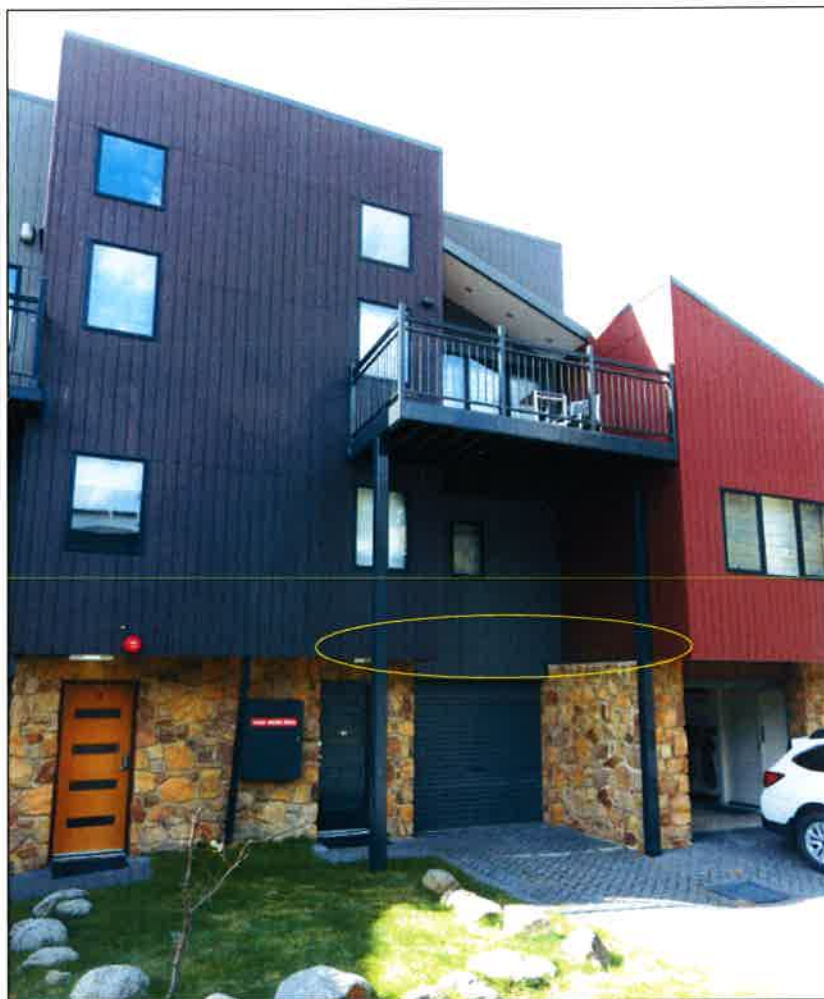




**DEVELOPMENT APPLICATION ASSESSMENT
REPORT:**

**Construction of a Deck and Spa, Aspen Creek
Apartment 4, Lot 555, Thredbo Alpine Resort,
Kosciuszko National Park**

DA 7569



Environmental Assessment Report
Section 79C of the *Environmental Planning and
Assessment Act 1979*

April 2016

ABBREVIATIONS

Alpine SEPP	State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007
Applicant	Mr Doug Reid
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
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: Southern elevation of Aspen Creek Apartment 4 illustrating the location of the deck and spa (Source: Applicant's SEE)

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1. BACKGROUND

1.1 Introduction

This report provides an assessment of a Development Application (DA 7569) lodged by Mr Doug Reid on 24 March 2016 under Part 4 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act). The application seeks consent for the construction of deck and installation of a spa at Aspen Creek Apartment 4, Thredbo 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 site is located at Aspen Creek Apartments - Apartment 4, within Woodridge Stage 3, Thredbo Village (**Figure 1**). There are five apartments at the site that are licensed for a total of 10 beds (two per apartment). The site is generally level, irregular shaped and has an area of approximately 715m². The apartments, used for tourist accommodation, are two and three storey, concrete rendered with black steel and timber decks.

