



# Merritts Mountain House Services, Thredbo

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Development Application Assessment  
DA 22/5788

August 2022

Published by the NSW Department of Planning and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

Title: Merritts Mountain House Services, Thredbo

Subtitle: Development Application Assessment, DA 22/5788

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

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# Glossary

Abbreviation	Definition
<b>BCA</b>	Building Code of Australia
<b>BC Act</b>	<i>Biodiversity Conservation Act 2016</i>
<b>BC Regulation</b>	<i>Biodiversity Conservation Regulation 2017</i>
<b>BVM</b>	Biodiversity Values Map
<b>Consent</b>	Development Consent
<b>CPP</b>	Community Participation Plan
<b>Department</b>	Department of Planning and Environment
<b>DPE Water</b>	Department of Planning and Environment - Water
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2021</i>
<b>EPBC Act</b>	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>EPI</b>	Environmental Planning Instrument
<b>ESD</b>	Ecologically Sustainable Development
<b>KNP</b>	Kosciuszko National Park
<b>Minister</b>	Minister for Planning
<b>NPWS</b>	National Parks & Wildlife Service
<b>Planning Secretary</b>	Secretary of the Department of Planning and Environment
<b>SEPP</b>	State Environmental Planning Policy

# Executive Summary

This report outlines the assessment of Development Application (DA 22/5788) lodged by Event Hospitality and Entertainment Ltd (the Applicant) seeking approval to install water and sewer infrastructure (as part of an upgrade to existing services) for the approved Merritts Mountain House restaurant (MMH) redevelopment site (yet to be constructed), Thredbo Alpine Resort within Kosciuszko National Park (KNP).

The Minister for Planning is the consent authority for development within a ski resort in KNP, administered by the Department of Planning and Environment (the Department). The proposal is permissible with consent under the provisions of *State Environmental Planning Policy (Precincts - Regional) 2021* (Precincts – Regional SEPP).

The Department exhibited the application, being nominated integrated development, for 28 days between 29 April 2022 to 27 May 2022 in accordance with the Department's Community Participation Plan. The Department also made the application publicly available on the NSW Planning Portal website and notified all lodges within Thredbo Village of the works. No submissions from the public were received during the assessment of the application.

The Department referred the Application to the Department of Planning and Environment - Water (DPE Water) as in the order for the development to be carried out, approval under the *Water Management Act 2000* is required with works occurring over and within 40 metres of a tributary of Merritts Creek. The DPE Water has issued General Terms of Approval for the development.

The Department consulted and received comments from the National Parks and Wildlife Service (NPWS) pursuant to section 4.15 of Chapter 4 of the Precincts - Regional SEPP.

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.

Based on a merit assessment of the application, the Department considers the proposal is acceptable as:

- the works are the precursor for the redevelopment of Merritts Mountain House restaurant and ensure infrastructure is in place for this development to occur
- the works are predominantly located along previously disturbed access roads, with minimal vegetation removal required to facilitate the works
- suitable erosion and sedimentation control measures are to be installed prior to and during the works
- the recommended conditions would require construction impacts to be minimised having regard to the existing native vegetation adjoining the site and path of travel, all disturbed areas to be rehabilitated following construction and an environmental officer to monitor construction works

The Department's assessment concludes the application is in the public interest as the works provide infrastructure to facilitate the redevelopment of the MMH restaurant that would once completed support the regional plan for the locality. The Application has considered its biodiversity impacts and maintains its consistency with Chapter 4 of the Precincts – Regional SEPP through being compatible with development within the Thredbo Alpine Resort.

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

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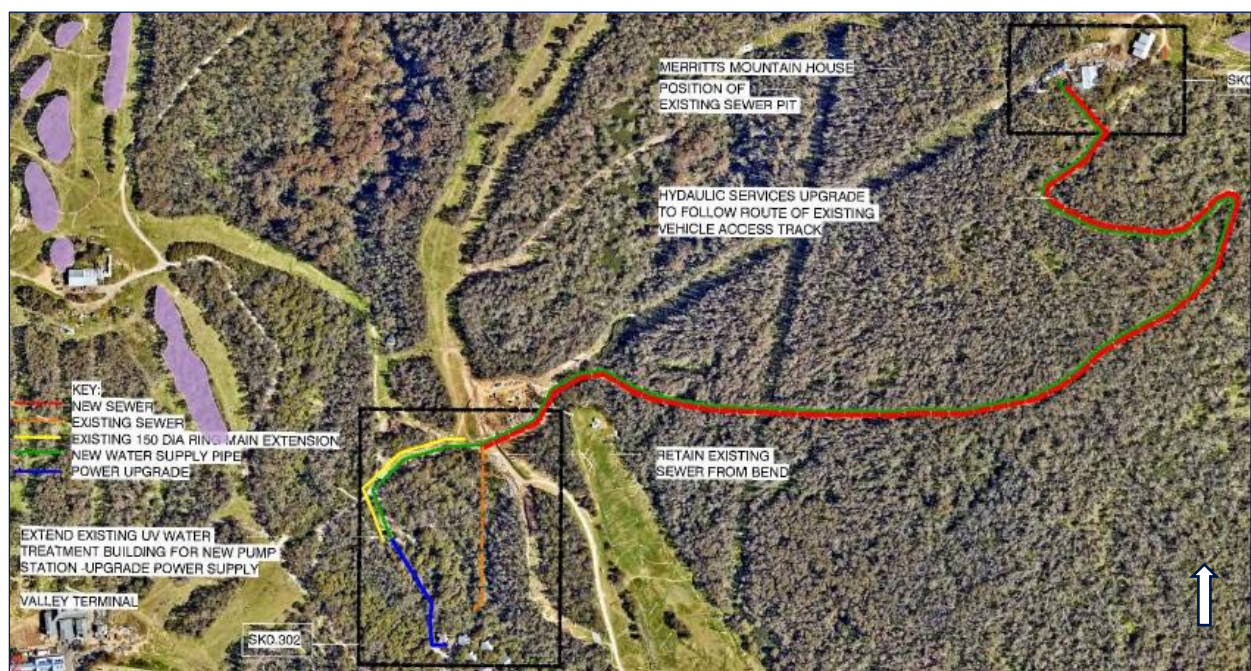
# 1 Introduction

