



earth resources

# Minerals Exploration and Mining in Victoria: Landholder Information Booklet



## Who is this booklet for?

If you own or occupy land that is subject to exploration or mining of mineral resources, this booklet is for you.

All minerals in the State of Victoria belong to the people of Victoria and are therefore the property of the Crown (unless subject to a minerals exemption). These include mineral resources located beneath private land to which access may be required for the purpose of exploration and/or mining.

The sustainable and responsible development of these mineral resources is regulated by the State Government of Victoria through the *Mineral Resources (Sustainable Development) Act 1990* (MRSDA).

The MRSDA, which is administered by the Department of Economic Development, Jobs Transport and Resources (DEDJTR), authorises the government to issue licences for exploration, mining and development of mineral resources. But with these authorities come obligations on industry with regard to landholders. They include:

- a duty to consult and community engagement plan requirements
- management of environmental impacts
- consideration of public safety and land use concerns
- negotiation of access and/or compensation agreements with landowners.

A collaborative effort between government, industry and community is critical to the sustainable development of Victoria's natural resources, which in turn contributes to the economic and social prosperity of the state.

This booklet lets you know what to expect if you are approached by an exploration or mining company. It answers the what, where and why questions related to the development of Victoria's mineral resources and provides important information about your rights as a landholder.

This booklet is intended as a guide only and should not be used as a substitute for the MRSDA, *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013* (MRSDMIR) or legal advice.

Almost everything we need in life starts with primary industries. Our food, clothes, energy, and even building materials begin with natural resources. The Earth Resources division of Department of Economic Development, Jobs Transport and Resources (DEDJTR) is committed to improving the development of natural resources for use by all Victorians. This includes the state's mineral resources, which are essential to our daily lives.

## About the resource

### Defining minerals

The MRSDA defines minerals as substances which occur naturally in the earth's crust. They include both metallic minerals such as gold and base metals, and non-metallic minerals such as gypsum, kaolin, zircon, rutile, ilmenite, coal and coal seam methane.

Minerals do not include petroleum (oil and gas), which is administered under the *Petroleum Act 1998*. Nor do they include stone, such as hard rock, sand, gravel and clay, which are extracted by the State's extractive industries (quarries).

**Figure 1: Material minerals common to Australia**

Metals	Industrial Minerals	Fuels (energy supply)
Aluminium	Barite	Black coal
Antimony	Bauxite	Brown coal
Bismuth	Bentonite	Coal bed methane
Chromium	Cadmium	
Cobalt	Diamonds	
Copper	Diatomite	
Gold	Feldspar	
Iron	Fluorite	
Lead	Gemstones	
Manganese	Gypsum	
Mercury	Ilmenite	
Molybdenum	Kaolin	
Nickel	Lithium	
Platinum Group Metals	Magnesite	
Silver	Niobium	
Tantalum	Phosphate Rock	
Tin	Talc	
Tungsten	Tantalum	
Zinc	Thorium	
	Rutile	
	Vanadium	
	Zircon	

### Using minerals

Many metals, chemicals and industrial products considered essential to our daily lives come from minerals. They are used in a wide range of applications related to manufacturing, agriculture and energy supply.

Coal, for example, accounts for more than 95 per cent of Victoria's electric power. Meanwhile gold applications, which were traditionally confined to coins and jewellery, now extend to medical services in the treatment of arthritis and other diseases, as well as electrics such as digital radios, microwaves, telephone systems and aeronautical machinery.

Progressive geological research, improved exploration techniques and advances in development technologies continue to maximise the production and potential utility of our mineral resources.

**Figure 2: Common uses of material minerals**

Mineral	Utility examples
Metals	<ul style="list-style-type: none"> <li>cars, aircraft and construction (building frames) contain iron, copper, aluminium and lead</li> <li>computers and TVs made from gold, silver, copper, aluminium, zinc and iron</li> <li>cameras made from aluminium, iron, gold and nickel</li> <li>electrical wiring made from copper</li> <li>food/drink cans made from aluminium</li> <li>cosmetics contain iron, silica, zinc and talc</li> <li>gold is a tradable commodity, representing an international money standard; also used in jewellery and electronics.</li> </ul>
Non-metallic (industrial) minerals	<ul style="list-style-type: none"> <li>manufacture of chemicals, glass, fertilisers</li> <li>manufacture of paint (talc, rutile, quartz and mica)</li> <li>manufacture of concrete, bricks and pipes (crushed rock)</li> <li>construction of houses and roads</li> <li>treatment of soil conditions to maximise agricultural yields</li> <li>fillers in pharmaceuticals, plastics and paper</li> <li>toothpaste contains fluorite, barite and calcite.</li> </ul>
Fuels	<ul style="list-style-type: none"> <li>electricity production</li> <li>fuel for transport</li> <li>fertilisers (browncoal)</li> <li>coal used for steaming, heating and processing (alumina refineries, paper manufacturers, breweries, pharmaceutical industries) and manufacturing of cement, iron and steel.</li> </ul>

### Valuing our mineral resources

The value of minerals extends beyond practical utility. Mineral resources also play an important role in the economic and social development of the State. Exploration and mining activities provide opportunities for employment, diversification of regional economies, and the development of regional services and infrastructure.

In Victoria, industry operations currently generate more than 12,900 jobs as well as millions of dollars through capital investment and sponsorship of industry initiatives.

