

Development consent

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

As delegate of the Minister for Planning and Public Spaces, under delegation executed on 26 April 2021, 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.



Keiran Thomas
Director
Regional Assessments
Department of Planning, Industry and Environment

Jindabyne

21 June 2021

SCHEDULE 1

Application No.:	DA No. 10174
Applicant:	Snowy Mountains Back Country Pty Ltd
Consent Authority:	Minister for Planning and Public Spaces
Land:	Guthega Ski Centre, Lot 536, 1 Mount Tate Road, Guthega, Kosciuszko National Park
Type of Development:	General Development
Approved Development:	Operation of a café and internal alterations to Guthega Ski Centre including: <ul style="list-style-type: none">• seating of 90 patrons• upgrades to existing commercial kitchen; and• installation of a dry storage room and cool room.

DEFINITIONS

Act		means the <i>Environmental Planning and Assessment Act, 1979</i> (as amended).
Applicant		means Snowy Mountains Back Country 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 10174		means the development application submitted by the applicant on 9 March 2020.
Department		means the Department of Planning, Industry and Environment, or its successors.
Director		means the Director of Regional Assessments or a delegate of the Director of within the Department.
Minister		means the Minister for Planning and Public Spaces, or nominee.
NPWS		National Parks and Wildlife Service
Principal Certifier		has the same meaning as Part 6 of the Act.
Regulation		means the <i>Environmental Planning and Assessment Regulations, 2000</i> (as amended).
Secretary		means the Secretary of the Department, or nominee/delegate.
Secretary's agreement satisfaction	approval, or	means a written approval from the Secretary or nominee/delegate.
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 prevent 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:

- (a) DA No. 10174 submitted by Snowy Mountains Back Country on 9 March 2020;
- (b) supporting documentation submitted with that application (DA 10174); and
- (c) conditions of this consent

including:

Ref No.	Document	Title/Description	Author/Prepared by	Date	Document Reference
1	Statement of Environmental Effects (SEE)	Statement of Environmental Effects for Guthega Mountain Centre, Guthega	Snowy Mountains Back Country	9 March 2020	-
2	Plan	Guthega Ski Centre - Floor Plan – Level 1, Level 2 & Level 3	Perisher Blue	9 March 2020	-
3	Plan	Guthega Mountain Centre: Middle Level	Snowy Mountains Back Country	9 March 2020	-
4	Plan	Guthega Mountain Centre: Kiosk Refurbishment for SMBC	AG	5/05/201	
5	Letter	DA 10174 RFI – ss.3 – 4 Response	Perisher Blue		

A.3 Inconsistency between documents

If there is any inconsistency between the plans and documentation referred to above, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this approval prevail to the extent of any inconsistency.

A.4 Lapsing of consent

This development consent will lapse five years from the date of consent, unless the building, engineering or construction work relating to the development is physically commenced on the land to which this consent applies before the date on which the consent would otherwise lapse.

A.5 Prescribed conditions

All works shall comply with the prescribed conditions of development consent as set out in Part 6, Division 8A of the Regulation. In particular, your attention is drawn to:

- (d) clause 98, Compliance with Building Code of Australia; and
- (e) clause 98A, Erection of signs during building and demolition works.

A.6 Australian standards

All works shall be carried out in accordance with 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 Principal Certifier must also notify the Department in writing to compliance@planning.nsw.gov.au and 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.

A.9 Excluded development

The following aspects are excluded from this consent:

- (a) Any external work or penetrations of the external walls
 - (b) Any new or change building use of the basement, level 1 or level 3 of the Guthega Ski Centre
 - (c) Any staff accommodation or sleeping areas for Snowy Mountains Back Country Pty Ltd
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PART B – PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

B.1 Construction certificate

Prior to the commencement of any building work a construction certificate for the development must be obtained.

B.2 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; or
 - (ii) is shown to be at least equivalent to the deemed to satisfy provision; or
 - (iii) a combination of (a) and (b).

B.3 Building Works Plan

Prior to the issue of a construction certificate, the Applicant shall submit to the certifier a building works plan and specifications that demonstrates compliance with:

- (a) the relevant clauses of the BCA;
- (b) the development consent; and
- (c) if any structural works are required, the Applicant shall submit structural drawings and a design statement, prepared and signed by an appropriately qualified practising Structural Engineer.

