

# Development consent

## Section 4.16 of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, under delegation executed on 9 March 2022, I approve 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;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.



Keiran Thomas  
**Director**  
**Regional Assessments**  
**Department of Planning and Environment**

Jindabyne

18 August 2023

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### SCHEDULE 1

<b>Application No.:</b>	DA 22/11891
<b>Applicant:</b>	Perisher Blue Pty Ltd
<b>Consent Authority:</b>	Minister for Planning
<b>Land:</b>	Home Rope Tow, Centre Valley, Perisher Range Alpine Resort, Kosciuszko National Park
<b>Type of Development:</b>	General Development
<b>Approved Development:</b>	Replacement of the Home Rope Tow lift with a new J-bar lift with associated works as outlined in Condition A.2

## DEFINITIONS

Act	means the <i>Environmental Planning and Assessment Act, 1979</i> (as amended).
Applicant	means Perisher Blue Pty Ltd, or any person carrying out any development to which this consent applies.
Approval Body	has the same meaning as within Division 4.8 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.
Certifier	has the same meaning as in Part 6 of the Act.
DA No 22/11891	means the development application lodged by the Applicant on 15 September 2022.
Department	means the Department of Planning and Environment, or its successors.
Development	means the development approved pursuant to this consent, as defined in Condition A.2 and as modified by the conditions of this consent.
Director	means the Director of Regional Assessments or a delegate of the Director within the Department.
EEC	endangered ecological communities, as listed for the purposes of the <i>Biodiversity Conservation Act 2016</i> .
Environmental Officer	means the person appointed by the Applicant in accordance with Condition C.2.
EP&A Regulation	means the <i>Environmental Planning and Assessment Regulation, 2021</i> (as amended).
EP&A (DCFS) Regulation	means the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation, 2021</i> (as amended).
Minister	means the Minister for Planning, or nominee.
NPWS	means the National Parks and Wildlife Service, or its successors.
Non-compliance	means an occurrence, set of circumstances or development that is a breach of this consent.
Park	means the Kosciuszko National Park reserved under the <i>National Parks and Wildlife Act 1974</i> .
Precincts - Regional SEPP	means the <i>State Environmental Planning Policy (Precincts – Regional) 2021</i> (as amended), that includes Chapter 4 – Kosciuszko Alpine Region.
Principal Certifier	means the principal certifier and has the same meaning as Part 6 of the Act.
Rehabilitation Guide	means the NPWS document entitled: Rehabilitation Guidelines for the Resorts Areas of Kosciuszko National Park (2007) a copy of which is available at: <a href="#">Rehabilitation guidelines for the resort areas of Kosciuszko National Park   NSW Environment and Heritage</a>
Secretary	means the Secretary of the Department, or nominee/delegate.
Secretary's approval, agreement or satisfaction	means a written approval from the Secretary or nominee/delegate.
Site Environmental Management Plan or SEMP	means a site environmental management plan for the Subject site, prepared by the Applicant as part of Condition A.2.
Stockpile Guide	means the NPWS document entitled: 'Soil Stockpile Guidelines for the Resort Areas of Kosciuszko National Park, October 2017', a copy of which can be obtained from the NPWS Resorts Environmental Services Team.

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 Regional Assessments 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 measures and criteria established in this consent, all reasonable and feasible measures to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the Development.

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

The Development must be in accordance with the:

- (a) Development Application No. DA 22/11891 and supporting documentation lodged by the Applicant on 15 September 2022;
- (b) additional information received during the assessment of the application;
- (c) conditions of this consent; and
- (d) approved documents in the table below (except where modified by conditions of this consent):

Ref No.	Document	Title/Description	Author/Prepared by	Date	Document Reference
1	Statement of Environmental Effects (SEE) Excluding Appendix B	Replacement of the Home Rope Tow and Installation of the Leichhardt J-Bar and associated works	Dabyne Planning Pty Ltd	July 2022	09-22
2	Plan	Site Environmental Management Plan	Perisher Blue Pty Ltd	August 2022	-
3	Plans	Plan - Overall	Perisher Blue Pty Ltd	7 July 2022	U255-2 Rev B Sheet 1 of 4
4	Plans	Plan - Bottom Station	Perisher Blue Pty Ltd	7 July 2022	U255-2 Rev B Sheet 2 of 4
5	Plans	Plan - Top Station	Perisher Blue Pty Ltd	7 July 2022	U255-2 Rev B Sheet 3 of 4
6	Plans	Construction Management Plan	Perisher Blue Pty Ltd	7 July 2022	U255-2 Rev B Sheet 4 of 4
7	Plans	J Bar Trench design	-	30 August 2022	-
8	Plans	Profile 1-SL Leichhardt J-Bar	Doppelmayr Australia Pty Ltd	26 June 2022	2022-11-P-001 Rev C