Access to the apartments is achieved via a right of way off Chimneys Way. The nearest buildings to the site are Angala Apartments (northwest), Powder Apartments (southwest), and Onyx Apartments (southeast).

Sparse vegetation is located within the site, none of which is impacted by this proposal. The land to the northeast contains a bank of eucalypts outside of the sub-lease area. The site is level and is positioned between Woodridge carpark and Friday Drive.



Figure 1: Location of the site in context of part of Thredbo Village and Friday Flat ski area (Source: SIX Maps 2016)

2. PROPOSED DEVELOPMENT

The proposed development at Apartment 4 is limited to external alterations and additions including:

- the construction of a polymer deck with an area of approximately 9m² on the southern elevation of the first floor connected onto existing posts that support a deck on the second floor;
- balustrade to match the existing balustrade located on the second floor;
- construction of a doorway to replace an existing window to enable access onto the new deck; and
- installation of a 1300 litre spa with dimensions of 200 x 200 x 82 cm's.

The Applicant indicates that:

- the spa is to be covered by a child-resistant lockable lid when it is not in use;
- there is to be an appropriate warning sign including details of resuscitation (CPR) techniques located in the immediate vicinity of the spa; and
- the spa is to be registered prior to its use at www.swimmingpoolregister.nsw.gov.au

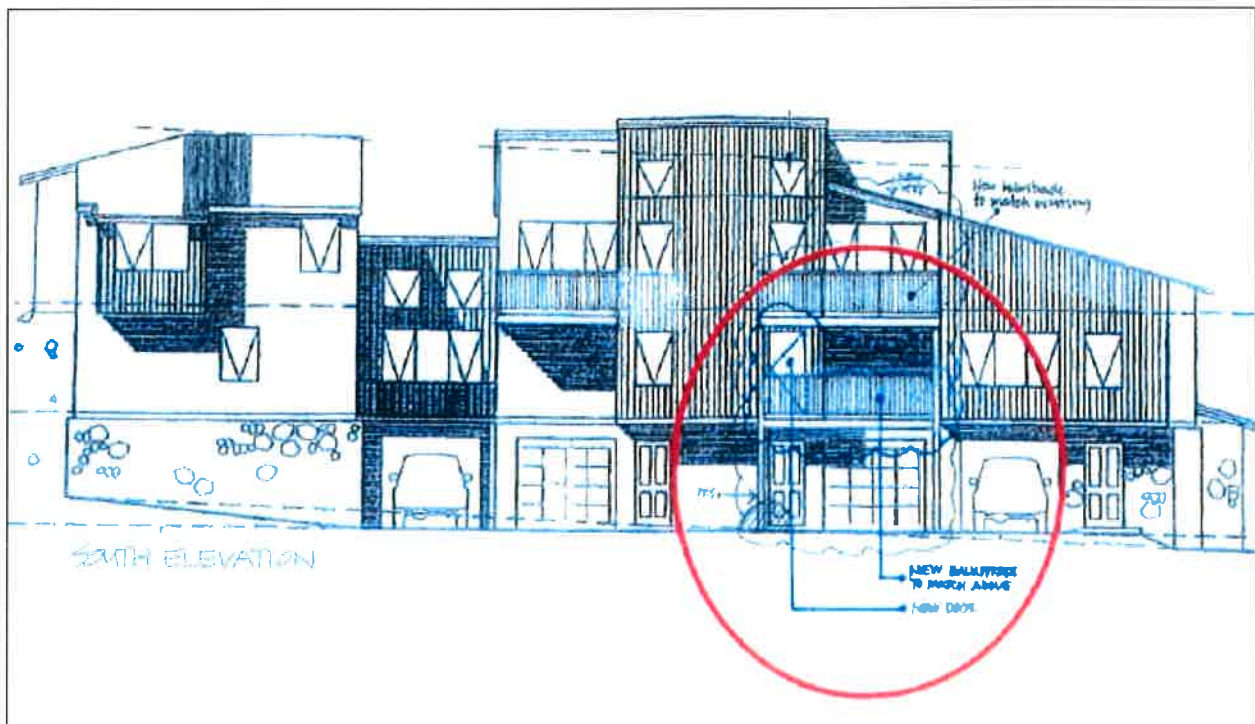


Figure 2: Southern elevation view of the proposed deck / spa location in blue (Source: Applicant's SEE)

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 EP&A Act.

