



New South Wales

State Environmental Planning Policy (Precincts—Regional) Amendment (Kosciuszko Alpine Region) 2022

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ANTHONY ROBERTS, MP
Minister for Planning

State Environmental Planning Policy (Precincts—Regional) Amendment (Kosciuszko Alpine Region) 2022

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Precincts—Regional) Amendment (Kosciuszko Alpine Region) 2022*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

3 Repeal of Policy

This Policy is repealed at the beginning of the day following the day on which this Policy commences.

Schedule 1 Amendment of State Environmental Planning Policy (Precincts—Regional) 2021

[1] Chapter 4

Omit the Chapter. Insert instead—

Chapter 4 Kosciuszko Alpine Region

Part 4.1 Preliminary

4.1 Aim and objectives of Chapter

- (1) The aim of this Chapter is to protect and enhance the Alpine Region by ensuring development is managed with regard to the principles of ecologically sustainable development, including the conservation and restoration of ecological processes, natural systems and biodiversity.
- (2) The objectives of this Chapter are as follows—
 - (a) to encourage the carrying out of a range of development to support sustainable tourism in the Alpine Region all year round, if the development does not result in adverse environmental, social or economic impacts on the natural or cultural environment of the Alpine Region, including cumulative impacts on the environment from development and resource use,
 - (b) to establish planning controls that—
 - (i) contribute to and facilitate the carrying out of ecologically sustainable development in the Alpine Region, and
 - (ii) recognise the Alpine Region’s significant contribution to recreation and the tourism economy in the State,
 - (c) to minimise the risk to the community of exposure to environmental hazards, particularly geotechnical hazards, bush fires and flooding, by—
 - (i) generally requiring development consent on land in the Alpine Region, and
 - (ii) establishing planning controls for buildings to ensure the safety of persons using the buildings if there is a fire.

4.2 Land to which Chapter applies

- (1) This Chapter applies to the Alpine Region.
- (2) The Alpine Region comprises the following Alpine Subregions—
 - (a) Blue Cow Terminal,
 - (b) Bullocks Flat Terminal,
 - (c) Charlotte Pass Alpine Resort,
 - (d) Creel Bay Alpine Accommodation,
 - (e) Kosciuszko Tourist Park Alpine Accommodation,
 - (f) Mount Selwyn Alpine Resort,
 - (g) Perisher Range Alpine Resort,
 - (h) Ski Rider Alpine Accommodation,
 - (i) Sponars Chalet Alpine Accommodation,

- (j) Thredbo Alpine Resort,
 - (k) Thredbo Ranger Station Alpine Accommodation.
- (3) Each of the Alpine Subregions is identified on a map as follows—
- (a) Blue Cow Terminal is identified on the State Environmental Planning Policy (Precincts—Regional) 2021 Perisher Range Alpine Resort Map,
 - (b) Bullocks Flat Terminal is identified on the State Environmental Planning Policy (Precincts—Regional) 2021 Bullocks Flat Terminal Map,
 - (c) Charlotte Pass Alpine Resort is identified on the State Environmental Planning Policy (Precincts—Regional) 2021 Charlotte Pass Alpine Resort Map,
 - (d) Creel Bay Alpine Accommodation is identified on the State Environmental Planning Policy (Precincts—Regional) 2021 Minor Alpine Accommodation Map,
 - (e) Kosciuszko Tourist Park Alpine Accommodation is identified on the State Environmental Planning Policy (Precincts—Regional) 2021 Minor Alpine Accommodation Map,
 - (f) Mount Selwyn Alpine Resort is identified on the State Environmental Planning Policy (Precincts—Regional) 2021 Mount Selwyn Alpine Resort Map,
 - (g) Perisher Range Alpine Resort is identified on the State Environmental Planning Policy (Precincts—Regional) 2021 Perisher Range Alpine Resort Map,
 - (h) Ski Rider Alpine Accommodation is identified on the State Environmental Planning Policy (Precincts—Regional) 2021 Minor Alpine Accommodation Map,
 - (i) Sponars Chalet Alpine Accommodation is identified on the State Environmental Planning Policy (Precincts—Regional) 2021 Minor Alpine Accommodation Map,
 - (j) Thredbo Alpine Resort is identified on the State Environmental Planning Policy (Precincts—Regional) 2021 Thredbo Alpine Resort Map,
 - (k) Thredbo Ranger Station Alpine Accommodation on the State Environmental Planning Policy (Precincts—Regional) 2021 Thredbo Ranger Station Alpine Accommodation Map.

4.3 Definitions

- (1) The Dictionary in Schedule 4A defines words used in this Chapter.
Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Chapter.
- (2) In this Chapter, development for the purposes of water storage facilities or sewage treatment plants does not include the installation or use of pipelines, pumps or related infrastructure used to—
- (a) supply water to or from water storage facilities, or
 - (b) convey sewage to, or output from, a sewage treatment plant.
- (3) Words used in this Chapter have the same meaning as in the Standard Instrument, unless otherwise defined.
Note— **Commercial premises** and **shop**, which are land uses defined in the Standard Instrument, are defined differently in the Dictionary in Schedule 4A.

- (4) A reference to this Chapter includes a reference to a Schedule made under this Chapter.

4.4 Consent authority

The Minister is the consent authority for the purposes of this Chapter.

Note— See the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, Schedule 1, clause 32C(2)(a).

4.5 Maps

- (1) A reference in this Chapter to a named map adopted by this Chapter is a reference to a map by that name—
- (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps—
 - (i) declared by environmental planning instruments to amend or replace the map, and
 - (ii) approved by the persons making the instruments when the instruments are made.
- (2) Two or more named maps may be combined into a single map and a reference in this Chapter to the named map is a reference to the relevant part or aspect of the single map.
- (3) The maps adopted by this Chapter must be kept in electronic form and made available for public access in accordance with arrangements approved by the Minister.
- (4) A map referred to in a Schedule made under this Chapter is taken to be a map adopted by this Chapter.

4.6 Relationship with other environmental planning instruments

- (1) This Chapter prevails to the extent of an inconsistency between this Chapter and other provisions of this Policy or another environmental planning instrument, whether made before or after the commencement of this Chapter.
- (2) The following environmental planning instruments do not apply to land to which this Chapter applies—
- (a) *Snowy River Local Environmental Plan 2013*,
 - (b) *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*,
 - (c) *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*,
 - (d) *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*,
 - (e) *State Environmental Planning Policy (Industry and Employment) 2021*, Chapter 3,
 - (f) *Tumut Local Environmental Plan 2012*.

Part 4.2 Permitted or prohibited development

4.7 Land Use Table

- (1) The Land Use Table at the end of this Part specifies the following for each Alpine Subregion—

- (a) development that may be carried out without development consent,
 - (b) development that may be carried out only with development consent,
 - (c) development that is prohibited.
- (2) In the Land Use Table at the end of this Part—
- (a) a reference to a type of building or other thing is a reference to development for the purposes of the type of building or other thing, and
 - (b) a reference to a type of building or other thing does not include, despite a definition in this Chapter, a reference to a type of building or other thing referred to separately in the Table in relation to the same Alpine Subregion.
- (3) This section is subject to the other provisions of this Chapter.

4.8 Subdivision

- (1) Land in the Alpine Region may be subdivided with development consent.
- (2) However, development consent is not required for a subdivision for the purposes of the following—
- (a) widening a public road,
 - (b) adjusting a boundary between lots, if the adjustment does not create more lots,
 - (c) consolidating lots, if the consolidation does not create more lots,
 - (d) rectifying an encroachment on a lot,
 - (e) excising from a lot land that is, or is intended to be, used for public purposes, including drainage, rural fire brigades or other emergency services and public conveniences.

4.9 Demolition

The demolition of a building or work on land in the Alpine Region may be carried out only with development consent.

Note— Demolition may be exempt development under Part 4.3.

4.10 Temporary use of land

- (1) The objective of this section is to provide for the temporary use of land if the use does not—
- (a) compromise future development of the land, or
 - (b) have adverse economic, social, amenity or environmental impacts on the land.
- (2) Despite the Land Use Table, development consent may be granted to the temporary use of land in the Alpine Region for any purpose for a maximum period of 52 days, whether or not consecutive, in a period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied—
- (a) the temporary use will not prejudice the subsequent carrying out of development on the land, and
 - (b) the temporary use will not adversely impact adjoining land or the amenity of the area, and
 - (c) the temporary use, and the location of structures related to the use, will not—

- (i) adversely impact environmental attributes or features of the land, or
- (ii) increase the risk of natural hazards that may affect the land, and
- (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition it was in before the use commenced.

