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S.4.55 MODIFICATION REPORT

S.4.55 MODIFICATIONS TO DA 9373 ADDITIONS AND ALTERATIONS 'MELALUECA 1' LOT 774, DIGGINGS TERRACE THREDBO ALPINE RESORT



NOVEMBER 2019

Project: 68-17

Dabyne Planning Pty Ltd

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This report has been prepared by:

A handwritten signature in black ink, appearing to read 'I. Pasalich', is positioned above a horizontal line.

Ivan Pasalich
Principal
Dabyne Planning Pty Ltd

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1. Introduction

Dabyne Planning Pty Ltd has been engaged by the Applicant and sub-lessee to prepare a S.4.55 Modification report in relation to modifying the development consent for DA 9373 for Additions and Alterations at 'Melaleuca 1', Diggings Terrace, Thredbo.

The S.4.55 Modification is in relation to amending the development by extending the extended deck and squaring off on the ground floor level, erecting a permanent external staircase instead of a temporary construction staircase, erecting a carport over the parking platform and retaining the existing angular stone cladding wall as an entry from the external staircase.

To allow for the modified development, a S.4.55 Modification Application has been prepared.

2. Background

In August 2018, development consent for Additions and Alterations to the chalet was granted (DA 9373).

3. The Site

The subject site is known as 'Melaleuca 1' and is a dwelling (chalet) attached to another dwelling, however located on its own allotment on Diggings Terrace, Thredbo Village. The property is legally described as Lot 774 DP 1119757.

The building is attached to 'Melaleuca 2' and is located adjacent to Aspect Chalets.

The existing property is licensed to contain a maximum of four (4) beds for the purpose of tourist accommodation. The property is directly accessible from Diggings Terrace.

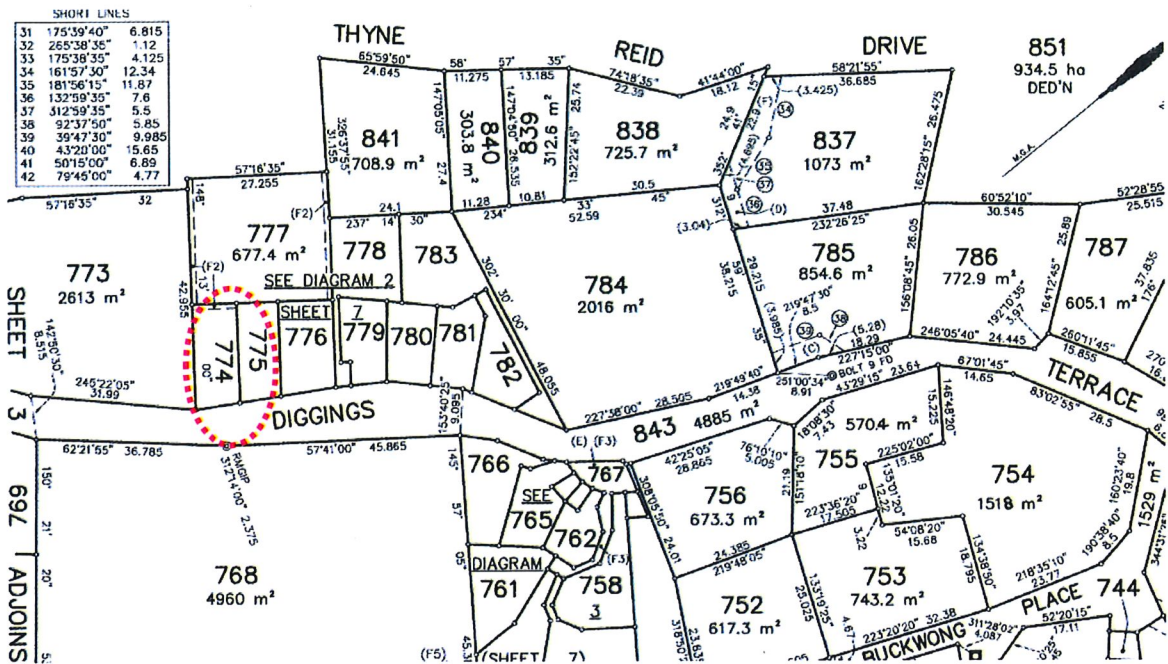
The site is identified in figures 1-3 below:



Figure 1: Aerial view of the subject building in context of the locality



Figure 2 Aerial view of the subject site



4. Proposed Modifications

The modifications include:

- Extend the deck on the ground floor level (accessed from the lounge) to match the approved extended deck and square off. The deck will be enlarged by approximately 2.9m².
- Install external steel stairs from the ground level (parking platform) to the basement level, in lieu of constructing temporary stairs for construction. This will provide access to the new entry on the basement level.
- Retain the angled stoned cladding wall and utilise as an entry off the new staircase.
- Erect a covered carport over the existing parking platform at front of the building. This will include a skillion roof to match the roof profile of the building and be approximately 16m² in area.

5. Assessment under S.4.15 of the EP&A Act, 1979

Section 4.15 EP&A Act, 1979 - Matters for Consideration:

SECTION 4.15(1)(a)(i) - ENVIRONMENTAL PLANNING INSTRUMENTS

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

The only applicable Environmental Planning Instrument to the approved development and proposed modifications is State Environmental Planning Policy (Kosciuszko National Park - Alpine Resorts) 2007 (SEPP Alpine Resorts).

Being substantially the same development as that approved, the proposed modifications generally remain consistent with the key environmental planning controls applicable to the site and development as discussed below.

Clause 14 - Matters for consideration:

Matter for Consideration	Response
Cl. 14 (1) In determining a development application that relates to land to which this Policy applies, the consent authority must take into consideration any of the following matters that are of relevance to the proposed development:	
(a) the aim and objectives of this Policy, as set out in clause 2,	<i>The proposed modifications are considered to be consistent with the aims and objectives of the Policy as the development will be substantially the same as approved.</i>

<p>(b) the extent to which the development will achieve an appropriate balance between the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),</p>	<p><i>The proposed modifications do not require any additional measures to mitigate environmental hazards such as flooding, bush fires or geotechnical hazards that would impact on the conservation of the natural environment.</i></p>
<p>c) having regard to the nature and scale of the development proposed, the impacts of the development (including the cumulative impacts of development) on the following:</p> <p>(i) the capacity of existing transport to cater for peak days and the suitability of access to the alpine resorts to accommodate the development,</p> <p>(ii) the capacity of the reticulated effluent management system of the land to which this Policy applies to cater for peak loads generated by the development,</p> <p>(iii) the capacity of existing waste disposal facilities or transfer facilities to cater for peak loads generated by the development,</p> <p>(iv) the capacity of any existing water supply to cater for peak loads generated by the development,</p>	<p><i>The proposed modifications will not increase impacts on the capacity of the existing transport system, reticulated effluent management system, waste disposal system or water supply.</i></p>
<p>(d) any statement of environmental effects required to accompany the development application for the development,</p>	<p><i>Not applicable to a S.4.55 Modification.</i></p>
<p>(e) if the consent authority is of the opinion that the development would significantly alter the character of the alpine resort—an analysis of the existing character of the site and immediate surroundings to assist in understanding how the development will relate to the alpine resort,</p>	<p><i>The proposed modifications will not significantly alter the character of the resort.</i></p>
<p>(f) the Geotechnical Policy—Kosciuszko Alpine Resorts (2003, Department of Infrastructure, Planning and Natural Resources) and any measures proposed to address any geotechnical issues arising in relation to the development</p>	<p><i>The proposed modifications will include a revised Form 4.</i></p>
<p>(g) if earthworks or excavation works are proposed—any sedimentation and erosion control measures proposed to mitigate any adverse impacts associated with those works,</p>	<p><i>Earthworks and excavations works are already addressed required as part of the development as outlined in the approved Site Environmental Management Plan.</i></p>

