

## MT BULLER AND MT STIRLING PROPERTY LEASING PROCEDURE

Version	Date Approved	Effective from	Next Review
1.0	23 September 2017	23 September 2017	1 September 2018
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3.0	2 September 2020	2 September 2020	2 September 2022

### 1. INTRODUCTION

Alpine Resort Management Boards are established under the *Alpine Resorts (Management) Act 1997*, and are deemed to be committees of management under the *Crown Land (Reserves) Act 1978*. The *Alpine Resorts (Management) Act 1997* gives Boards the power to lease reserved land in alpine resorts, having first obtained the approval of the relevant Minister.

The Mt Buller and Mt Stirling Alpine Resort Management Board (ARMB) is a statutory authority with delegated authority to implement Government policy in relation to the use and management of Crown Land at the Mt Buller and Mt Stirling Alpine Resorts. This procedure documents the manner in which the ARMB implements these responsibilities in relation to property leases.

### 2. HIERARCHY

The following documents provide the basis for assessing all property leases, and are to be considered in descending order:

1. Alpine Resorts (Management) Act
2. Crown Land (Reserves) Act
3. Alpine Resorts Leasing Policy
4. Alpine Resorts Leasing Policy Implementation Details
5. The Mt Buller Property Leasing Procedure.

### 3. PRINCIPLES

The following leasing principles apply:

- a) Demonstrated public and economic benefit;
- b) Approval in principle requirement;
- c) Transparent lease allocation and process;
- d) Appropriate lease terms and conditions;
- e) Consistent lease documentation;
- f) If a lease is being negotiated with an existing tenant and the tenant is a “good” tenant then the “first right to negotiate” provision applies;
- g) Improvements remain the property of the Lessee;
- h) Any new land release requires the prior approval of the Minister. Unless special circumstances can be demonstrated to the satisfaction of the Minister, new land releases should be via a public competition process;
- i) Applications for land adjacent to existing leased areas can be considered where the land has not been identified for public purpose and cannot be released as a stand-alone site;
- j) Subdivision of existing sites requires Ministerial approval;
- k) Reasonable legal costs and professional fees related to the preparation of new leases are to be paid by Lessee;

- l) Template leases must be used, with site rental reviewed every three years and annual CPI rental adjustments between reviews;
- m) Proposed leases must support the Resort's Strategic Plan and Master Plan;
- n) Lease terms will be determined by applying the Lease Term Calculation Matrix (Appendix D and E) unless the new lease relates to a capital development worth:
  - o) \$8 million or more in which case the lease term will be assessed in accordance with the Alpine Leasing Policy's provisions for Special Cases or Optimum (SISP of 100%).
  - o) Less than \$8 million that delivers substantial benefit to the resort such as a significant improvement in building quality and ascetic appeal, in which case the Board may offer the maximum lease term possible based on the Strategically Identified Site Potential (SISP) of the new building footprint.
- o) Parties involved in preparing or determining the lease must have no conflict of interest.

#### 4. PROCESS

The process for all lease proposals is outlined below.

1. ARMB hold without Prejudice preliminary discussions with Lessee:
  - a) Lessee to provide a Business Plan to assist the ARMB in seeking Approval in Principle;
  - b) Public notification (if appropriate);
  - c) Consideration of whether the Lessee is a "good" Lessee:
    - i. Assessment of the Lessee's ability to meet the requirements of the lease;
    - ii. Consideration of the Business Plan (refer Appendix B);
    - iii. Consideration of Lessee's past performance (Standards of Occupancy);
    - iv. Other relevant considerations.
  - d) If considered a "good" Lessee the proposed lease term is based on this Procedure, the Strategically Identified Site Potential (refer Appendix C), Lease Term Calculation (refer Appendix D & E), and other relevant requirements.
2. Seek Approval in principle from the Minister or Delegate;
3. Finalise lease:
  - a) Final negotiations by ARMB in accordance with the Ministers Approval in Principle;
  - b) Public notification (if not completed in step 1) and consideration of any responses;
  - c) Ministerial approval of the lease;
  - d) Granting of the lease by the ARMB.

