



Eiger Chalet, Perisher Valley

*Development
Application
Assessment
(DA 10104)*

December 2019

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Cover photo

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

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Glossary

Abbreviation	Definition
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
BC Regulation	<i>Biodiversity Conservation Regulation 2017</i>
BVM	Biodiversity Values Map
Consent	Development Consent
Department	Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
KNP	Kosciuszko National Park
Minister	Minister for Planning and Public Spaces
NPWS	National Parks and Wildlife Service
Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy



Executive Summary



This report provides an assessment of a Development Application (DA 10104) seeking approval for internal alterations to Eiger Chalet, Perisher Valley within Kosciuszko National Park (KNP). The Applicant is Luhajo Pty Ltd.

The Minister for Planning and Public Spaces is the consent authority for development within a ski resort in Kosciuszko National Park and the proposal is permissible with consent under the provisions of *State Environmental Planning Policy (Kosciuszko National Park-Alpine Resorts) 2007* (the Alpine SEPP).

The proposal was made available on the Department's website, however due to the nature of the works (being internal only) was not publicly exhibited. No submissions were received on the application.

The Department has assessed the proposal in accordance with relevant matters under section 4.15(1) and the objects of the *Environmental Planning and Assessment Act, 1979* (EP&A Act), and the principles of Ecologically Sustainable Development.

The Department considers the proposal is acceptable as:

- there will not be an impact on any threatened species, populations or ecological communities as the works are internal only
- the works to the guest rooms are aimed at upgrading the tourist accommodation with improved layout and bathrooms

The Department's assessment concludes the application is in the public interest as it supports the ongoing use of the site for tourist accommodation and provides improved guest rooms for visitors to Eiger Chalet, which in turn supports the regional plan for the locality and the Alpine SEPP.

The Department therefore recommends the application be approved, subject to conditions.





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1. Introduction

This report provides an assessment of a Development Application (DA 10104) to undertake internal alterations to Eiger Chalet, Perisher Valley, Perisher Range Alpine Resort within KNP.

The proposal includes internal alterations to an existing tourist accommodation building by enlarging an existing guest apartment, adding a bathroom in place of existing bedroom and other works.

The application has been lodged by Luhajo Pty Ltd (the Applicant) under Part 4 of the EP&A Act.

1.1 The Site and Surrounding Development

The subject site is known as Eiger Chalet (Lot 1 DP 44456), Wheatley Road, Perisher Valley (**Figure 1**). The existing building (**Figure 2**) is licensed for 66 beds and is used for tourist accommodation and contains a public restaurant and bar. The existing building is constructed of a mixture of materials, ranging from rock walls, masonry blockwork, timber, and a metal roof.



Figure 1: Eiger Chalet (Source: SIX Maps 2019)

The surrounding development is characterised by other tourist accommodation premises including club and commercial lodges (Corroborree Lodge and Alpenhof and Matterhorn to the south and west) and Perisher ski slopes on the opposite side over Kosciuszko Road.

The site consists of an area of approximately 3840m² and is largely disturbed with sparse grass vegetation.

Access to the site is directly off Wheatly Road, via Kosciuszko Road. The site is accessed by over-snow vehicle during winter.



Figure 2: Eiger Chalet (Source: Department site photo)



2. Project

The application seeks approval for internal works to the Eiger Chalet (**Figure 3**), including the following:

- conversion of an existing bedroom into a bathroom to be amalgamated into the adjacent guest apartment
- removal of an internal wall and kitchenette
- installation of bench and sink in lounge area
- relocation of apartment door
- installation of a new wall to enclose a staff wing
- new bathroom fittings and fixtures

The works have already commenced as the Applicant believed that they were exempt development. The Department conducted an inspection on an unrelated matter and provided advice that as the works involve the installation of a new bathroom, alterations to fire rated construction, installation of new walls and removal of other walls, the works could not be considered exempt development under the Alpine SEPP.



