



# Ricochet Mountain Bike Trail Realignment, Thredbo

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Development Application Assessment  
DA 23/11136

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

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# Glossary

Abbreviation	Definition
<b>BC Act</b>	<i>Biodiversity Conservation Act 2016</i>
<b>BC Regulation</b>	<i>Biodiversity Conservation Regulation 2017</i>
<b>BDAR</b>	Biodiversity Development Assessment Report
<b>BVM</b>	Biodiversity Values Map
<b>Consent</b>	Development Consent
<b>CPP</b>	Community Participation Plan
<b>Department</b>	Department of Planning, Housing and Infrastructure
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation 2021</b>	<i>Environmental Planning and Assessment Regulation 2021</i>
<b>EPBC Act</b>	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>EPI</b>	Environmental Planning Instrument
<b>ESD</b>	Ecologically Sustainable Development
<b>KNP</b>	Kosciuszko National Park
<b>Minister</b>	Minister for Planning
<b>NPWS</b>	National Parks and Wildlife Service
<b>Planning Secretary</b>	Secretary of the Department of Planning, Housing and Infrastructure
<b>SEE</b>	Statement of Environmental Effects
<b>SEPP</b>	State Environmental Planning Policy

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# 1 Introduction

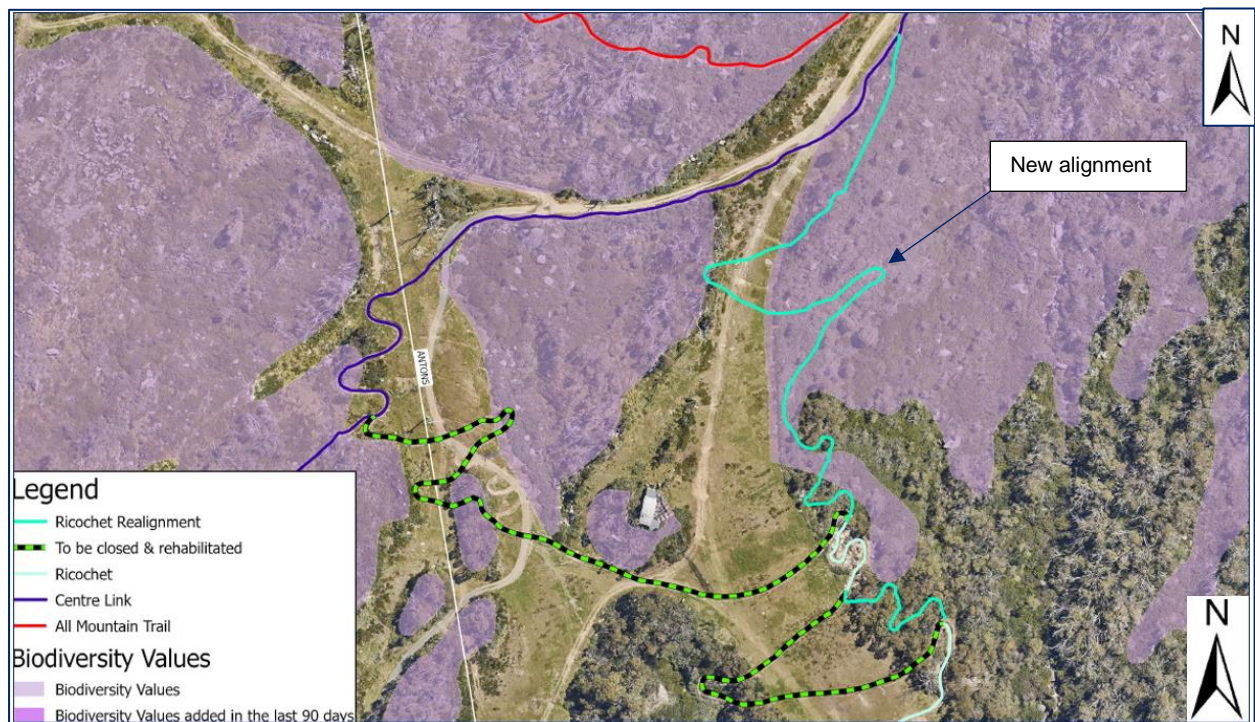
This report contains the Department's assessment of the Development Application (DA 23/11136) lodged by Kosciuszko Thredbo Pty Ltd (the Applicant) seeking approval for the development of the Ricochet Mountain Bike Trail Realignment (as amended) within Thredbo Alpine Resort, Kosciuszko National Park (KNP).

DA 23/11136 was lodged on 30 August 2023. The Department and National Parks and Wildlife Service (NPWS) initial assessment of the application raised concerns with impacts upon existing sensitive vegetation and a review of the alignment was requested.

Following discussions with the Applicant and NPWS, a revised location for the Ricochet MTB trail realignment was submitted (**Figure 1**). After a review of the application and supporting documents supporting this revised alignment, the nominee for the Minister for Planning, as the consent authority, approved the Applicant's request to amend the application on 11 March 2024 in accordance with section 38 of the EP&A Regulation 2021. This assessment is therefore based off this amended alignment.

The existing Ricochet MTB trail is accessed off the Central Link Trail and is located within the ski areas on and around Antons T-bar / Lenny's Leap ski run and across and within the existing native vegetation adjacent to High Noon ski run. The sites sits within the overall Thredbo Head Lease Area on land described as Lot 876 DP1243112.

The alignment for consideration seeks approval for the realignment of the existing Ricochet MTB trail comprising a new realignment of 367 metres in length and commencing earlier on the Central Link Trail, linking to existing berms not proposed to be retired, and then to the remainder of the existing Ricochet Trail. The existing alignment of the upper trail is to be closed and rehabilitated (a length of 523 metres identified as black / yellow check on **Figure 1**).

