



Regulatory Impact Solutions

Regulatory Impact Statement

**Alpine Resorts
(Management)
Regulations 2020**



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GLOSSARY

The Act	<i>Alpine Resorts (Management) Act 1997</i>
Current Regulations	Alpine Resorts (Management) Regulations 2009
Proposed Regulations	Alpine Resorts (Management) Regulations 2020
ARCC	Alpine Resorts Co-ordinating Committee
ARMB	Alpine Resorts Management Board
DELWP/the Department	Department of Environment, Land, Water and Planning
RIS	Regulatory Impact Statement (this document)
SARC	Scrutiny of Acts and Regulations Committee

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Summary

Victoria's alpine resorts

There are six alpine resorts in Victoria—Falls Creek, Mount Hotham, Mount Buller, Mount Stirling, Lake Mountain and Mount Baw Baw.

These resorts comprise approximately 16,000 hectares of Crown land permanently reserved under Victorian legislation. These resorts hold significant natural values unique to the alpine environment and are generally surrounded by national parks where conservation and environmental protection are of paramount importance.

Victoria's alpine resorts generate considerable economic activity. The resorts are recognised for the range of recreational opportunities they provide during the snow season including downhill skiing, cross-country skiing, snowboarding and tobogganing. During the summer months, the resorts cater to a range of other activities including four-wheel driving, bike riding and bushwalking.

The alpine resorts are on Crown land and are managed within the context of the Victorian Government's public land management framework. The Alpine Resorts Co-ordinating Council (ARCC) and four Alpine Resort Management Boards (ARMBs or Boards) manage the resorts on behalf of the Minister for Energy, Environment and Climate Change.

The *Alpine Resorts (Management) Act 1997* ("the Act") provides the management framework for Victoria's six alpine resorts. The object of the Act is to make provision in respect of alpine resorts for the development, promotion, management and use of the resorts on a sustainable basis and in a manner that is compatible with the alpine environment.

Purpose of this document

The Alpine Resorts (Management) Regulations 2009 are due to sunset on 3 November 2020. The Department of Environment, Land, Water and Planning ("the Department") has prepared the proposed Alpine Resorts (Management) Regulations 2020 with the intention of replacing the existing regulations before they expire.

Regulatory Impact Statements (RIS) are prepared to explain the rationale for, and impacts of, proposed statutory rules. This RIS has been prepared for the Alpine Resorts (Management) Regulations 2019 ("the proposed Regulations"), proposed to be made under the Act.

The RIS has been prepared for the Department of Environment, Land, Planning and Water ("the Department"). A primary purpose of a RIS is to inform public consultation on the proposed Regulations. Interested parties are invited to make a submission on their views on the proposed Regulations. All submissions in relation to the proposed Regulations will be considered before the Minister for Energy, Environment and Climate Change makes a final decision on whether to proceed with the proposed Regulations. A copy of the proposed Regulations accompanies this RIS.

What is being proposed?

The proposed Regulations will constitute the principal regulations made under the authority of the Act. The proposed Regulations will replace, with limited changes, the current Regulations.

The proposed Regulations support the Act's administration and deliver on its objectives by:

- capping the fees that alpine resorts may charge for entry, parking and use of vehicle, and other activities within alpine resorts
- prescribing a number of prohibitions on what people may do within an alpine resort area, or giving powers to the Boards of alpine resorts to make determination on prohibited behaviours that will attract the legal sanction of a penalty.

Setting maximum fees

Managing and operating alpine resorts in accordance with the Act involves a cost. These costs include activities that are directly related to having visitors in the alpine resort, such as snow clearing, providing information to visitors, maintenance of public spaces and shelters, cross country grooming, managing waste, traffic management and parking, and ski patrols.

To cover some of the costs of these activities, the Boards of the alpine resorts charge fees for entry, parking, and a number of other activities. In 2019, fees charged across all alpine resorts amounted to around \$23.4 million, which is around 37 per cent of the total revenue earned by the alpine resorts.

The proposed Regulations would continue the current arrangements of setting limits on the fees that Boards may charge. This is to ensure that fees to enter and use the alpine resorts are not excessively high, ensuring most Victorians can, if they wish, enjoy the alpine resort areas. The Regulations also require alpine resort boards to have regard to a number of factors when determining fees within the fee caps, such as commercial and marketing (i.e., promoting tourism), seasonal conditions, and the cost of collection. Alpine resorts would also continue the current ability to reduce or waive fees they set.

It is proposed to continue the current maximum fees under the new Regulations, with the following changes:

- The definition of 'bus' will change from a vehicle able to seat 'more than 12 adults' to 'more than 9 persons', to allow for a more equitable setting of fees.
- The maximum fees for entry by bus will enable alpine resorts to be able to set entry fees according to the length of stay (a per-day fee), as is already possible for entry by car. This change is in anticipation of future use of technologies that make such fees feasible to determine and collect. It is expected that most alpine resorts will not change to per-day fees in the short term.
- The maximum fee able to be charged for a child to use cross-country ski trails will increase from \$6.09 per day to \$7.72 per day. This increase (of 27 per cent) is to re-set the maximum fee, as it has not changed since 2009.¹ The increase reflects inflation over that time. This increase reflects only what an alpine resort may charge in this situation, noting that in practice no alpine resort currently charges any separate fees for use of ski trails.
- The way the maximum fee for camping is calculated will change from \$4.44 per person (which has not increased since 2009), to a fee cap of 1.03 fee units (currently equivalent to \$15.25) per night, for a group of up to six people. The change means that the total maximum fee that could be charged by resorts for a group of up to three campers would increase (in part reflecting 'catch up' of inflation since 2009), but decrease for groups of four to six. While this is aimed at simplifying calculation of camping fees for groups, and better aligning the fee to the impact expected from campers (which is typically more related to each group rather than the number of people within a small group), it remains at the discretion of each alpine resort to determine when and how fees would be charged within this overall fee cap. In practice, alpine resorts do not currently charge separate fees for camping.

The full set of fees covered by the Regulations is set out on the following page, comparing the current and proposed fee caps. Most fees are expressed in terms of fee units (1 fee unit equals \$14.81 for both 2019-20 and 2020-21).

¹ Other fees in the current Regulations are expressed in terms of a number of fee units, the value of which can be increased each year without the need to update the Regulations.

Table 1: Comparison of current and proposed maximum fees

	Current maximum fees	Proposed maximum fees	% change
Entry fees			
Entry by bus (vehicle able to seat more than 12 people)	1.31 fee units per person, per entry	No change for bus with 12 or more seats, but can be charged per day	0%*
Entry by other motor vehicle	4.14 fee units per vehicle, per day (or 49.67 fee units for an annual pass)	1.31 fee units per person, per day for vehicles with 10-12 seats	Increase in fee per person for vehicles of 10-12 seats (increase depends on how many people in vehicle)
Entry by other means	1.31 fee units per person, per entry	No change for cars (less than 10 seats)	0%
		No change, but can be charged per day	0%*
Use of cross-country ski trail			
Family	2.55 fee units per day (or 30.60 fee units for season pass)	No change	0%
Adult	1.02 fee units per day (or 12.75 fee units for season pass)	No change	0%
Child (aged 5-17)	\$6.09 per day (or 6.37 fee units for season pass)	\$7.72 per day (no change for season pass)	27% to reflect inflation since 2009
Camping			
Fee for camping in an area set aside for camping	\$4.44 per person	1.03 fee units per night (for up to 6 people)	May be higher or lower, depending on number in group and length of stay.
Fees for use, parking or driving of vehicles			
Using and driving vehicle in accordance with authority	33.15 fee units per year	No change	0%
Using, driving and parking a vehicle in accordance with an authority	57.37 fee units per year	No change	0%
Using, driving and parking a vehicle in accordance with an authority (transferable)	191.22 fee units per year	No change	0%
Using, driving and parking an oversnow vehicle in accordance with a vehicle authority	2.32 fee units per year	No change	0%
Administrative fee			
Replacement of authority	2.43 fee units	No change	0%

* if fee is charged per entry

Protecting the environment, personal safety and amenity in alpine resorts

Allowing visitors to enter and enjoy open public space creates a number of risks. These are:

- public safety (e.g., activities that could physically harm people or property)
- public amenity (e.g., activities that could affect the enjoyment of the space by others)
- environmental protection (e.g., activities that pose a risk to flora and fauna).

These risks are outlined in more detail below.

Some forms of damage to alpine environments (and the flora, fauna and natural and cultural features they contain) are irreversible. Alpine resorts need to be adequately protected against damage, especially irreversible damage, by visitors and other threats such as pest plants and animals. Hence, even if the risk of adverse outcomes is low, actions should be taken to avoid or minimise these risks.

What is proposed?

The proposed Regulations are designed to provide for the effective protection, management and control of alpine resorts by managing environmental and human conduct risks to alpine resorts.

The proposed Regulations set out rules on the following types of activities:

- controlling entry into alpine resorts
- using, driving or parking vehicles
- use of aircraft
- bringing animals into alpine resorts
- recreation activities (snowplay, camping)
- fires
- dangerous or disturbing activities (including use of firearms, consumption of liquor)
- organised events.

The proposed Regulations make general prohibitions against activities in these areas, but such activities may be permitted where a person obtains an 'Authority' from the alpine resort. Each alpine resort may also set aside areas that may be used for vehicle use or parking, cross country skiing, camping and some other activities without the need to obtain an Authority. The proposed Regulations also allow alpine resorts to further restrict or prohibit some activities in some circumstances.

What has changed?

The proposed Regulations simplify and modernise the current Regulations. The structure of the regulations has been altered to ensure consistency with the Act reflecting modern drafting practices.

The proposed Regulations incorporate a number of other changes. These are:

- Some definitions and scope of activities have been expanded to ensure the intention of the regulation applies to current realities. Chiefly, 'aircraft' now include drones, and kite skis and snow feet have been added to the list of devices Boards can set-aside an area for. The current exemption for guide dogs now been expanded to any assistance animal in the *Disability Discrimination Act 1992* (Commonwealth)
- A number of current specific prohibitions (e.g., playing a game or throwing an object) have been consolidated into a general prohibition of activities that causes, or is likely to cause, danger to

any person or unreasonable disturbance to any person. This has been done to ensure the prohibition adequately matches the harms sought to be prevented

- New offences for failing to collect, remove or appropriately dispose of any faeces deposited by an animal; and for conduct or organising an event or function in an alpine resort that involves 30 or more persons, unless authorised. These rules reflect similar rules in the regulations for State Game Reserves and National Parks. Alpine resort Boards indicated that these undesired behaviours are become more frequent, and there is no specific ability to respond to them
- Wheel chain provisions have been amended to align with forthcoming amendments to the Road Safety Road Rules 2017.² These have been updated following consultation with VicRoads
- The prohibition on bringing vegetation into an alpine resort has been clarified that this does not apply to the bringing of firewood for the purpose of a fire (where the fire itself is authorised)
- The penalties have been reviewed, with a number increasing to align with corresponding offences in other similar regulations.

What options were considered?

Penalties can only be enforced where they are prescribed in Regulations. Non-regulatory or self-regulatory frameworks are not appropriate in this context because some matters must be prescribed in regulation to enable the effective management of alpine resorts under the Act.

An option to retain the current Regulations without change was considered. While remaking the current Regulations would be feasible and achieve most of the objective to enhance the protection of the environment, safety and amenity, it would miss a clear opportunity to improve the Regulations.

Instead, the Department preferred an option to identify ways to update the Regulations. The content of the proposed Regulations followed a detailed review of the current Regulations by the Department, with consultation with alpine resort boards and other stakeholders. This identified a number of opportunities to improve the clarity and wording of the Regulations, improve the structure of the Regulations, update some definitions, and better align the Regulations with other comparable regulations that apply to Crown land and national parks.

The preferred approach is to make the proposed Regulations to ensure consistency of practice provided through direct regulation. The proposed Regulations ensure the successful operation of the Act and that the standards are legally enforceable.

What are the costs and benefits?

The impact of the proposed Regulations, whether directly or by allowing Boards to make determinations, is to restrict or control what people can do in Alpine Resorts. This has a cost on people—while not a financial cost, it prohibits them from doing what they may otherwise do. In some cases, it may be a disincentive for some people to visit Alpine Resorts.

These impacts are considered minor and are justified by the expected benefits of the proposed Regulations—to ensure a higher level of protection for the natural environment, reduce risks of hazards and harms, and improve the amenity of Alpine Resorts for the enjoyment of everyone else.

Overall, the costs and benefits attributable to the proposed Regulations are small. Most people who visit Alpine Resorts would already behave responsibly and would not be adversely affected by the

² The Road Safety Rules are anticipated to be amended soon in relation to wheel chains. Once this amendment occurs, the use of wheel chains will be managed entirely under the Road Safety Rules, and the parts of the proposed Regulations that require the use of wheel chains will have no further practical effect. Authorised officers of the Boards will still have the power to ask individuals in the resorts to leave if they fail to produce wheel chains or have them properly fitted.

proposed Regulations. Further, in the absence of the proposed Regulations, Boards could implement most of prohibitions as conditions of entry (with breach resulting in being asked to leave the resort), which would go some way in reducing undesired behaviours. The impact of the proposed Regulations is therefore to provide a further level of deterrence (through penalties and greater enforcement power) to ensure the objectives are met.

Who was consulted?

The Department has engaged with the following stakeholders during the development of the proposed Regulations:

- Alpine Resorts Co-ordinating Council
- Falls Creek Alpine Resort Management Board (ARMB)
- Mount Buller and Mount Stirling ARMB
- Mount Hotham ARMB
- Southern Alpine Resort ARMB
- Parks Victoria
- VicRoads
- Victoria Police
- Resort Businesses
- Tour Operators
- Skiers and other resort visitors
- Department of Justice and Community Safety

Making a submission

The Department has now prepared the proposed Regulations for interested parties to review. Interested parties may make written submissions to the Department about the proposed Regulations before a final decision is made on whether to formally make them, and whether any amendments are needed.