### Locating Victoria's mineral resources

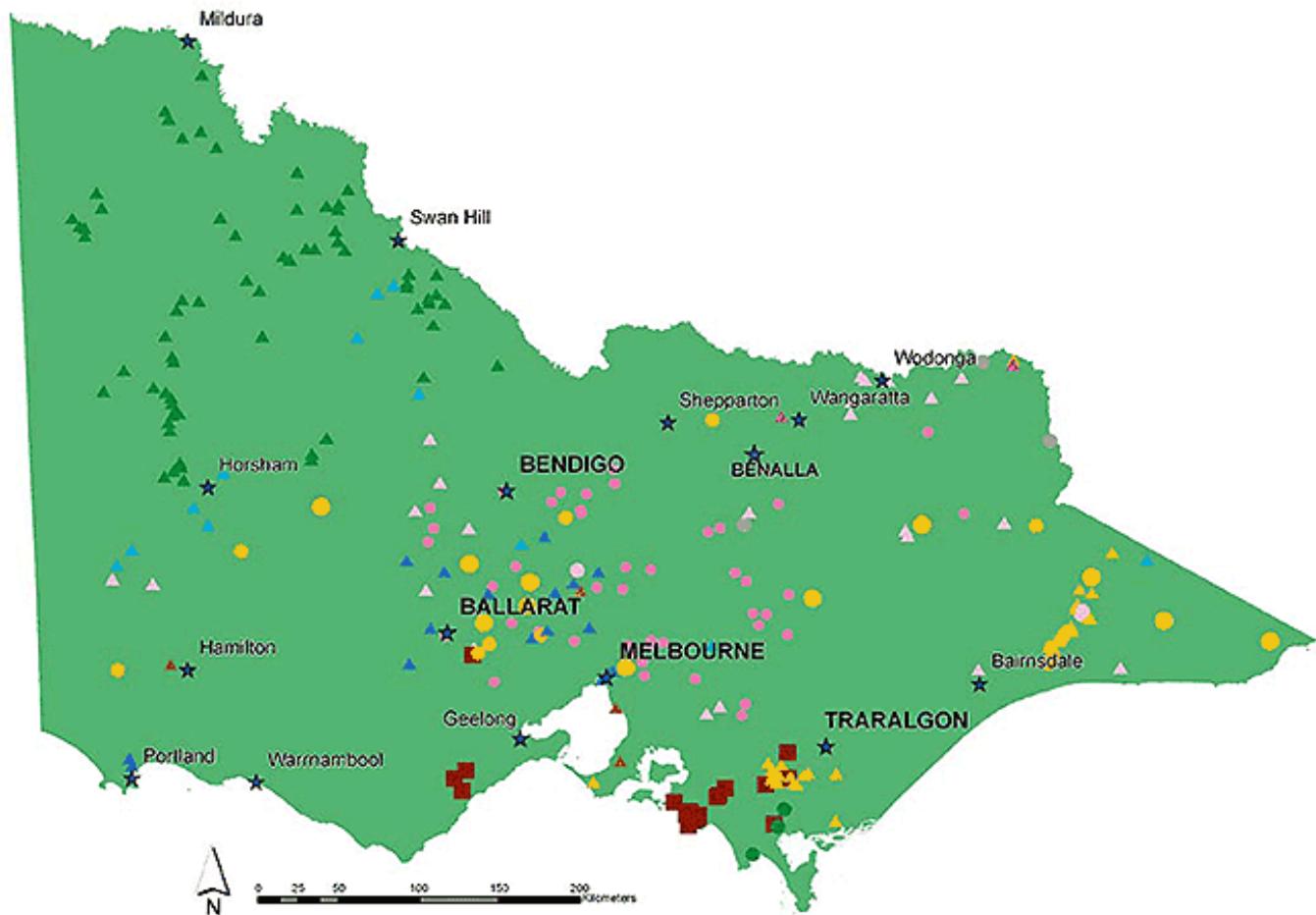
Victoria is richly endowed with a diversity of mineral deposits and is Australia's largest producer of brown coal, which generates more than 95 per cent of the State's energy supply. Gold and mineral sands (zircon, rutile and ilmenite) are also prevalent, along with reasonable deposits of gypsum and kaolin. Geoscience data also reveals significant potential for copper, zinc, silver, antimony and nickel deposits.

This favourable geological framework suggests significant prospectivity for further mineral resources development in Victoria.

Since the discovery of gold in Victoria in 1851, the development of mineral resources has played a pivotal role in the State's economic and cultural expansion. More than 5,000 licences have been granted under the modern minerals legislative regime. Along with exploration licences, they cover approximately 40 per cent of the state.

The website provides up-to-date information on current exploration and mining licences, including the location of exploration and mining operations across Victoria. Online resources include minerals tenement reports, exploration licences maps and tenement GIS datasets. Further detail is available via the departments online mapping application, GeoVic. Contact details are provided in the *Further Information* section of this booklet.

**Figure 3: Victoria's mineral deposits**



## Legend

● Antimony	▲ Feldspar	● Manganese
▲ Barite	▲ Fluorite	● Molybdenum, Tungsten, Bismuth
■ Coal	● Gold	▲ Phosphate
● Chromium, Cobalt, Nickel, Mercury	▲ Gypsum	● Platinum Group Metals
● Copper, Lead, Zinc, Silver	▲ Heavy Mineral Sand	● Tin
▲ Diatomite	● Iron	
	▲ Kaolin, Bentonite	

## Exploring for mineral resources

Exploration for minerals is generally the first in a series of activities towards the development of mineral resources. It usually involves low-impact geological assessments, which determine the location of potential sites. More intrusive exploration may follow in order to identify the size, grade and relevant characteristics of the resource, and to determine the economic viability of its development.

Typically, the first 12 months of licensed exploration consists of reconnaissance type activities; meaning it has limited environmental impact and is likely to be confined to desktop studies, aerial imaging or sampling using hand tools only. Indicative samples are then analysed and 'ground intrusive exploration' may follow.

The different methods used to search for economic mineral deposits include:

## Literature review

An important preparatory step towards new mineral exploration is the practice of desktop studies. Desktop studies comprise historical research into a particular geographic area utilising mining maps, data files and web mapping applications such as GeoVic.

## Fossicking

While it is not considered an official method of exploration, fossicking does involve the search for certain mineral deposits. It typically involves the use of non-mechanical hand tools such as metal detectors, pans or sluices in the non-commercial search for gold, gemstones and other minerals. It is done without removing or damaging any tree or shrub on the land and without disturbing any Aboriginal cultural heritage, place, object, archaeological site or relic. In Victoria, fossicking activities require a Miner's Right or Tourist Fossicking Authority.

## Geological studies

Geological studies typically include walking over the ground and taking small samples of surface rock or soil. They may also involve mapping and general observation of the area's geology and topography.

## Geochemical sampling

Geochemical sampling is the systematic sampling of soil, stream sediments or foliage from various types of flora.

## Geophysical surveying

Modern surveying techniques are commonly carried out using a hand-held Global Positioning System (GPS). Survey lines are marked out using various kinds of stakes or pegs.

## Geophysical measurements

Geophysical measurements are sub-surface measurements made by airborne or ground observations. Ground observations usually involve hand-held instruments and may sometimes incorporate the laying out of cables to measure magnetic and electrical properties.

## Exploratory drilling

Exploratory drilling only takes place if mineralisation has been indicated by prior inspection (approximately one in 10 exploratory projects involve drill tests). Small holes, usually less than 15 centimetres in diameter, are made in rock and/or soil to obtain samples of materials at depth. These samples are extracted for the purposes of chemical or other analysis, rather than commercial production.

For the minority of favourable exploration prospects (about one out of 100), more intensive exploration activities such as pattern drilling and bulk sampling may follow.

Before any of these activities can commence, the person or company must obtain the appropriate authority from DEDJTR and discuss the implications of their operations with affected landholders. Read about *Types of licences and authorities* and *Work approval requirements* in the *About the Legislation* section of this booklet.

## Mining of mineral resources

Anecdotal evidence suggests that one out of 1,000 exploration projects are likely to progress to the mining stage. This is when mineral resources are extracted from the earth by various types of mining, and produced for commercial gain. There are several mining operations in Victoria.

Mining includes the following approaches:

### Shallow surface mining

Shallow surface mining is the shallow surface extraction of alluvial deposits, soil or weathered rock. It varies from removal of surface material of a few centimetres in depth to shallow pits up to several metres deep. For example, shallow surface mining of gypsum from evaporate and dune deposits is common in northwest Victoria. Gypsum is used to treat soil

conditions for the purpose of maximising agricultural yields.

## Open-cut mining

Open-cut mining usually involves removal of surface vegetation, topsoil and any overburden to uncover mineral deposits that are close to the surface. In Victoria, open-cut gold mines are typically up to 60 metres deep and open-cut brown coal mines more than 100 metres deep. Mining may or may not involve blasting, depending on the rigidity of the material being mined.

