

Modification of Development Consent

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

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



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Department of Planning, Housing and Infrastructure

Jindabyne

1 August 2024

SCHEDULE 1

Application No.:	MOD 24/6319 (DA No.10352 MOD 1)
Applicant:	DM Planning (on behalf of Windarra Ski Lodge)
Consent Authority:	Minister for Planning and Public Spaces
Land:	Windarra Ski Lodge, 16 Plum Pine Road, Perisher Range Alpine Resort, Kosciuszko National Park
Type of Development:	Integrated Development
Integrated Bodies:	NSW Rural Fire Service
Approved Development:	External alterations to an existing tourist accommodation building
Modification:	External alterations to an existing tourist accommodation building incorporating the replacement of the existing roofing and cladding

Schedule 2 of Development Application No. 10352 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words as follows

DEFINITIONS

Act	means the <i>Environmental Planning and Assessment Act, 1979</i> (as amended).
Applicant	means DM Planning (on behalf of Windarra Ski Lodge), or any person carrying out any development to which this consent applies.
Approval Body	has the same meaning as within Division 4.8 of Part 4 of the Act.
BCA	means the edition of the Building Code of Australia in force at the time of lodgement of an application for a Construction Certificate.
Certifier	has the same meaning as in Part 6 of the Act.
DA No 10352	means the development application submitted by the applicant on 27 May 2020.
Department	means the Department of Planning, Industry and Environment, or its successors.
Director	means the Director of Regional Assessments or a delegate of the Director of within the Department.
Minister	means the Minister for Planning and Public Spaces, or nominee.
NPWS	means the National Parks and Wildlife Service, or its successors.
Non-compliance	means an occurrence, set of circumstances or development that is a breach of this consent.
Park	means the Kosciuszko National Park reserved under the <i>National Parks and Wildlife Act 1974</i> .
Principal Certifier	means the principal certifier and has the same meaning as Part 6 of the Act.
Regulation	means the <i>Environmental Planning and Assessment Regulations, 2000</i> (as amended).
Rehabilitation Guide	means the NPWS document entitled: <i>Rehabilitation Guidelines for the Resorts Areas of Kosciuszko National Park</i> (2007) a copy of which is available at: https://www.environment.nsw.gov.au/research-andpublications/publications-search/rehabilitation-guidelines-for-theresort-areas-of-kosciuszko-national-park
RFS	means the NSW Rural Fire Service.
Secretary	means the Secretary of the Department, or nominee/delegate.
Secretary's approval, agreement or satisfaction	means a written approval from the Secretary or nominee/delegate.
Stockpile Guide	means the NPWS document entitled: ' <i>Soil Stockpile Guidelines for the Resort Areas of Kosciuszko National Park, October 2017</i> ', a copy of which can be obtained from the NPWS Resorts Environmental Services Team.
Subject site	has the same meaning as the land identified in Part A of this schedule.
Team Leader	means the Team Leader of the Alpine Resorts Team within the Regional Assessments division (or its successors) or a delegate of the Team Leader of the Alpine Resorts Team within the Department.

SCHEDULE 2

PART A – ADMINISTRATIVE CONDITIONS

A.1 Obligation to minimise harm to environment

In addition to meeting the specific performance measures and criteria established in this consent, all reasonable and feasible measures to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development.

A.2 Development in accordance with approved documentation and plans

The development shall be in accordance with:

- (a) DA No. DA 10352 submitted by DM Planning on 27 May 2020
- (b) supporting documentation submitted with that application (DA 10352)
- (c) additional information received 18 December 2020 and 12 May 2021
- (d) **the Section 4.55(1A) Modification Application (MOD 24/6319) lodged by the Applicant on 14 May 2024**
- (e) conditions of this consent

including, but not limited to, the following:

Ref No.	Document	Title/Description	Author / Prepared by	Date	Document Reference
1	Statement of Environmental Effects	Recladding and Replacement of Decking	DM Planning	May 2020	-
2	Report	Site Environmental Management Plan	DM Planning	May 2020	SEE Appendix A
3	Bushfire Assessment Report	Alterations Windarra Lodge	Dabyne Planning Pty Ltd	March 2020	45-19
4	Plan	Ground Floor Plan	JJ Drafting	July 2018 <u>23 January 2024</u>	01 <u>Drawing 01, Revision C</u>
5	Plan	First Floor Plan	JJ Drafting	July 2018 <u>23 January 2024</u>	02 <u>Drawing 02, Revision C</u>
6	Plan	Roof Plan	JJ Drafting	July 2018 <u>23 January 2024</u>	03 <u>Drawing 03, Revision C</u>
7	Plan	West & South Elevation	JJ Drafting	July 2018 <u>23 January 2024</u>	04 <u>Drawing 04, Revision C</u>
8	Plan	East & North Elevation	JJ Drafting	July 2018 <u>23 January 2024</u>	05 <u>Drawing 05, Revision C</u>
9	Plan	Section AA	JJ Drafting	July 2018	06

