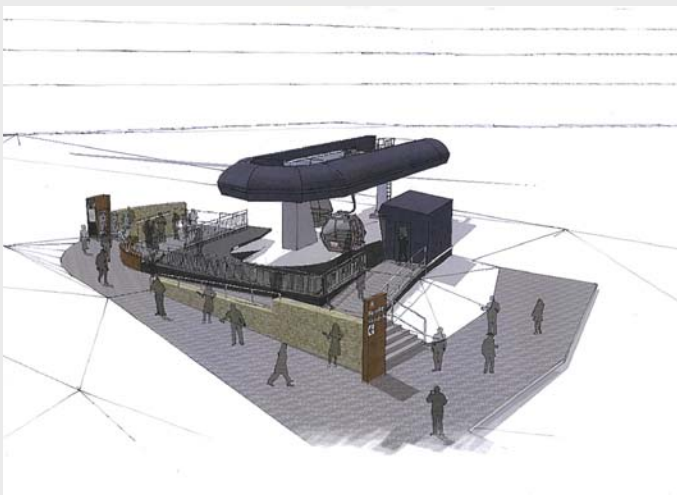


S.4.55 MODIFICATION REPORT

S.4.55 MODIFICATIONS TO DA 9130

REPLACEMENT OF THE MERRITTS DOUBLE CHAIRLIFT WITH A GONDOLA LIFT & ASSOCIATED WORKS THREDBO ALPINE RESORT KOSCIUSZKO NATIONAL PARK



AUGUST 2019

Project: 01-18

Dabyne Planning Pty Ltd

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REPLACEMENT OF THE MERRITTS DOUBLE CHAIRLIFT WITH A GONDOLA LIFT & ASSOCIATED WORKS THREDBO ALPINE RESORT KOSCIUSZKO NATIONAL PARK

This report has been prepared by:

A handwritten signature in black ink, appearing to read 'I. Pasaich', is positioned above a horizontal line.

Ivan Pasaich
Principal
Dabyne Planning Pty Ltd

AUGUST 2019

Project: 01-18

Dabyne Planning Pty Ltd

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Appendix A Fauna and Flora Assessment

1. Introduction

Dabyne Planning Pty Ltd has been engaged by Kosciuszko Thredbo Pty Ltd (KT), the head lessee and operator of the Thredbo Alpine Resort to prepare a S.4.55 Modification report in relation to modifying the development consent for DA 9130 for the replacement of the current Merritts double chairlift with a new detachable gondola lift plus associated works.

The S.4.55 Modification is in response to further detailed design in relation to the top, middle and bottom stations, as well as a change in the Geotechnical assessment report for the lift construction.

To allow for the proposed amendments, a S.4.55 Modification has been prepared.

2. Background

In January 2019, development consent for the replacement of the replacement of the current Merritts double chairlift with a new detachable gondola lift plus associated works was granted (DA 9130).

KT have entered a contract with Doppelmayr to commence construction of the lift in October 2019, to open for the 2020 winter season.

3. The Site

The subject site is located between Valley Terminal on the valley floor, to the north of Thredbo River and adjacent to the Snowgums and Kosciuszko Express chairlift bottom stations up to the base of the Merritts ski area, adjacent to the Merritts restaurant.

An aerial map of the resort is provided in figure 1 with the subject site highlighted.

