



Black Bear Inn, Thredbo Village Modification

Modification Application Assessment (MOD 23/10039 (DA 10064 MOD 3))

September 2023

Published by the NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Black Bear Inn, Thredbo Village Modification

Subtitle: Modification Application Assessment (MOD 23/10039 (DA 10064 MOD 3))

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
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 and Public Spaces
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

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1 Introduction

This report provides the NSW Department of Planning and Environment's (the Department) assessment of an application to modify the development consent for the construction of Black Bear Inn (DA 10064 Mod 3).

The modification application seeks approval for minor design amendments to the external façade, internal layout of the approved building, and correction to plan errors determined under MOD 2.

The application has been lodged by Belvedere Construction on behalf of Hidali Pty Ltd (the Applicant) pursuant to section 4.56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).



Figure 1 | Black Bear Inn site in context of Thredbo Village and adjoining buildings, prior to demolition of the previous building (Source: SIX Maps 2022)

1.1 Background

The subject site is known as the 'Black Bear Inn' site, (Lot 794 DP 1119757), Diggings Terrace, located in Thredbo Village, within Kosciuszko Nation Park (KNP) (**Figure 1**). The site has an area of approximately 687.5 sqm with a frontage to Diggings Terrace of approximately 24 metres (including the part of the site along the access point to the adjacent Candlelight Lodge) and a depth of approximately 28 metres.

The site slopes steeply from Diggings Terrace to the rear, with a north-westerly aspect and views of the Ramshead Range and the Thredbo ski slopes.

Works have commenced on the site following the NSW Land and Environment Court approval of the redevelopment of the former Black Bear Inn (NSW LEC No. 2020/68009). The former building has been demolished and excavation of the site to basement level has been complete (**Figure 2**).

The buildings immediately adjacent to the site include Candlelight Lodge to the east, Sasha's Apartments to the west and Mowamba Apartments to the north. Hi Noon Ski Club is located across Diggings Terrace to the south.



Figure 2 | Existing site excavation and installation of retention structures (Source: Department inspection 2023)

1.2 Approval History

On 17 May 2021, the NSW LEC approved DA 10064 (NSW LEC No. 2020/68009) (**Figure 3**) 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 approval included a basement storage area and a future restaurant on Level 1.



Figure 3 | Approved development, southern frontage to Diggings Terrace (Source: NSW LEC approval)

The development has been subject to two modification applications which have been determined by the Department (**Table 1**).

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Modification Type	Approval Date
MOD 1	Deletion of Level 0 (minus required egress), internal reconfiguration of Level 1 and minor RL amendments, and thickened slab on North Elevation.	Department	Section 4.56	14 July 2022
MOD 2	Internal amendments to apartment layout, minor RL amendment to level 2, increase in bed numbers, deletion of chimneys and reconfiguration of roof, addition of louvers in carpark, minor façade amendments and landscaping changes	Department	Section 4.56	23 December 2022

2 Proposed Modification

The proposed modifications are summarised below and discussed in the following sections:

- Relocation of ingress / egress
- Minor internal configuration amendments
- Minor external changes
- Amendment to plan inconsistencies

2.1 Relocation of ingress / egress

The Applicant has proposed to relocate the required egress on the northern façade from the previously approved Level 0 to Level 1, including the deletion of the remainder of Level 0 and ancillary fenestration amendments (**Figure 4**). The Applicant notes that the approved ingress / egress on Level 0 would require additional excavation outside the building footprint, resulting in a depression that would require an additional stair to ground level. Subsequent to this, there were concerns that the depression would act as a pond during snow or wet weather. The proposed relocation on Level 1 would allow for the ingress / egress to be at natural ground level.

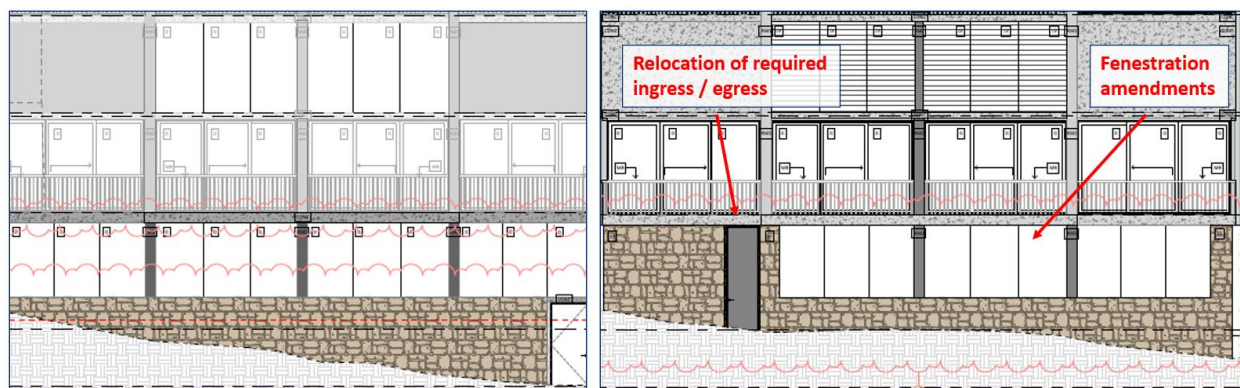


Figure 4 | Approved (left) and proposed (right) ingress / egress position on northern façade (Source: Department's Stamped Plans 2022 and Applicant's Statement of Environmental Effects [SEE] 2023)

