



Altitude Lodge, Smiggin Holes

Development Application Assessment
DA 22/7811

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Glossary

Abbreviation	Definition
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
BC Regulation	<i>Biodiversity Conservation Regulation 2017</i>
BVM	Biodiversity Values Map
Consent	Development Consent
CPP	Community Participation Plan
Department	Department of Planning and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 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
NPWS	National Parks and 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 22/7811) lodged by Ms Lisa Schweitzer (the Applicant) seeking approval to undertake external works to a tourist accommodation lodge including replacement and extension of a deck, new doors and windows, new cladding, enclosing under roof eaves, installation of an external wall ventilation point and construction of additional hardstand areas including one additional car parking space within the lease area of Altitude Lodge, 13 Plum Pine Road, Smiggin Holes within Kosciuszko National Park (KNP).

The Minister for Planning is the consent authority for development within a ski resort in KNP, administered by the Department of Planning and Environment (the Department). The proposal is permissible with consent under the provisions of *State Environmental Planning Policy (Precincts - Regional) 2021* (Precincts – Regional SEPP).

Consistent with the Department's Community Participation Plan, the application was exhibited between 22 June 2022 and 9 July 2022 with the application made publicly available on the Department's Planning Portal website. The Department also notified tourist accommodation owners within fifty (50) metres of the development site and referred the application to relevant government agencies.

Referral to the Rural Fire Service (RFS) was undertaken in accordance with section 100B of the *Rural Fires Act 1997* as the development relates to tourist accommodation on bush fire prone land (BFPL). The Department also referred the application to the National Parks and Wildlife Service (NPWS) pursuant to section 4.15 of the Precincts - Regional SEPP.

The Department received comments from the NPWS and the RFS. No submissions from the public were received during the exhibition of the application.

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

The Department considers the proposal is acceptable as:

- there will not be a significant impact on any threatened species, populations or ecological community,
- the works improve the accommodation for the amenity and safety of visitors and staff at the lodge without resulting in adverse environmental, social or economic impacts on the locality, and
- construction impacts on the surrounding environment will be minimised given the nature of the proposal and recommended conditions of consent requiring effective site management during construction, as well as the rehabilitation of any disturbed areas following works.

Assessment of the application concludes the works are consistent with the aim and objectives of Chapter 4 of the Precincts - Regional SEPP and align with the South and East Tableland Regional Plan. Support for the application is considered to be consistent with the public interest. The Department 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 22/7811 lodged by Ms Lisa Schweitzer (the Applicant) seeking approval for external works to Altitude Lodge located at 13 Plum Pine Road, Smiggin Holes, Perisher Range Alpine Resort within Kosciuszko National Park (KNP) (Lot 1 DP 1195135) (**Figure 1**).

The Applicant is seeking approval for repair and replacement works to the lodge building including replacing an existing timber deck with a larger metal deck, approval for the use of six (6) decks (retrospective building works) that were of timber construction that have been replaced with metal decking, new fire doors and window replacement, removal of timber recladding from the building and replacement with metal cladding, lining the eaves of lodge, expanding the hardstand area adjoining the driveway and construction of one additional carparking space.

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.

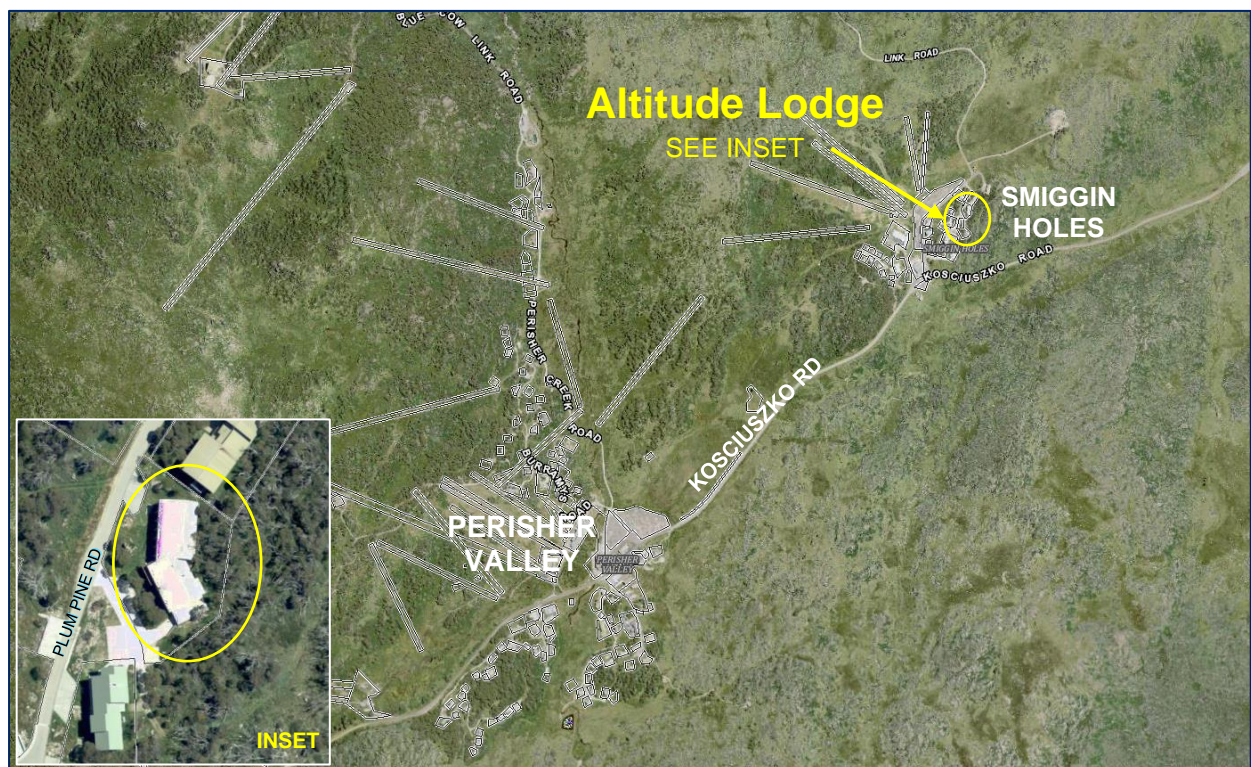


Figure 1 | Location of Altitude Lodge within Smiggin Holes, Perisher Valley (Source: SIX Maps 2022)