All submissions will be treated as public documents. Written comments and submissions should be forwarded no later than 5pm on Monday 24 August 2020. The preferred method of submission is via email to alpine.regulations@delwp.vic.gov.au, but submissions can also be mailed to:

Rinske Poulier
Department of Environment, Land, Water and Planning
PO Box 500
EAST MELBOURNE VIC, 8002

Following consideration of all submissions received in response to the proposed Regulations, a notice of decision and statement of reasons for making the Regulations will be published. Once the Regulations are made, copies of all submissions are provided to the Parliament's Scrutiny of Acts and Regulations Committee (SARC). SARC examines these submissions to ensure that the Department has considered the views of all stakeholders.

Interested parties are encouraged to provide any views on the proposed Regulations. In providing feedback, interested parties may wish to comment on the following:

- Is it still necessary for the government to set fee caps for alpine resorts? Should fee caps be removed, allowing the Boards of alpine resorts the ability to charge higher fees if they wish? Conversely, rather than setting only maximum fees, is there an argument for the government to set the actual fees that alpine resorts must charge?
- Are there other activities at alpine resorts for which a fee should be charged? If so, what fee amount would be reasonable?
- Is it reasonable that entry fees for people arriving at alpine resorts by car continue to be charged per vehicle, while people arriving by bus be charged per person? Does the single amount per car encourage carpooling?
- Do you support the change in definition of a 'bus', so that people entering an alpine resort in a vehicle that can seat more than nine persons will now pay fees on the same basis as those under the current definition of bus?
- Are there practical ways that people arriving by bus could be charged based on how long they stay within the alpine resort area? How could this be easily enforced?
- Do you consider the proposed maximum fees are appropriate to ensure that most Victorians can access alpine resort areas?
- The Department believes that most people visiting alpine resorts would not engage in the activities that are prohibited or outside of areas set aside by alpine resort, even in the absence of Regulations. This suggests the regulatory burden of the Regulations is relatively small. Do you agree with this? Are there activities that should be more generally permitted within alpine resorts?
- Are some of the prohibited activities better left to the Boards of each alpine resort to determine as conditions of entry?
- If you have previously applied for an Authority to undertake an activity that would otherwise be prohibited, what are your views on the process for obtaining an Authority?

1 Background—Victoria’s alpine resorts

There are six alpine resorts in Victoria—Falls Creek, Mount Hotham, Mount Buller, Mount Stirling, Lake Mountain and Mount Baw Baw.

These resorts comprise approximately 16,000 hectares of Crown land permanently reserved under the *Alpine Resorts Act 1983*. These resorts hold significant natural values unique to the alpine environment and are generally surrounded by national parks where conservation and environmental protection are of paramount importance.

The resorts are primarily recognised for the range of recreational opportunities they provide during the snow season including downhill skiing, cross-country skiing, snowboarding and tobogganing. During the summer months, the resorts cater to a range of other activities including four-wheel driving, bike riding and bushwalking. Each year the resorts attract around one million visitors.

The larger resorts of Falls Creek, Mount Hotham and Mount Buller/Mount Stirling offer a wide range of alpine experiences including downhill skiing, snow play, retail, accommodation, entertainment and dining. Mount Hotham and Falls Creek also offer extensive cross-country trails and easy access to the Bogong High Plains, together with on-mountain accommodation which allow ski in and ski out access to the ski field.

The smaller resorts are mostly closer to Melbourne and provide easy access to the snow, especially for day visitors. Lake Mountain and Mount Stirling have no lift systems but attract cross country skiers and snow players. Mount Baw Baw offers similar experiences to that of Mount Buller, Falls Creek and Mount Hotham, but on a smaller scale.

Figure 1: Alpine Resorts in Victoria



During the 2019 snow season, Victorian alpine resorts had over 933,000 visitors and around 1.7 million visitor days (visitors x length of stay). While this was a small decline from 2018, the past few years (up to 2019) has seen the highest number of visitors in over 35 years.

Table 2: Alpine Resorts in Victoria Visitor Numbers, 2009 to 2019

VICTORIAN ALPINE RESORTS ENTRY STATISTICS WINTER 2019 - END OF SEASON							
Visitors	Mt. Baw Baw	Lake Mountain	Mt. Stirling	Mt. Hotham	Falls Creek	Mt. Buller	All Resorts
Visitors 2019	81,223	120,206	7,762	152,907	171,533	399,467	933,098
Visitors 2018	76,635	143,743	11,280	148,848	179,131	423,169	982,806
Visitors 2017	58,704	126,431	8,161	149,826	193,936	403,945	941,003
Visitors 2016	49,775	99,793	6,041	**120508	168,973	317,891	762,981
Visitors 2015	68,893	120,740	6,169	117,777	145,695	304,056	763,330
Visitors 2014	67,234	131,692	7,228	121,887	137,553	309,875	775,469
Visitors 2013	33,057	72,102	5,262	97,536	128,845	251,623	588,425
Visitors 2012	54,213	105,688	5,153	*157475	160,156	272,049	754,734
Visitors 2011	37,097	84,400	4,476	122,563	132,772	240,633	621,941
Visitors 2010	52,823	133,075	8,101	150,416	140,442	298,084	782,941
Visitors 2009	39,075	61,312	4,684	157,242	135,271	286,983	684,567
% Change Year on Year	6%	-16%	-31%	3%	-4%	-6%	-5%
PREVIOUS 10 YRS AV VISITORS	53,751	107,898	6,656	133,262	152,277	310,831	765,820
% CHANGE PREVIOUS 10 YRS AV VISITORS TO 2019 VISITORS	51%	11%	17%	15%	13%	29%	22%

Visitor Days	Mt. Baw Baw	Lake Mountain	Mt. Stirling	Mt. Hotham	Falls Creek	Mt. Buller	All Resorts
Visitors Days 2019	129,704	120,206	9,788	403,063	465,457	558,460	1,686,678
Visitors Days 2018	123,455	143,743	14,069	389,401	468,490	591,408	1,730,566
Visitors Days 2017	76,305	126,431	10,578	368,313	451,961	583,119	1,616,707
Visitors Days 2016	61,335	99,793	8,288	**328602	446,037	449,157	1,393,212
Visitors Days 2015	95,495	120,740	7,809	313,341	376,367	473,040	1,386,792
Visitors Days 2014	93,441	131,692	9,593	332,281	347,028	485,952	1,399,987
Visitors Days 2013	60,872	72,102	6,842	264,527	328,957	461,510	1,194,810
Visitors Days 2012	74,793	105,688	7,025	*411495	386,510	472,575	1,458,086
Visitor Days 2011	52,347	84,400	5,493	318,311	344,067	442,604	1,247,222
Visitor Days 2010	67,068	133,075	8,985	376,483	340,190	515,497	1,441,298
Visitor Days 2009	52,952	61,312	5,472	384,390	377,405	508,360	1,389,891
% Change Year on Year	5%	-16%	-30%	4%	-1%	-6%	-3%
PREVIOUS 10 YRS AV VISITOR DAYS	75,806	107,898	8,415	343,381	386,701	498,322	1,425,857
% CHANGE PREVIOUS 10 YR AV VISITOR DAYS TO 2019 VISITOR DAYS	71%	11%	16%	17%	20%	12%	18%

Data provided by Victorian Alpine Resort Management Boards
Collated and published by the Alpine Resorts Co-ordinating Council

Survey results for 2018 showed that across all of Victoria's alpine resorts, during the winter months, 82 per cent of the visitors are from Victoria, while 14 per cent are interstate visitors and the remaining 4 per cent are from overseas. During the summer months, 89 per cent of the visitors are from Victoria, while 10 per cent are interstate visitors and the remaining approximate 1 per cent are from overseas. Although the proportion of international tourism remains low, the Australian alpine resort industry is important in retaining snow sports and recreational tourism and expenditures that would have most likely gone interstate or overseas.

Victoria's alpine resorts generate considerable economic activity. The value of the resorts to both the state and regional economies has been identified in the *Victorian Alpine Resorts Economic Contribution Study* ('the Study'), which demonstrates the importance of the alpine resorts to local economies and the state of Victoria. While the majority of tourism in this region is driven by snow and ski resorts, outside of the snow season, the mountains provide a good location for bushwalking, horse-riding, cycling, scenic driving and fishing.

The Study found the gross direct visitor expenditure generated by the Victorian alpine resorts was \$817 million in 2016-17. This expenditure covers all visitor transactions, including food, beverages, lift passes, entry fees and local travel. The flow-on consequences of the net additional expenditures were analysed using an input/output-based model. The results of this analysis show an economic contribution (gross state product) of \$911 million in 2016-17, compared to what would have been the case in the absence of the economic contribution of the alpine resorts in the winter and summer seasons.

More recently, EY estimated³ that the economic contribution of the winter season in 2018 contributed \$1,076 million to the Victorian economy, contributing to total Victorian employment in annual equivalent terms of 10,471 including direct and indirect jobs.

³ Victorian Alpine Resorts Economic Contribution Study (prepared by EY, 2018).

2 Why are new regulations needed?

2.1 Legislative framework for the management of alpine resorts

The alpine resorts are on Crown land and are managed within the context of the Victorian Government's public land management framework.

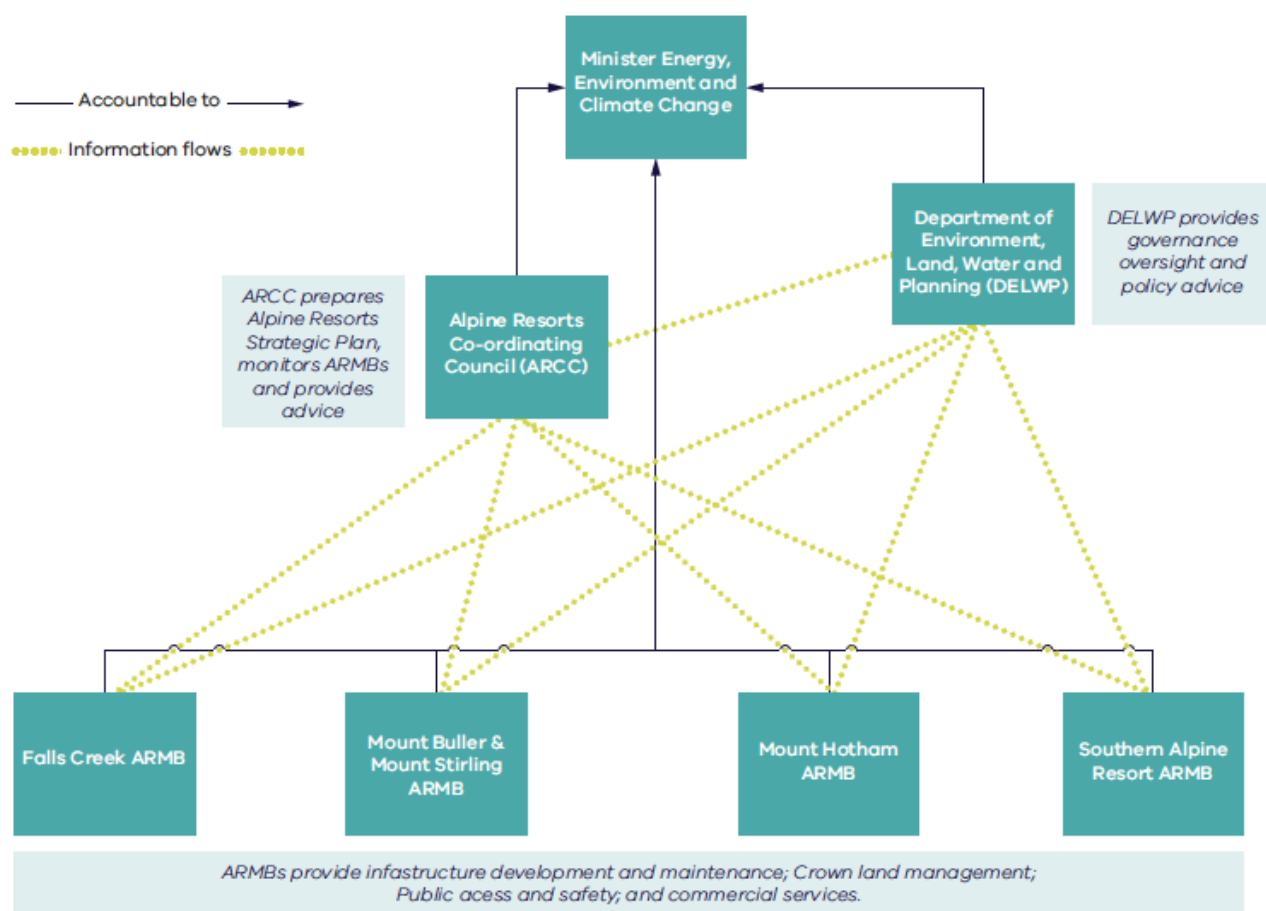
The *Alpine Resorts (Management) Act 1997* ("the Act") provides the management framework for Victoria's six alpine resorts. The object of the Act is to make provision in respect of alpine resorts for the development, promotion, management and use of the resorts on a sustainable basis and in a manner that is compatible with the alpine environment, having regard to:

- environmental and ecological considerations, in particular, climate change
- economic considerations
- cultural heritage considerations, in particular, indigenous cultural heritage considerations.

The Act seeks to facilitate the use of the alpine resorts primarily for alpine recreation and tourism over the entire year by persons from varied cultural and economic groups.

The Act also establishes the Alpine Resorts Co-ordinating Council (ARCC) and the four Alpine Resort Management Boards (ARMBs) to provide for the management of the resorts on behalf of the Minister for Energy, Environment and Climate Change.

Figure 2: Alpine resorts governance arrangements



Function of Boards and Council

Alpine Resort Management Boards

The alpine resorts are managed by Alpine Resort Management Boards (ARMB). The ARMBs are established as statutory authorities under the Act. The functions of the ARMBs are to:

- plan for the development, promotion, management and use, of each such alpine resort
- develop and promote the use of each such alpine resort
- contribute to the development of the Alpine Resorts Strategic Plan and other strategic planning for alpine resorts as a whole
- undertake research into alpine resort issues
- prepare and implement a Strategic Management Plan for each such resort
- expend or apply revenue of the Board in accordance with a direction of the Minister
- act as a committee of management of any Crown land deemed to be permanently reserved under the *Crown Land (Reserves) Act 1978* in each such alpine resort
- develop a tourism and marketing strategy for and to promote each such alpine resort and to collect and expend voluntary contributions from commercial undertakings in each such alpine resort for this purpose
- provide services such as garbage disposal, water supply, gas and electricity, drainage, sewerage, roads, fire protection, snowmaking, and transport, and to charge contributions for the provision of those services
- collect fees prescribed by the regulations for each alpine resort
- attract investment for the improvement of each alpine resort.

