

# Development consent

## Section 80 of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, I grant development consent to the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.

Daniel James  
**Team Leader**  
**Alpine Resorts Team**  
**Department of Planning and Environment**

Jindabyne

2015

### SCHEDULE 1

|                              |   |
|------------------------------|---|
| <b>Application No.:</b>      | DA No. 6968   |
| <b>Applicant:</b>            | Kosciuszko Thredbo Pty Ltd  |
| <b>Consent Authority:</b>    | Minister for Planning   |
| <b>Land:</b>                 | Lot 865, Cat Shed, Thredbo Alpine Resort, Kosciuszko National Park  |
| <b>Type of Development:</b>  | Not integrated  |
| <b>Approved Development:</b> | Works including: <ul style="list-style-type: none"><li>• subdivision;</li><li>• construction of a telecommunications tower and ancillary equipment; and</li><li>• associated works.</li></ul> |

## DEFINITIONS

|  |                 |  |
|--|-----------------|--|
| Act                                      |                 | means the <i>Environmental Planning and Assessment Act, 1979</i> (as amended).   |
| Applicant                                |                 | means Kosciuszko Thredbo Pty Ltd.  |
| Approval Body                            |                 | has the same meaning as within Division 5 of Part 4 of the Act.  |
| BCA                                      |                 | means the edition of the Building Code of Australia in force at the time of lodgement of an application for a Construction Certificate.  |
| Certifying Authority                     |                 | has the same meaning as Part 4A of the Act.  |
| DA No 6968                               |                 | means the development application and supporting documentation submitted by the applicant on 4 February 2015.  |
| Department                               |                 | means the Department of Planning and Environment, or its successors.   |
| Director                                 |                 | means the Director of Industry and Key Sites or a delegate of the Industry and Key Sites within the Department.  |
| Minister                                 |                 | means the Minister for Planning, or nominee.   |
| OEH                                      |                 | means the NSW Office of Environment and Heritage, or its successors.   |
| PCA                                      |                 | means the principal certifying authority and has the same meaning as Part 4A of the Act.   |
| Regulation                               |                 | means the <i>Environmental Planning and Assessment Regulations, 2000</i> (as amended).   |
| Secretary                                |                 | means the Secretary of the Department, or nominee/delegate.  |
| Secretary's<br>agreement<br>satisfaction | approval,<br>or | means a written approval from the Secretary or nominee/delegate.   |
| Subject site                             |                 | has the same meaning as the land identified in Part A of this schedule.  |
| Team Leader                              |                 | means the Team Leader of the Alpine Resorts Team within the Industry and Key Sites division (or its successors) or a delegate of the Team Leader of the Alpine Resorts Team within the Department. |

## SCHEDULE 2

### PART A – ADMINISTRATIVE CONDITIONS

#### A.1 Obligation to minimise harm to environment

In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the construction or operation of the development.

#### A.2 Development in accordance with approved documentation and plans

The development shall be in accordance with the Development Application No. DA 6968 submitted by Kosciuszko Thredbo Pty Ltd on 4 February 2015 and 6 March 2015 in accordance with the supporting documentation submitted with that application and the Response to Submissions received on 8 July 2015 and 21 July 2015 including, but not limited to, the following:

| Ref No. | Document                                 | Title/Description   | Author/Prepared by           | Date            | Document Reference |
|---------|--|---|------------------------------|-----------------|--------------------|
| 1       | Statement of Environmental Effects (SEE) | Deployment of a Telecommunications Facility at Thredbo Village  | Catalyst O.N.E Pty Ltd       | January 2015    | S8596 Thredbo CBD  |
| 2       | Appendix B of SEE                        | Draft Site Layout   | Optus Mobiles Pty Ltd        | 7 November 2014 | S8596A-P1 Rev. 04  |
| 3       | Appendix B of SEE                        | Draft Site Elevation  | Optus Mobiles Pty Ltd        | 7 November 2014 | S8596A-P2 Rev. 04  |
| 4       | Appendix B of SEE                        | Below Ground Services   | -                            | -               | -                  |
| 5       | Appendix F of SEE                        | Geotechnical Investigation  | Martens & Associates Pty Ltd | January 2015    | P1504591 JR01 V01  |
| 6       | Appendix F of SEE                        | Geotechnical Policy - Kosciuszko Alpine Resorts<br><br>Form 1 – Declaration and certification made by geotechnical engineer or engineering geologist in a geotechnical report | Martens & Associates Pty Ltd | 21 January 2015 | -                  |
| 7       | Addendum to SEE                          | Addendum to Statement of Environmental Effects  | Catalyst O.N.E Pty Ltd       | 5 March 2015    | S8596 Thredbo CBD  |
| 8       | Subdivision Plan                         | Draft Lease Plan  | Optus Mobiles Pty Ltd        | 4 March 2015    | S8596A-L1 Rev. 01  |
| 9       | Response to Submission                   | Response to Office of Environment and Heritage comments   | Catalyst O.N.E Pty Ltd       | 7 July 2015     | -                  |

