



# Dianella Ski Club, Perisher Valley

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Development Application Assessment  
DA 10640

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*Cover image: Main Range, Kosciuszko National Park (Source: Alpine Resorts Team)*

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# Glossary

Abbreviation	Definition
<b>BCA</b>	Building Code of Australia
<b>BC Act</b>	<i>Biodiversity Conservation Act 2016</i>
<b>BC Regulation</b>	<i>Biodiversity Conservation Regulation 2017</i>
<b>BVM</b>	Biodiversity Values Map
<b>Consent</b>	Development Consent
<b>CPP</b>	Community Participation Plan
<b>Department</b>	Department of Planning and Environment
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2000</i>
<b>EPBC Act</b>	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>EPI</b>	Environmental Planning Instrument
<b>ESD</b>	Ecologically Sustainable Development
<b>KNP</b>	Kosciuszko National Park
<b>Minister</b>	Minister for Planning
<b>NPWS</b>	National Parks & Wildlife Service
<b>Planning Secretary</b>	Secretary of the Department of Planning and Environment
<b>RFS</b>	NSW Rural Fire Service
<b>SEPP</b>	State Environmental Planning Policy

# Executive Summary

This report outlines the assessment of a Development Application (DA 10640) lodged by Mr Patrick Gilling (the Applicant on behalf of Dianella Ski Club) seeking approval to undertake alterations to Dianella Ski Club, Perisher Valley, Perisher Range Alpine Resort within Kosciuszko National Park (KNP).

The original application sought approval to undertake alterations to the existing tourist accommodation facility including an increase of the number of beds provided within the Club from 10 to 12 by modifying the ground floor existing bedrooms / WC to increase the size of two bedrooms and creating a 4-bed bunk room and altering the eastern elevation by relocating an existing window to the new WC following the internal alterations to the building.

Following additional discussions with the Department and consideration of the *Public Health Regulation 2012* in relation to compliance with the floor area requirement for sleeping accommodation, the Applicant amended the bunk room proposal to only two beds (thereby reducing the occupancy of the proposal back to 10 beds). A window on the southern elevation is to be removed as a result of the amended design.

On 1 March 2022, the *State Environmental Planning Policy (Kosciuszko National Park - Alpine Resorts) 2007* (the Alpine SEPP) was consolidated into the *State Environmental Planning Policy (Precincts – Regional) 2021* (the Precincts - Regional SEPP). The SEPP consolidation is administrative only. No policy changes have been made.

The Minister for Planning is the consent authority for development within a ski resort in KNP, administered by the Department of Planning and Environment (the Department). The proposal is permissible with consent under the provisions of the Precincts - Regional SEPP.

Consistent with the Department's Community Participation Plan, the application was exhibited between 12 November 2020 until 26 November 2020 as the works include internal and external alterations to an existing tourist accommodation building within 50 metres of other tourist accommodation buildings. One submission in support of the application was received from the public.

The Department consulted and received comments from the National Parks and Wildlife Service (NPWS) pursuant to section 4.15 of Chapter 4 of the Precincts – Regional SEPP.

The development relates to tourist accommodation on bush fire prone land. The Department forwarded the application to the NSW Rural Fire Service (RFS) pursuant to section 4.46 of the EP&A Act (integrated development provisions) as a Bushfire Safety Authority (BFSA) under the *Rural Fires Act 1997* is required for the development to be carried out. The RFS issued a BFSA for the proposal.

The Department has assessed the proposal in accordance with relevant matters under section 4.15(1) and the objects of the *Environmental Planning and Assessment Act, 1979* (EP&A Act), the principles of Ecologically Sustainable Development (ESD), and issues raised in all submissions.

The Department considers the proposal is acceptable as:

- there will not be a significant impact on any threatened species, populations or ecological communities as confirmed by the Applicant and concurred with by the NPWS
- the alterations to the club are complimentary to the existing building, noting that external changes are limited to a relocated window on the eastern elevation and removal of a window on the southern elevation

- the internal works improve the amenity and functionality of the tourist accommodation building without impacting on any adjoining properties
- construction impacts on the surrounding environment would be minimised by using existing disturbed areas for stockpiling of building materials and for parking
- the recommended conditions would require all disturbed areas to be rehabilitated following construction and the maintenance of an Asset Protection Zone (APZ) outside of the lease area (to be endorsed by the NPWS)

The Department's assessment concludes the application is in the public interest as it supports the ongoing use of the site for tourist accommodation and provides improved amenity for visitors and guests to the ski club, which in turn supports the South and East Tableland Regional Plan for the locality and Chapter 4 of the Precincts - Regional SEPP.

The Department therefore recommends the application be approved, subject to conditions.



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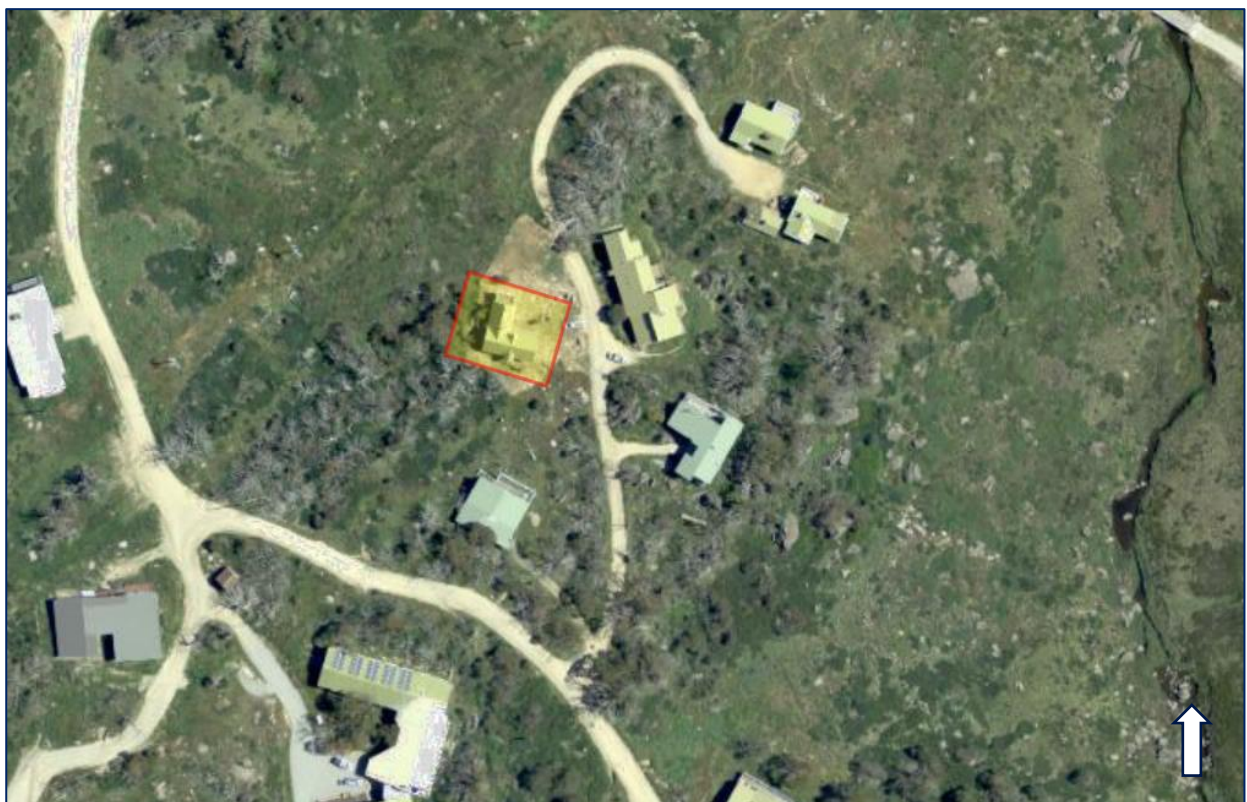
# 1 Introduction