Each Board must perform its functions in an environmentally sound way. The Boards are subject to Ministerial direction, and their members are appointed by the responsible Minister. Each Board is deemed to be an incorporated committee for the purposes of the *Crown Land (Reserves) Act 1978*.

Alpine Resorts Co-ordinating Council

The Alpine Resorts Co-ordinating Council (ARCC) is a statutory body, reporting to the Minister. It consists of a chairperson and four members appointed on the recommendation of the Minister and the chairperson of each ARMB. The functions of the ARCC include to:

- review and co-ordinate the implementation of the Alpine Resorts Strategic Plan
- attract investment for the improvement of the alpine resorts
- plan for and facilitate the establishment, development, promotion, management and use of alpine resorts
- undertake research into alpine resort issues
- liaise with and encourage the co-operation of all State and local government authorities, industries, communities and other persons involved in the development, promotion, management and use of alpine resorts
- make recommendations to the Minister on matters related to the provision and improvement of services and facilities in alpine resorts.

The functions of each Board must be carried out in accordance with the Act. Also, the Minister may give directions or issue guidelines to a Board on the performance, discharge or exercise by it of its functions, duties or powers.

Pursuant to section 39 of the Act, a Board may do anything necessary or convenient to enable it to carry out its functions. The general powers conferred on a Board are not limited by any other powers conferred on that Board by the Act. The Board has the power to enter into contracts agreements or arrangements and carry them out.

The Alpine Resorts (Management) Regulations 2009 (“the current Regulations”) are made pursuant to section 57 of the Act.

The objective of the current Regulations is to provide for the protection, management and control of Victoria’s alpine resorts. The current regulations provide a range of powers to the ARMBs to give operational effect to and support the objectives of the Act. This includes powers to:

- restrict access or activities within the whole or parts of the resorts
- regulate the operation of vehicles in the resorts
- control adverse visitor behaviour and use of the resorts.

The current Regulations also regulate the fees for the entry to and use of the resorts.

In addition to the current Regulations, there are two sets of resort-specific regulations made under section 13 of the *Crown Land (Reserves) Act 1978*: the Crown Land (Reserves) (Mount Baw Baw Alpine Resort) Regulations 2010, and the Crown Land (Reserves) (Lake Mountain Alpine Resort) Regulations 2010.

2.2 Why are new Regulations being proposed now?

Under the *Subordinate Legislation Act 1994*, all regulations sunset (i.e., lapse or expire) ten years after they are made. This is to ensure that the need for continued regulation is regularly re-examined and regulations remain fit for purpose.

The current Regulations will sunset on 3 November 2020.⁴ The automatic sunset of regulations provides an opportunity to revisit whether regulations are still needed, and if so, whether there are ways to improve them.

If the current Regulations sunset without any replacement, there will be two key consequences for the management of Victoria’s alpine resorts:

- There will be no direct upper limit on what fees alpine resorts can charge visitors. While there are indirect mechanisms in place that may influence the setting of fees, there would be no direct enforceable control that applies across all alpine resorts.
- There would be limited ability of alpine resorts to discourage and penalise certain types of behaviour that adversely affect the natural environment, and the safety and amenity of visitors, within the alpine resorts. Each alpine resort would rely only on conditions of entry to regulate behaviour, with the only available response being a request for people to leave the resort.

The consequences of these are discussed in section 2.3 below.

The Alpines Resorts (Management) Regulations 2020 (“the proposed Regulations”) are proposed to replace the current Regulations.

⁴ The Alpine Resorts (Management) Regulations 2009 were scheduled to sunset on 4 November 2019, however were extended by 12 months—see Subordinate Legislation (Alpine Resorts (Management) Regulations 2009) Extension Regulations 2019, S.R. No. 103/2019.

When new regulations are being proposed, even when merely remaking current Regulations that are sunseting, the Subordinate Legislation Act requires:



To assist parties to review and comment on the proposed Regulations, the Subordinate Legislation Act requires the preparation of a Regulatory Impact Statement (RIS) for any regulations that are likely to impose a significant economic or social burden on a sector of the public, to be made available with the proposed Regulations.

The Department does not believe that the proposed Regulations are likely to impose a significant economic or social burden on a sector of the public. However, as a RIS is also useful to support public consultation and good decision making, the Department has prepared this RIS to assist interested stakeholders in providing feedback on the proposed Regulations.

The RIS process aims to ensure that the costs of the regulations are outweighed by the benefits, and that the regulatory proposal is superior to any alternative approaches.

2.3 The problems addressed by the Regulations

2.3.1 Regulating fees charged by Alpine Resort Boards

Managing and operating alpine resorts in accordance with the Act involves a cost. These costs include activities that are directly related to having visitors in the alpine resort, such as snow clearing, providing information to visitors, maintenance of public spaces and shelters, cross country grooming, managing waste, traffic management and parking, and ski patrols.

Boards already have a power under the Act to charge fees:

- A stated legislative function of each Board is to charge contributions for the provision of services including garbage disposal, water supply, gas and electricity, drainage, sewerage, roads, fire protection, snowmaking, and transport.⁵
- As body corporates,⁶ they have the ability to enter commercial contracts, which would include agreements for persons entering the alpine resort, parking, etc.

The Act does not impose any restraints on what fees Boards could charge. Theoretically, Boards could set very high fees for entry and use of resort facilities, which could result in visits to alpine resorts becoming unaffordable to most Victorians, and undermine the government's objectives to promote tourism in the regions.

Alpine Resorts are not subject to the Victorian Government's *Cost Recovery Guidelines*, which provide a framework for setting government fees and charges on the basis that in general regulatory fees and user charges should be set on a full cost-recovery basis. There is the possibility for, unless regulated, alpine resort boards to charge fees that exceed their costs (i.e., make a profit).

The problem being solved by regulating fees in the proposed Regulations is to ensure that fees to enter and use the alpine resorts are not excessively high, ensuring most Victorians can, if they wish, enjoy the alpine resort areas.

⁵ Section 38(d) (with section 39).

⁶ Section 35 (with section 39).

But without setting a maximum fee in Regulations, Boards would have no explicit upper limit set by government on what fees they could charge. That said, Boards would need to have regard to a number of factors in setting fees. These factors include:

- the object of the Act, which includes use of the resorts for recreation and tourism, by persons from varied cultural and economic groups
- the legislated functions of the Board, including to contribute to the promotion of alpine resorts
- the corporate plan of the Board completed or modified under section 53 of the Act and the Strategic Management Plan for the resort under Part 4 of the Act, which must give practical effect to the object of the Act
- any directions or guidelines given to the Board by the Minister under section 35 of the Act.

The objectives of the Act and the Board's corporate plan to facilitate use of the alpine resorts by Victorians and promote tourism means, in the absence of Regulations, fees are unlikely to be set excessively high. Further, if a Board proposed fees that were considered excessive, the Minister could intervene by giving formal directions to the Board. However, in setting fees Boards need to balance the objectives of promoting tourism and use of the resorts needs with other objectives and functions in the Act, such as environmental sustainability and climate change. Within these factors, the optimal fees charged for visitors, which will affect how many people use the alpine resorts, are subject to the discretion and judgement of each Board as to the relative importance and priority of competing objectives.

Therefore, there is wide stakeholder support for retaining maximum fees, as a safeguard to protect the interests of Victorians and to provide certainty of the government's expectations as to acceptable fee levels. Retaining an upper limit on fees may also become more relevant as alpine resort boards factor in climate change in future Board policies.

The current Regulations provide a clear safeguard on fees by:

- setting upper limits on the fees that Boards may set for a number of specific activities, such as entry and parking
- setting out other criteria that Boards must have regard to when determining fees, such as commercial considerations, and marketing and promotional considerations.

By setting these elements in the Regulations, this also provides a framework for charging fees on a consistent basis across all alpine resorts, and potentially use of fees to promote other objectives (e.g., more environmentally responsible use of transport options).

Currently, the fees charged by Boards are below the maximum fees set out in the current Regulations. Recognising that resorts also have other sources of revenue,⁷ often greater than the revenue from entry fees, there is no evidence to suggest that the maximum fees in the current Regulations should be increased.⁸

The following table sets out the revenue and expense items for each Board for 2019.

⁷ Such as commercial arrangements for businesses that operate within the alpine resorts, and government grants.

⁸ Noting that the maximum fees in the current Regulations usually increase each year in line with automatic indexation of fees across government, although the government decided to not index fees in 2020-21 – see Gazette Number G16 dated 23 April 2020.

Table 3: Revenue and expenses by Board, 2019 (\$)

	Mt Buller/Mt Stirling	Mount Hotham	Falls Creek	Southern Resorts
<i>Revenue</i>				
Resort Entry Fees	7,084,000	3,944,540	4,870,273	7,498,970
Other Revenue	15,018,000	9,283,777	7,820,736	8,040,843
Total income from transactions	22,102,000	13,228,317	12,691,009	15,539,813
<i>Expenses</i>				
Resort Services & Operations*	7,649,000	3,344,009	3,556,358	4,433,869
Employee Costs	4,408,000	4,539,285	4,594,625	7,256,864
Administration and compliance	1,496,000	1,675,090	1,168,906	417,096
Utilities	(included above)	488,344	491,839	2,359,261
Marketing	789,000	765,840	565,802	353,720
Depreciation	2,816,000	1,596,094	2,242,222	2,531,914
Total expenses from transactions	17,158,000	12,408,662	12,619,749	17,352,724
Net result from transactions	4,944,000	819,656	71,260	-1,812,911

* also includes other expenses not separately identified in the table.

In 2019, total revenue collected via the resort entry fees in the current Regulations amounted to over \$23.4 million. This represented less than 37 per cent of the total revenue received by the Boards.

One fee in the current (and proposed) Regulations is aimed at cost recovery. The need for this fee arises because of the Regulations themselves: the Regulations prohibit certain activities unless an authorisation is obtained from the relevant Board. The cost of providing an authorisation is relatively low, and historically no fee has been charged for seeking an authorisation, primarily for the purpose of encouraging people to apply for an authorisation rather than just breaching the prohibition. However, a small fee has been charged for replacement of an authority where it has been lost or damaged. This fee encourages people to take appropriate care to look after the authorisation.

2.3.2 Risks arising in alpine resorts

Allowing visitors to enter and enjoy the open public space creates a number of risks. These are:

- public safety (e.g., activities that could physically harm people or property)
- public amenity (e.g., activities that could affect the enjoyment of the space by others)
- environmental protection (e.g., activities that pose a risk to flora and fauna).

These risks are outlined in more detail below.

Some forms of damage to alpine environments (and the flora, fauna and natural and cultural features they contain) are irreversible. Alpine resorts need to be adequately protected against damage, especially irreversible damage, by visitors and other threats such as pest plants and animals. Hence, even if the risk of adverse outcomes is low, actions should be taken to avoid or minimise these risks.

For most of the risks outlined above, the Boards already have a general power under the Act that could be used to make rules that could control or prohibit various activities (e.g., as 'conditions of entry'). However, as merely rules of the Boards, the ability to enforce such rules would be limited to directing offending persons to leave the alpine resort, with Boards not able to readily impose other consequences of the harms caused.

Prescribing specific powers in Regulations allows the determinations of the Boards in relation to these matters to have legal force, with the consequence of a legal penalty for non-compliance. The Regulations also allow certain prohibitions to be put in place, with associated penalties, for certain types of activities that should not be left to the discretion of Boards but applied consistently across the state. Prescribing offences in the Regulations allows authorised officers (which can include police) to issue official warnings, issue on the spot fines, or prosecute more significant cases of breaches of the Regulations.

Risks to public safety

Dangerous or destructive behaviour

Irresponsible visitor behaviour can constitute risks to public safety. These impacts include area use conflicts and various dangerous activities. Management planning and regulation (including the power to set aside areas where specified activities are prohibited or restricted) is required to minimise conflicts between certain uses within resorts, such as camping, horse riding or tobogganing on ski slopes, or the landing of aircraft. In particular, the use of some types of toboggans, ski bobs and ski sleds (for example, those of heavy weight or with sharp edges) can pose a safety risk to other users of ski slopes.

There is no other legislation available to deal with these problems apart from the *Summary Offences Act 1966*, which applies to only a few of the offences under the proposed Regulations. However, this Act can only be enforced by members of the Police force, who are not stationed at most alpine resorts.

Without the proposed Regulations, there would be inadequate restrictions on the possession, carrying or use of firearms and other weapons in alpine resorts, provided there were generic authorisation under other legislation, such as the *Firearms Act 1996*, the *Control of Weapons Act 1990*, the *Wildlife Act 1975* or the *Dangerous Goods Act 1985*. This may be dangerous in alpine resorts with people engaged in outdoor recreational activities, especially when there is poor visibility.

Fires, natural disasters and other emergencies

ARMBs are required to prepare comprehensive fire management plans for each resort in accordance with the Report of the Inquiry into the 2002/03 Victorian Bushfires. Appropriate regulations or other effective alternatives are needed to implement such fire management plans and to minimise the risk of such fires starting in alpine resorts. Departmental research has shown that 9.5 per cent of all fires affecting public land during the period 1976 to 1996 were caused by escaped campfires and barbecues.

While the Forests (Fire Protection) Regulations 2004 apply within alpine resorts, there is a need for ARMBs to have the power to specify areas where and when fires may be safely lit. For example, some areas of alpine resorts are more at risk from fires at different times of the year than others, and some types of vegetation are more fire resistant than others.

There is also a need to protect public safety in the event of an uncontrolled fire, natural disaster or other emergency occurring in alpine resorts. Boards need the power to close resorts to entry where they consider there is a risk to public safety from such events.

Road safety risks

Roads in alpine areas can become very dangerous in wet or icy weather conditions, significantly increasing the risk of vehicle accidents resulting in personal injury, death or damage to vehicles and other property.

The current regulations require that wheel chains (sometimes referred to as 'snow chains') must be carried by all vehicles entering the resorts during the snow season, except when Boards determine

otherwise. At the direction of an authorised officer, wheel chains must be properly fitted to the drive wheels of vehicles, usually in poor weather conditions.

