



Bernti's Mountain Inn, Thredbo Village

Development Application Assessment
DA 10114

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Glossary

Abbreviation	Definition
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
BC Regulation	<i>Biodiversity Conservation Regulation 2017</i>
BVM	Biodiversity Values Map
Consent	Development Consent
CPP	Community Participation Plan
Department	Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</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 & Wildlife Service
RFS	NSW Rural Fire Service
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy

Executive Summary

This report provides an assessment of a Development Application (DA 10114) seeking approval to undertake a major alteration and addition to the northern façade of Bernti's Mountain Inn, Thredbo Village, Thredbo Alpine Resort within Kosciuszko National Park (KNP). The Applicant is Bernti's Mountain Inn.

The Minister for Planning and Public Spaces is the consent authority for development within a ski resort in KNP and the proposal is permissible with consent under the provisions of *State Environmental Planning Policy (Kosciuszko National Park-Alpine Resorts) 2007* (the Alpine SEPP).

The Department of Planning, Industry and Environment (the Department) exhibited the application between 13 January 2020 until 7 February 2020 in accordance with the Department's Community Participation Plan as the works include external alterations to an existing tourist accommodation building within 50 metres of other tourist accommodation buildings. The Department received submissions from the NSW Rural Fire Service (RFS) and the National Parks and Wildlife Service (NPWS). Two submissions from the public were received.

The key issues raised in the public submissions related to the adequacy of car parking to be provided on site, that the proposal was not being consistent with Thredbo Design Guidelines with no setback to front or side boundaries, overshadowing of adjoining building and roadway, privacy and amenity impacts (noise) of proposal upon adjoining tourist accommodation premise, and the hours of use for external areas.

The Department has assessed the proposal in accordance with relevant matters under section 4.15(1) and the objects of the *Environmental Planning and Assessment Act, 1979* (EP&A Act), the principles of Ecologically Sustainable Development, and issues raised in all submissions.

The Department's assessment has considered the sites characteristics, the location within Thredbo Village and relationship to adjoining properties (including similar developments), the design of the new works in association with the existing building and whether the overall proposal is suitable and would not adversely impact upon the amenity of adjoining properties.

The Department considers the proposal is acceptable as:

- there will not be a significant impact on any threatened species, populations or ecological communities
- the alterations and additions to the site complement the existing building and its surrounding setting
- the works provide opportunities for undercover parking and additional entertainment options for the benefit of guests and visitors to the site
- the sun deck areas provide additional opportunities for visitor and guests to enjoy the outdoor environment while having consideration to proximity of adjoining properties
- construction impacts are acceptable with the inclusion of requirements to ensure impacts are minimised upon adjoining properties

The Department's assessment concludes the application is in the public interest as it supports the ongoing use of the existing building for tourist accommodation which supports the regional plan for the locality and maintains its consistency with the Alpine SEPP.

The Department therefore recommends the application be approved subject to conditions.

Contents

1	Introduction	1
1.1	The Department’s Assessment	1
1.2	Site location and context	2
1.3	Surrounding development	2
2	Project	5
3	Strategic context	9
4	Statutory Context	10
4.1	Consent Authority	10
4.2	Permissibility	10
4.3	Other approvals	10
4.4	Mandatory Matters for Consideration	10
5	Engagement	14
5.1	Department’s Engagement	14
5.2	Summary of submissions	14
5.3	Key issues – Government Agency	14
5.4	Key Issues - Public Submissions	14
5.5	Response to Submissions	15
6	Assessment	17
6.1	Context, setting and character	17
6.2	Amenity impacts to adjoining properties	22
6.3	Car parking	27
6.4	Geotechnical	28
6.5	Design details and standards	29
6.6	Other issues	31
7	Evaluation	33
8	Recommendation	34
9	Determination	35
	Appendices	36
	Appendix A – List of referenced documents	36
	Appendix B – Statutory Considerations	37
	Appendix C – Recommended Instrument of Consent	42

1 Introduction

1.1 The Department's Assessment

This report details the Department assessment of Development Application (DA 10114) at Bernti's Mountain Inn, Thredbo Village, Thredbo Alpine Resort within KNP.

Bernti's Mountain Inn (the Applicant) are seeking development consent to undertake a major alteration and addition to the northern façade of Bernti's Mountain Inn (**Figure 1**) comprising formalisation of the car parking and entry level, addition of a kitchen / multipurpose room off the existing bar level, a new sundeck off the existing restaurant area and solar panels on the roof.

The Department's assessment considers all documentation submitted by the Applicant, including the Statement of Environmental Effects (SEE), the Applicant's response to submissions and submissions from government authorities and the public. The Department's assessment also considers the legislation and planning instruments relevant to the site and the development.

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



Figure 1 | Site in context of Thredbo Village (Source: SIX Maps 2020)

1.2 Site location and context

The site is located in Thredbo Alpine Resort, which is in the southern part of KNP. The site contains Bernti's Mountain Inn and is located at 4 Mowamba Place, within Thredbo Village. The site is legally described as Lot 817 DP 1119757, with an allotment area of approximately 1200m² in size.

The site is occupied by a tourist accommodation building (containing a manager's residence / accommodation suites / restaurant and bar area) originally constructed in the late-1970s with a major addition / extension constructed in the mid-1980s. The building is largely masonry construction (**Figure 2**) and has a licence under the sub-lease held with Kosciuszko Thredbo Pty Ltd for 60 beds.

A six-car parking area is provided off Mowamba Place for staff and guests. The car parking area is currently part bitumen / part gravel construction. Landscaped vegetation is provided around the existing building, with the occasional large eucalyptus tree predominantly at the rear.



Figure 2 | View of existing building from Mowamba Place (Source: Applicant's documentation)

1.3 Surrounding development

The buildings immediately adjacent the site (**Figure 3**) comprise a mixture of tourist accommodation / ski club buildings including, 'House of Ullr', 'Thredbo Alpine Apartments', 'Mowamba Apartments', 'Geebung Ski Club' / 'Roslyn Lodge' / 'Twynam Lodge' / 'Christiana Lodge', and 'Happy Jacks Apartments'.

Lot 847 DP 1119757 also borders the site along the northern, western and eastern boundaries. The allotment is part of the head lease and managed by Kosciuszko Thredbo Pty Ltd. The allotment forms part of the public road network, being the allotment for Mowamba Place, and also an easement for access utilised for paths to 'Happy Jacks Apartments' and sites to the south of the site such as 'Roslyn Lodge' and 'Twynam Lodge'.



Figure 3 | Buildings immediately adjacent to the site (Source: SIX Maps 2020)

'House of Ullr', Lot 815 DP 1119757, built in the 1970's is located to the northeast along Mowamba Place. The building comprises three and half levels with accommodation suites, a managers flat and a ground level bar / restaurant.

'Thredbo Alpine Apartments', Lot 865 DP 1155631, built in the 1980's is located to the northwest across Mowamba Place below the site. The building comprises part three / part four levels, with ground level undercover and external parking with 38 apartments.

'Geebung Ski Club' (Lot 796 DP 1119757) / 'Roslyn Lodge' (Lot 797 DP 1119757) / 'Twynam Lodge' (Lot 799 DP 1119757) / 'Christiana Lodge' (Lot 800 DP 1119757) are located to the south and upslope of the site with access off Bobuck Lane.

'Happy Jacks', Lot 816 DP 1119757, built in the 1960's is located to the east of the site. The building comprises two separate buildings of two levels with nine apartments in total.

'Mowamba Apartments', Lot 818 DP 1119757, built in the late 1970s is located to the west of the site and located off Mowamba Place (**Figure 4**). The building comprises five levels across 23 apartments and 5 commercial shops.



Figure 4 | View of the site looking along Mowamba Place, with Mowamba Apartments to the right (Source: Department inspection)

2 Project

The Application is seeking development consent for major alterations and additions to the northern façade of Bernti's Mountain Inn comprising formalisation of the car parking and entry level, addition of a kitchen / multipurpose room off the existing bar level, a new sundeck off the existing restaurant area and solar panels on the roof.

The existing five level building with footprint of approximately 480sqm will remain predominantly the same. A new three-level (two levels plus rooftop sundeck with patio) addition with footprint of approximately 414sqm is proposed to be built on the north western portion of the site over the existing car parking and integrated back into the original building. This will create a new front façade of building and new streetscape.

The key components of the proposal are provided in **Table 1** and **Figures 5** and **9**.