#### 5. STANDARDS OF OCCUPANCY

The Standards of Occupancy are intended to encourage Lessees to maintain premises to contemporary standards including:

- Regular maintenance and upgrade of the exterior and the interior of the building and leased land to meet the ARMB and Visitor expectations;
- Open periods and public access to facilities (where applicable).

Lessees are also required to meet all statutory provisions and planning requirements including:

- Compliance with the Building Act and Building regulations;
- Site land stability requirements;
- Car parking requirements and policies;
- Environmental requirements and policies;
- Compliance with the Health Act;
- Compliance with fire safety regulations;
- Compliance with occupational health & safety regulations.

For existing Buildings, a Building Standards and Fire Safety report must be supplied by a Registered Building Surveyor to the ARMB, following an inspection. The Building Surveyor must confirm that all works identified as High Priority in the Building Standards and Fire Safety report are completed before a new lease is granted.

## **6. APPROVAL IN PRINCIPAL LEASE REPORT**

The following items must be included in the report seeking Ministerial Approval in Principle:

- Identification of the area of land that is the subject of the offer;
- The current use of the site;
- The use under the proposed lease;
- The term of the lease proposed (including any proposed further term(s), options, first right to negotiate) and an indication of how the term has been determined in accordance with the lease term criteria;
- The annual rental and site valuation details;
- Any other substantial terms and conditions;
- Any proposed capital works program;
- The public notification process undertaken and the outcomes (if already completed);
- The public and economic benefits that the lease shall provide;
- Any special or unusual features of the proposal;
- Confirmation that there is no conflict of interest;
- Additional benefits provided or to be provided to the resort.

## **7. BOARD LEASE REPORT**

- The above items must also be included in the report seeking approval from the Board, along with the Lease term criteria assessment and calculation summary (Appendix E).

## APPENDIX A – Leasing Guidelines Checklist

Question	Comments
Tenant initiated lease negotiation?	
Term remaining on the existing lease?	
Existing Use outlined?	
Proposed Use outlined?	
Are any boundary changes proposed?	
Upgrades, refurbishments, redevelopments or development	
Are any included in the proposal?	
Details provided?	
Value provided?	
Public Benefits	
Food & beverage?	
Retail?	
Entertainment / non-snow activities?	
Public shelter or toilets?	
Hot beds?	
Year round operation?	
Building Condition	
Has a Registered Building Surveyor or Municipal Building Surveyor prepared a Building Standards and Fire Safety report?	
Does the report include an assessment of the condition and statutory compliance of existing buildings including structure, weather proofing, decks, balustrades, roofs, snow shedding, access, egress, bushfire protection?	
Does the report include estimated life and maintenance requirements?	
Does the report identify, recommend and prioritise works to be undertaken?	
Does the report confirm that all high priority works have been completed?	
Have standard of occupancy inspections been regularly performed by the RMB?	
Has the RMB performed inspections each 3 years in line with the market review dates?	
Has all work recommended in the Building Surveyor's report been completed?	
Have the past performance standards of the Lessee been acceptable?	
Are the aesthetics acceptable (materials, colours, quality)?	
Environmental	
Well insulated building / proposed building?	
Double glazed windows?	
5-star rated appliances (energy / water)?	
Water efficient fixtures?	
Is a water meter installed?	
Does the lease include installation of a water meter if required?	
Recycling including organics?	
Is any native vegetation being preserved or propagated?	