Figure 3: Eiger Chalet guest apartment (Source: site inspection photo 2019)



3. Strategic Context

The Snowy Mountains region offers a diverse and unique mix of visitor destinations including the KNP, the alpine resorts, the iconic Snowy River and the highest mountains on the Australian continent. A strong tourism economy is driven mainly by skiing and related winter sport experiences during the peak winter season. The region, including the alpine resorts, also provides opportunities for a range of other recreational activities during the warmer months such as hiking, fishing, kayaking and mountain-biking. The resorts are important to NSW due to their economic and social contribution as well as their location within a unique alpine environment. The two main documents that support the strategic context of the alpine resorts are the *South East and Tableland Regional Plan 2036* and the Alpine SEPP.

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 it would maintain the existing use of the site for tourist accommodation, improves the tourist accommodation building for its guests and visitors, which maintains visitation to the NSW ski resorts.

Alpine SEPP

The Alpine SEPP governs development on land within the ski resort areas of KNP. The SEPP aims to protect the natural and cultural heritage of land within the resorts and to encourage environmentally sustainable development. Under the provisions of the Alpine SEPP, the NPWS have a commenting role as the land manager which includes administering the Plan of Management framework for KNP that incorporates objectives, principles and policies to guide the long-term management of the broad range of values found in the park.

The Department considers the proposal is consistent with the Alpine SEPP as the proposal would not have an impact on the environment and would improve the building guest rooms to the benefit of users.



4. Statutory Context



4.1 Consent Authority

Under clause 7 of the Alpine SEPP, the Minister for Planning and Public Spaces is the consent authority for the application as the development takes place within a ski resort area as referred to in clause 32C (2)(a) of Schedule 1 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

In accordance with the Minister's delegation of 11 October 2017, the Team Leader, Alpine Resorts Team may determine the application as:

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

4.2 Permissibility

The proposal includes internal works to the tourist accommodation building within the Eiger Chalet while maintaining the use of the site consistent with the definition of 'tourist accommodation' as defined in the Alpine SEPP. Pursuant to clause 11 of the Alpine SEPP, 'tourist accommodation' are permissible with consent within the Perisher Range Alpine Resort.

4.3 Mandatory Matters for Consideration

Objects of the EP&A Act

The Department has considered the proposal against the relevant objects of the EP&A Act in **Appendix B**. The Department is satisfied the proposal is consistent with the objects as:

- are aimed at improving the functionality of the guest rooms and staff area at Eiger Chalet
- protect the environment through limiting impacts upon native vegetation
- would not have an impact on the environment thus being ecologically sustainable development

Ecologically Sustainable Development (ESD)

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. The proposal is consistent with the ESD principles as:

- the works are aimed at upgrading the guest rooms within the tourist accommodation building, thereby supporting the orderly and economic use of the site
- there would not be an impact on the environment thus being ecologically sustainable development
- the proposal does not impact upon cultural heritage, including Aboriginal cultural heritage

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 and aquatic environment. The BC Act introduced a Biodiversity Offsets Scheme 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.

There would be no vegetation removal as part of this proposal. The Department has reviewed the mapping and considers the site to be located outside of the BVM. There is currently no declared area of outstanding biodiversity value within KNP. The Applicant has indicated that the proposal is not likely to have a significant impact on threatened species.

Considerations under section 4.15 of the EP&A Act

Under section 4.15 of the EP&A Act, in determining a development application, a consent authority is required to take a number of matters into consideration in relation to the proposed development. The Department has given due consideration to the matters prescribed by section 4.15 as outlined in **Table 1** below.

The table represents a summary for which consideration is provided for in **Section 6** (Assessment) and relevant appendices or other sections of this report, referenced in the table.

Table 1 | Section 4.15(1) Matters for Consideration

<i>(a)(i) any environmental planning instrument (EPI)</i>	The Alpine SEPP is the only 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 . The Department is satisfied that the application is consistent with the requirements of the Alpine SEPP.
<i>(a)(ii) any proposed instrument</i>	Not applicable.
<i>(a)(iii) any development control plan</i>	Not applicable.
<i>(a)(iiia) any planning agreement</i>	Not applicable.
<i>(a)(iv) the regulations</i>	The application satisfactorily meets the relevant requirements of the <i>Environmental Planning & Assessment Regulation</i> (EP&A