9	Plans	RFID Gate - Small Structural Details	John Skurr Consulting Engineers	11 May 2011	S1002
10	Plans	Hut at Perisher	G. Janssen	-	-
11	Plans	Drive Terminal Model OE 181 VM	Doppelmayr Australia Pty Ltd	-	S-35 668
12	Plan	Return Terminal Type OE	Doppelmayr Australia Pty Ltd	-	S-35 660
13	Plan	Tower Assembly General Arrangement	Doppelmayr Australia Pty Ltd	20 April 2022	2022-11-M-001 Rev B Sheet 1 of 1
14	Report	Proposed J-Bar ski lift, Perisher NSW Geotechnical Investigation	Asset Geotechnical Engineering Pty Ltd	22 August 2022	6728-G1 Rev 1
15	Form 1	Geotechnical Policy - Kosciuszko Alpine Resorts  Form 1 - Declaration and certification made by geotechnical engineer or engineering geologist in a geotechnical report	Asset Geotechnical Engineering Pty Ltd	22 August 2022	-
16	Report	Biodiversity Development Assessment Report	Eco Logical Australia Pty Ltd	1 November 2022	22HNC2028 Version v4

Note: In accordance with section 24(3) of the EP&A Regulation, a development application is lodged on the day on which the fees payable for the development application under this Regulation are paid.

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

The conditions of this consent prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in Condition A.2. In the event of an inconsistency, ambiguity or conflict between any of the documents listed in Condition A.2, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

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

This consent lapses five years after the date of consent unless work for the purposes of the Development is physically commenced.

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

All works shall comply with the prescribed conditions of development consent as set out in Part 4, Division 2 of the EP&A Regulation. In particular, your attention is drawn to:

(e) section 69, Compliance with Building Code of Australia; and

(f) section 70, Erection of signs during building and demolition works.

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

All works which are part of the Development must be carried out in accordance with relevant current Australian Standards.

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

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

#### **A.8. Non-Compliance Notification**

The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) and [alpineresorts@planning.nsw.gov.au](mailto:alpineresorts@planning.nsw.gov.au) within seven days after the Applicant becomes aware of any Non-compliance. The Principal Certifier must also notify the Department in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) and [alpineresorts@planning.nsw.gov.au](mailto:alpineresorts@planning.nsw.gov.au) within seven days after they identify any Non-compliance.

The notification must identify the Development and the application number for it, set out the condition of consent that the Development is Non-compliant with, the way in which it does not comply and the reasons for the Non-compliance (if known) and what actions have been, or will be, undertaken to address the Non-compliance.

A Non-compliance which has been notified as an incident does not need to also be notified as a Non-compliance.

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

### **B.1. Authorisation under the National Parks and Wildlife Act 1974**

Prior to the issue of the construction certificate (or commencement of any tree or rock removal / reduction works if this occurs first) which are part of the Development, the Applicant is to consult with the NPWS to determine any lease, licence or other authorisation that is required for the Development or Subject site under the *National Parks and Wildlife Act 1974*, and the appropriate lease, licence or authorisation must be obtained and in effect.

### **B.2. NSW Biodiversity Offset Scheme**

Before the issue of a construction certificate or commencement of any site works, which are part of the Development, the class and number of ecosystem credits and species credits in Appendix F of the BDAR – BAM Biodiversity Credit Report (Condition A.2) must be retired to offset the residual biodiversity impacts of the development.

The requirements to retire credits may be satisfied by payment into the applicable fund or trust, as per the *Biodiversity Conservation Act 2016*, of an amount equivalent to the class and number of ecosystem credits and species credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the applicable fund or trust must be provided to the Secretary prior to the issue of a construction certificate or commencement of any site works.

### **B.3. Construction certificate**

Building works must not commence until a relevant construction certificate has been issued. Prior to the issue of the construction certificate, the Certifier must be satisfied that the documentation for the construction certificate demonstrates compliance with the conditions in Part B of this consent.

If the Department is not appointed as the Certifier, the Applicant must provide a copy of the construction certificate to the Department within 2 days of it being issued by the Certifier.

### **B.4. Documentation for the construction certificate**

The proposed works must comply with the applicable performance requirements of the BCA to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) complying with the deemed to satisfy provisions; or
- (b) formulating a performance solution which:
  - (i) complies with the performance requirements;
  - (ii) is shown to be at least equivalent to the deemed to satisfy provision; or
  - (iii) a combination of (i) and (ii).

### **B.5. Structural drawings and design statement**

Prior to the issue of the relevant construction certificate, the Applicant must submit structural drawings and a design statement, prepared and signed by an appropriately qualified practising structural engineer, to the Certifier.

## **B.6. Building works plans and specifications**

The appropriate building work plans and specifications must include (where relevant) the following:

- (a) detailed building work plans, drawn to a suitable scale and consisting of a block plan and a general plan, that show the following:
  - (i) a plan of each floor section;
  - (ii) a plan of each elevation of the building;
  - (iii) the levels of the lowest floor, an unbuilt yard or area that belongs to the lowest floor and the adjacent ground; and
  - (iv) the height, design, construction and provision for fire safety and fire resistance, if any; and
- (b) building work specifications that:
  - (i) describe the construction and the materials to be used to construct the building; and
  - (ii) describe the method of drainage, sewerage and water supply; and
  - (iii) state whether the materials to be used are new or second-hand and contain details of any second-hand materials to be used; and
- (c) a description of an accredited building product or system sought to be relied on for the purposes of the Act, section 4.15(4); and
- (d) a copy of a compliance certificate to be relied on; and
- (e) if the development involves building work to alter, expand or rebuild an existing building—a scaled plan of the existing building.

