



Upper N4 Mountain Bike Trail, Thredbo – Modification 1

Modification Application Assessment (MOD 25/374 (DA 21/11529 MOD 1))

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

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Glossary

Abbreviation	Definition
BC Act	<i>Biodiversity Conservation Act 2016</i>
BC Regulation	<i>Biodiversity Conservation Regulation 2017</i>
BVM	Biodiversity Values Map
Consent	Development Consent
Department	Department of Planning, Housing and Infrastructure
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2021</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
KNP	Kosciuszko National Park
Minister	Minister for Planning and Public Spaces
NPWS	National Parks and Wildlife Service
Planning Secretary	Secretary of the Department of Planning, Housing and Infrastructure
SEPP	State Environmental Planning Policy

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1 Introduction

This report provides the NSW Department of Planning, Housing and Infrastructure’s (the Department) assessment of an application to modify the development consent for the Upper N4 (Grasshopper) Mountain Bike Trail (DA 21/11529 Mod 1).

The site is located within Thredbo Alpine Resort, Kosciuszko National Park (KNP), approximately 35 km south-west of Jindabyne, New South Wales. The site is within the Thredbo Head Lease Area, on land formally described as Lot 876 DP1243112 (**Figure 1**). The application has been lodged by Kosciuszko Thredbo Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

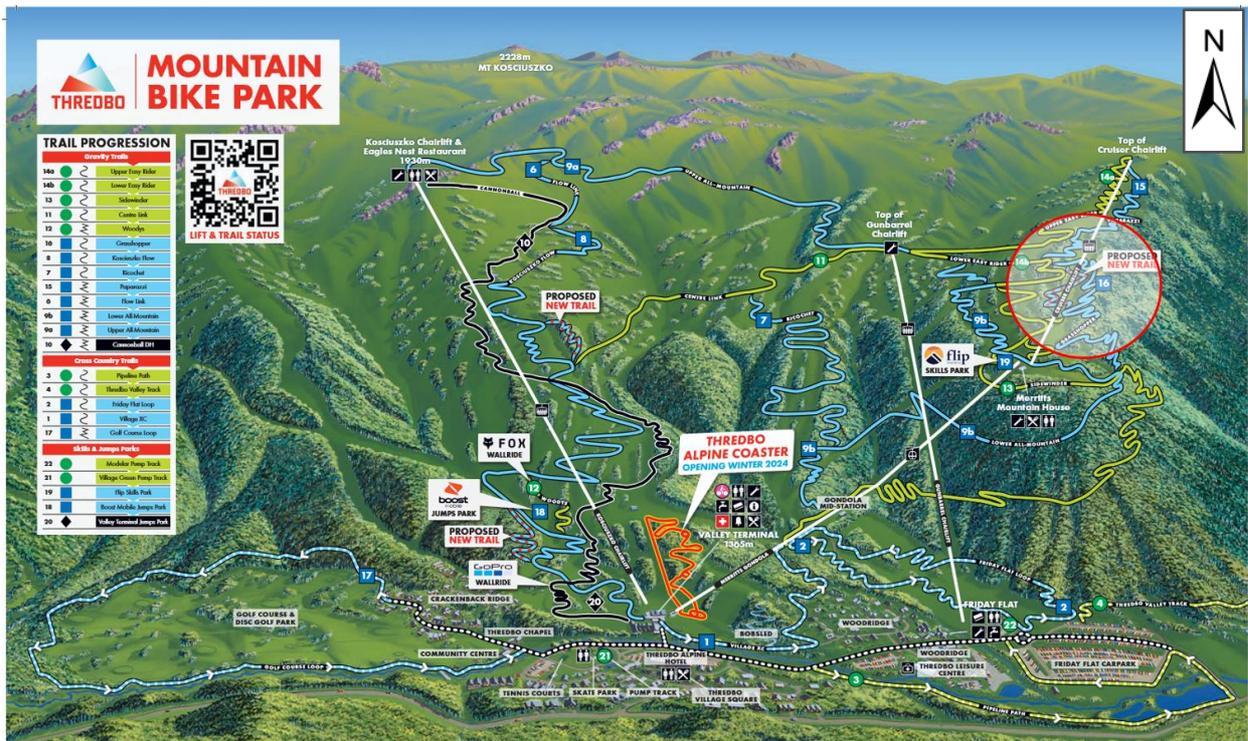


Figure 1 | Map identifying the location of the Upper N4 MTB (circled in red) in the context of other mountain bike trails within the Thredbo Alpine Resort (Source: Thredbo Mountain Bike Trail Map 2025)

