



MODIFICATION ASSESSMENT REPORT MOD 6072



MODIFICATION (2) OF DA 12-2-2008

**On-going use of the Friday Flat area for
outdoor entertainment events, Thredbo
alpine resort**

Proposed by Kosciuszko Thredbo Pty Ltd

Part 4 of the
Environmental Planning and Assessment Act 1979

October 2013

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1 EXECUTIVE SUMMARY

This report is an assessment of an application to modify development consent DA 12-2-2008 pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The application is assessed under Part 4 of the EP&A Act, the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), *State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007* (the Alpine SEPP) and *State Environmental Planning Policy (Temporary Structures) 2007* (the Temporary Structures SEPP).

Consent authority

Under the provisions of the Alpine SEPP, the Minister for Planning and Infrastructure is the consent authority for development within the NSW alpine resorts.

Background

Development consent (DA 12-2-2008) was granted to Kosciuszko Thredbo Pty Ltd on 11 March 2008 for the use of the Friday Flat area at the Thredbo alpine resort as an outdoor entertainment facility. The purpose of the development was to host the 'Country Music Channel (CMC) Rocks the Snowy Music Festival' as a one-off event to occur on 14 & 15 March 2008 only (2 days).

A modification to the consent was also approved on 3 March 2009 (MOD 75-12-2008) to allow the event to be held annually over 3 days.

Proposed modification

The Applicant, Kosciuszko Thredbo Pty Ltd, now seeks to modify the consent to allow multiple outdoor entertainment events (up to 7 in total over maximum of 21 days) to be held each year. These events would be held outside the winter ski season.

Permissibility

Outdoor 'entertainment facilities' are permissible with consent pursuant to Clause 11 of the Alpine SEPP and the Thredbo alpine resort land use table.

Section 96(1A) of the EP&A Act

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. Furthermore, the proposed modification is of minimal environmental impact and the application may be determined under Section 96(1A) of the EP&A Act.

Key considerations

The proposed modification has been considered against the relevant matters for consideration. The key matter arising from this assessment is site reinstatement given events (and their associated impacts) would occur more frequently at the site.

The Department is generally satisfied that the existing and modified conditions of consent would ensure that the site is effectively rehabilitated and reinstated to its original condition, following the completion of each event.

Consultation

The proposed modification was referred to the NSW Environment and Heritage (OEH) pursuant to Clause 17 of the Alpine SEPP. The OEH made recommendations in relation to the preparation of a complaints register and a bushfire management plan. These recommendations have been included in the conditions of consent.

Conclusion

After consideration of the proposal against the relevant statutory considerations, including section 79C of the EP&A Act, section 96(1A) of the EP&A Act, the provisions of the Alpine SEPP, and the provisions of the Temporary Structure SEPP, it is concluded that the

proposed modification (2) to development consent DA 12-2-2008 is appropriate. The modified development is permissible with consent and is substantially the same as the development for which consent was originally granted. The modified development would not increase environmental impacts relative to the approved development and would ensure effective site reinstatement occurs, prior to the commencement of each event.

The Department also considers the modified development is likely to result in positive social and economic impacts on the locality through increased tourism and employment, particularly during the summer months.

In conclusion, it is recommended that the development be approved subject to the modified conditions contained in Appendix B.

2 BACKGROUND

2.1 Locality

The Thredbo alpine resort is located within Kosciuszko National Park, approximately 37 kilometres west-south-west from Jindabyne.

2.2 Site Context

Currently a music festival is held annually at Friday Flat, Thredbo Alpine Resort. The local context of Friday Flat is depicted in Figure 1 below.

Friday Flat is the resort's primary learn-to-ski location and provides a number of facilities and amenities which are utilised for the current annual festival. Due to the topography and location of the ski slope, the site was selected as it provides a natural amphitheatre which is conducive for live music and entertainment events.

The site has a capacity of up to 7,000 visitors which corresponds to a busy weekend day during winter, when the mountain caters for a large number of visitors to the ski slopes.

For existing music festivals, a security fence is erected to define the Friday Flat site and encompass all of the temporary structures and existing buildings that make up the festival. The total area of the site has been estimated at 3.9 Hectares.

A general site layout for a music event is illustrated in Figure 2.

Temporary stages are assembled on the existing wood chip area at the base of Friday Flat and the crowd is typically concentrated on the lower part of the east facing slope. The existing clock tower in this area is temporarily removed for a festival and then returned at the completion of the event each year.

Temporary food and beverage stalls are also erected within the site.