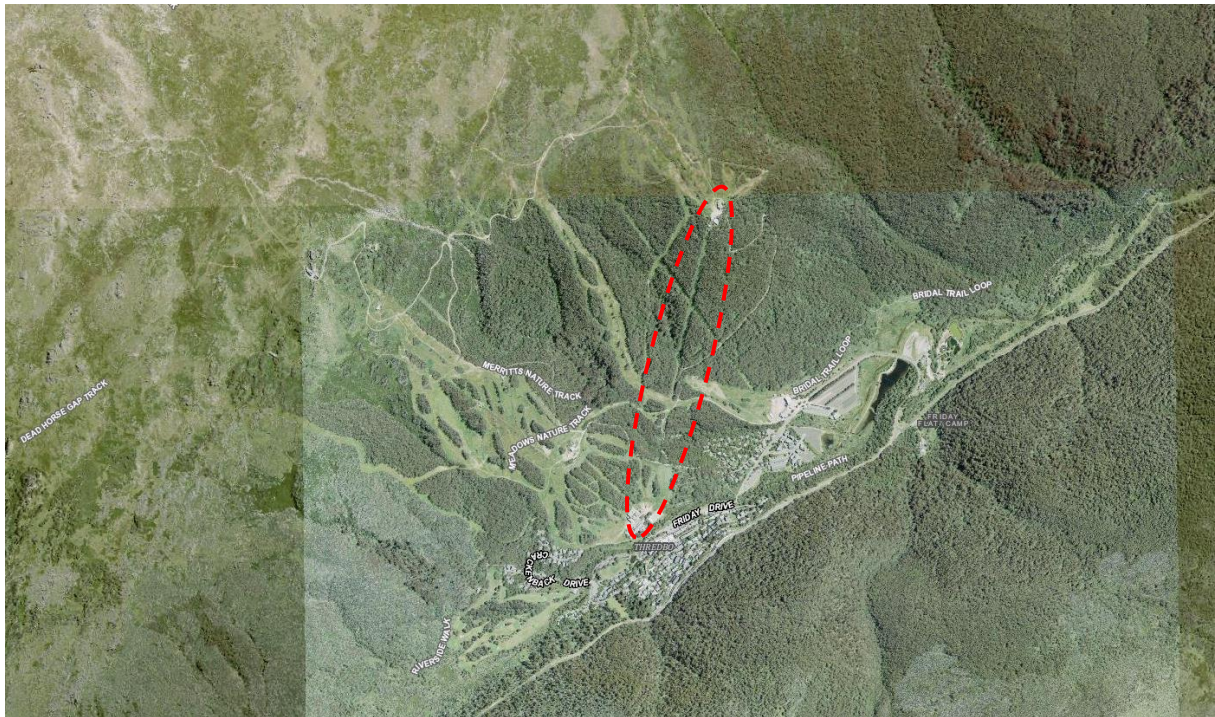


Figure 1: Location of the subject site in context with the wider locality

The site is located between an altitude of 1367m and 1664m [AHD] with the upper tributaries of Merritts Creek located below the chairlift alignment and Thredbo River located approximately 50m from the bottom station, as shown in figure 2 below.