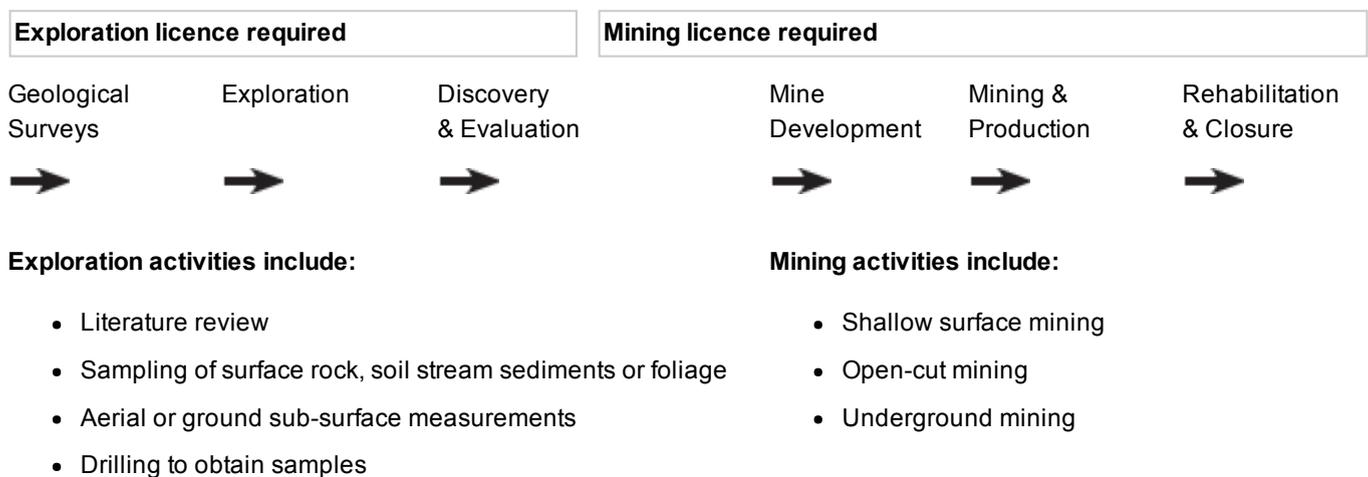
## Underground mining

Access to underground ore is gained by shaft (vertical or inclined), adit (horizontal tunnel) or decline (inclined tunnel). Mining excavation is generally achieved by drilling and blasting. Waste rock and mineral ore are transported to the surface by trucks or skips and waste rock is often used to backfill underground voids (stopes).

Other mining activities include gold 'tailings treatment', which refers to the reprocessing of previous mining waste product (resulting from the separation of valuable minerals and ore) to remove any remaining gold. Mining also usually includes associated ore processing facilities and waste rock and tailing disposal facilities.

Before any mining activity can begin, the company must obtain a mining licence from DEDJTR and obtain consent from, or enter into a compensation agreement with, affected landholders. Read about Types of licences and authorities and work approval requirements in the Legislation section of this booklet.

**Figure 4: Activities undertaken during mineral exploration and mining**



## About the Legislation

### Objectives of the MRSDA

The Victorian *Mineral Resources (Sustainable Development) Act 1990* (MRSDA) and the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013* (MRSDMIR) create a framework to both facilitate and regulate the exploration and mining of mineral resources in Victoria.

The purpose of the legislation is to encourage mineral exploration and an economically viable mining industry, which makes the best use of, and extracts the value from, mineral resources in a way that is compatible with the economic, social and environmental objectives of the State. To do this, the following objectives have been established:

1. To encourage and facilitate exploration for minerals and foster the establishment and continuation of mining operations by providing for:

- an efficient and effective system for the granting of licences and other approvals
- a process for co-ordinating applications for related approvals
- an effective administrative structure for making decisions concerning the allocation of mineral resources for the benefit of the general public

- an economically efficient system of royalties, rentals, fees and charges.

2. To establish a legal framework aimed at ensuring that:

- mineral resources are developed in ways that minimise adverse impacts on the environment and the community
- consultation mechanisms are effective and appropriate access to information is provided
- land which has been mined is rehabilitated
- just compensation is paid for the use of private land for exploration or mining
- conditions in licences and approvals are enforced
- dispute resolution procedures are effective
- the health and safety of the public is protected in relation to work being done under a licence.

3. To recognise that the exploration for, and mining of, mineral resources must be carried out in a way that is not inconsistent with the *Native Title Act 1993* of the Commonwealth and the *Land Titles Validation Act 1994*.

### **The role of the Department of Economic Development, Jobs Transport and Resources (DEDJTR)**

The Earth Resources Regulation Branch is responsible for regulating and the Earth Resources Development Branch is responsible for facilitating the minerals, petroleum, geothermal, extractive (quarries) and geosequestration (capturing carbon dioxide and storing it in the earth's crust) industries in Victoria.

As regulator of the minerals industry, the department is responsible for administering the MRSDA. It does this by:

- allocating licences and authorities, subject to conditions, to eligible applicants
- regulating the operational aspects of exploration activities (enforcing adequate management of public safety, environmental impact and land rehabilitation)
- regulating the operational aspects of mining activities through the approval of responsible work plans and authorities
- considering community views when approving work plans and regulating operations.

As facilitator of Victoria's mineral resources development, DEDJTR is responsible for:

- providing geoscience data and information to companies and individuals interested in minerals exploration in Victoria
- encouraging innovation and complementing the efficiency of the market
- encouraging transparent, meaningful and ongoing communication between industry, community and government.

### **Victoria's two-step process for exploration and mining**

The MRSDA contains a two-step process in order to obtain approvals to explore or mine. The first step is to obtain a licence. The second step involves approval to undertake work. The only exception to the second step is low-impact exploration, as defined in the MRSDA.

