



# Smiggins Hotel, Smiggin Holes Modification

---

Modification Application Assessment (MOD 24/6689 (DA 10670 MOD 1))

August 2024

Published by the NSW Department of Planning, Housing and Infrastructure

[dphi.nsw.gov.au](http://dphi.nsw.gov.au)

Title: Smiggins Hotel, Smiggin Holes, Modification

Subtitle: Modification Application Assessment (MOD 24/6689 (DA 10670 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 (August 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
<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, Housing and Infrastructure
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation 2021</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 and Public Spaces
<b>NPWS</b>	National Parks and Wildlife Service
<b>Planning Secretary</b>	Secretary of the Department of Planning Housing and Infrastructure
<b>RFS</b>	NSW Rural Fire Service
<b>SEE</b>	Statement of Environmental Effects
<b>SEPP</b>	State Environmental Planning Policy

# Contents

<b>1</b>	<b>Introduction .....</b>	<b>1</b>
	1.1 Site Description.....	1
	1.2 Approval History.....	2
	1.3 Proposed Modifications .....	4
<b>2</b>	<b>Matters for Consideration .....</b>	<b>6</b>
	2.1 Strategic Context.....	6
	2.2 Mandatory Matters for Consideration.....	6
	2.3 Scope of Modifications .....	7
	2.4 Other Approvals .....	9
<b>3</b>	<b>Submissions .....</b>	<b>10</b>
	3.1 Department’s Engagement .....	10
	3.2 Summary of Submissions .....	10
<b>4</b>	<b>Assessment .....</b>	<b>11</b>
	4.1 Design Changes.....	11
	4.2 Design Details and Standards.....	11
	4.3 Managing Construction Impacts.....	12
<b>5</b>	<b>Recommendation .....</b>	<b>13</b>
	<b>Appendices .....</b>	<b>14</b>
	Appendix A – Recommended Instrument of Modification.....	14



# 1 Introduction

This report provides the NSW Department of Planning, Housing and Infrastructure's (the Department) assessment of an application to modify development consent (DA 10670) for alterations and additions to the Smiggins Hotel and Chalet Apartments, located at 18 Corroboree Road, Smiggin Holes, Perisher, within Kosciuszko National Park (KNP).

The modification application (DA 10670 MOD 1) seeks approval for amendments to the design and layout of the access ramp located at the southern entrance of the Smiggins Hotel, determined under DA 10670.

The application has been lodged by Lachlan Maclean (the Applicant) pursuant to section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).



**Figure 1 |** Smiggins Hotel, the red arrow shows the location of the access ramp under the roof line at the hotel entrance (Source: Applicant's documentation)

## 1.1 Site Description

The subject site is known as Smiggins Hotel, Lot 1 DP 1175034, Corroboree Road, Smiggin Holes (**Figure 1**) which is a mixed-use building that includes tourist accommodation, restaurants, bar and food court facilities and ski related uses. The site has an area of approximately 8,535m<sup>2</sup> and is partly separated from adjoining tourist accommodation premises via road, existing vegetation, and Smiggins Creek. The site is partially within the defined Geotechnical Map Zones; however, the location of works is not within the defined zone.

The surrounding development is characterised by other tourist related accommodation premises (to the south and east across the existing car parking area), ski slopes and ski slope infrastructure to the north and west. Access to the site is off Corroboree Road past the existing Smiggin Holes workshop area.