Table 1 | Main Components of the development

Aspect	Description
Works	
<ul style="list-style-type: none"> Demolition 	Demolition of existing building components (existing façade, car park and entry area) to enable new works to be attached to building
<ul style="list-style-type: none"> Level 1 (Figure 6) 	Formalisation and sealing of the car parking area (providing 6 spaces) and a construction of a separate garage area Replacement of entry stairs for access into building New lift between car park level (Level 1), Level 2 and Level 3 Construction of a storage area (keg room, storeroom and bin enclosure)
<ul style="list-style-type: none"> Level 2 (Figure 7) 	Construction of a new bar, brasserie and multi-purpose room including a new kitchen / servery, bathroom facilities (including a disabled toilet) off the existing bar area Provision of a private open space area (off the manager's residence) Inclusion of a sun deck off the multipurpose room (to replace the existing outdoor area on the western side of the building)
<ul style="list-style-type: none"> Level 3 (Figure 8) 	Extension of the existing restaurant Inclusion of a sun deck with patio cover to the extent of the area below
<ul style="list-style-type: none"> Roof and windows 	Extension of roof line, as required over new works, to match existing materials / finishes Installation of solar panels on the existing roof area Replacement of existing windows throughout the building
Materials and finishes	Concrete blockwork and natural granite rockwork to match existing Rendered Level 1 walls and cladding to match existing Extended roofline on Level 3 to match existing
Signage	Removal of existing 'Bar, Grill and Brasserie' signage on building Installation of new signage on glass panels between stone pillars on front façade of car parking area
Maximum height	Maximum RL 1388.34 to ridge of top roof level to be retained Maximum height of new addition RL 1379.7 (top of patio)

Parking and access arrangements	Parking for 6 guest spaces and a separate garage area Space located adjoining car park entry to be utilised as an accessible space with adjoining shared zone
Waste location	Bin storage provided within Level 1 – off car parking area
Vegetation	Removal of existing landscaped gardens
Works adjacent to site (Lot 847)	Any restoration (if any) to surfaces outside the subject lot are proposed to be undertaken by the Applicant at the Applicant's expense. These restorations (if any) are not considered new works and will simply be in the nature of "making good" the disturbance (if any).
Estimated cost of works	\$1.65 million

The Applicant states that proposal aims to extend the commercial complex as the current configuration offers limited space within the food and beverage areas of the building. The extension is deemed to be of positive influence on both the existing building and also Thredbo by offering more entertainment options within the tourism service industry. The Applicant also comments that the:

- north-west aspect ensures that the additions will achieve the best views of the surrounding landscape, ski fields and alpine environment without impacting on the privacy of adjoining accommodation
- proposal carefully utilises footprint that is currently disturbed and being utilised as car parking
- design maximises the available space on the site for redevelopment without creating any negative impacts in way of overshadowing, overlooking or overdevelopment of the site



Figure 5 | Perspective of proposal with works to the northern side of building over the existing car parking area (Source: Applicant's documentation)

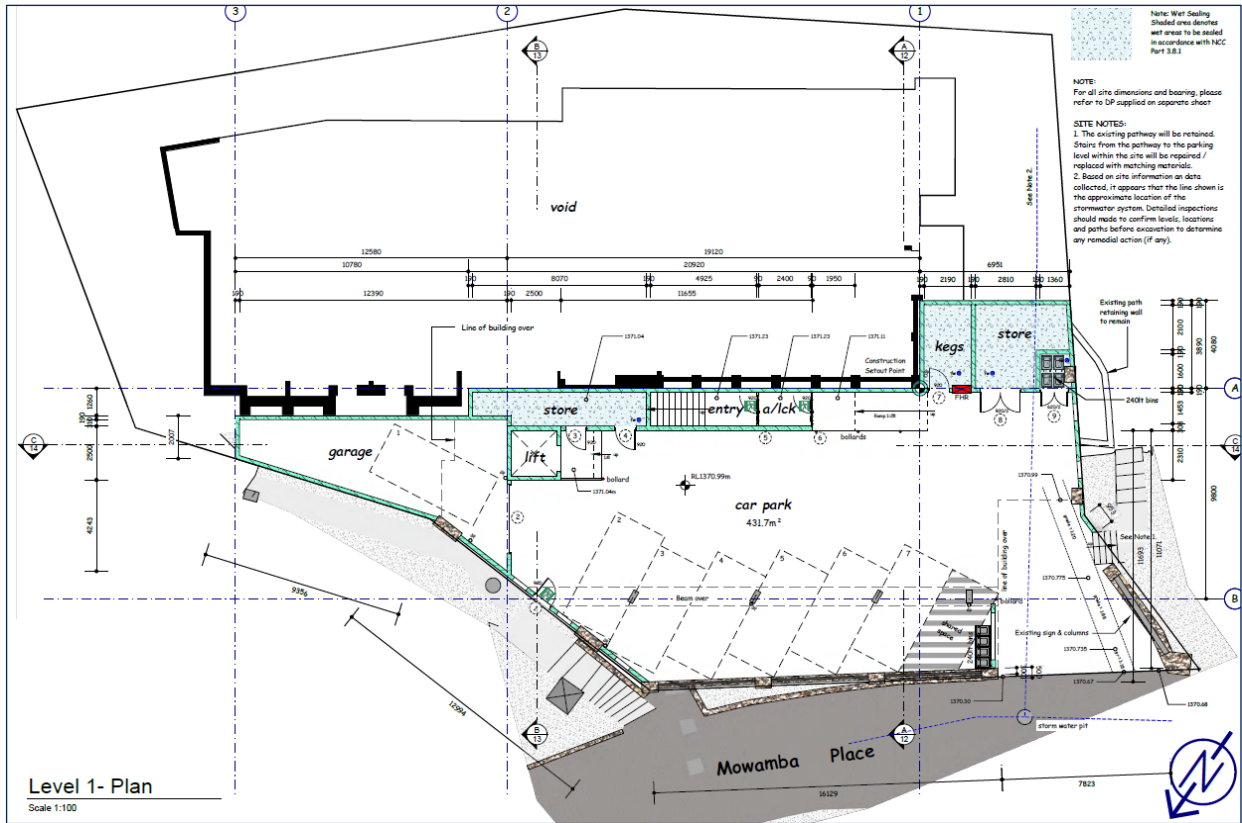


Figure 6 | Level 1 car parking works and new entrance area (Source: Applicant's documentation)

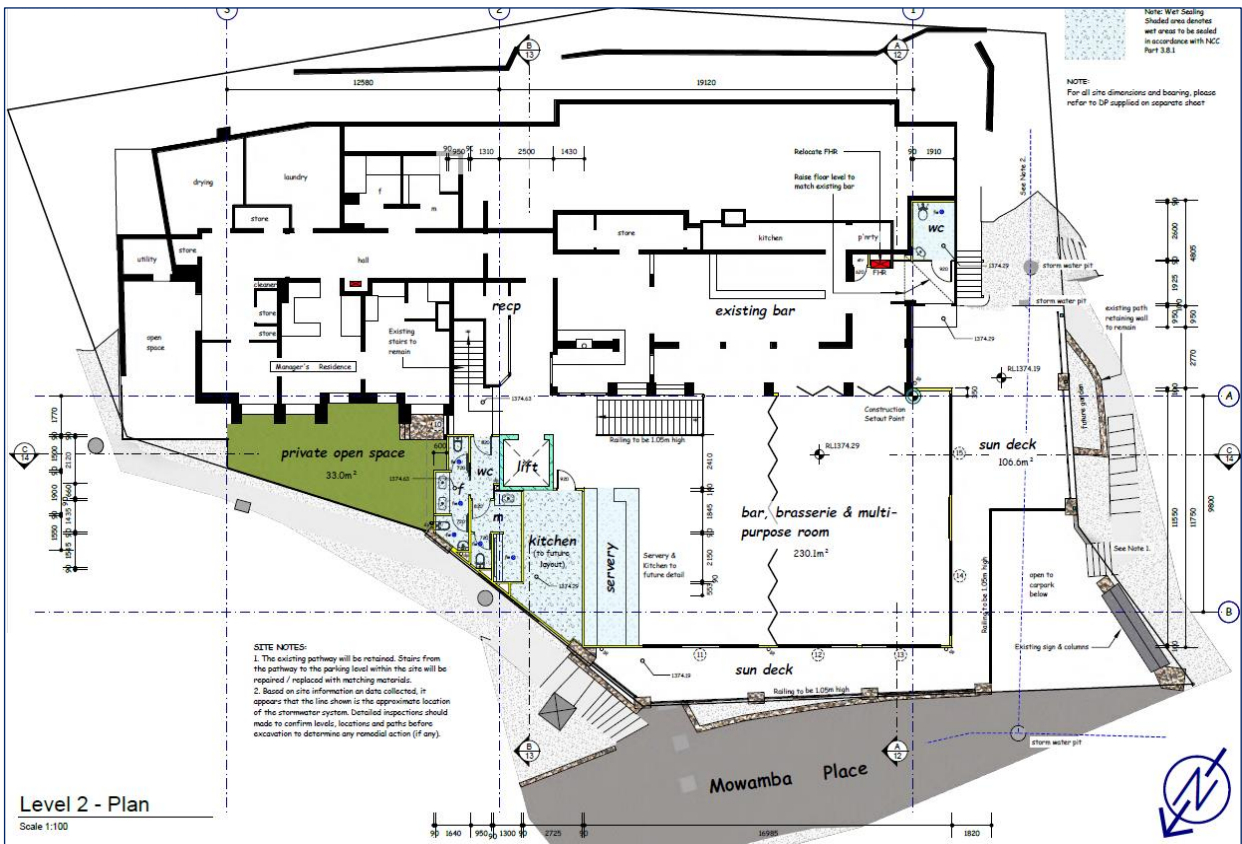


Figure 7 | Level 2 works including new open space for manager's residence / kitchen / bar, brasserie and multipurpose room off existing bar area (Source: Applicant's documentation)



Figure 8 | Level 3 works incorporating outdoor subdeck as an extension off existing restaurant area (Source: Applicant's documentation)

