



Perisher View, Perisher Valley

Development Application Assessment
DA 21/11288

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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 2000	<i>Environmental Planning and Assessment Regulation 2000</i>
EP&A Regulation 2021	<i>Environmental Planning and Assessment Regulation 2021</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 and Public Spaces
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 21/11288) lodged by Geoanalysis Pty Ltd (the Applicant) seeking approval for the construction of a new commercial ski lodge on a vacant site off Burramys Road, Perisher Valley, Perisher Range Alpine Resort within Kosciuszko National Park (KNP).

The Application was received on 2 August 2021 under the provisions of the *State Environmental Planning Policy (Precincts - Regional) 2021* (the Precincts - Regional SEPP).

The Minister for Planning and Public Spaces (the Minister) 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.

The Department originally exhibited the application between 4 August 2021 to 20 August 2021 in accordance with the Department's Community Participation Plan. The Department also made the application publicly available on the NSW Planning Portal and notified adjoining lodges of the proposal. A total of 78 public submissions (all objections) were received during this exhibition.

Following amendments to the proposed development, the Department re-exhibited the application between 16 June 2022 until 1 July 2022, which was further extended between 5 July 2022 to 11 July 2022 due to an inability to access the information on the NSW Planning Portal. A total of 14 public submissions in objection (some of which were from previous submitters) were received during the re-exhibition.

The submissions received during the original and amended exhibition raised concerns with the process and legality of the creation of the allotment (by National Parks and Wildlife Service (NPWS)), the suitability of the proposal in terms of the character of Perisher Valley, the overall height / bulk and scale of the proposal, view and amenity impacts upon adjoining lodges and the adjacent Alpine Church, shadow impacts from the proposed building upon the Alpine Church, and the consistency of the proposal with the Alpine SEPP and Perisher Range Resorts Masterplan.

The Department consulted and received comments from the NPWS pursuant to section 4.15 of Chapter 4 of the Precincts - Regional SEPP.

With the development being a tourist accommodation building on bush fire prone land, the Department forwarded the application to the 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 has issued a BFSA for the proposal based on the amended 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, and issues raised in all submissions.

The Department considers the proposal is acceptable as:

- the proposal provides a new commercial ski lodge to support ongoing visitor accommodation requirements within the Perisher Range Alpine Resort

- the height, bulk and scale of the proposal is complimentary to the setting within the Alpine resort and has regard to adjoining view lines from adjoining lodges and from the adjoining Burramys Road during winter and summer
- environmental impacts are minimized as minimal clearing will be undertaken to meet required bushfire requirements and in accordance with endorsed Asset Protection Zone measures to reduce bushfire risk while minimising the environmental impact of the development
- suitable erosion and sedimentation control measures are to be installed prior to and during the works
- the recommended conditions would require construction impacts to be minimised having regard to the existing native vegetation adjoining the site and path of travel, and all disturbed areas to be rehabilitated following construction

The Department's assessment concludes the application is in the public interest as it provides a new tourist accommodation premises that in turn supports the Regional Plan for the locality. The biodiversity impacts of the development have been adequately addressed and the proposal is consistent with Chapter 4 of the Precincts – Regional SEPP through being compatible with development in the Perisher Range Alpine Resort.

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 22/11288) lodged by Geoanalysis Pty Ltd (the Applicant) seeking approval for the construction of a commercial ski lodge on Burramys Road, Perisher Valley, Perisher Range Alpine Resort within KNP.

The Applicant seeks approval for the construction of a commercial ski lodge (tourist accommodation building) providing accommodation for twenty-four people (24 beds) comprising 2 beds for staff, 1 x 2 bed accessible suite, 8 x 2 bed suites, and a 2 bedroom (4 beds) self-contained suite with a kitchenette. The lodge will also provide a shared dining room and lounge/entertainment area. Access to the site is via a new access point off Burramys Road (adjacent to the Alpine Church/Ski Patrol lodge access point), with undercover and accessible car parking facilities (**Figure 1**).

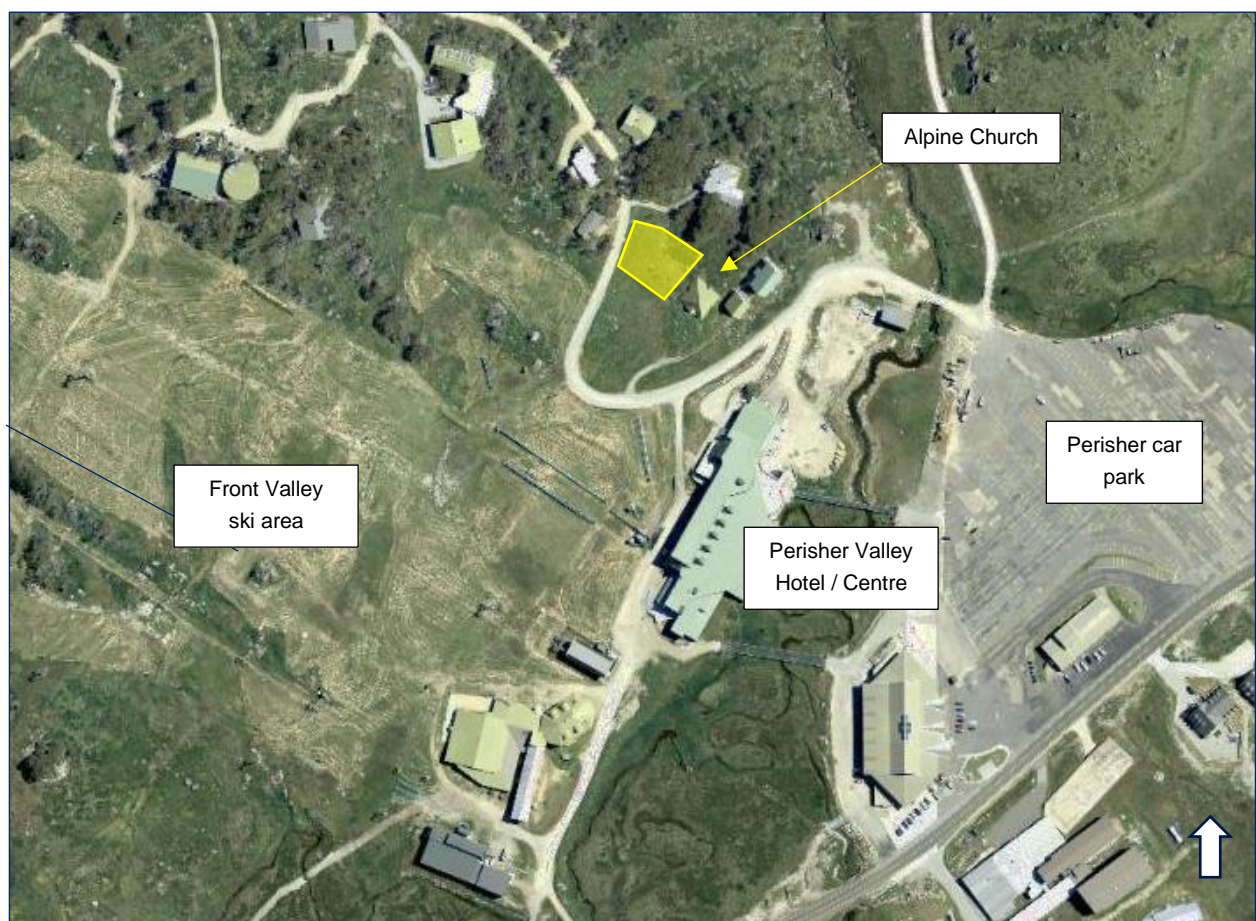


Figure 1 | Site (highlighted) in context of Perisher Valley and adjoining areas (Source: SIX Maps 2022)

The Department's assessment has considered all documentation submitted by the Applicant, including the Statement of Environmental Effects (SEE) and accompanying information, 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 items raised in submissions. The report evaluates the issues and impacts associated with the development and concludes that the development is in the public interest and should be approved, subject to conditions.

1.2 Site description

The site is located in Perisher Range Alpine Resort, which is in the southern part of KNP. Perisher Valley is a winter based tourist destination incorporating a number of ski areas, including Front Valley that provides beginner and intermediate skiing options.

The subject site is known as Lot 1 DP 1192372 (created by NPWS and registered on 25 August 2016 – see **Section 6.1** for additional discussion), Burramys Road, within Perisher Valley (**Figure 2**). The site has an area of approximately 1,424sqm, which is larger than the surrounding allotments, and it is one of a few allotments yet to be developed within the Perisher Range Alpine Resort. The site slopes from the northwestern corner down to the southeastern corner (adjacent to the Alpine Church), with views of the adjacent ski slopes.

Vegetation on the site is predominantly exotic species, with limited native vegetation (**Figure 3**). The Applicant also comments that the few remnant trees on the margins of the development site are dieback affected and are either dead or have lost the bulk of their canopy with only minor epicormic regrowth.



Figure 2 | Site in context of adjoining uses and Burramys Road alignment (Source: SIX Maps 2023)



Figure 3 | Existing vegetation on north-eastern boundary, with the Alpine Church located below the site
(Source: Applicant's documentation)

The lot shares a boundary with the adjacent Alpine Church along its eastern boundary, with Ski Patrol lodges further to the east. There are ski slopes to the south and southwest (as seen in **Figure 4**), including the Perisher beginner ski area and an area utilised by Perisher to create a halfpipe or as a race course during winter. The nearest lodges are the Ku-Ring-Gai Alpine Lodge (KAL) located approximately 30 metres upslope to the northeast, Perisher staff lodges on the opposite side of Burramys Road approximately 15 metres upslope to the west, and Merriment Lodge 45 metres to the north.

