

6.4.2 Policy

- In general, accommodation facilities will not be provided on reserved lands near large urban or town centres where a wide range of alternative accommodation already exists.
- Sophisticated facilities for overnight accommodation such as hotels, motels, etc, are generally not seen as appropriate in national parks and state conservation areas. Exceptions to this may be made in areas where a particular recreation opportunity exists which is not available outside reserved lands. An example is the village system in the snowfields such as at Perisher and Thredbo where public accommodation is usually provided by long-term leaseholders and sublessees. Another is where opportunities for adaptive reuse may include accommodation. In general, accommodation facilities for the public will not be provided in nature reserves.
- The Department will encourage the development of accommodation on appropriate sites outside reserved lands. In some cases accommodation development will be encouraged adjacent to parks and reserves to contribute to regional and local tourism.
- The renewal of existing arrangements covering resorts and hotels will be kept under review by the Department having regard to the availability of alternative accommodation outside the parks and/or the level of environmental impact on the parks and/or changed environmental or social conditions.
- Low key accommodation such as cabins may be provided in appropriate reserved lands. Generally such developments are more appropriate in state conservation areas.
- Generally huts erected on reserved lands will be phased out. A number of shelter huts are present on reserved lands which will be managed to provide day and overnight shelter and storage of management approved equipment.
- Individual huts or similar structures that are identified as having special historic or cultural value will also be managed as historic places. In some cases the use of huts for public shelter may continue.

6.5 Snowfield Accommodation Policy

Introduction

Introduction

Context

6.5.1 This policy should be read in conjunction with the Department's policy on visitor accommodation (refer Manual 6.4).

6.5.2 This policy applies to the provision of visitor accommodation in Kosciuszko National Park and supports the Plan of Management for the Park.

A copy of the Snowfield Accommodation Policy is available on the Department's web site.

Purpose

6.5.3 This policy addresses the availability, usage, control and management of the various types of visitor accommodation available in the Park's ski resort areas and guides the Department's consideration of the leasing and occupancy arrangements that apply to accommodation establishments in those areas.

Objectives

6.5.4 The Department's objectives with respect to the availability, usage, control and management of visitor accommodation in the Park's ski resort areas are, so far as possible, to:

- ensure that a variety of accommodation opportunities exist that best reflect and meet public demand from time to time;
- maximise the availability of the various types of accommodation to as many people as possible;
- maximise the actual usage of accommodation facilities up to approved accommodation limits;
- encourage year-round usage of accommodation;
- ensure that lessees maintain accommodation premises to appropriate standards in relation to public health, safety and comfort;
- ensure that lessees operate accommodation premises in accordance with lease terms and conditions, in particular compliance with the accommodation (bed) limits that apply to their respective leases;
- maximise, having regard to the above, the commercial rental return to the Department.

Background

6.5.5 Visitor accommodation in the resorts is provided in hotels, commercial lodges and managed apartments, ski club lodges and subleased apartments.

6.5.6 At Thredbo a reasonable accommodation choice exists between hotels and commercial lodges, ski club lodges and subleased apartments. In the Perisher Range resort areas of Perisher Valley, Smiggin Holes and Guthega, commercial lodges and hotels provide about forty-five per cent of the public accommodation, ski clubs approximately fifty percent and subleased apartments approximately five per cent. Any future development of additional accommodation may result in these ratios changing.

- 6.5.7** The Department recognises that visitor accommodation preferences have changed over time with an increasing demand for self-contained or serviced apartment style accommodation rather than the conventional commercial lodge with guesthouse style facilities. Accommodation provided by commercial lodges remains a popular and important element of the overall accommodation mix available in the resorts.
- 6.5.8** The Department imposes certain conditions on particular lessees and sublessees in order to maximise the availability of publicly accessible accommodation and also to ensure that lessees do not reside permanently in the Park. In the case of Thredbo, apartment sublessees must make the premises available to the public, on reasonable terms, for six months in any calendar year and the sublessee may only occupy the premises for a maximum of six months in any calendar year. The Thredbo head lessee is responsible for ensuring that sublessees comply with these requirements. In the Perisher Range resorts (except where existing lease conditions apply) apartment sublessees also may only occupy the premises for a maximum of six months in any calendar year including a maximum of six weeks in any snow season. They must also enter into a Department approved management agreement that ensures the premises are available to the public on reasonable terms.
- 6.5.9** The Department will continue to monitor its lessees to ensure that premises are regularly maintained and, where necessary, upgraded to contemporary health, environmental, safety, building and accommodation standards.
- 6.5.10** By offering improved security of tenure by way of new longer term leases the Department has demonstrated its commitment to the long term operation of the resorts and in doing so has assisted by providing a basis for capital investment for the upgrading of accommodation premises to provide improved facilities for the public.
- 6.5.11** The Department attempts, wherever practicable, to retain existing commercial accommodation for the use of the general public on an unrestricted basis. The Department recognises that many visitors do not wish to join clubs or purchase memberships, shares and the like to obtain accommodation in the snowfields. The Department has, therefore, refused approval of the change of use of commercial premises to club type operations and the acquisition of commercial lodge leases by restricted groups.
- 6.5.12** The Department recognises that ski clubs can and do provide accommodation for visitors other than members and guests. While maintaining the cooperative status of clubs the Department permits and encourages clubs to make unused accommodation capacity available to the general public and also requires clubs to meet increased minimum membership numbers.
- 6.5.13** Department leases, in the main, refer to the number of approved beds permitted in individual premises on the basis that a single bed equals one person. This means that an establishment must not accommodate more persons including staff and/or management of the lessee (but excluding children under five years of age) than the number of beds permitted, eg,

