

Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I hereby modify the development consent referred to in Schedule 1, in the manner outlined in Schedule 2.



Keiran Thomas
Director
Regional Assessments
Department of Planning and Environment

Jindabyne

30 August 2022

SCHEDULE 1

Application No.:	MOD 22/6520 (DA No. 076-11-2010 MOD 1)
Applicant:	Kosciuszko Thredbo Pty Ltd
Consent Authority:	Minister for Planning
Land:	Thredbo Alpine Resort, Kosciuszko National Park
Development:	Works including: <ul style="list-style-type: none">• removal of existing hut;• erection of a new building for ski patrol and communications equipment; and• associated trenching.
Approved Development:	MOD 22/6520 (DA No. 076-11-2010 MOD 1): Modifications to approved development including: <ul style="list-style-type: none">• altered floor layout to enable modular communication pods to be installed• altered ski patrol hut arrangement

Schedule 2 of Development Application No. 076-11-2010 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words as follows

SCHEDULE 2

PART A – THE APPROVED DEVELOPMENT

A.1 Development in Accordance with Approved Documentation and Plans

The development consent incorporates the approved plans and documents stamped and detailed below:

Ref. No.	Document	Title / Description	Author / Prepared by	Date	Document Reference
1	Statement of Environmental Effects (SEE)	"Communications Hut, Eagles Nest, Thredbo"	Dabyne Planning Pty Ltd	November 2010	Project No.02-10
2	Plan	"Location Plan, Site Plan & Roof Plan"	Daryl Jackson Robin Dyke Pty Ltd Architects	26.08.10	Job No. 10 420, Drawing No. A0.100, Rev. B
3	Plan	"Landscape Plan"	Daryl Jackson Robin Dyke Pty Ltd Architects	26.08.10	Job No. 10 420, Drawing No. A0.101, Rev. B
4	Plan	"Landscape Details"	Daryl Jackson Robin Dyke Pty Ltd Architects	26.08.10	Job No. 10 420, Drawing No. A0.102, Rev. B
5	Plan	"Landscape Specification"	Daryl Jackson Robin Dyke Pty Ltd Architects	26.08.10	Job No. 10 420, Drawing No. A0.103, Rev. B
6	Plan	"Site Environmental Management Plan"	Daryl Jackson Robin Dyke Pty Ltd Architects	26.08.10	Job No. 10 420, Drawing No. A0.104, Rev. A
7	Plan	<u>"Floor Plan"</u> <u>Construction Stage Plan</u>	<u>Daryl Jackson</u> <u>Robin Dyke</u> <u>Pty Ltd</u> <u>Architects</u> <u>NSW Telco</u> <u>Authority Pty</u> <u>Ltd</u>	<u>26.08.10</u> <u>26.02.22</u>	<u>Job No. 10 420, Drawing No. A1.100, Rev. B</u> <u>GRN-CRAC-DWG-INF-CSP-01</u> <u>Rev. A</u>
8	Plan	"Elevations and Sections" <u>(as amended by Ref. No 8A)</u>	Daryl Jackson Robin Dyke Pty Ltd Architects	26.08.10	Job No. 10 420, Drawing No. A2.100, Rev. B

<u>8A</u>	<u>Plan</u>	<u>Construction Stage Plan Southern Elevation</u>	<u>NSW Telco Authority Pty Ltd</u>	<u>26.02.22</u>	<u>GRN-CRAC- DWG-INF- CSP-02 Rev. A</u>
9	Plan	"Photo Montage & Colour Schedule"	Daryl Jackson Robin Dyke Pty Ltd Architects	26.08.10	Job No. 10 420, Drawing No. A7.100, Rev. A
10	Geotechnical Slope Stability Assessment	"Proposed Communications Hut, Eagles Nest, Thredbo, NSW"	Jeffrey and Katauskas Pty Ltd	14 January 2011	Reference No.24011WH Let
11	Site Environmental Management Plan	"Site Environmental Management Plan for proposed Communications Hut at Eagles Nest, Thredbo"	-	-	-
12	Letter	Letter to the Alpine Resorts Team, Department of Planning DA 076-11-2010 – New Communications Building Eagles Nest Thredbo	Scott McClymont, Property Manager of Kosciuszko Thredbo Pty Ltd	17 January 2011	-
<u>13</u>	<u>Letter</u>	<u>Application to Modify Development Consent – DA 076-11-2010 Eagles Nest – Demolish existing hut and construct new building, Thredbo</u>	<u>Kosciuszko Thredbo Pty Ltd</u>	<u>4 April 2022</u>	<u>=</u>
<u>14</u>	<u>Form 4 and Report</u>	<u>Form 4 – Minimal Impact Certification Geotechnical Assessment</u>	<u>JK Geotechnics Pty Ltd</u>	<u>3 May 2022</u>	<u>34997Hrpt</u>

