



Planning &
Environment

***DEVELOPMENT APPLICATION
ASSESSMENT REPORT:***

Replacement of Cladding, Apex Ski Lodge

**Lot 197 Corroboree Road, Smiggin Holes,
Perisher Range Alpine Resort, Kosciuszko
National Park**

DA 7154



Assessment under Part 4 of the
Environmental Planning and Assessment Act 1979

September 2015

ABBREVIATIONS

Alpine SEPP	State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007
Applicant	Apex Foundation
Consent	This development consent
Department	Department of Planning and Environment
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
Minister	Minister for Planning
Secretary	Secretary of the Department of Planning and Environment
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy

Cover Image: Northern elevation of Apex Children's Chalet (Source: Department site inspection photograph)

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1. BACKGROUND

1.1 Introduction

This report provides an assessment of a Development Application (DA 7154) lodged by the Apex Foundation on 3 July 2015 under Part 4 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act). The application seeks consent to replace the external timber cladding with metal cladding of similar profile and colour at Apex Children's Chalet, Lot 197 Corroboree Road, Smiggin Holes, Perisher Range Alpine Resort within Kosciuszko National Park.

The proposal is described in detail in **Section 2** of this report.

1.2 The Site and Surrounding Development

The subject site is known as 'Apex Children's Chalet', Lot 197 Corroboree Road, Smiggin Holes (**Figure 1**). The site is approximately 730m² surrounded by woodland vegetation and native and exotic grasses. The existing building was constructed in the late 1970's as a charitable initiative set up by the Apex Foundation to provide snow holiday opportunities for disadvantaged children. The exterior timber cladding has deteriorated over time and requires replacing. The site is accessible via a pedestrian track off Corroboree Road to the north.

Currently there is a sparse level of vegetation on the subject lot and no vegetation removal is proposed. The nearest buildings to the site are 'Spruce' and 'Numbananga' approximately 30 metres to the south-west and Snow Country approximately 30 metres to the north.



Figure 1: Location of site (circled) in context of Smiggin Holes (Source: SIX Maps 2015).



Figure 2: Apex Children's Chalet (circled) in context of adjoining properties and vegetation (Source: Six Maps 2015).

2. PROPOSED DEVELOPMENT

The development application seeks approval for the following:

- remove the existing timber cladding from the entire building; and
- replace the existing cladding with new metal cladding of a similar colour and directional profile to the existing timber.

The existing timber cladding will be replaced with 'Jasper' coloured Colorbond Custom Orb metal cladding which is similar to the current building colour of mission brown. The metal cladding will closely match the vertical profile of the cladding.

The Colorbond metal cladding has been chosen due to it being a low maintenance and long term solution to the alpine weather conditions experienced on the site.

3. STATUTORY CONTEXT

3.1. Consent Authority

The Minister for Planning is the consent authority for the application under clause 7 of *State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007* (the Alpine SEPP) as the development takes place within a ski resort area as referred to in Clause 32C (2)(a) of Schedule 6 to the *Environmental Planning and Assessment Act 1979* (EP&A Act).

3.2. Determination under Delegation

The Minister for Planning has delegated the determination applications of development under Part 4 of the EP&A Act to the Team Leader, Alpine Resorts Team where:

- the application is in relation to land which the Alpine SEPP applies; and
- there are less than 25 public submissions in the nature of objections.

The proposal complies with the terms of delegation as the application relates to land which the Alpine SEPP applies and no public submissions were received in the nature of objections.

Accordingly, the Team Leader, Alpine Resorts Team may determine the application in accordance with the Minister's delegation.

3.3. Permissibility

Pursuant to clause 11 of the Alpine SEPP and the Perisher Range Alpine Resort land use table, 'tourist accommodation' is permissible with consent.

3.4. Environmental Planning Instruments

The Alpine SEPP is the only environmental planning instrument (EPI) which applies to the site for this type of development. An assessment against the requirements of the Alpine SEPP is provided in **Appendix B**. In summary, the Department is satisfied that the application is consistent with the requirements of the Alpine SEPP.

3.5. Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the Act, as set out in Section 5 of the Act and read as follows:

(a) *to encourage:*

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) *the protection, provision and co-ordination of communication and utility services,*
- (iv) *the provision of land for public purposes,*
- (v) *the provision and co-ordination of community services and facilities, and*
- (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- (vii) *ecologically sustainable development, and*
- (viii) *the provision and maintenance of affordable housing, and*

(b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*

(c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The proposal is consistent with the above objects, particularly:

- (a)(ii) as the proposal promotes the orderly and economic use of the site;
- (a)(vi) satisfactorily addresses the environmental significance of the site; and
- (a)(vii) includes measures to deliver an ecologically sustainable development.

