

6.0 NSW STATE LEGISLATION

The proposed facility is subject to DPE environmental planning instruments and regulations, in addition to the Commonwealth statutory framework. DPE are the consent authority for the proposal.

6.1 Environmental Planning and Assessment Act 1979

This Statement of Environmental Effects provides a summary of the matters for consideration set out in Section 79C of the Environmental Planning and Assessment Act 1979. This assessment clearly demonstrates that the development will have minor impacts and is a suitable use for the subject site.

The applicable Environmental Planning Instrument to the proposed use development is State Environmental Planning Policy (Infrastructure) 2007 ("the Infrastructure SEPP") and State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007 ("the Alpine SEPP").

Through the DPE, development applications are referred to the NPWS for review and comment before the DPE determines the application.

6.2 National Parks and Wildlife Act 1974

The *National Parks and Wildlife Act 1974* (NPW Act) is the governing piece of legislation concerning the operation, management and development of National Parks and natural conservation areas in NSW. Under this statute the National Parks and Wildlife Service (NPWS) is the designated manager of National Parks within NSW, including Kosciuszko National Park.

The NPW Act provides for leases, licences and easements for broadcasting and telecommunications facilities within National Parks.

Under Clause 153D, the Minister may approve the granting of a lease, licence or easement if the facility satisfies the following criteria. An assessment of the site and its compliance with these criteria is also provided.

The Minister has in the Deed of Lease with Kosciuszko Thredbo (KT) granted KT the rights to use the Premises to provide an Alpine and Summer Resort and Village and amongst other things to provide facilities and services to the public and the rights to enter into agreements with Utility Providers for the supply of Utility Services. As a result any lease or licence agreements for Utility Services in Thredbo are with KT and not NPWS.

- (a) *There is no feasible alternative site for the proposed broadcasting or telecommunications facility concerned on land that is not reserved under this Act, and***

Assessments of the area have indicated that there are no feasible alternative sites outside of the Park that will deliver the coverage needed most effectively. This is primarily due to the geographic restrictions of the area, availability of power and transmission, and the need to meet the technical requirements to ensure improved mobile coverage is achieved. The subject site is the only viable option for improved telecommunications coverage to Thredbo Village via deploying a permanent telecommunications facility at this location.

Co-location at Eagles Nest was discounted due to the site already being at capacity both technically and physically. Further infrastructure at this prominent site is considered undesirable.

- (b) *The site of any proposed above ground broadcasting or telecommunications facility covers the minimum area possible, and***

The proposed slimline monopole and equipment shelter will occupy a minimal building footprint given the proximity of the monopole and equipment shelter to each other. Ancillary equipment such as feeder cables will be installed underground between the slimline monopole and equipment shelter. The facility will therefore cover the minimum area possible.

- (c) *The proposed broadcasting or telecommunications facility is to be designed and constructed in such a manner as to minimise risk of damage to the facility from bushfires, and***

The subject site does not contain any immediate vegetation that may act as fuel to a potential bushfire. An adequate buffer zone has been provided around the proposed facility as to mitigate the risk of bushfire. The proposed telecommunications facility will not have a generator in use, and no fuel would be stored as a result.

- (d) *The site and construction of the proposed broadcasting or telecommunications facility have been selected, as far as is practicable, to minimise the visual impact of the facility, and***

The subject site and proposed facility are located within an area that already possess infrastructure in the form of the large Cat Shed maintenance workshop and existing ski lift structure. The subject site has also been chosen for the natural tree screening provided in front of the proposed site. The facility has been designed using non-reflective material and an appropriate colour-matched scheme so as to

limit its visual impact.

- (e) If feasible, an existing means of access to the proposed site of the lease, licence, easement or right of way is to be used, and*

Access to the site will continue to be through the existing 4WD access track from behind KT Pty Limited Thredbo Offices to the Cat Shed maintenance workshop and subject site.