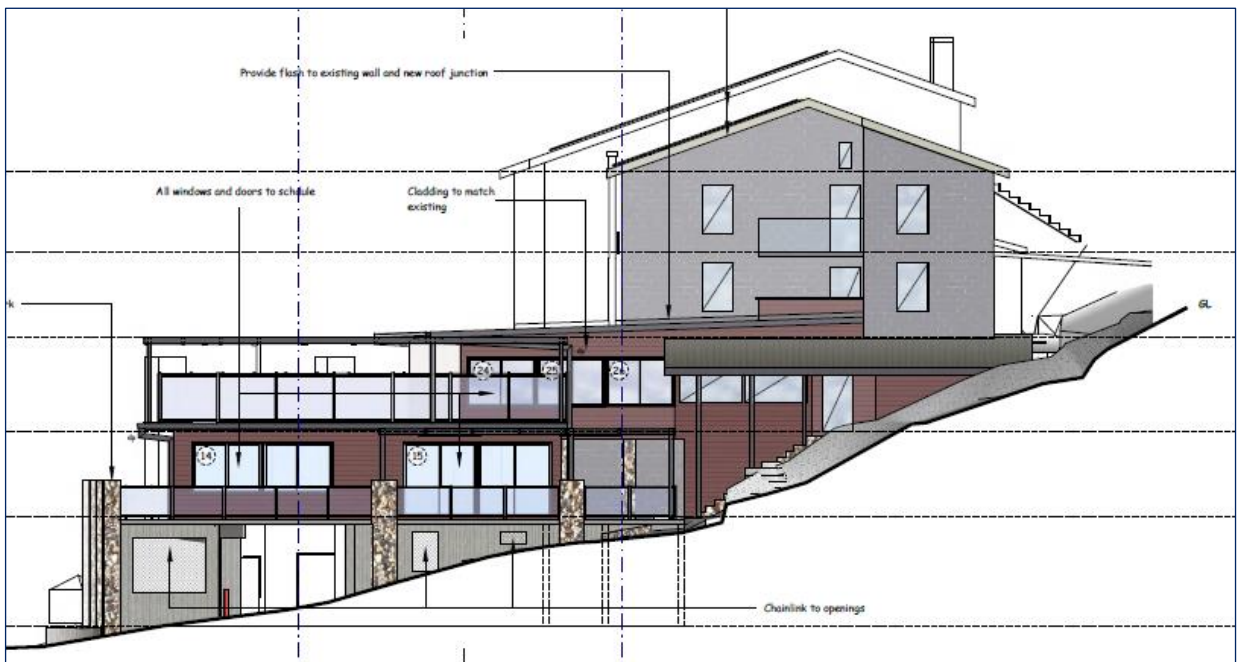


Figure 9 | Western elevation indicating height of proposal and areas to be retained (Source: Applicant's documentation)

3 Strategic context

The Snowy Mountains region offers a diverse and unique mix of visitor destinations including the KNP, the alpine resorts, the iconic Snowy River and the highest mountains on the Australian continent. A strong tourism economy is driven mainly by skiing and related winter sport experiences during the peak winter season. The region, including the alpine resorts, also provides opportunities for a range of other recreational activities during the warmer months such as hiking, fishing, kayaking and mountain-biking. The resorts are important to NSW due to their economic and social contribution as well as their location within a unique alpine environment. The two main documents that support the strategic context of the alpine resorts are the *South East and Tableland Regional Plan 2036* and the Alpine 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 is consistent with the Regional Plan as it would support the ongoing operation of the existing building and provide additional eating / entertainment facilities within Thredbo Village, which maintains and supports visitation to the NSW ski resorts.

Alpine SEPP

The Alpine SEPP governs development on land within the ski resort areas of KNP. The SEPP and aims to protect the natural and cultural heritage of land within the resorts and to encourage environmentally sustainable development. Under the provisions of the Alpine SEPP, the NPWS have 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 broad range of values found in the park.

The Department considers the proposal is consistent with the Alpine SEPP as the proposal appropriately minimises the potential impacts on the environment by containing works within the boundaries of the site while also having regard to the amenity of adjoining properties (through satisfaction of existing leasing requirements and ongoing management). The additional bulk and scale of the works is also considered to be complimentary to the existing building and adjoining tourist accommodation buildings.

4 Statutory Context

4.1 Consent Authority

Under clause 7 of the Alpine SEPP, the Minister for Planning and Public Spaces 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 1 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

In accordance with the Minister's delegation of 9 March 2020, the Team Leader, Alpine Resorts Team may determine the application as:

- no reportable political donation has been disclosed
- there are less than 25 public submissions in the nature of objections
- the application is in relation to land which the Alpine SEPP applies

4.2 Permissibility

The proposal includes external alterations to a building while maintaining the use of the site 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 within the Thredbo Alpine Resort.

4.3 Other approvals

Rural Fires Act 1997

As the works include external alterations to a tourist accommodation building located on bushfire prone land, an approval is required from the NSW Rural Fire Service (RFS) under Section 100B of the *Rural Fires Act 1997* in the form of a Bushfire Safety Authority. Refer to **Section 5** for further discussion on this component.

4.4 Mandatory Matters for Consideration

Objects of the EP&A Act

The Department has considered the proposal against the relevant objects of the EP&A Act in **Appendix B**. The Department is satisfied the proposal is consistent with the objects as:

- works are aimed at improving the food and beverage areas of the building while also offering more entertainment options within Thredbo Village, thereby supporting the orderly and economic use of the site
- there would not be an unacceptable impact on the environment thus being ecologically sustainable development, with impacts upon native vegetation limited where possible
- the application is capable of achieving compliance with relevant construction standards

- the Department provided opportunities for community participation in the assessment process, which included exhibiting the application on the Department’s website during the exhibition period, and notifying adjoining landowners. The Department has considered the issues raised in submissions in **Section 6**

Ecologically Sustainable Development (ESD)

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. ESD initiatives and sustainability have been adequately considered by the Applicant and mitigation measures are proposed to be incorporated into the design.

The proposal is consistent with the ESD principles and the Department is satisfied the proposed works have been developed having regard to the ESD principles, in accordance with the objects of the EP&A Act as follows:

- the proposal is not expected to adversely impact upon the health, diversity or productivity of the environment for future generations
- the Department’s assessment has noted that the proposal largely utilises existing disturbed areas and endeavours to minimise environmental impacts, thus being ecologically sustainable development
- the proposal does not impact upon cultural heritage, including Aboriginal cultural heritage

Biodiversity Conservation Act 2016

Section 1.7 of the EP&A Act requires the application of the *Biodiversity Conservation Act 2016* (BC Act) in connection with the terrestrial environment. The BC Act introduced a Biodiversity Offsets Scheme that applies when:

- the amount of native vegetation being cleared exceeds a certain threshold area; or
- the impacts occur within an area mapped on the Biodiversity Values Map (BVM) published by the Minister for Environment; or
- the ‘test of significance’, in section 7.3 of the BC Act, identifies that the development or activity is likely to significantly effect threatened species or ecological communities, or their habitats; or
- the works are carried out in a declared area of outstanding biodiversity value.

The Applicant advises that the proposed native vegetation clearing is below the threshold noting that the works are located over the existing car parking area and would only involve the removal of no native vegetation. The site is located outside of an area mapped on the BVM.

The Applicant comments that there be will be no significant impact on threatened species or ecological communities, or their habitats. The NPSW concurs with this assessment.

There is currently no declared area of outstanding biodiversity value within KNP.

Considerations under section 4.15 of the EP&A Act

Under section 4.15 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 4.15 as outlined in **Table 2** below.

The table represents a summary for which consideration is provided for in **Section 6** (Assessment) and relevant appendices or other sections of this report, referenced in the table.

Table 2 | Section 4.15(1) Matters for Consideration

(a)(i) any environmental planning instrument (EPI)	<p>The Alpine SEPP and <i>State Environmental Planning Policy (Infrastructure) 2007</i> (Infrastructure SEPP) are the only EPI's which applies to the site for this type of development. An assessment against the requirements of the Alpine SEPP and the Infrastructure SEPP is provided in Appendix B.</p> <p>The Department is satisfied that the application is consistent with the requirements of the Alpine SEPP and Infrastructure SEPP.</p>
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Not applicable.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations	<p>The application satisfactorily meets the relevant requirements of the EP&A Regulation, particularly the procedures relating to development applications (Part 6) and fees (Part 15, Division 1).</p> <p>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.</p>
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development	<p>The Department has considered the likely impacts of the development, with no environmental impacts likely to occur as a result of the proposal. The proposal is considered to have positive economic and social impacts. Conditions are recommended for the use of the proposed sun deck areas in order to address potential noise generation impacts upon nearby tourist accommodation premise.</p>
(c) the suitability of the site for the development,	The site is suitable for the development and supports the ongoing use of the building.

<p>(d) any submissions made in accordance with this Act or the regulations,</p>	<p>Consideration has been given to agency submissions received during the exhibition period. See Section 5 of this report.</p>
<p>(e) the public interest.</p>	<p>The works are consistent with the aim and objectives of the Alpine SEPP, would be compatible to the uses of the locality and there would not be an adverse impact on the environment. The proposal is consistent with the principles of ESD.</p> <p>As such, the proposal is in the public interest.</p>

5 Engagement

5.1 Department's Engagement

The Department's Community Participation Plan, November 2019, prepared in accordance with schedule 1 of the EP&A Act requires applications of development consent to be exhibited for a period of 14 days. However, applications under the Alpine SEPP are not required to be public exhibited if the proposal relates to works which are wholly internal to a building or where the site is located more than 50 metres away from a tourist accommodation building.

Due to works including external alterations to an existing tourist accommodation building within 50 metres of other tourist accommodation buildings, the Department exhibited the application from 13 January 2020 until 7 February 2020 (extended over the Christmas / New Year holidays) on the Department's website.