Land Use Table

Blue Cow Terminal

1 Permitted without consent

Nil

2 Permitted with consent

Advertising structures; Building identification signs; Business identification signs; Car parks; Commercial premises; Community facilities; Depots; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Helipads; Information and education facilities; Infrastructure facilities; Lifting facilities; Management trails; Medical centres; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Ski slope huts; Ski slopes; Snow-making infrastructure; Staff accommodation; Telecommunications facilities; The Skitube; Transport depots; Vehicle repair stations

3 Prohibited

Any development not specified in item 1 or 2

Bullocks Flat Terminal

1 Permitted without consent

Nil

2 Permitted with consent

Advertising structures; Building identification signs; Business identification signs; Camping grounds; Car parks; Commercial premises; Community facilities; Depots; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Helipads; Information and education facilities; Infrastructure facilities; Management trails; Medical centres; Monitoring stations; Places of public worship; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Staff accommodation; Telecommunications facilities; The Skitube; Transport depots; Vehicle repair stations

3 Prohibited

Any development not specified in item 1 or 2

Charlotte Pass Alpine Resort

1 Permitted without consent

Nil

2 Permitted with consent

Advertising structures; Building identification signs; Business identification signs; Car parks; Commercial premises; Community facilities; Depots; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Helipads; Information and education facilities; Infrastructure facilities; Lifting facilities; Management trails; Medical centres; Monitoring stations; Places of public worship; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Ski slope huts; Ski slopes; Snow-making infrastructure; Staff accommodation; Telecommunications facilities; Tourist and visitor accommodation; Transport depots; Vehicle repair stations

3 Prohibited

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

Creel Bay Alpine Accommodation

1 Permitted without consent

Nil

2 Permitted with consent

Advertising structures; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Commercial premises; Community facilities; Depots; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Infrastructure facilities; Management trails; Monitoring stations; Public utility undertakings; Recreation infrastructure; Staff accommodation; Telecommunications facilities; Tourist and visitor accommodation; Transport depots

3 Prohibited

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

Kosciuszko Tourist Park Alpine Accommodation

1 Permitted without consent

Nil

2 Permitted with consent

Advertising structures; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Community facilities; Eco-tourist facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Information and education facilities; Infrastructure facilities; Management trails; Monitoring stations; Public utility undertakings;

Recreation infrastructure; Staff accommodation; Telecommunications facilities; Tourist and visitor accommodation; Transport depots

3 Prohibited

Bed and breakfast accommodation; Farm stay accommodation; Hotel or motel accommodation; Any other development not specified in item 1 or 2

Mount Selwyn Alpine Resort

1 Permitted without consent

Nil

2 Permitted with consent

Advertising structures; Building identification signs; Business identification signs; Car parks; Commercial premises; Community facilities; Depots; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Helipads; Information and education facilities; Infrastructure facilities; Lifting facilities; Management trails; Medical centres; Monitoring stations; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Ski slope huts; Ski slopes; Snow-making infrastructure; Staff accommodation; Telecommunications facilities; Transport depots; Vehicle repair stations

3 Prohibited

Any development not specified in item 1 or 2

Perisher Range Alpine Resort

1 Permitted without consent

Nil

2 Permitted with consent

Advertising structures; Building identification signs; Business identification signs; Car parks; Commercial premises; Community facilities; Depots; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Helipads; Information and education facilities; Infrastructure facilities; Lifting facilities; Management trails; Medical centres; Monitoring stations; Places of public worship; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Ski slope huts; Ski slopes; Snow-making infrastructure; Staff accommodation; Telecommunications facilities; The Skitube; Tourist and visitor accommodation; Transport depots; Vehicle repair stations

3 Prohibited

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

Ski Rider Alpine Accommodation

1 Permitted without consent

Nil

2 Permitted with consent

Advertising structures; Building identification signs; Business identification signs; Commercial premises; Eco-tourist facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Infrastructure facilities; Management trails; Monitoring stations; Public utility undertakings; Recreation infrastructure; Staff accommodation; Telecommunications facilities; Tourist and visitor accommodation; Transport depots

3 Prohibited

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

Sponars Chalet Alpine Accommodation

1 Permitted without consent

Nil

2 Permitted with consent

Advertising structures; Building identification signs; Business identification signs; Commercial premises; Eco-tourist facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Infrastructure facilities; Management trails; Monitoring stations; Public utility undertakings; Recreation infrastructure; Staff accommodation; Telecommunications facilities; Tourist and visitor accommodation

3 Prohibited

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

Thredbo Alpine Resort

1 Permitted without consent

Nil

2 Permitted with consent

Advertising structures; Building identification signs; Business identification signs; Car parks; Commercial premises; Community facilities; Depots; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Helipads; Information and education facilities; Infrastructure facilities; Lifting facilities; Management trails; Medical centres; Monitoring stations; Places of public worship; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Ski slope huts; Ski slopes; Snow-making infrastructure; Staff accommodation; Telecommunication facilities; Tourist and visitor accommodation; Transport depots; Vehicle repair stations

3 Prohibited

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

Thredbo Ranger Station Alpine Accommodation

1 Permitted without consent

Nil

2 Permitted with consent

Advertising structures; Building identification signs; Business identification signs; Camping grounds; Commercial premises; Community facilities; Eco-tourist facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Infrastructure facilities; Management trails; Monitoring stations; Public utility undertakings; Recreation infrastructure; Staff accommodation; Telecommunications facilities

3 Prohibited

Any development not specified in item 1 or 2

Part 4.3 Exempt and complying development

4.11 Requirements for exempt and complying development

- (1) Development specified in Schedule 2 is exempt development in the Alpine Region if the development complies with—
 - (a) the requirements of this Part, and
 - (b) the development standards specified in Schedule 2.
- (2) Development specified in Schedule 3, Part 1 is complying development in the Alpine Region if the development complies with—
 - (a) the requirements of this Part, and
 - (b) the development standards specified in Schedule 3, Part 1.
- (3) To be exempt or complying development, the development must not be carried out on the following land—
 - (a) land that is or contains a heritage item listed on the State Heritage Register under the *Heritage Act 1977*,
 - (b) land subject to an interim heritage order under that Act,
 - (c) land that is or contains an Aboriginal heritage item,
 - (d) land in an Aboriginal place,
 - (e) land to which section 4.16 applies.
- (4) To be exempt or complying development, the development must not be carried out—
 - (a) in a declared area of outstanding biodiversity value within the meaning of the *Biodiversity Conservation Act 2016*, or
 - (b) in critical habitat within the meaning of the *Fisheries Management Act 1994*, Part 7A, or
 - (c) in a wilderness area within the meaning of the *Wilderness Act 1987*, or
 - (d) in a flood planning area, or
 - (e) if the development involves earthworks—on land identified as “Archaeologically sensitive land” on the State Environmental Planning Policy (Precincts—Regional) Kosciuszko Alpine Region Aboriginal Archaeological Heritage Map.

- (5) To be exempt or complying development, the development must not be carried out on waterfront land unless the development is carried out—
 - (a) under a controlled activity approval, or
 - (b) in accordance with an exemption from the requirement to have a controlled activity approval under the regulations under the *Water Management Act 2000*.
- (6) To be exempt or complying development, the development must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*.
- (7) Development carried out as exempt or complying development under this Part does not include development required to access the site on which the exempt or complying development is carried out.
- (8) A heading to a section in Schedule 2 or 3 is part of the Schedule.
- (9) In this section—

controlled activity approval has the same meaning as in the *Water Management Act 2000*.

waterfront land has the same meaning as in the *Water Management Act 2000*.

4.12 Requirements for exempt development

Note— Under the Act, section 1.6, the carrying out of exempt development does not require—

- (a) development consent under the Act, Part 4, or
- (b) environmental impact assessment under the Act, Division 5.1, or
- (c) State significant infrastructure approval under the Act, Division 5.2, or
- (d) a certificate under the Act, Part 6.

Exempt development is not exempt from an approval, licence, permit or authority that is required under another Act, including the *National Parks and Wildlife Act 1974*. Adjoining owners' property rights and the common law still apply.