<p>(h) if stormwater drainage works are proposed—any measures proposed to mitigate any adverse impacts associated with those works,</p>	<p><i>The proposed modifications will generally result in the same stormwater drainage as approved, except for the carport, which is located over a timber platform.</i></p>
<p>(i) any visual impact of the proposed development, particularly when viewed from the Main Range,</p>	<p><i>The proposed modifications will not increase visual impacts.</i></p>
<p>(j) the extent to which the development may be connected with a significant increase in activities, outside of the ski season, in the alpine resort in which the development is proposed to be carried out,</p>	<p><i>The proposed modifications will not increase activities outside of the ski season.</i></p>
<p>(k) if the development involves the installation of ski lifting facilities and a development control plan does not apply to the alpine resort:</p> <p>(i) the capacity of existing infrastructure facilities, and</p> <p>(ii) any adverse impact of the development on access to, from or in the alpine resort,</p>	<p><i>Not applicable.</i></p>
<p>(l) if the development is proposed to be carried out in Perisher Range Alpine Resort:</p> <p>(i) the document entitled Perisher Range Resorts Master Plan, as current at the commencement of this Policy, that is deposited in the head office of the Department, and</p> <p>(ii) the document entitled Perisher Blue Ski Resort Ski Slope Master Plan, as current at the commencement of this Policy, that is deposited in the head office of the Department,</p>	<p><i>Not applicable.</i></p>
<p><i>(m) if the development is proposed to be carried out on land in a riparian corridor:</i></p> <p><i>(i) the long term management goals for riparian land, and</i></p> <p><i>(ii) whether measures should be adopted in the carrying out of the development to assist in meeting those goals.</i></p>	<p><i>The proposed modified works will not be located closer to a watercourse than what has already been approved and the development is located more than 40m from an unnamed creek to the east.</i></p>
<p>(2) The long term management goals for riparian land are as follows:</p>	

(a) to maximise the protection of terrestrial and aquatic habitats of native flora and native fauna and ensure the provision of linkages, where possible, between such habitats on that land.	<i>Not applicable.</i>
(b) to ensure that the integrity of areas of conservation value and terrestrial and aquatic habitats of native flora and native fauna is maintained,	
(c) to minimise soil erosion and enhance the stability of the banks of watercourses where the banks have been degraded, the watercourses have been channelised, pipes have been laid and the like has occurred.	
(3) A reference in this clause to land in a riparian corridor is a reference to land identified as being in such a corridor on a map referred to in clause 5.	

Clause 15 – Additional matters to be considered for buildings

Matter for Consideration	Response
(1) Building height: In determining a development application for the erection of a building on land, the consent authority must take into consideration the proposed height of the building (where relevant) and the extent to which that height:	
(a) has an impact on the privacy of occupiers and users of other land, and	<i>The proposed modifications do not seek to change the approved building height.</i>
(b) limits solar access to places in the public domain where members of the public gather or to adjoining or nearby land, and	
(c) has an impact on views from other land, and	
(d) if the building is proposed to be erected in Thredbo Alpine Resort—has a visual impact when viewed from the Alpine Way, and	
(e) if the building is proposed to be erected in Perisher Range Alpine Resort—needs to be limited so as to assist in maintaining the skyline when viewed from Kosciuszko Road and any other public roads, and	<i>Not applicable.</i>
(f) if the building is proposed to be erected in an alpine resort other than Thredbo Alpine Resort or Perisher Range Alpine Resort—is similar to existing buildings in the resort where it is proposed to be erected, and	<i>Not applicable.</i>
(g) if the building is proposed to be erected in Bullocks Flat Terminal—relates to the topography of its site.	<i>Not applicable.</i>
(2) Building setback: In determining a development application for the erection of a building on land, the consent authority must take into consideration the proposed setback of the building (where relevant) and the extent to which that setback:	