## **B.7. Australian Standard 4722 – Passenger ropeways and passenger conveyors.**

Prior to the issue of the relevant construction certificate for the lift or associated stations which are part of the Development, structural drawings and a design statement prepared by an appropriately qualified and practising engineer, must be submitted to the Certifier to demonstrate that the proposal complies with the intent of *Australian Standard AS4722 – Passenger ropeways and passenger conveyors*. If the Department is not the Certifier, a copy of the documentation must be submitted to the Department with the construction certificate.

## **B.8. Payment of the Long Service Levy**

Prior to the issue of any construction certificate, evidence must be provided to the Certifier, 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 and Construction Industry Long Service Payments Act 1986*.

## **B.9. Geotechnical declaration and certification**

Prior to the issue of the relevant construction certificate, a completed and signed Form 2 from the Department's *Geotechnical Policy – Kosciuszko Alpine Resorts* (2003) must be submitted to the Certifier. All sections of the Form 2 must be completed and signed by the appropriate person/s. If the Department is not the Certifier, the appointed Certifier is to provide a copy of the completed and signed Form 2 to the Department with the copy of the construction certificate.

A Form 2 must be submitted with each construction certificate unless otherwise approved in writing by the Secretary or nominee following receipt of advice from a geotechnical engineer.

## **B.10. Materials and colours**

Prior to the issue of the relevant construction certificate, the Certifier must be satisfied that the documentation for the construction certificate identifies the materials and colours proposed for the Development is consistent with other ski slope infrastructure (including those utilised on the adjoining Leichhart Chairlift / Lawson T-bar). If the Department is not the Certifier, a copy of the documentation must be submitted to the Department with the construction certificate.

Note: the documentation is to have regard to the reuse of existing structures as part of the Development and the need for any new components.

#### **B.11. Proposed fire safety measures**

Prior to the issue of the relevant construction certificate, the Applicant shall provide to the Certifier a list of the proposed fire safety measures to be provided in relation to the land and any building on the land as a consequence of the building work.

#### **B.12. Underbore**

Prior to the issue of the construction certificate, details of the underbore are to be provided to the Secretary or nominee for approval. Details to be provided include machinery and underbore widths to be utilised, depth and length of underbore, location of machinery and details where underbore unable to proceed due to rocks. To demonstrate minimal impact on the existing environment.

Once approved by the Secretary or nominee, the details are to be provided to the Certifier.

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

### **C.1. Notification of commencement**

- (a) The Applicant must notify the Department in writing, at least 48 hours prior, of the date of commencement of physical work for the Development.
- (b) If the construction of the Development is to be staged, the Applicant must notify the Department in writing at least 48 hours prior to each construction stage, of the commencement date and extent of works to be carried out for the Development in that stage.

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

- (a) Prior to the commencement of any works which are part of the Development, an appropriately qualified Environmental Officer must be appointed by the Applicant, and both the Principal Certifier and the Secretary or nominee must be notified of the identity and contact details for this person. The Environmental Officer is to have experience with management of construction within, and rehabilitation of, sensitive environments.
- (b) In the event that the Environmental Officer needs replacing, the replacement is to be similarly qualified and the Principal Certifier and Secretary or nominee must be notified of the replacement (including of the replacement person's identity and contact details).

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

The Applicant must manage the Subject site appropriately and ensure that measures are in place to ensure that vehicles and machinery do not enter into areas of vegetation that are not necessary for the purposes of the Development.

### **C.4. Detailed rehabilitation and monitoring plan**

- (a) Prior to the commencement of works which are part of the Development, the Applicant must prepare a rehabilitation and monitoring plan:
  - (i) in consultation with the NPWS; and
  - (ii) for submission to, and approval by, the Secretary.
- (b) The plan required by paragraph (a) must provide for the following:
  - (i) initial establishment of rehabilitation measures, including all planting, mulching and stabilisation, to commence as soon as reasonably practicable after completion of each of the project stages which are part of the Development, and in any case be completed within the same construction period;
  - (ii) monitoring, maintenance and replacement of rehabilitation planting to occur at least every 12 months until established for a period of 5 years (see Condition F.1) with results recorded against photo points identified in the plan;
  - (iii) all rehabilitation measures must be consistent with the Rehabilitation Guide;
  - (iv) incorporate the use of jute mesh or weed free straw bales for mulching of bare ground and rehabilitation;
  - (v) utilisation of only locally occurring native tube stock species and native *Poa* sp. Seed rather than exotic grasses such as Chewings Fescue; and
  - (vi) submission of annual reports detailing monitoring activity and results in the prior period, and associated commentary, including recommendations for further or modified measures the Applicant will implement to ameliorate adverse environmental impacts.
- (c) The plan required by paragraph (a) must provide for the following Alpine Sphagnum Bogs and Associated Fens EEC requirements:
  - (i) the methodology to be used for the monitoring program;
  - (ii) the collection of baseline data above and below the proposed works prior to the commencement of works;

- (iii) the monitoring program during (five years post construction);
- (iv) the identification of indicators that trigger intervention / remediation works; and
- (v) any intervention / remediation measures required under (iv).

