

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	Development Application
Application number and project name	DA 21/11288 – Construction of a new commercial ski lodge on a vacant site off Burramys Road, Perisher Valley, Perisher Range Alpine Resort
Applicant	Geoanalysis Pty Ltd
Consent Authority	Minister for Planning and Public Spaces

Decision

The Deputy Secretary, Development Assessment, under delegation from the Minister for Planning and Public Spaces has, under s.4.16 of the *Environmental Planning and Assessment Act 1979 (the Act)*, granted consent to the development application subject to the recommended conditions and any additional conditions.

A copy of the development consent and conditions is available:

<https://www.planningportal.nsw.gov.au/daex/under-consideration/da-2111288-perisher-view-perisher-valley-construction-24-bed-commercial-ski-lodge>

A copy of the Department of Planning and Environment's Assessment Report is available:

<https://www.planningportal.nsw.gov.au/daex/under-consideration/da-2111288-perisher-view-perisher-valley-construction-24-bed-commercial-ski-lodge>

Date of decision

23 June 2023

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- all information submitted to the Department during the assessment of the development application and any additional information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- the project is permissible with development consent under the *State Environmental Planning Policy (Precincts - Regional) 2021* and is consistent with NSW Government policies including the *South East and Tableland Region Plan 2036* aim to increase visitation to NSW ski resorts;
- the impacts on the community and the environment can be appropriately minimised or managed to an acceptable level, in accordance with applicable NSW Government policies and standards. The consent authority has imposed conditions relating to construction standards, environmental considerations, post construction certification and rehabilitation;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed by the Applicant and in the Department's Assessment Report; and
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department's Community Participation Plan (November 2019) prepared in accordance with Schedule 1 of the EP&A Act required the development application to be exhibited for a period of fourteen (14) days. However, applications under Chapter 4 of the Precincts - Regional SEPP are not required to be publicly exhibited if the proposal relates to works which are wholly internal to a building or where the site is located more than fifty (50) metres away from a tourist accommodation building.

As the works include the construction of a new tourist accommodation building within 50 metres of other tourist accommodation buildings, the Department originally exhibited the application from 4 August 2021 until 20 August 2021 on the NSW Planning Portal. The application was notified to nearby lodges and forwarded to the Rural Fire Service (RFS) pursuant to section 4.46 of the EP&A Act (integrated development) as a BFSA under the *Rural Fires Act 1997* is required for the development to be carried out. The application was also referred to the National Parks and Wildlife Service (NPWS) pursuant to section 4.15 of Chapter 4 of the Precincts - Regional SEPP.

Seventy-eight (78) public submissions were received objecting to the original proposal. The key issues raised in the submissions are considered in the Department's Assessment Report and by the decision maker, which relate to concern that the site is inappropriate and should not have been created by NPWS, the impact of the new building on oversnow routes, building design and consistency with the Perisher Range Resort Master Plan, and the proposals impact on adjoining lodges and Alpine Church.

Following receipt of an amended proposal, the Department re-exhibited the application from 16 June 2022 until 1 July 2022, which was further extended between 5 July 2022 to 11 July 2022 due to an inability to access the information on the Planning Portal. The amendments were also re-exhibited to nearby lodges (consistent with the previous notification), to previous submitters and forwarded to the RFS and NPWS.

Fourteen (14) public submissions were received objecting to the amended proposal. The key issues raised in the submissions are considered in the Department's Assessment Report and by the decision maker, which reiterated previous concerns on the allotment creation by NPWS, while other concerns related to impacts upon the Alpine Church, potential for people to fall between the building and the excavation area to the west of the building and that the proposed access road off Burrmys Road should be realigned.

Comments received from the RFS and NPWS are addressed in detail in the Department's Assessment Report.

The issues are addressed in detail in the Department's Assessment Report and tabulated below.

