

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, 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.



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

Jindabyne

5 April 2023

SCHEDULE 1

Application No.:	DA No. 23/1923
Applicant:	Perisher Blue Pty Ltd
Consent Authority:	Minister for Planning
Land:	Guthega Car Park Double Chairlift, Perisher Range Alpine Resort, Kosciuszko National Park
Type of Development:	General Development
Approved Development:	Upgrade of uphill line 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.
DA No 23/1923	means the development application lodged by the Applicant on 16 February 2023.
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 of 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 B.3.
EP&A Regulation	means the <i>Environmental Planning and Assessment 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.
Rehabilitation Guide	means the NPWS document entitled: <i>Rehabilitation Guidelines for the Resorts Areas of Kosciuszko National Park (2007)</i> a copy of which is available at: https://www.environment.nsw.gov.au/research-and-publications/publications-search/rehabilitation-guidelines-for-the-resort-areas-of-kosciuszko-national-park
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: ' <i>Soil Stockpile Guidelines for the Resort Areas of Kosciuszko National Park, October 2017</i> ', 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 shall be in accordance with the:

- (a) Development Application No. DA 23/1923 and supporting documentation submitted by the Applicant on 16 February 2023, as amended by the additional information received during the assessment of the application;
- (b) conditions of this consent; and
- (c) 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	Guthega Carpark Chairlift Uphill Line Replacement Guthega Resort Area	Perisher Blue Pty Ltd	January 2023	Version1.0
2	Appendix E of SEE	Site Environmental Management and Rehabilitation Plan	Perisher Blue Pty Ltd	January 2023	Version 1.0
3	Amended SEMP Figure	SEMP – Figure 1	Perisher Blue Pty Ltd	23 March 2023	-
4	Report	Replacement of Uphill Line, Guthega Carpark Double Chair, Perisher Ski Resort Biodiversity Development Assessment Report	Eco Logical Australia Pty Ltd	19 January 2023	Project No. 4140 Version 2
5	Report	Response to NPWS comments on BDAR	Eco Logical Australia Pty Ltd	22 March 2023	22HNC-4140

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:

- (a) section 69, Compliance with Building Code of Australia; and
- (b) 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 shall be served on the Secretary.

A.8. Non-Compliance Notification

The Department must be notified in writing to compliance@planning.nsw.gov.au and alpineresorts@planning.nsw.gov.au within seven days after the Applicant becomes aware of 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.

A.9. Extent of works

This consent does not allow for any ground disturbance within 40 metres of a water course.

PART B – PRIOR TO THE COMMENCEMENT OF WORKS

B.1. NSW Biodiversity Offset Scheme

Prior to the commencement of any 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 (reference 4 in 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 commencement of works.

B.2. 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.

B.3. Environmental Officer

- (a) Prior to the commencement of any works which are part of the Development, an appropriately qualified Environmental Officer must be appointed, and the Secretary or nominee must be notified of the identity and contact details of 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 appropriately qualified and the Secretary must be notified of the replacement (including of the replacement person's identity and contact details).

B.4. 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.

B.5. 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 section of work, in accordance with the approved documentation and plans (Condition A.2) and these conditions of consent, must be in place and in good working order;
 - (ii) all measures proposed at Table 21 in the BDAR (Condition A.2) to minimise, mitigate and manage impacts on biodiversity have been implemented;
 - (iii) all site environmental management measures must be contained within the construction corridor (see Condition B.6);
 - (iv) the site environmental management measures must be inspected and approved by the Environmental Officer; and

- (v) the Environmental Officer must provide written and signed certification to the Secretary or nominee confirming that sub-paragraphs (i), (ii) and (iii) above have been satisfied.
- (b) Prior to commencing each stage of work (if required), all proposed erosion and sediment control measures must be put in place.

B.6. Construction corridor

- (a) Prior to any works commencing which are part of the Development:
 - (i) the construction corridor is to be temporarily fenced/roped so as to clearly delineate the construction areas and the “no go” areas (Condition B.7);
 - (ii) the construction corridor is to be inspected and approved by the Environmental Officer; and
 - (iii) the Environmental Officer is to provide written and signed certification to the Department confirming that the construction corridor is in place in accordance with the approved documentation (Condition A.2) and these conditions of consent and is satisfactory.
- (b) The construction corridor shall comprise of the following:
 - (i) a 4 metre-wide corridor encompassing the proposed trench alignment; and
 - (ii) any stockpiling and storage areas shall be located within the fenced corridor and away from native vegetation.