B.4 Specifications

Prior to the issue of the relevant construction certificate, the Applicant shall provide to the certifier specifications for the development that describe the construction and materials of which the buildings, services and infrastructure are to be built.

B.5 Food Act 2003

Prior to the issue of the relevant construction certificate, the Applicant shall submit plans and a design statement demonstrating that the design and construction of the food preparation areas comply with the *Australian Standard AS4674-2004 (Design Construction and Fit-out of Food Premises)* and the *Food Act 2003*, to the certifier. If the Department is not the certifier, a copy of the documentation shall be submitted to the Department with the construction certificate.

B.6 Hydraulics plan

Prior to the issue of a construction certificate, a hydraulics plan in accordance with the relevant and current Australian Standards, prepared by an appropriately qualified and practising professional, shall be submitted to the certifier. If the Department is not the certifier a copy of the documentation shall be submitted to the Department with the construction certificate.

B.7 Mechanical ventilation

Prior to the issue of the relevant construction certificate, drawings and a design statement prepared by an appropriately qualified and practising engineer, shall be submitted to the certifier to demonstrate that the proposal complies with:

- (a) identifies the location of the mechanical ventilation system, discharge vents (if applicable), air flow measurements and the noise rating of the fan(s) and motor(s)

- (b) the mechanical ventilation systems comply with *Australian Standard / New Zealand Standard 1668.2 – 2012 (The use of ventilation and airconditioning in buildings – Mechanical ventilation in buildings)*
- (c) a mechanical ventilation engineer or other suitably qualified professional is required to design the system and the installation is to be carried out by a suitably qualified trade person.

If the Department is not the certifier, a copy of the documentation shall be submitted to the Department with the construction certificate.

B.8 Disabled access

Access and facilities for people with disabilities associated with the Café must be in accordance with the following:

- (a) *Federal Disability Discrimination Act 1992*;
- (b) Disability (Access to Premises – Buildings) Standards 2010; and
- (c) the relevant provisions of the BCA.

Prior to the issue of the relevant construction certificate, the Applicant shall provide to the certifier sufficient details to demonstrate compliance with this condition. If the Department is not the certifier, a copy of the documentation shall be submitted to the Department with the construction certificate.

B.9 Proposed fire safety measures and essential services

Prior to the issue of the relevant construction certificate, the Applicant shall provide to the certifier a list and plans of the fire safety measures and essential fire services to be provided in relation to the land and any building on the land as a consequence of the building work. If the Department is not the certifier, a copy of the documentation shall be submitted to the Department with the construction certificate.

B.10 Environmental performance (water and energy efficiency)

- (a) All water associated fixtures, fittings and appliances installed in the building shall have a minimum three (3) star Water Efficiency Labelling and Standards (WELS) rating.
- (b) Energy efficiency shall be maximised within the development including, but not limited to the following:
 - (i) energy efficient options for lighting are to be installed in all cases where possible;
 - (ii) all classes of appliances that are available with an energy label or a Minimum Energy Performance Standard to be installed within the premises are to have an energy star rating of 4 stars or more (excluding clothes dryers which are to have a rating of 2.5 stars or more and gas water heaters which are to have a rating of 5 stars or more);
 - (iii) all baths, hot water pipes and ceiling spaces are to be insulated;
 - (iv) if air conditioners are installed they are to have a variable speed compressor or inverter drive and their outdoor components are to be positioned out of direct sunlight while still allowing access to outside air;
 - (v) doors and windows are to be fitted with draught seals and weather stripping; and
 - (vi) energy efficient water heaters are to be installed e.g. solar, heat pump or gas.

Details are to be submitted to the certifier prior to the issue of a construction certificate. If the Department is not the certifier, a copy of the documentation shall be submitted to the Department with the construction certificate.

