



New South Wales

# Environmental Planning and Assessment Amendment (Ski Resort Areas) Bill 2001

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are:

- (a) to amend the *Environmental Planning and Assessment Act 1979* to enable regulations to be made to facilitate certain ski resort areas within Kosciuszko National Park (that are presently covered by Part 5 of that Act) becoming subject to the requirements of Part 4 of that Act pursuant to proposed environmental planning instruments and to make further provision for the effect of certain provisions of the *Local Government Act 1993* in those areas, and
- (b) to amend the *National Parks and Wildlife Act 1974* to remove those ski resort areas (except in relation to things authorised under the *Snowy Hydro Corporatisation Act 1997*) from the operation of a provision of that Act that exempts most of the lands reserved or dedicated under that Act from the

operation of Division 2A (Orders) of Part 6 of the *Environmental Planning and Assessment Act 1979* and Chapter 7 (What are the regulatory functions of councils?) of the *Local Government Act 1993*.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendment to the *Environmental Planning and Assessment Act 1979* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendment to the *National Parks and Wildlife Act 1974* set out in Schedule 2.

## **Schedule 1    Amendment of Environmental Planning and Assessment Act 1979**

**Schedule 1** enables certain regulations to be made in relation to ski resort areas within the Kosciuszko National Park that are identified by the Minister by order published in the Gazette. Any such order may only be made with the concurrence of the Minister for the Environment. Presently, activities within those ski resort areas are subject to Part 5 of the *Environmental Planning and Assessment Act 1979* because they do not require development consent under Part 4 of that Act. However, it is proposed that most activities within those ski resort areas will require development consent in the future (initially, under a State environmental planning policy and, subsequently, under a comprehensive regional environmental plan).

The regulations may deal with matters of a savings and transitional nature in relation to the ski resort areas becoming subject to Part 4 requirements. In particular, the regulations may deal with the conversion of existing approvals and requirements of those approvals in relation to activities in the ski resort areas into development consents under Part 4 and into other authorities, such as construction certificates.

The regulations may also modify the operation of the *Environmental Planning and Assessment Act 1979* in limited ways to specify who is to carry out functions under the Act in relation to the ski resort areas and the way in which those functions are to be carried out. In particular, this will enable appropriate provision to be made to recognise the role in those areas of long-term lessees.

The amendments also provide that Chapter 7 of the *Local Government Act 1993* does not apply to the ski resort areas except as otherwise provided by the regulations.

## **Schedule 2    Amendment of National Parks and Wildlife Act 1974**

**Schedule 2** makes the amendment outlined in paragraph (b) of the Overview above.



New South Wales

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New South Wales

# Environmental Planning and Assessment Amendment (Ski Resort Areas) Bill 2001

No. , 2001

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## A Bill for

An Act to amend the *Environmental Planning and Assessment Act 1979* in relation to the regulation of activities within certain ski resort areas; and to make a related amendment to the *National Parks and Wildlife Act 1974*.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Environmental Planning and Assessment Amendment (Ski Resort Areas) Act 2001</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day to be appointed by proclamation.	6
<b>3 Amendment of Environmental Planning and Assessment Act 1979 No 203</b>	7 8
The <i>Environmental Planning and Assessment Act 1979</i> is amended as set out in Schedule 1.	9 10
<b>4 Amendment of National Parks and Wildlife Act 1974 No 80</b>	11
The <i>National Parks and Wildlife Act 1974</i> is amended as set out in Schedule 2.	12 13

<b>Schedule 1</b>	<b>Amendment of Environmental Planning and Assessment Act 1979</b>	1
		2
	(Section 3)	3
<b>Schedule 6</b>	<b>Savings, transitional and other provisions</b>	4
	Insert after clause 32:	5
<b>Part 8A</b>	<b>Environmental Planning and Assessment Amendment (Ski Resort Areas) Act 2001</b>	6
		7
<b>32A</b>	<b>Definitions</b>	8
(1)	In this Part:	9
	<i>existing Part 5 approval</i> means a Part 5 approval granted before the commencement of this clause and in force immediately before that commencement.	10
		11
		12
	<i>Part 5 approval</i> means an approval (however described or arrived at) within the meaning of Part 5 relating to a ski resort area.	13
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	<i>ski resort area</i> means an area of land within the national park reserved for the time being under the <i>National Parks and Wildlife Act 1974</i> , and known as Kosciuszko National Park, that is identified for the purposes of this clause by the Minister by order published in the Gazette.	16
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(2)	An order may be made for the purposes of the definition of <i>ski resort area</i> only with the concurrence of the Minister for the Environment.	21
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**32B Transitional regulations relating to ski resort areas in  
Kosciuszko National Park**

The regulations may make provision, in relation to a ski resort area, for or with respect to the following:

- (a) savings and transitional matters arising from development consent being required by an environmental planning instrument for any activity within a ski resort area that did not previously require development consent,
- (b) converting any existing Part 5 approval into a current development consent,
- (c) converting any certificate, permission or other authority given for the purposes of an existing Part 5 approval (or any requirement for such a certificate, permission or other authority) into a Part 4A certificate (or into a requirement for a Part 4A certificate),
- (d) authorising the Director-General to issue a certificate certifying that any existing Part 5 approval, certificate, permission or other authority is to be treated as a current development consent or a Part 4A certificate,
- (e) providing that any activity carried out in a ski resort area in accordance with any specified instrument, or any instrument of a specified class, in existence immediately before the commencement of this clause, is taken to be carried out in accordance with a development consent,
- (f) enabling anything lodged in connection with an application for a Part 5 approval that has been lodged before the commencement of this clause, but not determined before that commencement, to be accepted as lodged in connection with an application for a development consent,
- (g) any matter that is ancillary or incidental to, or otherwise related to, a matter referred to in any of the preceding paragraphs, but only to the extent to which the matter relates to an activity or development in a ski resort area.



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<b>32C</b>	<b>Modification of Act with respect to ski resort areas</b>	1
	The regulations may modify the application of any provision of	2
	this Act to or in respect of a ski resort area, but only in relation	3
	to:	4
	(a) the person or authority to be responsible for exercising	5
	any function, or complying with any requirement, under	6
	this Act, under any existing Part 5 approval converted	7
	by regulations under this Part or under any certificate,	8
	permission or other authority given for the purposes of	9
	any such approval, and	10
	(b) the way in which such functions are to be exercised or	11
	such requirements are to be complied with.	12
<b>32D</b>	<b>Application of Chapter 7 of Local Government Act 1993 to ski</b>	13
	<b>resort areas</b>	14
	(1) Except as may otherwise be provided by the regulations,	15
	Chapter 7 of the <i>Local Government Act 1993</i> does not apply to	16
	or in respect of a ski resort area.	17
	(2) A regulation made for the purposes of this clause may modify	18
	the application of any provision of Chapter 7 of the <i>Local</i>	19
	<i>Government Act 1993</i> to or in respect of a ski resort area.	20

<b>Schedule 2</b>	<b>Amendment of National Parks and Wildlife Act 1974</b>	1
		2
	(Section 4)	3
<b>Section 163B</b>	<b>Application of certain Acts</b>	4
	Insert at the end of the section:	5
	(2) This section (except to the extent that it relates to anything authorised by or under the <i>Snowy Hydro Corporatisation Act 1997</i> ) does not apply to a ski resort area, within the meaning of Part 8A of Schedule 6 to the <i>Environmental Planning and Assessment Act 1979</i> .	6 7 8 9 10