



**Planning &
Environment**

***DEVELOPMENT APPLICATION
ASSESSMENT REPORT:***

**Alterations to Unit 28, The Stables, Perisher
Valley**

DA 7611



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

May 2016

ABBREVIATIONS

Alpine SEPP	State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007
Applicant	Tony O'Meara
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: Apartment 28 (Source: Applicant's Statement of Environmental Effects)

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1. BACKGROUND

1.1 Introduction

This report provides an assessment of a Development Application (DA 7611) lodged by Tony O'Meara on 15 April 2016 under Part 4 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) that seeks consent for alterations to Unit 28, The Stables in Perisher Valley within the Perisher Range Alpine Resort, 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 located within The Stables, Candle Heath Road, Perisher Valley. The Stables is a tourist accommodation development providing various forms of accommodation (**Figure 1**), accessed off Candle Heath Road.

The site (unit 28) is a two storey building constructed of weatherboard and sheet metal roofing located in the western corner of the Stables complex. During the winter season the site is snow bound and access is achieved by oversnow vehicles provided by The Stables.



Figure 1: Location of The Stables within Perisher Valley (Source: Nearmap 2016)

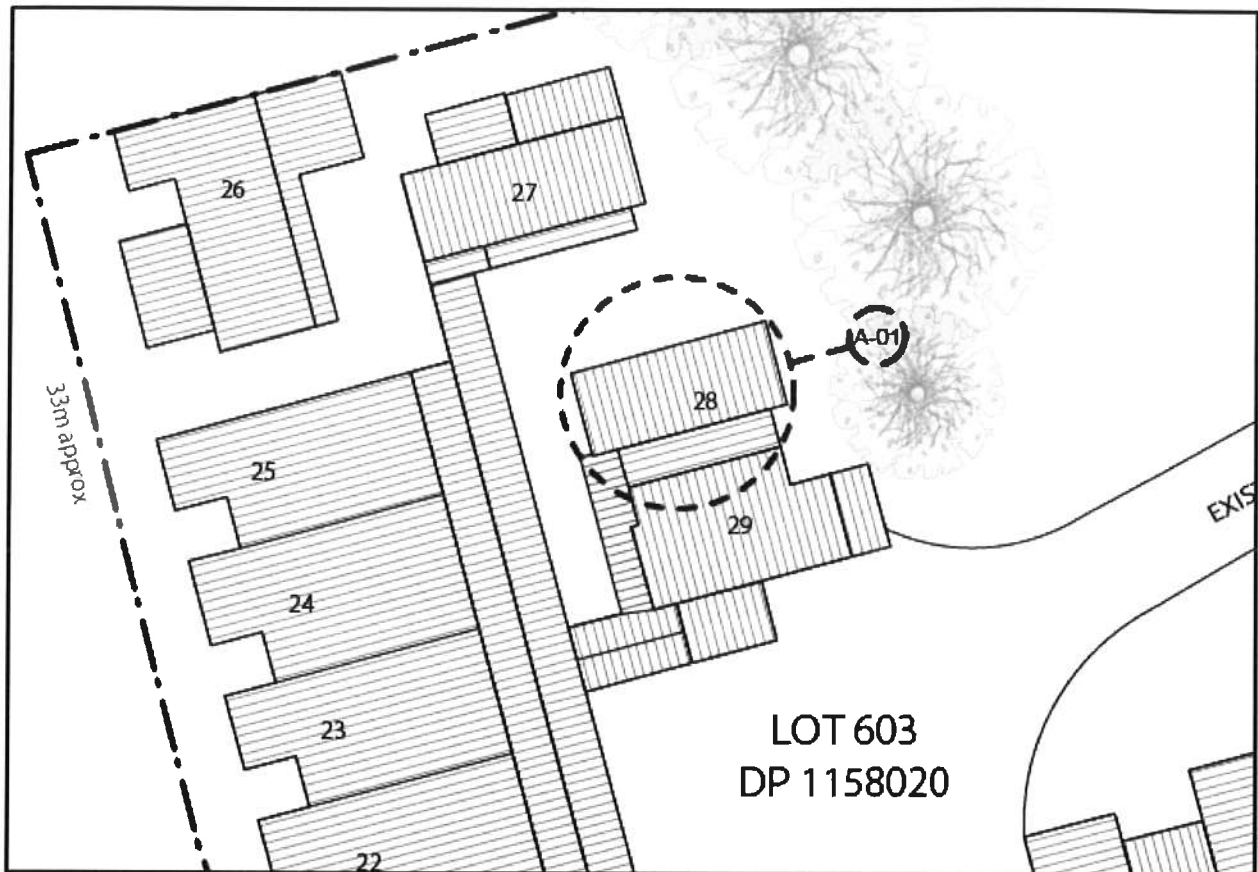