2.2 Internal configuration amendments

The Applicant has proposed minor internal modifications to rationalise the design and functionality of the building, including:

- Relocation of required ingress / egress (**Section 2.1**);
- Reconfiguration of Level 1 layout (**Figure 5**);
- Creation of service riser (Level 1 – Level 4), as identified in **Figure 5 - 6**;
- Reconfiguration of bin store (**Figure 8**);
- Relocation of apartment entries to accommodate private storage rooms (**Figure 6**); and

- Reconfiguration of master ensuite to accommodate void (**Figure 9**).

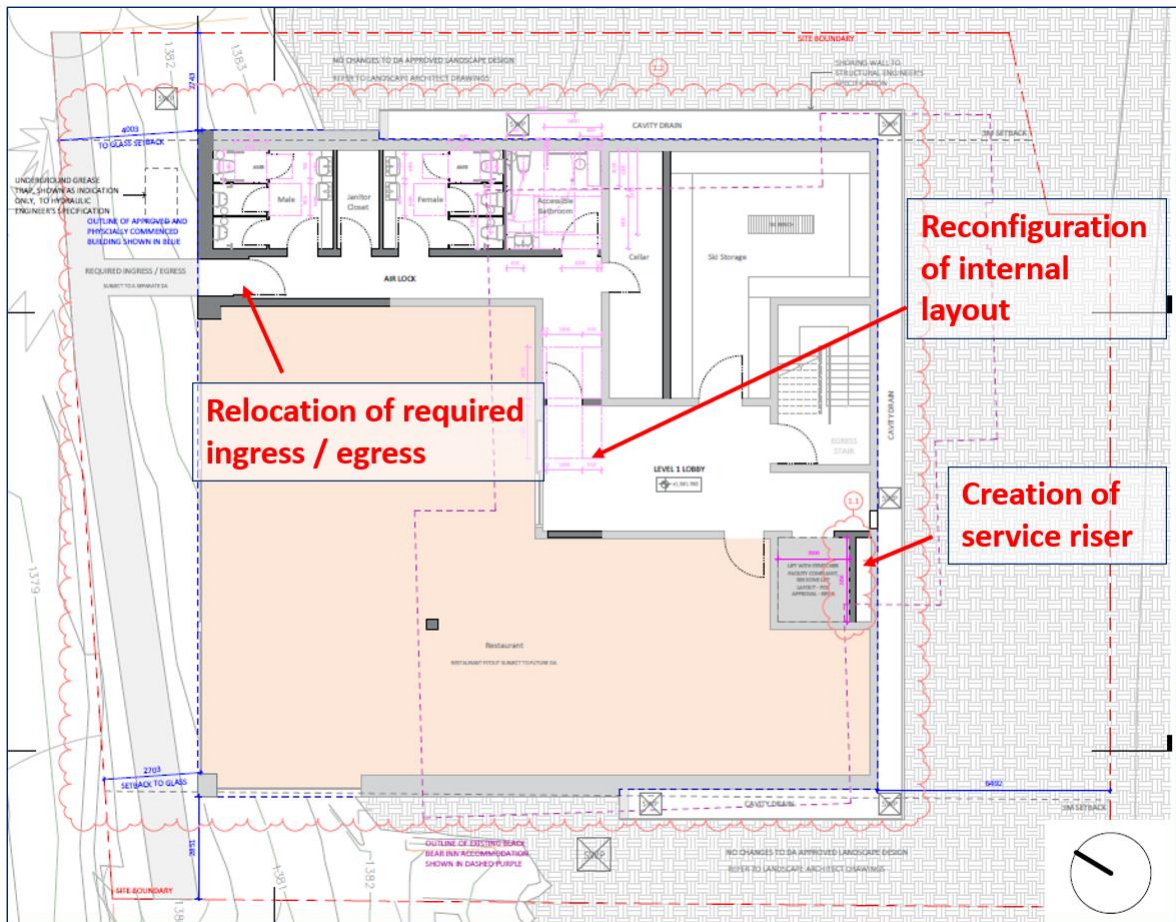


Figure 5 | Proposed Level 1 reconfiguration (Source: Applicant's SEE 2023)

