



**DEVELOPMENT ASSESSMENT REPORT
DA 045-10-2011**



**Removal of three trees at the base of the
Zali's ski run, Blue Cow, Perisher Range
alpine resort**

Proposed by Perisher Blue Pty Ltd

Part 4 of the
Environmental Planning and Assessment Act 1979

May 2012

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1 EXECUTIVE SUMMARY

This report is an assessment of development application DA 045-10-2011 under the provisions of Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), and *State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007* (the Alpine SEPP).

Proposal

The applicant, Perisher Blue Pty Ltd, seeks development consent to remove three trees at the base of the Zali's ski run at Blue Cow, within the Perisher Range alpine resort.

Consent authority

Under the provisions of the Alpine SEPP, the Minister for Planning and Infrastructure is the consent authority for development within the NSW alpine resorts.

Permissibility

Pursuant to cl 11 of the Alpine SEPP and the Perisher Range alpine resort land use table, 'ski slopes' are permissible with consent. The proposed development is for the removal of three trees for safety reasons within an existing ski slope.

Key considerations

The proposal has been considered against the relevant matters for consideration and the key considerations arising from this assessment are outlined below.

Endangered ecological community

The three trees proposed to be removed are located at the edge of an island of alpine bog, at the base of the Zali's ski run. This alpine bog is an ecological community that conforms to 'Montane Peatlands and Swamps' listed as endangered under the NSW *Threatened Species Conservation Act 1995* (TSC Act), as well as 'Alpine Sphagnum Bogs and Associated Fens' listed as endangered under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The applicant has provided an assessment of significance in accordance with s 5A of the EP&A Act, as well as an assessment in accordance with the significant impact guidelines for matters of national environmental significance listed under the EPBC Act. These assessments have concluded that the removal of three trees as proposed is not likely to have a significant impact on the EEC.

Flora and fauna

The proposal will not result in an adverse environmental impact as the three trees to be removed are proposed to be offset with additional tubestock plantings at a ratio of 2:1, and any existing hollows in the trees to be removed will be used to improve habitat value in surrounding heath.

Consultation

The proposal was referred to the NSW Environment and Heritage (OEH) pursuant to cl 17 of the Alpine SEPP. The OEH advised that the amended proposal is acceptable and that the trees were well outside the primary habitat of the local population of the Mountain Pygmy-possum. Two conditions were recommended by the OEH. These have been included on the conditions of consent.

Conclusion

After consideration of the proposal against the relevant statutory considerations, including s 79C of the EP&A Act and the provisions of the Alpine SEPP, it is concluded that the proposal is appropriate as it will remove three obstacles for skiers and snow grooming machinery from

the formed ski run without having an adverse environmental impact. The trees are proposed to be removed in a way that will not impact upon the surrounding endangered ecological community, and will be offset with tubestock plantings at a ratio of 2:1. The proposal is considered appropriate and is therefore recommended for approval subject to the imposition of conditions.

2 BACKGROUND

2.1 Locality

Zali's ski run is located at Blue Cow Mountain, within the Perisher Range alpine resort, Kosciusko National Park.

2.2 Site description

The three trees proposed to be removed are located at the base of the Zali's ski run, on the edge of an island of alpine bog vegetation.



Photograph 1: View of the island of alpine bog at the base of the Zali's ski run, with the three trees to be removed marked.

2.3 Background to the proposal

The development application originally proposed the removal of 20 rocks and 37 trees along the lower part of the Zali's ski run, to the skier's left.

The OEH advised that they do not support this original proposal given the likely impacts on the local Mountain Pygmy Possum population which is listed as endangered under both the TSC Act and the EPBC Act. This area adjacent to the lower part of Zali's ski run is identified as primary and secondary habitat for this species.

In light of the advice from the OEH, the applicant has now amended the proposal in accordance with clause 55 of the EP&A Regulation. The current proposal includes only the removal of three trees at the base of the ski run. The OEH have advised that they support this amended proposal.