The existing Friday Flat Base Station building is used as a bar and restaurant. The existing 'Thredboland' building is used as a green room (backstage) for performers and staff. The existing ticket office is utilised for ticketing purposes and forms the main entrance to the venue.

Parking is provided at the existing overnight facilities located throughout the Thredbo village, the overflow car park at Woodridge and the main public parking are adjacent to the site (see Figure 2). To reduce traffic impact and parking demand, return shuttle buses are also operated from Jindabyne to the event for ticket holders.

The existing pathway to the north of the Base Station building is used to provide access for disabled persons. This area also contains a vehicle loading and unloading facility.

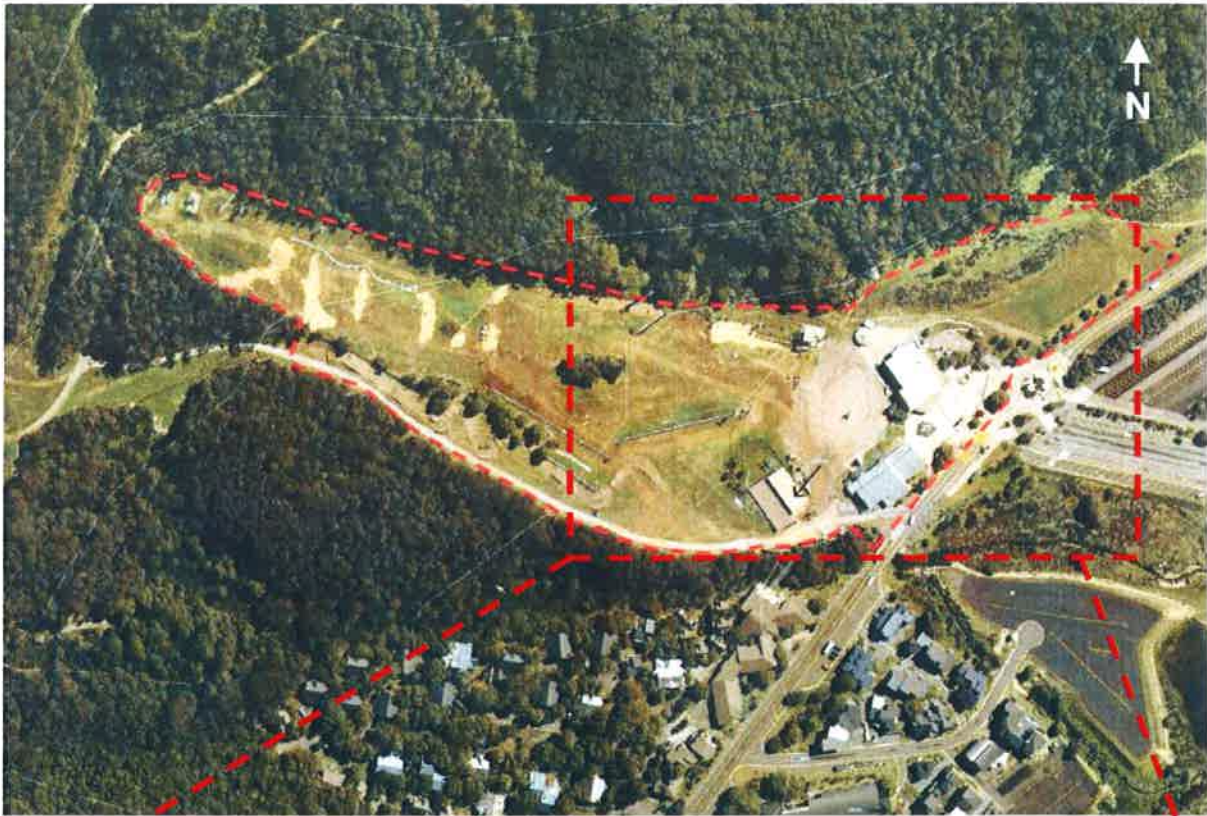


Figure 1: Local Site Context

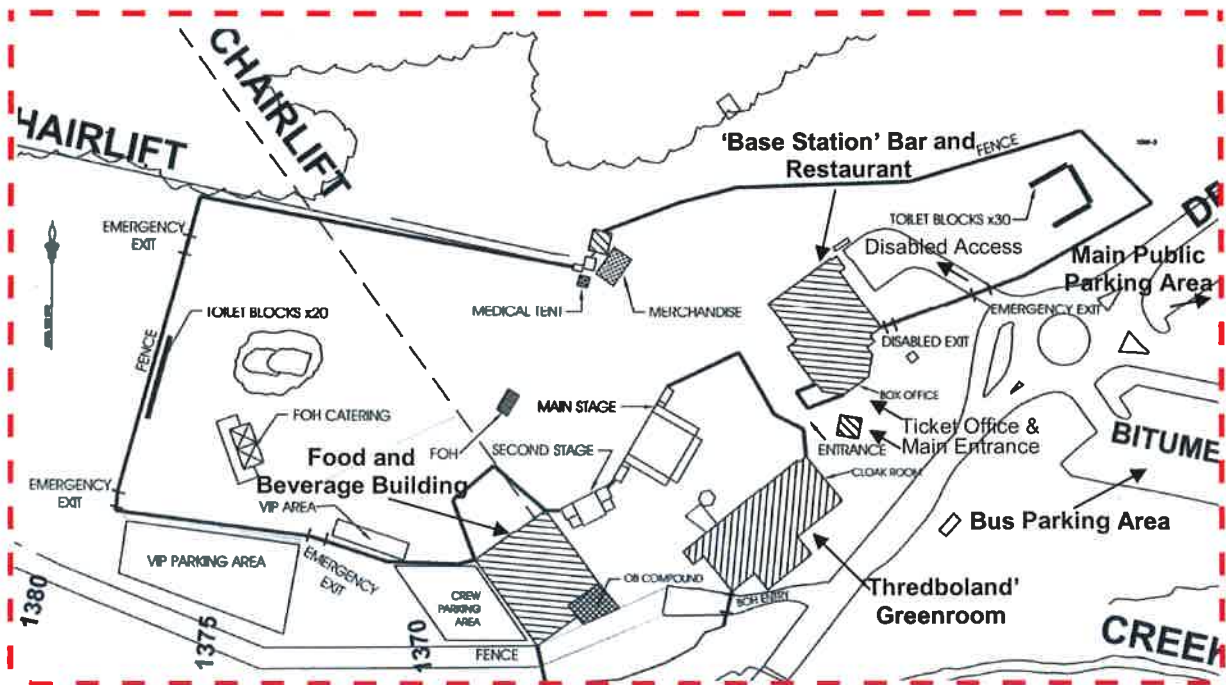


Figure 2: General Event Layout

2.3 Original development consent – DA 12-2-2008

The original development consent (DA 12-2-2008) was granted to Kosciuszko Thredbo Pty Ltd on 11 March 2008 for the use of the Friday Flat area at the Thredbo alpine resort as an outdoor entertainment facility.

The purpose of the development was to host the 'Country Music Channel (CMC) Rocks the Snowy Music Festival' as a one-off event to occur on 14 & 15 March 2008 only (2 days).

2.4 Modification No. 1 – MOD 75-12-2008

A modification to the consent (No. 1) was approved on 3 March 2009 (MOD 75-12-2008) to allow the event to be held annually over 3 days.

3 THE PROPOSED MODIFICATION

3.1 Overview of the proposed modification

