

ENVIRONMENTAL ASSESSMENT REPORT
(under Section 79C of the Environmental Planning and Assessment Act 1979)

Application No.: DA 7418

Applicant: Kosciuszko Thredbo Pty Ltd

Application Site: 'Tussock', Thredbo Village, Thredbo Alpine Resort, Kosciuszko National Park

Proposal: Use of an existing aboveground spa

Date: November 2016

1. BACKGROUND

1.1 Introduction

This report provides an assessment of a Development Application (DA 7418) lodged by Kosciuszko Thredbo Pty Ltd on 26 November 2015 under Part 4 of the Environmental Planning and Assessment Act, 1979 (EP&A Act). The application seeks consent for the use of an existing aboveground spa at 'Tussock', Thredbo Village, Thredbo Alpine Resort within the Kosciuszko National Park (**Figure 1**).

The proposal is described in detail in **Section 2** of this report.



Figure 1: Site location in context to Thredbo Village (Source: SIX Maps 2015)

1.2 The Site and Surrounding Development

'Tussock' is a tourist accommodation building located in the north-western end of Thredbo Village in the Crackenback Ridge area. The site is approximately 970m², rectangular in shape, south-facing and generally flat. 'Tussock' is a two storey building licensed for six beds.

1.3 Approval history

On 3 March 2009, the Acting Team Leader, as delegate of the Minister for Planning, approved the construction of an in-ground spa on the northern side of the building and a stone seat on the southern side (DA 002-01-2009).

On 3 March 2009, Construction Certificate 172/09 was issued by Principal Certifying Authority, Rapid Inspect, for the construction of the in-ground spa.

In April of 2015, the Department became aware that the spa was not constructed in accordance with the development consent as it had been built above ground.

2. PROPOSED DEVELOPMENT

The application seeks approval for the use of an existing aboveground spa that has been constructed at the rear of 'Tussock' (**Figure 2**). A separate Building Certificate has also been received as the spa was constructed not in accordance with consent.

During the assessment, the Applicant undertook measures to ensure the spa would comply with the relevant legislation. This included installing CPR signage, an ozone quenching system, and a lockable lid.



Figure 2: Above-ground spa (Source: Department site inspection)

3. STATUTORY CONTEXT

3.1. Consent Authority

Under clause 7 of *State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007* (the Alpine SEPP), the Minister for Planning is the consent authority for the application as the development takes place within a ski resort area as referred to in Clause 32C (2)(a) of Schedule 6 to the *Environmental Planning and Assessment Act 1979* (EP&A Act).

3.2. Determination under Delegation

In accordance with the Minister's delegation of 16 February 2015, the Team Leader, Alpine Resorts Team may determine the application as:

- the application is in relation to land which the Alpine SEPP applies; and
- there are less than 25 public submissions in the nature of objections.

3.3. Permissibility

The proposal includes the use of an existing above ground spa ancillary to a tourist accommodation building consistent with the definition of 'tourist accommodation' as defined in the Alpine SEPP. Pursuant to clause 11 of the Alpine SEPP, 'tourist accommodation' is permissible with consent with the Thredbo Alpine Resort.

3.4. Considerations under section 79C of the EP&A Act

Under section 79C of the EP&A Act, in determining a development application, 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 by section 79C.

The Department's consideration of the development against the provisions of section 79C of the EP&A Act is contained in Section 5 and within Appendix B of this report.

3.5. Environmental Planning Instruments

Under section 79C of the EP&A Act, the consent authority, when determining a development application, must take into consideration the provisions of any environmental planning instrument (EPI) and draft EPI (that has been subject to public consultation and notified under the EP&A Act) and development control plan/s (DCP) that apply to the proposal.

The Alpine SEPP is the only EPI which applies to the site for this type of development. An assessment against the requirements of the Alpine SEPP is provided in **Appendix C**. The Department is satisfied that the application is consistent with the requirements of the Alpine SEPP.

3.6. Objects of the EP&A Act

In determining an application, the consent authority should consider whether the proposal is consistent with the relevant objects of the EP&A Act.

The proposal complies with the objects as it seeks approval for the use of an above-ground spa ancillary to an existing tourist accommodation building. The proposal will not result in any detrimental impacts to the amenity of the surrounding locality or users of the subject, or adjacent buildings.

The proposal also promotes the orderly and economic use of the site and will not have an impact on the environment thus being ecologically sustainable development (**Section 3.7**).

3.7. Ecologically Sustainable Development (ESD)

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes. The Department has considered the project in relation to the ESD principles. The precautionary and Inter-generational Equity principles have been applied in the decision-making process via an assessment of the impacts of the proposal.

3.8. Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Notification (Part 6, Division 7) and Fees (Part 15, Division 1) have been complied with.

4. CONSULTATION AND SUBMISSIONS

After accepting the application, the Department placed the application on its website. Due to the minor nature of the proposal and the area of the works is located behind the building and not near any lodges, the Department did not exhibit or notify the application. No public submissions were received during the assessment of the application.

The proposal was referred to the Office of Environment and Heritage (OEH) pursuant to clause 17 of the Alpine SEPP. The OEH raised no objections to the proposal and noted relevant legislation to be considered in relation to spas. This is discussed further in **Section 5**.