1.2 Site Location and Context

Smiggin Holes is located within the Perisher Range Alpine Resort in KNP. Smiggin Holes is principally a winter destination providing services and accommodation for visitors accessing the resort's 1,250 hectare ski slopes and cross-country ski trails. It also provides an accommodation base throughout the year for non-snow activities including hiking, fishing and mountain bike riding during the summer months. Access to the resort is via Kosciuszko Road or the Skitube alpine railway which has terminals from Bullocks Flat to the south near the Alpine Way, and stops at Perisher Valley and Blue Cow to the north-west.

Altitude Lodge, which was previously known as The Lodge, is a free-standing, three-storey tourist accommodation building situated on an irregular shaped allotment of approximately 2232.9 square metres located on the eastern side of Plum Pine Road within Smiggin Holes. It is situated between Willow Lodge staff accommodation to the north and IMBAC lodge to the south, with Windarra Lodge and Wild Spitze on the opposite side of Plum Pine Road to the west and southwest, Gunuma Lodge to the northwest, and forest vegetation along the eastern and southern boundaries of the Altitude Lodge site and on the vacant land opposite the lodge to the west (**Figure 2**).



Figure 2 | Altitude Lodge and surrounding lodges (Source: SIX Maps 2022, annotations added)

The parcel comprises relatively flat land that has been largely cleared on the western side of the lodge between the lodge and the road, with the retention of forest vegetation on the eastern and southern edges of the parcel. The site is identified as being within a designated bushfire prone area. The land is not prone to flooding with the nearest waterways to Altitude Lodge being Smiggin Creek approximately 230 metres to the west and Pipers Creek approximately 300 metres to the south-east. The parcel is not identified as being located within an area of geotechnical instability.

The walls of the ground floor level and chimney of the Altitude Lodge building are predominantly of stone clad construction on the south-western area of the building, and the stone finish extends to blade walls that buttress the building on the north-western façade. Timber plywood cladding and areas of finished concrete block construction are used elsewhere on the walls of the lodge. The pitched roof is corrugated metal.

Altitude Lodge contains ensuite bedrooms on both the ground and first floor levels, and also provides common areas and facilities for the benefit of guests. Nine (9) staff are accommodated on site, where the SEE that accompanies the application advises that staff accommodation is provided in single and share rooms spread throughout the guest rooms, together with a Manager's flat on the ground-floor in the south-western corner of the building. The maximum number of people who can be accommodated on site at the lodge is fifty-six (56) people, including staff.

Vehicular access to the lodge is via a shared driveway from Plum Pine Road that also services IMBAC Lodge. From this shared driveway there are currently thirteen (13) identified parking bays, with five (5) allocated to IMBAC and eight (8) allocated to Altitude Lodge. A further section of driveway extends to the south-western corner of the Altitude Lodge building where the area adjoining the building has previously been approved as an accessible parking space (**Figure 3** and **Figure 4**).



Figure 3 | Altitude Lodge, south-western corner (Source: from Applicant's documentation)



Figure 4| Altitude Lodge – accessible parking space (Source: Applicant's documentation, notation added)

2 Project

The application seeks approval for external works to the Altitude Lodge tourist accommodation building comprising the following:

- removal of all timber wall cladding and replacement with steel cladding to improve fire resistance, where the new steel cladding has a weatherboard panel profile in the Colorbond colour of 'Ironstone' (a dark grey).
- replacement of three (3) deteriorating fire doors with new double-glazed fire exit doors, comprising one fire exit door on the ground floor and two fire exit doors on the first floor.
- removal of three (3) floor-to-ceiling windows (2100mm high) from the north-western corner lounge area and replacing with smaller picture windows with double glazing and thermal breaks.
- installation of additional cement topping to an existing concrete area at the rear of the building to improve drainage by redirecting water away from the building.
- infilling a narrow triangular space between two existing cement slabs at the south-western end of the lodge adjoining the driveway to minimise erosion and improve ease of snow clearing (**Figure 5**).
- boxing in eaves with a plain profile steel product in the Colorbond colour of 'Dune' (a light olive/grey colour) to encase existing asbestos and increase fire resistance to ember attack (**Figure 6**).
- removal of the deteriorated first-floor timber deck that is central to the western elevation of the building and replacement with a metal deck of steel frame and mesh construction. It is also proposed to extend the depth of the new deck by 1.5 metres to a total of four (4) metres from the building, and provide a new fire exit door from the building to the deck and new fire stairs from the deck to ground level.
- approval for the use of six (6) first-floor metal decks that have replaced timber decks (advised to have been unsafe structures suffering rot in the bearers), where retrospective approval for this component of the works is sought for the completed works. Elevation plans depicting the proposed location of building elements and works are shown at **Figure 7** and **Figure 8**.
- creation of a wall penetration for range hood extraction fan to vent to outside of the south-western corner of the ground floor of the building (from the Manager's flat kitchenette).
- extension of one (1) additional hardstand parking space near the western (front) of the lodge, converting the single space already in the location to two (2) spaces. The parking spaces are to be provided perpendicular (90 degrees) to the current driveway, which will allow a six (6) metre clearance to the opposite parking spaces that are provided for the adjoining IMBAC lodge. The provision of the additional parking space in the proposed location will enable all parking spaces for Altitude Lodge to be incorporated within the lease boundary. Currently, one space that is allotted to Altitude Lodge is located across the driveway adjoining the spaces for IMBAC lodge, which is outside the lease boundary. This additional space will be relinquished back to the NPWS (**Figure 5**).