The development shall be in accordance with these above approved plans and documentation.

A.2 Development Site Description

The development site is ~~Lot 864 DP 1128686~~, Eagles Nest, Thredbo Alpine Resort, approximately 50 metres NNW of the northern most point of the existing Eagles Nest building.

A.3 Development Description

The development to which consent is granted is described as follows:

- (i) removal of the existing 'Opera Hut' building;
- (ii) construction of a new building for ski patrol and communications equipment **(part of which is to be installed under separate Part 5 approval from the National Parks and Wildlife Service)**; and
- (iii) trenching from the new building to the existing Eagles Nest building for water, sewer, electricity and communications.

A.4 Development Not Included

This development consent does not include:

- (i) any subdivision including boundary adjustments; or
- (ii) any works within the Eagles Nest building; or

- (iii) any communications equipment or infrastructure within or on the outside of the new building including antennas or monopoles; or
- (iv) any works to or on existing antennas or monopoles at Eagles Nest.

Note: Development consent may or may not be required for future communications equipment and/or infrastructure. Please refer to the relevant legislation, regulations and codes in this regard.

A.5 Inconsistency between Documents

In the event of any inconsistency between conditions of this consent and the documents referred to above, the conditions of this consent prevail.

PART B GENERAL CONDITIONS

B.1 Prescribed Conditions

All works shall comply with the prescribed conditions of development consent as set out in clause 98 of the Regulation.

B.2 Compliance with the Building Code of Australia

All works must be carried out in accordance with the requirements of the Building Code of Australia.

B.3 Australian Standards

All works shall be carried out in accordance with the current and relevant Australian Standards.

B.4 Plumbing and Drainage Works

All plumbing and drainage work undertaken as part of this consent shall comply with AS 3500 and are to be carried out by an appropriately licensed plumber.

B.5 Geotechnical

At all times during demolition, excavation and construction works for the development shall comply with the:

- (a) Department's Geotechnical Policy; **and**
- (b) the Geotechnical Slope Stability Assessment undertaken by Jeffrey and Katauskas Pty Ltd for the proposal, dated 14 January 2011, Reference 24011WH Let (Ref. No.10 of the approved plans and documentation at Condition A.1); **and**
- (c) **as amended by the Geotechnical Assessment undertaken by JK Geotechnics Pty Ltd for MOD 22/6520 (DA 076-11-2010 MOD 1), dated 3 May 2022, Reference 34997Hrpt (Ref. No. 14 of the approved plans and documentation at Condition A.1).**

B.6 Colours and Reflectivity

All structures are to be constructed of materials having non-reflective properties and shall comply with the approved colour schedule (Ref. No.9 of the approved plans and documentation at Condition A.1).

B.7 Asset Protection Zones

At the commencement of building works and in perpetuity the property around the building to a distance of 5 metres, shall be maintained as an Inner Protection Area (IPA) as outlined within section 4.1.3 and appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

The intent of this measure is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with the building.

B.8 Lapsing of Consent

The development consent shall lapse 5 years after the determination date in Part A of Schedule 1 of this development consent.

PART C PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

C.1 Construction Certificate

Prior to the commencement of any work, a Construction Certificate for the development must be obtained.