premises with an approval for forty beds may only accommodate forty persons, excluding children under five. In the case of subleased apartments the sublessee or the lessee must not accommodate more persons (excluding children under five years of age) in the apartment than is permitted by the sublease.

Notwithstanding this provision all lessees and sublessees must also comply with all legislative requirements relating to the safe accommodation of all persons within a building that is the subject of a lease.

- 6.5.14** The Department views non-compliance with approved accommodation limits by both lessees and sublessees as a serious matter and will continue to closely monitor lessee and sublessee compliance with these limits.
- 6.5.15** An important consideration in the ecological and sustainable development of the ski resorts is the building footprint of existing and proposed new accommodation.

Plan of Management

- 6.5.16** The Plan of Management provides that a range of accommodation types will be permitted in accordance with the Department's Snowfield Accommodation Policy. This will include subleased apartments where the conditions contained within the sublease require that the accommodation is available to the general public for a substantial part of the ski season and the lease arrangements conform with the current Department leasing practice.
- 6.5.17** For reasons of environmental protection and the health, safety and comfort of Park visitors the Plan of Management determines the maximum total number of persons permitted to reside overnight in the various resort areas in the Park and consequently the maximum number of persons permitted in each individual establishment situated in the particular resort.

Policy

- 6.5.18** In support of the provisions of clauses 6.5.15 and 6.5.17, when considering the ongoing management of existing leased premises, the development of any new accommodation facilities or the redevelopment of any existing commercial accommodation facilities within the Park, the Department will seek to ensure that the objectives of the Snowfield Accommodation Policy are met subject to the National Parks and Wildlife Act and the Plan of Management.

Accordingly, when determining whether proposed developments comply with all relevant lease terms and conditions, particularly in the case of approved accommodation limits, the Department may apply such standards, measures and limits in its assessment that best give effect to this policy.

As a guide, a maximum building gross floor area (GFA) ratio in the order of twenty-five square metres per bed is considered as appropriate for all forms of accommodation in the resort areas. GFA is defined as being the total area

of the building measured from the outside of the external walls or the centre of any common wall.

6.5.19 In support of the provisions of clause 6.5.20 and subject to a lessee obtaining any necessary development consent the Department will consider proposals to modify all or part of an existing commercial lodge and hotel accommodation to self-contained, apartment style accommodation provided that the premises are still operated and managed by the lessee under the permitted use provisions of the existing lease.

6.5.20 The grant of occupancy rights on other than a casual letting basis will be permissible subject to the following:

- i) the lease arrangements shall conform with current Department leasing practice and be subject to Department approval;
- ii) all occupancy rights shall be prescribed in the lease or sublease agreements and shall derive only from those agreements;
- iii) no person, other than bona fide on-site managers and/or staff of the premises shall occupy the accommodation for more than six weeks in any snow season nor for more than twenty-six weeks in any year;
- iv) bona fide on-site managers and/or staff are only permitted to occupy the accommodation for purposes associated with the actual management of the accommodation where a full-time presence is essential. Lessees will be required to obtain the Department's approval for any long term occupancy for either management or staff. Occupancy of the accommodation on the basis of private, residential premises is not permitted;
- v) bona fide time sharing arrangements or similar schemes that satisfy the objectives of this policy may be considered for approval;
- vi) where the foregoing is inconsistent with any existing lease agreement the existing lease agreement shall prevail to the extent of the inconsistency;
- vii) lessees of commercial lodges, hotels and subleased apartments are permitted to accept bona fide bookings of accommodation to individuals for up to three years in advance;
- viii) the accommodation shall be available to the general public for a substantial part of the season.

In the case of subleased apartments, except where existing lease conditions prevail:

- i) the Department requires that all subleased apartments are subject to a management agreement approved by the Department;

- ii) lessees and sublessees must ensure that the premises are available to the general public for no less than ten weeks in any snow season.
- iii) sublessees may not occupy their premises for more than twenty-six weeks in any year.

