



Highway Alpine Lodge, Perisher Valley

Development Application Assessment
DA 22/15955

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

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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 & Wildlife Service
Planning Secretary	Secretary of the Department of Planning and Environment
RFS	NSW Rural Fire Service
SEPP	State Environmental Planning Policy

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1 Introduction

The application seeks approval to upgrade existing site drainage adjacent to the walls of an existing tourist accommodation building and to waterproof the exterior subterranean sections of those walls. The building is known as the Highway Alpine Lodge, located at 130 Wheatley Road, Perisher Valley within Kosciuszko National Park (KNP) - **Figure 1**.

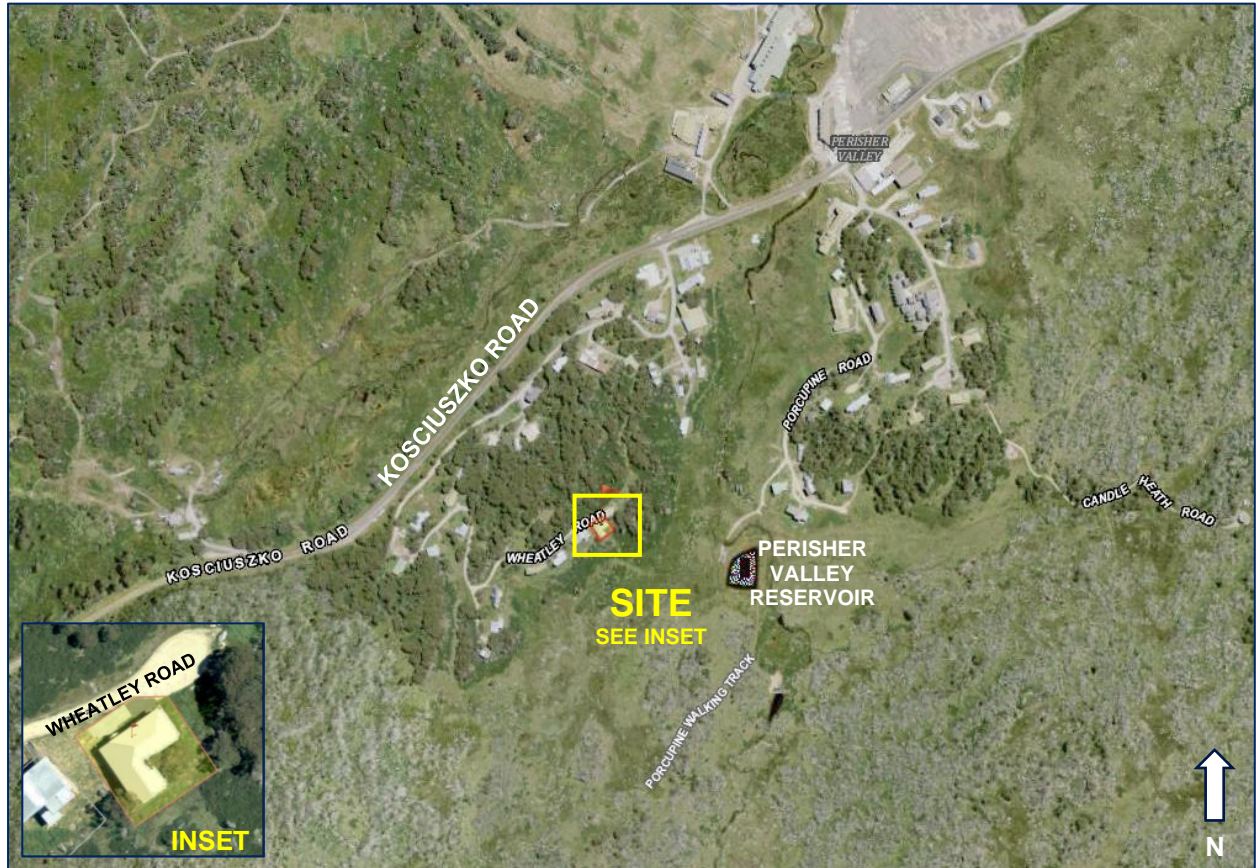


Figure 1 | Location of site (highlighted) within Perisher Valley (Source: Six Maps 2023)

