



Squatters Run Apartment No. 6, Thredbo Village Modification

Modification Application Assessment (MOD 10638 (DA 9781 MOD 1))

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Cover image: *Main Range, Kosciuszko National Park (Source: Alpine Resorts Team)*

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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
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
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
RFS	NSW Rural Fire Service
SEPP	State Environmental Planning Policy

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1 Introduction

1.1 Preamble

This report provides the NSW Department of Planning, Industry and Environment's (the Department's) assessment of an application to modify the development consent (DA 9781) for internal alterations to Squatters Run Apartment No. 6, Diggings Terrace, Thredbo Village, Thredbo Alpine Resort within Kosciuszko National Park (KNP) (**Figure 1**).

The application has been lodged by Skyton Developments Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification application seeks approval for:

- retention of an installed fireplace flue (to be painted grey)
- removal of disused fireplace flue and re-instatement of roof sheeting



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

1.2 Background

'Squatters Run' is an existing tourist accommodation complex that is located in the Thredbo Village Square, Thredbo Alpine Resort (**Figure 1**). The complex comprises a shopping precinct containing retail premises, a café and bakery and other tourist orientated premises located on Mowamba Place. The Village Square section of Mowamba Place is a walking street with no vehicle access (other than emergency vehicles).

The site is bordered by tourist accommodation premises and Diggings Terrace to the east, other Squatters Run apartments to the south and north (across the stepped walkway), and retail premises to the west adjoining the Village Square. Parking for the site is located off Diggings Terrace to the east.

Apartment 6 is a two-bedroom apartment located at the western end of the complex and accessed directly off Diggings Terrace. The apartment overlooks the Village Square.

1.3 Approval History

On 22 February 2019, the Team Leader, Alpine Resorts Team, as delegate of the then Minister for Planning, granted consent to a Development Application (DA 9781) for internal alterations to the existing tourist accommodation building. The consent approved the following works (**Figure 2**):

- removal of a laundry wall and reconfiguration of the laundry to add bi-fold doors
- upgrade to the entry tiling and fit-out of storage space
- replacement/renovation of kitchen and installation of timber floor throughout
- installation of fireplace and media cabinet
- installation of bed-head storage in bedroom 1 and wardrobe cupboard outside ensuite
- replacement/renovation of both bathrooms