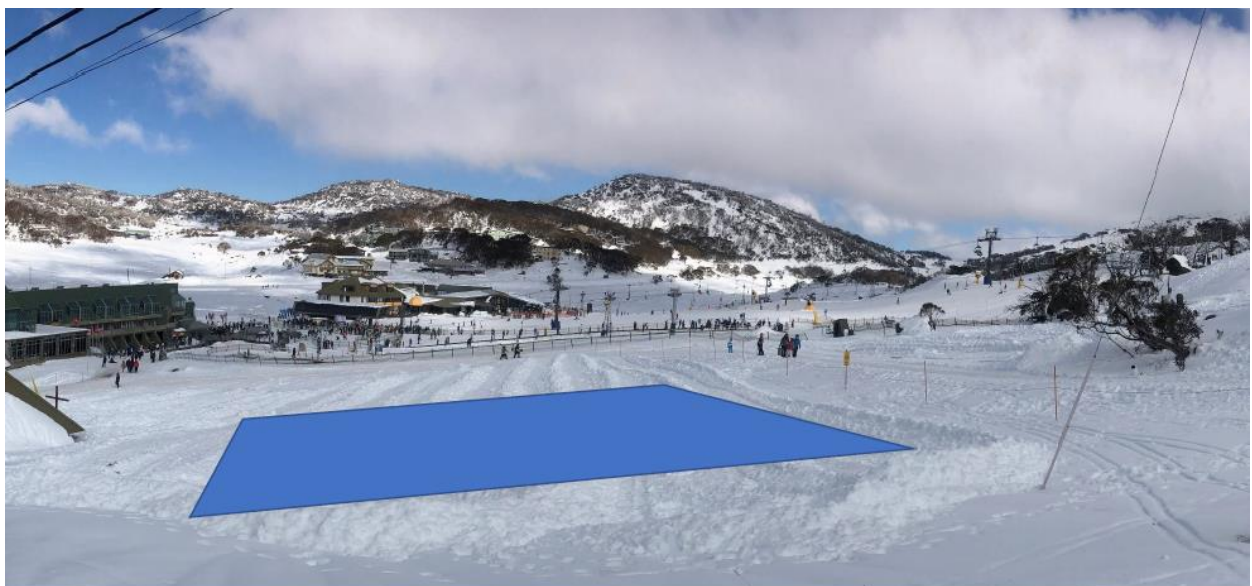


Figure 4 | Oversnow access around the site, with snow pushed around by Perisher to deter toboggan use on oversnow route and in front of the Perisher Valley Hotel (Source: Applicant's documentation)

During winter, the site can be accessed via oversnow vehicles as shown in **Figure 5**. Currently skiers from adjoining lodges and the oversnow transport company are traversing the site (middle track) or utilising the oversnow route, being the track to the left. This would revert back to solely the endorsed alignment, should the application be approved and the development constructed.



Figure 5 | Oversnow access around the site (Source: Department inspection, August 2022)

NPWS have advised that the oversnow route follows Burramys Road and all licenced oversnow users must adhere to that route. The oversnow route or the subject site is not a designated ski run for Perisher Ski Resort.

Summer access to the site is from Burramys Road (a gravel access road), which follows the contours to the north of the Perisher Valley Hotel / Centre before heading upslope and past the site and continuing to the west. Lodges further to the west also utilise Burramys Road from the main Perisher car park or initially from Perisher Creek Road before joining Burramys Road at the intersection point.

2 Project

The application seeks approval for the construction of a 24-bed commercial ski lodge (**Figure 6**). The proposed works, as amended, include:

- Excavation of the site to form the proposed lower ground level (maximum depth of excavation to be approximately three metres along the western and northern western corner of the building area).
- Lower ground level of approximately 228.9m² to contain the main entrance, ski locker and drying room, spa room, single vehicle garage, accessible WC, storage, laundry, plant room, and a cool room/services and dry store.
- Ground floor level of approximately 349.6m² to contain 6 x twin or double rooms (four rooms have the ability to be joined to provide 2 bedroom family rooms), 1 x two bedroom self-contained apartment with an external spa, and 1 x 1 bedroom staff accommodation room.
- First floor level of approximately 272.1m² to contain 1 x accessible double room, 2 x double rooms, a lounge and dining area (with views towards Front Valley and the beginner ski area), a separate TV/entertainment room, fire place, kitchen and bar. There is a south facing deck off one of the lounge areas, while another deck is provided off the access ramp from Burramys Road.

An accessible internal lift and staircase is provided within the building to enable access between the levels, with an airlock provided at each entry point. An additional egress staircase is provided along the southern façade, as shown in **Figure 6** below.

External finishes will comply with the colour palettes provided by NPWS and materials specified in the Perisher Range Resorts Masterplan (2001), including a stone-faced lower level and chimney facade, aluminium look timber cladding on the upper levels ('Spotted Gum' colour), frames / roof beams and rafters in 'Monument' colour and Colorbond roof sheeting in 'Windspray'.



Figure 6 | South east view of proposed building, showing main entry (Source: Applicant's documentation)

External to the building, the proposal includes:

- a pedestrian/disabled access ramp from the first floor level deck area to Burramys Road,
- a grease trap (located under the new driveway) and a gas tank to service the building (one (1) tonne) shielded from the Alpine Church by a 1.5 metre high brick wall,
- stormwater and drainage infrastructure to divert/capture the water from above and within the site,
- one disabled parking space adjacent to the main entrance area (with the space utilised outside of the winter period as this area is typically covered in snow), with access to the site proposed via a new access road from Burramys Road that services the Alpine Church and Ski Patrol lodge (**Figure 7**).

The Applicant comments that the building has been designed as a traditional Australian ski lodge with a gable roof, upstairs communal area and the majority of bedrooms on lower levels. The location of the development was chosen by NPWS as a suitable site to relocate the former Perisher Views Motel. The site is of low ecological value, has low bushfire risk and is well located to provide easily accessible tourist accommodation within Perisher Valley. The site is an existing serviced lot and is surrounded by existing development.

The building would have a total floor area of approximately 850.6m² and at its highest point would be approximately 10 metres above the natural ground level.

The proposal includes the provision of an Asset Protection Zone (APZ) outside of the allotment, following discussions with NPWS and after consideration of RFS requirements.

The proposal has an estimated cost of works of approximately \$2.5 million.

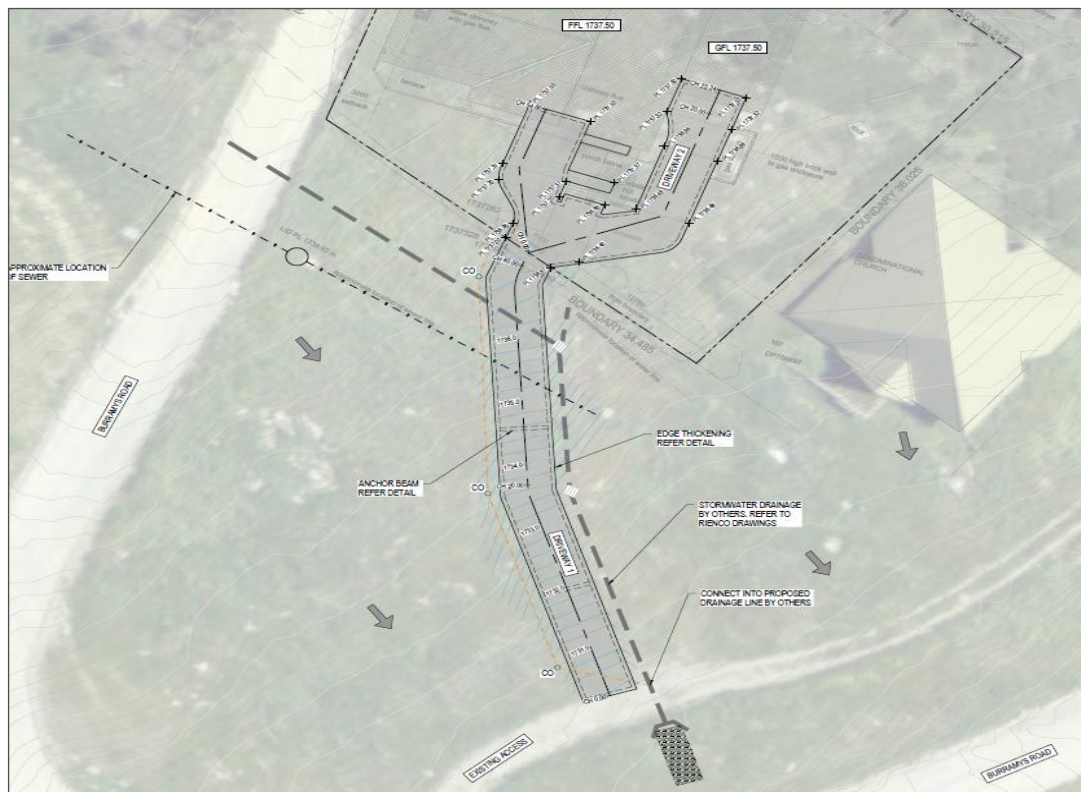


Figure 7 | Proposed access driveway to main entry / garage area (Source: Applicant's documentation)

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 *State Environmental Planning Policy (Precincts - Regional) 2021 (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 provide an additional tourist accommodation premises, which supports visitation to the NSW ski resorts. The proposal has also minimised its impact on the unique environment through locating the works away from native vegetation, where possible.

Snowy Mountains Special Activation Precinct Master Plan

On 1 July 2022, the Snowy Mountains Special Activation Precinct Master Plan was finalised and 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, with the site being within the Perisher Valley area of Perisher Range.