Similar requirements to carry wheel chains throughout the winter season and fit them where directed exist at alpine resorts in New South Wales (except for 4WD vehicles) and New Zealand. At northern hemisphere alpine resorts, such as in Canada and the USA, winter tyres are normally fitted to vehicles throughout winter in preference to fitting wheel chains.

An important general principle of safety management is that the on-site operator (in this case the Boards) should be responsible for assessing and minimising risks to public safety, rather than a regulator. In accordance with this principle, there is an expectation that the Boards exercise their waiver powers reasonably and responsibly and in strict accordance with internal policies and procedures. These responsibilities include real time assessments of the latest road and weather conditions as to whether wheel chains should be carried by all vehicles, or whether by only 2WD and not 4WD vehicles.

As there is no other legislation dealing with wheel chains in alpine resorts, there is a clear need for similar regulations to be remade in the interests of public safety and wellbeing. It is intended that forthcoming amendments to the Road Safety Rules by VicRoads will take over regulatory control on the use of wheel chains, however there may be a small window of time until those amendments commence. Hence, there is a short-term need to continue to ensure that the Regulations deal with the risk of damage to vehicles and people in vehicles if the vehicles cannot be sufficiently controlled in snow conditions.

Pollution and health risks

The alpine region contains the headwaters of important river systems including the Murray, Goulburn, Ovens, King, Kiewa, Mitta Mitta, La Trobe, Yarra and Mitchell rivers. The maintenance of water quality, control of runoff and effective catchment management are particularly important to ensure downstream water quality.

Preliminary results from data collected show that human faeces take far longer to decompose in national parks than people assume. Faecal pathogens can survive in soil for nine months or more. This has serious implications for the plants and animals living in these environments, for bushwalkers who could be sitting or camping nearby and for water quality, especially in water supply catchments. Other findings show that when camping, people do not go much further than 50 metres from a base camp or hut to defecate. It is reasonable to assume that such findings would also apply to camping, bushwalking or cross-country skiing areas within alpine resorts.

Some areas within alpine resorts form parts of catchments for potable water supplies, either within alpine resorts or further downstream. While most water supplies are disinfected by chlorination or other means, such disinfection is not always effective. It is prudent water quality management practice to avoid human contamination of water supplies at their sources, rather than to rely on disinfection alone.

Regulations or other effective alternatives are needed to protect the alpine environment and downstream water quality from pollution (for example, through inappropriate disposal of human waste). Existing legislation, such as the *Environment Protection Act 1970*, is not specific enough for this purpose. There is a need for Boards to be able to set aside areas within resorts as water supply catchments and to restrict entry to such areas.

Uncontrolled vehicles and parking

Private vehicles must be parked in designated car parks or on roadsides set aside for the purpose outside of village areas. It is not possible to allow the unrestricted access of private vehicles to villages, as the village tracks are often narrow and suitable only for small numbers of vehicles. Pedestrians often use the same tracks. Limited parking spaces are available in village areas, usually

located next to leased buildings. These parking spaces are needed by lessees for the delivery or pick up of goods and guest luggage. A separate system of authorisation of vehicle access to special areas such as villages is therefore required. For safety reasons, the use of oversnow vehicles for recreational purposes cannot be permitted at resorts. A separate system of authorisation of oversnow vehicles, which are used for commercial or search and rescue purposes, is also required.

Vehicles that block roads, rights of way or cross-country ski trails need to be deterred, and in some cases removed. Appropriate vehicle management and parking restrictions within resorts are important throughout the year but are even more imperative in winter due to the dangerous icy road conditions.

Given the *Local Government Act 1989* and other legislation dealing with vehicle access and parking do not apply within alpine resorts, separate regulations are needed.

Uncontrolled animals

There is a need to control the bringing in and use of animals in alpine resorts, just as there is in national parks. Uncontrolled animals can be a safety hazard, can interfere with authorised public uses of alpine resorts, and can cause environmental damage. For example, the presence of large animals such as horses can conflict with other uses of resorts and can damage sensitive alpine vegetation.

Uncontrolled smaller animals such as dogs can create noise and other nuisances in alpine resorts, particularly in village areas where families are often present. They can also pose a safety threat from dog attacks. Uncontrolled animals also pose a threat to native fauna and flora through risk of predation and the spread of disease and weeds.

Again, existing legislation is not adequate to solve these problems. For example, the *Domestic (Feral and Nuisance) Animals Act 1994* currently applies only to areas within the jurisdiction of local governments, and only to dogs and cats. There is also a need for Boards to be able to set aside areas where animals can and cannot be brought in or used, which would not be possible without the proposed Regulations.

Risks to amenity

Activities of some alpine resort visitors can adversely impact the enjoyment of other visitors. These impacts include area use conflicts, offensive behaviour, uncontrolled domestic animals, vandalism and unsightly littering.

A large capital investment has been made in the development of visitor facilities and other resort infrastructure. Vandalism can significantly reduce the value of this investment. In some cases, offences and penalties are needed to deter unacceptable behaviour by a small minority of resort users who may devalue the recreational experience for the majority of visitors. Such intervention allows the diverse interests to co-exist and for each interest group to benefit from its use of the resort.

There is no other legislation available to deal with these problems apart from the *Summary Offences Act 1966*, which applies to only a few of the offences under the proposed Regulations. However, this Act can only be enforced by members of the Police, who are not stationed at most alpine resorts.

The use of soap and detergents in or near alpine waterways can cause unsightly foaming downstream, even beyond the resorts themselves. Litter can also seriously detract from the aesthetic value of relatively pristine alpine environments. Similar (and in some cases, identical) regulations exist for national parks.

Regulations or other effective alternatives are needed to protect the alpine environment and downstream water quality from pollution (for example, through littering, or inappropriate disposal

of waste and detergents). Existing legislation, such as the *Environment Protection Act 1970*, is not specific enough for this purpose.

Risks to environment sustainability

Sensitive environments within alpine resorts require adequate protection from adverse visitor impacts, not only for their own sake, but because of their proximity to alpine national parks. The following discussion of environmental sustainability is necessarily restricted to matters within the scope of the Act and the proposed Regulations.

Risks to biodiversity

The ecological communities of the alpine areas, although evolved to survive in this harsh environment, are also highly sensitive to some forms of change. Invasion by environmental weeds is a present and potential problem. Some weeds may be kept in check by present climate or other factors; however, some are aggressive invaders (such as English Broom and Orange Hawkweed) particularly where the soil is disturbed. The five ski resort areas represent the most developed and altered areas of the Victorian Alps bio-region. While the total area of the resorts is relatively small it forms a significant proportion of the treeless area.

Individual alpine fauna species listed as threatened include the Mountain Pygmy-possum (*Burrhamys parvus*) which is the only Australian mammal restricted to the alpine-subalpine zone above 1,400 metres. The main threat to the species is habitat destruction and fragmentation from human activities associated with skiing and alpine resort development. These include absolute destruction, weed invasion, erosion, soil deposition, and interruption of the breeding cycle and hibernation.

Other threatened species in the region include Leadbeater's Possum (*Gymnobelideus leadbeateri*) and the Barred Galaxias (*Galaxias fuscus*), a small native fish found at Lake Mountain. There is also one frog, six lizard species and several species of stone fly restricted to the Victorian alpine bio-region that are considered threatened at a national and/or state level.

Visitor impacts on wildlife can include inappropriate hunting, poaching, unintended harassment and disturbance (for example, predation from domestic cats and dogs at large), taming (for example, through animal feeding), transmission of diseases to animals, translocation of animals, and modification of habitat that affects feeding and reproduction habits. Domestic animals, especially cats and dogs, can have devastating effects on native wildlife, not only from predation but also from habitat disturbance. In the absence of the Regulations, there would be inadequate restrictions on the disturbance of habitat or predation by dogs and cats.

Land degradation risks

Visitor use can affect vegetation including cover and species composition and condition. For example, visitation can increase the risk of escaped campfires, the spreading of seeds (including weed species), the use of off-road vehicles, tree bark stripping near campsites and so on, all of which can all impact deleteriously on vegetation. Invasion of weeds can displace native flora and alter resort ecosystems. Vehicles in the environmentally sensitive places can significantly damage native flora and fauna.

Some visitor activities can lead to increased erosion beyond natural levels. There can also be erosion impacts from loss of vegetation, soil compaction and loss of organic matter. Soil erosion can detrimentally impact on water quality, causing increased loads of sediment and nutrients. Creation of bare earth increases the likelihood of weed invasion and establishment and minimises the chances of establishment of native vegetation due to frost heave. Compaction of soil increases the likelihood for runoff and reduces establishment rates of native vegetation (such as via a reduction in ability for roots to penetrate soil).

Existing legislation such as the *Catchment and Land Protection Act 1994* is insufficient for this purpose. In particular, without the proposed Regulations there would be no restrictions on introducing weeds or other plants to alpine resorts.

2.4 Are the Regulations still needed and are they fit for purpose?

In preparing the proposed Regulations, the Department reviewed the operation of the current Regulations. The Department consulted with all ARMBs and the ARCC, and invited submissions from interested stakeholders in response to a Discussion Paper. Eight submissions were received, including from Victorian Police, local councils, community and sports associations, a local business and one individual.

All stakeholders indicated that the elements of the current Regulations remained appropriate to be included in the proposed Regulations. A number of areas where the Regulations could be updated were suggested, such as some definitions.

The Department also identified a number of areas where the regulations that set out prohibitions in alpine resort areas could be aligned with the corresponding prohibitions that apply to other Crown lands and national parks.

The Department has also identified ways to restructure the proposed Regulations to make them easier to navigate as a document and understand related requirements.

3 Objectives of the proposed Regulations

3.1 Legislative objectives

The object of the Act is:

- for the development, promotion, management and use of alpine resorts on a sustainable basis and in a manner that is compatible with the alpine environment, having regard to:
 - (i) environmental and ecological considerations, in particular, climate change; and
 - (ii) economic considerations; and
 - (iii) cultural heritage considerations, in particular, Indigenous cultural heritage considerations;
- for the use of the resorts—
 - (i) primarily for alpine recreation and tourism; and
 - (ii) in all seasons of the year; and
 - (iii) by persons from varied cultural and economic groups.

The ARMBs are required to manage the resorts in accordance with the objectives outlined in the Act.

3.2 Government policy

The Victorian Government is committed to ensuring that the resorts maximise the economic and social benefits to surrounding regions and Victorians generally. In February 2016, the Victorian Government announced that reform of the alpine resorts governance arrangements is required to ensure the sector can effectively respond and adapt to current and future challenges, particularly the impacts of climate change.

The governance reform project aims to ensure the alpine sector has a governance and operating model that:

- enables effective planning to adapt to the impacts of climate change
- enhances the public land and environmental values derived from the alpine resorts and continues to provide economic and social benefits to surrounding regions and across Victoria
- facilitates collaboration across the sector and ensures effective land management
- enables a sector-wide strategic approach to issues associated with infrastructure investment.

3.3 Objectives of the Regulations

The objectives of the proposed Regulations are to:

- facilitate access to alpine resorts for Victorians by setting maximum fees that can be charged by Boards
- provide for the effective protection, management and control of alpine resorts by managing environmental and human conduct risks to alpine resorts.

4 Regulating fees charged by alpine resorts

4.1 Current fees prescribed in the regulations

The Act allows the regulations to prescribe fees for:

- entry by persons or classes of persons; or vehicles (including helicopters and aircraft) or classes of such vehicles
- parking vehicles in alpine resorts (whether as annual fees or in respect of any other shorter period)
- transport provided by a Board within an alpine resort
- access to or for the use of any area set aside by or under the regulations for public use
- camping
- costs of removal of vehicles and any such impounding of vehicles.

The fees prescribed by regulations may impose specific, minimum or maximum fees and provide for the waiver or reduction of fees.

The current Regulations prescribe maximum fees for:

- Entry of persons by bus (on a per person basis, per entry)—currently 1.31 fee units
- Entry of persons by motor vehicle (on a per vehicle basis, per day)—currently 4.14 fee units, unless with an annual pass with a maximum fee of 49.67 fee units per vehicle per year
- Entry by persons by other means (per person, per entry)—1.31 fee units
- Use of cross-country ski trail (daily and seasonal fees, based on adult, child or family)
- Authority for the use, parking or driving of vehicles (per vehicle per year)—maximum fee depends on the activities allowed
- Camping (per person)—\$4.44.

Fees prescribed in statutory rules are typically expressed in terms of ‘fee units’, for which the dollar value of a fee unit is determined each year by the Treasurer. This allows fees across government to be automatically adjusted to take account of factors such as inflation.⁹ The actual amount of the fee that can be charged is calculated by multiplying the number of fee units prescribed in the statutory rule by the value of a fee unit determined by the Treasurer. The value of one fee unit in 2019-20 is \$14.81. The value of one fee unit for 2020-21 will also be \$14.81, as the government made a policy decision to not increase fee units from 1 July in response to the Covid-19 impacts.¹⁰

All fees actually charged by the alpine resorts are currently set below the maximum fee prescribed in the current Regulations. It is noted that each resort provides a range of various discounts, such as lower rates for children or seniors, or for early bird or online bookings. Boards have also coordinated to provide a multi-resort access pass for a discounted price.

Boards have reported that in practice, only fees for entry are charged as the primary source of fee revenue, as it is impractical to separately charge for activities such as camping and use of ski trail.¹¹

⁹ The *Monetary Units Act 2004* enables fees to be expressed in terms of ‘fee units’, unless the amount to be prescribed, fixed or charged would be less than the value of one fee unit—see section 8(1).

¹⁰ See Gazette Number G16 dated 23 April 2020.

¹¹ The current Regulations provide that Boards may have regard to the cost of fee collection when determining fees.

4.2 Is setting a maximum fee still appropriate?

As noted in Chapter 2, Boards already have a power under the Act to charge fees. Boards are not subject to the Victorian Government’s *Cost Recovery Guidelines*. Therefore, the problem being solved by inclusion of fees in the proposed Regulations is to ensure that fees to enter and use the alpine resorts are not excessively high, ensuring most Victorians can, if they wish, enjoy the alpine resort areas. The Regulations do this by setting maximum fees that can be charged by Boards.