## 1.1 The Department's Assessment

This report contains the Department's assessment of Development Application (DA 22/5788) lodged by Event Hospitality and Entertainment Ltd (the Applicant) to install water and sewer infrastructure (as part of an upgrade to existing services) for the approved Merritts Mountain House restaurant (MMH) redevelopment site (yet to be constructed), Thredbo Alpine Resort within KNP.

The Applicant seeks approval to upgrade services in anticipation of the construction of the MMH redevelopment. These services include providing an improved and more reliable water supply (from the UV water treatment building and the MMH redevelopment site) and an upgrade of the sewer pipeline (from the MMH redevelopment site and High Noon Ski run). The proposed services are predominantly located within an access road corridor and / or previously disturbed land (**Figure 1**). An extension to the existing UV water treatment building is also proposed that would require some vegetation removal.

The proposal originally also included provision of a new electrical supply to the UV water treatment building from the Woodridge accommodation precinct, however the Applicant has withdrawn this component.



**Figure 1 |** Site (highlighted) in context of Thredbo Village (Source: Applicant's documentation)

The Department's assessment considers all documentation submitted by the Applicant, including the Statement of Environmental Effects (SEE) and accompanying information, and submissions from government authorities. The Department's assessment also considers the legislation and planning instruments relevant to the site and the development.

This report describes the development, surrounding environment, relevant strategic and statutory planning provisions and the issues raised in submissions. The report evaluates the key issues associated with the development and concludes that the development is in the public interest and should be approved, subject to conditions.

## 1.2 Site context

The site is located within the Thredbo Alpine Resort in the southern part of KNP, located approximately thirty-five (35) kilometres south-west of Jindabyne when travelling by vehicle on the Alpine Way. Thredbo is a year-round tourist destination resort catering for both winter and summer activities.

The development site occurs across a distance of approximately 1,700 metres commencing from below the existing MMH restaurant site (**Figure 2**), traversing downhill along the existing summer access track (**Figure 3**) and concluding at the existing UV water treatment building (that is to be extended as part of this proposal). The site occurs predominantly over disturbed land / access track, with only minor sections containing vegetation.



**Figure 2 |** Commencement of where services connect (Source: Applicant's documentation)



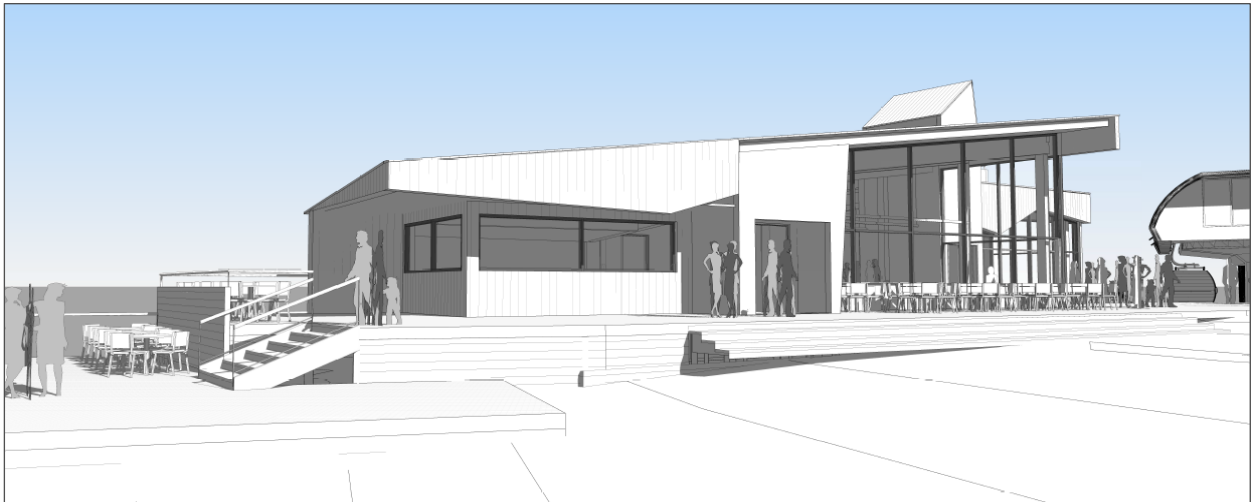
**Figure 3 |** Proposed services to be installed within existing access road (Source: Applicant's documentation)