3.2. Determination under Delegation

In accordance with the Minister's delegation of 16 February 2015, the Team Leader, Alpine Resorts Team may determine the application as:

- 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.

3.3. Permissibility

The proposal includes construction of a deck and a spa consistent with works to a building used for 'tourist accommodation'. Pursuant to clause 11 of the Alpine SEPP, 'tourist accommodation' is permissible with consent within the Thredbo Alpine Resort.

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. Consistent with the aim of the Alpine SEPP, the Department is satisfied that the proposal has adequately considered measures to protect and enhance the environment and also have regard to the principles of Ecologically Sustainable Development (ESD).

The proposal is also consistent with the objectives of the Alpine SEPP in that:

- it would improve the amenity of the existing tourist accommodation building; and
- the proposal has been designed to consider amenity impacts upon adjoining / nearby properties.

An assessment against the requirements of the Alpine SEPP is provided in **Appendix B**. The Department is satisfied that the application is consistent with the requirements of the SEPP.

3.5. Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the EP&A Act, as set out in Section 5. The proposal complies with the objects as it seeks approval for external works aimed at improving the appearance and amenity of an existing tourist accommodation building. .

The proposal would not result in an adverse environmental impact given the works are located solely on the first floor level and promotes the orderly and economic use of the site therefore being of a kind that is ESD (refer to **Section 3.6**)

3.6. Ecologically Sustainable Development (ESD)

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991* (POEO Act). Section 6(2) of the POEO Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes.

The Department has considered the proposal in relation to the ESD principles and concludes that the proposal does not pose any threat of serious or irreversible environmental damage. The precautionary and inter-generational equity principles have been applied in the decision making process via an assessment of the environmental impacts of the proposal.

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:

- publicly exhibited the application from Friday 1 April 2016 until Thursday 14 April 2016 on its website and at its Jindabyne Office (Shop 5A, 19 Snowy River Avenue, Jindabyne); and
- notified relevant stakeholders (Powder and remaining apartments within Aspen Creek Apartments) 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
- 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 two submissions, comprising two submissions from public authorities and no public submissions in response to the notification. Copies of the submissions may be viewed at **Appendix A**.

A summary of the issues raised in the public authority submissions is provided below.

4.2. Public Authority Submissions

A total of two submissions were received from public authorities.

The issues raised by the public authorities are summarised in the **Table 1** below. The issues raised have been addressed in detail in **Section 5** and/or by way of a recommended condition in the instrument of consent at **Appendix C**.

Table 1: Summary of public authority submissions

Rural Fire Service (RFS)
The RFS did not object to the proposal and has issued a Bush Fire Safety Authority (BFSA) under clause 100B of the Rural Fires Act 1997. The BFSA outlined general terms of approval regarding the provision of asset protection zones, emergency management, landscaping and design and construction standards. These terms have been incorporated into the recommended conditions.
Office of Environment and Heritage (OEH)
The OEH did not object to the proposal and provided comments as follows: <ul style="list-style-type: none"> The proposal is permissible under the head lease held by Kosciuszko Thredbo Pty Ltd; and The proposed spa is required to comply with the <i>Public Health Act 2010</i> and the requirements contained in its Division 3. The detail of how the spa must be managed is contained within Part 3 of the <i>Public Health Regulation 2012</i>. The prescribed operating requirements are detailed in Schedule 1 of the regulation. <p>The OEH comments have been considered in the assessment of the application.</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 represents a summary for which additional information and consideration is provided for in further sections of this report and relevant appendices.

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).
(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 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 5.7 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 of this report.
(e) the public interest	The public interest of the development has been considered in Section 5.8 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 key issues in the Department's assessment are:

- compliance with the Building Code of Australia (BCA);
- context and amenity;
- managing environmental impact during construction;
- access to the new works; and
- Spa pool compliance.