While the application was lodged prior to the Master Plan being finalised, the Department considers the proposal to be consistent with the Master Plan as:

- it relates to providing a new commercial tourist accommodation premises on the site which was relocated to this location as a replacement of the former Perisher View building (as discussed in **Section 1.3**) for visitor accommodation (thereby increasing the bed to skier ratio)
- the design and position recognises the significance of the existing environment while have regard to adjoining lodges and ski slope operations (Perisher Ski Resort and oversnow transportation)
- the construction of the development would provide an on-mountain experience for visitors to Perisher Valley that compliments other facilities within the immediate locality

Precincts - Regional SEPP

State Environmental Planning Policy (Precincts - Regional) 2021 (Precincts - Regional SEPP) is the only EPI applicable to the development (formerly known as the Alpine SEPP, with the provisions consolidated in the Precincts – Regional SEPP on 1 March 2022 with no changes made). Chapter 4 of the Precincts – Regional SEPP was then replaced with new policy requirements on 16 December 2022, however as the application was received prior to this date, the application is considered against the provisions at the time of lodgement.

The Precincts – Regional SEPP governs development on land within the ski resort areas of KNP. Chapter 4 of the Precincts – Regional 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 Chapter 4 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 provides a tourist accommodation building on a site identified by NPWS as an appropriate allotment for the construction of a new building
- the building location minimises native vegetation impacts through utilising existing disturbed areas where possible, while rehabilitating areas of disturbance at the completion of works
- the design has appropriate regard to the design requirements for the site noting the sloping nature of the site and its proximity to the adjoining Alpine Church

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 Deputy Secretary Development Assessment may determine the application as:

- no reportable political donation has been disclosed
- there are 50 or more 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 the construction of a new building used for 'tourist accommodation', consistent with the definition as defined in the Precincts – Regional SEPP. Pursuant to section 4.9 of Chapter 4 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

Environment Protection and Biodiversity Conservation Act 1999

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the Commonwealth Government is required to assess and approve a development if it is likely to impact on a matter of national environmental significance.

The Applicant's consideration of the EPBC Act concludes that the proposal is unlikely to have a significant impact on Commonwealth listed threatened species or ecological communities, and a referral to the Commonwealth Environment Minister is not necessary.

The Department has reviewed the scope of the works and is satisfied that a referral to the Commonwealth Environment Minister is not necessary.

Rural Fires Act 1997

As the works include the construction of a tourist accommodation building located on bushfire prone land, an approval is required from the RFS under section 100B of the *Rural Fires Act 1997* in the form of a BFSA.

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 proposal responds to the site characteristics and provides a new commercial ski lodge that supports 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 the adjoining lodges, and displaying the proposal on the NSW Planning Portal during the exhibition period. The Department has considered the issues raised in the submission 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 potential impacts have been identified, with mitigation measures and environmental safeguards recommended
- 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 an APZ endorsed by NPWS that the Applicant is required to address.

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 Applicant advises that the proposal involves the clearing of approximately 1,285m² of native understorey and groundcovers and associated fauna habitats and a further 685m² of highly modified and predominantly exotic grassland. The Department has reviewed the threshold requirements, with the Applicant commenting that the proposed vegetation clearing or modification of 1,285m² of remnant native vegetation is below the threshold requirement of 2,500m².

The Department notes that the development site is not within an area mapped on the BVM.

A five parts Threatened Species Test of Significance in accordance with the BC Act was undertaken by the Applicant to consider the proposal’s impact upon the Broad-toothed Rat and Alpine She-oak Skink that is known to, or has potential to, occur at the site. The test of significance shows that the proposal is unlikely to have a significant impact on the threatened species that were assessed.

The NPWS concurs with the Applicant’s assessment.

To mitigate potential impacts, the Applicant is proposing measures to minimise impacts of construction and rehabilitate the works area following completion. These recommendations are supported and included within the recommended conditions of consent in **Appendix C**.

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

The Department is therefore satisfied that the BOS does not apply. Implementation of the recommended methods to minimise impacts on surrounding vegetation is supported.

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)	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 Appendix B .

	The Department is satisfied 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)(iiia) any planning agreement	Not applicable to the proposal.
(a)(iv) the regulations	The application satisfactorily meets the relevant requirements of the EP&A Regulation 2000 (in force at the time of lodgement, but amended now to the <i>EP&A Reg 2021</i>), particularly the procedures relating to development applications (Part 6) and fees (Part 15, Division 1). 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.
(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 is considered to have positive economic and social impacts by providing an additional visitor accommodation option for the benefit of Perisher Range Alpine Resort.</p>
(c) the suitability of the site for the development,	The site is both suitable for the development and supports the use of Perisher Range Alpine Resort during winter as discussed in Section 6 of this report. The building also has potential to be utilised during the summer months should the need arise.
(d) any submissions made in accordance with this Act or the regulations,	Consideration has been given to agency and public submissions received during the two exhibition periods. See Section 5 of this report.
(e) the public interest.	The works are consistent with the aim and objectives of Chapter 4 of the Precincts – Regional SEPP, would be compatible with other tourist accommodation facilities within Perisher Valley

while maintaining the health and diversity of the natural environment, consistent with the principles of ESD.

The Department has carefully considered the points raised in submissions and has concluded that while there may be some minor loss of amenity for resort users who have enjoyed informal use of the subject undeveloped site to date, such as unobstructed views and use an over-snow transport shortcut route, the proposed use of the site for tourist accommodation is believed to be the most appropriate and economic use of the site having regard to the plans and policies relevant to the site and the terms of the site lease.

Accordingly, the development of the site is considered to be consistent with the public interest, as discussed further in **Section 6** of this report.

5 Engagement

5.1 Department's engagement to original proposal

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 fifty (50) metres away from a tourist accommodation building.

As the works include the construction of a new tourist accommodation building within 50 metres of other tourist accommodation buildings, the Department exhibited the application from 4 August 2021 until 20 August 2021 on the NSW Planning Portal.

The application was notified to nearby lodges and forwarded to the RFS pursuant to section 4.46 of the EP&A Act (integrated development) as a BFSA 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.

Following the exhibition of the application, the Department placed copies of all submissions received on the NSW Planning Portal and provided the Applicant with an opportunity to provide a response to the issues raised in the submissions.

5.2 Summary of submissions

During the exhibition period, the Department received comments from the RFS, NPWS and 78 public submissions objecting or providing comments on the application.

RFS

The RFS sought further information and justification from the Applicant following a review of the submitted bushfire report prior to any further consideration of whether to issue a BFSA under clause 100B of the *Rural Fires Act 1997*.

Since receiving this request, the Applicant engaged in discussions with the Department and also NPWS, with a view to the possibility of amending the endorsed NPWS APZ plan for the development to include areas outside of the subject allotment. Additional environmental studies were undertaken to consider the areas containing high biodiversity, which were provided to the NPWS for consideration of an amended APZ plan.

On 5 April 2022, the NPWS subsequently endorsed an amended APZ plan for the development which, in part enabled the resubmission of the application as discussed in **Section 5.3**.

NPWS

The NPWS did not object to the proposal, however requested a number of matters be addressed. These included:

- access to and from the site (road access to the parking areas provided) required additional consideration and further discussion on stormwater piping and discharge to adjoining areas
- additional discussions and submission of ecological reports required for further consideration should additional clearing of native vegetation be required as a result of RFS requirements
- further review and submission of information to address the NPWS Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW
- submission of further stormwater management details and calculations of the site
- conditions were recommended to address plumbing and drainage, public health and *Food Act 2003* requirements, revegetation and machinery and stockpiling

Public submissions

A summary of the key public submissions is provided below, and a link to a copy of the submissions is provided in **Appendix A**:

- the location of the site is inappropriate (potential oversnow and use of halfpipe when constructed) and there is concern with the legality of the lease creation and whether this is the correct site under the lease
- construction of the lodge would impact upon the oversnow routes (for accommodation and waste collection) / ski alignment across the site (safety impacts) to gain access to the ski runs on Front Valley
- building design, balcony on the western boundary and lack of setbacks (including a suggestion that the building be moved 5 metres closer to the Alpine Church)
- loss of views from Ku-Ring-Gai Alpine Lodge communal kitchen area
- inconsistency with the Perisher Range Resort Master Plan (height and floor area to bed numbers)
- impacts upon Alpine Church (visual / overshadowing / significance to the locality)
- site is a natural creek and building would redirect overland flows

Other concerns related to the following:

- location of the external spa being near the adjoining road (requires screening) and lack of safety for children utilising the spa
- further consideration of access arrangements into the building
- lack of consideration of construction management (impacts upon adjoining lodges)
- lack of parking and use of adjoining areas during summer
- operation of the bar and large outdoor area and whether this would be open to the public
- an increase in bed numbers within Perisher Valley would impact the Perisher sewerage plant

Submissions also acknowledged the improved design and collaboration with other lodges prior to lodgement (in an attempt to resolve issues), compared to the previous application on the site by the former lessee that was withdrawn.

5.3 Response to submissions to original exhibition

On 7 June 2022, the Applicant provided a response (**Appendix A**) to issues raised during the exhibition of the proposal and matters raised by the Department and other agencies, including:

- submission of the endorsed NPWS APZ plan and additional flora and fauna assessment of the site
- commentary responding to the points provided by the NPWS (including stormwater and driveway access plans) and the RFS
- a response to key concerns raised in public submissions

In addition, updated architectural plans were provided, incorporating design changes that included:

- removal of the western facade terrace, and subsequent reduction of the north-western terrace
- alterations to the internal layout and uses within the building to improve functionality
- inclusion of details/plans of the proposed access and egress from the site off Burramys Road
- provision of a one (1) tonne gas tank to service the building rather than multiple smaller tanks

5.4 Department's engagement to amended application

The Department re-exhibited the amended application and plans on the NSW Planning Portal to provide further opportunities for public comment from 16 June 2022 until 1 July 2022, which was further extended between 5 July 2022 to 11 July 2022 due to an inability to access the information on the NSW Planning Portal.

The amendments were also re-exhibited to nearby lodges (consistent with the previous notification), to previous submitters and forwarded to the RFS and NPWS.

5.5 Summary of submissions to amended application

During the re-exhibition period, the Department received comments from the RFS and NPWS and fourteen (14) public submissions either raising objections or providing additional comments on the amended application.

RFS

The RFS noted the amended APZ plan (including the NPWS endorsement), supporting flora and fauna information and issued a BFSA for the proposal following additional discussions with the Department and NPWS.