## 1.1 The Department's assessment

This report contains the Department's assessment of Development Application (DA 10640) lodged by Mr Patrick Gilling (the Applicant on behalf of Dianella Ski Club) for works at Dianella Ski Club, 9 Telemark Place, (Lot 83 DP 756697), Perisher Valley, Perisher Range Alpine Resort within KNP.

The Applicant originally sought development consent to undertake alterations to the existing tourist accommodation facility (**Figure 1**) including an increase of the number of beds provided within the Club from 10 to 12 (within the existing 14 bed lease) by modifying the ground floor existing bedrooms / WC to increase the size of two bedrooms and creating a 4-bed bunk room and altering the eastern elevation by relocating an existing window to the new WC following the internal alterations to the building.

Following additional discussions with the Department and consideration of the *Public Health Regulation 2012* in relation to compliance with the floor area requirement for sleeping accommodation, the Applicant amended the bunk room proposal to only two beds (thereby reducing the occupancy of the proposal back to 10 beds). A window on the southern elevation is to be removed as a result of the amended design.



**Figure 1** | Location of site (highlighted) in context of other lodges (Source: SIX Maps 2022)

## 1.2 Site location and context

The subject site is known as Dianella Ski Club (Lot 83 DP 756697), Telemark Place, Perisher Valley and has an area of approximately 622m<sup>2</sup>. The existing building is licensed for 14 beds and is used for tourist accommodation providing room for only 10 beds.

The existing building is constructed of a mixture of materials, ranging from rock walls on the lower section of the building, timber cladding on the ground and first floor and a metal pitched colorbond roof (**Figure 2**). The site is identified as bushfire prone land, with native heath vegetation and existing Snowgums vegetation located adjoining the western side of the allotment, while the remaining portions are predominantly managed.

The surrounding development is characterised by other tourist related accommodation premises ('Mirrabooka Co-Operative Ski Club Limited', 'Alexandra Ski Club' and 'Illabunda Ski Lodge') and native vegetation to the south-west of the site.



**Figure 2 |** Image of subject site (Source: Applicant's documentation)

### 1.3 Other approvals

During November 2018, the Department observed works being carried out to the external balcony of the Club, including the removal of the balustrade. As a result of discussions, the Dianella Ski Club submitted a Building Information Certificate (BIC) for the works in March 2019.

On 28 June 2019, the Department issued BIC 01-03-2019 for part of the building. The building certificate application related to an external timber deck balustrade (balcony rails) and a 12m<sup>2</sup> concrete slab on ground below the deck found during inspections for the BIC.

Works to the deck, handrail and slab were undertaken without obtaining prior approval under the EP&A Act and Alpine SEPP at the time.



## 2 Project

The application originally sought approval to:

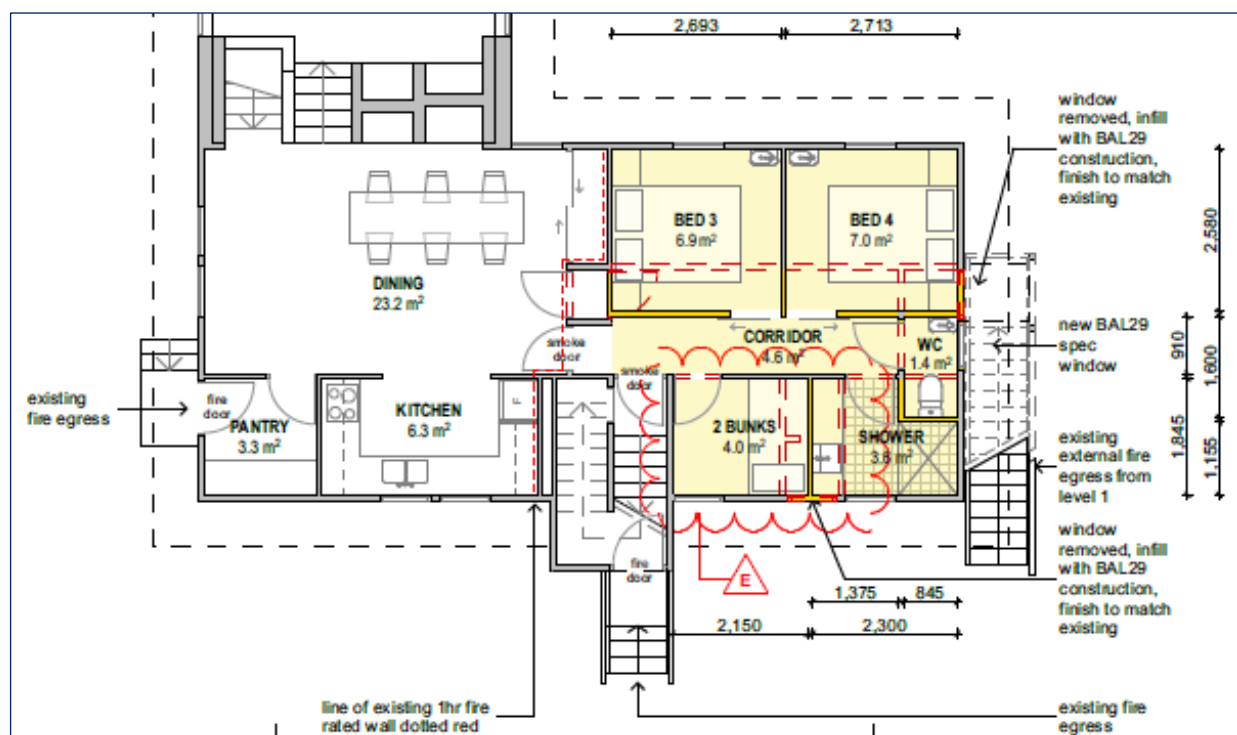
- undertake internal alterations by modifying the existing bedrooms and adjacent area (including the adjacent communal WC) on the ground floor to increase the size of the two northern bedrooms and altering the bunk room (creating a 4 bed bunk room). These works would increase the bed number on site from 10 to 12.
- undertake external alterations to the eastern elevation by relocating an existing window to the new WC as a consequence of the internal alterations to the building