**C.5. Geotechnical declaration and certification (if no construction certificate)**

- (a) Prior to the commencement of works on any part of the Development that does not require a construction certificate, the Applicant must submit endorsement by a geotechnical engineer or engineering geologist that the scope of works and / or design documentation is consistent with the geotechnical documentation in Condition A.2.
- (b) Any variation to the above condition must be agreed in writing by the Secretary or nominee.

**C.6. Implementation of site environmental management measures**

- (a) Prior to any works which are part of the Development commencing:
  - (i) all site environmental management measures relevant to that stage of work, in accordance with the approved documentation and plans (Condition A.2), these conditions of consent and the various approved plans required by them (see e.g. Conditions C.4), must be in place and in good working order;
  - (ii) all site environmental management measures must be contained within the construction corridor (see Condition C.10);
  - (iii) the site environmental management measures must be inspected and approved by the Environmental Officer; and
  - (iv) the Environmental Officer must provide written and signed certification to the Principal Certifier confirming that sub-paragraphs (i), (ii) and (iii) above have been satisfied.
- (b) Prior to commencing each stage of work, all proposed erosion and sediment control measures must be put in place.

**C.7. Machinery and storage**

- (a) All equipment, machinery and vehicles used during construction of the Development must be cleaned prior to entry into the Park and prior to Subject site mobilisation to ensure they are free of mud, vegetative propagules and pathogens.
- (b) All equipment, machinery and vehicles must also be checked for oil, hydraulic and other fluid leaks prior to site mobilisation and during construction.
- (c) Equipment, machinery and vehicles must be regularly maintained and manoeuvred to prevent the spread of exotic vegetation. Storage of equipment, machinery, vehicles and material is to be restricted to existing disturbed areas (i.e. at the stockpile and staging areas) and not be stored on native vegetation.

**C.8. Treatment of weeds**

- (a) Prior to the commencement of works which are part of the Development, all relevant weed species that occur within the construction corridor (see Condition C.10) and any associated stockpile sites are to be treated to ensure these weeds are not spread further at the Subject site or throughout the Park.
- (b) For the purposes of paragraph (a), the term 'relevant weed species' refers to pest flora species identified in the regional pest management strategy for the NSW Southern Ranges Region most recently published by the Department, at the date of this consent being the *Regional Pest Management Strategy 2012-17 Southern Ranges Region*, a copy of which is available at: [Regional Pest Management Strategy 2012-17: Southern Ranges Region \(nsw.gov.au\)](http://www.nsw.gov.au/regional-pest-management-strategy-2012-17-southern-ranges-region)
- (c) This Condition C.8 may be satisfied for the whole Development or progressively for various project stages which are part of the Development. In the latter case, paragraphs (a) and (b) of this condition shall reapply for each project stage.

### **C.9. “No Go” areas**

Prior to any works which are part of the Development commencing:

- (a) “No Go” areas, being specimens of Perisher Wallaby Grass, or Anemone Buttercup, (*Ranunculus Anemoneus*) and any environmentally sensitive areas of EEC, Subalpine Riparian Scrub, Subalpine Heath and Montane Wet Tussock Grassland vegetation communities not within the construction corridor, must be appropriately marked so as to clearly delineate sensitive areas to be avoided; and
- (b) the Environmental Officer must provide written and signed certification to the Secretary or nominee confirming that he/she has appropriately marked the “No Go” areas accurately as described in (a) above.

### **C.10. Construction corridor**

- (a) Prior to any works which are part of the Development commencing:
  - (i) the construction corridor must be temporarily fenced / roped / flagged so as to clearly delineate the construction areas and the “no go” areas;
  - (ii) the fenced construction corridor must be inspected and approved by the Environmental Officer;
  - (iii) the Environmental Officer must provide written and signed certification to the Principal Certifier confirming that the fenced construction corridor is in place in accordance with the approved documentation (Condition A.2) and these conditions of consent and is satisfactory; and
- (b) Subject to paragraph (c), the construction corridor is to comprise the following areas only:
  - (i) the existing access track off Leichhardt Access Track;
  - (ii) the existing Home Rope Tow post locations and disturbed corridor;
  - (iii) the marked construction footprint, access tracks (rubber matting) and access tracks as shown on the site plans as referenced in Condition A.2;
  - (iv) stockpiling and storage areas.
- (c) The construction corridor to be fenced / roped / flagged in accordance with this condition must:
  - (i) exclude all areas of ‘endangered ecological community’ (as defined in the *Biodiversity Conservation Act 2016*, including alpine bog and fen complex (montane peatlands and swamps of the Australian Alps bioregion) not part of the Development;
  - (ii) exclude the Perisher Wallaby Grass area identified near the bottom station of the development; and
  - (iii) incorporate signage and fence/rope measures to clearly delineate that the sensitive areas identified in sub-paragraph (i) is to be avoided.