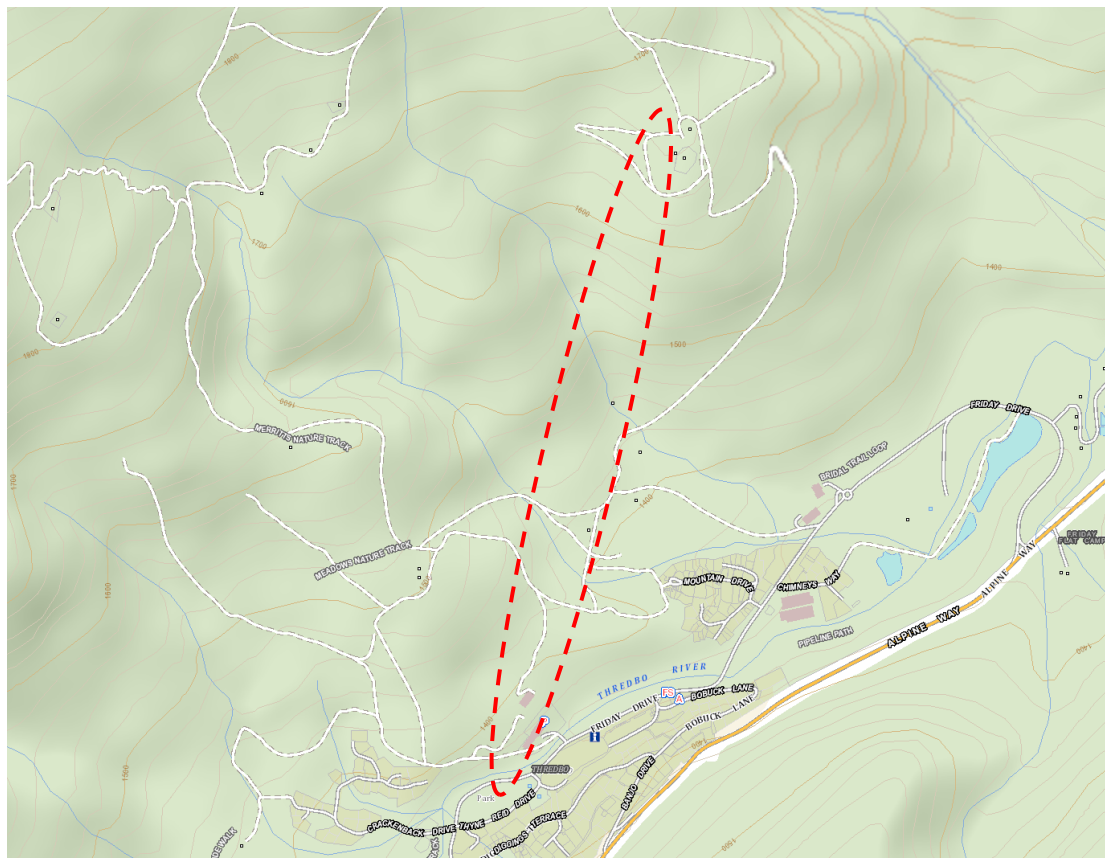


Figure 2: Topographic map of the subject site in context with the resort

The site is largely disturbed as a result of the historic disturbances associated with the existing chairlift as well as the wider resort infrastructure including access tracks and ski runs as illustrated in figure 3 below. The lower half of the existing lift is located primarily over highly disturbed ski runs and roads, with the upper half located over a previously disturbed corridor with native ground cover, utilised as a ski run in winter.

Native vegetation within the site comprises of a of variety vegetation communities with Subalpine Woodland vegetation being the predominant vegetation community.

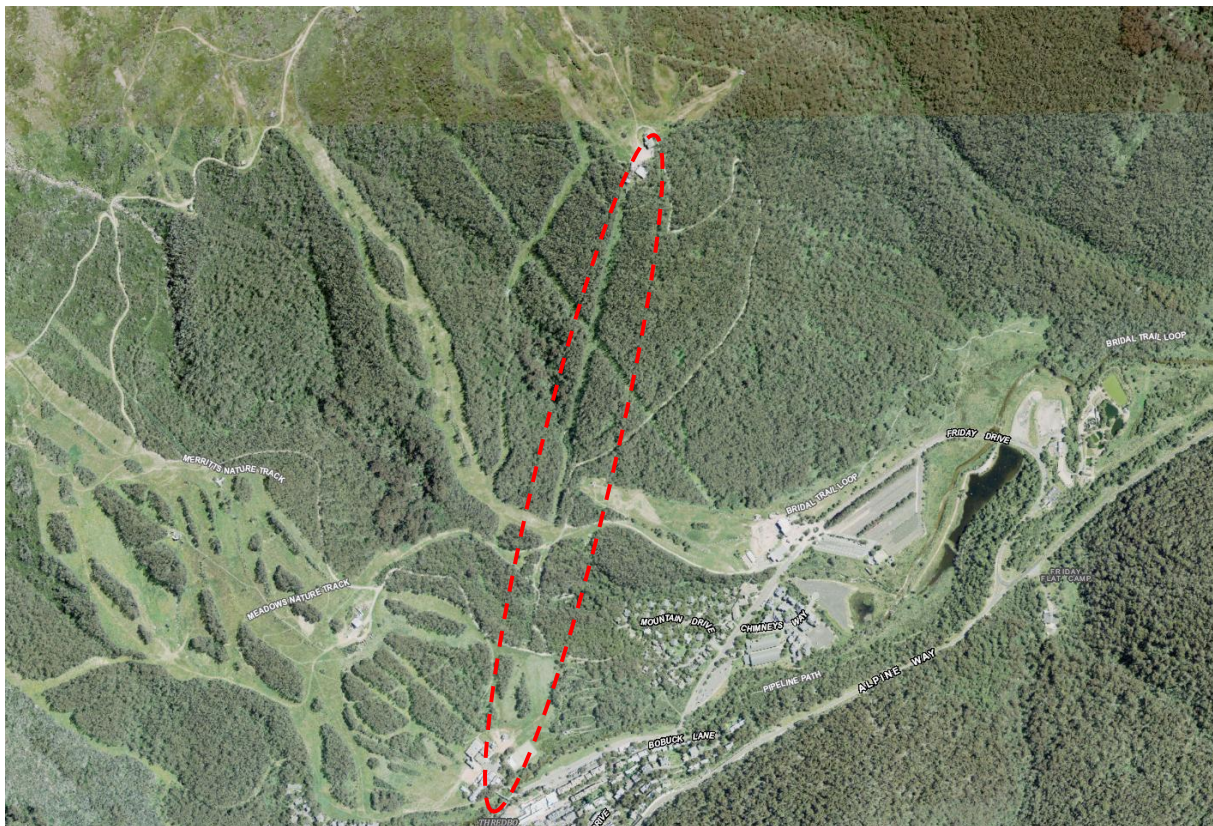


Figure 3: Location of the subject site in context with the resort

In context with the ski resort, the site is located between Valley Terminal and the base of the Merritts ski area and associated Cruiser chairlift on the same alignment of the current Merritts double chairlift as illustrated in the trail map provided below in figure 4.