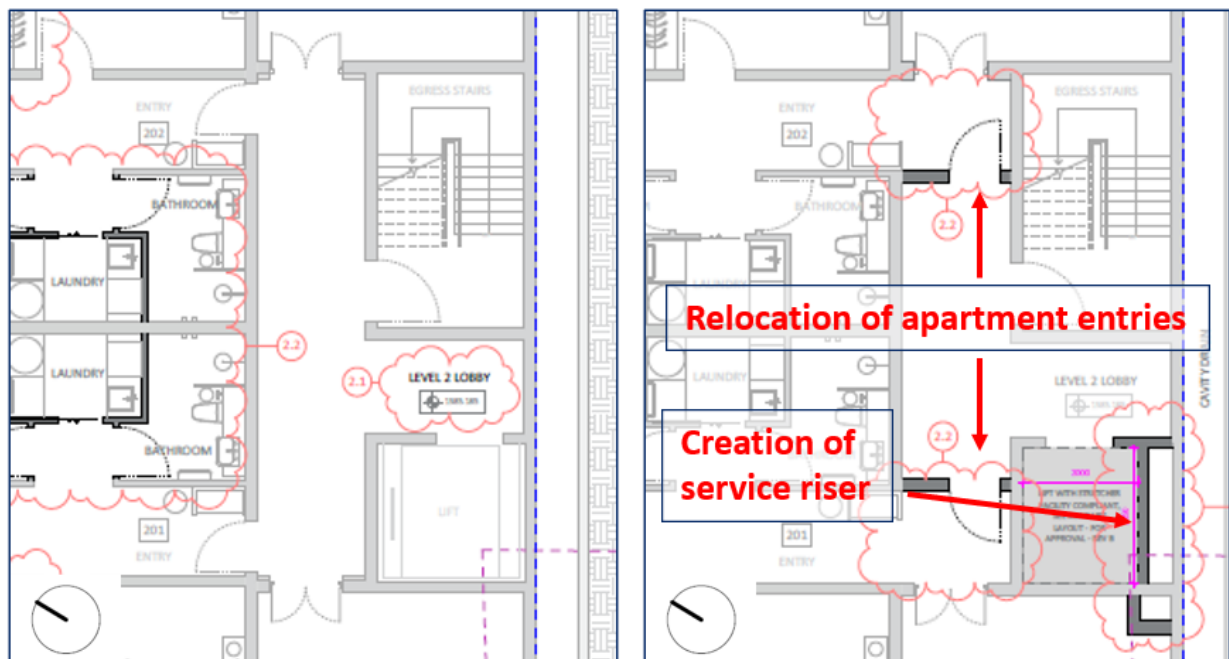


Figure 6 | Approved (left) and proposed (right) Level 2 apartment entries (Source: Department's Stamped Plans 2022 and Applicant's SEE 2023)

2.3 External amendments

The Applicant has proposed minor external changes to the building, as identified in **Table 2**.

Table 2 | Summary of proposed external modifications

Level	Summary of Modifications
Level 0	<ul style="list-style-type: none"> deletion of ingress / egress (Figure 4)
Level 1	<ul style="list-style-type: none"> addition of ingress / egress (Figure 4)
Level 3	<ul style="list-style-type: none"> Addition of louvers in place of glass on eastern and western façade (Figure 7) Materiality change from RM2 to concrete on north and east façade (Figure 7)
Level 4	<ul style="list-style-type: none"> Landscape amendments to align to site boundary (Figure 8) Addition of gas hot water units (Figure 8) Alteration to bin store door for BCA and DDA compliance (Figure 8)
Level 5	<ul style="list-style-type: none"> Minor fenestration amendments
Level 6	<ul style="list-style-type: none"> Minor fenestration amendments
Roof	<ul style="list-style-type: none"> Redesign to improve structural coordination (Figure 10)