### 1.3 Relevant approvals

On 4 June 2019, the Team Leader of the Alpine Resorts, as delegate of the then Minister for Planning granted consent to DA 9757 for the:

- removal of the existing MMH restaurant and associated infrastructure
- construction of a new MMH restaurant and supporting infrastructure (**Figure 4**), including outdoor seating platforms
- installation of three new water tanks and trenching to the new MMH restaurant
- vegetation removal and rehabilitation works

The redevelopment of the MMH restaurant has not occurred to date, however the installation of the proposed services upgrades, described in this application, is needed to enable the development to occur.



**Figure 4 |** Approved building and outdoor seating platforms (Source: Applicant's approved documentation for DA 9757)



## 2 Project

The application seeks approval to install water and sewer infrastructure to the MMH restaurant in anticipation for its future redevelopment. The proposed works include (as taken from the Applicant's SEE):

- Upgraded water supply and sewer pipeline

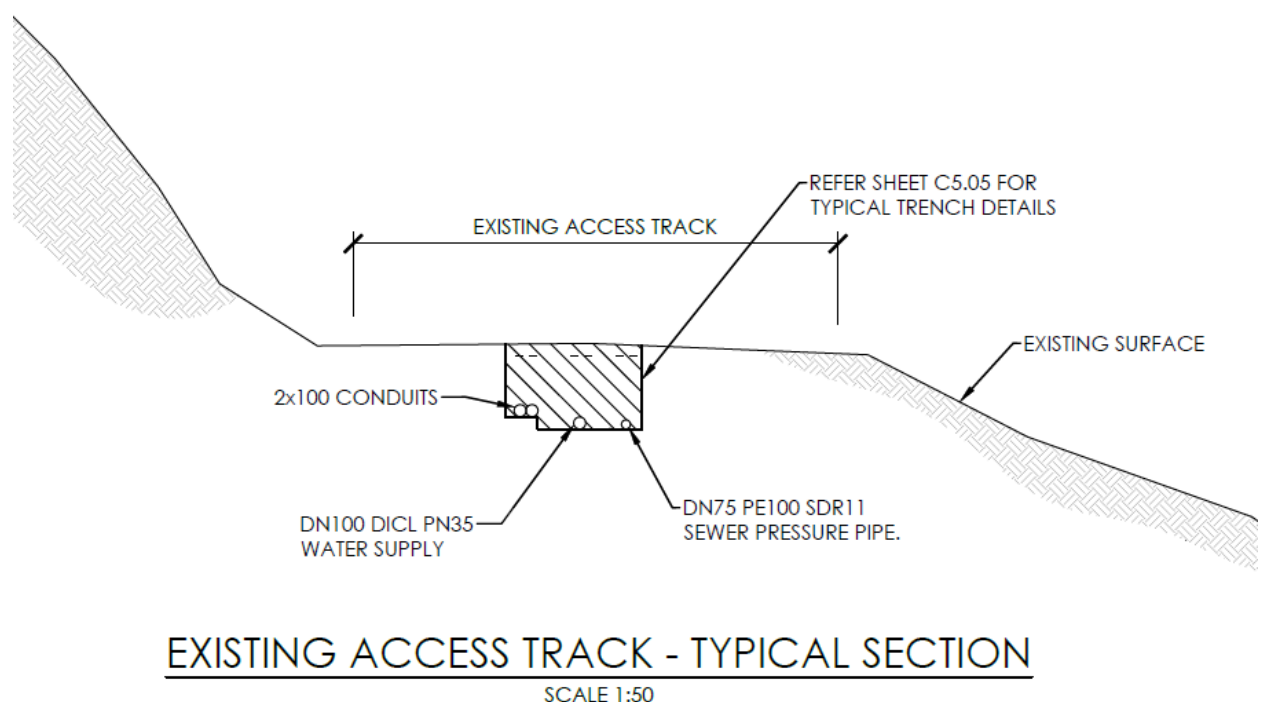
To provide an improved and reliable water supply to the redeveloped MMH, a new water pipeline is proposed between the current UV water treatment building and the restaurant. The water supply pipe is proposed to be 100mm in diameter.

To provide an upgraded sewer pipeline from the redeveloped MMH into the existing sewer pipeline, the section of sewer pipeline between the restaurant building and High Noon Ski Run is proposed to be replaced with a 75mm pipe.

The sewer pipeline is to be installed within the same trench as the water pipeline. The Department notes that the trench is to be approximately 1200mm wide and 700mm deep.

Two additional conduits (100mm diameter) for other services are also to be installed within the same trench (**Figure 5**) to further limit impacts on the environment for future services.

