

Given that delegations of authority in respect to certain leasing and licensing powers have been given by the Minister and the Director-General to certain delegated officers of the Department the responsibilities imposed by section 186 devolve upon the officers holding those delegations.

In exercising their delegated authority to approve leases, licences and other interests, officers must give careful regard to their likely impact in the broadest sense and in the context of the National Parks and Wildlife Act as a whole. In practical terms this means that the requirements set out in Manual 9.3 and 9.4 must be carefully followed.

## **5.11 Leases, etc, subject to plan of management - section 81A**

Section 81A of the Act provides that part 5 relating to plans of management has effect in respect to any part of a national park, historic site, nature reserve or karst conservation reserve that is the subject of a lease, licence, or easement granted under part 12 and in respect to any part of a state conservation area or regional park that is the subject of a lease or licence granted under sections 47GC or 47U or a lease, licence or easement granted under part 12.

It should be noted, however, that section 81A does not and cannot override existing leases or licences whose provisions may conflict with the section.

## **5.12 Leases of land in Kosciuszko National Park ski resort areas**

### **5.12.1 Ski resort areas leases section 151AA**

*The Environmental Planning and Assessment Amendment (Ski Resort Areas) Act 2001* introduced section 151AA to the *National Parks and Wildlife Act 1974*.

That section imposes certain obligations upon the Minister before a lease in the ski resort areas can be granted. Ski resort area is defined in part 8A of schedule 6 to the *Environmental Planning and Assessment Act 1979* and SEPP73 (see Manual 7.5). The requirements are:

- a) the proposal must be referred to the National Parks and Wildlife Advisory Council for advice
- b) to advertise the proposal in a newspaper circulating throughout New South Wales and one locally (unless the Act requires the proposal to be advertised by another provision of the Act)
- c) the notice must set out:
  - information to identify the land
  - the price
  - the term
  - the proposed lessee

- the closing date (not less than twenty-eight days) for making submissions
  - the address where submissions can be sent and
  - any other information the Minister considers to be relevant
- d) the Minister may also hold a public hearing into the proposal
- e) the Minister must consider all of the submissions from the council and the public.

The requirements of section 151AA, therefore, will need to be met before such leases can be entered into.

### **5.12.2 Head leases of the National Parks & Wildlife Act – section 151A**

Section 151A provides that the Minister may grant leases referred to in the section as head leases over lands in the ski resorts of Perisher Valley, Smiggin Holes and Guthega.

Any head leases granted may include all lands currently leased in those resorts. The granting of a head lease would have the effect of placing the head lessee in the position currently occupied by the Minister or lessor in relation to the existing leases in these areas.

In other words, other existing lessees would become sublessees of the head lessee.

The rights of the existing lessees who become sublessees would not be affected as the terms and conditions of the existing leases are not changed except in relation to the identity of the lessor.

Further protection is given to existing lessees by ensuring that a head lessee cannot take steps to assign or mortgage its interest, forfeit or terminate any lease or vary the rent payable under any lease without the prior consent of the Minister.

Schedule 15 to the Act identifies all of the leases in respect to which head leases may be granted.

Subject to the above the Minister may grant head leases in those areas on such terms and conditions as he or she may determine (section 151 (4)).

The purpose of implementing head leases would be to facilitate improved resort management by moving to a position where the Department deals primarily with one lessee by rationalising the lease arrangements. It is considered that the advantages could include simplified local planning and day to day operational control and simplified lease administration and the aggregating and divesting of responsibilities for community services including the establishment and maintenance of utility infrastructure and services.

To date no head lease for such areas has been entered into.