The application was also exhibited to nearby lodges and forwarded to State government agencies in writing, including:

- the NSW Rural Fire Service (RFS) pursuant to Section 4.46 of the EP&A Act (integrated development) as a Bushfire Safety Authority under the *Rural Fires Act 1997* is required for the development to be carried out
- the NPWS pursuant to clause 17 of the Alpine SEPP

5.2 Summary of submissions

During the exhibition period, the Department received comments from the RFS and NPWS and two public submissions objecting to the application.

5.3 Key issues – Government Agency

The RFS did not object to the proposal and has issued a Bush Fire Safety Authority (BFSA) under clause 100B of the Rural Fires Act 1997.

The NPWS did not object to the proposal and provided comments and recommended conditions on leasing and the KNP Plan of Management, BC Act, minimising impacts to natural values, Aboriginal cultural heritage, plumbing and drainage, Food Act and public health. NPWS recommended additional details be provided as part of the any recommendation on mechanical ventilation of the kitchen and that an inspection of the completed works be undertaken with the NPSW Environmental Health Officer prior to the issues of any Occupation Certificate related to the use of the kitchen.

The Department has considered the comments received from the RFS and NPWS in **Section 6** or through recommended conditions in the instrument of consent at **Appendix C**.

5.4 Key Issues - Public Submissions

Two public submissions were received during the exhibition of the proposal objecting to the application, which raised the following concerns:

- adequacy of car parking to be provided on site
- not consistent with Thredbo Design Guidelines with no setback to front or side boundaries
- overshadowing of adjoining building and roadway
- privacy and amenity impacts (noise) of proposal upon adjoining tourist accommodation premise
- hours of use for external areas

A further concern was raised in relation to the consultants who assisted in the preparation of the Application and whether this preparation would be a conflict of interest for future certification (should the application be approved). Preparation of documentation to support the Application is separate to future certification of a project, with future certification also governed by standards and legislative requirements. Future certification of a project that has not been approved is not a relevant matter for consideration during the assessment process.

5.5 Response to Submissions

On 25 February 2020, the Applicant provided a response (**Appendix A**) to issues raised during the exhibition of the proposal, with extracts of that commentary including:

- The formation of parking is deemed to be of positive influence. Additionally, Bernti's has their own commuter bus for in house guests, offering transport to and from car parking areas. Stacked parking is not proposed. It is anticipated that the restaurant and patio will be predominantly utilised by persons that are staying either at the premises, are being accommodated within Thredbo or arriving on foot.
- It is common within Thredbo that buildings are built to or in close proximity to property boundaries. In this instance the proposed setback variations can be justified for the following reasons:
 - The lowest level carparking is an open structure that has existing retaining walls to the property boundary. Given the open nature of the lowest level this will minimise the visual bulk and scale when viewed from Mowamba Place.
 - The side setback on the west boundary does not pose any negative impacts to adjoining properties whilst providing for essential storage areas for the development. It is setback approximately 12 metres from Mowamba Place ensuring that visual amenity is maintained.
 - The setback encroachment on Level 2 is mainly sundeck, again is an open structure that minimises the bulk and scale when viewed from the street.
 - The side setback to the north is located directly above carparking space 2 and accommodates the kitchen/ bathrooms/lift/servery on Level 2, and open sundeck on Level 3 is a small proportion of the whole development. The development position being setback from Mowamba Place will allow the visual impact of the variation to be lessened when viewed from the street. Signage on this part of the building will also detract from it being located upon the boundary. The structural form of the building on the left and right to this portion are open lessening any bulk and scale issues that may have arisen from the variation.

- Considering the location of the Mowamba Apartments and the orientation of the building, the predominant views enjoyed by all apartments is towards the Thredbo ski fields/ mountain that is directly to the north-west. Bernti's Mountain Inn is located north-east of the Mowamba Complex.
- Due to the orientation of Mowamba Apartments and the distance between buildings there will not be any overshadowing issues due to the development. The orientation of the building will ensure that sunshine from East to West will access Mowamba Place and not overshadow the road increasing icy conditions in winter (see **Section 6.2** for further discussion).
- The proposed development is located within the restaurant/bar precinct of Thredbo and will operate in accordance with timeframes in accordance with lease agreements with Kosciuszko Thredbo Pty Ltd.
- The application was submitted to the Department of Planning on behalf of Bernti's Mountain Inn by Complete Town Planning. Complete Certification has not been engaged as Building Surveyor for the proposed development and therefore will not be issuing certificates or conducting inspections. All other reports, specifications and information were prepared by suitably qualified professionals as required for DA submission.
- There are no windows to living areas that will face the proposed development from Mowamba Apartments. The Apartments are located within the food and beverage precinct of Thredbo which is an area that naturally experiences busy periods particularly within the winter season.

6 Assessment

The Department has considered the relevant matters for consideration under section 4.15 of the EP&A Act, the SEE and supporting information in its assessment of the proposal. The key issues in the Department's assessment are:

- context, setting and character
- amenity impacts to adjoining properties
- car parking
- geotechnical
- design details and standards

Each of these issues is discussed in the following sections of this report.

6.1 Context, setting and character

The consistency with the character of the locality, and the appropriateness of the built form and design in comparison to other adjoining properties is an important component of the whether the proposal is suitable for the site. The Department's consideration is discussed below:

Character of the locality

The Bernti's Mountain Inn site is located on the edge of the Inner Village / Village Centre Precincts of Thredbo Village and is visible from the ski slopes, on the opposite side of Thredbo River (**Figure 10**).



Figure 10 | Site viewed from ski slopes, tree in front has since been removed (Source: Department 2016)

Adjoining buildings to the site, Mowamba Apartments and Thredbo Alpine Apartments, are of a similar size and style to the existing building (which was expanded in the 1980s to its current form). House of Ullr (which also provides a restaurant and bar area similar to that at Bernti's Mountain Inn), located below and to the right of the site is also a dominant building in the landscape when viewed from the ski slopes.

Developments within Thredbo Village have previously been considered against the 'Thredbo Village Master Plan – Environmental Impact Statement, 1988' and the 'NPWS Proposed Variations to the Determined 1988 Thredbo Village Master Plan – EIS, 1994'. This proposal does not negatively impact upon the TVMP or Variations to the TVMP requirements in terms of its character considerations.

The character of the immediate area is also influenced by the proximity to the Village Square and its shopping / restaurant uses, approximately 300 metres along Mowamba Place. This proximity has assisted in the popularity of the site, and adjoining House of Ullr, for meals and beverages either during the day or particularly at night time (both summer and winter), as there are limited opportunities for visitors to Thredbo Village to have a restaurant quality meal and beverage outside of their own apartment / lodge.

With the expansion of the existing building and increased provision of meal and beverages, the proposal endeavours to strengthen its presentation within Thredbo Village. The use of natural granite rockwork, concrete blockwork and horizontal timber cladding complements the existing building without appearing out of character with the adjoining properties.

The addition of the sun deck / patio on the roof top of the addition, would also provide a suitable sitting / congregation area for the benefit of guests at the site and visitors. The Department is therefore satisfied that the proposal is appropriate for the locality.

Design and built form

The proposal includes the construction of a three-storey structure (two storeys plus rooftop sundeck with patio) on the northern side of the existing building. The key built form considerations include whether the proposed addition compliments the existing building and does not impact upon adjoining properties.

The setbacks, height and site coverage controls within the Variations to the TVMP have influenced the built form of a number of buildings within Thredbo Village over the past 20 years. For the subject site, the Variations to the TVMP identifies the site within Zone 7 – Inner Village, which has the following standards as outlined in **Table 3**.

Table 3 | Zone 7 – Inner Village requirements comparison to proposal

Requirements	Proposals compliance	
Setbacks		
<ul style="list-style-type: none"> From side and rear boundaries – 3 metres 	New works built to side boundary	No
<ul style="list-style-type: none"> From front boundary – to be determined on an individual project basis 	Built to Mowamba Place boundary.	Yes
Height		
<ul style="list-style-type: none"> Maximum height of building above natural ground level – 15 metres 	6 levels when viewed from Mowamba Place – no change	Yes

	3 levels when viewed from lodges to the south – no change	
Site Cover		
<ul style="list-style-type: none"> Appropriate site coverage will be determined by NPWS for specific DA's after giving recognition to planning issues relevant to the area 	Existing – 40.3% (480.88m ²) Proposed – 74.9% (893.9m ²)	Yes

In relation to the above TVMP requirements indicated above, the Departments assessment has considered:

Setbacks

Comments received during the exhibition of the application raised concerns that the building is proposed with no front or side setback, despite Thredbo Design Guidelines requiring a 3 metre setback to all boundaries. With no front setback, views enjoyed from Mowamba Apartment balconies to the north will be obstructed.

The Department is not aware of the Thredbo Design Guidelines (likely to be an internal document used by Kosciuszko Thredbo Pty Ltd for head-lessee consideration of applications), however the above controls within the above requirements in **Table 3** are still considered relevant.

In relation to the proposal, as shown in **Figure 12**, a zero setback is provided to Lot 847 DP 1119757, being an allotment that contains:

- Mowamba Place access road – site adjoins along the alignment of the existing retaining wall that is on the site on which the existing car parking area is provided
- a 3 metre wide access handle (with a path of 1 metre wide within the handle) – provides access to Happy Jacks Apartments to the east of the site
- a 4 metre wide access handle (sandstone step path is only about 1 metre wide) between the site and Mowamba Apartments to the west (this is also consistent with existing sun deck / sitting area currently provided)

No change is proposed to the rear setback, as all works occur on the northern façade of the building, apart from the replacement of all windows in the building.

