



Clancy Ski Lodge, Smiggin Holes

Development Application Assessment
DA 10657

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Glossary

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

Executive Summary

This report outlines the assessment of Development Application (DA 10657) lodged by Robert Mather (the Applicant on behalf of Clancy Ski Lodge) seeking approval for alterations and additions to Clancy Ski Lodge, Smiggin Holes, Perisher Range Alpine Resort within Kosciuszko National Park (KNP).

The application seeks approval to undertake alterations and additions to the existing tourist accommodation facility including:

- works to improve ensuites off Bedrooms 1 to 8
- replacement of the existing timber decking and balcony (off the games room) and installation of a new handrail / balustrade with the area beneath the deck filled in to create a new wood store area
- extension to the existing ground floor managers room (extension confined to existing building footprint and to be extended no further than existing side awning)

On 1 March 2022, the *State Environmental Planning Policy (Kosciuszko National Park-Alpine Resorts) 2007* (the Alpine SEPP) was consolidated into of the *State Environmental Planning Policy (Precincts - Regional) 2021* (Precincts - Regional SEPP). The SEPP consolidation is administrative. 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 16 December 2020 until 29 January 2021 (extended due to the Christmas / New Year holidays) as the works include internal and external alterations to an existing tourist accommodation building within 50 metres of other tourist accommodation buildings. No public submissions were received.

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 items 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 the NPWS
- the new additions to the building are complimentary to the existing building and its landscape setting
- 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 APZ outside of the lease area (as 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 lodge, which in turn supports the 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 10657 lodged by Robert Mather (the Applicant on behalf of Clancy Ski lodge) for works to Clancy Ski Lodge, 21 Plum Pine Road (Lot 180 DP 756697), Smiggin Holes, Perisher Range Alpine Resort within KNP (**Figure 1**).

The Applicant is seeking development consent to undertake internal and external alterations to the existing tourist accommodation facility. Internal renovations are proposed to Bedrooms 1 to 8 including the removal of non-structural dividing walls in ensuites 2, 4, 6 and 8 and upgrading to existing appliances.

External works include replacement of the existing timber decking and balcony (off the games room) and installation of a new handrail / balustrade with the area beneath the deck filled in to create a new wood store area. In addition, the existing wood storage area, is to be utilised as an extension to the existing ground floor managers room (extension confined to existing building footprint and to be extended no further than existing side awning).



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

The Department's assessment considers all documentation submitted by the Applicant, including the Statement of Environmental Effects (SEE) and accompanying information, the Applicant's response to government authority submissions including amended plans, and submissions from government authorities. The Department's assessment also considers the legislation and planning instruments relevant to the site

and the development, including broader planning principles relating to ecologically sustainable development.

This report describes the development, surrounding environment, relevant strategic and statutory planning provisions and the issues raised in submissions. The report evaluates the issues associated with the development and concludes that the development is in the public interest and should be approved, subject to conditions.

1.2 Site location and context

The subject site is known as Clancy Ski Lodge, 21 Plum Pine Road (Lot 180 DP 756697), Smiggin Holes, and has an allotment area of approximately 1,702m². The existing building, used for tourist accommodation, is located on the eastern fringe of the Smiggin Holes developed area and contains 11 bedrooms, a large lounge / dining room and a separated games / storage area connected to the main building by an enclosed walk way. Access to the site is off Plum Pine Road, with parking available within the site or off Plum Pine Road.

The existing building is two storeys in height and is constructed of a mixture of materials, ranging from rock walls, timber cladding and a metal colorbond roof (**Figure 2**). The site is identified as bushfire prone land, with native heath vegetation and existing Snowgums surrounding the site, with the land managed following implementation of an Asset Protection Zone plan endorsed by the NPWS.

The surrounding development is characterised by native vegetation and other tourist related accommodation premises including IMBAC to the north and Snowy Gums to the west.



Figure 2 | Photograph of area to be enclosed for new wood store (Source: Department inspection)

2 Project

The application seeks approval to undertake:

- internal renovations to Bedrooms 1 to 8 including the removal of non-structural dividing walls in ensuites 2, 4, 6 and 8 and upgrading to existing appliances (**Figure 3**)
- external works include replacement of the existing timber decking and balcony (off the games room) and installation of a new handrail / balustrade with the area beneath the deck filled in to create a new wood store area

In addition, the existing wood storage area, is to be utilised as an extension to the existing ground floor managers room (extension confined to existing building footprint and to be extended no further than existing side awning) **(Figure 3)**

The Applicant comments that the proposal would have minimal impacts on the natural environment, with most of the proposed works on internal features only. The proposed external addition of extending the managers room is to be confined within the existing building footprint and to end at the edge of existing awning. The extension will be located where existing ground disturbance has occurred.