The cost of works for the proposal is stated as \$260,610.

The Statement of Environmental Effects (SEE) that accompanies the application states that the proposal is in response to the need to improve the weather protection and longevity of the external components of the lodge from UV, wind, ice and snow. The works also allow for improved fire safety and egress as well as bushfire protection with the use of non-combustible materials.

No vegetation removal is proposed as part of this development application. The Department notes that an Asset Protection Zone (APZ) Plan is already in place for Altitude Lodge as approved by the NPWS to provide a defensible space around the lodge building.

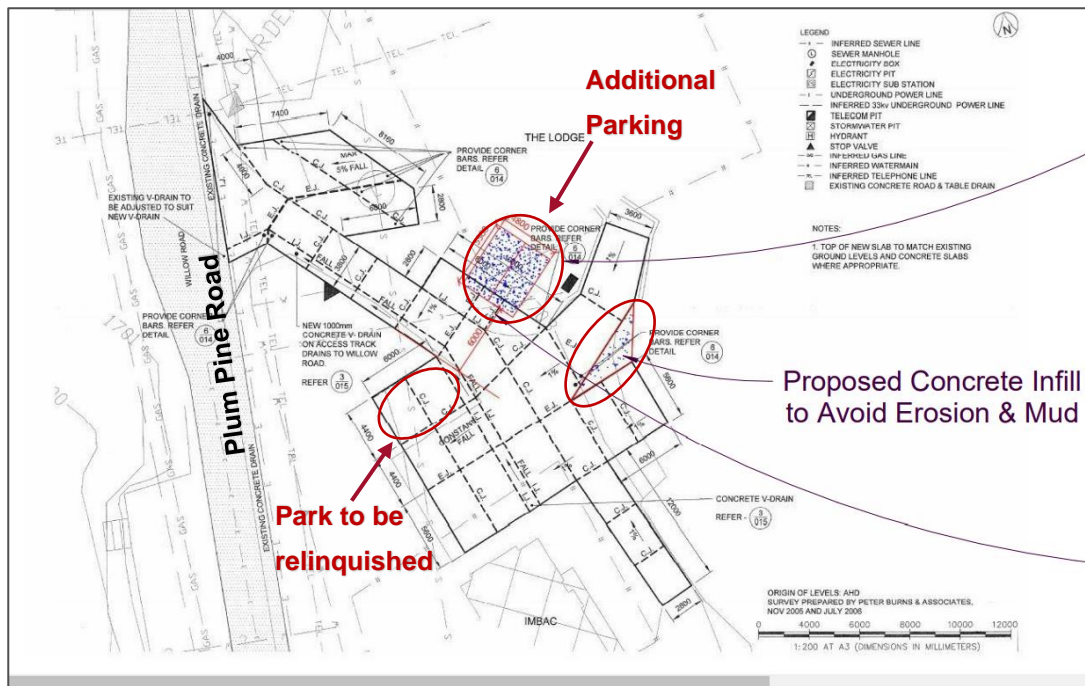


Figure 5| Location of additional parking and infill space (Source: Applicant's documentation, notation added)

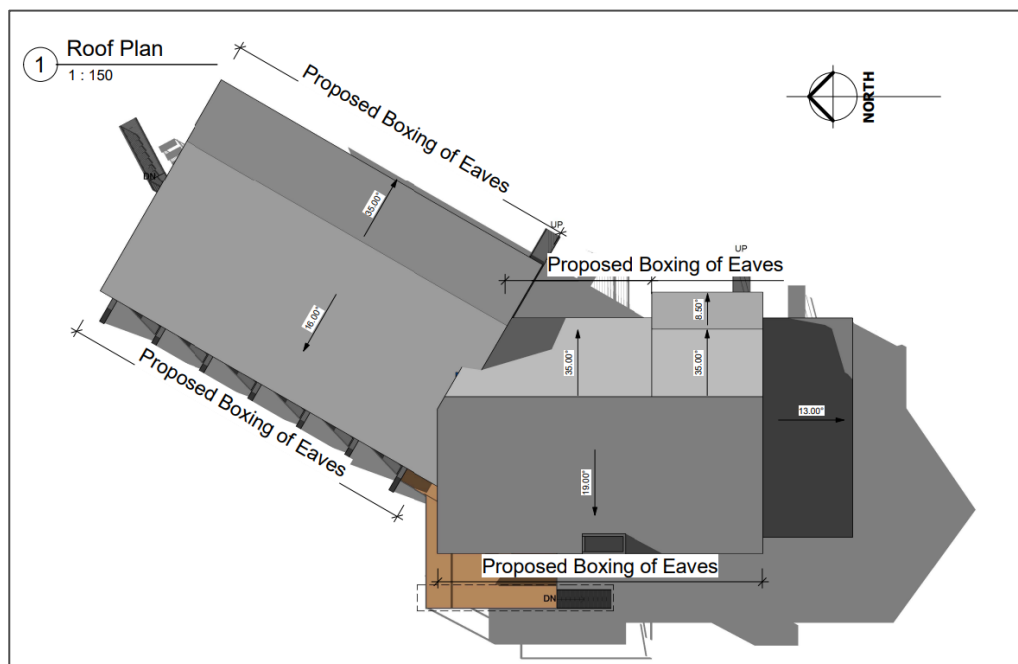


Figure 6| Altitude Lodge roof plan and boxing in eaves (Source: Applicant's documentation)

