



Sequoia Apartment 5, Thredbo Village

Development Application Assessment
DA 22/11154

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

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Glossary

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

Executive Summary

This report outlines the assessment of Development Application (DA 22/11154) lodged by Mr Glenn Cunnington (the Applicant) seeking approval to undertake internal works relating to Apartment No. 5 on Level 3 of the Sequoia Apartment building together with minor works within the common areas of the building located at 15 Diggings Terrace, Thredbo Village, 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).

Consistent with the Department's Community Participation Plan, the application was exhibited between 31 August 2022 and 13 September 2022 as the works may be of public interest as they include alterations to an existing tourist accommodation building. The Department made the application publicly available on the NSW Planning Portal website.

The Department also referred the application to the National Parks and Wildlife Service (NPWS) pursuant to section 4.27 of the Precincts - Regional SEPP.

The Department received comments from the NPWS, and one (1) submission from the public was received during the exhibition period.

The Department has assessed the proposal in accordance with relevant matters under section 4.15(1) and the objects of the EP&A Act, the principles of Ecologically Sustainable Development (ESD) and items raised in all submissions.

The Department considers the proposal is acceptable as:

- there will not be a significant impact on any threatened species, populations or ecological community,
- the works improve the amenity of the accommodation for the benefit of tourists and the apartment owners, and
- the works are unlikely to result in adverse environmental, social or economic impacts on the locality as impacts are to be minimised given the nature of the proposal and required conditions of consent.

Assessment of the application concludes the works are consistent with the aim and objectives of Chapter 4 of the Precincts - Regional SEPP and align with the South and East Tableland Regional Plan. Support for the application is considered to be consistent with the public interest. The Department 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 22/11154 lodged by Mr Glenn Cunningham (the Applicant) seeking approval for works to Apartment 5 within the Sequoia Apartment building (known as Sequoia 5), located at 15 Diggings Terrace, Thredbo Village, Thredbo Alpine Resort within Kosciuszko National Park (KNP) (Lot 742 DP 1119757) (**Figure 1**).

The Applicant is seeking approval to install a range of items in Apartment 5 including a new kitchen exhaust, a balustrade to the entry stair, water stops to wet areas, alterations to a storage area and various compliance upgrades, as well as utilise the former media room as a bedroom for two (2) additional beds.