<i>Issue</i>	<i>Consideration</i>
<p><i>Location of site / process for site allocation</i></p> <ul style="list-style-type: none"> legality of the creation of the site by NPWS 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Department sought clarity from the NPWS on the creation of the allotment. NPWS commented that the site was relocated from a former site following dilapidation of the former lodge. New lease was advertised in August 2010 and the allotment registered in August 2016. Lease provided to the Perisher View Lodge Pty Ltd (previous lessee of the site) in December 2016, which was transferred to the Applicant in 2020. The consent authority is satisfied that the Applicant is entitled to act on the lease that they have been granted to building a commercial ski lodge on the site.
<p><i>Consistency with the Perisher Range Resort Master Plan</i></p> <ul style="list-style-type: none"> the proposals building height, floor area to bed number ratio and setbacks are inconsistent with the PRRMP the creation of new commercial ski lodge in this portion of Perisher Valley is inconsistent with the PRRMP 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Assessment of the application has had regard to the provisions of the PRRMP. The Applicant has considered the requirements, however, has also designed the proposal to meet current building expectations for new commercial ski lodges (which differs in part to those identified in 2001 when the PRRMP was endorsed by NPWS). The design of the building in terms of built form and height takes into consideration the slope of land, which in part does not enable the building to comply with the 2-storey height requirement for new buildings. The consent authority is satisfied that the proposed works are acceptable and following the creation of the site by NPWS, a new commercial ski lodge is capable of being provided on the site.
<p><i>Oversnow access and safety</i></p> <ul style="list-style-type: none"> the proposal (once built) would impact on the existing oversnow route that adjoins the site or traverses the site 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The location of the formal oversnow route avoids the development site. However, the site has also been utilised by oversnow vehicles and the public to traverse to areas above the site since creation of the resort. Comments received from NPWS does not support the use of the oversnow route by skiers / snowboarders as it is not a designated ski run.

<ul style="list-style-type: none"> that skiers / snowboarders have potential to collide with oversnow vehicles 	<ul style="list-style-type: none"> The Applicant amended the proposal to remove the original balcony provided along the western Burramys Road façade, in order to remove a potential hazard for skiers / snowboarders or oversnow vehicles. The Department is satisfied that the Applicant has designed the proposed development to have appropriate regard to the adjoining oversnow route and the safety of skiers / snowboarders.
<p><i>View and amenity impacts</i></p> <ul style="list-style-type: none"> proposal impacts upon existing views of Front Valley from adjoining lodge proposal causes solar impacts upon the adjoining Alpine Church 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> With the construction of the proposal on the site, impacts upon adjoining sites is acknowledged. This includes a reduced view of the Front Valley ski area from Ku-Ring-Gail Alpine Lodge (KAL) and built form / overshadowing impacts upon the Alpine Church. The Applicant provided a photomontage of the proposal when viewed from the KAL kitchen window to depict possible impacts upon the view of Front Valley. The Department notes that the existing view is filtered through vegetation with the proposed new lodge reducing part of the view of Front Valley. The Applicant also provided overshadowing diagrams to support the proposal, which indicated that the development would overshadow the adjoining Alpine Church from 1pm on 21 June (winter solstice). While the development will cause overshadowing on the Alpine Church, given the site constraints of building a new ski lodge on the site, the Department notes that the Applicant has endeavoured to reduce impacts where possible. The Department is satisfied that the proposed works are acceptable with in relation to the impacts of the development due to the sites characteristics and location of the site in terms of the adjoining sites.
<p><i>Biodiversity impacts</i></p> <ul style="list-style-type: none"> Proposal impacts on existing biodiversity to develop the site 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> To facilitate the development of the proposal, impacts upon the existing biodiversity of the site and the adjoining area is required. The Applicant has negotiated with NPWS on the extent of an Asset Protection Zone (APZ) plan in order to meet RFS requirements for the adoption of an Inner Protection Area. This APZ plan identifies areas to be cleared while retaining areas that have higher biodiversity values. The Department considers that the Applicant has endeavoured to reduce impacts upon the biodiversity of the area where possible and with the endorsement of the Asset Protection Zone plan has met the requirements of the RFS. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Conditions have been included that require implementation of the APZ prior to commencement of works, consistent with RFS requirements. Ongoing management of the APZ area is also to be undertaken. Site management measures to protect the environment are required to operate prior to and during works, and rehabilitation of disturbed areas will be carried out at the completion of works.