CMC no longer has an association with the annual music event and the Applicant is currently pursuing other types of music and artists to perform the annual event.

To provide greater flexibility and to increase tourism in the region, particularly over the summer months, the Applicant is now seeking to modify the development consent to allow:

1. the event to occur in any month of the year, not just March; and
2. to hold up to 7 events of various types (e.g. music, comedy or theatre) over a maximum of 21 days in any calendar year.

To facilitate this, the Applicant proposes to amend Condition A2 (Limit of Consent) to allow music events (or similar) to be held up to 7 times a year, within any month, over a maximum of 21 days annually.

The Department has generally adopted the Applicant's recommended amendment with slight changes to clarify that:

- each event shall be limited to a maximum of seven (7) events each year over a maximum of twenty-one (21) days each year (whichever limit is reached sooner); and
- events shall be held within the months of October to May only (i.e. Spring/Summer/Autumn).

The Department considered that events shall be held in Spring/Summer/Autumn only due to logistical (e.g. vehicle access), geotechnical and safety issues associated with holding an event and erecting temporary structures on snow covered ground in Winter.

4 STATUTORY FRAMEWORK

4.1 Development assessment

The application has been made and assessed pursuant to Part 4 of the EP&A Act and the EP&A Regulations.

4.2 Statement of permissibility

Outdoor 'entertainment facilities' are permissible with consent pursuant to Clause 11 of the Alpine SEPP and the Thredbo alpine resort land use table.

