



Planning &  
Environment

***DEVELOPMENT APPLICATION  
ASSESSMENT REPORT:***

**Internal Alterations, Jax Bar, Perisher Centre,  
Perisher Range Alpine Resort, Kosciuszko  
National Park**

**DA 6879**



**Assessment under Part 4 of the  
*Environmental Planning and Assessment Act 1979***

**September 2015**

## ABBREVIATIONS

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Alpine SEPP	State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007
Applicant	Perisher Blue Pty Ltd
Consent	This development consent
Department	Department of Planning and Environment
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
Minister	Minister for Planning
PCA	Principal Certifying Authority
Secretary	Secretary of the Department of Planning and Environment
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy

Cover Image: Jax Bar Perisher (Source: Applicant's SEE)

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## 1. BACKGROUND

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### 1.1 Introduction

This report provides an assessment of a Development Application (DA 6879) lodged by Perisher Blue Pty Ltd on 17 December 2014 under Part 4 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) that seeks consent for internal alterations to Jax Bar in the Perisher Centre, Perisher Valley, Perisher Range Alpine Resort, within the Kosciuszko National Park.

The proposal is described in detail in **Section 2** of this report.

### 1.2 The site and surrounding development

The subject site is Jax Bar located within the Perisher Centre which is a shopping and restaurant precinct within the Perisher Range Alpine Resort. Jax Bar is located at the south-western end of the building and is a popular restaurant/bar which overlooks Front Valley.

The surrounding development is characterised by commercial outlets including other eateries, retail shops, ski hire, bars and Perisher administration offices.



**Figure 1:** Jax Bar location within the Perisher Centre (Source: Six Maps 2015)

### 1.3 Related application

Perisher Blue lodged a development application (DA 6832) to extend the Adventure Kids Centre on the north-eastern end of the building into Basil's Bar. These applications are related as the gaming machines from Basil's Bar will be moved to the stage area of Jax Bar.

## 2. PROPOSED DEVELOPMENT

The development application seeks approval for the following:

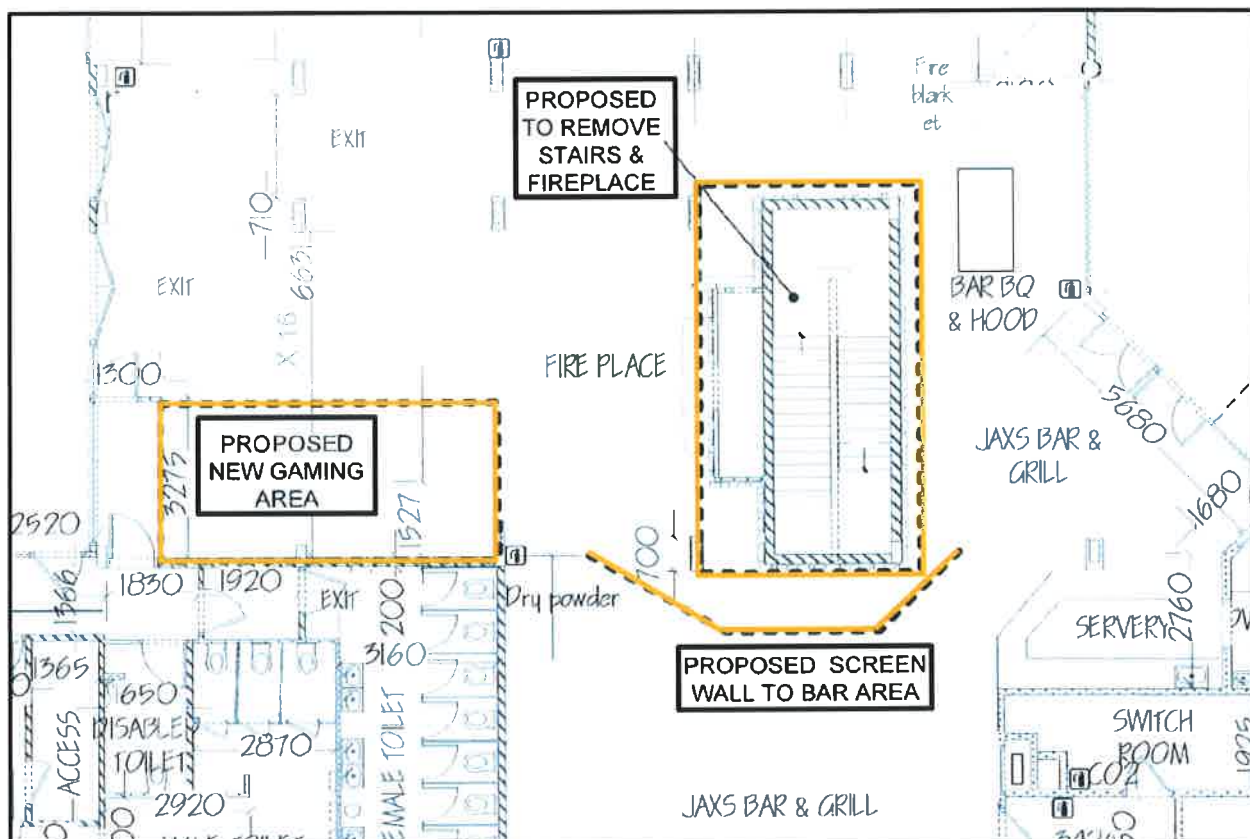
- removal of central stair and fireplace; and
- screening of existing bar area and new gaming area.