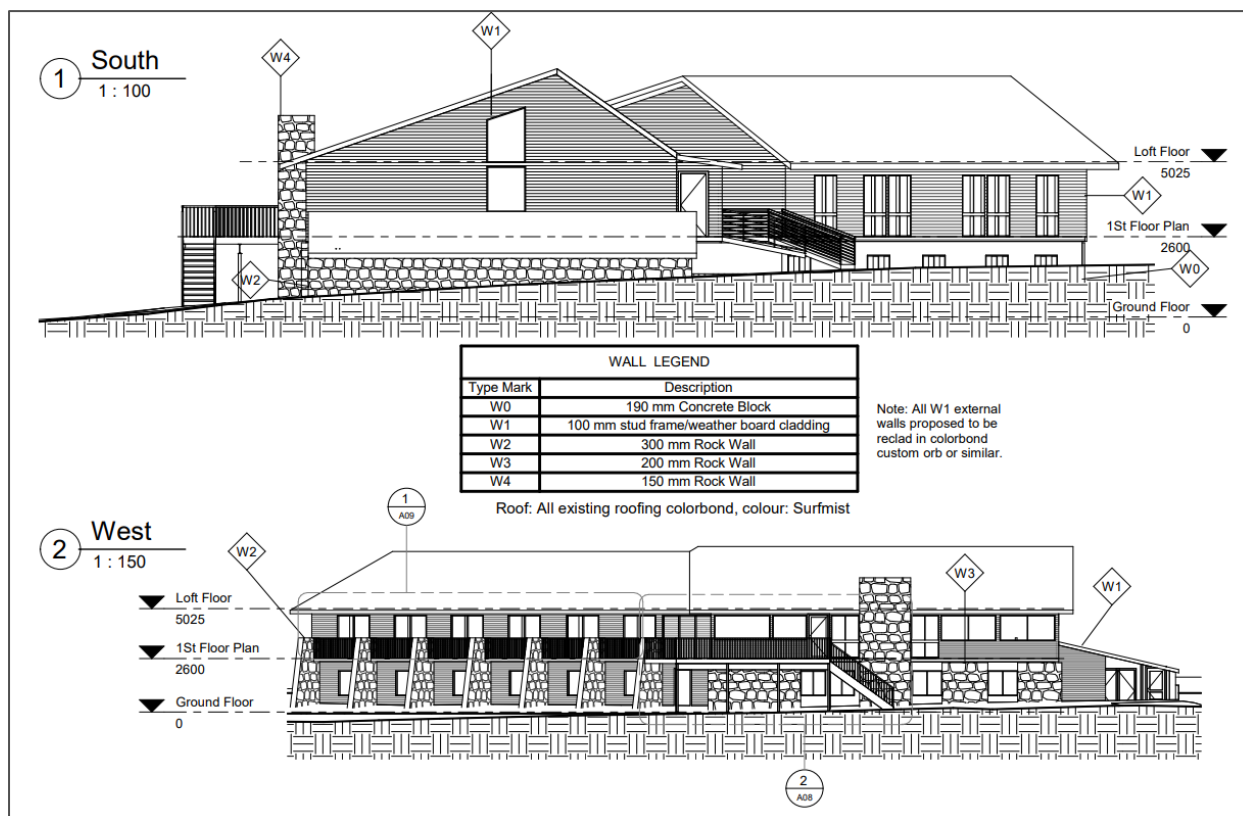


Figure 7| Altitude Lodge south and west building elevations (Source: Applicant's documentation)

