



DA 6571 Stage 1B – Thredbo Mountain Bike Trails

Section 4.55 (1A) Modification Supporting Report

January 2025

Document Control

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A	19/07/2024	Draft	C. Chalk	K.Delpit
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1	07/01/2025	Inclusion of assessment against EP&A Act, Section 4.55(3) as per email from Zac Derbyshire (DPHI) dated 20/12/2024	J.Best	C.Chalk

Project Number: 24021MO

Kosciuszko Thredbo Pty Ltd

Contents

1	Introduction	1
1.1	Application Details.....	1
1.2	Background.....	1
2	Description of Modification	3
3	Statutory Framework	4
3.1	Environmental Planning and Assessment Act 1979	4
3.2	Environmental Planning and Assessment Regulation 2021	6
4	Conclusion	7
5	References.....	7

Tables

Table 1:	Application Details	1
Table 2:	EP&A Act, Section 4.55 considerations	4
Table 3:	EP&A Act, Section 4.15(1) considerations.....	5
Table 4:	Content of modification application	6

Figures

Figure 1:	Site Plan.....	2
Figure 2:	Extract from 2015 Offset Plan.....	3

1 Introduction

This Modification Application (MOD) relates to Development Application (DA) 6571 which was granted development consent on 8 December 2015. This application is being made under section 4.55 of the *Environmental Planning and Assessment Act 1979*.

1.1 Application Details

Table 1: Application Details

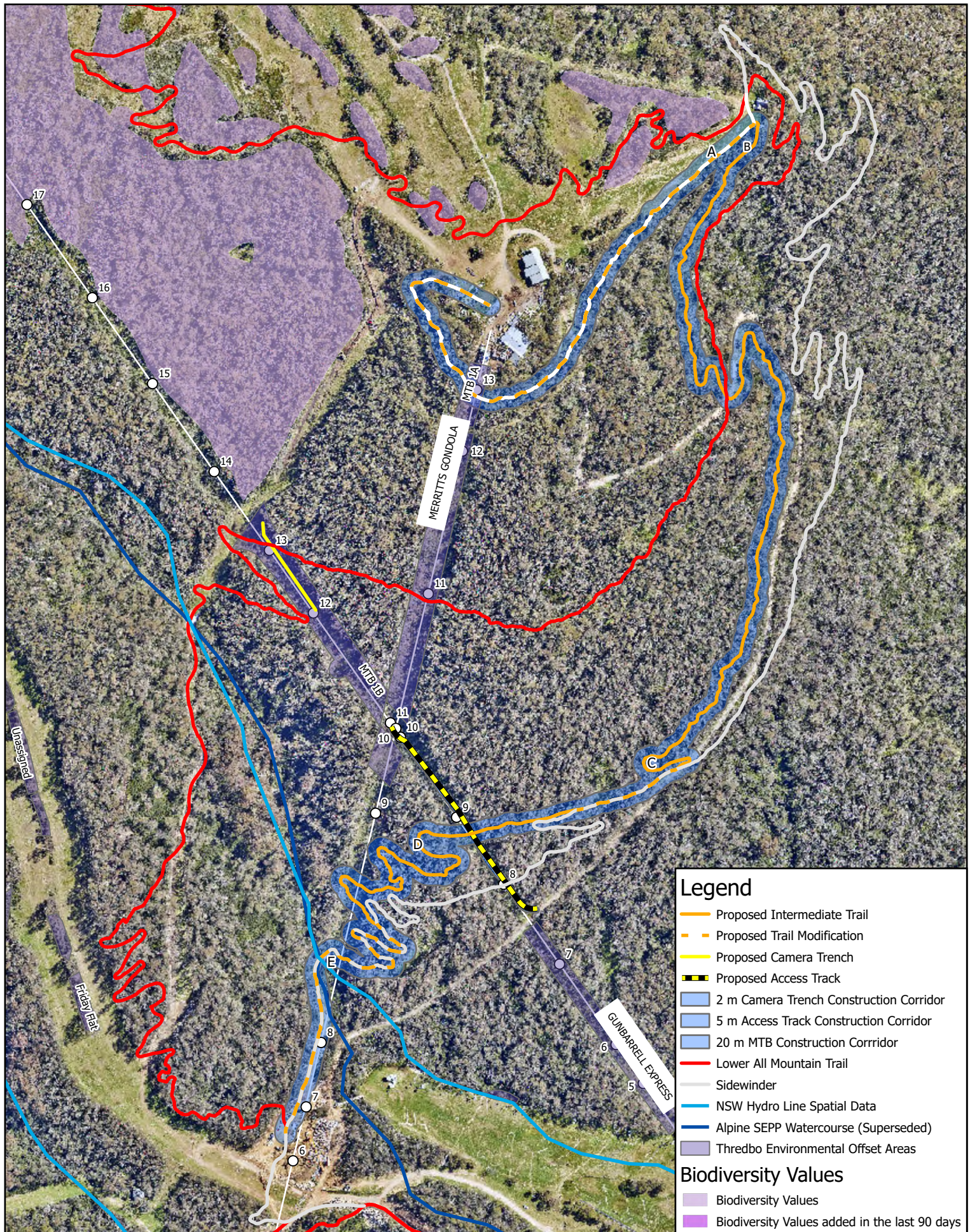
Details	
Applicant Name	Kosciuszko Thredbo Pty Ltd
Applicant Address	1 Friday Drive, Thredbo NSW 2625
ABN	ABN 95 000 139 015
Site address	2 Friday Drive, Thredbo NSW 2625
Land	Thredbo Alpine Resort, Kosciuszko National Park
Lot/Plan	876/DP1243112
Consent Authority	Department of Planning, Housing and Infrastructure
Previous approvals relating to the land	DA 6571