#### **Figure 5: Victoria's two-step process for exploration and mining**

##### **Step One**

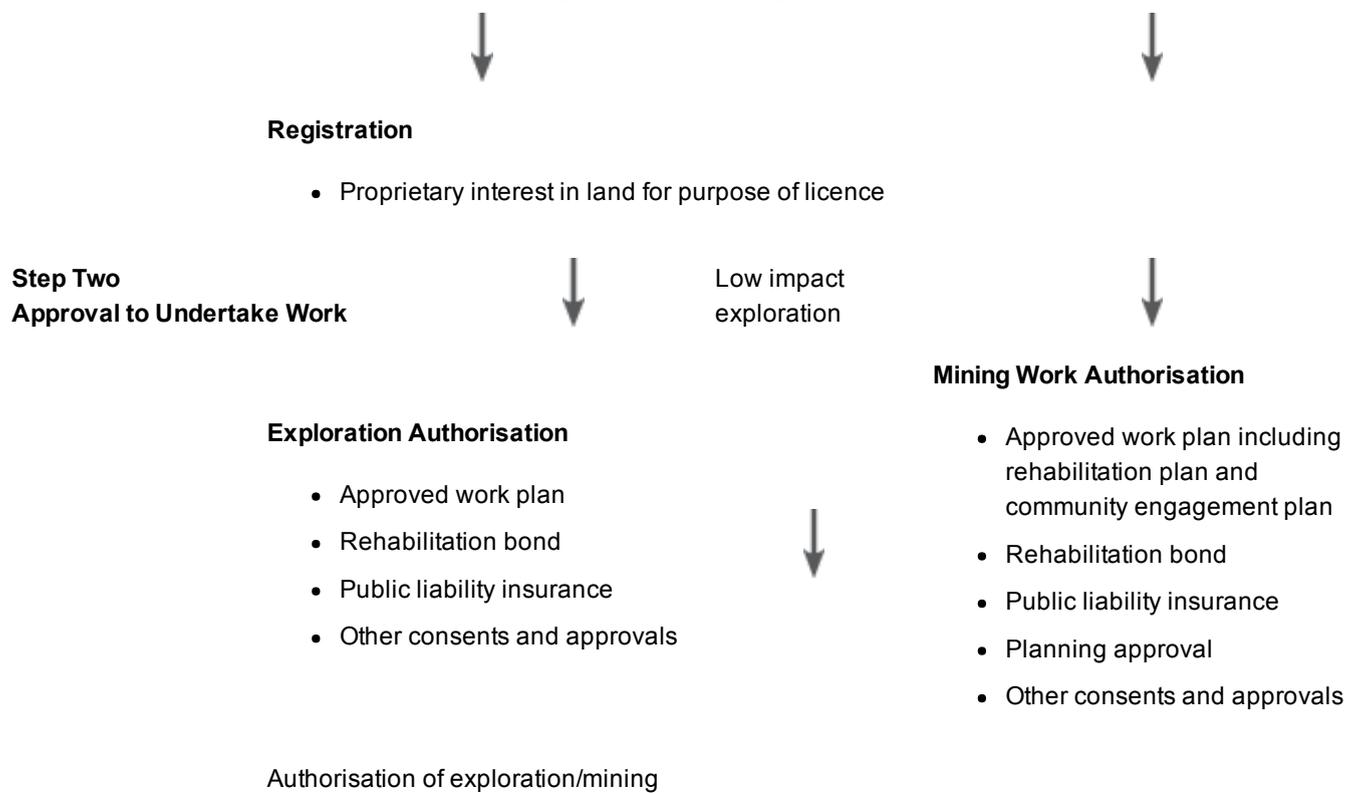
##### **Licence Approval**

##### **Exploration Licence**

- Exclusive rights to explore for minerals
- Right to apply for mining licence

##### **Mining Licence**

- Exclusive rights to mine
- Transfer of ownership of minerals when extracted from land



### Types of licences and authorities

Under the MRSDA, the following licences and authorities have been established:

#### Exploration Licence

An exploration licence grants exclusive rights, subject to conditions, to explore for minerals in an area of up to 500 square kilometres (or larger with ministerial approval). The licence is valid for up to five years, with the option to apply for renewal. It also provides the right to apply for a mining licence.

Multiple (successive) exploration licences may be granted in an area, even when there have been no major resource discoveries from previous exploration activity. Companies may undertake more exploration when they have more money, commodities become more valuable or when new technologies, such as 3D analysis and predictive modelling, allow for more scientific and rigorous assessment of the geology of an area.

#### Mining Licence

While a mining licence does not imply permission for mining to take place, it is a prerequisite for seeking the necessary approvals and consents required to mine under the MRSDA. It also transfers ownership of minerals from the Crown to the licensee when they are eventually mined from the land. Exploration is also permitted under a mining licence, which may cover an area of up to 260 hectares (or larger with ministerial approval). A mining licence is valid for up to 20 years, but is generally granted for a shorter period of time (for example, five years). Renewal is assessed on a case-by-case basis.

#### Miner's Right

A miner's right provides permission for a person to prospect for minerals using non-mechanical hand tools only and where the permission of the landholder has been granted.

#### Tourist Fossicking Authority

A tourist fossicking authority allows tourist parties to search for minerals using non-mechanical hand tools only and where the permission of the landholder has been granted.

**The granting of a licence does not allow mining to occur. Other work approvals and consents are required.**

#### Work approval requirements

For mining, and in some cases exploration, the licensee must obtain numerous consents and approvals from other agencies, ministers, bodies and individuals before they can commence work.

Under an exploration licence, these may include:

- approved work plan (not required for low-impact work)
- rehabilitation bond
- public liability insurance
- other consents and approvals.

Under a mining licence, these may include:

- approved work plan including rehabilitation plan and community engagement plan
- rehabilitation bond
- public liability insurance
- planning approval or Environmental Effects Statement
- other consents and approvals.

### Figure 6: Other approvals potentially required for exploration and mining

Other Approvals Potentially Required
Compliance with provisions of <i>Native Title Act 1993</i>
Consent/compensation agreement with private landholder
Consent to work within 100m of dwelling
Planning Permit
Approval of Cultural Heritage Management Plan
Licence to take and use water
Compliance with Permitted clearing of native vegetation – Biodiversity assessment guidelines
Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i> approval
Consent to access restricted Crown land

### Protecting landholders

The MRSDA requires licensees to consult with landholders and other identified members of the community before any exploration or mining activity can commence. This means that a licensee is required to share information with the community about any activities authorised under the licence and also to provide the community with a reasonable opportunity to express their views about those activities.

Additional obligations apply to mining licensees, who must prepare a community engagement (CE) plan documenting the commitments they will make to engage with their community during the life cycle of the project.

Furthermore, under section 42(2)(c) of the MRSDA, permission to start work on a mining licence will only be granted once the licensee has obtained the written consent of the landholder or made and registered a compensation agreement with the landholder. Compensation provisions apply only where landholders suffer loss or damage as a result of work on a licence or consequence of the approved work plan.

On commencement of activity, licensees are also obliged to:

- minimise interference with regular landholder activities on the land
- follow public safety and environment planning regulations
- maintain in good condition and repair all structures, equipment and property used in connection with minerals exploration and mining operations
- continue consultation with the local community for the duration of the operation (from exploration through to development, operation, closure and rehabilitation).

Further details on the outcomes for landholders are provided in the Landholder questions and answers section of this booklet.

## Protecting the resource

The MRSDA was amended in 2006 to include the concept of sustainable development, which is defined by the following principles:

- Community wellbeing and welfare should be enhanced by following a path of economic development that safeguards the welfare of future generations.
- There should be equity within and between generations.
- Biological diversity should be protected and ecological integrity maintained.
- There should be recognition of the need to develop a strong, growing, diversified and internationally competitive economy that can enhance the capacity for environment protection.
- Measures to be adopted should be cost effective and flexible, not disproportionate to the issues being addressed, including improved valuation, pricing and incentive mechanisms.
- Both long and short term economic, environmental, social and equity considerations should be effectively integrated into decision-making.
- If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation; decision-making should be guided by careful evaluation to avoid serious or irreversible damage to the environment wherever practicable, and by an assessment of the risk-weighted consequences of various options.
- Development should make a positive contribution to regional development and respect the aspirations of the community and Indigenous peoples; decisions and actions should provide for community involvement in issues that affect them.

The purpose of incorporating sustainable development into the legislation was to emphasise its importance; that is the consideration of economic, environmental and social objectives in the regulation of the minerals sector. It requires an integrated approach to land use planning that recognises competing interests and attempts to negotiate the most appropriate course of action, taking into account the ecological and social limitations on mining.

## Protecting cultural heritage

The *Aboriginal Heritage Act 2006* (AHA) seeks to ensure the protection of sites of significant Aboriginal cultural value in a way that involves the Aboriginal community and to provide greater integration of heritage issues within the land planning process.