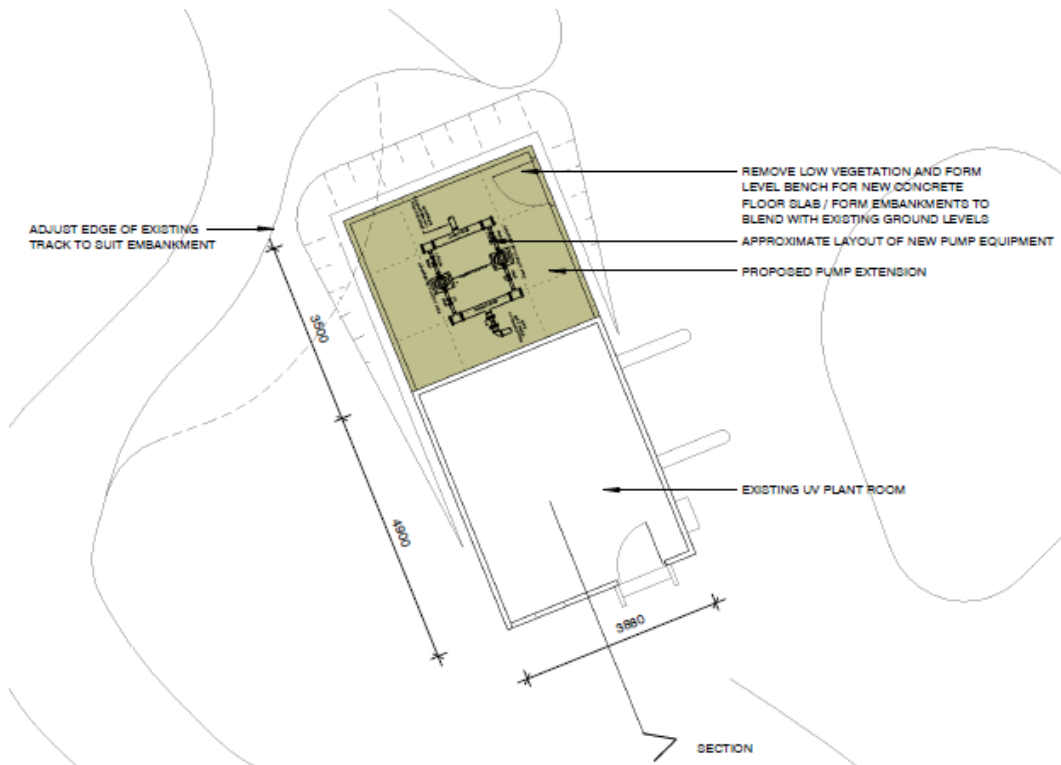
During the trenching works, existing mountain bike tracks are impacted and proposed to be temporarily closed while the trench is open. These closures will be short lived as the plan of works is to open and close sections of the trench in stages to minimise disruption.



**Figure 5 |** Typical section of trench within access road (Source: Applicant's documentation)

- Extension of the UV Water Treatment building

The existing UV water treatment building is required to be extended to accommodate the additional pump equipment. The building is proposed to be extended (**Figure 6**) to the west (high side) and would be 3.5m x 3.88m, covering 13.58m<sup>2</sup>. The building is proposed to be clad in Colorbond to match the existing building.



**Figure 6 |** Proposed extension to UV Water Treatment building (Source: Applicant's documentation)

The Applicant advises the proposed upgraded services allow for the existing water and sewer services to be replaced and upgraded. This provides improved water security to the redeveloped restaurant and better sewer connection. This would not impact upon the overall capacity of the reticulated effluent management system or existing water supply for the resort.

The proposed construction timing of the project has been scheduled to start in October 2022 and be completed by the end of April 2023.

The proposal has an estimated cost of works of approximately \$1.463 million.

### 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 *Precincts – Regional 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 improve resort operations through providing infrastructure that supports the redevelopment of the MMH restaurant, which supports visitation to the NSW ski resorts. The proposal has also minimised its impact on the unique environment through minimise impacts upon native vegetation.

#### **Precincts – Regional SEPP**

The Precincts – Regional SEPP governs development on land within the ski resort areas of KNP. Chapter 4 of 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 section 4.15 of Chapter 4 of the Precincts – Regional 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 Chapter 4 of the Precincts – Regional SEPP as the proposal minimises native vegetation impacts through utilising existing disturbed area, while rehabilitating areas of disturbance at the completion of works. NPWS have also raised no concerns with the submitted proposal.

## 4 Statutory Context

### 4.1 Consent Authority

Under section 4.6 of the Precincts – Regional SEPP, the Minister for Planning 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 2022, the Director, Regional Assessments may determine the application as:

- no reportable political donation has been disclosed
- there are less than 15 public submissions in the nature of objections
- the application is in relation to land which Chapter 4 of the Precincts – Regional SEPP applies

### 4.2 Permissibility

The proposal includes the upgrade and installation of new infrastructure that facilitates the operation of the MMH restaurant, consistent with the definition of 'food outlet' and 'infrastructure facilities' as defined in the Precincts – Regional SEPP. Pursuant to section 4.9 of Chapter 4 of the Precincts – Regional SEPP, 'food outlet' and 'infrastructure facilities' is permissible with consent within the land use table of Thredbo Alpine Resort.

### 4.3 Other approvals

#### Environment Protection and Biodiversity Conservation Act 1999

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the Commonwealth Government is required to assess and approve a development if it is likely to impact on a matter of national environmental significance.