1.2 Background

Kosciuszko Thredbo Pty Ltd (KT) are proposing the installation of a camera on Gunbarrel lift tower 12 and underground cable between an existing communications pit on Dream Run that connects to the camera on tower 12. The works are located within a voluntary offset area nominated under DA 6571 (**Figure 1**). The *Rehabilitation and Environmental Offsets Plan, Stage 1B Mountain Bike Trails, Thredbo DA 6571, December 2015* (2015 Offset Plan) was prepared in accordance with consent condition C.5. The offset area includes 6,180 m² within the Gunbarrel chairlift corridor between Dream Run ski run and Tower 11 (**Figure 2**). The requirements of the offset area include a management regime. The aim of the management regime is outlined below:

The aim of the new management regime is to allow for native vegetation grow and recruit within this area to an approximate height of 500mm. The height of the vegetation in the area will be managed by cutting the vegetation using a combination of hand-held scrub cutters as and when required to maintain the 500mm height. This height has been determined to be the best compromise between operational requirements (they are located underneath a chairlift where pedestrian access may be required from time to time) and the requirement to allow cover for any fauna traversing the site. -

There are no plans to include any proposed planting in this area and to simply let the area naturally recruit.



Kosciuszko Thredbo Pty Ltd
Environmental Offset Program for Stage 1B Thredbo Mountain Bike Trails Project
Gunbarrel Chairlift (between Schuss Ski Run and Dream Ski Run) Corridor: Native Heath Regeneration Area



Figure 2: Extract from 2015 Offset Plan

The camera is a safety requirement for the lift operation as it will allow operators to view chair activity along this section of the alignment and inform lift closures from high wind events. The installation of this monitoring camera was a recommendation from an improvement notice from the NSW SafeWork. Approval for the works is being sought under a separate development application – Merritts Intermediate Mountain Bike Trail and Associated Works.

To enable approval of the camera and data cable (separate development application), the Department of Planning, Housing and Infrastructure (DPHI) Alpine Resorts Team advised on 9 September 2024 that KT submit a MOD to DA 6571 to allow for concurrent assessment.

2 Description of Modification

On 13 December 2024, Mark Brown (Team Leader, Assessments, Alpine Resorts Team) of Department of Planning, Housing and Infrastructure (DPHI) advised the below:

“The MOD is essentially provided to acknowledge the camera trench going within an approved offset area (when this area was intended to be left alone while managed) but the trench works area is to be rehabilitated back and the offset would continue to be provided into the future”.

KT has prepared this application as directed by DPHI to allow for the works described in the Merritts Intermediate Trail and Associated Works proposal (PAN-496242) to proceed.

3 Statutory Framework

3.1 Environmental Planning and Assessment Act 1979

A review of the Development against the relevant provisions in Section 4.55 is provided in **Table 2**.

