

# Development consent

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

As delegate of the Minister for Planning, under delegation executed on 9 March 2022, I approve the Development Application referred to in Schedule 1, subject to the deferred commencement conditions in Schedule A and conditions in Schedule B.

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.



Keiran Thomas  
**Director**  
**Regional Assessments**  
**Department of Planning and Environment**

Jindabyne

1 August 2022

---

### SCHEDULE 1

<b>Development Application No.:</b>	DA No. 22/4825
<b>Applicant:</b>	Hidali Pty Ltd
<b>Consent Authority:</b>	Minister for Planning
<b>Site:</b>	Black Bear Inn (Lot 794 DP 1119757) and adjoining land (Lot 793 DP 1119757, Lot 795 DP 1119757 and Lot 843 DP 1119757), Diggings Terrace, Thredbo Village, Thredbo Alpine Resort, Kosciuszko National Park
<b>Type of Development:</b>	General Development
<b>Integrated Bodies:</b>	Nil
<b>Approved Development:</b>	Installation of temporary ground anchors on Site and adjoining properties as outlined in Condition A.2

## DEFINITIONS

Act	means the <i>Environmental Planning and Assessment Act, 1979</i> (as amended).
Applicant	means Hidali Pty Ltd, or any person carrying out any development to which this consent applies.
Approval Body	has the same meaning as within Division 4.8 of Part 4 of the Act.
BCA	means the edition of the Building Code of Australia in force at the time of lodgement of an application for a Construction Certificate.
Certifier	has the same meaning as in Part 6 of the Act.
DA No 22/4825	means the development application lodged on 28 March 2022.
Department	means the Department of Planning and Environment, or its successors.
Development	means the development approved pursuant to this consent.
Director	means the Director of Regional Assessments or a delegate of the Director of within the Department.
EP&A Regulation	means the <i>Environmental Planning and Assessment Regulation, 2021</i> (as amended).
EP&A (DCFS) Regulation	means the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation, 2021</i> (as amended).
Minister	means the Minister for Planning, or nominee.
NPWS	means the National Parks and Wildlife Service, or its successors.
Non-compliance	means an occurrence, set of circumstances or development that is a breach of this consent.
Park	means the Kosciuszko National Park reserved under the <i>National Parks and Wildlife Act 1974</i> .
Precincts-Regional SEPP	means the <i>State Environmental Planning Policy (Precincts - Regional) 2021</i> (as amended), that includes Chapter 4 – Kosciuszko National Park and alpine resorts.
Principal Certifier	means the Principal Certifier and has the same meaning as Part 6 of the Act.
Rehabilitation Guide	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-andpublications/publications-search/rehabilitation-guidelines-for-theresort-areas-of-kosciuszko-national-park">https://www.environment.nsw.gov.au/research-andpublications/publications-search/rehabilitation-guidelines-for-theresort-areas-of-kosciuszko-national-park</a>
Secretary	means the Secretary of the Department, or nominee/delegate.
Secretary's approval, agreement or satisfaction	means a written approval from the Secretary or nominee/delegate.
Stockpile Guide	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.
Subject site	has the same meaning as the land identified in Part A of this schedule.
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.

## **SCHEDULE A: Deferred Commencement – Terms to be satisfied prior to the consent becoming operable**

Pursuant to s4.16(3) *Environmental Planning and Assessment Act 1979* the following Deferred Commencement conditions must be complied with to the satisfaction of the Secretary within one year of the date of the Notice of Determination. This development consent will not operate until the Applicant satisfies the Secretary as to the matters specified in this condition.

### **1. Ground anchor installation right document**

- (a) A ground anchor installation right document must be submitted to the Secretary for any building work involving an encroaching ground anchor on land to which this Development Consent does not apply in accordance with cl 28B of the *Design and Building Practitioners Regulation 2021*.
- (b) The ground anchor installation right document must:
  - i. Show the proposed location of all ground anchor(s), and
  - ii. Permit the installation of ground anchor(s) on land to which this Consent does not apply.
- (c) This Development Consent including the conditions in Schedule B does not operate until the Secretary has provided written confirmation of the matters referred to above in 1(a) & (b).