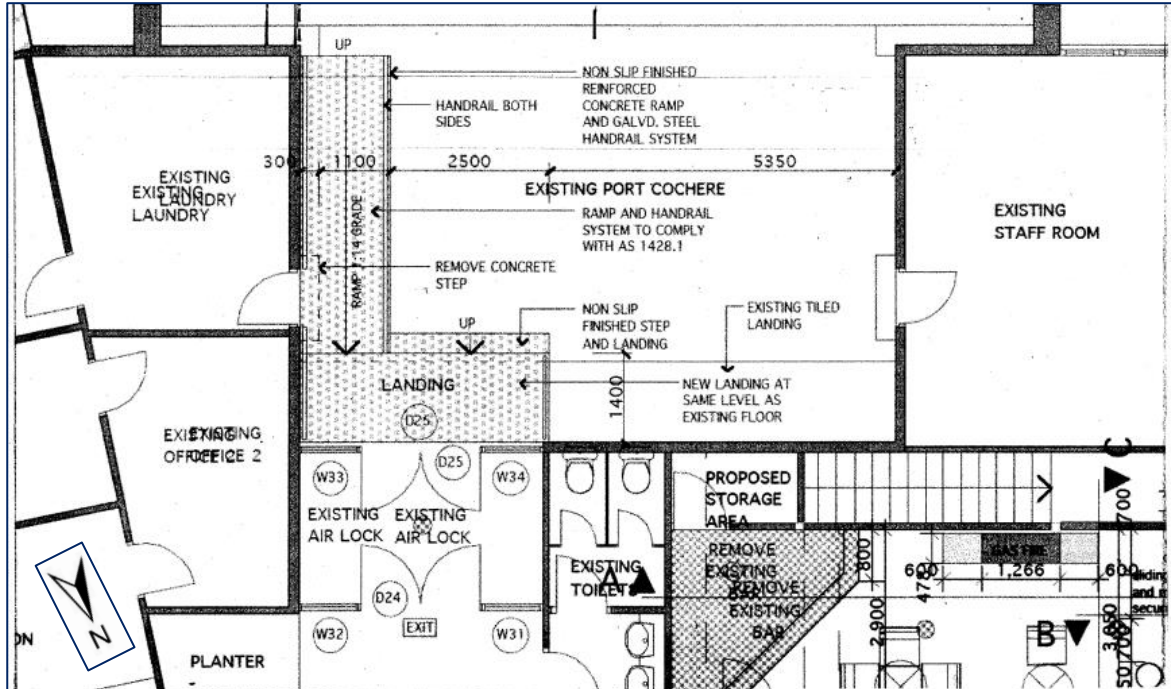
## 1.2 Approval History

On 5 May 2021, the Acting Team Leader of the Alpine Resorts Team, as delegate of the Minister for Planning and Public Spaces, granted consent to Development Application DA 10670 for:

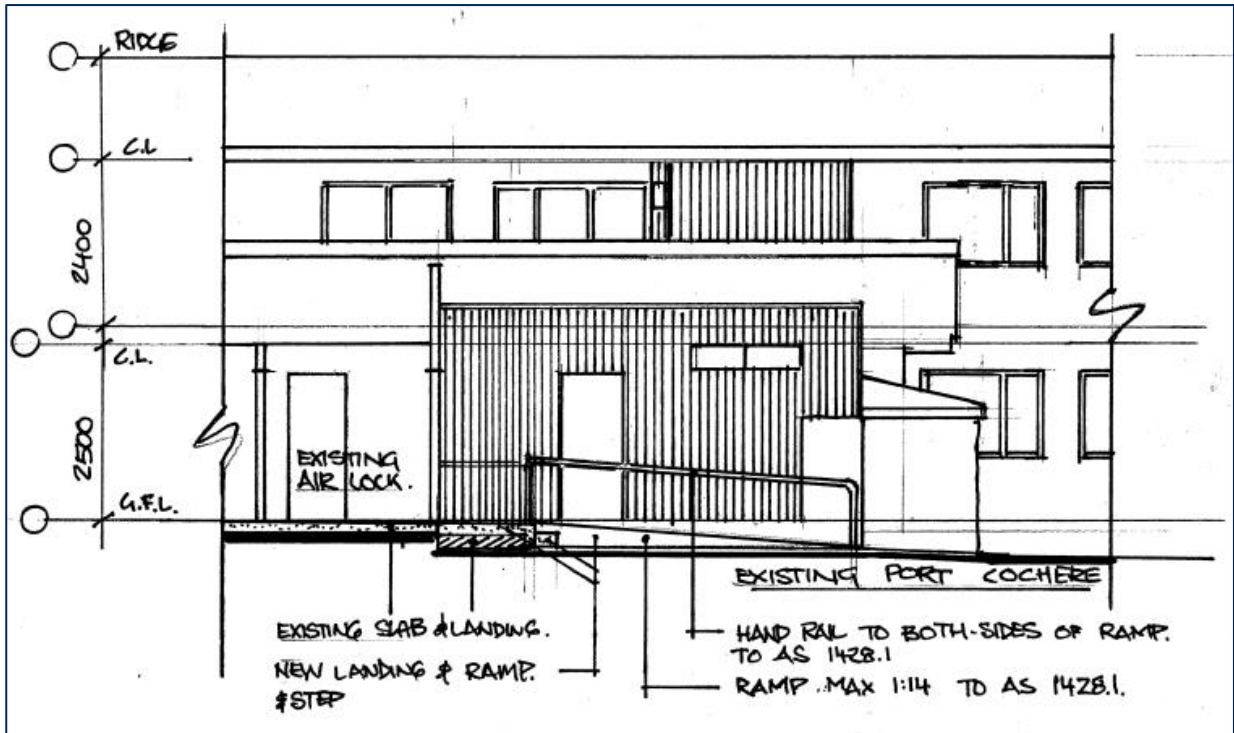
*'Alterations and additions to an existing tourist accommodation building including new airlock, ramp, garbage and storage room, and replacement stairs'.*

The approval included:

- A new garbage and storage room attached to the existing building on the south western side with external and internal doors, and a waste drain connecting to the existing grease trap;
- installation of an accessible ramp and landing at the southern entry;
- upgrade to the existing internal bathroom on the northern side;
- replacement of steel staircase on the northern side; and
- new airlock entrance on the first floor northern side of the existing building with window removal.



**Figure 2]** DA 10670 stamped approved works, showing the approved design and layout of the of the ramp along the eastern wall of the covered entry area (Source: Applicant's documentation)



**Figure 3** | DA 10670 stamped approved works, section plan showing the approved design and layout of the of the ramp along the eastern wall of the entry area (Source: Applicant's documentation)

