



## Planning circular

### PLANNING SYSTEM

Building classifications for tourist accommodation

Circular	PS 2x-xxx [issued by Comms lead on day of release]
Issued	[date] [month] 202X
Related	Nil

# Guidance on appropriate building classifications for tourist accommodation in the Alpine Resort areas

This circular is to advise on the appropriate building classifications under the *National Construction Code* for tourist accommodation to be carried out in the alpine resort areas of Kosciuszko National Park.

## Introduction

The purpose of this circular is to set out the appropriate building classifications for tourist accommodation to be carried out in the Alpine Resort areas under the *State Environmental Planning Policy (Precincts – Regional) 2021 (Precincts Regional SEPP)*.

The Alpine Resort areas include:

- Thredbo Alpine Resort,
- Perisher Range Alpine Resort (including Bullocks Flat Terminal),
- Mount Selwyn Alpine Resort,
- Charlotte Pass Alpine Resort,
- Kosciuszko Mountain Retreat Alpine Resort,
- Ski Rider Alpine Resort, and
- Sponars Chalet Alpine Resort.

The above areas are located within the unique and environmentally significant setting of Kosciuszko National Park.

The Minister for Planning is the consent authority for development within the Alpine Resort areas of KNP under section 4.6 of the Precincts Regional SEPP.

Tourist accommodation buildings in the Alpine Resort areas are operated by private entities or organisations

under leases granted by the Minister for the Environment and Heritage under the *National Parks and Wildlife Act 1974*. Leases may be granted for a number of purposes including the provision of accommodation for visitors and tourists and associated facilities and amenities.

The Alpine Resort areas are supported by a range of tourist accommodation to promote year-round visitation and for visitors and tourists to enjoy opportunities such as snow-based recreational activities during winter and mountain-biking during the warmer months.

An essential component of the Precincts Regional SEPP is the mitigation of public safety risks to visitors and tourists.

The National Construction Code (NCC) is Australia's primary set of technical design and construction provisions for buildings and certain structures which is set out over three Performance based Volumes.

Building Code of Australia (BCA) Volume One and Volume Two contain the design and construction requirements relative to a class of building. While Volume Three is specific to the Plumbing Code of Australia (PCA) this provision addresses water services, sanitary plumbing and drainage systems.

Under the BCA, the classification of a building or part of a building is determined by the purpose for which it is designed, constructed or adapted to be used. The use of a building under the *Environmental Planning*

and Assessment Act 1979 (EP&A Act) is determined by reference to the type of development proposed in a development application (DA), the relevant statutory provisions that apply to the assessment and determination of the DA, and the Minister for Planning as consent authority, and is identified in the development consent.

Building classification is a process for understanding risks in a building according to its use and should take into account the likely consequences of any risks to the safety, health and amenity of people using the building.

When making building classification decisions, lessees, applicants, developers and certifiers must consider the occupants most at risk. In the Alpine Resort areas tourist accommodation, the occupants most at risk will be visitors and tourists who are generally unfamiliar with the buildings.

## What are the predominant building classifications in the Alpine Resort areas?

The predominant building classifications under the BCA for tourist accommodation in the Alpine Resort areas are Class 1b and Class 3.

### Class 1b

A Class 1b is one or more buildings which together constitute:

1. a boarding house, guest house, hostel or the like that:
  - o would ordinarily accommodate not more than 12 people; and
  - o have a total area of all floors not more than 300 m<sup>2</sup> (measured over the enclosing walls of the building or buildings); or
2. four or more single dwellings located on one allotment and used for short-term holiday accommodation.

Under category no. 1 (Class 1b building) as set out above, the total number of people on the allotment must be considered along with the total area of all floors on the allotment. The area calculation is to be taken to the outside face of the external walls.

Where a building exceeds either of the spatial and design requirements in category no. 1 but its main use is tourist accommodation, the most appropriate classification is Class 3.

Under category no. 2 (Class 1b building) as set out above, there is no floor area limitation and each building can be considered as a Class 1b regardless of individual floor areas or combined floor areas.

Class 1b buildings used for short-term holiday accommodation include cabins in caravan parks,

tourist parks, holiday resorts and similar tourist accommodation. This accommodation is typically rented out on a commercial basis for short periods and generally does not require the signing of a lease agreement.

If an allotment within the Alpine Resort areas contains one, two or three buildings (e.g. lodges, chalets or apartments) the category no. 2 concession does not apply.

### Class 3

A Class 3 building is a residential building providing long-term or transient accommodation for a number of unrelated persons, including the following:

- A boarding house, guest house, hostel, lodging house or backpacker accommodation.
- A residential part of a hotel or motel.