NPWS

The NPWS reviewed the amended plans and supporting documents, against the comments previously provided. The NPWS commented that:

- no additional points are raised on the built form and design

- the detailed designs for the stormwater management and driveway design are acceptable, with the driveway to be a hard surface with all stormwater pits and pipes to be connected to existing NPWS infrastructure
- the Applicant has provided suitable details address Aboriginal cultural heritage and due diligence
- that the oversnow route follows Burramys Road and all licenced oversnow users must adhere to that route. The oversnow route or the subject site is not a designated ski run for Perisher Ski Resort. Skiing or snowboarding on the oversnow route is not supported by NPWS and should be discouraged

NPWS also provided additional commentary on the creation of the site, which is discussed above in **Section 1.3**.

Public submissions

A summary of the public submissions is provided below, and a link to the full copy of the submissions is provided in **Appendix A**.

The public submissions referred to the above previous concerns and also the following points:

- solar access for the Alpine Church and consistency with Alpine SEPP provisions
- inconsistencies with the Perisher Range Resorts Master Plan with no new development in Perisher North Outer Perisher Valley open valley areas
- proposal is higher / bulkier than surrounding buildings and would impact Front Valley along with pedestrian impacts with building location
- relocation of driveway rather than across the slope to the top of the building, therefore less visual impacts during summer
- concerns with the excavation and open areas where skiers / pedestrians have the potential to fall into or collide with the external balustrade or entry ramp off Burramys Road

In addition, the public comments referred to an NSW Upper House Enquiry in relation to the NSW biodiversity offsets scheme which included reference to the Applicant. However, this is a separate matter to the assessment of a development application on the site.

The Department has considered the comments raised in the submissions from government agencies during the assessment of the application in **Section 6** and through recommended conditions in the instrument of consent at **Appendix C**.

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, and the submissions from the public in its assessment of the proposal. The key issues in the Department's assessment of the proposal are:

- Site establishment by NPWS
- Consistency with the Perisher Range Resort Master Plan
- Height, bulk and scale
- Oversnow access and safety
- View and amenity impacts
- Biodiversity impacts

Each of these issues is discussed below, along with other minor issues.

6.1 Site establishment by NPWS

The legality of the site creation by NPWS has been raised in submissions, including the process for the establishment, suitability of the site selection and whether the site is located on the correct parcel of land. NPWS advised that they followed the processes which applies to the granting of a lease under the *National Parks and Wildlife Act 1974*. In particular:

- The subject site was agreed on following negotiations between NPWS and the lessee at the time to fulfill the obligations of a 1988 Consent whereby a new site was to be found for the lessee of the existing Perisher View Lodge (located previously at Piper's Gap – **Figure 8**). The building at the time was condemned and a demolition order invoked for its removal from that location.

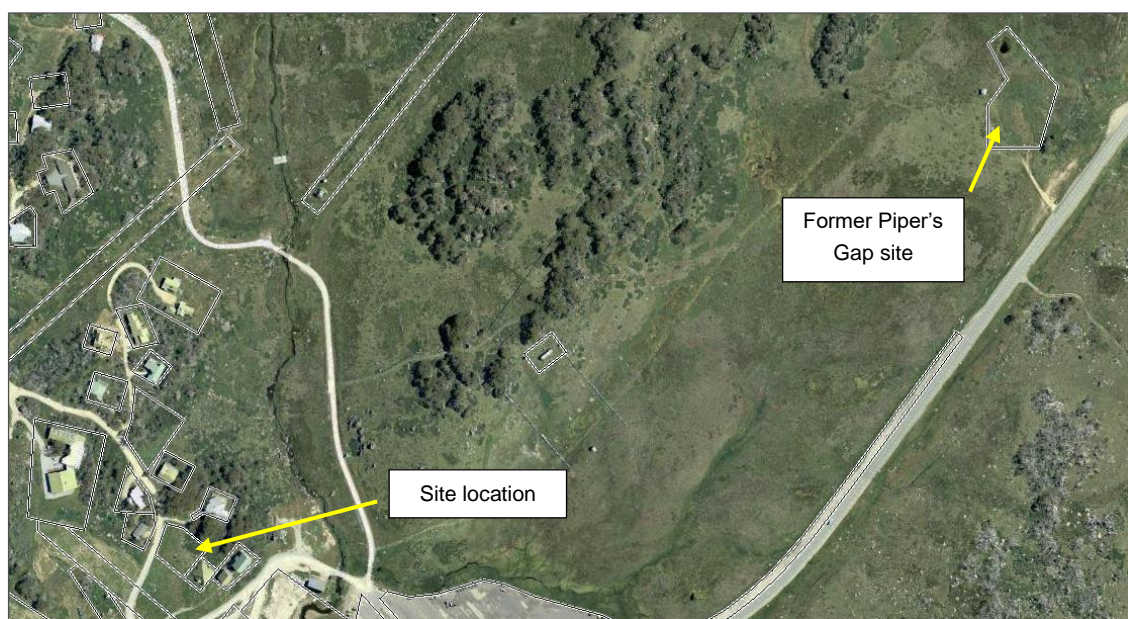


Figure 8 | Proposed and former site of Perisher View lease area (Source: SIX Maps 2023)

- A proposed new lease and plan of subdivision was advertised for public comment on 19 August 2010.
- The Lot and DP was registered on 25 August 2016.
- Perisher View Lodge Pty Ltd (previous lessee of the site) was granted a lease over the site of Lot 1 DP 1192372 on 16 December 2016 for a term expiring on 30 June 2028 plus a 30-year option to renew.
- Lease transferred to the Applicant in 2020.

The Applicant has therefore followed the appropriate due diligence process prescribed by the NPWS to obtain a lease for the site. By submitting this application to develop the site for the purpose of providing the proposed tourist accommodation, the Applicant is hereby acting to meet the requirements of that lease.

Noting the comments from NPWS, the Department is satisfied that the Applicant has followed the correct process to obtain a lease and progress with the terms of the lease by applying to build a commercial ski lodge on the site.

6.2 Consistency with the Perisher Range Resort Master Plan

The Perisher Range Resort Master Plan (PRRMP) was developed by NPWS in 2001 and is incorporated as a matter for consideration into section 4.12(1)(l)(i) of the Precincts-Regional SEPP. The PRRMP contains development guidelines, controls and character statements that are relevant to the proposal.

The sections of the PRRMP relevant to the proposal include:

- Section 6: Master Plan for Outer Perisher Valley
- Schedule One: Ecological Sustainability and Environmental Performance
- Schedule Two: Development guidelines and controls for Guthega, Smiggin Holes and Perisher Valley outer precincts.

The above sections of the PRRMP contains various controls relating to floor space; building envelope; building height, style and roof form; building materials and colours; public spaces; landscaping; car parking and access; signage and advertising; environmental performance; and Aboriginal cultural heritage.

Public submissions raised concerns in relation to the proposal's consistency with the PRRMP and the suitability of the proposed building in the context of Perisher Valley and the adjoining sites.

The Department notes that the site was created after the development of the PRRMP, with the site located between the 'Master Plan for Outer Perisher Valley' and 'Master Plan for the Perisher Valley Central Precinct'. Recognising that the Central Precinct controls are focussed on development occurring on the existing main car park area (approximately 500 metres east of the site), the Department has determined that it is appropriate to apply the 'Master Plan for Outer Perisher Valley' as the relevant controls to assess the application.

Accordingly, in reviewing the compatibility of the proposed development with the PRRMP, Section 6 of the PRRMP provides an overview of the Master Plan concept and supporting analysis for the outer precincts of the Perisher Valley Resort Village. In terms of the proposal, key matters for consideration are outlined in **Table 2** below:

Table 2 | Compliance with PRRMP

Objective and Principle	Consideration
<p>The present character of the existing residential precincts in the resort will be retained and enhanced.</p>	<p>The proposal is consistent with this component as the development would complement other tourist accommodation buildings within the immediate locality.</p>
<p>Development will occur as replacement, extension or refurbishment of existing premises. Buildings will be of small scale and fit within the tree canopy. They will be designed to blend with the natural environment.</p>	<p>With the site establishment occurring in 2016, the proposal relates to the replacement of an existing premises where the lease was transferred from the nearby Pipers Gap site within the Perisher Valley Alpine Resort, as detailed in Section 1.3 of this report. However, given the development is new to the subject site, the proposal does not meet this objective in relation to development on the subject parcel (albeit a replacement development transferred from elsewhere in the Resort).</p> <p>Submissions were received that should this proposal be permitted, this would set a precedent for new development.</p> <p>The Department's view is that as the site was specifically created as a replacement for the former Perisher View site, and a lease was provided by NPWS for that purpose, it is considered to be a suitable site for the specific replacement lodge and does not create a precedent for new developments on vacant land. It is also noted that, should the Department receive an application to develop another vacant site within Perisher Valley, the NPWS would first need to provide a lease to the site.</p> <p>When considering the design of the building, the Department considers that the building would blend in with the natural environment (achieved through the use of stone facework and colour palate compatible with surrounding buildings) and would be set into the hillside with a low-profile roof. Overall, the design of the development is of a comparable scale to surrounding development, albeit larger than the adjoining Alpine Church.</p>
<p>There will be no development on ridges, in open valley areas, or in places that will disrupt the skyline when viewed from the Perisher Valley central area and the approaches to the resort.</p>	<p>The proposal is consistent with this component as the site is not located on a ridgeline and the built form would not impact the skyline when viewed from the Perisher Valley central area or approaches to the resort.</p> <p>When viewed from the Perisher car park (a key viewing point to the site and adjoining areas), the site is screened partly by the existing Alpine Church and the two Ski Patrol accommodation</p>

buildings located on the eastern side of the Alpine Church – see **Figure 12**.