|    |                        |                                  |                            |              |   |
|----|------------------------|----------------------------------|----------------------------|--------------|---|
| 10 | Response to Submission | Response to Anonymous Submission | Kosciuszko Thredbo Pty Ltd | 21 July 2015 | - |
|----|------------------------|----------------------------------|----------------------------|--------------|---|

### **A.3 Inconsistency between documents**

If there is any inconsistency between the plans and documentation referred to above, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this approval prevail to the extent of any inconsistency.

### **A.4 Lapsing of consent**

This development consent will lapse five years from the date of consent, unless the building, engineering or construction work relating to the development is physically commenced on the land to which this consent applies before the date on which the consent would otherwise lapse.

### **A.5 Prescribed conditions**

All works shall comply with the prescribed conditions of development consent as set out in Part 6, Division 8A of the Regulation. In particular, your attention is drawn to:

- (a) clause 98, Compliance with Building Code of Australia; and
- (b) clause 98A, Erection of signs during building and demolition works.

### **A.6 Australian standards**

All works shall be carried out in accordance with current Australian Standards.

### **A.7 Legal notices**

Any advice or notice to the consent authority shall be served on the Secretary.

### **A.8 Setback to existing access track**

Installation of all required underground utility services, including all optic fibre transmission cables, located along existing access tracks will maintain a minimum 2 metre setback from existing vegetation islands.

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## **PART B – PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE**

### **B.1 Construction certificate**

Prior to the commencement of any work (including demolition, excavation, clearing, construction, subdivision or associated activities), a construction certificate for the development must be obtained.

### **B.2 Installation of optic fibre transmission route**

Prior to the issue of any construction certificate, the following information shall be submitted to, and be to the satisfaction of the Secretary:

- (a) details of the proposed method to install the required optic fibre transmission infrastructure cabling. The proposed method of installation (eg trenching, boring etc) shall demonstrate minimal impacts on the existing environment.

### **B.3 Design**

The structure, antennas and other ancillary equipment, where feasible and reasonable, shall be constructed from non-reflective materials. Details to be provided to the satisfaction of the certifying authority prior to the issue of any Construction Certificate.

### **B.4 Payment of the Long Service Levy**

Prior to the issue of any construction certificate, evidence shall be provided to the certifying authority, in the form of a receipt, confirming payment of the Long Service Levy to the Long Service Payments Corporation in accordance with Section 34 of the *Building Construction Industry Payments Act 1986*.

### **B.5 Structural detail and compliance with the BCA**

Prior to the issue of any construction certificate, all of the following information shall be submitted to, and be to the satisfaction of the certifying authority:

- (a) Structural drawings and design statement - Prepared and signed by an appropriately qualified practising structural engineer that comply with:
  - (i) the BCA;
  - (ii) development consent DA 6968;
  - (iii) drawings and specifications comprising the construction certificate;
  - (iv) current and relevant Australian Standards; and
  - (v) the geotechnical assessment at Reference 5 in Condition A.2.
- (b) Compliance with the BCA - sufficient details to demonstrate that the proposal complies with the relevant provisions of the BCA.

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## **PART C – PRIOR TO THE COMMENCEMENT OF WORKS**

### **C.1 Notification to Department of the date of commencement of works**

Both the PCA and the Secretary or nominee shall be given written notice, at least 2 days prior to works commencing on site, of the date that works are proposed to commence.

### **C.2 Environmental Officer**

Prior to the commencement of works, an appropriately qualified environmental officer shall be appointed and both the PCA and the Secretary or nominee shall be notified of this person.

### **C.3 Protection of adjacent vegetation areas**

Site management shall ensure that appropriate measures are in place to ensure that vehicles and machinery do not enter into areas of vegetation that are not part of the proposed development.