### **C.11. Tree and rock removal / reduction**

Any trees or above ground rocks proposed to be removed, or partly removed / reduced, shall be clearly marked/tagged, inspected and approved by the environmental officer prior to their removal, or partial removal / reduction.

### **C.12. Anemone Buttercup identification**

Staff (or contractors) undertaking the vegetation works are to be able to accurately identify *Ranunculus anemoneus* (Anemone Buttercup) to enable this species of conservation significance to be avoided, and protected from trampling by foot, equipment or the placement of construction material. Where found within the construction corridor, the species is to be transplanted, following discussions between the Environmental Officer and NPWS.

### **C.13. Pre-commencement compliance report**

Prior to the commencement of works which are part of the Development, the Applicant and/or the Environmental Officer must submit to the Principal Certifier a report addressing compliance with

all conditions contained in sections B and C of this consent pertaining to those works. A copy of this compliance report must be submitted to the Department within 7 days of it being submitted to the Principal Certifier.

#### **C.14. Compliance**

The Applicant must ensure that all employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the Development.

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## **PART D – DURING CONSTRUCTION**

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

A copy of the approved plans and documentation must be kept by the Applicant on the Subject site at all times and be readily available for perusal by the Principal Certifier, any person associated with the construction works, or an officer of the Department or NPWS. Without limitation, this condition applies to the following approved documentation:

- (a) this consent and its schedule of conditions;
- (b) the approved documentation and plans (Condition A.2);
- (c) the approved SEMP (Condition A.2);
- (d) the rehabilitation and monitoring plan (Condition C.4).

### **D.2. Construction hours**

All work in connection with the proposed Development must be carried out between the hours of 7.00am and 6.00pm, 7 days a week, or as otherwise approved by the Secretary.

### **D.3. Construction period**

- (a) All works are limited to the “summer period” and are not to commence when snow is located on the Subject site (except for the oversnow rock removal / reduction works). For the purposes of this condition, the summer period means the period of time commencing after the October long weekend (subject to no snow being on the Subject site) and ending no later than 30 April the following year in each year works are required to complete the Development, with finishing of rehabilitation and stabilisation works up until 30 May, or as otherwise approved by the Secretary or nominee.
- (b) For the reduction of rocks, the following requirements apply:
  - (i) all activities are limited to after the works area has closed for the ski season or as otherwise approved by the Secretary or nominee;
  - (ii) access to the site or works shall be undertaken only where there is a sufficient firm snow base (minimum snow base of 30 cm or as otherwise approved by the Secretary or nominee); and
  - (iii) all rock should be removed from the site at this time to prevent covering of existing native vegetation.
- (c) By 30 April in each year works are required to complete the Development, the Applicant must ensure that the Subject site is made safe and secure (having regard to the use of the area) by undertaking the following:
  - (i) removal of all materials, vehicles, machinery, equipment and the like;
  - (ii) removal and/or securing of all stockpiles of soil and gravel;
  - (iii) protecting and fencing off any areas that are unsafe, for instance due to incomplete works;
  - (iv) stabilisation and rehabilitation works in accordance with these conditions of consent and the approved documentation (can occur until 30 May if required); and
  - (v) any other specific matters related to making the Subject site safe and secure raised by the Secretary or nominee.

### **D.4. Role of the Environmental Officer**

The appointed Environmental Officer must oversee all works which are part of the Development on behalf of the Applicant to ensure:

- (a) compliance with all environmental protection measures in the approved documentation, including (without limitation) the documentation specified in paragraphs (a) to (e) inclusive of Condition D.1;
- (b) all Subject site environmental management measures are in place and adequately functioning throughout the entire construction phase of the Development; and

- (c) that Subject site stabilisation and rehabilitation occurs in accordance with the approved plans (Condition A.2).

#### **D.5. Construction activities and management**

At all times during the construction phase of the Development and unless agreed otherwise by the Secretary or nominee in writing, the Applicant must ensure that:

- (a) all construction activities in connection with the Development are undertaken in accordance with the approved documentation, including (without limitation) the documentation specified in paragraphs (a) to (e) inclusive of Condition D.1;
- (b) all construction activities in connection with the Development are confined to the construction corridor as referenced in Condition C.10;
- (c) no disturbance or other adverse environmental impacts occur outside the construction corridor as referenced in Condition C.10;
- (d) all materials, stockpiles, vehicles, machinery and the like are be confined to the construction corridor as referenced in Condition C.10; and
- (e) all measures to minimise, mitigate and manage adverse environmental impacts of the Development as outlined in Table 24 of the BDAR (Condition A.2) are adhered to.