Works on the site will comprise site excavation adjoining the base of the north-western wall of the building, which is the main façade of the building facing Wheatley Road. An 8.0 metre length of the existing dish drain will be removed and a trench of 0.8 metres deep and 0.75 metres wide is proposed to be excavated, removing the underlying gravel fill and stockpiling onsite for reuse. A shallower excavation of approximately 6.0 metres in length is proposed along the north-eastern base of the building adjoining the fire escape which exits to the northern-most corner of the lodge.

Once access to the exterior walls has been obtained through the excavation works, the sub-surface block work of the lodge walls will be cleaned and voids filled prior to the application of a painted waterproofing membrane. The membrane will then be finished in a 'coreflute' layer to protect the waterproofing and prevent further water ingress to the building. An ag-pipe drain will be installed in the base of the slab in the excavated areas prior to backfilling using coarse 20mm -70mm ag-fill and reuse of the excavated material. A dish drain will then be reconstructed on top of the initial fill to the same level and design, with drain discharge continuing to the same location in the eastern section of the lease area – **Figure 2**.

No works will be undertaken to the interior of the lodge building.

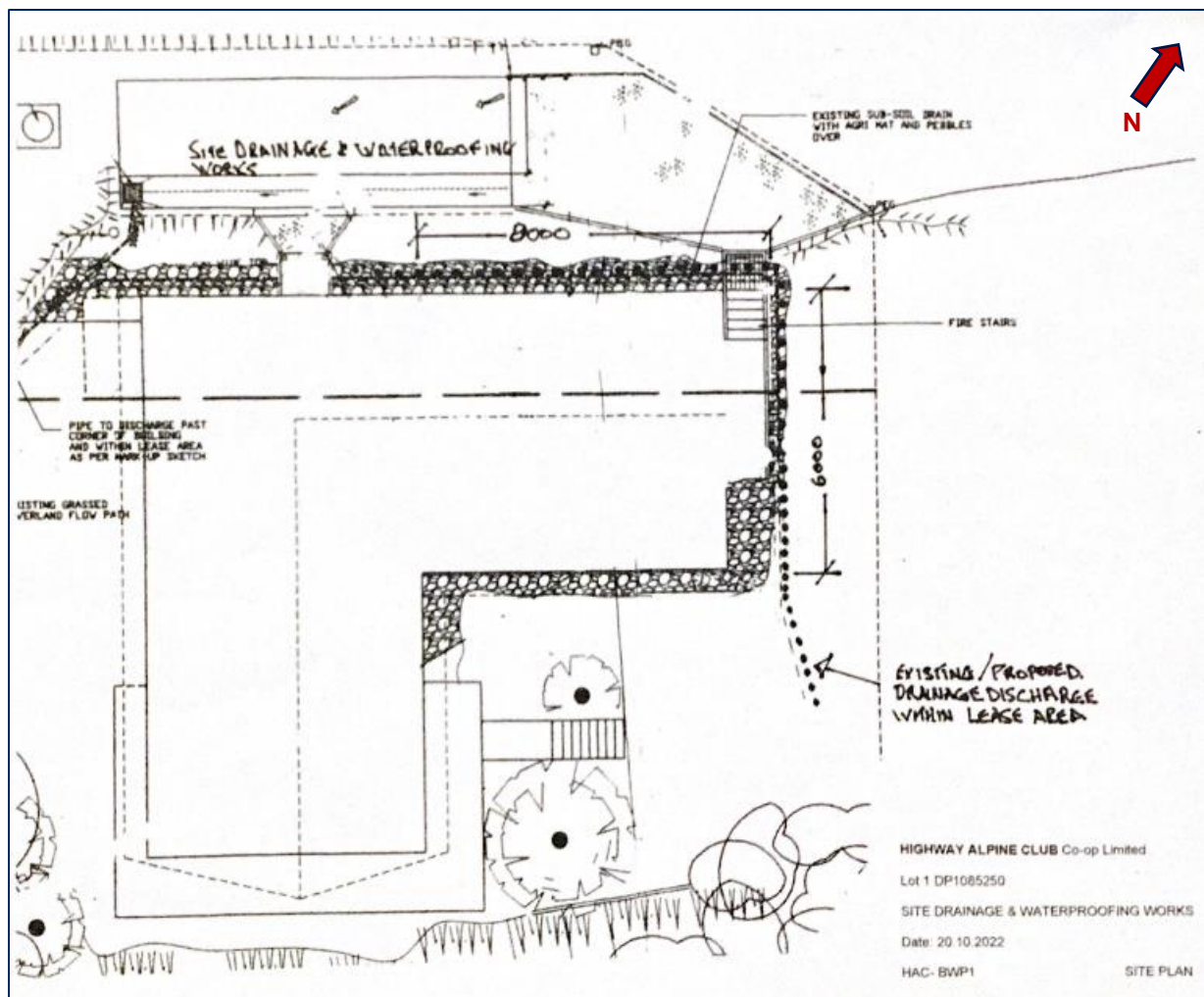


Figure 2 | Location of proposed site works (Source: Applicant's documentation)

The Highway Alpine Lodge provides ensuite bedroom accommodation and facilities for guests, which will not change. The exterior of the lodge comprises a two-storey, split level, L-shaped building with metal deck roofing and mainly timber-clad construction with a lower skirt in some areas of masonry block with stone facework. The original tourist accommodation building was constructed in the early 1960s and extended with a newer wing in 1998. The site (Lot 1 DP 1085250) is a parcel of 806.7 square metres on the southern side of Wheatley Road that slopes away from the road to the rear (south-east) of the block. There is a steeper drop-off in the topography on the south-eastern boundary of the site. A hardstand carpark area is located within the lease area between the road and the lodge – **Figure 3**.