B.7. “No Go” areas

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

- (a) “No Go” areas, being areas outside of 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.

B.8. 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 proposed on ski slopes) and not be stored on native vegetation.

B.9. Treatment of weeds

- (a) Prior to the commencement of works which are part of the Development, all relevant weed species that occur within the Subject site, access routes, construction corridor and storage / staging areas 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: <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Parks-reserves-and-protected-areas/Pest-management-strategies/regional-pest-management-strategy-southern-ranges-region-120374.pdf>

- (c) This Condition B.9 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.
- (d) If an area of vegetation proposed for removal includes any relevant weed species then the vegetation must be removed completely from the Subject site and not spread out within the existing vegetation.

B.10. Access Routes

Access to the site works must be clearly marked prior to works commencing in accordance with the approved plans, or as otherwise approved by the Secretary.

B.11. 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.

PART C – DURING CONSTRUCTION

C.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 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); and
- (c) the SEMP (Condition A.2).

C.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 or nominee.

C.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. 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) 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.

C.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 documents specified in paragraphs (a) to (c) inclusive of Condition C.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).

C.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 (c) inclusive of Condition C.1;

- (b) all construction activities in connection with the Development are confined to the construction corridor as referenced in Condition B.6;
- (c) no disturbance or other adverse environmental impacts occur outside the construction corridor as referenced in Condition B.6; and
- (d) all equipment, materials, stockpiles, vehicles, machinery and the like are to be confined to the construction corridor as referenced in Conditions B.6.

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.

C.6. 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).

C.7. 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.

C.8. 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.

C.9. Sod replacement techniques of native flora species where trenching is proposed

Sod replacement is to be utilised 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 site is required to achieve an erosion resistant state.

Trenching through areas of native vegetation must utilise sod replacement techniques. However, this is not necessary for areas which are predominantly exotic grass.

C.10. 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.

C.11. 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.

C.12. 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.

C.13. 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.

C.14. 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.

C.15. 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.

C.16. 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.

C.17. Demolitions work

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

C.18. Loading and unloading of construction vehicles

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

C.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 amended SEMP (Condition A.2); and
 - (iii) these conditions of consent.

C.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 off site, with appropriate spill kit and temporary bunding arrangements in place.

C.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; and
 - (v) all excavations shall be properly guarded and protected to prevent them from being dangerous;
 - (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.
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PART D – PRIOR TO COMMENCEMENT OF USE

D.1. Statement of completion

- (a) Upon completion of the development and before commencement of the use, a statement of completion must be obtained from the Department.
- (b) The request for a statement of completion shall be accompanied by
 - (i) a statement from the appointed Environmental Officer confirming whether the stabilisation and rehabilitation is satisfactory and have been undertaken in accordance with the 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 being completed.

D.2. Site Clean Up

Prior to commencement of use of the Development, the Subject site must be cleaned up to the satisfaction of the Secretary or nominee.

D.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.

D.4. Rehabilitation

- (a) Prior to the issue of a statement of completion (Condition D.1), the appointed Environmental Officer must provide the Secretary or nominee 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 Secretary or nominee shall not issue any Statement of Completion unless satisfied that all disturbed ground has been rendered erosion resistant and rehabilitated in accordance with the approved documentation and these conditions of consent.
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PART E – POST OCCUPATION

E.1 Rehabilitation and ongoing weed management

Up until the date 5 years after the issue of an occupation certificate 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 the groundcover is being established; and
- (b) all areas planted with native species (including seeding), are surviving; and

E.2 Ongoing weed management

Weed management of the Subject site is to continue, with annual inspections of the Subject and construction corridor to reduce infestations.

ADVISORY NOTES

AN.1 Appeals

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

AN.2 Responsibility for other consents / agreements

The Applicant is solely responsible for ensuring that all additional 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, 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 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.