*Note to Applicant: The damage or removal of any native vegetation that is not the subject of this consent requires further authorisation under the National Parks and Wildlife Act 1974 or the Environmental Planning and Assessment Act 1979. Failure to obtain authorisation may result in compliance action under that legislation.*

#### **D.6. Sod replacement techniques for native flora species where trenching is proposed**

Where construction of the Development involves trenching work through undisturbed areas comprising of native vegetation, sod replacement is to be utilised as a rehabilitation technique where possible. If sod replacement does not achieve rapid stabilisation and revegetation in some areas, or is not suitable for an area, then follow up rehabilitation of the relevant area of the Subject site is required to achieve an erosion resistant state.

#### **D.7. Water in excavations**

- (a) In the event that water needs to be pumped out of any excavations required for the Development, a temporary filter dam must be constructed by the Applicant, and water pumped into the filter dam.
- (b) A filter dam for the purposes of paragraph (a) must be constructed of hay bales and/or geofabric material and must be inspected and approved by the Environmental Officer prior to being used.
- (c) All pump out equipment and any temporary filter dams must be wholly contained within the construction corridor as referenced in Condition C.10 unless otherwise agreed by the Secretary or nominee.

#### **D.8. Aboriginal heritage**

- (a) Should any material suspected of being an Aboriginal relic or artefact become unearthed in the course of works which are part of the Development, the Applicant must immediately:
  - (i) cease all works impacting the suspected relic or artefact; and
  - (ii) contact the NPWS to arrange for representatives to inspect the Subject site.
- (b) The Applicant must ensure that all workers on the Subject site are made aware of the requirements of paragraph (a).

#### **D.9. Waste**

All waste must be contained in receptacles and covered daily, or removed from the Subject site each day, so as not to escape by wind, water or scavenging fauna. These receptacles must only

be located in previously disturbed areas and not beneath the canopy or over roots of any trees. The receptacles must be cleaned regularly.

#### **D.10. SafeWork NSW**

The Applicant must ensure that all works which are part of the Development are carried out in accordance with current SafeWork NSW guidelines.

#### **D.11. Site notice**

The Applicant must ensure that site notice(s) are prominently displayed at the boundaries of the Subject site for the purposes of informing the public of Development details. The notice(s) is/are 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 construction phase of the Development.
- (b) The notice(s) must list the approved hours of work, the name of the Applicant or other principal contractor for the work (if any), and include a 24 hour contact phone number for any inquiries, including construction/noise complaints.
- (c) The notice(s) is/are to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

#### **D.12. Prohibition of hazardous materials**

No hazardous or toxic materials or dangerous goods may be stored or processed on the Subject site at any time unless otherwise agreed by the Secretary or nominee.

#### **D.13. Dirt and dust control measures**

The Applicant must ensure that adequate measures are taken to prevent dirt and dust from affecting the amenity or environment of the adjoining areas during the construction phase of the Development.

#### **D.14. Safety demarcation**

During the construction phase of the Development, the Applicant must ensure that the Subject site is clearly identified and signed to prevent access by unauthorised persons.

#### **D.15. Erosion and sediment control measures**

- (a) All erosion prevention and sediment control measures must be checked and maintained in good working order at all times, particularly after precipitation events. 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.
- (b) The erosion and sediment controls must also ensure that:
  - (i) grading, excavation, and construction does not take place during or immediately after significant rainfall or snowfall events;
  - (ii) sediment traps are designed, installed, and maintained to maximise the volume of sediment trapped from the Subject site during construction; and
  - (iii) disturbed areas that are not required for further construction access are to be stabilised and revegetated during construction.

#### **D.16. Storage of materials**

During the construction phase of the Development, the Applicant must ensure that:

- (a) the Subject site environmental management measures are complied with;
- (b) no storage or disposal of materials takes place beneath the canopy of any trees or on native heath vegetation; and

- (c) all stockpiling of material is undertaken in accordance with the Stockpile Guide.

#### **D.17. Noise and vibration management**

Excavation and construction works must be managed in accordance with *Australian Standard AS 2436-2010 Guide to noise and vibration control on construction, demolition and maintenance sites* and to ensure there is no adverse impact on any neighbouring/affected tourist accommodation buildings during the construction phase of the Development.

#### **D.18. Loading and unloading of construction vehicles**

All loading and unloading associated with construction work which is part of the Development must be restricted to those areas approved in the SEMP (Condition A.2) and these conditions.

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

- (a) Site stabilisation and rehabilitation works must commence, as soon as possible, following the completion of each stage of work which is part of the Development to minimise exposed areas. Disturbed areas must be adequately mulched and maintained with weed free straw (i.e. straw which does not contain viable seed or other vegetative propagules) until an erosion resistant ground condition is achieved. All erosion prevention and sediment control measures must remain in place until all exposed areas of soil are stabilised and/or revegetated.
- (b) Rehabilitation must be undertaken by the Applicant in accordance with:
  - (i) the Rehabilitation Guide;
  - (ii) the SEMP (Condition A.2);
  - (iii) the detailed rehabilitation and monitoring plan prepared and approved in accordance with Condition C.4; and
  - (iv) these conditions of consent.