10	Letter	Certificate of Adequacy	GZ Consulting Engineers Pty Ltd	12 May 2021	-
11	Bushfire Safety Authority	s100B – SFPP – Other Tourist Accommodation 16 Plum Pine Road Smiggin Holes NSW 2627 AUS 23//DP756697	NSW Rural Fire Service	18 June 2020 <u>20 May 2024</u>	DA202006090 02032- Original-1 <u>DA202006090</u> <u>02032-S4.55-</u> <u>1</u>
<u>12</u>	<u>Statement of Modification</u>	<u>Section 4.55(1A)</u> <u>Modification to Consent –</u> <u>DA 10352</u> <u>16 Plum Pine Road,</u> <u>Smiggins Hole</u>	<u>DM Planning</u>	<u>12 March 2024</u>	-

A.3 Inconsistency between documents

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

A.4 Lapsing of consent

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

A.5 Prescribed conditions

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

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

A.6 Australian standards

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

A.7 Legal notices

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

A.8 Non-Compliance Notification

The Department must be notified in writing to compliance@planning.nsw.gov.au and alpineresorts@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The Principal Certifier must also notify the Department in writing to compliance@planning.nsw.gov.au and alpineresorts@planning.nsw.gov.au within seven days after they identify any non-compliance.

The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

PART B – PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

B.1 Construction certificate

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

B.2 Documentation for the construction certificate

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

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

B.3 Building Works Plan

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

- (a) the relevant clauses of the BCA;
- (b) the development consent; and
- (c) if any structural works are required, the Applicant shall submit structural drawings and a design statement, prepared and signed by an appropriately qualified practising Structural Engineer.

B.4 Specifications

Prior to the issue of the relevant construction certificate, the Applicant shall provide to the certifier specifications for the development:

- (a) that describe the construction and materials of which the building is to be built, and
- (a) that state whether the materials to be used are new or second-hand and (in the case of second-hand materials) give particulars of the materials to be used.

B.5 Appointment of engineer – structural adequacy of existing structure

An appropriately qualified practising Structural Engineer shall be engaged to carry out the inspection required by Condition D.19 and E.5. The name and contact details of the engineer shall be provided to the certifier prior to the issue of the construction certificate.

If the Department is not the certifier, the certifier is to provide a copy of the information to the Department with the copy of the construction certificate.

B.6 Payment of the long service levy

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

B.7. External walls and cladding

The external walls of all buildings must comply with the relevant requirements of the BCA.

Prior to the issue of the relevant construction certificate, the Applicant must provide the certifier with documented evidence that the products and systems proposed for use or used in the

construction of external walls including finishes and claddings such as synthetic or aluminium composite panels, comply with the requirements of the BCA.

The Applicant must provide a copy of the documentation given to the certifier to the Secretary within seven days after the certifier accepts it.

B.8 Bush fire safety authority

Prior to the issue of the relevant construction certificate, the certifier must be satisfied that the documentation for the construction certificate demonstrates compliance with the relevant conditions of the bush fire safety authority (reference 11 in Condition A.2).

B.9 Materials and finishes

The approved materials and finishes shall be in accordance with the following:

Location	Material	Colour
Cladding	Bushfire resistant hardwood <u>Colorbond metal</u>	Colorbond Shale Grey Colorbond Cove
Decking and balustrade	Bushfire resistant hardwood	Colorbond Basalt
<u>Roof</u>	<u>Colorbond metal</u>	<u>Colorbond Basalt</u>

Prior to the issue of the construction certificate, the Applicant shall submit a full set of coloured elevation plans to the certifier depicting the above. If the Department is not the certifier, a copy of the documentation shall be submitted to the Department with the construction certificate.

B.10 BCA - Section J Energy Efficiency

Prior to the issue of the relevant construction certificate, the certifier must be satisfied that the documentation for the construction certificate demonstrates compliance with BCA Section J for wall and roof cladding and associated insulation where relevant.

PART C – PRIOR TO THE COMMENCEMENT OF WORKS

C.1 Notification of commencement

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

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

C.2 Temporary fencing

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

C.3 Implementation of site environmental management measures

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

C.4 Demolitions work

Demolition work must comply with *Australian Standard AS 2601-2001 The demolition of structures* (Standards Australia, 2001). The work plans required by AS 2601-2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the Principal Certifier before the commencement of works.

C.5 Machinery and storage

To minimise weed vectors and other biosecurity issues, all machinery used during construction must be cleaned prior to entry into the Park and prior to site mobilisation to ensure the machinery is free of mud and vegetative propagules.

Machinery must be regularly maintained and manoeuvred to prevent the spread of exotic vegetation. Storage of machinery and material is to be restricted to the designated disturbed areas.

C.6 Compliance

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

PART D – DURING CONSTRUCTION

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

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

D.2 Construction hours

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

D.3 Construction period

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

D.4 Construction activities

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

D.5 SafeWork NSW

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

D.6 Site notice

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

- (a) The notice is to be durable and weatherproof and is to be displayed throughout the works period.
- (b) The approved hours of work, the name of the principal contractor for the work (if any), and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice.

