



Sewage Treatment Plant, Selwyn Snow Resort Modification

Modification Application Assessment (MOD 24/5111 (DA 22/5248 MOD 1))

June 2024

Published by the NSW Department of Planning, Housing and Infrastructure

dphi.nsw.gov.au

Title: Sewage Treatment Plant, Selwyn Snow Resort, Modification

Subtitle: Modification Application Assessment (MOD 24/5111 (DA 22/5248 MOD 1))

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

© State of New South Wales through Department of Planning Housing and Infrastructure 2024. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning Housing and Infrastructure as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (June 2024) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning Housing and Infrastructure), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Glossary

Abbreviation	Definition
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 Housing and Infrastructure
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation 2021	<i>Environmental Planning and Assessment Regulation 2021</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
KNP	Kosciuszko National Park
Minister	Minister for Planning and Public Spaces
NPWS	National Parks and Wildlife Service
Planning Secretary	Secretary of the Department of Planning Housing and Infrastructure
RFS	NSW Rural Fire Service
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy

Contents

1	Introduction	1
1.1	Background	1
1.2	Approval History	2
1.3	Related Applications	2
2	Proposed Modification	3
3	Matters for Consideration	5
3.1	Strategic Context	5
3.2	Mandatory Matters for Consideration	5
3.3	Scope of modifications	6
3.4	Other approvals	8
4	Submissions	9
4.1	Department's engagement	9
4.2	Summary of submissions	9
5	Assessment	10
6	Recommendation	12
	Appendices	13
	Appendix A – Recommended Instrument of Consent	13

1 Introduction

The modification application seeks approval to modify development consent DA 22/5248 for the installation of a Sewage Treatment Plant (STP) that services Mount Selwyn Alpine Resort at 213A Kings Cross Road, Kiandra NSW (Lot 36 DP 46316) within Kosciuszko National Park (KNP) (**Figure 1**).

The application has been lodged by Selwyn Snow Resort Pty Ltd (Applicant) pursuant to section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The Applicant seeks modifications to three (3) conditions of consent (Conditions G.1, G.2 and G.3) that relate to operational requirements of the STP.