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

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

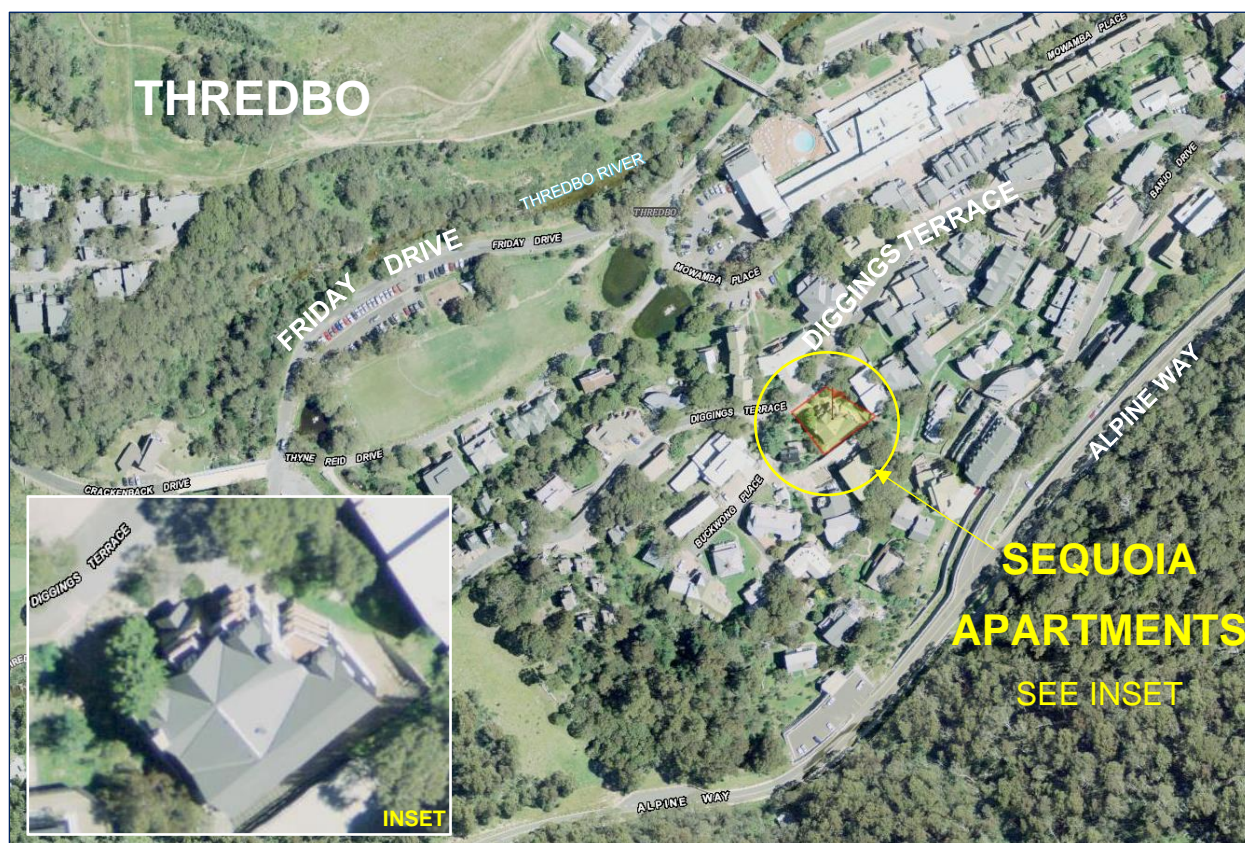


Figure 1 | Location of the Sequoia Apartments within Thredbo Village (Source: SIX Maps 2022)

1.2 Site location and context

Thredbo Alpine Village is located within KNP and provides tourist accommodation and facilities year-round for outdoor pursuits such as snow-based activities in winter and activities including hiking, fishing and mountain bike riding during the summer months.

Sequoia is a free-standing, four-storey tourist accommodation building situated on an irregular shaped allotment of approximately 749 square metres which is located on the southern side of Diggings Terrace within Thredbo Village (**Figure 2**).

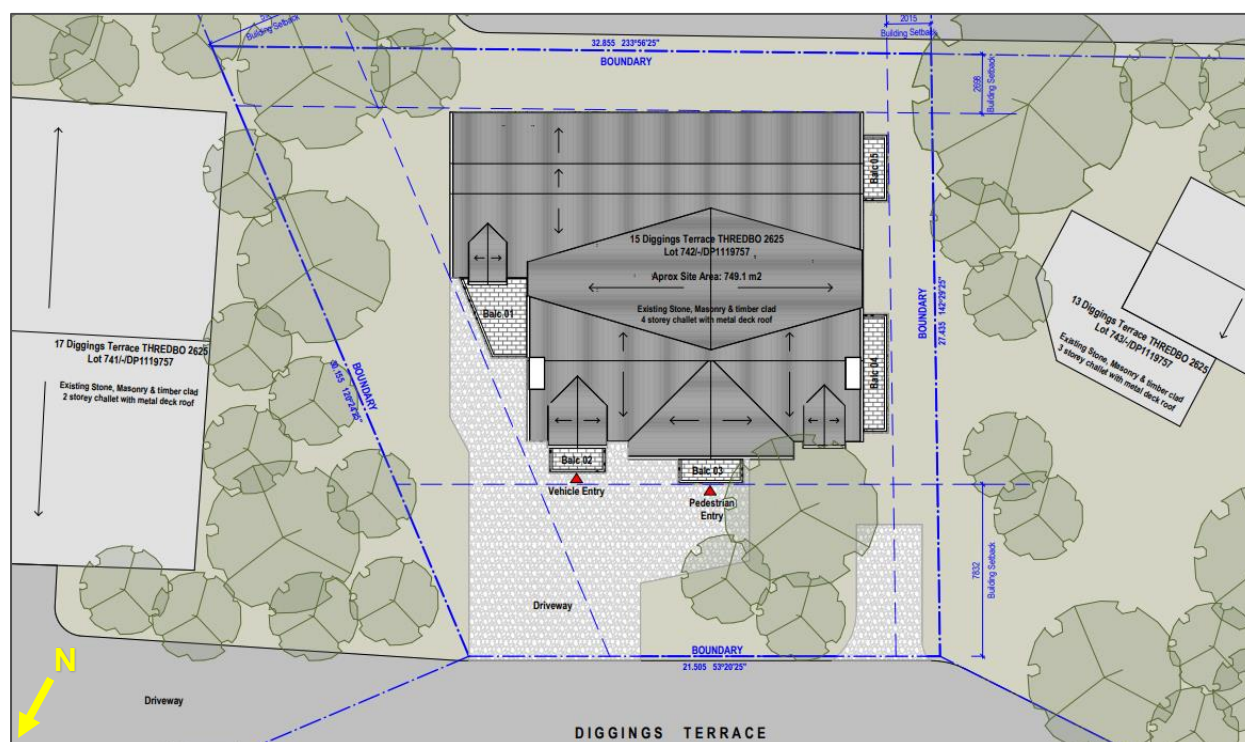


Figure 2 | Sequoia roof and balcony configuration Level 3 (Source: Applicant's documentation, with yellow annotation added).

The property contains five (5) self-contained tourist accommodation units with carparking, storage and an entry foyer located on the ground level, two apartments on Level 1 (Apartments 1 and 2), two apartments on Level 2 (Apartments 3 and 4), and a whole-floor attic-style apartment on Level 3 (Apartment 5). Vehicular access to the building is via a driveway from Diggings Terrace to the undercover carpark area.

