



Department of Planning
and Environment

Issued under the Environmental Planning and Assessment Act 1979

Approved Section 4.56 Modification Application

No MOD 22/5350 (DA 10064 MOD 1)

Granted on the 14 July 2022

In respect to DA 10064

Signed Mark Brown

Sheet No 29 of 39

MOD
URBAN

Black Bear Inn – Lot 794, Diggings Terrace – Thredbo Alpine Resort – Kosciusko National Park – Minor Modifications

Statement of Environmental Effects – March 2022



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INTRODUCTION

1. Overview

This Statement of Environmental Effects has been prepared by Mod Urban Pty Ltd to support a S4.56 development application on behalf of Hidali Pty Ltd. The application relates to a property known as 'Black Bear Inn', located at Lot 794, Diggings Terrace, Thredbo within the Kosciuszko National Park. The legal description of the property is Lot 794 DP 1119757.

The proposal relates to the proposed modification of DA 10064 for '*Demolition of existing building and erection of a 7-storey building comprising four dual key apartments (or eight self contained apartments); four traditional two-bedroom apartments; car parking; all to be used as tourist accommodation at 30 Diggings Terrace, Thredbo Village*'.

The proposed S4.56 modifications are as follows:

Level 0

- Deletion of basement storage
- Raised RL of 830mm

Level 1

- Reposition of stair access from Level 1 and all related re-arrangements of entry space
- Rearrangement of shared bathrooms
- Reduction in restaurant footprint/floor area
- New mechanical plant and equipment hold
- Level 1 lowered RL of 300mm

North Elevation

- Thickened slab

The existing built structure (Black Bear Inn) was demolished under DA No. 10064.

The site is located within a National Park and is zoned *E1 – National Park* under the Snowy River Local Environmental Plan, 2013 (SRLEP, 2013).

This SEE provides an assessment of the proposal against the relevant matters for consideration under Section 4.55 of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000 (as amended).

SITE ANALYSIS

2. The Subject Site

The site is known as 'Black Bear Inn', located at Lot 794, Diggings Terrace, Thredbo within the Kosciuszko National Park. The legal description of the property is Lot 794 DP 1119757.

2.1 Site Details

- The subject site is located within the Thredbo Alpine Resort, approximately 30kms from Jindabyne.
- The subject site is located within the central core of Thredbo Village and is accessed by Diggings Terrace.
- The site is mostly regular in shape and is 687.5m² in area with a front (south-east) boundary of 19.385m plus 5.19m, side (south-western) boundary of 27.875m, side (north-eastern) boundary of 26.745m and a rear (north-western) boundary of 24.275m.
- The site is considerably steep with a fall from the rear to the front of approximately 12m.
- The site is located within a National Park and is zoned E1 – National Park under the Snowy River Local Environmental Plan, 2013.
- The site is not Heritage listed, it is not located within a Conservation Area. DA No. 10064 condition (D.29); noted the significance of the existing Black Bear Inn to the development of the skiing industry and the development of the ski resorts was recorded, and a subsequent heritage report has been previously prepared.

The site is identified in **Figure 1** of this SEE.



Figure 1: The site outlined in red (Source: Six Maps)



2.2 Site Surrounds

The site is located adjacent to Candlelight Lodge and Sashas Apartments (either side), above Mowamba Apartments and directly opposite and below High Noon Ski Club located to the south-east.

2.3 Planning Background

2003

In 2003, the redevelopment of the Black Bear Inn was first approved comprising of a seven (7) storey lodge with fifty (50) Beds under DA-375-08-2003. The 2003 has been surrendered.

2008

In July 2008, a Development Application (DA 33-07-2007) was lodged with the then Planning NSW (now Department of Planning, Industry and Environment) for the redevelopment of the site, including the demolition of the existing lodge and construction of a new building incorporating eight (18) self-contained apartments, plus caretaker's residence over six (6) levels. This Development Application was granted approval on 23 July 2008, and has now been surrendered.

The approved development (DA 33-07-2007) also included off street parking for six (6) vehicles at the street level accessible from Diggings Terrace, a drop off parking space and one (1) of the apartments being accessible for disabled persons.

2021

DA 10064 was approved by the NSW Land and Environment Court on 17 May 2021 for '*Demolition of existing building and erection of a 7-storey building comprising four dual key apartments (or eight self contained apartments); four traditional two-bedroom apartments; car parking; all to be used as tourist accommodation at 30 Diggings Terrace, Thredbo Village*'.