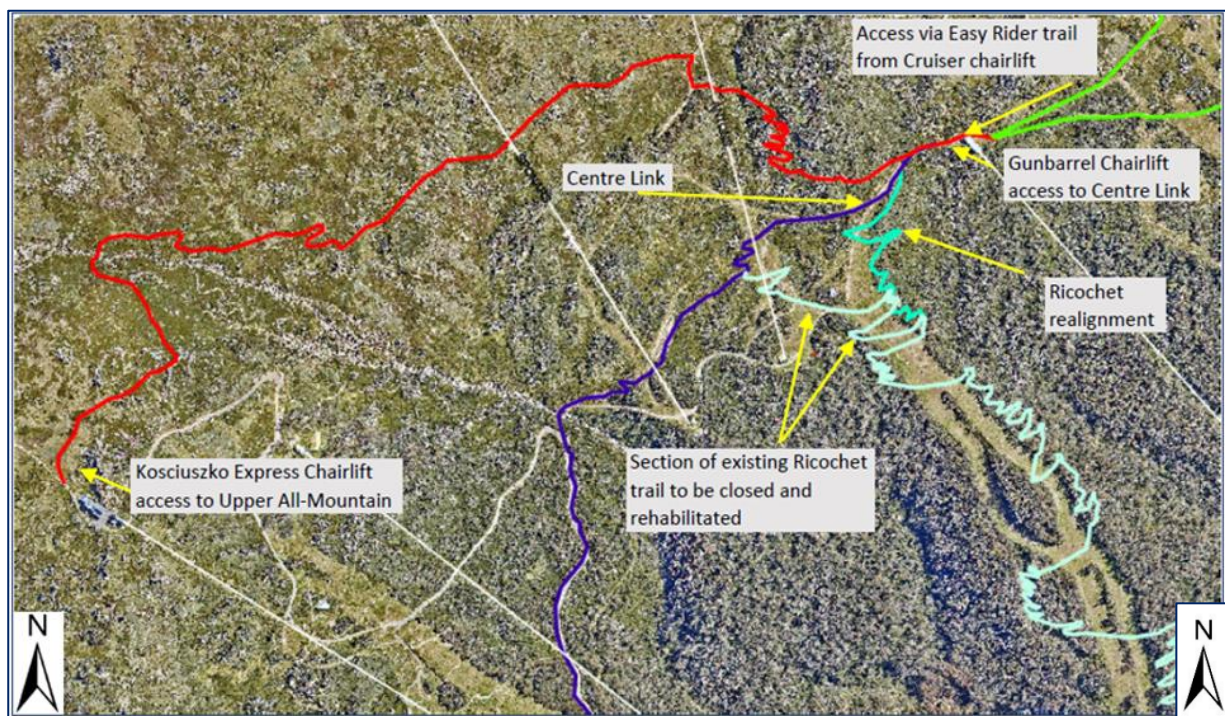


**Figure 1** | Site map identifying the proposed amended realignment of the Ricochet Mountain Bike Trail (Source: Applicant's Statement of Environmental Effects [SEE] 2024)



The Ricochet MTB trail is an intermediate trail of approximately 3.2 kilometres in length which links the Central Link and Sidewinder Trails. Access is provided via the Gunbarrel Chairlift (**Figure 2**). The Ricochet MTB trail has been subject to two (2) DA's relating to the construction and subsequent realignment of the trail, and one (1) Modification Application for the minor realignment of the upper section of the trail. This are described as:

- On 15 March 2019, the Team Leader of the Alpine Resorts Team, as delegate for then Minister for Planning, approved DA 9823 for the construction of a mountain bike trail (Trail N6 - Ricochet), signage and rehabilitation works along High Noon ski run.
- On 30 October 2019, the Team Leader of the Alpine Resorts Team, as delegate for the Minister for Planning and Public Spaces, approved MOD 10083 (DA 9823 MOD 1) to alter the alignment of the upper section of the trail from the Antons T-bar track onto Lenny's Leap ski run and provide a shorter trail.
- On 28 August 2020, the Team Leader of the Alpine Resorts Team, as delegate for the Minister for Planning and Public Spaces, approved DA 10214 to realign the existing Ricochet mountain bike trail located on the Lenny's Leap ski run by reducing the number of berms, placing berms off the ski run and away from the access road.



**Figure 2 |** Site context identifying extent of the existing and proposed trail (Source: Applicant's SEE 2024)

The Applicant notes that the purpose of the realignment is to enable the closure and rehabilitation of sections of the existing trail located on groomed ski runs (across Antons T-bar lift line, and sections below Frostbite and switch backs on High Noon) that are subject to ongoing erosion issues – **Figure 3** and **4**.

The realignment would also remove sections of the trail from crossing Antons T-bar, the ski run below Frostbite kiosk and also reduce the number of switch backs across High Noon ski run. This improves resort operations prior to winter through avoiding the need to fill the trail with snow to achieve a level ski run.





**Figure 3 |** Existing trail to be closed / rehabilitated showing signs of erosion (Source: Applicant's SEE 2024)



**Figure 4 |** Existing trail to be closed / rehabilitated showing signs of erosion (Source: Applicant's SEE 2024)

Additionally, the proposed closure of part of the trail would assist in reducing winter / summer accidents as the Applicant raised concerns surrounding its winter operation and safety for riders of Lenny's Leap ski run, with exposed rocks from the construction of the trail and berms resulting in several incidents (i.e. falls and crashes from loose gravel during summer) being reported.

The Applicant also identified that the trail realignment in 2020 failed to meet the International Mountain Biking Association (IMBA) guidelines due to the narrow (vertical) area of the Lenny's Leap ski run not allowing for regular grade changes. As a result, each trail section on the ski run only falls one way to each corner, exacerbating trail water flow/erosion.

Construction of the trail is to occur as follows:

- The clearing of shrubs and groundcovers in a 2-3 metre wide corridor where the trail traverses native vegetation. The disturbance corridor is required to contain the upper and lower batters and the trail surface when the trail is traversing across moderate to steep slopes.
- On gentler slopes the disturbance corridor will be closer to 1.5 metres. The average disturbance width is expected to be 2.5 metres.
- The clearing will be undertaken with a mix of hand tools i.e. chainsaws and brush-cutters, and machinery i.e. mini-excavator. A trail tread disturbance of 600mm to 1200mm is proposed (i.e. the area of the trail to be used by riders).
- In general, it is possible to align the trail to avoid tree removal, however there will be some areas where the removal of some saplings is likely to be unavoidable.
- Earthworks (cut and fill) to create the trail form. This will be undertaken with a mini-excavator.
- Importation of some decomposed granite for the track surface.

The proposed realignment would traverse land listed as having high biodiversity values. To facilitate the proposed realignment, clearing of native vegetation would be required. A Biodiversity Development Assessment Report (BDAR) has been provided as part of the DA, with offsets proposed under the Biodiversity Offset Scheme (BOS) for the 0.1ha of native vegetation requiring clearing and impacts to native fauna habitat. An assessment of biodiversity impacts is provided in **Section 4**.

The estimated cost of works for the proposal is \$42,648.98.

The supporting documents to this assessment report can be found on the NSW Planning Portal website at:

<https://www.planningportal.nsw.gov.au/development-assessment/state-significant-applications/projects/state-development-applications>



## 2 Matters for Consideration

### 2.1 Strategic Context

#### South East and Tableland Regional Plan 2036

The proposal is consistent with the Regional Plan as it will provide an amended trail alignment (noting significant vegetation) and allow for the closure and rehabilitation of sections of the existing trail. The proposal will allow the resort to continue to meet the demands of the growing mountain biking community within Thredbo Alpine Resort, which leads to continued visitation to the NSW ski resorts during the summer period.