Figure 2: Unit 28 The Stables (Source: Applicant's submitted plans)

2. PROPOSED DEVELOPMENT

2.1 Project description

The development application seeks approval for the following:

- relocation of apartment entry door;
- renovation of bathrooms;
- installation of gas heater with external flue; and
- change of room use from dining to bedroom.

2.2 Works already undertaken

The Department became aware that works had commenced on site. The Applicant was under the assumption that the works were exempt. Upon investigation it was determined that the works required consent. Works within the unit did cease voluntarily and a separate compliance investigation is underway to address these matters.

Demolition works had commenced at the site, the front door and wall had been relocated (**Figure 3**). This application will formalise and approve the use of the additional space gained in the entry and also includes minor works to reinstate the apartment.

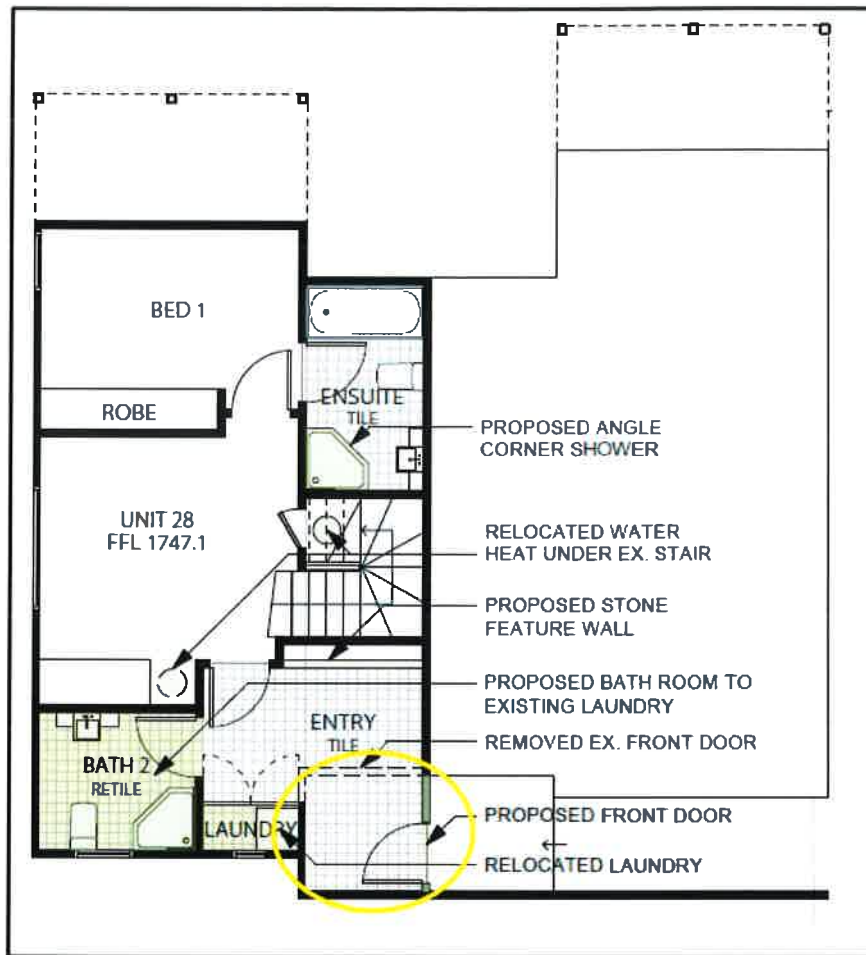


Figure 3: Proposed alterations and relocation of front door already undertaken (circled) (Source: Applicant's submitted plans)

2.3 Justification for proposal

Currently the layout requires guests to use the ensuite bathrooms passing through bedrooms. The proposed modifications will address this and bring about a slight increase in floor space as well as a general cosmetic upgrade. The alterations will improve the amenity of the tourist accommodation apartment.