The Applicant comments that the proposed works will not result in any adverse impacts on threatened species, populations or ecological communities and will not have a significant impact on these entities pursuant to the NSW *Biodiversity Conservation Regulation 2016* or the EPBC Act.

The Department has reviewed the scope of the works and is satisfied that a referral to the Commonwealth Environment Minister is not necessary.

#### Water Management Act 2000

The proposed development is classified as integrated development under section 4.46 of the EP&A Act as in the order for the development to be carried out, approval under the *Water Management Act 2000* is required.

The application was referred to the DPE Water as works occur over and within 40 metres of a tributary of Merritts Creek. The DPE Water has issued General Terms of Approval for the development. Prior to the



commencement of work, the Applicant will need to obtain a Controlled Activity Approval under the *Water Management Act 2000*.

#### 4.4 Mandatory Matters for Consideration

##### Objects of the EP&A Act

In determining the application, the consent authority is to consider whether the proposal is consistent with the relevant 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:

- the works are aimed at promoting the orderly and economic use of the site through providing infrastructure to support the ongoing operation of the Thredbo Alpine Resort
- there would not be an unacceptable impact on the environment thus being ecologically sustainable development, with impacts upon vegetation are limited where possible with the alignment occurring within previously disturbed areas
- the proposal does not impact upon cultural heritage, including Aboriginal cultural heritage
- the application is capable of achieving compliance with relevant construction standards
- the Department provided opportunities for community participation in the assessment process, which included exhibiting the application, notifying all lodges within Thredbo Village, and displaying the proposal on the NSW Planning Portal during the exhibition period. The Department has considered the issues raised in the NPWS submission in **Section 6**.

##### 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 proposal does not pose a threat of serious or irreversible environmental damage and potential impacts have been identified, with mitigation measures and environmental safeguards recommended
- the proposal is not expected to adversely impact upon the health, diversity or productivity of the environment for future generations
- the Department's assessment has noted that the proposal endeavours to minimise environmental impacts where possible
- 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.

The Applicant comments that the amount of native vegetation to be cleared is well below the threshold for the site (impacts upon less than 100m<sup>2</sup> of native vegetation, compared to the threshold of 10,000m<sup>2</sup> or 1 hectare), the location of the proposed works is not mapped as comprising high biodiversity value, and the proposed would not impact on any threatened flora / important fauna habitats / habitat connectivity or any other biodiversity values of conservation significance.

The Department notes that there is currently no declared area of outstanding biodiversity value within KNP.

The NPWS concurs that the development does not trigger the BOS.

The Department is therefore satisfied that the BOS does not apply. Implementation of the recommended methods to minimise impacts on surrounding vegetation is supported.

## Considerations under section 4.15 of the EP&A Act

In determining a development application under section 4.15 of the EP&A Act, 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 under section 4.15.

**Table 1** below presents a summary of the matters for which consideration outlined further in **Section 6** (Assessment) of this report and references other relevant appendices and sections outlined in this report.

**Table 1 | Section 4.15(1) Matters for Consideration**

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument (EPI)	<p>The Precincts – Regional SEPP is the only EPI which applies to the site for this type of development. An assessment against the requirements of the Precincts – Regional SEPP is provided in <b>Appendix B</b>.</p> <p>The Department is satisfied the application is consistent with the requirements of Chapter 4 of the Precincts – Regional SEPP.</p>

(a)(ii) any proposed instrument	Not applicable to the proposal.
(a)(iii) any development control plan	Not applicable to the proposal.
(a)(iiia) any planning agreement	Not applicable to the proposal.
(a)(iv) the regulations	<p>The application satisfactorily meets the relevant requirements of the EP&amp;A Regulation, particularly the procedures relating to development applications (Part 3 and Part 4) and fees (Part 13 and Schedule 4).</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 to the proposal.
(b) the likely impacts of that development	<p>The Department has considered the likely impacts of the development. All environmental impacts can be appropriately managed and mitigated through conditions of consent.</p> <p>The proposal is considered to have positive economic and social impacts by providing the necessary infrastructure to facilitate the redevelopment of MMH restaurant.</p>
(c) the suitability of the site for the development,	The site is both suitable for the development and supports the use of Thredbo Alpine Resort as discussed in <b>Section 6</b> of this report.
(d) any submissions made in accordance with this Act or the regulations,	Consideration has been given to submissions received from the DPE Water and NPWS during the exhibition period. See <b>Section 5</b> and <b>6</b> , as required, of this report.
(e) the public interest.	<p>The works are consistent with the aim and objectives of Chapter 4 of the Precincts – Regional SEPP, are compatible with the delivery of infrastructure provided within Thredbo Alpine Resort and 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 believed to be in the public interest.</p>

## 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 nominated integrated development applications be exhibited for a period of twenty-eight (28) days. The Department exhibited the application between 29 April 2022 to 27 May 2022 on the NSW Planning Portal and notified all lodges within Thredbo Village of the works.

The application was also forwarded to State government agencies in writing, including:

- the DPE Water pursuant to section 4.46 (integrated development) of the EP&A Act as a Controlled Activity Approval under the *Water Management Act 2000*, which is required for the development to be carried out (works occur over and within 40 metres of a tributary of Merritts Creek)
- the NPWS pursuant to section 4.5 of Chapter 4 of the Precincts - Regional SEPP

Following the exhibition of the application, the Department placed copies of all submissions received on its website and provided the Applicant with an opportunity to provide a response to the issues raised in the submissions.