- (1) To be exempt development, the development must not—
 - (a) involve earthworks that are deeper than 1,000mm below ground level (existing) or that compromise support for adjoining land, or
 - (b) involve the damage, removal or pruning of a tree or other vegetation that requires a permit, approval, consent or development consent, unless the damage, removal or pruning is carried out in accordance with the permit, approval, consent or development consent, or
 - (c) if it relates to an existing building—cause the building to contravene the *Building Code of Australia*.
- (2) Development relating to an existing building classified under the *Building Code of Australia* as class 1b or class 2–9 is not exempt development unless—
 - (a) the building has a current fire safety certificate or fire safety statement, or
 - (b) no fire safety measures are currently implemented, required or proposed for the building.
- (3) In this section—

fire safety certificate, ***fire safety measure*** and ***fire safety statement*** have the same meaning as in the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

4.13 Requirements for complying development

- (1) To be complying development, the development—
 - (a) must be permitted with development consent on the land on which it is carried out, and
 - (b) must be consistent with the *Geotechnical Policy—Kosciuszko Alpine Resorts* published by the Department in November 2003, and
 - (c) must not be for the purposes of remediation within the meaning of *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 4, and
 - (d) must not be designated development.
- (2) A complying development certificate must not be issued for development involving the removal or pruning of a tree or other vegetation that requires a permit, approval, consent or development consent unless the permit, approval, consent or development consent is in force.
- (3) A complying development certificate for complying development under this Chapter is subject to—
 - (a) the conditions specified in Schedule 3, Part 2, and
 - (b) the conditions specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, Schedule 8, other than clauses 2(2), 6, 7, 12(2), 17(3), 21, 24A(2) and 25.

Part 4.4 Other development controls

4.14 Development by Crown, public authorities or Snowy Hydro

- (1) Development is permitted without development consent in the Alpine Region if the development is carried out by or on behalf of—
 - (a) the Crown, or
 - (b) a public authority, or
 - (c) Snowy Hydro Limited.
- (2) Despite subsection (1), development for the following purposes, other than development carried out by or on behalf of Snowy Hydro Limited, is permitted with development consent—
 - (a) water storage facilities,
 - (b) sewage treatment plants,
 - (c) waste or resource management facilities.

4.15 Development on land on Kosciuszko Road and Alpine Way

Development for the following purposes is permitted with development consent on land specified in the *National Parks and Wildlife Act 1974*, Schedule 16—

- (a) advertising structures,
- (b) car parks,
- (c) infrastructure facilities,
- (d) roads.

Note— Land specified in the *National Parks and Wildlife Act 1974*, Schedule 16 is not part of an Alpine Subregion so the Land Use Table does not apply to the land.

4.16 Development near Kangaroo Ridgeline

- (1) This section applies to the land identified as “Kangaroo Ridgeline” on the State Environmental Planning Policy (Precincts—Regional) 2021 Charlotte Pass Alpine Resort Map.
- (2) Despite any other provision of this Plan, development for any purpose is prohibited on the land to which this section applies, other than development carried out under section 4.8–4.10 or 4.14.
- (3) Despite subsection (2) and the Land Use Table, development for the following purposes is permitted with development consent on the land to which this section applies—
 - (a) management trails,
 - (b) recreation infrastructure,
 - (c) snow-making infrastructure,
 - (d) ski slopes.

4.17 Classified roads

- (1) The objectives of this section are as follows—
 - (a) to ensure that development does not compromise the effective and ongoing operation and function of classified roads,
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emissions on development adjacent to classified roads.
- (2) Development consent must not be granted to development on land in the Alpine Region with a frontage to a classified road unless the consent authority is satisfied of the following—
 - (a) if practicable, vehicular access to the land is provided by a road other than the classified road,
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to access to the land,
 - (c) the development is of a type that—
 - (i) is not sensitive to traffic noise or vehicle emissions, or
 - (ii) is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions on the site.

4.18 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* is permitted without development consent in the Alpine Region.

Note— The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

4.19 Public utility infrastructure

- (1) Development consent must not be granted for development in the Alpine Region unless the consent authority is satisfied that—
 - (a) the public utility infrastructure that is essential for the proposed development is available, or

- (b) adequate arrangements have been made to make that infrastructure available when required.
- (2) This section does not apply to development for the purposes of providing, extending, augmenting, maintaining or repairing public utility infrastructure.
- (3) In this section—
public utility infrastructure includes infrastructure for the following—
 - (a) the supply of water,
 - (b) the supply of electricity,
 - (c) the disposal and management of sewage.

4.20 Conversion of fire alarms

- (1) This section applies to a fire alarm system that can be monitored by Fire and Rescue NSW or a private service provider.
- (2) The following development may be carried out in the Alpine Region with development consent—
 - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
 - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
 - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) In this section—
private service provider means a person or body that has entered into an agreement that is in force with Fire and Rescue NSW to monitor fire alarm systems.

4.21 Heritage conservation

- (1) The objective of this section is to conserve—
 - (a) the environmental heritage of the Alpine Region, and
 - (b) the heritage significance of heritage items, including associated fabric, settings and views, and
 - (c) Aboriginal heritage items and Aboriginal places.
- (2) Development consent is required for the following in the Alpine Region—
 - (a) demolishing or moving a heritage item,
 - (b) altering a heritage item, including by doing the following to a heritage item that is a building—
 - (i) making changes to the detail, fabric, finish or appearance of the building's exterior,
 - (ii) making structural changes to the building's interior,
 - (c) disturbing or excavating land that is, or contains, an Aboriginal heritage item,
 - (d) erecting a building on land that is, or contains, a heritage item,
 - (e) subdividing land that is, or contains, a heritage item.

- (3) Development consent is not required under this section for the following development—
 - (a) development that involves only the removal of a tree or other vegetation that the consent authority is satisfied is a risk to human life or property,
 - (b) exempt development,
 - (c) development that does not require development consent under section 4.14.
- (4) The consent authority may, before work is carried out, give written notice to an applicant for development consent that development consent is not required under this section if the consent authority is satisfied the development—
 - (a) is of a minor nature or is for the maintenance of the heritage item, and
 - (b) the development will not adversely impact the heritage significance of the heritage item.
- (5) In deciding whether to grant development consent for development under this section, the consent authority—
 - (a) must consider the effect of the development on—
 - (i) the heritage significance of the heritage item, and
 - (ii) Aboriginal objects known or reasonably likely to be located on the land,
 - (b) may require the submission of a heritage conservation management plan, and
 - (c) for development on land that is, contains or is near a heritage item—may require the preparation of a heritage impact statement.
- (6) Development consent must not be granted to development on land that is, or contains, an Aboriginal heritage item, and that requires development consent under this section, unless the consent authority has—
 - (a) given written or other appropriate notice of the development to the local Aboriginal communities, and
 - (b) considered responses received from the communities within 28 days after the notice is given.

4.22 Conservation incentives

- (1) This section applies to development in the Alpine Region that—
 - (a) involves a building that is a heritage item, or
 - (b) is on land on which a building that is a heritage item is located.
- (2) Development consent may be granted to development to which this section applies, even if the development would otherwise be prohibited under this Chapter, if the consent authority is satisfied of the following—
 - (a) granting the development consent will facilitate the conservation of the heritage item,
 - (b) the development will be in accordance with a heritage conservation management plan that has been approved by the consent authority,
 - (c) the development consent will require the carrying out of all necessary conservation work identified in the heritage conservation management plan,
 - (d) the development will not adversely affect the heritage significance of the heritage item, including its setting,

- (e) the development will not have a significant adverse impact on the amenity of the surrounding area.

4.23 Eco-tourist facilities

- (1) The objectives of this section are as follows—
 - (a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,
 - (b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment on and off site.
- (2) This section does not apply to development relating to a building classified as class 1a under the *Building Code of Australia*.
- (3) Development consent must not be granted to development for the purposes of eco-tourist facilities in the Alpine Region unless the consent authority is satisfied of the following—
 - (a) there is a demonstrated connection between the development and the ecological, environmental and cultural values of the area,
 - (b) the development will be located, constructed, managed and maintained to minimise impact on, and to conserve, the natural environment,
 - (c) the development will enhance the appreciation of the environmental and cultural values of the area,
 - (d) the development will promote positive environmental outcomes,
 - (e) the impacts of the development on watercourses, soil quality, heritage and native flora and fauna will be minimal,
 - (f) the site will be maintained or regenerated to ensure the continued protection of natural resources and enhancement of the natural environment,
 - (g) waste generation during construction and operation will be avoided and waste will be appropriately removed,
 - (h) the development will be located to avoid visibility above ridgelines, against escarpments and from watercourses, and visual intrusions will be minimised through the choice of design, colours, materials and landscaping with local native flora,
 - (i) infrastructure services to the site will be provided without significant modification to the environment,
 - (j) power and water to the site will, where possible, be provided using passive heating and cooling, renewable energy sources and water-efficient design,
 - (k) the development will not adversely affect the agricultural productivity of adjoining land,
 - (l) the following matters are addressed or provided for in a management strategy for minimising impacts on the natural environment—
 - (i) measures to remove threats of serious or irreversible environmental damage,
 - (ii) the maintenance or regeneration of habitats,
 - (iii) efficient and minimal energy and water use and waste output,
 - (iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,

- (v) maintaining improvements on an ongoing basis in accordance with ISO 14000 standards relating to management and quality control.

