

Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I hereby modify the development consent referred to in Schedule 1, in the manner outlined in Schedule 2.



Mark Brown

**Team Leader, Assessments
Alpine Resorts Team
Department of Planning, Housing and Infrastructure**

Jindabyne

14 January 2025

SCHEDULE 1

Application No.:	MOD 24/16792 (DA 10626 MOD 1)
Applicant:	Design King Company
Consent Authority:	Minister for Planning and Public Spaces
Land:	Perisher Huette, Lot 157, 35 Wheatley Road, Perisher Range Alpine Resort, Perisher Valley, Kosciusko National Park
Type of Development:	Integrated Development
Integrated Bodies:	NSW Rural Fire Service
Approved Development:	Alterations and additions to an existing tourist accommodation building
Modification	Amendment to the approved development to increase the approved subject area to include the northern gabled frontage for framing, cladding and window replacement works

Schedule 1 of Development Application No. 10626 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words as follows

DEFINITIONS

Act		means the <i>Environmental Planning and Assessment Act, 1979</i> (as amended).
Applicant		means Design King Company, or any person carrying out any development to which this consent applies.
Approval Body		has the same meaning as within Division 4.8 of Part 4 of the Act.
BCA		means the edition of the Building Code of Australia in force at the time of lodgement of an application for a Construction Certificate.
certifying authority		has the same meaning as in Part 4A of the Act.
DA No 10626		means the development application submitted by the applicant on 11 September 2020.
Department		means the Department of Planning, Industry and Environment <u>Housing and Infrastructure</u> , or its successors.
<u>Development</u>		<u>means the development approved pursuant to this consent, as defined in Condition A.2 and as modified by the conditions of this consent</u>
Director		means the Director of Regional Assessments or a delegate of the Director of within the Department.
Minister		means the Minister for Planning and Public Spaces, or nominee.
<u>MOD 24/16792 (DA 10626 MOD 1)</u>		<u>means the modification application lodged by the Applicant on 14 November 2024, as amended on 10 January 2025</u>
NPWS		means the National Parks and Wildlife Service, or its successors.
Regulation		means the <i>Environmental Planning and Assessment Regulations, 2000</i> (as amended).
<u>RFS</u>		<u>means the NSW Rural Fire Service, or its successors</u>
Secretary		means the Secretary of the Department, or nominee/delegate.
Secretary's agreement or satisfaction	approval, or	means a written approval from the Secretary or nominee/delegate.
Subject site		has the same meaning as the land identified in Part A of this schedule.
Team Leader		means the Team Leader of the Alpine Resorts Team within the Regional Assessments division (or its successors) or a delegate of the Team Leader of the Alpine Resorts Team within the Department.

SCHEDULE 2

Schedule 2 of Development Application No. 10626 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words as follows

A.2 Development in accordance with approved documentation and plans

The development shall be in accordance with the:

- (a) DA No. DA 10626 submitted by Design King Company on 11 September 2020
- (b) supporting documentation submitted with that application (DA 10626)
- (c) **Modification Application (MOD 24/16792 (DA 10626 MOD 1)) lodged on 14 November 2024, as amended on 10 January 2025**
- (d) conditions of this consent

including the following:

Ref No.	Document	Title/Description	Author/Prepared by	Date	Document Reference
1	Statement of Environmental Effects (SEE)	Statement of Environmental Effects for replacement of Cladding on Perisher Huetten Ski Lodge	Design King Company	24 August 2020	-
2	Report	Scope of Works	M&A Projects	-	-
3	Plan	Site Plan	Design King Company	3 September 2020	DA101 Rev A
4	Plan	Basement Plan	Design King Company	3 September 2020	DA102 Rev A A
5	Plan	Ground Floor Plan	Design King Company	3 September 2020	DA103 Rev A A
6	Plan	First Floor Plan	Design King Company	3 September 2020	DA104 Rev C A
7	Plan	North Elevation	Design King Company	3 September 2020	DA200 Rev C A
8	Plan	South Elevation	Design King Company	3 September 2020	DA201 Rev C A
9	Plan	East Elevation	Design King Company	3 September 2020	DA202 Rev C A