### 5.2 Summary of submissions

During the exhibition period, the Department received comments from the DPE Water and NPWS and no public submissions objecting to the proposal.

### 5.3 Key issues – Government Agency

The DPE Water issued General Terms of Approval (GTA) for the proposal, requiring a Controlled Activity Approval under the *Water Management Act 2000* as discussed in **Section 4.3**.

The NPWS did not object to the proposal and:

- provided comments on leasing and the KNP Plan of Management; BC Act; protection of native vegetation, fauna and habitats; rehabilitation, maintenance and monitoring; Aboriginal cultural heritage; and visual impacts, and
- recommended conditions to address protection of native vegetation, fauna and habitats (including preparation of a wombat management plan), revegetation and site works.

The Department has considered the comments raised in the government agencies submissions during the assessment of the application in **Section 6** and 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 issue in the Department's assessment is to ensure that the environmental and construction impacts of the development are managed to protect the environment and amenity of Thredbo Alpine Resort during works.

### 6.1 Environmental impacts

The Department has carefully considered the potential environmental impacts associated with the proposal given the location of the site and the sensitive nature of the flora and fauna within the alpine area.

The Applicant comments that the construction program comprises of the following:

- establishment of site (marking out proposed pipework route, erection of signage etc) and vegetation clearing as required (approx. 100m<sup>2</sup>);
- establishment of erosion and sediment controls (where required);
- excavation and trenching to prepare ground for pipe laying (MMH to existing UV treatment building);
- laying of new pipes and backfilling / compaction of trench;
- extension of existing UV plant (**Figure 7**), including minor vegetation clearing, installation of new metal roof, wall cladding and solid core doorset; and
- rehabilitation of the disturbed area.



**Figure 7 |** Existing vegetation adjacent the UV Water Treatment building to be removed to facilitate the extension (Source: Applicant's documentation)

It is also noted that while existing mountain bike trails are impacted with the works (during trenching), those impacts would be temporary and the trails reinstated once the trenching works have passed.

The proposed works are also within 40 metres of a tributary of Merritts Creek. Minimal disturbance to the creek bank will result, and habitat linkages, aquatic habitats and bank stability not impacted as the Applicant intends to utilise an existing culvert to traverse the tributary.

The application was referred to DPE Water as nominated integrated development. The general terms of approval issued by DPE Water require the consent holder to apply for, and be issued, a controlled activity approval before the commencement of any work or activity within the subject waterfront land. As such, the construction works will be subject to further DPE Water review and approval to ensure adverse impacts on the waterfront land and watercourse will be avoided.

The NPWS raised no concerns with the proposal and recommended the adoption or updating of the submitted Site Environmental Management Plan, subject to the inclusion of a number of recommended conditions of consent or amendments to the submitted SEMP. These include that exotic grass species such as Chewings Fescue are not suitable for the rehabilitation of areas containing predominantly native species, with these areas to be reseeded with native *Poa* sp. seed (that is locally occurring; monitoring and mulching and re-seeding of any bare areas must occur at least every 12 months for a minimum period of 5 years; and that all straw bales or other mulch used for rehabilitation must be weed free.

The NPWS recommended the preparation of a Wombat Management Plan for endorsement prior to commencing of works, consistent with the advice from the Applicant's Ecologist Report. The Department however notes that the identified wombat burrow is located along the electricity works corridor which is no longer proposed.

The Department considers the proposal to be acceptable, with conditions recommended to ensure areas impacted by construction be rehabilitated in accordance with the "*Rehabilitation Guidelines for the Resort Areas of Kosciuszko National Park*". An Environmental Officer, appointed by the Applicant, is also recommended to review the works prior to construction and ensure that the proposal meets the identified outcomes.

Overall, the Department supports the alignment of the proposal and considerations to reduce environmental impacts.