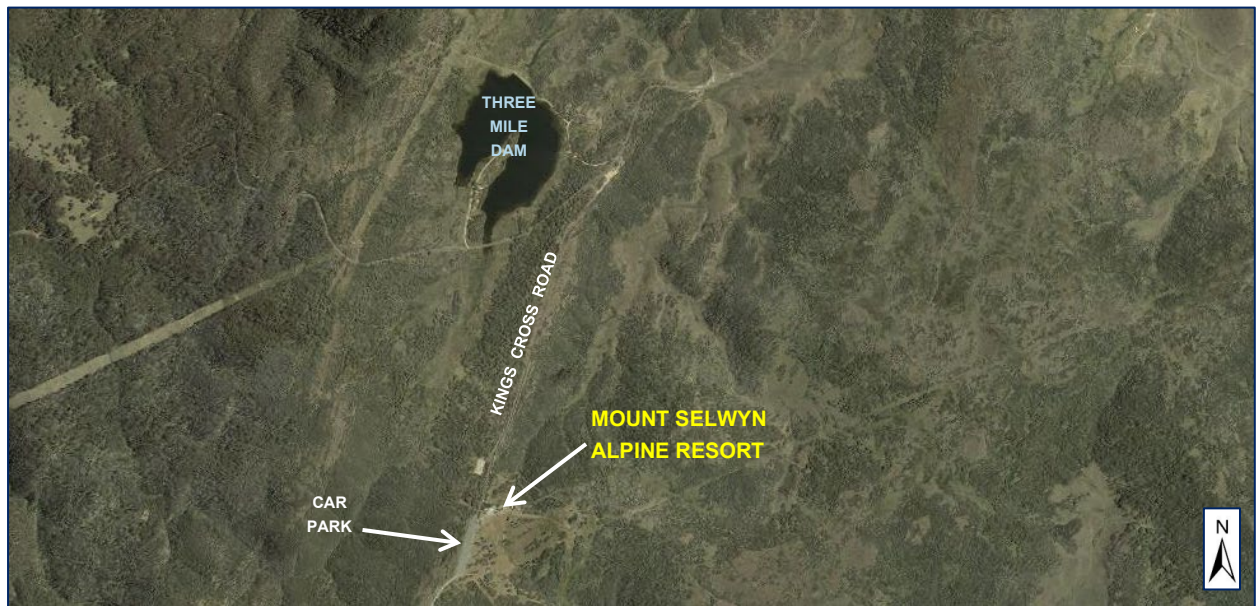


Figure 1 | Location of the Mount Selwyn Alpine Resort (Source: Six Maps with annotations)

1.1 Background

The location of the STP is on the northern side of the Selwyn Visitors Centre, which is in the north-western area of the Selwyn Snow Resort adjoining a large carpark area on Kings Cross Road (**Figure 2**).

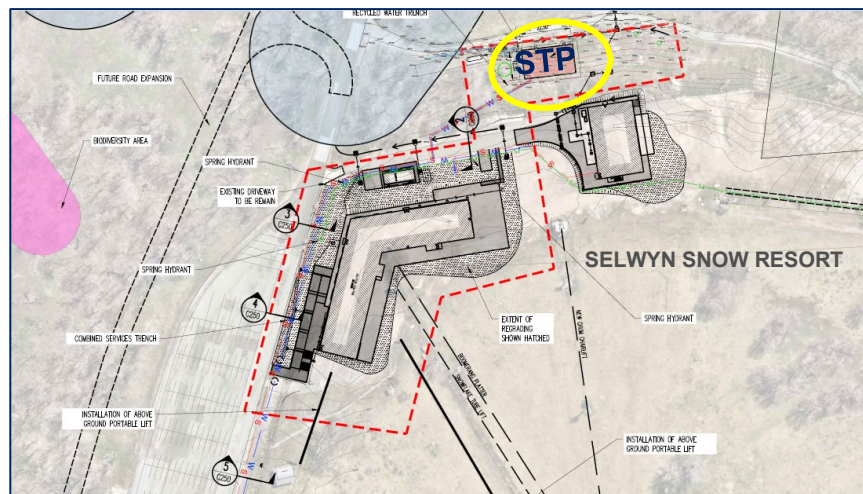


Figure 2 | Location of the STP within Selwyn Snow Resort (Source: Applicant's plan with annotations)

1.2 Approval History

DA 22/5248 construction of the STP

On 27 May 2022, the Director Regional Assessments, as delegate of the Minister for Planning, granted consent to Development Application DA 22/5248 for the following:

- Installation of a Sewage Treatment Plant (STP).
- The removal from the site of either untreated or treated effluent via tanker trucks.
- Effluent disposal at an appropriately licensed and authorised facility.

The new STP facility is ancillary infrastructure to the operation of the Selwyn visitor facilities of the resort, whereby DA 22/5248 approved the construction and operation of the STP, but does not allow onsite (or environmental) discharge of treated effluent. Condition G1 of the consent requires treated and untreated effluent to be trucked away (taken offsite) and disposed of at an appropriately licenced facility.

The Applicant seeks to avoid the requirement to transport the treated effluent stream off-site due to cost, and they intend to implement a recycled water reuse scheme under a separate development application (DA 23/2747) which would allow treated effluent to be discharged via snowmaking.

1.3 Related Applications

DA 23/2747 use of recycled STP water

On 11 April 2024, consent was granted for the separation of potable water supply catchment from the catchment where recycled water discharge is occurring, and for reuse of recycled water from the sewage treatment plant for toilet flushing within the Visitor Centre and for the snowmaking system (on a trial basis only).