The ground floor and entry of the building is predominantly of stone clad construction, with upper-level walls of masonry or timber clad construction and a pitched corrugated metal roof. There are several balconies on each of the three upper accommodation levels (**Figure 3**).

This application relates to works proposed to be undertaken within Apartment 5 on Level 3 of the building as well as to works outside the strata of Apartment 5 within the common areas of the building.



Figure 3| Sequoia Apartments - existing northern elevation (Source: Applicant's documentation)

2 Project

The application seeks approval for works to Apartment 5 and the common areas within Sequoia.

Within Apartment 5 the following works are proposed:

- A new kitchen exhaust designed to discharge immediately through the existing roof above. The roof cowl will be finished to match the existing roof decking and incorporate dampers for bushfire protection and to avoid drafts when the rangehood is not in use.
- New balustrade to the entry stair. The new balustrade will replace a former balustrade that has been removed. The Applicant has advised that the former balustrade was non-compliant in several respects including, being too low, of non-structural construction and it was scalable. The proposed balustrade will rectify these compliance issues and is comprised of a toughened glass balustrade, securely fixed directly to the existing reinforced concrete floor slab.
- Bedroom 4 is in the location of an area of the apartment that was previously approved as a media room. This application seeks to formally define this room as a bedroom with two (2) extra beds, increasing the total number of beds for the apartment from six (6) to eight (8).
- Water-stops are to be added to the doorway entries to the main bathroom and two (2) ensuite bathrooms.
- Retrospective approval is to be provided for the use of a new storage area (already constructed) for which an alternate solution is to be provided in accordance with the BCA to ensure room height in the proposed store room will satisfy the relevant performance provisions.
- Provision of devices limiting the extent of window openings throughout Apartment 5 where existing windows are operable.
- Verification that the existing apartment entry door is a compliant fire door, or otherwise replace the door with a compliant fire door and paint to match existing.
- Minor works on common property outside the Strata of Apartment 5 are to be undertaken to ensure compliance with the BCA, include the following:
 - Replace existing non-compliant door handles to a compliant lever type handle in the common areas.
 - Install fire safety signage at the main entry/egress door to the building, to be maintained by the Owner's Corporation and certified annually as part of the inspection and certification schedule.
 - Lower the Manual Call Point (MCP) adjacent to the main entry/egress door.
 - Replace non-compliant smoke detector heads.
 - Verify the acoustic properties of the tile floor system installed in Apartment 5.

Refer to **Figure 4** and **Figure 5** for an overview of the location of proposed works. The cost of works for the proposal is stated as \$67,650.

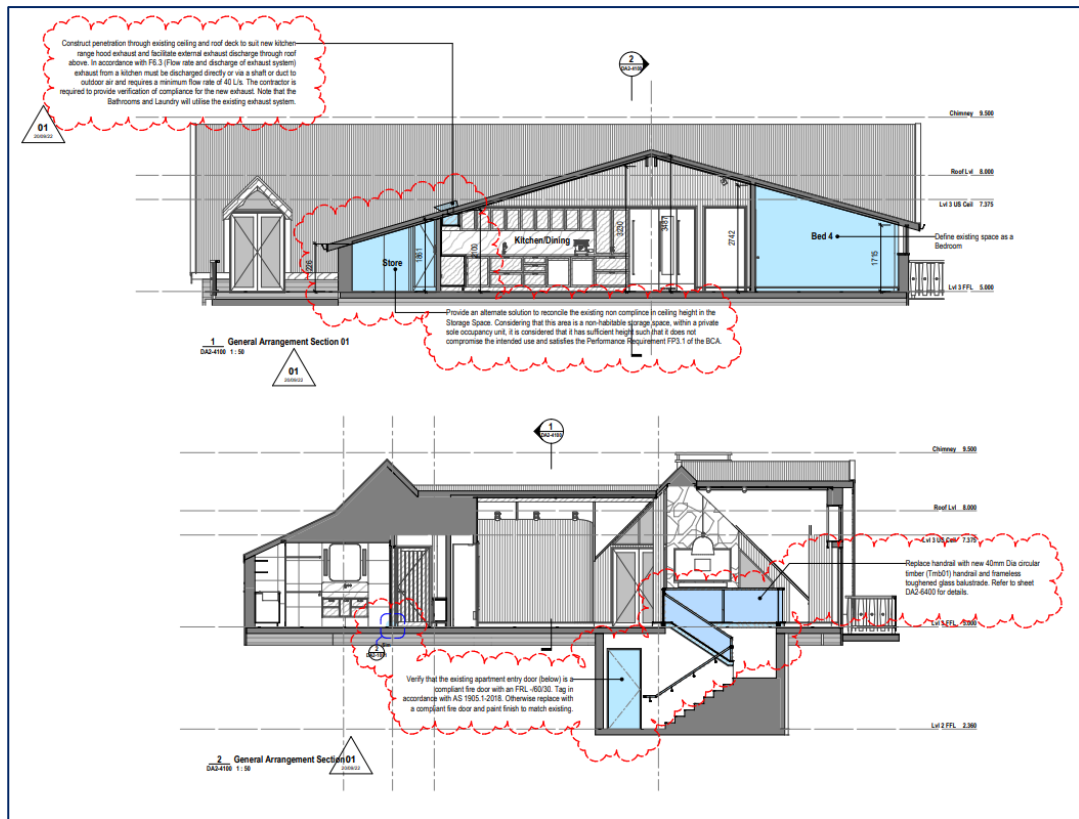


Figure 4 | Cross Section Apartment 5 (Source: Applicant's documentation)