Following additional discussions with the Department and consideration of the *Public Health Regulation 2012* in relation to compliance with the floor area requirement for sleeping accommodation, the Applicant amended the bunk room proposal to only two beds (thereby reducing the occupancy of the proposal back to 10 beds). A window on the southern elevation is to be removed as a result of the amended design. The final changes to the plans are indicated in **Figure 3**.

The Applicant comments that the proposal would improve the privacy and amenity of the bedrooms on the main accommodation level. At the same time, the development will provide an opportunity for the club to improve the thermal efficiency and water and energy use of the lodge by upgrading existing heating, lighting, and plumbing fittings.

The Applicant notes the changes would still ensure the club is within its 14 bed lease for the lodged per the KNP Plan of Management (POM).

The proposal has a cost of works of approximately \$99,000.



**Figure 3 |** Proposed works to building (highlighted in yellow) (Source: Applicant's documentation)

### 3 Strategic context

The Snowy Mountains region offers a diverse and unique mix of visitor destinations including the KNP, the alpine resorts, the iconic Snowy River and the highest mountains on the Australian continent. A strong tourism economy is driven mainly by skiing and related winter sport experiences during the peak winter season. The region, including the alpine resorts, also provides opportunities for a range of other recreational activities during the warmer months such as hiking, fishing, kayaking and mountain-biking. The resorts are important to NSW due to their economic and social contribution as well as their location within a unique alpine environment. The three main documents that support the strategic context of the alpine resorts are the *South East and Tableland Regional Plan 2036*, the *Snowy Mountains Special Activation Precinct Master Plan* and the *Precincts - Regional SEPP*.

#### **South East and Tableland Regional Plan 2036**

The *South East and Tableland Regional Plan 2036* describes the vision, goals and actions that will deliver greater prosperity for those who live, work and visit the region. The plan provides an overarching framework to guide more detailed land use plans, development proposals and infrastructure funding decisions.

In relation to the alpine resorts, the Regional Plan seeks to promote more diverse tourism opportunities in the Snowy Mountains that will strengthen long-term resilience while acknowledging the environmental and cultural significance of the locality.

The Department considers the proposal is consistent with the Regional Plan as it would maintain the existing use of the site for tourist accommodation, improves the functionality of the building for its guests and visitors, which leads to additional visitation to the NSW ski resorts. The proposal's environmental impact is also considered to be acceptable.

#### **Snowy Mountains Special Activation Precinct Master Plan**

The Snowy Mountains Special Activation Precinct Master Plan outlines the 40-year vision for the Snowy Mountains as a year-round tourist destination with new business opportunities, services and community infrastructure for the people that live, work and visit the region.

Section 9.1.2 of the Master Plan relates to Perisher Range, where the subject parcel is identified as a development area within the Perisher Valley Structure Plan. The Department considers the proposal to be consistent with the Master Plan as it relates to supporting year-round visitor accommodation while maintaining the environmental, cultural and landscape attributes of Perisher Valley.

#### **Precincts – Regional SEPP**

The Precincts – Regional SEPP governs development on land within the ski resort areas of KNP. Chapter 4 of the SEPP aims to protect the natural and cultural heritage of land within the resorts and to encourage environmentally sustainable development.

Under the provisions of section 4.15 of the Precincts - Regional SEPP, the NPWS have a commenting role as the land manager which includes administering the Plan of Management framework for KNP that incorporates objectives, principles and policies to guide the long-term management of the broad range of values found in the park.

The Department considers the proposal is consistent with Chapter 4 of the Precincts – Regional SEPP as the proposal appropriately minimises the potential impacts on the environment by restricting works to the existing building footprint area. A separate APZ plan is to be endorsed by the NPWS for the site and land outside of the site (the Applicant and NPWS are in discussions on the content of the APZ plan), to meet the RFS requirements while protecting areas mapped as being of high environmental significance.

## 4 Statutory Context

### 4.1 Consent Authority

Under section 4.6 of the Precincts – Regional SEPP, the Minister for Planning is the consent authority for the application as the development takes place within a ski resort area as referred to in section 32C (2)(a) of Schedule 1 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

In accordance with the Minister's delegation of 9 March 2022, the Team Leader, Alpine Resorts Team may determine the application as:

- no reportable political donation has been disclosed
- there are less than 15 public submissions in the nature of objections
- the application is in relation to land which Chapter 4 of the Precincts - Regional SEPP applies

### 4.2 Permissibility

The proposal includes internal and external alterations to a building while maintaining the use of the site consistent with the definition of 'tourist accommodation' as defined in the Precincts – Regional SEPP. Pursuant to section 4.9 of the Precincts - Regional SEPP, 'tourist accommodation' is permissible with consent within the land use table of Perisher Range Alpine Resort.

### 4.3 Other approvals

#### Rural Fires Act 1997

As the works include external alterations to a tourist accommodation building located on bushfire prone land, an approval is required from the NSW Rural Fire Service (RFS) under section 100B of the *Rural Fires Act 1997* in the form of a Bushfire Safety Authority. Refer to **Section 5** for further discussion on this component.