4.3 Statutory considerations

The proposal has been considered against the relevant statutory considerations, including:

- the principles of Ecologically Sustainable Development (ESD);
- the objects of the EP&A Act;
- Sections 5A and 79C of the EP&A Act;
- the Alpine SEPP; and
- the Temporary Structures SEPP.

The assessment is provided in Appendix A and a discussion of the key matters are provided in Section 6 of this report.

4.4 Section 96(1A) of the EP&A Act

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. Furthermore, the proposed modification is of minimal environmental impact and the application may be determined under Section 96(1A) of the EP&A Act.

5 CONSULTATION

5.1 NSW Office of Environment and Heritage (OEH)

The proposed modification was referred to the OEH pursuant to Clause 17 of the Alpine SEPP. After reviewing the proposed modification, the OEH have recommended that a register of noise complaints be kept and that a bushfire management plan be prepared. The recommendations have been included in the modified conditions of consent.

6 CONSIDERATION

The proposal has been considered in detail against all relevant matters for consideration in Appendix A of this report. The following is a discussion of the key impacts arising from this assessment.

Thredbo Alpine Resort and the site, Friday Flat, is considered an optimum location to hold entertainment events given that the majority of all the facilities and amenities required are already provided in one central location.

The site is serviced by existing infrastructure and utilities (e.g. water supply, wastewater treatment, electricity etc) that are designed cater for a peak of up to 7,000 visitors to the ski slopes during a busy weekend day in winter.

Car parking, transport interchange, ticket office and food & beverage facilities are also located at (or in the vicinity of) Friday Flat, further enhancing the suitability of the site to handle such events.

The current consent allows specific information for each year's music event (e.g. site and staging plans, emergency, waste, pedestrian and traffic and crowd management plans) to be submitted to the Department 30 days prior to the commencement of an event. Additional information (e.g. fire safety statements, occupational health and safety details, insurance certificates, public transport details, noise management statements and public toilet provision) is also required to be submitted to the Department 7 days prior to the commencement of an event.

The information must be consistent with all conditions of consent and a declaration by the Applicant is required to accompany these documents certifying that this is the case.

Once set-up of an event has been completed, certification is also to be provided to the Department that demonstrates all temporary structures have been erected in accordance with the relevant engineering specification, the requirements of the Building Code of Australia, Codes of Practices, applicable Australian Standards and the like.

The proposed modification does not seek to change the location or scale of event (i.e. up to 7,000 patrons) previously assessed and approved to be held at the site. The Department considers that the impacts associated with holding most types of outdoor entertainment events (e.g. music, comedy or theatre) on temporary stages at the site would be similar from event to event, and are comparable to the impacts assessed and approved as part of the original development application (see Appendix A2 of this report).

However, the modification does seek to enable such events (and their associated impacts) to occur more frequently at the site.

The Department therefore considers the key matter arising from its assessment of the proposal to be site reinstatement. That is, to ensure the site is effectively restored to its pre-event state (or better), prior to the commencement of the next event. This issue is discussed in detail below.

6.1 Site Reinstatement

Existing conditions of consent have been developed and imposed to ensure the site is rehabilitated to its original condition following the completion of an event. In particular, in accordance with Condition D2 of the consent, the Applicant is required to clean up and appropriately rehabilitate the site to the satisfaction of the Director-General during the 'bump out' period. Site cleanup requirements includes (but are not limited to) removal of waste from the site.

The 'bump out' is defined as the 3 day period after an event finishes in which the removal of all materials and structures associated with an event takes place.

The Department is generally satisfied that the existing conditions of consent would ensure that the site is effectively rehabilitated and reinstated to its original condition, following the completion of an event. Notwithstanding this, the Department has recommended a slight modification to Condition D2 to ensure that restoration of equivalent ski slope soil and/or vegetation (if disturbed as a result of an event) is included as a specific requirement of the Applicant's rehabilitation requirements during 'bump out'.

The Department is satisfied that with this modified condition in place, effective site reinstatement would occur following the cessation of each event. This will ensure that the use of the site for multiple outdoor entertainment events each year is sustainable and does not result in land degradation.

The Department's assessment of all other issues is contained in Appendix A2 of this report.

7 CONCLUSION

After consideration of the proposal against the relevant statutory considerations, including section 79C of the EP&A Act, Section 96(1A) of the EP&A Act, the provisions of the Alpine SEPP, and the provisions of the Temporary Structures SEPP, it is concluded that the proposed modification (2) to development consent DA 12-2-2008 is appropriate. The modified development is permissible with consent and is substantially the same as the development for which consent was originally granted. The modified development would not increase environmental impacts relative to the approved development and would ensure effective site reinstatement occurs, prior to the commencement of each event.