On 27 January 2022, the then Team Leader of the Alpine Resorts Team, as delegate of the Minister for Planning, granted consent to a Development Application (DA 21/11529) for the construction of a mountain bike trail (Upper N4) that provided a connection between the upper All Mountain Trail and the bottom station of the Easy Rider T-bar base, comprising:

- the construction of a 2.4 km mountain bike trail, and
- the installation of trail signage (decision point signs and waymarkers)

The application seeks approval to modify the existing Upper N4 (Grasshopper) trail (approved under DA 21/11529) in the Cruiser ski area to allow for the construction of, and connection to, the Lower Playground trail (which was approved subject to separate development application (DA 24/19228)).

The works subject to the modification include (**Figure 2**):

- Vegetation clearing, including the clearing of approximately 100m² of Subalpine Woodland
- Trail works, including the construction of new section of trail and closure and rehabilitation of two short sections.

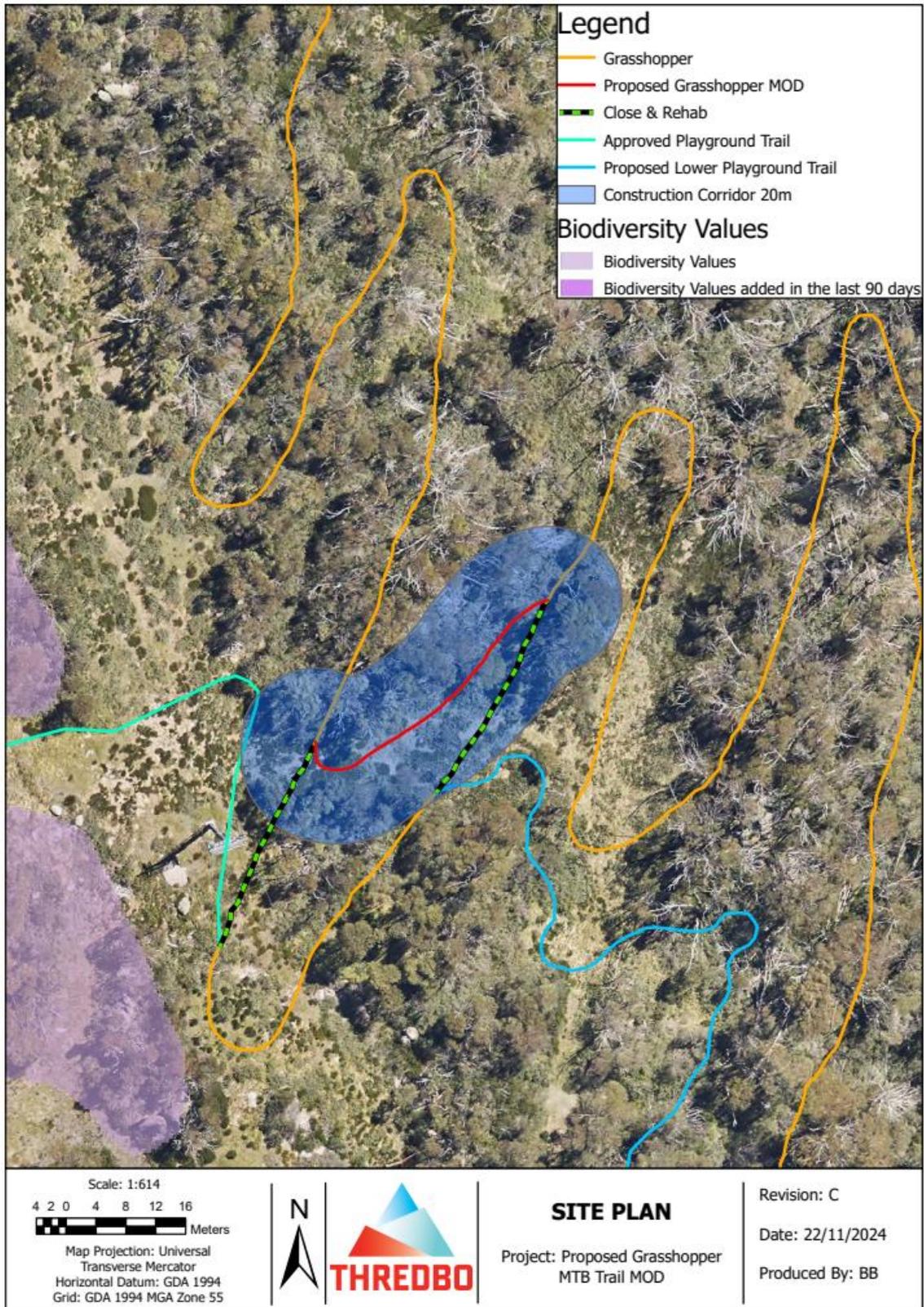


Figure 2 | Site map identifying the proposed modification to the Upper N4 (Grasshopper MTB) (Source: Applicant's documentation)

