

HOTHAM

Mount Hotham Resort Management Board

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Submission by Mt Hotham Alpine Resort Management Board

to the Building Commission of Victoria

about the Regulatory Impact Statement for the proposed Building Regulations 2006

1. Scope of this submission

This submission is to the Building Commission of Victoria, in response to the Regulatory Impact Statement (RIS) for the proposed Building Regulations 2006. Apart from concerns below about the irregular process followed in introducing these proposed Regulations, this submission is confined to proposed Building Regulation 710, requiring the retrofit of automatic sprinkler systems to existing shared accommodation buildings.

2. Introduction

2.1 Mt Hotham Alpine Resort

Mt Hotham is the highest (summit at 1,861 m) of Victoria's six Alpine resorts. The Resort is approximately 365 kms north-east of Melbourne and 520 kms south west of Canberra. Mt Hotham is located at the headwaters of four major rivers: the Kiewa, Dargo, Ovens and Mitta Mitta. Mt Hotham was declared an alpine resort by Order-in-Council made under the former Alpine Resorts Act 1983 on 19 February 1985 and published in the Government Gazette on 27 February 1985. It is almost entirely Crown land, except for one developed and two vacant freehold sites. It has an area of 2,918 ha generally stretching along the B500 Great Alpine Road, of which the skifield comprises 245 hectares and the Mt Hotham Village 67.5 hectares. It is surrounded by the Alpine National Park.

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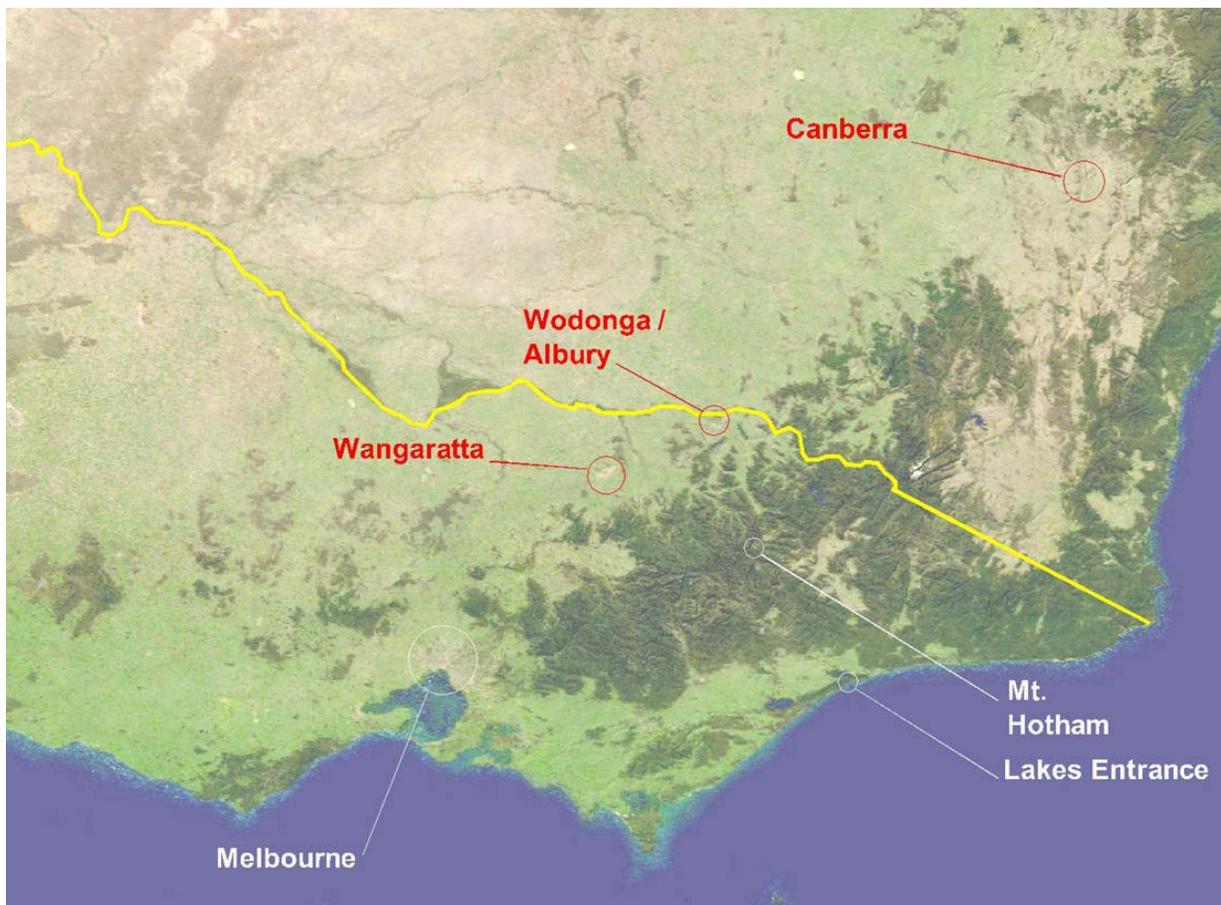
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The Resort's unique characteristics include:

- travel to the Resort takes the majority of visitors five hours from Melbourne;
- there is a limited permanent residential population of approximately 20 persons; and
- whilst seeking to be an all-year round recreational resort, it is primarily a winter recreation tourist destination with a declared snow season of maximum 18 weeks from the Queen's Birthday weekend in mid-June.

In the Victorian context, the Mt Hotham Resort is therefore isolated, remote, very elevated, seasonally used for winter, and very small.



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2.2 Resort Management Board

The Mt Hotham Alpine Resort Management Board is created under the Alpine Resorts (Management) Act 1997. It is a skills-based Board of seven, appointed for three years terms to April 2007 by the Minister for Environment. It is responsible for managing Crown land and this Alpine Resort. It is Resort manager and infrastructure provider, and also has numerous local government type functions, including being a building authority, and the provision of gas, water and sewerage. The Board owns and operates a number of buildings for its purposes; including some shared accommodation buildings.

The Board's building responsibilities

Under s. 192 (1) of the Building Act 1993, the Minister for Planning and Local Government, responsible for the Building Act 1993, made a declaration that the six Alpine resort Boards are the building authorities for their resorts, under s. 212(1) of that Act. This declaration was published in Special Government Gazette of 5 July 1999.

The declaration was necessary because the drafting of the Alpine Resorts (Management) Act 1997 failed to address building management. The Alpine resorts were neither local governments, nor in local government areas: yet, no alternative mechanism had been provided

Effectively the landlord of the Mt Hotham Resort on behalf of the Crown, the Board has some 85 head lessees, most of which partly or entirely provide accommodation buildings to which proposed Building Regulation 710 would apply. These shared accommodation buildings are of two main types:

- 2.2.1 commercially-operated apartment buildings (e. g. Arlberg); and
- 2.2.2 not-for-profit club-type lodges, (e. g. Karnulurra).

3. Summary of Board's submission

The Board, charged with achieving the Government's objectives in the applicable legislation (some 61 State Acts and subordinate legislation, plus Commonwealth) and especially in the Government's Alpine Resorts 2020 Strategy, is concerned that proposed Building Regulation 710 will have a quite disproportionate and adverse impact on this Resort for reasons set out below.

The Board therefore agrees with the RIS's concluding observations that the proposal is not cost-justified in Victoria. In the extra costs of Mt Hotham, the Board considers that the introduction of proposed Building Regulation 710 will be completely unjustified in cost terms, counter-productive to the Government's aims for Mt Hotham, attempting to reduce a risk of fire death or injury that has never occurred at Mt Hotham (even in bushfires in 1939, and nearly in 2003), and damaging to the dependent regional economy. Therefore, it ought not to apply to this Resort.

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It should be noted that this submission by the Board is not on behalf of the Mt Hotham lessees or of their associations. The Board anticipates that those who wish will make their own submissions to the Building Commission.

