



Use of Playground Mountain Bike Trail, Thredbo

Development Application Assessment
DA 25/10134

October 2025

Published by the NSW Department of Planning, Housing and Infrastructure

dphi.nsw.gov.au

Title: Use of Playground Mountain Bike Trail, Thredbo

Subtitle: Development Application Assessment, DA 25/10134

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

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1 Introduction

This report contains the Department's assessment of the Development Application (DA 25/10134) lodged by Kosciuszko Thredbo Pty Ltd (the Applicant) seeking approval for the use of a mountain bike (MTB) trail known as the Playground Trail. The trail is located in the north-western area of Lot 876 DP 1243112, being the primary allotment containing the Thredbo Head Lease area operated by the Applicant within Thredbo Alpine Resort, Kosciuszko National Park (KNP) – **Figure 1**.

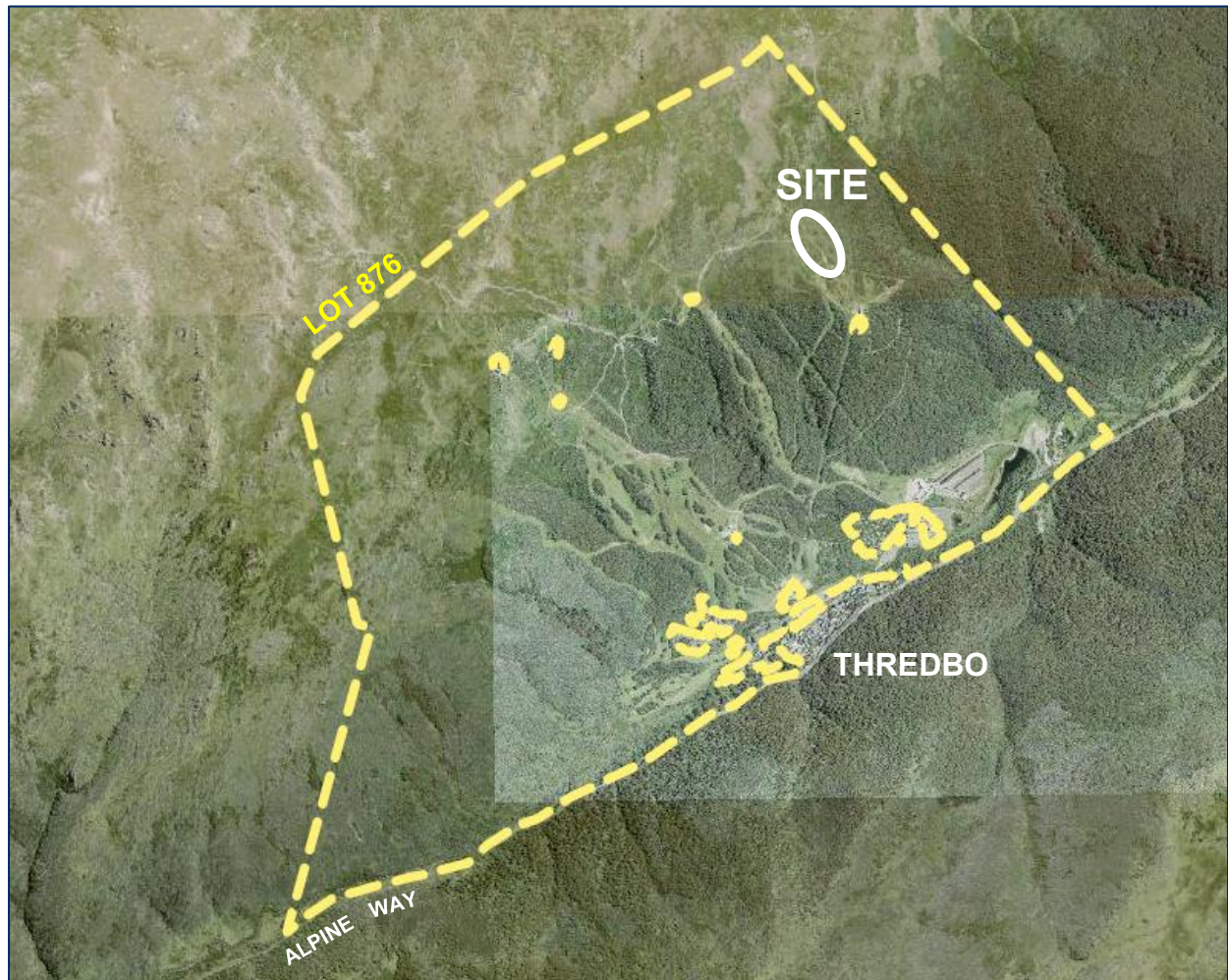


Figure 1 | Site location plan of the Playground MTB Trail (Source: NSW Planning Portal, with notations).