Zero setbacks within Thredbo Village are not uncommon, with small lot sizes and the steepness of sites (such as the Mittabah / Belvedere site on Bobuck Lane) throughout the Thredbo Village. Other sites within Thredbo Village contain structures within the setback requirements, such as the adjoining winter garden and entry / accessible toilet facility at House of Ullr.

The proposal includes the provision of an undercover car parking area, with the building to the front boundary, while utilising the existing retaining wall on the boundary. By bringing the building to the boundary, the design provides a setback consistent with other building elements along Mowamba Place such as Thredbo Alpine Hotel, Squatters Run, Mowamba Apartment and the recently approved House of Ullr additions (new accessible toilet and access arrangements off Mowamba Place).



Figure 12 | View from Mowamba Place of proposal (Source: Applicant's documentation)

In addition, being located on the northern side of the building and at a lower height than the existing building, the proposal does not negatively impact any sight lines of the ski slopes to the north due to the slope of the land which rises behind the site (**Figure 13**).

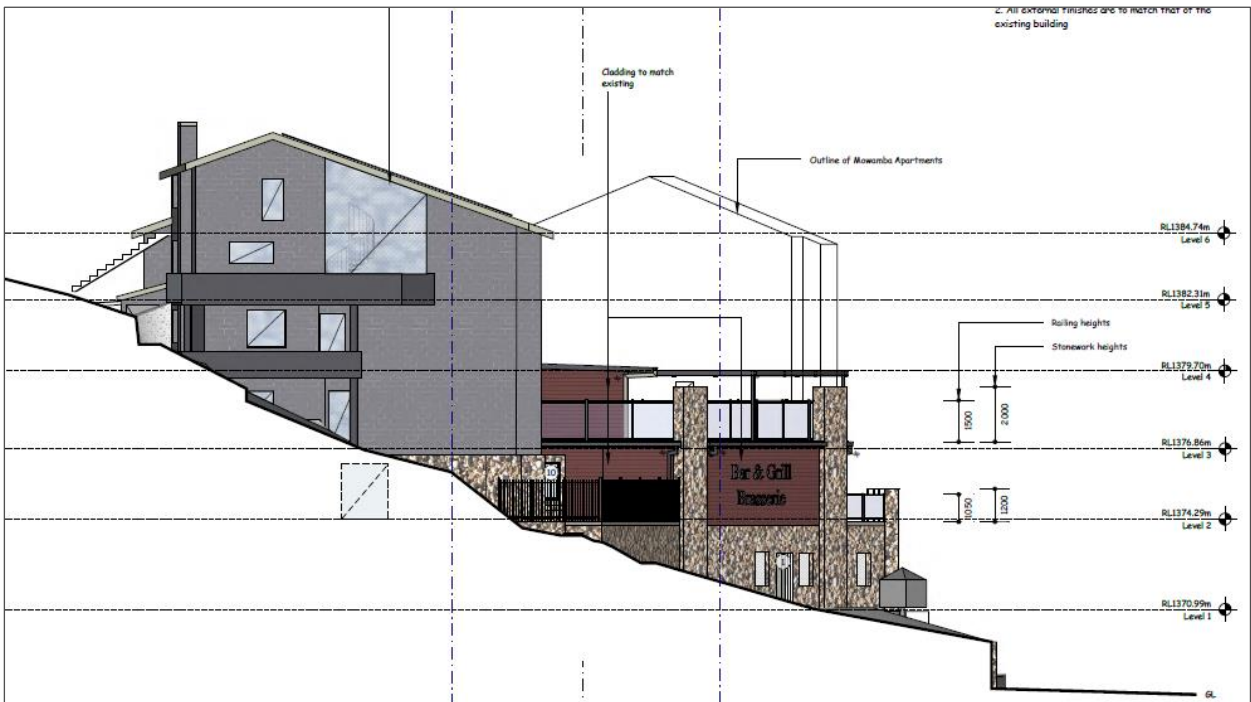


Figure 13 | East elevation with Mowamba Apartments in the background (Source: Applicant's documentation)

The proposed addition to the building is considered to be sympathetic to adjoining properties, be of a scale that complements the existing building and does not impact upon view lines of the ski slopes located on the opposite valley. The Department does not raise any concerns with the proposed additions height.

Site coverage

The TVMP refers to the appropriateness of the site coverage being determined on a case by case basis after giving recognition to planning issues relevant to the area.

The proposed development increases the overall built form of the building through predominantly utilising an area that was previously used for parking and open space for the Manager / previous pool area. Whilst no structures were constructed on the car parking area previously, this area has been heavily modified over the years since originally constructed.

The additional built area of the site is increasing to approximately 74.9% (893.9m²) of the site, from 40.3% (480.88m²). When comparing this percentage to other lodges / tourist accommodation buildings within the near vicinity of the site, the proposal is not dissimilar.

With the retention of significant vegetation at the rear of the site (upslope), with only works occurring on the front section that containing only managed gardens, the increase in site coverage is appropriate in the context of the locality.

6.2 Amenity impacts to adjoining properties

Concerns were raised from the adjoining Mowamba Apartments that the proposal would have potential acoustic and overshadowing impacts upon Mowamba Apartments or the adjoining road. The Department's assessment of these concerns is provided below.

Acoustic impacts

Acoustic impacts from the proposed use of the multipurpose room and sun decks on Level 2 and 3 upon Mowamba Apartments and the potential hours of operation of the building were raised during the exhibition of the application. The appropriateness of the uses within the proposal and potential limitations in terms of hours of operation are key matters for the Department's assessment.

The orientation of Mowamba Apartments is partly towards the new sun deck and multipurpose room, with opportunities for the occupants of Mowamba Apartments to either hear noise from uses within the new areas from their bedroom / living areas or stand on the north facing balconies.

Figure 14 illustrates that the eastern elevation of Mowamba Apartments which includes two small windows (bathroom windows), with bedroom windows and balconies overlooking Mowamba Place. A storage area is also located off the existing building at ground level.



Figure 14 | View of eastern façade windows and north facing windows / balconies of Mowamba Apartments closest to the site (Source: Department inspection)

The eastern façade of Mowamba Apartments is located approximately 8.47 metres from the edge of the building to the new works (**Figure 15**), with the allotment separated from the site by an access handle (Lot 847 DP 1119757) which contains a stone path and steps (**Figure 16**) for access to lodges located behind the site to Mowamba Place.

From the edge of the subject site, the proposal involves an extension of the existing outdoor seating / bar area on Level 2 (shown in **Figure 15** as a sun deck) which also wraps around the multipurpose room. The multipurpose room is setback approximately 4.5 metres from the boundary, which provides a setback to the bedroom / living area of the closest Mowamba Apartments of approximately 13.74 metres.

The proposal also includes glass windows / sliding doors to the works areas and the installation of glass balustrades of 1.05 metres on the Level 2 and 1.5 metres on the Level 3 sun deck patio area.

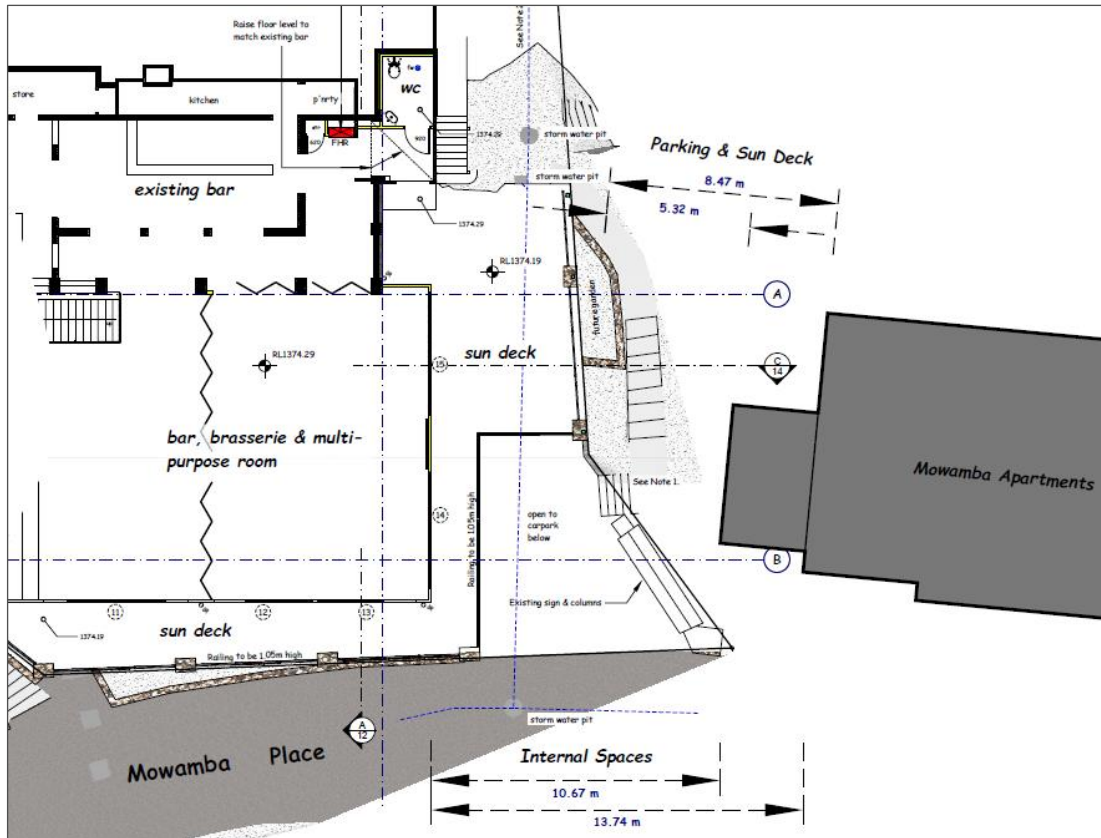


Figure 15 | Setbacks to Mowamba Apartments (Source: Applicant's documentation)