Note - In accordance with the *Design and Building Practitioners Regulation 2021*:

**ground anchor installation right document** means—

- (a) for neighbouring land that is a public road—a consent under the [Roads Act 1993](#), section 139 from the appropriate roads authority that permits the installation of a ground anchor on neighbouring land, or
- (b) otherwise—a document that permits the installation of a ground anchor on neighbouring land and shows the proposed location of the anchor, including—
  - (i) a registered easement, or
  - (ii) a licence agreement, or
  - (iii) a deed.

## SCHEDULE B

### 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 may only be carried out in accordance with the:

- (a) conditions of this consent; and
- (b) DA No. DA 22/4825 submitted by Hidali Pty Ltd on 28 March 2022 as amended by the additional information received during the assessment of the application:

Ref No.	Document	Title/Description	Author / Prepared by	Date	Document Reference
1	Statement of Environmental Effects	Black Bear Inn, Lot 794, Diggings Terrace Thredbo Alpine Resort Kosciusko National Park Temporary Anchors	Mod Urban Pty Ltd	May 2022	Revision A 09
2	Plan	Structural Notes	PMI Engineers	29 November 2021	S02-A Rev. 1
3	Plan	Excavation Plan ASDAD	PMI Engineers	28 February 2022	S10 Rev. 5
4	Plan	Excavation Details - 1	PMI Engineers	29 April 2022	S10a Rev. 5
5	Plan	Excavation Details - 2	PMI Engineers	29 April 2022	S10b Rev. 6
6	Plan	Excavation Details - 3	PMI Engineers	22 June 2022	S10c Rev. 6
7	Plan	Piling Plan	PMI Engineers	22 June 2022	S10d Rev. 4
8	Plan	Anchor Sections	PMI Engineers	29 April 2022	S10e Rev. 3
9	Plan	Anchor Sections	PMI Engineers	22 June 2022	S10f Rev. 4

10	Report	Geotechnical Investigation Report	Alliance Geotechnical Pty Ltd	4 May 2022	13526-GR-1-1 Rev. E
11	Form 1	Geotechnical Policy - Kosciuszko Alpine Resorts  Form 1 – Declaration and certification made by a geotechnical engineer or engineering geologist in a geotechnical report	Alliance Geotechnical Pty Ltd	3 May 2022	-
12	Plan	Plan Showing Easements Over Lot 793, 795, 843 and 846 DP 1119757	Peter W Burns	3 February 2022	3576/6
13	Letter	Arboricultural Review	Matrin Peacock Tree Care	9 March 2022	-
14	Letter	Horticultural Review	Alpine Flora	7 March 2022	-
15	Letter	Geotechnical response to request for additional information	Alliance Geotechnical Pty Ltd	-	13526-GR-6-1
16	Letter	Environmental Validation Letter	JK Environments Pty Ltd	25 February 2022	E26548Plet 2
17	Letter	Response to Request for Additional Information	Hones Lawyers Pty Ltd	9 May 2022	JBH:MC:21 433
18	Letter	Roads Act 1993 clarification	Hones Lawyers Pty Ltd	8 June 2022	JBH:MC:21 433

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**

All works shall comply with the prescribed conditions of development consent as set out in Part 4, Division 2 of the EP&A Regulation. In particular, your attention is drawn to:

- (a) section 69, Compliance with Building Code of Australia; and
- (b) section 70, Erection of signs during building and demolition works.

#### **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. 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 Principal Certifier must also notify the Department 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 they identify 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.

#### **A.9. Excluded development**

This consent does not include any existing ground anchors installed without consent.

---

## **PART B – PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **B.1. Construction certificate**

Work must not commence until a relevant construction certificate has been issued. Prior to the issue of the construction certificate, the certifier must be satisfied that the documentation for the construction certificate demonstrates compliance with the conditions in Part B of this consent.

If the Department is not appointed as the certifier, the Applicant must provide a copy of the construction certificate to the Department within 2 days of it being issued by the certifier.

