



# Chalet Sonnenhof, Perisher Valley

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Development Application Assessment  
DA 22/11518

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

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# Glossary

Abbreviation	Definition
<b>BCA</b>	Building Code of Australia
<b>BC Act</b>	<i>Biodiversity Conservation Act 2016</i>
<b>BC Regulation</b>	<i>Biodiversity Conservation Regulation 2017</i>
<b>BVM</b>	Biodiversity Values Map
<b>Consent</b>	Development Consent
<b>CPP</b>	Community Participation Plan
<b>Department</b>	Department of Planning and Environment
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2021</i>
<b>EPBC Act</b>	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>EPI</b>	Environmental Planning Instrument
<b>ESD</b>	Ecologically Sustainable Development
<b>KNP</b>	Kosciuszko National Park
<b>Minister</b>	Minister for Planning
<b>NPWS</b>	National Parks & Wildlife Service
<b>Planning Secretary</b>	Secretary of the Department of Planning and Environment
<b>RFS</b>	NSW Rural Fire Service
<b>SEPP</b>	State Environmental Planning Policy

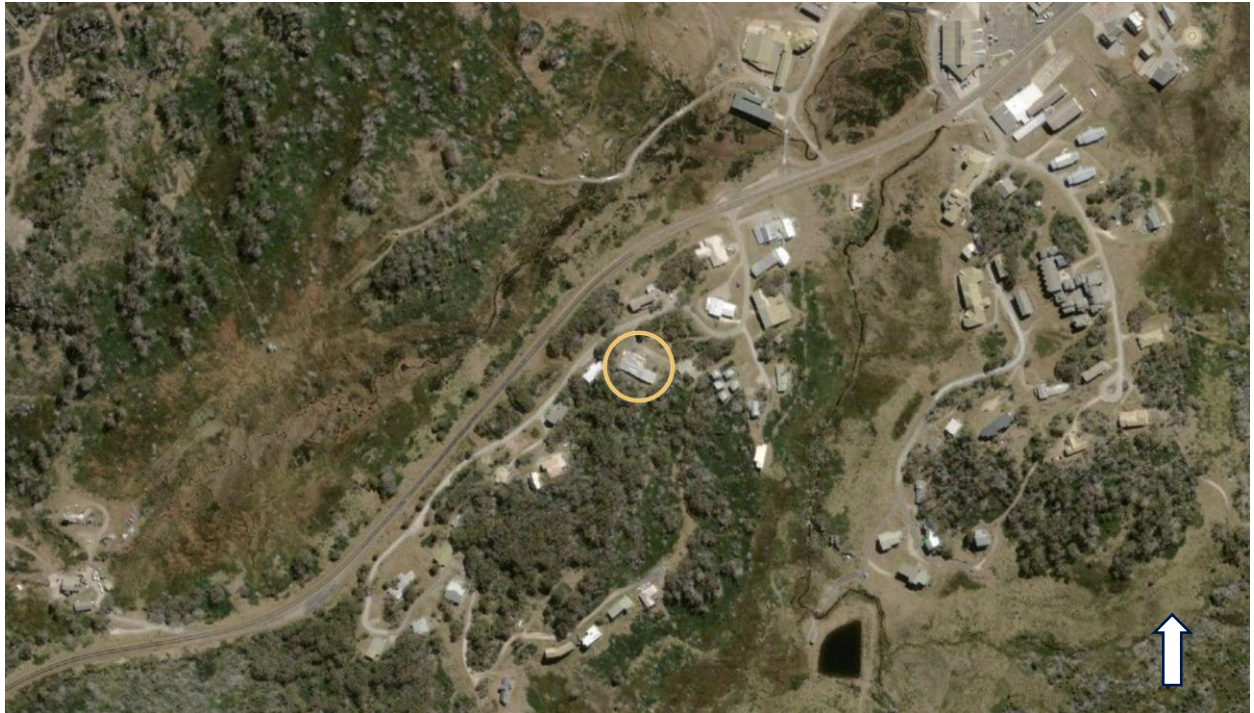
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# 1 Introduction

The application seeks approval for external alterations to the existing tourist accommodation building on the site (**Figure 1**), Chalet Sonnenhof, comprising the removal of an existing awning and construction of a small entry portico, and installation of a rear exit stairway up the slope behind the chalet at the southern rear fire exit.



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

Chalet Sonnenhof, located at 29 Wheatley Road, Perisher Valley is a tourist accommodation building constructed in the 1968 with 17 guest rooms. The site is approximately 1937 square metres and is legally described as Lot 129 DP 257290. Other similar tourist accommodation premises area located in the adjoining vicinity including Aurora Ski Club to the east and Kahane Ski Lodge to the north.

