



20 Mountain Drive Thredbo Village

Development Application Assessment
DA 10247

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Cover image: 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
CPP	Community Participation Plan
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 & Wildlife Service
RFS	NSW Rural Fire Service
Planning 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 10247) seeking approval to undertake outdoor entertainment and landscaping works at 20 Mountain Drive in Thredbo, within Kosciuszko National Park (KNP). The Applicant is Mark Beaton.

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

Consistent with the Department's Community Participation Plan, the Department of Planning, Industry and Environment (the Department) notified the proposal to nearby tourist accommodation buildings between 11 May and 25 May 2020. The application was also referred to state government agencies and made publicly available on Department's website. The Department received submissions from the NSW Rural Fire Service (RFS) and the National Parks and Wildlife Service (NPWS). No submissions from the public were received.

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), the principles of Ecologically Sustainable Development, and issues raised in all submissions.

The Department considers the proposal is acceptable as:

- there will be not be a significant impact on any threatened species, populations or ecological communities as confirmed by the Applicant and concurred with the NPWS
- outdoor entertainment and landscaping works
- the proposal is appropriate and does not impact upon any adjoining properties

The Department's assessment concludes the application is in the public interest as it supports the ongoing use of the existing building for tourist accommodation which supports the regional plan for the locality and maintains its consistency with 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 10247) seeking approval to undertake outdoor entertainment and landscaping works at 20 Mountain Drive, Thredbo within KNP.

The proposal includes the construction of an outdoor living area, paving and retaining wall described further in Section 2 of this report.

The application has been lodged by the owner, Mark Beaton (the Applicant) under Part 4 of the EP&A Act.

1.1 Site location and context

The subject site is known as Lot 612, DP 1118588, Mountain Drive, Woodridge, Thredbo. The site is located at the western end of Mountain Drive within the Woodridge Estate and is one of the original buildings of the Woodridge development that was completed in 1989.

The site is an irregular shaped allotment featuring a frontage of 12.445 metres to Mountain Drive. The site contains an existing two storey apartment with two (2) bedrooms and forms half of a duplex with Lot 611 next door on the western side. Lot 612 shares boundaries with two other properties, one being a battle-axe lot (Lot 613) at the rear and the western adjoining neighbour (**Figure 1**). The building is constructed of corrugated iron roof, weather board sheeting, stone veneer and double-glazed timber framed windows.

The site is located on a relatively flat area within a woodland of Black Salleees (*Eucalyptus stellulata*), intersperse with the valley dominant Snowgum (*E.niphophila*). The understorey consists of a variety of native shrubs and grasses with large areas of introduced grasses throughout.



Figure 1 | Subject site (Source: SIX Maps 2020)

2 Project

The application seeks approval for external works to create an improved outdoor living space at 20 Mountain Drive Thredbo (**Figure 2**) comprising the following:

- Landscaping works to level the earth at the works area
- Construction of a rock retaining wall approximately 900mm high
- Installation of a steel fire pit and permanent timber seating
- Levelling and paving of area
- Installation of a built-in barbecue

The works would not change the appearance of the building. The proposal has a cost of works of approximately \$37,000.