Figure 4: Location of the subject site in context with the ski resort (trail map)

4. Proposed Modifications

Modified Project Components:

Top Station:

In June 2019, Event Hospitality and Entertainment, the parent company of KT secured approval for the redevelopment of the Merritts Restaurant under DA 9757.

The approved redevelopment of the restaurant included raising the floor height of the restaurant by 500mm to match the floor level of the Gondola to provide direct on grade access with the Gondola deck level, removing the need for steps and ramps between the structures.

As the construction of the Merritts Restaurant has been delayed, the Gondola will be constructed the upcoming summer of 2019/2020 and open for the 2020 winter season with the existing Merritts Restaurant operating.

To improve access between the Gondola and the existing restaurant building, the approved deck, ramp and stairs are proposed to be modified and enlarged, providing on grade access to the existing Merritts Restaurant.

Top Station Electrical & Communications Services:

Further detailed analysis for the electrical needs for the Gondola development has identified that two new Electrical transformers (kiosk substations) are necessary to be installed as standalone structures.

The kiosks are mounted on flood plain plinths to satisfy Essential Energy requirements to lift them out of the snow and therefore sit 500mm above the ground with an overall height of approx. 2.3m. These are required to be located adjacent to the current transformer building and deck.

In addition, the Gondola requires a new communications cable and therefore a trench between the Cruiser Chairlift and the Gondola top station as well as the existing low voltage power cable re-trench, both located within the highly disturbed ski slope is required.

Ski Patrol Building & Services:

The approved ski patrol building has been slightly re-positioned and orientated to the north, wholly located within the highly disturbed ski slope.

As the services (water, sewer, power and communications) for the ski patrol building were included in the approval for the Merritts Restaurant DA (DA 9757) and the restaurant building is not planned for construction for the upcoming 2019/20 summer, the approved services need to be included in the modifications to the Gondola DA. These services have been located in the same corridor as previously approved under DA 9757, being the disturbed corridor below the rock wall.

These services also include the installation of a sewer pump station to service the ski patrol building and water tanks.

Mid Station:

Further detailed construction and structural design has been undertaken by Doppelmayr, including a detailed cut and fill analysis around the chair shed.

This has resulted in the batter slopes being required to be extended to accommodate the structural support of the chair shed as well as improving the skier access to and from the mid-station from the High Noon ski run.

The modified design includes an increased setback between the chair shed and mid-station to accommodate a 6m wide grooming machine.

The revised design of the chair shed, and its associated earthworks will require a small amount of additional Sub-alpine Woodland vegetation being removed, the most common vegetation type across Thredbo and the region. The additional vegetation removal has been assessed in the fauna and flora assessment undertaken by Ryan Smithers, Senior Ecologist with Eco-Logical Australia and provided in Appendix A. This assessment has concluded that the additional clearing is of minimal environmental impact.



Figure 5: Additional clearing as part of the chair shed revised design



Figure 6: Additional clearing as part of the chair shed revised design and improved skier access

Slope Works:

The earthworks undertaken at the mid station will generate approximately 2000m³ of surplus spoil. Rather than transport this off the mountain, it is proposed to use this earth to re-profile the adjacent section of the High Noon and Giddy-Up ski runs. This will be undertaken within a highly disturbed ski run and is more efficient and sustainable use of excess spoil.

The fill area has been mapped and will cover approximately 2147m² (therefore with an average depth of less than 1m) with a plan provided.

Bottom Station:

To improve access to and from the bottom station, the pedestrian access arrangements including both the stairs and ramp have been subject to a further detailed design with minor amendments included.

This includes the installation of identification signage, as illustrated in the rendered drawings prepared by DJRD Architects with an extract provided below.



Figure 7: Rendered image of the modified bottom station

Geotechnical Assessment:

The Geotechnical Assessment undertaken by JK Geotechnics has been replaced by a new assessment undertaken by Asset Geotechnical, including a Form 1.

Site Environmental Management:

The proposed modifications and further detailed design as well as conditions of consent require minor changes to the Site Environmental Management Plan, including but not limited to:

- Change in reference to an 'excavator' rather than a rubber tracked 'excavator' under 'Restricted Access' (3.6.7) which will be limited to being walked down and walked back up only once. A rubber tracked excavator such as a Spider is not available in the size required for the project.
- Change in the Diagrammatic Plan for the Lower Mountain, with the use of additional tennis courts for temporary construction/staff vehicle parking.
- Change in the Diagrammatic Plan for the Mid Mountain with the Secondary Staging and Site Compound relocated to accommodate the slope works.