(a) assists in providing adequate open space to complement any commercial use in the alpine resort concerned, and	<p><i>The proposed carport will be located on the sub-lease boundary over the existing platform and parking space. The proposed stairs will also be located on the sub-lease boundary.</i></p> <p><i>These modifications along with the extended deck are located adjacent to an open space area at the rear of the adjacent apartment building (Aspect Chalets).</i></p> <p><i>The modifications do not alter the provision of open space on the allotment, landscaping or impact on view corridors or privacy. The permanent stairs will provide better internal pedestrian access.</i></p> <p><i>The carport includes a structural gutter to manage snow.</i></p>
(b) assists in achieving high quality landscaping between the building and other buildings, and	
(c) has an impact on amenity, particularly on view corridors at places in the public domain where members of the public gather, and	
(d) is adequate for the purposes of fire safety, and	
(e) will enable site access for pedestrians, services (including stormwater drainage and sewerage services) and the carrying out of building maintenance, and	
(f) will facilitate the management of accumulated snow.	
<p>(3) Landscaped area: In determining a development application for the erection of a building on land, the consent authority must take into consideration (where relevant) the extent to which landscaping should be used:</p>	
(a) as a means of assisting in the protection of the unique alpine environment of the alpine resort concerned, and to maximise its natural visual amenity, for the benefit of visitors and natural ecosystems, and	<p><i>The proposed modifications are not likely to impact upon landscaping or take up areas that were landscaped.</i></p>
(b) to assist in the provision of adequate open space to complement any commercial use in the alpine resort concerned, and	
(c) to limit the apparent mass and bulk of the building, and	
(d) as an amenity protection buffer between the proposed building and other buildings, and	
(e) as a means of reducing run-off, and	
(f) to protect significant existing site features and limit the area of any site disturbed during and after the carrying out of development.	

SECTION 4.15(1)(a)(ii) – DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft Environmental Planning Instruments that are applicable to the site or proposed modifications.

SECTION 4.15(1)(a)(iii) – DEVELOPMENT CONTROL PLANS

There are no Development Control Plans applicable to the Kosciuszko Alpine Resorts under State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007.

SECTION 4.15(1)(a)(iiiia) – PLANNING AGREEMENTS

There are no Planning Agreements applicable to the Kosciuszko Alpine Resorts under State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007.

SECTION 4.15(1)(a)(iv) – REGULATIONS

Not applicable.

SECTION 4.15(1)(a)(v) – COASTAL MANAGEMENT ZONE

Not applicable.

SECTION 4.15(1)(b) – LIKELY IMPACTS

Natural Environment:

The proposed modifications are not expected to have any additional impacts on the natural environment.

Built Environment:

The proposed modifications are not expected to generate any additional impacts on the built environment.

Social and Economic impacts in the locality:

The social and economic impacts from the proposed modifications when compared to the original approval are not expected to change, other than providing a carport over an existing parking space for vehicles, a permanent staircase, new entry and extended deck.

SECTION 4.15(1)(c) – SUITABILITY OF THE SITE

The modified development is considered substantially the same development as the approved, which was considered suitable for the site.

SECTION 4.15(1)(d) – SUBMISSIONS

The original DA did not attract any public submissions, therefore the modified development does not warrant notification.

SECTION 4.15(1)(e) – THE PUBLIC INTEREST

The above assessment has demonstrated that the proposed modifications satisfy the objectives and relevant clauses prescribed under State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007.

Consequently, the proposed modifications are considered to be within the public interest.

6. Assessment under 4.55 (1A) of the EP&A Act, 1979

Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 relates to modifications involving minimal environmental impact as addressed below.

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

The proposed modifications will not result in additional impacts on the environment.

The proposal is therefore of minimal environmental impact.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

The modified development will comprise of additions and alterations with only minor changes including a carport over an existing parking space, permanent stairs (instead of temporary stairs), revised entry and extended deck. The approved development was for additions and alterations and the proposed modifications relate to these additions and alterations with changes that do not result in a discernible increase to the footprint of the building or its floor space.

The proposed modifications, being additions and alterations therefore are not considered to constitute a 'radical transformation' [see The majority of the Court of Appeal in Sydney City Council v Ilenace Pty Limited (1984) 3 NSWLR 414, or North Sydney Council v Michael Standley & Associates Pty Limited (1998) 97 LGERA 433] of the approved development and will ensure that the development remains substantially the same.

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(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

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Not applicable.

Subsections (1), (2) and (5) do not apply to such a modification.

Noted.