

# Development Consent

## Section 4.16 of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, under delegation executed on 9 March 2022, I approved the Development Application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.



Mark Brown  
**Principal Planning Officer**  
**Alpine Resorts Team**  
**Department of Planning and Environment**

Jindabyne

24 November 2023

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### SCHEDULE 1

<b>Application No.:</b>	DA No 23/11132
<b>Applicant:</b>	Kosciuszko Thredbo Pty Ltd
<b>Consent Authority:</b>	Minister for Planning
<b>Land:</b>	Kosciuszko Flow Trail Diversion Mountain Bike Trail, Thredbo Alpine Resort, Kosciuszko National Park
<b>Type of Development:</b>	General Development
<b>Approved Development:</b>	Construction of a diversion trail for the existing Kosciuszko Flow Trail, as outlined in Condition A.2

## DEFINITIONS

<b>Act</b>	means the <i>Environmental Planning and Assessment Act, 1979</i> (as amended).
<b>Applicant</b>	means Kosciuszko Thredbo Pty Ltd, or any person carrying out any development to which this consent applies.
<b>Approval Body</b>	has the same meaning as within Division 4.8 of Part 4 of the Act.
<b>DA No 23/11132</b>	means the development application submitted by the Applicant on 23 August 2023.
<b>Department</b>	means the Department of Planning and Environment, or its successors.
<b>Development</b>	means the development approved pursuant to this consent, as defined in Condition A.2 and as modified by the conditions of this consent.
<b>Director</b>	means the Director of Regional Assessments or a delegate of the Director of within the Department.
<b>EEC</b>	endangered ecological communities, as listed for the purposes of the <i>Biodiversity Conservation Act 2016</i> .
<b>Environmental Officer</b>	means the person appointed by the Applicant in accordance with Condition B.3.
<b>EP&amp;A Regulation</b>	means the <i>Environmental Planning and Assessment Regulation, 2021</i> (as amended).
<b>Minister</b>	means the Minister for Planning, or nominee.
<b>NPWS</b>	means the National Parks and Wildlife Service, or its successors.
<b>Non-compliance</b>	means an occurrence, set of circumstances or development that is a breach of this consent.
<b>Park</b>	means the Kosciuszko National Park reserved under the <i>National Parks and Wildlife Act 1974</i> .
<b>Precincts - Regional SEPP</b>	means the <i>State Environmental Planning Policy (Precincts – Regional) 2021</i> (as amended), that includes Chapter 4 – Kosciuszko National Park and alpine resorts.
<b>Principal Planning Officer</b>	means the Principal Planning Officer of the Alpine Resorts Team within the Regional Assessments division (or its successors) or a delegate of the Principal Planning Officer of the Alpine Resorts Team within the Department.
<b>Rehabilitation Guide</b>	means the NPWS document entitled: <i>Rehabilitation Guidelines for the Resorts Areas of Kosciuszko National Park</i> (2007) a copy of which is available at: <a href="https://www.environment.nsw.gov.au/research-and-publications/publications-search/rehabilitation-guidelines-for-the-resort-areas-of-kosciuszko-national-park">https://www.environment.nsw.gov.au/research-and-publications/publications-search/rehabilitation-guidelines-for-the-resort-areas-of-kosciuszko-national-park</a>
<b>Secretary</b>	means the Secretary of the Department, or nominee/delegate.
<b>Secretary’s approval, agreement or satisfaction</b>	means a written approval from the Secretary or nominee/delegate.
<b>Site Environmental Management Plan (SEMP)</b>	means a site environmental management plan for the Subject site, prepared by the Applicant as part of Condition A.2.
<b>Stockpile Guide</b>	means the NPWS document entitled: ‘ <i>Soil Stockpile Guidelines for the Resort Areas of Kosciuszko National Park, October 2017</i> ’, a copy of which can be obtained from the NPWS Resorts Environmental Services Team.
<b>Subject site</b>	means that area of the Thredbo Alpine Resort within the Park described in the documentation listed in Condition A.2 (specifically the

Statement of Environmental Effects at Item 1 and plan in Item 4) showing the alignment of the proposed 'Kosciuszko Flow Trail Diversion' mountain bike trail, and including:

- (a) an area of 10m each side of that alignment; and
- (b) the stockpile and staging areas identified in the Statement of Environmental Effects.

**Team Leader**

means the Team Leader of the Alpine Resorts Team within the Regional Assessments division (or its successors) or a delegate of the Team Leader of the Alpine Resorts Team within the Department.

## PART A – ADMINISTRATIVE CONDITIONS

### A.1. Obligation to minimise harm to environment

In addition to meeting the specific performance measures and criteria established in this consent, all reasonable and feasible measures to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the Development.