#### Snowy Mountains Special Activation Precinct Master Plan

Section 9.1 relates to the Thredbo alpine resort. The proposal is consistent with the Master Plan as the proposal will include rehabilitation of portions of the existing trail, limits impact upon sensitive vegetation, and supports the continued visitor base for mountain biking within Thredbo Alpine Resort and KNP.

#### Precincts - Regional SEPP

The proposal is consistent with Chapter 4 of the Precincts - Regional SEPP as the development will be undertaken in an ecologically sustainable way to prevent adverse environmental, social or economic impacts on the natural or cultural environment, ensuring that KNP values are being protected and upheld.

Under the provisions of section 4.27 of the Precincts - Regional SEPP, the National Parks and Wildlife Service (NPWS) have a commenting role as the land manager, which includes administering the Plan of Management framework for KNP that incorporates objectives, principles and policies to guide the long-term management of the KNP. NPWS have recommended conditions to prevent adverse environmental, social or economic impacts on the natural or cultural environment.

#### Draft South East and Tableland Regional Plan 2041

The draft plan was publicly exhibited from 8 August 2022 until 23 September 2022. The draft plan underwent extensive consultation with the community and stakeholders with feedback incorporated into an updated version of the draft plan that was re-exhibited from 9 December 2022 to 31 January 2023. The draft plan identifies the alpine areas as providing important biodiversity to the region and acknowledges the alpine area's contribution to the region's tourism economy.

The proposal is consistent with the draft Regional Plan as it will not result in adverse biodiversity impacts and would enhance mountain biking activity in the Thredbo Alpine Resort. This supports the maintenance of visitation to the resort, along with the local and regional economy.

### 2.2 Permissibility

The proposal includes the realignment of the Ricochet Mountain Bike Trail and rehabilitation of areas to be closed, consistent with the definition of 'recreation infrastructure' as defined in Chapter 4 of *State Environmental Planning Policy (Precincts – Regional) 2021* (the Precincts - Regional SEPP).

Pursuant to clause 4.7 of the Precincts - Regional SEPP, 'recreation infrastructure' is permissible with consent within the Resort.

## 2.3 Mandatory Matters for Consideration

### Objects of the EP&A Act

Table 1 | Objects of the EP&A Act

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	<p>The proposal supports the ongoing year-round use of Thredbo Alpine Resort. The realignment will allow for the rehabilitation of sections of the Lenny's Leap and High Noon ski runs.</p> <p>The works to the site would have positive social and economic impacts and provide for continued mountain bike trail access.</p>
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	<p>The proposal facilitates ecologically sustainable development by supporting mountain biking within Thredbo Alpine Resort, having an acceptable impact on the environment by avoiding sensitive vegetation (such as avoiding <i>Ranunculus anemoneus</i> (Anemone Buttercup) locations) and wet areas and provides construction and operation jobs. Further discussion on the impact to vegetation is provided in <b>Section 4</b>.</p> <p>Mitigation measures during construction and rehabilitation of impacted areas deliver an ecologically sustainable development which are supported.</p>
(c) to promote the orderly and economic use and development of land,	<p>The Applicant comments that the development's impacts are expected to be positive as the development will improve the existing trail, which contributes to enhancing the trail network to cater for a broad range of riders.</p> <p>The Department raised no concerns with the proposal as the works improve facilities within Thredbo Alpine Resort.</p>
(d) to promote the delivery and maintenance of affordable housing,	Not applicable to this proposal.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	An assessment of impacts is provided in <b>Section 4</b> .

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposed development is not anticipated to result in any impacts upon built and cultural heritage, including Aboriginal cultural heritage.
(g) to promote good design and amenity of the built environment,	The Department considers that the proposal responds to its existing setting and minimises impacts upon the natural environment. See discussion in <b>Section 4</b> .
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The Department has recommended conditions of consent to ensure the proposal is undertaken in accordance with legislation, guidelines, policies and procedures to ensure the health and safety of people and animals who may be present in the area of works (refer to <b>Appendix A</b> ).
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department consulted with relevant government agencies and considered their responses (refer to <b>Section 3</b> ).
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The proposal was made publicly available in accordance with the Department's Community Participation Plan (refer to <b>Section 3</b> ).

### Considerations under section 4.15 of the EP&A Act

**Table 2 | Section 4.15(1) Matters for Consideration**

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument (EPI)	<p>The Precincts - Regional SEPP is the principal EPI which applies to the site for this type of development. An assessment against the requirements of Chapter 4 of the Precincts - Regional SEPP is provided below.</p> <p>The Department is satisfied that the Application is consistent with the requirements of Chapter 4 of the Precincts - Regional SEPP.</p>
(a)(ii) any proposed instrument	Not applicable to the proposal.
(a)(iii) any development control plan	Not applicable to the proposal.
(a)(iia) any planning agreement	Not applicable to the proposal.



(a)(iv) the regulations	<p>The application satisfactorily meets the relevant requirements of the EP&amp;A Regulation, particularly the procedures relating to development applications (Part 3 and Part 4) and fees (Part 13 and Schedule 4).</p> <p>The Department has undertaken its assessment in accordance with all relevant matters as prescribed by the regulations, the findings of which are contained within this report.</p>
(a)(v) any coastal zone management plan	Not applicable to the proposal.
(b) the likely impacts of that development	<p>The Department has considered the likely impacts of the development and considers the location of the trail to be suitable and is consistent with other trails previously approved adjoining the site and immediate area. Environmental impacts have been contained where possible (through extensive trail alignment reviews, a defined construction corridor and construction requirements) and site works can be appropriately managed and mitigated through conditions of consent.</p>
(c) the suitability of the site for the development,	<p>The proposed development is considered to be suitable for the site in that there will not be a significant impact on threatened species (except those identified in the BDAR including those that have been avoided through the review process), the development will not be visually intrusive when viewed from Thredbo Village or the Alpine Way and construction impacts can be managed with the implementation of conditions to ensure works avoid unnecessary impacts upon vegetation that is not approved to be disturbed.</p> <p>Further assessment of vegetation impacts can be observed in <b>Section 4</b>.</p>
(d) any submissions made in accordance with this Act or the regulations,	<p>Consideration has been given to submissions received from the NPWS. Refer to <b>Section 3</b> and <b>Section 4</b> of this report.</p>
(e) the public interest.	<p>The works are consistent with the aim and objectives of Chapter 4 of the Precincts - Regional SEPP, including the objective to encourage the carrying out a suitable range of development in the Resort areas to support sustainable tourism in the Alpine Region. The</p>

development will be compatible with the ongoing operation of the resort.