In addition, the proposed alterations have been designed to minimise any amenity impacts on the neighbouring properties and is not expected to generate any negative social or economic issues. The upgrades will provide greater amenity to the manager of and guests to the building as well as offering commercial options to the greater Smiggin Holes community and visitors to the area.

The proposal has a cost of works of approximately \$172,000.

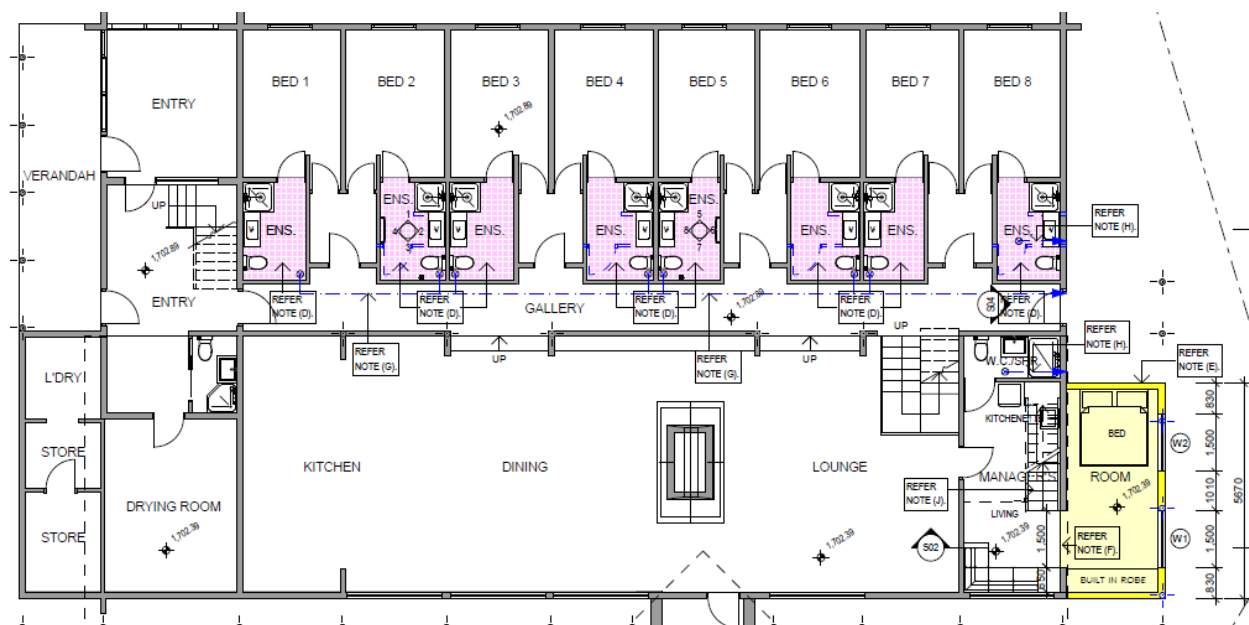


Figure 3 | Extent of internal bathroom renovations and extension to Manager's room (Source: Applicant's documentation)

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 improve the amenity for the manager of the ski lodge with additional floor area and improve facilities, while also improving the amenity of guests with new bathroom facilities. Improvements to the functionality of tourist accommodation buildings for its guests and visitors is supported and leads to additional visitation to the NSW ski resorts.

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 and Smiggin Holes.

The Department considers the proposal to be consistent with the Master Plan as it relates to maintaining and refurbishing existing visitor accommodation and enhancing visitor amenity while maintaining the environmental, cultural and landscape attributes of the setting and low-density village character of Smiggin Holes.

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 National Parks and Wildlife Service (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 Asset Protection Zone (APZ) plan has also been endorsed by the NPWS for the site and land outside of the site, to meet the RFS requirements.

The proposal enhances an existing tourist accommodation in the Perisher Range Alpine Resort, which contributes to the ongoing range of accommodation options available for visitors to KNP without resulting in adverse environmental, social or economic impacts on the natural or cultural environment.