### A.2. Development in accordance with approved documentation and plans

The Development must be in accordance with:

- (a) the Development Application No. 23/11132 and supporting documentation submitted by the Applicant on 23 August 2023;
- (b) the conditions of this consent; and
- (c) the approved documents in the table below (except where modified by conditions of this consent):

Ref No.	Document	Title/Description	Author/Prepared by	Dated / Received	Document Reference
1	Statement of Environmental Effects (SEE)	Kosciuszko Flow Trail Diversion, Snowgums Top Station  Thredbo Alpine Resort, Kosciuszko National Park	Dabyne Planning Pty Ltd	August 2023	08-23
2	Report	Site Environmental Management Plan (SEMP)  Kosciuszko Flow Mountain Bike Trail Diversion, Snowgums Top Station Area	Kosciuszko Thredbo Pty Ltd	09 August 2023	Rev. 0
3	Biodiversity Development Assessment Report (BDAR)	Proposed Flow Trail Realignment, Thredbo Alpine Resort  Biodiversity Development Assessment Report	Eco Logical Australia Pty Ltd	08 August 2023	Version 2
4	Plan	Site Plan	Kosciuszko Thredbo Pty Ltd	05 June 2023	Rev. 2

Note: In accordance with section 24(3)(a) of the EP&A Regulation, a Development Application is lodged on the day on which the fees payable for the Development Application under the EP&A Regulation are paid.

### **A.3. Inconsistency between documents**

The conditions of this consent prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in Condition A.2. In the event of an inconsistency, ambiguity or conflict between any of the documents listed in Condition A.2, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

### **A.4. Lapsing of consent**

This consent lapses five years after the date of consent unless work for the purposes of the Development is physically commenced.

### **A.5. Prescribed conditions**

In undertaking the Development, the Applicant must comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the Regulation.

### **A.6. Australian standards**

All works which are part of the Development must be carried out in accordance with relevant current Australian Standards.

### **A.7. Legal notices**

Any advice or notice to the consent authority must be served on the Secretary.

### **A.8. International Mountain Bicycling Association (IMBA)**

Unless otherwise approved in this consent, the design and construction of the mountain bike trails which are part of the Development must be carried out in accordance with the IMBA design guidelines.

### **A.9. Flexible construction corridor**

The mountain bike trails which are part of the Development must be constructed within a flexible construction corridor of 20 metres (10 metres either side of the ground-truthed alignment). The corridor will provide flexibility for the builders to respond to any unforeseen circumstances that may occur on site particularly in relation to environmental constraints where it may be more appropriate to go around an object rather than remove it.

### **A.10. Construction period**

If construction for the purposes of the Development will take place over more than one 'summer period' (per Condition C.3), delineation and micro siting of the construction alignment and disturbance corridor within the Subject site is to take place before works recommence in the next summer period. Details providing information on the extent of the remaining trail construction are to be forwarded to the Secretary or nominee for endorsement prior to recommencement of works.

### **A.11. Trail corridor**

- (a) At all times during construction, the disturbance corridor for the Development must be limited to the minimum width required to construct the trails and allow them to be safely used. In any event, the width of the disturbance corridor must not exceed 3 metres at any location, with an average disturbance width not exceeding 2.5 metres.
- (b) Appropriate plant and equipment set down areas must be nominated by the Environmental Officer, in consultation with the Department, to enable short term placement of machinery

and material adjacent to the disturbance corridor. Any such set down areas must avoid EECs.

- (c) During construction, all works and machinery must be contained within the disturbance corridor and nominated set down areas.
- (d) If vegetation is damaged as a result of the works occurring outside of the disturbance corridor or set down areas during construction, all works are to cease, and the matter is to be rectified. No works may recommence until written authorisation is obtained from the Secretary or nominee.

#### **A.12. Non-Compliance Notification**

The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) and [alpineresorts@planning.nsw.gov.au](mailto:alpineresorts@planning.nsw.gov.au) within seven days after the Applicant becomes aware of any Non-compliance.

The notification must identify the Development and the application number for it, set out the condition of consent that the Development is Non-compliant with, the way in which it does not comply and the reasons for the Non-compliance (if known) and what actions have been, or will be, undertaken to address the Non-compliance.

A Non-compliance which has been notified as an incident does not need to also be notified as a Non-compliance.

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## **PART B – PRIOR TO THE COMMENCEMENT OF WORKS**

### **B.1. NSW Biodiversity Offset Scheme**

Prior to the commencement of any works which are part of the Development, the class and number of ecosystem credits and species credits in Appendix F of the BDAR – BAM Biodiversity Credit Report (reference 3 in Condition A.2) must be retired to offset the residual biodiversity impacts of the Development.