The Statement of Environmental Effects (SEE) that accompanies the application states that the proposal is intended to comply with the requirements of the Department in relation to works already commenced. The Department became aware of unauthorised works occurring at the site in April 2022. This development application is being assessed in conjunction with a Building Information Certificate (BIC No. BIC 03-06-2022, lodged on 21/06/2022) with respect of internal building works that were undertaken without a development consent.

The Applicant had considered that the works were exempt development. However, it has since been established that some of the works did not meet the deemed to satisfy provisions of the BCA and therefore did not comply with the exempt development provisions.

The proposal seeks to be a positive upgrade to the apartment to enhance the quality of accommodation for occupants of the space. No ground works are proposed as part of the project. The Applicant did not obtain approval or endorsement from the Sublessee's Association for the proposed works. However, the owners of the Sequoia Apartments building have since provided their permission to lodge the application through the Owners Association. The Department notified the application to all Sublessees and an advisory note has been included in the conditions of consent to ensure that the Applicant obtains any necessary approvals under the requirements of the sublease.

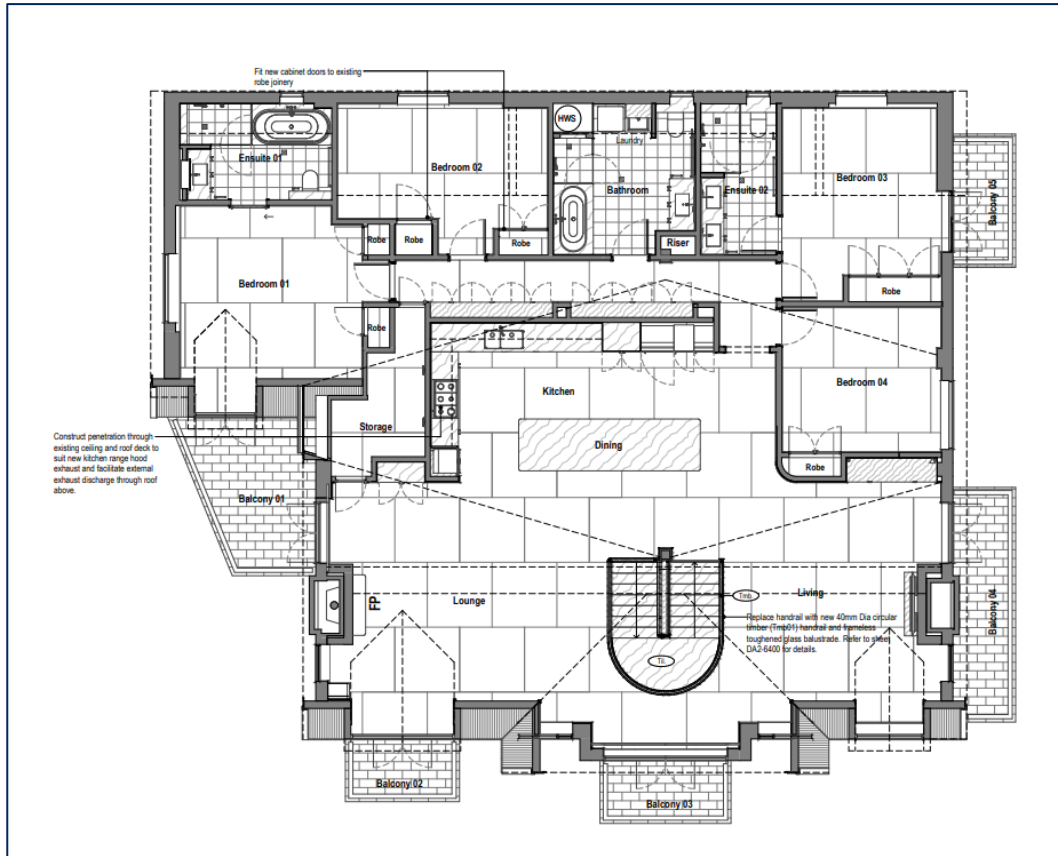


Figure 5 | Floor Plan Apartment 5 (Source: Applicant's documentation)

3 Strategic context

The Snowy Mountains region offers a diverse and unique mix of visitor destinations including the KNP, the alpine resorts, the iconic Snowy River and the highest mountains on the Australian continent. A strong tourism economy is driven mainly by skiing and related winter sport experiences during the peak winter season. The Region, including the alpine resorts, also provides opportunities for a range of other recreational activities during the warmer months such as hiking, fishing, kayaking and mountain-biking. The resorts are important to NSW due to their economic and social contribution as well as their location within a unique alpine environment. The three main documents that support the strategic context of the alpine resorts are the *South East and Tableland Regional Plan 2036*, the *Snowy Mountains Special Activation Precinct Master Plan* 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 to be consistent with the Regional Plan as it improves the amenity of the subject apartment for occupants, which enhances its utilisation, viability and maintenance as tourist accommodation, supporting ongoing use of the accommodation and associated visitation of the NSW ski resorts.