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 Clause 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 alterations and additions to a building while maintaining the use of the site consistent with the definition of 'tourist accommodation' as defined in Chapter 4 of the Precincts - Regional SEPP. Pursuant to section 4.9 of the Precincts - Regional SEPP, 'tourist accommodation' is permissible with consent within 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

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 ESD principles and the Department is satisfied the proposed works have been developed having regard to 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
- 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 Asset Protection Zone (APZ) requirement limited to areas endorsed by NPWS (the Applicant has already undertaken arrangements to meet these requirements)

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 Department notes that the NPWS originally have approved an APZ plan for both implementation and ongoing maintenance of the site and outside of the allotment. The Applicant has undertaken these works. While the site contains areas mapped on the BVM (refer **Figure 4**), no additional vegetation impacts are required as part of this development application given the approved APZ plan.

The Department notes that as a result of the above, the proposal will not a significant effect on threatened species or ecological communities, or their habitats, given the implementation of the APZ requirements and that any external works are within the building footprint.

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 (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.

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)	The Precincts - Regional SEPP is the only EPI which applies to the site for this type of development. An assessment against the requirements of Chapter 4 of the Precincts - Regional SEPP is provided in Appendix B .

	The Department is satisfied that the Application is consistent with the requirements of Chapter 4 of the Precincts - Regional SEPP.
(a)(ii) any proposed instrument	Not applicable to the proposal.
(a)(iii) any development control plan	Not applicable to the proposal.
(a)(iia) any planning agreement	Not applicable to the proposal.
(a)(iv) the regulations	<p>The application satisfactorily meets the relevant requirements of the EP&A Regulation, particularly the procedures relating to development applications (Part 4 and Part 4) and fees (Part 13 and Schedule 4).</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 Clancy Ski Lodge 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.
(e) the public interest.	<p>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.</p> <p>As such, the proposal is believed to be in the public interest.</p>

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 of 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 public 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 from 16 December 2020 until 29 January 2021 (extended due to the Christmas / New Year holidays) 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

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, BC Act, protection of native vegetation fauna and fauna habitats, Aboriginal cultural heritage, and 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 20 February 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*.

As a result of further discussions to comply with RFS requirements, the NPWS agreed on 12 July 2021 to a further amended APZ increasing distances to be managed outside of the allotment area.

RFS

The RFS originally sought additional information prior to considering the application, including support for the originally proposed BAL 40 construction recommendation and further review of the vegetation classification for the site (review of distances outside of lease area and discussion with NPWS on an amended APZ plan).

The Applicant provided additional bushfire commentary and following the amended APZ plan (**Figure 5**) being endorsed by the NPWS, the application was referred back to the RFS.