	<p>Regs), particularly the procedures relating to development applications (Part 6) and fees (Part 15, Division 1).</p> <p>The Department has undertaken its assessment in accordance with all relevant matters as prescribed by the regulations, the findings of which are contained within this report.</p>
<i>(a)(v) any coastal zone management plan</i>	Not applicable.
<i>(b) the likely impacts of that development</i>	The Department has considered the likely impacts of the development. No environmental impacts are likely from the proposal, as all works occur within the existing building. The proposal is also considered to have minimal economic and social impacts.
<i>(c) the suitability of the site for the development</i>	The site is suitable for the development and supports the ongoing use as a tourist accommodation building.
<i>(d) any submissions made in accordance with this Act or the regulations</i>	No submissions were received on the proposal.
<i>(e) the public interest.</i>	<p>The works are consistent with the aim and objectives of the Alpine SEPP, would be compatible to the uses of the locality and there would not have an adverse impact on the environment. The proposal is consistent with the principles of ESD.</p> <p>As such, the proposal is in the public interest.</p>



5. Engagement

Due to the nature of the works (being internal only) the Department did not publicly exhibit the application. The application was however made available:

- on the Department's website
- at its Jindabyne Office (Shop 5A, 19 Snowy River Avenue, Jindabyne)

The NPWS were consulted and advised that they would not require formal referral, however provided comments via email relating to plumbing and drainage and construction management.

The Department has considered the comments received from the National Parks and Wildlife Service (NPWS) in **Section 6** or through recommended conditions in the instrument of consent at **Appendix C**.



6. Assessment

The Department has considered the relevant matters for consideration under section 4.15 of the EP&A Act, the SEE and supporting information in its assessment of the proposal. The key issues in the Department's assessment are:

- Design details and standards
- Managing construction impacts

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

6.1. Design details and standards

The proposed works, when constructed, are required to comply with the Building Code of Australia (BCA), *Plumbing and Drainage Act* and relevant Australian Standards. The Department has also considered the fire safety of the building as part of its assessment in accordance with Clause 94 of the EP&A Regs. The works are relatively minor and internal only. The Department notes that compliance with relevant requirements is to be determined at the construction certificate stage by the certifying authority and in accordance with conditions of consent.

- The proposal is required to comply with the BCA and relevant Australian Standards. The Department considers that compliance with the BCA is achievable in relation to health and amenity, fire safety and the like. Documentation confirming compliance, including updated plans is required at the Construction Certificate stage.
- Given the works involve the installation of new plumbing and drainage connections, the *Plumbing and Drainage Act* requires (unless the proposal is eligible for an exemption under that Act) that prior to the commencement of works a notice of work is provided to the plumbing regulator (NPWS) and a certificate of compliance is provided at the completion of works. The Department has recommended conditions of consent to ensure compliance with the *Plumbing and Drainage Act*.
- Clause 94 of the EP&A Regulation requires a consent authority to review a building and consider whether upgrades are warranted to bring the existing building into total or partial compliance with the BCA. The Department inspected the building and reviewed the existing fire safety documentation and concluded that no fire safety upgrades are necessary at this stage.

The Department concludes that, in accordance with conditions of consent, the proposal would be capable of achieving compliance with the BCA, *Plumbing and Drainage Act* and that more information would be provided to demonstrate compliance at the Construction Certificate stage.

6.2. Managing construction impacts

Given the scope and location of the works, it is unlikely that the construction of the proposal will cause any adverse impact upon the natural environment. The proposal is in keeping with the use of the building for tourist accommodation and the works are will not generate any vegetation disturbance.

Parking is available at the site during construction, which would be prior to winter before the site becomes snowbound. Construction impacts such as noise and vibration will be short term and managed in accordance with standard environmental conditions. It is also noted that construction is to occur outside the ski season.

The Department has recommended standard construction conditions applied in the Alpine area. 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.



7. Evaluation

The Department has assessed the merits of the proposal in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposal is acceptable as:

- the works would not result in any impact on any threatened species, populations or ecological communities
- the works to the building effectively upgrade the tourist facilities
- there would be no construction impacts on the surrounding environment
- the recommended conditions would require compliance with all relevant legislation and standards

Overall, the Department is satisfied that the proposal is suitable for the site and in the public interest. The Department therefore recommends that the application be approved subject to the recommended conditions.



8. Recommendation

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

- **considers** the findings and recommendations of this report; and
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application;
- **agrees** with the key reasons for approval listed in the notice of decision;
- **grants consent** for the application in respect of DA 10104; and
- **signs** the attached development consent and recommended conditions of consent (see attachment).