#### **D.20. Re-fuelling**

Appropriate controls must be put in place to ensure no spillage when re-fuelling all vehicles and machinery associated with works for the Development. Re-fuelling of vehicles and machinery must be performed on hard-stand areas or with appropriate spill kit and temporary bunding arrangements in place.

#### **D.21. 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 trenches or 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;
  - (v) all excavations shall be properly guarded and protected to prevent them from being dangerous; and
  - (vi) areas of bog removed for the footings of towers is to be transplanted into adjacent eroded bog areas that still receive groundwater (to occur following the procedures set out in the Rehabilitation Guide).
- (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 NPWS recommended source.

## **D.22. Geotechnical requirements**

At all times, works associated with the development must comply with:

- (a) the Department's Geotechnical Policy; and
- (b) the Geotechnical Assessment undertaken by Asset Geotechnical Engineering Ltd (Condition A.2).

Works at variance to recommendations contained in the geotechnical assessment report must not be undertaken without prior written endorsement from the geotechnical engineer. Any written advice of the variation must be provided to the Principal Certifier and the Department within 48 hours.

## **D.23. Electrical works**

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

## **D.24. Blasting**

No explosives may be used, or blasting occur, as part of the Development without prior notice to SafeWork NSW. A copy of each such notice must be submitted to the Secretary or nominee and NPWS.

## **D.25. Native vegetation and rock removal**

- (a) All vegetation and rocks required for removal must be clearly marked.
- (b) Rock reduction should be kept to the minimal amount which will still reduce the safety risk.
- (c) All vegetation and rocks should not be felled, removed or rock fragments placed in a manner which damages other surrounding vegetation that is being retained.
- (d) All vegetation removed must either be cut into smaller pieces to be used for rehabilitation or it must be removed from site completely if the vegetation is impacted by, or there is evidence of dieback.
- (e) All trees and rocks must be checked for fauna habitats and fauna by the nominated project Environmental Officer immediately prior to felling/removal. Trees with active nests should not be removed until the young have left the nest. If fauna is present, then the proponent must contact NPWS to assist with mitigation actions.

## **D.26. Top soil removal and disposal**

- (a) Top soil removed from the Subject site during works which are part of the Development is to be reused directly in the further construction of the Development in the first instance.
- (b) No top soil may be stockpiled except at approved stockpiling sites in accordance with the Stockpile Guide.
- (c) If top soil needs to be stockpiled for later use, then it must be categorised (for appropriate future use e.g. topsoil for rehabilitation) and stored at a location in the Perisher Range Alpine Resort or a location that is approved by the Secretary or nominee.
- (d) If further top soil is required for use in the Development, the Applicant must ensure:
  - (i) the top soil is brought in from other stockpile sites in the Perisher Range Alpine Resort or sources otherwise authorised by NPWS;
  - (ii) the top soil is free of contaminants, weeds and other vegetative propagules; and
  - (iii) prior to stockpiling, the top soil originated from a source with altitude and ecosystem attributes similar to those of the Subject site.

## **D.27. Stabilising agents**

The use of soil stabilising agents for work or rehabilitation which is part of the Development is not permitted without prior consent of the Secretary or nominee in consultation with the NPWS.

**D.28. Use of treated timber**

If any treated timber is required to be used for the Development it must not be treated with copper chrome arsenic.

**D.29. Underboring**

Where sub-surface rocks are encountered effecting the continuation of the underbore along the approved alignment, works should cease in order to consult with the Department and NPWS. Further approval of the Department will be required should the underbore be required to recommence on a new alignment or rocks not included in the approved documents be removed.

**D.30. Demolition work**

Demolition work must comply with the provisions of Australian Standard AS 2601-2001 *Demolition of Structures*.

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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 which are part of the Development, an occupation certificate must be obtained from the Principal Certifier. A copy of the occupation certificate must be furnished to the Secretary prior to the occupation of the relevant buildings or commencement of use which are part of the Development.

### **E.2. Site Clean Up**

Prior to commencement of use which are part of the Development, the Subject site must be cleaned and made good to the satisfaction of the Principal Certifier.

### **E.3. Removal of site notice**

Any site notices or other site information signs must be removed upon completion of the works which are part of the Development and prior to the commencement of use.

### **E.4. Electrical certification**

Prior to the issue of the relevant occupation certificate, certification prepared and signed by an appropriately qualified electrician must be submitted to the Principal Certifier. The certificate must indicate that all electrical works which are part of the Development have been installed by a qualified and licensed electrician and installed in accordance with the relevant Australian Standards. A copy of the certificate is to be submitted to the Secretary or nominee with the occupation certificate documentation.

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

A structural engineer's certificate must be submitted to the Principal Certifier prior to issue of the relevant occupation certificate. This certificate is to verify that structural works which are part of the Development 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 or nominee with the occupation certificate documentation.