The development of the subject Playground Trail was approved in 2024 via DA 24/966, where the trail was established to provide a trail link between the existing mountain bike routes from the Grasshopper Trail (to the north) and the Paparazzi Trail (to the south) in accordance with **Figure 2**.

Construction of the Playground Trail occurred in the summer of 2024/2025. However, after completion, the Applicant became aware that the works as executed are inconsistent with the approved plans and documentation detailed in DA 24/966. The location of the track deviates from the approved location of the trail, where it has been constructed outside the permitted construction corridor. The unauthorised sections include trail construction in areas mapped as containing high value native vegetation. Given that the trail has not been constructed as approved in DA 24/966, including incursions into areas mapped as being environmentally sensitive, the Applicant is not permitted to commence use of the trail unless consent is obtained from the Department to permit them to do so.

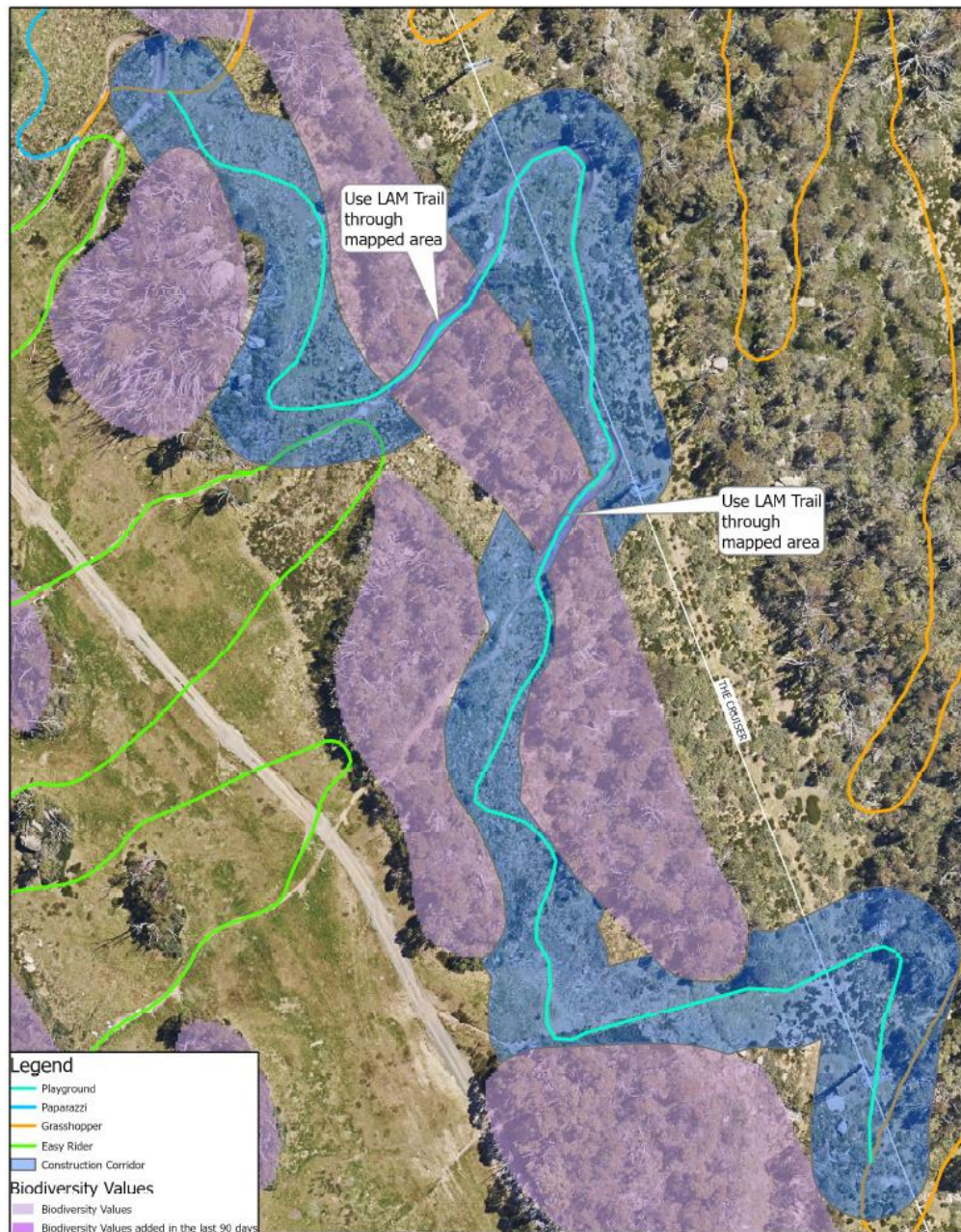


Figure 2 | Site plan of the approved location of the Playground Trail (Source: Applicant's documentation DA 24/966).