### 4.4 Mandatory Matters for Consideration

#### Objects of the EP&A Act

In determining the application, the consent authority is to consider whether the proposal is consistent with the relevant objects of the EP&A Act. The Department has considered the proposal against the relevant objects of the EP&A Act in **Appendix B**. The Department is satisfied the proposal is consistent with the objects as:

- the works are aimed at improving the amenity and functionality of the existing tourist accommodation building, thereby supporting the orderly and economic use of the site
- there would not be an unacceptable impact on the environment, with impacts upon native vegetation limited where possible and rehabilitation proposed to disturbed areas at the completion of works



- the proposal does not impact upon cultural heritage, including Aboriginal cultural heritage
- the application is capable of achieving compliance with relevant construction standards
- the Department provided opportunities for community participation in the assessment process, which included exhibiting the application, notifying adjoining landowners, and displaying the proposal on the NSW Planning Portal website during the exhibition period. The Department has considered the issues raised in submissions in **Section 6**

### Ecologically Sustainable Development (ESD)

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. ESD initiatives and sustainability have been adequately considered by the Applicant and mitigation measures are proposed to be incorporated into the design.

The proposal is consistent with the ESD principles and the Department is satisfied the proposed works have been developed having regard to the ESD principles, in accordance with the objects of the EP&A Act as follows:

- the proposal does not pose a threat of serious or irreversible environmental damage and relates to works to an existing tourist accommodation building without significantly impacting the existing environment
- the proposal is not expected to adversely impact upon the health, diversity or productivity of the environment for future generations
- the proposal would not result in a significant impact on biodiversity, with the APZ requirement recommended by the NSW RFS to be achieved with acceptable impacts upon the environment
- the Applicant has recognised the value of the environment and designed the development accordingly with environmental impacts only to existing disturbed areas, noting that a majority of the proposed works are internal

### Biodiversity Conservation Act 2016

Section 1.7 of the EP&A Act requires the application of the *Biodiversity Conservation Act 2016* (BC Act) in connection with the terrestrial environment. The BC Act introduced a Biodiversity Offsets Scheme (BOS) that applies when:

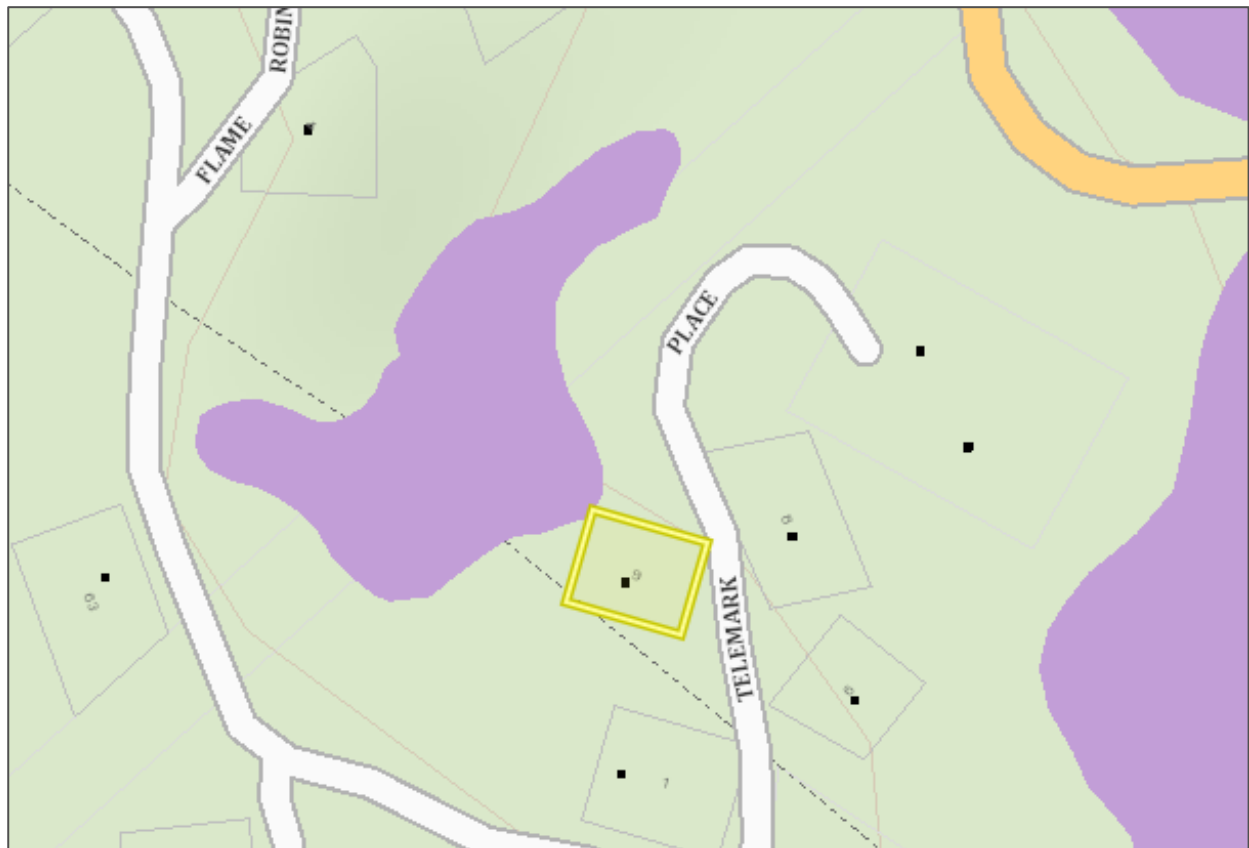
- the amount of native vegetation being cleared exceeds a certain threshold area; or
- the impacts occur within an area mapped on the Biodiversity Values Map (BVM) published by the Minister for Environment; or
- the 'test of significance', in section 7.3 of the BC Act, identifies that the development or activity is likely to significantly effect threatened species or ecological communities, or their habitats; or
- the works are carried out in a declared area of outstanding biodiversity value.

The immediate site and adjoining areas contain a mix of managed land and intact vegetation. Areas containing vegetation have been retained in a draft APZ plan being discussed between the NPWS and the Applicant, which therefore does not trigger any threshold requirements.

The Department has reviewed the mapping and considers the site to be located outside of the BVM (refer **Figure 4**). However, the APZ that is currently being discussed with the NPWS, includes areas outside of the allotment, and within the BVM area. The plan is marked with references to maintain the BVM area.

The Department notes that as a result of the implementation of the APZ, the proposal will not a significant effect on threatened species or ecological communities, or their habitats, given the works are only to the existing building footprint and not an extension of the building.

The Department notes that there is currently no declared area of outstanding biodiversity value within KNP.