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 alterations within a building used for 'tourist accommodation'. Pursuant to clause 11 of the Alpine SEPP, 'tourist accommodation' is permissible with consent within the Perisher Range 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 is of a minor scale and can be undertaken in accordance with the principles of ecologically sustainable development.

The proposal is also consistent with the objectives of the Alpine SEPP in that it allows for the improvement of an existing tourist facility without impacting the environment.

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 promotes the orderly and economic use of the site for the benefit of the visitors to the Perisher Range Alpine Resort.

The proposal would not result in an adverse environmental impact given the works are internal with the exclusion of an external flue.

3.6. Ecologically Sustainable Development

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

After accepting the application, the Department placed the application publicly available on its website. Due to the nature and location of the proposed works, the Department did not exhibit or notify the application.

The Office of Environment and Heritage were consulted regarding referral in accordance with clause 17 of the Alpine SEPP and they did not require referral.

The proposal was referred 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 RFS are not opposed to the proposal and have provided a BFSA with general terms of approval which will be incorporated into the recommended conditions of consent. The terms of approval require any external works to be constructed of non-combustible material.

The Department received one submission from a public authority and no public submissions in response to the notification. Copies of the submissions may be viewed at **Appendix A**.

5. ASSESSMENT

5.1. Section 79C Evaluation

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

Section 79C(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies - see Section 3.5 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. Clause 94 (upgrades to buildings) - the proposed works consist of alterations to an existing apartment that does not increase the floor space or affect the egress from the building.
(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 5.5 of this report.
(e) the public interest	The public interest of the development has been considered in Section 5.6 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:

- Compliance the Building Code of Australia; and
- Maintaining the amenity of the building.

5.3. 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. Full details of compliance will be demonstrated by the Applicant at the Construction Certificate stage.

The Department is satisfied with the documentation that has been provided. Conditions of consent are recommended to ensure that BCA compliance is addressed at the Construction Certificate stage.

5.4. Maintaining the amenity of the building

The alterations including the relocation of the door slightly increases the floor space of the apartment, which increases the amenity for occupiers of the building. The other alterations to the apartment, including the change of use from a dining room to a bedroom, gas heater, decorative work, new bathroom and relocated laundry improve the amenity and functionality of the apartment.

As the works are predominantly internal (excluding the gas heater flue), the proposal works will only have minimal impact upon the amenity of adjoining properties during construction, however these will only be short term.

The Department concludes that the proposal is acceptable and increases the overall amenity of the building.

5.5. Suitability of the site

The proposed building alterations are suitable for the site. The alterations amend the layout of the existing unit that does not impact upon other apartments within the complex.

All building works are mainly internal and therefore no impact on any threatened species, populations, ecological communities, or their habitats. Construction works can be appropriately managed to avoid or mitigate any adverse impacts upon adjoining buildings. The site has been occupied by the tourist accommodation building for a number of years.

5.6. 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. 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 key issues raised 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:

- the proposed works will not have an impact on threatened species, populations and ecological communities;
- construction works will be undertaken in accordance with the BCA and relevant Australian Standards; and
- the proposal is appropriate and does not impact upon any 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 7611), 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**.

Prepared by:



Robin Ward
Planning Officer
Alpine Resorts Team

Reviewed by:



Mark Brown
Senior Planner
Alpine Resorts Team

Approved by:



Daniel James
Team Leader
Alpine Resorts Team

12/5/2016

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=7611

APPENDIX B. CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS / SEPPS

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

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.