The requirements to retire credits may be satisfied by payment into the applicable fund or trust, as per the *Biodiversity Conservation Act 2016*, of an amount equivalent to the class and number of ecosystem credits and species credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the applicable fund or trust must be provided to the Secretary prior to the issue of the construction certificate.

### **B.2. Notification of commencement**

- (a) The Applicant must notify the Department in writing, at least 48 hours prior, of the date of commencement of physical work for the Development.
- (b) If the construction of the Development is to be staged, the Applicant must notify the Department in writing at least 48 hours prior to each construction stage, of the commencement date and extent of works to be carried out for the Development in that stage.

### **B.3. Environmental Officer**

- (a) Prior to the commencement of any works which are part of the Development, an appropriately qualified Environmental Officer must be appointed, and the Secretary or nominee must be notified of the identity and contact details of this person. The Environmental Officer is to have experience with management of construction within, and rehabilitation of, sensitive environments.
- (b) In the event that the Environmental Officer needs replacing, the replacement is to be similarly qualified and the Secretary must be notified of the replacement (including of the replacement person's identity and contact details).

### **B.4. Protection of adjacent vegetation areas**

The Applicant must manage the Subject site appropriately and ensure that measures are in place to ensure that vehicles and machinery do not enter into areas of vegetation that are not necessary for the purposes of the Development.

### **B.5. Trail alignment**

Prior to the commencement of construction on the trail which is part of the Development:

- (a) the alignment of the trail within the trail corridor (see Condition A.11) is to be appropriately flagged (as based on the original GPS flagging of the trail contained in Condition A.2) by the Environmental Officer and the Applicant's trail builders;
- (b) the alignment of the trail is to avoid:
  - (i) existing burrows (if any fauna are required to be relocated this requires a separate authorisation from the NPWS or for the NPWS to conduct the relocation);
  - (ii) removal of mature trees and their major roots, large boulders and rock outcrops where reasonably practicable;
  - (iii) Mountain Plum Pine (*Podocarpus lawrencei*) and Anemone Buttercup (*Ranunculus anemoneous*); and

- (iv) areas comprising, or within 10 metres of, any environmentally sensitive areas, being any EEC, Subalpine Riparian Scrub, Subalpine Heath and Montane Wet Tussock Grassland vegetation communities.
- (c) the Environmental Officer is to provide written confirmation (including a GPS plotted plan) to the Department that he/she has inspected the proposed trail alignment and is satisfied that the alignment is in accordance with this consent;
- (d) if the Environmental Officer identifies any inconsistencies between the consent and the proposed trail alignment and design, the Environmental Officer must provide recommendations or instruction to rectify the issues or inconsistencies to ensure compliance is achieved by the Applicant, with copies of the recommendations or instructions to be provided to the Applicant (for implementation) and to the Department (for information/record-keeping); and
- (e) representatives from the NPWS and the Department must be provided the opportunity to inspect the alignment prior to construction commencing.

This condition can be complied with for the whole trail or for sections of the trail.

#### **B.6. “No Go” areas**

Prior to any works which are part of the Development commencing:

- (a) “No Go” areas, being specimens of Mountain Plum Pine (*Podocarpus lawrencei*) or Anemone Buttercup, (*Ranunculus Anemoneous*) and any environmentally sensitive areas of EEC, Subalpine Riparian Scrub, Subalpine Heath and Montane Wet Tussock Grassland vegetation communities, must be appropriately marked so as to clearly delineate sensitive areas to be avoided; and
- (b) the Environmental Officer must provide written and signed certification to the Secretary or nominee confirming that he/she has appropriately marked the “No Go” areas accurately as described in (a) above.

This condition can be complied with for the whole trail or for sections of the trail.

#### **B.7. Implementation of site environmental management measures**

- (a) Prior to any works which are part of the Development commencing:
  - (i) all site environmental management measures relevant to that section of work, in accordance with the approved documentation and plans (Condition A.2) and these conditions of consent and the various approved plans required by them (see e.g. Condition B.10), must be in place and in good working order;
  - (ii) all site environmental management measures must be contained within the construction corridor (see Condition A.9);
  - (iii) the site environmental management measures must be inspected and approved by the Environmental Officer; and
  - (iv) the Environmental Officer must provide written and signed certification to the Secretary or nominee confirming that sub-paragraphs (i), (ii) and (iii) above have been satisfied.
- (b) Prior to commencing each stage of work (if required), all proposed erosion and sediment control measures must be put in place.

#### **B.8. Machinery, equipment and materials**

- (a) Prior to Subject site mobilisation, all equipment, machinery and vehicles used during construction of the Development must be cleaned prior to entry into the Park, or if already within Thredbo Alpine Resort cleaned prior to redeployment to the site, to ensure they are free of mud and vegetative propagules.
- (b) Equipment, machinery, and vehicles must be regularly maintained and manoeuvred to prevent the spread of exotic vegetation. Storage of equipment, machinery, vehicles and

material is to be restricted to existing disturbed areas (i.e. at the stockpile and staging areas proposed on ski slopes) and not be stored on native vegetation.

