



Fjellheim Ski Lodge, Perisher Valley Modification

Modification Application Assessment (MOD 23/12866 (DA 22/9145 MOD 1))

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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
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

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1 Introduction

This report provides the NSW Department of Planning and Environment's (the Department) assessment of an application to modify development consent (DA 22/9145) for the internal and external alterations approved at Fjellheim Ski Lodge, Perisher Valley, Perisher Range Alpine Resort within Kosciuszko National Park (KNP) (**Figure 1**).

The modification application seeks approval for a minor increase of the entranceway gable roof by 300mm in response to building and engineering recommendations.

Ian Alwill (the Applicant on behalf of Fjellheim Ski Lodge) has lodged the application pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (E&A Act)



Figure 1 | Location of site (highlighted) in context of other surrounding lodges (Source: SIX Maps 2023)

1.1 Background

Fjellheim Ski Lodge, located at 91 Burramys Road, Perisher Valley accommodates a stone and timber clad tourist accommodation building constructed in the 1960s (altered in 1998) with a license for twelve beds. The site is approximately 975 square metres, is legally described as Lot 1 DP 1153938 and is accessed by vehicle directly off Burramys Road.

The building comprises a lower area that includes an entry area / garbage room, a drying room, storage / locker area and 2 bedrooms separated by a bathroom / WC. Internal stairs enable access to the level above that contains 5 bedrooms, separate male and female shower / WC, a kitchen, dining / lounge room with an external deck provided off the lounge room. Two separate side entrance / fire exits are provided off the southern façade. Separate car parking is provided off Burramys Road with access to either the side or front entrance.

Other similar tourist accommodation premises area located in the adjoining vicinity including Christina Lodge to the east across Burramys Road and Hus-Ski Lodge to the north. Vegetation at the site consists of native heath and trees. Vegetation and a number of large boulders surround the site, except along the Burramys Road frontage.

1.2 Approval history

On 17 February 2023, the Team Leader of the Alpine Resorts Team, as delegate of the Minister for Planning, granted consent to Development Application DA 22/9145 for the following:

- internal alterations: update of existing bathrooms / WC facilities with the provision of a new window in each bathroom, removal of existing door between the men's bathroom and adjoining WC and replacement with a solid wall
- external alterations: minor excavation and construction of a new / modified entry area and garbage room, relocation of existing mains power box and installation of an agricultural drainage line.

1.3 Proposed modification

The Applicant has proposed to increase the height of the gable roof above the entranceway by 300mm in response to recommendations provided by local builders and a structural engineer (**Figure 2**). The increase in height would result in the following improvements to the development:

- Improve ingress and egress during the winter season for guests
- Ensure the building meets fire exit regulations
- Ensure adequate drainage to the gable roof, along with the adjacent skillion roof.



Figure 2 | Elevation plan identifying the 300mm increase in height of the entrance-way gable roof (Source: Applicant's Modification Application 2023)

2 Matters for Consideration

2.1 Strategic Context

South East and Tableland Regional Plan 2036

The Department considers the proposal continues to be consistent with the Regional Plan as the proposal supports the improvement of a tourist accommodation building through improving the functionality of a building for its staff and visitors within Perisher Valley, which supports the ongoing visitation to the NSW ski resorts.

Snowy Mountains Special Activation Precinct Master Plan

The Department considers that the proposal supports the vision of the Master Plan, while also ensuring impacts upon the environment have been considered against those previously approved. The proposed minor external works raise no additional matters that would be inconsistent with the Master Plan.

Precincts – Regional SEPP

The Department considers the proposal continues to be consistent with Chapter 4 of the Precincts – Regional SEPP as the proposal continues to contribute to tourist accommodation availability within KNP, which supports sustainable tourism in the Alpine Region. The potential impacts on the environment continue to be considered acceptable when noting the contained nature of the location of the modification works and their minimal impact on the environment.

2.2 Mandatory matters for consideration

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of DA 22/9145. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

Objects of the EP&A Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.

Biodiversity Conservation Act 2016

Section 1.7 of the EP&A Act requires the application of the *Biodiversity Conservation Act 2016* (BC Act) in connection with the terrestrial environment. The BC Act introduced a Biodiversity Offsets Scheme (BOS) that applies when:

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

The Department notes that no additional vegetation management is required to facilitate the modification, with the works being confined to the entranceway gable roof only. No additional site disturbance as a result of the modification is expected to occur.

The Department also notes that there is currently no declared area of outstanding biodiversity value within Kosciuszko National Park.

Environmental Planning Instruments

The Precincts – Regional SEPP is the principal EPI that applies to this application. The Department has considered the modification application against the provisions of Chapter 4 of the Precincts – Regional SEPP and is satisfied the modification proposal continues to be consistent with this EPI.