*Note: A construction certificate is required prior to commencing any physical activity involved in the erection of a building or other works associated with the Development. Some aspects of this development consent may not require a construction certificate.*

### **B.2. Documentation for the construction certificate**

The proposed works must comply with the applicable performance requirements of the BCA to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) complying with the deemed to satisfy provisions; or
- (b) formulating a performance solution which:
  - (i) complies with the performance requirements;
  - (ii) is shown to be at least equivalent to the deemed to satisfy provision; or
  - (iii) a combination of (i) and (ii).

### **B.3. Structural drawings and design statement**

Prior to the issue of the construction certificate, the Applicant must submit structural drawings and a design statement, prepared and signed by an appropriately qualified practising structural engineer, to the Certifier.

### **B.4. Building works plan**

Prior to the issue of the construction certificate, the Applicant must submit to the Certifier building work plans that demonstrates compliance with:

- (a) the relevant clauses of the BCA; and
- (b) this development consent.

**Note:** The appropriate building work plans and specifications must include, but not limited to, the following (where relevant to the approved Development):

- (a) detailed building work plans, drawn to a suitable scale and consisting of a block plan and a general plan, that show the following;
  - (i) a plan of each floor section,
  - (ii) a plan of each elevation of the building,
  - (iii) the levels of the lowest floor, an unbuilt yard or area that belongs to the lowest floor and the adjacent ground,
  - (iv) the height, design, construction and provision for fire safety and fire resistance, if any,
- (b) building work specifications that:
  - (i) describe the construction and the materials to be used to construct the building, and
  - (ii) describe the method of drainage, sewerage and water supply, and
  - (iii) state whether the materials to be used are new or second-hand and contain details of any second-hand materials to be used.

#### **B.5. Payment of the long service levy**

Prior to the issue of any construction certificate, evidence shall be provided to the Certifier, in the form of a receipt, confirming payment of the 'Long Service Levy' to the Long Service Payments Corporation in accordance with Section 34 of *the Building and Construction Industry Long Service Payments Act 1986*.

#### **B.6. Geotechnical declaration and certification**

Prior to the issue of the construction certificate, a completed and signed Form 2 from the Department's Geotechnical Policy – Kosciuszko Alpine Resorts (2003) shall be submitted to the Certifier. All sections of the Form 2 must be completed and signed by the appropriate person/s. If the Department is not the Certifier, the appointed Certifier is to provide a copy of the completed and signed Form 2 to the Department with the copy of the construction certificate.

A Form 2 must be submitted with each construction certificate, unless otherwise approved in writing by the Secretary following receipt of advice from a geotechnical engineer.

---



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

### **C.1. 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.

### **C.2. Temporary fencing**

Prior to any relevant works which are part of the Development commencing, the construction works area shall be fenced with temporary site security fencing. This fencing is to clearly delineate the construction works area and shall keep the disturbance area to a minimum. This is to restrict access and also prevent unauthorised persons entering the construction work area.

### **C.3. Implementation of site environmental management measures**

Prior to any relevant works which are part of the Development commencing, all site environmental management measures in accordance with the approved documentation (Condition A.2), the CEMP (Condition C.7) and these conditions of consent, shall be in place and in good working order.

### **C.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.

### **C.5. Machinery and storage**

- (a) All equipment, machinery and vehicles used during construction of the Development must be cleaned prior to entry into the Park and prior to Subject site mobilisation 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 and not be stored on native vegetation.

### **C.6. Dilapidation report**

Prior to the commencement of any works on the subject site, the Applicant is to engage a qualified structural/civil or geotechnical engineer to prepare dilapidation report/s detailing the current structural condition of all nearby buildings, infrastructure and roads. The dilapidation report/s shall be submitted to the Principal Certifier and a copy of the dilapidation report/s shall be provided to the Department.