### **E.6. Fire safety certificate**

Where fire safety measures are installed, prior to the issue of the relevant occupation certificate, a fire safety certificate conforming to the EP&A (DCFS) Regulations must be submitted to the Principal Certifier. A copy of the fire safety certificate must be submitted to the Secretary or nominee with the copy of the occupation certificate.

### **E.7. Geotechnical certification**

- (a) Prior to the issue of the relevant occupation certificate:
  - (i) a completed and signed Form 3 from the Department's Geotechnical Policy – Kosciuszko Alpine Resorts (2003) must be submitted to the Principal Certifier. All sections of the Form 3 must be completed and signed by the appropriate person/s; or
  - (ii) if alternative advice is provided by the geotechnical engineer (Condition D.22), confirmation that the works have been undertaken in accordance with the advice.
- (b) If the Department is not the Principal Certifier, the appointed Principal Certifier must provide a copy of the completed and signed Form 3 to the Department with the copy of the occupation certificate.

## **E.8. Rehabilitation**

- (a) Prior to the issue of any occupation certificate, the appointed environmental officer shall provide the Principal Certifier 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 Principal Certifier 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.

If the Department is not the Principal Certifier, a copy of the documentation must be submitted to the Department with the occupation certificate.

## **E.9. Works as executed or as-built plans**

Within 12 months of the issue of the relevant occupation certificate, works as executed and/or as built survey plans of the constructed Development must to be furnished to the Secretary or nominee.

## **E.10. Progress report**

- (a) On 1 June each year, until an occupation certificate has been issued for the whole Development, the appointed Environmental Officer must submit to the Department on behalf of the Applicant a progress report for implementation of the detailed rehabilitation and monitoring plan (Condition C.4).
- (b) The progress report required by paragraph (a) must outline for all rehabilitation and monitoring works:
  - (i) whether the works have been commenced, are in progress, or completed;
  - (ii) if completed, whether they comply with the detailed rehabilitation and monitoring plan;
  - (iii) if not completed, the expected timeframe for commencement and completion; and
  - (iv) if in progress or completed, what monitoring, and maintenance is being undertaken.
- (a) If the Secretary or nominee gives directions to the Applicant to take further action in regards to rehabilitation and monitoring as a result of a progress report (or failure to submit one), these directions must be complied with.

## **E.11. Statement of completion (for tree and rock removal / reduction works where no CC was required)**

- (a) A statement of completion is to be obtained from the Department, prior to the use of any part of the Development that did not require a construction certificate.
- (b) The request for a statement of completion must be accompanied by:
  - (i) a statement from the appointed Environmental Officer confirming whether the soil exposure, stabilisation and rehabilitation is satisfactory and has been undertaken in accordance with these conditions of consent; and
  - (ii) a statement outlining compliance with all relevant conditions of consent.

A statement of completion for the Development in accordance with this condition must be obtained from the Department within thirty (30) days of works where no construction certificate was required being completed.

## **E.12. Underbore certification**

Prior to the issue of the relevant occupation certificate, certification prepared and signed by the underbore operator must be submitted to the Principal Certifier. The certificate must indicate that all underbore operations which are part of the Development have been carried out in accordance

with the details provided in Condition B.12. A copy of the certificate is to be submitted to the Secretary or nominee with the occupation certificate documentation.

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## **PART F – POST OCCUPATION**

### **F.1. Rehabilitation**

Up until the date 5 years after the issue of a final occupation certificate (Condition E.1) or statement of completion (Condition E.11) for the Development, all disturbed areas on and around the Subject site must be monitored and necessary action undertaken to ensure that:

- (a) the ground remains erosion resistant and groundcover is being established;
- (b) all areas planted with native species (including sod replacement and seeding), are surviving; and
- (c) all components of the detailed rehabilitation and monitoring plan (Condition C.4) have been implemented and reported on.

### **F.2. Annual fire safety statement**

Where fire safety measures are installed, an annual fire safety statement conforming to the Regulations must be provided to the Department and the NSW Fire Brigade every 12 months commencing within 12 months after the date on which the Department received the initial fire safety certificate for the Development.

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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, 2021* (as amended).

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

The Applicant is solely responsible for ensuring that all additional approvals, licenses, consents and agreements are obtained from other authorities, as relevant. No condition of this consent removes any obligation to obtain, renew or comply with such additional approvals, licenses, consents and agreements.

### AN.3 Other approvals and permits

The Applicant must 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 Utility services

- (a) The Applicant must liaise with the relevant utility authorities for electricity, gas (if relevant), water, sewage and telecommunications on the Subject site:
  - (i) to locate all service infrastructure on the Subject site; and
  - (ii) 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 is responsible for costs associated with relocating any services.

### AN.5 Dial before you dig

Underground assets may exist in the area that is the Subject site. In the interests of health and safety and in order to prevent damage to third party assets please contact the Dial Before You Dig service at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

If alterations are required to the configuration, size, form or design of the Development upon contacting the Dial Before You Dig service, an amendment to this consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

### AN.6 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* (Cth). The Applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* (Cth) 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* (Cth) currently available in Australia.