It is proposed to remove the stairs and fireplace that are currently in the centre of Jax Bar. The staircase is not used by customers, but provides access for Perisher staff internally from offices on the top floor of the Perisher Centre to the ground floor. The removal of the stairs and fireplace increases the useable floor space of the area and provides an open and flexible space. As the central stairs and fireplace provide structural support, a structural engineer has been engaged to prepare a design in support of the application.

A new screen wall will be installed between the eating area and the bar area on the eastern wall to provide improved separation between the dining area and the bar. This will consist of 90mm stud wall with plasterboard to both sides to 1200mm high, with frosted glass windows above. The total height of the wall will be 2400mm.

A new gaming area will be installed in the south eastern corner of the room which is currently a rarely used dance floor and stage area. This will house gaming machines that are being relocated from Bazil's Bar, which is at the opposite end of the Perisher Centre, and is being incorporated into the adjacent Kid's Adventure Centre under separate approval. The gaming machines will be enclosed in accordance with regulations by a 90mm stud wall with plasterboard to both sides to 1200m high and frosted glass windows above. This wall will match the wall screening the bar area.

All existing entrances, exits and toilets will remain.



**Figure 2:** Proposed works within Jax Bar (Source: Applicant's submitted plan)



### 3. STATUTORY CONTEXT

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#### 3.1. Consent Authority

The Minister for Planning is the consent authority for the application under clause 7 of *State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007* (the Alpine SEPP) as the development takes place within a ski resort area as referred to in Clause 32C (2)(a) of Schedule 6 to the *Environmental Planning and Assessment Act 1979* (EP&A Act).

#### 3.2. Determination under Delegation

The Minister for Planning has delegated the determination of development applications under Part 4 of the EP&A Act to the Team Leader, Alpine Resorts Team where:

- the application is in relation to land which the Alpine SEPP applies; and
- there are less than 25 public submissions in the nature of objections.

The proposal complies with the terms of delegation as the application relates to land which the Alpine SEPP applies and no public submissions were received in the nature of objections.

Accordingly, the Team Leader, Alpine Resorts Team may determine the application in accordance with the Minister's delegation.

#### 3.3. Permissibility

Pursuant to clause 11 of the Alpine SEPP and the Perisher Range Alpine Resort land use table, 'food outlets' are permissible with consent.

#### 3.4. Environmental Planning Instruments

The Alpine SEPP is the only environmental planning instrument (EPI) which applies to the site for this type of development. An assessment against the requirements of the Alpine SEPP is provided in **Appendix B**. In summary, the Department is satisfied that the application is consistent with the requirements of the Alpine SEPP.