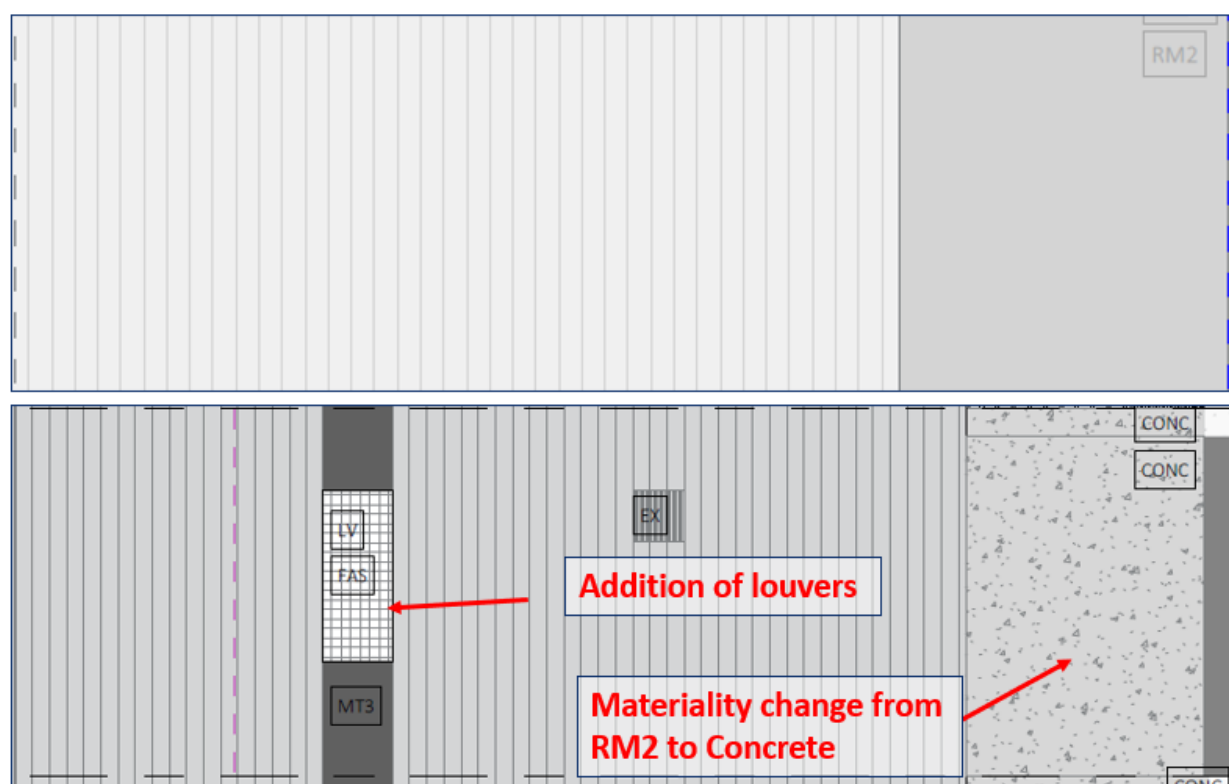


Figure 7 | Approved (above) and proposed (below) western façade Level 3 (Source: Department's Stamped Plans 2022 and Applicant's SEE 2023)

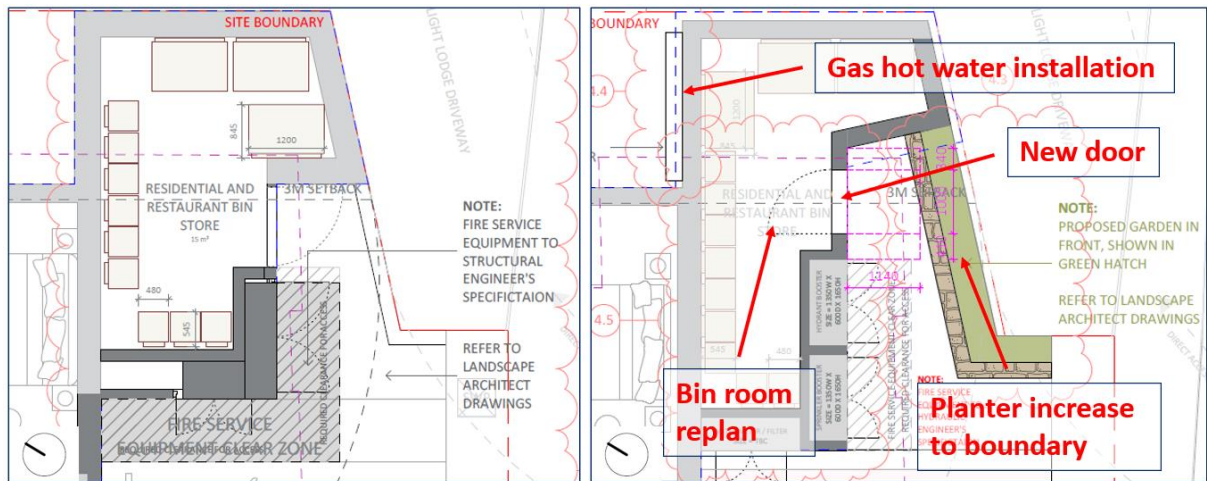


Figure 8 | Approved (left) and proposed (right) Level 4 plan (Source: Department's Stamped Plans 2022 and Applicant's SEE 2023)

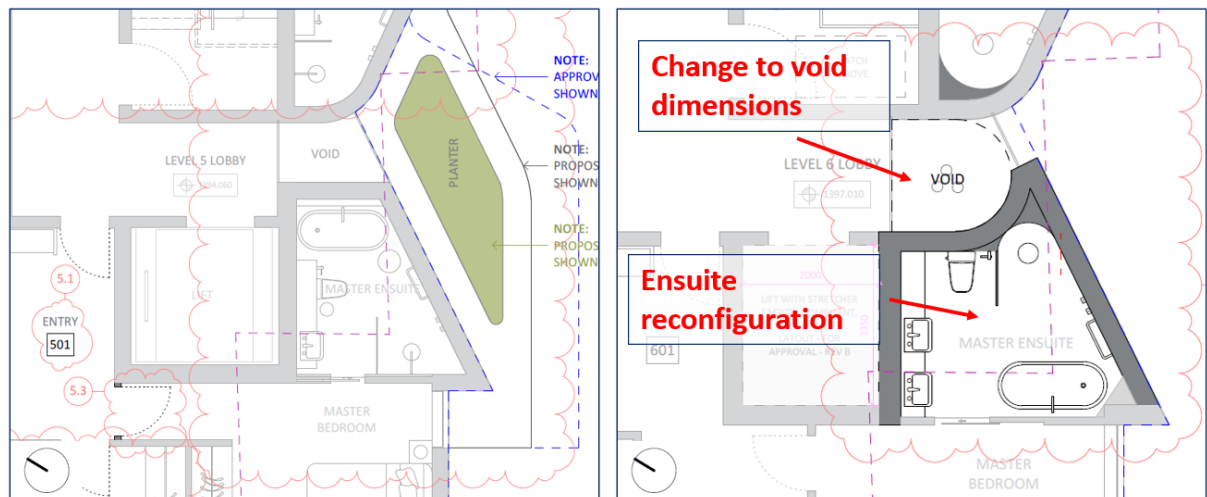


Figure 9 | Approved (left) and proposed (right) Level 5 master ensuite (Source: Department's Stamped Plans 2022 and Applicant's SEE 2023)