#### **B.9. Detailed rehabilitation, monitoring and maintenance plan**

- (a) Prior to the commencement of works which are part of the Development, the Applicant must prepare an updated rehabilitation, monitoring and maintenance plan:
  - (i) to be endorsed in writing by the NPWS; and
  - (ii) for submission to, and approval by, the Secretary.
- (b) The plan required by paragraph (a) must provide for the following:
  - (i) initial establishment of rehabilitation measures, including all planting, mulching and stabilisation, to be completed progressively as soon as reasonably practicable after completion of trail work which is part of the Development, and in any case be completed within the same summer period (per Condition C.3);
  - (ii) monitoring, maintenance and replacement of rehabilitation planting to occur at least every 12 months until established or for a period of 5 years (see Condition E.1) with results recorded against photo points identified in the plan;
  - (iii) all rehabilitation measures must be consistent with the Rehabilitation Guide;
  - (iv) all straw bales used for rehabilitation must be certified as weed free;
  - (v) include information on species, planting ratios, schedule, weed management, rehabilitation methods, trail hardening, monitoring regimes, maintenance schedules and methods;
  - (vi) identify that exotic grass species such as Chewing Fescue are not suitable for the rehabilitation of areas containing any native species; and
  - (vii) outline arrangements for the collection of baseline monitoring data on completion of trail construction, in consultation with, and endorsed in writing by, NPWS.

#### **B.10. Exotic species management**

- (a) Prior to the commencement of works which are part of the Development, all relevant weed species (including Yarrow (*Achillea millefolium*) and Sweet Vernal Grass (*Anthoxanthum odoratum*) that occur within the Subject site are to be treated to ensure these weeds are not spread further at the Subject site or throughout the Park.
- (b) For the purposes of paragraph (a), the term 'relevant weed species' refers to pest flora species identified in the regional pest management strategy for the NSW Southern Ranges Region most recently published by the Department, at the date of this consent being the *Regional Pest Management Strategy 2012-17 Southern Ranges Region*, a copy of which is available at: <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Parks-reserves-and-protected-areas/Pest-management-strategies/regional-pest-management-strategy-southern-ranges-region-120374.pdf>
- (c) This Condition B.10 may be satisfied for the whole Development or progressively for various project stages which are part of the Development. In the latter case, paragraphs (a) and (b) of this condition shall reapply for each project stage.
- (d) If an area of vegetation proposed for removal includes any relevant weed species, then the vegetation must be removed completely from site and not spread out within the existing vegetation

#### **B.11. Compliance**

The Applicant must ensure that all employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the Development.

## **PART C – DURING WORKS**

### **C.1. Approved plans and documentation to be on-site**

A copy of the approved plans and documentation must be kept by the Applicant on the Subject site at all times and be readily available for perusal by any person associated with the construction works, or an officer of the Department or NPWS. Without limitation, this condition applies to the following approved documentation:

- (a) this consent and its schedule of conditions;
- (b) the approved documentation and plans (Condition A.2);
- (c) the SEMP (Condition A.2); and
- (d) the rehabilitation, monitoring and maintenance plan (Condition B.9).

### **C.2. Hours of work**

All work in connection with the proposed Development must be carried out between the hours of 7.00am and 6.00pm, 7 days a week, or as otherwise approved by the Secretary or nominee.

### **C.3. Construction period**

- (a) All works are limited to the “summer period” and are not to commence when snow is located on the Subject site. For the purposes of this condition, the summer period means the period of time commencing after the October long weekend (subject to no snow being on the Subject site) and ending no later than 30 April the following year in each year works are required to complete the Development, with finishing of rehabilitation and stabilisation works up until 30 May, or as otherwise approved by the Secretary or nominee.
- (b) By 30 April in each year works are required to complete the Development, the Applicant must ensure that the Subject site is made safe and secure (having regard to the use of the area) by undertaking the following:
  - (i) removal of all materials, vehicles, machinery, equipment and the like;
  - (ii) removal and/or securing of all stockpiles of soil and gravel;
  - (iii) protecting and fencing off any areas that are unsafe, for instance due to incomplete works;
  - (iv) stabilisation and rehabilitation works in accordance with these conditions of consent and the approved documentation (can occur until 30 May if required); and
  - (v) any other specific matters related to making the Subject site safe and secure raised by the Secretary or nominee.