- (f) The proposed broadcasting or telecommunications facility is essential for the provision of broadcasting or telecommunications services for land reserved under this Act or for surrounding areas to be served by the facility, and*

The remoteness of the location and its geographic restrictions has resulted in limited telecommunications coverage for the area. The existing facility located at the top of the Thredbo Ski Resort at Eagles Nest is the principle source of mobile reception to the Thredbo Village, and has proved to be inadequate during peak ski season times. The proposed permanent telecommunications facility is therefore considered to be essential for residents, visitors and business operators, and particularly for emergency services on the nearby ski slopes.

- (g) The broadcasting or telecommunications facility is to be removed and the site of the facility is to be restored as soon as possible after the facility becomes redundant (for example, due to advances in technology), and*

The proposed permanent telecommunications facility location has been carefully considered to meet current demand, and is best positioned to meet future demand. The facility will not impact on the site being utilised for alternative uses in the future, given the facility's minimal impact to the previously disturbed area and minimal building footprint.

- (h) The site of the proposed broadcasting or telecommunications facility has been selected after taking into account the objectives set out in any plan of management relating to the land concerned, and*

The proposal and its location have been considered with regard to *State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007* (refer to Section 6.4).

The relevant plan of management is *Kosciuszko National Park Plan of Management 2006* ("the Plan of Management"). Specifically, Part B Section 12.6 is relevant and an assessment of the Management Objectives set out in Section 12.6.1 is attached at Appendix E.

- (i) The proposed broadcasting or telecommunications facility is, if feasible, to be*

co-located with an existing structure or located at a site that is already disturbed by an existing lease, licence, easement or right of way on the land.

There are no other feasible co-location opportunities for the facility, considering the coverage objectives and existing sites. The proposed telecommunications facility, located adjacent to the Cat Shed maintenance workshop and existing ski lift structure, is considered to be an appropriate site given the existing infrastructure and disturbed land, access to transmission fibre and existing power, and existing mature vegetation present to partially screen the facility when viewed from Thredbo Village.

The proposed height, structure, and building footprint allows for other telecommunications carriers to collocate at a later date once the facility is established.