In accordance with the AHA, exploration and mining licensees must prepare a Cultural Heritage Management Plan (CHMP) for areas of cultural heritage sensitivity (where there has not been significant prior ground disturbance and where the activity is deemed to be 'high impact'). This requirement must be satisfied before any work can occur.

In addition, the MRSDA prohibits work within 100 metres of an area of cultural heritage sensitivity unless the requisite consent or authorisation has been provided.

Native title matters in accordance with the Commonwealth *Native Title Act 1993* (NTA) must also be addressed by the licensee before the necessary authority can be obtained. A 'Future Act Assessment' is undertaken to determine whether an exploration or mining licence applicant needs to reach an agreement with a native title party before the licence can be granted. If so, the licence applicant negotiates with the native title party until an agreement is finalised, which may take a couple of years. For some parts of Victoria a licence applicant can sign up to a Regional Indigenous Land Use Agreement, which is a registered agreement that has already been negotiated between some native title parties and the Minerals Council of Australia (Victoria Division).

While DEDJTR does not administer the AHA or NTA, the department is concerned about compliance with the legislation.

## Associated legislation and policies

The MRSDA applies only to the exploration for and mining of mineral resources. Other legislation and policies may affect mineral resources development where the following issues arise:

- catchment and land protection
- cultural heritage

- environmental protection and management
- land rehabilitation
- native vegetation management
- Native Title
- public safety
- tenements compliance
- water use and management.

The legislation and policies which address these issues may be relevant to licence conditions and work plan approvals.

To get more information about these issues and the legislation and policies associated with them, use the contact details in the Further Information section at the back of this booklet.

## Landholder questions and answers

The MRSDA establishes a framework for the exploration and mining of mineral resources in Victoria. This process may raise questions for landholders, which are addressed in the following question-and-answer format.

### ***Landholder concerns:***

#### **1. How will I be notified of minerals exploration and mining activities being considered in my area?**

All new licence applications must be advertised in a newspaper circulating in the locality of the proposed licence, and a Wednesday edition of a newspaper circulating generally throughout Victoria (mining licences of less than five hectares only need to advertise in the local newspaper). The applicant must fulfil this requirement within 14 days of being notified that their application has been given highest ranking. Where it is a mining licence, the applicant must give notice to all affected landholders within the area of the application.

This public notification gives landholders the opportunity to raise concerns or lodge objections for ministerial consideration before the application is determined.

Note: if your property falls within the area of an application, it does not automatically follow that entry to your land is required.

#### **2. What happens if mineral resources are found on my property?**

If mineral resources are found on your property, the exploration licensee may then apply for a mining licence.

The granting of the mining licence confers mineral rights from the Crown to the licensee, but it does not give the licensee authority to carry out mining operations. Mining can only begin when a number of other approvals including planning permission, work plan approval, rehabilitation bond lodgement and landholder agreements are in place.

#### **3. Who owns the mineral resource that has been found on my land?**

All mineral resources belong to the people of Victoria and are therefore owned by the Crown. When minerals are mined, under the proper authority, they become the property of the person extracting them.

Before any activity can commence, the licensee is required to contact the affected landholders to discuss the implications of their proposed activities. As well, the licensee is required to have obtained consent of the landholder or reached a compensation agreement with the landholder.

#### **4. Does exploration always lead to mining?**

Exploration does not always lead to mining. Due to the difficulty of identifying commercial ore bodies, only about one in 1,000 exploration projects progress to the mining stage.

A mineral deposit must first be determined as economically viable before any further activity can proceed. This will depend on a variety of factors including the size and grade of the resource, the predicted price of the mineral, accessibility, transportability and expected efficiency of production.

Note: while exploration often takes place over large areas, the area subsequently mined, if at all, is usually much smaller.

## 5. When is a mining licence marked out on the land?

Mining licence boundaries are often irregular in shape and therefore must be readily identified. Within four weeks of a mining licence being granted, the licensee must mark out the land with corner posts, identification plates and trenches. This must be done in accordance with the coordinates of the licence boundaries as per the granted licence document and instruments. If the licensed area is more than five hectares, boundaries must also be surveyed.

If landholder consent to enter the land has been sought but not obtained, access may be granted by authority from the Minister for Energy and Resources. Entry in this case is only for the purpose of marking out and having the area surveyed.

## 6. Will exploration and/or mining activities affect my land or my ability to run my property?

Holders of an exploration or mining licence must ensure that their operations minimise, as far as possible, interference with other activities on the land.

Where mining is proposed on agricultural land, the licensee must prepare a statement of economic significance to establish whether the value of the mineral resource is more or less than its agricultural worth. This statement must be made within six months of the granting of the licence (or lodging of a work plan) and a copy must be provided to the landholder.

## Rights, requirements and processes:

### 7. What are the basic entitlements of exploration and mining licences?

An **exploration licence** grants exclusive rights, subject to conditions, to explore for minerals in graticular sections comprising an area of up to 500 square kilometres (or larger with ministerial approval). **Mining is not permitted on an exploration licence.** In general, an exploration licence is valid for five years, with the option to apply for renewal of up to 5 years, and provides the right to apply for a mining licence. During the term of an exploration licence, licensees are required to relinquish ground. There are four relinquishment requirements: after two years, 25 per cent of the ground must be relinquished; after four years an additional 35 per cent must be relinquished, after 7 years an additional 20 per cent must be relinquished and after 10 years another 10 per cent must be relinquished.

A **mining licence** does not imply permission for mining to take place, but is required to seek work approvals required to establish a mining operation. Exploration is also permitted under a mining licence, which may cover an area of up to 260 hectares (or larger with ministerial approval). A mining licence may be valid for up to 20 years or longer with ministerial approval, with the option to apply for renewal.

Under both licences, work (other than work using hand tools) cannot take place within 100 metres of a dwelling (house) unless the landholder consents.

### 8. What are the basic requirements of a licence application?

An application for an exploration or mining licence must include information about the applicant and their proposed operation. This includes technical qualifications and experience, a map of the proposed licence area, information on compliance with Native Title requirements (if the application refers to Crown land), estimates of annual expenditure, evidence of financial capability to undertake the proposed work, and details of the proposed work program.

Most licences take three to four months to process. This period can be significantly longer where there are competing applications or where processes are required to address the Commonwealth *Native Title Act 1993*.

But the granting of a licence does not immediately imply authority to begin work. For mining, and in some cases exploration, the licensee must obtain numerous consents and approvals from other agencies, ministers, bodies and individuals before they can commence work.

Read more about Licences and authorities and Work approvals in the Legislation section of this booklet.

### 9. Can I object to the granting of an exploration or mining licence?

Any person may object to a licence being granted, provided the licence application is new and not a renewal. The objection must be in writing, include the grounds on which it is made (relevant to legislative provisions), and be sent to the

appropriate government representative within 21 days after the latest date on which the licence application was advertised.

All objections and comments received are considered by the appropriate government representative before a decision is made on whether to grant the licence. As a result, additional conditions may be imposed on the licence. These may relate to technical requirements but can also include issues that are of community concern.