10	Plan	West Elevation	Design King Company	3 September 2020	DA203 Rev B-A
11	Plan	SEMP	Design King Company	3 September 2020	DA300 Rev A-A
12	Plan	Materials and Finishes	Design King Company	3 September 2020	DA700 Rev A
13	Bushfire Safety Authority	Integrated Development Application – DA 10626	NSW Rural Fire Service	29 September 2020	DA202009 23003464-Original-1
14	<u>Modification Report</u>	<u>Statement of Modification for Section 4.55 (1A) Modification to DA No. 10626</u>	<u>Design King Company</u>	<u>31 October 2024</u>	-
15	<u>Statement of Environmental Effects (SEE) Addendum</u>	<u>Statement of Environmental Effects for Section 4.55 (1A) Modification to DA No. 10626</u>	<u>Design King Company</u>	<u>31 October 2024</u>	-
16	<u>Report</u>	<u>Biodiversity Conservation Act & Aboriginal Cultural Heritage Statement</u>	<u>Design King Company</u>	<u>31 October 2024</u>	-
17	<u>Report</u>	<u>Structural Inspection Building Report</u>	<u>M&A Projects</u>	<u>17 September 2024</u>	-
18	Plan	Cover Page	Design King Company	31 October 2024	DA0-01 Issue A
19	Plan	Locality Plan	Design King Company	31 October 2024	DA0-02 Issue A
20	Plan	Project Notes	Design King Company	31 October 2024	DA0-03 Issue A
21	Plan	Basement Plan	Design King Company	31 October 2024	DA1-01 Issue A
22	Plan	Ground Floor Plan	Design King Company	31 October 2024	DA1-02 Issue A
23	Plan	First Floor Plan	Design King Company	31 October 2024	DA1-03 Issue A
24	Plan	North Elevation	Design King Company	31 October 2024	DA2-01

					<u>Issue A</u>
<u>25</u>	<u>Plan</u>	<u>South Elevation</u>	<u>Design King Company</u>	<u>31 October 2024</u>	<u>DA2-02 Issue A</u>
<u>26</u>	<u>Plan</u>	<u>East and West Elevation</u>	<u>Design King Company</u>	<u>31 October 2024</u>	<u>DA2-03 Issue A</u>
<u>27</u>	<u>Plan</u>	<u>Site Environmental Management Plan</u>	<u>Design King Company</u>	<u>31 October 2024</u>	<u>DA3-01 Issue A</u>
<u>28</u>	<u>Plan</u>	<u>Materials and Finishes</u>	<u>Design King Company</u>	<u>31 October 2024</u>	<u>DA3-02 Issue A</u>
<u>29</u>	<u>Bushfire Safety Authority</u>	<u>Integrated Development Application – MOD 24/16792</u>	<u>NSW Rural Fire Service</u>	<u>5 December 2024</u>	<u>DA202009 23003464-S4.55-1</u>

A.3 Inconsistency between documents

If there is any inconsistency between the plans and documentation referred to above, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this approval prevail to the extent of any inconsistency.

A.4 Lapsing of consent

This development consent will lapse five years from the date of consent, unless the building, engineering or construction work relating to the development is physically commenced on the land to which this consent applies before the date on which the consent would otherwise lapse.

A.5 Prescribed conditions

All works shall comply with the prescribed conditions of development consent as set out in Part 6, Division 8A of the Regulation. In particular, your attention is drawn to:

- (a) clause 98, Compliance with Building Code of Australia;
- (b) clause 98A, Erection of signs during building and demolition works; and

A.6 Australian standards

All works shall be carried out in accordance with current Australian Standards.

A.7 Legal notices

Any advice or notice to the consent authority shall be served on the Secretary.

PART B – PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

B.1 Construction certificate

Work must not commence until a relevant construction certificate has been issued.

B.2 Documentation for the construction certificate

The proposed works must comply with the applicable performance requirements of the BCA to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) complying with the deemed to satisfy provisions; or
- (b) formulating a performance solution which:
 - (i) complies with the performance requirements; or
 - (ii) is shown to be at least equivalent to the deemed to satisfy provision; or
 - (iii) a combination of (a) and (b).

B.3 Building Works Plan

Prior to the issue of a **new or modified** construction certificate, the Applicant shall submit to the certifier a building works plan and specifications that demonstrates compliance with:

- (a) the relevant clauses of the BCA; and
- (b) the development consent.