Controls considered as part of the assessment of the proposal are:

Section 79C (1) of the EP&A Act

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
<p><u>Context and setting</u> – The proposed works are minor in nature and will not impact on the context and setting of the locality.</p>
<p><u>Access, transport and traffic</u> – The proposal will not increase traffic to the site or impact upon access, transport or traffic management within the resort.</p>
<p><u>Public domain</u> – The proposed works will not impact upon the public domain.</p>
<p><u>Utilities and energy</u> – Energy and utility requirements will not be altered by the proposal.</p>
<p><u>Heritage</u> – The proposal will not impact upon any European or Aboriginal archaeological heritage items.</p>
<p><u>Other land resources</u> – The proposed works do not impact on other land resources.</p>
<p><u>Water</u> – There will be minimal impact on water resources and demand or impact on water is unchanged.</p>
<p><u>Soils</u> – The proposed works will not impact on soils.</p>
<p><u>Noise and vibration</u> – There will be an increase in noise and vibration during construction which will be short term and managed in accordance with conditions of consent.</p>
<p><u>Air and microclimate</u> – Impacts in this regard will be small-scale and short-term during construction and involve primarily, dust and vehicle emissions. These will be managed in accordance with conditions of consent. No long term impacts are expected.</p>
<p><u>Flora and fauna</u> – The proposed works do not impact upon flora or fauna.</p>
<p><u>Waste</u> – The proposal does not increase the need for waste disposal on site.</p>
<p><u>Natural hazards</u> – The site is identified as bushfire prone land. The proposal was referred to the RFS who have issued their BFSAs, which will be incorporated into conditions of consent.</p>
<p><u>Technological hazards</u> – The proposal is required to comply with the BCA and relevant Australian Standards. No concerns are raised in relation to the proposal.</p>

Safety, security and crime prevention – The proposed works will have no impact on safety, security and crime prevention.

Social impact – The social impacts are positive in that the functionality of the apartment is improved for the benefit of occupiers of the building.

Economic impact – The proposal is minor in scale and has no negative impact.

Site design and internal design – The proposed alterations are appropriate and will provide additional amenity to the occupiers of the building.

Construction – The construction of the proposal will have minimal impacts.

Cumulative impacts – No cumulative impacts are envisaged as a result of this proposal.

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 consists of alterations to an existing lodge. The proposal improves the amenity of an existing tourist accommodation facility.	
CI 11 – Land Use Table	
The proposal is for alterations to an existing tourist accommodation building. 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),	Due to the works being within the building, no impact is expected on the natural environment.
(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 lodge. The subject site contains the necessary infrastructure and services to support the development as proposed.
(d) any statement of environmental effects,	The SEE and supporting information supplied are considered adequate to enable a proper assessment of the proposal.
(e) the character of the alpine resort,	The proposal will not alter the character of the resort, due to works being internal, with the exclusion of an external gas heater flue.

(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	The proposed works are exempt under the Department's geotechnical policy.
(g) any sedimentation and erosion control measures,	No adverse impacts are expected due to works occurring wholly within the building.
(h) any stormwater drainage works proposed,	The existing storm water drainage system is adequate for the proposed works.
(i) any visual impact of the proposed development, particularly when viewed from the Main Range,	The proposal will not result in an unacceptable visual impact. The proposed works are confined to the inside of the apartment with the exclusion of a small gas flue.
(j) any significant increase in activities, outside of the ski season,	The proposal will not result in a significant 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 for this type of development.
(m) if the development is proposed to be carried out on land in a riparian corridor:	Not applicable for this type of development.
CI 15 – Additional matters to be considered for buildings	
Building Height	Building height remains unchanged.
Building Setback	Setback remains unchanged.
Landscaped Area	Landscaped area remains unchanged.
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. No objections to the proposal were raised from OEH.	
CI 26 – Heritage conservation	
European heritage	Due to works being mainly internal, the proposal will not impact on any European heritage items.
Aboriginal heritage	Due to works being mainly internal, the proposal will not impact on any Aboriginal heritage items.

APPENDIX C. RECOMMENDED CONDITIONS OF CONSENT