Impacts to the environment have been identified (and reduced following the submission of the amended alignment) and will be appropriately managed, mitigated and contained within a construction corridor. The development is considered to support the economic viability of the Resort while maintaining the health and diversity of the environment, thereby supporting the principles of ESD.

The approval of the proposal is considered to be consistent with the public interest.

### Environmental Planning Instruments

*State Environmental Planning Policy (Precincts - Regional) 2021* (Precincts - Regional SEPP) is the principal EPI applicable to the development. Consideration of the relevant provisions to the proposal within Chapter 4 of the Precincts - Regional SEPP is provided in **Table 3**.

No contamination within the site and surrounding area has been identified. There are no further matters under *State Environmental Planning Policy (Resilience and Hazards) 2021* that need to be considered.

**Table 3 |** Precincts - Regional SEPP, Chapter 4 considerations

Chapter 4 - Precincts - Regional SEPP - Kosciusko Alpine Region	
Section 4.9 Demolition	
The demolition of a building or work on land in the Alpine Region	No demolition of buildings is proposed under this DA.
Section 4.21 Heritage conservation	
European heritage	The proposal would not impact on any European heritage items.
Aboriginal heritage	Following the submission of additional information that addresses the Due Diligence Code of Practice for the Protection of Aboriginal Objects (Code of Practice), NPWS raised no concerns with the proposal.
Section 4.24 Flood planning	
Development on land in the flood planning area	The site is not located in a flood planning area and is not subject to flooding.

## Section 4.25 Earthworks

Impact of earthworks

The trail construction would involve removal of the existing vegetation and creation of the trail within the soil beneath. The Department considers that the earthworks proposed are unlikely to cause the disruption to, or adversely impact on, drainage patterns or soil stability in the locality of the development.

A condition of consent will require appropriate sedimentation and erosion control measures to be in place in accordance with the NPWS Guidelines.

## Section 4.27 Consultation with National Parks and Wildlife Service

Consult with, and consider submissions from, the NPWS

The proposal was referred to NPWS and comments were received. Refer to consideration of NPWS referral comments in **Section 3** of this report.

## Section 4.28(1) – Consideration of master plans and other documents

(a) the aim and objectives of this policy, as set out in section 4.1

The proposal is consistent with the aim and objectives of Chapter 4 of the Precincts - Regional SEPP in that it is consistent with the principles of ESD (the impact upon native vegetation is acceptable and sensitive locations of vulnerable vegetation species have been avoided) and supports the ongoing use of the Thredbo Alpine Resort as a mountain biking destination.

(b) *(repealed in November 2023)*

(c) a conservation agreement under the *Environment Protection and Biodiversity Act 1999* of the Commonwealth that applies to the land,

Not applicable to the development.

(d) the *Geotechnical Policy -Kosciuszko Alpine Resorts* published by the Department in November 2003,

The site is located within the G zone identified on the Department's *Geotechnical Policy – Kosciuszko Alpine Reports*, Thredbo Map.

Nonetheless, the Applicant commented that the proposed trail does not require any structures or platforms to traverse watercourses and therefore, only comprises minor earthworks.



The Department has considered the Applicants comments and the objectives of the Geotechnical Policy.

Construction of trails typically involve disturbance / excavation works within the top 500mm of the ground level. Stability issues associated with these works can be effectively addressed by trail builders. It is noted that no platforms are proposed in the amended DA (the original trail included platforms but were removed following discussions between the Department, NPWS and the Applicant, which would have involved footings to be constructed).

No further assessment on geotechnical matters is considered necessary.

(e) for development in the Perisher Range Alpine Resort—

(i) the Perisher Range Resorts Master Plan, published by the National Parks and Wildlife Service in November 2001 and

(ii) the Perisher Blue Ski Resort Ski Slope Master Plan adopted by the National Parks and Wildlife Service in May 2002.

Not applicable, as site is located within Thredbo Alpine Resort.

#### **Section 4.29 Consideration of environmental, geotechnical and other matters**

Under section 4.29(1) - In deciding whether to grant development consent to development in the Alpine Region, the consent authority must consider the following -

(a) measures proposed to address geotechnical issues relating to the development,

Refer to comments in Section 4.28(1)(d) above.

(b) the extent to which the development will achieve an appropriate balance between -

(i) the conservation of the natural environment, and

(ii) taking measures to mitigate environmental hazards, including geotechnical hazards, bush fires and flooding,

The proposed works have been designed to avoid significant areas of highly valued biodiversity (i.e. amended realignment avoids areas of *Ranunculus anemoneus* (Anemone Buttercup) and wet areas adjoining an unnamed creek) and mitigate impacts on the natural environment (i.e. construction requirements identified and to be implement prior to, during and post construction). The land is not subject to flooding and no measures to protect against bushfire are required.

Natural hazards have been adequately addressed.

(c) the visual impact of the proposed development, particularly when viewed from the land identified as the Main Range Management Unit in the Kosciuszko National Park Plan of Management,	The construction of the MTB trail will not result in visual impact on the locality or from the Main Range Management Unit for the locality. The trail is consistent with other MTB trails and is less of an impact than a 10 to 20 metre wide ski run.
(d) the cumulative impacts of development and resource use on the environment of the Alpine Subregion in which the development is carried out,	The works proposed relate to the realignment of a mountain bike trail through biodiversity values (BV) mapped land. The development will not result in any changes to resource use or impact the facilities in the Alpine Resorts.
(e) the capacity of existing infrastructure and services for transport to and within the Alpine Region to deal with additional usage generated by the development, including in peak periods,	No additional usage of the infrastructure and service network is predicted as a result of the project.
(f) the capacity of existing waste or resource management facilities to deal with additional waste generated by the development, including in peak periods.	The project will not generate ongoing operational waste by the development. The capacity of existing waste facilities to deal with any waste from the project is considered adequate.

Under section 4.29(2) - For development involving earthworks or stormwater draining works, the consent authority must also consider -

Measures to mitigate adverse impacts associated with the works

The Applicant proposes to include surface water diversions along the trail during construction to ensure that water entering / leaving the trail does not negatively impact the trail. Rolling contours, grade reversals and sediment retention pits are also proposed, which were not properly installed along the area that is to be closed and rehabilitated.

Measures to mitigate impacts of the earthworks have been considered previously. The impacts are considered to be acceptable.