### **C.7. Construction environmental management plan (CEMP)**

Prior to the commencement of works which are part of the Development, a Construction Environmental Management Plan shall be submitted to the satisfaction of the Principal Certifier. The Plan shall address, but not be limited to the following and confirm to these conditions of consent where applicable:

- (a) the date of commencement of works,
- (b) hours of works,

- (c) contact details of site manager,
- (d) traffic and pedestrian management including details on:
  - (i) ingress and egress of vehicles to the site,
  - (ii) loading and unloading, including construction zones,
  - (iii) the location of storage areas,
  - (iv) predicted traffic volumes, types and routes,
  - (v) parking of construction and contractor vehicles,
  - (vi) turning areas of construction and contractor vehicles, and
  - (vii) pedestrian and traffic management methods.
- (e) noise and vibration management identifying specific activities that would be carried out and associated noise sources and how they will be managed. Excavation and construction shall be managed in accordance with Australian Standard AS 2436-2010 *Guide to noise and vibration control on construction, demolition and maintenance sites* and to ensure there is no adverse impact on any neighbouring/affected tourist accommodation buildings during the construction period.
- (f) waste and recycling management including details on:
  - (i) the location for recycling of building materials,
  - (ii) the identification of any asbestos or other hazardous material,
  - (iii) the location for disposal of building waste, and
  - (iv) the location for disposal of excess spoil.
- (g) erosion and sediment control
- (h) flora and fauna management
- (i) suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters, and
- (j) any relevant recommendations of the 'works plan'.

Works may not commence until a Construction Environmental Management Plan has been approved by the Principal Certifier.

The Applicant must comply with any Construction Environmental Management Plan approved by the Principal Certifier under this condition.

If the Department is not the Principal Certifier, a copy of the documentation shall be submitted to the Department prior to the commencement of the works. This condition can be satisfied for the whole project or progressively for various sections of the project.

#### **C.8. Implementation of construction environmental management measures**

Prior to works commencing, all construction environmental management measures applicable to those particular works in accordance with the approved documentation and plans (Condition A.2), these conditions of consent, and the CEMP required by Condition C.7 shall be in place and in good working order, and shall be inspected and approved as being satisfactory by the Principal Certifier.

#### **C.9. Notice of commencement to interested parties**

Prior to works commencing on the site, the Applicant shall advise:

- (a) Kosciuszko Thredbo Pty Ltd (for any leasing requirements)
- (b) adjoining lessees (for any construction impacts)

of the timing of the commencement, construction management arrangements and contacts for any complaints.

Details are to be provided to the Principal Certifier and a copy forwarded to the Department within 7 days of it being submitted to the Principal Certifier.

**C.10. Pre-commencement compliance report**

Prior to the commencement of works which are part of the Development, the Applicant must submit to the Principal Certifier a report addressing compliance with all conditions contained in sections B and C of this consent pertaining to those works. A copy of this compliance report must be submitted to the Department within 7 days of it being submitted to the Principal Certifier.

**C.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 D – DURING CONSTRUCTION**

### **D.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 the Principal Certifier, 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); and
- (c) the CEMP (Condition C.7).

### **D.2. Construction hours**

All work in connection with the proposed Development may only be carried out between the hours of 7.00am and 6.00pm on Monday to Friday inclusive, and 7:00am to 1.00pm on Saturdays, with no work allowed on Sunday or gazetted public holidays in New South Wales, or as otherwise approved by the Secretary.

### **D.3. Construction period**

- (a) All demolition, civil and construction works which are part of the Development may only occur in the 'summer period'. For the purposes of this condition, the 'summer period' means the period of time commencing after the October long weekend and ending no later than 31 May the following year in each year works are required to complete the Development, or as otherwise approved by the Secretary or nominee.
- (b) By 31 May in each year works are required to complete the Development, the Applicant must ensure that the Subject site is made safe and secure 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) ensuring the Subject site is fenced with para-webbing or other suitable visible protection fencing around the perimeter of the site to limit access to and from the site;
  - (iv) appropriate signage must be erected outlining that unauthorised access to the Subject site is prohibited and that the site is a construction zone;
  - (v) all external plumbing and drainage works are to be completed;
  - (vi) any excavations are to be made safe and secure;
  - (vii) stabilisation and rehabilitation works must be implemented in accordance with these conditions of consent and the approved documentation; and
  - (viii) any other specific matters related to making the Subject site safe and secure raised by the Principal Certifier or the Secretary.