This MOD is being made under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Table 2: EP&A Act, Section 4.55 considerations

EP&A Act, Section 4.55	Comment
(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	The MOD involves minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	The consent as modified by this application is substantially the same development for which consent was originally granted. Following completion of the trenching works that form part of the Merritts Intermediate Mountain Bike Trail and Associated Works proposal (subject to separate development approval, Planning Portal reference: PAN-496242), the offset area will be rehabilitated to allow the site to return to its previous state.
(c) it has notified the application in accordance with— (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and	The application will be notified in accordance with the regulations.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	Consideration will be given to submissions made.
Subsections (1), (2) and (5) do not apply to such a modification.	-
(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.	Refer Table 3 .

A review of the Development against the provisions in Section 4.15(1) of the EP&A Act is provided in **Table 3**.

Table 3: EP&A Act, Section 4.15(1) considerations

Environmental Planning and Assessment Act 1979, Section 4.15(1)	Comment
(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application— (a) the provisions of—	
(i) any environmental planning instrument	The Precincts – Regional SEPP is the only environmental planning instrument which applies to the site for this proposal. Refer to assessment in the next section.
(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)	Not applicable. There are no draft Environmental Planning Instruments that are applicable to the Development.
(iii) any development control plan	Not applicable. There are currently no development control plans applicable to the site.
(iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4	Not applicable. There are no planning agreements applicable to Thredbo under the Precincts – Regional SEPP.
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)	The DA and supporting information have been prepared in accordance with the relevant requirements of the EP&A Regulation.
the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	The Development will result in acceptable environmental impacts, refer Section 2 .
the suitability of the site for the development	No physical development is proposed under this application. The site has been subject to previous disturbance as part of the lift construction, and currently forms part of a voluntary offset area.
any submissions made in accordance with this Act or the regulations	Consideration will be given to submissions made.
the public interest.	The application is seeking approval to allow for trenching (subject to separate development approval) within the approved voluntary offset area. The proposal is considered within the public interest as the trench disturbance area will be rehabilitated following completion and the offset area will remain.

3.2 Environmental Planning and Assessment Regulation 2021

A cross-reference to the requirements for a modification application (s100 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation)) is provided in **Table 4**.

Table 4: Content of modification application

Content of modification application (Section 100 of EP&A Regulation)	Comment
(1) A modification application must contain the following information—	
(a) the name and address of the applicant,	Kosciuszko Thredbo Pty Ltd 1 Friday Drive, Thredbo NSW 2625
(b) a description of the development that will be carried out under the development consent	Refer Section 2 .
(c) the address and folio identifier of the land on which the development will be carried out,	Refer Table 1
(d) a description of the modification to the development consent, including the name, number and date of plans that have changed, to enable the consent authority to compare the development with the development originally approved,	Refer Sections 2 and 0 .
(e) whether the modification is intended to— (i) merely correct a minor error, misdescription or miscalculation, or (ii) have another effect specified in the modification application,	Refer Section 2 .
(f) a description of the expected impacts of the modification,	This modification is administrative. The area impacted will be rehabilitated and monitored as part of the Merritts Intermediate and Associated Works proposal (PAN-496242).
(g) an undertaking that the modified development will remain substantially the same as the development originally approved,	See comment against (e).
(h) for a modification application that is accompanied by a biodiversity development assessment report—the biodiversity credits information,	-
(i) if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application,	Owners Consent has been provided separately as part of this MOD.
(j) whether the modification application is being made to— (i) the Court under the Act, section 4.55, or (ii) the consent authority under the Act, section 4.56.	This MOD is being made to the consent authority under the EP&A Act, section 4.55.
(2) Subsection (1)(i) does not apply if the consent of the owner is not required under section 98.	-
(3) If a modification application under the Act, section 4.55(1A) or (2) relates to BASIX development, or BASIX optional development if the development application was accompanied by a BASIX certificate, the application must be accompanied by—	-

4 Conclusion

The modification to the original development is administrative and the development will remain substantially the same as the development that was originally approved under DA 6571.

5 References

Dabyne Planning Pty Ltd (Dabyne) 2013, Statement of Environmental Effects – Stage 1a—Thredbo Mountain Bike Trails, Trails 1,2,3 & Sections 2&3 of Trail 13 Thredbo Alpine Resort Kosciuszko National Park. Prepared for Kosciuszko Thredbo Pty Ltd.

Dabyne Planning Pty Ltd (Dabyne) 2015, Rehabilitation and Environmental Offsets Plan, Stage 1A Mountain Bike Trails, Thredbo DA 6114, April 2015.