The purpose of this application is to obtain the necessary consent from the Department to use (and thereby retain) the unauthorised sections of the Playground Trail as now constructed. The current (constructed) location of the trail as opposed to the approved alignment pursuant to complying with DA 24/966 is shown in **Figure 3** as works as executed.

The estimated development cost for the application for use of the trail is \$7,700.00.

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>

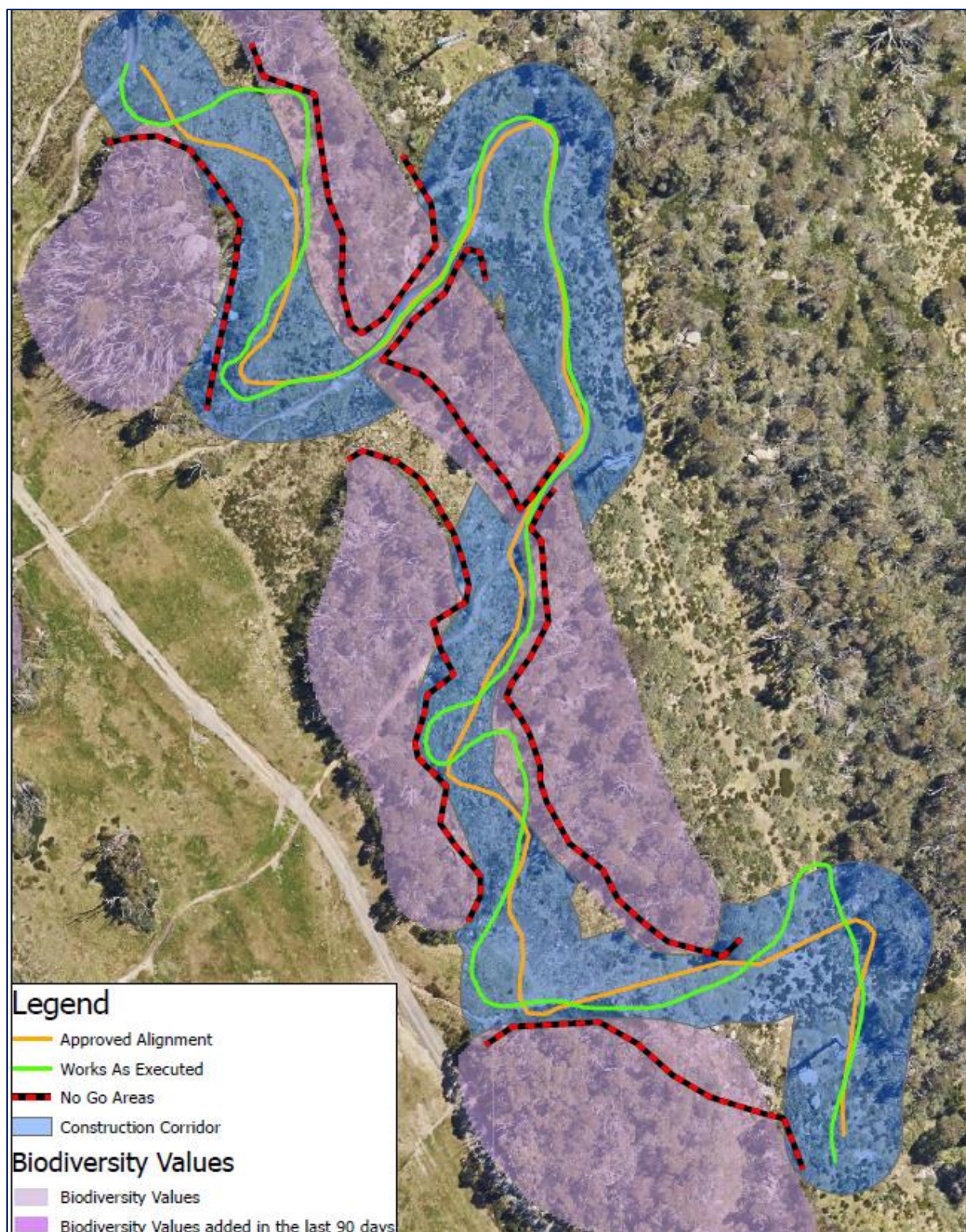


Figure 3 | Constructed vs approved Playground Trail alignment (Source: Applicant's documentation – noting that the location of the 'No-Go Areas' as indicated have not been appropriately shown to exclude the BV areas).

2 Matters for Consideration

2.1 Strategic Context

The proposal relates to permitting the use of a mountain bike trail in Thredbo Alpine resort. While the development of the trail in the current location occurs because of non-compliance with a development approval, which the Department naturally recognises as inconsistent with best practice, the application under review relates to ongoing operation. It is seeking consent for the future use of the subject trail, and thereby also permitting retention of the trail where it has now been constructed. Accordingly, this review of the strategic context limits considerations to use and retention of the Playground Trail in the current location.