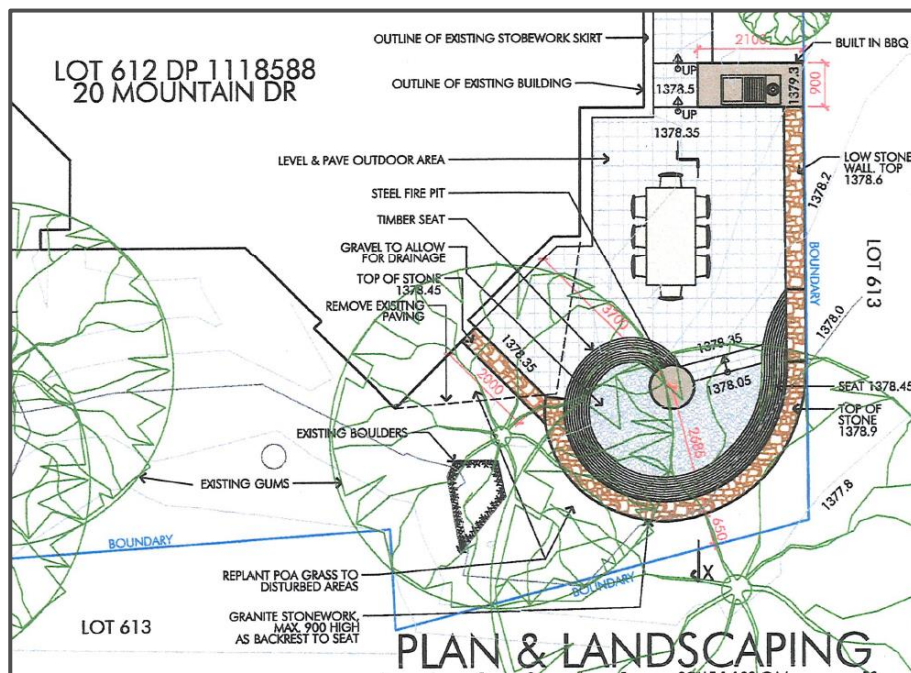


Figure 2 | Proposed outdoor entertainment and landscaping works (Source: Applicant's documentation)

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 and improves the tourist accommodation building by provided an upgraded outdoor entertainment area 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 and 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, would not alter the character of the building and would improve the outdoor entertainment area 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 9 March 2020, the Team Leader, Alpine Resorts Team, may determine the application as:

- no reportable political donation has been disclosed
- there are less than 25 public submissions in the nature of objections
- the application is in relation to land which the Alpine SEPP applies

4.2 Permissibility

The proposal includes construction of an outdoor entertainment area and associated landscaping works to the building while maintaining the use of the site consistent with the definition of 'tourist accommodation'. Pursuant to clause 11 of the Alpine SEPP, 'tourist accommodation' is permissible with consent within the Thredbo Alpine Resort.

4.3 Other approvals

Rural Fires Act 1997

As the works include external alterations to a tourist accommodation building located on bushfire prone land, an approval is required from the NSW Rural Fire Service (RFS) under Section 100B of the *Rural Fires Act 1997* in the form of a Bushfire Safety Authority. Refer to **Section 5** for further discussion on this component.

4.4 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:

- works are aimed at upgrading the existing tourist accommodation building, by providing an upgraded outdoor entertainment area thereby supporting the orderly and economic use of the site
- there would not be 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*. ESD initiatives and sustainability have been adequately considered by the Applicant and mitigation measures are proposed to be incorporated into the design.

The proposal is consistent with the ESD principles and the Department is satisfied the proposed works have been developed having regard to the ESD principles, in accordance with the objects of the EP&A Act as follows:

- the works are aimed providing improving and upgrading the tourist accommodation building, by upgrading the outdoor entertainment area, 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 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 effect threatened species or ecological communities, or their habitats; or
- the works are carried out in a declared area of outstanding biodiversity value.

No vegetation impacts are expected given the nature of the works and the site is located outside of an area mapped on the BVM. The Applicant has indicated that the proposal would not have a significant effect on threatened species or ecological communities, or their habitats. The provision of the Asset Protection Zone (APZ) that is already an obligation under a previous consent and again reiterated by the RFS in this approval, may require some canopy trimming of trees on an adjacent lot to provide separation from the building. This is to be undertaken in consultation with NPWS prior to commencement of works. The Department also notes that there is currently no declared area of outstanding biodiversity value within Kosciuszko National Park.