Each of these key issues is discussed in the following sections of the report.

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

The proposal includes the construction of a new deck and doorway to replace a window that is located off a hallway on level one of the apartment. The work is required to comply with the BCA. The deck is consistent with an existing deck located above off the second floor level approved under DA 6368 approved on 20 March 2014.

To comply with the BCA and BFSAs issued by the RFS, the design and construction of the new works is required to comply with Bushfire Attack Level (BAL) 19 construction standard in accordance with the Australian Standard 3959-2009. This is considered achievable with the proposed materials, noting that the polymer deck material is rated to BAL 29.

It is considered that compliance with the BCA is achievable for the proposed works. Conditions have been included to ensure compliance with the BCA is achieved at the Construction Certificate stage.

5.4. Context and amenity

The proposed deck is minor in nature and is designed to match the other deck located directly above. The proposed materials and finishes are in keeping with the existing building and complement those within the locality.

The Department has assessed the proposal and notes that similar decks are common throughout the Woodridge Stage 3 area including the other Aspen Creek Apartments as well as opposite buildings. The inclusion of the spa on the deck is not considered to negatively impact upon the amenity or privacy of adjoining or nearby neighbours.

The Department concludes that the impact on context, amenity and privacy to be acceptable.

5.5. Managing environmental impacts during construction

It is unlikely that the proposal will cause any adverse impact upon the natural environment. The proposal is in keeping with the use of the building as tourist accommodation and the works are of a minor nature with no ground disturbance or impact upon vegetation.

There is adequate car parking on-site for construction equipment and vehicles. Material storage will be placed only during construction on the car parking area and possibly on the site. Construction impacts such as noise and vibration will be short term and managed in accordance with conditions.

5.6. Access to the new works

The Department's view is that the Premises Standard applies to this proposal. The Premises Standard should be considered at the building approval stage and is the responsibility of the building manager, building certifier, and building developer. An advisory note is added to alert

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these parties that the Premises Standard should be appropriately investigated at the Construction Certificate stage.

5.7. Spa pool compliance

The proposed spa is required to comply with the Swimming pools Act, and if used by the general public the Public Health Act. The Applicant has stated that the spa will not be used by the general public and conditions of consent have been recommended to ensure that if the spa is at any stage to be made available to the general public then it must comply with the Public Health Act. The Department considers that compliance with the Swimming Pools Act is achievable at the construction and occupation certificate stages.

5.8. Site Suitability

The proposed development is suitable for the site as it is of a reasonable scale and is consistent with the other decks located in the vicinity (including the deck located above), the materials and colours proposed complement the existing building and locality. There is also no impact on any threatened species, populations, ecological communities, or their habitats as a result of the proposal.

The development will also not be visually intrusive in the context of the Thredbo Village and construction works can be appropriately managed to avoid or mitigate any adverse impacts. The proposal will improve the amenity of the existing tourist accommodation building on the site.

5.9. 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;
- construction works can be undertaken in accordance with the BCA and relevant Australian Standards; and
- the proposal will not be visually intrusive in the context of the locality and does not negatively impact upon adjoining properties.

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 7569), under section 80(1)(a) of the EP&A Act, having considered matters in accordance with (a) above; and
- c) **sign** the Notice of Determination at **Appendix C**.

Prepared by:

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Approved by:



Daniel James
Team Leader
Alpine Resorts Team

28/4/2016

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=7569

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, setting and visual – The proposed works will integrate with the existing building and the character of the locality. The materials and colours selected are consistent with the character of the other buildings in the locality. The majority of apartments in this locality have decks, balconies and the like. The inclusion of a spa on the deck is not considered to negatively impact the immediate locality.

Access, transport and traffic - The proposal will not impact upon traffic management within the resort. The site is accessible from Chimneys Way and has sufficient space for construction vehicles and materials.

Public domain – The public domain will not be impacted by the proposed works.

Utilities and energy – The proposed deck will not generate an increase in the use of utilities and energy. The inclusion of the spa is not considered to negatively impact the supply of water or electricity to the locality.