Ensure that new structures or alterations and additions to existing structures complement their natural and built setting and are designed to minimise environmental impacts.	The construction of a new structure on the site is capable of meeting this component, with consideration of the existing environment a key point within the Alpine Resorts area. Environmental impacts are minimised where possible, with APZ management required while avoiding highly sensitive areas.
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Ensure development does not cause the loss of significant natural vegetation or other natural features, restrict the movement of wildlife, cause the loss of habitat linkages or distort natural drainage systems and to encourage the repair and protection of these features.	The proposed design is consistent with this component as areas of natural vegetation are predominantly retained following additional discussions with the NPWS in order to prepare an APZ plan for the site and adjoining areas after receipt of the RFS bushfire requirements.
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Allow for some relocation of existing premises where suitable sites are identified through the development assessment process.	The proposal is consistent with this component, as discussed above and in Section 1.3 .
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Overall, the proposal is considered to be consistent with the character of the area and that envisaged within the Master Plan.

Schedule One of the PRRMP describes a set of development guidelines and controls for Ecological Sustainability and Environmental Performance which all development in the resort should consider.

In terms of **Ecological Sustainability**, the plans and documentation submitted by the Applicant demonstrate that the proposed development will be undertaken in a sustainable manner. This will also be enforced through conditions of consent to ensure a high stand of building design with an emphasis on water and energy efficiency. Construction management conditions will seek to minimise waste and achieve quality landscaping and rehabilitation outcomes. Furthermore, the Applicant has proposed adequate environmental safeguards and construction techniques to ensure that the natural environment is protected during the undertaking of the works.

Schedule Two of the PRRMP provides a set of development guidelines and controls for future expansion and refurbishment of commercial and club lodge accommodation in the resort, with key issues discussed below:

- **Permitted Land Uses and Floor Space** - The PRRMP permits extensions / refurbishment of private and commercial accommodation and identifies a maximum gross floor area of 25m² per bed. Despite a new commercial ski lodge not being identified in this section, given the creation of the allotment by NPWS, the Department considers that the proposal is a permitted land use under the PRRMP.

The gross floor area under the PRRMP is defined as *being the total area of the building measured from the outside of the external walls or the centre of a common wall*. For the proposed site, the lease provides a total of 24 beds that therefore equates to a maximum permitted gross floor area of 600m².

The plans provided with the application indicate a maximum gross floor area of 850.6m², equating to a gross floor area of 35.44m² per bed. This is a reduction from the original exhibition version of 870m².

The Applicant seeks to justify the proposed floor areas by referring to other approved developments within the locality, including the only recent redevelopment of a site under the PRRMP controls, being Smugglers Lodge (gross floor area of 43m² per bed) and Heidi's Apartments (gross floor area of 39.5m² per bed) in Smiggin Holes.

The Department notes that allowing additional floor space to a lodge provides architectural and amenity opportunities to be included within the design to meet current visitor expectations (which have developed from those identified by the 2001 PRRMP). Items typically found in modern lodges include ensuite bathrooms rather than communal toilets commonly found in the original lodges (which increase floor plates and is a common application the Department assesses or has enquiries on) additional storage and drying room and enlarged common areas.

It is also noted that, the NPWS, as the land manager and author of the PRRMP, in their comments on the proposal, did not object to the bed-to-floor space ratio of the proposal.

Noting the above, the Department supports the proposal in relation to the bed to floor space ratio.

- **Location and Building Envelope** - The proposal is sited within the site boundaries, with access to the site being considered in conjunction with NPWS leasing.

The Department notes that the majority of ski slope views are retained when viewed from adjoining lodges, with those from Ku-Ring-Gai Alpine Lodge raised as a concern impacted from their kitchen window that is partly impacted currently by exiting vegetation. Existing view corridors from adjoining properties in the area is discussed in **Section 6.5**.

The Department however acknowledges that the proposed development is confined to the existing disturbed area of the site (identified as a development site) and while there will be some vegetation removal and ongoing management to reduce bushfire risks, it has been reviewed by the NPWS and is considered reasonable.

- **Building Height, Style and Roof Form** – The PRRMP permits buildings to 10 metres and 2-storeys in height. The proposal satisfies the 10-metre height requirement, but when viewed from the south, provides a 3-storey building formation. Additional discussion is provided in **Section 6.3** below. Overall however the Department considers the proposal to be acceptable on the site.
- **Building Materials and Colours** - The external finished colours and materials ensure that the proposal blends into the natural environment and character of Perisher Valley when viewed from significant locations such as the ski slopes, Perisher Valley Hotel / Centre and the main car parking area.
- **Public Spaces** - The proposed development would not impact on public spaces. Measures are proposed on the building to ensure that external public areas of the building or adjoining spaces are not impacted by the development, including any snow build up.
- **Car Parking Areas** – Car parking during summer is provided within the design, with the inclusion of a single garage and separate disabled access space adjacent to the main entry to the building. Additional

vehicles would also be able to park on the concrete driveway within the lease area, in front of the garage.

- **Building Access** - The site is accessed via Burramys Road, with the proposal including the construction of an access road to the main entry of the building. Separate access would be provided by a ramp off Burramys Road to the northwest entry point off the top level. The building is designed to be accessible and includes facilities within the building suitable for persons with a disability.

Aside from the above departure relating to recommended floor space, the proposal is consistent with the PRRMP and the objectives, principles and development controls within it. The Department is satisfied that the proposal is suitable in the setting having regard to the matters discussed above. The Department is also satisfied the proposal is consistent with the 2021 Snowy Mountains Special Activation Precinct Master Plan (see **Section 3**).

6.3 Height, bulk and scale

The height, bulk and scale of the proposed building is raised in submissions and is one of the key considerations for the Department given the site is viewed from key locations within the Perisher Valley area. Height is also an important consideration because it has an impact on the physical and visual amenity of a place and can also reinforce an area's existing character or relate to an area's desired character.

The PRRMP indicates that the height of buildings is to be restricted to two storeys and a maximum height from the ridgeline to the lowest point of 10 metres.

The building predominantly meets the maximum building height requirement, with only the chimney exceeding the 10-metre restriction (**Figure 9** and **10**).

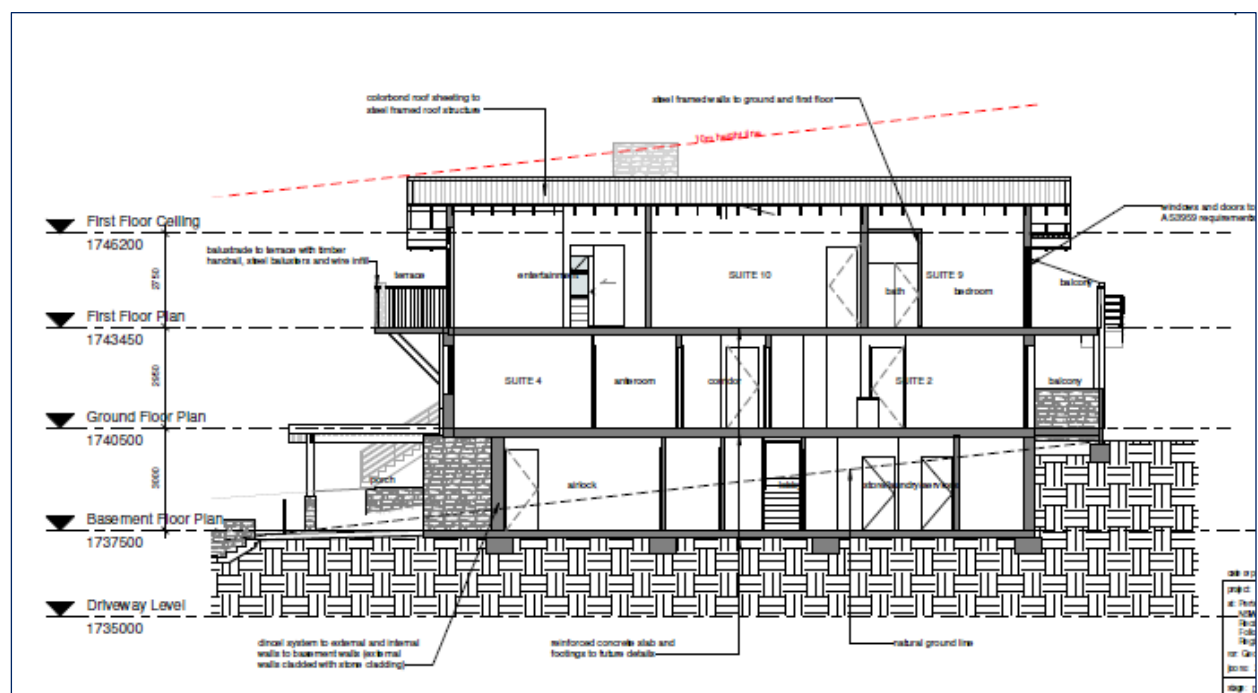


Figure 9 | Section drawing, 10 metre requirement illustrated (Source: Applicant's documentation)

However, the building when viewed from the adjoining ski slopes would exceed the 2-storey requirement due to the slope of the land, despite part of the proposal being excavated into the ground. When viewed from adjoining Perisher staff lodges along Burramys Road (to the west of the site) or from the adjoining KAL lodge, the proposal appears as a two-storey building with part of the lower level below natural ground.



Figure 10 | South west 3D image, illustrating the three floor levels visible from the adjoining ski slopes (Source: Applicant's documentation)

The building is most prominently when viewed from the south, being from the Perisher Valley Hotel / Centre (**Figure 11**), or from the Alpine Church / Ski Patrol staff accommodation buildings, however overall the building when constructed is considered to blend into the landscape and built form.



Figure 11 | Photomontage of building in context of adjoining Alpine Church (right) and Perisher staff lodge to the west (Source: Applicant's submitted plans)

When viewed from the Perisher car park (**Figure 12**), the Alpine Church and Ski Patrol buildings would predominantly screen the building. The bulk and scale of the ski patrol building on the right (circled) is a dominant building when viewed from the car parking area.