#### **10. What factors help to determine the suitability of a licensee?**

When assessing the suitability of a licensee, DEDJTR refers to section 15(6) of the MRSDA. This includes whether the applicant is 'fit and proper' to hold the licence, intends to comply with the MRSDA, genuinely intends to do work, has an appropriate program of work and is likely to be able to finance the proposed work and rehabilitation.

Objections and comments not directly related to section 15(6) of the MRSDA cannot be considered when assessing whether a licensee is 'fit and proper'. However, objections and comments will be considered before a decision is made on granting the licence and in relation to the work approval process.

#### **11. What is required to gain exploration authorisation?**

Exploration authorisation typically requires a work plan, rehabilitation bond, public liability insurance and various other consents and approvals. The work plan must address management strategies for public safety, environmental impact and land rehabilitation.

Low-impact exploration as defined in the MRSDA does not require a work plan.

For exploration work that is deemed to have a material impact on the environment, the Minister may require preparation of an impact statement (different from an Environment Effects Statement). This provision is intended to assess and manage unusually high-impact exploration activities, for example major access road or pilot plant construction.

#### **12. What is required to gain mining authorisation?**

Authorisation of mining requires an approved work plan, rehabilitation bond, public liability insurance, planning approval and other consents including consent/compensation with landholders. Planning approval entails a planning permit or preparation of an Environment Effects Statement (EES) in accordance with the *Environment Effects Act 1978*.

The work plan required to gain work authorisation must address management strategies for public safety and environmental impact, a rehabilitation plan and a community engagement (CE) plan.

Affected landholders (whose land is located within the boundaries of the mining licence) and relevant stakeholders must be consulted in the preparation of the work plan, which becomes binding on the licensee when approved by DEDJTR.

#### **13. What are the community engagement requirements of the licensee?**

The community engagement (CE) plan prepared by the mining licensee should clearly identify the community and describe how, when and what engagement will occur with that community during all stages of the mining project. Minimum requirements of the CE plan are stipulated in the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013* and depend on the geographical size of the licence and what activities the licensee is undertaking. DEDJTR provides Community Engagement Guidelines for Mining and Mineral Exploration in Victoria to assist licensees in their fulfilment of these requirements. Exploration licensees are not required to develop a CE plan.

In addition to the CE plan, both exploration and mining licensees have a duty to consult with the community during all stages of a project, from exploration through to the operational phase and rehabilitation. This means that the licensee must share information with the community about any activities authorised by the licence that may affect that community. Consultation techniques may include face-to-face meetings, notice boards, information flyers, telephone, written electronic surveys, hotline or phone-in opportunities, media advertising, invitations for submissions, public exhibitions and websites. The purpose of this requirement is to share information with the community about any activities authorised by the licensee and ensure that the community is provided with reasonable opportunities to express their views.

#### **14. What conditions may be imposed with a licence approval?**

The Minister for Energy and Resources may impose and vary conditions on a licence, most notably for the protection of the environment. Conditions usually involve:

- rehabilitation of the land
- protection of the environment
- protection of groundwater
- provision and implementation of environmental offsets
- expenditure
- reports on the discovery of minerals
- access to and use of the land by other licence holders
- protection of community facilities.

Exploration licence holders are also bound by DEDJTR's Code of Practice for Mineral Exploration. The code provides practical guidance about how exploration work should be conducted in Victoria to meet regulatory requirements and environmental standards.

## Consent and compensation:

### 15. Is my consent needed before a mining licensee can undertake work on my land?

Under section 42(2)(c) of the MRSDA, permission to start work on a mining licence will only be granted once the licensee has obtained the written consent of the landholder or made and registered a compensation agreement with them.

Most companies will present a contract proposing conditions of access to your property for the purpose of exploration or mining. The content of any contract is subject to agreement by each party. DEDJTR is not a party to such contracts. We recommend you seek legal advice before you enter into any binding contract.

### 16. Can I refuse consent?

If a landholder does not provide consent and an appropriate amount of compensation cannot be agreed, then either party may refer to the Victorian Civil and Administrative Tribunal (VCAT). VCAT does not determine the right to access land, rather the amount of compensation to be paid to the landholder. VCAT is available where conciliation between the parties has failed to achieve a satisfactory settlement negotiation and should be used as a last resort.

### 17. Is landholder consent binding on all subsequent landholders?

Yes, landholder consent is binding on all subsequent landholders. As stated in section 45(3) of the MRSDA, landholder consent allowing the exploration and/or mining of minerals cannot be withdrawn by the landholder or any subsequent landholders.

### 18. Can I expect compensation?

Compensation provisions apply only where landholders suffer loss or damage as a result of work on a licence or approval of a work plan. Compensation is not payable for the value of the minerals, nor is it a prerequisite for landholder consent.

Compensation relating to private land usually arises where land is to be occupied for exploration or mining. Landholder consent or a compensation agreement must be in place before work can be approved. This requirement does not give landholders the absolute power to control access, because if agreement is not reached the amount of compensation is determined by the Victorian Civil and Administrative Tribunal (VCAT) or the Supreme Court.

### 19. In what instances may compensation be payable?

Compensation is payable only for loss or damage to the landholder's interests in the land as a direct, natural and reasonable consequence of the exploration or mining activities.

Such instances include:

- deprivation of possession of the whole or any part of the surface of the land
- damage to the surface of the land
- damage to any improvements on the land

- severance of the land from other land belonging to you
- loss of amenity including recreation and conservation values
- loss of opportunity to make any planned improvement on the land
- any decrease in market value of your interest in the land
- reasonable incidental expenses in obtaining and moving to replacement land, if required
- intangible and non-pecuniary disadvantages not otherwise compensable (additional 10 per cent).

We recommend you seek legal advice before you enter into a compensation agreement.

## 20. What if an agreement for compensation cannot be reached?

Where parties have failed to negotiate a satisfactory settlement, the disputed compensation claim may be referred to the Victorian Civil and Administrative Tribunal (VCAT), in accordance with Part 10 of the *Land Acquisition and Compensation Act 1986*. If the amount of compensation in dispute exceeds \$50,000, either party can seek to have the matter resolved by the Supreme Court.

## 21. What happens to a compensation agreement if there is a transfer in land ownership?

Any amount of compensation paid, agreed to be paid, or determined is not affected by any subsequent change in the ownership or occupancy of land. New owners or occupiers cannot seek further compensation.

The compensation agreement remains with the land not the landholder.

## Environmental and land use concerns:

All areas in Victoria, unless specifically exempt (e.g. National Parks, State Parks, wilderness areas), are open to exploration and mining licence applications.

## 22. How are environmental impacts from exploration and mining activities managed?

Before any minerals exploration or mining operation can commence, a work plan addressing environmental risks must be approved and a rehabilitation bond lodged. The rehabilitation bond represents security of payment for any rehabilitation work that may be necessary as a result of a minerals exploration or mining operation. Other approvals may also be required under the *Environment Protection Act 1970* and the *Water Act 1989*.

In addition, exploration licence holders are bound by DEDJTR's Code of Practice for Mineral Exploration. The code provides practical guidance about how exploration work should be conducted in Victoria to meet regulatory requirements and environmental standards.

Mining licensees must also obtain a planning permit or prepare an Environment Effects Statement (EES), which includes public and stakeholder consultation. As part of this process, potential environmental impacts must be identified and assessed and mitigation measures proposed. Residual environmental impacts will be considered during the planning approval process or when a determination is made for the project to proceed.