Further discussion on compliance with the above is provided in **Appendix B**.

3.6. Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle;*
- (b) *inter-generational equity;*
- (c) *conservation of biological diversity and ecological integrity; and*
- (d) *improved valuation, pricing and incentive mechanisms.*

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

Precautionary Principle – The proposal does not pose a threat of serious or irreversible environmental damage. The proposal has been assessed and it is not considered that any threatened species, populations, ecological communities or their habitats will be impacted by the development.

Inter-Generational Equity – The proposal will not adversely impact upon the health, diversity or productivity of the environment for future generations.

Biodiversity Principle – There is no threat of any impact on biodiversity. Flora and fauna impacts have been considered and it is unlikely to have a significant impact on threatened species, endangered populations, ecological communities or their habitats.

Valuation Principle – The value of the environment has been recognised and any disturbed areas will be appropriately rehabilitated in accordance with the relevant NPWS guidelines.

3.7. Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Notification (Part 6, Division 7) and Fees (Part 15, Division 1) have been complied with.

4. CONSULTATION AND SUBMISSIONS

4.1. Notification

After accepting the application, the Department:

- made the application publicly available on the Department's website and at the Jindabyne Office (Shop 5A, 19 Snowy River Avenue, Jindabyne); and
- notified relevant stakeholders (four nearby lodges) and State government authorities in writing.

The proposal was referred to the Office of Environment and Heritage (OEH) pursuant to clause 17 of the Alpine SEPP and also to the NSW Rural Fire Service pursuant to section 91 (integrated development) of the EP&A Act as a Bushfire Safety Authority under the *Rural Fires Act 1997* is required in order for the development to be carried out.

The Department received a total of two submissions, comprising two submissions from public authorities and no public submissions in response to the exhibition. Copies of the submissions may be viewed at **Appendix A**. A summary of the issues raised in the submissions is provided below.

4.2. Public Authority Submission

Two submissions were received from public authorities. The issues raised by the public authorities are summarised in **Table 1** below and have been addressed in detail in **Section 5** and/or by way of a recommended Condition of Consent at **Appendix C**.

Table 1: Summary of public authority submissions

Office of Environment and Heritage (OEH)
<p>The OEH did not object to the proposal and provided comments which can be summarised as follows:</p> <p><i>Fauna and Flora</i></p> <ul style="list-style-type: none"> The OEH should be consulted if any vegetation removal is requested by the NSW RFS. <p><i>Aboriginal Archaeology</i></p> <ul style="list-style-type: none"> The proposed development should not impact on Aboriginal cultural heritage as no earthworks are proposed. <p><i>Leasing</i></p> <ul style="list-style-type: none"> The proposal is permissible under the lease held by the proponent. <p>There are no other comments from Municipal Services or Public Health.</p> <p>The OEH comments have been considered in the assessment of the application. The Department notes that no vegetation removal is required to satisfy RFS requirements. Where necessary, the recommendations have been incorporated into the conditions of consent.</p>
NSW Rural Fire Service (RFS)
<p>The proposed development is integrated development as 'tourist accommodation' is a special fire protection purpose pursuant to section 100B of the <i>Rural Fires Act 1997</i>. The RFS has provided a Bushfire Safety Authority which includes a condition regarding design and construction.</p> <p>The RFS applied one condition relating to the use of improved or equivalent fire resistant materials. This has been incorporated into the recommended conditions.</p>

5. ASSESSMENT

5.1. Section 79C Evaluation

Table 2 identifies the matters for consideration under section 79C of the EP&A Act that apply to the development. The table also represents a summary for which additional information and consideration is provided for in **Section 5.2** (Key and Other Issues), the appendix or other sections of this report, referenced in the table.

Table 2: Section 79C(1) Matters for Consideration

Section 79C(1) Matters for Consideration	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies - see Section 3.4 and Appendix B of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Not applicable.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations	Complies – see Section 3.7 of this report. The

	application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6 of the Regulations), the requirements for notification (Part 6, Division 7) and fees (Part 15, Division 1). Clause 94 has been considered in Section 5.2.2 of this report.
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development	Impacts of the development have been considered in Section 5.2 and additional detail is provided in Appendix B of this report.
(c) the suitability of the site for the development	The suitability of the site has been considered in Section 5.3 of this report.
(d) any submissions	Consideration has been given to submissions received during the exhibition of the application in Section 4 . Key issues raised in submissions have been considered further in Section 5.2 of this report.
(e) the public interest	The public interest of the development has been considered in Section 5.4 of this report.
Biodiversity values impact assessment not required if: (a) On biodiversity certified land (b) Biobanking Statement exists	Not applicable.