The building comprises a lower area that includes an entrance area, storage, garage, bar and spa. Internal stairs enable access to Level 1 that contains 8 bedrooms, kitchen and dining room. The internal stairs continue to Level 2 with 9 bedrooms.

Supporting documents and supporting information to this assessment report can be found on the NSW Planning Portal website at: <https://www.planningportal.nsw.gov.au/development-assessment/state-significant-applications/projects/state-development-applications>

## 2 Matters for Consideration

### 2.1 Strategic Context

#### South East and Tableland Regional Plan 2036

The proposal is consistent with the Regional Plan as it as it would maintain the existing use of the site for tourist accommodation and improves the condition of the tourist accommodation building for its guests and visitors, which maintains visitation to the NSW ski resorts.

#### Snowy Mountains Special Activation Precinct Master Plan

The proposal is consistent with the Master Plan as it relates to maintaining visitor accommodation, while improving safety and egress without impacting the environmental, cultural and landscape attributes of Thredbo.

#### Precincts - Regional SEPP

The proposal is consistent with Chapter 4 of the Precincts - Regional SEPP as the proposal would not have an adverse impact on the environment, as the proposed additions and alterations have been designed to ensure impacts are minimal.

### 2.2 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.

### 2.3 Mandatory Matters for Consideration

#### Objects of the EP&A Act

Table 1 | Objects of the EP&A Act

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 the building through improving the existing structure.</p> <p>The construction impacts are maintained within the building's footprint, posing minimal impacts on biodiversity and the environment.</p>

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal would not have an unacceptable impact on the environment thus being ecologically sustainable development.
(c) to promote the orderly and economic use and development of land,	The development seeks approval for works that improves the accessibility of the building and 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 proposed construction works for the front portico and rear exit stairway have been designed to ensure impacts on the natural and build environment are minimal.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposed development is not anticipated to result in any impacts upon built or cultural heritage, including Aboriginal cultural heritage.
(g) to promote good design and amenity of the built environment,	The Department considers that the proposal responds to its existing setting, built form and would not impact upon the natural environment.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The Department has recommended conditions of consent to ensure the construction of the proposal is undertaken in accordance with legislation, guidelines, policies and procedures (refer to <b>Appendix A</b> ).
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposal ( <b>Section 3</b> ), which included consultation with government agencies and consideration of their responses.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the proposal ( <b>Section 3</b> ), which included notifying the neighbouring lodges, and displaying the application on the NSW Planning Portal website.

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

**Table 2 | Section 4.15(1) Matters for Consideration**

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument (EPI)	<p>The Precincts - Regional SEPP is the principal EPI which applies to the site for this type of development. An assessment against the requirements of Chapter 4 of the Precincts - Regional SEPP is provided below.</p> <p>The Department is satisfied that the Application is consistent with the requirements of Chapter 4 of the Precincts - Regional SEPP.</p>
(a)(ii) any proposed instrument	Not applicable to the proposal.
(a)(iii) any development control plan	Not applicable to the proposal.
(a)(iiia) any planning agreement	Not applicable to the proposal.
(a)(iv) the regulations	<p>The application satisfactorily meets the relevant requirements of the EP&amp;A Regulation, particularly the procedures relating to development applications (Part 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 the proposal.
(b) the likely impacts of that development	The Department has considered the likely impacts of the development, with no native vegetation impacts likely to occur as a result of the proposal. The proposal is considered to have positive economic and social impacts.
(c) the suitability of the site for the development,	The site is suitable for the development and supports the ongoing use of the building.
(d) any submissions made in accordance with this Act or the regulations,	Consideration has been given to agency discussions during the assessment of the application. See <b>Section 3</b> of this report.



(e) the public interest.

The works are consistent with the aim and objectives of Chapter 4 of the Precincts - Regional SEPP. The development is compatible with adjoining land uses of the locality and would not have an adverse impact on the environment. The proposal is consistent with the principles of ESD.

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

## Environmental Planning Instruments

*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:

**Table 3 | Chapter 4 considerations**

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

(a) the aim and objectives of this policy, as set out in section 4.1

The proposal is consistent with the aim and objectives of Chapter 4 of the Precincts - Regional SEPP in that it is consistent with the principles of ESD and supports the ongoing use of the site for 'tourist accommodation'.

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

The proposal is appropriate as it allows alterations to an existing building, while having an acceptable impact on the environment.