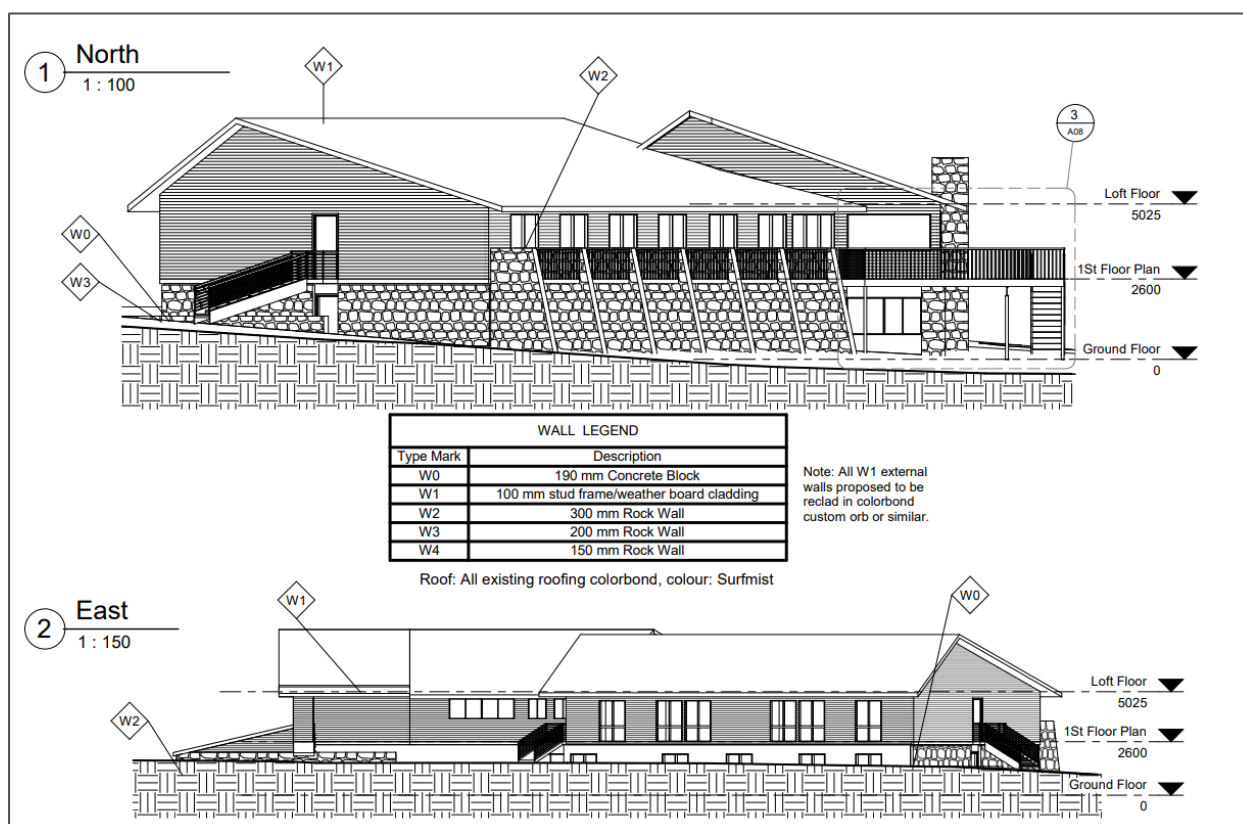


Figure 8| Altitude Lodge north and east building elevations (Source: Applicant's documentation)

3 Strategic context

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

South East and Tableland Regional Plan 2036

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

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

The Department considers the proposal to be consistent with the Regional Plan as it intends to improve the amenity and safety of the subject lodge for visitors and thereby contribute to higher quality accommodation in Smiggin Holes and the Perisher Range Alpine Resort. This enhances the utilisation, viability and maintenance of Altitude Lodge as tourist accommodation, supporting ongoing use of the accommodation and associated visitation of the NSW ski resorts.

Snowy Mountains Special Activation Precinct Master Plan

The Snowy Mountains Special Activation Precinct Master Plan outlines the 40-year vision for the Snowy Mountains as a year-round tourist destination with new business opportunities, services and community infrastructure for the people that live, work and visit the region. Section 9.1.2 of the Master Plan relates to Perisher Range and Smiggin Holes.

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

Precincts - Regional SEPP

The Precincts – Regional SEPP governs development on land within the ski resort areas of KNP. Chapter 4 of the SEPP aims to protect and enhance the natural environment, to protect cultural heritage within the resorts and to ensure that development in the resorts is managed in a way that is compatible with the principles of ecologically sustainable development. Under the provisions of section 4.15 of the Precincts – Regional SEPP, the NPWS has 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 Park.

The Department considers the proposal is consistent with Chapter 4 of the Precincts - Regional SEPP as the proposal would not have an adverse impact on the environment or detract from the character of the building, whereas it will improve the accommodation for the benefit of users. It appropriately minimises the potential impacts on the environment, and will be subject to conditions of consent to ensure demolition waste is by appropriately managed during the construction phase of the project. The proposal comprises the enhancement of existing tourist accommodation in the Perisher Range Alpine Resort, which contributes to the ongoing range of accommodation options available for visitors to KNP without resulting in adverse environmental, social or economic impacts on the natural or cultural environment.

4 Statutory Context

4.1 Consent Authority

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

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

- no reportable political donation has been disclosed
- there are less than fifteen (15) public submissions that raise objections to the proposal, and
- the application is in relation to land to which the Precincts - Regional SEPP applies.

4.2 Permissibility

The proposal includes external alterations to a building while maintaining the use of the site consistent with the definition of 'tourist accommodation' as defined in Chapter 4 of the Precincts - Regional SEPP. Pursuant to section 4.9 of the Precincts - Regional SEPP, 'tourist accommodation' is permissible with consent within the Perisher Range Alpine Resort.

4.3 Other Approvals

It is noted that the Altitude Lodge accommodation building is located on bushfire prone land. As such, the development comprises integrated development and approval is requirement from the NSW Rural Fire Service (RFS) under s.100B of the *Rural Fires Act 1997* to obtain a Bush Fire Safety Authority.

As mentioned in **Section 3** of this report, the NPWS has a commenting role as the land manager under the provisions of section 4.15 of the Precincts – Regional SEPP. The NPWS has carriage of matters relating to approval of parking spaces, and the NPWS has advised that Altitude Ski Lodge has a total of eight (8) carparks are permitted under the lease. The site currently has eight spaces available, and with the proposed construction of one additional parking space, the lodge will be required via a condition of consent to relinquish the additional parking space that is outside their lease area to the NPWS.

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:

- there would not be an unacceptable impact on the environment,

- works are aimed at improving the existing lodge accommodation, thereby supporting the orderly and economic use of the site without impacting on neighbouring properties,
- the works are capable of achieving compliance with relevant construction standards, and
- the Department provided opportunities for community participation in the assessment process, which included exhibiting the application by displaying the proposal on the NSW Planning Portal website.

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 in the application, 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 Department's assessment has noted that the proposal is contained to works on land that is managed as part of an approved APZ plan. No removal of vegetation is proposed as part of this development application, and the works will not impact upon cultural heritage, including any known Aboriginal cultural heritage.

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 affect threatened species or ecological communities, or their habitats; or
- the works are carried out in a declared area of outstanding biodiversity value.

The information supporting the Application indicates that the proposal does not require the removal of any native vegetation. The Applicant concludes that works are confined to the building and areas immediately adjoining the building that are already disturbed, and that the proposal would not have a significant effect on threatened species, populations, ecological communities, or their habitats.