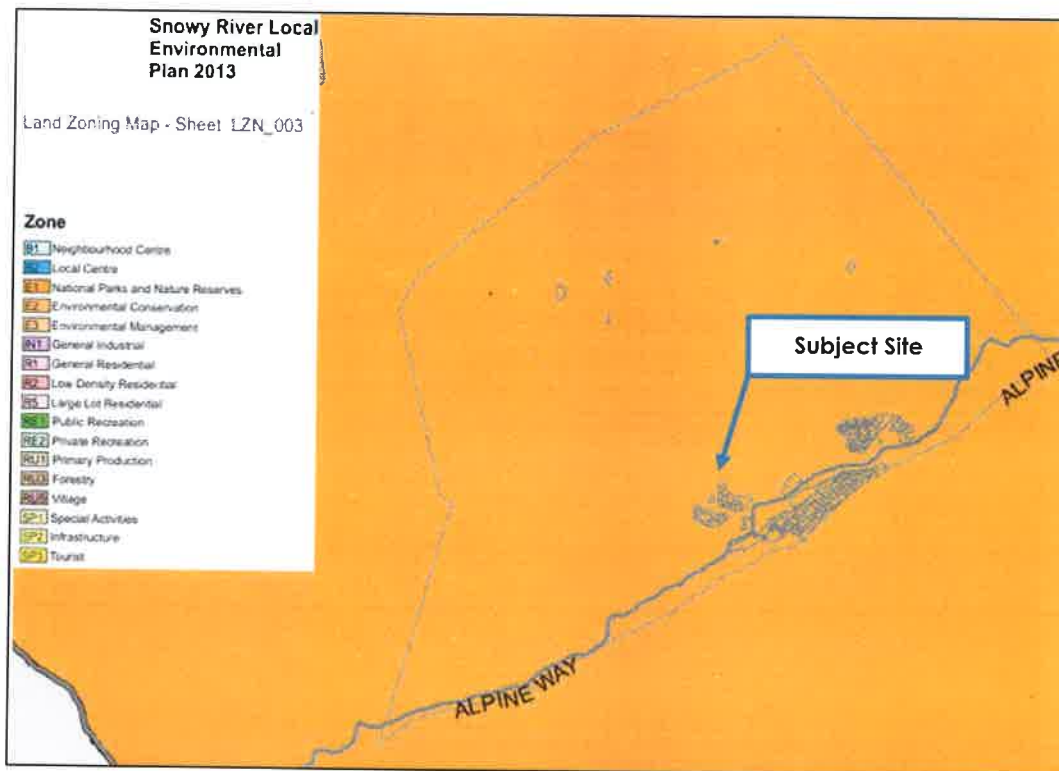


Figure 8: Snowy River Shire Zoning of Site (Source: Snowy River LEP 2013).

6.3 State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP was released in December 2007 with the purpose of simplifying planning controls for infrastructure developments and facilitating public consultation during the development assessment process. It also categorises 23 classes of infrastructure in an attempt to more efficiently deliver infrastructure and service facilities. 'Telecommunication and other communication facilities' have

been categorised as a class of infrastructure, where a telecommunications facility has been defined as;

“

- (1) any part of the infrastructure of a telecommunications network, or*
- (2) any line, optical fibre, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunication network.”*

Clause 115 Development permitted with consent allows for;

“

- (1) Development for the purposes of telecommunications facilities, other than development in Clause 114, may be carried out by any person with consent on any land.”*

Therefore the proposed telecommunications facility is consistent with the Infrastructure SEPP definition and would be considered as a development permitted with consent. In accordance with the development controls of the Infrastructure SEPP, it is necessary to submit a development application to the relevant consenting authority (i.e. the DPE).

The Infrastructure SEPP also contains operation principles in relation to telecommunications facilities. These principles are:

- *Principle 1: A Telecommunications facility is to be designed and sited to minimise visual impact:*

The proposed telecommunications facility location has been chosen due to its proximity to existing infrastructure including the Cat Shed maintenance workshop and existing ski lift structure. The proposed building footprint of the slimline monopole and equipment shelter is minimal, located adjacent to existing infrastructure, combined with surrounding vegetation provides natural screening elements to mitigate visual impact to the Thredbo Village.

- *Principle 2: Telecommunications facilities should be co-located wherever practical:*

While co-locating on existing telecommunications facilities is Optus' preferred option, there are no feasible options for co-location at this location. Optus have taken the opportunity to co-site this facility with existing infrastructure (Cat Shed maintenance workshop and ski lift structure).

The proposed height, structure, and building footprint allows for other

telecommunications carriers to co-locate once the facility is established.

- **Principle 3: Health standards for exposure to radio emissions will be met:**

An Environmental EME Report accompanies this application at Appendix C stating that the proposed telecommunications facility complies with the appropriate ARPANSA EME Standards.

- **Principle 4: Minimise disturbance and risk, and maximise compliance:**

This has been addressed in Section 8 Environmental Assessment of this Statement of Environmental Effects.

The above four (4) principles have been addressed in the relevant sections of this Statement of Environmental Effects and it is considered that the proposed Optus telecommunications facility complies with the Infrastructure SEPP and prescribed operational principles.

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

The subject site located adjacent to the Cat Shed maintenance workshop is identified as being part of the Thredbo Village, and therefore comes under the jurisdiction of the Alpine SEPP.

The relevant clauses contained within the Alpine SEPP are addressed below:

The overall aim of the policy is to:

"...protect and enhance the natural environment of the alpine resorts, in the context of Kosciuszko National Park, by ensuring that development in those resorts is managed in a way that has regard to the principles of ecologically sustainable development (including the conservation and restoration of ecological processes, natural systems and biodiversity)." (Clause 2 (1)).

Under Clause 11 Land Use Table of the Alpine SEPP, development for the purposes of *telecommunications facilities* is permissible with consent in this area.