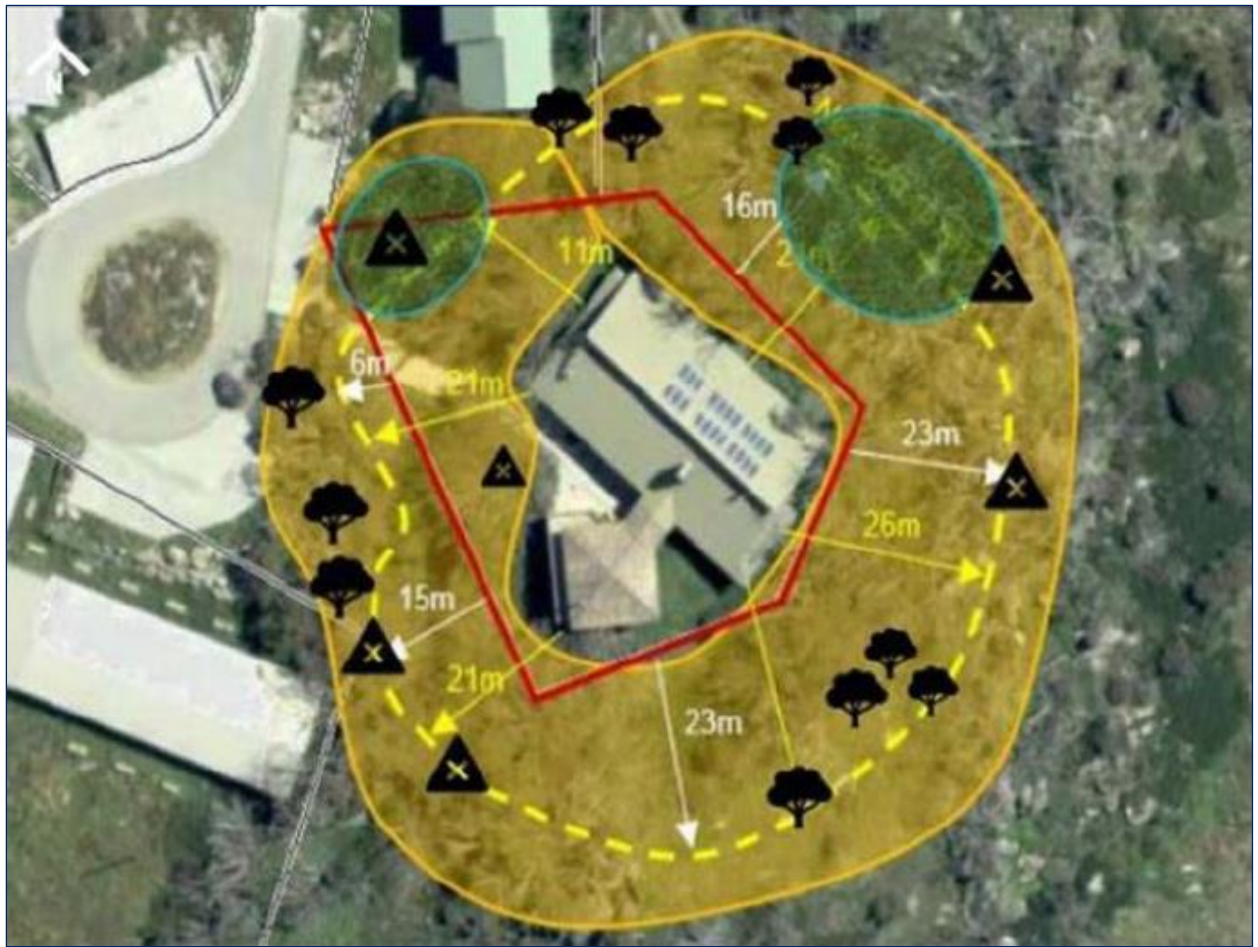


Figure 5 | Amended APZ plan and distances to dashed line endorsed by NPWS (Source: NPWS correspondence)

The RFS reviewed the additional information, and issued a Bush Fire Safety Authority (BFSA) under Clause 100B of the *Rural Fires Act 1997* for the proposal, 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

In order to address the RFS requirements, conditions are recommended to address the implementation (APZ, construction standards and other BFSA requirements) and ongoing management of the site.

6 Assessment

The Department has considered the relevant matters for consideration under section 4.15 of the EP&A Act, the 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 ensuites within Bedrooms 1 to 8 by removing non-structural dividing walls in ensuites 2, 4, 6 and 8 and upgrade to existing appliances (**Figure 3**). The reconfiguration of the ensuites is intended to provide improved facilities for the guests staying with the ski lodge, and is the final bathroom improvement proposed to compliment those already upgraded in approximately 2010.

NPWS raised no concerns with the alterations to be ensuites and recommended the inclusion of plumbing and drainage requirements.

The Department considers that the proposed works would upgrade the existing ensuites and improve the amenity for the benefit of guests / visitors to the ski lodge. This component of the Application is supported.

External changes

The external works are incorporated into two sections, one being the relocation of the wood store area and the other being the extended manager's room following the removal of the wood store and building in of the area under the existing roof line. These matters are discussed below.

Balcony and enclosure of area under balcony

The existing external balcony and balustrade off the games room are to be replaced and the Applicant intends to enclose the underneath area to be utilised as the relocated wood store (**Figure 6 and 7**). The existing bearers and joists of the balcony are to be checked for structure integrity and replaced if necessary.

The Department initially raised concerns with this arrangement, as in an emergency, occupants would need to exit initially through double doors and then through the wood store that could include obstructions.

Following further review of the proposal and discussions with the Applicant, the Department has recommended that a condition of consent be incorporated that requires the Applicant to identify a clear path of travel between the two doors to ensure exiting the building is unobstructed by timber within the wood store.

