

Alpine Resorts (Management) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

- Clause 1 The clause sets out the purposes of the Bill, the chief of which is to establish new management bodies for the alpine resorts.
- Clause 2 provides for the commencement of the Act. Sub-section (1) requires certain sections to come into effect on the day of Royal Assent. Remaining sections come into effect on a day or days, with forced commencement being on 31 October 1998.
- Clause 3 Terms used in the Act are defined in this clause. In particular, the alpine resorts are defined in terms of their declaration by Order in Council under the **Alpine Resorts Act 1983**. The managing bodies for the resorts are also defined.
- Clause 4 provides that the managing bodies established under the Act are deemed to be committees of management under the **Crown Land (Reserves) Act 1978** for the relevant permanently reserved land.
- Clause 5 The managing bodies established under this Act are deemed to be municipal councils for the purposes of certain other Acts. This provision will enable the managing bodies to undertake certain functions and obligations.
- Clause 6 provides that the Act binds the Crown.

PART 2—SPECIFIC POWERS IN RELATION TO ALPINE RESORTS

- Clause 7 confers power on alpine resort managing bodies, with the prior consent of the Minister, to grant leases of up to 99 years for purposes consistent with the permanent reservation.
- Clause 8 confers power on the managing bodies to grant licences over the permanently reserved land in an alpine resort for a period of up to ten years.

- Clause 9 sets out a specific power for the Minister to grant leases to a generation company over land within the Falls Creek Alpine Resort. The grant of any lease over a stratum of land is subject to provisions concerning access and service rights for other parties.
- Clause 10 provides for the grant of licences to a generation company over land in the Falls Creek Alpine Resort.
- Clause 11 enables the Minister to enter into an agreement with a generation, transmission or distribution company within the meaning of the **Electricity Industry Act 1993** over use or management of land within an alpine resort. This agreement may cover only land relevant to the company's purposes.
- Clause 12 allows for agreements or arrangements to be entered into. Sub-clauses (1) and (2) allow the Minister to enter into agreements with other Ministers about the carrying out of works or the provision of services in resorts by other Departments or public authorities. Under sub-clauses (3), (4) and (5) the managing bodies of resorts are enabled to enter into agreements with the managers of neighbouring Crown land managed under a relevant law in order to provide for the provision and use of trails for cross-country skiing. Where such trails are established, the provisions of this Act may be applied to them and management powers may be delegated to the managing body of the resort.
- Clause 13 The contributions which may be levied under this clause are in place of a number of charges which might be levied by municipal councils for the provision of services and infrastructure within the resort. The clause provides for notices of payment and for recovery of any default.

PART 3—ALPINE RESORTS CO-ORDINATING COUNCIL

- Clause 14 establishes the Alpine Resorts Co-ordinating Council as a body corporate.
- Clause 15 provides that the Council represents the Crown in carrying out its functions.
- Clause 16 provides that the Council is accountable to the Minister in carrying out its functions.

- Clause 17 sets out the membership of the Council, which consists of a chairperson, the chairs of each of the resort management Boards and three other persons.
- Clause 18 The functions of the Council are set out in this clause. It co-ordinates advice to the Minister on matters generally applicable to alpine resorts.
- Clause 19 The powers of the Council, set out in this clause, include a general power to carry out its functions and a power to enter into and carry out contracts and arrangements.
- Clause 20 The Council is authorised under this clause to delegate its power to co-ordinate any overall promotion of resorts.
- Clause 21 provides that a member of the Council holds office for up to three years, but may be re-appointed.
- Clause 22 provides for resignation or removal from office of members.
- Clause 23 provides for filling of vacancies in membership.
- Clause 24 enables the Council to establish committees from among its members.
- Clause 25 provides for the payment of fees and allowances to members.
- Clause 26 provides for the validity of decisions of the Council notwithstanding any defects in the appointment of members or vacancy in membership.
- Clause 27 provides for who shall chair meetings of the Council, being the chairperson, or if absent, a member chosen by those members present.
- Clause 28 Under this clause, the requirements for a quorum, voting on a matter and the keeping of minutes are set out. Beyond this, the Council may regulate its own proceedings.
- Clause 29 requires the disclosure by members of direct or indirect pecuniary interests in matters under discussion by the Council and excludes a member who has disclosed an interest from discussion or voting on the matter.

- Clause 30 sets out the process for preparation of a corporate plan by the Council and its approval by the Minister. This document is a major part of the accountability structure of the Council to the Minister.
- Clause 31 A statement of corporate intent is a part of the corporate plan to be prepared by the Council each year. This clause sets out the information which is to be included in the statement of corporate intent.
- Clause 32 requires the Council to notify the Minister immediately of any matters which may affect its ability to achieve objectives or financial targets in the corporate plan.
- Clause 33 requires the keeping of a General Account and authorises the disbursement of funds to meet the expenses of the Council in carrying out its functions.

PART 4—ALPINE RESORT MANAGEMENT BOARDS

- Clause 34 Bodies known as Alpine Resort Management Boards for the each of the alpine resorts are established as bodies corporate by this clause.
- Clause 35 provides that each Board acts on behalf of the Crown in exercising its functions.
- Clause 36 empowers the Minister to give directions or guidelines to a Board and requires the Board to comply.
- Clause 37 The membership of a Board is set by this clause, with a minimum of three and a maximum of seven members.
- Clause 38 sets out the functions of a Board, including the ability to manage the land within the resort as a committee of management under the **Crown Land (Reserves) Act 1987**, the provision of infrastructure and services within the resort and the ability to seek investment. There is a general requirement on a Board to exercise its functions in an environmentally sound manner.
- Clause 39 confers a general power on a Board to carry out its functions and also empowers it to enter into contracts agreements or arrangements in order to exercise its functions.