South East and Tablelands Regional Plan 2036

The 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.

Having regard to use and retention of the Playground Trail, as now built, the Department considers this action to be compatible with the Regional Plan. The availability of the Playground Trail for recreationists supplements the existing trails in the locality, attracting tourists to the Alpine Region. Having new and more diverse experiences available for the mountain biking community during the summer period supports new and return visitation to the NSW alpine resorts, consistent with the Plan.

Draft South East and Tablelands Regional Plan 2041

The draft plan builds on the 2036 plan to strengthen the regional economy through growth and change which protecting and enhancing the natural environment.

The development 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 2022

The key drivers in the plan are detailed in Section 3.1, which relates to economic drivers and tourism opportunities, Section 3.2 relates to environmental drivers, and 3.3 to social drivers, together with Section 9.1 which refers to Thredbo Alpine Resort.

The Playground Trail traverses areas mapped as having high environmental value, however no further construction is required to enable use of the trail. There are strong economic and social drivers to support activities that encourage alpine visitation outside the winter period. While environmental drivers may have excluded the location of the trail as now built, retention of the trail and enabling its future use is considered a reasonable solution in balancing the objectives for the site. Accordingly, supporting the use of the trail as now built is not regarded to be inconsistent with the Master Plan. The availability of the new trail link provides variety to continue to service the mountain biking visitors to Thredbo Alpine Resort, while limiting further impacts upon sensitive vegetation by removing the need for further construction and rectification works.

Precincts - Regional SEPP

The proposal is limited to the scope of retention and future use of the Playground MTB Trail, as built. As such, the impacts from the development are minimal, and less than requiring rebuilding of large sections of the trail. Accordingly, the use remains consistent with Chapter 4 of the Precincts - Regional SEPP as supporting the application is most consistent with enabling development that can 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 provided referral comments, as discussed in **Section 3** of this report.

2.2 Permissibility

The proposal for use of an existing mountain bike trail for the purpose of active recreation for tourists and visitors is consistent with the definition of 'recreation infrastructure' as defined in the Precincts – Regional SEPP. Pursuant to section 4.7 of the Precincts – Regional SEPP, 'recreation infrastructure' is permissible with consent within Thredbo Alpine Resort.

2.3 Mandatory Matters for Consideration

Objects of the EP&A Act

Table 3 | 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,	The proposal supports the ongoing use of Thredbo Alpine Resort for tourism through permitting use of a MTB trail. The trail will also allow for the continued use of the LAM Trail during periods of closure of the main trail. Providing for the use of the additional mountain bike trail will have a positive social and economic impact. The operation of the trail will be subject to conditions of consent to help ensure there will be no significant impacts on the natural environment.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal would not have an unacceptable impact on the environment thus being consistent with ecologically sustainable development. Relevant economic, environmental and social considerations have been integrated into assessing the application, primarily with a view to limiting further environmental

	impacts while supporting social and economic considerations relating to the proposal.
(c) to promote the orderly and economic use and development of land,	The proposal does not relate to trail construction, but to trail use. The Department has reviewed the benefits of allowing the use of the trail, for reasons assessed and outlined throughout this report, and use of the Playground Trail corresponds to the orderly and economic use of the land.
(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,	The trail in the current location will be required to be managed in accordance with conditions of consent to minimise the impacts upon the environment. An assessment of the comparative benefit relating to the proposal is provided in Section 4 .
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposal use of the trail is not anticipated to result in any impacts upon built and cultural heritage, including Aboriginal cultural heritage. No additional assessment is required.
(g) to promote good design and amenity of the built environment,	No design considerations are necessary in relation to the proposal as the infrastructure has already been built. The Applicant and operator will need to ensure that the use of the trail and maintenance minimises impacts upon the natural environment. See discussion in Section 4 .
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The proposal does not relate to, or require, the construction or maintenance of a building.
(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 Section 3 and Section 4).
(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 Section 3).

Considerations under section 4.15 of the EP&A Act

Table 1 | Section 4.15(1) Matters for Consideration

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument (EPI)	The Precincts - Regional SEPP is the principal EPI which applies to the site for recreation infrastructure. An assessment against the requirements of Chapter 4 of the Precincts - Regional SEPP is provided below. The Department is satisfied that the Application is consistent with the requirements of Chapter 4 of the Precincts - Regional SEPP.
(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	The application satisfactorily meets the relevant requirements of the EP&A Regulation, particularly the procedures relating to development applications (Part 3 and Part 4) and fees (Part 13 and Schedule 4). 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.
(a)(v) any coastal zone management plan	Not applicable to the proposal.
(b) the likely impacts of that development	The Department has considered the likely impacts of the development. Environmental impacts relating to the ongoing use and maintenance of the trail will need to be contained to the existing constructed location of the track, as now built. The Department will ensure that future activities are appropriately managed and mitigate impacts to the environment through conditions of consent.
(c) the suitability of the site for the development,	The proposed use of the trail will be suitable, subject to operational limitations. Further assessment is provided in Section 4.