C.2 Documentation for the Construction Certificate

Prior to the issue of the Construction Certificate, the following information shall be submitted to, and be to the satisfaction of the Certifying Authority:

- (a) **Structural drawings and design statement** - prepared and signed by an appropriately qualified practising Structural Engineer that comply with:
 - (i) section B of the BCA;
 - (ii) development consent DA 076-11-2010;
 - (iii) drawings and specifications comprising the Construction Certificate; **and**
 - (iv) the Department's Geotechnical Policy and the Geotechnical Slope Stability Assessment undertaken by Jeffrey and Katauskas Pty Ltd for the proposal, dated 14 January 2011, Reference 24011WH Let (Ref. No.10 of the approved plans and documentation at Condition A.1); **and**
 - (v) **as amended by the Geotechnical Assessment undertaken by JK Geotechnics Pty Ltd for MOD 22/6520 (DA 076-11-2010 MOD 1), dated 3 May 2022, Reference 34997Hrpt (Ref. No. 14 of the approved plans and documentation at Condition A.1).**
- (b) **Compliance with the BCA** - sufficient details to demonstrate that the proposal complies with the relevant provisions of the BCA.

C.3 Payment of the Long Service Levy

Evidence shall be provided to the Certifying Authority, 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 Construction Industry Payments Act 1986*.

C.4 Ski patrol hut layout

Prior to the issue of a Construction Certificate for the ski patrol hut, detailed layout plans of the ski patrol hut must be submitted to and approved by the Secretary or nominee.

PART D PRIOR TO COMMENCEMENT OF WORKS

D.1 Aboriginal Heritage

- (a) Prior to the commencement of any works, test pit monitoring for Aboriginal heritage items must be undertaken in the areas where excavation is proposed. The test pit monitoring shall be undertaken in accordance with the description given in section 4.2 of the approved SEE (Ref. No.1 of the approved plans and documentation at Condition A.1). A copy of the results of the test pit monitoring shall be provided to the PCA and, in the case where the Department is not the PCA, the Director-General or nominee prior to any works commencing.
- (b) In the case of Aboriginal heritage items being located during the test pitting, further assessment will be required. The applicant shall contact the NSW Office of Environment and Heritage (OEH) to advise of the findings of the test pit monitoring and to request their requirements for the further assessment.

Works must not commence until:

- (i) further assessment has been undertaken as per the requirements of OEH, this assessment is to the satisfaction of OEH, OEH advises in writing that works may proceed, and a copy of this advice from OEH has been provided to the PCA and, in the case where the Department is not the PCA, also to the Director-General or nominee; OR
 - (ii) an Aboriginal heritage impact permit under s.90 of the *National Parks and Wildlife Act 1974* has been obtained for the development and a copy has been provided to the PCA and, in the case where the Department is not the PCA, also to the Director-General or nominee.
- (c) In the case of Aboriginal heritage items not being located during the test pit monitoring, then no further assessments are required and works may commence.

D.2 Notification to Department of the Date of Commencement of Works

The Director-General or nominee shall be given written notice, at least 2 days prior to works commencing on site, of the date that works are proposed to commence.

D.3 Implementation of Site Environmental Management Measures

Prior to any works commencing, all of the following shall be undertaken:

- (a) All site environmental management measures and actions identified in:
 - (i) this consent (DA 076-11-2010);
 - (ii) the approved Site Environmental Management Plans (Ref. No.6 and Ref. No.11 of the approved plans and documentation at Condition A.1); and
 - (iii) section 6.2 of the Flora and Fauna Assessment 'Proposed Communications Facility, Eagles Nest' prepared by EcoLogical Australia, dated 9 November 2010 in Appendix B of the approved SEE (Ref. No.1 of the approved plans and documentation at Condition A.1);shall be put in place, implemented and undertaken.
- (b) All these site environmental management measures shall be inspected by and shall be to the satisfaction of the PCA.

D.4 Erosion and Sediment Control Measures

- (a) Prior to works commencing, erosion and sediment control measures shall be put in place and include:
 - (i) A sediment fence on the low side of the site.
 - (ii) Provisions for the diversion of water, and stabilisation of channels, around the excavation site.

- (iii) The area where soil is to be stockpiled is to be surrounded by sediment control fencing and protected from run off water.
- (iv) The soil stockpile shall not exceed 2 metres in height and have a maximum slope of 2:1.
- (v) Any other directions given by the PCA or the Director-General or nominee.
- (b) Where geotextile sediment fencing is proposed, it shall comply with the following:
 - (i) Constructed as close as possible to follow the existing contours of the site.
 - (ii) Stakes or posts to which the fabric is attached are to be a maximum of 3 metres apart.
 - (iii) The geotextile fabric shall be entrenched in a 150mm deep trench along the upslope line of the fence.
- (c) Where straw bale sediment fences are proposed, they shall comply with the following:
 - (i) Only weed free straw or natural thatch/litter is to be used.
 - (ii) They are only used for low flows of water.
 - (iii) Every 20 metres, there is one straw bale that is placed at a 90 degree angle to the others for stability.
 - (iv) Straw bales tightly abut each other.
 - (v) Straw bales are held firmly in place with star pickets or the like.