Under section 4.29(3) - For development the consent authority considers will significantly alter the character of an Alpine Subregion, the consent authority must also consider -

- |  |   |
|--|---|
| (a) the existing character of the site and immediate surroundings, and | The development will not significantly alter the character of an Alpine Subregion, or the character of the site and immediate surroundings.   |
| (b) how the development will relate to the Alpine Subregion.           | The development will support ongoing tourism to the Thredbo Alpine Resort through improving rider experiences along the trail, while also enabling rehabilitation of closed portions. |

### Section 4.30 Kosciuszko National Park Plan of Management

- |   |  |
|---|--|
| Consistency between the development and the Kosciuszko National Park Plan of Management | NPWS have confirmed that the proposed works are consistent with the management objectives for Section 10.2 (Alpine Resorts Management Units), Section 10.4 (Thredbo Management Unit), Section 11.6 (Environmental Quality) and Chapter 8 (Recreation). |
|---|--|

### Ecologically Sustainable Development (ESD)

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. ESD initiatives and sustainability have been adequately considered by the Applicant and mitigation measures are proposed to be incorporated into the design.

The proposal is consistent with the ESD principles and the Department is satisfied the proposal works have been developed having regard to ESD principles, in accordance with the objects of the EP&A Act as follows:

- the works support the orderly and economic use of the site;
- the proposal is not expected to adversely impact upon the health, diversity, or productivity of the environment for future generations; and
- the proposal does not impact upon cultural heritage, including Aboriginal cultural heritage.

### Biodiversity Conservation Act 2016

Section 1.7 of the EP&A Act requires the application of the *Biodiversity Conservation Act 2016* (BC Act) in connection with the terrestrial environment. The BC Act introduced a Biodiversity Offsets Scheme (BOS) that applies when:

- the amount of native vegetation being cleared exceeds a certain threshold area; or
- the impacts occur within an area mapped on the Biodiversity Values Map (BVM) published by the Minister for Environment; or
- the 'test of significance', in section 7.3 of the BC Act, identifies that the development or activity is likely to significantly effect threatened species or ecological communities, or their habitats; or



- the works are carried out in a declared area of outstanding biodiversity value.

The Applicant comments that the proposal is expected to impact upon 0.1ha of vegetation and fauna habitat (and 0.013ha of exotic grassland and non-vegetation areas on existing ski runs), though noting that the impacts to native vegetation and associated fauna habitats would be minimal.

The Applicant submitted a BDAR to meet the requirements of the Biodiversity Assessment Method (BAM) 2020 as the site is mapped on the BVM. The BDAR outlined the measures taken to avoid, minimise and mitigate impacts to the vegetation and habitats present within the development footprint during the design, construction and operation of the development.

The BDAR determined that a total of two (2) ecosystem credit and three (3) species credit are required to be retired as a result of the proposal impact. The proposed design of the trail alignment avoids any direct or otherwise adverse impacts on any of the *Ranunculus anemoneus* (Anemone Buttercup) individuals which occur within the development site or immediate surrounds.

Further consideration and assessment of the BDAR is provided in **Section 4**.

The BDAR also determined that the proposal is unlikely to have a significant impact on matters of National Environmental Significance (MNES) or Commonwealth land, and a referral to the Commonwealth Environment Minister is therefore not required.

The Department notes that there is currently no declared area of outstanding biodiversity value within KNP.

## 3 Submissions

### 3.1 Department's engagement for original application

The Department's Community Participation Plan (November 2019) prepared in accordance with Schedule 1 of the EP&A Act requires nominated integrated development applications be exhibited for a period of twenty-eight (28) days. As the original application (prior to acceptance of the amendment) included an alignment that was within forty (40) metres of a watercourse, the Department exhibited the application between 7 September 2023 to 4 October 2023 on the NSW Planning Portal and notified all lodges within Thredbo Village of the works.

The application was also forwarded to State government agencies in writing, including:

- Department of Planning and Environment - Water pursuant to section 4.46 (integrated development) of the EP&A Act as a Controlled Activity Approval under the *Water Management Act 2000* is required for development within forty (40) metres of a watercourse, and
- NPWS pursuant to section 4.27 of the Precincts - Regional SEPP.

### 3.2 Summary of submissions to original application

#### DPE Water

DPE Water issued General Terms of Approval (GTA) for the original proposal as works were occurring within 40 metres of a watercourse, requiring a Controlled Activity Approval under the *Water Management Act 2000*.

#### NPWS

NPWS raised concerns that the original application in its current form did not respond adequately to the BAM hierarchy of (1) avoid; (2) minimise; (3) mitigate and/or manage and, where applicable; (4) offset.

In addition, NPWS raised concerns regarding:

- the lack of consultation prior to referral of the DA;
- no clear justification to how platforms are a suitable avoidance measure for the Anemone Buttercup;
- inconsistencies with the Master Plan; and
- objectives of the Kosciuszko National Park Plan of Management (KNP PoM) have not been met.

As a result of the above concerns, NPWS are unsupportive of the proposed development in its current form and required the Applicant to provide a revised SEE and BDAR to address the concerns raised.

#### Public Submissions

No public submissions were received during the exhibition of the original application.

### 3.3 Request for additional information

The Department reviewed the NPWS submission and requested the Applicant provided additional information in response to concerns raised by NPWS and other matters.

Between the lodgement of the original application and March 2024, the Department and NPWS consulted extensively with the Applicant to identify an adequate trail alignment that would avoid and/or mitigate the impacts to biodiversity values where possible. A brief description of the consultation is provided below:

- On 10 October 2023, the Applicant provided a revised SEE and BDAR to the Department for review against comments outlined in the NPWS submission and the Department's request for additional information dated 28 September 2023. The revised documents were referred to NPWS for review.
- On 11 October 2023, the Department and NPWS attended a site visit with the Applicant to discuss the proposed trail alignment and concerns raised by NPWS and the Department.
- On 30 November 2023, the Department issued a further request for additional information as a review of the proposed amendments still failed to address concerns raised by NPWS, in particular:
  - The 'avoid' and 'minimise' steps of the BAM hierarchy were not adequately addressed.
  - Sufficient justification that all possible alternative alignments 'are not considered feasible' was not provided.
  - Sufficient evidence that 'trails located in vegetation have lower environmental impacts' was not provided.
- On 18 December 2023, the Department, along with NPWS, attended a subsequent site visit to review proposed amendments to the trail realignment.
- On 4 March 2024, the Applicant submitted a revised alignment for consideration.
- On 11 March 2024, the Applicant submitted an amendment to the documentation provided on 4 March 2024 for acceptance as an amended application (as required by the EP&A Regulation 2021).

### 3.4 Amended application acceptance

Further discussions with the Applicant resulted in an application to amend the DA to provide a revised location for the Ricochet Mountain Bike Trail realignment, including the removal of proposed platforms.