The land is not subject to flooding. The site is identified as bushfire prone land and relates to a Special Fire Protection Purpose, and a BFSa has been issued by the RFS. The land is identified as being in an area of geotechnical sensitivity, with geotechnical considerations discussed below.

Natural hazards have been adequately addressed.

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

No adverse cumulative impacts are anticipated as the proposal will not result in any changes to existing transport, effluent management systems, waste disposal facilities, transfer facilities or water supply.

(d) any statement of environmental effects,	The SEE and supporting information supplied are considered adequate to enable a proper assessment of the works.
(e) the character of the alpine resort,	The proposal would not adversely alter the character of the resort.
(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	<p>The site is within the G zone identified on the Department's Geotechnical Policy – Kosciuszko Alpine Resorts Perisher Valley Map.</p> <p>The Applicant seeks an exemption under Clause 3.1 of the Policy to providing a geotechnical report on the basis that the proposed works do not require any new foundations structures greater than 500mm deep, and/or result in the load bearing capacity of the current building being exceeded.</p> <p>The Department has reviewed the proposed works and considers that the amendments to the existing building would not impact upon the existing load bearing capacity of the building.</p> <p>The Department raises no concerns with the proposal.</p>
(g) any sedimentation and erosion control measures,	The proposed additions will only require very minor earthworks for the 450mm footings. A Site Environmental Management Plan has been prepared which identifies appropriate sediment controls which will include either a straw bale filter or a sediment fence.
(h) any stormwater drainage works proposed,	No negative impacts to stormwater or drainage are anticipated due to the nature of 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 as the works are minor in nature. The proposed addition of the portico has been designed to be compatible with the existing building and will have no additional impacts to the visual amenity of 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 proposal has been considered against the criteria within the PRRMP and the Department concludes that the works to the building are supported and the continued use as a tourist accommodation building is consistent with the Plan.
(m) if the development is proposed to be carried out on land in a riparian corridor.	The site is not within 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	The proposed works do not have a notable impact on amenities and view corridors, and do not hinder site access. The portico roof will remove snow off to the site to provide a safe entry and exit. The rear exist stair way will be cleared on a regular basis.
Landscaped Area	The proposal does not negatively impact existing native vegetation and therefore is appropriate.

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

The proposal was referred to the NPWS pursuant to section 4.15 of the Precincts - Regional SEPP. Refer to comments received at **Section 5** and as required, discussions on the proposal at **Section 3**.

#### **Section 4.24 – Heritage conservation**

European heritage	The proposal would not impact on any European heritage items.
Aboriginal heritage	The NPWS raised no concerns, however recommended that should any Aboriginal objects be uncovered during construction, any works impacting the objects must cease immediately and the NPWS contacted for assessment of the site.

## Ecologically Sustainable Development (ESD)

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

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

- the proposal is not expected to adversely impact upon the health, diversity, or productivity of the environment for future generations
- the proposal does not involve clearing of vegetation and there are no predicted impacts to threatened species habitat
- the proposal does not impact upon cultural heritage, including 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:

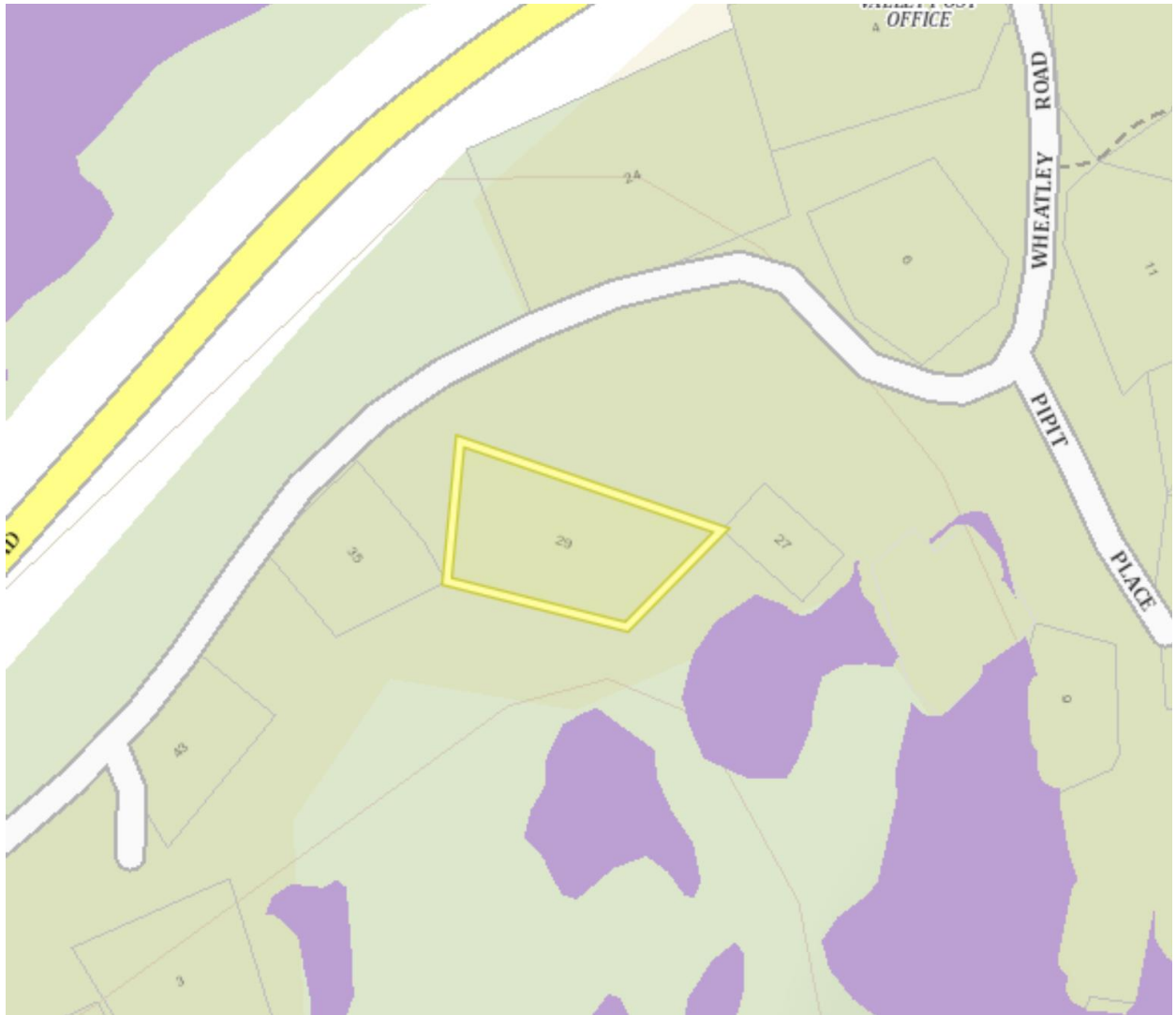
- the amount of native vegetation being cleared exceeds a certain threshold area; or
- the impacts occur within an area mapped on the Biodiversity Values Map (BVM) published by the Minister for Environment; or
- the 'test of significance', in section 7.3 of the BC Act, identifies that the development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

The immediate site and adjoining areas contain a mix of managed land and intact vegetation. Any management of vegetation is being restricted to the lease area, with only minimal vegetation required to be managed. This management would not trigger the threshold requirement for the site of 0.25 ha.

The Department has reviewed the mapping and considers the site to be located outside of the BVM (refer **Figure 3**). The NPWS notes that no vegetation clearance is proposed and the subject site is to be managed as an Inner Protection Area to meet NSW Rural Fire Service .

The Department has formed the view, in discussions with NPWS, that the proposal will not a significant effect on threatened species or ecological communities, or their habitats, given the works are only to the existing building footprint and not an extension of the building.

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



**Figure 2 |** Biodiversity Value area is shown in purple (site highlighted in yellow) (Source: Applicant's documentation)

## 2.4 Other approvals

### Rural Fires Act 1997

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

Refer to **Section 3** for further discussion on this component.



## 3 Submissions

### 3.1 Department's engagement

The Department's Community Participation Plan, 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. However, applications under Chapter 4 of the Precincts - Regional SEPP are not required to be public exhibited if the proposal relates to works which are wholly internal to a building or where the site is located more than fifty (50) metres away from a tourist accommodation building.

As part of the works include external alterations to an existing tourist accommodation building within 50 metres of other tourist accommodation buildings, the Department exhibited the application between 7 September 2022 until 20 September 2022 on the NSW Planning Portal website. No public submissions were received.

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

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

### 3.2 Summary of submissions

During the exhibition period, the Department received comments from the NPWS and RFS. No public submissions were received.

#### NPWS

The NPWS did not object to the proposal and provided comments and recommended conditions on leasing and the KNP Plan of Management, BC Act, protection of native vegetation fauna and fauna habitats, and on Aboriginal cultural heritage.