These works have substantially commenced.

2022

A development application was lodged in March 2022 for the provision of temporary ground anchors to support the construction of DA 10064 as part of the site retention scheme. This development application is under consideration at the time of lodgement of this S4.56 application. (Planning reference number PAN 204581)



PROPOSED DEVELOPMENT

3. Overview

The proposal relates to the proposed S4.56 modification of DA 10064 for '*Demolition of existing building and erection of a 7-storey building comprising four dual key apartments (or eight self contained apartments); four traditional two-bedroom apartments; car parking; all to be used as tourist accommodation at 30 Diggings Terrace, Thredbo Village*'.

The proposed S4.56 modifications are as follows:

Level 0

- Deletion of basement storage
- Raised RL of 830mm

Level 1

- Reposition of stair access from Level 1 and all related re-arrangements of entry space
- Rearrangement of shared bathrooms
- Reduction in restaurant footprint/floor area
- New mechanical plant and equipment hold
- Level; 1 Lowered RL of 300mm

North Elevation

- Thickened slab

As viewed externally, the building has the same mass, form, scale and materials as previously approved under DA 10064. Internally, the use of the building is the same as approved, however with a reduced internal floor area.

3.1 Cost of Works

The proposed cost of works is \$NIL. The cost of works deleted from the approved building cost of works is (-\$365,000).



LEGISLATIVE FRAMEWORK

4. Overview

This Part of the SEE assesses and responds to the legislative and policy requirements for the project in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act).

The following current and draft State, Regional and Local planning controls and policies have been considered in the preparation of this application:

State Planning Context

- Environmental Planning and Assessment Act 1979
- Biodiversity Conservation Act 2016
- Local Land Services Amendment Act 2016
- State Environmental Planning Policy (Precincts Regional) 2021

This planning framework is considered in detail in the following sections.

4.1 Environmental Planning and Assessment Act 1979

As the Development Consent 10064 was granted by the NSW Land and Environment Court, the provisions of Section 4.56 of the Environmental Planning and Assessment Act 1979 also apply.

- (1) *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if—*
- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has notified the application in accordance with—*
- (i) *the regulations, if the regulations so require, and*
- (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (c) *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

4.2 Biodiversity Conservation Act 2016 & Local Land Services Amendment Act 2016

The Biodiversity Conservation Act 2016 and Local Land Services Amendment Act 2016 together with the Biodiversity Conservation Regulations 2017 were enacted on the 25 August 2017 and came into effect on the 25 February 2018.

A review of the subject site in relation to the Biodiversity Values Map shows that the site is not mapped as comprising high biodiversity value.

All vegetation on site that has previously been cleared, was cleared under previous consents when enacted. The proposed modifications does not result in any additional clearing of vegetation.

4.3 State Environmental Planning Policy (Precincts Regional) 2021

The only applicable Environmental Planning Instrument for the proposed development is the State Environmental Planning Policy (Precincts Regional) 2021.

The relevant clauses contained within Chapter 4 *Kosciuszko National Park and alpine resorts* of the State Environmental Planning Policy (Precincts Regional) 2021 are addressed below:

Clause 4.9 - Land Use Table:

The land use table for Thredbo Alpine Resort specifies 'Tourist accommodation' is permitted with consent. The proposed modifications are to DA 10064, which approved the tourist accommodation and an ancillary restaurant. No change to approved land uses are proposed.

Clause 4.12 - Matters to be considered by consent authority

Legislation	Comment/Compliance
(1) In determining a development application which relates to land to which this Policy applies, the consent authority must take into consideration any of the following matters that are of relevance to the proposed development:	
(a) the aim and objectives of this Policy, as set out in clause 4.1,	The proposed development approved under DA 10064 offers an improved sustainable development outcome which does not result in adverse environmental, social, or economic impacts on the natural or cultural environment of the site and surrounds. The proposed internal modifications to the basement and level 1 will not impact this outcome.
(b) the extent to which the development will achieve an appropriate balance between the conservation of the natural environment and any measures to	The proposed modifications to development does not require any measures to mitigate environmental hazards.