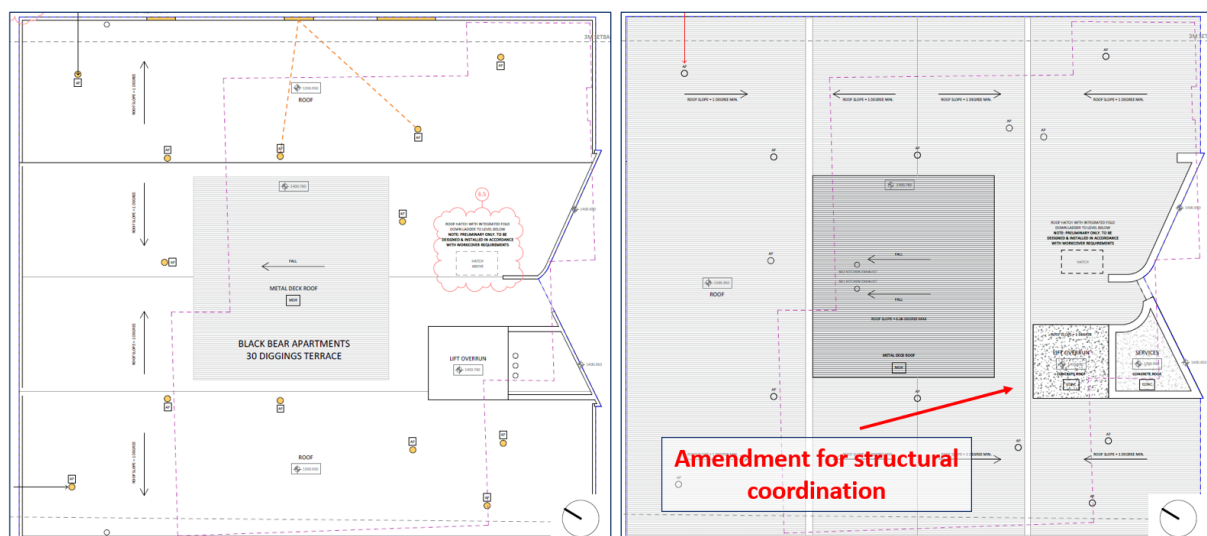


Figure 10 | Approved (left) and proposed (right) Roof plan (Source: Department's Stamped Plans 2022 and Applicant's SEE 2023)

2.4 Amendment to plan inconsistencies

The Applicant notes that during the assessment and determination of MOD 2, there were several inconsistencies with the plans stamped by the Department, stating that they were not correct to the modification application and architectural set required to be approved.

Consequently, the Applicant submitted a revised set of architectural plans with MOD 3 to accommodate for the previous error under MOD 2.

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 continues to be consistent with the Regional Plan as the proposal maintains the approved use of the site for tourist accommodation and a restaurant, such that the proposed development continues to support visitation to 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. The Department considers the proposal to be consistent with the Master Plan as the proposal, once constructed, provides a new visitor accommodation premises while maintaining the environmental, cultural and streetscape attributes of Thredbo.

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 KNP.

The Department considers the proposal continues to be consistent with Chapter 4 of the Precincts – Regional SEPP as the modification does not increase the adverse impacts of the development on the environment or detract from the character of the approved development. The proposal would also continue to contribute to the ongoing range of accommodation options available for visitors to the KNP.

4 Statutory context

4.1 Scope of modifications

Section 4.56 of the EP&A Act provides that a consent authority may, on an 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 *Environmental Planning and Assessment Regulations 2021* (EP&A Regulations), modify a consent if the following requirements in **Table 1** are met:

Table 3: Consideration under Section 4.56(1) of the EP&A Act

Section 4.56(1)	Summary of Modifications
(a) 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)	<p>The proposed external changes to the built form are minor in nature and are not considered to vary significantly from the original consent with regard to either site impacts or the presentation of the development when viewed from the public domain. The internal changes proposed improve the functionality and amenity for the occupants of the apartments and are supported.</p> <p>The Department is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified.</p>
(b) The application has been notified in accordance with: <ul style="list-style-type: none"> (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 	<p>Consistent with Part 5 the EP&A Regulation 2021 and in accordance with the Department's Community Participation Plan (CPP) of November 2019, the Department publicly exhibited the modification application for a minimum of fourteen (14) days to nearby lodges and previous submitters, and it was made publicly available on the NSW Planning Portal website (refer to Section 5 of this report).</p> <p>No DCP applies to the site.</p>
(c) Whether the consent authority 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	<p>The Department notified each person who previously made a submission to the approved development. Six (6) submissions to the modification were received, which is considered in Section 5 and 6 of this report.</p>

written notice to the last address known to the consent authority of the objector or other person, and

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- | | |
|---|--|
| (d) Consideration of any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be. | The Department has considered the agency submissions and the seven (7) public submissions received during the exhibition period (refer to Section 5 and 6 of this report). |
|---|--|
-

Section 4.56(1A) of the EP&A Act provides that in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the granting of the consent that is sought to be modified.