- (c) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.
- (d) The name, address and phone number of the Principal Certifier is to be identified on the site signage.

D.7 Storage of materials

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

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

D.8 Prohibition of hazardous materials

No hazardous or toxic materials or dangerous goods shall be stored or processed on the site at any time.

D.9 Noise and vibration management

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

D.10 Litter and building waste

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

D.11 Demolitions work

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

D.12 Recycled Material

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

D.13 Loading and unloading of construction vehicles

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

D.14 Aboriginal heritage

Should any material suspected of being an Aboriginal relic or artefact become unearthed in the course of works, all works impacting the objects or artefacts shall cease immediately. The applicant must immediately contact the NPWS to arrange for representatives to inspect the site. All workers on the site are to be made aware of this condition.

D.15 Erosion and sediment control measures

All erosion and sediment control measures must be checked regularly and maintained in good working order at all times. All exposed earth must be kept stabilised and re-vegetation must commence as soon as practicable. All straw bales used for sediment and erosion control or for mulching must be 'weed free'.

D.16 Rehabilitation and site establishment

- (a) Site stabilisation and rehabilitation works shall commence, as soon as possible, following the completion of each section of work to minimise exposed areas. Disturbed areas shall be adequately mulched and maintained with weed free straw until an erosion resistant ground condition is achieved. All erosion prevention and sediment control measures shall remain in place until all exposed areas of soil are stabilised and/or revegetated.
- (b) Rehabilitation shall be undertaken in accordance with:
 - (i) the Rehabilitation Guide; and
 - (ii) these conditions of consent.

D.17 Scaffolding

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

D.18 Dirt and Dust Control Measures

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

D.19 Inspection by engineer – structural adequacy of existing structure

Upon removal of the existing cladding and prior to the installation of the new cladding and structural elements, an appropriately qualified practising structural engineer shall carry out an inspection to determine the structural adequacy of the existing structure and its compliance with BCA Volume One performance requirement BP1.1.

If any deficiencies are identified during the inspection, the engineer shall provide upgrade recommendations. Any works associated with the upgrade recommendations shall be undertaken prior to the installation of the new cladding.

D.20 Asbestos

- (a) The removal of any asbestos or other hazardous material found on the site shall be carried out in accordance with current SafeWork NSW guidelines by an appropriately qualified contractor.
 - (b) Any asbestos or other hazardous materials shall be disposed of at an authorised waste facility. Receipts shall be provided to the Principal Certifier as evidence of appropriate disposal.
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PART E – PRIOR TO COMMENCEMENT OF USE

E.1 Occupation certificate

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

E.2 Site Clean Up

Prior to commencement of use, the subject site shall be cleaned up to the satisfaction of the Principal Certifier.

E.3 Removal of site notice

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

E.4 Fire safety certificate

Prior to the issue of any occupation certificate, a fire safety certificate conforming to the Regulations shall be submitted to the Principal Certifier. A copy of the fire safety certificate shall be submitted to the Department with the copy of the occupation certificate.

E.5 Structural Adequacy Certificate

Prior to the issue of any occupancy certificate, a certificate of structural adequacy prepared by a suitably qualified professional engineer confirming the suitability of the building to meet BCA Volume One performance requirement BP1.1 shall be submitted to and be to the satisfaction of the Principal Certifier.

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

E.6 Rehabilitation

Prior to the issue of any occupation certificate, any disturbed ground shall be rendered erosion resistant and rehabilitated in accordance with the approved documentation and these conditions of consent (including Condition D.16).

E.7 Bush fire safety authority

Prior to the issue of the relevant occupation certificate, the Applicant shall submit documentation to be Principal Certifier to demonstrate that the works have been undertaken in accordance with the relevant conditions of the bush fire safety authority (reference 11 in Condition A.2). If the Department is not the Principal Certifier, a copy of the documentation must be submitted to the Department with the occupation certificate.

E.8 External walls and cladding

Prior to the issue of an occupation certificate, the Applicant must provide the Principal Certifier with documented evidence that the products and systems used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the requirements of the BCA.

The Applicant must provide a copy of the documentation given to the Principal Certifier to the Planning Secretary within seven days after the Principal Certifier accepts it.

PART F – POST OCCUPATION

F.1 Annual fire safety statement

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

ADVISORY NOTES

AN.1 Responsibility for other consents / agreements

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

AN.2 Premises Standard

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

AN.3 Utility services

- (a) The Applicant shall liaise with the relevant utility authorities for electricity, gas (if relevant), water, sewage, telecommunications on the subject site:
 - (i) to locate all service infrastructure on the subject site; and
 - (ii) negotiate relocation and/or adjustment of any infrastructure related to these services that will be affected by the construction of the development.
- (b) The Applicant and/or the lessee are responsible for costs associated with relocating any services.

AN.4 Dial before you dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before you dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

AN.5 External lighting

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