B.4 Appointment of engineer – structural adequacy of existing structure

An appropriately qualified practising Structural Engineer shall be engaged to carry out the inspection required by Condition D.20 and E.4. The name and contact details of the engineer shall be provided to the certifying authority prior to the issue of the **new or modified** construction certificate.

If the Department is not the certifying authority, the appointed certifying authority is to provide a copy of the information to the Department with the copy of the **new or modified** construction certificate.

B.5 Materials and finishes

The approved cladding materials shall be Lysaght 'Enseam' and colours shall be in accordance with the following (as identified in reference 12 in condition A.2):

Location	Colour
Walls	Colorbond 'Monument'
Window Detail	Colorbond 'Monument'

B.6 External walls and cladding

The external walls of all buildings, including additions to existing buildings, must comply with the relevant requirements of the BCA.

Before the issue of a **new or modified** construction certificate, the Applicant must provide the certifying authority with documented evidence that the products and systems proposed for use in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the requirements of the BCA.

The Applicant must provide a copy of the documentation given to the certifying authority to the Secretary or nominee within seven days after the certifying authority accepts it.

Note: This condition relates to any new works that are part of the approved development described in Condition A.2.

B.7 Payment of the Long Service Levy

Prior to the issue of any construction certificate, evidence shall be provided to the certifying authority, in the form of a receipt, confirming payment of the Long Service Levy to the Long Service Payments Corporation in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*.

B.8 Bush fire safety authority

Prior to the issue of the relevant construction certificate, the certifying authority must be satisfied that the documentation for the construction certificate demonstrates compliance with the relevant conditions of the bush fire safety authority (reference 13 in Condition A.2).

B.9 Asset Protection Zone (APZ) Plan and Vegetation Management

- (a) An APZ plan is required prior to the issue of a **new or modified** construction certificate showing the location of the area to be maintained as an APZ in accordance with the terms of the Bushfire Safety Authority;
- (b) **The plan must be prepared in consultation with the NPWS, and be submitted to and approved by the Secretary or nominee; and**
- (c) Prior to vegetation being trimmed or removed, discussions involving an onsite inspection are to occur between the Applicant and the NPWS Assessment Coordinator (contactable on 02 6450 5543) prior to vegetation removal works being carried out.

B.10 Upgrading of Building

Prior to the issue of a **new or modified** construction certificate the following must be submitted to the satisfaction of the certifier:

- (a) a report, **addressing works under DA 10626 and MOD 24/16792**, relating to the ~~to the~~ external wall system and the internal face of the external wall prepared by a BCA consultant or fire engineer assessing compliance with the relevant parts of Section C of Volume 1 of the Building Code of Australia (BCA);
- (b) if the above report has identified deficiencies an upgrade strategy or performance solution shall be prepared; and
- (c) any upgrade strategy shall include a schedule of works, identifying a program of recommended fire safety upgrades within a period of not more than three years from the date of commencement of works.

B.11 Energy efficiency

All works shall comply with Section J of the BCA. Details indicating compliance with these requirements and a Design Statement are to be submitted the certifier prior to the issue of a **new or modified** construction certificate.

PART C – PRIOR TO THE COMMENCEMENT OF WORKS

C.1 Notification of commencement

The Department must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.

If the construction or operation of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

C.2 Temporary fencing

Prior to works commencing, the construction works area shall be fenced with temporary fencing. This fencing is to clearly delineate the construction area and shall keep the disturbance area to a minimum. This is to restrict access and also prevent unauthorised persons entering the work area.

C.3 Implementation of site environmental management measures

Prior to any construction works commencing, all site environmental management measures in accordance with the approved documentation (Condition A.2) and these conditions of consent, shall be in place and in good working order.

C.4 Machinery and storage

Machinery used during construction must be cleaned prior to site mobilisation, be regularly maintained and manoeuvred to prevent the spread of exotic vegetation. Storage of machinery and material is to be restricted to the designated disturbed areas.

C.5 Compliance

The Applicant must ensure that all employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

PART D – DURING CONSTRUCTION

D.1 Approved plans and documentation to be on-site

A copy of the approved plans and documentation shall be kept on site at all times and shall be readily available for perusal by the principal certifier, any person associated with construction works, or an officer of the Department.