## APPENDIX B – Business Plan Checklist

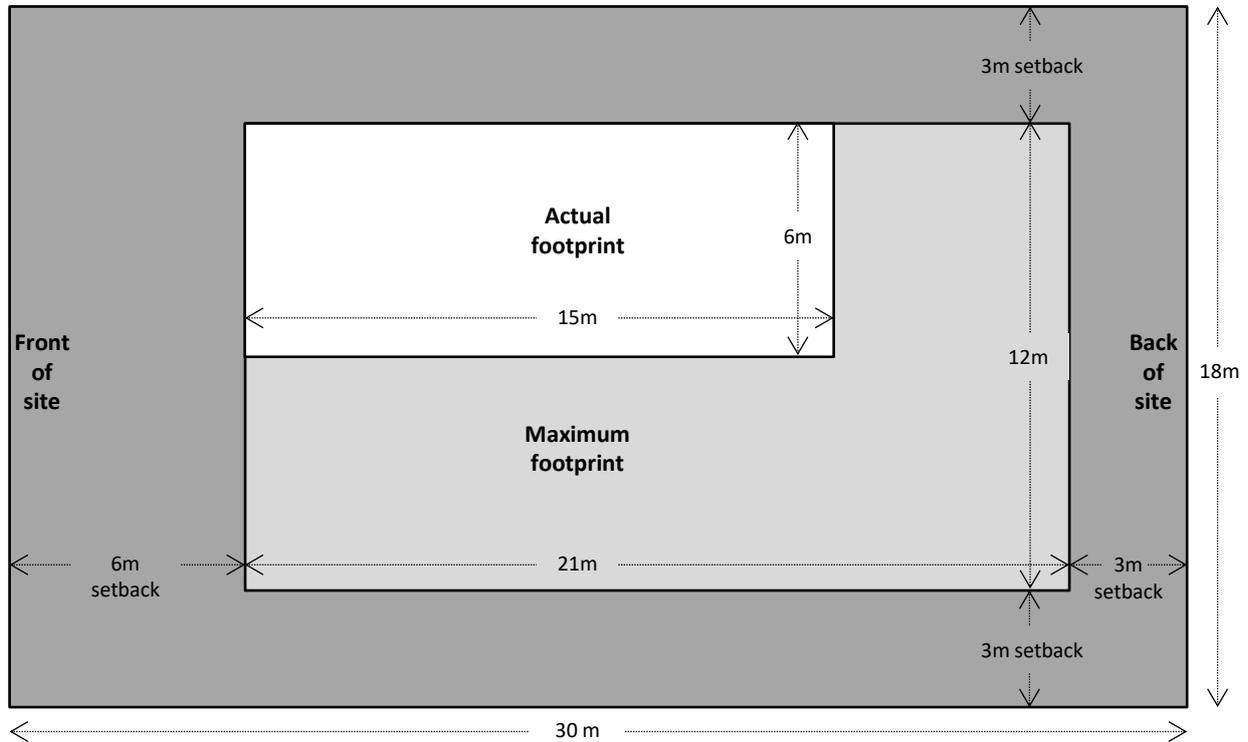
The Business Plan is required to assist the ARMB to understand the business operations of the Lessee and their applicability to economic and social benefits of the resort, and the relevance to the Board's strategic objectives as stated in the Alpine Resorts Planning Scheme, Strategic Plan and Resort Master Plan. The Business Plan is confidential to the ARMB and will not be forwarded to the Minister.

Element	Comments
Membership arrangements (if applicable)	
Facilities (an outline of all facilities included in the proposal)	
Scope of operation	
Days open each year	
Accommodation occupancy	
Restaurant utilisation (if applicable)	
Any other utilisation of facilities (if applicable)	
Legal Structure	
Current certificate of incorporation (if applicable)	
Memorandum and Articles of Association of the company or Adopted Rules in the case of a Co-operative or Incorporated Association (if applicable)	
Particulars of Principals, Directors, Shareholders, and office bearers incl. addresses	
Declaration by Principals, Directors, Shareholders as to any interests or any associated company hold in alpine property	
Management	
Structure & approach	
Safety	
Environmental	
Financial structure and management	
Details of capital structure	
Copies of last 3 years financial statements	
Current certificate of currency for Public Liability Insurance (\$10m minimum with the ARMB as co-insured or interceded party)	
Details of planned refurbishments / upgrade of premises	
Marketing Strategy	
Booking channels	
Advertising & promotion of property for public bookings	
Promotion, availability and expansion of memberships (if applicable).	

## APPENDIX C – Maximum Lease Term

The maximum possible lease term is based on the Strategically Identified Site Potential (SISP) of the proposal and evaluation against criteria in the Alpine Resorts Leasing Policy Implementation Details.