The relevant consideration under section 4.15(1) of the EP&A Act in relation to the proposed modifications is whether the impacts of the amendments upon the existing environment and built form are acceptable. The Department's assessment in **Section 6** concludes that the impacts are acceptable and do not deviate significantly (if at all) from the likely impacts of the development as considered in the NSW LEC approval of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.56 of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.56 of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Consent authority

The original application was determined by the NSW LEC with the Applicant taking the Minister for Planning and Public Spaces to the NSW LEC to seek resolution of Development Application DA 10064. While the original development application was determined by the Court, the Minister remains the consent authority for any subsequent applications to modify the consent under section 4.56 of the EP&A Act.

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 dated 9 March 2022, the Principal Planning Officer, Alpine Resorts Team may determine the application as:

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

4.3 Mandatory matters for consideration

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of DA 10064 and the NSW LEC conciliation process. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

Objects of the EP&A Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.

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 affect threatened species or ecological communities, or their habitats; or
- the works are carried out in a declared area of outstanding biodiversity value.

The Applicant commented that all vegetation on site that has previously been cleared, was cleared under previous consents when enacted. The proposed modifications do not result in any additional clearing of vegetation. A review of the subject site in relation to the BVM shows that the site is not mapped as comprising high biodiversity value.

Having regard to the proposed modifications and the previous approval for the removal of vegetation from the site (issued by the NSW LEC), the Department is satisfied that the proposal does not trigger the BOS.

The Department also notes that there is currently no declared area of outstanding biodiversity value within Kosciuszko National Park.

Environmental Planning Instruments

An assessment of compliance with the then *State Environmental Planning Policy (Kosciuszko National Park-Alpine Resorts) 2007* (the Alpine SEPP) was undertaken in the determination of the original development application (DA 10064) by the NSW LEC. The former Alpine SEPP was superseded by the Precincts – Regional SEPP in March 2022, and now the Precincts Regional SEPP is the EPI that applies to this application.

The Department has considered the current modification application against the provisions of the Precincts – Regional SEPP and is satisfied the modification proposal continues to be consistent with this EPI.

5 Engagement

5.1 Department's engagement

The Department's Community Participation Plan (CPP), November 2019, prepared in accordance with Schedule 1 of the EP&A Act requires an application for modification of development consent not required to be exhibited by the EP&A Regulations to be exhibited for a timeframe dependent on the urgency, scale and nature of the proposal.

However, as discussed in **Section 4.1** above, the EP&A Act requires the consent authority to notify, 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.

On this basis, the Department made the application publicly available, notified nearby lodges and previous submitters to the original development application between 04 August 2023 and 18 August 2023 on the NSW Planning Portal website.

The application was referred to the NSW Rural Fire Service (RFS) pursuant to section 4.46 of the EP&A Act (integrated development) as a Bushfire Safety Authority (BFSA) under the *Rural Fires Act 1997* is required for the development to be carried out. The application was also referred to the National Parks and Wildlife Service (NPWS) pursuant to section 4.27 of the Precincts – Regional SEPP.

Following the exhibition of the application, the Department placed copies of all submissions received on its website and forwarded these to the Applicant.

5.2 Summary of submissions

During the exhibition period, the Department received submissions from the RFS, the NPWS and seven (7) public submissions from nearby residences providing objections to the proposed modifications.

RFS

The RFS did not object to the proposal and advised that no additional comments were required to those already provided in relation to the original application and the Bushfire Safety Authority (BFSA) issued.

NPWS

The NPWS did not object to the modification and commented that the previous comments to the proposal remain relevant.

Public submissions

The Department received seven (7) public objections during exhibition.

The objections raised by the public primarily related to public access to the building via the Level 1 (formerly Level 0) ingress / egress, and privacy concerns from foot traffic from the village square. Pursuant to **Condition A.11** of the conditions of consent, public access to the building must only be from Diggings Terrace, and access via the required ingress / egress is permitted only for use by accommodation guests during the hours of 6am – 10pm, or for fire egress or escape purposes.

The modification application did not seek to amend **Condition A.11**, and consequently the objections raised do not relate to the modification application.

Notwithstanding, the Applicant provided a response to the concerns outlined in the public submissions, which can be identified in **Section 6**.