#### 3.5. Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the Act, as set out in Section 5 of the Act and read as follows:

(a) *to encourage:*

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) *the protection, provision and co-ordination of communication and utility services,*
- (iv) *the provision of land for public purposes,*
- (v) *the provision and co-ordination of community services and facilities, and*
- (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- (vii) *ecologically sustainable development, and*
- (viii) *the provision and maintenance of affordable housing, and*

(b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

The proposal is consistent with the above objects, particularly (a)(ii) and (vii) as the proposal promotes the orderly and economic use of the site and is ecologically sustainable. Further discussion on compliance with the above is provided in **Appendix B**.

### 3.6. Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) the precautionary principle;
- (b) inter-generational equity;
- (c) conservation of biological diversity and ecological integrity; and
- (d) improved valuation, pricing and incentive mechanisms.

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

**Precautionary Principle** – The proposal does not pose a threat of serious or irreversible environmental damage. Due to the works being within the existing building, the proposal does not have an impact on any threatened species, populations, ecological communities or their habitats.

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

**Biodiversity Principle** – The proposal would not result in a loss of biodiversity as there would be no disturbance to any native vegetation. All works are within the existing building footprint.

**Valuation Principle** – Due to the minor nature of the works, there is minimal environmental impact as a result of the proposal.

### 3.7. Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Notification (Part 6, Division 7) and Fees (Part 15, Division 1) have been complied with.

## 4. CONSULTATION AND SUBMISSIONS

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After accepting the application, the Department placed the application on its website and notified six nearby commercial operations. No public submissions were received during the assessment of the application.

The proposal was referred to the Office of Environment and Heritage (OEH) pursuant to clause 17 of the Alpine SEPP. The OEH raised no objections to the proposal, and advised that the proposal is permitted under the lease held by the Applicant.

## 5. ASSESSMENT

### 5.1. Section 79C Evaluation

**Table 1** identifies the matters for consideration under section 79C of the EP&A Act that apply to the development. The table also represents a summary for which additional information and consideration is provided for in **Section 5.2** (Key and Other Issues), the appendix or other sections of this report, referenced in the table.

**Table 1: Section 79C(1) Matters for Consideration**

Section 79C(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies - see <b>Section 3.4</b> and <b>Appendix B</b> of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Not applicable.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations	Complies - The application satisfactorily meets the relevant requirements of the EP&A Regulation.
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development	Impacts of the development have been considered in <b>Section 5.2</b> and additional detail is provided in <b>Appendix B</b> of this report.
(c) the suitability of the site for the development	The suitability of the site has been considered in <b>Section 5.3</b> of this report.
(d) any submissions	Consideration has been given to submissions received during the exhibition of the application in <b>Section 4</b> . Key issues raised in submissions have been considered further in <b>Section 5.2</b> of this report.
(e) the public interest	The public interest of the development has been considered in <b>Section 5.4</b> of this report.
Biodiversity values impact assessment not required if: (a) On biodiversity certified land (b) Biobanking Statement exists	Not applicable.

### 5.2. Key and Other Issues

The Department has considered the objectives of section 79C of the EP&A Act, the SEE and issues raised in submissions in its assessment of the proposal. The Department considers that the key issues associated with the proposal to be:

#### 5.2.1. Compliance with the Building Code of Australia (BCA)

The proposal is required to comply with the BCA and relevant Australian Standards. The key BCA issue is the structural support the stairs provide. The applicant has provided drawings and designs prepared by a structural engineer outlining how the works should take place.

The removal of the stair will not compromise access, egress or the provision for escape as there are adequate exit routes within the building. The Department is also satisfied that the proposed location of the relocated gaming machines is appropriate and will not impede safe access or egress.

Based on the plans and documents that were submitted, the Department is satisfied that BCA compliance can be achieved. Conditions of consent are recommended to ensure that BCA compliance is addressed at the Construction Certificate stage.

### **5.3. Suitability of the Site**

The proposed alteration is suitable for the site. The alterations improve the venue without having any adverse environmental impacts. The relocating of gaming machines from Bazil's Bar is appropriate as they will be adequately screened and the overall number of machines in the building remains the same.