### **C.4. Role of the Environmental Officer**

The appointed Environmental Officer must oversee all works which are part of the Development on behalf of the Applicant to ensure:

- (a) compliance with all environmental protection measures in the approved documentation, including (without limitation) the documents specified in paragraphs (a) to (d) inclusive of Condition C.1;
- (b) all Subject site environmental management measures are in place and adequately functioning throughout the entire construction phase of the Development; and
- (c) that Subject site stabilisation and rehabilitation occurs in accordance with the rehabilitation, monitoring and maintenance plan (Condition B.9).

### **C.5. Construction activities and management**

At all times during the construction phase of the Development and unless agreed otherwise by the Secretary or nominee in writing, the Applicant must ensure that:

- (a) all construction activities in connection with the Development are undertaken in accordance with the approved documentation, including (without limitation) the documentation specified in paragraphs (a) to (d) inclusive of Condition C.1;
- (b) all construction activities in connection with the Development are confined to the trail corridor as referenced in Condition A.11;
- (c) no disturbance or other adverse environmental impacts occur outside the trail corridor as referenced in Condition A.11;
- (d) all equipment, materials, stockpiles, vehicles, machinery and the like are be confined to the trail corridor as referenced in Conditions A.11; and
- (e) all measures to minimise, mitigate and manage adverse environmental impacts of the Development as outlined in Section 6 and Table 21 of the BDAR (reference 3 in Condition A.2) are adhered to.

*Note to Applicant: The damage or removal of any native vegetation that is not the subject of this consent requires further authorisation under the National Parks and Wildlife Act 1974 or the Environmental Planning and Assessment Act 1979. Failure to obtain authorisation may result in compliance action under that legislation.*

### **C.6. Tree removal and rock removal**

Prior to the removal of approved tree species and rocks:

- (i) Trees to be removed must be clearly marked;
- (ii) To the extent reasonably practicable, trail alignment must be adjusted to avoid the removal of mature trees, large boulders and rock outcrops. Mature trees and rocks required to be removed must be clearly marked.
- (iii) Any trees required to be removed must not be felled in a manner which damages surrounding vegetation. All vegetation (trees and understory) removed must either be cut into smaller pieces to be used for rehabilitation, discreetly dispersed amongst adjoining native vegetation without damaging existing native vegetation or removed from site completely if it contains any exotic vegetation species.
- (iv) All clearing must occur solely within approved development corridors and to be clearly identified with flagging tape to mark no-go/no clearing zones prior to construction.
- (v) All vegetation must be checked for fauna habitats and fauna by the proponent's Environmental Officer immediately prior to felling/removal. Vegetation with active nests must not be removed until the young have left the nest. If fauna is present, then the proponent must contact NPWS to assist with mitigation actions.
- (vi) The proponent's staff and contractors undertaking vegetation clearance for the development must be able to accurately identify *Podocarpus lawrencei* (Mountain Plum Pine) and *Ranunculus anemoneus* (Anemone Buttercup). These species of conservation significance must be avoided when creating the trail corridor, and protected from trampling by foot, equipment or the placement of construction material. A survey for *Ranunculus anemoneus* (Anemone Buttercup) is to be undertaken during the trail alignment/flagging stage and if identified, realign the trail within the 20m buffer or transplant the affected individuals of the species. The proponent is to seek NPWS advice on transplanting prior to the disturbance of any individuals of this species. The SEMP is to be updated to include this.
- (vii) All rocks removed during the works must be placed in the surrounding landscape without damaging existing native vegetation, used in the trail construction (e.g. rock armouring) or removed from site completely.
- (viii) To the extent reasonably practicable, any live tree roots must be protected (and not removed) within the timbered areas of the trail corridor. This could occur through rock armouring, grade reversals or other construction methods.

### **C.7. Aboriginal heritage**

- (a) Should any material suspected of being an Aboriginal object become unearthed in the course of works which are part of the Development, the Applicant must immediately:

- (i) cease all works impacting the suspected relic or artefact; and
- (ii) contact the NPWS to arrange for representatives to inspect the Subject site.
- (b) The Applicant must ensure that all workers on the Subject site are made aware of the requirements of paragraph (a).

### **C.8. Vegetation removal and disposal**

Excepting exotic vegetation (which must be removed from the Subject site) all vegetation removed for the Development:

- (a) must be used to assist in stabilisation or rehabilitation of the Subject site;
- (b) may be cut, chipped or shredded for reuse as native brush matting in rehabilitation; or
- (c) if it cannot be used for the purposes in paragraphs (a) or (b) then it may be stockpiled at an appropriate location in Thredbo Alpine Resort, for re-use on other landscaping or rehabilitation projects, or for firewood or similar.