#### RFS

The RFS did not object to the proposal and has issued a Bush Fire Safety Authority (BFSA) under section 100B of the *Rural Fires Act 1997*, subject to the following conditions:

- that all land within the subject leasehold site be managed as an IPA
- new construction must comply with Section 3 (excluding section 3.5) and Section 9 (BAL FZ) of Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of Planning for Bush Fire Protection 2019. Existing buildings are required to be upgraded where practical to improve ember protection (if not already constructed to the relevant Bushfire Attack Level under Australian Standard AS3959). Details of proposed upgrades to improve ember protection shall be submitted with the application for the Construction Certificate.

- the provision of all new, and the modification of any existing water, electricity, and gas services must comply with Table 6.8c of Planning for Bush Fire Protection 2019.
- a Bush Fire Emergency Management and Evacuation Plan must be prepared in accordance with Table 6.8d of Planning for Bush Fire Protection 2019

In order to address the RFS requirements, implementation of the APZ plan is to occur prior to issue of the construction certificate for the building works. A condition is recommended to address this component.

## 4 Assessment

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

- design details and standards
- managing construction impacts

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

### 4.1 Design details and standards

The proposed works, when constructed, are to comply with the Building Code of Australia (BCA) and relevant Australian Standards. The Department has also considered whether any upgrades to the building are required as part of its assessment in accordance with section 64 of the EP&A Regulation 2021, as in force at the time of this assessment. The Department notes that compliance with relevant requirements is to be determined at the construction certificate stage by the certifier and in accordance with conditions of consent.

- All new work (or work as part of the DA) must comply with the BCA. The Department considers that compliance with the BCA is achievable, with documentation confirming compliance required to be provided at the Construction Certificate stage.
- Compliance with the *Disability Discrimination Act 1992 (DDA)*, and therefore the Access to Premises Standards prepared under the DDA, is triggered at Construction Certificate stage.

Ensuring compliance with the DDA is the responsibility of the building owner, manager and certifier. The Department has recommended an Advisory Note to ensure the building owner, manager and certifier are aware of the obligations.

- Section 64 of the EP&A Regulation 2021 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. A Fire Order was issued on 1 July 2020 for works to be completed by 24 July 2020. No upgrades are recommended.
- In relation to bushfire prevention measures, the BCA requires construction to comply with the BFSA issued by the RFS. The BFSA is incorporated into the conditions of the consent and compliance must be verified at the construction and occupation certificate stages.

The BFSA requires that:

- that all proposed external alterations to the existing building identified as repair and replacement works shall: not comprise the making of, or an alteration to the size of, any opening in a wall or roof, such as a doorway, window or skylight; be adequately sealed or protected to prevent the entry of embers; and use equivalent or improved fire-resistant materials that do not affect any existing fire resisting components of the building.

- The existing buildings are required to be upgraded where practical to improve ember protection (if not already constructed to the relevant Bushfire Attack Level under Australian Standard AS3959). Improved ember protection can be achieved by undertaking some, or all of the following: enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any subfloor areas, openable windows, vents, weep holes and eaves. External doors are to be fitted with draft excluders. Details of proposed upgrades to improve ember protection shall be submitted with the application for the Construction Certificate.

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

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

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

## 4.2 Managing construction impacts

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

Parking is available at the site during construction, and all construction activities will be required to be contained on the site.

Construction impacts such as noise and vibration will be short term and managed in accordance with standard environmental conditions. The Applicant will be required to update the submitted Site Environmental Management Plan to address all components of the application and included details outlining waste management, dust and noise minimisation strategies as well as material storage, is implemented during the works. It is also noted that construction is to occur outside the ski season. The updated SEMP is recommended to be provided to the Certifier prior to the issue of the construction certificate.

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

## 5 Recommendation

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:

- there will be no impact on any threatened species, populations or ecological communities
- the construction of a small entry portico and installation of a rear exit stairway will enhance the presentation of the building and will have no impact on the existing operations
- the proposal is appropriate and does not impact upon any other nearby properties
- construction impacts on the surrounding environment would be minimised as the proposal will be contained within the existing building footprint and disturbed areas.

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

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

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

- **considers** the findings and recommendations of this report
- **accepts** and adopts all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants** consent for the application in respect of DA 22/11518, subject to the recommended conditions
- **signs** the attached Development Consent (**Appendix C**)

**Recommended by:**



**Ethan Liang**  
Student Planning Officer  
Alpine Resorts Team

**Adopted by:**



**Daniel James**  
Team Leader  
Alpine Resorts Team  
  
as delegate of the Minister for Planning



# Appendices

## Appendix A – Recommended Instrument of Consent