Legislation	Comment/Compliance
mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),	
<p>c) having regard to the nature and scale of the development proposed, the impacts of the development (including the cumulative impacts of development) on the following:</p> <p>(i) the capacity of existing transport to cater for peak days and the suitability of access to the alpine resorts to accommodate the development,</p> <p>(ii) the capacity of the reticulated effluent management system of the land to which this Policy applies to cater for peak loads generated by the development,</p> <p>(iii) the capacity of existing waste disposal facilities or transfer facilities to cater for peak loads generated by the development,</p> <p>(iv) the capacity of any existing water supply to cater for peak loads generated by the development,</p>	<p>The provision of internal modifications to the basement and level to reduce storage and modify internal arrangements will not impact this outcome. The cumulative impacts of the development on various infrastructure was previously considered to be acceptable in relation to the tourist accommodation proposed for the site, and the new modifications will not place any additional burden on infrastructure.</p>
(d) any statement of environmental effects required to accompany the development application for the development,	This Statement of Environmental Effects satisfies this sub-clause.
(e) if the consent authority is of the opinion that the development would significantly alter the character of the alpine resort—an analysis of the existing character of the site and immediate surroundings to assist in understanding how the development will relate to the alpine resort,	<p>The proposed development has been designed to respond to the site (and its constraints), the streetscape and surrounding built environment. The development will not alter the character of the resort or the Village core area.</p> <p>The proposed modifications are largely internal, with the exception of very minor changes to the north, east and west elevation which will not have any significant impact on the buildings appearance or character of the surrounding area.</p>
(f) the Geotechnical Policy—Kosciuszko Alpine Resorts (2003, Department of Infrastructure, Planning and Natural Resources) and any measures proposed to address any geotechnical issues arising in relation to the development	<p>The subject site is located within the 'G' line. A Geotechnical Investigation Report accompanied the approval of DA 10064, and the proposed modifications will not have any further geotechnical impacts.</p>
(g) if earthworks or excavation works are proposed— any sedimentation and erosion control	The proposed development will require substantial earthworks and excavations for the creation of the building foundation and ground level works.

Legislation	Comment/Compliance
measures proposed to mitigate any adverse impacts associated with those works,	These earthworks and excavations were outlined and approved as identified in the Geotechnical Investigation Report and approved Site Environmental Management Plan under DA 10064. This section 4.56 application reduces the extent (volume) of required earthworks and excavations to that approved.
(h) if stormwater drainage works are proposed—any measures proposed to mitigate any adverse impacts associated with those works,	The proposed development will connect into the existing village stormwater system as per the concept Stormwater Management Plan approved under DA 10064.
(i) any visual impact of the proposed development, particularly when viewed from the Main Range,	The modifications proposed are not likely to result in a visual impact. Noting they are mostly internal with the exception of very minor changes to the north, east and west elevation which will not have any significant impact on the buildings appearance or character of the surrounding area.
(j) the extent to which the development may be connected with a significant increase in activities, outside of the ski season, in the alpine resort in which the development is proposed to be carried out,	The proposed development will result in the replacement of an existing lodge with apartments and a restaurant with no change in activities outside of the ski season.
(k) if the development involves the installation of ski lifting facilities and a development control plan does not apply to the alpine resort: (i) the capacity of existing infrastructure facilities, and (ii) any adverse impact of the development on access to, from or in the alpine resort,	Not applicable.
(l) if the development is proposed to be carried out in Perisher Range Alpine Resort: (i) the document entitled Perisher Range Resorts Master Plan, as current at the commencement of this Policy, that is deposited in the head office of the Department, and (ii) the document entitled Perisher Blue Ski Resort Ski Slope Master Plan, as current at the commencement of this Policy, that is deposited in the head office of the Department,	Not applicable.

Legislation	Comment/Compliance
(m) if the development is proposed to be carried out on land in a riparian corridor: (i) the long term management goals for riparian land, and (ii) whether measures should be adopted in the carrying out of the development to assist in meeting those goals.	Not applicable.
(2) The long term management goals for riparian land are as follows:	
(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.	Not applicable.
(b) to ensure that the integrity of areas of conservation value and terrestrial and aquatic habitats of native flora and native fauna is maintained.	Not applicable.
(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.	Not applicable.
A reference in this clause to land in a riparian corridor is a reference to land identified as being in such a corridor on a map referred to in clause 5.	

Clause 4.15 – Additional matters to be considered for buildings

Matter for Consideration	Comment/Compliance
(1) Building height: In determining a development application for the erection of a building on land, the consent authority must take into consideration the proposed height of the building (where relevant) and the extent to which that height:	
(a) has an impact on the privacy of occupiers and users of other land, and	No privacy impacts will result from the proposed modifications.
(b) limits solar access to places in the public domain where members of the public gather or	No solar access impacts will result from the proposed modifications.