Class 3 buildings are considered buildings which provide a flexible living arrangement which provide accommodation for guests and travellers on a long term or transient living arrangement and include accommodation for a number of unrelated people.

Its primary intent is to account for non-dwelling residential buildings being used for transient / long-term living.

Design layouts may include a boarding house, lodging house, guest house, or a residential part of a hotel or motel. Dormitory accommodation and workers' quarters also fit within this category of classification.

Occupants are generally unfamiliar with the building and have minimal control over the safety of the building. This represents a higher risk level and therefore requires higher safety levels.

### **Varying requirements**

The main difference between the classifications is an increased focus on preventing fire spread, as well as an emphasis on the number of required accessible features within a building for a person with a disability.

The requirements of Volume Two require a Class 1 building to be protected and prevent the spread of fire between buildings. While Volume One, Class 3 buildings seek to prevent the spread of fire not only between buildings but also to certain areas within a building. These areas include fire exits, sole occupancy units and public corridors.

### **Background**

#### **Permissible land use**

Under the Land Use Tables of the Precincts Regional SEPP, tourist accommodation is a permissible land use for Alpine Resort areas.

Residential accommodation is prohibited within the Alpine Resort areas to ensure consistency with clause 12 of the *National Parks and Wildlife Regulation 2019*. It is a statutory offence for a person to permanently reside in a national park, such as the KNP. The Precincts Regional SEPP does not allow a building or place to be used predominantly as a place of residence.

The tourist accommodation definition was changed under the Snowy Special Activation Precinct project to align the definition with Standard Instrument (Local Environmental Plans) Order 2006 and provide a clearer permissible land use distinction. Tourist and visitor accommodation allows a building or place that provides temporary or short-term accommodation on a commercial basis, whereas residential accommodation is prohibited and therefore prevents a building or place being used predominantly as a place of residence in the Alpine Resorts.

## Key building design aspects

A building in the Alpine Resort areas that is primarily used for tourist accommodation will require appropriate design considerations to:

- ensure any accessible provision as required by the *Disability (Access to Premises—Buildings) Standards 2010* made under section 31 of the *Disability Discrimination Act 1992* of the Commonwealth and the BCA are implemented to achieve equitable disability access for the variety of occupants that the Alpine Resort areas accommodate; and
- mitigate public safety risks associated with internal building fires by including adequate essential fire safety measures within buildings and certifying the measure each year in the annual fire safety statement under Part 12 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

The key accessibility and fire safety design requirements are best addressed via compliance with the relevant provisions of Class 1b or Class 3 building classifications.

## Consideration of Class 1a and Class 2 building classifications that are not appropriate for tourist accommodation buildings in the Alpine Resort areas

Class 1a and Class 2 dwellings are not appropriate tourist accommodation classification for buildings in the Alpine Resort areas.

- Dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

- Domicile means a permanent legal residence.

The minimum design requirements for buildings with these classifications do not include the necessary measures to appropriately address risks to the safety, health and amenity for visitors and tourists.

The fact that outside of Kosciuszko National Park class 1a or class 2 dwellings may be used as short-term rental accommodation is not justification to utilise these classifications within an Alpine Resort.

Serviced apartments in an Alpine Resort that provide self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents are best categorised as a Class 3 building. The occupants are generally unfamiliar with the buildings and represent a high risk.

Buildings in the Alpine Resorts:

- have approved uses intended for visitors and tourists (whether for payment or not) for short term or holiday accommodation that are generally unfamiliar with the building;
- have designs that often incorporates common areas or areas of communal congregation and/or facilities;
- are special fire protection purposes under the Rural Fires Act 1997 and categorised as hotel, motel or other tourist accommodation;
- are not subject to State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development, or State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; and
- are not subject to the Home Building Act 1989 because they are designed, constructed or adapted for commercial use as tourist, holiday or overnight accommodation.

For these reasons, Class 1a and Class 2 dwellings are not appropriate tourist accommodation classification for buildings in the Alpine Resort areas.

## Further information

For further information please contact the Department's Alpine Resorts Team based in Jindabyne on 6448 8500 or via email [alpineresorts@planning.nsw.gov.au](mailto:alpineresorts@planning.nsw.gov.au)

The Precincts Regional SEPP is available on the NSW Legislation website at: [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

Department of Planning and Environment circulars are available at: [planning.nsw.gov.au/circulars](http://planning.nsw.gov.au/circulars)

## Authorised by:

## SIGNATURE BLOCK

---

**Important note:** This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

© State of New South Wales through the Department of Planning and Environment [planning.nsw.gov.au](http://planning.nsw.gov.au)

**Disclaimer:** While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.