Further, all mineral development projects in Victoria are subject to the government's 'Permitted clearing of native vegetation – Biodiversity assessment guidelines', which strives for net gain in native vegetation via protection, enhancement and revegetation of the state's native flora.

## 23. What environmental issues are expected to be addressed by licensees?

Environmental issues expected to be addressed by licensees include:

- dust and noise emissions control
- drainage and discharge control (including storm water management)
- erosion control
- noxious weeds and pests control
- removal or restoration of native vegetation

- progressive and final rehabilitation
- groundwater protection.

These and other relevant environmental issues are expected to be addressed in the licensee's work plan, which provides detailed information about proposed on-site works and subsequent rehabilitation of the land.

#### 24. How are land rehabilitation requirements determined?

Licence holders are required to rehabilitate any land disturbed by the carrying out of work under the licence. For exploration and mining licenses the rehabilitation work must be carried out with respective work plans and licence conditions. The licensee must consult with the landholder about the proposed work.

Rehabilitation plans must take into account any special characteristics of the land, the surrounding environment, the need to stabilise the land, the desirability or otherwise of returning agricultural land to its original state, and potential long-term impact on the environment. In addition, licensees are required to lodge a rehabilitation bond to ensure satisfactory rehabilitation occurs.

Rehabilitation obligations can continue beyond the life of a licence.

#### 25. How is water used in exploration and mining operations?

Ground water and surface water is used in a variety of ways in exploration and mining operations including:

- for dust control
- in drilling
- to maintain vegetation areas
- for ore processing
- to reduce erosion
- to make mining safe.

Mining operations may include the construction of facilities including water races, tailings dumps, tailings dams, drains, dams, reservoirs, pipelines and bores. These will be specified in the work plan.

Water is subject to well established controls allowing for a variety of uses. Mining operators must obtain allocations through licences under the work authority, the *Water Act 1989*, while water discharges (e.g. water injected back into groundwater or discharged into streams) is subject to the *Environment Protection Act 1970*.

Issues regarding groundwater management are examined by DEDJTR in partnership with the Department of Environment, Land, Water & Planning (DELWP). Conditions for protection of groundwater may be imposed on an exploration or mining licence.

#### 26. What if the land affected is public land used by the local community (e.g. parkland and reserves)?

Where the land covered by a licence is defined as restricted Crown land (regional parks and most reserves) the consent of the Crown land Minister is required. For work on other Crown land, only an approved work plan is required. DELWP is usually consulted before DEDJTR approves a work plan that includes Crown land.

Where the land is managed by the Melbourne Water Corporation or an Authority under the *Water Act 1989*, consent must be sought from the Board or that Authority. Where the proposed licence covers public highways, roads and streets, then the manager of those roadways must be given 21 days' notice of the proposed work.

#### 27. What can be done if exploration and mining activities are not being carried out as they should be?

If you suspect that a licensee is not meeting its obligation to minimise risk to people, property, or the environment, you can contact a DEDJTR inspector and enquire about the situation. If you have a complaint about an operation, this too can be registered with DEDJTR.

All complaints will be investigated by a DEDJTR inspector. This investigation could potentially lead to:

- directions of measures that must be taken to remove or reduce the risk
- a prohibition notice barring the licensee from carrying out or continuing to carry out any activity related to minerals

exploration or mining operations

- other action under the MRSDA.

Continual breaches may result in DEDJTR proposing cancellation of the licence. Other enforcement actions include prosecution and infringement notices.

A DEDJTR inspector will advise you of the outcomes of an investigation. District office locations and contact details are available at the back of this booklet.

## Glossary

### Agricultural land

Private land used primarily for cultivation, keeping animals, commercial fishing and the propagation of plants (activities undertaken for the purpose of selling the produce).

### Consultation

A form of community engagement regarded by the MRSDA as a two-way communication process between the licensee and the community. It involves the licensee sharing information with the community about any activities authorised by the licence that may affect the community. It also presents reasonable opportunity for the community to express its views.

### Community Engagement (CE)

Involves interactions between identified groups of people and incorporates processes that are linked to problem-solving or decision-making where community input is used to make better decisions.

### Crown land

Unalienated land belonging to the Crown (the State of Victoria).

### Environment Effects Statement (EES)

In accordance with the *Environment Effects Act 1978*, the EES usually contains:

- a description of the proposed development
- an outline of public and stakeholder consultation
- a description of the existing environment that may be affected
- predictions of significant environmental effects of the proposal and relevant alternatives
- proposed measures to avoid, minimise or manage adverse environmental effects
- a proposed program for monitoring and managing environmental effects during project implementation.

### Exploration

Includes:

- conducting geological, geophysical and geochemical surveys
- drilling
- taking samples for the purpose of chemical or other analysis
- recovering minerals from land, other than for the purpose of producing them commercially
- in relation to an exploration licence, anything else (except mining) that is specified in the licence.

See also 'low-impact exploration' and 'fossicking'.

### Fossicking

Otherwise known as 'prospecting'; typically involves the use of metal detectors, hand tools, pans or sluices in the search for gold, gemstones and other minerals.

The Prospecting Guide, (prepared by Parks Victoria, the Prospectors and Miners Association of Victoria, the former Department of State Development, Business and Innovation (DSDBI), the former Department of Environment and Primary Industries and the Victorian Gem Clubs Association) provides information on how to prospect while protecting the natural

environment and our cultural heritage.

### **Future Act Assessment**

An assessment undertaken to determine whether a licence applicant needs to reach an agreement with a Native Title claimant.

### **Graticular section**

The area by which an exploration licence is granted. The minimum section size is one square kilometre (equal to one graticular section or 100 hectares), while the maximum size is 500 square kilometres (or larger with the Minister's approval).

### **Indigenous Land Use Agreement (ILUA)**

A registered agreement between Native Title claimants and the Minerals Council of Australia (Victoria Division) used to validate the grant and use of an exploration licence.

### **Land affected**

In relation to work under a licence, land to which entry is required during the work; includes the surface of the land and the land to a depth of 100 metres.

### **Landholder**

An owner, occupier or person or body responsible for the management of the land.

### **Licence**

Refers to an exploration licence or a mining licence; provides permission to carry out minerals exploration or mining according to the conditions of the licence.

### **Licensee**

Person or entity named on the licence. This person or entity may be represented by a company delegate, agent or contractor.

### **Low-impact exploration**

Refer to the definition in the MRSDA.

### **Mining**

The recovery of minerals from the land for the purpose of commercial production; includes processing and treating ore.

### **Permitted clearing of native vegetation – Biodiversity assessment guidelines.**

A Victorian Government initiative which strives for net gain in native vegetation via protection, enhancement and revegetation of the state's native flora.

### **Rehabilitation bond**

An instrument acceptable to the Minister for Energy and Resources (under Section 80 of the MRSDA) securing the payment of a specified amount of money for any necessary rehabilitation work resulting from minerals exploration or a mining operation.

### **Statement of economic significance**

To be prepared by mining licensees, whose licence covers agricultural land not owned by them. A statement of economic significance of the proposed work must include an assessment of benefits to Victoria, including employment and revenue considerations (section 26A of MRSDA).

### **Tailings**

Any waste mineral, stone or other material produced during the course of ore processing.

