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Our reference: DOC17/292693
EF17/4112

Dear Mark

S96 (1A) Modification - MOD 8364 (DA 6114 Mod 3) - Variation of trail alignment of section 3, Trail 13, Stage 1A Mountain Bike Trails, Thredbo

I refer to the above application to modify development consent for DA 6968 forwarded to the Office of Environment and Heritage (OEH) for provision of comments in accordance with *State Environmental Planning Policy (Kosciuszko National Park - Alpine Resorts) 2007*. OEH have reviewed the application documentation and provide the following comments.

Modification as a Section 96 (1A)

OEH does not support the proposal under Section 96 (1A) Modification (MOD) as is currently presented. The proposed works, especially the removal of 680m² of native Subalpine Woodland vegetation, are not considered by OEH to be minimal impact and are greater than the provisions set out in section 96(1A). OEH are concerned about the precedent this may set for future referrals and suggests that the proposed works are better suited as a Section 96 (2).

The original DA approval for sections 2 and 3 of Trail 13, was for an approximate 4147m² of native vegetation disturbance. MOD 6971 (DA 6114 MOD 1) reduced the native vegetation disturbance by 280m². Therefore, before this MOD, the total vegetation removal for Trail 13 (sections 2 & 3 only) was 3867m². The proposed additional removal of 680m² is a nearly 18% increase on the original DA approval and is not considered by OEH to be a marginal increase.

As the consent authority must consider matters referred to in section 79C (1) of the *Environmental Planning and Assessment Act 1979* for Section 96(1A) or Section 96 (2) Modifications, the following comments are provided.

Fauna and Flora

Native vegetation removal

To protect the existing trees, surrounding native vegetation and sensitive Riparian Scrub the following conditions are recommended:

- Track alignment should avoid tree removal where possible;
- Tree roots must be protected within the timbered areas either through armouring or other construction methods;
- the Subalpine Riparian Scrub, associated with a tributary of the Merritts Creek, must be avoided, protected by a 10m buffer and should not be included in the 20m disturbance corridor;

- All vegetation removed must either be cut into smaller pieces to be used for rehabilitation or it must be removed from site completely. (Cut vegetation should not be 'dumped' on the side of the trail);
- Trees and vegetation should not be felled/removed in a manner which damages other surrounding vegetation;
- All trees must be checked for fauna habitats and fauna by the Environmental officer immediately prior to felling.

Rehabilitation and Offsets

In line with original consent condition D.5 of DA 6114 determination, a rehabilitation and offsets plan should be developed. Due to the large quantity of native vegetation clearing proposed a revised rehabilitation and environmental offsets plan, requiring OEH endorsement, should be developed that includes site specific details. This plan should incorporate the appropriate offsets for the 680m² of additional clearing. Noting that offsets were recommended in accompanying flora and fauna assessment by Eco Logical, however the Modification Planning Report does not reflect this.

Note: The rehabilitation of the redundant track is likely to take a long time to return to its natural, pre-works condition. Rehabilitation of the redundant track is a requirement of the original DA (DA 6114) consent (Ancillary Works Guideline) and should not be considered as an offsetting factor for the modification.

Soil removal and management

OEH recommends the addition of a condition similar to D.12 from DA 6175 determination (Stage 1B) for appropriate soil removal management as per below:

D.12 Soil removal and disposal.

- (a) All soil removed to make the trail should be reused directly in the further construction of the trail.
- (b) No soil shall be stockpiled along the trail except at approved stockpiling sites.
- (c) If soil needs to be stockpiled for later use then it shall be categorised (for appropriate future use e.g. topsoil for rehabilitation) and stored at a location in the Thredbo Alpine Resort for re-use on the trails.

The following addition to this condition is suggested – d) 'if soil is required to be brought in from other Thredbo stockpile sites then this soil should be from the similar altitude and ecosystem.'

Machinery, equipment and materials

To minimise weed vectors and other quarantine issues, all machinery used during construction must be cleaned prior to site mobilisation to ensure the machinery is free of mud and vegetative propagules.

All materials and equipment must be stored within the trail disturbance area and must not be stored outside of the trail width on native vegetation. OEH recommends a condition similar to A.12 from the DA 6175 determination.

Construction Period

The construction period should be limited to the 'summer' period and must not commence when snow is location on the trail alignment. A condition similar to D.3 from the DA 6175 determination is recommended.

Materials and stabilising agents.

Imported gravel must be free from weeds and pathogens and the use of soil stabilising agents is not permitted without OEH endorsement.

Ongoing consideration in MTB trail management

The increase of the Thredbo Mountain Bike trail networks, especially into areas of thick native vegetation, is likely to facilitate and increase the spread of weeds and predators into these areas. An increased commitment from the Thredbo Resort to weed and predator quarantine and control is required to assist in mitigating potential impacts on native flora and fauna.

Aboriginal Cultural Heritage

Aboriginal Cultural Heritage has not been addressed in the Modification Planning Report. Due Diligence in determining if the proposed works will harm Aboriginal objects has not been demonstrated. The new trail is going into a previously undisturbed area with soil disturbance and excavation works and therefore Aboriginal Cultural Heritage requires assessment.

As such, on behalf of OEH, we provide this for your Report to facilitate the full consideration of this proposal in a timely manner.

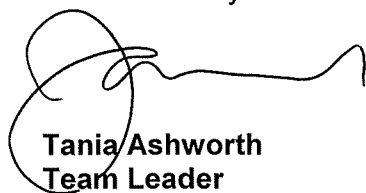
The proposed development area contains no known Aboriginal sites and The 'Cultural Heritage Due Diligence Assessment for Thredbo Bike Trails Stage 1, Kosciuszko National Park, NSW' (Barber 2013) identified areas of steep slope as having limited archaeological potential. In addition there were no recommendations in the Barber report for the area of the proposed MOD works. However, should any Aboriginal objects be uncovered during construction, any works impacting the objects must cease immediately and the NPWS contacted for assessment of the site.

Leasing

The proposal is permissible under the head lease held by Kosciuszko Thredbo Pty Ltd.

If you have any enquires regarding this matter, please contact the Assessments Coordinator, Rebecca Owen on 6450 5543.

Yours sincerely



Tania Ashworth
Team Leader
Resorts Environmental Services Team
26 May 2017