### **C.9. Top soil removal and disposal**

- (a) All top soil removed from the Subject site during works which are part of the Development must be reused directly in the further construction of the Development.
- (b) No top soil may be stockpiled except at approved stockpiling sites in accordance with the Stockpile Guide.
- (c) If top soil needs to be stockpiled for later use, then it must be categorised (for appropriate future use e.g. topsoil for rehabilitation) and stored in accordance with the Stockpile Guide at a location in the Thredbo Alpine Resort that is approved by the Secretary or nominee.
- (d) If further top soil is required for use in the Development, the Applicant must ensure:
  - (i) the top soil is brought in from other stockpile sites in the Thredbo Alpine Resort or sources otherwise authorised by NPWS;
  - (ii) the top soil is free of contaminants, weeds and other vegetative propagules; and
  - (iii) prior to stockpiling, the top soil originated from a source with altitude and ecosystem attributes similar to those of the Subject site.

### **C.10. Excavations and backfilling**

- (a) All excavating and backfilling work which is part of the Development must comply with the following:
  - (i) be executed in a safe manner and in accordance with appropriate professional standards;
  - (ii) where trenches or excavations are to be left open overnight, provision must be made so that any fauna entering these excavations can escape;
  - (iii) adequate provision must be made for drainage; and
  - (iv) all excavations must be properly guarded and protected to prevent them from being dangerous;

unless otherwise agreed in writing by the Secretary or nominee.

- (b) Any clean excavated material (i.e. containing no contaminants or weeds) or excess imported material may be:
  - (i) temporarily stockpiled at the Subject site in accordance with the Rehabilitation Guide and Stockpile Guide;
  - (ii) stockpiled and stored in accordance with the Stockpile Guide at a location in the Thredbo Alpine Resort that is approved by the Secretary or nominee; or
  - (iii) disposed of at an authorised waste facility.
- (c) Any contaminated material (i.e. containing chemical contaminants or weeds) must not be stockpiled at the Subject site or within the Park and is to be disposed of at an authorised waste facility.
- (d) Imported fill material and gravel must only be obtained from the following sources:
  - (i) the McMahons Earthmoving quarry, located on Alpine Way, Crackenback NSW;

- (ii) the Kraft Earthmoving / Snowy Mountains Sand and Gravel quarry located on Kosciuszko Road, Jindabyne NSW; or
- (iii) any other source authorised by NPWS under the regulations it administers.

#### **C.11. Stabilising agents**

The use of soil stabilising agents for work or rehabilitation which is part of the Development is not permitted without prior consent of the Secretary or nominee in consultation with the NPWS.

#### **C.12. Waste**

All waste must be contained in receptacles and be covered daily, or removed from the Subject site each day, so as not to escape by wind, water or scavenging fauna. These receptacles must only be located in previously disturbed areas and not beneath the canopy or over roots of any trees. The receptacles must be cleaned regularly.

#### **C.13. Blasting**

No explosives may be used, or blasting occur, as part of the Development without prior notice to SafeWork NSW. A copy of each such notice must be submitted to the Secretary or nominee and NPWS.

#### **C.14. SafeWork NSW**

The Applicant must ensure that all works which are part of the Development are carried out in accordance with current SafeWork NSW guidelines.

#### **C.15. Site notice**

The Applicant must ensure that site notice(s) are prominently displayed at the boundaries of the Subject site for the purposes of informing the public of Development details. The notice(s) is/are to satisfy all but not be limited to, the following requirements:

- (a) The notice is to be durable and weatherproof and is to be displayed throughout the construction phase of the Development.
- (b) The notice(s) must list the approved hours of work, the name of the Applicant or other principal contractor for the work (if any), and include a 24 hour contact phone number for any inquiries, including construction/noise complaints.
- (c) The notice(s) is/are to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

#### **C.16. Prohibition of hazardous materials**

No hazardous or toxic materials or dangerous goods may be stored or processed on the Subject site at any time unless otherwise agreed by the Secretary or nominee.

#### **C.17. Dirt and dust control measures**

The Applicant must ensure that adequate measures are taken to prevent dirt and dust from affecting the amenity or environment of the adjoining areas during the construction phase of the Development.

#### **C.18. Safety demarcation**

During the construction phase of the Development, the Applicant must ensure that the Subject site is clearly identified and signed to prevent access by unauthorised persons.

### **C.19. Signage**

The installation of signage, which is part of the Development, being decision point signs and waymarkers, must be done in a way that minimises loss of native vegetation and be located in the existing disturbed areas or areas disturbed for construction of the trail. The location of the signage is to be endorsed by the Environmental Officer.

### **C.20. Use of treated timber**

If any treated timber is required to be used for the Development it must not be treated with copper, chromium or arsenic.

### **C.21. Machinery**

On-ground machinery (excavator, motorised wheelbarrow or other machinery) used in vegetation removal and trail construction must adhere to the following:

- (a) the tread width of on-ground machinery used in trail construction within native vegetation must not exceed 1500 millimetres; and
- (b) activities of the on-ground machinery must be entirely contained within the trail corridor as referenced in Condition A.11.