5. ASSESSMENT

The Department has considered the relevant matters for consideration under section 79C of the EP&A Act, the SEE and supporting information in its assessment of the proposal. The key issues in the Department's assessment of this proposal is in relation to the proposals use and compliance with the Public Health Act and Swimming Pools Act.

Following a review of the site, the Department became aware that the spa was not built in accordance with Development Consent DA 002-01-2009. As a result, in order for the Applicant to retain the spa at the site as built, an application was required to be submitted for the use of the aboveground spa. A separate Building Certificate was also required.

Whether the spa is located within the ground or positioned at ground level is not a concern for the Department as the use of the spa, as an ancillary use to 'Tussock', a tourist accommodation building, does not raise any concerns in terms of environmental impacts.

In regards to the proposals compliance with the Swimming Pools Act, the Applicant was required to display signage relating to CPR and install a lockable lid on the spa. These requirements were met by the Applicant during the assessment of this application.

To comply with the Public Health Act the Applicant was required to install an ozone quenching system. This part was installed during the assessment of the application.

Overall, the Department is satisfied that the proposal has appropriately incorporated measures to comply with the above Acts and the Applicant has responded to ensure compliance is achieved.

6. CONCLUSION

The Department has assessed the merits of the proposal and is satisfied that the impacts have been satisfactorily addressed within the proposal and the recommended conditions.

In relation to the proposal, the Department considers that:

- the use of the spa is ancillary to the tourist accommodation building;
- the proposal does not have an impact on threatened species, populations and ecological communities; and
- the proposal is appropriate and does not impact upon any adjoining properties.

Overall, the Department is satisfied that the proposal has been appropriately designed and recommends that the application be approved subject to the imposition of conditions.

7. RECOMMENDATION

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

- a) **consider** all relevant matters prescribed in section 79C of the EP&A Act, including the findings and recommendations of this report; and
- b) **approve** the Development Application (DA 7418), under section 80(1)(a) of the EP&A Act, having considered matters in accordance with (a) above; and
- c) **sign** the Notice of Determination at **Appendix D**.

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1/12/2016

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APPENDIX A. RELEVANT SUPPORTING INFORMATION / SUBMISSIONS

The following supporting documents and information to this assessment report can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7418

APPENDIX B. CONSIDERATIONS UNDER SECTION 79C

Section 79C of the EP&A Act requires that the consent authority, when determining a development application, must take into consideration the following matters:

(a)(i) any environmental planning instrument (EPI)	Consideration of the provisions of all EPIs that apply to the proposed development is provided in Appendix C of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Not applicable.
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations	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.
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department has considered the likely impacts of the development and is satisfied that all environmental impacts can be appropriately managed and mitigated through recommended conditions of consent.
(c) the suitability of the site for the development,	The site is suitable for the proposal and supports its approved tourist accommodation use.
(d) any submissions made in accordance with this Act or the regulations,	No submissions were received for this proposal.
(e) the public interest.	<p>The proposed development is considered to be consistent with the aim and objectives of the Alpine SEPP and would be compatible to the uses of the locality. There would also not be an adverse impact on the environment and the proposal is consistent with the principles of ESD.</p> <p>As such, the proposal is considered to be in the public interest, subject to the imposition of appropriate conditions.</p>

APPENDIX C. CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007

CI 14(1) – Matters to be considered by consent authority	
(a) the aim and objectives of this policy, as set out in clause 2	The proposal is considered to be consistent with the aim and objectives of the Alpine SEPP in that it is consistent with the principles of ESD and consists of the use of an existing spa pool.
(b) the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),	Not applicable to proposal.
(c) the cumulative impacts of development on existing transport, effluent management systems, waste disposal facilities or transfer facilities, and existing water supply,	Not applicable to proposal.
(d) any statement of environmental effects,	Considered adequate to enable a proper assessment of the proposal.
(e) the character of the alpine resort,	Not applicable to proposal.
(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	The proposal is exempt under the policy as it does not involve any physical works.
(g) any sedimentation and erosion control measures,	Not applicable to proposal.
(h) any stormwater drainage works proposed,	Not applicable to proposal.
(i) any visual impact of the proposed development, particularly when viewed from the Main Range,	Not applicable to proposal.
(j) any significant increase in activities, outside of the ski season,	Not applicable to proposal.
(k) if the development involves the installation of ski lifting facilities,	Not applicable to proposal.
(l) if the development is proposed to be carried out in Perisher Range Alpine Resort: the document entitled Perisher Range Resorts Master Plan and the document entitled Perisher Blue Ski Slope Master Plan,	Not applicable to proposal.
(m) if the development is proposed to be carried out on land in a riparian corridor.	Not applicable to proposal.

CI 17 – applications referred to the Office of Environment and Heritage (OEH)	
The proposal was referred to the OEH pursuant to clause 17 of the Alpine SEPP. No objections to the proposal were raised from OEH.	
CI 26 – Heritage conservation	
European heritage	Not applicable to proposal.
Aboriginal heritage	Not applicable to proposal.

APPENDIX D. RECOMMENDED CONDITIONS OF CONSENT