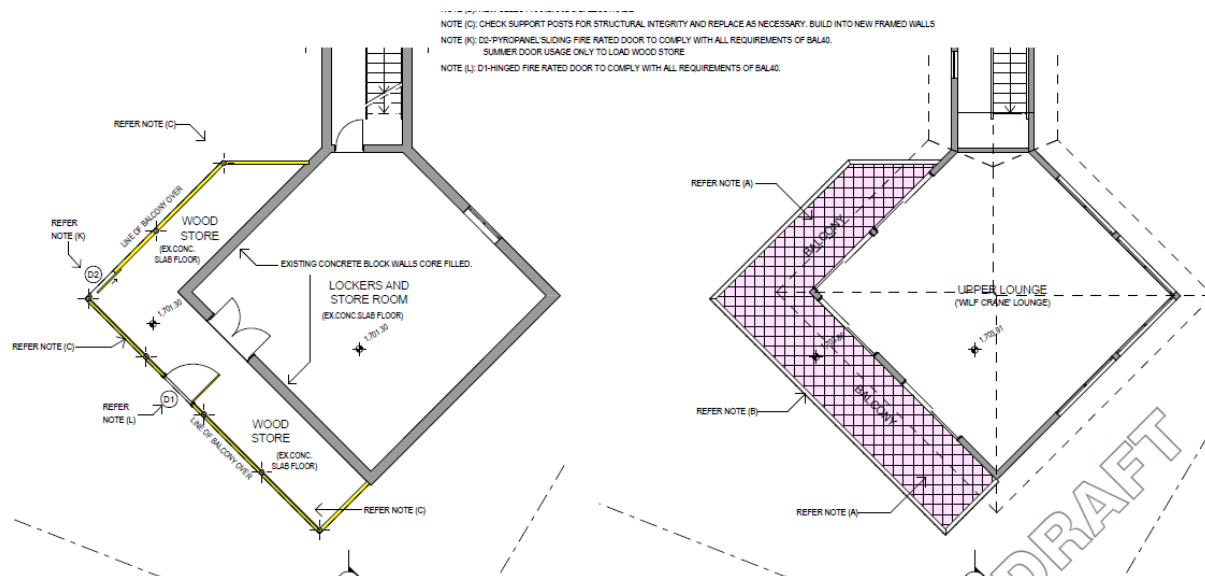


Figure 6 | Proposed wood store location off locker / storage room (Source: Applicant's documentation)



Figure 7 | Photograph of area to be enclosed for new wood store (Source: Department inspection)

The Departments building surveyor has also raised concerns regarding the alteration to the balcony and handrail. To ensure compliance is achieved with the BCA, a condition is recommended ensuring the requirements for bushfire, waterproofing and structural adequacy are all considered.

The Department also notes that the existing slab is being used as a floor to the proposed wood storage area. The Departments building surveyor raised concerns as to the suitability of this slab particularly with regards to moisture barriers, structural adequacy. A condition is recommended seeking verification and clarity ensuring compliance with the Building code of Australia.

Manager's room extension

The existing woodstore area is proposed to be enclosed and a slab provided to enable the extension of the adjoining Manager's room (**Figure 8** and **9**). The existing roof serving the current woodstore is proposed to be utilised for the proposed managers extension (i.e. roof structure would remain and the new work to be built underneath and around it).



Figure 8 | Existing southern elevation with managers room window and existing wood store to be relocated (Source: Department inspection)



Figure 8 | Existing roof over wood store to be relocated (Source: Applicant's documentation)

The Department's building surveyor advises that:

- the roof structure is not considered fit for habitable purposes and is recommended that the structure be demolished and rebuilt as part of the application in accordance with its classification and building code requirements.
- all cladding work altered as part of these works (i.e. removal and rectification) is to be addressed by the certifier in the Construction Certificate. A condition requiring information be provided to the certifier and assessed before issuing the respective construction certificate was recommended.
- clarifications are required in relation to floor to ceiling heights, where they are less than the minimum height permissible for a habitable space (proposed plans currently provided are not confirmed). A condition is recommended to alleviate this issue requiring information is to be furnished to the certifier determining the construction certificate to ensure plans demonstrate compliance with the BCA before determining the application.

While the Department supports the extension and increase in floor area for the Manager's room as this would improve the amenity and functionality of the room, compliance with the BCA is to be demonstrated during the construction certificate stage.