**Figure 4** | Biodiversity Value area is shown in purple (site highlighted in yellow) (Source: <https://www.lmbc.nsw.gov.au>)

### Considerations under section 4.15 of the EP&A Act

In determining a development application under section 4.15 of the EP&A Act, a consent authority is required to take a number of matters into consideration in relation to the proposed development. The Department has given due consideration to the matters prescribed under section 4.15(1).

**Table 1** below presents a summary of the matters for which consideration outlined further in **Section 6** (Assessment) of this report and references other relevant appendices and sections outlined in this report.

**Table 1 | Section 4.15(1) Matters for Consideration**

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument (EPI)	<p>The Precincts - Regional SEPP is the principal EPI which applies to the site for this type of development. An assessment against the requirements of the Precincts - Regional SEPP is provided in <b>Appendix B</b>.</p> <p>The Department is satisfied that the application is consistent with the requirements of Chapter 4 of the Precincts – Regional SEPP.</p>
(a)(ii) any proposed instrument	Not applicable to the proposal.
(a)(iii) any development control plan	Not applicable to the proposal.
(a)(iiia) any planning agreement	Not applicable to the proposal.
(a)(iv) the regulations	<p>The application satisfactorily meets the relevant requirements of the EP&amp;A Regulation, particularly the procedures relating to development applications (Part 6) and fees (Part 15, Division 1) of the EP&amp;A Regulation 2000 at the time of lodgement.</p> <p>The Department has undertaken its assessment in accordance with all relevant matters as prescribed by the regulations, the findings of which are contained within this report.</p>
(a)(v) any coastal zone management plan	Not applicable to the proposal.
(b) the likely impacts of that development	<p>The Department has considered the likely impacts of the development. All environmental impacts can be appropriately managed and mitigated through conditions of consent.</p> <p>The proposal would have positive economic and social impacts for visitors and guests of the Dianella Ski Club and visitation to Perisher Range Alpine Resort.</p>
(c) the suitability of the site for the development,	The site is suitable for the development and supports the ongoing use of the building.

(d) any submissions made in accordance with this Act or the regulations,

Consideration has been given to agency and public submissions received during the exhibition period. See **Section 5** of this report.

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(e) the public interest.

The works are consistent with the aim and objectives of Chapter 4 of the Precincts – Regional SEPP, would be compatible to the uses of the locality and would not have an adverse impact on the environment. The proposal is consistent with the principles of ESD.

As such, the proposal is believed to be in the public interest.

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## 5 Engagement

### 5.1 Department's engagement

The Department's Community Participation Plan, November 2019, prepared in accordance with schedule 1 of the EP&A Act requires applications seeking development consent to be exhibited for a period of fourteen (14) days. However, applications under Chapter 4 of the Precincts - Regional SEPP are not required to be publicly exhibited if the proposal relates to works which are wholly internal to a building or where the site is located more than 50 metres away from a tourist accommodation building.

As part of the works include external alterations to an existing tourist accommodation building within 50 metres of other tourist accommodation buildings, the Department exhibited the application between 12 November 2020 until 26 November 2020 on the NSW Planning Portal website.

The application was exhibited to nearby lodges and forwarded to the NSW Rural Fire Service (RFS) pursuant to section 4.46 of the EP&A Act (integrated development) as a Bushfire Safety Authority under the *Rural Fires Act 1997* is required for the development to be carried out.

The application was also referred to the NPWS pursuant to section 4.15 of Chapter 4 of the Precincts – Regional SEPP.

### 5.2 Summary of submissions

During the exhibition period, the Department received comments from the NPWS and RFS. One public submission was received in support of the proposal from an adjoining Club.

#### NPWS

The NPWS did not object to the proposal and provided comments and recommended conditions on leasing and the KNP Plan of Management (increase in bed numbers is within the existing lease), BC Act, protection of native vegetation fauna and fauna habitats, Aboriginal cultural heritage, plumbing and drainage.

The NPWS comments also noted that an APZ plan for both the implementation and ongoing maintenance of an APZ was approved by NPWS on 9 March 2020. This initial approval was via email however formal (letter) approval will be provided to the proponent to clearly demonstrate the area of APZ approved for ongoing vegetation management under the *National Parks and Wildlife Regulation 2019*.

A condition is proposed to address the need to obtain the APZ plan endorsement prior to the issue of the construction certificate.

#### RFS

The RFS originally sought additional information prior to considering the application, including consideration of requirements associated with redevelopment of existing Special Fire Protection Purpose buildings and providing land manager consent for APZ outside of lease areas (the Department notes that the application included an email from the NPWS supporting an original management plan only).

The Applicant provided additional bushfire commentary to the RFS, however the RFS required a further review of *Planning for Bushfire Protection 2019* and additional review of the APZ plan.

Following discussions with the NPWS, an amended APZ plan that included additional vegetation management outside of the lease area (to a greater distance than the 9 March 2020 endorsed plan) was prepared including distances meeting BAL 40 construction on the western elevation and BAL 29 on the remaining sides. The APZ plan endeavoured to reduce the construction requirement imposed by utilising shielding considerations where the eastern window is to be moved. The plan ensured the retaining of BVM land, a key consideration for NPWS.

The RFS reviewed the additional information, however, did not support a reduction of construction requirements on the eastern elevation. The RFS issued a Bush Fire Safety Authority (BFSA) under Clause 100B of the *Rural Fires Act 1997*, that includes, but not limited to:

- that all land within the identified APZ plan must be managed as an inner protection area (IPA)
- new construction must comply with Bushfire Attached Level 40 (BAL 40) construction requirements
- the existing building is to be upgraded to improve ember protection (if not already constructed to the BAL under AS 3959)

The Applicant amended the southern elevation during consideration of the Application. The RFS did not raise any concerns with the amendment, with the issued BFSA remaining in place.

In order to address the RFS requirements for an IPA being provided, implementation of the APZ plan is to occur prior to commencement of works to the building. A condition is recommended to address this component.

## 6 Assessment

The Department has considered the relevant matters for consideration under section 4.15 of the EP&A Act, the Statement of Environmental Effects (SEE) and supporting information in its assessment of the proposal. The key issues in the Department's assessment are:

- built form and impacts of the works
- design details and standards
- managing construction impacts

Each of these issues is discussed in the following sections of this report.