The proposal is anticipated to have no additional impacts on the site and surrounding area. The proposed telecommunications facility will be deployed within disturbed areas of land previously developed from the adjacent maintenance workshop and existing ski lift structure. The proposed fibre transmission and power runs from the nearby Telstra fibre transmission conduits (transmission) and Cat Shed maintenance workshop (power) will involve trenching, however this will be located in previously disturbed areas of land, cleared of vegetation. Consequently, there will

be no significant impact on the existing biodiversity and natural systems and processes of the surrounding Kosciuszko National Park.

Clause 2 of the Alpine SEPP outlines the objectives of the policy as follows:

(a) To encourage the carrying out of a range of development in the alpine resorts (including the provision of services, facilities and infrastructure, and economic and recreational activities) that do not result in adverse environmental, social or economic impacts on the natural or cultural environment of land to which this Policy applies,

The proposal involves the provision of improved telecommunication infrastructure to Thredbo Village. This will enable visitors and locals to receive greater mobile coverage which will enable enhanced communications and a more reliable service within the area. The proposal will not have any adverse environmental or social impacts on the area. The siting of the facility will ensure that it has minimal impact on the surrounding resort and Kosciuszko National Park land uses. Improved telecommunications in the area will ultimately produce positive economic and social impacts, including greater connectivity to emergency services.

(b) To put in place planning controls that contribute and facilitate the carrying out of ski resort development in Kosciuszko National Park that is ecologically sustainable in recognition of the fact that this development is of State and regional significance,

The proposal complies with the provisions outlined within this policy, as discussed below. The proposal will not have any significant impact to the ecology and biodiversity of the Kosciuszko National Park.

(c) To minimise the risk to the community of exposure to environmental hazards, particularly geotechnical hazards, bush fire and flooding, by generally requiring development consent on land to which this Policy applies.

The proposal will not expose the community to any environmental hazards (See attached EME Report at Appendix C). As a result of the proposed telecommunications facility, improved coverage will be provided to NPWS staff and emergency services organisations. Consequently, this will enable more effective emergency responses in the instance of a bush fire, flooding or other environmental hazards.

Clause 14 - Matters for consideration:

Matters for Consideration	Response
<p>Cl.14 (1) In determining a development application that relates to land to which this Policy applies, the consent authority must take into consideration any of the following matters that are of relevance to the proposed development:</p>	
<p>(a) the aim and objectives of this Policy, as set out in clause 2,</p>	<p>The proposed works will be undertaken within highly disturbed areas in an established maintenance area of the Thredbo Village. The proposed development will allow for improved provision of services and rollout of infrastructure that will not result in adverse environmental, social or economic impacts.</p> <p>The development will therefore achieve compliance with the objectives set out in clause 2.</p>
<p>(b) the extent to which the development will achieve an appropriate balance between the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),</p>	<p>The proposed development will mitigate environmental hazards (e.g. geotechnical, bush fires or flooding) that would impact on the conservation of the natural environment.</p> <p>A Geotechnical Report has been undertaken to determine construction methods and is attached at Appendix F. In addition, an adequate buffer zone from nearby vegetation will be implemented, and telecommunications facilities are constructed of materials to withstand the outdoor alpine environment, including structurally rated for alpine conditions. The equipment shelter has an appropriately sloped roof for snow.</p>
<p>(3) having regard to the nature and scale of the development proposed, the impacts of the development (including the cumulative impacts of development) on the following:</p> <p>(i) the capacity of existing transport to cater for peak days and the suitability of access to the alpine resorts to accommodate the development,</p>	<p>The proposed telecommunications facility will not generate any additional demand on the capacity of the existing transport, reticulated effluent management system, existing waste disposal facility or existing water supply system at the resort.</p>