The Minister for Planning is the consent authority for development within a ski resort in KNP and the proposal is permissible with consent under the provisions of *State Environmental Planning Policy (Precincts – Regional) 2021* (the Precincts – Regional SEPP).

Supporting documents and supporting information 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 South-East and Tablelands Regional Plan 2036 describes the vision, goals and actions that will deliver greater prosperity for those who live, work and visit the region. The plan provides an overarching framework to guide more detailed land use plans, development proposals and infrastructure funding decisions. In relation to the alpine resorts, the Regional Plan seeks to promote more diverse tourism opportunities in the Snowy Mountains that will strengthen long-term resilience while acknowledging the environmental and cultural significance of the locality.

The Department considers the proposal continues to be consistent with the Regional Plan as the modifications to the trail alignment would enable opening of the trail that benefits the mountain bike community, which supports visitation to Thredbo Alpine Resort.

Draft South East and Tableland Regional Plan 2041

The draft plan was publicly exhibited originally between 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.

Snowy Mountains Special Activation Precinct Master Plan

Section 9.1 relates to the Thredbo alpine resort. The Department considers that the proposal supports the vision of the Master Plan, while also ensuring impacts upon the environment have been considered against those previously approved.

Precincts – Regional SEPP

The Precincts – Regional SEPP governs development on land within the ski resort areas of KNP. Chapter 4 of the SEPP aims to protect and enhance the natural environment, to protect cultural heritage within the resorts and to ensure that development in the resorts is managed in a way that is compatible with the principles of ecologically sustainable development.

The Department considers the proposal continues to be consistent with Chapter 4 of the Precincts – Regional SEPP as the proposal continues to enhance mountain biking activity in the Thredbo Alpine Resort, which supports sustainable tourism in the Alpine Region. The potential impacts on the environment continue to be considered acceptable when noting the modification works and their minimal impact on the environment

2.2 Mandatory matters for consideration

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of DA 21/11529. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

Objects of the EP&A Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.

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 proposal will not trigger the BOS, as it will not affect any land identified on the Biodiversity Values map and the total clearing of native vegetation associated with the proposal will not exceed the 1 ha threshold which applies to the Thredbo Resort Area.

The Flora and Fauna Assessment concluded:

- the proposal will not affect any potentially important habitats for threatened fauna species. The proposal will not sever any linkages between habitats or otherwise permanently restrict fauna movement
- the proposal is unlikely to have a significant effect on threatened species, populations or ecological communities or their habitats.

The Department notes that the amendments to the trail have been appropriately considered by the Applicant's ecologist, with no concerns raised by the NPWS. The Department also notes that there is currently no declared area of outstanding biodiversity value within Kosciuszko National Park.

Environmental Planning Instruments

The Precincts – Regional SEPP is the principal EPI that applies to this application. An assessment of compliance with the Precincts – Regional SEPP (Chapter 4) was undertaken in the determination of the original application (DA 21/11529).

The Department has considered the current modification application against the provisions of the Precincts – Regional SEPP and is satisfied the modification proposal continues to be consistent with this EPI.

2.3 Scope of modifications

Section 4.55(1A) of the EP&A Act provides that a consent authority may, on an 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 *Environmental Planning and Assessment Regulations 2021* (EP&A Regulations), modify a consent if the following requirements in Table 1 are met:

Table 1: Consideration under Section 4.55(1A) of the EP&A Act

Section 4.55(1A) - Evaluation	Comment
<i>(a) That the proposed modification is of minimal environmental impact</i>	<p>Section 4 of this report provides an assessment of the impacts associated with the proposal.</p> <p>The Department is satisfied that the proposed modifications will have minimal environmental impact to facilitate the alterations to a mountain bike trail with minimal impacts.</p>
<i>(b) 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)</i>	<p>The proposal seeks to alter the existing Upper N4 (Grasshopper) MTB Trail alignment. The Department is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted.</p>
<i>(c) The application has been notified in accordance with the regulations or a development control plan</i>	<p>In accordance with the Department's Community Participation Plan (CPP), April 2024, the Department publicly exhibit the modification application for a minimum of 14 days, and it was made available on the NSW Planning Portal website (refer to Section 3 of this report).</p>
<i>(d) Consideration of any submissions made concerning the proposed modification within the period prescribed by the regulations</i>	<p>No submissions from the public were received during the exhibition period. The Department has considered the comments received from relevant government agencies and considered their responses, (refer to Section 3 and 4 of this report).</p>

Section 4.55(3) of the EP&A Act provides that in determining an application for modification of a consent under this section, the consent authority must take into consideration 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 granting of the consent that is sought to be modified.