The Department notes that the western and southern boundaries of the development site contain vegetation that is mapped on the BVM. Comments received from the NPWS during the assessment of the application raise no concern in relation to the development. NPWS indicate they do not consider the works,

as proposed, will affect threatened species and does not trigger the BOS. The works are not considered likely to impact on the natural systems or diminish the biodiversity values of the locality. Accordingly, the proposal is unlikely to have an adverse effect on threatened species or ecological communities, or their habitats. The Department also notes that there is currently no declared area of outstanding biodiversity value within KNP.

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 consideration outlined further in **Section 6** (Assessment) of this report and references other relevant appendices and sections outlined in this report.

Table 1 | Section 4.15(1) Matters for Consideration

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument (EPI)	<p>The Precincts – Regional SEPP is the principal EPI that applies to the site for this type of development. An assessment against the requirements of the SEPP is provided in Appendix B.</p> <p>The Department is satisfied that the Application is consistent with the requirements of Chapter 4 of the Precincts - Regional SEPP.</p>
(a)(ii) any proposed instrument	Not applicable to proposal.
(a)(iii) any development control plan	Not applicable to proposal.
(a)(iiia) any planning agreement	Not applicable to proposal.
(a)(iv) the regulations	<p>The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to development applications (Part 3 and Part 4) and fees (Part 13 and Schedule 4).</p> <p>The Department has undertaken its assessment in accordance with all relevant matters as prescribed by the Regulations, the findings of which are contained within this report.</p>
(a)(v) any coastal zone management plan	Not applicable to proposal.

(b) the likely impacts of that development	<p>The Department has considered the likely impacts of the development. Adverse environmental impacts can be appropriately managed and mitigated through conditions of consent. The proposal is considered to have positive economic and social impacts by enhancing resort accommodation which will help support ongoing visitation of the Perisher Range Alpine Resort.</p>
(c) the suitability of the site for the development,	<p>The site is both suitable and desirable for continued use of Altitude Lodge for tourist accommodation as discussed in Section 6 of this report.</p>
(d) any submissions made in accordance with this Act or the regulations,	<p>Consideration has been given to comments received from the NPWS during the exhibition period. Refer to Section 5 of this report.</p>
(e) the public interest.	<p>The works are consistent with the aim and objectives of section 4.1 of the Precincts - Regional SEPP. The development is compatible with adjoining land uses in the locality while maintaining the health and diversity of the natural environment, consistent with the principles of ESD.</p> <p>As such, the proposal is believed to be consistent with the public interest.</p>

5 Engagement

5.1 Department's Engagement

The Department's Community Participation Plan (CPP), November 2019, prepared in accordance with Schedule 1 of the EP&A Act generally requires applications to be exhibited for a period of fourteen (14) days. Public exhibition is required in accordance with the CPP for proposals that relate to works which are not wholly internal to a building where works are within fifty (50) metres of other tourist accommodation buildings. The Department exhibited the application from 22 June 2022 until the 9 July 2022 with the application made publicly available on the Department's Planning Portal website. The Department also notified tourist accommodation owners within fifty (50) metres of the development site.

Pursuant to section 4.46 of the EP&A Act (integrated development) the application was referred to the NSW Rural Fire Service (RFS) as the site is identified as bushfire prone and a Bushfire Safety Authority (BFSa) is required under the *Rural Fires Act 1997*. The application was also referred to the NPWS pursuant to section 4.15 of the Precincts - Regional SEPP as the land is within an alpine resort within KNP.

5.2 Summary of Submissions

The Department received comments from the NPWS and from the RFS. No public submissions were received.

The NPWS did not object to the proposal subject to conditions being placed on the works relating to the following matters:

- NPWS Visitor Engagement & Revenue Branch (VERB) advised that the works proposed in the DA are permissible under the lease for the Altitude Ski Lodge. VERB further advised that eight (8) carparks are permitted under the lease, and indicated the infill carpark area proposed in the DA must not be used for the overnight parking of additional cars. Clarification was received from the NPWS that confirmed the new carpark proposed on the Altitude lease area as part of this DA will be permitted as one of the eight carparks for the lodge if the off-site carpark adjoining the IMBAC lodge parking area is relinquished to the NPWS.
- In order to assist in minimising any impacts of the proposed development on the environmental values of Kosciuszko National Park, NPWS recommended that the following measures be implemented during completion of the works:
 - (i) To minimise weed vectors and other biosecurity issues, all vehicles, machinery and equipment used during construction must be cleaned to ensure the machinery is free of mud and vegetative propagules prior to entry into the Kosciuszko National Park, and prior to movement between sites in the Park.
 - (ii) All vehicles must be parked in designated driveways or carparks.
 - (iii) All stockpile sites, including materials storage areas, parking and waste management receptors (e.g., skip bins) must be placed so as not to impact on native vegetation and stockpile sites contained within the subject site lease boundaries.
 - (iv) All waste management receptors must be covered daily, or be emptied or removed from site each day, to ensure that waste cannot blow away or be disturbed by scavenging fauna.
 - (v) If footings or earthworks are left open overnight an egress must be provided for small mammals.