3 THE PROPOSED DEVELOPMENT

The applicant seeks development consent to remove three trees at the base of the Zali's ski run at Blue Cow, within the Perisher Range alpine resort.



Photograph 2: The three trees proposed to be removed.

The trees will be removed to ground level, leaving the stump and roots in place. The proposed work method is to use an excavator standing on the adjacent access track with a rock claw attachment to hold the limbs while they are being cut with a chainsaw. The cut limbs will then be placed on the adjacent access track prior to being removed. Any hollows found within the cut limbs will be retained and placed in surrounding heath so as to provide potential shelter and habitat.

4 STATUTORY FRAMEWORK

4.1 Development assessment

The application has been made and assessed pursuant to Part 4 of the EP&A Act and the EP&A Regulations.

4.2 Statement of permissibility

Pursuant to cl 11 of the Alpine SEPP and the Perisher Range alpine resort land use table, 'ski slopes' are permissible with consent. The proposed development is for the removal of three trees within an existing ski slope.

4.3 Statutory considerations

The proposal has been considered against the relevant statutory considerations, including:

- the principles of Ecologically Sustainable Development (ESD);
- the objects of the EP&A Act;
- ss 5A and 79C of the EP&A Act;
- the Alpine SEPP; and
- the SSMP 2002.

The assessment is provided in Appendix A and a discussion of the key matters is provided in section 6 of this report.

5 CONSULTATION

5.1 NSW Office of Environment and Heritage

The proposal was referred to the OEH pursuant to cl 17 of the Alpine SEPP. The OEH advised that the amended proposal is acceptable and that the trees were well outside the primary habitat of the local population of the Mountain Pygmy-possum. The following two conditions were recommended by the OEH:

- The trees should only be accessed and removed in a manner that does not damage the surrounding heath and bog.
- The trees should only be removed near ground level and the stump and root-stock left in-situ.

These conditions have been incorporated into the conditions contained within Schedule 2.

6 CONSIDERATION

The proposal has been considered against the relevant matters for consideration and an assessment is provided in Appendix A. The following is a discussion of the key matters arising from this assessment.

6.1 Endangered ecological community

The three trees proposed to be removed are located at the edge of an island of alpine bog, at the base of the Zali's ski run. This area of alpine bog is an ecological community that conforms to 'Montane Peatlands and Swamps' listed as endangered under the TSC Act, as well as 'Alpine Sphagnum Bogs and Associated Fens' listed as endangered under the EPBC Act.

The construction methodology proposed avoids any movement of vehicles or machinery within the alpine bog area. Only two persons will be required in the alpine bog area during works to cut the tree limbs with a chainsaw. An excavator sitting on the adjacent access track will use a rock claw to hold the limbs in place while they are being cut, and then the excavator will place these limbs on the existing access track where they will be cut into smaller sections before being removed from the site.

The applicant has provided an assessment of significance in accordance with s 5A of the EP&A Act, as well as an assessment in accordance with the significant impact guidelines for matters of national environmental significance listed under the EPBC Act. These assessments have concluded that the removal of three trees as proposed is not likely to have a significant impact on the EEC.

The OEH have reviewed these assessments and support the amended proposal. The OEH also advised that the trees were well outside the primary habitat of the local population of the Mountain Pygmy-possum.

6.2 Flora and fauna

The proposal will not result in an adverse environmental impact. The applicant proposes to offset the removal of three trees by planting six Snow Gum tubestock in an area adjacent to and on the skier's left of the formed Zali's ski run, and just upslope from where the trees are proposed to be removed. Also, the trees that are to be removed will be checked for any existing hollows, and any hollows found will be kept intact and placed in surrounding heath vegetation so as to provide potential shelter and habitat.