5.2. Key and Other Issues

The Department has considered the objectives of section 79C of the EP&A Act, the SEE and issues raised in submissions in its assessment of the proposal. The Department considers that the key issues associated with the proposal to be:

5.2.1. Managing environmental impacts during construction

It is unlikely that the proposal will cause any impact upon the natural environment. The proposal is in keeping with the use of the building for tourist accommodation and the works are of a minor nature.

Construction access will be from Corroboree Road and a pedestrian access track, on the northern side of the lodge. There is sufficient disturbed ground surrounding the lodge for storage of materials and parking of construction vehicles during the summer construction period.

Construction impacts such as noise, dust and vibration will be relatively minor and short term only. Conditions are recommended to ensure that there is not an adverse impact on the amenity of the locality.

5.2.2. Compliance with the Building Code of Australia (BCA)

The proposal is required to comply with the BCA and relevant Australian Standards. Based on the plans and documents that were submitted, the Department is satisfied that BCA compliance can be achieved. Wind and snow loading requirements can be appropriately addressed by compliance with the BCA. Full details of compliance will be demonstrated by the Applicant at the construction certificate stage.

Clause 94 of the Regulations allows the consent authority to consider whether the building should be upgraded as part of the proposed development dependant on the volume of the

works and the adequacy of the existing fire safety measures. In this instance upgrade is not required as the building has adequate fire safety measures.

Conditions of consent are recommended to ensure that BCA compliance is addressed at the construction certificate stage.

5.2.3. Ensuring the works integrate with the existing building

The proposed recladding is designed to match the existing colours of the building and complement the range of colours in the surrounding natural environment. The character of the lodge is not being significantly altered as a result of the proposal.

The proposed metal cladding (Colorbond Custom Orb) was also selected to match the existing colour and profile of the cladding, however with the strength and durability of steel.

The Department supports the recladding utilising the proposed metal materials.

5.3. Suitability of the site

The proposed development is considered suitable for the site in that it is of minor scale and there will not be an impact on any threatened species, populations, ecological communities, or their habitats as a result of the proposal.

In addition, no vegetation is to be removed, the development will not be visually intrusive in the context of Smiggin Holes and construction works can be appropriately managed to avoid or mitigate any adverse impacts. The site has been occupied by the tourist accommodation building for a number of years.

The Department concludes that the site is suitable for the development.

5.4. Public Interest

The proposed development is considered to be consistent with the aim and objectives of the Alpine SEPP and the public interest would not be compromised by the proposal subject to conditions. There would also not be an adverse impact on the environment and the proposal is consistent with the principles of ESD.

6. CONCLUSION AND RECOMMENDATION

6.1. Conclusion

The Department has assessed the merits of the proposal taking into consideration the issues raised in all submissions and is satisfied that the impacts have been satisfactorily addressed within the proposal and the recommended conditions. In relation to the proposal, the Department considers that:

- there will not be a significant impact on any threatened species, populations or ecological communities;
- the proposal will not be visually intrusive in the context of the locality; and
- construction works can be undertaken in accordance with the BCA and relevant Australian Standards.

Overall, the Department is satisfied that the Development Application has been appropriately designed and recommends that the application be approved subject to the imposition of conditions.

6.2. Recommendation

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

- a) **consider** all relevant matters prescribed in section 79C of the EP&A Act, including the findings and recommendations of this report; and
- b) **approve** the Development Application (DA 7154), under section 80(1)(a) of the EP&A Act, having considered matters in accordance with (a) above, and **sign** the Notice of Determination at **Appendix C**.

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4/9/2015

APPENDIX A. RELEVANT SUPPORTING INFORMATION / SUBMISSIONS

The following supporting documents and information to this assessment report can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7154

APPENDIX B. CONSIDERATION OF RELEVANT LEGISLATION

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

To satisfy the requirements of section 79C(a)(i) of the EP&A Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

Section 79C(1) – Matters for consideration

In determining a DA, a consent authority must take into consideration the matters referred to in section 79C(1) of the EP&A Act as are relevant to the development. **Section 5.1** of this report details consideration of the matters in section 79C(1), however a detailed consideration of the likely impacts of the development is provided below:

S 79C(1)(b) the likely impacts of that development

Context and setting – The proposed works do not alter the bulk, shape and scale of the building. The materials and finishes have been selected to match the character and materials of the existing lodge.