The Department also considers the modified development is likely to result in positive social and economic impacts on the locality through increased tourism and employment, particularly during the summer months.

In conclusion, it is recommended that the development be approved subject to the modified conditions contained in Appendix B.

8 DELEGATIONS

Under the instrument of delegation signed on the 14 September 2011 and effective as of 1 October 2011, the Minister delegated his functions under Section 96 of the EP&A Act to the Team Leader, Alpine Resorts Team applications in relation to land to which *State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007* applies, and where there are less than 10 public submissions in the nature of objections to the subject application.

The application relates to land to which *State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007* applies and no public submissions have been received. It is therefore considered that Daniel James, Team Leader, Alpine Resorts Team has delegation to determine the application.

9 RECOMMENDATION

It is recommended that Daniel James, Team Leader, Alpine Resorts Team as delegate for the Minister for Planning and Infrastructure, under the *Instrument of Delegation* dated 14 September 2011, pursuant to Section 96 of the *Environmental Planning and Assessment Act 1979* and *State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007*:

- (i) grant consent to MOD 6072 to modify development consent DA 12-2-2008 for the on-going use of the Friday Flat area for outdoor entertainment events at Thredbo alpine resort, subject to the modified conditions of consent (refer to Schedule 2 at Appendix B); and
- (ii) sign and date the Notice of Determination and Schedule 1 for MOD 6072.

Prepared by:

Approved by:

AH 4.10.13

Andrew Hartcher
Environmental Planner
Alpine Resorts Team


4/10/2013

Daniel James
Team Leader
Alpine Resorts Team

**Determined as Delegate of the Minister for
Planning and Infrastructure**

Appendix A – Statutory Assessment & Consideration

A1 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The Department has considered the proposed development against the five principles of ESD set out in Section 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The proposed modification does not alter the conclusions reached in the original assessment relating to ESD.

A2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

A2.1 Objects

The proposal as modified is considered consistent with the objects of the EP&A Act in that there will not be an adverse environmental impact, the proposal is consistent with the principles of ESD and will contribute to the orderly development of the resort.

A2.2 Section 5A - Significant effect on threatened species, populations or ecological communities, or their habitats

The proposed modifications are not expected to impact on any threatened species, populations, ecological communities or their habitats.

A2.3 Section 79C(1) - Matters for consideration - general

In determining a development application, a consent authority must take into consideration the matters referred to in Section 79C(1) of the EP&A Act as are of relevance to the development:

S 79C(1)(a)(i) the provisions of any environmental planning instrument
The environmental planning instruments applicable to the proposal are <i>State Environmental Planning Policy (Kosciusko National Park – Alpine Resorts) 2007</i> (Alpine SEPP) and <i>State Environmental Planning Policy (Temporary Structures) 2007</i> (Temporary Structures SEPP). The proposal complies with the Alpine SEPP. An assessment of the proposal against the Alpine SEPP is contained in Section A3 of this report. The proposal also complies with the Temporary Structures SEPP. The matters for consideration under the Temporary Structures SEPP include restrictions on numbers of persons permitted to use a structure at any one time, noise, hours of operation, traffic & parking, security & crime, boundary setbacks, services, sanitary facilities and heritage. These matters have been considered in the assessment of the proposal against the provisions of the Alpine SEPP (Section A3 of this report) and Section 79C of the EP&A Act.
S 79C(1)(a)(ii) the provisions of any proposed instrument
None are applicable to the proposal.
S 79C(1)(a)(iii) the provisions of any development control plan
None are applicable to the proposal.
S 79C(1)(a)(iiia) the provisions of any planning agreement
None are applicable to the proposal.
S 79C(1)(a)(iv) the provisions of any regulations
The modification application has been assessed in accordance all relevant provisions of the regulations.
S 79C(1)(a)(v) any coastal zone management plan
The subject site is not within the coastal zone.

S 79C(1)(b) the likely impacts of that development

The matters generally considered within the provisions of Section 79C(1)(b) concerning the 'likely impacts of that development' have been assessed in detail in Section 6 of this report.

The proposed modification does not seek to change the location or scale of event (i.e. up to 7,000 patrons) previously assessed and approved to be held at the site.

The environmental impacts on the natural and built environment are considered to be acceptable and within the scope of impacts assessed as part of the original development consent. The Department also considers the modified development is likely to result in positive social and economic impacts on the locality through increased tourism and employment, particularly during the summer months.