Figure 16 | Area between site and Mowamba Apartments, including the easement for access - Lot 847 DP 1119757 (Source: Applicant's documentation)

The Department sought clarification from the Applicant on the existing hours of operation for the existing bar and restaurant. The Applicant has provided the restaurant licence requirements (endorsed by the Independent Liquor and Gaming Authority) which the Applicant seeks to maintain, these include:

- Monday to Saturday – 5.00am to 12.00 midnight
- Sunday – 10.00am to 10.00pm
- Good Friday and Christmas Day – 12.00 noon to 10.00pm (liquor can only be served with or ancillary to a meal in a dining area)
- December 31st – Normal opening time until 2.00am on New Years Day

The above operating hours are typical of those within Thredbo Village and, if continued, enable the operation of the business consistent with current arrangements. The Department is of the view that the use of the multipurpose room and extended bar area would maintain this arrangement, particularly that this area is enclosed by glass windows / doors and has glass balustrades up to 1.2 metres in height.

The use of the new sun deck off the extended restaurant area and the lower area off the existing bar area is however an area without current restrictions. Adjoining premises are tourist accommodation properties, with House of Ullr containing a restaurant and bar similar to that within the existing Bernti's Mountain Inn building. The other closest premise is the Mowamba Apartments located to the west of the site, with apartment bedrooms located on the closest façade and balconies that can view part of the works.

Restrictions on the use of the enlarged outdoor sun deck areas are considered appropriate, however it is noted that the existing path, outdoor sitting area off the existing bar and pedestrians / vehicles utilising Mowamba Place would already contribute to noise impacts experienced by occupants within the adjoining accommodation buildings. The implementation of any new restrictions would need to have regard to these existing noise impacts and that the proposal includes a glass balustrade to a height of 1.5 metres to the upper sun deck area.



Figure 17 | Existing outdoor seating / bar area (Source: Applicant's documentation)

In discussions with the Applicant, the use of the top floor sun deck is for seating as an extension of the existing restaurant with hours to be limited to the operation of restaurant. Kosciuszko Thredbo Pty Ltd has advised that they rely on the endorsed liquor licence requirements for hours of operation.

Applying restrictions to ensure the retention of amenity of guests staying within adjoining properties is appropriate. Therefore, the Department has recommended noise conditions in accordance with *Protection of the Environment Operations Act 1997* and the implementation of a noise complaint register.

Maintaining the existing hours of the uses within the building is also reasonable and ensures that the owners of the site maintain compliance with requirements and neighbouring properties are not adversely impacted from the proposal.

Overshadowing

Concerns were raised that the proposal would overshadow the northern apartments and decks of Mowamba Apartments during winter making the road even more icier. As noted above, the eastern façade of Mowamba Apartments contains two bathroom windows which are located on the second and third floor level.

The Applicant comments that due to the orientation of Mowamba Apartments and the distance between buildings there will not be any overshadowing issues due to the development. Additionally, the Mowamba Apartments are much higher which will ensure sunlight will not be diminished by the proposed development. The orientation of the building will ensure that sunshine from East to West will access Mowamba Place and not overshadow the road increasing icy conditions in winter.

The Department has reviewed the height of the proposed works and notes that the extension to the building is located on the northern side of the existing building, but at a lower level than the existing roof level.

Overshadowing diagrams were also provided (**Figure 17**) which illustrates shadowing at June 21, 9.00am only reaches above the existing storage / garage area of Mowamba Apartments.

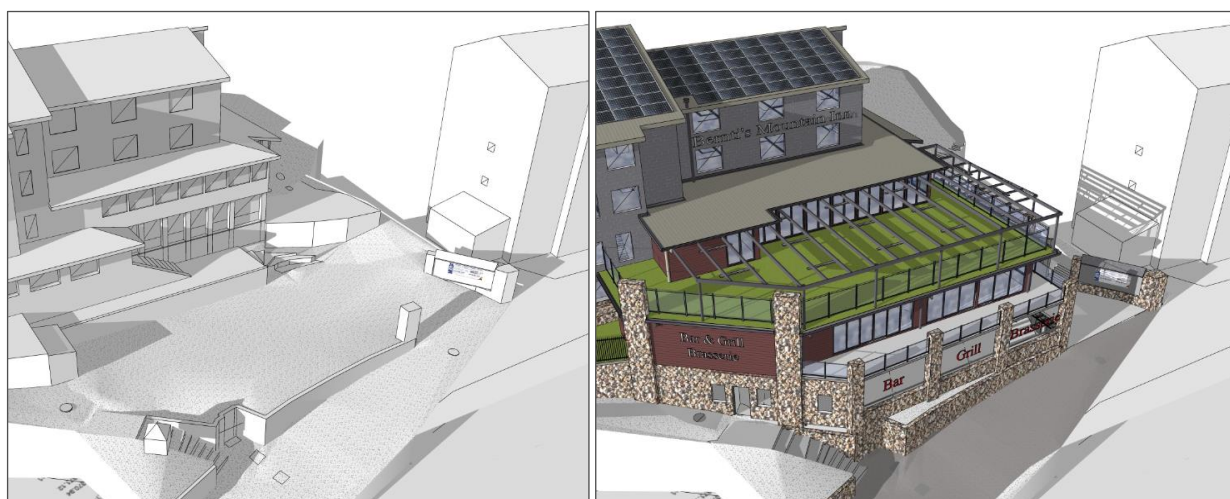


Figure 18 | Existing and proposed overshadowing at 21 June, 9.00am (Source: Applicant's documentation)

With the orientation and setbacks of the proposed works, the Department concludes that no additional adverse overshadowing impacts are expected upon Mowamba Apartments. Overshadowing occurs from the existing building, however the existing overall height of the building does not change and the new works

are at a lower level and setback from the boundary and only overshadow the existing garage area (which adjoins the eastern façade of Mowamba Apartments).

Additional overshadowing onto Mowamba Place is also not expected to be adversely impacted by the proposed works.

6.3 Car parking

In support of the proposal and in order to demonstrate compliance with the Australian Standard AS 2890.1 (Off-street Car Parking Facilities), the Applicant provided a Car Parking and Manoeuvring Assessment prepared by Traffic Solutions Pty Ltd, which commented that:

- the dimensions of the parking spaces comply with the requirements of the AS2890.1 (user Class 2) – being 5.4m long x 2.5 m wide
- the car park grades at <5% satisfy the requirements
- pedestrian sight lines satisfy the requirement as a 7.8-metre-wide driveway is provided in lieu of 2m (along frontage) x 2.5m (into site)
- car park 1 is to be allocated to the on-site manager

The Department’s assessment of the proposal has considered the intent of the works (i.e. to formalise the car parking area off Mowamba Place rather than a gravel surface – **Figure 19**) and is satisfied that the proposal is capable of complying with the Australian Standard.

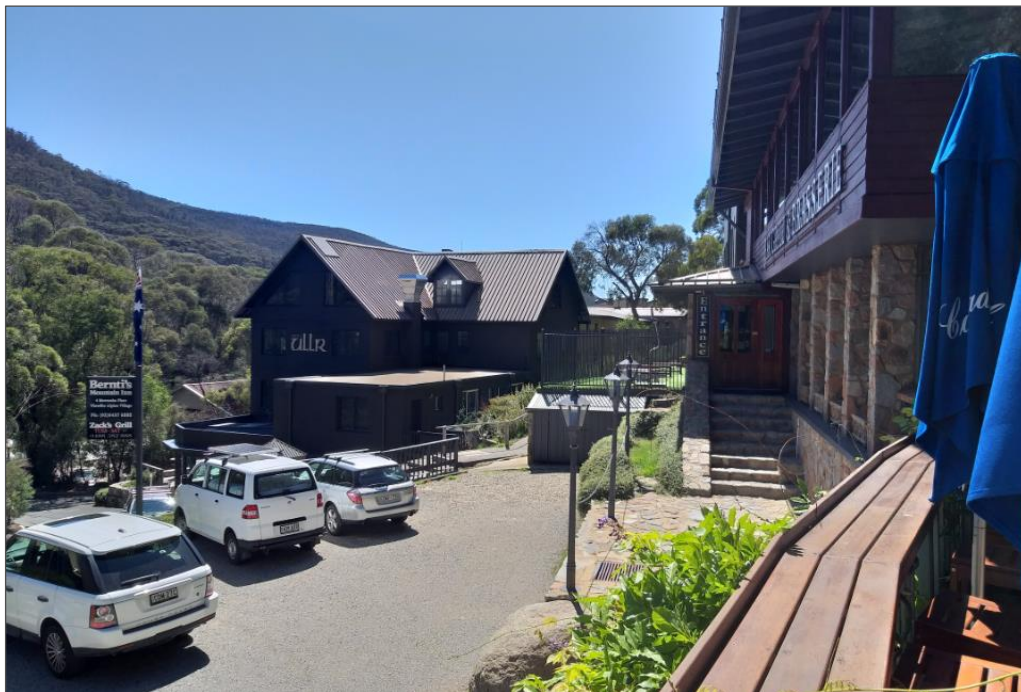


Figure 19 | View of existing parking area from outdoor bar area (Source: Department inspection)

Concerns were raised that the proposal does not provide adequate car parking for the expansion and that vehicles have previously been stacked into the car parking area. With the nature of Thredbo Village (being tourist accommodation), the majority of customers attending restaurants/ bars within the area (including

the existing restaurant or bar at Bernti's Mountain Inn) typically arrive by foot from other lodges / accommodation buildings within the area where vehicles are parked. Customers typically do not drive to attend restaurant / bars, as they either walk or catch shuttle buses from their lodges.