B.11 Upgrading of building

In accordance with Clause 94 of the Regulation, the existing building shall be brought into partial conformity with the BCA. The Applicant is to partially upgrade the building:

- (a) internal and external emergency lighting must comply E4.4 and G4.4 of the BCA;
- (b) the fire detection and alarm system must comply with E2.2 and G4.8 of the BCA;

- (c) the internal balustrade around the main stair must comply with D2.16 of the BCA;
- (d) all fire exit door hardware and locking mechanisms must comply with D2.21 of the BCA;
- (e) penetrations through fire rated construction must comply with C3.15 of the BCA; and
- (f) the basement area requires a review of smoke detection, door hardware and signage, fire separation and emergency lighting and where necessary shall be upgraded in accordance with the relevant provisions of the BCA.

Prior to the issue of any construction certificate, plans are to be annotated and details of the method (deemed to satisfy provision or performance solution) to meet the performance requirement nominated above shall be submitted to the certifier. If the Department is not the certifier, full details including specification and justification of the methods utilised shall be submitted to the Department with the construction certificate.

B.12 Cool rooms

Cool rooms, refrigerated chambers and strong-rooms must be constructed in accordance with G 1.2 of the BCA, and:

- (a) The floor of the cool room must be graded to the door and a floor trapped waste outlet must be located outside the cool room as near as possible to the door opening.
- (b) All proposed shelving in the cool room must be free-standing, constructed of galvanised steel angle section or other approved material with the lowest shelf at least 150mm clear of the floor.
- (c) The floor of the cool room must be constructed of impermeable concrete or coated, topped or otherwise finished with an impervious material to a smooth even surface and coved at the intersections with the walls to a minimum radius of 25mm.
- (d) Must be fitted with a door that can be opened at all times from inside without a key.
- (e) An approved audible alarm device must be located outside the cool room(s) but controllable only from within the cool room(s) and must be able to achieve a sound pressure level outside the chamber or cool room(s) of 90 dB(A) when measured 3 metres from a sounding device.

Prior to the issue of the relevant construction certificate, the Applicant shall provide to the certifier sufficient details to demonstrate compliance with this condition. If the Department is not the certifier, a copy of the documentation shall be submitted to the Department with the construction certificate.

B.13 Signage parameters

Prior to the relevant construction certificate for signage, the Applicant shall submit to the Secretary or nominee for approval, details of the signage including:

- (a) visual representation of the signage within the approved zones;
 - (b) fixing details;
 - (c) the type of signage e.g. advertising, sponsors, safety, directional or identification; and
 - (d) if applicable, details of how any illuminated signage would be designed and installed to comply with *AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting*.
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PART C – PRIOR TO THE COMMENCEMENT OF WORKS

C.1 Notification to Department of the date of commencement of works

The Department must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.

If the construction or operation of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

C.2 Plumbing and drainage works

Prior to the commencement of works, a Notice of Work must be pre-notified to the plumbing regulator (NPWS Perisher Team) in accordance with Plumbing and Drainage Act 2011. For more information please refer to the NPWS website:

<https://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/parkmanagement/alpine-resort-management/our-services/plumbing-and-drainage>

A copy of the Notice of Works must also be provided to the Department.

C.3 Consultation with NPWS Property and Commercial Team

Prior to the commencement of works, Perisher Blue Pty Ltd must obtain NPWS consent for the assign of the site (or part of the site) to the Applicant.

C.4 Demolitions work

Demolition work must comply with *Australian Standard AS 2601-2001 The demolition of structures* (Standards Australia, 2001). The work plans required by AS 2601-2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the Principal Certifier before the commencement of works.

C.5 Compliance

The Applicant must ensure that all of its 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 D – DURING WORKS

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

A copy of the approved plans and documentation shall be kept on site at all times and shall be readily available for perusal by the Principal Certifier, any person associated with construction works, or an officer of the Department.

D.2 Hours of works

All work in connection with the proposed development shall be carried out between the hours of 7.00am and 6.00pm on Monday to Friday inclusive, and 7:00am to 1.00pm on Saturdays, with no work allowed on Sunday or Public Holidays, or as otherwise approved by the Secretary or nominee.