If machinery does not adhere to the above, construction must be by hand.

### **C.22. Rock armouring**

Rock armouring, where required, is to be designed so as to keep riders on the track alignment. Where safe to do so, measures are to be put in place to ensure riders “stay on track” and do not go around the rock armouring.

### **C.23. Management and monitoring**

During building of the trail, which is part of the Development, regular inspections of the works are to be undertaken by the Environmental Officer (see Condition B.3). Details demonstrating compliance with the inspection requirements are to be forwarded monthly to the Secretary or nominee.

### **C.24. Erosion and sediment control measures**

- (a) All erosion prevention and sediment control measures must be checked and maintained in good working order at all times, particularly after precipitation events. All exposed earth must be kept stabilised and revegetation must commence as soon as practicable. All straw bales used for sediment and erosion control must be certified as weed free.
- (b) The erosion and sediment controls must also ensure that:
  - (i) grading, excavation, and construction does not take place during or immediately after significant rainfall or snowfall events;
  - (ii) sediment traps are designed, installed, and maintained to maximise the volume of sediment trapped from the Subject site during construction; and
  - (iii) disturbed areas that are not required for further construction access are to be stabilised and revegetated during trail construction.

### **C.25. Flora and fauna recommendations**

The Environmental Officer and trail builders are to ensure works comply with the recommendations within the Biodiversity Development Assessment Report, prepared by Eco Logical Australia Pty Ltd and dated 08 August 2023 (see Condition A.2).

## **C.26. Re-fuelling**

Appropriate controls must be put in place to ensure no spillage when re-fuelling all vehicles and machinery associated with works for the Development. Re-fuelling of vehicles and machinery must be performed on hard-stand areas or with appropriate spill kit and temporary bunding arrangements in place.

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## **PART D – PRIOR TO COMMENCEMENT OF USE**

### **D.1. Statement of completion**

- (a) Upon completion of the Development (or sections, if the construction is to be staged) and before commencement of use following the hardening period (see Condition D.10), a statement of completion must be obtained from the Department for the trail.
- (b) The request for a statement of completion must be accompanied by:
  - (i) a statement from the appointed Environmental Officer confirming whether the soil exposure, stabilisation and rehabilitation of the trail alignment is satisfactory and have been undertaken in accordance with the conditions of consent; and
  - (ii) a statement outlining compliance with all relevant conditions of consent.

### **D.2. Works as executed final plan**

A 'works as executed' plan must be submitted to the Secretary or nominee, which includes GPS coordinates of the trail alignment and details of the construction of the trail.

### **D.3. International Mountain Bicycling Association (IMBA)**

Prior to the use of the trail, which is part of the Development, certification that the trail is constructed in accordance with Condition A.8 must be submitted to the Secretary or nominee.

### **D.4. Site Clean Up**

Prior to commencement of use of the Development, the Subject site shall be cleaned up to the satisfaction of the Secretary or nominee.

### **D.5. Removal of site notice**

Any site notices or other site information signs must be removed upon completion of construction of the Development and prior to the commencement of use.

### **D.6. Baseline data for ongoing trail monitoring**

- (a) The Applicant must arrange for a baseline monitoring data set for the trail which is part of the Development to be established at the completion of the trail construction and prior to any trail use.
- (b) The baseline monitoring data set must provide a starting point to measure changes in trail condition and monitor potential impact to surrounding areas, with a focus on areas most likely to be impacted through use (e.g. due to environmental sensitivity, traffic volumes or behaviour, and/or trail surface and grade). This information should be captured as photographs and geo-spatial data which can be displayed in a Geographic Information System.
- (c) The baseline monitoring data set must be submitted to the Secretary or nominee, after endorsement in writing by the NPWS.

### **D.7. Trail Management Plan**

- (a) The Applicant must include the works approved under this consent into the Thredbo Mountain Bike Trail Management Plan (TMP) and any associated Trail Inspection and Monitoring Plan (TIMP) to ensure that the inspection, maintenance, monitoring and reporting requirements of the TMP and any TIMP apply to the Development in a manner consistent with other mountain bike trails in the Thredbo Alpine Resort network.
- (b) Amendments to the TMP and any TIMP for the purposes of (a) above must occur prior to a statement of completion (Condition D.1) being provided, and be:

- (i) endorsed in writing by the NPWS; and
  - (ii) submitted to, and approved by, the Secretary.
- (c) Once approved for the purposes of (b) above, the requirements of the TMP and any TIMP:
- (i) for inspection, maintenance, monitoring and reporting must be implemented for the Development throughout the life of the trail; and
  - (ii) may be reviewed annually by the Applicant, in which case any further amendments to the TMP and any TIMP arising from that review will again be subject to the endorsement and approval requirements in (b) above.