### **C.4 Construction environmental management plan (CEMP)**

- (a) Prior to the commencement of any works, a CEMP shall be prepared, submitted to and approved in writing by the PCA, and shall then be implemented.
- (b) In the event of an inconsistency between this development consent and the CEMP, this development consent prevails.
- (c) A copy of the CEMP must be submitted to the Secretary or nominee prior to the commencement of any works on the subject site.

## **C.5 Machinery**

Prior to commencement of works, machinery used during construction must be cleaned prior to entering Kosciuszko National Park and details provided to the PCA. Machinery used during construction works are to be regularly maintained and manoeuvred to prevent the spread of exotic vegetation.

## **C.6 Erosion and sediment control measures**

All erosion prevention and sediment control measures in place shall be checked regularly and maintained in good working order at all times. All exposed earth must be kept stabilised and revegetation must commence as soon as practicable. All straw bales used for sediment and erosion control must be certified as weed free.

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# **PART D – DURING CONSTRUCTION**

## **D.1 Approved plans and documentation to be on-site**

A copy of the following shall be kept on site at all times and shall be readily available for perusal by any person associated with construction works, or an officer of the Department:

- (a) the approved plans and documentation at Condition A.2; and
- (b) the CEMP (Condition C.4).

## **D.2 Construction hours**

All work in connection with the proposed development shall be carried out between the hours of 7.00am and 6.00pm on Monday to Friday inclusive, and 7:00am to 1.00pm on Saturdays, with no work allowed on Sunday or public holidays, or as otherwise approved by the Secretary.

## **D.3 Construction period**

- (a) All construction activities are limited to the "summer" period. For this development this period means commencing after the October long weekend and ceases no later than 31 May or as otherwise approved by the Secretary or nominee.
- (b) By 31 May the applicant shall ensure that the site is made safe and secure by undertaking the following:
  - (i) removal of all waste materials;
  - (ii) removal and/or securing of all stockpiles of soil and gravel;
  - (iii) demolition and construction materials are removed from around the building and are stored within the building or contained within designated areas;
  - (iv) the subject site is fenced with para-webbing or other suitable visible protection fencing around the perimeter of the site to limit access to and from the site;
  - (v) appropriate signage shall be erected outlining that unauthorised access to the site is prohibited and that the site is a construction zone;
  - (vi) any external scaffolding shall be dismantled and removed from the site;
  - (vii) all external plumbing and drainage works are to be completed;
  - (viii) all disturbed ground is stabilised and made erosion resistant;
  - (ix) any excavations are made safe and secure; and
  - (x) any other specific matters related to making the site safe and secure raised by the PCA or the Secretary or nominee.

## **D.4 Construction activities**

- (a) At all times, construction activities shall be undertaken in accordance with the approved CEMP and the requirements of Condition C.4.
- (b) All construction activities shall be confined to within the construction zone.

- (c) No disturbance is permitted outside the construction zone unless otherwise agreed by the Secretary or nominee.

#### **D.5 Work Cover**

All works shall be carried out in accordance with current Work Cover guidelines.

#### **D.6 Site notice**

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (a) the notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (b) the approved hours of work, the name of the principal contractor for the work (if any), and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice;
- (c) the notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted; and
- (d) the name, address and phone number of the PCA is to be identified on the site signage.

#### **D.7 Storage of materials**

The applicant shall ensure that at all times during the construction period that no storage or disposal of materials shall take place beneath the canopy of any trees or on native heath vegetation.

#### **D.8 Prohibition of hazardous materials**

Hazardous or toxic materials or dangerous goods shall not be stored or processed on any site at any time.

#### **D.9 Noise and vibration management**

Excavation and construction shall be managed in accordance with AS 2436 *Guide to noise and vibration control on construction, demolition and maintenance sites* and to ensure that there is not an adverse impact for any neighbouring/affected tourist accommodation buildings during the construction period.

#### **D.10 Litter and building waste**

Building waste shall be minimised and shall be contained in receptacles so as not to escape by wind or water. These receptacles must only be located in previously disturbed areas and not beneath the canopy or over roots of any trees. The receptacle must be cleaned regularly.

#### **D.11 Loading and unloading of construction vehicles**

All loading and unloading associated with demolition and construction shall be restricted to those areas approved in the CEMP and conditions.

#### **D.12 Aboriginal heritage**

Should any material suspected of being an Aboriginal relic or artefact become unearthed in the course of works, all works impacting the objects or artefacts shall cease immediately as per Section 90 of the *National Parks and Wildlife Act 1974*. The applicant must immediately contact the OEH to arrange for representatives to inspect the site. All workers on the site are to be made aware of this condition.