### SISP Example



Site Area	540m <sup>2</sup>
Maximum footprint (a)	252m <sup>2</sup>
Maximum height(b)	11m
Maximum building volume (a) x (b) = (c)	2,772m <sup>3</sup>

Actual footprint	90m <sup>2</sup>
Actual building height	7.5m
Actual building volume (d)	675m <sup>3</sup>
SISP = (d) / (c)	24%

### Maximum Lease Criteria

Level of Development	Conditions for continuation of existing developments and current use	Conditions for new developments and / or use	Lease term
<p><b>Special cases:</b></p> <p>Considered on a case by case basis for exceptional levels of development and/or public benefit</p>	<ul style="list-style-type: none"> <li>Value of current development on site plus capital outlay for refurbishment / redevelopment in excess of \$8 million</li> <li>Development to optimum level</li> <li>Detailed business case and financial evaluation required</li> <li>Exceptional circumstances must exist</li> <li>Public notification process</li> <li>Consideration of past performance of lessee / Standards of Occupancy</li> </ul>	<ul style="list-style-type: none"> <li>Capital outlay in excess of \$8 million</li> <li>Development to optimum level</li> <li>Detailed business case and financial evaluation required</li> <li>Exceptional circumstances must exist</li> <li>Land allocation subject to a public competition process</li> </ul>	More than 51 years

<p><b>Optimum:</b></p> <p>SISP of 100%</p>	<ul style="list-style-type: none"> <li>• Currently developed to an optimum level, and/or committed through formal agreement to refurbishment / redevelopment of the site to an optimum level within a specified time frame and/or to additional benefit through special conditions / requirements of the Board</li> <li>• Detailed business plan</li> <li>• Comprises extensive multi-seasonal or permanent residential use</li> <li>• Public notification process</li> <li>• Consideration of past performance of lessee/ Standards of Occupancy</li> </ul>	<ul style="list-style-type: none"> <li>• Capital outlay in excess of \$8 million and/or development to an optimum level</li> <li>• Land allocation subject to a public competition process</li> <li>• Detailed business plan required</li> <li>• Comprises extensive multi-seasonal or permanent residential use</li> </ul>	<p>Up to 51 years</p>
<p><b>High:</b></p> <p>SISP between 75% and 99%</p>	<ul style="list-style-type: none"> <li>• Currently developed to a high level and/or committed through formal agreement to refurbishment / redevelopment of the site to a high level within a specified time frame and/or to special conditions/requirements of the Board</li> <li>• Detailed business plan required</li> <li>• Public notification process</li> <li>• Consideration of past performance of lessee / Standards of Occupancy</li> </ul>	<ul style="list-style-type: none"> <li>• Development to high level</li> <li>• Detailed business plan required</li> <li>• Land allocation subject to a public competition process</li> </ul>	<p>Up to 45 years</p>
<p><b>Moderate:</b></p> <p>SISP between 40% and 74%</p>	<ul style="list-style-type: none"> <li>• Site currently developed to a moderate level, and/or committed through formal agreement to refurbishment /redevelopment of the site to a significant level within a specified time frame and/or to special conditions/requirements of the Board</li> <li>• Detailed business plan required</li> <li>• Public notification process</li> <li>• Consideration of past performance of lessee/Standards of Occupancy</li> </ul>	<ul style="list-style-type: none"> <li>• Development to moderate level</li> <li>• Detailed business plan required</li> <li>• Land allocation subject to a public competition process</li> </ul>	<p>Up to 35 years</p>
<p><b>Low:</b></p> <p>SISP between 25% and 39%</p>	<ul style="list-style-type: none"> <li>• Site currently developed to a low level and/or committed through formal agreement to refurbishment / redevelopment of the site to a base level within a specified time frame and/or to special conditions / requirements of the Board</li> <li>• Detailed business plan required</li> <li>• Public notification process</li> <li>• Consideration of past performance of lessee/standards of occupancy</li> </ul>	<ul style="list-style-type: none"> <li>• Development to a low level</li> <li>• Detailed business plan required</li> <li>• Land allocation subject to a public competition process</li> </ul>	<p>Up to 21 years</p>
<p><b>Minimum:</b></p> <p>SISP less than 25%</p>	<ul style="list-style-type: none"> <li>• Site currently developed to a minimum level</li> <li>• Public notification process</li> <li>• Detailed business plan required</li> <li>• Consideration of past performance of lessee/Standards of Occupancy</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<p>Up to 10 years</p>
<p><b>Negotiated</b></p>	<ul style="list-style-type: none"> <li>• Permanent ongoing residential occupation</li> <li>• Consideration of past performance of lessee/ standards of occupancy</li> </ul>	<ul style="list-style-type: none"> <li>• Permanent ongoing residential occupation</li> </ul>	<p>Up to 40 years</p>