- Change in the Diagrammatic Plan for the Upper Mountain with the Secondary Staging and Site Compound relocated to accommodate other construction projects.

Accordingly, condition C.2 is no longer necessary and can be deleted as set out below.

Conditions to be amended/deleted

In accordance with the above modifications, the following conditions are sought to be amended/deleted as follows:

A.2 – Development in Accordance with Approved Documents and Plans:

Request: Amend.

Reason: Amend the condition to reflect the modified plans and reports provided.

A.8(b) – Excluded from the Proposal:

Request: Amend.

Reason: Delete A.8(c) as the modified carrier shed requires earth batters.

B.6 – Geotechnical – Further Investigation:

Request: Delete.

Reason: The revised Geotechnical Report has included the necessary further investigations regarding the bottom station.

B.9 – Carrier Shed at Mid-Station:

Request: Amend.

Reason: All the dimensions in (a) to (c) are to be revised in accordance with the revised mid-station plans.

B.9(d) is required to be deleted as the modified design includes earth and rock batters.

C.2 – Site Environmental Management Plan

Request: Delete.

Reason: A modified Site Environmental Management Plan (SEMP) has been prepared and provided with the subject S.4.55 Modification Application.

The modified SEMR removes the need to provide an updated SEMR, with a response to each requirement of Condition C.2 provided below:

(i): This revised DSEMP is consistent with the requirements of the “Guideline for Preparation of Environmental Management Plans”, DIPNR 2004, noting those Guidelines are only applicable for a development requiring an Environmental Impact Statement (EIS), usually a ‘Designated Development’.

(ii): No changes are necessary as a result of the conditions that are not proposed to be modified/deleted that would warrant further precise description of the construction techniques and activities already approved.

(iii): An environmental risk assessment has been provided in the SEMP.

(iv): Additional environmental Monitoring details will be provided as required under Condition C.9.

(v) Wet weather/adverse weather contingencies have been provided in the SEMP.

(vi) No other matters as a result of the conditions of consent, that are not sought to be amended/deleted warrant further information.

C.17 – Ski Slope Plan [associated with Mid-Station]:

Request: Delete.

Reason: The modified plans provide the necessary details for works on the ski slopes, consistent with other ski slope works already approved in both Thredbo and Perisher resorts.

5. Key Matters for Consideration

5.1 Flora and Fauna

A flora and fauna assessment of the proposed modifications has been undertaken by Ryan Smithers, Senior Ecologist with Eco Logical Australia.

This assessment is provided in full in Appendix A and has determined that the proposed modifications will affect only a small area, estimated to be approximately 500m² in total, of common Subalpine Woodland vegetation, surrounded by ski slopes and lifting infrastructure.

Subalpine Woodland is the most common vegetation community within the subalpine area in the locality and region, covering an estimated 443ha (4,430,000m²) within the Thredbo Resort alone. The represents 0.01% of the vegetation community within the resort.

The assessment concluded that the *‘proposed additional clearing will not result in any significantly adverse impacts on fauna habitats as no important threatened fauna habitat resources will be affected and the habitats to be affected are widespread in adjoining areas’*.

‘In summary, the additional impacts associated with the proposed modification are considered to be of minimal environmental impact’.

In accordance with the Biodiversity Conservation Act 2016, the proposed modifications do not trigger the Biodiversity Offsets Scheme (BOS) as the development site is not mapped as comprising High Biodiversity Value and the additional and/or total clearing does not exceed the threshold of 1ha, with the development lot being larger than 40ha.

With the BOS not triggered, additional offset measures for the proposed modifications are not required.

5.2 Aboriginal Cultural Heritage

The proposed modifications will not generate any additional impacts on Aboriginal cultural heritage values with the recommendations provided as part of the original Aboriginal Heritage Due Diligence Assessment, prepared by Past Traces in February 2018 are able to be incorporated in modified development.

5.3 Ecologically Sustainable Development

The proposed modified development is substantially the same development as approved and accordingly can achieve compliance with the accepted principles of ecologically sustainable development.

5.4 Geotechnical Engineering

The Geotechnical Assessment undertaken by JK Geotechnics has been replaced by a new assessment undertaken by Asset Geotechnical, including a Form 1 which refers to the modified plans (where relevant).