D.5 Litter and Building Waste

Provision shall be made for the storage on site of all litter and building waste. This receptacle shall prevent the escape of waste by way of wind or water.

D.6 Temporary Fencing

- (a) Prior to works commencing at each site, the construction works area at that site shall be fenced with temporary fencing. This fencing is to clearly delineate the construction area and the "no go" areas and shall keep the disturbance area to a minimum.
- (b) The width of the fenced works area along the trench lines shall not exceed 6 metres.

D.7 Protection of Adjacent Vegetation Areas

Site management shall ensure that appropriate measures are in place to ensure that vehicles and machinery do not enter into areas of vegetation that are not part of the proposed development.

PART E DURING CONSTRUCTION

E.1 Approved Plans and Documentation to be On-Site

A copy of the approved plans and documentation shall be kept on site at all times and shall be readily available for perusal by any person associated with construction works, the PCA or an officer of the Department.

E.2 Erosion and Sediment Control Measures

- (a) All erosion prevention and sediment control measures in place shall be checked at the start of each working day and maintained in good working order at all times. In doing this, consideration must be given to the forecast weather for the area.
- (b) All exposed earth must be kept stabilised and revegetation must commence as soon as practicable.

E.3 Excavation and Construction Work During Dry Conditions Only

All excavations and construction works shall only be carried out during dry weather and when the ground at the site is not wet, unless otherwise agreed in writing by the Director-General or nominee.

E.4 Trenches

- (a) No trenches are to be left open for more than three days.
- (b) All excavated material is to be placed on the up-slope side of the trench.
- (c) The trench line is to be revegetated as soon as practicable after completion.
- (d) Adequate provision shall be made for drainage.

E.5 Excavations and Backfilling

All excavation and backfilling shall be executed in a safe manner and in accordance with appropriate professional standards. All excavations shall be properly guarded and protected to prevent them from being dangerous.

E.6 Protection of the Environment

The works shall be undertaken in accordance with this consent, the Site Environmental Management Plans (Ref. No.6 and Ref. No.11 of the approved plans and documentation at Condition A.1) for the entirety of the project.

E.7 Site Stabilisation and Rehabilitation

- (a) Any disturbed area shall be rehabilitated in accordance with the "Rehabilitation Guidelines for the Resorts Areas, Kosciuszko National Park" (NPWS 2007) and to the satisfaction of the PCA.
- (b) Site stabilisation and rehabilitation works shall commence, as soon as possible, following the completion of each section of work to minimise exposed areas.
- (c) Rock removed during construction shall be stockpiled and retained for use for landscaping around the new building upon completion of the works.

E.8 Construction Hours

All work in connection with the proposed development shall 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 Public Holidays, or as otherwise approved by the Director-General or nominee.

E.9 Construction Period

- (a) All construction activities are limited to the “summer” period. For this development this period means commencing after the October long weekend and ceases no later than 30 May or as otherwise approved by the Director-General or nominee.
- (b) By 30 May the applicant shall ensure that the site is made safe and secure by undertaking the following:
 - (i) Removal of all waste materials.
 - (ii) Removal and/or securing of all stockpiles of soil and gravel.
 - (iii) Completion of all stabilisation and rehabilitation works in accordance with these conditions of consent and the approved SEMP.
 - (iv) Any other specific matters related to making the sites safe and secure raised by the Director-General or nominee during the course of construction.

E.10 Construction Activities

- (a) All machinery to be used during the construction phase shall be confined to the existing disturbed areas (wherever possible) and the existing access tracks. Wet areas and areas of native vegetation are to be avoided.
- (b) All machinery to be used during the construction phase must be cleaned prior to coming on each site to ensure no weeds are transported to the site.
- (c) Access to the sites for construction shall be from the existing access track to Eagles Nest, along the existing pathway and over previously disturbed areas only.
- (d) Construction activities shall not obstruct or pose a safety risk at any time for users of the adjacent walking path.