(d) any submissions made in accordance with this Act or the regulations,	Consideration has been given to submissions received from the NPWS. Refer to Section 3 and Section 4 of this report.
(e) the public interest.	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 use of the trail will be compatible non-winter operation of the resort. The approval of the proposal is assessed 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 2**.

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 2 | 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 or work on land is proposed in this application.
Section 4.21 Heritage conservation	
European heritage	The proposal will not impact on European heritage items.
Aboriginal heritage	No additional earthworks are proposed as part of the application, and no further investigation to consider the impact on Aboriginal heritage from use of the trail is considered warranted.
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 proposal does not include any construction or earthworks relating to the establishment of a MTB trail, where the application relates to use of the existing trail only. Any ongoing maintenance activities will be localised and involve only minimal and low-impact earthworks, consistent with the parameters of the approval.

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

Refer to above comments.

(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,

No earthworks are proposed as part of the application, other than minor works that may be required to maintain the trail. However, noting that construction of sections of the trail comprise works that were undertaken without consent, review of these components is necessary.

The Applicant has not addressed the geotechnical policy in their application. However, the Department has had regard to the information provided in their previous application (DA 24/966) that informed what the subject trail works were intended to comprise on minor earthworks, not involving excavation or fill in excess of one metre in vertical height, and no structures are

proposed, therefore they advise that in accordance with Section 3.1 of the Geotechnical Policy a geotechnical report is not required. The information provided that depicts the construction of the trail (albeit in an errant location) indicates the subject works have been constructed in accordance with the parameters that exclude the works from geotechnical assessment, and no further information is necessary.

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

Not applicable as site is located within Thredbo 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.

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 above.

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

The land is not subject to flooding and no measures to protect against bushfire are required. Given that geotechnical matters have not been addressed in the application, it will be required to be verified via a condition of consent.

(i) the conservation of the natural environment, and

Natural hazards have been adequately addressed.

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

(c) the visual impact of the proposed development, particularly when viewed from the land identified as the Main Range Management Unit in the

The location of the track, as now constructed, is within the general locality of works approved via DA 24/966, and the visual impact relating to the relocation of the trail is acceptable. Use of the mountain bike trail will not result in visual impact on the locality.

Kosciuszko National Park Plan of Management,

(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 use (and implied retention) of a mountain bike trail only. The development for which approval is sought will not result in any changes to resource use or impact the facilities in place to support development and visitor patronage of 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 significant additional usage of the infrastructure and service network is predicted relating to the proposal.
(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.

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

No negative impacts to stormwater are anticipated.

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.	As above.

Section 4.30 Kosciuszko National Park Plan of Management

Consistency between the development and the Kosciuszko National Park Plan of Management

The Department has not been advised by NPWS that approval of the proposal would be inconsistent with the KNP Plan of Management.

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 that use of the trail will not compromise 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 affect threatened species or ecological communities, or their habitats; or
- the works are carried out in a declared area of outstanding biodiversity value.

The Department notes that the trail is located on land identified on the BVM, and where the trail is within the BVM, the works were not assessed and approved prior to the construction of the trail. Pursuant to the BC Act, works in BVM triggers the BOS, and a Biodiversity Assessment Development Report (BDAR) would normally be required to accompany any such application. However, the construction of the subject Playground Trail, if it had been done competently and in compliance with the assurances provided by the Applicant in DA 24/966 and conditions of consent, then construction should not have entered the BVM.

In relation to this subsequent application for use of the trail, no further vegetation is proposed to be disturbed. In now seeking approval for the use of the trail, as constructed, the Applicant has provided a report by an Ecologist, Ryan Smithers - *Playground MTB Trail – Impacts on Biodiversity Values mapped areas and other non-compliance*, which advises as follows:

- The trail extended beyond the approved construction corridor in four locations, including one area of approximately 10 square metres of shrubland that was not BVM, and three locations where the trail has encroached on BVM, impacting an estimated area of 140 square metres of derived shrubland. Photographs of the subject locations are indicated in **Figure 4** and the four photos in **Figure 5**.