### 6.1 Built form and amenity impacts of the works

#### Internal changes

The proposal includes internal alterations to existing bedrooms / a bunk room and an adjacent WC, while still within the existing lease requirements of 14 beds under the KNP POM. The reconfiguration of the bedrooms / WC is intended to provide improved privacy and amenity to the bedrooms, without negatively impacting the operation of the Club.

The Department raised concerns with the size of the proposed bunk room to meet compliance with the *Public Health Regulation 2012* in relation to the floor area requirement for sleeping accommodation. The Applicant amended the proposal through a reduction in the number of beds within the room from four back to two beds.

The NPWS raised no concerns in terms of compliance with the existing leasing arrangements for the site. It is noted that the existing lease has capacity for 14 beds on the site, with the Applicant indicating that no increase from the existing 10 beds currently utilised on the site is being proposed.

The Department's assessment concludes that the proposed internal works to the building are acceptable and ensures the ongoing operation of the building (with improved facilities for guests and visitors).

#### External changes

As a consequence of the proposed internal reconfigurations, external alterations are required to relocate an existing WC window on the eastern elevation (**Figure 5**) and the filling in of a window on the southern elevation. The subsequent installation of new cladding is to complement the colour and profile of the existing cladding provided on the building – new cladding would need to be of non-combustible materials but couldn't be a bushfire resistant hardwood that the Applicant originally intended (when noting the RFS requirements).

The works have minimal impact upon the amenity of adjoining properties, except during construction, however these will only be short term and are acceptable. Adjoining properties were notified and raised no concerns regarding the proposed works.

The NPWS also raised no concerns in terms of leasing or impacts upon native vegetation. An APZ plan for vegetation management for the site and areas outside of the site to meet RFS requirements has also been endorsed.

The Department's assessment concludes that the proposed works to the exterior of the building are acceptable and ensures the ongoing operation of the building (with improved facilities for guests and visitors), while undertaking works that do not negatively impact the built form, environment and adjoining lodges.



**Figure 5 |** Proposed eastern elevation illustrating the existing of the works – noting however RFS requirements to meet BAL 40 requirements rather than BAL 29 as indicated by the Applicant (Source: Applicant's documentation)

## 6.2 Design details and standards

The proposed works, when constructed, are to comply with the Building Code of Australia (BCA) and relevant Australian Standards. The Department has also considered whether any upgrades to the building are required as part of its assessment in accordance with section 64 of the EP&A Regulation.

- The existing Fire Safety Schedule issued by the Department identifies the building as Class 3 under the BCA. It is likely that this follows from the overall lease arrangements for the site, being for 14 people. However, there is also correspondence between the Club and the Department regarding a Class 1b classification based on the Club confirming they do not exceed 12 people. Given that the final proposed development now only includes bedding configuration for 10 people, the most appropriate classification could be considered by a Certifier to be a Class 1b building. However, given there is no change in use it is unlikely to change.



In addition, section 14(3) of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* provides that a Certifier must not issue a construction certificate for alteration building work unless, on completion of the building work, the fire protection and structural capacity of the building will not be reduced. As a result, any essential fire safety measures over and above those ordinarily required in a Class 1b building would be required to remain and included in any subsequent fire safety schedule.

- All new work (or work as part of the DA) must comply with the BCA. The Department considers that compliance with the BCA is achievable, with documentation confirming compliance required to be provided at the Construction Certificate stage.
- Compliance with the *Disability Discrimination Act 1992 (DDA)*, and therefore the Access to Premises Standards prepared under the DDA, is triggered at Construction Certificate stage. Ensuring compliance with the DDA is the responsibility of the building owner, manager and Certifier. Conditions have been included to ensure the building owner, manager and Certifier are aware of these obligations.
- Section 64 of the EP&A Regulation requires a consent authority to review a building and consider whether upgrades are warranted to bring the existing building into total or partial compliance with the BCA.

Following a review of the building and consideration of current fire safety measures (as identified and certified as per the Annual Fire Safety Statement), the Department identified that handrails on some stairs were missing, balustrades were non-compliant and non-slip measures were not applied to stairs. As a consequence, the following condition is recommended:

*All paths of egress, including head heights, non-slip provisions, handrails, balustrades are required to be upgraded to provide safe egress from the building in the event of an emergency. Compliance must be demonstrated by complying with the appropriate Deemed to satisfy provisions of the BCA or through the formulation of a performance solution in accordance with the performance requirements of part 2.5 "Safe movement and access".*

The Applicant also noted that the existing location of the fire hose reel in the ground floor corridor is non-compliant with the National Construction Code as it is more than 4 metres to an exit. The proposal seeks to move the hose reel adjacent to the main entry / egress on the lower ground floor. No concerns are raised with this relocation.

- Alterations to the bedrooms require consideration of compliance with the *Public Health Regulation 2012* in relation to compliance with the floor area requirement for sleeping accommodation. This requires a minimum of 2m<sup>2</sup> or more for each person in cases which do not provide long-term sleeping (i.e. staff accommodation rooms).

Following additional discussions with the Department, the Applicant amended the bunk room proposal to only two beds and providing a minimum of 4m<sup>2</sup> to meet the minimum requirements.

- In relation to bushfire, the BCA requires construction to comply with the BFSa issued by the RFS. The BFSa is incorporated into the conditions of the consent and compliance must be verified at the construction and occupation certificate stages.

The BFSa requires that:

- New construction must comply with Sections 3 and 8 (BAL 40) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant BAL 40 requirements of the NASH Standard - *Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015)*. New construction must also comply with the construction requirements in section 7.5 of *Planning for Bush Fire Protection 2019*.
- The existing building must be upgraded to improve ember protection (if not already constructed to the relevant Bushfire Attack Level under Australian Standard AS3959). The existing building can improve ember protection by undertaking some or all of the following; enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any subfloor areas, openable windows, vents, weep holes and eaves. External doors are to be fitted with draft excluders. The proponent must submit details of the proposed upgrades to improve ember protection with the application for the Construction Certificate.

Details of proposed upgrades to improve ember protection shall be submitted with the application for the Construction Certificate.

- Ensuring the proposal meets snow and wind loading requirements is a key consideration of the Department's assessment in the NSW Alpine environment. With adverse weather conditions at times, the external alterations to the building needs to be constructed appropriately. The Department has recommended that structural certification be provided prior to the issue of an occupation certificate for the works.

The Department concludes that subject to compliance with the conditions of consent, including references to the BCA which is to be addressed by the certifier at the Construction Certificate stage, the proposal is satisfactory and would improve the amenity of the building for its occupants.