As also noted above, there is wide stakeholder support for retaining maximum fees, as a safeguard to protect the interests of Victorians and to provide certainty of the government’s expectations as to acceptable fee levels.

The current Regulations specify that Boards must have regard to any commercial considerations, any marketing or promotional considerations, and any seasonal considerations. These factors are already inherent in the Board properly exercising its functions, and are reflected in the corporate plans, so do not in themselves change how fees would be determined.

There are a number of options in how fees can be prescribed in the Regulations. These options can be summarised as follows:

Table 4: Overview of options for setting fees

Fee element	Options considered
How should the fee be expressed?	A fixed fee A minimum fee A maximum fee (fee cap)
For what activities should fees be charged?	Entry (includes parking in defined areas) Camping Use of cross-country ski trails Use of vehicles in other areas
Basis for charging entry fees – vehicle type	Fee per vehicle Fee per person Fee per vehicle for cars; per person for buses
Basis for charging entry fees – length of stay	Fee per entry Fee per day

The options in **bold** indicate the preferred option, for the reasons outlined below.

4.3 Should the regulations set maximum fees or fixed fees?

The Act allows the Regulations to set fees as fixed fees, minimum fees or maximum fees. Setting fees as a minimum that must be charged is not suitable in this context, as setting minimum fees would not address the objective of ensuring access to alpine resorts for a reasonable cost.

Therefore, in practice the options available for the government are to prescribe the precise fees that must be charged by alpine resorts, or set only a maximum fee and allow resorts to determine fees (including as a range of different fees for different circumstances) below that maximum fee.

Use of a maximum fee is the preferred option as it is consistent with the objectives of the regulatory intervention—i.e., to protect the ability of most Victorians to be able to access the alpine resorts. Setting only a maximum fee for each type of activity allows resorts to determine fees that balance all other objectives, including by allowing pricing to be responsive to different demand patterns at different times.

4.4 For what activities should maximum fees be prescribed?

The Act allows the Regulations to prescribe fees for entry, parking, transport and “access to or for the use of any area set aside by or under the regulations for public use.”

In practice, resorts charge fees for entry and parking only. The current fees set maximum fees for use of cross-country ski trails and for use of camping areas, however these are not used by any resort.¹²

The principles of cost recovery would suggest that users of different services should be charged for the costs incurred that arise because of their use of that service. Hence, these principles would suggest that the costs associated with resorts providing access to ski trails and camping areas (which includes direct costs associated with those areas but also indirect costs, such as environmental impacts) should be recovered only from those people who use those areas.

However, a key principle in designing fees is to promote simplicity, and to take account of the practicality of charging and collecting fees. Boards have advised the Department that it is impractical to charge individual fees at multiple points around the resort. While having a point of collecting fees at the resort entry is reasonable, having additional fee collecting points at different parts of the resort would be costly. For example, the cost of collecting the current camping fee of \$4.44 for each person camping would likely be more than the fee itself.

That said, the Department believes it is prudent to retain fee caps for camping and use of ski trails, as technological or other changes may occur in the future that allow more cost-effective ways of charging fees for these activities. It is also proposed to continue the ability of Boards to have regard to the cost of fee collection when determining fees within the fee caps.

In this regard, it is proposed to change the maximum fee that can be charged for camping, from the current fee cap of \$4.44 per person (with some ambiguity about whether this is per day/night, or for the entire period of camping) to a fee cap of 1.03 fee units (currently equivalent to \$15.25) per night, for a group of up to six people.

This change provides clarity on the application of the fee cap and allows for simplified fees to be charged for groups. The change aligns the proposed Regulations with the maximum fee and method of calculation that can be charged for camping on other Crown land under the Crown Land (Reserves) (Camping and Miscellaneous Fees) Regulations 2019.

The change means that the total maximum fee that could be charged by resorts for a group of up to 3 campers would increase but decrease for groups of 4 to 6. While this is aimed at simplifying the calculation of camping fees for groups, and better aligning the fee to the impact expected from campers (which is typically more related to each group rather than the number of people within a small group), it remains at the discretion of each alpine resort to determine when and how fees would be charged within this overall fee cap.

4.5 Design options: structure of fees

The current Regulations also prescribe the basis for calculating the maximum fees in relation to entry. They are:

- Entry of persons by motor vehicle—charged on a per vehicle basis, per day or as an annual fee.
- Entry of persons by bus, or by any means other than in a motor vehicle—charged per person basis, per entry.

(Boards are free to use other methods to calculate actual fees charged, however it is on this basis that the maximum fee allowed would be determined.)

¹² Most resorts do not specifically set aside any areas for camping.

Most visitors to the alpine resorts arrive by car—between 78 and 86 per cent during the snow season, and up to 95 per cent across the whole year (as there are very few buses outside the snow season).

4.5.1 Per person vs per vehicle charges

Ideally, charges should best reflect how a person’s entry contributes to the costs and impacts on the resort. For example, costs that relate to facilities used by people should be charged on a per person basis, and reflect how long they stay at the resort; while costs such as roads and parking areas should be charged on a per vehicle basis (and perhaps different fees for different types of vehicles) and reflect how much they use the roads and parking. Therefore, ideally, the entry fee should have a per-person component as well as a component that reflects the type of vehicle.

In practice, this would lead to an overly complicated fee structure. Having regard to the desire to keep the fee structure simple to administer, the current fees also recognise that charging entry by motor vehicle on a per vehicle basis creates an incentive for people to reduce the number of vehicles used (e.g., carpooling). This promotes better environmental outcomes. Consultation with stakeholders suggests that this is still the most appropriate way for charging for entry via motor vehicle.

The maximum entry fee per vehicle (currently 4.14 fee units per entry) was calculated on the basis that there would be, on average, around three people per vehicle. Visitors arriving by car on their own or with only one other person could be charged more than the average entry fee (i.e., the entry fee that could be charged for each person arriving by bus¹³), to reflect the impact of having a vehicle use roads and parking facilities for only a small number of people.

Currently, the definition of ‘bus’ is any motor vehicle which seats more than 12 adults (including the driver), drawing on the definition used for the purposes of the *Road Safety Act 1986*. In recent years there has been a trend towards greater use of ‘cars’ that can seat 10 or more people. Continuing a per-vehicle fee for visitors entering in these larger vehicles means that people entering by these vehicles are not paying a fair contribution to the costs of the resort. For example, the maximum fee that the tenth or eleventh person in a car effectively pays is around \$6, compared with the maximum fee paid by a person arriving by bus of \$19.40.

It is proposed to change the definition of ‘bus’ from the current ‘more than 12 adults’ to apply to vehicles that can seat more than nine persons. This would make the definition better suited to ensuring fees for entering alpine resorts reflects the impact on the costs of the alpine resort by those visitors. The new definition would also align the definition of ‘bus’ with that used in the *Bus Safety Act 2009*.

Each alpine resort would be free to choose their actual fee amount and how they structure fees within these maximums.

4.5.2 Per entry vs per day

The current fees for entry by bus are charge per entry. This is based on making the collecting of fees as simple as possible—at the entrance, the driver or tour operator advises of the number of passengers and pays the total fees for the whole bus. (The individual passengers would have already paid the fee as part of the price for the bus.)

This has raised a potential discrepancy between people who arrive by bus and stay at the resort for a number of days (who pay the fee only once) and people who may use accommodation outside the

¹³ While theoretically a bus with only a small number of passengers would have a maximum fee that does not fully reflect the impact of a bus using the resort roads and parking, it is assumed that most buses would only operate in practice with a minimum number of passengers to make the trip viable.

resort and use a shuttle bus to transfer to the resort each day (and hence pay the entry fee each day they use the resort).

Consultation with Boards suggests that charging entry fees based on the duration of stay would be ideal, but could be onerous to determine at the point of entry or otherwise verify. The maximum fees in the regulations prior to the current Regulations (i.e., the Alpine Resorts (Management) Regulations 1998) set maximum fees based on a daily basis, however in practice this was not the basis used by alpine resorts as it would increase the costs of collection. Now, alpine resort Boards suggest that in the future, technology may allow automated monitoring of length of stay, and therefore make per-day charging more feasible.

The proposed Regulations have changed the basis for calculation of the maximum fee to allow alpine resorts to charge on a per-day basis. It is not expected that all alpine resorts would be able to change to this approach immediately (and hence the maximum fee amount will continue to be set at the current maximum fee so that alpine resorts do not have to reduce overall revenue if they choose to continue to set fees without reference to the duration of stay), but the proposed Regulations facilitate this change when feasible. It remains the case that individual alpine resorts must have regard to the cost of collection of fees when determining the actual fees for each resort. The government expects that, if an alpine resort begins to charge entry fees according to the length of stay, then the fee per day would be lower than the amount currently charged per entry.

4.6 Setting the maximum fee amounts

Over the past ten years, the fees charged by resorts have been below the maximum fees set in the Regulations. While the 'standard' fee has been close to the allowed maximum, more than half of the fees actually charged are well below this amount due to various discounts.

This suggests the maximum fees are not adversely impacting the operations of the resorts. Stakeholders have indicated that the current fees are broadly appropriate.

The Department believes that the current maximum fees continues to reflect an acceptable level to meet the objective of ensuring Victorians can access the resorts. It is therefore proposed to continue the same maximum fees (in fee units), with the following changes:

- Changing the definition of 'bus' from a vehicle able to seat 'more than 12 adults' to 'more than 9 persons'.
- Allowing alpine resorts to set entry fees according to the length of stay (a per-day fee), however retaining the current maximum fee for entry as it is expected that most alpine resorts will not change to per-day fees in the short term.
- Changing the way the maximum fee for camping is calculated, as noted above.
- Increasing the maximum fee for a child using a ski trail—this fee is expressed as a dollar amount (rather than in terms of fee units) because it is less than 1 fee unit. This means it has not changed in dollar terms since the current Regulations were made in 2009. It is proposed to re-set this maximum fee to \$7.72 to reflect inflation over that time (an increase of 27 per cent).

The changes to the maximum fees for camping and use of ski trail is not expected to result in any increase in fee revenue, as these types of fees are currently not charged by alpine resort boards.

The full set of fees covered by the Regulations is set out on the following page, comparing the current and proposed fee caps. Most fees are expressed in terms of fee units (1 fee unit equals \$14.81 for both 2019-20 and 2020-21).

There will continue to be exemptions for paying fees for person carrying out official or authorised activities, and Boards have the power to reduce or waive fees under certain circumstances.

Table 5: Comparison of current and proposed maximum fees

	Current maximum fees	Proposed maximum fees	% change
Entry fees			
Entry by bus (vehicle able to seat more than 12 people)	1.31 fee units per person, per entry	No change for bus with 12 or more seats, but can be charged per day	0%*
Entry by other motor vehicle	4.14 fee units per vehicle, per day (or 49.67 fee units for an annual pass)	1.31 fee units per person, per day for vehicles with 10-12 seats	Increase in fee per person for vehicles of 10-12 seats (increase depends on how many people in vehicle)
Entry by other means	1.31 fee units per person, per entry	No change for cars (less than 10 seats)	0%
		No change, but can be charged per day	0%*
Use of cross-country ski trail			
Family	2.55 fee units per day (or 30.60 fee units for season pass)	No change	0%
Adult	1.02 fee units per day (or 12.75 fee units for season pass)	No change	0%
Child (aged 5-17)	\$6.09 per day (or 6.37 fee units for season pass)	\$7.72 per day (no change for season pass)	27% to reflect inflation since 2009
Camping			
Fee for camping in an area set aside for camping	\$4.44 per person	1.03 fee units per night (for up to 6 people)	May be higher or lower, depending on number in group and length of stay.
Fees for use, parking or driving of vehicles			
Using and driving vehicle in accordance with authority	33.15 fee units per year	No change	0%
Using, driving and parking a vehicle in accordance with an authority	57.37 fee units per year	No change	0%
Using, driving and parking a vehicle in accordance with an authority (transferable)	191.22 fee units per year	No change	0%
Using, driving and parking an oversnow vehicle in accordance with a vehicle authority	2.32 fee units per year	No change	0%
Administrative fee			
Replacement of authority	2.43 fee units	No change	0%

* if fee is charged per entry

4.7 Questions for stakeholders

Interested parties are encouraged to provide any views on the proposed Regulations as they relate to setting maximum fees. In providing feedback, interested parties may wish to comment on the following:

- ***Is it still necessary for the government to set fee caps for alpine resorts? Should fee caps be removed, allowing the Boards of alpine resorts the ability to charge higher fees if they wish? Conversely, rather than setting only maximum fees, is there an argument for the government to set the actual fees that alpine resorts must charge?***
- ***Are there other activities at alpine resorts for which a fee should be charged? If so, what fee amount would be reasonable?***
- ***Is it reasonable that entry fees for people arriving at alpine resorts by cars continue to be charged per vehicle, while people arriving by bus be charged per person? Does the single amount per car encourage carpooling?***
- ***Do you support the change in definition of a 'bus', so that people entering an alpine resort in a vehicle that can seat more than nine persons will now pay fees on the same basis as those under the current definition of bus (12 or more adults)?***
- ***Are there practical ways that people arriving by bus could be charged based on how long they stay within the alpine resort area? How could this be easily enforced?***
- ***Do you consider the proposed maximum fees are appropriate to ensure that most Victorians can access alpine resort areas?***

5 Protecting the environment, personal safety and amenity

5.1 Strengthening the management of undesired activities and behaviours

As noted above, the management of alpine resorts have limited the powers to deal with people or activities that pose a risk to the environment, personal safety or amenity. The primary power is to ask offending persons to cease the activity, or to leave the alpine resort.

The current Regulations list a number of prohibited activities and provide powers to alpine resorts to make further rules, the breach of which amounts to an offence and can result in a legal penalty being imposed. The Regulations also give specific powers to authorised officers and police officers to give directions. This is designed to create a stronger incentive for people to not engage in unwanted behaviour and provide a stronger recourse for alpine resorts to deal with such behaviour should it occur.

The proposed Regulations retain much of the prohibitions from the current Regulations, although the way these are expressed has been updated, and the overall content of the Regulations has been restructured and types of activities reorganised, to make the Regulations easier to navigate and understand responsibilities. Where appropriate, the wording of some regulations has been changed to use the same wording for the corresponding rules in other regulations (Crown Reserves or National Parks regulations).