After a review of the application and supporting documents, the Minister for Planning, as the consent authority, approved the Applicant's request to amend the application on 11 March 2024 in accordance with section 38 of the EP&A Regulation 2021.

The DA therefore has an amended lodgement date of 11 March 2024.

### 3.5 Department's engagement for amended application

Following the amendment of the application, the proposed alignment removed the need for works to occur within 40 metres of a watercourse, therefore amending the application from a nominated integrated development proposal to a general development application.

The Department's Community Participation Plan, November 2019, prepared in accordance with Schedule 1 of the EP&A Act requires general development applications to be exhibited for a period of fourteen (14) days. However, applications under Chapter 4 of the Precincts - Regional SEPP are not required to be public exhibited if the proposal relates to works which are wholly internal to a building or where the site is located more than fifty (50) metres away from a tourist accommodation building.

Due to the works being more than 50 metres away from a tourist accommodation building, the Department did not exhibit the amended application. The amended application was however made available on the NSW Planning Portal.

The amended application was forwarded to the NPWS pursuant to section 4.27 of Chapter 4 of the Precincts – Regional SEPP and consideration against the comments received for the original application.

### **3.6 Summary of submissions to amended application**

#### **DPE Water**

Due to the amended alignment of the trail, the development is no longer located within forty (40) metres of a watercourse and therefore does not require any GTA's or integrated approval from DPE Water (the Department has advised DPE Water of the amended alignment and no further comments from DPE Water area required and the Planning Portal is to be updated).

#### **NPWS**

NPWS noted that they are broadly supportive of the DA in its amended form (i.e. the alignment as accepted on 11 March 2024 by the Department) and the associated economic and social benefits it might bring to the KNP and surrounding region. The NPWS comments do note concerns with ongoing trail construction and the need to ensure trails are built to meet IMBA guidelines, while other comments included:

- future mountain bike trail BDARs/Flora and Fauna Reports consider impacts from ongoing sedimentation with inspections demonstrating ongoing erosion and sedimentation issues across the trail network
- the existing monitoring and maintenance arrangements for mountain biking trails in the Thredbo Alpine Resort are expanded to apply to the trail
- the baseline trail condition monitoring data be collected on completion of trail construction, as well as ongoing monitoring of the trail condition to be performed annually, replicating the baseline monitoring data collection methodology used post-construction completion

Additional comments and recommendations were provided and the Department has addresses either in this report (**Section 4**) or as recommended conditions of consent.



## 4 Assessment

The Department has considered the relevant matters for consideration under section 4.15 of the EP&A Act, the SEE and supporting information, and the submission from NPWS in its assessment of the proposal. The key issues in the Department's assessment of the proposal are:

- Impacts on biodiversity
- Construction impacts and access
- Ongoing operation trail management

### 4.1 Impacts on biodiversity

The Department has carefully considered the potential biodiversity impacts associated with the proposal, given the location of the site and the sensitive nature of the flora and fauna within the alpine area. The alignment of the proposed trail evolved during considerations by the Application (prior to lodgement), during the assessment of the application (alignment altered twice following discussions with the Department and NPWS) and as now proposed for assessment to reduce impacts on native vegetation (**Figure 5**).

This final amended plan was submitted and formally accepted as an amendment to the application on 11 March 2024. This assessment discussion is based on the final plan.



**Figure 5 |** Example of alignment in existing vegetation requiring clearing (Source: Applicant's SEE 2024)

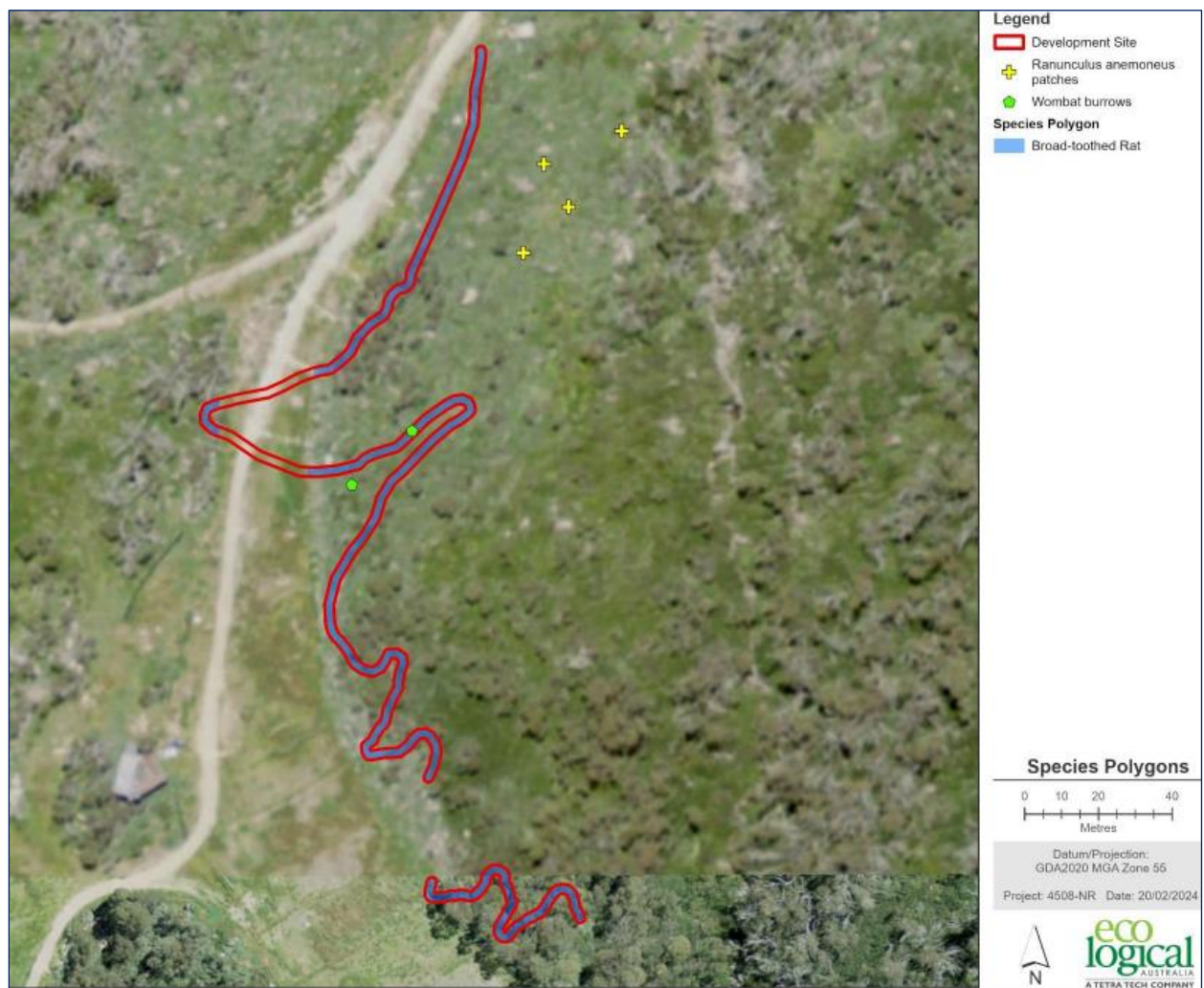
The Department's assessment of the potential environmental impacts of the proposal along with appropriate mitigation and management measures are considered below:

### Endangered Species and Communities

As discussed in **Section 1**, the Applicant submitted a BDAR as required under the BC Act due to the development area being identified on the Biodiversity Values Map (**Figure 1**) as having an area of high biodiversity value, which triggers the Biodiversity Offset Scheme.

The BDAR identified that the proposed development would result in an expected average disturbance footprint width of 2.5 metres, with is expected to affect 0.1 ha of native vegetation, and about 0.013 ha of exotic grassland and non-vegetated areas on the existing ski runs.

The BDAR also identified that proposed development site supports one plant community types, comprising 'Kosciuszko High Plateau Grassy Open Heath'. In addition, one threatened fauna species was identified , *Mastacomys fuscus* (Broad-toothed Rat), while the *Petroica phoenicea* (Flame Robin) is known to occur and / or have the potential to occur within the development site. The threatened flora species *Ranunculus anemoneus* (Anemone Buttercup) also occurs within or close to the development site, with several patches identified that contain at least 150 individuals each (**Figure 6**).



**Figure 6 |** Species locations and trail alignment (Source: Applicant's BDAR)



The Applicant provided justification for locating the realignment through BVM land, noting that the occurrence of the development was to facilitate the closure of existing sections of the Ricochet Trail which impacted sections of the Antons T-Bar lift line (Lenny's Leap Ski Run) and High Noon Ski Run, as well as operational tracks used by the Applicant.

The location was determined to be suitable after a full assessment of alternatives in collaboration with the Department and NPWS, and the approval of an application to amend the DA in order to remove impacts upon areas that contain *Ranunculus Anemoneus* (Anemone Buttercup) plants and to avoid works within 40 metres of an adjoining unnamed watercourse.

In addition, the BDAR comments that the proposal has been designed to avoid and minimise direct and indirect impacts. In particular, this has involved

- Locating the proposed trail in part in disturbed areas.
- Minimising the disturbance footprint associated with construction.
- Designing the trail to avoid adverse impacts on threatened flora.
- Aligning the trail to avoid wombat burrows and wet areas (includes flagging the trail alignment prior to construction particularly in undisturbed native vegetation areas).
- Designing and constructing the trail to avoid the need for mature tree removal.
- Using low impact construction methods.
- Undertaking post construction rehabilitation.

As a result of the proposed works, the BDAR determined that two (2) ecosystem and 3 species credits are required to offset the unavoidable impacts to the vegetation and habitats present within the works area. This offset credit would need to be paid prior to the construction of the trail.

The BDAR also states that the proposal will not result in any Serious and Irreversible Impacts (SAIL) with respect to the principles set out in clause 6.7 of the *Biodiversity Conservation Regulation 2017*. The Department also considers that the proposal is unlikely to cause SAIL following a review of the *Guidance to assist a Decision-Maker to Serious and Irreversible Impacts 2017*.

The NPWS raised initial concerns over the impact of the proposal, the assessment undertaken in the BDAR and consideration of alternatives to the proposed alignment. However, with the amended alignment submitted for assessment, NPWS are broadly supportive though concerns are maintained on the cumulative impacts of incremental expansion of the Thredbo trail network without an overarching masterplan and due to observed habitat damage, fragmentation and soil erosion impacts. NPWS did comment that:

- Table 20 in the BDAR does not acknowledge the potential environmental impacts of sedimentation of native vegetation beyond a "12 month maximum" period. Given the *Thredbo Mountain Bike Gravity Trail, Environmental Condition Assessment* inspections demonstrate ongoing erosion and sedimentation issues across the trail network, we request that future mountain bike trail BDARs/Flora and Fauna Reports consider impacts from ongoing sedimentation.
- The BDAR does not acknowledge the potential presence of, and impacts to, the Eastern Pygmy Possum (*Cercartetus nanus*). This species is known to occur in the area and is listed as vulnerable under the BC Act.

- The SEE and BDAR incorrectly state that impacts will only occur on the “existing ski slopes and remnant native vegetation on the edges of the High Noon ski run”. Given that the trail traverses over 40 metres into high quality biodiversity mapped vegetation, it would be appropriate for the proponent and its ecologist to avoid such dismissive and inaccurate statements in future similar DAs.
- NPWS has considered the potential impacts of the development on the Eastern Pygmy Possum. NPWS considers that adverse impacts to the species are unlikely, provided the measures in the Site Environmental Management Plan (SEMP) in Appendix D of the SEE are followed. In particular, the inspection of vegetation for fauna habitats and fauna immediately prior to felling/removal of vegetation as specified in Section 6.3.1. Given that potential impacts to this species can be managed, we do not consider that an amendment to the BDAR is required. We do expect that all future DAs in Thredbo which impact thick understory or other suitable habitat for the Eastern Pygmy Possum assess the potential impacts to the species.
- An experienced and qualified person who can identify Anemone Buttercup when not in flower must inspect each proposed trail alignment section prior to construction.

NPWS also recommended conditions to be included within the consent for the adoption of the BDAR including the implementation of the measures to minimise, mitigate and manage impacts and retirement of the ecosystem and species credits.

With the proposed measures to minimise and mitigate impacts to the works area impacts where possible and the recommended conditions requiring the retiring of ecosystem and species credits, the Department is satisfied that the biodiversity impacts of the proposal would be appropriately offset. The Applicant through considerations of the environmental sensitivity of the site has ensured impacts are reduced and to an acceptable level when considering the nature of the development, being the construction of a new mountain bike trail alignment.

The Department considers the BDAR to be adequate and that impacts to the identified plant community types, and threatened flora and fauna species have been sufficiently avoided and mitigated.

## Conclusion

The Department is satisfied the Applicant has taken the appropriate steps to avoid, minimise and mitigate the proposal’s biodiversity impacts consistent with the principles of the BC Act and Regulation.