D.2 Construction hours

All work in connection with the proposed development shall be carried out between the hours of 7.00am and 6.00pm on Monday to Friday inclusive, and 7:00am to 1.00pm on Saturdays, with no work allowed on Sunday or Public Holidays, or as otherwise approved by the Secretary or nominee.

D.3 Construction period

- (a) All construction activities are limited to the “summer” period. For this development this period means commencing after the October long weekend and ceases no later than 31 May or as otherwise approved by the Secretary or nominee.
- (b) By 31 May the applicant shall ensure that the site is made safe and secure by undertaking the following:
 - (i) removal of all waste materials;
 - (ii) removal and/or securing of all stockpiles of soil and gravel;
 - (iii) demolition and construction materials are removed from around the building and are stored within the building or contained within designated areas;
 - (iv) the subject site is fenced with para-webbing or other suitable visible protection fencing around the perimeter of the site to limit access to and from the site;
 - (v) appropriate signage shall be erected outlining that unauthorised access to the site is prohibited and that the site is a construction zone;
 - (vi) any external scaffolding shall be dismantled and removed from the site;
 - (vii) all external plumbing and drainage works are to be completed;
 - (viii) all disturbed ground is stabilised and made erosion resistant;
 - (ix) any excavations are made safe and secure; and
 - (x) any other specific matters related to making the site safe and secure raised by the principal certifier or the Secretary or nominee.

D.4 Construction activities

- (a) At all times, construction activities shall be undertaken in accordance with the approved documentation.
- (b) All construction activities shall be confined to within the construction zone.
- (c) No disturbance is permitted outside the construction zone unless otherwise agreed by the Secretary or nominee.

D.5 SafeWork NSW

All works shall be carried out in accordance with current SafeWork NSW guidelines.

D.6 Site notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (a) The notice is to be durable and weatherproof and is to be displayed throughout the works period.

- (b) The approved hours of work, the name of the principal contractor for the work (if any), and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice.
- (c) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.
- (d) The name, address and phone number of the principal certifier is to be identified on the site signage.

D.7 Storage of materials

The Applicant shall ensure that the site environmental management measures are complied with and that during the construction period that no storage or disposal of materials shall take place beneath the canopy of any trees or on native heath vegetation.

All stockpiling is to be in accordance with the *'Soil Stockpile Guidelines for the Resort Areas of Kosciuszko National Park, October 2017'*.

D.8 Prohibition of hazardous materials

No hazardous or toxic materials or dangerous goods shall not be stored or processed on the site at any time.

D.9 Noise and vibration management

Excavation and construction shall be managed in accordance with Australian Standard AS 2436-2010 *Guide to noise and vibration control on construction, demolition and maintenance sites* and to ensure there is no adverse impact on any neighbouring/affected tourist accommodation buildings during the construction period.

D.10 Litter and building waste

Building waste shall be minimised and shall be contained in receptacles so as not to escape by wind or water. These receptacles must only be located in previously disturbed areas and not beneath the canopy or over roots of any trees. The receptacle must be cleaned regularly.

D.11 Demolition work

Demolition work must comply with the provisions of Australian Standard AS 2601-2001 *Demolition of Structures*.

D.12 Recycled Materials

Wherever possible, building material should be salvaged for reuse during the redevelopment of the building or sent to a recycling facility to reduce landfill.

D.13 Loading and unloading of construction vehicles

All loading and unloading associated with demolition and construction shall be restricted to those areas approved in the SEMP and conditions.

D.14 Electrical works

All electrical works shall be carried out by a qualified and licensed electrical contractor and installed in accordance with the relevant Australian Standards.

D.15 External lighting

External lighting shall comply with Australian Standard AS 4282-1997: *'Control of Obtrusive Effects of Outdoor Lighting'*.

D.16 Scaffolding

All scaffolding is to be located within the lot boundaries and shall comply with AS/NZS 1576 *Scaffolding* and AS/NZS 4576 *Guidelines for Scaffolding*.

