



Ms Kylie White
Deputy Secretary, Environment and Climate Change
Department of Environment, Land, Water and Planning
8 Nicholson Street
EAST MELBOURNE VIC 3002

2 July 2020

Dear Kylie

REGULATORY IMPACT STATEMENT FOR ALPINE RESORTS (MANAGEMENT) REGULATIONS 2020

I would like to thank your staff at the Department of Environment, Land, Water and Planning (the Department) for working with the team at Better Regulation Victoria on the preparation of the Regulatory Impact Statement (RIS) for the proposed Alpine Resorts (Management) Regulations 2020 (the proposed Regulations) to replace the Alpine Resorts (Management) Regulations 2009 (the existing Regulations), which are due to sunset on 3 November 2020.

As you know, the Commissioner for Better Regulation provides independent advice on the adequacy of analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be written clearly so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 1 July 2020 meets the adequacy requirements set out in the Subordinate Legislation Act.

Background

The proposed Regulations are made under the *Alpine Resorts (Management) Act 1997* (the Act), which establishes Alpine Resort Management Boards (Boards) and the Alpine Resorts Co-ordinating Council to provide for the management of Victoria's six Alpine Resorts. The object of the Act is to make provision 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.

The proposed Regulations empower Boards to:

- declare a snow season;
- set aside parts of resorts for different purposes and with different conditions (such as for parking or for skiing, snowboarding and snowplay);
- issue authorities to use areas or undertake activities in the resort; and
- enforce the regulations through directions, warnings and fines.

The proposed Regulations also control:

- access to and camping within resorts;
- the use of ski lifts and conduct of snowplay;
- the operation of vehicles and aircraft within resorts;
- the bringing of animals into resorts; and
- other matters relating to the safety, amenity and protection of the natural environment within a resort.

The proposed Regulations also set maximum fees that Boards can charge visitors for:

- entry;
- use, parking or driving of vehicles;
- camping;
- use of cross-country ski trails; and
- replacement of an authority.

Policy Analysis

The Department explains in the RIS that the impact of the proposed Regulations is small and difficult to quantify, because, in the absence of regulations, the Boards could implement most prohibitions and controls through conditions of entry to the resorts. Nonetheless, the Department explains that regulations continue to be desirable, as regulations provide consistency across resorts and Crown land while allowing for legal penalties and powers of direction, thereby improving enforcement.

In the RIS, the Department qualitatively considers whether to retain, remove or add general prohibitions, or whether to instead allow resorts to make determinations.

The proposed Regulations generally reflect the existing Regulations, while updating them to account for changes in technology (such as drones), to make some specific prohibitions more general, and to align offences and penalties with similar regulations for other Crown land and national parks.

Fees Analysis

Boards have the power to set fees (subject to their legislated functions, corporate plans and any Ministerial directions or guidelines). In 2019, total fee revenue across resorts was \$23.4m. No resort currently charges the maximum allowable fees, and many users pay much less than the maximum due to concessions and discounts. Nonetheless, the Department explains that setting maximum fees safeguards the interests of Victorians and provides certainty about the Government's expectations of acceptable fee levels.

In the RIS, the Department qualitatively analyses:

- whether maximum fees are appropriate;
- which activities to prescribe maximum fees for;
- whether to charge per vehicle or per person entry fees; and
- whether fees are charged on a per entry or per day basis.

The proposed Regulations replicate the existing fees regulations, but propose that:

- vehicles with 10-12 seats be charged as buses, i.e. on a per person basis, rather than on a per vehicle basis;
- passengers in a bus be allowed to be charged entry fees on a per day basis, which may become feasible if there is technological change;
- camping fees be per group and per day rather than per person; and
- the maximum fee for use of a cross-country ski trail by a child be updated to account for inflation.

Implementation and Evaluation

The Department explains in the RIS that it will review the regulations before they are due to expire in 2030. The Department also notes that Boards report regularly to the Minister for Energy, Environment and Climate Change. These reports include information about 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.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on 03 7005 9772.

Yours sincerely



Anna Cronin

Commissioner for Better Regulation