4. Board's submission on the new Building Regulations process

The Board understands the relevant process to be generally as follows:

- 4.1 The Building Act 1993 came into effect on 1 July 1994;
- 4.2 The supporting Building Regulations 1994 came into effect on the same date, with a ten years sunset clause;
- 4.3 At their expiry date in mid-2004, the Building Commission had not prepared replacement draft Building Regulations nor the RIS for them;
- 4.4 Therefore, the Government continued the Building Regulations 1994 until mid-2005;
- 4.5 Further, the Building Commission wished to amend the Building Regulations relating to owner-builders as a matter of priority, but the Government decided there were to be no amendments, simply the new Regulations;
- 4.6 By mid-2005, the Building Commission had prepared new draft Building Regulations, perhaps in haste. However, that Commission had not complied with the normal requirement for the accompanying RIS, so that the community could assess the impact and value of the proposed Building Regulations BEFORE they were introduced;
- 4.7 The Government then acted to bring in these draft Building Regulations as the Building (Interim) Regulations 2005, and therein to revoke the Building Regulations 1994 on 14 June 2005 via R. 104;
- 4.8 By R. 2001, the Building (Interim) Regulations 2005 will expire on 13 June 2006;
- 4.9 The proposed Building Regulations 2006, for which this is the RIS, are largely in the form of the Building (Interim) Regulations 2005 and are expected to come into effect on 14 June 2006.

If this understanding is largely accurate, then the Board expresses its preference for a more orthodox process. Rather than the proposed Building Regulations 2006 effectively coming into place on 14 June 2005 without any industry or community consultation and with the belated promulgation of this RIS, the Board considers it preferable for the Building Regulations 1994 to have been continued on an annual basis until the due process for new Regulations had been completed.

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5. Board's submission on proposed Building Regulation 710

Proposed Building Regulation 710 requires the retrofit of automated sprinkler systems to shared accommodation buildings. While some Hotham accommodation buildings are likely to be exempt, advice to the Board is that about 80% of Hotham's accommodation buildings will have to comply if the proposal is brought into effect.

5.1 Board's comments on the RIS for proposed Building Regulation 710

The RIS is more referable to urban situations in its data and assumptions. This may be, as mentioned in some of its respects, due to lack of data for non-metropolitan situations. However, this should not lead to an overlooking of the real costs and impacts of proposal 710 in remote, small, seasonally-used places like Mt Hotham.

The Board notes the RIS's acknowledgement that some buildings in Alpine areas do not have access to adequate town water and this will increase costs of sprinkler retrofit.

The RIS reports MFB metropolitan data that "only 40% of call-outs [are] to fires in sprinklered premises", expressing this as an implicit benefit of sprinklers. However, the RIS's following page shows the same percentage of affected accommodation premises are sprinklered. Statistically, therefore, sprinklering does not lower the call-out rate to fires.

In the absence of contradictory data, the RIS assumes that the metropolitan 40% sprinklered rate will also apply in regional Victoria. The situation at Hotham is far less than this; the advice it has received is that less than 20% of shared accommodation buildings are likely to be compliant.

5.2 Board's comments on proposed Building Regulation 710

5.2.1 The RIS contemplates voluntary compliance as an alternative. The Board is advised that even Queensland, which had the deliberately lit fatal Childers backpackers hostel fire in 2000 and which is relevant to the review of sprinkler retrofit in most Australian building jurisdictions, has refused to introduce mandatory sprinkler retrofit. Instead, Queensland provisions offer a range of building-specific technical solutions, including improved exits, smoke detection, protected paths, greater compliance with existing fire safety requirements, etc.

5.2.2 The RIS uses a MFB survey in September 2005 to calculate a sprinkler retrofit cost of \$19.50 to \$34.10 per m². It also includes a Society of Fire Safety (SFS) figure of \$60 per m², and an actual YHA cost of \$68.09 for a 1,063 m² building some three years ago. Assuming that these cost data are correct, then the Board notes that the Building Commission demonstrates in the RIS's concluding observations that the proposal at even the lowest of these costs is not cost-justified in Victoria. The Board submits that it should not proceed on this analysis alone.

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5.2.3 Turning to the situation at Mt Hotham, it is well-established that, because of its characteristics of remoteness and small-scale as set out in 2.1, building costs are approximately x 3.5 Melbourne building costs. Therefore, using the RIS costs of sprinkler retrofit per m² in Melbourne as a range from \$19.50 (the MFB low end) to \$74 (the YHA figure plus inflation), then the corrected costs for Hotham's remoteness and diseconomies of small-scale will be 350% higher, i. e. from \$68.25 to \$259 per m².