DA 22/14835 construction of pipeline

On 28 March 2023, consent was granted to install a pipeline between the STP facility and the Selwyn and quarry to enable the transfer of treated water from the STP to the quarry water storage dam (**Figure 3**). The approval was for the installation of the pipeline only, and specifically prohibited the use of the pipeline unless separate development consent is obtained for that use, including the transfer of treated effluent for recycling or reuse. Consent has since recently been obtained via DA 23/2747 (referred to above) to trial the recycling component. The Applicant is understood to be working towards fulfilling the conditions of consent to be complied with prior to commencement of the use, which includes the requirement for a licence from the NSW Environment Protection Authority, which would then enable use of the pipe to convey treated water from the STP to the quarry dam for snowmaking.

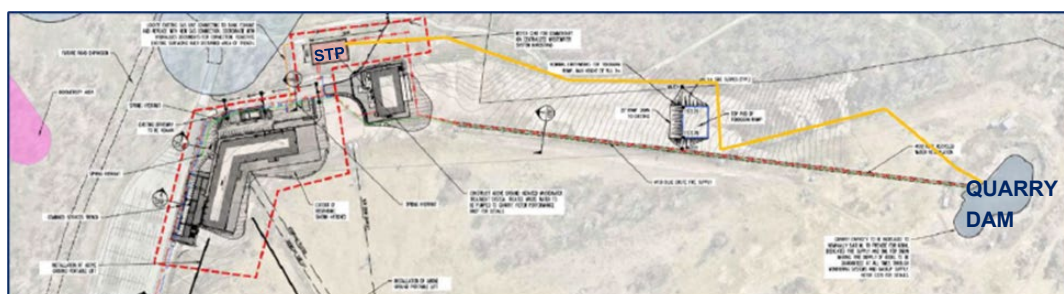


Figure 3 | Location of the pipeline (amber line) STP to quarry dam (Source: DA 22/14835 documentation)

2 Proposed Modification

This modification application seeks to amend the application by amending three conditions of consent that relate to the ongoing operational requirements of the STP, as follows:

G.1 Disposal of untreated or treated effluent

- (a) Untreated or treated effluent must be removed from the Subject site via tanker trucks and disposed of at an appropriately licensed and authorised facility.
- (b) No onsite discharge or disposal is permitted.
- (c) No recycling or reuse is permitted.

The Applicant seeks to remove the requirement in part (a) of the condition for *treated* effluent to be removed from the site via tanker, and asks that the wording “*unless separate development consent has been obtained*” be added to both parts (b) and (c) of the condition.

G.2 Reversing into site (winter 2022 only)

- (a) Reversing of vehicles along the NPWS service track from Kings Cross Road to the STP site is approved for the period June to October 2022 only.
- (b) An operational traffic management plan for heavy vehicle movements between Kings Cross Road and the STP must be prepared; and be submitted to and endorsed by NPWS prior to STP operations commencing. A copy of the endorsed plan must be provided to the Department.

The Applicant has requested that the dates 2023 and 2024 be inserted after 2022 in the condition heading and part (a) of the condition to extend the practice of reversing a truck to the STP site to include last year and the current 2024 season.

G.3 Vehicle turning area (prior to winter 2023)

- (a) The vehicle turning / parking area to the east of the STP must be constructed prior to winter 2023 to ensure that forward entry and exit of Kings Cross Road is achievable for all vehicles.
- (b) The stormwater line between the Resort Operations Centre and the NPWS service track and any other underground services must be relocated to the south east so that they are not impacted by the excavation for the turning area.

The Applicant seeks for the date of 2023 in the condition to be extended to 2025.

The Minister for Planning is the consent authority for development within Mount Selwyn Alpine Resort in KNP and the proposal is permissible with consent under the provisions of *State Environmental Planning Policy (Precincts – Regional) 2021* (Precincts – Regional SEPP).