4.24 Flood planning

- (1) The objectives of this section are as follows—
 - (a) to minimise the flood risk to life and property associated with the use of land,
 - (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,
 - (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,
 - (d) to enable the safe occupation and efficient evacuation of people if there is a flood.
- (2) Development consent must not be granted to development on land in the Alpine Region the consent authority considers to be in the flood planning area unless the consent authority is satisfied the development—
 - (a) is compatible with the flood function and behaviour on the land, and
 - (b) will not adversely impact flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
 - (c) will not adversely impact the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area if there is a flood, and
 - (d) incorporates appropriate measures to manage risk to life if there is a flood, and
 - (e) will not adversely impact the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.
- (3) In deciding whether to grant development consent on land the consent authority considers to be in the flood planning area, the consent authority must consider the following matters—
 - (a) the impact of the development on projected changes to flood behaviour as a result of climate change,
 - (b) the intended design and scale of buildings resulting from the development,
 - (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people if there is a flood,
 - (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.
- (4) Words used in this section have the same meaning as in the *Considering Flooding in Land Use Planning Guideline*, published on the Department's website on 14 July 2021, unless otherwise defined.

4.25 Earthworks

- (1) The objective of this section is to ensure that earthworks for which development consent is required will not have a detrimental impact on

- environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.
- (2) Development consent is required for earthworks in the Alpine Region unless—
- (a) the earthworks are exempt development under this Chapter or another environmental planning instrument, or
 - (b) the earthworks are ancillary to—
 - (i) development permitted without consent under this Chapter, or
 - (ii) development for which development consent has been given.
- (3) In deciding whether to grant development consent for earthworks, or for development involving ancillary earthworks, the consent authority must consider the following matters—
- (a) the likely disruption of, or adverse impact on, drainage patterns and soil stability in the locality of the development,
 - (b) the effect of the development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill or the soil to be excavated, or both,
 - (d) the effect of the development on the existing and likely amenity of adjoining properties,
 - (e) the source of any fill material and the destination of any excavated material,
 - (f) the likelihood of disturbing relics,
 - (g) the proximity to, and potential for adverse impacts on, a waterway, drinking water catchment or environmentally sensitive area,
 - (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Note— The *National Parks and Wildlife Act 1974*, particularly section 86, deals with harming Aboriginal objects.

Part 4.5 Development assessment and consent

4.26 Master plans

- (1) The Minister must prepare and approve a master plan that applies to the Alpine Region.
- (2) The master plan must contain the following information—
 - (a) the strategic vision and general objectives for the Alpine Region,
 - (b) a map showing existing and proposed types of development,
 - (c) the performance criteria for development,
 - (d) information about heritage items or places of heritage significance,
 - (e) limitations on development on certain land, including environmentally sensitive areas, land prone to flooding and cultural heritage.
- (3) The master plan may also contain proposals for infrastructure facilities, public utility undertakings, roads and transport.
- (4) The master plan must be consistent with this Chapter.
- (5) The Minister may amend or replace a master plan.

- (6) A draft master plan must be published on the NSW planning portal for at least 28 days before it is approved by the Minister.
- (7) A master plan approved by the Minister must be published on the NSW planning portal and takes effect on the day it is published.

4.27 Consultation with National Parks and Wildlife Service

- (1) Development consent must not be granted to development in the Alpine Region unless the consent authority has—
 - (a) consulted with the National Parks and Wildlife Service, and
 - (b) considered submissions received from the National Parks and Wildlife Service within the relevant period.
- (2) In this section—
relevant period means—
 - (a) 28 days after notice of the development application is given to the National Parks and Wildlife Service, or
 - (b) another period determined by the Planning Secretary.

4.28 Consideration of master plans and other documents

- (1) In deciding whether to grant development consent to development in the Alpine Region, the consent authority must consider the following—
 - (a) the aim and objectives of this Chapter set out in section 4.1,
 - (b) a draft development control plan that is intended to apply to the land and has been published on the NSW planning portal,
 - (c) a conservation agreement under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth that applies to the land,
 - (d) the *Geotechnical Policy—Kosciuszko Alpine Resorts* published by the Department in November 2003,
 - (e) for development in the Perisher Range Alpine Resort—
 - (i) the *Perisher Range Resorts Master Plan*, published by the National Parks and Wildlife Service in November 2001, and
 - (ii) the *Perisher Blue Ski Resort Ski Slope Master Plan* adopted by the National Parks and Wildlife Service in May 2002.
- (2) In deciding whether to grant development consent to development in the Alpine Region, the consent authority must consider—
 - (a) a master plan approved by the Minister under section 4.26 that applies to the land, or
 - (b) if a master plan has not been approved—a draft master plan prepared under section 4.26 that is intended to apply to the land and has been published on the NSW planning portal.

4.29 Consideration of environmental, geotechnical and other matters

- (1) In deciding whether to grant development consent to development in the Alpine Region, the consent authority must consider the following—
 - (a) measures proposed to address geotechnical issues relating to the development,
 - (b) the extent to which the development will achieve an appropriate balance between—

- (i) the conservation of the natural environment, and
 - (ii) taking measures to mitigate environmental hazards, including geotechnical hazards, bush fires and flooding,
 - (c) the visual impact of the proposed development, particularly when viewed from the land identified as the Main Range Management Unit in the *Kosciuszko National Park Plan of Management*,
 - (d) the cumulative impacts of development and resource use on the environment of the Alpine Subregion in which the development is carried out,
 - (e) the capacity of existing infrastructure and services for transport to and within the Alpine Region to deal with additional usage generated by the development, including in peak periods,
 - (f) the capacity of existing waste or resource management facilities to deal with additional waste generated by the development, including in peak periods.
- (2) For development involving earthworks or stormwater draining works, the consent authority must also consider measures to mitigate adverse impacts associated with the works.
 - (3) For development the consent authority considers will significantly alter the character of an Alpine Subregion, the consent authority must also consider—
 - (a) the existing character of the site and immediate surroundings, and
 - (b) how the development will relate to the Alpine Subregion.

4.30 Kosciuszko National Park Plan of Management

- (1) Development consent may be granted to development in the Alpine Region even if the application has not established that the development is consistent with the *Kosciuszko National Park Plan of Management*.
- (2) This section does not prevent the consent authority from refusing to grant consent to development on the basis that the development is not consistent with the *Kosciuszko National Park Plan of Management*.

Note— Under the *National Parks and Wildlife Act 1974*, section 81(4), operations on land to which a plan of management under that Act applies may be undertaken only if they are undertaken in accordance with the plan of management, despite another Act or an instrument made under an Act.

Part 4.6 Miscellaneous

4.31 Savings

A development application lodged, but not finally determined, before *State Environmental Planning Policy (Precincts—Regional) Amendment (Kosciuszko Alpine Region) 2022* commences must be determined as if that Policy had not commenced.

[2] Schedules 2–4A

Omit Schedules 2–4. Insert instead—

Schedule 2 Exempt development—Chapter 4

section 4.11

1 Minor internal building alterations

- (1) A minor internal alteration to a building to replace or renovate the following—
 - (a) an internal window, doorway, wall, ceiling or floor lining,
 - (b) deteriorated materials, including stairs and stairwells,
 - (c) a kitchen or bathroom,
 - (d) a built-in fixture, including a vanity, cupboard or wardrobe,
 - (e) a sanitary fixture, including a grease trap,
 - (f) shelving or racking,
 - (g) a partition, work station or counter.
- (2) The development must not be carried out on the following—
 - (a) an area used to carry out skin penetration procedures, within the meaning of the *Public Health Act 2010*,
 - (b) hairdressing premises,
 - (c) an area used for the purposes of a food business, within the meaning of the *Food Act 2003*,
 - (d) a heritage item,
 - (e) a swimming pool or spa pool.
- (3) The development must not—
 - (a) increase the gross floor area of the building, or
 - (b) alter the load-bearing capacity of a load-bearing component of the building, or
 - (c) alter or replace a form of construction in the building that ensures the safety of persons in the building if there is a fire, including plasterboard and wall linings, or
 - (d) alter the building's emergency exits, or
 - (e) reduce the size or number of windows in the building, or
 - (f) reduce the size of a doorway in the building, or
 - (g) enclose an open area in the building, or
 - (h) relocate, or alter the number of, kitchens or bathrooms in the building, or
 - (i) change the configuration of a room, whether by removal of a wall or partition or other means.
- (4) If the development involves the replacement or renovation of deteriorated materials, equivalent or higher quality materials must be used.
- (5) Development involving a building used for the purposes of staff accommodation or tourist and visitor accommodation must not alter the size or number of bedrooms in the building.