#### **D.13 Electrical works**

All electrical works shall be carried out by a qualified and licensed Electrical contractor and installed in accordance with the relevant Australian Standards.

#### **D.14 Erosion and Sediment Control Measures**

All erosion prevention and sediment control measures in place shall be checked regularly and maintained in good working order at all times. All exposed earth must be kept stabilised and re-vegetation must commence as soon as practicable.

#### **D.15 Protection of Native Vegetation**

Site management shall ensure that appropriate measures are in place to ensure that vehicles, machinery or persons do not damage or remove any native vegetation that is not part of this consent. The damage or removal of any native vegetation that is not part of this consent may warrant further action to be undertaken in accordance with the *National Parks and Wildlife Act 1974* or the *Environmental Planning and Assessment Act 1979*.

#### **D.16 Geotechnical requirements**

At all times works associated with the development shall comply with:

- (a) the Department's Geotechnical Policy; and
- (b) the Geotechnical Assessment in Condition A.2.

#### **D.17 Excavations and backfilling**

- (a) All excavating and backfilling shall comply with the following:
  - (i) shall be executed in a safe manner and in accordance with appropriate professional standards;
  - (ii) where excavations are to be left open overnight, provision shall be made so that any fauna entering these excavations can escape;
  - (iii) any excess excavated material is to be moved off-site for storage or disposal;
  - (iv) adequate provision shall be made for drainage; and
  - (v) all excavations shall be properly guarded and protected to prevent them from being dangerous;unless otherwise agreed in writing by the Secretary or nominee.
- (b) Any clean excavated material may be temporarily stockpiled at the site compound prior to its removal off-site.
- (c) Any clean excess fill shall be reused on site or disposed of at an authorised land fill site, and any contaminated spoil shall be disposed of at an authorised waste facility.
- (d) Imported fill material shall only be obtained from an Office of Environment and Heritage recommended source.

#### **D.18 Re-fuelling**

Appropriate controls shall be put in place to ensure no spillage when re-fuelling all vehicles, machinery associated with the works. Re-fuelling of vehicles shall be performed on hard-stand areas only.

#### **D.19 Rehabilitation and site establishment**

- (a) Site stabilisation and rehabilitation works shall commence, as soon as possible, following the completion of each section of work to minimise exposed areas.
- (b) Rehabilitation shall be undertaken in accordance with:
  - (i) the Rehabilitation Guidelines for the Resorts Areas, Kosciuszko National Park (NPWS 2007);
  - (ii) the SEE;
  - (iii) sod replacement should be undertaken where trenching is proposed;



- (iv) disturbed areas shall be adequately mulched and maintained with weed free straw until an erosion resistant ground condition is achieved; and
  - (v) these conditions of consent.
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## **PART E – PRIOR TO COMMENCEMENT OF USE**

### **E.1 Occupation certificate**

Prior to the occupation of the building or the commencement of use, an occupation certificate must be obtained from the PCA. A copy of the occupation certificate must be furnished to the Secretary prior to the occupation of the building or commencement of the use.

### **E.2 Rehabilitation**

- (a) Prior to the issue of any occupation certificate, the appointed environmental officer shall provide the PCA with a statement confirming:
  - (i) whether the initial rehabilitation has been undertaken in accordance with the approved documentation and these conditions of consent; and
  - (ii) whether the rehabilitation is considered satisfactory.
- (b) The PCA shall not issue an occupation certificate unless satisfied that all disturbed ground has been rendered erosion resistant and rehabilitated in accordance with the approved documentation and these conditions of consent.

### **E.3 Site Clean Up**

Prior to commencement of use, the subject site shall be cleaned up to the satisfaction of the PCA.

### **E.4 Removal of site notice**

Any site notices or other site information signs shall be removed upon completion of the site works and prior to the commencement of use.

### **E.5 Structural certification**

A structural engineer's certificate shall be submitted to the PCA prior to issue of any occupation certificate. This certificate is to verify that structural works have been completed in accordance with approved plans and specifications and comply with the provisions of the BCA and relevant standards. A copy of the certificate is to be submitted to the Secretary with the Occupation Certificate documentation.

### **E.6 Electrical Certification**

Prior to the issue of any occupation certificate, certification prepared and signed by an appropriately qualified electrician shall be submitted to the PCA. The certificate shall indicate that all electrical works have been installed by a qualified and licensed electrician and installed in accordance with the relevant Australian Standards.

### **E.7 As built survey plan**

Prior to the issue of any occupation certificate, an as built survey plan of the constructed development is to be furnished to the Secretary or nominee.