The supporting documents relating to this application and 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>

The Applicant has provided limited explanation as to the reason for the sought modifications, other than indicating various discussions were held with the Department about seeking modification to the 'G' series of the conditions. The modification request includes advice that the Applicant has also lodged a development application (DA 23/2747) for the beneficial reuse of recycled water generated by the STP, which was awaiting approval by the Department at the time of lodging this application for modification of DA 22/5248 and was subsequently approved on 11 April 2024. Once implemented, the Applicant submits that the beneficial reuse of effluent on-site would mean that off-site disposal won't be required.

3 Matters for Consideration

3.1 Strategic Context

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, including the Snowy Monaro Council which covers part of the Mount Selwyn Snow Resort. 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 tourism opportunities and develop a visitor economy for the Snowy Mountains that will strengthen long-term resilience while acknowledging the environmental and cultural significance of the locality.

The Department considers the proposal continues to be consistent with the Regional Plan as the proposal is enabling infrastructure that supports Selwyn Snow Resort as an important winter tourism and recreational facility, which in turn supports ongoing visitation to the NSW ski resorts and positive social and economic welfare in the region.

Precincts - Regional SEPP

The Precincts Regional SEPP is the primary planning instrument that governs development on land within the ski resort areas of KNP. The development, as proposed to be modified, remains consistent with Chapter 4 of the Precincts - Regional SEPP in accordance with the original assessment by the Department that confirmed the development will be accompanied by controls to ensure the site and facility is managed in an ecologically sustainable way. The application to modify conditions, where supported, will not cause the STP to be operated in a manner that would cause adverse environmental, social or economic impacts on the natural or cultural environment, ensuring that KNP values are being protected and upheld.

Draft South East and Tableland Regional Plan 2041

The draft plan identifies the alpine areas as providing important biodiversity to the region and acknowledges the alpine area's contribution to the region's tourism economy. As part of the Regional Economic Development Strategy for Snowy Monaro, the rebuilding of assets lost to bushfire in the Selwyn Snow Resort in the 2019-2020 bushfires was a priority bushfire recovery measure. The rebuilding of the Selwyn STP was attended to as part of DA 22/5248, and the proposed modification of some of the operational conditions of that consent is believed to remain consistent with the draft Regional Plan where they will not result in adverse environmental impacts while supporting the return and maintenance of visitation to the resort.

3.2 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 22/5248. Where modification to the operational conditions are supported, the Department considers that they would not result in significant changes to the development 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 that where the requested modifications have been supported they are consistent with the objects of the EP&A Act.

Biodiversity Conservation Act 2016

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. 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 Department notes that no additional vegetation management is required to facilitate the modification given that the construction of the STP has been completed and the continuation of truck movements adjoining the STP is along a formed roadway. The construction of the truck turning area which the Applicant seeks to delay until after winter 2024 and prior to winter 2025 will be in accordance with the approved plans. No additional site disturbance is required in relation to the proposed modification of operational conditions. The discharge of untreated effluent will not be permitted onsite, and no recycling of treated effluent unless separate development consent has been obtained.

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. An assessment of compliance with the Precincts – Regional SEPP was undertaken in the determination of the original application DA 22/5248.

The Department has considered the current modification application against the provisions of Chapter 4 of the and is satisfied the modification proposal continues to be consistent with this EPI.

3.3 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 Regulation), 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</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 onsite discharge of waste products, additional site disturbance, vegetation removal or other impact likely to adversely impact the natural environment.</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 Applicant indicates the modification of the consent will remain substantially the same as the development for which the consent was originally granted.</p> <p>The proposal seeks to change the approved development in terms of the disposal of treated effluent (Condition G.1) as well as alter the duration of permissible truck movements and seek an extension in which to complete construction of the STP truck turning area (Conditions G.2 and G.3) until after the 2024 winter season.</p> <p>The Department is satisfied that the development to which the consent as modified relates (where supported) 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 was not required to exhibit the modification application, however it was made publicly available on the NSW Planning Portal website (refer to Section 3 of this report).</p>
(d) <i>Consideration of any submissions made concerning the proposed modification within the period prescribed by the regulations</i>	<p>The Department has considered the submissions received during the exhibition period (refer to Section 3 of this report).</p>

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 are appropriate. The Department's assessment in **Section 4** concludes that the impacts of the changes in site processes where the conditions are modified will be minimal in extent and appropriately managed, and remain 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.