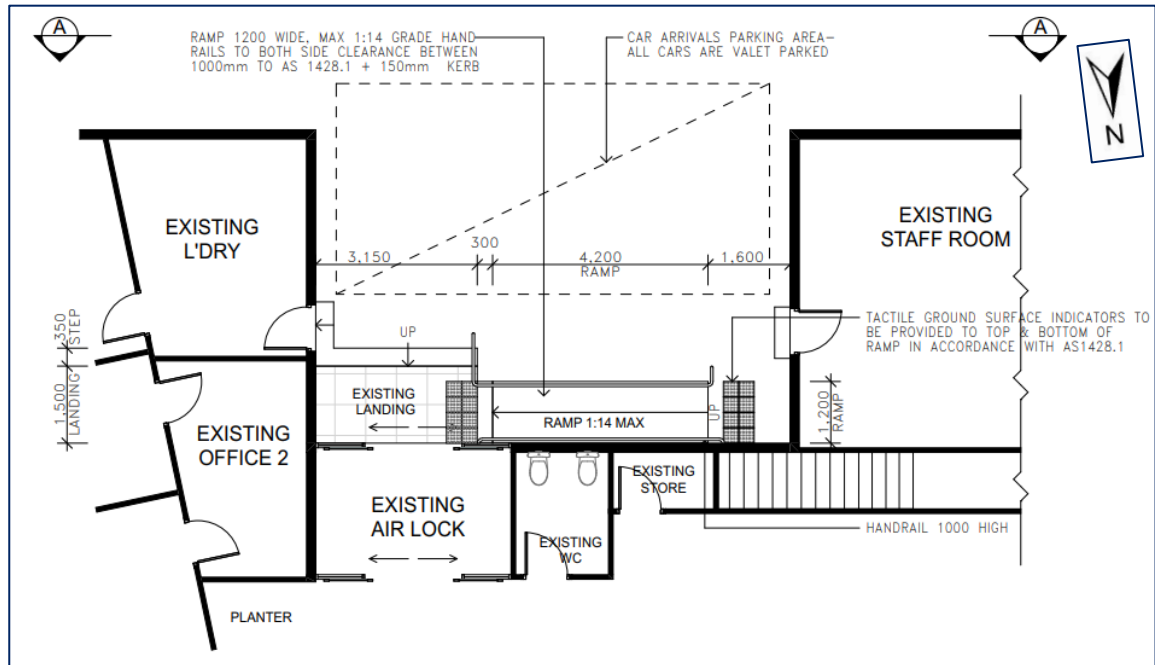


**Figure 4** | Site photo of the southern entrance to the Smiggins Hotel, showing the where the access ramp is to be constructed under the roof line (Source: Applicant's documentation)

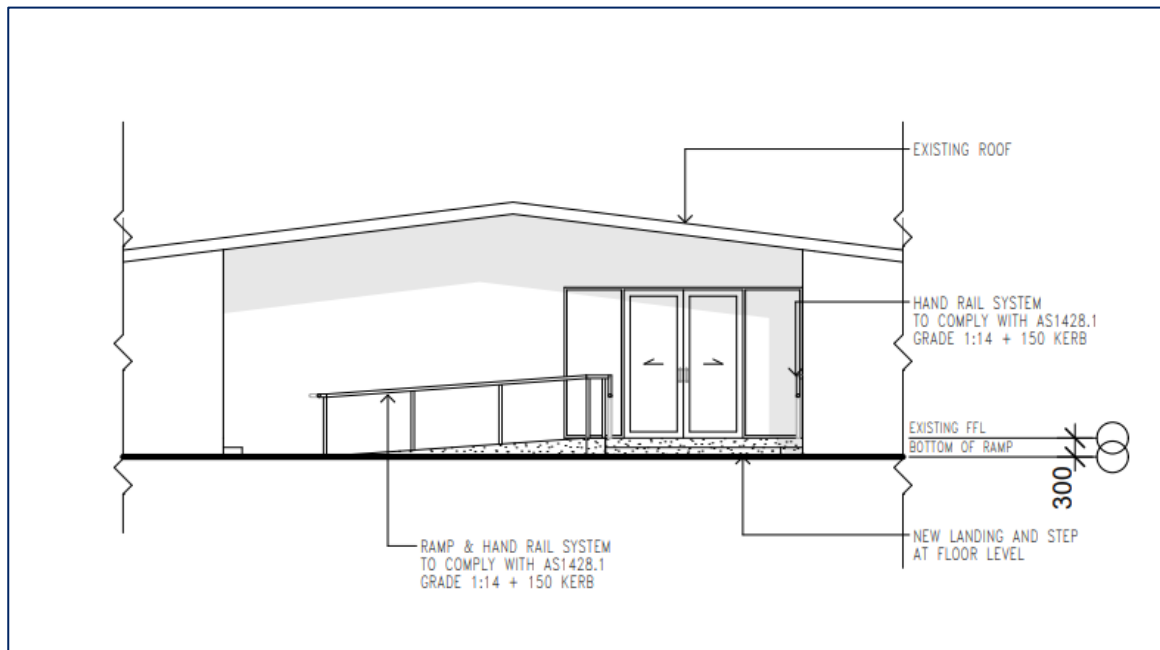


### 1.3 Proposed Modifications

This modification application seeks to amend the design and layout of the approved ramp which reorients the ramp along southern wall of the entry area to the Smiggins Hotel.