E.11 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the sites for the purposes of informing the public of project details. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (a) minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) the notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (c) the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (d) the notice(s) is to be mounted at eye level and is to state that unauthorised entry to the site is not permitted.

E.12 Prohibition of Hazardous Materials

Hazardous or toxic materials or dangerous goods shall not be stored or processed on any site at any time.

E.13 Building Waste

All building waste shall be contained in receptacles so as not to escape by wind or water. These receptacles must only be located in previously disturbed areas and not beneath the canopy or over roots of any trees. The receptacle must be cleaned regularly.

E.14 Storage of Materials

The applicant shall ensure that at all times during the construction period no storage or disposal of materials shall take place beneath the canopy of any trees or on any native vegetation.

E.15 Re-Fuelling

Appropriate controls shall be put in place to ensure no spillage when re-fuelling all vehicles and machinery associated with the works. Re-fuelling of vehicles shall be performed on hard stand areas only. No refuelling of any machinery shall occur within the vicinity of any Upland Bog, Short Alpine Herbfield and/or Snowpatch vegetation communities.

E.16 Protection of Native Vegetation

Site management shall ensure that appropriate measures are in place to ensure that vehicles, machinery or persons do not damage or remove any native vegetation that is not part of this consent. The damage or removal of any native vegetation that is not part of this consent may warrant further action to be undertaken in accordance with the *National Parks and Wildlife Act 1974* or the *Environmental Planning and Assessment Act 1979*.

E.17 Work Cover

All works shall be carried out in accordance with current Work Cover guidelines.

E.18 Aboriginal Heritage

- (a) Should any material suspected of being an Aboriginal relic or artefact become unearthed in the course of works, all works impacting the objects or artefacts shall cease immediately as per Section 90 of the *National Parks and Wildlife Act 1974*. The applicant must immediately contact the Department of Environment, Climate Change and Water (DECCW) to arrange for representatives to inspect the site. All workers on the site are to be made aware of this condition.
- (b) Upon request by the Director-General (or nominee) and/or DECCW, the applicant is to provide the Director-General (or nominee) and DECCW personnel safe access to the construction site for the purposes of undertaking further cultural heritage related assessments as considered appropriate by DECCW.

E.19 Demolition

All demolition works shall comply with *AS 2601-1991: The demolition of structures*.

PART F PRIOR TO COMMENCEMENT OF USE

F.1 Occupation Certificate

An Occupation Certificate must be obtained from the PCA and a copy furnished to the Director-General or nominee prior to the occupation of the building or commencement of the use.

F.2 Rehabilitation

Any disturbed ground shall be rendered erosion resistant and rehabilitated in accordance with the approved documentation and these conditions of consent.

F.3 Landscaping

Rocks removed during construction and stockpiled shall be used for landscaping around the new building.

F.4 Removal of Site Notice

Any site notices or other site information signs shall be removed upon completion of the site works and prior to the commencement of use.

F.5 Site Clean Up

Prior to commencement of use, the subject site shall be cleaned up to the satisfaction of the PCA.

PART G POST OCCUPATION

G.1 Rehabilitation

For a period of two years after the works have been completed, all disturbed areas shall be monitored and necessary action undertaken to ensure that the ground remains erosion resistant and groundcover is being established.

G.2 Electromagnetic Radiation

At all times, any electromagnetic radiation and/or radiofrequency radiation emitting from any equipment within or on the building, cumulatively shall not exceed the limits stipulated in the current and relevant legislation, standards and codes. As of the date of this consent, the current and relevant standards and codes include (but not limited to):

- (a) *Radiation Protection Standard – Maximum Exposure Levels to Radiofrequency Fields 3 kHz to 300 GHz* (2002); and
- (b) *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard* (2003, and as amended in 2007).

G.3 Locality Amenity

At no time shall the operation of the building interfere with the amenity of the locality by way of noise, vibration or air emissions.

G.4 Installation of Communications Equipment

At all times, the applicant is to ensure compliance with the relevant legislation, regulations, standards and codes pertaining to communications. Unless otherwise exempted, development consent will be required for the installation of communications equipment within or on the new building.