3.4 Other approvals

Rural Fires Act 1997

The development is located on bush fire prone land. However, an STP is not development for a special fire protection purpose in accordance with the Act and a Bush Fire Safety Authority (BFSA) from the NSW Rural Fire Service (the RFS) was not required. The Applicant has BFSA from the RFS for the staff accommodation (DA 10639), the visitor centre (DA 10644) and the resort operations centre (DA 10647) which remains current for the site.

4 Submissions

4.1 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. As the original DA and the modification did not include works that needed to be exhibited, made the application publicly available on the NSW Planning Portal website for information only.

The application was forwarded to the National Parks and Wildlife Service (NPWS) pursuant to section 4.27 of the Precincts – Regional SEPP, in accordance with which they have a commenting role as the land manager. This includes the NPWS 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 reviewed the requested modifications to the conditions, and made recommendations relating to the requested changes to prevent adverse impacts on the environment. Where the changes sought by the Applicant have been adopted, the potential impacts on the environment continue to be considered acceptable when noting the design of the STP facility remains consistent with the approved plans, as now built, given that the modification relates to operational requirements only. The changes to the conditions, where made, will have a minimal impact on the environment.

4.2 Summary of submissions

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

Government Agency

The NPWS provided comments in relation to the proposed modification of the conditions, as follows:

- Condition G.1(a) the inclusion of "or treated" in condition G.1(a) needs to be retained to allow the Applicant to dispose of effluent offsite if it cannot be reused onsite.
- Condition G.1(b) to be amended with the addition of the words shown in bold for further clarity:
(b) No onsite discharge or disposal **of untreated effluent** is permitted.
- Condition G.1(c), to add the words in bold:
(c) No recycling or reuse **of treated effluent** is permitted **unless separate development consent has been obtained**.
- Conditions G.2 and G.3 can be extended to encompass the 2024 winter.

The Department has considered the comments from NPWS and has adopted the recommendations and updated the subject conditions accordingly, as discussed further in **Section 5** of this report.

5 Assessment

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

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

The Applicant was also requested to provide other documentation pursuant to fulfilling the requirements of the existing consent to better enable the Department to review and determine the likely impacts of the application to modify the existing consent.

The Department's assessment of the subject MOD has also included consideration of BCA and fire safety compliance matters. The application for modification was referred to the Department's Principal Building Surveyor for consideration, who reviewed the proposal and undertook an inspection of the site and STP facility. While the application for modification does not propose additional site works, several items were noted during the site inspection that require finalisation pursuant to BCA requirements to ensure the safe and appropriate operation of the facility. The below issues have been identified as matters that can be addressed separately without the need for additional conditions in the MOD.

- The need for improved fire safety measures and/or verification of measures in relation to emergency lighting, fire hydrants and alarm signalling equipment.
- Prevention of ponding of water below the treatment plant containers.
- Rectification of the stairs from the access driveway that have non-compliant treads and stairs that need to be reoriented to ensure safe access to the site.
- Consideration of improving ventilation to the pump room.

BCA compliance is considered to remain the responsibility of the Certifier, and referral comments from the Principal Building Surveyor advised that no additional Building Code of Australia /National Construction Code (BCA / NCC) conditions are required in addition to those already in place. However, the lack of the construction of the approved roof structure was also noted during the site inspection. As part of this modification application and relevant to maintaining the integrity, safety and functionality of the STP, the Department intends to require the completion of the roof structure over the STP prior to the winter of 2025. The STP infrastructure needs to be protected and this is considered to be best achieved by completing the addition of a roof structure.