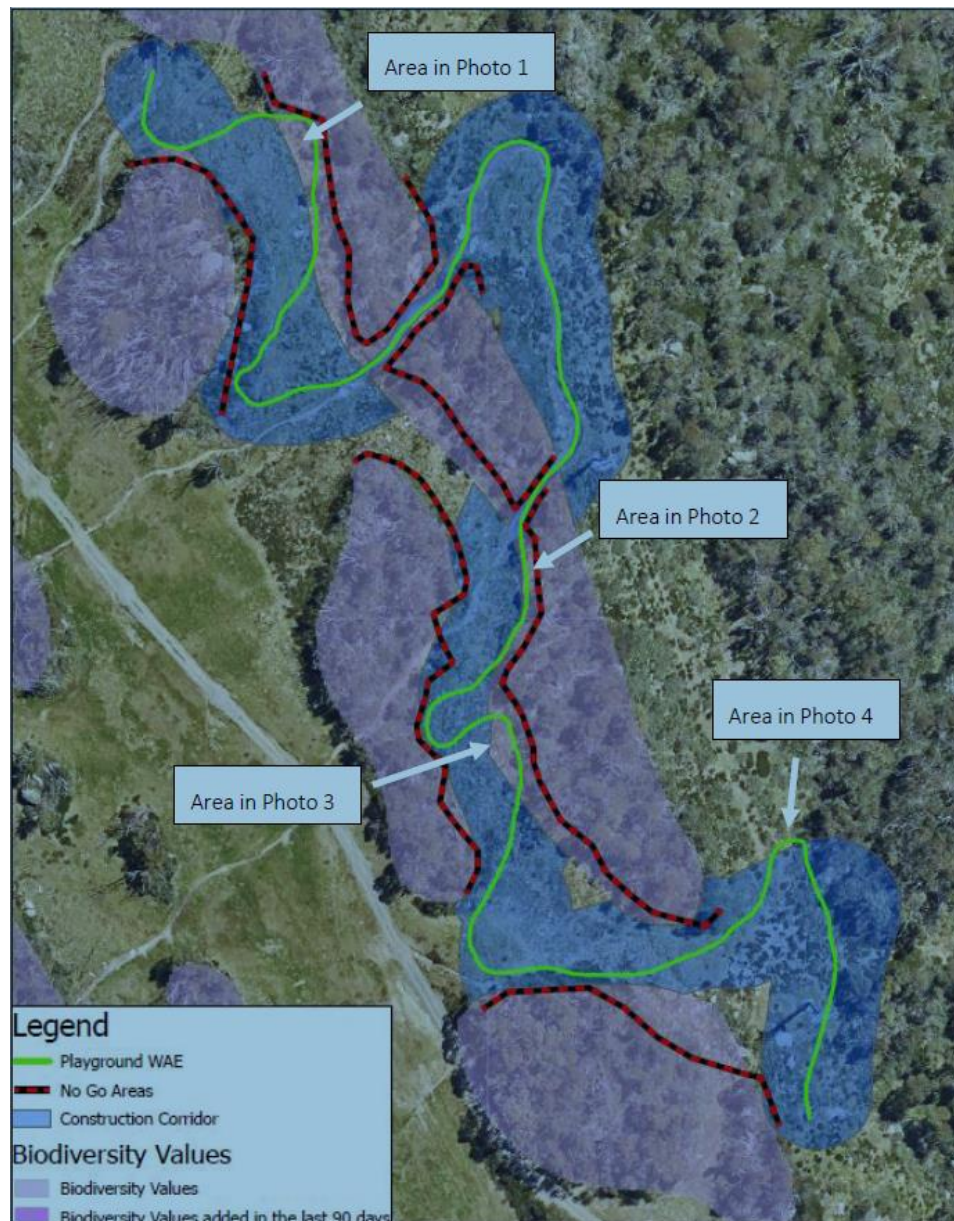


Figure 4 | Locations of photographs of works as executed (Source: Applicant's Ecologist report).

- Some saplings (less than 2 metres in height) present in the derived shrubland have been impacted, however no evidence of mature tree removal was detected.
- Inconsistencies in the BV mapping are noted in the locality, where the impacted BV mapped vegetation is no different to the impacted non-BV mapped vegetation, which also comprises shrubland derived from Subalpine Woodland. This inconsistency in the mapping appears to be a result of limitations of the mapping rather than any differences in vegetation condition or habitat value.
- The works as executed encroached upon BV mapped vegetation and extended beyond the approved construction corridor, only a relatively small amount of vegetation was impacted. The impacted

vegetation is minor in extent in the context of the extent of similar habitats in the Thredbo Resort area and in the locality more generally.

- In the opinion of the Ecologist, the non-compliances identified would not have resulted in any substantial additional adverse impacts on threatened species, populations or ecological communities and will not have a significant impact on these entities pursuant to the *NSW Biodiversity Conservation Act 2016* or the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*.
- Notwithstanding the conclusions, the encroachment into the BVM should not have happened, and measures should be taken to minimise the risk of non-compliances of this nature occurring in the future.



Figure 5 | Photographs at the four locations of works outside the construction corridor, as referred to Figure 4, where the locations in Photo 1-3 is within BVM (Source: Applicant's Ecologist report).

In reviewing the advice from the Ecologist, and in seeking to understand how the works deviated outside the approved construction corridor and into the BVM, the Department sought further detail from the Applicant to understand how the transgressions occurred, and to justify why the Department should support retention and use of the trail, rather than seeking rectification and rehabilitation of the four areas indicated.