S 79C(1)(c) the suitability of the site for the development

The proposed development is permissible with consent on the subject site. The proposal is also consistent with the relevant aims and objectives of the Alpine SEPP and Temporary Structures SEPP.

As above (see Section 6 of this report), Thredbo Alpine Resort and the site, Friday Flat, is considered an optimum location to hold outdoor entertainment events given that the majority of all the facilities and amenities required are already provided in one central location.

The site is serviced by existing infrastructure and utilities (e.g. water supply, wastewater treatment, electricity etc) that are designed cater for a peak of up to 7,000 visitors to the ski slopes during a busy weekend day in winter.

Car parking, transport interchange, ticket office and food & beverage facilities are also located at (or in the vicinity of) Friday Flat, further enhancing the suitability of the site to handle such events.

S 79C(1)(d) any submissions made in accordance with the Act or the regulations

The Section 96(1A) application was not required to be placed on public exhibition and no submissions were therefore received.

S 79C(1)(e) the public interest

The proposal is considered in the public interest as it is likely to result in positive social and economic impacts on the locality through increased tourism and employment, particularly during the summer months.

A2.4 Section 96(1A) – Modifications involving minimal environmental impact

Pursuant to Section 96(1A) of the EP&A Act, the consent authority may, on application being made by the applicant or any other person entitled to act on the development consent 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

The proposed modification is considered to be of minimal environmental impact. The Department's detailed environmental assessment is contained in Section 6 of this report.

(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

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. The Department's detailed consideration of this is contained in Section 6 of this report.
(c) it has notified the application in accordance with the regulations or any DCP if required There is not a DCP in place that requires the modification application to be notified.
(d) it has considered any submissions made within the notification period The modification application was not required to be notified.

A3 ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007

CI 2 – Aim and objectives:
The proposal, as modified, will still be in accordance with the aim and objectives of the Alpine SEPP.
CI 11 – Land use table
Outdoor 'entertainment facilities' are permissible with consent pursuant to Clause 11 of the Alpine SEPP and the Thredbo alpine resort land use table.
CI 14(1) – Matters to be considered by consent authority
(a) the aim and objectives of this policy, as set out in clause 2,
See discussion above under Clause 2.
(b) the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),
The proposed modification would result in minimal environmental impact and does not require any measures to mitigate environmental hazards that would impact on the natural environment.
(c) the cumulative impacts of development on existing transport, effluent management systems, waste disposal facilities or transfer facilities and existing water supply:
The proposed modification does not propose or result in any changes in this regard. Existing infrastructure and utilities (i.e. transport, waste, water supply and electrical) at the site has the capacity to cater for up to 7,000 visitors. Although unlikely in summer, under the existing conditions of consent, the maximum number of patrons at the site shall not exceed 7,000 at any one time.
(d) any statement of environmental effects,
The documentation supplied by the applicant is considered adequate to enable an assessment of the proposed modification.
(e) the character of the alpine resort,
The proposal includes the erection of temporary structures (for the duration of an event) which would not alter the character of the site or surroundings of the Thredbo alpine resort.
(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,
The proposal has been prepared in accordance with this policy. There are no geotechnical issues that arise in relation to the proposed development.
(g) any sedimentation and erosion control measures,
No earthworks or excavation are proposed.

(h) if stormwater drainage works are proposed,	
No stormwater drainage works are proposed.	
(i) any visual impact of the proposed development, particularly when viewed from the Main Range,	
The proposal includes the erection of temporary structures (for the duration of an event) which would result in minor and temporary visual impacts. Further, the site is not visible from the Main Alpine Range.	
(j) any significant increase in activities, outside of the ski season,	
The proposed modification aims to increase tourism in the alpine region, particularly over the summer months.	
The Department considers the modified development is likely to result in positive social and economic impacts on the locality through increased tourism and employment in summer, outside of the ski season.	
(k) if the development involves the installation of ski lifting facilities,	
The proposed modification does include any new ski lifting facilities.	
(m) if the development is proposed to be carried out on land in a riparian corridor:	
The site relating to the proposed modification is not located within a riparian corridor.	
CI 17 – Development applications referred to the Department of Environment, Climate Change and Water (DECCW)	
See Section 5.1 of the report.	
CI 26 – Heritage conservation	
European Heritage	The proposal will not impact on any European heritage items.
Aboriginal Heritage	The proposal will not impact on any Aboriginal heritage items.

Appendix B – Recommended modified conditions of consent