Snowy Mountains Special Activation Precinct Master Plan

The Snowy Mountains Special Activation Precinct Master Plan outlines the 40-year vision for the Snowy Mountains as a year-round tourist destination with new business opportunities, services and community infrastructure for the people that live, work and visit the region. Section 9.1.1 of the Master Plan relates to Thredbo, including the strategic vision for Thredbo Village West.

The Department considers the proposal to be consistent with the Master Plan as it relates to maintaining visitor accommodation and amenity while maintaining the environmental, cultural and landscape attributes of Thredbo Village West.

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 and enhance the natural environment, to protect cultural heritage within the resorts and to ensure that development in the resorts is managed in a way that is compatible with the principles of ecologically sustainable development. Under the provisions of section 4.27 of the Precincts – Regional SEPP, the NPWS has 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 Park.

The Department considers the proposal is consistent with Chapter 4 of the Precincts - Regional SEPP as the proposal would not have an adverse impact on the environment or detract from the character of the building, and it will improve the accommodation for the benefit of users. It appropriately minimises the potential impacts on the environment by conditions of consent that will manage any further construction associated with the project. The proposal comprises the enhancement of existing tourist accommodation in the Thredbo Alpine Resort, which contributes to the ongoing range of accommodation options available for visitors to KNP without resulting in adverse environmental, social or economic impacts on the natural or cultural environment.

4 Statutory Context

4.1 Consent Authority

Under section 4.4 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 section 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 Team Leader, Alpine Resorts Team may determine the application as:

- no reportable political donation has been disclosed
- there are less than fifteen (15) public submissions that raise objections to the proposal, and
- the application is in relation to land to which the Precincts - Regional SEPP applies.

4.2 Permissibility

The proposal includes internal alterations to a building while maintaining the use of the site consistent with the definition of 'tourist accommodation' as defined in Chapter 4 of the Precincts - Regional SEPP. Pursuant to section 4.7 of the Precincts - Regional SEPP, 'tourist accommodation' is permissible with consent within the Thredbo Alpine Resort.

4.3 Other approvals

Rural Fires Act 1997

The works include installation of a kitchen exhaust that will include a small roof penetration. This is an external alteration to a tourist accommodation building located on bushfire prone land, for which approval is required from the NSW Rural Fire Service (RFS) under Section 100B of the *Rural Fires Act 1997* in the form of a Bushfire Safety Authority (BFSA) unless an exemption applies.

The Applicant has requested an exemption from requiring a BFSA in accordance with section 46(o) of the *Rural Fires Regulation 2022*, being development of a minor nature that relates to an existing building that is for a special fire protection purpose. The roof penetration is small in size and it will incorporate dampers for bushfire protection and to avoid drafts when the rangehood is not in use. The Department will also require compliance with the construction requirements in Section 7.5 of '*Planning for Bush Fire Protection 2019*'. All other proposed works are internal to the building.

The Department concurs that the works are consistent with the exemption provisions extended under the subject Regulation, and therefore the works are excluded from requiring a BFSA in accordance with section 100(B)(a1) of the *Rural Fires Act 1997*. Accordingly, the development does not comprise integrated development and referral of the application to the RFS is not necessary.

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:

- there would not be an unacceptable impact on the environment,
- works are aimed at improving the existing apartment, thereby supporting the orderly and economic use of the site without impacting on neighbouring properties,
- the works are capable of achieving compliance with relevant construction standards, and
- the Department provided opportunities for community participation in the assessment process, which included exhibiting the application, notifying adjoining landowners, and displaying the proposal on the NSW Planning Portal website during the exhibition period.

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 in the application, 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 Department's assessment has noted that the proposal predominantly comprises internal works only other than a small roof penetration for a kitchen exhaust vent. There are no external ground works or vegetation to be removed as part of the proposal, and conditions of consent with require that the use of vehicles or storage of materials associated with the works will need to be contained to existing paved site areas. 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 proposal does not impact upon cultural heritage, including any known 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 (BOS) 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 development site is not within an area mapped on the BVM, and the proposal does not require the removal of any native vegetation. The Applicant concludes that the proposal would not have a significant effect on threatened species, populations, ecological communities, or their habitats.

Comments received from the NPWS during the assessment of the application raise no concern in relation to the development, as proposed, and therefore concur that the proposal is not likely to affect threatened species and does not trigger the BOS. The works are not considered likely to impact on the natural systems or diminish the biodiversity values of the locality. Accordingly, the proposal is unlikely to have an adverse effect on threatened species or ecological communities, or their habitats.