The Applicant has provided justification advising that the trails works that have occurred in areas mapped on the BVM are located within the disturbed Playground ski run, comprising a mix of native and exotic grass and scattered shrubs. No trail works occurred within the Sub-alpine woodland community adjacent to the ski run.

The reason for works occurring outside of the approved construction corridor was advised as follows:

- The trail was aligned in areas to go around unavoidable obstacles such as large boulders, and to achieve more appropriate trail grades. In sections, if the trail was constructed as per the original alignment, it would have resulted in the trail being too steep and bermed corners becoming too tight and potentially causing erosion and rider safety issues.
- When overlaying the GPS works-as-executed points with the BVM, the discrepancy was identified. It is evident that the Biodiversity Values (BV) mapping is inaccurate in this location. On the ground prior to/during construction, the “no-go” areas were flagged as the edge of the ski run. The trail builders did not consider the disturbed ski run comprising grasses (native and non-native) and shrubs as part of the “no-go” area.
- Kosciuszko Thredbo Pty Ltd are seeking to legitimise the areas of trail that were not part of the original approval. The Applicant has revised the operational failings during the construction of the trail that resulted in the trail being constructed within the BVM. However, the Applicant also advises that if they were to construct the trail as per the original alignment and close the sections that were built outside of the approved corridor, it would result in additional disturbance, and this, in their opinion, is not a better environmental outcome.

Having regard to the Ecologist’s report together with the Applicant’s justification and the advice from the NPWS (as considered further in this report), the Department recognises that the Playground Trail has been constructed in areas of mapped high biodiversity value. This did not follow a process that is consistent with the legislatively prescribed expectations outlined in the BAM pursuant to the BC Act. While the Department concurs that works outside the approved corridor should not have occurred, and especially incursions into BVM, there appears to be limited benefit in seeking to rectify the situation.

While the Applicant did not discharge due diligence in relation to the BC Act when constructing the trail, further consideration of BC Act in relation to this proposal focusses on whether retention and use of the trail in the location now constructed will compromise biodiversity values in the locality. In ensuring the scope of this assessment is clear, the Department accepts that the advice of the Ecologist that *the non-compliances identified above would not have resulted in any substantial additional adverse impacts on threatened species, populations or ecological communities and will not have a significant impact on these entities pursuant to the NSW Biodiversity Conservation Act 2016 or the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.*

3 Submissions

3.1 Department's engagement

The Department's Community Participation Plan (CPP version November 2019 at the time of lodgement, now September 2025) prepared in accordance with Schedule 1 of the EP&A Act, requires 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 application. The application was however made available on the NSW Planning Portal.

The application was also forwarded to the NPWS pursuant to section 4.27 of Chapter 4 of the Precincts - Regional SEPP.

3.2 Summary of submissions

NPWS

In the initial consultation with NPWS about the proposal, further information was requested relating to the measures the Applicant intends to put in place for future DAs to prevent works outside of the approved construction corridor and unauthorised impacts to mapped biodiversity areas. Assurance was sought that appropriate measures have (or will) been put in place to prevent this occurring again in the future.

Following the provision of further information by the Applicant, the NPWS provided comment that relayed their concern that this application (DA 25/10134) seeks retrospective approval for non-compliance with the original conditions of consent under DA 24/966, including conditions aimed at mitigating biodiversity impacts. NPWS also conveyed their understanding, and concern, that this is the second instance in three years where trail construction by the Applicant, Kosciuszko Thredbo Pty Ltd, and associated disturbance has occurred outside the construction corridor authorised by the relevant development consent.

NPWS remain unclear how non-compliance with the conditions of consent for DA 24/966 could have occurred if the various mitigation measures required of the applicant were properly implemented. Namely:

- Accurate flagging of the trail alignment and construction corridor by the Environmental Officer prior to the construction commencing.
- Ensuring all site staff have clear maps showing no-go zones.
- Communicating no-go zones during inductions and toolbox talks.
- The Environmental Officer being present onsite to ensure environmental management measures were functioning throughout construction of the development.

Whilst acknowledging the above, in relation to this use DA, the NPWS advise their previous comments on DA 24/966 remain applicable, especially regarding ongoing use, rehabilitation and monitoring, given that it is likely that the environmental impact in this instance may be broadly consistent with DA 24/966. NPWS also note that the Applicant has proposed additional measures for future construction to prevent misalignment of trails, and comment was also provided that the subject measures would be acceptable to NPWS provided they are appropriately implemented.

The Department notes that NPWS previously requested in DA 24/966 that 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.

Public Submissions

No public submissions were received during the assessment of the application.