## APPENDIX D – Lease Term Calculation Matrix

<b>Public &amp; economic benefit</b>	
<i>Range of facilities available to the public, contribution to diverse experiences within the resort, contribution to ethnic and socio-economic diversity within the resort</i>	
5	Very strong range of facilities / experiences that appeal to a broad range of people & groups and are fully open to the public
4	Solid range of facilities / experiences that appeal to a broad range of people & groups and are mostly open to the public
3	Average range of facilities / experiences that appeal to a broad range of people & groups and are largely open to the public
2	Limited range of facilities / experiences but largely open to the public
1	Limited range of facilities / experiences that attract a small range of people
<i>Level of income and/or employment generated within the resort and/or surrounding region</i>	
5	Very strong income generation and / or employment generated throughout year
4	Solid income generation and / or employment generated throughout year
3	Average income generation and / or employment generated throughout year
2	Low income generation and / or employment generated throughout year
1	Very low income generation and / or employment generated throughout year
<i>Alignment with the latest Mt Buller master plan</i>	
5	Very strong alignment including type & extent & condition of building & facilities, level of development, public benefits, days / hours open, generating high utilisation.
4	Solid alignment
3	Average alignment
2	Low alignment
1	Poor alignment
<b>Business Plan</b>	
<i>Safety. Programs to minimise risks including building compliance, snow shed from buildings, and food / alcohol handling (where applicable)</i>	
5	Very strong program covering all foreseeable compliance & safety risks
4	Strong program covering all known compliance & safety risks
3	Average program in line with most properties
2	Below average program
1	Minimal program
<i>Financial. Ability to maintain the property internally &amp; externally, complete capital improvements, replace capital items as required, and pay all RMB charges</i>	
5	Cashflow & capital replacement fund in forward plan fully covers property maintenance, replacement of capital items, RMB charges and undertake improvements over time.
4	Cashflow & capital replacement fund in forward plan clearly covers property maintenance, replacement of capital items and RMB charges.
3	Cashflow & capital replacement fund in forward plan appears adequate to cover property maintenance, replacement of capital items and RMB charges.
2	Cashflow & capital replacement fund in forward plan suggests there may be some difficulty covering property maintenance, replacement of capital items and RMB charges.
1	Cashflow & capital replacement fund in forward plan shows likely difficulty in maintaining property, replacing capital items or paying RMB charges.

