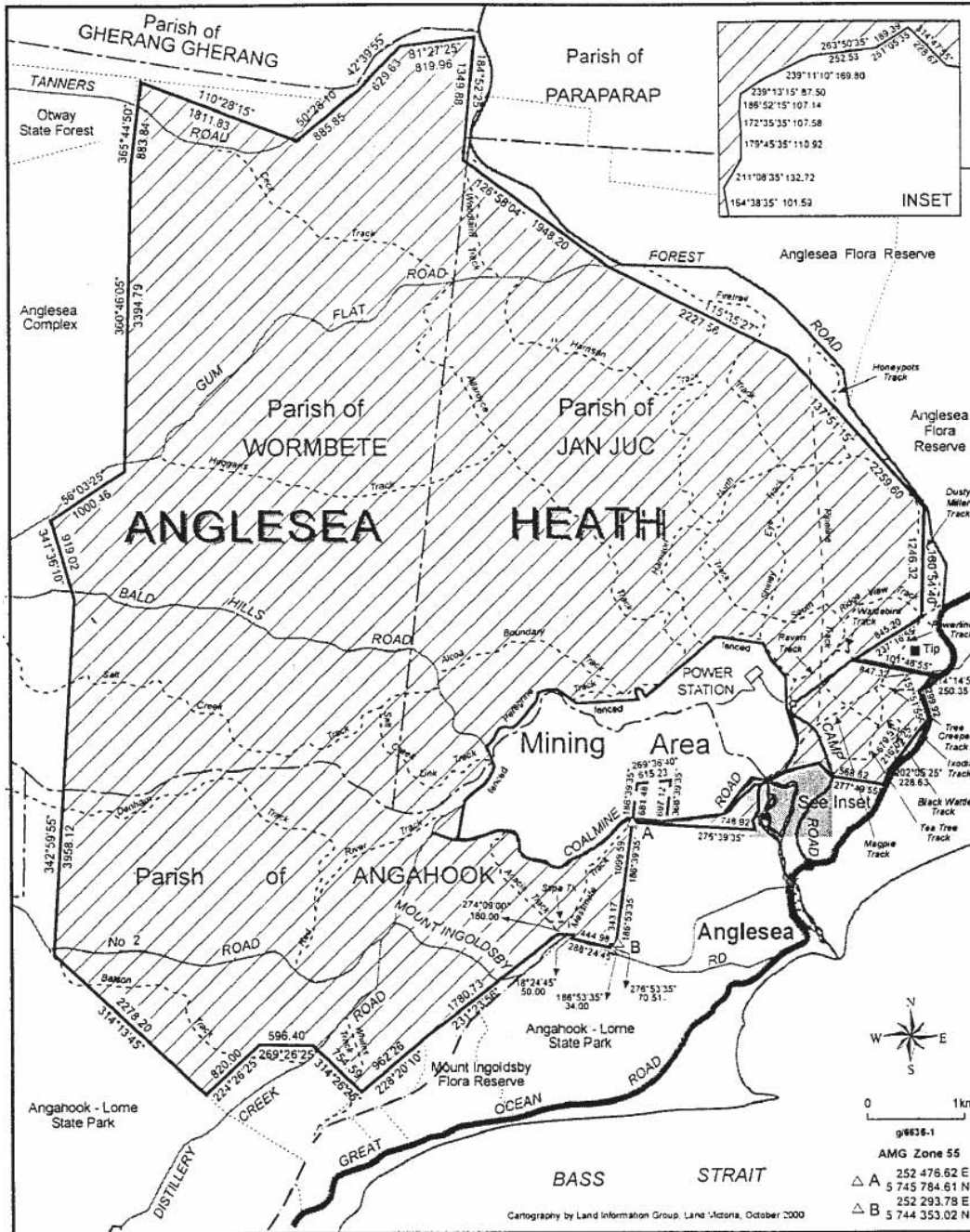
- (1) A person must not possess liquor in an area of Anglesea Heath that has been set aside as an area in which the possession or consumption of liquor is prohibited under subregulation (3).
- (2) A person must not possess or carry a glass bottle, glass container or glass utensil in an area of Anglesea Heath that has been set aside under subregulation (3) as an area in which such a bottle, container or utensil must not be possessed or carried.
- (3) The Minister may, by determination, set aside a specified area of Anglesea Heath as an area of Anglesea Heath in which liquor may not be possessed or consumed or in which a bottle, container or utensil may not be possessed or carried.

PART 4 – GENERAL

33 Directions to leave

- (1) An authorised officer may, in the interests of safety of persons using Anglesea Heath, direct a person –
- (a) to leave Anglesea Heath or an area of Anglesea Heath; or
- (b) to remain in Anglesea Heath or an area of Anglesea Heath.
- (2) A person to whom a direction is given under subregulation (1) must comply with that direction.
- (3) If an authorised officer reasonably believes that a person has contravened any of these Regulations, the authorised officer may direct the person to leave Anglesea Heath or any area of Anglesea Heath.

SCHEDULE



"Anglesea Heath" is the land shown by the hatching on this plan.

NOTES

- (1) A person (other than the land owner) who contravenes any of these Regulations is liable for a maximum penalty of 5 penalty units under section 82(5) of the **Conservation, Forests and Lands Act 1987**.

- (2) In addition to these Regulations, the following laws also apply to activities within Anglesea Heath –

Fishing

Fishing is governed by the **Fisheries Act 1995** and Regulations under that Act, and failure to adhere to that legislation may result in the imposition of penalties under that Act and those Regulations.

Litter

The depositing of litter in Anglesea Heath is prohibited under the **Environment Protection Act 1970** and may result in the imposition of penalties under that Act.

Motor vehicles

Under the **Land Conservation (Vehicle Control) Regulations 2003**, motor vehicles are prohibited within Anglesea Heath except on a road, in a parking area or in an area declared to be a free access area. A contravention may result in the imposition of penalties under those Regulations.

Fire

The **Country Fire Authority Act 1958** regulates the lighting of fires in the open air and failure to adhere to that legislation may result in the imposition of penalties.

Wildlife

The taking, hunting or destroying of wildlife, including game, is regulated under the **Wildlife Act 1975** and Regulations under that Act. A person who fails to comply with the requirements of that legislation is liable to the imposition of penalties under that Act and those Regulations.

Aboriginal Heritage Act 2006

The **Aboriginal Heritage Act 2006** provides for the recognition, protection and conservation of Aboriginal cultural heritage in Victoria.

Dated 18 January 2011

RYAN SMITH
Minister for Environment and Climate Change

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