Matter for Consideration	Comment/Compliance
to adjoining or nearby land, and	
(c) has an impact on views from other land, and	No view loss will result from the proposed modifications.
(d) if the building is proposed to be erected in Thredbo Alpine Resort—has a visual impact when viewed from the Alpine Way, and	No view impacts when the site as viewed from Alpine Way will result from the proposed modifications.
(e) if the building is proposed to be erected in Perisher Range Alpine Resort—needs to be limited so as to assist in maintaining the skyline when viewed from Kosciuszko Road and any other public roads, and	Not applicable.
(f) if the building is proposed to be erected in an alpine resort other than Thredbo Alpine Resort or Perisher Range Alpine Resort—is similar to existing buildings in the resort where it is proposed to be erected, and	Not applicable.
(g) if the building is proposed to be erected in Bullocks Flat Terminal—relates to the topography of its site.	Not applicable.
(2) Building setback: In determining a development application for the erection of a building on the land, consent authority must take into consideration the proposed setback of the building (where relevant) and the extent to which that setback:	
(a) assists in providing adequate open space to complement any commercial use in the alpine resort concerned, and	No changes are proposed to the approved building setbacks under DA 10064.
(b) assists in achieving high quality landscaping between the building and other buildings, and	No changes are proposed to the approved landscaping under DA 10064.
(c) has an impact on amenity, particularly on view corridors at places in the public domain where members of the public gather, and	No amenity impacts in relation to views, visual impacts or impact to the public domain will result from the modifications proposed.
(d) is adequate for the purposes of fire safety,	No changes are proposed to the approved fire safety measure. The modifications will not pose a fire risk.

Matter for Consideration	Comment/Compliance
(e) will enable site access for pedestrians, services (including stormwater drainage and sewerage services) and the carrying out of building maintenance,	No impacts are proposed to the surrounding pedestrian network as a result from the proposal. The proposed internal reposition of stair access from Level 1 and all related re-arrangements of entry space will hinder pedestrian access and result in an improved outcome.
(f) will facilitate the management of accumulated snow.	No impacts in relation to accumulated snow are anticipated.
(3) Landscaped area In determining a development application for the erection of a building on land, the consent authority must take into consideration (where relevant) the extent to which landscaping should be used—	
(a) as a means of assisting in the protection of the unique alpine environment of the alpine resort concerned, and to maximise its natural visual amenity, for the benefit of visitors and natural ecosystems,	DA 10064 includes an approved Landscape Plan. The proposed modifications will not impact the future landscaping of the site.
(b) to assist in the provision of adequate open space to complement any commercial use in the alpine resort concerned,	DA 10064 includes an approved Landscape Plan. The proposed modifications will not impact the future landscaping of the site.
(c) to limit the apparent mass and bulk of the building,	DA 10064 includes an approved Landscape Plan. The proposed modifications will not impact the future landscaping of the site.
(d) as an amenity protection buffer between the proposed building and other buildings.	DA 10064 includes an approved Landscape Plan. The proposed modifications will not impact the future landscaping of the site.
(e) as a means of reducing run-off,	DA 10064 includes an approved Landscape Plan. The proposed modifications will not impact the future landscaping of the site.
(f) to protect significant existing site features and limit the area of any site disturbed during and after the carrying out of development.	DA 10064 includes an approved Landscape Plan. The proposed modifications will not impact the future landscaping of the site.

4.4 Draft Environmental Planning Instruments

No draft Environmental Planning Instruments apply to the subject site.



4.5 Development Control Plans

There are no Development Control Plans applicable to the Kosciuszko National Park and alpine resorts under State Environmental Planning Policy (Precincts Regional) 2021.

4.6 Planning Agreements

There are no Planning Agreements applicable to the Kosciuszko Alpine Resorts under State Environmental Planning Policy (Precincts Regional) 2021.

4.7 Regulations

The development application has been made in accordance with the requirements contained in Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.



LIKELY IMPACTS OF DEVELOPMENT

5. Overview

The likely environmental impacts of the proposed development that have been assessed include:

- Landuse
- Context, Design and Setting;
- Geotechnical Impacts
- Natural Environment
- Arboricultural Impacts
- Amenity;
- Social, Environmental and Economic Impacts; and

5.1 Land Use

- The proposal to modify DA 10064 does not alter the approved land uses.
- The proposal does result in a minor reduction to the approved restaurant floor area, by locating new plant within the restaurant space.