### **D.4. Construction activities and management**

- (a) At all times, construction activities shall be undertaken in accordance with the approved documentation.
- (b) All construction activities shall be confined to within the construction zone.
- (c) No disturbance is permitted outside the construction zone unless otherwise agreed by the Secretary.

### **D.5. Aboriginal heritage**

- (a) Should any material suspected of being an Aboriginal relic or artefact 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).

#### **D.6. Waste**

All waste must be contained in receptacles and 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.

#### **D.7. 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.

#### **D.8. 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.
- (d) The name, address and phone number of the Principal Certifier is to be identified on the notice(s).

#### **D.9. 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.

#### **D.10. 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.

#### **D.11. 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.

#### **D.12. 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.

#### **D.13. Noise and vibration management**

Excavation and construction works must be managed in accordance with Australian Standard AS 2436-2010 *Guide to noise and vibration control on construction, demolition and maintenance sites* and to ensure there is no adverse impact on any neighbouring/affected tourist accommodation buildings during the construction phase of the Development.

#### **D.14. Loading and unloading of construction vehicles**

All loading and unloading associated with construction work which is part of the Development must be restricted to those areas approved in the CEMP (Condition C.3) and these conditions.

#### **D.15. Maintenance of services**

The Applicant shall be responsible for costs associated with relocating any services.

#### **D.16. Geotechnical requirements**

At all times, works associated with the development shall comply with:

- (a) the Department's Geotechnical Policy; and
- (b) the Geotechnical Investigation Report undertaken by Alliance Geotechnical Pty Ltd dated 4 May 2022.

Works at variance to recommendations contained in the geotechnical assessment report shall not be undertaken without prior written endorsement from the geotechnical engineer. Any written advice of the variation shall be provided to the Principal Certifier and the Department within 48 hours.

#### **D.17. Dirt and Dust Control Measures**

- (a) Adequate measures shall be taken to prevent dirt and dust from affecting the amenity of the neighbourhood during construction.
- (b) In particular, the following measures must be adopted:
  - (i) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
  - (ii) covers are to be adequately secured;
  - (iii) cleaning of footpaths must be carried out regularly;
  - (iv) roadways must be kept clean;
  - (v) gates are closed between vehicle movements;
  - (vi) gates are fitted with shade cloth; and
  - (vii) the site is hosed down when necessary.

#### **D.18. Excavations and backfilling**

- (a) All excavating and backfilling shall comply with the following:
  - (i) shall 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 shall be made so that any fauna entering these excavations can escape;
  - (iii) adequate provision shall be made for drainage; and
  - (iv) all excavations shall be properly guarded and protected to prevent them from being dangerous;

unless otherwise agreed in writing by the Secretary.

- (b) Any clean excavated material (i.e. containing no contaminants or weeds) may be:
  - (i) temporarily stockpiled at the site in accordance with the *Rehabilitation Guidelines for the Resort Areas of Kosciuszko National Park* prior to reuse on site; or
  - (ii) stockpiled and managed at an approved Kosciuszko Thredbo Pty Ltd (KT) facility for future use in accordance with the *Rehabilitation Guidelines for the Resort Areas of Kosciuszko National Park*; or
  - (iii) disposed of at an authorised land fill site.
- (c) Any contaminated material (i.e. containing contaminants or weeds) shall not be stockpiled at the site or in Thredbo and is to be disposed of at an authorised waste facility.
- (d) Imported fill material shall only be obtained from a National Parks and Wildlife Service recommended source.
- (e) Excess imported fill material shall be stockpiled in Thredbo for reuse.

#### **D.19. Maintenance of services**

The Applicant shall be responsible for costs associated with relocating any services.

#### **D.20. Water in excavations**

In the event that water needs to be pumped out of any excavations a temporary filter dam shall be installed within the construction zone and shall function in such a way that it captures sediment and pollutants and prevents them leaving the filter dam. Only appropriately treated water from the filter dam shall be disposed of via the existing storm water system. All pump out equipment shall be wholly contained within the construction zone.