Other similar tourist accommodation premises are located to the west of the lodge, with Highway Alpine Lodge being located at the eastern terminus of Wheatley Road. Vegetation on the site consists of native grasses with an area of native heath and trees along the south-eastern boundary of the site. The nearest waterway is Rock Creek, located approximately 150 metres to the east of the parcel.

The Applicant comments that water inundation impacted the lower rooms in the lodge in 2016 and again after severe weather in 2022 when water penetrated under the northwest wall of the building. Subsequent investigations found that waterproofing had not been carried out below-grade (ground level). The works the subject of this application are proposed to remedy the lack of water proofing and improve site drainage to prevent further building inundation or damp issues.



Figure 3 | North-western elevation (front) and north-eastern elevation (side) of Highway Alpine Lodge, viewed from Wheatley Road (Source: Department Inspection March 2023)

Supporting documents 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 would maintain the existing use of the site for tourist accommodation and improve the condition of the building for guests and visitors, which maintains visitation to the NSW ski resorts.

Snowy Mountains Special Activation Precinct Master Plan

Section 9.1.2 of the Master Plan relates to Perisher Range. The proposal is consistent with the Master Plan as the works help improve and maintain visitor accommodation and support visitor amenity without detracting from the environmental, cultural and landscape attributes of Perisher Valley.

Precincts - Regional SEPP

The proposal is consistent with Chapter 4 of the Precincts - Regional SEPP, where the development will be undertaken in a location that has already been disturbed and with measures in place to mitigate any adverse impact on the environment. Under the provisions of section 4.15 of the Precincts - Regional SEPP, the NPWS have a commenting role as the land manager, which includes administering the Plan of Management framework for KNP that incorporates objectives, principles and policies to guide the long-term management of the KNP. NPWS have recommended conditions to prevent adverse environmental, social or economic impacts on the natural or cultural environment.