D.3 Construction period

- (a) All construction activities are limited to the “summer” period. For this development this period means commencing after the October long weekend and ceases no later than 31 May or as otherwise approved by the Secretary or nominee.
- (b) By 31 May the applicant shall ensure that the site is made safe and secure by undertaking the following:
 - (i) removal of all waste materials;
 - (ii) removal and/or securing of all stockpiles of soil and gravel;
 - (iii) demolition and construction materials are removed from around the building and are stored within the building or contained within designated areas;
 - (iv) the subject site is fenced with para-webbing or other suitable visible protection fencing around the perimeter of the site to limit access to and from the site;
 - (v) appropriate signage shall be erected outlining that unauthorised access to the site is prohibited and that the site is a construction zone;
 - (vi) any external scaffolding shall be dismantled and removed from the site;
 - (vii) all external plumbing and drainage works are to be completed;
 - (viii) all disturbed ground is stabilised and made erosion resistant;
 - (ix) any excavations are made safe and secure; and
 - (x) any other specific matters related to making the site safe and secure raised by the Principal Certifier or the Secretary or nominee.

D.4 SafeWork NSW

All works shall be carried out in accordance with current SafeWork NSW guidelines.

D.5 Site notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details. The notice(s) is 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 works period.
- (b) The approved hours of work, the name of the principal contractor for the work (if any), and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice.
- (c) The notice(s) is 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) The name, address and phone number of the Principal Certifier is to be identified on the site signage.

D.6 Storage of materials

The applicant shall ensure that at all times during the construction period that no storage or disposal of materials shall take place beneath the canopy of any trees or on native heath vegetation.

D.7 Prohibition of hazardous materials

Hazardous or toxic materials or dangerous goods shall not be stored or processed on any site at any time.

D.8 Recycled Material

Wherever possible, building material should be salvaged for reuse during the construction of the building or sent to a recycling facility to reduce landfill.

D.9 Noise and vibration management

Excavation and construction shall be managed in accordance with AS 2436 *Guide to noise and vibration control on construction, demolition and maintenance sites* and to ensure that there is not an adverse impact for any neighbouring/affected tourist accommodation buildings during the construction period.

D.10 Litter and building waste

Building waste shall be minimised and shall be contained in receptacles so as not to escape by wind or water. These receptacles must only be located in previously disturbed areas and not beneath the canopy or over roots of any trees. The receptacle must be cleaned regularly.

D.11 Electrical works

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

D.12 Demolitions work

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

D.13 Asbestos

- (a) The removal of any asbestos or other hazardous material found on the site shall be carried out in accordance with current SafeWork NSW guidelines by an appropriately qualified contractor.
- (b) Any asbestos or other hazardous materials shall be disposed of at an authorised waste facility. Receipts shall be provided to the Principal Certifier as evidence of appropriate disposal.

D.14 Plumbing and drainage

All plumbing and drainage works shall comply with the Plumbing Code of Australia and Australian Standard AS/NZS 3500 Plumbing and drainage and shall be carried out by an appropriately licensed plumber.

PART E – PRIOR TO COMMENCEMENT OF USE

E.1 Occupation certificate

Prior to the occupation of the building or the commencement of use, an occupation certificate must be obtained from the Principal Certifier. A copy of the occupation certificate must be furnished to the Secretary or nominee prior to the occupation of the building or commencement of the use.

E.2 Site clean up

Prior to the commencement of use, the subject site shall be cleaned up to the satisfaction of the Principal Certifier.

E.3 Removal of site notice

Any site notices or other site information signs shall be removed upon completion of the site works and prior to the commencement of use.

E.4 Fire safety certificate

Prior to the issue of any occupation certificate, a fire safety certificate conforming to the Regulations shall be submitted to the Principal Certifier. A copy of the fire safety certificate shall be submitted to the Secretary or nominee with the copy of the occupation certificate.

E.5 Electrical certification

Prior to the issue of the relevant occupation certificate, certification prepared and signed by an appropriately qualified electrician shall be submitted to the Principal Certifier. The certificate shall indicate that all electrical works have been installed by a qualified and licensed electrician and installed in accordance with the relevant Australian Standards.

E.6 Plumbing and draining works

Prior to the issue of any occupation certificate, a Certificate of Compliance and Sewer Service Diagram (SSD) shall be provided to the plumbing regulator (NPWS Perisher Team) in accordance with *Plumbing and Drainage Act 2011*. A copy of the documentation shall be submitted to the Secretary or nominee with the copy of the occupation certificate.