2 Minor external building alterations

- (1) A minor external non-structural alteration to a building, including the following—
 - (a) painting, plastering, cement rendering, cladding, attaching fittings or decorative work,
 - (b) repair of a non-structural wall or roof cladding,

- (c) installation of a security screen or grille on a door or window within 5m from a road boundary,
 - (d) installation of a security door within 5m from a road boundary,
 - (e) repair or replacement of a balustrade,
 - (f) repair or replacement of an external window, glazed area or door.
- (2) The development must not—
- (a) increase the gross floor area of the building, or
 - (b) alter the load-bearing capacity of a load-bearing component of the building, or
 - (c) alter or replace a form of construction in the building that ensures the safety of persons in the building if there is a fire, including plasterboard and wall linings, or
 - (d) reduce the existing fire resistance level of a part of the building, or
 - (e) alter the building's emergency exits, or
 - (f) increase the size of a wall, doorway, window, roof or skylight in the building.
- (3) The development must not be carried out on—
- (a) a heritage item, or
 - (b) a swimming pool or spa pool.
- (4) The development must not be carried out in the flame zone (BAL-FZ), within the meaning of AS 3959:2018, *Construction of buildings in bushfire-prone areas*.
- (5) If the building is on bush fire prone land, the development must not result in the building—
- (a) not being adequately sealed or protected against the entry of embers, or
 - (b) comprising materials that do not comply with the *Building Code of Australia*, or
 - (c) not complying with AS 3959:2018, *Construction of buildings in bushfire-prone areas*, or
 - (d) not complying with the requirements of *Planning for Bush Fire Protection*.
- (6) Equivalent or higher quality materials must be used.

3 Minor ancillary structures

- (1) The construction or installation of a structure that is ancillary to a permitted use, other than a swimming pool or spa pool.
- (2) The ancillary structure must—
 - (a) be at least 1m from each boundary of a lease or licence area, and
 - (b) have a gross floor area of no more than 10m², and
 - (c) have a height of no more than 2m above ground level (existing).
- (3) Subsection (2)(c) does not apply to a safety barrier on an ancillary structure.
- (4) The construction, installation and use of the ancillary structure must not involve the handling, use or storage of hazardous chemicals or materials.

- (5) The ancillary structure must not interfere with the functioning of existing drainage fixtures or flow paths.
- (6) An ancillary structure on bush fire prone land must be made of non-combustible materials.

4 Change of use of building

- (1) A change of use from—
 - (a) a lawful use for the purposes of office premises to a use for the purposes of shops, or
 - (b) a lawful use for the purposes of shops to a use for the purposes of office premises.
- (2) The new use must be permitted with development consent under this Policy, Chapter 4.
- (3) The change of use must not involve building alterations, other than alterations that are exempt development under this Policy, Chapter 4.
- (4) A new use for the purposes of shops must not involve the following—
 - (a) the handling, preparation or storage of food for sale or consumption,
 - (b) use for the purposes of hairdressing premises,
 - (c) the carrying out of skin penetration procedures, within the meaning of the *Public Health Act 2010*.

5 Advertising structures and advertisements

- (1) The display of an advertisement, including the erection of an advertising structure on which the advertisement is displayed.
- (2) The advertising structure must be attached to a building.
- (3) The advertisement, including the advertising structure on which it is displayed, must not have an area of more than—
 - (a) if the advertising structure is attached to recreation infrastructure, lifting facilities or snow-making infrastructure—1m², or
 - (b) otherwise—3m².
- (4) If the advertisement is displayed above a public road, the advertisement and advertising structure must be at least 2.6m above the road.
- (5) The advertisement and advertising structure must not be illuminated.
- (6) The advertisement and advertising structure must not be located on or in a heritage item, unless the advertisement is replacing an existing advertisement.

6 Public notices of public authorities

The construction or installation of a sign, by or on behalf of a public authority, that is a public notice providing only information or directions, or both, in relation to a service provided by the public authority.

7 Signs relating to safety

The construction or installation of a sign the purpose of which is to ensure the safety of—

- (a) workers on the site at which the sign is located, or
- (b) the general public.

8 Construction or installation of building identification signs and business identification signs

- (1) The construction or installation of a building identification sign or business identification sign on premises to which the sign relates.
- (2) The sign must be—
 - (a) displayed behind a window on the premises, or
 - (b) attached to the outside of the premises.
- (3) The sign must not have an area of more than 3m².

9 Replacement of building identification signs and business identification signs

- (1) The replacement of—
 - (a) an existing lawful building identification sign or business identification sign, or
 - (b) the content of an existing lawful building identification sign or business identification sign.
- (2) The new sign must not—
 - (a) be greater in size than the existing sign, or
 - (b) be animated, flashing or illuminated, unless the existing sign is illuminated, or
 - (c) involve an alteration to the structure or vessel on which the sign is displayed, or
 - (d) obstruct or interfere with traffic signs.

10 Street furniture

- (1) The installation of street furniture, including benches, bollards and garbage enclosures, on a public footpath or in a plaza.
- (2) The street furniture must—
 - (a) not prevent or extensively restrict use of the footpath or plaza, and
 - (b) be firmly anchored.
- (3) Garbage enclosures must be animal-proof.

11 Aerials, antennae and communication dishes

- (1) The installation of an aerial, antenna or communication dish on a building.
- (2) The installation must not result in more than 1 aerial, 1 antenna and 1 communication dish for each building.
- (3) The aerial, antenna or communication dish must not be—
 - (a) more than 900mm in diameter, or
 - (b) higher than 1.8m above the highest point of the roof of the building.
- (4) The aerial, antenna or communication dish must be firmly anchored.
- (5) If the building is a heritage item, the aerial, antenna or communication dish must be—
 - (a) attached to the rear wall and roof plane of the building, and
 - (b) no higher than the highest point of the roof of the building.
- (6) The development must not involve structural alterations to the building.

12 Driveways, hardstand areas, pathways and paved areas

- (1) The repair or maintenance of a driveway, hardstand area, pathway or paved area in a lease or licence area.
- (2) The driveway, hardstand area, pathway or paved area must not be on or in a heritage item.
- (3) Equivalent or higher quality materials must be used.

13 Air-conditioning units—tourist and visitor accommodation and staff accommodation

- (1) The construction or installation of an air-conditioning unit for use in tourist and visitor accommodation or staff accommodation.
- (2) The air-conditioning unit must not be located—
 - (a) on the wall or roof of a building facing the primary road, or
 - (b) forward of the building line to the primary road.
- (3) The air-conditioning unit must be located at least—
 - (a) 450mm from each lot boundary, and
 - (b) 1m from bedrooms of adjoining residences.
- (4) The air-conditioning unit must be located so that it does not interfere with the entry to, or exit from, or the fire safety measures contained in, the building.
- (5) The air-conditioning unit must not—
 - (a) be higher than 1.8m above ground level (existing), or
 - (b) reduce the existing fire resistance level of a wall.
- (6) The construction, installation or use of the air-conditioning unit must not reduce the structural integrity of a building.
- (7) Subject to subsection (8), the air-conditioning unit must be—
 - (a) attached to the external wall of a building, or
 - (b) ground-mounted.
- (8) An air-conditioning unit constructed or installed on or in a heritage item must be—
 - (a) ground-mounted, and
 - (b) installed at or behind the rear building line.
- (9) The air-conditioning unit must be designed not to operate—
 - (a) during peak time—at a noise level more than 5dB(A) above the ambient background noise level measured at a property boundary, or
 - (b) during off-peak time—at a noise level that is audible in habitable rooms of adjoining accommodation.

14 Air-conditioning units—other

- (1) The construction or installation of an air-conditioning unit for use other than in tourist and visitor accommodation or staff accommodation.
- (2) The air-conditioning unit must not be located—
 - (a) on the wall or roof of a building that faces the primary road, or
 - (b) forward of the building line to the primary road.

- (3) If the air-conditioning unit is installed on an external wall, the air-conditioning unit must be at least—
 - (a) 3m from each side and rear lot boundary, and
 - (b) 6m from other buildings on the lot.
- (4) The construction, installation or use of the air-conditioning unit must not reduce the structural integrity of a building.
- (5) An air-conditioning unit constructed or installed on or in a heritage item must not be wall-mounted.
- (6) The air-conditioning unit must be designed not to operate at a noise level that is audible in habitable rooms of adjoining residences.
- (7) The construction, installation and use of an air-conditioning unit on bush fire prone land must be in accordance with—
 - (a) *Planning for Bush Fire Protection*, and
 - (b) AS 3959:2018, *Construction of buildings in bushfire-prone areas*.