7 CONCLUSION

After consideration of the proposal against the relevant statutory considerations, including s 79C of the EP&A Act and the provisions of the Alpine SEPP, it is concluded that the proposal

is appropriate as it will remove three obstacles for skiers and snow grooming machinery from the formed ski run without having an adverse environmental impact. The trees are proposed to be removed in a way that will not impact upon the surrounding endangered ecological community, and will be offset with tubestock plantings at a ratio of 2:1. The proposal is considered appropriate and is therefore recommended for approval subject to the imposition of conditions.

8 DELEGATIONS

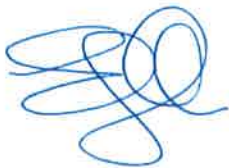
It is considered that Daniel James, Team Leader, Alpine Resorts Team has the delegation to exercise the function as a consent authority as provided by the Minister for Planning and Infrastructure, pursuant to s 23 of the *Environmental Planning and Assessment Act 1979*. This exercise of delegations is considered to be appropriate and in accordance with the *Instrument of Delegation* dated 14 September 2011.

9 RECOMMENDATION

It is recommended that Daniel James, Team Leader, Alpine Resorts Team as delegate for the Minister for Planning and Infrastructure, under the *Instrument of Delegation* dated 14 September 2011, pursuant to s 80 of the *Environmental Planning and Assessment Act 1979* and State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007:

- (i) grant consent to **DA 045-10-2011** for the removal of three trees at the base of the Zali's ski run at Blue Cow, Perisher Range alpine resort, subject to the conditions of consent (refer to **Schedule 2**); and
- (ii) sign and date the Notice of Determination for DA 045-10-2011 (refer to **Notice of Determination**).

Prepared by:



Erin Fuller
Senior Planner
Alpine Resorts Team

Approved by:

Daniel James
Team Leader
Alpine Resorts Team

**Determined as Delegate of the Minister for
Planning and Infrastructure**

Appendix A – Statutory Assessment & Consideration

A1 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The Department has considered the proposed development against the five principles of ESD set out in s 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act):

Integration Principle – The proposal will provide a safer ski slope by reducing three obstacles within the middle of the base of the ski slope, without any adverse social, economic or environmental impacts.

Precautionary Principle – The proposal does not pose a threat of serious or irreversible environmental damage. The trees are proposed to be removed in a manner that does not adversely impact upon the EEC at the base of the trees.

Inter-Generational Principle – The proposal will not adversely impact upon the health, diversity or productivity of the environment for future generations.

Biodiversity Principle – The proposal will not result in a loss of biodiversity. The three trees proposed to be removed are snow gums that are common throughout the locality.

Valuation Principle – The applicant has recognised the value of the environment and proposes a work method that significantly minimises any environmental disturbance.

A2 MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE

The island of alpine bog at the base of the Zali's ski slope (containing the tree trees proposed to be removed) conforms to the ecological community 'Alpine Sphagnum Bogs and Associated Fens' which is listed as endangered under the EPBC Act.

The applicant has provided an assessment of the proposal in accordance with the 'Matters of National Environmental Significance – Significant impact guidelines'. The conclusion of this assessment is that the proposal will not have a significant impact on this EEC and a referral to the Environment Minister is not considered necessary.

A3 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Objects

The objects of the EP&A Act provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The consideration and determination of a development application under Part 4 must be informed by the relevant provisions of the EP&A Act, consistent with the objects.

The proposal is considered consistent with the objects of the EP&A Act 1979 in that there will not be an adverse environmental impact, the proposal is consistent with the principles of ESD and will contribute to the orderly development of the Perisher Range alpine resort.

Section 5A - Significant effect on threatened species, populations or ecological communities, or their habitats

The island of alpine bog at the base of the Zali's ski slope (containing the tree trees proposed to be removed) conforms to the ecological community 'Montane Peatlands and Swamps which is listed as endangered under the TSC Act.

The applicant has provided an assessment of significance for this EEC in accordance with s 5A of the EP&A Act and the gazetted assessment guidelines. The conclusion of this

assessment is that the proposal will not have a significant impact on this species as the removal of three trees will not affect the extent of, alter the composition of, or remove, modify, fragment or isolate the EEC.