Figure 9 | Proposed managers room elevation and section plan (Source: Applicant's documentation)

Conclusion

The proposed external works to the building would 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 improves the operation of the building for the benefit of the onsite manager and also the guests and visitors, while undertaking works that do not negatively impact the built form, environment and adjoining lodges.

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 Regs. The Department notes that compliance with relevant requirements is to be determined at the construction certificate stage by the certifier and in accordance with conditions of consent.

- 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.

Managers Area

- The existing managers bounding construction was identified to be non-compliant by the Departments building surveyor and is recommended to be brought into compliance with minimum FRL requirements and sound insulation. A condition outlining the requirements has been recommended requiring further investigations to be made by way of an expert providing a report outlining works required to be carried out and accompany a construction certificate.
- The Applicant has recommended the removal of the existing stairs and to fully enclose the existing storage area in the Managers Residence. The storage area is to be a non-habitable space and is only to be accessed by an access ladder compliant with AS1657. A condition is recommended for the works to be addressed during the consideration of the construction certificate.

Existing Fire hazard properties to the common areas.

- Information to be furnished clarifying compliance of the building fire hazard properties is recommended as there is a fireplace and carpet directly adjacent to the managers space which is to be reviewed.
- In relation to bushfire, the BCA requires construction to comply with the BFSAs issued by the RFS. The BFSAs are incorporated into the conditions of the consent and compliance must be verified at the construction and occupation certificate stages.

The BFSA requires that:

- In accordance with the recommendations of the Bush Fire Hazard Assessment Report titled 'Project: Alterations & Addition to Existing Lodge 21 Plum Pine Road, Smiggin Holes NSW Lot 180 DP 756697' prepared by Accent Town Planning, Report No. 20112 Revision 02, dated March 2021, all proposed works (excluding internal work) shall comply with Sections 3 and 8 (BAL 40) *Australian Standard "AS3959-2009 Construction of buildings in bush fire-prone areas"* or the relevant BAL 40 requirements of the NASH Standard - *Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015)*. Work must also comply with the construction requirements in Section 7.5 of Planning for Bush Fire Protection 2019.

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 alteration 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 external works is aligned to the existing building footprint, 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 ensure the submitted Site Environmental Management Plan outlining waste management, dust and noise minimisation strategies as well as material storage, is implemented during the works. 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.

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 the NPWS
- the new additions to the building are complimentary to the existing building and its landscape setting
- 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

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 10657, subject to the recommended conditions
- **signs** the attached Development Consent (**Appendix C**)

Recommended by:

A handwritten signature in black ink that reads "Mark Brown." The signature is written in a cursive style with a horizontal line underneath the name.

Mark Brown

Senior Planner

Alpine Resorts Team

9 Determination

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

A handwritten signature in black ink, appearing to read 'Dan', with a stylized, wavy line extending to the right.

Daniel James

Team Leader

Alpine Resorts Team

as delegate of the Minister for Planning

8 December 2022

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

<https://www.planningportal.nsw.gov.au/development-assessment/state-significant-applications/projects/state-development-applications>

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 buildings footprint and building materials will be stored on existing concrete slab driveway / parking areas.
(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 Appendix C).
(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 (Section 5), 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 (Section 5), 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'.
(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 located outside of the G zone identified on the Department's Geotechnical Policy – Kosciuszko Alpine Resorts Smiggin Holes Map.</p> <p>The Application is supported by a Geotechnical Investigation Report and Form 4 from ACT Geotechnical Engineers Pty Ltd. The investigation report concludes by stating that:</p> <ul style="list-style-type: none"> <i>the current load-bearing capacity of the existing building will not be exceeded or adversely impacted by the proposed development, and</i> <i>the proposed works are of such minor nature that the requirement for geotechnical advice in the form of a geotechnical report, prepared in accordance with the "Policy", is considered unnecessary for the adequate and safe design of the structural elements to be incorporated into the new works, and</i> <i>in accordance with AS2870 "Residential slabs & footings", the site is classified as a Class "S" (slightly reactive) site.</i> <p>The Department concludes that potential geotechnical impacts have been addressed appropriately and no concerns are raised in relation to Geotech matters.</p>
(g) any sedimentation and erosion control measures,	Sedimentation and erosion control conditions are recommended, including the adoption of the Site Environmental Management Plan (SEMP) prior to the commencement of works.
(h) any stormwater drainage works proposed,	The NPWS have advised that there would be no change to stormwater drainage from the proposal.

(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.
(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.
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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