2.2 Permissibility

The proposal includes drainage and 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 (in effect at the time of lodgement, as since amended), '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	The proposal supports the ongoing use of the building through maintaining and improving the existing structure and site drainage.

and conservation of the State's natural and other resources,	The construction impacts are maintained in a small excavation footprint adjoining the building in areas already used for drainage, posing minimal impacts on the environment.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal would not have an unacceptable impact on the environment thus being ecologically sustainable development. Mitigation measures during construction have been included in the recommended conditions of consent.
(c) to promote the orderly and economic use and development of land,	The development seeks approval for works that upgrade the existing building and contribute to the longevity of the building and use of 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,	Impacts upon the environment have been limited where possible, with external works relating to subterranean sections of the external walls of the lodge building and to adjoining ground works. The proposed works are not likely to significantly impact threatened species or otherwise adversely impact the natural environment.
(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 proposed works will not detract from the building design and will enhance building amenity.
(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 A).

(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 3), 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 3), 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&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, where the proposal is considered to have positive economic and social impacts while the environmental and cultural values of the site and locality will be maintained.
(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 Section 3 of this report.
(e) the public interest.	<p>The works are consistent with the aim and objectives of Chapter 4 of the Precincts - Regional SEPP. 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.</p> <p>As such, the proposal is believed to be in the public interest.</p>

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, where the instrument sections referred relate to those in effect at the time of lodgement, as since amended:

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),	<p>The proposal is appropriate as it allows alterations to an existing building, while having an acceptable impact on the environment.</p> <p>The land is not subject to riverine flooding, where the water inundation that is intended to be remedied by the proposed works is understood to be due to site drainage and building construction issues.</p>

The site is identified as bushfire prone land. The proposed works are confined to items that are exempt from requiring a Bush Fire Safety Authority (refer to **Section 2.4** of this report for further discussion on the exemption).

The land is identified as being in an area of geotechnical sensitivity, as addressed in subsection (f) 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.
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(d) any statement of environmental effects,	The SEE and supporting information supplied are considered adequate to enable a proper assessment of the works.
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(e) the character of the alpine resort,	The proposal would not adversely alter the character of the resort.
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(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	The site is within the G zone identified on the Department's Geotechnical Policy – Kosciuszko Alpine Resorts map for the location in Perisher Valley. The application includes ground excavation works and is accompanied by geotechnical assessment advice and a Form 4 Minimal Impact Certification in accordance with the Policy. The geotechnical assessment concludes that the works will not have adverse geotechnical implications subject to the geotechnical recommendations being followed, as required via a condition of consent.
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(g) any sedimentation and erosion control measures,	<p>Impacts are expected to be minimal due to the main works being on the façade of the building or within the existing area used as a dish drain. The material removed from the excavated area will be stockpiled on the concrete parking pad to the north of the lodge within the lease area. It will be covered whilst the repair work is completed before being used to backfill the excavated areas. The material will be reused to fill the excavation area.</p> <p>A condition of consent will require management of the stockpile in accordance with the NPWS Guidelines and ensure appropriate sedimentation and erosion control measures are incorporated into the works.</p>
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(h) any stormwater drainage works proposed,	Onsite drainage works are proposed as part of the application. No negative impacts to stormwater are anticipated due to the nature and location 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 finished works will not be visible.
(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 considers the proposal to be consistent with the Plan as the works support the continued use as a tourist accommodation building within the resort.
(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 reduce existing setbacks.
Landscaped Area	The proposal does not negatively impact existing native vegetation.

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.
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Aboriginal heritage

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

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,
- external works are limited to the existing building façade and trenching within the previously disturbed area of the lease area of the lodge,
- 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.