Figure 12 | Immediate locality and adjoining building design / form viewed from Perisher car park (Source: Department site inspection)

The Department has considered the height of the building in its setting and is of the view that the building will not dominant the landscape and does not adversely affect any skyline views from the public domain. The roof form is a modern design and has been designed to direct water and snow to locations around the perimeter of the building that will not interfere with building access or pose a threat to people (i.e. from falling snow).

The Department considers the proposal to be appropriate for the site and its design and setbacks have had adequate regard to reducing impacts upon adjoining lodges and the Alpine Church.

6.4 Oversnow access and safety

The alteration to the existing oversnow route and public safety were raised during submissions. Concerns related to the impact the development would have on the existing oversnow route that adjoins the site and also traverses through the site and whether oversnow vehicles would not utilise the formal alignment. In addition, other submissions were concerned that skiers/snowboarders would lose sight of any oversnow vehicle traversing uphill around the corner of the building once constructed or with the narrow road area, future collisions might occur.

As shown in the below pictures, adjoining nearby lodges and oversnow users currently either traverse around the site along the endorsed NPWS oversnow route or through the site on the top side of the Alpine Church (**Figure 13** and **14**). With the creation of the allotment in 2016, and once a building was constructed on the site, this had the effect of altering the potential access to only along the endorsed NPWS oversnow route.

As noted above, the NPWS has confirmed that the oversnow route follows Burramys Road and all licenced oversnow users must adhere to that route. The oversnow route or the subject site is not a designated ski run for Perisher Ski Resort. Skiing or snowboarding on the oversnow route is not supported by NPWS and should be discouraged.



Figure 13 | Site (yellow) with existing oversnow routes (Source: Department inspection, August 2022)



Figure 14 | Oversnow transport traversing the site through the middle and not along defined oversnow route (Source: Department inspection)

The Department notes the Applicant has endeavoured to address the constraints of the site and the safety of oversnow users by removing the external western balcony provided in the originally exhibited scheme. Any building constructed on the site is going to have an impact on legacy oversnow usage of the area above the Alpine Church.

With the creation of the allotment, the Applicant is following leasing requirements to construct a commercial tourist accommodation on the site. While the oversnow transport operation does use the site, as shown in the photographs above, the NPWS expects operators to use the formal oversnow routes provided. Similarly

to other locations on the mountain that the oversnow operators utilise in and around existing lodges, operators and skiers / snowboarders will need to take necessary care

The Department acknowledges the concerns raised by the public submissions however is of the view that development on the site is capable of being undertaken without negatively impacting the existing oversnow route or decreasing skier safety (noting NPWS comments that the oversnow route is not a designated ski route).

6.5 View and amenity impacts

Views from Ku-Ring-Gai Alpine Lodge (KAL)

Maintaining views as far as reasonable and view sharing with the nearby buildings is a key consideration of the Department's assessment. Ku-Ring-Gai Alpine Lodge (KAL) provided a submission which included comments that construction of the proposed building would impact an existing view across the site to the Front Valley ski slopes. To support their comments, KAL provided a photograph from their existing kitchen window, which was provided with permission from KAL to the Applicant.

The Applicant prepared a photomontage based on the photograph (**Figure 15** and **16**), to support their opinion that the impact of the proposal from the kitchen window at KAL is not significant and is acceptable. In addition, a further photomontage was provided to illustrate the proposal from further along the KAL access driveway, which from this point would reduce the view of the Front Valley ski area.



Figure 15 | Photomontage of view from nearby KAL kitchen window (Source: Applicant's documentation)

As part of the assessment, the Department inspected the site and nearby tourist accommodation buildings to assess the impact upon views. In considering the impact on views, the Department has reviewed:

- the Precincts-Regional SEPP

- the reasonableness of the proposal and its compliance with relevant planning controls
- the nature of the locality, i.e. a winter ski resort village comprising member based clubs and tourist accommodation that is largely occupied for only part of the year by a range of different people
- the significance of the views to be impacted, such as views of any iconic landmarks or bodies of water
- the part of the property from which the view is obtained
- the extent of the impact, being negligible, minor, moderate, major, severe, or devastating.

As stated above, KAL enjoys views from their kitchen window across the proposed development site and towards the beginner's area of the Front Valley ski area and associated chairlift infrastructure. This view is partly obstructed by the existing vegetation located between KAL and the site. KAL also enjoys unobstructed views of Perisher Creek and the toboggan area from the existing living room decks provided off the northern façade of the building.



Figure 16 | Photomontage of view from nearby KAL driveway area (Source: Applicant's documentation)

After considering the proposal and the submission made by KAL, the Department is satisfied that there would be a minor impact upon views. However, the view impact is considered to be reasonable within a tourist-based winter ski resort, particularly when noting the views are obtained from a kitchen window, while other views of the resorts are also enjoyed towards the north and northeast off the existing decks from the living room areas.

The loss or reduction to existing views are not considered to be significant.

Impacts upon Alpine Church

Amenity concerns raised by the Alpine Church include the impact of the proposed built form upon existing solar access into the building through an existing window located on the western elevation – **Figure 17** (the Department notes that the location of the window is low to the ground opposite due the slope of the ground above). The submission commented that the busiest time of the year is during the peak winter season when the sun is lowest in the sky and solar access is very important.

The Alpine Church submission to the re-exhibition proposal provided additional commentary on its operation and use of the Church, with services provided on Sundays in winter between 12 noon to 1 pm but other uses occur outside of these hours as well (either through setup for services or other activities).



Figure 17 | Department photograph looking across the site towards the Alpine Church, post winter (Source: Department file photograph)

The Applicant has provided a solar access depiction of the proposal and shadowing onto the Alpine Church (**Figure 18**). From the submitted information, overshadowing on June 21 would start to occur from the proposed building onto the Alpine Church after 1pm with overshadowing continuing throughout the afternoon.

In support of the proposal, the Applicant comments that the proposed building has been relocated as close to the western boundary as permissible, rotated on its axis to optimise the Alpine Church's prominence to Front Valley and the building form stepped down the slope to minimise impacts on the Alpine Church. The Applicant also noted separately that the western window is recessed behind the existing roof structure and is not uncommon for the window to be buried / partly buried in snow.

While solar amenity is a relevant matter of consideration to enable as much solar into the public domain as possible, the development is constrained by its orientation (being upslope of the Alpine Church), the levels across the site and a its presentation to Burramys Road and adjoining ski slopes where the views are

located. The Department also notes that overshadowing of the site and Alpine Church would occur early in the afternoon on June 21 due to the landscape / ridgeline between the Sundeck Hotel and Front Valley ski area (at the top of the former half pipe site).

The Department is satisfied that due to the unique constraints of the site, the Applicant has endeavoured to minimise impacts upon the Alpine Church. While there is an impact from 1pm on June 21, the amenity of users within the Alpine Church is considered to be acceptable and the proposal can be supported.

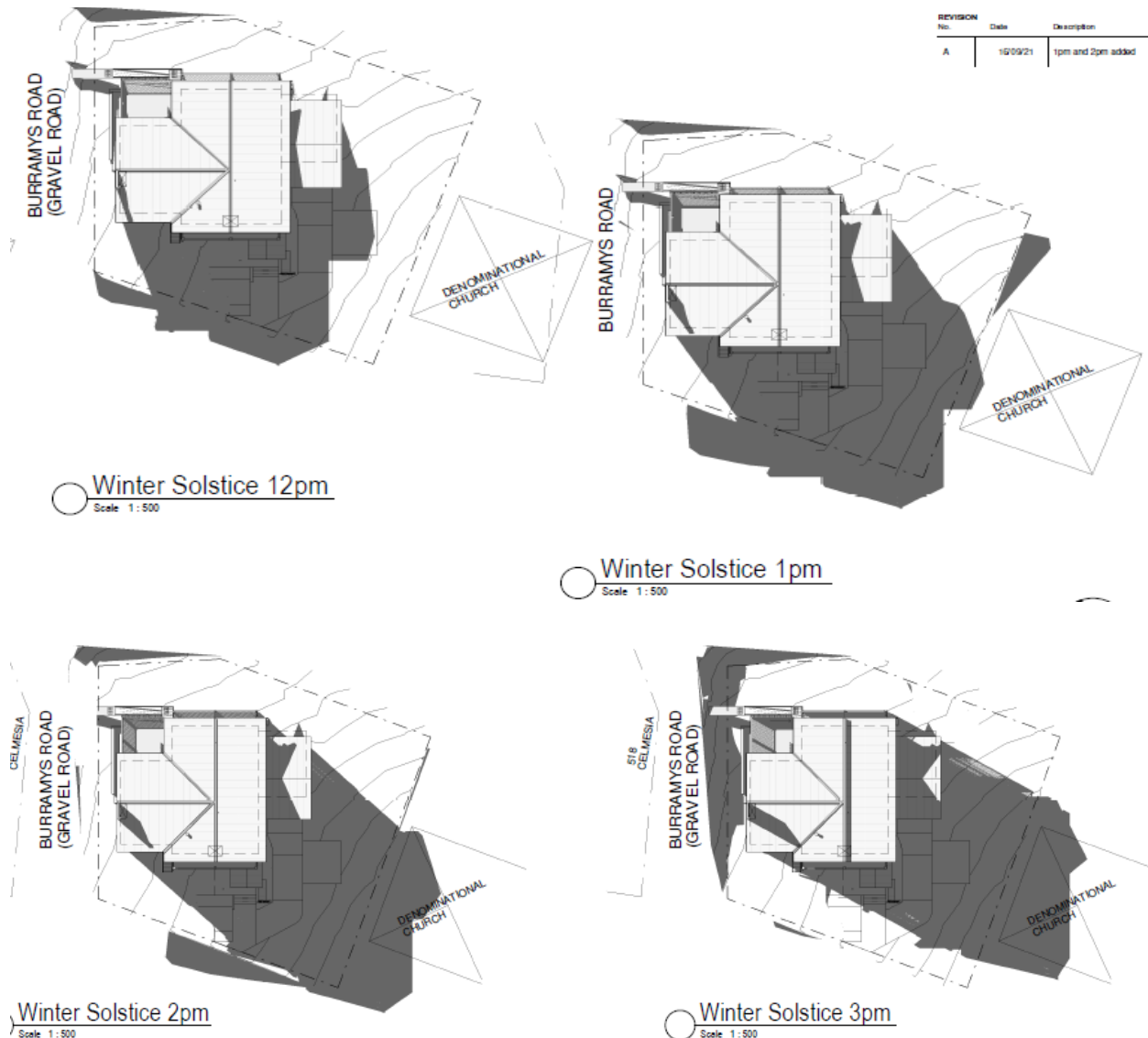


Figure 18 | Expected shadows from the proposed development onto the adjoining Alpine Church (Source: Applicant's documentation)

6.6 Biodiversity impacts

The Department has carefully considered the potential biodiversity impacts associated with the proposal given the location of the site and the sensitive nature of the flora and fauna within the alpine area. The Department's assessment of the potential environmental impacts of the proposal along with appropriate mitigation and management measures are considered below:

Vegetation impacts

In order to facilitate the development, vegetation within and outside of the site is required to be managed as an Inner Protection Area (IPA) in accordance with *Planning for Bushfire Protection 2019*. The RFS requires, for this new building to be provided on the site, distances of a maximum of 21 metres past the boundary to be managed.