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(1). **Table 1** below presents a summary of the matters for 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 principal EPI that applies to the site for this type of development. An assessment against the requirements of the SEPP is provided in Appendix B.</p> <p>The Department is satisfied that the Application is consistent with the requirements of Chapter 4 of the Precincts - Regional SEPP.</p> |
| (a)(ii) any proposed instrument | Not applicable to proposal. |
| (a)(iii) any development control plan | Not applicable to proposal. |
| (a)(iiia) any planning agreement | Not applicable to proposal. |
| (a)(iv) the regulations | The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the |

procedures relating to development applications (Part 3 and Part 4) and fees (Part 13 and Schedule 4).

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.

| | |
|--|---|
| (a)(v) any coastal zone management plan | Not applicable to proposal. |
| (b) the likely impacts of that development | The Department has considered the likely impacts of the development. Adverse environmental impacts can be appropriately managed and mitigated through conditions of consent. The proposal is considered to have positive economic and social impacts by enhancing resort accommodation which will help support ongoing visitation of the Thredbo Alpine Resort. |
| (c) the suitability of the site for the development, | The site is both suitable and desirable for continued use of Sequoia Apartment 5 for tourist accommodation as discussed in Section 6 of this report. |
| (d) any submissions made in accordance with this Act or the regulations, | Consideration has been given to agency submissions received from NPWS during the exhibition period. Refer to Section 5 of this report. |
| (e) the public interest. | <p>The works are consistent with the aim and objectives of section 4.1 of the Precincts - Regional SEPP. The development is compatible with adjoining land uses in the locality while maintaining the health and diversity of the natural environment, consistent with the principles of ESD.</p> <p>As such, the proposal is believed to be consistent with 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 works that include external alterations to an existing tourist accommodation building within fifty (50) metres of other tourist accommodation buildings be exhibited for a period of fourteen (14) days. The Department exhibited the application from 31 August 2022 and 13 September 2022 on the NSW Planning Portal website and notified other Sequoia lodge owners of the proposal. Pursuant to section 4.27 of the Precincts - Regional SEPP the application was also referred to the NPWS for land within an alpine resort within KNP.

5.2 Summary of submissions

One (1) public submission was received in relation to the proposal and the Department received comments from the NPWS.

Public Submission

The public submission referred to concerns about the new floor finishes throughout Apartment 5. The Submitter indicated that they have concerns in relation to the new tiling finish applied throughout the property and the acoustic treatment of this floor and noise and vibration transference. They requested the Department ensure the floor flooring system is compliant with the relevant codes and standards and that, if necessary, an acoustic consultant examine the construction of the flooring and carry out an acoustic report.

The Department has required that acoustic testing be carried out to determine the acoustic properties of the Sequoia 5 floor system in accordance with the relevant sections of the BCA, and that compliance of the acoustic properties of the tile floor system be verified. If the verification cannot be provided, then the Department will require the tiles to be removed to enable a compliant acoustic treatment to be provided, or retention of the tiles and a fixed treatment applied to remedy the non-compliance if written agreement from the Sequoia Owners Association is obtained.

NPWS

The NPWS did not object to the proposal and advised the proposal is permissible under the relevant lease. However, Lessor's Consent is required for bedroom works necessary to accommodate a sublease amendment from six (6) to eight (8) beds. The NPWS Visitor Engagement & Revenue Branch (VERB) has accepted the DA as a request for Lessor's Consent and will contact KT separately about the matter.

Due to the nature of the proposal for which no vegetation clearance would be required for the development, the NPWS had no concerns in relation to environmental or biodiversity impacts. In order to assist in minimising any impacts of the proposed development on the environmental values of Kosciuszko National Park, NPWS requested only that all contractor vehicles be parked in designated driveways and carparks, and building materials and waste be stored and managed onsite so as not to adversely impact on the natural environment. The Department has considered the comments received from the NPWS in **Section 6** or through recommended conditions in the instrument of consent at **Appendix C**.

6 Assessment

The Department has considered the relevant matters for consideration under section 4.15 of the EP&A Act, the SEE and supporting information in its assessment of the proposal. The key issue in the Department's assessment is to ensure the construction impacts of the development are managed to protect the environment and public amenity during works, and to ensure compliance with design details and standards and that all necessary approvals have or will be obtained. These issues are discussed in the following sections of this report.

6.1 Temporary construction impacts

Environmental impacts

The Department has carefully considered the potential environmental impacts associated with the proposal given the location of the site in the Thredbo Village and within KNP. Conditions will be placed on the works to ensure the location and management of stockpiled material, vehicle and machinery parking, hygiene and management of waste is appropriate to protect the environment. Mitigation and management measures will form conditions of consent.

Public amenity

Noise will be generated during the construction phase of the project which may cause disturbance to visitors in accommodation within the Sequoia apartment building and to those adjoining the works. The Department will require the implementation of construction hours to limit all work in connection with the proposal to being undertaken between 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 gazetted NSW public holidays.