The relevant consideration under section 4.15(1) of the EP&A Act in relation to the proposed modifications is whether the impacts of the amendments upon the existing environment are appropriate. The Department's assessment in **Section 4** concludes that there will be a small increment in the disturbance

footprint, however the impacts will be minimal in extent and appropriately managed with the impacts considered acceptable. No variation is required to the Department's previous assessment.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

3 Engagement

3.1 Department's engagement

The Department's Community Participation Plan (CPP), April 2024, prepared in accordance with Schedule 1 of the EP&A Act requires an application for the modification of a development consent to be exhibited for a period of 14 days. However, applications under the 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 50 metres away from a tourist accommodation building.

As the modification involves external works and is within fifty metres of other tourist accommodation buildings, the Department notified nearby lodges and made the application publicly available on the NSW Planning Portal website between 20 January 2025 and 3 February 2025. The application was also forwarded to the National Parks and Wildlife Service (NPWS) pursuant to section 4.27 of the Precincts – Regional SEPP.

During the assessment of the application, the Department received comments from the NPWS and no public submissions.

3.2 Summary of submissions

The Department received no public submissions to the proposed modifications.

NPWS

NPWS advised that the modification is consistent with the relevant plans and policies and will have minimal impact on the environmental and cultural values of Kosciuszko National Park if conducted in accordance with the proposal.

4 Assessment

In assessing the merits of the proposed modification, the Department has considered the:

- previous Environmental Assessment Report for the proposal
- the modification application and existing conditions of consent
- submissions from government agencies
- matters for consideration under section 4.15(1) of the EP&A Act.

The Department's assessment considers the modification would result in minimal impacts upon the natural environment, with the modification application relating mainly to the realignment of a section of the Upper N4 (Grasshopper) trail.

The Applicant has indicated that the works are substantially the same as the development for which the consent was originally granted and notes that the modification will have minimal impact on biodiversity (as discussed in **Section 2.2**) and is supported by a detailed Site Environmental Management Plan (SEMP) and rehabilitation and monitoring plan to guide the construction, operation and rehabilitation of the proposal.

With the implementation of appropriate environmental controls proposed under the modification and approved under DA 21/11529, the impacts of the proposal are considered acceptable.

Noting the above, the proposed modification to the consent is supported, subject to updating the conditions of consent where relevant to the modification documentation

5 Recommendation

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act and considered the submissions provided by the NPWS.

The Department's assessment concludes that the proposed modification is appropriate as it is substantially the same development as originally approved; the proposed modifications to conditions are acceptable; the proposal continues to comply with the Precincts – Regional SEPP provisions; all submissions received during the assessment of the application have been considered; and the proposal does not result in any additional matters that required consideration under Section 4.15(1) of the EP&A Act.

Overall, the Department is satisfied that the proposed is suitable and in the public interest.

The Department therefore recommends that the application be approved, subject to changes to the existing conditions of consent (**Appendix A**). In accordance with the Minister's delegation dated 9 March 2022, the Team Leader, Alpine Resorts, Regional Assessments may determine the application as:

- no reportable political donation has been disclosed,
- there are less than 15 public submissions in the nature of objections, and
- 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, Regional Assessments, as delegate of the Minister for Planning:

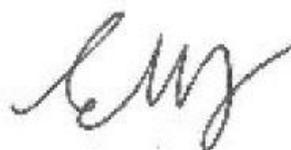
- **considers** the findings and recommendations of this report
- **determines** that the modification application MOD 25/374 (DA 21/11529 MOD 1) falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the consent DA 21/11529
- **signs** the attached approval of the modification (**Appendix A**).

Recommended by:



Guy Hanna
Student Planner
Alpine Resorts Team

Adopted by:



10/6/2025

Erin Murphy
Team Leader
Alpine Resorts team, Regional Assessments
as delegate of the Minister for Planning

Appendices

Appendix A – Notice of Modification