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

(a)(i) any environmental planning instrument (EPI)	<p>The Alpine SEPP is the only EPI's which applies to the site for this type of development. An assessment against the requirements of the Alpine SEPP is provided in Appendix B.</p> <p>The Department is satisfied that the application is consistent with the requirements of the Alpine SEPP.</p>
(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	<p>The application satisfactorily meets the relevant requirements of the EP&A Regulation, 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>
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development	<p>The Department has considered the likely impacts of the development. No environmental impacts are likely from the proposal, the Applicant already has a requirement to maintain the lot as an APZ, and this requirement will continue to be required by this approval. The canopy of some trees on an adjacent lot may need to be trimmed to provide increased separation from the building. This would be undertaken in consultation with NPWS prior to commencement of works. The proposal is also considered to have minimal economic and social impacts.</p>
(c) the suitability of the site for the development,	The site is suitable for the development and supports the ongoing use of the building.
(d) any submissions made in accordance with this Act or the regulations,	Consideration has been given to agency submissions received during the exhibition period. See Section 5 of this report.

<p>(e) the public interest.</p>	<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 be 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>
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5 Engagement

5.1 Department's Engagement

The Department's Community Participation Plan, November 2019, prepared in accordance with schedule 1 of the EP&A Act requires applications of development consent to be exhibited for a period of 14 days.

Due to the works including external alterations located within 50 metres of other tourist accommodation buildings the Department exhibited the application from 27 April 2020 to 10 March 2020:

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

The application was also notified to nearby tourist accommodation buildings including Feathers Lodge, Bundaleer, 14,16 and 22 Mountain Drive. The application was also forwarded to State government agencies in writing, including:

- the RFS pursuant to Section 4.46 of the EP&A Act (integrated development) as a Bushfire Safety Authority under the Rural Fires Act 1997 is required for the development to be carried out
- the NPWS pursuant to clause 17 of the Alpine SEPP

5.2 Summary of submissions

The Department received submissions from the RFS and NPWS. No public submissions were received.

5.3 Key Issues - Government Agencies

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 NPWS did not object to the proposal and provided comments on leasing and KNP Plan of Management, BC Act, protection of native vegetation and fauna and fauna habitats and Aboriginal Cultural Heritage. NPWS also:

- The works are permissible under the lease and do not require Lessor's consent
- The works appear consistent with the relevant provisions of the KNP PoM
- Acknowledged that the proposed works are not likely to significantly affect threatened species
- Recommended conditions to Aboriginal artefacts and if they are discovered during the carrying out of development
- Provided advice in relation to waste management

The Department has considered the comments received from the RFS and 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) 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 Department notes that compliance with relevant requirements is to be determined at the construction certificate stage by the certifier and in accordance with conditions of consent.

- The proposal is required to comply with the BCA, which makes reference to the BFSA and Australian Standard 3959 (Construction of Building in Bushfire Prone Areas). The Department considers that compliance with the BCA is achievable. The Bushfire Attack Level (BAL) was determined by the RFS to be BAL 19. AS 3959 2018 contains construction standards for that BAL, the documents provided indicate that the proposal would achieve compliance, however documentation confirming compliance, is required at the Construction Certificate stage.
- 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 did not consider that building upgrades were necessary under Clause 94.

The Department concludes that subject to compliance with the conditions of consent, including references to the BCA which is to be addressed by the certifier at the Construction Certificate stage, the proposal is satisfactory and would improve the building's longevity.

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. Some reduction in the canopy of nearby trees may be required to provide the APZ required by the RFS, this is to be undertaken in consultation with NPWS prior to commencement of works. The proposal is in keeping with the use of the building for tourist accommodation and the works will be limited to previously disturbed ground.

Parking is available at the site during construction. Construction impacts such as noise and vibration will be short term and managed in accordance with standard environmental conditions. The Applicant has provided a Site Environmental Management Plan outlining material storage, car parking, waste

management, and noise and vibration management. 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:

- there will not be a significant impact on any threatened species, populations or ecological communities
- the works are aimed at improving and upgrading the building's outdoor entertainment area for the benefit of guests
- the proposal is appropriate and does not impact upon any adjoining properties

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 recommended conditions.