6. Assessment under S.4.15 of the EP&A Act, 1979

Section 4.15 EP&A Act, 1979 – Matters for Consideration:

SECTION 4.15(1)(a)(i) – ENVIRONMENTAL PLANNING INSTRUMENTS

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

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

Being substantially the same development as that approved, the proposed modifications generally remain consistent with the key environmental planning controls applicable to the site and development as discussed below.

Clause 14 - Matters for consideration:

Matter 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><i>The proposed modifications are considered to be consistent with the aims and objectives of the Policy as the development will be substantially the same as approved.</i></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><i>The proposed modifications do not require any additional measures to mitigate environmental hazards such as flooding, bush fires or geotechnical hazards that would impact on the conservation of the natural environment.</i></p>
<p>c) 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> <ul style="list-style-type: none"> (i) the capacity of existing transport to cater for peak days and the suitability of access to the alpine resorts to accommodate the development, (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, (iii) the capacity of existing waste disposal facilities or transfer facilities to cater for peak loads generated by the development, (iv) the capacity of any existing water supply to cater for peak loads generated by the development, 	<p><i>The proposed modifications will not increase impacts on the capacity of the existing transport system, reticulated effluent management system, waste disposal system or water supply.</i></p>
<p>(d) any statement of environmental effects required to accompany the development application for the development,</p>	<p><i>Not applicable to a S.4.55 Modification.</i></p>
<p>(e) 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><i>The proposed modifications will not significantly alter the character of the resort.</i></p>

<p>(f) the Geotechnical Policy—Kosciuszko Alpine Resorts (2003, Department of Infrastructure, Planning and Natural Resources) and any measures proposed to address any geotechnical issues arising in relation to the development</p>	<p><i>The subject Modification Application includes replacing the approved Geotechnical Assessment and Form 1 prepared by JK Geotechnics with a replacement report and Form 1, prepared by Asset Geotechnical Engineering Pty Ltd. This has been provided separately.</i></p>
<p>(g) 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><i>Earthworks and excavations works are required as part of the development as modified and appropriate erosion and sedimentation control measures as outlined in the modified Site Environmental Management Plan submitted separately.</i></p>
<p>(h) if stormwater drainage works are proposed—any measures proposed to mitigate any adverse impacts associated with those works,</p>	<p><i>The proposed modifications will generally result in the same stormwater drainage as approved.</i></p> <p><i>A Stormwater Plan is still required to be provided prior to the relevant CC in accordance with Condition B.10.</i></p>
<p>(i) any visual impact of the proposed development, particularly when viewed from the Main Range,</p>	<p><i>The proposed modifications will not increase overall visual impacts, with the development not able to be seen from the Main Range.</i></p>
<p>(j) 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><i>The proposed modifications will not increase activities outside of the ski season.</i></p>
<p>(k) if the development involves the installation of ski lifting facilities and a development control plan does not apply to the alpine resort:</p> <p>(i) the capacity of existing infrastructure facilities, and</p> <p>(ii) any adverse impact of the development on access to, from or in the alpine resort,</p>	<p><i>The proposed modifications will not change the capacity of the lift and therefore will have no impact on the capacity of existing infrastructure facilities or access to from or within the resort.</i></p>
<p>(l) if the development is proposed to be carried out in Perisher Range Alpine Resort:</p> <p>(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</p> <p>(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>	<p><i>Not Applicable.</i></p>

<p>(m) if the development is proposed to be carried out on land in a riparian corridor:</p> <p>(i) the long term management goals for riparian land, and</p> <p>(ii) whether measures should be adopted in the carrying out of the development to assist in meeting those goals.</p>	<p><i>The proposed modified bottom and mid-station works are not located any closer to watercourses and will not generate further impacts on the associated riparian corridors.</i></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><i>Not applicable.</i></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>(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.</p>	

SECTION 4.15(1)(a)(ii) – DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft Environmental Planning Instruments that are applicable to the site or proposed modifications.

SECTION 4.15(1)(a)(iii) – DEVELOPMENT CONTROL PLANS

There are no Development Control Plans applicable to the Kosciuszko Alpine Resorts under State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007.

SECTION 4.15(1)(a)(iiia) – PLANNING AGREEMENTS

There are no Planning Agreements applicable to the Kosciuszko Alpine Resorts under State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007.

SECTION 4.15(1)(a)(iv) – REGULATIONS

Not applicable.