Conditions are recommended to ensure areas impacted by construction be rehabilitated in accordance with the “*Rehabilitation Guidelines for the Resort Areas of Kosciuszko National Park (DECC 2007)*”. Appointment of an Environmental Officer and a Qualified Ecologist, engaged by the Applicant, will be required to review the works prior and during construction to ensure that the proposal meets the identified outcomes and avoids impacts upon *Ranunculus Anemoneus* (Anemone Buttercup) plants as required by the BDAR.

The Department considers that impacts to the environment have been sufficiently avoided and mitigated. Consequently, the impacts are considered to be acceptable.

## 4.2 Construction impacts and access

Access to the development site will be via the summer mountain access road. No temporary diversions or closures of existing trails will be required during construction of the Development.



Consistent with previous trail construction within Thredbo Alpine Resort, the Applicant has based the proposed trail alignment on a corridor of 20 metres (10 metres either side of the ground-truthed alignment). The corridor allows for adjustments to the location of the final trail in response to any unforeseen circumstances that may occur, such as environmental constraints or objects that may be found in the corridor (such as rocks or tree roots).

The Department concludes that the proposed corridor width of 20 metres is satisfactory as it would enable the trail construction builders to review its alignment prior to and during construction, without the need for further assessment. Ensuring the construction builders meet conditions relating to the construction and avoiding sensitive areas is still recommended as part of the conditions.

The Applicant's proposed construction trail tread of between 600 to 1200mm is also supported, noting this is within the over 2.5 metre width considered by the BDAR assessment and has regard to how the trail would be constructed using machinery. It is noted that the IMBA guidelines for this type of trail are 600mm, plus or minus 300mm.

Construction management will be in accordance with the submitted Site Environmental Management Plan (SEMP) and in consultation with NPWS.

The Department has recommended standard construction conditions applied in the Alpine area, along with recommended conditions from NPWS, including (but not limited to) to the submission of baseline trail condition monitoring for the constructed trail, and an update to the existing 'Thredbo Mountain Bike Trail Management Plan' (TMP) and 'Trail Inspection and Monitoring Plan' (TIMP) to encompass the new trail and incorporate its monitoring and reporting regime under both plans.

In addition, the Department recognises the importance of having ongoing baseline monitoring of the trail to ensure the trail tread and disturbance of the adjoining areas is reducing and not expanding due to use. The Applicant has indicated that this occurs in Spring of each year and reported to NPWS, however the Department has recommended the submission of this information as well. This will ensure future reviews of existing conditions and monitoring is undertaken and where not followed through, compliance action may occur.

Subject to compliance with these conditions, the Department is of the view that the construction of the proposed works would not impact upon buildings located within proximity of the site or the environment.

### **4.3 Ongoing Operation and Trail Management**

Department and NPWS staff inspections of existing trails have been ongoing since approvals from December 2014 (when the Department approved the Stage 1A MTB trail). During these inspections, staff endeavour to collect information on built alignments and how the trails have met condition requirements. This assists in considerations of new trail constructions during pre-lodgement / assessment inspections.

As shown within this DA submission (includes closure of a section of trail due to alignment and erosion issues), trails alignments that traverse ski slopes or that do not enable grade changes cause environmental impacts that reduce the longevity of trails and the need to then review alignments for constant amendments.

This also is impacted by other factors such as usage issues (winter operations over the top of the trail cutting into embankments) that results in additional vegetation impacts with moving trails off ski runs and into adjoining vegetation.

While the current proposal to have a disturbance corridor of 3 metres and an average width of 2.5 metres of disturbance has been historically endorsed consistent with previous approvals, further consideration of lesser trail widths / averages (such as that approved for the Stage 1B (DA 6571 – approved a 2.5 metre disturbance width and an average of 1.7 metres) trail is to be undertaken following a review of conditions and how the conditions have been applied on site.

The Department's review of trail construction that has occurred during pre-Development Application and post construction inspections is also reinforced by comments received from NPWS that:

*The Ricochet trail in this area has required realignment twice due to poor planning, construction and maintenance in accordance with the Guidelines for a Quality Trail Experience: Mountain Bike Trail Guidelines (IMBA Guidelines). This further heightens concerns regarding the longevity of the trails and the ongoing management of environmental impacts during operation. Accordingly, we believe it is incumbent upon the proponent, DPHI and NPWS to ensure that the IMBA Guidelines are adhered to during construction and ongoing operation of the realigned Ricochet trail.*

As a consequence of the identified issues with trails (requiring trails to be relocated off ski slopes or closed due to not meeting IMBA guidelines), the Department has recommended additional conditions within the recommendation to ensure trails are monitored and reported on an ongoing basis to the Department and NPWS. This would enable identification and rectification of impacts with the trails and facilitate discussions with the Applicant on how best to resolve environmental impacts as closure of trails for rehabilitation or maintenance may occur.

Continual consideration on ways to minimise impacts upon the environment would ensure improved measures to construct trails are occurring as trail construction within Thredbo continues.

## 5 Recommendation

The Department has assessed the merits of the proposal in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposal is acceptable as:

- the proposal is permissible with consent under the Precincts - Regional SEPP
- there will not be a significant impact on any threatened species, populations or ecological communities, and the natural environment and cultural values associated with KNP are protected
- the construction of the realigned mountain bike trail allows for individuals of all skill levels to experience the natural environment within Thredbo Alpine Resort and KNP
- construction impacts are acceptable and are conditioned to ensure minimum impact upon existing vegetation, while acknowledging the works are consistent with the regional plan for the locality and supports visitation to the ski resorts
- the proposal is consistent with the requirements under the BC Act and EPBC Act.

Overall, the Department is satisfied that the proposal is suitable for the site and in the public interest.


The Department, therefore, recommends that the application be approved, subject to recommended conditions. In accordance with the Minister's delegation of 9 March 2022, the Team Leader, Alpine Resorts Team may determine the application as:

- no reportable political donation has been disclosed,
- there are less than fifteen (15) public submissions in which objection to the proposal has been raised,
- the application is in relation to land to which Chapter 4 of the Precincts - Regional SEPP applies.

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

- **considers** the findings and recommendations of this report
- **accepts** and adopts the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants** consent for the application in respect of DA 23/11136, subject to the recommended conditions
- **signs** the attached Development Consent (**Appendix A**).

**Recommended by:**



**Zac Derbyshire**  
Planning Officer  
Alpine Resorts Team



**Mark Brown**  
Principal Planning Officer  
Alpine Resorts Team

**Adopted by:**



27/8/2024

**Daniel James**  
Team Leader  
Alpine Resorts Team  
as delegate of the Minister for Planning

# Appendices

## Appendix A – Recommended Instrument of Consent