5.3 Request for Additional Information

On 18 August 2023, the Department issued a request for additional information to the Applicant based on the following comments:

- Changes to FFL on Level 2 identified but not justified
- An updated Geotechnical Report is required
- Updated bed count is required
- More information is required on the infill for the deleted Level 0 ingress / egress

The Applicant's responses to the above can be observed in **Section 6**.

6 Assessment

In assessing the merits of the proposed modification, the Department has considered the:

- previous Environmental Assessment Reports for the proposal and the NSW LEC approval,
- the modification application and existing conditions of consent,
- submissions from government agencies, and
- matters for consideration under section 4.15(1) of the EP&A Act.

The Department considers the key assessment issues associated with the modification application are:

6.1 Relocation of ingress / egress

As discussed in **Section 2.1**, the Applicant has proposed to amend the location of the required ingress / egress from the previously approved Level 0 to Level 1. The decision to relocate the ingress / egress emerged after an assessment of potential impacts from the additional excavation required, the indentation that would form and the additional required stair up to ground level.

The Applicant notes that the indentation could result in a 'pond' forming during snowfall and wet weather, which would raise numerous health and safety concerns. The relocation to Level 1 would result in the ingress / egress being at natural ground level and would not result in an indentation. No changes to **Condition A11** have been proposed, which requires public access from the Diggings Road entrance, and use of the Level 1 ingress / egress only for access to accommodation and egress in the event of an emergency.

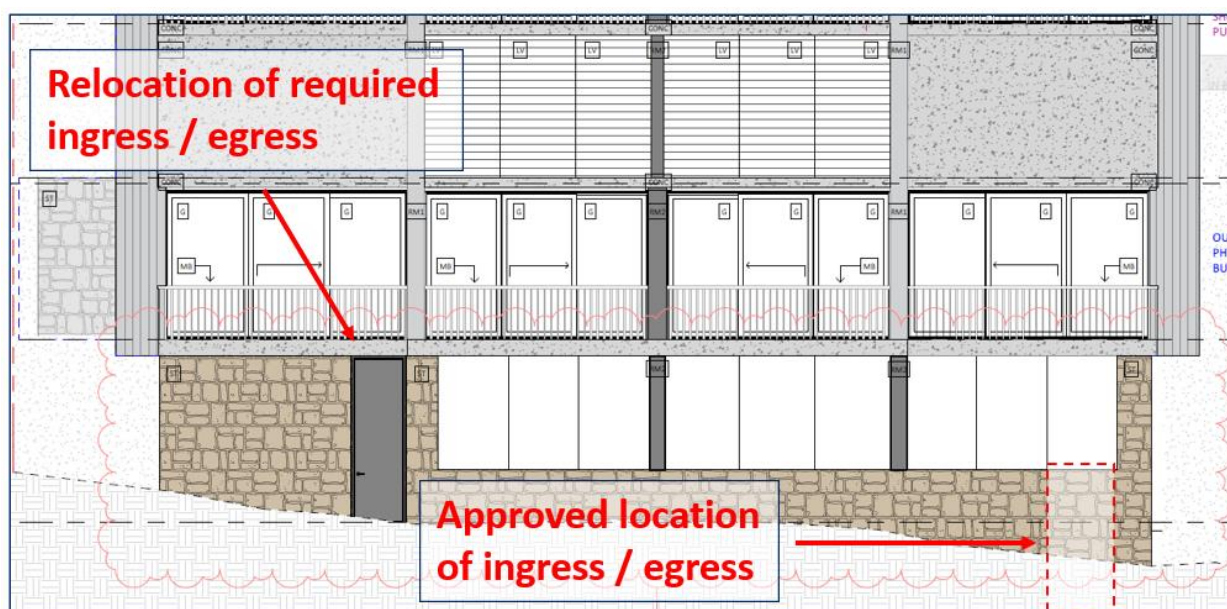


Figure 11 | Proposed relocation of required ingress / egress (Source: Applicant's SEE 2023)

The Department agrees that the proposed relocation of the required ingress / egress would mitigate potential impacts caused if it remained at Level 0 and noting that no changes to **Condition A11** have been proposed, the Department considers this modification to be acceptable.

6.2 Internal configuration amendments

As discussed in **Section 2.2**, the Applicant has proposed minor internal changes to the building to accommodate the relocation of the ingress / egress, reconfiguration of master ensuite to accommodate void, creation of service risers, reconfiguration of bin store, and relocation of apartment entries to accommodate private storage rooms.

Concerns were raised in a public objection to the uncertainty of the restaurant layout as a result of it being subject to a separate future DA. The Applicant responded to concerns by noting that the restaurant requirement was imposed by KT for the benefit of the village, is subject to a future DA and is not relevant to this modification application.

The proposed modifications are primarily to improve the functionality of the space and to accommodate the required ingress / egress, and level 4 void, and would not alter the approved use as a tourist accommodation building. The Department considers there are no additional impacts created by the proposed internal amendments and consequently considers this modification to be acceptable.

6.3 External changes

As discussed in **Section 2.3**, the Applicant has proposed external amendments to materiality on the northern and eastern façade, extension of planters to the site boundary, addition of gas hot water units, louvers on the eastern and western façade, minor fenestration amendments, roof alterations and changes to bin store door for BCA compliance.