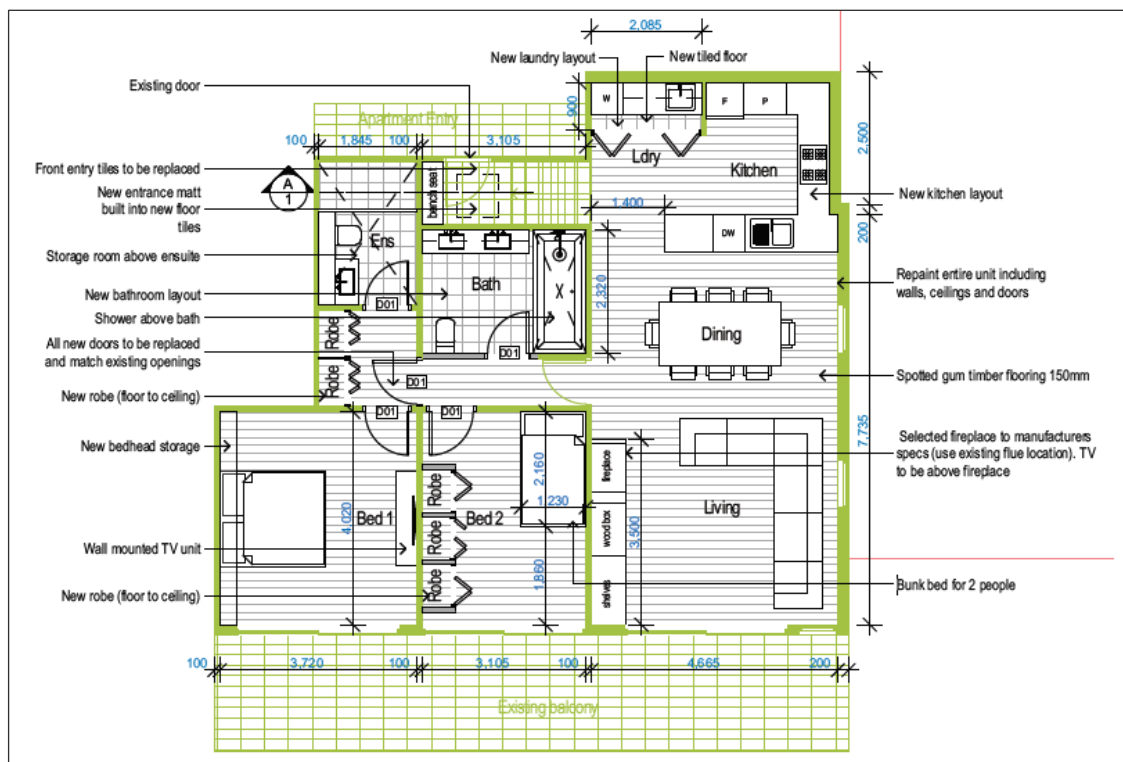


Figure 2 | Approved internal works (Source: Applicant's approved documentation)

A construction certificate was issued by Dix Gardener Group Pty Ltd on 14 March 2019.

Construction of the approved works commenced in March 2019 and was completed in June 2019.

An occupation certificate was issued by Dix Gardener Group Pty Ltd on 14 June 2019.

In July 2019, Department officers became aware that external works to the building had incurred during the construction of the approved works. This included the installation of a new fireplace flue that was not in accordance with the development consent and was therefore inconsistent with the construction and occupation certificate issued by Dix Gardener Group Pty Ltd (**Figure 3 and 4**).



Figure 3 | Former fireplace flue (Source: Department file)



Figure 4 | External works undertaken, installation of new fireplace flue (Source: Department inspection)

On 12 May 2020, the Department advised the Applicant that a modification application would need to be submitted to retain the installed fireplace flue, removal the old fireplace flue and replace the roof sheeting.

The submitted modification application follows the Department's advice.

2 Proposed Modification

On 29 October 2021, the Applicant lodged a modification application (MOD 10638 (DA 9781 MOD 1)) seeking approval, under section 4.55(1A) of the EP&A Act, to modify the development consent incorporating external alterations to the above development.

The modification application seeks approval for:

- retention of installed fireplace flue (to be painted grey), **Figure 5**
- removal of disused fireplace flue and re-instatement of roof sheeting

The proposal does not impact the internal alterations undertaken to the building carried out in accordance with the consent.



Figure 5 | Existing external fireplace flues subject of application (Source: Department inspection)

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 continues to be consistent with the Regional Plan as the works proposed maintains the existing use of the site for tourist accommodation, with the modifications not impacting the functionality of the approved the building, which 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 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 continues to be consistent with the Alpine SEPP as the proposal incorporates works to an existing building while satisfying the principles of ecologically sustainable development and having no adverse impacts on the environment, being works to the roof area.

4 Statutory context

4.1 Scope of modifications

Section 4.55(1A) of the EP&A Act provides that 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 Environmental Planning and Assessment Regulations 2000 (Regulations), modify a consent if the following requirements in Table 1 are met:

Table 1: Consideration under Section 4.55(1A) of the EP&A Act

Section 4.55(1A) - Evaluation	Comment
a) <i>That the proposed modification is of minimal environmental impact</i>	Section 6 of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the proposed modifications will have minimal environmental impact.
b) <i>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)</i>	The proposed external works compliment the original consent (with the inclusion of new fireplace flue) and the Department is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted.
c) <i>The application has been notified in accordance with the regulations</i>	The Department publicly exhibited the modification application for a minimum of 14 days to nearby lodges (refer to Section 5 of this report) in accordance with the Department's Community Participation Plan, November 2019.
d) <i>Consideration of any submissions made concerning the proposed modification within the period prescribed by the regulations</i>	The Department has considered the submissions received during the exhibition period (refer to Section 5 and 6 of this report).

Section 4.55(3) of the EP&A Act provides that in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The relevant consideration under Section 4.15(1) of the EP&A Act in relation to the proposed modifications is whether the installed and proposed external works are acceptable when considering the existing built environment. The Department's assessment in **Section 6** concludes that the impacts are acceptable and do not negatively impact the Department's previous assessment.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application.

Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Consent authority

The original application was determined under the delegation of then Minister for Planning, therefore the Minister (now known as the Minister for Planning and Public Spaces) remains as the consent authority for any subsequent applications to modify the consent.

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

4.3 Mandatory matters for consideration

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of DA 9781. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

Objects of the EP&A Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.