The proposed Regulations set out rules on the following types of activities:

- Controlling entry into alpine resorts
- Using, driving or parking vehicles
- Use of aircraft
- Bringing animals into alpine resorts
- Recreation activities (snowplay, camping)
- Fires
- Dangerous or disturbing activities (including use of firearms, consumption of liquor)
- Organised events.

Across these categories, the proposed Regulations fall into two main categories:

- Activities that are prohibited under the Regulations themselves
- Activities for which the Board of each alpine resort has the power to make determinations that may restrict or limit certain activities.

Some activities fall across both categories; for example the Regulations prohibit certain activities unless authorised by the alpine resort.¹⁴

The specific regulations in each category can be briefly summarised below.

¹⁴ There are some limited exemptions from the regulations. There is also scope for each alpine resort to issue 'Authorities' to permit activities that would be otherwise prohibited. These Authorities may impose conditions.

Table 6: Outline of prohibitions on activities

Prohibited outright under the regulations (unless specifically authorised by the Board)	Boards have power to make determinations that may limit activities
Use, drive or park motor vehicle ¹⁵ Use of motor vehicles that do not carry wheel chains during the snow season Use or landing of aircraft (including drones) Riding and bringing horses or pack animals Bring dogs and other animals into alpine resorts (other than assistance animals) Use of toboggans, sleds, ski-bobs, inflatable devices, kite skis or snow feet Litter and pollution Any activity in a manner that causes, or is likely to cause, danger to any person Any activity in a manner that causes, or is likely to cause, unreasonable disturbance to any person Possession or carrying of firearms, weapons or other dangerous objects Possession or consumption of liquor (in specified areas) Advertising, soliciting and public speaking, and organised events Interfering with animals Interfering with vegetation Interfering with rocks or similar natural objects, or cultural heritage Use of soap, detergent or similar substance	Closure of all or part of alpine resort in emergencies Restrict access to certain parts of alpine resorts Determine when wheel chains must be fitted Areas for skiing, snowboarding and other snowplay Areas for cross-country skiing Areas for camping Areas for lighting or maintaining fires

There are also some responsibilities imposed on all people:

- collecting, removal and appropriate disposal of animal waste
- correct use of ski lifts and ski equipment
- extinguishment of fires.

5.2 What has changed in the proposed Regulations?

As well as updating the structure and wording of the Regulations, the proposed Regulations incorporate a number of other changes. These are:

- Some definitions and scope of activities have been expanded to ensure the intention of the regulation applies to current realities. Chiefly, ‘aircraft’ now include drones, and kite skis and snow feet have been added to the list of devices Boards can set-aside an area for. The current exemption for guide dogs now been expanded to any assistance animal in the *Disability Discrimination Act 1992* (Commonwealth)
- A number of current specific prohibitions (e.g., playing a game or throwing an object) have been consolidated into a general prohibition of activities that causes, or is likely to cause, danger to

¹⁵ Boards may determine areas where vehicles are allowed without an Authority (e.g., general car park); areas where vehicles are allowed only with an Authority.

any person or unreasonable disturbance to any person. This has been done to ensure the prohibition adequately matches the harms sought to be prevented

- New offences for failing to collect, remove or appropriately dispose of any faeces deposited by an animal; and for conduct or organising an event or function in an alpine resort that involves 30 or more persons, unless authorised. These rules reflect similar rules in the regulations for State Game Reserves and National Parks. Alpine resort boards indicated that these undesired behaviours are becoming more frequent, and there is no specific ability to respond to them
- Wheel chain provisions have been amended to align with forthcoming amendments to the Road Safety Road Rules 2017.¹⁶ These have been updated following consultation with VicRoads
- The prohibition on bringing vegetation into an alpine resort has been clarified that this does not apply to the bringing of firewood for the purpose of a fire (where the fire itself is authorised)
- The penalties have been reviewed, with a number increasing to align with corresponding offences in other similar regulations.¹⁷ The proposed increases are:

Table 7: Penalty amounts proposed to be increased¹⁸

Offence	Current penalty amount	Proposed penalty amount
Entering an alpine resort whilst a temporary closure determination is in place	10 penalty units	20 penalty units
Failure to comply with a direction of an authorised officer or police officer to remain or leave an alpine resort	5 penalty units	20 penalty units
Destroying, disturbing or interfering with the nest, bower, display mound, lair or burrow of any animal	15 penalty units	20 penalty units

5.3 The impacts of the proposed Regulations

The impacts of the proposed Regulations are measured against a base case of no regulations.

In the absence of Regulations, most of these prohibitions could be given practical effect through actions by Boards, relying on the willingness of most people to comply with requests from the Board, instructions and signs. This could be given some force as formalised conditions of entry, with the consequence of being directed to leave the resort.

The burden of the prohibitions is not considered material. It is not apparent that any of the prohibitions or restrictions would interfere with the reasonable enjoyment of the resort for most people.

Even with the Regulations, most instances of breaches are dealt with effectively through warning people or asking them to leave, which is what would happen under the base case. The inclusion of penalties in the proposed Regulations is a last resort option to deal with extreme cases of non-compliance. However, Boards have advised that the ability to impose penalties as a last resort does strengthen the ability of staff to direct people to cease any non-compliant activity.

¹⁶ The Road Safety Rules are anticipated to be amended soon in relation to wheel chains. Once this amendment occurs, the use of wheel chains will be managed entirely under the Road Safety Rules, and the parts of the proposed Regulations that require the use of wheel chains will have no further effect. Authorised officers of the Boards will still have the power to ask individuals in the resorts to leave if they fail to produce wheel chains or have them properly fitted.

¹⁷ The Department has consulted with the Department of Justice and Community Safety on the appropriateness of the proposed penalty amounts.

¹⁸ 1 penalty unit is currently \$165.22 (for 2020-21).

The incremental impact of the Regulations is therefore the imposition of (or threat of) penalties for the small number of people who may still otherwise engage in the activities that are known to pose a risk to public safety, the environment or visitor amenity.

5.4 What other options were considered?

Penalties can only be enforced where they are prescribed in Regulations. Non-regulatory or self-regulatory frameworks are not appropriate in this context because some matters must be prescribed in regulation to enable the effective management of alpine resorts under the Act.

An option to retain the current Regulations without change was considered. While remaking the current Regulations would be feasible and achieve most of the objective to enhance the protection of the environment, safety and amenity, it would miss a clear opportunity to improve the Regulations.

Instead, the Department preferred an option to identify ways to update the Regulations. The content of the proposed Regulations followed a detailed review of the current Regulations by the Department, with consultation with alpine resort boards and other stakeholders. This identified a number of opportunities to improve the clarity and wording of the Regulations, improve the structure of the Regulations, update some definitions, and better align the Regulations with other comparable regulations that apply to Crown land and national parks. These changes were discussed above.

The development of the proposed Regulations also considered alternatives in the following areas:

5.4.1 Which activities should be included in the Regulations?

The Department considered whether each of the current prohibited activities remained suitable for inclusion. Stakeholders did not indicate that any of the current prohibitions were no longer necessary or reasonable. Even though the likelihood of some of the undesired behaviours occurring in the absence of regulations is low, stakeholders considered it was important to retain the ability to impose penalties for all these activities.

Suggestions for additional prohibited activities were considered and incorporated for the reasons outlined above (see 5.2). A number of additional specific prohibitions were suggested but were considered to fall within the existing scope of the Regulation, would be controlled by other legislation (e.g., the Summary Offences Act), or beyond the power of the Act.

5.4.2 Discretion of each alpine resort to make determinations vs general prohibition of activities

As noted above (see Table 6), some prohibitions are set out directly in the proposed Regulation, while others are a result of determinations that alpine resorts boards may make. Alternative approaches to the proposed Regulations would include:

- Specifying all prohibited activities directly, with no ability for alpine resorts to make their own determinations
- Specify no direct prohibitions, but allow alpine resorts to make determinations on all activities that are prohibited at each alpine resort
- A combination between these two extremes, whether similar or different to the balance in the proposed Regulations.

Relevant factors in choosing the preferred options were:

- Certain activities should be prohibited in all but rare circumstances, particularly where this is needed to ensure that behaviours within alpine resorts is consistent with elsewhere in Victoria (e.g., use of firearms and weapons, consumption of alcohol)
- As far as possible and relevant, the Department prefers prohibitions to be consistent with corresponding prohibitions that apply on other public land (e.g., Crown reserves, wildlife (game) parks, national parks)
- There will inevitably be measures that need to be taken unique to each alpine resort
- Recognising that even for activities directly prohibited in the Regulations, alpine resorts have the ability to issue 'Authorities' that permit the activities for some people. As the issuing of Authorities is time consuming, it is necessary to balance the benefit of prohibiting some activities against the cost of issuing Authorities. If a large proportion of people are granted authority to conduct an activity that is prohibited under the regulations, and the resources used in applying for and granting the Authorities is significant, then the rationale of the general prohibition may be weakened.

The Department believes the proposed Regulations balance these factors. However, in recognition of the last dot point, the proposed Regulations will now give Boards the ability to determine areas where both cross-country skiing and camping is available either with or without an Authority, reducing regulatory burden.

5.5 Questions for stakeholders

Interested parties are encouraged to provide any views on the proposed Regulations as they relate to protecting the environment, personal safety and amenity. In providing feedback, interested parties may wish to comment on the following:

- ***The Department believes that most people visiting alpine resorts would not engage in the activities that are prohibited or outside of areas set aside by alpine resort, even in the absence of Regulations. This suggests the regulatory burden of the Regulations is relatively small. Do you agree with this? Are there activities that should be more generally permitted within alpine resorts?***
- ***Are some of the prohibited activities better left to the Boards of each alpine resort to determine?***
- ***If you have previously applied for an Authority to undertake an activity that would otherwise be prohibited, what are your views on the process for obtaining an Authority?***

6 Implementation and Evaluation

6.1 Implementation

The proposed Regulations are expected to commence in November 2020, well ahead of the 2021 snow season. This will allow sufficient time for Boards to set fees for the 2021 snow season and make other relevant determinations and issue authorisations. It will also ensure that visitors are made aware of any changes well in advance.

The Boards have been engaged in the preparation of the proposed Regulations.

The proposed Regulations largely continue the elements of the current Regulations. As such, no new or additional strategies are needed to manage the implementation of the proposed Regulations.

6.2 Evaluation

As these proposed Regulations do not impose a significant regulatory burden, no formal review of the Regulations is considered necessary before the Regulations are due to next sunset in 2030. Prior to that time, the Department will again review the operation of the Regulations to determine if:

- Public safety, amenity and environmental protection objectives are being adequately served by the regulations. This will largely rely on discussions with the Boards and other stakeholders.
- The fee caps remain appropriate, based on a consideration of Board costs and visitor numbers.

In particular, the Department will monitor whether any alpine resorts set fees for camping or cross-country skiing, or begin to charge entry fees based on the duration of stay. Should these fees be introduced by some or all of the alpine resorts, the Department will revisit whether the fee caps remain consistent with the objectives of the Regulations.

The Department will also work with the ARCC to evaluate the impact of the change in definition of 'bus', to measure how many visitors are affected by this change and/or whether the change in definition results in a change in the types of vehicles used by visitors (e.g., use of smaller vehicles, or more efficient use of vehicles by carpooling). This will form part of the wider work being done by alpine resorts to reduce impacts on climate change.

Under the Alpine Resorts (Management) Act, each alpine resort board is accountable to the Minister for Energy, Environment and Climate Change. Boards report to the Minister through their Annual Report, Corporate Plan and Quarterly Financial Reports, which includes reporting on their performance and the discharge of their functions, duties and powers. The Department reviews these reports to ensure the decisions of the boards remain aligned with government objectives.

Appendix A: Summary of proposed Regulations

Outline of proposed Alpine Resorts (Management) Regulations 2020 with changes from current Regulations

New Reg ⁿ	Description	Current Reg ⁿ	Key change
Part 1 — Preliminary			
Division 1 – General			
1	Sets out the ‘Objectives’ of the regulations, which are to provide for the protection, management and control of alpine resorts by prohibiting access to areas of alpine resorts, setting aside areas for certain activities, regulating the use of vehicles, prescribing fees and certain offences, and prescribing other matters that give effect to the Act.	1	The are no changes to the ‘Objectives’ of the regulations.
2	The Regulations are authorised to be made under s. 57 of the Act.	2	No change
3	Prescribes the date on which the regulations commence, which is 2 November 2020.	3	Prescribes the date on which the previous regulations commenced.
4	Revokes the previous alpine regulations.	-	
5	Provides definitions of ‘aircraft’, ‘animal’, ‘assistance animal’(new), ‘authorised officer’, ‘authorised person’(new), ‘authority’, ‘Board’ (new), ‘bus’, ‘camp’, ‘campfire or bbq’, ‘commercial motor vehicle’, ‘cultural heritage’(new), ‘day visitor’, ‘emergency’(new), ‘emergency activity’ (moved from body of current regulations), ‘emergency services agency’ (moved from body of current regulations), ‘fauna’, ‘firearm’, ‘firewood’ (new), ‘flora’, ‘inflatable device’, ‘kite ski’ (new), ‘liquid fuel, gaseous fuel or chemical fuel’, ‘liquor’, ‘litter’ (greater specificity in definition), ‘motor cycle’, ‘motor vehicle’, ‘pack animal’, ‘public fireplace’ (new), ‘road’ (new, replaces ‘Board managed roads’), ‘ski-bob’, ‘snow feet’ (new), ‘snow season’, ‘solid fuel’, ‘the Act’, ‘vegetation’(new), ‘vehicle’ (includes greater specificity), ‘volunteer emergency worker’ (moved from body of current regulations), and ‘waste’.	4	Provides definitions. ‘Aircraft’ includes drones; ‘aircraft landing authority’ has been removed; ‘assistance animal’ is new; ‘authorised officer’ refers to the Part of the CALP Act, rather than the section; ‘Board managed roads’ has been removed and now refers to the <i>Road Management Act 2004</i> ; ‘bus’ now means a vehicle that seats more than 9 people; ‘camping authority’ has been removed; ‘cross country ski trail authority’ has been removed; ‘fauna’ now is linked to the <i>Flora and Fauna Guarantee Act 1988</i> ; ‘member of the force’ has been removed; ‘off-season’ has been removed; ‘Parks Victoria’ has been removed; ‘prescribed Board’ has been removed and included in the new definition of ‘Board’; ‘public area’ has been removed; ‘ski lift’ has been removed;