Access, transport and traffic – The proposed works will not impact upon traffic management within the resort.

Public domain – The proposed works will not impact upon the public domain.

Utilities and energy – Energy and utility requirements will not be altered by the proposal.

Heritage – No adverse impacts are expected.

Other land resources – No impact on other land resources.

Water – There will be no impact on water resources as the proposal does not involve works being carried out within 40 metres from a waterway or creek.

Soils – Due to the nature of the works, there will be no excavation and no impact on soils.

Noise and vibration – Impacts in this regard will be small-scale and short term during construction and involve primarily noise, dust and vehicle emissions. Construction will occur during approved hours. The noise level during construction will not adversely affect guests of the resort. Dust can be controlled by watering.

Air and microclimate – No impact on the air and microclimate is expected.

Flora and fauna – No flora or fauna are impacted by the proposed works.

Waste – Any waste generated will be during construction only.

Natural hazards – The site is bushfire prone and was referred to the RFS who have issued a bushfire safety authority.

Technological hazards – The proposal is required to comply with the BCA and relevant Australian Standards. No concerns are raised in relation to the proposal.

Safety, security and crime prevention – The proposal does not have an impact on safety, security and crime prevention.

Social impact – The proposed works will have no social impacts. The proposal modernises and reduces maintenance requirements of an existing tourist accommodation building.

Economic impact – The proposal is minor in scale and no adverse economic impact is envisaged as a result of the proposal.

Site design and internal design – The proposed development does not impact siting or internal design. The re-cladding has been designed to integrate with the existing building. BCA compliance can be achieved.

Construction – The proposal is small in scale and no adverse impacts are expected during construction.

Cumulative impacts – No cumulative impacts are envisaged as a result of this proposal. The proposal consists of re-cladding of an existing building that does not impact the locality.

STATE ENVIRONMENTAL PLANNING POLICY (KOSCIUSZKO NATIONAL PARK – ALPINE RESORTS) 2007

CI 2 – Aim and objectives:	
The proposal is considered to be consistent with the aim and objectives of the Alpine SEPP in that it is consistent with the principles of ESD and will improve the building without adversely impacting on the natural or cultural environment.	
CI 11 – Land Use Table	
Pursuant to clause 11 of the Alpine SEPP and the Perisher Range Alpine Resort Land Use Table, 'tourist accommodation' is permissible with consent.	
CI 14(1) – Matters to be considered by consent authority	
(a) the aim and objectives of this policy, as set out in clause 2	See discussion above.
(b) the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),	The proposal will reduce risks in the event of bush fire by replacing the timber cladding with metal cladding. The development does not impact geotechnical hazards or flooding.
(c) the cumulative impacts of development on existing transport, effluent management systems, waste disposal facilities or transfer facilities, and existing water supply,	No adverse cumulative impacts are anticipated as the proposal will not result in any changes to existing transport, effluent management systems, waste disposal facilities, transfer facilities or water supply.
(d) any statement of environmental effects,	The SEE supplied is considered adequate to enable a proper assessment of the proposal.
(e) the character of the alpine resort,	The proposal will not significantly alter the character of the resort and the metal cladding has been selected to maintain the appearance of the current colour and profile.

(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	As the proposed development is non-structural external alterations to an existing building with no excavation or ground disturbance, a geotechnical report was not required to be lodged with the DA.
(g) any sedimentation and erosion control measures,	The proposed works does not involve any ground disturbance. Adverse erosion and sedimentation impacts are unlikely.
(h) any stormwater drainage works proposed,	No impact to stormwater or drainage is anticipated.
(i) any visual impact of the proposed development, particularly when viewed from the Main Range,	Any visual impact is significantly reduced as the metal cladding has been selected to maintain the appearance of the current colour and profile.
(j) any significant increase in activities, outside of the ski season,	The proposal will not result in an increase of activities outside of 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 and the document entitled Perisher Blue Ski Slope Master Plan,	The proposal is not inconsistent with these plans.
(m) if the development is proposed to be carried out on land in a riparian corridor.	The proposal is not located in a riparian corridor.
CI 17 – applications referred to the Office of Environment and Heritage (OEH)	
The proposal was referred to the OEH pursuant to clause 17 of the Alpine SEPP. Refer to comments received at Section 4.2 and discussion on proposal at Section 5 .	
CI 26 – Heritage conservation	
European heritage	The proposal will not impact on any European heritage items.
Aboriginal heritage	The proposal will not impact Aboriginal heritage.

APPENDIX C. RECOMMENDED CONDITIONS OF CONSENT