**Figure 5]** Proposed Ramp Plan, showing the design of the proposed ramp along the southern wall leading to the landing approved under DA 10670 (Source: Applicant's documentation)



**Figure 6]** Proposed location of access ramp, elevation plan showing the access ramp along southern wall of the entry area (Source: Applicant's documentation)



The Applicant notes the DA was granted consent on the 5 May 2021. As part of the Construction Certificate being issued, it was identified by the Certifier that the ramp approved did not comply with the BCA and also Condition B.4. Due to the timing and construction delay, the ramp was not constructed as part of the initial construction work under DA 10670. The ramp has been subject to a BCA assessment and the plans have been modified accordingly.

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

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

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

The Department considers the proposal is consistent with the Regional Plan as the proposal maintains the existing use of the site for tourist accommodation, without the development impacting the functionality of the existing site, supporting visitation to the NSW ski resorts.

#### Snowy Mountains Special Activation Precinct Master Plan

Section 9.1.2 of the Master Plan relates to the Perisher Range. 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 works help improve Perisher Valley amenities for visitors to the site and strengthen the family-friendly appeal of the location.

#### 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 protect and enhance the Alpine Region by ensuring development is managed with regard to the principles of ecologically sustainable development. The development supports the tourism economy while avoiding adverse environmental, social or economic impacts on the natural or cultural environment of 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.

#### Draft South East and Tableland Regional Plan 2041

The draft plan was publicly exhibited from 8 August 2022 until 23 September 2022. The draft plan underwent extensive consultation with the community and stakeholders with feedback incorporated into an updated version of the draft plan that was re-exhibited from 9 December 2022 to 31 January 2023. 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.

The proposal is consistent with the draft Regional Plan as it will not result in adverse biodiversity impacts and supports the maintenance of visitation to the Perisher Range Alpine Resort, along with the local and regional economy.

### 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 10670. The Department considers this modification

application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 if 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 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, with the works being located on existing disturbed, hard surface areas. No additional site disturbance is likely in relation to the proposed modification works, with site already required to be provided as an Inner Protection Area under the existing approval.

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 former Alpine SEPP was undertaken in the determination of the original application DA 10670.

The Department has considered the current 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</i>	<p><b>Section 4</b> of this report provides an assessment of the impacts associated with the proposal.</p> <p>The proposed changes are minor in nature and are not considered to vary significantly from the original consent with regard to either site impacts or the presentation of the development when viewed from the public domain.</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 changes the design of the approved access ramp in terms of achieving compliance with relevant standards of the Building Code of Australia (BCA).</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>The modification application is not required to be exhibited by the EP&amp;A Regulations.</p> <p>In accordance with the Department's Community Participation Plan (CPP), November 2019, prepared in accordance with Schedule 1 of the EP&amp;A Act requires an application for modification of development consent, not required to be exhibited by the EP&amp;A Regulations, to otherwise be exhibited for a timeframe dependent on the urgency, scale and nature of the proposal.</p> <p>The Department did not undertake formal exhibition or notification of the development.</p> <p>The Department placed the application on the NSW Planning Portal website between 23 May 2024 and 6 June 2024 (refer to <b>Section 3</b> of this report).</p>



(d) <i>Consideration of any submissions made concerning the proposed modification within the period prescribed by the regulations</i>	The Department has considered the submissions received during the exhibition period (refer to <b>Section 3</b> of this report).
---	---

---

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

As the original works required a Bush Fire Safety Authority (BFSA) from the RFS under section 100B of the Rural Fires Act 1997 as integrated development pursuant to section 4.46 of the EP&A Act. On 13 June 2024 the RFS issued the BFSA together with general terms of approval relating to matters including the maintenance of the Asset Protection Zone as an inner protection area, construction standards and the management establishment of an asset protection zone, design and construction standards, and preparation of an Emergency Management and Evacuation Plan.