8 Recommendation

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

- **considers** the findings and recommendations of this report
- **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 10247, subject to the conditions in the attached development consent
- **signs** the attached development consent and recommended conditions of consent (see attachment).

Recommended by:



Robin Ward

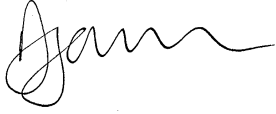
Planning Officer

Alpine Resorts Team

6 August 2020

9 Determination

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

A handwritten signature in black ink, appearing to read 'D James', written in a cursive style.

Daniel James
Team Leader
Alpine Resorts Team

as delegate of the Minister for Planning and Public Spaces

6 August 2020

Appendices

Appendix A – List of referenced 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=10247
2. Submissions
 - http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10247

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 improvements and upgrades to the building's outdoor entertainment area. The location of the works minimise impacts 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 proposal would not have an unacceptable impact on the environment thus being ecologically sustainable development.
(c) to promote the orderly and economic use and development of land,	The Applicant seeks approval for works that are aimed at improving the ongoing use of the site for tourist accommodation.
(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 site comprises previously disturbed grasses. Some reduction in the canopy of nearby trees may be required to provide the APZ required by the RFS, this is to be undertaken in consultation with NPWS prior to commencement of works.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposed development is not anticipated to result in any impacts upon built and cultural heritage, including Aboriginal cultural heritage. However a standard condition is applied should any artefacts be uncovered.

(g) to promote good design and amenity of the built environment,	The Department considers that the proposal would not impact its existing setting, built form and minimises impacts upon 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 exhibited the proposal in accordance with the Community Participation Plan and received comments from the RFS and NPWS.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department exhibited the application consistent with the Department's Community Participation Plan, and the application was placed on the Department's website and at the Department's Jindabyne office.

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 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 ongoing use of the site for tourist accommodation.
(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 improvements to an existing building. Natural hazards have been adequately addressed.
(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 and information supplied are considered adequate to enable a proper assessment of the works.
(e) the character of the alpine resort,	The proposal would not adversely alter the character of the resort and support the use of the existing tourist accommodation building.
(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	<p>The Department notes that the site is located within the G zone identified on the Department’s Geotechnical Policy – Kosciuszko Alpine Reports Charlotte Pass Map.</p> <p>The Applicant has provided a Form 4 and geotechnical assessment in accordance with the Geotechnical policy. The report provides several recommendations for carrying out the works and concludes that the site has been classified as Class S in accordance with AS 2870 and that the works would have minimal geotechnical impact.</p> <p>The report is included in the consent and the proposal must be carried out in accordance with the recommendations. Conditions of consent specific to geotechnical engineering have also been recommended to ensure the works comply with the report.</p> <p>No further geotechnical investigation is required at DA stage.</p>
(g) any sedimentation and erosion control measures,	No adverse impacts are a site environmental management has been submitted and conditions of consent will apply to ensure no adverse sediment and erosion issues.
(h) any stormwater drainage works proposed,	The existing stormwater 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 would not have any impact on views.
(j) any significant increase in activities, outside of the ski season,	The proposal does 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 (PRRMP) 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 Applicant proposes to construct a retaining wall (maximum 900mm high) along the eastern boundary. The boundary is shared with
Landscaped Area	The proposal improves the landscaping at the site.
CI 17 – applications referred to the National Parks and Wildlife Service	
The proposal was referred to the NPWS pursuant to clause 17 of the Alpine SEPP. Refer to comments received at Section 5 and discussion on proposal at Section 6 .	
CI 26 – Heritage conservation	
European heritage	The building is not heritage listed.
Aboriginal heritage	The site is previously disturbed, and it is unlikely to impact on Aboriginal heritage, however a standard condition will apply requiring works to cease if an Aboriginal artefact is discovered.

Appendix C – Recommended Instrument of Consent