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 and the environment
- Public interest

4.1 Impacts on biodiversity and the environment

The Department has 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. However, the Department's capacity to assess the potential environmental impacts of the proposal are limited due to the works already having been carried out. There is no way to now obtain information about the quality of vegetation or value of habitat destroyed by those works. The Applicant is now seeking to use the trail, as built, in situ, and matters of DA compliance are only indirectly considered in the assessment of this application. Considerations relating to impacts on biodiversity and environmental impacts are limited to retention and use of the trail.

As discussed previously, no further vegetation removal or significant ground disturbance is proposed as part of the application for use of the track. The Applicant's ecologist, as can best be ascertained retrospectively, is satisfied that construction of the trail outside the approved corridor has not resulted in any substantial additional adverse impacts on threatened species, populations or ecological communities and will not have a significant impact on these entities.

In keeping with advice from NPWS, the proposed use and ongoing operation of the trail will need to be consistent with conditions of consent recommended for the previous DA 24/966 regarding rehabilitation and monitoring.

The Department considers that impacts to the environment can be sufficiently avoided and mitigated if ongoing operations are undertaken in accordance with the recommended conditions of consent.

4.2 Public interest

This application was lodged by the Applicant after their notification to the Department on completion of the Playground MTB Trail that part(s) of the trail approved under DA 24/966 had been constructed outside of the approved alignment, and this application seeks to now allow the use of the trail as per the Works as Executed plan.

The Department has assessed the merits of the proposal in accordance with the relevant requirements of the EP&A Act, and in doing so must have due regard to the public interest. In considering the public interest, it has been necessary to balance the considerations of the Applicant, and their reasoning for constructing the trail contrary to their approval, and the Department's responsibility to the public to ensure that development occurs in a location and way that is consistent with where and how it was approved.

In considering whether to support this application for use of the Playground Trail, as built, as opposed to requiring the Applicant remove and rehabilitate the trail, as approved, the Department has considered the representations by the Applicant and their Ecologist to better understand the actions and impacts to date, and determine whether it is in the public interest to support the current application for use of the trail.

In undertaking this aspect of its assessment, the Department notes the following:

- The Applicant has reviewed the actions that resulted in the non-compliance with the original consent (DA 24/966), and has advised the Department that it has reviewed the internal operating procedures in relation to ensuring there is clarity on the obligations under development consents and to ensure all trail builders understand their obligations. Additionally, the Applicant has given an undertaking to continue to review their operating procedures annually following each summer construction period.
- In reviewing their internal processes, the Applicant has conducted a 'Lessons Learned' session with staff involved with the construction of the trail, including the Mountain Manager, machinery operators, mountain bike staff and the Environmental Officer, to discuss the works and how operating procedures can be improved for future jobs to ensure compliance with consent conditions. Outcomes are:
 - the development of a Pre-commencement checklist via Microsoft forms for all projects,
 - the introduction of a formal project start-up meeting to discuss project delivery with all project staff present, including sign-off from attendees so that the project manager has confirmation all environmental obligations are understood by staff, and
 - site specific induction form to be appended in SEMP to confirm all staff understand site-specific obligations
- The Applicant has recently upgraded their GPS system with the inclusion of ArcGIS Field Maps, an app that allows users to view maps on mobile devices to help ground-truth assets/site constraints, with real-time, high accuracy location. This is a great advance as opposed to looking at a site plan in the field that is expected to greatly improve the accuracy of identifying locations such as "no-go" areas when in the field. Investigation of the installation of GPS in excavators used by trail builders is proposed, as well as the Thredbo Alpine Resort trialing a GPS system in their snowcats that can be utilised in excavators in summer. This will improve operators' ability to identify the alignment and no-go areas in real time.
- The Applicant also advises that they are seeking to recruit additional resources to assist with construction environmental management, so that if the assigned Environmental Officer (EO) is away, a suitably qualified replacement is available to take on the project EO role.

Having regard to the measures that are intended to be employed to prevent a recurrence of the unauthorised diversions within of the Playground Trail construction, the Department is satisfied that supporting the proposal will not encourage further need for such applications. Advice from the Applicant's Ecologist that significant impacts on biodiversity are unlikely to have occurred, and the Department understands that not supporting the application will result in additional disturbance, and this is unlikely to result in a better environmental outcome. Accordingly, enabling the MTB trail to be used where it has been built is believed to be most compatible with the public interest.

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, and
- the use of the trail as constructed, rather than re-building the trail along the approved alignment, reduces additional environmental impacts.

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 Assessments, Alpine Resorts Team may determine the application as:

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

It is recommended that the Team Leader, Assessments, 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 25/10134, subject to the recommended conditions, and
- **signs** the attached Development Consent (**Appendix A**).

Recommended by:



Sandria Butler
Senior Planning Officer
Alpine Resorts Team

Adopted by:



23/10/2025

Mark Brown
Team Leader, Assessments
Alpine Resorts Team, Regional Assessments
as delegate of the Minister for Planning

Appendices

Appendix A – Recommended Instrument of Consent