15 Emergency works

- (1) Works for the purposes of maintaining or restoring—
 - (a) infrastructure in a lease or licence area, or
 - (b) emergency services equipment.
- (2) The works must be necessary to ensure public safety or to protect buildings or the environment due to the actual or imminent occurrence of—
 - (a) a sudden natural event, including a storm, flood, tree fall, bush fire, land slip or earthquake, or
 - (b) an accident, equipment failure or structural collapse, or
 - (c) damage caused by vandalism or arson.
- (3) The works must disturb soil or vegetation only to the extent necessary to carry out the development.
- (4) The works must not affect the heritage value of a heritage item any more than is necessary to carry out the development.
- (5) As soon as practicable after carrying out development under this section, the person carrying out the development must notify the Planning Secretary.

16 Entertainment associated with existing premises

- (1) Performance of live music or arts in existing premises that—
 - (a) is carried out inside a building, and
 - (b) does not contravene an existing relevant condition of the most recent development consent, other than a complying development certificate, that applies to the premises.
- (2) In this section—

existing relevant condition means a condition relating to the following—

 - (a) the number of persons permitted in a building,
 - (b) hours of operation,
 - (c) noise, other than a condition referred to in the *Liquor Act 2007*, Schedule 1, clause 70(1),
 - (d) car parking, vehicular movement and traffic generation,

- (e) waste management,
- (f) landscaping.

17 Hot water systems

- (1) The construction or installation of a hot water heater or hot water storage tank.
- (2) If the development uses a heat pump water heater, the heat pump water heater must be designed not to operate—
 - (a) during peak time—at a noise level more than 5dB(A) above the ambient background noise level measured at a property boundary, or
 - (b) during off-peak time—at a noise level that is audible in habitable rooms of adjoining tourist and visitor accommodation or staff accommodation.
- (3) A hot water heater or hot water storage tank that is constructed or installed externally on or in a heritage item must—
 - (a) not be located on a roof, and
 - (b) not be visible from a road, and
 - (c) be located behind the building line of a road frontage.

18 Playground equipment

- (1) The construction or installation of playground equipment.
- (2) The playground equipment must—
 - (a) not be higher than 2.5m above ground level (existing), and
 - (b) be located at least 450mm from each side and rear lot boundary, and
 - (c) have an area of no more than 150m².
- (3) In this section—
playground equipment—
 - (a) includes slides, swings and trampolines, and
 - (b) excludes skateboard ramps, bicycle ramps, jumps, walls and pump tracks.

19 Lighting

- (1) The construction or installation of lighting, including structures for external lighting, carried out by or on behalf of a public authority or resort operator.
- (2) External lighting must comply with AS/NZS 4282:2019, *Control of the obtrusive effects of outdoor lighting*.
- (3) Light spill and artificial sky glow must be minimised in accordance with the Lighting for Roads and Public Spaces Standard.
- (4) Lighting in a lease or licence area must be mounted, screened and directed to not create a nuisance or light spill onto land outside the lease or licence area.
- (5) The lighting must not be higher than—
 - (a) 10m above ground level (existing), or
 - (b) if erected on or attached to a building—1m above the highest point of the building.
- (6) In this section—

Lighting for Roads and Public Spaces Standard has the same meaning as in *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2.

resort operator means a person acting on behalf of a corporation holding a lease or licence under the *National Parks and Wildlife Act 1974* in relation to the following Alpine Subregions—

- (a) Charlotte Pass Alpine Resort,
- (b) Mount Selwyn Alpine Resort,
- (c) Perisher Range Alpine Resort,
- (d) Thredbo Alpine Resort.

20 Demolition

- (1) The following demolition works—
 - (a) the demolition of development that is exempt development under this Policy, Chapter 4,
 - (b) the demolition of a building, if the structure of the building is significantly damaged by a natural disaster,
 - (c) the partial demolition of a building damaged by a natural disaster, if the structure of the building is not significantly damaged, to the extent necessary to make the building safe.
- (2) Demolition works must—
 - (a) not be carried out on or in a heritage item, and
 - (b) be carried out in accordance with AS 2601—2001, *The demolition of structures*.

21 Construction or installation of structures on recreation infrastructure and ski slopes

- (1) The construction or installation of the following structures on recreation infrastructure or a ski slope, for the purposes of recreational activities including skiing—
 - (a) signs with an area of no more than 2.5m²,
 - (b) structures related to snow sports that are fully embedded in or fully supported by snow,
 - (c) other structures that are no higher than 3m above ground level (existing).
- (2) The structures must be in place for no more than 22 weeks in a calendar year.

22 Other development on recreation infrastructure and ski slopes

- (1) The construction or installation of a fence on recreation infrastructure or a ski slope that is no higher than 3m above ground level (existing).
- (2) The annual or routine maintenance of recreation infrastructure or a ski slope, including slashing and trimming plant regrowth.
- (3) The removal or pruning of a tree or other vegetation, above ground level (existing), that is—
 - (a) overhanging a building, lifting facility, infrastructure facility, snow-making infrastructure, the Skitube, recreation infrastructure or a ski slope, or

- (b) dead or dying and located on or immediately adjacent to a building, lifting facility, infrastructure facility, snow-making infrastructure, the Skitube, recreation infrastructure or a ski slope.

23 Repair, maintenance and replacement of parts of lifting facilities and snow-making infrastructure

- (1) The repair, maintenance or replacement of part of a lifting facility or snow-making infrastructure that is necessary to maintain or restore the facility or infrastructure to safe working order.
- (2) The development must be carried out in accordance with—
 - (a) the requirements or recommendations of the manufacturer of the lifting facility or snow-making infrastructure, and
 - (b) AS 4722:2018, *Passenger ropeways and passenger conveyors*, to the extent the Standard applies to the lifting facility.
- (3) The development must not involve the creation of—
 - (a) a new access track or management trail, or
 - (b) a change in the capacity of a lifting facility.
- (4) The development must not result in—
 - (a) a reduction of the structural integrity of the lifting facility or snow-making infrastructure, or
 - (b) a change to the extent or location of earthworks, other than the depth of earthworks.
- (5) Equivalent or higher quality materials must be used.
- (6) The lifting facility or snow-making infrastructure must be able to resist loads in accordance with the following—
 - (a) AS/NZS 1170.0:2002, *Structural design actions—General principles*,
 - (b) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,
 - (c) AS/NZS 1170.2:2021, *Structural design actions—Wind actions*.

24 Electric vehicle chargers

- (1) The construction or installation of an electric vehicle charger for use by the public.
- (2) The electric vehicle charger must be constructed or installed on an existing driveway, hardstand area or paved area.
- (3) An electric vehicle charger constructed or installed in an existing car park must comply with AS/NZS IEC 60079.10.1:2022, *Explosive atmospheres—Classification of areas—Explosive gas atmospheres*.

25 Solar energy systems

- (1) The construction or installation of a solar energy system that is not ground-mounted.
- (2) The solar energy system must be installed—
 - (a) for a photovoltaic electricity generating system—
 - (i) in accordance with the manufacturer's specifications, or
 - (ii) by a person accredited by the Clean Energy Council for the installation of photovoltaic electricity generating systems, or

- (b) otherwise—in accordance with the manufacturer’s specifications.
- (3) The solar energy system must not—
 - (a) involve mirrors or lenses to reflect or concentrate sunlight, or
 - (b) reduce the structural integrity of a building to which the system is attached, or
 - (c) involve structural alterations to a building to which the system is attached.
- (4) If the solar energy system is attached to a wall or roof facing a primary road, the system must not protrude more than 0.5m from the wall or roof.
- (5) If the solar energy system is not attached to a wall or roof facing a primary road, the system must not—
 - (a) protrude more than 1m from a building to which it is attached, or
 - (b) be installed within 1m from an adjoining property boundary, if the system protrudes more than 0.5m from a building to which it is attached.
- (6) A solar energy system on land that contains a heritage item must not—
 - (a) be attached to a wall or roof of a building facing a primary road, or
 - (b) protrude more than 0.5m from a building to which it is attached.
- (7) For this section, the distance between a solar energy system and a building to which the system is attached must be measured from the point of attachment.
- (8) In this section—

solar energy system means the following—

 - (a) a photovoltaic electricity generating system used for the primary purpose of generating electricity for a land use—
 - (i) carried out on the land on which the system is located, or
 - (ii) carried out by the owner of the system on adjoining land,
 - (b) a solar hot water system,
 - (c) a solar air heating system.