5.2.4 Further, Hotham's shared accommodation buildings are fully occupied for less than 11 weeks per year (average 17.5 weeks season x average season-long 60% occupancy rate = 20% of year). Thus, the real capital cost of the proposed retrofit at Mt Hotham on an 'all-year occupied' equivalent basis is the 5.2.3 figures for lower and upper capital cost increased by another x 5, or 500%. The equivalent cost figures for Mt Hotham therefore are an MFB low of \$341.25 to a YHA high of \$1,295 per m².

5.2.5 Because it uses m² as the basis for its annual service charges, the Board has a very accurate, professionally and independently audited knowledge of built space at Mt Hotham. The 2006 figure of FECA (Fully Enclosed Covered Area) is 80,000 m² (including buildings now under construction). On the advice that over 80% of this will need to be retrofitted (say 82.5% = 66,000 m² FECA), then the 'all-year occupied' equivalent basis capital cost to building owners at Mt Hotham will be at the RIS's MFB lower figure, \$22.5 m; and at its upper YHA limit, \$85.47 m. The equivalent basis capital cost for Arlberg alone (11,755 m² FECA) would range from \$4.01 m to \$15.22 m.

5.2.6 None of the above RIS costs, nor the calculated costs for Mt Hotham, include provision of a fire brigade booster connection, largely lacking in Hotham's accommodation buildings. It is also possible that on-site pump installations may be needed, at perhaps \$10,000 plus each. Only site-by-site inspections with CFA can determine how many accommodation buildings will need these; the most likely candidates are the higher altitude buildings above the GAR in Hotham, where head of water is lowest.

5.2.7 The RIS balances its preferred MFB Melbourne sprinkler retrofit cost of \$19.50 – 34.10 per m² against a claimed fire injury cost of \$168,500 and a fire death cost of \$1.5m (8.9 times injury) and 6.1 injuries and 0.22 deaths per year; and finds the proposal barely justified in expected injury savings even at the lowest metropolitan figure and on its assumptions. The proposal is far less cost-justified in Mt Hotham where the capital costs on an 'all-year occupied' basis are 1,750% higher and the historic fire deaths infinitely lower. Using the RIS's injury and death costs, its ten years span and the 'all-year occupied' equivalent basis, there would need to have been an average annual 1.5 to 5.4 fire deaths or 13 to 48 personal fire injuries in Hotham to justify the retrofit, even on the above incomplete equivalent capital costs.

5.2.8 The same multipliers apply to maintenance of a retrofitted sprinkler system. The RIS finds the metropolitan maintenance cost to be about \$980 for small accommodation buildings in the 500 – 1,000 m² range. Multiplied x 17.5 to obtain a Hotham equivalent on an 'all-year occupied' basis, annual maintenance is \$17,150 for this small sized building. This equates to about \$23 per m² for larger buildings; i. e. \$270,365 annually for Arlberg.

5.2.9 The Board has not attempted to estimate the Hotham costs of the adequacy of already-sprinklered buildings at Mt Hotham. It notes the RIS advice that sprinklered buildings are unlikely to comply, as they may not have new technology fast-response' sprinkler heads. For such buildings, there will be unestimated additional inspection, rectification and audit costs.

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5.2.10 The RIS notes “there may be a possible decrease in economic activity as a result of increased regulatory costs. The impact may be greater in regional Victoria if the costs are greater than those estimated in this RIS.” This submission shows they are greater by much more than an order of magnitude than RIS estimates. Hotham’s is a marginal economy and could be substantially affected if proposed Building Regulation 710 proceeds into effect.

5.2.11 The costs of skiing at Mt Hotham, and the operational costs of the Resort, are both high and marginal. The Government’s policy is for these resorts to be self-funding, to grow them for the benefit of all Victorians, and to make them into all-seasons resorts further supporting their surrounding regional economies. The Mt Hotham Resort must compete with other Victorian resorts, and with NSW and international snowplay resorts, especially in South Island, New Zealand. If proposed Building Regulation 710 becomes operational, it will adversely affect the achievement of Government objectives for Mt Hotham, prejudice the Resort’s continued existence and risk further unemployment and regional disadvantage.

5.2.12 For the above reasons, the Board submits that the proposed sprinkler retrofit should not proceed at Mt Hotham.

5.2.14 Special arrangements already apply to Victoria’s Alpine resorts in respect of building regulation and other matters. Given this, the Board further submits that, if the proposed Building Regulation is to proceed for other parts of Victoria, Mt Hotham should be exempted as a special case.