## 6.2 Construction access

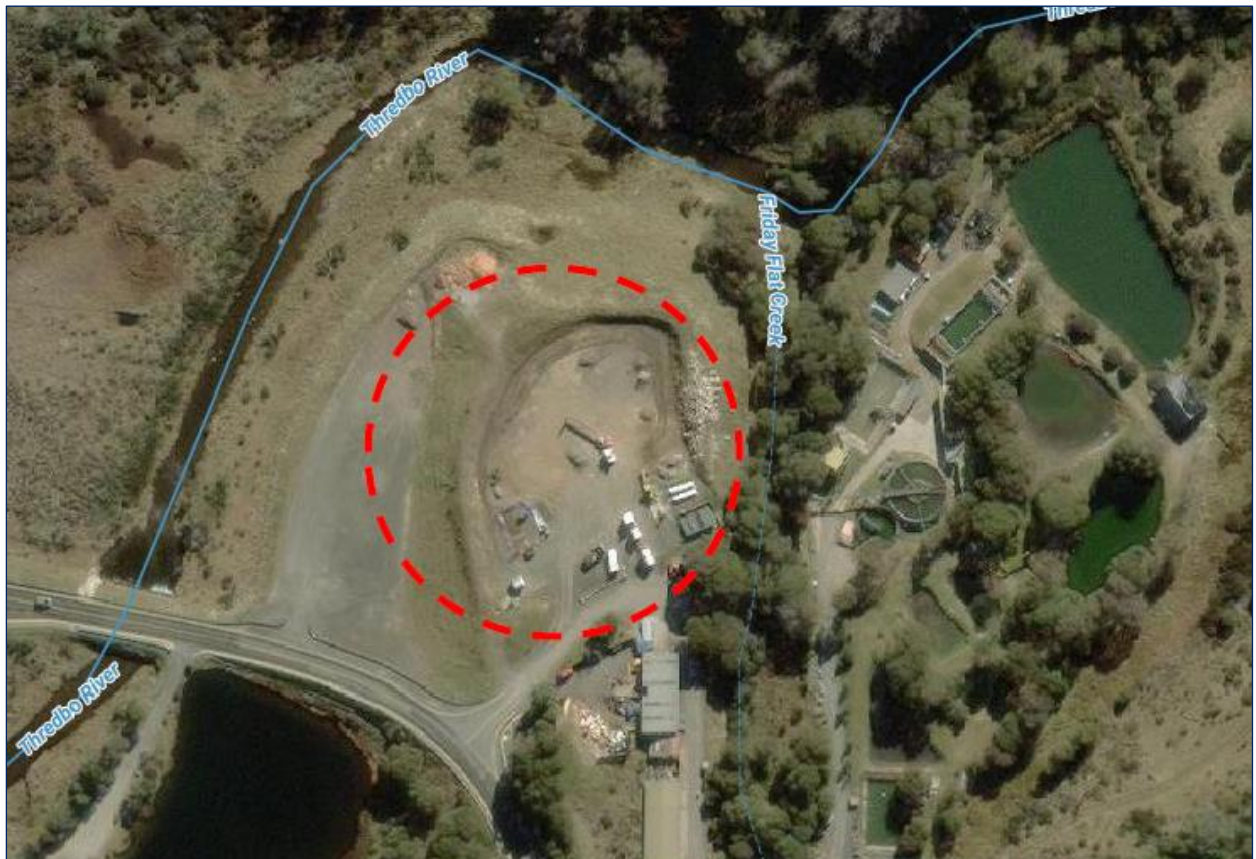
Access to the site is available off Friday Drive, via the summer Mountain access road and the Merritts access road which provides vehicle access from the Friday Flat base area. Construction vehicles and plant will include (but not limited to) 4WD vehicles and utilities; an excavator; and delivery trucks.

The main stockpile location is provided adjacent to the Thredbo Waste Transfer Station (**Figure 8**). Access to the facility will be restricted to the Applicants staff and contractors. Temporary stockpiles may be required within the construction corridor to effectively manage materials during the works. Where required, these sites will be located on disturbed areas and avoid native vegetation.

Soil stockpiles will be managed in accordance with the *Soil Stockpile Guidelines for the Resort Areas of Kosciuszko National Park* (OEH 2017) (Soil Stockpile Guidelines) and ESCP.

The Department is satisfied that the works can be undertaken without causing an adverse impact on the environment during construction and has recommended the implementation of construction corridors and machinery handling requirements in the recommended conditions. A designated Environmental Officer is also to be appointed by the Applicant to oversee condition compliance prior to the commencement and during works.

Impacts would be minimised where possible (ensuring consistency with conditions) and have regard to legislative and requirements for undertaking works within Thredbo Alpine Resort.



**Figure 8 |** Proposed stockpile site (Source: Applicant's documentation)

## 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 are the precursor for the redevelopment of Merritts Mountain House restaurant and ensure infrastructure is in place for this development to occur
- the works are predominantly located along previously disturbed access roads, with minimal vegetation removal required to facilitate the works
- suitable erosion and sedimentation control measures are to be installed prior to and during the works
- the recommended conditions would require construction impacts to be minimised having regard to the existing native vegetation adjoining the site and path of travel, all disturbed areas to be rehabilitated following construction and an environmental officer to monitor construction works

Overall, the Department is satisfied that the proposal is suitable for the site and in the public interest. With the provision of the proposed infrastructure, it is now anticipated that the redevelopment of the MMH restaurant is able to occur.

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



## 8 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning:

- **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 22/5788, subject to the recommended conditions
- **signs** the attached Development Consent (**Appendix C**)

**Recommended by:**

A handwritten signature in black ink that reads "Mark Brown." with a horizontal line underneath the name.

15 August 2022

**Mark Brown**

Senior Planner

Alpine Resorts Team

## 9 Determination

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

A handwritten signature in blue ink, consisting of the letters 'K' and 'T' followed by a horizontal line.

15 August 2022

**Keiran Thomas**

Director

Regional Assessments

as delegate of the Minister for Planning

# Appendices

## Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the NSW Planning Portal website as follows.