The works will not increase the footprint of the building or impact any adjoining property or vegetation. The removal of the stairs will create an increase in useable floor area within Jax Bar and improve visibility within the premise.

Construction works can be appropriately managed to avoid or mitigate any adverse impacts. Works will also be undertaken during the 'summer' period when impacts upon visitors to the resort will be minimised.

### **5.4. Public Interest**

The proposed development is considered to be consistent with the aim and objectives of the Alpine SEPP and the public interest would not be compromised by the proposal. There would also not be an adverse impact on the environment and the proposal is consistent with the principles of ESD.

## **6. CONCLUSION AND RECOMMENDATION**

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### **6.1. Conclusion**

The Department has assessed the merits of the proposal taking into consideration the issues raised in all submissions and is satisfied that the impacts have been satisfactorily addressed within the proposal and the recommended conditions.

In relation to the proposal, the Department considers that:

- the proposed works will not have an impact on threatened species, populations and ecological communities;
- construction works will be undertaken in accordance with the BCA, and relevant Australian Standards; and
- the proposal is appropriate and does not impact upon any adjoining properties.

Overall, the Department is satisfied that the Development Application has been appropriately designed and recommends that the application be approved subject to the imposition of conditions.



## 6.2. Recommendation

It is recommended that the Team Leader, Alpine Resorts Team, as delegate of the Minister for Planning:

- a) **consider** all relevant matters prescribed in section 79C of the EP&A Act, including the findings and recommendations of this report; and
- b) **approve** the Development Application (DA 6879), under section 80(1)(a) of the EP&A Act, having considered matters in accordance with (a) above, and **sign** the Notice of Determination at **Appendix C**.

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Approved by:



Daniel James  
**Team Leader**  
**Alpine Resorts Team**

## **APPENDIX A. RELEVANT SUPPORTING INFORMATION / SUBMISSIONS**

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The following supporting documents and information to this assessment report can be found on the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6897](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6897)

## APPENDIX B. CONSIDERATION OF RELEVANT LEGISLATION

### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

To satisfy the requirements of section 79C(a)(i) of the EP&A Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

#### Section 79C (1) of the EP&A Act

In determining a DA, a consent authority must take into consideration the matters referred to in section 79C(1) of the EP&A Act as are relevant to the development. **Section 5.1** of this report details consideration of the matters in section 79C(1), however a detailed consideration of the likely impacts of the development is provided below:

#### S 79C(1)(b) the likely impacts of that development

Context and setting – The proposed works are minor in nature and will be consistent with the context and setting of the locality. The works are internal only and will not impact the character of the locality. The use of the space as a food and beverage outlet is consistent with other uses in the locality. The stage area within Jax will become a new gaming area, the number of machines within the Perisher Centre will not increase, and the gaming area will be adequately screened in accordance with regulations. The removal of the stairs will increase the usable floor area within Jax Bar and improve operations.

Access, transport and traffic – The proposal will not increase traffic to the site or impact upon access, transport or traffic management within the resort.

Public domain – The proposed works will not impact upon the public domain. The works are internal only and will have a positive impact on the building through an increase in useable floor space which will be available following the removal of the stairs.

Utilities and energy – Energy and utility requirements will not be altered by the proposal.

Heritage – The proposal will not impact upon any European or Aboriginal archaeological heritage items.

Other land resources – The proposed works do not impact on other land resources.

Water – There will be no impact on water resources.

Soils – The proposed works will not impact on soils. Internal works only, no excavation.

Noise and vibration – There will be a minor increase in noise and vibration during construction which will be short term and managed in accordance with conditions of consent.

Air and microclimate – Impacts in this regard will be small-scale and short-term during construction and involve primarily, construction activities. These will be managed in accordance with conditions of consent. No long term impacts are expected.

Flora and fauna – The proposed works do not impact upon flora or fauna. The works are internal only and no flora or fauna will be impacted.

Waste – Construction waste will be managed as in accordance with conditions.