<i>Environmental. Programs to minimise water usage, power usage, and the amount of waste going to landfill</i>				
5	Incorporate all reasonable contemporary environmental practices for an alpine environment			
4	Incorporate most reasonable contemporary environmental practices for an alpine environment			
3	Average application of contemporary environmental practices for an alpine environment			
2	Low application of contemporary environmental practices for an alpine environment			
1	No material effort to limit environmental footprint			
<i>Utilisation. Days open each year, restaurant occupancy, accommodation occupancy</i>				
5	Open every day of the year, average occupancy (accommodation and / or restaurant) > 70%			
4	Open every day of the year, average occupancy (accommodation and / or restaurant) > 50%			
3	Open up to 50% of time outside winter, average occupancy (accommodation and / or restaurant) > 25%			
2	Open winter only, average occupancy (accommodation and / or restaurant) > 50%			
1	Open winter only, occupancy (accommodation and / or restaurant) < 50%			
<b>Past Performance</b>				
<i>Occupancy standards. Track record on maintaining &amp; upgrading building exterior &amp; interior during previous lease.</i>				
5	Interior & exterior in excellent condition at all times			
4	Interior & exterior in good condition most of the time			
3	Interior and / or exterior in average condition most of the time, improvements desirable			
2	Interior and / or exterior often in poor condition and requiring significant work			
1	Interior and / or exterior required wholesale renovation or redevelopment for long periods			
<i>Lessee performance. Track record of paying RMB charges in a timely manner and complying with all provisions within the previous lease.</i>				
5	Paid on time every time, complied with all aspects of lease			
4	Mostly paid on time, complied with all aspects of lease			
3	Mostly paid on time, mostly complied with lease terms			
2	Often paid late or required reminders, several non-compliances with lease terms			
1	Poor payment history, referred to debt collectors, many non-compliances with lease terms			
<i>Less than 100% SISP. Based on actual SISP with the relevant band.</i>				
	SISP Range			
	Minimum	Low	Moderate	High
5	20 – 24%	37 – 39%	68 – 74%	95 – 99%
4	15 – 19%	34 – 36%	61 – 67%	90 – 94%
3	10 – 14%	31 – 33%	54 – 60%	85 – 89%
2	5 – 9%	28 - 30%	47 - 53%	80 - 84%
1	0 - 4%	25 - 27%	40 - 46%	75 - 79%
<i>100% SISP. Level of multi-seasonal opening or high level of permanent residential use (either planned or contracted)</i>				
5	Open every day and strong marketing, or > 75% permanent residency			
4	Open every day and moderate marketing, or 50 – 74% permanent residency			
3	Open half of days outside winter, or 25 – 49% permanent residency			
2	Open winter only and strong marketing, or 6 – 24% permanent residency			
1	Open winter only and limited marketing, or < 5% permanent residency			

## APPENDIX E – Lease Term Calculation

The recommended lease term is calculated by:

1. assessing each of the subjective elements in the leasing criteria on a scale of 1 (low) to 5 (high);
2. adding these scores to achieve a total score,
3. calculating the total score as a percentage of the maximum possible score,
4. applying this percentage to the maximum possible lease term and rounding up to the nearest whole number.

Criteria	Description	Score (example)		Assessment Comments
		a	b	
Public & economic benefit				
Public	Range of facilities available to the public, contribution to diverse experiences within the resort, contribution to ethnic and socio-economic diversity within the resort	4	1	
Economic	Level of income and/or employment generated within the resort and/or surrounding region	5	1	
Master plan	Alignment with the latest master plan	4	1	
Business plan				
Safety	Programs to minimise risks including building compliance, snow shed from buildings, and food / alcohol handling (where applicable)	4	3	
Financial	Ability to maintain the property internally & externally, complete capital improvements, replace capital items as required, and pay all RMB charges	5	1	
Environmental	Programs to minimise water usage, power usage, and the amount of waste going to landfill	3	1	
Utilisation	Days open each year, restaurant occupancy, accommodation occupancy	3	3	
Past Performance				
Occupancy standards	Track record on maintaining & upgrading building exterior & interior during previous lease	5	1	
Lessee performance	Track record of paying RMB charges in a timely manner and complying with all provisions within the previous lease	5	5	
SISP				
Level of Development (for <100% SISP only)	Based on actual SISP within the relevant band (eg SISP's of 40%, 57% and 74% would be in the "Moderate" band of 40-74%, and would be scored as 1, 3 and 5 respectively).	n/a	4	
Actual score	Sum of each of the above	40	21	
Maximum possible score	A score of 5 on each of the above	50	50	
<b>Percentage score</b>	Actual score divided by maximum possible score	<b>80%</b>	<b>42%</b>	

Maximum possible term	From the Maximum Lease Criteria (years)	51	10	
<b>Recommended term</b>	Percentage score multiplied by maximum possible term (years)	<b>41</b>	<b>5</b>	