New Reg ⁿ	Description	Current Reg ⁿ	Key change
Division 2 – Application of Regulations			
6	Prescribes that a person acting under the terms and conditions of any agreement entered into under the Act, or a lease or licence granted over or in relation to an alpine resort, is not subject to the Regulations to the extent that the activities authorised by that agreement, lease or licence are inconsistent with the Regulations	5	The current Regulations are considerably streamlined and simplified concerning the application of this part.
7	Provides that offences do not apply to certain persons acting in the course of their duties.	5	The list of certain persons is moved into a new regulation (r.7) and the list of persons has been updated and simplified.
Division 3 – Common Provisions for Determinations and Authorities			
8	This regulation prescribes what is a ‘set aside determination’ made by the Boards for specific regulations		New. Increases clarity by specify the regulation that set aside determinations apply to.
9	The Board may declare a snow season for alpine resorts.	6	No change.
10	The Board may determine that certain areas are set aside. This applies to specific areas, certain periods, all persons, equipment of classes of equipment, and may include conditions. In this regulation, set aside powers relate: parts of alpine resort to which entry is prohibited; using, driving or parking vehicles in alpine resorts; powers of authorised officers and police officers to remove vehicles; using aircraft prohibited without an authority; riding and bringing horses or pack animals into an alpine resort; areas for skiing, snowboarding and other snowplay activities; use of toboggans, sleds, ski-bobs, inflatable devices, or kite skis; cross country skiing; camping; areas for lighting or maintaining fires; and prohibition on possessing or consuming liquor. The Board of an alpine resort may amend or revoke a determination made under a set aside power. If a Board of an alpine resort amends or revokes a determination made under a set aside power the Board must ensure that any sign or notice displayed is amended or removed to reflect that amendment or revocation.	9, 10 25(1)- (3)	The set aside area regulations have been considerably rewritten, consolidated and clarified; however, there is no increased regulatory burden involved in these changes.
11	It is an offence not to comply with conditions of determinations setting aside areas. Penalties apply for not complying with those conditions (note: separate penalties under r.17(1)). (10 penalty units)	New	This regulation clarifies the enforcement provisions associated with set aside areas. Currently these are contained throughout the current regulations and are not comprehensive.

New Reg ⁿ	Description	Current Reg ⁿ	Key change
12	Provides the power for the Board to issue 'authorities', which must be in writing, to allow the holder the authority to enter a resort, use an area, or to undertake certain activities. Purposes, time periods and conditions may be specified on the authority.	23(1)	This regulation has been redrafted and strengthened.
13	The Board may issue a replacement authority if it is lost, stolen or damaged. The Board may determine that a fee not exceeding 2.43 fee units is payable for the replaced authority.	39	Substantially similar (minor drafting changes)
14	The holder of an authority may surrender it to the Board. Such a surrender must be in writing. Alternatively, the Board may cancel an authority if the authority holder has breached a condition of the authority or the Regulations, or if the continuation of the authority would be detrimental to the management of the alpine resort. The notice of cancellation must be served on the authority-holder in person or served by registered post.	22	No substantial changes (minor drafting changes).
15	The holder of an authority must comply with the authority. Failure to do so could result in a fine of 10 penalty units.	23(2)	No change (regulation relocated)
Part 2 — Entry into Alpine Resorts			
Division 1 – Entry Generally			
16	<p>The Board of an alpine resort may by determination temporarily close the alpine resort or an area of the alpine resort to entry by the public if, in the opinion of the Board, there is likely to be a significant danger to public safety due to a fire, avalanche, land slip, earthquake, other disaster or any other emergency. The Board must publish the notice by newspaper, radio, alpine resort websites and/or by signage at alpine resort entrances.</p> <p>Such a determination remains in force for 14 days, unless revoked earlier. Revocation is to be communicated in the same manner as the temporary closure determination.</p> <p>A person must not enter the alpine resort or an area of the alpine resort to which a determination applies. (20 penalty units)</p>	7	<p>Identical wording of the regulation, aside from an addition to include notification on the alpine resort website to complement other channels of communication. This reflects greater use of the internet as an information source since the regulations were last remade.</p> <p>A new penalty has been included (20 penalty units) to enhance enforcement of alpine resort closures.</p>

New Reg ⁿ	Description	Current Reg ⁿ	Key change
17	The Board of an alpine resort may by determination set aside an area of an alpine resort as an area where entry is prohibited or restricted. A determination may be made for reasons of public safety, to re-establish vegetation or to protect, conserve or preserve flora, fauna or natural features, to carry out works or improvements or to protect works, improvements, facilities or amenities, to protect water supply catchments or waterways or the water quality of water supply catchments or waterways, or any other purpose connected with the protection, control and management of the alpine resort. A person entering into a prohibited or restricted area may incur a penalty of 10 penalty units.	8	The regulation is substantially similar. The current regulations focus on 'prohibition' of entry to areas, whereas the proposed regulations provide for 'prohibited or restricted'. A determination no longer is required to state the times for which entry is prohibited, the reasons, or the persons or class of persons or vehicles or class of vehicles prohibited.
18	An authorised officer or police officer may direct a person to leave an alpine resort or an area of an alpine resort, to remain in an area of an alpine resort which appears to be safe; or to remain in an alpine resort if it appears unsafe to leave. Such a direction may include a direction not to re-enter an alpine resort or an area of an alpine resort for a specific period not exceeding 24 hours. A person to whom a direction is given must comply with that direction (20 penalty units).	57	This provision has been rewritten and strengthened, but with checks and balances. The proposed regulation has now 'directs' not 'requests' persons to undertake certain actions. Authorised officers or members of the force may now direct a person to 'remain' in an area. A time limit of 24 hours has been introduced in relation to a person directed to leave an alpine resort or area of an alpine resort. The penalty for not complying with a direction has been increased from 5 penalty units to 20 penalty units.
Division 2 – Fees for Access to Alpine Resorts			
19	The Board may determine fees for entry into an alpine resort.	27, 28, 30, 31, 32, 33	See Table 1
20	A person must not enter an alpine resort or bring a motor vehicle into an alpine resort unless that person has paid the relevant entry fee, if any, determined by the Board of an alpine resort (5 penalty units). However, a person does not commit an offence if that person is traveling directly through the alpine resort to a place outside that resort; is a driver of a bus, commercial motor vehicle or aircraft, who has entered the alpine resort for the purpose of bringing persons to that alpine resort, or is a person entering the alpine resort outside the snow season who is not given a reasonable opportunity to pay the fee for access or use of the public areas in the alpine resort.	12, 29, 35	In addition to complying with the set aside area provisions, relevant fees to enter the alpine resort must be paid.

New Reg ⁿ	Description	Current Reg ⁿ	Key change
Division 2 – Wheel Chains in Alpine Resorts			
24	This regulation defines ‘snow tyre’ and ‘wheel chains’.	New	
25	<p>The driver of a motor vehicle who enters an alpine resort must at all times during the snow season, carry in the motor vehicle wheel chains suitable to be properly fitted to that motor vehicle (20 penalty units). The Southern Alpine Resort Management Board may determine that this requirement does not apply to day visitors on a specified day in an alpine resort for which the Board is responsible.</p> <p>The Board may make a determination on the day specified in the determination or on the day prior to that day in relation to either all motor vehicles, when entering or remaining in the alpine resort, or those classes of motor vehicles that are specified in the determination, when entering or remaining in the alpine resort.</p> <p>The Board must ensure that signs or notices informing the public of a determination made are displayed adjacent to roads within the alpine resort in such a place and manner that those signs and notices are reasonably likely to be seen by any person affected by the determination.</p>	<p>55 (1)</p> <p>56(1)</p>	<p>The proposed regulations concerning snow chains are substantially similar to the current regulations but have been significantly redrafted to improve their clarity. Flexibility has been introduced into the regulations to make provisions for the use of snow tyres.</p> <p>Relocated into proposed regulation 24.</p>
26	<p>The Board may erect a sign in an alpine resort during the snow season, requiring a driver of a motor vehicle to ensure that wheel chains are properly fitted to that motor vehicle; but not on a day if the Board has determined that day visitors are not required to carry wheel chains.</p> <p>The driver of a motor vehicle must not drive past a fit wheel chains sign unless the motor vehicle is properly fitted with wheel chains, or the motor vehicle is fitted with snow tyres on all wheels and the fit wheel chains sign indicates that the requirement to fit wheel chains on snow tyres does not apply to a class of motor vehicles that includes the driver’s vehicle. (20 penalty units).</p> <p>An offence under this regulation is an operator onus offence for the purposes of Part 6AA of the <i>Road Safety Act 1986</i>.</p>	56(4)	Now prescribed as a separated regulation, and enforcement is strengthened by prescribing it as an operator owner offence under the <i>Road Safety Act 1986</i> .
27	An authorised officer, police officer or authorised person may, at any time during the snow season, for reasons of safety or for the management, protection or control of an alpine resort, direct the driver of a motor	55(2)	Regulation 27 has been separated from current regulation 55 to improve it clarity.

New Reg ⁿ	Description	Current Reg ⁿ	Key change
	<p>vehicle to produce wheel chains suitable to be properly fitted to that motor vehicle or to ensure they are properly fitted. If the person fails to comply with these requirements, they may be directed to leave the alpine resort.</p> <p>The driver of a motor vehicle must comply with a direction of an authorised officer, authorised person or police officer (20 penalty units).</p>	55(3)	Now also includes an 'authorised person'.
Division 3 – Powers to Direct or Remove Vehicles			
28	The Board of an alpine resort may appoint an employee, contractor or agent of that Board as an authorised person for the purpose of giving directions under regulation 27 or 29. An appointment must be in writing.	New	The power to give directions with respect to proposed regulations 27 and 29 provides the Board with greater flexibility (and attendant safety) with respect to vehicle control.
29	An authorised officer, authorised person or police officer may give directions to a person in charge of a vehicle in relation to the movement, direction, speed, stopping or parking of the vehicle in an alpine resort. A person in charge of a vehicle must comply with this direction (20 penalty units).	59	Substantially the same; minor wording changes.
30	<p>The Board of an alpine resort may by determination set aside an area in the alpine resort as an area where impounded vehicles may be stored under this regulation. A person must not enter this area without permission of the Board (10 penalty units).</p> <p>An authorised officer may, in an alpine resort, remove or cause to be removed by means of lifting and carrying, or towing, a vehicle, if satisfied on reasonable grounds that the vehicle has been parked or left standing in a way that obstructs a road, a right of way, or any other place in a resort that is open to access by vehicle..</p> <p>The Board of an alpine resort may impound a vehicle removed under this regulation until the owner of the vehicle has paid a fee to the Board representing the reasonable costs incurred in removing and impounding the vehicle.</p>	<p>13(3)</p> <p>13 (1)</p> <p>13(2)</p>	<p>Similar to proposed Regulation.</p> <p>The power to remove vehicles have been substantially clarified and provided with greater flexibility. For example, proposed regulation 29 provides, in the first instance, powers to direct; at the other end of the compliance spectrum, authorised officers impound and remove vehicles.</p>
Part 4 – Restrictions on Use of Aircraft			
31	The Board may by determination set aside an area of the alpine resort as an area where aircraft may be landed or used with an authority of the Board. The Board may issue an authority to a person to land or use an aircraft in	18	Similar wording, with but considerably streamlined.

New Reg ⁿ	Description	Current Reg ⁿ	Key change
	an area of an alpine resort set aside, however, a person must not land or use an aircraft in an area of an alpine resort set aside without an authority issued by the Board (20 penalty units).		
Part 5 – Restrictions on Bringing Animals into Alpine Resorts			
32	<p>The Board may by determination set aside any area of the alpine resort as an area where horses are permitted with an authority of the Board. A person must not bring a horse or pack animal into or lead or ride a horse or pack animal in, an alpine resort unless that person does so in an area set aside under for that purpose and under an authority issued by the Board (20penalty units).</p> <p>This regulation does not apply if the horse or pack animal is confined to a vehicle that is in transit through an alpine resort or is an assistance animal.</p>	19	<p>No substantial change.</p> <p>The concept of a horse or pack animal as an assistance animal is new.</p>
33	<p>The Board may issue an authority to a person to bring a dog into or allow a dog under that person’s control to enter or be in an alpine resort. A person must not bring a dog into or allow a dog under that person's control to enter or be in an alpine resort unless that person does so under an authority (10 penalty units).</p> <p>This regulation does not apply if the dog is confined to a vehicle that is in transit through an alpine resort or an assistance animal.</p>	45	No substantive changes (minor drafting changes). Introduction of assistance animal into the exceptions to this regulation.
34	<p>The Board may issue an authority to a person to bring an animal (not including a dog, horse or pack animal) into, or allow an animal under that person’s control to be in an alpine resort.</p> <p>If a person brings an animal (not including dog, horse, or pack animal) without an authority to do so they may be subject to a penalty (15 penalty units).</p> <p>This Regulation does not apply if the animal is confined to a vehicle that is in transit through an alpine resort or is an assistance animal.</p>	46	No substantive changes (minor drafting changes). Introduction of assistance animal into the exceptions to this regulation.
35	A person who brings an animal into an alpine resort must collect and remove from the alpine resort any faeces deposited by that animal or ensure that any faeces deposited by that animal are placed in a receptacle provided in the alpine resort for that purpose (10 penalty units).	New	In line with contemporary community expectations and environmental standards.