26 Small-scale battery systems

- (1) The construction or installation of a small-scale battery system.
- (2) The small-scale battery system must—
 - (a) comply with AS/NZS 5139:2019 *Electrical installations—Safety of battery systems for use with power conversion equipment*, and
 - (b) be approved by the Clean Energy Council, and
 - (c) be installed by a person accredited by the Clean Energy Council for the installation of small-scale battery systems, and
 - (d) not be capable of storing more than 20kWh of energy, and
 - (e) for land containing a heritage item—be attached to the rear wall of an existing building.
- (3) The development must not result in the installation of more than 1 small-scale battery system on a property.
- (4) In this section—

small-scale battery system means a battery system designed only for the purposes of the storage of photovoltaic solar energy generated from a solar energy system.

27 Mobile food and drink outlets

- (1) Retail sale of food, drinks and related products on land from a mobile outlet.
Example— a food truck, van, cart or other similar vehicle
- (2) The development must—
 - (a) be carried out by a food business within the meaning of the *Food Act 2003*, and
 - (b) be carried out between 6am and 10pm only.
- (3) The development must not—
 - (a) restrict vehicular or pedestrian access to or from the land or entry to a building on the land, or
 - (b) obstruct the operation of, or access to, utility services on the land or adjacent land, or
 - (c) be located on native vegetation, or
 - (d) result in damage to native vegetation growing on the land or adjacent land, or
 - (e) result in damage to public property on the land or adjacent land.

28 Construction, installation and removal of structures for community events

- (1) The construction, installation and removal of the following if used in connection with a community event—
 - (a) a scaffold, hoarding or temporary construction site fence,
 - (b) a tent, marquee or booth,
 - (c) a stage or platform.
- (2) The community event must take place during the following times—
 - (a) 7am–11pm on Monday, Tuesday, Wednesday or Thursday,
 - (b) 7am–12am on Friday or Saturday,
 - (c) 8am–8pm on Sunday.
- (3) The construction or installation must not occur more than 7 days before the commencement of the community event.
- (4) The structures specified in subsection (1) must not remain on the land for more than 7 days after the end of the community event.
- (5) If the development involves the erection of a temporary structure, the structure must be—
 - (a) erected on a surface that is sufficiently firm and level to sustain the structure while in use, and
 - (b) able to resist loads determined in accordance with the following standards—
 - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*,
 - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,
 - (iii) AS/NZS 1170.2:2021, *Structural design actions—Wind actions*.

- (6) The development must be covered by a policy of insurance taken out by the person carrying out the development that adequately covers the public liability of the person in relation to the carrying out of the development for an amount approved by the owner of the land on which the development is carried out.

29 Specific standards for structures for community events

- (1) Development specified in section 28(1)(a) must enclose the work area.
- (2) Development specified in section 28(1)(a) involving a temporary construction site fence adjoining or on a public place must be designed and installed in accordance with the following—
- (a) AS 4687.1:2022, *Temporary fencing and hoardings—General requirements*,
 - (b) AS 4687.2:2022, *Temporary fencing and hoardings—Temporary fencing and temporary pedestrian barriers*,
 - (c) AS 4687.3:2022, *Temporary fencing and hoardings—Temporary hoardings*.
- (3) The standards for a tent, marquee or booth referred to in section 28(1)(b) are the following—
- (a) the tent, marquee or booth must not have a floor area of more than 300m²,
 - (b) all tents, marquees and booths used at the same time on 1 site must not have a total floor area of more than 1,000m²,
 - (c) the tent, marquee or booth must be located at least 3m from tourist and visitor accommodation,
 - (d) the tent, marquee or booth must be constructed or installed so there is an unobstructed pedestrian circulation area at least 1.5m wide around the perimeter of the tent, marquee or booth, unless it is attached to or abuts a building with no separation,
 - (e) the tent, marquee or booth must be constructed or installed at ground level,
 - (f) the tent or marquee must have the following number of exits—
 - (i) for a tent or marquee with a floor area of not more than 25m²—1 exit,
 - (ii) for a tent or marquee with a floor area of not more than 100m²—2 exits,
 - (iii) otherwise—4 exits,
 - (g) the exits required under paragraph (f) must be arranged so there is an available exit from all parts of the tent or marquee to open space or a road,
 - (h) if the tent or marquee has internal seating, stalls, tables or other obstructions—there must be a clear path of travel to an exit that is no more than 40m in length,
 - (i) each exit for the tent or marquee must be at least—
 - (i) if the floor area of the tent or marquee is less than 150m²—850mm wide, or
 - (ii) otherwise—1m wide,
 - (j) the wall height of the tent or marquee must not be more than 5m,

- (k) the height of the tent or marquee, measured from the surface on which the tent or marquee is constructed or installed to the highest point of the tent or marquee, must not be more than 6m.
- (4) The standards for a stage or platform referred to in section 28(1)(c) are the following—
 - (a) the stage or platform must not have a floor area of more than 300m²,
 - (b) all stages or platforms used at the same time on 1 site must not have a floor area of more than 400m²,
 - (c) the stage or platform must be located at least 3m from tourist and visitor accommodation,
 - (d) the stage or platform must be constructed or installed at ground level,
 - (e) the height of the stage or platform, measured from the surface on which the stage or platform is constructed or installed to the floor of the stage or platform, must not be more than 2m,
 - (f) the height of a roof structure or cover over the stage or platform, measured from the surface on which the stage or platform is constructed or installed, must not be more than 9m.

Schedule 3 Complying development—Chapter 4

section 4.11

Part 1 Complying development

1 Internal building alterations

- (1) An internal alteration to a building, including to replace or renovate the following—
 - (a) a doorway, wall, ceiling or floor lining,
 - (b) a deteriorated frame member, including stairs and stairwells,
 - (c) a kitchen or bathroom.
- (2) The development must not result in a change of building classification under the *Building Code of Australia*.
- (3) If the development involves a kitchen or food and drink premises, the development must be carried out in accordance with AS 4674—2004, *Design, construction and fit-out of food premises*.
- (4) Development involving a building used for the purposes of staff accommodation or tourist and visitor accommodation must not alter the size or number of bedrooms in the building.

2 External building alterations

- (1) An external alteration to a building, including the following—
 - (a) plastering, cement rendering, cladding, attaching fittings or decorative work,
 - (b) construction of a non-structural wall,
 - (c) installation of roof cladding,
 - (d) installation of a security screen or grille on a door or window,
 - (e) installation of a security door,

- (f) construction of a balustrade.
- (2) The development must only use materials and finishes of a similar colour palette and substance to the existing building.
- (3) The development must not—
 - (a) be carried out on or in a heritage item, or
 - (b) alter the building’s emergency exits, or
 - (c) increase the height or footprint of the building, or
 - (d) affect the existing fire resistance level of a part of the building, or
 - (e) result in a change of building classification under the *Building Code of Australia*, or
 - (f) involve the enclosure of a carport.
- (4) The development must not be carried out on a building used for a special fire protection purpose, within the meaning of the *Rural Fires Act 1997*, section 100B.
- (5) If the building is on bush fire prone land, the development must not result in the building—
 - (a) not being adequately sealed or protected against the entry of embers, or
 - (b) comprising materials that do not comply with the *Building Code of Australia*, or
 - (c) not complying with AS 3959:2018, *Construction of buildings in bushfire-prone areas*, or
 - (d) not complying with the requirements of *Planning for Bush Fire Protection*.

3 Change of use of building

- (1) The change of use of a building if the change of use does not require a bush fire safety authority under the *Rural Fires Act 1997*, section 100B.
- (2) For this section, the reference in the *Rural Fires Act 1997*, section 100B to residential or rural residential purposes is to be read as a reference to tourist and visitor accommodation and staff accommodation.

4 Replacement of lifting facilities and snow-making infrastructure

- (1) The replacement of an entire lifting facility or snow-making infrastructure.
- (2) The development must be carried out in accordance with—
 - (a) the requirements or recommendations of the manufacturer of the lifting facility or snow-making infrastructure, and
 - (b) AS 4722:2018, *Passenger ropeways and passenger conveyors*, to the extent it applies to the lifting facility.
- (3) The development must not—
 - (a) involve a new access track or management trail, or
 - (b) result in a change to the extent or location of earthworks, other than the depth of earthworks.
- (4) Equivalent or higher quality materials must be used.

5 Fire alarms

Development referred to in Chapter 4, section 4.20(2) if it consists only of—

- (a) internal alterations to a building, or
- (b) internal alterations to a building and the mounting of an antenna, including a support structure, on an external wall or roof of a building in a way that does not occupy more than 450mm × 100mm × 100mm.