#### **D.8. Rehabilitation**

- (a) Prior to the issue of a statement of completion (Condition D.1), the appointed Environmental Officer must provide the Secretary or nominee with a statement confirming:
- (i) whether the initial rehabilitation has been undertaken in accordance with the approved documentation and these conditions of consent; and
  - (ii) whether the rehabilitation is considered satisfactory.
- (b) The Secretary or nominee shall not issue any Statement of Completion unless satisfied that all disturbed ground has been rendered erosion resistant and rehabilitated in accordance with the approved documentation and these conditions of consent.

#### **D.9. Signs**

Decision point signs are to be in existing disturbed areas. Waymarkers should be in existing disturbed areas where possible.

#### **D.10. Hardening period prior to use of trail**

- (a) The Applicant must ensure that the trail (or sections, if the construction is to be staged) which is the subject of the Development is not utilised by the general public or as part of a competition or event for a minimum of 30 days following completion ('Hardening Period').
- (b) Despite paragraph (a), the Applicant's contractors and staff involved in the construction of the trail are permitted to ride the trail for the purposes of hardening it during the Hardening Period.
- (c) The Applicant must:
- (i) advise the Department when the trail is completed (or sections, if the construction is to be staged) and the Hardening Period is commencing; and
  - (ii) allow representatives from the NPWS and the Department to inspect the trail during the Hardening Period.
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## **PART E – POST OCCUPATION**

### **E.1. Rehabilitation**

Up until the date 5 years after the issue of the statement of completion (Condition D.1) for the Development, all disturbed areas on and around the Subject site must be monitored and necessary action undertaken to ensure that:

- (a) the ground remains erosion resistant and groundcover is being established;
- (b) all areas planted with native species (including seeding), are surviving; and
- (c) all components of the detailed rehabilitation, monitoring and maintenance plan (Condition B.10) have been implemented and reported on.

### **E.2. Tree roots**

Tree roots exposed during ongoing use of the trail must be protected from damage (following discussions and direction from the Environmental Officer) by rock armouring, grade reversals, laying of imported material or other trail construction techniques.

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## **PART F – OPERATIONAL REQUIREMENTS**

### **F.1. Waste management**

The trail which is part of the Development must be kept clean and tidy at all times. Where rubbish is identified, measures are to be implemented to rectify the issue.

### **F.2. Offensive Noise**

The use of the trail which is part of the Development and any associated events must not give rise to the emission of an “offensive noise” as defined under the *Protection of the Environment Operations Act, 1997* to any adjoining properties or nearby tourist accommodation.

### **F.3. Snow on trails**

The trail which is part of the Development must not to be opened for use if there is snow on any part of it. Machinery is not to be used to clear snow off the trail where it is located within native vegetation.

### **F.4. Hours of operation for mountain bike associated events**

Where the trail which is part of the Development is to be used for mountain bike events, the events must not open to the public earlier than 8:00 am and must close no later than 11:00 pm of each day of the event, unless otherwise agreed in writing by the Secretary or nominee.

### **F.5. Additional approvals or licences**

It is the Applicant’s responsibility to obtain any additional approvals or licences required in order to undertake an event for the purposes of Condition F.4.

### **F.6. Ancillary works guideline**

- (a) Within 12 months of the issuing of any statement of completion (Condition D.1), the Applicant must prepare a ‘Mountain Bike Trail Ancillary Works Guideline’, which is to be:
  - (i) prepared in consultation with the NPWS; and
  - (ii) submitted to, and approved by, the Secretary.
- (b) The guideline in (a) above must incorporate parameters to allow for ancillary works, including ancillary structures, to be undertaken as part of this consent (therefore without separate development consent).

### **F.7. Ancillary structures**

Ancillary structures can be erected and dismantled in accordance with the approved ‘Mountain Bike Trail Ancillary Works Guideline’ (Condition F.6). Where ancillary structures are installed, notice must be provided to the Secretary or nominee prior to the works being undertaken.

### **F.8. Removal of ancillary structures for ski season**

Where required, ancillary structures can be removed prior to the commencement of the ski season and then reinstated for the following mountain bike season.

### **F.9. Ongoing weed management**

Ongoing weed management is required on the Subject site to ensure weed coverage does not increase in area or number.

## **ADVISORY NOTES**

### **AN.1 Appeals**

The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2021* (as amended).

### **AN.2 Responsibility for other consents / agreements**

The Applicant is solely responsible for ensuring that all additional approvals, licenses, consents and agreements are obtained from other authorities, as relevant. No condition of this consent removes any obligation to obtain, renew or comply with such additional approvals, licenses, consents and agreements.