5.2 Context, Design and Setting

- The proposed modifications are appropriate within the locality, and is considered suitable for the site and local context.
- The modifications proposed are not likely to result in a visual impact. Noting they are mostly internal with the exception of very minor changes to the north elevation which will not have any significant impact on the buildings appearance or character of the surrounding area.
- The proposed works do not impact on the character or integrity of the surrounding area.
- The proposal will not impact upon the character and appearance of the streetscape or the neighbouring properties. No additional building bulk or scale will result from the proposal.
- The modification to the lower north, east and west elevation allows for provision of additional natural materials to be used to the exterior of the building.
- No changes to building envelope and height ass approved is proposed.

5.3 Geotechnical Impacts

- A Geotechnical Investigation Report accompanied the approval of DA 10064.
- This section 4.56 application reduces the extent (volume) of required earthworks and excavations to that approved. The proposal also results in less mass excavation, which will have less impact to the community during construction works (including traffic, vibration, dust and noise all being reduced)



5.4 Natural Environment

- With the exception of the minor façade changes to the lower north, east and west elevation, all modifications proposed are internal. Therefore, no additional impacts to the natural environment of the surrounds will occur as a result of the proposal.
- Environmental impacts were considered in detail as part of the approval of DA 10064.

5.5 Arboricultural and Horticultural and Landscape Impacts

- No tree removal in addition to what was previously approved is proposed.
- The proposed modifications will not have any adverse impacts to any existing flora and fauna on and around this site.
- No changes to the approved landscape design under DA 10064 are proposed.

5.6 Amenity

In summary, the proposal will not exhibit any significant environmental impacts and will not adversely impact on the amenity of any adjoining sites. The proposal will preserve neighbouring amenity including with respect to privacy and visual impact and noise. No loss of views will occur as a result of the proposal.

The proposed reduction in restaurant floor area will reduce potential patronage of the restaurant, and therefore contribute to minimizing noise and disturbance from patrons coming and going from the site, or collectively using the restaurant.

All amenity considerations under DA 10064 will remain unaffected by the proposal.

5.7 Social, Environmental and Economic


The proposal will enable the use an under utilised part of the site for tourist accommodation, and adding to the diversity accommodation within the area. The proposed development is expected to have minimal social impacts with respect to the amenity enjoyed by the public and adjoining occupiers.

The proposal will not have any adverse economic or environmental impacts. The proposed development of the site will inject a large capital investment to the Thredbo Alpine Resort. The quality development will offer significant economic benefits, both short term and long term with employment opportunities in construction and hospitality.

The minor reduction in restaurant floor area will not have any adverse economic impacts, and the same provision of employment on site is anticipated as a result of the proposed modifications.

5.8 The Suitability of the Site for Development

DA 10064 was approved by the NSW Land and Environment Court on 17 May 2021 for '*Demolition of existing building and erection of a 7-storey building comprising four dual key apartments (or eight self contained apartments); four traditional two-bedroom apartments; car parking; all to be used as tourist accommodation at 30 Diggings Terrace, Thredbo Village*'. The proposed modifications are consistent with the previous approval for the site which assessed and accepted the sites suitability for tourist accommodation on site.



The proposal is therefore of a nature in keeping with the overall function of the site, and DA 10064.

The proposed development is also compatible with surrounding land uses and will achieve a good level of amenity for adjoining land owners and operators.

Accordingly, the site is considered to be suitable for the development.

5.9 Any Submissions Made in Accordance with the Act

No submissions are apparent at the time of writing.

The Head Leasess Endorsement (KT) is provided at Appendix C.

5.10 The Public Interest

The proposed development will have no adverse impact on the public interest.



CONCLUSION

The proposed development has been considered in regard Section 4.15 of the EP&A Act, 1979 and State Environmental Planning Policy (Precincts Regional) 2021.

The proposal has been found to be consistent with the above legislation and Environmental Planning Instrument, as detailed in the above report. No adverse environmental, economic or social impacts have been identified as resulting from the proposed development.

No additional significant adverse impacts have been identified as likely to arise from the proposed development. In fact this S4.56 modification lessens the impact of the approved development.

It is therefore considered that the proposal responds to site constraints and provides a suitable outcome. Accordingly, it is requested that the Department of Planning, Industry & Environment grant consent to the proposal.