1. Statement of Environmental Effects
2. Submissions

<https://www.planningportal.nsw.gov.au/daexhibitions>

## 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 Thredbo Alpine Resort for tourism through ensuring access to the existing and future development of MMH restaurant. The construction impacts resulting from the works have been adequately considered by the Applicant.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	Mitigation measures during construction and rehabilitation of impacted areas deliver an ecologically sustainable development which are supported.
(c) to promote the orderly and economic use and development of land,	The development seeks approval for works that are aimed at supporting the redevelopment of the MMH restaurant that would improve access to on snow food facilities within Thredbo Alpine Resort.
(d) to promote the delivery and maintenance of affordable housing,	Not applicable to this proposal.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The impacts upon the environment have been limited where possible, with a SEMP lodged and conditions from NPWS further guiding development.



(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.
(g) to promote good design and amenity of the built environment,	The Department considers that the proposal responds to its existing setting and minimises impacts upon the existing 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 <b>Appendix C</b> ).
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposal ( <b>Section 5</b> ), which included consultation with government agencies and consideration of their responses.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the proposal ( <b>Section 5</b> ), which included displaying the application on the NSW Planning Portal website.

## 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 (Precincts - Regional) 2021 (Precincts - Regional SEPP)* is the only EPI applicable to the development. Consideration of Chapter 4 of the Precincts – Regional SEPP is provided below:

### Section 4.12(1) - Matters to be considered by consent authority

(a) the aim and objectives of this policy, as set out in section 4.1	The proposal is consistent with the aim and objectives of Chapter 4 of the Precincts – Regional SEPP in that it is consistent with the principles of ESD and supports the ongoing use of the ski resort (in particular the future redevelopment of the MMH restaurant).
(b) the conservation of the natural environment and any measures to mitigate	The proposal utilises disturbed areas where possible and has regard to consideration of environmental

environmental hazards (including geotechnical hazards, bush fires and flooding),	impacts. There are no known environmental hazards associated with the site.
(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 upgrades water and sewer services to the approved redevelopment of the MMH restaurant.
(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.
(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	<p>The site is within the G zone identified on the Department's Geotechnical Policy – Kosciuszko Alpine Reports Thredbo Map.</p> <p>The Application is supported by a Form 4 and Geotechnical Assessment prepared by AssetGeoEnviro.</p> <p>The Geotechnical Assessment provides commentary and recommendations for installation of the proposed infrastructure, which will need to be implemented during construction.</p> <p>The Department raises no concerns with the proposal.</p>
(g) any sedimentation and erosion control measures,	The construction of the works would involve earthworks and implementation of appropriate sedimentation and erosion control measures. Sedimentation and erosion control conditions are recommended, including the adoption of the Site Environmental Management Plan (SEMP) measures prior to the commencement of works.
(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 will not result in an unacceptable visual impact as the works would largely be below ground, except for the extension to the UV water treatment building.

	The building is not visible from the Main Range, with the building screened by the existing vegetation.
(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 this proposal as the works occur within Thredbo Alpine Resort.
(m) if the development is proposed to be carried out on land in a riparian corridor.	The proposal includes works within 40 metres of a riparian corridor. Comments received from the DPE Water are discussed in <b>Section 4</b> and <b>5</b> .

#### Section 4.12(2) – Long term management goals for riparian land

(a) to maximise the protection of terrestrial and aquatic habitats of native flora and native fauna and ensure the provision of linkages, where possible, between such habitats on that land,	<p>The proposed works occur within and over a tributary of Merritts Creek impacting on the riparian zone.</p> <p>The Applicant comments that the protection of terrestrial and aquatic habitats will be achieved by the location of the services within the road corridor (above the culvert) and implementing sediment and erosion controls as set out in the SEMP provided separately.</p> <p>The DPE Water have reviewed the proposal and issued GTA for the works which will require a controlled activity approval under the WM Act.</p> <p>Based on a review of the application, the Department is satisfied that the works and measures proposed by the Applicant would not have direct impacts on the riparian land.</p> <p>The conditions of consent ensure that the environmental impacts upon riparian land are minimised during construction and any impacts are appropriately rehabilitated.</p> <p>The measures proposed by the Applicant, the GTAs, and the recommended conditions are considered</p>
(b) to ensure that the integrity of areas of conservation value and terrestrial and aquatic habitats of native flora and native fauna is maintained,	
(c) to minimise soil erosion and enhance the stability of the banks of watercourses where the banks have been degraded, the watercourses have been channelised, pipes have been laid and the like has occurred.	

adequate to ensure the long term management goals for riparian land are achieved.

#### Section 4.15 – applications referred to the National Parks and Wildlife Service

The proposal was referred to the NPWS pursuant to section 4.15 of the Precincts – Regional SEPP. Refer to comments received at **Section 5**. The Department has recommended conditions to ensure matters of interest to the NPWS or for which they have carriage will be duly attended to in relation to the works, as outlined in **Section 6**.

#### Section 4.24 – Heritage conservation

European heritage

The proposal would not impact on any European heritage items.

Aboriginal heritage

The NPWS advised that the Applicant has followed a suitable process and due diligence in determining that the proposed works are unlikely to harm Aboriginal objects.

NPWS recommends that should any Aboriginal objects be uncovered during construction, any works impacting the objects must cease immediately and the NPWS contacted for assessment of the site.

A condition is recommended addressing NPWS comments.

## Appendix C – Recommended Instrument of Consent