<p>(ii) the capacity of the reticulated effluent management system of the land to which this Policy applies to cater for peak loads generated by the development,</p> <p>(iii) the capacity of existing waste disposal facilities or transfer facilities to cater for peak loads generated by the development,</p> <p>(iv) the capacity of any existing water supply to cater for peak loads generated by the development,</p>	
<p>(4) any statement of environmental effects required to accompany the development application for the development,</p>	<p>This Statement of Environmental Effects satisfies this sub-clause.</p>
<p>(5) if the consent authority is of the opinion that the development would significantly alter the character of the alpine resort—an analysis of the existing character of the site and immediate surroundings to assist in understanding how the development will relate to the alpine resort,</p>	<p>The proposed telecommunications facility will not significantly alter the character of the Thredbo Alpine Resort. The facility is to be located adjacent to the large Cat Shed maintenance workshop and existing ski lift structure, with the landscape providing natural vegetation screening, therefore being integrated into both the built and natural environments of the Thredbo Alpine Resort.</p>
<p>(6) the Geotechnical Policy—Kosciuszko Alpine Resorts (2003, Department of Environment, Planning and Natural Resources) and any measures proposed to address any geotechnical issues arising in relation to the development</p>	<p>A Geotechnical Report has been undertaken to establish any issues in relation to construction the proposed facility at the subject site and is attached at Appendix F.</p>
<p>(7) if earthworks or excavation works are proposed—any sedimentation and erosion control measures proposed to mitigate any adverse impacts associated with those works,</p>	<p>Through the implementation of above standard sediment and erosion controls, impacts on the long-term management goals for the riparian land will not be impacted upon.</p>
<p>(8) if stormwater drainage works are proposed—any measures proposed to mitigate any adverse impacts associated with those works,</p>	<p>Not applicable, no stormwater drainage works are proposed or required.</p>
<p>(9) any visual impact of the proposed development, particularly when viewed from the Main Range,</p>	<p>The subject site has been chosen due to its proximity to existing infrastructure including the Cat Shed maintenance</p>

	<p>workshop and existing ski lift structure. The proposed building footprint of the slimline monopole and equipment shelter is minimal, located adjacent to existing infrastructure, combined with surrounding vegetation provides natural screening elements to mitigate visual impact to Thredbo Village.</p> <p>The proposed height, structure, and building footprint allows for other telecommunications carriers to co-locate once the facility is established.</p>
<p>(10) the extent to which the development may be connected with a significant increase in activities, outside of the ski season, in the alpine resort in which the development is proposed to be carried out,</p>	<p>The proposed telecommunications facility will significantly improve the capability of Thredbo Alpine Resort to increase activities outside of ski season. The constriction of this essential infrastructure will provide a level of coverage and service to visitors to the Thredbo Village that they experience in urban environments. This will enhance opportunities for Thredbo Alpine Resort to host other functions and activities, boosting the local economy outside of ski season.</p>
<p>(11) if the development involves the installation of ski lifting facilities and a development control plan does not apply to the alpine resort:</p> <ul style="list-style-type: none"> (i) the capacity of existing infrastructure facilities, and (ii) any adverse impact of the development on access to, from or in the alpine resort, 	<p>N/A - The development does not involve the installation of a ski lift.</p>
<p>(12) if the development is proposed to be carried out in Perisher Range Alpine Resort:</p> <ul style="list-style-type: none"> (i) the document entitled Perisher Range Resorts Master Plan, as current at the commencement of this Policy, that is deposited in the head office of the Department, and (ii) the document entitled Perisher Blue Ski Resort Ski Slope Master Plan, as current at the commencement of this Policy, that is deposited in the head office of the Department, 	<p>N/A – The proposed development is not located at the Perisher Range Alpine Resort.</p>