SECTION 4.15(1)(a)(v) – COASTAL MANAGEMENT ZONE

Not applicable.

SECTION 4.15(1)(b) – LIKELY IMPACTS

Natural Environment:

The flora and fauna assessment provided in Appendix A, has concluded that the *‘proposed modifications will not result in any significantly adverse impacts on fauna habitats as no important threatened fauna habitat resources will be affected and the habitats to be affected are widespread in adjoining areas’*.

‘In summary, the additional impacts associated with the proposed modification are considered to be of minimal environmental impact’.

These impacts will be further minimised through the implementation of the measures identified in the amended SEMP.

Built Environment:

The proposed modifications are expected to have a positive impact on the built environment through improved access around the bottom, mid and top stations of the Gondola.

Social and Economic impacts in the locality:

The social and economic impacts from the proposed modifications are generally expected to be positive with improved changes to the top, mid and bottom stations including improved access to and from the existing Merritts Restaurant, improved access at the bottom and improved skier access.

The proposed modifications will facilitate the replacement of an existing lift that is currently over fifty (50) years old being replaced with new lifting infrastructure.

SECTION 4.15(1)(c) – SUITABILITY OF THE SITE

The modified development is considered substantially the same development because there is no change to the location and function. The suitability of the site, remains substantially the same development as the approved.

SECTION 4.15(1)(d) – SUBMISSIONS

Any submissions made as part of the S.4.55 Modification process will be considered as part of the assessment process.

SECTION 4.15(1)(e) – THE PUBLIC INTEREST

The above assessment has demonstrated that the proposed modifications satisfy the objectives and relevant clauses prescribed under State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007.

Consequently, the proposed modifications are considered to be within the public interest.

7. Assessment under S.4.55 (1A) of the EP&A Act, 1979

Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 relates to modifications involving minimal environmental impact as addressed below.

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority 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, and

The proposed modifications will result in the same type of the development in the same location, on the same alignment with the same bottom, mid and top station locations.

The only additional impacts are attributed to impacts associated with the additional clearing associated with the mid-station and associated chair shed and slope works.

These additional impacts are associated with the most common native vegetation in the resort and wider region, being Subalpine Woodland. The additional clearing represents 0.01% of this vegetation community within the resort.

Accordingly, the Flora and Fauna assessment provided by Eco Logical Australia in Appendix A, has concluded that the additional impacts associated with the proposed modification are considered to be of minimal environmental impact.

(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 and before that consent as originally granted was modified (if at all), and

The modified development will comprise of a detachable Gondola lift on the same alignment as approved, with the same bottom, mid and top station locations with only minor changes to their respective layouts.

The proposed modifications therefore are not considered to constitute a 'radical transformation' (see The majority of the Court of Appeal in Sydney City Council v Ilence Pty Limited [1984] 3 NSWLR 414, or North Sydney Council v Michael Standley & Associates Pty Limited [1998] 97 LGERA 433) of the approved development and will ensure that the development remains substantially the same.

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Not applicable.

Subsections (1), (2) and (5) do not apply to such a modification.

Noted.

APPENDIX A

FAUNA AND FLORA ASSESSMENT

9 August 2019

Our ref: 17HNG8645

Dabyne Planning
PO Box 179
Jindabyne
NSW 2627

Attention: Ivan Pasalich

Dear Ivan,

Additional Impacts at Mid Station –Merritts Chairlift Replacement, Thredbo Alpine Resort

As requested, I have reviewed the potential additional impacts associated with the revised mid station design of the approved Merritts Gondola lift. The additional vegetation removal is estimated to comprise an additional 500 m² of Subalpine Woodland, on the south-eastern side of the mid station location, as shown in Photo 1 and Figure 1.



Photo 1: The additional vegetation removal will affect most of the Subalpine Woodland on the south-eastern side of the mid station location.