6.5.21 All new lease or sublease agreements shall contain such provisions as the Director-General considers necessary to give effect to this policy.

6.5.22 The ski resort SEPP73, and any planning instrument that applies from time to time, together with the Plan of Management for the ski resort areas will govern planning issues in these areas. The Department retains all its rights as lessor when considering any development proposal particularly in relation to permitted use and type of accommodation.

Subject to these controls the Department will consider proposals for the conversion of all or part of existing commercial premises to subleased apartments (for example, an apartments wing or section associated with an existing hotel or commercial lodge). More than one accommodation type may also be permitted on new commercial sites (subject to the same planning and development requirements) but such proposals will not be considered for existing ski club sites.

6.5.23 The Department may, at its absolute discretion, limit the overall number of beds that may be available for individual subleasing in apartment developments or conversion of commercial premises in order to preserve a suitable range of accommodation types in the resorts. This may be an overall limit or may be done on a resort by resort basis.

6.5.24 Proposals involving the conversion of existing commercial lodge premises to ski club or syndicate group usage or other restrictive accommodation schemes will not be considered except as follows:

- i) where permitted under existing leases or;
- ii) where permissible under sections 6.5.20 (v and vii) of this policy or;
- iii) in Perisher Valley where the lodge is located further than one kilometre by existing roads from the Perisher Valley Skitube Terminal.

6.5.25 The Department will continue to encourage ski clubs to make spare accommodation capacity available to the general public and will maintain its requirements for ski clubs to meet minimum membership numbers.

6.5.26 The Department will continue to monitor lessees to ensure that approved accommodation limits, associated with individual establishments and/or subleased apartments, are not exceeded. The Department's aims are to ensure:

- i) compliance with accommodation limits prescribed in the Plan of Management and leases;
- ii) that the comfort and safety of accommodation offered to Park visitors is not compromised.

6.5.27 In support of clause 6.5.26 the Department will employ various methods to monitor compliance by lessees with accommodation limits in accordance with provisions set out in leases including, but not limited to:

- i) programmed inspections of premises and subleased apartments;
- ii) lessees being required to maintain Department approved accommodation registers that provide details regarding guests, management and staff residing overnight in the premises;
- iii) the placement of appropriate signage notifying guests, staff and management of the accommodation limit applying to respective premises and subleased apartments;
- iv) annual confirmation, by lessees and sublessees, of the accommodation limit of premises and/or subleased apartments in a form acceptable to the Department.

6.6 Commercial lodges and hotels – Kosciuszko National Park

6.6.1 Background

The many commercial lodges and hotels in the park operate either under leases direct from the Minister or under subleases from the head lessees at Thredbo and Charlotte Pass.

The traditional concept of a commercial lodge, since the days of the former trust, has been a lodge that the general public can book into without having to join a club or become a shareholder in the company or organisation that holds the lease, in other words, it is intended to be an operation similar to a guesthouse. This requirement applies to all resorts.

The following notes apply to lodges/hotels under leases direct from the Minister:

Most of these leases originally had a common term of forty-five years. The leases granted by the former trust contained limited provisions for rent review and with the passage of time rental rates became unrealistically low.

Over the years most of the leases have been renegotiated following extensions to lodges, applications by lessees for additional beds or larger lease area or for other reasons and the Department (and the former NPWS) has taken the opportunity to update lease rentals and other lease conditions. New rental rates have been structured to reflect a market return and are subject to regular review including adjustment in accordance with

movements in the Consumer Price Index.

The current practice is that any new commercial lodge/hotel lease sites and the bed entitlement be allocated by public tender process with tenderers being required to offer a market rent and, if appropriate, a premium consistent with Department leasing practice. On the other hand, where negotiations are undertaken directly with existing lessees such negotiations will be on a strict commercial basis in accordance with established government procedures supported by independent valuation and/or financial advice.

6.6.2 Future leases

The plan of management establishes bed limits in the various resort areas within the park.

Any new lease proposals which might be contemplated will need to be consistent with the Snowfields Accommodation Policy and the prevailing plan of management.

On expiry of leases the current practice is that any new leases should be tendered.

6.6.3 Head lease areas

At Thredbo and Charlotte Pass, within the head lease areas, the head lessees retain rights to grant fresh commercial lodge leases although Charlotte Pass has reached its accommodation limit. In considering dealings with commercial lodge subleases at Thredbo and Charlotte Pass, however, care should be taken to ascertain that the operation concerned is, in fact, a bona fide commercial lodge serving the general public.

6.6.4 Form of lease

Refer to Manual 13.3.2 for details on lease preparation and specific provisions.

