

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	Development Application
Application number and project name	DA 10114 – Major external alterations and additions to an existing tourist accommodation and restaurant building at Bernti's Mountain Inn, 4 Mowamba Place, Thredbo Village, Thredbo Alpine Resort
Applicant	Bernti's Mountain Inn
Consent Authority	Minister for Planning and Public Spaces

Decision

The Team Leader of the Alpine Resorts Team under delegation from the Minister for Planning and Public Spaces has, under s.4.16 of the *Environmental Planning and Assessment Act 1979 (the Act)* granted consent to the development application subject to the recommended conditions.

A copy of the development consent and conditions is available:

<https://majorprojects.accelo.com/public/41a67c4d9fc36c8b12288854738e3708/3.%20Determination%20and%20Schedules.pdf>

A copy of the Department of Planning, Industry and Environment's Assessment Report is available:

<https://majorprojects.accelo.com/public/663de599abc56bce48d174f9a4f0ed50/4.%20Development%20Assessment%20Report.pdf>

Date of decision

4 February 2021

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- all information submitted with the development application and during the assessment and information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- the project is permissible with development consent under the State Environmental Planning Policy (Kosciuszko Nation Park – Alpine Resorts) 2007 and is consistent with NSW Government policies including the *South East and Tableland Regional Plan 2036* aim to increase visitation to the NSW ski resorts.
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards. The consent authority has imposed conditions relating to construction standards, environmental considerations, vegetation management and post construction certification;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed by the Applicant and in the Department's Assessment Report; and
- weighing all relevant considerations, the project is in the public interest.

• **Attachment 1 – Consideration of Community Views**

The Department's Community Participation Plan, November 2019, prepared in accordance with schedule 1 of the 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 the works including external alterations to an existing tourist accommodation building within 50 metres of other tourist accommodation buildings, the Department exhibited the Development Application for the project, including the Statement of Environmental Effects from 13 January 2020 to 7 February 2020 (27 days, extended over the Christmas / New Year / school holidays) and received comments from the NSW Rural Fire Service and National Parks and Wildlife Service. Two public submissions objecting to the proposal were received.

The matters raised by the NSW Rural Fire Service and National Parks and Wildlife Service are addressed in detail in the Department's Assessment Report.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker include the provision of parking, consistency with the Thredbo Design Guidelines, overshadowing impacts, and privacy and hours for external areas. Other issues are addressed in detail in the Department's Assessment Report.

Issue	Consideration
<p><i>Parking provision</i></p> <ul style="list-style-type: none"> Adequacy of car parking on site 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant commented that 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. The Department accepts the above and notes that while the plans do not delineate parking and pedestrian areas, the Department has recommended 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 to minimising pedestrian and vehicle conflicts in the car park and driveway area. The level of parking provided on the site is appropriate and 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) The consent authority is satisfied that the proposed works are acceptable. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions have been included requiring compliance with <i>Australian Standard / New Zealand Standard 2890 Parking facilities</i>, and the submission of a pedestrian access plan which defines the pedestrian access from Mowamba Place and adjoining paths to the lift and airlock.
<p><i>Consistency with Thredbo Design Guidelines</i></p> <ul style="list-style-type: none"> Setbacks to front and side boundaries not consistent with Guidelines 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant commented that 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 the sundeck, which 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. The Department's assessment concluded that the proposed setbacks are appropriate and would not negatively impact or influence future development within Thredbo Village. The stepped nature of the design has adequately considered existing views and built form, and any alteration to the setbacks

	<p>would not significantly improve outlooks of other adjoining buildings or the overall bulk of the building.</p> <ul style="list-style-type: none"> The consent authority is satisfied that the proposed works are acceptable. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No conditions.
<p><i>Overshadowing impacts</i></p> <ul style="list-style-type: none"> Impacts from the works upon adjoining buildings and roadway 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant commented that 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. The Department's assessment 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. 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. The consent authority is satisfied that the proposed works are acceptable. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No conditions.
<p><i>Privacy and hours for external use</i></p> <ul style="list-style-type: none"> Noise impacts upon adjoining tourist accommodation buildings Use requires for external areas 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant commented that the 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 Department's assessment has considered the proposal and location of adjoining properties and the operating hours of existing restaurant and bar. The consent authority is satisfied that the proposed works are acceptable and has regard to the adjoining tourist accommodation buildings. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions have been included requiring compliance with <i>Protection of the Environment Operations Act 1997</i>, the implementation of a noise complaint register and use of sun decks areas being limited to the hours of operation of the adjoining internal areas.