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 (BOS) 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 Department notes that the amended proposal (being external roof works) does not increase the amount of vegetation to be cleared to facilitate the construction of the works, the site is not mapped on the BVM, the proposal does not affect threatened species or ecological communities, or their habitats and there is currently no declared area of outstanding biodiversity value within Kosciuszko National Park.

The proposed modifications are therefore not considered to trigger any of the BOS requirements.

Environmental Planning Instruments

The Alpine SEPP is the only relevant EPI that applies to this application.

An assessment of compliance with the Alpine SEPP was undertaken in the determination of the original application (DA 9781). The Department has considered the modification application against the provisions of the Alpine SEPP and is satisfied the modification proposal continues to be consistent with this EPI.

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 modification works including external alterations to an existing tourist accommodation building within 50 metres of other tourist accommodation buildings, the Department exhibited the modification application from 5 November 2020 and 19 November 2020 on the Department's website.

The application was forwarded to the NSW Rural Fire Service (RFS) for comments (as the works now propose external alterations to the fireplace flues and the roof) and the National Parks and Wildlife Service (NPWS) pursuant to clause 17 of the Alpine SEPP.

Following the exhibition of the application, the Department placed copies of all submissions received on its website and forwarded these to the Applicant.

5.2 Summary of submissions

The Department received submissions from the RFS and the NPWS. No public submissions were received.

5.3 Summary of submissions

The RFS did not object to the proposal and provided recommended conditions for the external works to address, including bushfire construction standards.

The NPWS did not object to the proposal (noting the scope of the modification) and advised that no additional comments are required to those already provided to the original application.

The Department has considered the comments received from the RFS and the NPWS in **Section 6**.

6 Assessment

In assessing the merits of the proposed modification, the Department has considered the:

- previous Environmental Assessment Report for the proposal
- the modification application and existing conditions of consent
- submissions from government agencies
- matters for consideration under Section 4.15(1) of the EP&A Act

The Department considers that the modification would result in minimal impacts upon the built environment, with the works solely to the rooftop of the existing building. With the retention of the new fireplace flue (to be painted grey), removal of the disused fireplace flue and re-instatement of roof sheeting, the works would finalise construction activities at the site.

The new fireplace flue was installed as a result of the internal changes to the TV / fireplace cabinet within the living area (**Figure 6**).



Figure 6 | New fireplace flue from within the apartment above the tv / fireplace cabinet (Source: Department inspection)

The works do not impact adjoining properties, would ensure non-authorized construction works are regularised and remove the former fireplace flue that currently has been cut off from below and capped

from above. The re-instatement of roof sheeting (in a colour to match the existing) would ensure that the final appearance of the roof area is consistent.

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 installation certification of the works be provided prior to occupation certificate.

The Departments assessment considers that the proposed works are unlikely to result in additional impacts to adjoining properties and are capable of being built to comply with the Building Code of Australia (BCA) and relevant Australian Standards.

These proposed modifications are supported.

7 Evaluation

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act and considered the submissions provided by the public and RFS and the NPWS.

The Department's assessment concludes that the proposed modification is appropriate as:

- the modification is of minimal environmental impact and does not have any additional environmental impacts, being external roof works only
- it is substantially the same development as originally approved
- the proposal continues to comply with the Alpine SEPP provisions
- all submissions received during the assessment of the application have been considered
- the proposal does not result in any additional matters that required consideration under Section 4.15(1) of the EP&A Act

The Department concludes the impacts of the development are acceptable and the proposal is in the public interest. The Department recommends that the application be approved, subject to changes to the existing conditions of consent (**Appendix C**).

8 Recommendation

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

- **considers** the findings and recommendations of this report
- **determines** that the modification application MOD 10638 (DA 9781 MOD 1) falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the consent DA 9781
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:

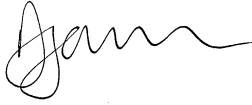


15 March 2021

Mark Brown
Senior Planner
Alpine Resorts Team

9 Determination

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



15 March 2021

Daniel James

Team Leader

Alpine Resorts Team

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Modification Report

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

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10638

Appendix B – Submissions

The Department made the application publicly available and notified adjoining lodges of the application between 5 November 2020 and 19 November 2020.

The application was referred to the RFS (as the modification application now includes external works) and NPWS pursuant to clause 17 of the Alpine SEPP, with comments received. No submissions from the public were received.

A copy of the submissions is available on the Department's website as follows:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10638

Appendix C – Notice of Modification