### **Work plan**

A requirement of exploration and mining licensees, covering the detail of on-site works associated with the project and subsequent rehabilitation of the land.

## Further information

### **The Mineral Resources (Sustainable Development Act 1990):**

View at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)

### **Minerals exploration and mining:**

Earth Resources Information Center,  
Department of Economic Development, Jobs Transport and Resources

Phone: 1300 366 356

Email: [✉ mbc.info@dssdbi.vic.gov.au](mailto:mbc.info@dssdbi.vic.gov.au)

Web: [Earth Resources](#)

### **Mineral tenements:**

View at [GeoVic](#)

Purchase at [Earth resources online store](#)

### **Minerals industry:**

Minerals Council of Australia, Victorian Division

Level 8, 10-16 Queen Street, Melbourne 3000

Phone: (03) 8614 1851

Fax: (03) 9629 8603

Email: [✉ info.vic@minerals.org.au](mailto:info.vic@minerals.org.au)

Web: [www.minerals.org.au/victoria](http://www.minerals.org.au/victoria)

Prospectors and Miners Association Victoria

GPO Box 1706, Melbourne 3001

Phone: 0408 176 496 (general inquiries)

Fax: (03) 9553 1032

Email: [✉ pmav@pmav.org.au](mailto:pmav@pmav.org.au)

Web: [www.pmav.org.au](http://www.pmav.org.au)

National Gypsum Miners Association

Email: [✉ ngma@gypsum.asn.au](mailto:ngma@gypsum.asn.au)

Web: [www.gypsum.asn.au](http://www.gypsum.asn.au)

### **Compensation dispute guidelines:**

Victorian Civil and Administrative Tribunal

Land Valuation List

55 King Street, Melbourne 3000

Phone: (03) 9628 9766

### **Legal representation:**

Law Institute of Victoria

470 Bourke Street, Melbourne 3000

PO Box 263, Melbourne 3001

Phone: (03) 9607 9311

Email: [✉ lawinst@liv.asn.au](mailto:lawinst@liv.asn.au)

Web: [www.liv.asn.au](http://www.liv.asn.au)

### **Aboriginal heritage:**

Office of Aboriginal Affairs Victoria

GPO Box 2392, Melbourne 3001

Phone: 1800 762 003

Fax: (03) 9208 3292

Email: [✉ aboriginal.affairs@dpc.vic.gov.au](mailto:aboriginal.affairs@dpc.vic.gov.au)

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

**Native Title:**

Native Title Services Victoria  
12-14 Leveson Street,  
North Melbourne 3051  
PO Box 431, North Melbourne 3051  
Phone: (03) 9321 5300 / 1800 791 779  
Email: [✉ webemail@ntsv.com.au](mailto:webemail@ntsv.com.au)  
Web: [🌐 www.ntsv.com.au](http://www.ntsv.com.au)

**Environment and native vegetation:**

Department of Environment, Land, Water & Planning  
8 Nicholson Street, East Melbourne 3002  
Phone: 136 186  
Email: [✉ customer.service@delwp.vic.gov.au](mailto:customer.service@delwp.vic.gov.au)  
Web: [www.delwp.vic.gov.au](http://www.delwp.vic.gov.au)

**Environmental Effects Statement (guidelines):**

1 Spring Street, Melbourne 3000  
GPO Box 2392, Melbourne 3001  
Phone: (03) 9208 3333

## Earth Resources Regulation District Offices

**Melbourne**

Level 9, 121 Exhibition Street, Melbourne 3001  
(GPO Box 4509, Melbourne 3001)  
Phone: (03) 9092 1954 Fax: (03) 9092 2056

**Ballarat**

402-406 Mair Street, Ballarat 3350  
Phone: (03) 5336 6804

**Bendigo**

Corner Midland Highway and Taylor Street, Epsom 3551  
(PO Box 3100, Bendigo Mail Centre, Bendigo 3554)  
Phone: (03) 5430 4692 Fax: (03) 5430 4304

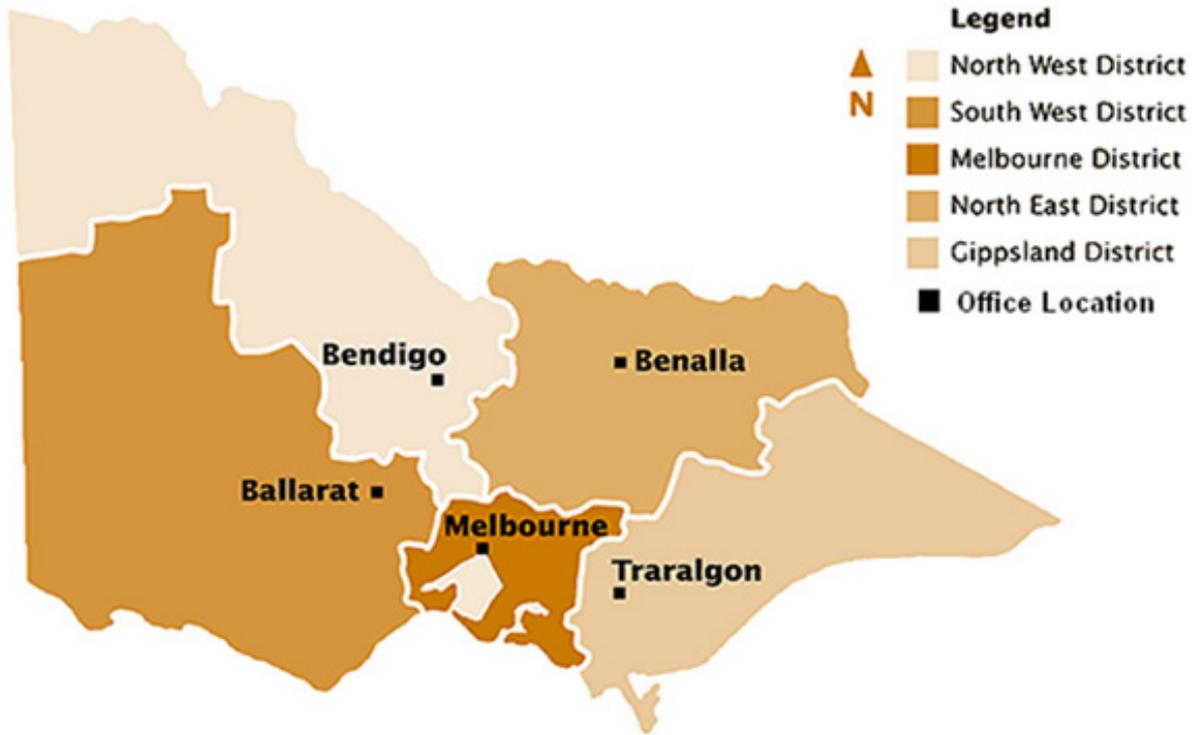
**Benalla**

89 Sydney Road, Benalla 3672  
(PO Box 124, Benalla 3672)  
Phone: (03) 5761 1501 Fax: (03) 5761 1628

**Traralgon**

55 Grey Street, Traralgon 3844  
Phone: (03) 5160 9011

**Figure 7: ERR office locations and districts**



Energy and Earth Resources

Department of  
Economic Development,  
Jobs, Transport & Resources