The OEH have reviewed these assessments and support the amended proposal. The OEH also advised that the trees were well outside the primary habitat of the local population of the Mountain Pygmy-possum.

Section 79C(1) - Matters for consideration - general

In determining a development application, a consent authority must take into consideration the matters referred to in s 79C(1) of the EP&A Act as are of relevance to the development:

S 79C(1)(a)(i) the provisions of any environmental planning instrument
The environmental planning instrument applicable to the proposal is State Environmental Planning Policy (KNP – Alpine Resorts) 2007. See section A4 for an assessment of the proposal against this Policy.
S 79C(1)(a)(ii) the provisions of any proposed instrument
None are applicable to the proposal.
S 79C(1)(a)(iii) the provisions of any development control plan
There are no development control plans applicable to the site and the proposal.
S 79C(1)(a)(iiia) the provisions of any planning agreement
None are applicable to the proposal.
S 79C(1)(a)(iv) the provisions of any regulations
<u>Cl 92 of the EP&A Regulation 2000</u> – No demolition is proposed and the site is not within the coastal zone.
S 79C(1)(a)(v) any coastal zone management plan
The subject site is not within the coastal zone.
S 79C(1)(b) the likely impacts of that development
<u>Context, setting and visual</u> – The removal of three trees from the middle of the base of an existing ski slope will not have an adverse visual impact on the locality.
<u>Access, transport and traffic</u> – The removal of three trees will not impact upon existing access, transport and traffic arrangements in the resort.
<u>Public Domain</u> – The removal of the trees will remove three existing obstacles for skiers and grooming machinery from within an existing ski run. This will improve, to some degree, safety for skiers.
<u>Utilities and Energy</u> – There are no utility supplies that are likely to be affected.
<u>Heritage</u> – The proposal will not impact on any European heritage items. See comments below from OEH in regard to Aboriginal cultural heritage.
<u>Other Land Resources</u> – The proposal is not envisaged to impact on any valuable land resources.
<u>Water</u> – None of the works proposed are within 40 metres of a watercourse.
<u>Soils, Air and Microclimate</u> – No ground disturbance is proposed. The trees are to be cut to ground level with the stumps and roots to be left in place.

Noise and Vibration – Impacts in this regard will be small-scale and short-term during construction. There are no neighbouring lodges or residences that will be adversely impacted in this regard.

Flora and fauna – The three trees proposed to be removed are located within an island of alpine bog. As discussed above, this ecological community is listed as endangered under both NSW and Commonwealth legislation. To minimise any impact on this ecological community, the applicant will limit only two persons walking in to this area so as to cut the tree limbs, and no vehicles or machinery are permitted in this area. The tree stumps and roots will be left in-situ so that there is no ground disturbance within this community. The assessments undertaken conclude that the proposal is unlikely to have a significant impact on this threatened ecological community.

The three trees proposed to be removed will be offset by planting six Snow Gum tubestock in an area adjacent to and on the skier's left of the formed Zali's ski run, and just upslope from where the trees are proposed to be removed. Also, the trees that are to be removed will be checked for any existing hollows, and any hollows found will be kept intact and placed in surrounding heath vegetation so as to provide potential shelter and habitat.

Waste – No waste is envisaged during construction, other than the tree limbs. These will be cut up on site and taken away to be disposed of at the Jindabyne landfill site.

Natural Hazards – No excavations are proposed and therefore documentation in accordance with the Department's Geotechnical Policy is not required.

Social Impact – The removal of three trees is not envisaged to have any adverse social impacts.

Economic Impact – The proposal will generate the equivalent of 0.12 of a job during construction only. No adverse economic impact is envisaged as a result of the proposal.

Construction – Access to the site for construction vehicles and machinery is available from Blue Cow road and the existing access track. All vehicles and machinery will be contained to the existing access track during works.