While the plans do not delineate parking and pedestrian areas, the Department recommends that these areas be defined to assist in directing pedestrians from the road and/or public path to the new entry airlock and lift. This would assist in minimising pedestrian and vehicle conflicts in the car park and driveway area. A condition is recommended that would seek to define pedestrian access via a combination of coloured concrete or paving, painted surface, strip lighting /night lighting, signage or other alternatives.

The Department also notes that there is a fire exit from the garage to the path near Happy Jacks, likely needed to ensure adequate distances to fire exits are complied with.

On this basis, the Department does not raise concerns with the level of parking provided on the site and considers that the new car parking arrangement is an improvement over the existing car parking area. Ongoing management of the car parking spaces will be needed by the on-site manager, with retention of pedestrian areas and parking within designated spaces only (except for deliveries).

All loading and unloading of service vehicles in connection with the use of the premises shall also be carried out so that it does not impede pedestrian access or block Mowamba Place.

6.4 Geotechnical

The site is within the G zone identified on the Department's Geotechnical Policy – Kosciuszko Alpine Resorts Thredbo Map. The application is supported by a Geotechnical Investigation and Form 1 prepared by Asset Geotechnical Engineering Pty Ltd.

The investigation report presents the result of the geotechnical assessment for the proposed alterations and additions to the building, while also assessing the existing stability of the site (including a review of a previous Geotechnical Landslide Risk Management Assessment by ARUP, September 1998) and the effects on stability of the proposed development.

The investigation included hand digging following the refusal of other methods, such as hand augers. A depth of only 0.4 metres below ground level was possible due to the compaction of the site and also concrete slabs. Additional deeper ground investigation is recommended within the report, including the use of machine augered / core drilling rigs to verify the inferred geotechnical ground model.

The report identifies the following hazards and their associated risk:

- Failure of retaining wall adjacent to Mowamba Place (risk to property – low, risk to life – acceptable)
- Translational slide beneath Mowamba Place (risk to property – low, risk to life – acceptable)
- Slide beneath Bernti's (risk to property –low, risk to life – acceptable)

The report identifies that if the recommendations of the report are followed and incorporated into the detailed design, the site is considered suitable for the proposed development. The report also provides appropriate monitoring requirements during the works.

The Department is satisfied that the Applicant has satisfactorily addressed the provisions of the Department's Geotechnical Policy and the site is suitable for the proposed development. To ensure that

additional testing as recommended is carried out and incorporated into the detailed design considerations prior to the issue of any construction certificate, the Department has recommended a condition of consent.

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 has also considered the fire safety of the building as part of its assessment in accordance with Clause 94 of the EP&A Regs. 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.

- Clause 94 of the EP&A Regulation requires a consent authority to review a building and consider whether upgrades are warranted to bring the existing building into total or partial compliance with the BCA. Submitted in support of the application is a BCA Assessment Report, prepared by Complete Certification Pty Ltd that provides an assessment of the proposal and the existing building.

The Department has inspected the building and considered the submitted report, along with previous fire safety order reports, performance solutions and completion statements. The Department has concluded that partial upgrades are necessary to the building, including the:

- staff accommodation located on the uppermost floor to achieve compliance with BCA Volume One Performance Requirements CP1 – Structural stability during a fire, CP2 -Spread of fire, CP4 – Safe conditions for evacuation, DP2 – Safe movement to and within a building and DP3 – Fall prevention barriers
- discharge of exits and egress paths / stairs to the roadway as identified in Fire Engineering Report No. 402/10 Rev 08
- internal non-fire isolated main stairway to achieve compliance with DP5 – Fire isolated exits

To address this issue, the Department has recommended conditions requiring these works to be completed prior to the issue of any Occupation Certificate.

- The Department has become aware of works carried out at the site without approval. These works include the construction of a pergola adjacent the existing bar area which provides opportunities for outdoor seating / gathering and also pool fencing provided along the courtyard area off the managers residence (in the past this section was a pool but has been covered over for some time). The Department is not aware when these works were constructed.

The unauthorised pergola is to be removed as part of the demolition works prior to the construction of works within the immediate locality. However, two new pergolas are to be provided generally within the same area on the extend sun deck off the existing bar and new multi-purpose room, which are considered to be satisfactory in terms of their position and would integrate with the overall design of the new sun deck area.

New fencing is to be provided along the Happy Jacks path frontage following the construction of the garage area, with a new private courtyard provided off the managers residence.

A condition is recommended for the removal of the existing pergola and the pool fencing (unless utilised as part of construction fencing) prior to the commencement of construction works within the immediate locality under this consent.

- Compliance with the *Disability Discrimination Act 1992 (DDA)*, and therefore the Access to Premises Standards prepared under the DDA, is triggered at Construction Certificate stage. Ensuring compliance with the DDA is the responsibility of the building owner, manager and certifier.

To support the proposal, the Applicant submitted an Access / Compliance / Design Statement from PSE Access Consulting, that included commentary on accessibility and facilities at the site.

One of the main improvements to the site is the provision of a lift from the new car parking area into the existing building and the new areas. With the inclusion of this lift, overall access into the building is improved rather than via the existing front or side stairs. An accessible toilet is also to be provided off the existing bar level, being the level for the multipurpose room extension as well.

The Department has recommended an Advisory Note to ensure the building owner, manager and certifier are aware of these obligations.

- Ensuring the proposal meets snow and wind loading requirements is a key consideration of the Departments assessment in the NSW Alpine environment. With adverse weather conditions at times, the fixing of the new structures to the existing building needs to be constructed appropriately. The Department has recommended that structural certification of the works be provided prior to occupation certificate.
- In relation to bushfire, the BCA requires construction to comply with the BFSA issued by the RFS. The BFSA includes:
 - Construction of the new building components comply with Section 3 and 5 (BAL 12.5) of Australian Standard 3959 -2009 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) ‘National Standard Steel Framed Construction in Bushfire Areas - 2014’ as appropriate and section A3.7 Addendum Appendix 3 of Planning for Bush Fire Protection 2006
 - The existing building to be upgraded to improve ember protection (if not already constructed to the relevant Bushfire Attack Level under Australian Standard 3959
 - Landscaping of the site should comply with following principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'
 - Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

The BFSA is incorporated into the conditions of the consent and compliance must be verified at the construction and occupation certificate stages.

The Department concludes that, subject to compliance with the conditions of consent, including references to the BCA which is to be addressed by the certifier at the Construction Certificate stage, the proposal is satisfactory and would support the ongoing operation of the building.

6.6 Other issues

The Department’s consideration of other issues is provided at **Table 3**.

Table 3 | Summary of other issues raised

Issue	Assessment	Department Consideration and Recommendation
Works within adjacent Lot 847	<ul style="list-style-type: none"> Drawings 1212-3 & 1212-4 bear the notation; “1. <i>The existing pathway will be retained. Stairs from the pathway to the parking level within the site will be repaired / replaced with matching materials.</i>” The Applicant comments that this is to be read that the works described in the application documentation will be limited to Lot 817. Any restoration (if any) to surfaces outside the subject lot will be undertaken by the applicant at the Applicant’s expense. These restorations (if any) are not considered new works and will simply be in the nature of “making good” the disturbance (if any). This is standard industry practice where site works adjoin other allotments and do not extend to works on those allotments. 	<ul style="list-style-type: none"> Lot 847 forms part of the public road network, being the allotment for Mowamba Place, and also an easement for access utilised for paths to ‘Happy Jacks Apartments’ and sites to the south of the site such as ‘Roslyn Lodge’ and ‘Twynam Lodge’. The proposal may require the replacement / repair of areas impacted by construction outside of Lot 817. Any works outside of Lot 817 would either need to meet the maintenance provisions of the Alpine SEPP (i.e. for the works to be exempt) or require a separate application. The Department does not expect the proposed development to impact areas outside of the Lot 817, however, to ensure that if damage occurs the Department has recommended a condition to address any works occurring outside of the subject site, being Lot 817.
Solar panels	<ul style="list-style-type: none"> The proposal includes the installation of solar panels on the rooftop of the existing building. Solar panels within the Alpine Resorts area are becoming more prevalent with the aim of reducing ongoing electricity costs. 	<ul style="list-style-type: none"> The Department has recommended a condition requiring the structural integrity of the rooftop to be certified prior to the installation of the solar panels and that the system is installed in accordance with the manufacturer’s specifications or

	<ul style="list-style-type: none"> • In total 137 panels are identified which has the potential to generate an output of between 57KW to 60KW. It is intended that the generated power would be connected back into the grid. 	<p>by a person who is accredited by the Clean Energy Council for the installation of photovoltaic electricity generating systems.</p>
<p>Managing construction impacts</p>	<ul style="list-style-type: none"> • Given the scope and location of the works, it is unlikely that the construction of the proposal will cause any adverse impact upon the natural environment. • The proposal is in keeping with the approved use of the building for tourist accommodation and the works will not generate any native vegetation disturbance (apart from the landscaped gardens). • Parking is available adjoining the site during construction or within communal Thredbo parking areas. • Construction impacts such as noise and vibration will be short term and managed in accordance with standard environmental conditions. It is also noted that construction is to occur outside the ski season. 	<ul style="list-style-type: none"> • The Department has recommended standard construction conditions applied in the Alpine area. Subject to compliance with these conditions, the Department is of the view that the proposed works would not impact upon nearby buildings or the environment. • Dilapidation reports are also recommended to be prepared for the adjoining buildings, road and paths to address any potential issues that may arise as a result of the demolition and construction.