- (vi) Cement slurry is not to be washed down drains or disposed of on site or in vegetation. A filtration system such as a 'Slurry Tub' to separate and dispose of cement waste is to be used.
 - (vii) The rehabilitation of areas surrounding the new concrete works should be undertaken in accordance with the Kosciuszko National Park Resorts Rehabilitation Guidelines. This may involve seeding with Poa species and mulching to limit erosion.
 - (viii) All straw bales or other mulch used for rehabilitation must be weed free.
 - (ix) Subject site is to be left clean and tidy and free of building debris and materials at the conclusion of works.
- The NPWS noted that the BC Act has been addressed by the proponent in the DA. NPWS concurs with the view that the works, as proposed, are not likely to affect threatened species and do not trigger the Biodiversity Offsets Scheme under the BC Act. They state that they have based the referral response on their understanding that the no vegetation clearance would be required. However, they also state that vegetation clearance is required for the establishment of an asset protection zone (APZ) to satisfy NSW Rural Fire Service (RFS) requirements associated with the DA under the Rural Fires Act 1997. The NPWS acknowledge that the proponent has obtained an approved APZ management plan for the site, and comment that if any vegetation management beyond the approved APZ management plan is required then further consultation with, and application to, NPWS is required.
 - Upon issue of the BFSA and General terms of Approval from the RFS, the requirements were referred back to the NPWS for review relating to the establishment of the APZ to ensure the NPWS were satisfied the requirements are consistent with the approved APZ plan. Sensitive areas of vegetation are identified to be retained in the APZ Plan. The NPWS raised no objection to the RFS requirements.

The RFS did not object to the proposal, and issued a BFSA under section 100B of the *Rural Fires Act 1997*, subject to conditions that included (but not limited to):

- At the commencement of building works, and for the life of the development, all land within the identified APZ as shown on the APZ Management Plan authorised by Kelsey Boreham (NPWS) dated 6 September 2021, must be managed as an inner protection area (IPA) in accordance with Appendix 4 of Planning for Bush Fire Protection 2019.
- Due to the environmental constraints placed on the APZ it is imperative that the manageable areas are monitored and maintained regularly to ensure compliance. A maintenance schedule to ensure compliance with the APZ Plan is to be developed and followed. When establishing and maintaining an inner protection area, the requirements that were to be applied were listed in the RFS conditions.
- New construction that is not identified as repair and replacement work shall comply with Flame Zone (FZ) construction standards

The Department has considered the comments received from the NPWS and RFS in **Section 6** or 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 in its assessment of the proposal. The key issue in the Department's assessment is to ensure the temporary construction impacts of the development are managed to protect the environment and public amenity during works, and to ensure compliance with design details and standards. These issues are discussed in the following sections of this report.

6.1 Temporary Construction Impacts

Environmental impacts

The Department has carefully considered the potential environmental impacts associated with the proposal given the location of the site within Smiggin Holes Ski Resort within KNP. Conditions will be placed on the works to ensure the location and management of stockpiled material, vehicle and machinery parking, hygiene and management of waste is appropriate to protect the environment. Mitigation and management measures in accordance with the Site Environmental Management Plan (SEMP) will be supported by the implementation of conditions of consent to protect the natural environment.

Public amenity

Noise will be generated during the construction phase of the project which may cause disturbance to visitors in accommodation within the adjoining lodge buildings. The Department will require the implementation of construction hours to limit all work in connection with the proposal to being undertaken between 7.00am and 6.00pm on Monday to Friday inclusive, and 7:00am to 1.00pm on Saturdays, with no work allowed on Sunday or gazetted NSW public holidays.

The nature of works proposed including the materials and colours to be used will not have an adverse impact on the built form and appearance of the lodge building when viewed from surrounding vantage points in the locality.

The Department is therefore satisfied that measures are in place to ensure the development and works can be undertaken and managed to avoid significant loss of amenity to Park users.

6.2 Design Details and Standards

The proposed new works, when constructed, are to comply with the Building Code of Australia (BCA) and relevant Australian Standards. Section 64 of the EP&A Regulation also requires a consent authority to review a building and consider whether upgrades are warranted to bring the existing building into total or partial compliance with the BCA.

The Department has considered the proposal and recommends that:

- any work described, suggested or implied to be altered/extended is new work and shall comply with the BCA in totality for a building of Type A construction and with a BAL level of FZ. This includes any alterations to the external walls of the building are upgraded to meet Type A construction. Details demonstrating compliance with Section C of the BCA are to be provided to the Certifier for consideration. It is also noted that the upgrades and FZ requirements may alter the external appearance of the building, including the possibility of spandrels, shutters on windows and the like.

- all new building work be designed and constructed to achieve compliance with the Class 3 provisions, with design and specifications to be provided to the Certifier and endorsed at Construction Certificate stage.
- accessibility requirements and upgrades in accordance with the Access to Premises – Buildings standards are also to be considered by the Certifier determining the Construction Certificate. The Department has considered the discharge point off the proposed extension to the main deck, it is noted that a ramp may be required in accordance with Part D1.10 of the NCC where the Certifier considers it necessary.
- a structural engineer must inspect the property during the building work being carried out and upon removal/deconstruction works being carried out provide/nominate any upgrades required necessary in order to determine compliance with Section B of the NCC.
- A condition is placed on the consent that identifies retrospective approval of building work as being carried out before the determination of this consent and as such does not form part of any future Construction Certificate and or Occupation Certificate determination. The work identified as seeking retrospective approval (work to six balconies) is not considered as part of this application and as such the structural engineering certificate was not considered. It was noted however that the structural certificate does not verify as complete works but instead verifies the drawing provided to be suitable. The Department also noted a lack of clarity as to what and or how far the embedment of the threaded rods is required. This matter should be dealt with by a Building Information Certificate (BIC), however, and is excluded from requiring any Construction Certificate and or Occupation Certificate.

The Department concludes that subject to compliance with the recommended conditions of consent, including references to the BCA which are to be addressed by the Certifier at the Construction Certificate stage, or otherwise by a BIC, the proposal is satisfactory and would ensure compliance with relevant standards for the amenity and safety of the building occupants.