Photograph 3: Existing access track to the site.

Cumulative Impacts – The removal of these three trees is not envisaged to have a negative cumulative impact. Particularly given their isolation and separation from surrounding tree areas.
S 79C(1)(c) the suitability of the site for the development Removal of these three trees is considered appropriate given their location within the centre of an existing ski slope, isolated from adjoining tree areas.
S 79C(1)(d) any submissions made in accordance with the Act or the regulations The application was not required to be placed on public exhibition and no submissions in this regard were therefore received.
S 79C(1)(e) the public interest The proposal is considered in the public interest as it will remove obstacles from within a ski run without an adverse impact on the environment, or a significant impact on any threatened species or endangered ecological communities.

A3 ENVIRONMENTAL PLANNING INSTRUMENTS

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

CI 2 – Aim and objectives:
The proposal is consistent with the aim of the Alpine SEPP in that it is consistent with the ESD principles, and consistent with the objectives of the Alpine SEPP in that it will remove obstacles from within the ski slope without adversely impacting on the natural or cultural environment.
CI 11- Land use table
The Perisher Range alpine resort land use table provides that 'ski slopes' are permissible with consent. The proposed development is for the removal of three trees within an existing ski slope.
CI 14(1) – Matters to be considered by consent authority
(a) the aim and objectives of this policy, as set out in clause 2, See discussion above under cl 2.
(b) the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding, No excavations are proposed, the removal of three trees will not contribute to bushfire risk or flooding.
(c) the cumulative impacts of development on existing transport, effluent management systems, waste disposal facilities or transfer facilities and existing water supply: The proposal will not influence the number of people visiting the resort.
(d) any statement of environmental effects, The SEE and additional information supplied are considered adequate to enable a full and proper assessment of the proposal.
(e) the character of the alpine resort, The proposal will not significantly alter the character of the resort.
(f) the Geotechnical Policy – Kosciuszko Alpine Resorts, No excavations are proposed. Geotechnical documentation in accordance with the

Department's Geotechnical Policy is not required.	
(g) any sedimentation and erosion control measures,	
The proposal does not include excavation of any soil.	
(h) if stormwater drainage works are proposed,	
No stormwater drainage works are proposed.	
(i) any visual impact of the proposed development, particularly when viewed from the Main Range,	
The proposal will not result in an unacceptable visual impact and will not be visible from the Main Range.	
(j) any significant increase in activities, outside of the ski season,	
The proposal will not result in an increase in activities during or outside the ski season.	
(k) if the development involves the installation of ski lifting facilities,	
The proposal does not involve the installation of new ski lifting facilities.	
(l) if the development is proposed to be carried out in Perisher Range Alpine Resort:	
(i) the document entitled Perisher Range Resorts Master Plan...	
(ii) the document entitled Perisher Blue Ski Slope Master Plan...	
The proposal is for the removal of three trees from within the Zali's ski run which is marked as a groomed run in the Perisher Blue SSMP.	
(m) if the development is proposed to be carried out on land in a riparian corridor:	
No site is not located within a riparian corridor.	
Cl 17 – Development applications referred to the Department of Environment, Climate Change and Water (DECCW)	
The proposal was referred to the OEH pursuant to cl 17 of the Alpine SEPP. The OEH advised that the amended proposal is acceptable and that the trees were well outside the primary habitat of the local population of the Mountain Pygmy-possum. The following two conditions were recommended by the OEH:	
<ul style="list-style-type: none"> ➤ The trees should only be accessed and removed in a manner that does not damage the surrounding heath and bog. ➤ The trees should only be removed near ground level and the stump and root-stock left in-situ. 	
These conditions have been incorporated into the conditions contained within Schedule 2.	
Cl 26 – Heritage conservation	
European Heritage	The proposal will not impact on any European heritage items.
Aboriginal Heritage	See comments above from OEH.