---

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

### **E.1. Completion certificate**

Prior to the occupation of the building or the commencement of use which are part of the Development, an completion certificate must be obtained from the Principal Certifier. A copy of the completion certificate must be furnished to the Secretary prior to the occupation of the relevant buildings or commencement of use which are part of the Development.

### **E.2. Site Clean Up**

Prior to commencement of use which are part of the Development, the Subject site must be cleaned and made good to the satisfaction of the Principal Certifier.

### **E.3. 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.

### **E.4. Structural certification**

A structural engineer's certificate must be submitted to the Principal Certifier prior to issue of the relevant completion certificate. This certificate is to verify that structural works which are part of the Development have been completed in accordance with approved plans and specifications and comply with the provisions of the BCA and relevant standards. A copy of the certificate is to be submitted to the Secretary or nominee with the completion certificate documentation.

### **E.5. Geotechnical certification**

- (a) Prior to the issue of the completion certificate:
  - (i) a completed and signed Form 3 from the Department's Geotechnical Policy – Kosciuszko Alpine Resorts (2003) must be submitted to the Principal Certifier. All sections of the Form 3 must be completed and signed by the appropriate person/s; or
  - (ii) if alternative advice is provided by the geotech and approved by the Secretary in Condition D.24, confirmation that the works have been undertaken in accordance with the advice.
- (b) If the Department is not the Principal Certifier, the appointed Principal Certifier shall provide a copy of the completed and signed Form 3 to the Department with the copy of the completion certificate.

### **E.6. Dilapidation reports**

- (a) Within 30 days of the completion of the construction works on the subject site, and prior to the completion certificate being issued:
  - (i) the applicant shall engage a suitably qualified person to prepare post-construction dilapidation report/s;
  - (ii) the post-construction dilapidation report/s shall compare the state of the condition of all nearby buildings, infrastructure and roads;
  - (iii) the post-construction dilapidation report/s shall be submitted to the Principal Certifier; and
  - (iv) a copy of the dilapidation report/s shall be provided to the Department;
- (b) If it is determined that impacts have occurred as a result of the construction works, then the structural engineer shall make recommendations as to the remediation works that should be undertaken to rectify any impacts detected. These recommendations shall be implemented to the satisfaction of the Principal Certifier unless they are outside the scope



of this development consent, in which case the Department shall be contacted as a matter of urgency to determine the course of action required.

If the Department is not the Principal Certifier, the Principal Certifier is to provide a copy of these reports to the Department within 30 days of being approved by the Principal Certifier and to any completion certificate being issued.

#### **E.7. Road and infrastructure damage**

Prior to the issue of the completion certificate, the Principal Certifier is to be satisfied that any roads or other infrastructure damaged as a result of the construction works associated with the development has been adequately repaired to the satisfaction of the provider of the road/infrastructure.

---

## 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.

### AN.3 Other approvals and permits

The Applicant must apply to the relevant authority for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act, 1993* or Section 138 of the *Roads Act, 1993*.

### AN.4 Utility services

- (a) The Applicant must liaise with the relevant utility authorities for electricity, gas (if relevant), water, sewage, telecommunications on the Subject site:
  - (i) to locate all service infrastructure on the Subject site; and
  - (ii) negotiate relocation and/or adjustment of any infrastructure related to these services that will be affected by the construction of the Development.
- (b) The Applicant is responsible for costs associated with relocating any services.

### AN.5 Dial before you dig

Underground assets may exist in the area that is the Subject site. In the interests of health and safety and in order to prevent damage to third party assets please contact the Dial Before You Dig service at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

If alterations are required to the configuration, size, form or design of the Development upon contacting the Dial Before You Dig service, an amendment to this consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

### AN.6 Disability Discrimination Act

The Applicant has been assessed in accordance with the *Environmental Planning and Assessment Act, 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992* (Cth). The Applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* (Cth) covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - *Design for Access and Mobility*. AS 1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* (Cth) currently available in Australia.