<p><b>Natural hazards</b> – The site bushfire prone land however the internal alterations do not require referral to the NSW RFS under Section 100B of the <i>Rural Fires Act</i>. There are no other known natural hazards that affect the proposal.</p> <p><b>Technological hazards</b> – The proposal is required to comply with the BCA and relevant Australian Standards. Submitted plans demonstrate that compliance is achievable. No concerns are raised in relation to the proposal.</p> <p><b>Safety, security and crime prevention</b> – The proposed works will have no impact on safety, security and crime prevention.</p> <p><b>Social impact</b> – The proposal will not generate any social impact as the works are minor and the number of gaming machines is remaining the same and they are being relocated from one licensed area within the Perisher Centre to another similarly licensed area within the centre.</p> <p><b>Economic impact</b> – The proposal is minor in scale and will have minimal economic impact.</p> <p><b>Site design and internal design</b> – The proposal will result in an increase in useable floor area within Jax following the removal of the stairs, and the utilisation of a rarely used stage area for a screened gaming machine area.</p> <p><b>Construction</b> – The construction of the proposal will have minimal impacts.</p> <p><b>Cumulative impacts</b> – No cumulative impacts are envisaged as a result of this proposal.</p>
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**STATE ENVIRONMENTAL PLANNING POLICY (KOSCIUSZKO NATIONAL PARK – ALPINE RESORTS) 2007**

<b>CI 2 – Aim and objectives:</b>	
The proposal is considered to be consistent with the aim and objectives of the Alpine SEPP in that it is consistent with the principles of ESD and consists of the removal of an existing stairwell on a commercial premise and the relocation of gaming machines.	
<b>CI 11 – Land Use Table</b>	
The proposal is for the removal of a stairwell. Pursuant to clause 11 of the Alpine SEPP and the Perisher Range Alpine Resort Land Use Table, 'food outlets' are permissible with consent.	
<b>CI 14(1) – Matters to be considered by consent authority</b>	
(a) the aim and objectives of this policy, as set out in clause 2	See discussion above.
(b) the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),	Due to the works being wholly within the building and not increasing the size or scale of the building, no impact is expected on the natural environment.
(c) the cumulative impacts of development on existing transport, effluent management systems, waste	The subject site contains the necessary infrastructure and services to support the development as proposed. The increase in

disposal facilities or transfer facilities, and existing water supply	maximum capacity of the bar/restaurant as a result of the stair removal is not likely to impact on waste management or other services.
(d) any statement of environmental effects,	The SEE and supporting information supplied are considered adequate to enable a proper assessment of the proposal.
(e) the character of the alpine resort,	The proposal will not alter the character of the resort, the works are internal only.
(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	Not applicable for this type of development. The proposal is exempt under the policy.
(g) any sedimentation and erosion control measures,	No adverse impacts are expected, works are entirely internal.
(h) any stormwater drainage works proposed,	The existing storm water drainage system is adequate for the proposed works.
(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. The proposal is for minor internal building works only.
(j) any significant increase in activities, outside of the ski season,	The proposal will not result in a significant increase in activities outside the ski season.
(k) if the development involves the installation of ski lifting facilities	The proposal does not involve the installation of any new ski lifting facilities.
(l) if the development is proposed to be carried out in Perisher Range Alpine Resort: the document entitled Perisher Range Resorts Master Plan and the document entitled Perisher Blue Ski Slope Master Plan	Not applicable to this development.
(m) if the development is proposed to be carried out on land in a riparian corridor:	The works are not within 40 metres of any riparian land.
<b>CI 17 – applications referred to the Office of Environment and Heritage (OEH)</b>	
The proposal was referred to the OEH pursuant to clause 17 of the Alpine SEPP. No objections to the proposal were raised from OEH.	
<b>CI 26 – Heritage conservation</b>	
European heritage	The proposal will not impact on any European heritage items.
Aboriginal heritage	Due to works being alterations only, the proposal will not impact on any Aboriginal heritage items.

## **APPENDIX C. RECOMMENDED CONDITIONS OF CONSENT**

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