

Passed by both Houses



New South Wales

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

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2001*



New South Wales

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

Act No , 2001

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*.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Environmental Planning and Assessment Amendment (Ski Resort Areas) Act 2001*.

2 Commencement

This Act commences on a day to be appointed by proclamation.

**3 Amendment of Environmental Planning and Assessment Act 1979
No 203**

The *Environmental Planning and Assessment Act 1979* is amended as set out in Schedule 1.

4 Amendment of National Parks and Wildlife Act 1974 No 80

The *National Parks and Wildlife Act 1974* is amended as set out in Schedule 2.

Schedule 1 Amendment of Environmental Planning and Assessment Act 1979

(Section 3)

Schedule 6 Savings, transitional and other provisions

Insert after clause 32:

Part 8A Environmental Planning and Assessment Amendment (Ski Resort Areas) Act 2001

32A Definitions

(1) In this Part:

existing Part 5 approval means a Part 5 approval granted before the commencement of this clause and in force immediately before that commencement.

Part 5 approval means an approval (however described or arrived at) within the meaning of Part 5 relating to a ski resort area.

ski resort area means an area of land within the national park reserved for the time being under the *National Parks and Wildlife Act 1974*, and known as Kosciuszko National Park, that is identified for the purposes of this clause by the Minister by order published in the Gazette.

(2) An order may be made for the purposes of the definition of *ski resort area* only with the concurrence of the Minister for the Environment.

**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.

32C Modification of Act with respect to ski resort areas

- (1) The regulations may modify the application of any provision of this Act to or in respect of a ski resort area, but only in relation to:
 - (a) the person or authority to be responsible for exercising any function, or complying with any requirement, under this Act, under any existing Part 5 approval converted by regulations under this Part or under any certificate, permission or other authority given for the purposes of any such approval, and
 - (b) the way in which such functions are to be exercised or such requirements are to be complied with.
- (2) Despite any other provision of this Act:
 - (a) the Minister is the consent authority for all development applications relating to land within a ski resort area and a regulation made pursuant to this Part can not make a council responsible for exercising any other function referred to in subclause (1), and
 - (b) a regulation may be made pursuant to this Part for or with respect to a ski resort area only on the recommendation of the Minister made after consultation with the Minister for the Environment, and
 - (c) a State environmental planning policy may be made for or with respect to a ski resort area only on the recommendation of the Minister made after consultation with the Minister for the Environment, and
 - (d) any other environmental planning instrument for or with respect to a ski resort area may be made by the Minister only after consultation with the Minister for the Environment.

If the Minister recommends that any such regulation or State environmental planning policy be made, or makes any such other environmental planning instrument, against the advice of the Minister for the Environment, the Minister is to publish the reasons for making the recommendation or instrument in the same Gazette as that in which the regulation, policy or instrument is published.

- (3) When consulting with the Minister about whether a recommendation should be made for the making of a regulation or State environmental planning policy, and about whether any other environmental planning instrument should be made, for or with respect to a ski resort area, the Minister for the Environment must take into account whether the proposed regulation, policy or instrument:
 - (a) promotes the objects of the *National Parks and Wildlife Act 1974*, and
 - (b) is consistent with the plan of management under that Act for the land concerned.

32D Application of Chapter 7 of Local Government Act 1993 to ski resort areas

- (1) Except as may otherwise be provided by the regulations, Chapter 7 of the *Local Government Act 1993* does not apply to or in respect of a ski resort area.
- (2) A regulation made for the purposes of this clause may modify the application of any provision of Chapter 7 of the *Local Government Act 1993* to or in respect of a ski resort area.

32E Effect of certain regulations

To remove any doubt, a regulation made pursuant to this Schedule can not have the effect of making any provision prevail over the *National Parks and Wildlife Act 1974*.

32F State of the environment report

- (1) The Director-General is to present to the Minister a report as to the state of the environment in each ski resort area on each second anniversary of the day on which this clause commenced.
- (2) Section 428 (2) (c) of the *Local Government Act 1993* applies to the content of a state of the environment report under this clause, except that references in that paragraph to a council are to be read as references to the Department and the National Parks and Wildlife Service.

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- (3) Copies of each report must be furnished to such persons and bodies as are prescribed under section 428 (3) of the *Local Government Act 1993*.

Schedule 2 Amendment of National Parks and Wildlife Act 1974

(Section 4)

[1] Section 151AA

Insert after section 151A:

151AA Leases of land in Kosciuszko National Park ski resort areas

- (1) This section applies to land in a ski resort area, within the meaning of Part 8A of Schedule 6 to the *Environmental Planning and Assessment Act 1979*, which areas are within Kosciuszko National Park.
- (2) Before granting a lease of land to which this section applies, the Minister:
 - (a) is to refer the proposal to the Council for advice, and
 - (b) is to cause notice of the proposal to be published in a newspaper circulating throughout New South Wales and in a newspaper circulating in the locality in which the land is situated, unless the proposal is required to be advertised by another provision of this Act.
- (3) The notice must contain the following:
 - (a) sufficient information to identify the land concerned,
 - (b) the purposes for which the land and any building or structure on the land are proposed to be used,
 - (c) the term of the proposed lease (taking into account any option to renew),
 - (d) the name of the person to whom the lease is proposed to be granted,
 - (e) the closing date for making submissions on the proposal (being a date not earlier than 28 days after the date on which the notice is first published),
 - (f) the address to which submissions are to be sent,

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- (g) any other information that the Minister considers relevant to consideration of the proposal, for example, identification of the provisions of any relevant plan of management that authorises the proposed purposes for which the land, and any building or structure concerned, are to be used.
 - (4) The Minister may hold a public hearing into any proposed lease of land to which this section applies if the Minister thinks it appropriate to do so.
 - (5) Before determining whether or not to grant any such lease, the Minister must take into account:
 - (a) any submission received from the Council within 30 days of referral of the proposal to the Council, and
 - (b) any submissions received from anyone else before the notified closing date for submissions under subsection (3), and
 - (c) if relevant, any report from, or submissions received at, a public inquiry.

[2] Section 163B Application of certain Acts

Insert at the end of the section:

- (2) This section (except to the extent that it relates to anything authorised by or under the *Snowy Hydro Corporatisation Act 1997*) does not apply to a ski resort area, within the meaning of Part 8A of Schedule 6 to the *Environmental Planning and Assessment Act 1979*.

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Schedule 2 Amendment of National Parks and Wildlife Act 1974

- (3) An order may not be made under Division 2A of Part 6 of the *Environmental Planning and Assessment Act 1979*, or under Chapter 7 of the *Local Government Act 1993*, that would prevent or hinder the Director-General from or in carrying out any power, authority, duty, function or responsibility conferred or imposed on the Director-General by or under this Act.