In discussions with the NPWS, an APZ plan has been established where the Applicant will be required to implement and maintain the IPA (**Figure 19**). The plan identifies areas to be protected that has regard to existing Broad-toothed Rat habitat and other herbs, shrubs and existing grassy spaces (some of which are located between the site and KAL to the west).



Figure 19 | Endorsed APZ from NPWS for the site and adjoining areas (Source: Applicant's documentation)

Conditions will be applied to ensure areas impacted by construction will be rehabilitated in accordance with the *"Rehabilitation Guidelines for the Resort Areas of Kosciuszko National Park"*.

Overall, the Department raises no concerns with the vegetation management required for the proposal.

Construction impacts and access

To facilitate the construction of the proposed building, a new access road is to be provided off Burramys Road. This road is to include stormwater and drainage controls to assist in redirecting existing overland runoff that occurs off the site and along the Alpine Church western façade.

Once constructed, the Applicant will be able to access the site to commence excavation and levelling of the site prior to pouring initial concrete flooring. Sedimentation and erosion control measures are to be installed during all components of the construction phase, which are required to be continually reviewed / inspected. These measures are outlined within the submitted Preliminary Construction Management Plan.

Parking would be available at the site during construction or within the Perisher car park, and all construction activities will be required to be contained on the site.

Construction impacts such as noise and vibration will be managed in accordance with standard environmental conditions. The Applicant is proposing to include a complaint handling arrangement to ensure any issues raised are addressed quickly and immediate action is taken to prevent reoccurrence of the site.

The Department has recommended standard construction conditions applied in the Alpine area, along with recommended conditions from NPWS and RFS.

The NPWS has recommended that all machinery and equipment must be stored on existing disturbed areas (i.e. stockpile and staging areas on ski slopes) and should not be stored on native vegetation.

The Department has also adopted the NPWS recommended conditions including machinery, stockpile sites and soil and waste management. Particularly that works are to comply with '*Soil Stockpile Guidelines for the Resort Areas of Kosciuszko National Park, October 2017*'.

Subject to compliance with these conditions, the Department is of the view that the construction of the proposed works would not impact upon nearby buildings or the environment.

Conclusion

The Department is satisfied the Applicant has taken the appropriate steps to avoid, minimise and offset the proposal's biodiversity impacts consistent with the principles of the BC Act and BC Regulation. The Department considers the proposal is acceptable subject to the following conditions:

- rehabilitation of disturbed areas
- adoption of the construction management plan

6.7 Other Issues

The Department's consideration of other issues is provided at **Table 2**.

Table 2 | Summary of other issues

Issue	Assessment	Department considerations
Geotechnical	<ul style="list-style-type: none"> • The Department notes that the site is located within the G zone identified on the Department's Geotechnical Policy – Kosciuszko Alpine Resorts Perisher Valley Map. • The Applicant has provided a geotechnical investigation report in support of the proposal by Douglas Partners Pty Ltd and a Form 1 '<i>Declaration and certification made</i> 	<p>The Department raises no concerns with the proposal, subject to implementation of the recommendations as proposed by Douglas Partners Pty Ltd.</p> <p>The investigation carried out on site included excavation pits to a maximum of 3.2 metres (consistent with the maximum excavation for the development) and suitable recommendations are included to further</p>

by geotechnical engineer or engineering geologist in a geotech report'.

- The investigation states that based on an assessment of the proposal and the site, the site is suitable for the proposed ski lodge development.
- Risks considered included 'creep of soil mantle', 'small scale slump', 'rolling tors / boulders', 'deep seated slide', 'construction excavation collapse', 'failure of retaining wall', and 'corestone fall-outs from excavation faces'. The overall risk of the above was considered to be 'Low'.
- Recommendations are provided for, but not limited to, hillside construction, excavations, retaining walls, footing systems and site drainage.

ensure geotechnical considers during construction.

Conditions are recommended to ensure the recommendations included within the geotechnical investigation report are implemented and also that further certification is provided throughout the construction phase in accordance with the Department's Geotechnical Policy. This includes the provision of:

- a Form 2 prior to issue of a Construction Certificate confirming that structural documents are prepared and verified by the structural or civil engineer and in accordance with the geotechnical report
- a Form 3 follow construction and prior to issue of the Occupation Certificate that confirms the works have been carried out in accordance with the geotechnical report

Gas tank

- The Applicant proposes the installation of a one (1) tonne gas tank to service the development shielded from the Alpine Church by a 1.5-metre-high brick wall.
- The Applicant also advises that the tank meets all requirements for the installation of the tank at its proposed location.
- The gas tank enclosure will be clad with granite. The location is the most appropriate given setback requirements, access requirements and bushfire asset protection zone requirements.

The Department has considered the location of the tank in proximity to the adjoining Alpine Church, while noting the reasons for the tank location.

When considering the sloping site characteristics and the design of the proposed building, the location between the new building and the Alpine Church is considered to be the most appropriate.

The Department has however recommended that:

Prior to the construction certificate being issued, sizing of the tank is to be confirmed by Elgas or the relevant commercial gas supplier. Plans confirming the installation complies with AS1596:2014 are to be prepared by a suitably qualified professional.

Were the tank location be needed to be altered, a Modification Application would

need to be submitted and considered prior to construction.

Materials /
stockpile sites

The Applicant provided a Construction Management Plan (CMP) (**Figure 20**) that identifies:

- measures to implement and management stockpile sites
- measures to minimise impacts during and post construction
- responsible officers to ensure compliance and interested parties

The Department has recommended that an amended CMP be provided to address NPWS comments (**Section 5**) and once adopted, the CMP be implemented prior to and during the works being carried out.

The Department has also adopted the NPWS recommended conditions including machinery, stockpile sites and soil and waste management.

Particularly that works are to comply with 'Soil Stockpile Guidelines for the Resort Areas of Kosciuszko National Park, October 2017'.

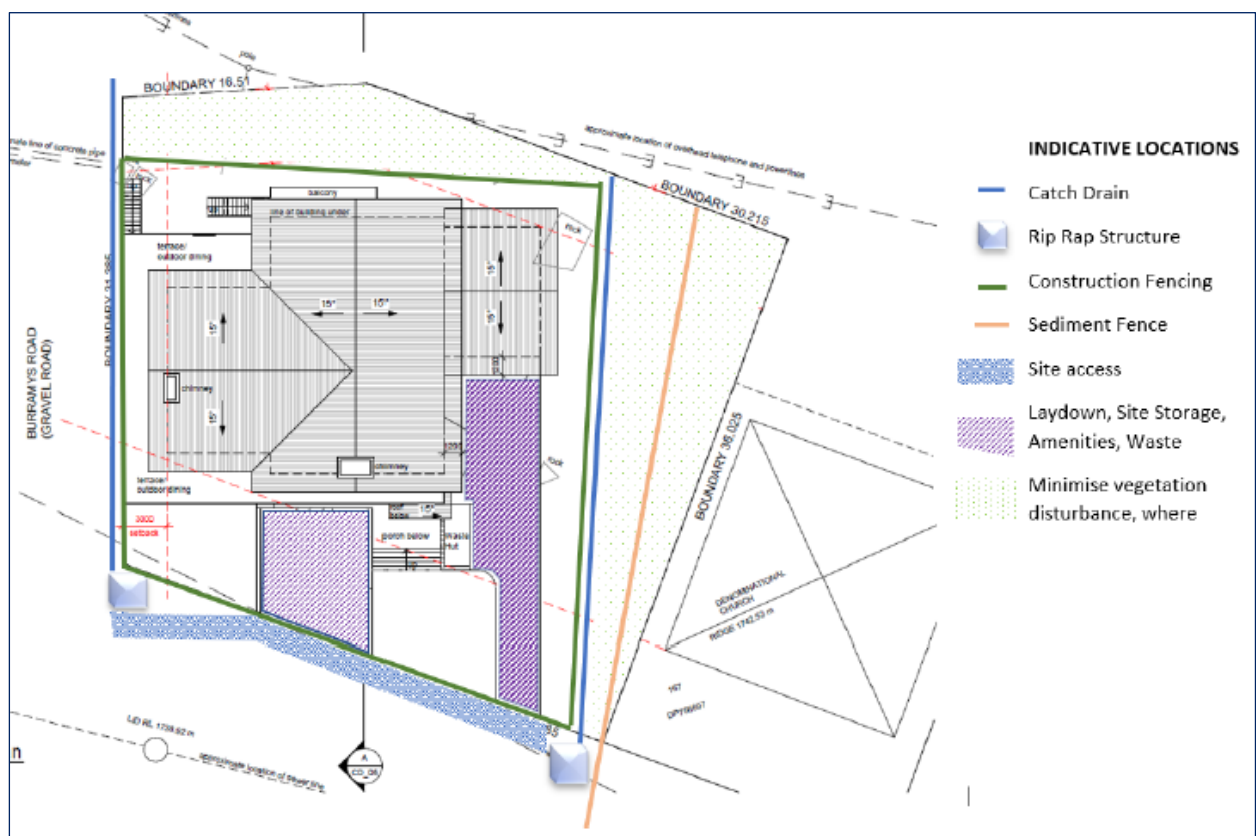


Figure 20 | Proposed indicative location of materials and storage, sediment fencing and site access (Source: Applicant's documentation)