7 Evaluation

The Department has assessed the merits of the proposal in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposal is acceptable as:

- there will not be a significant impact on any threatened species, populations or ecological communities
- the alterations and additions to the site complement the existing building and its surrounding setting
- the works provide opportunities for undercover parking and additional entertainment options for the benefit of guests and visitors to the site
- the sun deck areas provide additional opportunities for visitor and guests to enjoy the outdoor environment while having consideration to proximity of adjoining properties
- construction impacts are acceptable with the inclusion of requirements to ensure impacts are minimised upon adjoining properties

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

8 Recommendation

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

- **considers** the findings and recommendations of this report
- **accepts** and adopts all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants** consent for the application in respect of DA 10114, subject to the conditions in the attached development consent
- **signs** the attached development consent and recommended conditions of consent (see attachment).

Recommended by:

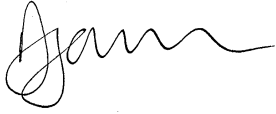
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Mark Brown
Senior Planner
Alpine Resorts Team

4 February 2021

9 Determination

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

A handwritten signature in black ink, appearing to read 'Dan', written in a cursive style.

Daniel James
Team Leader
Alpine Resorts Team

as delegate of the Minister for Planning and Public Spaces

4 February 2021

Appendices

Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning, Industry and Environment's website as follows.

1. Statement of Environmental Effects
2. Submissions
3. Response to Submissions
4. Additional Information

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10114

Appendix B – Statutory Considerations

OBJECTS OF THE EP&A ACT

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent/ approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects.

Therefore, in making an assessment, the objects set out in Section 1.3 of the EP&A Act should be considered to the extent they are relevant. A response to the objects is provided in the table below.

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The proposal supports the ongoing use of the building through providing improvement entertainment / food and beverage options, without negative impacts on the environment. The location of the works and construction impacts minimise impacts on the environment.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal would not have an unacceptable impact on the environment thus being ecologically sustainable development. Mitigation measures during construction and rehabilitation of impacted areas are supported.
(c) to promote the orderly and economic use and development of land,	The development seeks approval for works that are aimed at supporting the ongoing use of the site for 'tourist accommodation'.
(d) to promote the delivery and maintenance of affordable housing,	Not applicable.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The impacts upon the environment have been limited where possible, being located within the existing disturbed areas and providing material storage within hardstand parking areas.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposed development is not anticipated to result in any impacts upon built and cultural heritage, including Aboriginal cultural heritage.

(g) to promote good design and amenity of the built environment,	The Department considers that the proposal responds to its existing setting, built form and minimises impacts upon natural environment.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The Department has recommended conditions of consent to ensure the construction of the proposal is undertaken in accordance with legislation, guidelines, policies and procedures (refer to Appendix C).
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposal (Section 5), which included consultation with government agencies and consideration of their responses.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the proposal (Section 5), which included notifying adjoining buildings, displaying the application on the Department's website.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)

To satisfy the requirements of section 4.15(a)(i) of the EP&A Act, this report includes references to the provisions of the EPIS that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment.

State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007 (Alpine SEPP) is applicable to the development. Consideration of the matters to be considered is provided below:

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 consistent with the aim and objectives of the Alpine SEPP in that it is consistent with the principles of ESD and supports the ongoing use of the site for 'tourist accommodation'.
(b) the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),	The proposal is appropriate as it occurs on a disturbed site surrounded by other tourist accommodation lodges, with no impact on the natural environment. Geotechnical and bush fire considerations have also been considered. The site is not affected by flooding. There are no other known environmental hazards associated with the site.

<p>(c) the cumulative impacts of development on existing transport, effluent management systems, waste disposal facilities or transfer facilities, and existing water supply,</p>	<p>The proposal does not modify the capacity of the building (in terms of bed numbers), while expanding the entertainment options on the site.</p> <p>Additional patronage to the restaurant and bar areas on the site are expected with the increased floor areas of the building that provide an alternative to other similar venues within Thredbo Village. The Department does not expect that the proposal would increase capacity or visitation to Thredbo Village.</p> <p>The site contains the necessary infrastructure and services to support the development as proposed.</p>
<p>(d) any statement of environmental effects,</p>	<p>The SEE and information supplied are considered adequate to enable a proper assessment of the works.</p>
<p>(e) the character of the alpine resort,</p>	<p>See discussion in Section 6.1.</p> <p>The new additions and alterations to the building is in keeping with the existing development and has appropriate regard to adjoining properties.</p> <p>It is not considered that the development would significantly alter the character of the resort.</p>
<p>(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,</p>	<p>See discussion in Section 6.4.</p>
<p>(g) any sedimentation and erosion control measures,</p>	<p>Sedimentation and erosion control conditions are recommended, including the adoption of the Site Environmental Management Plan (SEMP) measures prior to the commencement of works.</p>
<p>(h) any stormwater drainage works proposed,</p>	<p>The proposal provides increased roof areas which will capture rainfall and distribute into downpipes to existing stormwater pits / pipes located within the site (location and depth to be confirmed) before connecting onto the existing stormwater pipes within Mowamba Place.</p> <p>The design of the stormwater arrangements would be in discussion with Kosciuszko Thredbo Pty Ltd who manage the system with Thredbo Village. A condition is recommended for the final design to be endorsed by Kosciuszko Thredbo Pty Ltd as part of the Construction Certificate.</p>

(i) any visual impact of the proposed development, particularly when viewed from the Main Range,	The proposed development will be viewed from the several vantage points within the Village and the ski slopes. The selection of proposed materials and colour palette is in keeping with materials used throughout Thredbo and the current building. In this regard, it is considered that there are no adverse visual impacts from the proposed development from the Main Range.
(j) any significant increase in activities, outside of the ski season,	The proposal has potential to increase visitation to the site outside of the ski season and Thredbo Village in general, with the inclusion of the new multi-purpose room. However, no additional impacts upon Thredbo Alpine Resort are expected with the resort able to cater additional visitors / guests on the site or within other buildings.
(k) if the development involves the installation of ski lifting facilities,	The proposal does not involve the installation of any new ski lifting facilities.
(l) if the development is proposed to be carried out in Perisher Range Alpine Resort: the document entitled Perisher Range Resorts Master Plan (PRRMP) 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.	The proposal is not within a riparian corridor.
CI 15 – Additional matters to be considered for buildings	
Building Height	The proposed addition on the northern façade does not increase the height of the existing building. No existing views of the opposite ski slopes would be impacted. The proposed height is considered reasonable.
Building Setback	The proposed addition would bring the building alignment up to the northern boundary, and also in part along the western (adjoining the existing sundeck area) and eastern (adjoining the path to Happy Jacks). The Departments consideration of the suitability of the proposed setbacks is discussed in Section 6.1 .
Landscaped Area	The proposal does not negatively impact existing native vegetation, with only landscaped gardens to be removed.

CI 17 – applications referred to the National Parks and Wildlife Service	
The proposal was referred to the NPWS pursuant to clause 17 of the Alpine SEPP. Refer to comments received at Section 5 and discussion on proposal at Section 6 .	
CI 26 – Heritage conservation	
European heritage	The proposal would not impact on any European heritage items.
Aboriginal heritage	<p>The NPWS advised that the Applicant has followed a suitable process and due diligence in determining that the proposed works are unlikely to harm Aboriginal objects.</p> <p>NPWS recommends that should any Aboriginal objects be uncovered during construction, any works impacting the objects must cease immediately and the NPWS contacted for assessment of the site.</p> <p>A condition is recommended addressing NPWS comments.</p>

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) is applicable to the development. Consideration of the matters to be considered is provided below:

CI 2 – Aim of Policy:	
The aim of this Policy is to facilitate the effective delivery of infrastructure across the State. As part of this, the Policy identifies the environmental assessment category for development as well as matters to be considered. These are discussed below as relevant to the development.	
CI 33 - Definitions	
<p>The solar energy system component of the proposal fits the following definitions:</p> <p>Solar energy system means any of the following systems—</p> <p>(a) a photovoltaic electricity generating system,</p> <p>(b) a solar hot water system,</p> <p>(c) a solar air heating system</p>	
Clause 34: Development permitted with consent	
(7) Solar energy systems Development for the purpose of a solar energy system may be carried out by any person with consent on any land.	As discussed above, the proposal falls within the definition of a solar energy system, and is therefore permissible with consent.

Appendix C – Recommended Instrument of Consent