<p>(13) if the development is proposed to be carried out on land in a riparian corridor:</p> <ul style="list-style-type: none"> (i) the long term management goals for riparian land, and (ii) whether measures should be adopted in the carrying out of the development to assist in meeting those goals. 	<p>The proposed facility will be located in a disturbed area of land in which no undisturbed areas or riparian corridors of the Thredbo Village will be impacted upon.</p> <p>Through the implementation of standard sediment and erosion controls, impacts on the long-term management goals for the riparian land will not be impacted upon.</p>
<p>(2) The long term management goals for riparian land are as follows:</p>	
<p>(a) to maximise the protection of terrestrial and aquatic habitats of native flora and native fauna and ensure the provision of linkages, where possible, between such habitats on that land.</p>	<p>The proposed facility will be located in a disturbed area of land in which no undisturbed areas or riparian corridors of the Thredbo Village will be impacted upon.</p>
<p>(b) to ensure that the integrity of areas of conservation value and terrestrial and aquatic habitats of native flora and native fauna is maintained,</p>	<p>Through the implementation of standard sediment and erosion controls, impacts on the long-term management goals for the riparian land will not be impacted upon.</p>
<p>(c) to minimise soil erosion and enhance the stability of the banks of watercourses where the banks have been degraded, the watercourses have been channelised, pipes have been laid and the like has occurred.</p>	
<p>(3) A reference in this clause to land in a riparian corridor is a reference to land identified as being in such a corridor on a map referred to in clause 5 – See Map Below.</p>	

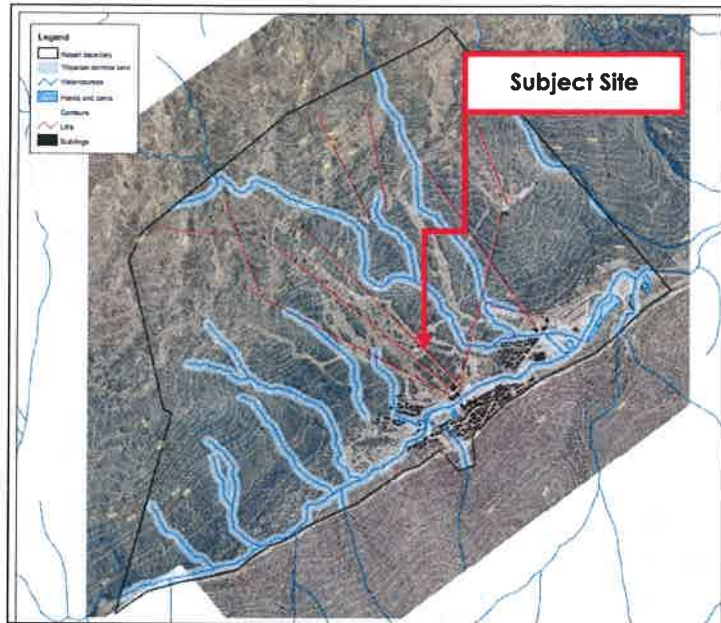


Figure 9: Thredbo Resort Riparian Corridors (Source: SEPP (Kosciuszko National Park Alpine Resorts) 2007).

6.5 Threatened Species Conservation Act 1995

The Threatened Species Conservation Act 1995 (“the TSC Act) commenced on 1 January 1996. The purpose of the TSC Act is to protect species, populations and ecological communities that are threatened with extinction in NSW. The main objectives of the TSC Act are to:

- Conserve biological diversity and promote sustainable development;
- Prevent the extinction of native plants and animals;
- Protect habitat that is critical to the survival of endangered species;
- Eliminate or manage threats to biodiversity;
- Properly assess the impact of development on threatened species;
- Encourage cooperative management in the conservation of threatened species.

The TSC Act provides for the facilitation of the appropriate assessment, management and regulation of actions that may damage critical or other habitat or otherwise significantly affect threatened species, populations and ecological communities.

As identified in the EPBC Act Protected Matters Report there are 15 Threatened Species and 1 Threatened Ecological Community within a 1km radius of the site.

The proposal will have no impact on these threatened species and ecological community. The proposed site is an existing developed area, being located in disturbed areas of land adjacent to the large Cat Shed maintenance workshop and existing ski lift structure. The property is located in a cleared area and no

vegetation removal is necessary, together with an appropriate buffer zone to nearby vegetation. It is therefore considered that the proposal will have no impact on any threatened species or ecological communities.