- Clause 40 A Board is deemed to have some of the powers of an incorporated committee of management under the **Crown Land (Reserves) Act 1978** by virtue of this clause.
- Clause 41 empowers a Board to employ staff.
- Clause 42 provides for the terms of appointment of a member and provides that a member is eligible for reappointment.
- Clause 43 provides for the appointment of a chairperson and deputy chairperson for each Board.
- Clause 44 provides for the terms of appointment of a chairperson and deputy chairperson.
- Clause 45 provides for resignation or removal of members.
- Clause 46 allows for the filling of vacancies on a Board.
- Clause 47 authorises a Board to establish committees from among its members.
- Clause 48 provides for the payment of fees and allowances to Board members.
- Clause 49 ensures the validity of decisions of a Board despite any defect in appointment or vacancy in membership of a Board.
- Clause 50 provides that meetings of the Board shall be chaired by the chairperson; in his or her absence by the deputy chairperson; if both are absent, then a member elected by those members in attendance.
- Clause 51 provides for the calling of meetings, voting at meetings, quorums and the keeping of minutes. Beyond these matters, a Board may regulate its own proceedings.
- Clause 52 requires members to disclose any direct or indirect pecuniary interest in matters before a Board. If an interest is disclosed, a member may not take any further part in discussion or vote on the matter.
- Clause 53 requires the preparation by a Board of a corporate plan and sets out the matters required to be included.

- Clause 54 sets out the required contents of a statement of corporate intent, which forms part of the corporate plan of a Board.
- Clause 55 requires Boards to notify the Minister immediately of any matter which may affect the achievement of objectives of the Board or financial targets.
- Clause 56 requires a Board to keep a General Account and sets out the purposes for which it may be spent.

PART 5—MISCELLANEOUS

- Clause 57 sets out the matters which may be regulated under this Act. It generally covers regulation of access to the resorts and to parts of the resorts by people and vehicles for the purposes of order and safety and protection of environmental values. It also provides for fees to be imposed and provides penalties for breach of the regulations.

PART 6—TRANSITIONAL ARRANGEMENTS AND AMENDMENT OF OTHER ACTS

- Clause 58 defines the "Commission" to mean the Alpine Resorts Commission established under the **Alpine Resorts Act 1983**. This is for the purposes of the transitional clauses which follow.
- Clause 59 provides for the replacement of the Commission by the new managing bodies. It establishes the Council as the successor in law of the Commission in relation to the resorts for which no Board is appointed and each Board as the successor in law of the Commission for the resort for which it is appointed. Any dispute between the various successor bodies is to be determined by the Minister, whose determination is binding on the parties.
- Clause 60 which comes into effect on the date of Royal Assent, provides for the Minister to designate those staff of the Commission which are transferred to the employ of a managing body.
- Clause 61 provides for the transfer of staff to a managing body and preserves their entitlements to leave and superannuation.
- Clause 62 provides for land to be excised from the Mount Buller Alpine Resort and added to the Mount Stirling Alpine Resort.

- Clause 63 excises land from the Alpine National Park and adds it to the Falls Creek Alpine Resort.
- Clause 64 preserves grazing licences granted over the land added to the alpine resort.
- Clause 65 This is a further transitional clause which provides that the existing grazing licences may continue to be dealt with in accordance with an agreement made by the Minister responsible for the **National Parks Act 1975**.
- Clause 66 repeals definitions in the Alpine Resorts Act which will no longer be required.
- Clause 67 The effect of this clause is that section 46 of the **Planning and Environment Act 1987** now applies to land in alpine resorts, so that a planning scheme may regulate or prohibit the use or development of land in alpine resorts. If the planning scheme is inconsistent with the purposes of the reserve, it does not take effect until the reserve is revoked.
- Clause 68 The effect of this clause is to insert new provisions in the **Alpine Resorts Act 1983** which substitute a new plan for the Falls Creek Alpine Resort, provide that certain specified roads within the resorts cease to be reserved, and provide that the alpine resorts are not included within municipal districts.
- Clause 69 repeals those parts of the **Alpine Resorts Act 1983** which are no longer required.
- Clause 70 makes consequential amendments to the **Building Act 1993**.
- Clause 71 makes consequential amendments to the **Conservation Forests and Lands Act 1987**, making both the **Alpine Resorts Act 1983** and the **Alpine Resorts (Management) Act 1997** relevant laws for the purposes of that Act.
- Clause 72 makes a consequential amendment to the **Forests Act 1958**.
- Clause 73 amends the **National Parks Act 1975** consequent on clause 63.
- Clause 74 This is a consequential amendment to the Planning Appeals Act.

Clause 75 amends the **Planning and Environment Act 1987** to:

- (a) repeal section 8 (4) which allows the Commission to prepare amendments to planning schemes;
- (b) repeals section 96(8) so that permits for the use or development of land have to be obtained under section 96(2);
- (c) repeals a power to delegate under section 188(1)(c).