D.17 Dirt and Dust Control Measures

- (a) Adequate measures shall be taken to prevent dirt and dust from affecting the amenity of the neighbourhood during construction.
- (b) In particular, the following measures must be adopted:
 - (i) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
 - (ii) covers are to be adequately secured;
 - (iii) cleaning of footpaths must be carried out regularly;
 - (iv) roadways must be kept clean;
 - (v) gates are closed between vehicle movements;
 - (vi) gates are fitted with shade cloth; and
 - (vii) the site is hosed down when necessary.

D.18 Maintenance of services

The Applicant and/or the lessee are responsible for costs associated with relocating any services. Any damage to any service including road infrastructure shall be immediately rectified by the applicant and/or the lessee.

D.19 Asbestos

- (a) The removal of any asbestos or other hazardous material found on the site shall be carried out in accordance with current Work Cover guidelines by an appropriately qualified contractor.
- (b) Any asbestos or other hazardous materials shall be disposed of at an authorised waste facility. Receipts shall be provided to the principal certifier as evidence of appropriate disposal.

D.20 Inspection by engineer – structural adequacy of existing structure

- (a) Upon removal (or partial removal) of the existing cladding and prior to the installation of the new cladding, an appropriately qualified practising structural engineer shall carry out an inspection to determine the suitability of the existing structure and its compliance with BCA performance requirement BP1.1. The engineer is to confirm if there is any timber rot in the existing structure and whether or not it should be removed.
 - (b) The inspection shall include but not be limited to supporting columns, wall frames, bracing and tiedowns.
 - (c) If any deficiencies are identified during the inspection, the engineer shall provide upgrade recommendations.
 - (d) Any works associated with the upgrade recommendations shall be undertaken prior to the installation of the new cladding.
 - (e) A copy of the inspection and upgrade recommendations (if required) shall be submitted to the principal certifier and the Department.
-

PART E – PRIOR TO COMMENCEMENT OF USE

E.1 Occupation certificate

Prior to the occupation of the building or the commencement of use, an occupation certificate must be obtained from the principal certifier. A copy of the occupation certificate must be furnished to the Secretary or nominee prior to the occupation of the building or commencement of the use.

E.2 Site Clean Up

Prior to commencement of use, the subject site shall be cleaned up to the satisfaction of the principal certifier.

E.3 Removal of site notice

Any site notices or other site information signs shall be removed upon completion of the site works and prior to the commencement of use.

E.4 Structural Adequacy Certificate

Prior to the issue of any occupancy certificate, a certificate of structural adequacy prepared by a suitably qualified professional engineer confirming the suitability of the building to meet BCA Volume One performance requirement BP 1.1 Structural stability and resistance to action shall be submitted to the principal certifier.

A copy of the structural certificate shall be submitted to the Department with the copy of the occupation certificate

E.5 Fire safety certificate

Prior to the issue of any occupation certificate, a fire safety certificate conforming to the Regulations shall be submitted to, and be to the satisfaction of, the principal certifier. A copy of the fire safety certificate shall be submitted to the Department with the copy of the occupation certificate.

E.6 Rehabilitation

Prior to the issue of any occupation certificate, any disturbed ground shall be rendered erosion resistant and rehabilitated in accordance with the approved documentation and these conditions of consent.

E.7 Bush fire safety authority

Prior to the issue of the relevant occupation certificate, the Applicant shall submit documentation to the principal certifier to demonstrate that the works have been undertaken in accordance with the relevant conditions of the bush fire safety authority (reference 13 in Condition A.2).

E.8 Fire safety upgrades

Prior to the issue of the relevant occupation certificate, the following documentation shall be submitted to Principal Certifier:

- (a) written notice that the relevant upgrade works have been completed in accordance with the schedule in Condition B.10; and**
- (b) certificates of installation from tradespersons responsible for carrying out upgrade works.**

PART F – POST OCCUPATION

F.1 Annual fire safety statement

An annual fire safety statement conforming to the Regulations shall be provided to the Department and the NSW Fire Brigade every 12 months commencing within 12 months after the date on which the Department received the initial Fire Safety Certificate.

ADVISORY NOTES

AN.1 Responsibility for other consents / agreements

The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

AN.2 Premises Standard

The persons responsible for ensuring compliance with the Premises Standard (Access to Premises – Buildings) are the building certifier, building developer, and building manager. The Standard's applicability should be reasonably investigated by these persons.