### 6.3 Managing construction impacts

Given the scope of the works and that the site is predominantly previously disturbed, it is unlikely that the construction of the proposal will cause any adverse impact upon the natural environment. The proposal is in keeping with the use of the building for tourist accommodation and the construction activities will not generate any vegetation disturbance (outside of the areas supported by NPWS to be managed to meet RFS APZ requirements).

Parking is available at the site during construction. Construction impacts such as noise and vibration will be short term and managed in accordance with standard environmental conditions. The Applicant will be required to provide a Site Environmental Management Plan outlining waste management, dust and noise minimisation strategies as well as material storage, prior to the issuing of a construction certificate. It is also noted that construction is to occur outside the ski season.

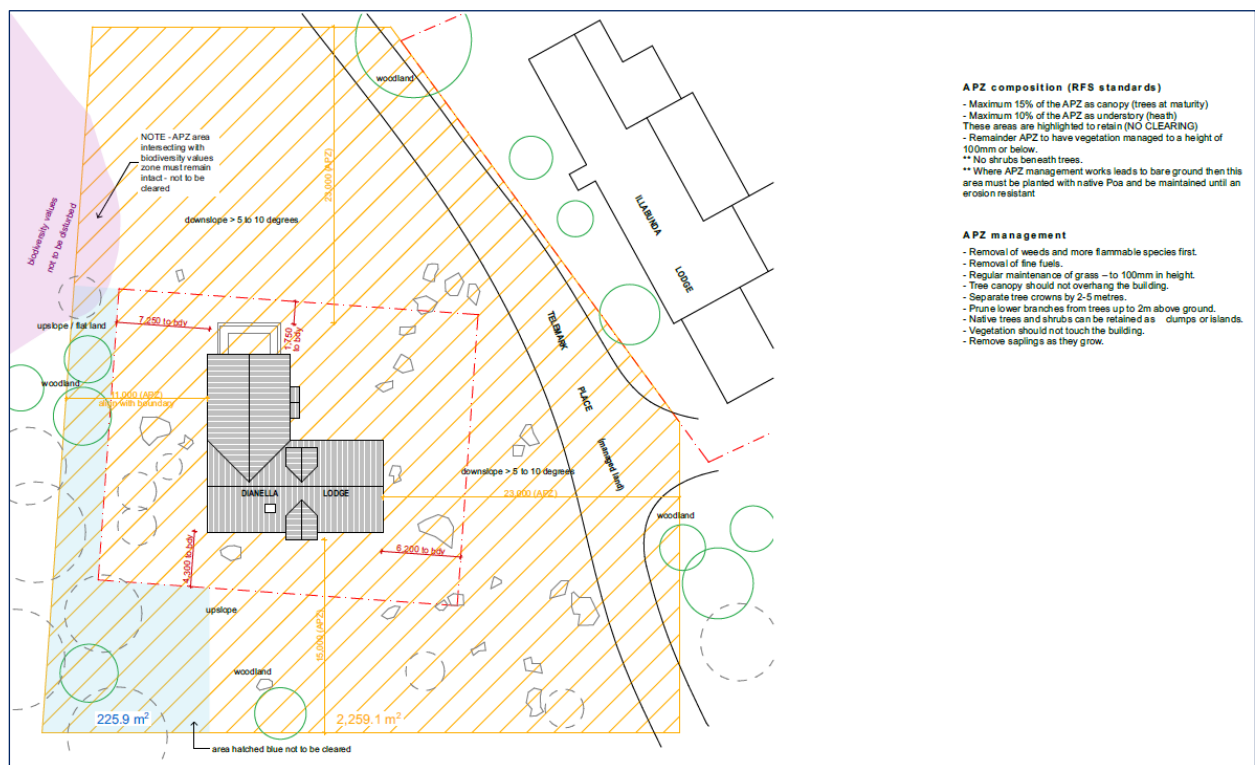
The Department has recommended standard construction conditions applied in the Alpine area, along with recommended conditions from the NPWS and RFS. Subject to compliance with these conditions, the Department is of the view that the proposed works would not impact upon nearby buildings or the environment.

## 6.4 Asset protection zone management

Prior to lodgement of the Application, the Applicant and NPWS discussed an APZ plan for the proposal that included management of land outside of the allotment. An email was prepared by NPWS and provided to the Applicant for submission with the Application.

During the assessment of the original proposal, the RFS however sought additional information prior to considering the application, including providing formal land manager consent for the APZ to occur outside of the lease area. This was on the basis that formal management of the land outside of the lease area was required to enable consideration of a reduced BAL standard (to BAL 29 distances), rather than building the external works to meet BAL FZ.

Following further discussions with the NPWS, an APZ plan was prepared that included additional vegetation management outside of the lease area to meet BAL 40 construction on the western elevation and BAL 29 on the remaining sides. This plan identified the importance of retaining areas of vegetation mapped on the BVM (Figure 6), a key consideration for NPWS, within this larger area of management.



**Figure 6 |** Proposed APZ plan in discussions with NPWS, with areas of BVM land indicated (Source: Applicant's documentation)

The Department notes that the issued BFSa from the RFS requires the proposal to be constructed to a BAL 40 standard, which would reduce the overall area of required management as part an APZ. The Applicant has chosen not to amend the submitted APZ plan and NPWS have not raised concern with this approach.

As the APZ plan has not been endorsed formally by the NPWS, the NPWS have indicated a willingness to address any formalisation after determination of the application. The Department has therefore recommended that a final plan be endorsed prior to the issue of the construction certificate and implementation to occur prior to commencement of works.

## 7 Evaluation

The Department has assessed the merits of the proposal in accordance with the relevant requirements of the EP&A Act and considered the submissions from RFS and the NPWS. The Department's assessment concludes the proposal is acceptable as:

- there will not be a significant impact on any threatened species, populations or ecological communities as confirmed by the Applicant and concurred with by the NPWS
- the alterations to the club are complimentary to the existing building, noting that external changes are limited to a relocated window on the eastern elevation and removal of a window on the southern elevation
- the internal works improve the amenity and functionality of the tourist accommodation building without impacting on any adjoining properties
- construction impacts on the surrounding environment would be minimised by using existing disturbed areas for stockpiling of building materials and for parking
- the recommended conditions would require all disturbed areas to be rehabilitated following construction and the maintenance of an Asset Protection Zone (APZ) outside of the lease area (to be endorsed by the NPWS)

Overall, the Department is satisfied that the proposal is suitable for the site and in the public interest. The Department therefore recommends that the application be approved subject to recommended conditions.