Recommended by:

Robin Ward
Planning Officer
Alpine Resorts Team



9. Determination

The recommendation is: **Adopted** / Not adopted by:

19/12/2019

Daniel James

Team Leader

Alpine Resorts Team

as delegate of the Minister for Planning and Public Spaces



Appendices

Appendix A – List of Documents

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning, Industry and Environment's website as follows.

1. Statement of Environmental Effects
 - http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10104

Appendix B – Statutory Considerations

OBJECTS OF THE EP&A ACT

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent/ approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects.

Therefore, in making an assessment, the objects set out in Section 1.3 of the EP&A Act should be considered to the extent they are relevant. A response to the objects is provided in the table below.

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The proposal supports the ongoing use of the tourist accommodation building through providing upgraded guest facilities and functionality, without having a negative impact on the environment.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The works are internal only, and as such there would be no impact on the environment.
(c) to promote the orderly and economic use and development of land,	The development seeks approval for works that are aimed at supporting the ongoing use of the site for tourist accommodation and improving upon this use.
(d) to promote the delivery and maintenance of affordable housing,	Not applicable.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The proposed development would not result in the loss of any threatened or vulnerable species, populations, communities or significant habitats.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposed development is internal only and not anticipated to result in any impacts upon built and cultural heritage, including Aboriginal cultural heritage.

(g) to promote good design and amenity of the built environment,	The Department considers the proposal is appropriately designed and would not impact the built or natural environment.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The Department has recommended conditions of consent to ensure the construction of the proposal is undertaken in accordance with legislation, guidelines, policies and procedures (refer to Appendix C).
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department did not exhibit the proposal, however consulted with NPWS on plumbing and drainage matters.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	Due to the location of works the Department did not exhibit the application, however did display it on the Department's website and at the Department's Jindabyne office, consistent with the community participation plan.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

To satisfy the requirements of section 4.15(a)(i) of the EP&A Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment.

State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007 (Alpine SEPP) is the only EPI applicable to the development. Consideration of the matters to be considered is provided below:

CI 14(1) - Matters to be considered by consent authority	
(a) the aim and objectives of this policy, as set out in clause 2	The proposal is consistent with the aim and objectives of the Alpine SEPP in that it is consistent with the principles of ESD and supports the existing use of the site.
(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 improved guest facilities and functionality of the Eiger Chalet. No natural hazards are associated with the internal of the works.
(c) the cumulative impacts of development on existing transport, effluent management	The proposal does not modify the capacity or use of the area. The subject site contains the necessary

systems, waste disposal facilities or transfer facilities, and existing water supply,	infrastructure and services to support the development as proposed.
(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 alter the character of the resort, noting that the proposal is in keeping with the existing use.
(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	The proposal involves minor internal alterations without any ground disturbance. While there would be some changes to loadbearing internal walls, conditions of consent are recommended to ensure the proposal is reviewed by a structural engineer. The Department considers no further assessment on geotechnical matters is considered necessary at the DA stage.
(g) any sedimentation and erosion control measures,	Sedimentation and erosion control are not anticipated to be an issue as the works are entirely internal.
(h) any stormwater drainage works proposed,	No negative impacts to stormwater or drainage are anticipated.
(i) any visual impact of the proposed development, particularly when viewed from the Main Range,	The proposal is not visible from the Main Range.
(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.	Not applicable to proposal.
CI 15 – Additional matters to be considered for buildings	
Building Height	The proposed works do not increase the height of the existing building.
Building Setback	The proposed works do not impact upon the existing setbacks.
Landscaped Area	The proposed works do not impact upon the landscaped area.
CI 17 – applications referred to the National Parks and Wildlife Service (NPWS)	
The NPWS were consulted and advised that they would not require formal referral pursuant to clause 17 of the Alpine SEPP, however provided comments via email relating to plumbing and drainage and construction management. Refer to discussion at Section 6 .	
CI 26 – Heritage conservation	
European heritage	The proposal is not considered to adversely impact the heritage significance of the building.
Aboriginal heritage	Due to the nature of the works not involving any ground disturbance or tree removal, there would be no impact on Aboriginal heritage.

Appendix C – Recommended Instrument of Consent