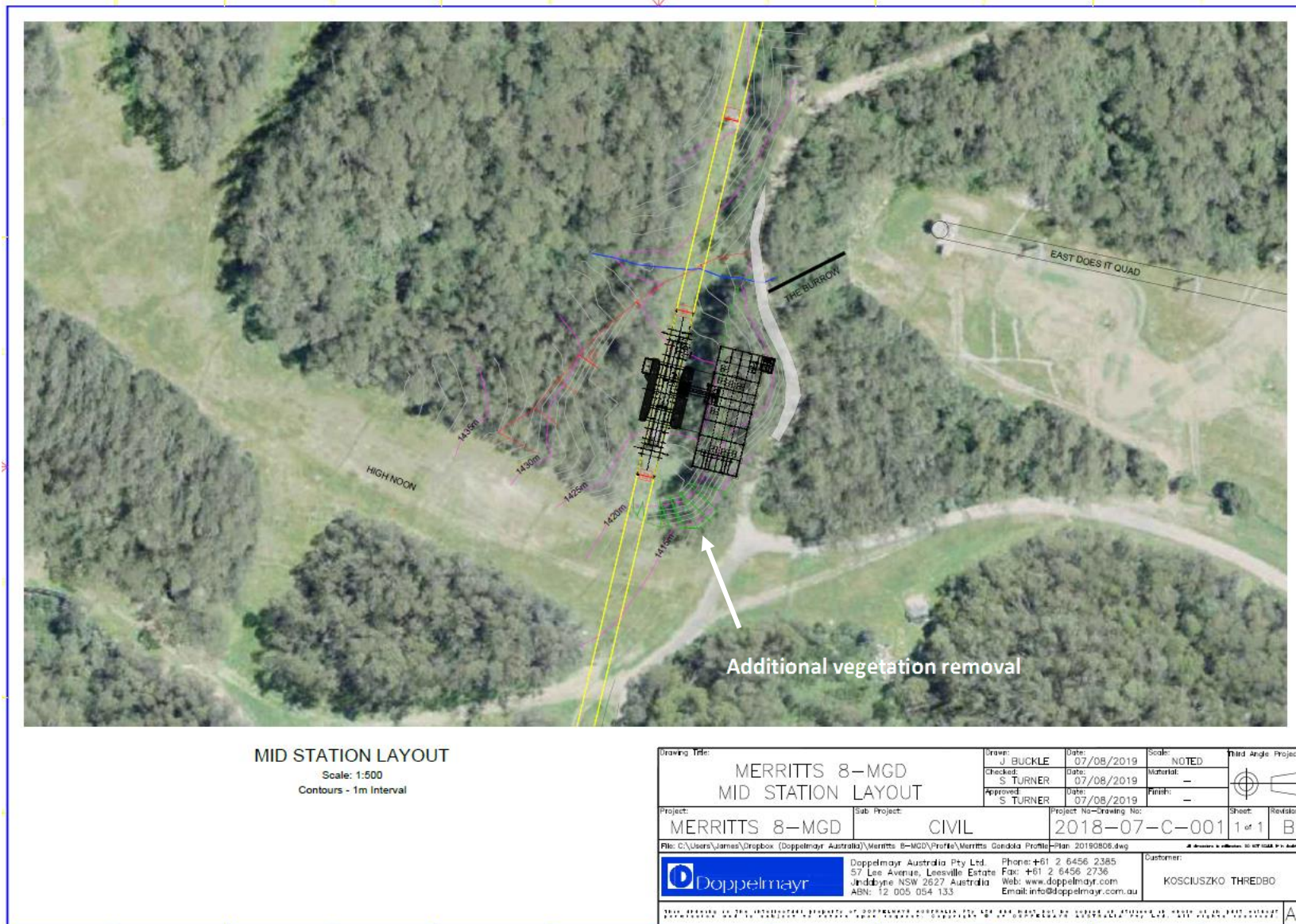


Figure 1: Additional vegetation removal as a result of the proposed modification.

Subalpine Woodland is the most common vegetation community within the subalpine area in the locality and region covering an estimated 443 ha within the Thredbo Resort area alone (Ecology Australia 2002). In this context the additional impacts on the community associated with the proposed modification is a minor and acceptable impact.

The proposed additional clearing will not result in any significantly adverse impacts on fauna habitats as no important threatened fauna habitat resources will be affected and the habitats to be affected are widespread in adjoining areas.

The additional clearing may affect wombat burrows, and as such, the clearing should be undertaken consistent with the approved wombat management plan that has been prepared for the project.

The proposed clearing will not trigger the Biodiversity Offset Scheme (BOS) under the *Biodiversity Conservation Act 2016*, as it will not affect any land identified on the Biodiversity Values map and the total clearing of native vegetation associated with the approved development will not exceed the 1 ha threshold which applies to the Thredbo Resort Area.

In summary, the additional impacts associated with the proposed modification are considered to be of minimal environmental impact.

Should you require any further information please contact me on 4476 1151 or 0422 802 447.

Regards,

A handwritten signature in black ink, appearing to read 'Ryan Smithers', with a stylized flourish at the end.

Ryan Smithers
Senior Ecologist