7 Evaluation

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

- the proposal provides a new commercial ski lodge to support ongoing visitor accommodation requirements within the Perisher Range Alpine Resort
- the height, bulk and scale of the proposal is complimentary to the setting within the Alpine resort and has regard to adjoining view lines from adjoining lodges and from the adjoining Burrumys Road during winter and summer
- environmental impacts are minimized, as minimal clearing will be undertaken to meet required bushfire requirements and in accordance with endorsed Asset Protection Zone measures to reduce bushfire risk while minimising the environmental impact of the development
- suitable erosion and sedimentation control measures are to be installed prior to and during the works
- the recommended conditions would require construction impacts to be minimised having regard to the existing native vegetation adjoining the site and path of travel, and all disturbed areas to be rehabilitated following construction

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 Deputy Secretary, Development Assessment, as delegate of the Minister for Planning and Public Spaces:

- **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 21/11288, subject to the recommended conditions
- **signs** the attached Development Consent (**Appendix C**)

Recommended by:



Keiran Thomas

Director

Regional Assessments



Anthea Sargeant

Executive Director

Key Sites and Regional Assessments

9 Determination

The recommendation is **Adopted** by:

A handwritten signature in black ink, appearing to read 'David Gainsford', written in a cursive style.

David Gainsford

Deputy Secretary

Development Assessment

as delegate of the Minister for Planning and Public Spaces

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 as follows.

1. Statement of Environmental Effects
2. Submissions to original exhibition
3. Response to Submissions
4. Submissions to second exhibition

<https://www.planningportal.nsw.gov.au/daex/under-consideration/da-2111288-perisher-view-perisher-valley-construction-24-bed-commercial-ski-lodge>

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,	<p>The proposal supports the ongoing use of Perisher Range Alpine Resort for tourism through providing a new commercial lodge on the edge of the existing ski slopes.</p> <p>Construction impacts resulting from the works have been adequately considered by the Applicant.</p>
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	Identification of sensitive vegetation to be retained during the implementation of the approved APZ plan, mitigation measures during construction and rehabilitation of impacted areas deliver an ecologically sustainable development which are supported.
(c) to promote the orderly and economic use and development of land,	The development seeks approval for the introduction of a new commercial lodge within Perisher Range Alpine Resort consistent with the lease granted by NPWS.
(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, with a CMP lodged and conditions from NPWS further guiding development.

(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 and 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 and slope, compliments existing materials and finishes within the locality and minimises impacts upon the existing 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 displaying the application on the NSW Planning Portal.

APPLICATION OF PART 7 OF BIODIVERSITY CONSERVATION ACT 2016

To satisfy the requirements of section 1.7 of the EP&A Act, the Applicant undertook an assessment of the proposal against the provision of section 7.3 of the BCA Act.

Refer to **Section 6** of this report.

The location of the proposal provides a wide variety of flora and fauna species. The Applicant's ecologist states that the study area provides potential habitat for a range of native fauna, including the following threatened species:

- Broad-toothed Rat (vulnerable – known to occur)
- Alpine She-oak Skink (endangered – potential to occur)

A five part Threatened Species Test of Significance in accordance with BC Act was undertaken by the Applicant to consider the proposal's impact upon the Broad-toothed Rat and Alpine She-oak Skink. The test of significance shows that the proposal is highly unlikely to have a significant impact on the threatened species that were assessed.

The Applicant's summary is provided in the table below.

Threatened Fauna	Assessment
Broad-toothed Rat (<i>Mastacomys Fuscus</i>)	<p>The subject site provides foraging and sheltering habitat for the Broad-toothed Rat. Evidence of the species was observed within the subject site indicating that the species occurs within the study area during the winter months.</p> <p>The proposed development has been designed so that it will affect only a small amount of the potential habitat for the species in the locality and so that key resources for the species, such shrub cover, will be strategically retained. As such the proposal will predominately affect only a relatively small area of disturbed habitat. The better quality habitat which occurs to the immediate north of the subject land and in association with Perisher Creek.</p> <p>Under these circumstances, the proposed development is considered unlikely to disrupt the life cycle of the Broad-toothed Rat such that a viable local population is likely to be placed at risk of extinction.</p>
Alpine She-oak Skink <i>Cyclodomorphus praealtus</i>	<p>The habitats within the study area are potentially suitable for the species, and it is possible that the species occurs within the study area.</p> <p>The noise and other disturbances associated with construction of the proposed development is likely to temporarily deter any Alpine She-oak Skink individuals that may be within the development site. As such, it is unlikely that any individuals would be unintentionally killed during construction.</p> <p>Whilst the species may occur within the development site, it comprises only a small area of potential habitat relative to the extent of similar habitat within the Front Valley area and is thus unlikely to provide important habitat for the species. Furthermore, there are extensive areas of better-quality habitat beyond Front Valley, much of which is mapped as habitat for the species within the Biodiversity Values map.</p> <p>Under these circumstances, it considered unlikely that the proposed development will have an adverse effect on the life cycle of the Alpine She-oak Skink such that a viable local population of the species is likely to be placed at risk of extinction.</p>

To further mitigate potential impacts, the Applicant's ecologist recommended the implementation of a number of measures including:

- All vegetation to be retained should be appropriately protected during any clearing and during the construction phase of the proposal.

- Shrubs should be retained in the proposed retained areas in the APZ Management Plan (Figure 3) to mitigate impacts on the threatened Broad-toothed Rat.
- The wombat burrow within the development site should be monitored immediately prior to the construction phase of the proposal and wombats excluded and/or relocated as per NPWS protocols.
- Appropriate sediment control measures should be implemented prior to any clearing and should be retained in place until exposed areas of soil are stabilised and/or revegetated.
- Works should not be scheduled when heavy rainfall is forecast.
- Works involving soil disturbance should not take place during heavy rainfall periods, other than work necessary to stabilise the site.

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 (formerly known as the Alpine SEPP, with the provisions consolidated in the Precincts – Regional SEPP on 1 March 2022 with no changes made). Chapter 4 of the Precincts – Regional SEPP was then replaced with new policy requirements on 16 December 2022, however as the application was received prior to this date, the application is considered against the provisions at the time of lodgement.

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 ski resort.

(b) the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),

As the works involve the construction of a new commercial lodge on the site, impacts upon the existing natural environment is required. The Applicant has provided a five part test that concluded the proposal is unlikely to have a significant impact on Commonwealth listed threatened species or ecological communities.

The site is identified as bushfire prone land and an APZ has been established in consultation with the RFS and NPWS, which requires some vegetation management as described in **Section 6.6**.

There are no other known environmental hazards associated with the site.

(c) the cumulative impacts of development on existing transport, effluent management systems, waste disposal facilities or transfer facilities, and existing water supply,

The introduction of a new commercial lodge on the site would connect to existing effluent management systems and waste disposal facilities servicing other sites within the locality.

Concerns with the proximity / location of the site and impacts with the oversnow transport system are discussed in **Section 6.4**.

Overall, the Department raises no concerns with the proposal when considering these matters.

(d) any statement of environmental effects,

The SEE and 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, with the proposal offering an additional commercial premises to accommodate visitors adjoining Front Valley.

(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,

Refer to **Section 6.7** for further discussion.

(g) any sedimentation and erosion control measures,

The construction of the works (incorporating the building construction and access road) would involve earthworks and implementation of appropriate sedimentation and erosion control measures.

The Applicant provided a Construction Management Plan (CMP) to support the proposal.

The Department has recommended the CMP be amended to address the points raised in the recommended conditions and the NPWS comments.

(h) any stormwater drainage works proposed,

The proposal includes stormwater management / drainage works to address water crossing the site and also captured by the building.

NPWS commented that the design plans for stormwater management and driveway are satisfactory. The driveway is to be hard surfaced with all stormwater pits and pipes connected to existing NPWS infrastructure.

Conditions of consent are recommended however to ensure additional endorsement of construction diagrams prior to commencement of work.

(i) any visual impact of the proposed development, particularly when viewed from the Main Range,

The proposal will not result in an unacceptable visual impact. The proposal has been designed to be complementary to the alpine environment and the character of the immediate locality.

Refer to **Section 6.5** for further discussion.

(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.

Perisher Valley lodges are predominantly operating only during the ski season, however any future use within the summer months is not expected to have an impact on the environment or services provided for the locality.

(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,

See discussion in **Section 6.2**.

(m) if the development is proposed to be carried out on land in a riparian corridor.

Not applicable to proposal.

Section 4.13 – additional matters to be considered for buildings

Building Height

The proposed building height is considered acceptable, refer to **Section 6** for further information.

Building Setback

The proposed setbacks are considered acceptable, refer to **Section 6** for further discussion.

Landscaped Area

The proposed landscaping is considered to be acceptable.

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

The proposal was referred to the NPWS pursuant to Chapter 4 of the Precincts – Regional SEPP. Refer to comments received at **Section 5** and as required, discussions on 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 advised that the Applicant has followed a suitable process and due diligence in determining that the proposed works are unlikely to harm Aboriginal objects.

NPWS recommends 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.

A condition is recommended addressing NPWS comments.

Appendix C – Recommended Instrument of Consent