The Department's assessment considers that the modification of the subject conditions G.1, G.2. and G.3 in accordance with the changes recommended by the NPWS (as detailed in **Section 4**) would result in minimal impacts upon the natural environment. With the implementation of appropriate environmental controls and conditions that were approved under DA 22/5248, including the finalisation of the roof structure and minor updates to other conditions relevant to the modification, the Department believes that supporting the modification of the consent is appropriate.

Noting the above, the following assessment in relation to the operational conditions of consent for the STP has been undertaken, having regard to the three conditions that the Applicant seeks to modify (G.1, G.2

and G.3), as well as other operational conditions that require modification to support the modification changes requested (G.4, G.6, G.7 and G.8), as follows:

Condition G.1 has been updated to clarify that recycling or reuse of treated effluent (to the prescribed standard within EPA licence limits and public health requirements) could occur if separate development consent is obtained. The Department has approved DA 23/2747 to enable a two year trial of the use of recycled water in the snow making system and flushing toilets at the resort. The condition has been modified to facilitate use of recycled water in conjunction with the trial period. In the event that the trial ceases or there is no consent for ongoing use of recycled water, then the condition would require treated effluent to be trucked away again.

Condition G.2 has been updated to allow tanker trucks to reverse into the site during winter 2024 in the event that effluent needs to be removed from the STP. However, for traffic management and safety reasons, this situation is not considered to be an appropriate long term solution. Hence, the requirement for the Applicant to provide a reversing area at the STP (Condition G.3) in accordance with the approved plans for the development.

Condition G.3 has been updated to require parts of the approved development to be completed prior to winter 2025:

- The vehicle turning area needs to be completed for the reasons outlined above.
- The STP roof needs to be completed to minimise impacts to STP infrastructure from weather, snow load and corrosion. The STP roof will also assist to prevent rain water and snow melt within the bunded area.

Condition G.4 has been updated to ensure further maintenance of the Selwyn Trail is undertaken. Some upgrades were carried out prior to 2023, however the trail has been impacted by stormwater run-off and erosion. A new and improved upgrade plan and maintenance schedule will assist to minimise potential environmental impacts of the trail.

Conditions G.6 - G.8 have been updated to clarify that the requirements outlined in the conditions are annual requirements, understanding that the site has to be constructed to the necessary standard and maintained in good order to allow maintenance of the STP facility and tanker access in the event of an emergency.

The Department has assessed the proposed modifications to the operational conditions requested by the Applicant and determined that they can generally be supported with alternative wording to ensure that the necessary clarity and parameters are in place relating to the subject works and activities. In addition, the Department has updated other existing conditions to ensure that the environment impacts of the development are acceptable.

6 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 NPWS.

The Department's assessment concludes that the proposed modifications to conditions are appropriate where adopted or otherwise required as part of the modification, being of minimal environmental impact. The environmental impact of the works associated with the modification is acceptable being substantially the same development as originally approved. The proposal continues to comply with the Precincts – Regional SEPP and all submissions received during the assessment of the application have been considered. The site remains suitable for the development and activities to support the operation of the STP, as modified.

Overall, the Department is satisfied that supporting the application for modification of the development 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 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 the nature of objections, and
- the application is in relation to land 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,
- **determines** that the modification application MOD 24/5111 (DA 22/5248 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 modification of the consent,
- **modifies** the consent DA 22/5248, and
- **signs** the attached approval of the modification (**Appendix A**).

Recommended by:



Sandria Butler
Senior Planning Officer
Alpine Resorts Team

Adopted by:



Daniel James
Team Leader
Alpine Resorts Team, Regional Assessments
as delegate of the Minister for Planning

Appendices

Appendix A – Recommended Instrument of Consent