## 8 Recommendation

It is recommended that the Team Leader, Alpine Resorts Team, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **accepts** and adopts all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants** consent for the application in respect of DA 10640, subject to the recommended conditions
- **signs** the attached Development Consent (**Appendix C**)

**Recommended by:**



13 September 2022

**Mark Brown**

Senior Planner

Alpine Resorts Team

## 9 Determination

The recommendation is **Adopted / Not adopted** by:



13 September 2022

**Daniel James**

Team Leader

Alpine Resorts Team

as delegate of the Minister for Planning



# Appendices

## Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the NSW Planning Portal website as follows.

1. Statement of Environmental Effects
2. Submissions
3. Additional information

## Appendix B – Statutory Considerations

### OBJECTS OF THE EP&A ACT

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent/ approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects.

Therefore, in making an assessment, the objects set out in section 1.3 of the EP&A Act should be considered to the extent they are relevant. A response to the objects is provided in the table below.

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The proposal supports the ongoing use of the tourist accommodation building through providing improved functionality and amenity, without a negative impact on the environment. The location of the works and construction impacts will minimise impacts on the environment.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal would not have an unacceptable impact on the environment thus being ecologically sustainable development. Mitigation measures during construction and rehabilitation of impacted areas are supported.
(c) to promote the orderly and economic use and development of land,	The development seeks approval for works that are aimed at supporting the ongoing use of the site for 'tourist accommodation'.
(d) to promote the delivery and maintenance of affordable housing,	Not applicable to this proposal.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The impacts upon the environment have been limited where possible. All proposed works will be located within the existing disturbed areas (utilising existing footings and structures) and building materials will be stored on an existing concrete slab under the deck.

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposed development is not anticipated to result in any impacts upon built or cultural heritage, including Aboriginal cultural heritage.
(g) to promote good design and amenity of the built environment,	The Department considers that the proposal responds to its existing setting, built form and minimises impacts upon natural environment.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The Department has recommended conditions of consent to ensure the construction of the proposal is undertaken in accordance with legislation, guidelines, policies and procedures (refer to <b>Appendix C</b> ).
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposal ( <b>Section 5</b> ), which included consultation with government agencies and consideration of their responses.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the proposal ( <b>Section 5</b> ), which included notifying the neighbouring lodge, displaying the application on the NSW Planning Portal website and at the Department's Jindabyne office.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

To satisfy the requirements of section 4.15(a)(i) of the EP&A Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment.

*State Environmental Planning Policy (Precincts - Regional) 2021* (Precincts - Regional SEPP) is the only EPI applicable to the development. Consideration of Chapter 4 of the Precincts - Regional SEPP is provided below:

### Section 4.12(1) - Matters to be considered by consent authority

(a) the aim and objectives of this policy, as set out in section 4.1	The proposal is consistent with the aim and objectives of Chapter 4 of the Precincts - Regional SEPP in that it is consistent with the principles of ESD and supports the ongoing use of the site for 'tourist accommodation'.
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(b) the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),	The proposal is appropriate as it allows alterations and additions to an existing building, while having an acceptable impact on the environment. Natural hazards have been adequately addressed.
(c) the cumulative impacts of development on existing transport, effluent management systems, waste disposal facilities or transfer facilities, and existing water supply,	No adverse cumulative impacts are anticipated as the proposal will not result in any changes to existing transport, effluent management systems, waste disposal facilities, transfer facilities or water supply.
(d) any statement of environmental effects,	The SEE and additional information supplied are considered adequate to enable a proper assessment of the works.
(e) the character of the alpine resort,	The proposal would not adversely alter the character of the resort.
(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	<p>The site is within the G zone identified on the Department's Geotechnical Policy – Kosciuszko Alpine Resorts Perisher Map.</p> <p>The Applicant did not comment on geotechnical matters, noting in the SEE that no constraints of slope or geotechnical hazards (amongst others) are relevant to the proposed works.</p> <p>The Department has reviewed the proposed works and consider that the amendments to the existing building would not impact upon the existing load bearing capacity of the building.</p> <p>The Department raises no concerns with the proposal.</p>
(g) any sedimentation and erosion control measures,	Sedimentation and erosion control conditions are recommended, including the preparation of a Site Environmental Management Plan (SEMP) prior to the commencement of works.
(h) any stormwater drainage works proposed,	No negative impacts to stormwater or drainage are anticipated, with the NPWS recommending that all stormwater drainage to be to the satisfaction of the NPWS Perisher Team.

(i) any visual impact of the proposed development, particularly when viewed from the Main Range,	The works are complimentary to the existing building and do not negatively impact upon the landscape or adjoining buildings. As the proposed works are predominately internal, the development will not to be viewed from the Main Range.
(j) any significant increase in activities, outside of the ski season,	The proposal does not result in an increase in activities outside the ski season.
(k) if the development involves the installation of ski lifting facilities,	The proposal does not involve the installation of any new ski lifting facilities.
(l) if the development is proposed to be carried out in Perisher Range Alpine Resort: the document entitled Perisher Range Resorts Master Plan (PRRMP) and the document entitled Perisher Blue Ski Slope Master Plan,	The proposal has been considered against the criteria within the PRRMP and the Department concludes that the works to the building supports its continued use as a tourist accommodation building.
(m) if the development is proposed to be carried out on land in a riparian corridor.	Not applicable to this proposal.

#### Section 4.13 – Additional matters to be considered for buildings

Building Height	The proposed works do not increase the height of the existing building.
Building Setback	The works do not reduce the existing setbacks and maintains the current building alignments.
Landscaped Area	<p>The proposal does not negatively impact existing native vegetation and therefore is appropriate.</p> <p>Separate vegetation management of the site is required to meet RFS requirements, which have been separately endorsed by the NPWS.</p>

#### Section 4.15 – applications referred to the National Parks and Wildlife Service

The proposal was referred to the NPWS pursuant to section 4.15 of the Precincts - Regional SEPP. Refer to comments received at **Section 5** and as required, discussions on the proposal at **Section 6**.

#### Section 4.24 – Heritage conservation

European heritage

The proposal would not impact on any European heritage items.

Aboriginal heritage

The NPWS raised no concerns, however recommended that should any Aboriginal objects be uncovered during construction, any works impacting the objects must cease immediately and the NPWS contacted for assessment of the site.



## **Appendix C – Recommended Instrument of Consent**