Part 2 Complying development certificate conditions

6 Hours for construction work

- (1) Construction work may be carried out—
 - (a) between 7am and 6pm on Monday to Friday, and
 - (b) between 7am and 5pm on Saturday.
- (2) Construction work must not be carried out on Sunday or a public holiday.
- (3) Construction work may be carried out outside the times specified in subsections (1) and (2) if the construction work generates noise no louder than—
 - (a) 5dB(A) above the rating background level at any adjoining residence, in accordance with the *Interim Construction Noise Guideline*, published by the Department of Environment and Climate Change NSW in July 2009, or
 - (b) the noise management levels specified in Table 3 of the guideline at other sensitive receivers.
- (4) This section does not apply to the delivery of materials if prior approval has been obtained from the NSW Police Force or another relevant public authority.
- (5) This section does not apply to construction work carried out—
 - (a) in an emergency, or
 - (b) to avoid loss of life or property, or
 - (c) to prevent environmental harm.

7 Tree protection measures

- (1) A tree guard must be installed around the trunk of each relevant tree.
- (2) The tree guard must be made of hardwood timber panels that are—
 - (a) at least 2m long, 75mm wide and 25mm thick, and
 - (b) spaced no more than 80mm apart, and
 - (c) secured, but not permanently fixed or nailed, to the tree.
- (3) A fence or barrier must be erected around the tree protection zone of each relevant tree, in accordance with section 4 of the Standard.
- (4) The measures specified in this section must—
 - (a) be in place before work commences, and
 - (b) remain in place and be maintained in good condition during the construction period.
- (5) In this section—
relevant tree means a tree that is within 6m of development specified in this Schedule, section 2 or 4.

the Standard means AS 4970—2009, *Protection of trees on development sites*.

tree protection zone has the same meaning as in section 3.2 of the Standard.

8 Hours of operation

- (1) If there is an existing condition on a development consent applying to hours of operation, the development must not be operated outside the hours specified in the condition.
- (2) If there is no existing condition on a development consent applying to hours of operation, the development must not be operated outside—
 - (a) for development involving commercial premises—
 - (i) 7am to 10pm on Monday to Saturday, and
 - (ii) 7am to 8pm on Sunday or a public holiday, or
 - (b) otherwise—
 - (i) 7am to 7pm on Monday to Saturday, and
 - (ii) 9am to 6pm on Sunday or a public holiday

9 Fire alarms

- (1) Building work for complying development under this Schedule, section 5 may be carried out—
 - (a) between 7am and 6pm on Monday to Friday, and
 - (b) between 7am and 5pm on Saturday.
- (2) Building work for complying development under this Schedule, section 5 must not be carried out on Sunday or a public holiday.

Schedule 4 Heritage items—Chapter 4

Schedule 4A, definition of “heritage item”

Item	Property description
Charlotte Pass Alpine Resort	
The Chalet	Lot 116, DP 1242013
Perisher Range Alpine Resort	
Alexandra	Lot 199, DP 44462
Caloola	Lot 34, DP 756697
Dulmison	Lot 262, DP 727585
Edelweiss	Lot 86, DP 756697
Illoura	Lot 243, DP 704189
Kosciuszko Snow Revellers’ Club (KSRC)	Lot 269, DP 825208
Ku-ring-gai	Lot 600, DP 1158765
Lodge 21	Lot 21, DP 756697
Maranatha	Lot 238, DP 721847
Munjarra	Lot 62, DP 756697
Numbananga	Lot 33, DP 756697

Item	Property description
Rock Creek	Lot 46, DP 756697
Rugby Union	Lot 1, DP 1085269
Telemark	Lot 87, DP 756697
Tiobunga (YMCA)	Lot 147, DP 756697
Sponars Chalet Alpine Accommodation	
Sponars Chalet	Lot 1, DP 1183733
Thredbo Alpine Resort	
Athol	Lot 756, DP 1119757
Crackenback Ski Club	Lot 791, DP 1119757
De Dacha	Lot 837, DP 1119757
Kasees	Lot 725, DP 1119757
Seidler Lodge (previously Lend Lease Lodge)	Lot 784, DP 1119757
Moonbah	Lot 787, DP 1119757
Obergurgl	Lot 750, DP 1119757
Ramshead	Lot 755, DP 1119757
Sastrugi	Lot 786, DP 1119757
Thredbo Alpine Club	Lot 723, DP 1119757
Thredbo Alpine Hotel	Lot 861, DP 1119757
Valley Terminal	Lot 862, DP 1119757
Wombiana	Lot 752, DP 1119757
Timber Pedestrian Bridge	Land identified as “Timber Pedestrian Bridge” on the State Environmental Planning Policy (Precincts—Regional) 2021 Thredbo Alpine Resort Map
Site of 1997 Landslide	Lot 705 and 894, DP 1119757

Schedule 4A Dictionary—Chapter 4

section 4.3

Aboriginal heritage item means a heritage item identified on the Aboriginal Heritage Information System held by the Department.

Aboriginal place has the same meaning as in the *National Parks and Wildlife Act 1974*.

Alpine Region means the Alpine Region identified on the State Environmental Planning Policy (Precincts—Regional) 2021 Kosciuszko Alpine Region Land Application Map.

Alpine Subregion means an Alpine Subregion specified in section 4.2(2).

commercial premises means commercial premises within the meaning of the Standard Instrument but does not include retail premises, other than food and drink premises, kiosks and shops that operate primarily to serve the daily needs of tourists and visitors and staff employed to work in the Alpine Region.

flood planning area has the same meaning as in the *Floodplain Development Manual*, ISBN 0 7347 5476 0, published by the NSW Government in April 2005.

heritage item means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 4.

infrastructure facility means a facility provided as a utility undertaking, whether or not as a public utility undertaking, including the following—

- (a) a water supply system,
- (b) a road, other than a road provided by or on behalf of Transport for NSW,
- (c) a sewerage system,
- (d) a waste or resource transfer station.

Kosciuszko National Park Plan of Management means the *Kosciuszko National Park Plan of Management* adopted under the *National Parks and Wildlife Act 1974* and as in force on the commencement of *State Environmental Planning Policy (Precincts—Regional) Amendment (Kosciuszko Alpine Region) 2022*.

lease or licence area means an area of land in the Alpine Region that is subject to a lease or licence granted under the *National Parks and Wildlife Act 1974* by the Minister administering that Act.

lifting facility means a motorised system used for transport, and includes the following—

- (a) a ski lift that uses an overhead rope or cable, including a chair lift, gondola, T-bar or J-bar,
- (b) a ski carpet or conveyor belt.

management trail means a trail used by or on behalf of the following persons for operational purposes, including the management of ski slopes, or for fire protection or emergency purposes—

- (a) a head lessee or licensee of land in an Alpine Subregion under the *National Parks and Wildlife Act 1974*,
- (b) a public authority.

monitoring station means a facility operated for the principal purpose of monitoring weather, noise, air, water, groundwater or environmental impacts.

off-peak time means any time that is not peak time.

peak time means—

- (a) between 8am and 10pm on Saturday, Sunday or a public holiday, or
- (b) between 7am and 10pm on other days.

Planning for Bush Fire Protection means *Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service and the Department of Planning, Industry and Environment in November 2019.

recreation infrastructure means infrastructure provided for the purposes of active or passive recreation for tourists and visitors, including walking trails, mountain bike trails, directional signage, cross-country ski trails and oversnow routes, but does not include ski slopes.

shop means premises that—

- (a) are used for displaying, offering for sale or selling by retail goods, merchandise or materials, and
- (b) operate primarily to serve the daily needs of tourists and visitors and staff employed to work in the Alpine Region.

ski slope means an area of land that has been developed primarily to facilitate ski activities, whether or not lifting facilities are required to access the area.

ski slope hut means a race hut, lift hut, ski patrollers' hut or similar hut that—

- (a) is erected on a ski slope, and
- (b) must be fixed to the ground.

Skitube means the passenger train connecting Blue Cow Terminal, Bullocks Flat Terminal and Perisher Range Alpine Resort.

snow-making infrastructure means infrastructure primarily used to make snow, including the following—

- (a) air compressors,
- (b) air and water pipes,
- (c) cooling towers and refrigeration,
- (d) equipment used to extract or pump water,
- (e) fixed and mobile snow guns, including fan guns and lances,
- (f) pump houses and sheds,
- (g) service pits.

staff accommodation means a building used for the accommodation of staff employed to work in an Alpine Subregion.

Standard Instrument means the standard instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.

Schedule 2 Amendment of other legislation

2.1 State Environmental Planning Policy (Industry and Employment) 2021

Section 3.3 Area of application of this Chapter

Omit “*State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007*” from section 3.3(3).

Insert instead “*State Environmental Planning Policy (Precincts—Regional) 2021*, Chapter 4”.

2.2 State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

Clause 5 Land to which this Policy applies

Omit “*State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007*” from clause 5(2).

Insert instead “*State Environmental Planning Policy (Precincts—Regional) 2021*, Chapter 4”.