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 Department considers the proposal is acceptable as:

- there will not be a significant impact on any threatened species, populations or ecological community,
- the works improve the accommodation for the amenity and safety of visitors and staff at the lodge without resulting in adverse environmental, social or economic impacts on the locality, and
- construction impacts on the surrounding environment will be minimised given the nature of the proposal and recommended conditions of consent requiring effective site management during construction, as well as the rehabilitation of any disturbed areas following works.

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

8 Recommendation

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

- **considers** the findings and recommendations of this report
- **accepts** and adopts all 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 22/7811 subject to the recommended conditions
- **signs** the attached Development Consent (**Appendix C**).

Recommended by:



Sandria Butler

Planning Officer

Alpine Resorts Team

16 January 2023

9 Determination

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

A handwritten signature in black ink, appearing to read 'Daniel James', with a stylized, cursive script.

Daniel James

Team Leader

Alpine Resorts Team

as delegate of the Minister for Planning

16 January 2023

Appendices

Appendix A – List of referenced documents

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

1. Statement of Environmental Effects
2. Submissions

[State DA | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](https://www.planningportal.nsw.gov.au/development-assessment/state-significant-applications/projects/state-development-applications)

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

Appendix B – Statutory Considerations

OBJECTS OF THE EP&A ACT

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

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

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The proposal supports the ongoing use of Altitude Lodge as tourist accommodation through improving occupant amenity and ongoing viability of the apartment for its intended use, without negative impacts on the amenity of adjoining users or the environment.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal would not have an unacceptable impact on the environment and is consistent with ecologically sustainable development principles. Mitigation measures during construction have been considered and will be applied as conditions of consent.
(c) to promote the orderly and economic use and development of land,	The development seeks approval for works that are aimed at supporting the ongoing use of the site for 'tourist accommodation', thereby promoting the ongoing economic use of the land.
(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 are limited to disturbed areas. Conditions of consent ensure the impact of the develop with be minor and appropriately contained, with no anticipated impact on threatened species.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposed development is not likely to result in adverse impacts upon the built or cultural heritage of the area, including Aboriginal cultural heritage.

(g) to promote good design and amenity of the built environment,	The Department considers that the proposal will enhance the amenity of occupants without detracting from the built form of the development as it presents to the public domain.
(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 referred the application to the NPWS and considered their response (Section 5).
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the proposal (Section 5) by displaying the application on the NSW Planning Portal.

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 principal EPI applicable to the development. Consideration of Chapter 4 of the Precincts – Regional SEPP is provided below:

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

(a) the aim and objectives of this policy, as set out in section 4.1	The proposal is consistent with the aim and objectives of Chapter 4 of the Precincts - Regional SEPP in that it is consistent with the principles of ESD and supports the ongoing use of the site for 'tourist accommodation'.
(b) the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),	The land is not identified as being subject to flooding. The site is identified as bushfire prone land and relates to a Special Fire Protection Purpose, for which a Bush Fire Safety Authority has been issued by the RFS. Geotechnical review has been undertaken by a geotechnical engineer who has provided an assessment that indicates

that the proposed alterations were deemed to be minor and expected to cause minimal impacts from a geotechnical perspective on the site or related land, and issued a Form 4 in accordance with the Geotechnical Policy to certify the proposed works are of minimal geotechnical impact. Accordingly, natural hazards have been considered and adequately addressed.

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

No increase in bed numbers is proposed at the lodge in relation to this development, and nor is any adverse cumulative impact from the proposal anticipated in relation to cumulative pressures on the services available the development and locality.

(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 does not adversely alter the character of the resort.

(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,

As mentioned above, a geotechnical risk review was carried out by a geotechnical engineer who has considered the loadbearing capacity of the building and determined that the proposed works present no geotechnical impact on the site or related land. No further assessment on geotechnical matters is considered necessary for the proposal.

(g) any sedimentation and erosion control measures,

The Site Environmental Management Plan (SEMP) provided with the application is to be implemented during the works. Conditions will also require the adoption of measures prescribed by NPWS to ensure appropriate management of stockpiled materials during works and utilising only existing hardstand parking areas to reduce impacts on the environment and related erosion and sedimentation impacts.

(h) any stormwater drainage works proposed,	No stormwater drainage works are proposed. The existing stormwater drainage system is adequate for the proposed works.
(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 on the building.
(j) any significant increase in activities, outside of the ski season,	The proposal does not result in an increase in activities outside the ski season.
(k) if the development involves the installation of ski lifting facilities,	The proposal does not involve the installation of any new ski lifting facilities.
(l) if the development is proposed to be carried out in Perisher Range Alpine Resort: the document entitled Perisher Range Resorts Master Plan (PRRMP) and the document entitled Perisher Blue Ski Slope Master Plan,	The subject land is located within the East Precinct of the Master Plan for Smiggin Holes within the PRRMP. Part 5.2 of the Plan encourages the upgrading of existing accommodation and for alterations and additions to existing structures to complement their natural and built setting, and minimise environmental impacts. The proposed works are considered to be consistent with the PRRMP.
(m) if the development is proposed to be carried out on land in a riparian corridor.	The site is not within forty (40) metres of a watercourse, and the construction activities associated with the development will be managed so as not to cause an adverse impact on land or runoff that will eventually cause diminish from the quality of a riparian corridor.

Section 4.13 – Additional matters to be considered for buildings

Building Height	The proposed works do not increase the height of the existing building.
Building Setback	Works within the building setback that relate to the provision of an additional parking space and the 1.5 metre extension of a deck are acceptable.
Landscaped Area	Additional landscaping is not proposed or required in relation to the proposal.

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

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

Section 4.24 – Heritage conservation

European heritage

The proposal would not impact on any European heritage items.

Aboriginal heritage

Minor ground disturbance is proposed as part of the development. No adverse impact on any Aboriginal place or item is considered likely.

Appendix C – Recommended Instrument of Consent