No native vegetation is expected to be impacted from the proposed works. The Department has also reviewed the mapping and notes that a narrow strip of the development parcel adjoining the eastern boundary of the site is mapped as containing vegetation which has high biodiversity value on the BVM. The proposed earthworks and site activities are clear of this BVM area of approximately two (2) metres by twelve (12) metres.

The NPWS have raised no concerns and consider that the works as proposed will not affect threatened species and do not trigger the BOS under the BC Act.

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

2.4 Other approvals

Rural Fires Act 1997

The works include external alterations and relates to a Special Fire Protection Purpose (tourist accommodation building) located on bushfire prone land. 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, unless the works are exempt from the requirements.

The Applicant seeks an exemption from the requirements of section 100B due to the nature of works.

The Department supports the development being excluded from requiring a BFSA in accordance with subsections 46(l) and (m) of the *Rural Fires Regulation 2022* which permit the carrying out of the subject drainage works and the minor, external, non-structural building alterations without requiring a BFSA. Referral to the RFS was not required.

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 16 January 2023 until 30 January 2023 on the NSW Planning Portal website.

The application was exhibited to nearby lodges and forwarded to the NPWS pursuant to section 4.15 of Chapter 4 of the Precincts – Regional SEPP.

3.2 Summary of submissions

No public submissions were received during the exhibition period.

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

The Department has considered the comments received from the NPWS in **Section 4** or through recommended conditions in the instrument of consent at **Appendix A**.

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. The nature of works proposed has been considered by the Department's Principal Building Surveyor who has confirmed that the development comprises building works and therefore a Construction Certificate is required in accordance with Part 6.3 of the EP&A Act.
- 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.

The plans submitted with the application do not demonstrate compliance with the provisions of the Access to Premises Standards. 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 relevant people are aware of their 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. Fire safety measures within the building are being tested (as illustrated in the Annual Fire Safety Statement) and the building is considered satisfactory in terms of BCA compliance. No upgrades are recommended.
- The application does not trigger the *Plumbing and Drainage Act* as it relates to external alterations and ground drainage works and does not propose to alter plumbing or drainage connections with or within the building.

The Department concludes that subject to compliance with the conditions of consent, including references to the BCA that 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

The construction activities will not generate any significant native vegetation disturbance. Given the scope of the works and that the area of works on the site has been previously disturbed, it is unlikely that the construction of the proposal will cause an adverse impact upon the natural environment. Parking is available at the site during construction, and all construction activities will be required to be contained on the site. The NPWS commented that the development activities are to be contained solely within the lease area, with no stockpiles or storage of vehicles or equipment to occur on native vegetation.

The Department has applied construction conditions relevant to the Alpine area, along with recommended conditions from NPWS. The Applicant will be required to provide the Department with a revised stormwater drainage design in consultation with the NPWS to ensure that the drainage design details and discharge area have regard to any areas of potential environmental sensitivity, such as the BVM area on the site.

The Applicant has submitted a Site Environmental Management Plan and will be required to update the SEMP and follow the applied conditions of consent to protect the environment during works, including the requirement for construction to occur outside the ski season. Construction impacts such as noise and vibration will be short term and managed in accordance with standard environmental conditions.

Subject to compliance with the conditions, the Department considers that the proposed works would not adversely impact upon the natural environment or occupants of nearby tourist accommodation buildings.

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 waterproofing and drainage works will add to the longevity of the building and to the ongoing amenity of the Lodge visitors, and
- construction impacts on the surrounding environment and lodge visitors will be minimised through adoption of conditions of consent.

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 fifteen (15) public submissions in which objection to the proposal has been raised,
- 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 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 22/15955, subject to the recommended conditions
- **signs** the attached Development Consent (**Appendix A**).

Recommended by:



Sandria Butler
Senior Planning Officer
Alpine Resorts Team

Adopted by:


5/9/2023

Mark Brown
A. Team Leader
Alpine Resorts Team

as delegate of the Minister for Planning

Appendices

Appendix A – Recommended Instrument of Consent