The Applicant notes that the external changes proposed remain within the site boundary and do not alter the built form, RL or building setbacks to the boundary approved by the LEC.

The modifications are considered minor, have limited visual impact and impacts to built form, and do not introduce materials that have not been previously approved. The Department considers there are no additional impacts created by the proposed external amendments, and consequently consider this modification to be acceptable.

6.4 Amendment to plan inconsistencies

As discussed in **Section 2.4**, the Applicant states that the plans stamped by the Department in the determination of Mod 2 were not consistent with the proposal and did not accurately reflect the correct plan revisions. Noting this, the Applicant provided a revised architectural set under this modification for stamping to accommodate the error made under MOD 2. Comments provided by the Department at the time of assessment of MOD 2 identified that the additional stamped plans were to accommodate inconsistencies with plans for the Level 4 accessible suite and shadow analysis. The plans have since been corrected under this modification application.

Consequently, the Department is satisfied that the modification to correct plan inconsistencies provides clarity and transparency by ensuring that the most up-to-date architectural plans for the development have been provided.

6.5 Design details and standards

The proposed works, when constructed, are to comply with the Building Code of Australia (BCA) and relevant Australian Standards. The Department notes that compliance with relevant requirements is to be determined at the construction certificate stage by the Certifier and in accordance with conditions of consent.

The following is noted:

- All 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.

It is noted that a Construction Certificate has not been issued for the construction of the building, only for excavation of the site.

- Ensuring the proposal meets snow and wind loading requirements is a key consideration of the Department's assessment in the NSW Alpine environment. With adverse weather conditions in KNP, the external alterations to the building need to be constructed appropriately. The Department has recommended that structural certification be provided prior to the issue of an Occupation Certificate for the works.

6.6 Other Issues

Table 4 | Mandatory Matters for Consideration

Issue	Findings	Recommendations
FFL Amendment – Level 2	<ul style="list-style-type: none">• The architectural plans provided with this modification indicated a change to Level 2 FFL without justification.• The Applicant noted that the stamped plans under Mod 2 were incorrect to the modifications, consequently identifying the incorrect FFL.	<ul style="list-style-type: none">• The Department is satisfied with the Applicant's response and no further justification is required.
Updated Geotechnical Report	<ul style="list-style-type: none">• The modification application included the relocation of the required ingress / egress and subsequent deletion of the remainder of the approved Level 0.• Consequently, the Department required the Applicant provide an	<ul style="list-style-type: none">• The Department is satisfied with the findings of the updated Geotechnical Report and considers the response satisfactory.• No additional justification or conditions are required.

updated Geotechnical Report to support the change in structure.

- The Applicant provided an updated Geotechnical Report and Form 1 as part of the Request for Additional Information.

Bed Count Amendments

- The Department raised concerns that there would be an increase in bed count under this modification.
 - The Applicant noted that there were no changes to the bed count approved by the Department under MOD 2, which allowed for a total of 46 beds on the premises.
 - The Department is satisfied with the Applicant's response that the bed count will not increase under this modification and is consistent with that approved in MOD 2.
 - No additional justification or conditions are required.
-

7 Recommendation

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act and considered the submissions provided by the public and the NPWS and RFS.

The Department's assessment concludes that the proposed modification is appropriate as it is substantially the same development as originally approved; the proposed modifications to conditions are acceptable; the proposal continues to comply with the Precincts – Regional SEPP provisions; all submissions received during the assessment of the application have been considered; and the proposal does not result in any additional matters that required consideration under Section 4.15(1) of the EP&A Act.

Overall, the Department concludes that the modifications to the approved NSW LEC application are acceptable and does not negatively impact the suitability of the proposal as approved by the NSW LEC.

The Department therefore recommends that the application be approved, subject to changes to the existing conditions of consent (**Appendix C**). In accordance with the Minister's delegation dated 9 March 2022, the Principal Planning Officer, Alpine Resorts Team may determine the application as:

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

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

- **considers** the findings and recommendations of this report
- **determines** that the modification application MOD 23/10039 (DA 10064 MOD 3) falls within the scope of section 4.56(1) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the consent DA 10064
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:



Zac Derbyshire
Planning Officer
Alpine Resorts Team

Adopted by:



Mark Brown
Principal Planning Officer
Alpine Resorts Team
as delegate of the Minister for Planning

7 September 2023

Appendices

Appendix A – Modification Report

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

<https://pp.planningportal.nsw.gov.au/development-assessment/state-significant-applications/projects/state-development-applications>

Appendix B – Submissions

The Department made the application publicly available and notified adjoining lodges and previous submitters to the NSW LEC application within Thredbo Alpine Resort of the application between 04 August 2023 and 18 August 2023.

The application was referred to the RFS (as the original and modification is integrated development) and NPWS pursuant to section 4.27 of Chapter 4 of the Precincts-Regional SEPP, with comments received. Six (6) submissions from the public were received.

Appendix C – Notice of Modification