New Reg ⁿ	Description	Current Reg ⁿ	Key change
36	<p>An authorised officer or police officer may seize a live animal (not being fauna) found at large in an alpine resort if the authorised officer or police officer is satisfied on reasonable grounds that the animal has been brought into, allowed to enter, or allowed to remain in an alpine resort in contravention of the Regulations</p> <p>An authorised officer or police officer may deliver a live animal seized under this regulation to a member of staff of the municipal council whose municipal district abuts the alpine resort.</p>	47	Minor rewording (previous wording included 'the municipal council whose municipal district abuts the alpine resort <i>or other appropriate person or body.</i>) (Italicized words removed)
Part 6 – Recreation			
Division 1 – Snowplay			
37	The Board may by determination set aside any area of the alpine resort as an area where skiing, snowboarding or engaging in other snowplay activities is permitted. A person must not ski, snowboard or engage in snowplay activities in an alpine resort unless that person does so in an area set aside for that purpose (10 penalty units).	17	No change
38	The Board of an alpine resort may by determination set aside any area of the alpine resort as an area where the use of toboggans, sleds, ski-bobs, inflatable devices, kite skis, snow feet, or other snowplay equipment is permitted. A person in an alpine resort must not use a toboggan, sled, ski-bob, inflatable device, or kite ski except in an area set aside for that purpose (10 penalty units).	15	Substantially similar. New recreations of 'kite skis' and 'snow feet' are prescribed.
39	The Board may by determination set aside an area of the alpine resort as an area where cross country skiing is permitted. The Board may issue an authority to a person authorising the person to cross country ski in an area of an alpine resort set aside for that purpose. A fee is payable for that authority under regulation 40 (10 penalty units).	16 34	This regulation has been modernised and simplified. The provision specifying children under 10 has been removed.
40	The Board may determine fees for using an area set aside for cross country skiing during the snow season (see Schedule 2). This regulation sets out factors the Board must consider when determining the fee.	16 35	Fees for cross-country skiing are currently contained in r. 16(3)(b) and r. 16 (4)(b)
41	A person who uses skis, a snowboard or other device in an alpine resort, must ensure that the device is fitted with a strap or other mechanism that	51	No change (aside from minor wording)

New Reg ⁿ	Description	Current Reg ⁿ	Key change
	If an authority does not specify a period for which a person may camp under the authority, a person must not camp under the authority for more than 21 consecutive nights (5 penalty units).		
44	The Board may determine a fee for camping in an area of an alpine resort set aside for camping under r. 43. This fee must not exceed 1.03 fee units for each night of camping in an alpine resort for a maximum of six people. In determining this fee, the board must take into account commercial and marketing considerations, and seasonal conditions and the cost of fee collections.	38	A new regulation. Clarifies and updates fee from current r. 38
Division 3 – Fires			A new division to separate fires from camping
45	A person must not light, kindle or maintain a fire in the open air in an alpine resort (20 penalty units). However, the Board may by determination set aside an area of the alpine resort as an area where lighting, kindling or maintaining a fire in a place other than a public fireplace is permitted. In addition, a person must not light a fire in a set aside area if it is within 20 metres of any river, stream, creek, well, spring, dam, lake, reservoir, lagoon, pond, swamp, marsh, bore water body or watercourse.	21(1)-(3)	No substantial change (Current regulation has been separated into three separate regulations to improve its clarity.)
46	A person who lights, kindles or maintains a campfire or barbeque that uses solid fuel and that is in the open air must ensure that the ground and airspace within a distance of 3 metres from the outer perimeter and uppermost point of the fire are clear of flammable material, the area of the campfire or barbeque is not in excess of 1 square metre, and the dimension of any piece of solid fuel that is being used in the campfire or barbeque is not more than 1 metre in any direction (20 penalty units).	21(4)(a)-(c)	No change (As above, separated into new regulation)
	The person in charge of a campfire or barbeque that uses solid fuel and that is in the open air in an alpine resort must not be outside the line of sight of the campfire or barbeque or be more than 50 metres from the perimeter of the campfire or barbeque (20 penalty units).	21(6)	No change
47	A person who lights, kindles or maintains a campfire or barbeque that uses liquid fuel, gaseous fuel or chemical fuel and that is in the open air must ensure that the ground and airspace within a distance of 1.5 metres from	21(5)	No change

New Reg ⁿ	Description	Current Reg ⁿ	Key change
	<p>the outer perimeter, and uppermost point of the fire are clear of flammable material.</p> <p>If the fire is lit or maintained in an area of an alpine resort, the fire must be contained in an appliance designed and commercially manufactured to use that fuel, and the appliance when alight is placed in a stable position (20 penalty units).</p> <p>The person in charge of a campfire or barbeque that uses liquid fuel, gaseous fuel or chemical fuel that is in the open air in an alpine resort must not be outside the line of sight of the campfire or barbeque or be more than 50 metres from the perimeter of the campfire or barbeque (20 penalty units).</p>	New	A provision to improve fire safety to ensure proper and safe use of appliances.
48	<p>A person who has lit, kindled, maintained or used a fire in an alpine resort must not leave the place of the fire unless the fire is completely extinguished or another person who has the capacity and means to extinguish the fire is in charge of the fire (20 penalty units).</p> <p>A person who has lit, kindled, maintained or used a fire in an alpine resort must extinguish the fire immediately when requested to do so by an authorised officer or police officer (20 penalty units).</p>	21(7)	Minor drafting changes.
49	<p>A person who camps in or occupies a camping area or other amenity, or uses a fireplace in an alpine resort, must maintain the site clear of litter at all times (10 penalty units).</p> <p>A person who camps in or occupies a camping area or other amenity, or uses a fireplace in an alpine resort, must before vacating that site, clear from that site all litter and any equipment for which that person is responsible (10 penalty units).</p>	43(1) 43(2)	No change No change
Part 6 – General Use and Control of Alpine Resorts			
Division 1 – Public Safety and Amenity			
50	A person in an alpine resort must not, engage in any activity in a manner that causes, or is likely to cause, a danger to any person (20 penalty units).	40 42	<p>This regulation has been redrafted and modernised.</p> <p>Now incorporates the previous regulation 42:</p> <p>A person must not in an alpine resort throw an object or play a game in a manner which is intended to cause danger or injury to any other person</p>

New Reg ⁿ	Description	Current Reg ⁿ	Key change
	A person in an alpine resort must not, engage in any activity in a manner that causes, or is likely to cause unreasonable disturbance to any person (10 penalty units).		(20 penalty units). A person must not in an alpine resort throw an object or play a game in a manner which is intended to cause unreasonable disturbance to any other person (10 penalty units). A person must not in an alpine resort throw an object or play a game in a manner that is likely to damage any equipment, structure, or natural rock surface (10 penalty units). 'Danger' and 'unreasonable disturbance' have been separated into new sub-regulations, with behaviour causing 'danger' attracting a larger penalty.
51	A person in an alpine resort must not possess or carry a firearm, bow, missile, explosive or firework (10 penalty units). A person in an alpine resort must not use a firearm, bow, missile, explosive or firework (20 penalty units). The Board may issue an authority to a person authorising the person to possess, carry or use a firearm, bow, missile, explosive or firework in the alpine resort.		Substantially no change; 'authority' drafting simplified.
52	The Board of an alpine resort may by determination set aside an area of the alpine resort as an area where the possession or consumption of liquor is prohibited. A person must not possess liquor in an area set aside where the possession of liquor is prohibited (5 penalty units). A person must not consume liquor in an area set aside where the consumption of liquor is prohibited (10 penalty units).	20	No change
53	A person must not leave behind or deposit faeces in an area of an alpine resort unless if the person is in an area in which toilet facilities are provided and readily available, the person does so in those facilities. If, however, the person is not in an area in which toilet facilities are provided or readily available, the person does so by burying those faeces 100 metres or more away from any river, stream, creek, well, spring, dam, lake, reservoir, lagoon, pond, swamp, marsh, bore water body or watercourse (15 penalty units).	43(4)	No change
54	A person in an alpine resort must not, erect, construct or place any building or similar structure on, over or under the land (10 penalty units).	New	Alpine resorts mostly exist within national parks and are characterised by sensitive environments.

New Reg ⁿ	Description	Current Reg ⁿ	Key change
	<p>A person in an alpine resort must not destroy, remove, damage, displace, deface or interfere with anything constructed, erected or provided in an alpine resort by or on behalf of a Board (20 penalty units).</p> <p>A person in an alpine resort must not erect or place any temporary structure on, over or under land unless that person does so in the course of camping in accordance with r. 43, or under an authority (10 penalty units).</p> <p>A person in an alpine resort must not erect, construct or place any sign or similar structure on, over or under land unless that person does so in accordance with an authority issued by the Board (10 penalty units)</p> <p>A person in an alpine resort must not enter, occupy or use the whole or any part of any building or similar structure provided for public use, unless that person does so in accordance with the purpose for which the building or similar structure is provided, or under an authority issued under this regulation (5 penalty units).</p> <p>The Board may issue an authority authorising a person to engage in an activity prohibited by this regulation.</p>	<p>New</p> <p>54</p>	<p>Similar provisions exist in the National Park Regulations 2013 (see r. 79).</p> <p>Similar provisions exist in the National Park Regulations 2013 (see r. 80).</p> <p>Redrafted and simplified.</p>
55	<p>A person, other than a person acting in accordance with an authority issued under this regulation, must not obstruct a Board managed road (20 penalty units). The Board of an alpine resort may issue an authority to a person to obstruct a Board managed road.</p> <p>A person must not, in an alpine resort, obstruct, impede or interfere with the operations or works of the Board of an alpine resort (or a person who is acting on behalf of the Board) (10 penalty units).</p>	53	Substantially the same; minor wording changes
56	<p>A person, other than a person acting in accordance with an authority issued under this regulation, must not in an alpine resort: solicit or collect money; display a sign for the purposes of advertising; hand out or disseminate any advertising or commercial or promotional material, including pamphlets or handbills; or deliver any address in an alpine resort in such a manner that the address is likely to disturb or annoy other visitors (10 penalty units). The Board of an alpine resort may issue an authority authorising a person to engage in these activities.</p>	New	Similar provisions exist in the National Park Regulations 2013 (see r. 76).
57	A person must not in an alpine resort, conduct or organise an event or	New	Similar provisions exist in the National Park Regulations 2013.

New Reg ⁿ	Description	Current Reg ⁿ	Key change
	function (defined in the regulation) that involves 30 or more persons, unless that person does so under and in accordance with an authority issued under this regulation (10 penalty units). However, the Board may issue an authority authorising a person to conduct or organise an event or function that involves 30 or more persons. Such an authority may include conditions.		(r. 68)
58	An authorised officer or police officer may, if satisfied on reasonable grounds that it is in the interests of safety to do so, direct a person who, in an alpine resort, undertakes any activity that is permitted in that alpine resort, to cease doing that activity immediately. A person must comply with a direction of an authorised officer or police officer (20 penalty units).	58	No change
Division 2 – Protection of Natural Features			
59	A person, other than a person acting in accordance with an authority issued under this regulation, must not in an alpine resort disturb, harass, remove, hunt, capture, take, kill, injure or otherwise destroy or interfere with any animal (20 penalty units). A person, other than a person acting in accordance with an authority issued under this regulation, must not destroy, disturb or interfere with the nest, bower, display mound, lair or burrow of any animal (20 penalty units). The Board of an alpine resort may issue an authority to a person to engage in an activity prohibited by this regulation.	48(1)-(2)	Redrafted, but substantially similar. Penalty increased from 15 penalty units to 20 penalty units.
60	A person, other than a person acting in accordance with an authority issued under this regulation, must not in an alpine resort fell, pick, take, destroy or damage any vegetation. (20 penalty units). The Board of an alpine resort may issue an authority to a person to engage in an activity prohibited by this regulation. This regulation provides, in certain areas and under certain conditions, that a person may cut and take away firewood. The Board may issue a permit for firewood collection. If a person breaches a condition of for collecting firewood set by this regulation, they may be subject to a penalty (20 penalty units).	48(3)	Redrafted with new provisions for firewood collection.

New Reg ⁿ	Description	Current Reg ⁿ	Key change
61	<p>A person, other than a person acting in accordance with an authority issued under this regulation, must not knowingly bring in, plant or cultivate any seed or vegetation in an alpine resort (20 penalty units). The Board of an alpine resort may issue an authority to a person to engage in an activity prohibited by this regulation.</p> <p>A person does not commit an offence against this regulation by bringing vegetation into an alpine resort if the vegetation is a manufactured wooden object or it is firewood and is brought into an alpine resort for the purposes of lighting or maintaining a fire in accordance with regulation 45.</p>	48(4)	Updated and redrafted.
62	A person, other than a person acting in accordance with an authority issued under this regulation, must not damage, deface, remove or otherwise interfere with any rock or similar natural object in an alpine resort (20 penalty units). The Board of an alpine resort may issue an authority to a person to engage in such an act.	New	Similar provisions exist in the National Park Regulations 2013. (r. 53)
63	A person, other than a person acting in accordance with an authority issued under this regulation, must not excavate, remove, damage, deface or otherwise interfere with any cultural heritage in an alpine resort (20 penalty units). However, the Board of an alpine resort may issue an authority to a person to engage in this activity.	New	Similar provisions exist in the National Park Regulations 2013. (r. 54)
64	A person must not dig or remove from an alpine resort any gravel, shell grit, sand, soil or other similar material (10 penalty units). A person does not commit an offence against this regulation by depositing or burying faeces in accordance with regulation 53, camping or erecting a temporary structure in accordance with regulation 43 or 54, extinguishing a fire under r. 48, or acting in accordance with an authority issued under this regulation.	New	Similar provisions exist in the National Park Regulations 2013. (r. 55)
65	A person must not knowingly bring into an alpine resort any gravel, shell grit, sand, soil or other similar material (10 penalty units).	New	Similar provisions exist in the National Park Regulations 2013. (r. 56)
66	A person must not bring a beehive into an alpine resort or keep a beehive in an alpine resort (10 penalty units).	49	There is no longer a provision to keep a beehive in an alpine resort under a licence issued under the <i>Crown Land (Reserves) Act 1978</i> .
67	A person must not use any soap, detergent or similar substance in any river, stream, creek, well, spring, dam, lake, reservoir, lagoon, pond,	44	No change

New Reg ⁿ	Description	Current Reg ⁿ	Key change
	<p>swamp, marsh, bore water body or watercourse in an alpine resort (10 penalty units).</p> <p>A person who uses any soap, detergent or similar substance outdoors in an alpine resort must dispose of that substance at least 50 metres away from any river, stream, well, spring, creek, dam, bore or watercourse, and at least 50 metres landward of the high-water mark of any pond, lake or reservoir (10 penalty units).</p>		
Schedule 1 – Maximum fees for entry to an Alpine Resort		See Table 1 for comparison of fees.	
Schedule 2 – Maximum fees for cross country skiing		See Table 1 for comparison of fees.	