6.6.5 Change of use and assignment of commercial lodge leases

Current policy precludes the changing of commercial lodge leases to ski club operations or similar exclusive or semi exclusive operations restricting availability of the accommodation to the general public. Approval should not be given to the variation of commercial lodge leases to allow such usage. The only exceptions that may be considered are those which comply with the Snowfield Accommodation Policy.

Special care is required in handling applications for consent to the sale or assignment of commercial lodge leases to establish the exact manner of the future operation of such leases by prospective purchasers. For further details see Manual Appendix A2, A3, A4 and Manual 18.7 regarding assignment procedures.

6.7 Ski club lodges - Kosciuszko National Park

6.7.1 Background

The many ski club lodges in Kosciuszko National Park operate either under leases direct from the Minister or under subleases from the head lessees at Thredbo and Charlotte Pass.

In terms of the leasing policy of the former Kosciuszko State Park Trust in the 1950's and 1960's ski lodge type accommodation was to be provided under two distinct forms of lease, either a commercial lodge lease or a ski club lodge lease.

The trust identified a need for cooperative club groups to be granted lodge sites within the park bearing in mind the lower cost accommodation which could be provided for large numbers of people under such arrangements and the demand for such opportunities in snow resorts.

However, concerned to prevent private or family ownership of accommodation in the park, which was recognised as being against national park philosophy, the trust decided that some qualifications governing the constitution and operation of ski clubs would be necessary to ensure that only bona fide clubs were granted leases. The constitutions and rules of clubs were to conform to certain requirements of the trust which then included:

- a minimum club membership at all times of thirty persons over sixteen years of age
- control of a club's affairs was to be by a board of not less than ten unrelated members
- a club was to be properly incorporated either as a public company limited by guarantee under the Corporations Law or as a company under the *Associations Incorporation Act 1984* or as a cooperative under the *Cooperative Act 1992*
- a club was to be operated as a non-profit cooperative body neither directly nor indirectly distributing profits or dividends to members
- accommodation was not to be advertised or commercially let, the use of the premises being restricted to members of the club.

This policy was implemented fairly stringently by the trust, with few exceptions being entertained, and applied to all ski clubs in all resorts including Thredbo and Charlotte Pass. The Department (and the former NPWS) has generally followed the same policy and requirements.

The exceptions referred to related to a few clubs whose particular constitutions could not be suitably amended, eg, Harbord Diggers Club, City Tattersalls, etc. These were granted dual-purpose leases, ie, club/commercial of commercial length (forty-five years).

Subsequently, in the interest of maximising public access to beds in the snowfields, the leases permitted clubs to make unused accommodation available to the public rather than just to members.

6.7.2 Current ski club requirements (constitution and operation)

These are:

- A minimum club membership at all times in accordance with the following scale:

<u>Lodge size</u>	<u>Minimum No of members</u>
10 beds or fewer	50 members
11 - 15	75 members
16 - 20	100 members

21 - 25	125 members
26 - 30	150 members
31 - 35	175 members
Over 35	200 members

Members are to be over sixteen years of age and active users of the lodge. Where clubs operate on the basis of one membership to a family the Department will accept individual family members being counted provided they meet the foregoing criteria.

- The control of a club's affairs to be by a board of not less than ten unrelated members (for voting purposes the votes of members of one family count as one vote). A club's membership, therefore, must comprise representatives of not less than ten unrelated families.
- A club is to be properly incorporated either under the *Associations Incorporation Act 1984* (or interstate or ACT equivalent) or as a public company limited by guarantee under the Corporations Law or as a cooperative.
- A club is to be operated as a non-profit cooperative body neither directly nor indirectly distributing profits or dividends to members.

For the purposes of ascertaining compliance with these requirements, the Department requires the following:

- As to membership, copy of the club's current membership list in a form capable of verification if required (at least names and addresses)
- Copies of the club's certificate of incorporation and either constitution & rules or memorandum & articles. The Department will examine these documents to check that they comply with the above requirements.

6.7.3 Future leases from the Minister

Current leases provide no right of first refusal entitlements whatsoever upon expiry of the term.

Any proposals to extend or renew leases for ski clubs will need to be consistent with the Snowfield Accommodation Policy and the plan of management.

6.7.4 Head lease areas

At Thredbo and Charlotte Pass, within the head lease areas the head lessees retain rights to grant fresh ski club leases although Charlotte Pass has reached its accommodation limit. It is to be noted, however, that the constitution and operation of ski clubs at Thredbo and Charlotte Pass is still subject to Department approval under the respective head leases. Compliance with requirements should be checked at appropriate times.

6.7.5 Form of ski club lease

Refer to Manual 13.3.3 for details on lease preparation and specific provisions.