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## **PART F – OPERATIONAL MANAGEMENT**

### **F.1 Signage**

- (a) The Applicant shall ensure that appropriate signage warning of electromagnetic energy is erected in accordance with the requirements of *Industry Code C564:2011 Mobile Phone Base Station Deployment*.
- (b) The Applicant shall provide a permanent and legible weatherproof sign in the immediate proximity of the telecommunications facility that identifies the name and contact details of the operator of the telecommunications facility. The sign shall be publicly visible.

### **F.2 Access**

The Applicant shall ensure that access to the telecommunications facility is controlled in accordance with the requirements of *Industry Code C564:2011 Mobile Phone Base Station Deployment*.

### **F.3 Electromagnetic Radiation**

At all times, any electromagnetic radiation and/or radiofrequency radiation emitting from any equipment within or on the building, cumulatively shall not exceed the limits stipulated in the current and relevant legislation, standards and codes. As of the date of this consent, the current and relevant standards and codes include (but not limited to):

- (a) *Radiation Protection Standard – Maximum Exposure Levels to Radiofrequency Fields 3 kHz to 300 GHz* (2002); and
- (b) *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard* (2003, and as amended in 2007).

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## **PART G – SUBDIVISION CERTIFICATE**

There are requirements which must be satisfied before the Department may issue the Subdivision Certificate pursuant to Section 109J of the Environmental Planning & Assessment Act 1979 in respect of a subdivision.

### **G.1 Application Form**

Prior to the lodgement of the Plan of Subdivision for registration under Division 3 of Part 23 of the Conveyancing Act 1919 for the lease area, the applicant shall obtain a Subdivision Certificate from the Department in accordance with Section 109D(1)(c) of the Environmental Planning and Assessment Act 1979.

An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate and charges must accompany such application.

For the Department to process applications for these certificates the following fees would be payable:

**Subdivision Certificate**      \$330.00 (excluding GST)

The applicant shall obtain any certificates as required to satisfy the conditions of this Consent with respect subdivision certificate.

## **G.2 Final Plan of Subdivision**

A Final Plan of Subdivision shall be prepared in a suitable form for registration by Land and Property Information and submitted to the Department with the application for a Subdivision Certificate as follows:

- (a) Four (4) paper copies of legible (min. A2 size) final Plans of Subdivision, drawn by a qualified registered surveyor, are to be submitted to the Department of Planning.
- (b) Two (2) linen plans of the final Plan of Subdivision for endorsement.
- (c) One (1) plan identifying the location of all buildings (proposed and existing) and/or other permanent improvements including fences and internal access driveways/roads.

## **G.3 88B Instrument**

The Applicant shall provide an instrument under Section 88B of the Conveyancing Act setting out terms of easements and/or restrictions as to user as may be required by conditions of this consent. The Department be a party empowered to release, vary or modify those (and only those) easements and/or restrictions required by conditions of this development consent.

## **G.4 Service of Public Utilities**

The Applicant shall ensure that appropriate easements are created for water, sewer, electricity, telephone, and the like by arrangements with the relevant service authority or service company.

The Applicant shall ensure that the requirements of each service authority and service company for easements are indicated on the Final Plan of Subdivision and associated Section 88B Conveyancing Act 1919 Instrument which shall be submitted to the Department for approval.

A letter of compliance from each service authority and service company shall be submitted to the Department prior to the issue of a Subdivision Certificate.

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## **ADVISORY NOTES**

### **AN.1 Appeals**

The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the Environmental Planning and Assessment Act, 1979 and the Environmental Planning and Assessment Regulation, 2000 (as amended).

### **AN.2 Responsibility for other consents / agreements**

The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

### **AN.3 Other approvals and permits**

The Applicant shall apply to the relevant authority for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.

### **AN.4 Disability Discrimination Act**

The applicant has been assessed in accordance with the Environmental Planning and Assessment Act, 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The Applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not

catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS 1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.

#### **AN.5 Utility services**

- (a) The applicant shall liaise with the relevant utility authorities for electricity, gas (if relevant), water, sewage, telecommunications, and the fire hydrant on the subject site:
  - (i) to locate all service infrastructure on the subject site;
  - (ii) arrange connection to these services for the development where relevant; and
  - (iii) negotiate relocation and/or adjustment of any infrastructure related to these services that will be affected by the construction of the development.
- (b) The applicant and/or the lessee are responsible for costs associated with relocating any services.