Appropriate management and mitigation measures will be implemented in accordance with conditions of consent. The Department is therefore satisfied that the measures will be adequate to ensure the alpine environment will not be significantly impacted or diminished by the development and works can be undertaken and managed to avoid significant loss of amenity to KNP users.

6.2 Design details and standards

Works the subject of this consent are to comply with the Building Code of Australia (BCA) and relevant Australian Standards. Section 64 of the EP&A Regulation also requires a consent authority to review a building and consider whether upgrades are warranted to bring the existing building into total or partial compliance with the BCA. The Applicant has provided a BCA compliance report that includes a number of minor upgrades to Sequoia 5 and parts of the common area into compliance, as detailed previously in this report. The Department supports these recommendations and considers that no other Section 64 upgrades are necessary.

The minor new work (or work as part of the DA) must comply with the BCA. The Department considers that compliance with the BCA is achievable, with documentation confirming compliance required to be provided at the Construction Certificate stage. Recommended conditions for the works to comply with the BCA are included to address this component.

It is noted that some works the subject of the application have already been commenced, and the Department is working with the Owner to ensure all works undertaken are compliant with relevant standards. In response to the concern relayed about the acoustic properties of the tile floor system already laid in Apartment 5, the Department has included conditions of consent to require removal of the flooring if the acoustic system cannot be verified prior to reinstallation with a compliant acoustic treatment.

6.3 Additional Approvals

Approval or endorsement from the Sublessee's Association for the proposed works has been provided to the Department. However, an advisory note has been included in the conditions of consent to ensure that the Applicant obtains any necessary approvals under the requirements of the sublease.

The increase in bed numbers in Sequoia 5 from six (6) beds to eight (8) beds is understood to be supported by Kosciuszko Thredbo Pty Ltd, and NPWS lessors consent is also required prior to this bed increase occurring.

The Department concludes that subject to compliance with the conditions of consent, including references to the BCA which are to be addressed by the Certifier at the Construction Certificate stage, the proposal is satisfactory and would ensure compliance with relevant standards for the amenity and safety of the building occupants.

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 Department considers the proposal is acceptable as:

- there will not be a significant impact on any threatened species, populations or ecological community,
- the works improve the amenity of the accommodation for the benefit of tourists and the apartment owners, and
- the works are unlikely to result in adverse environmental, social or economic impacts on the locality as impacts are to be minimised given the nature of the proposal and required conditions of consent.

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

8 Recommendation

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

- **considers** the findings and recommendations of this report
- **accepts** and adopts all 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 22/11154, subject to the recommended conditions
- **signs** the attached Development Consent (**Appendix C**).

Recommended by:



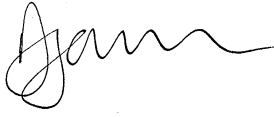
Sandria Butler

Planning Officer

Alpine Resorts Team

9 Determination

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

A handwritten signature in black ink, appearing to read 'Daniel James', with a stylized, flowing script.

Daniel James

Team Leader

Alpine Resorts Team

as delegate of the Minister for Planning

27 April 2023

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 follow.

1. Statement of Environmental Effects
2. Submissions

[State DA | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](https://www.nsw.gov.au/planning-portal)

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 Sequoia Apartment 5 as tourist accommodation through improving occupant amenity and ongoing viability of the apartment for its intended use, subject to conditions to prevent negative impacts on the amenity of adjoining users or the environment. |
| b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, | The proposal would not have an unacceptable impact on the environment and is consistent with ecologically sustainable development principles. Mitigation measures during construction have been considered and conditions applied. |
| c) to promote the orderly and economic use and development of land, | The development seeks approval for works that are aimed at supporting the ongoing use of the site for 'tourist accommodation'. |
| 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 works confined to the existing building envelope. Conditions of consent ensure the impact of the develop with be minor and contained, with no anticipated impact on threatened species. |
| f) to promote the sustainable management of built and cultural | The proposed development is not likely to result in adverse impacts upon built and cultural heritage, including Aboriginal cultural heritage. |

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, built form and minimises impacts upon natural environment.

h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

The Department has recommended conditions of consent to ensure the construction of the proposal is undertaken in accordance with legislation, guidelines, policies and procedures (refer to **Appendix C**).

i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,

The Department publicly exhibited the proposal (**Section 5**), 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 (**Section 5**), which included notifying the neighbouring Sequoia property owners, and 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:

Chapter 4 - Precincts - Regional SEPP - Kosciusko Alpine Region

Section 4.9 Demolition

The demolition of a building or work on land in the Alpine Region

The proposal does not relate to the demolition of a building or the demolition of work/s on land.

Section 4.21 Heritage conservation

European heritage

The proposal would not impact on any European heritage items.

Aboriginal heritage

Ground disturbance is not proposed as part of the development, and no adverse impact on any Aboriginal place or item is considered likely.

Section 4.24 Flood planning

Development on land in the flood planning area

The site is not located in a flood planning area and is not subject to flooding.