Refer to **Section 3** 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 an application for modification of development consent, 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.

The works are not within fifty (50) metres of a tourist accommodation building, and the Department did not undertake formal exhibition or notification of the development.

The Department placed the application on the NSW Planning Portal website to make the application openly available for public information, consistent with the intent of the CPP to keep the community informed and to facilitate ease of access to planning decisions.

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. The application was also forwarded to the National Parks and Wildlife Service (NPWS) pursuant to section 4.27 of the Precincts – Regional SEPP.

### 3.2 Summary of Submissions

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

#### Key issues – Government Agency

On 13 June 2024, the NSW RFS issued the Bush Fire Safety Authority (BFSA) and confirmed that subject to the re-issued General Terms of Approval, being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

The NPWS reviewed the modification application and had no further comments on impacts to the environmental or cultural values of KNP that might arise from the modified development and reiterated that the comments provided for the original Application remained valid.

## 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 considers the key assessment issues associated with the modification application are:

### 4.1 Design Changes

As discussed in **Section 1.3**, the Applicant has proposed to amend the design and layout of the access ramp which is to be located under the roof line at the hotel entrance. The ramp was previously approved for eastern side of the covered entry area and is now proposed for the northern side of the covered entry area to the Hotel.

The Applicant indicates the works remain the same as proposed in the original DA, and the development (as modified) remains the same as the development for which the consent was originally granted. With the implementation of appropriate environmental controls that were approved under DA 10670, the impacts of the proposal are considered acceptable.

The Department's assessment considers the modification would result in minimal impacts upon nearby buildings and the natural environment, with the modification application relating to minor development, the provision of an access ramp for entry into the building / Smiggins Hotel.

### 4.2 Design Details and Standards

The Applicant notes the ramp has been amended in design to achieve compliance with the BCA and Condition B.4 of the original approval (DA 10670). The Applicant has provided a BCA report in support of the amended design and layout.

The application for modification was referred to the Department's Principal Building Surveyor for consideration. The Building Surveyor reviewed the proposal, the original application and related consent. The Building Surveyor did not recommend any changes to the existing conditions of consent.

The Department notes that the proposed works, when constructed, are to comply with the relevant provisions of the Building Code of Australia, Australian Standard 1428.1 and Disability (Access to Premises – Buildings Standards 2010). Compliance with relevant requirements is to be determined at the Construction Certificate stage by the Certifier and in accordance with Conditions of Consent.

Therefore, the Department concludes that subject to compliance with the Conditions of Consent, including references to the BCA which is to be addressed by the Certifier at the Construction Certificate stage, the proposal is satisfactory and would improve the amenity of the building for visitors and occupants.

The Department has retained the conditions recommended by NPWS.

### 4.3 Managing Construction Impacts

As identified in the assessment of DA 10670, given the scope and location of the works being on existing highly disturbed land, it is unlikely that the construction of the proposal will cause any adverse impact upon the environment / surrounding area.

Car parking is available at the site during construction. Construction impacts such as noise and vibration will be short term and managed in accordance with standard environmental conditions. It is also noted that the construction is aimed to occur outside the ski season.

The Department has included 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.

Noting the above, the proposed modification to the consent is supported, subject to updating the conditions of consent where relevant to the modification, including reference to the modified plans (updated Condition A.2.).



## 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 NPWS and 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; the modification was notified, and all submissions received during the assessment of the application have been considered; and the site remains suitable for the development, as modified.

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 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, 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 24/6689 (DA 10670 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 10670
- **signs** the attached approval of the modification (**Appendix A**).

**Recommended by:**



**Vince Di Bono**  
Planning Officer  
Alpine Resorts Team

**Adopted by:**



**Erin Murphy**  
Team Leader  
Alpine Resorts Team, Regional Assessments  
as delegate of the Minister for Planning

# Appendices

## Appendix A – Recommended Instrument of Modification