Heritage – No adverse heritage impacts are expected. Aspen Creek is not a heritage item.

Other land resources – No impact on any land resources.

Water – The site is adequately supplied with water and the proposed works will not generate an increase in demand apart from the filling of the spa.

Soils – Soils are not impacted by the proposed works. The deck is supported by the existing posts supporting the deck located off the second level.

Noise, vibration, air and microclimate – During construction noise and vibration are likely to occur, however these will be short term and managed by appropriate conditions. Construction will occur during approved hours.

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

Waste – Any waste generated will be during construction only and appropriate conditions have been recommended regarding site clean-up.

Natural Hazards – The site is identified as bushfire prone land. The RFS have reviewed the application and provided a Bushfire Safety Authority under clause 100B of the *Rural Fires Act 1997* with recommendations which are incorporated into the recommended conditions.

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Social impact – The proposal will have minor positive social impacts in that it will improve the amenity of an existing tourist accommodation building.

Economic impact – The proposal will generate a minor positive economic impact through short term construction employment.

Site design and internal design – The proposed deck is designed to integrate with the existing building and match existing decks provided to other apartments.

Construction – A site environmental management plan has been provided, and construction will occur during the quieter summer months, and will be completed by the winter season.

Cumulative impacts – It is not considered that the proposal will result in any adverse cumulative visual or environmental impacts.

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 consistent of external additions to an existing building. The proposal improves the amenity of an existing tourist accommodation building.	
CI 11 – Land Use Table	
The proposal includes construction of a deck and a spa consistent with works to a building used for 'tourist accommodation'. Pursuant to clause 11 of the Alpine SEPP, 'tourist accommodation' is permissible with consent within the Thredbo Alpine Resort.	
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 is appropriate as it allows for the construction of a deck and installation of a spa on an existing building without any adverse impact on the environment. The RFS requirements are incorporated into the recommended conditions. There are no other known natural hazards
(c) the cumulative impacts of development on existing transport, effluent management systems, waste disposal facilities or transfer facilities, and existing water supply	The proposal does not modify the capacity or use of the existing building. The subject site contains the necessary infrastructure and services to support the development as proposed.
(d) any statement of environmental effects,	The SEE and additional information supplied is considered adequate to enable a proper assessment of the proposal.
(e) the character of the alpine resort,	The proposal is of a minor scale and will not alter the character of the resort. The proposal is in keeping with the

	existing development and the surrounding environment.
(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	The proposal is considered to be appropriate in terms of the Department's Policy and does not require further geotech assessment noting that the Geotech Assessment for the previous DA indicated that the support posts are rated to support a 2 Tonne spa (proposed spa is 1,565kg when filled).
(g) any sedimentation and erosion control measures,	No sedimentation or erosion issues are likely to arise from the proposal. However, a SEMP has been provided and recommended to be implementation during works.
(h) any stormwater drainage works proposed,	Due to the nature of the proposal there is no stormwater drainage works proposed.
(i) any visual impact of the proposed development, particularly when viewed from the Main Range,	The proposal is not visible from the Main Range, however the proposal does not result in an unacceptable visual impact. The deck and spa is of a scale that is consistent with the existing building with materials and colours compatible to the locality.
(j) any significant increase in activities, outside of the ski season,	The proposal will not result in an increase in activities outside the ski season.
(k) if the development involves the installation of ski lifting facilities,	The proposal does not involve the installation of any new ski lifting facilities.
(l) if the development is proposed to be carried out in Perisher Range Alpine Resort: the document entitled Perisher Range Resorts Master Plan and the document entitled Perisher Blue Ski Slope Master Plan,	Not applicable to proposal.
(m) if the development is proposed to be carried out on land in a riparian corridor.	The proposal includes works within 40 metres of Merritts Creek located on the northern side of the site. As the proposal does not involve any excavation works, comments from the NSW Office of Water were not sought.
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 on an Aboriginal heritage items.

APPENDIX C. RECOMMENDED CONDITIONS OF CONSENT