Section 4.25 Earthworks

Impact of earthworks

Earthworks are not proposed as part of the development.

Section 4.27 Consultation with National Parks and Wildlife Service

Consult with, and consider submissions from, the NPWS

The proposal was referred to the NPWS and comments were received. Refer to consideration of the NPWS referral comments in Section 5 of this report.

Section 4.28(1) – Consideration of master plans and other documents

(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 the development will be managed with regard to the principles of ESD and supports the ongoing use of the site for ‘tourist accommodation’.

(b) a draft development control plan that is intended to apply to the land and has been published on the NSW planning portal

Not applicable to the development.

(c) a conservation agreement under the *Environment Protection and Biodiversity Act 1999* of the Commonwealth that applies to the land,

Not applicable to the development.

(d) the *Geotechnical Policy - Kosciuszko Alpine Resorts* published by the Department in November 2003,

The site is within the ‘G’ zone identified on the Department’s Geotechnical Policy Map. Geotechnical risk assessment was not required due to the minor, predominantly internal and non-structural nature of works. No further assessment on geotechnical matters is considered necessary for the proposal.

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| <p>(e) for development in the Perisher Range Alpine Resort—</p> <p>(i) the Perisher Range Resorts Master Plan 2001, and</p> <p>(ii) the Perisher Blue Ski Resort Ski Slope Master Plan 2002.</p> | <p>The development site is not located within the Perisher Range Alpine Resort.</p> |
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Section 4.29 Consideration of environmental, geotechnical and other matters

Under section 4.29(1) - In deciding whether to grant development consent to development in the Alpine Region, the consent authority must consider the following -

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| <p>(a) measures proposed to address geotechnical issues relating to the development,</p> | <p>No geotechnical issues relating to the development have been identified.</p> |
| <p>(b) the extent to which the development will achieve an appropriate balance between -</p> <p>(i) the conservation of the natural environment, and</p> <p>(ii) taking measures to mitigate environmental hazards, including geotechnical hazards, bush fires and flooding,</p> | <p>Conditions will be applied to the development to avoid and mitigate impacts on the natural environment. The land is not identified as being subject to flooding. The site is identified as bushfire prone land. However, an exemption from requiring a BFSA is supported for the minor external kitchen exhaust works proposed as part of the development. The exhaust and cowl will be required to comply with the relevant standards for the construction of buildings in bushfire-prone areas. While the land is identified as being in an area of geotechnical sensitivity, the application was exempt from requiring a geotechnical report in accordance with Section 3.1(a) of the Geotechnical Policy. Accordingly, natural hazards have been considered and adequately addressed.</p> |
| <p>(c) the visual impact of the proposed development, particularly when viewed from the land identified as the Main Range Management Unit in the Kosciuszko National Park Plan of Management,</p> | <p>The proposal will not result in an unacceptable visual impact.</p> |
| <p>(d) the cumulative impacts of development and resource use on the environment of the Alpine Subregion in which the development is carried out,</p> | <p>The small increase in potential occupancy of the unit by providing two additional beds will be provided for in accordance with the relevant sub-lease provisions and related capacity of the effluent management systems, waste disposal facilities, transfer facilities and water supply provided for visitors. The development is not anticipated to result in adverse cumulative impacts on the environment.</p> |

| | |
|---|--|
| (e) the capacity of existing infrastructure and services for transport to and within the Alpine Region to deal with additional usage generated by the development, including in peak periods, | With the proposed conversion of the Sequoia 5 Media Room to a fourth bedroom with two beds, the existing infrastructure and service network is predicted to have capacity to accommodate the two additional guests. Within the resorts there is capacity to maintain visitation during peak times, and ongoing infrastructure improvements to improve services and facilitate additional bed uptake. |
|---|--|

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| (f) the capacity of existing waste or resource management facilities to deal with additional waste generated by the development, including in peak periods. | The project will involve the generation of minimal construction waste, and the capacity of existing waste facilities to deal with the small increment in ongoing operational waste from the project is considered adequate. |
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Under section 4.29(2) - For development involving earthworks or stormwater draining works, the consent authority must also consider -

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| Measures to mitigate adverse impacts associated with the works | Onsite stormwater drainage works are not proposed as part of the application. No negative impacts to stormwater are anticipated due to the nature of the proposed works. The existing stormwater drainage system is adequate for the proposed works. |
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Under section 4.29(3) - For development the consent authority considers will significantly alter the character of an Alpine Subregion, the consent authority must also consider -

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| (a) the existing character of the site and immediate surroundings, and | The development will not significantly alter the character of an Alpine Subregion, or the character of the site and immediate surroundings. |
| (b) how the development will relate to the Alpine Subregion. | As above. |

Section 4.30 Kosciuszko National Park Plan of Management

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| Consistency between the development and the Kosciuszko National Park Plan of Management | The Department is satisfied that approval of the proposal would not be inconsistent with the KNP PoM. |
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Appendix C – Recommended Instrument of Consent