2.3 Scope of modifications

Section 4.55(1A) of the EP&A Act provides that a consent authority may, on an application being made by the Applicant or any other person entitled to act on a consent granted by the consent authority, and subject to and in accordance with the *Environmental Planning and Assessment Regulations 2021* (EP&A Regulations), modify a consent if the following requirements in Table 1 are met:

Table 1: Consideration under Section 4.55(1A) of the EP&A Act

Section 4.55(1A) - Evaluation	Comment
(a) <i>That the proposed modification is of minimal environmental impact</i>	<p>Section 4 of this report provides an assessment of the impacts associated with the proposal.</p> <p>The Department is satisfied that the proposed modifications will have minimal environmental impact with no additional vegetation removal required to facilitate the development and minimal impact on adjoining land users.</p>
(b) <i>The development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)</i>	<p>The proposal modifies the height of the gable roof above the entranceway by 300mm. No further alterations or additions have been proposed.</p> <p>The Department is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted.</p>
(c) <i>The application has been notified in accordance with the regulations</i>	<p>In accordance with the Department's Community Participation Plan (CPP), November 2019, the Department did not publicly exhibit the modification, but made it available on the State Planning Portal.</p>
(d) <i>Consideration of any submissions made concerning the proposed</i>	<p>As the modification application was not publicly exhibited, no public submissions were received.</p>

<i>modification within the period prescribed by the regulations</i>	
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Section 4.55(3) of the EP&A Act provides that in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the granting of the consent that is sought to be modified.

The relevant consideration under section 4.15(1) of the EP&A Act in relation to the proposed modifications is whether the impacts of the amendments upon the existing environment or amenity of the building occupants are appropriate. The Department's assessment in **Section 4** concludes that the impacts of the works as modified will be minimal in extent and appropriately managed, and the impacts are considered acceptable. No variation is required to the Department's previous assessment.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

2.4 Other approvals

Rural Fires Act 1997

The original works required a Bush Fire Safety Authority (BFSA) from the RFS under section 100B of the *Rural Fires Act 1997*, making it integrated development pursuant to section 4.46 of the EP&A Act.

On 08 November 2022, the RFS issued the BFSA together with general terms of approval relating to matters including the management of the site as an inner protection area (IPA), design and construction standards, and preparation of an emergency evacuation plan.

Refer to **Section 4** for further discussion on this component in relation to the modification application.

3 Submissions

3.1 Department's engagement

The Department's Community Participation Plan (CPP), November 2019, prepared in accordance with Schedule 1 of the EP&A Act requires applications for modifications of development consent that are not required to be exhibited by the EP&A Regulations to otherwise be exhibited for a timeframe dependent on the urgency, scale and nature of the proposal.

In this regard, the Department also notes that the CPP advises that applications for development consent 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 from a tourist accommodation building. Although the works relate to the external gable roof above the entranceway, the Department did not exhibit the application as the modification is minor in nature and would not present an impact to the surrounding lodges or the environment.

The application was referred to the RFS pursuant to section 4.47 of the EP&A Act (integrated development) as General Terms of Approval under the *Rural Fires Act 1997* are required for the development to be carried out. Due to the minor nature of the works, the National Parks and Wildlife Service (NPWS) did not provide comments on the modification.

3.2 Summary of submissions

As the modification application was not exhibited, no public submissions were received. As the original works were integrated development under section 4.46 of the EP&A Act requiring a BFSA, the modification application was referred to the RFS for comments which can be identified below.

The RFS provided a new BFSA which supersedes the previous BFSA issued on 08 November 2022. No further objections or additional comments were provided subject to compliance with the previous terms of approval.

4 Assessment

In assessing the merits of the proposed modification, the Department has considered the:

- previous Environmental Assessment Reports for the proposal,
- the modification application and existing conditions of consent,
- submissions from government agencies, and
- matters for consideration under section 4.15(1) of the EP&A Act.

The Department's assessment considers the modification would not result in additional impacts upon the natural environment, with the modification application relating wholly to the gable roof above the entranceway.

The Applicant indicates the works are substantially the same as the development for which the consent was originally granted. With the implementation of appropriate environmental controls that were approved under DA 22/9145, the impacts of the proposal are considered acceptable.

The application for modification was referred to the Department's Principal Building Surveyor for consideration. Subsequent to review of both the proposal and of the original application and conditions applied to the original DA 22/9145, no additional Building Code of Australia (BCA) conditions are required.

Noting the above, the proposed modification to the consent is supported, subject to updating the conditions of consent where relevant to the modification documentation.

5 Recommendation

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act and considered the submissions provided by the RFS.

The Department's assessment concludes that the proposed modification is appropriate as the modification is of minimal environmental impact and the additional environmental impact is acceptable being substantially the same development as originally approved; the proposed modifications to conditions are acceptable; the proposal continues to comply with the Precincts – Regional SEPP provisions.

Overall, the Department is satisfied that supporting the modified proposal is in the public interest.

As the original application was determined under the delegation of the then Minister for Planning, the Minister therefore remains as the consent authority for any subsequent applications to modify the consent. In accordance with the Minister's delegation of 9 March 2022, the Principal Planning Officer, Alpine Resorts Team may determine the application as

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

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

- **considers** the findings and recommendations of this report
- **determines** that the modification application MOD 23/12866 (DA 22/9145 MOD 1) falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the consent DA 22/9145
- **signs** the attached approval of the modification (**Appendix A**)

Recommended by:



Zac Derbyshire
Planning Officer
Alpine Resorts Team

Adopted by:



17/11/2023

Mark Brown
Principal Planning Officer
Alpine Resorts Team

as delegate of the Minister for Planning

Appendices

Appendix A – Notice of Modification