E.7 Environmental performance

Prior to the issue of a final occupation certificate, the Principal Certifier is to be satisfied that the development complies with all requirements of condition B.10.

E.8 Food compliance

Prior to the issue of the relevant occupation certificate or commencement of use of the cafe:

- (a) the Applicant shall arrange an inspection of the completed works by the NPWS Environmental Health Officer;
- (b) the Applicant shall obtain written confirmation that the works have been completed to the satisfaction of the NPWS Environmental Health Officer; and
- (c) written confirmation as in (b) is to be provided to the Principal Certifier.

A copy of the confirmation is to be submitted to the Secretary or nominee with the occupation certificate documentation.

E.9 Hydraulic certification

Prior to issue of an occupation certificate, hydraulic certification is to be provided to the Principal Certifier. This certificate is to verify that hydraulic works 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.10 Mechanical ventilation certification

Following completion and installation, the mechanical ventilation system/s in the new building shall be tested and prior to the issue of any relevant occupation certificate, certification from an appropriately qualified person confirming that the mechanical ventilation system/s installed in the new building comply with the BCA and any relevant and current Australian Standards shall be submitted to the Principal Certifier. A copy of the certificate is to be submitted to the Secretary or nominee with the occupation certificate documentation.

E.11 Cool room certification

Prior to the issue of the relevant occupation certificate, cool room installation certification shall be submitted to the Principal Certifier. A copy of the certificate is to be submitted to the Secretary or nominee with the occupation certificate documentation.

E.12 Fire safety upgrades

Prior to the issue of occupation certificate, the following documentation shall be submitted to the Principal Certifier:

- (a) written notice that the relevant upgrade works have been completed in accordance with Condition B.11 of this consent; and
- (b) certificates of installation from tradespersons responsible for carrying out the upgrade works.

Note: The upgrade works can be completed in stages and this condition does not prevent a partial occupation certificate being issued.

PART F – POST OCCUPATION AND OPERATIONAL REQUIREMENTS

F.1 Annual fire safety statement

An annual fire safety statement conforming to the Regulations shall be provided to the Department and the FRNSW every 12 months.

F.2 Events

Separate approval is required for entertainment events, including live music, except where exempt development or provided under a different development consent.

F.3 Number of people

The maximum number of people permitted within the premises shall be managed in accordance with the requirements of the BCA.

F.4 Operational noise

At no time shall the development give rise to 'offensive noise' under the *Protection of the Environment Operations Act 1997*.

F.5 Noise complaints registration and management

The applicant is responsible for implementing a system to register and manage noise complaints. The Department shall be notified of all complaints and how the complaints were dealt with.

F.6 Responsible service of alcohol

The applicant and liquor license holders are responsible for the compliance of the Liquor Act.

F.7 Temporary structures

No indoor or outdoor temporary structures are permitted without approval, unless they meet the exempt provisions of the Alpine SEPP.

F.8 Hours of operation for cafe

The hours of operation for the use of the cafe is limited to, except as otherwise approved by the Secretary or nominee or the restrictions identified in the Liquor Licence, the following:

- (a) 7.30am – 5pm seven days a week during the winter season (June long weekend – October long weekend).

F.9 Balcony

Access onto the balcony must be permanently restricted to mitigate any risks to members of the public.

F.10 Snow management

Snow clearing procedures and responsibilities for the Guthega Ski Centre shall be undertaken in accordance with the snow management plan for the building.

ADVISORY NOTES

AN.1 Responsibility for other approvals, licenses, consents or agreements

The Applicant is solely responsible for ensuring that all additional approvals, licenses, consents and agreements are obtained from other authorities, as relevant.

AN.2 Premises Standard

The persons responsible for ensuring compliance with the Premises Standard (Access to Premises – Buildings) are the building certifier, building developer, and building manager. The Standard's applicability should be reasonably investigated by these persons.

AN.3 Utility services

- (a) The Applicant shall 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 and/or the lessee are responsible for costs associated with relocating any services.

AN.4 Building signage

A separate development application is required where any signage is to be installed is not within the approved signage zone or that does not meet the exempt provisions of *State Environmental Planning Policy (Kosciuszko National Park - Alpine Resorts) 2007*.

AN.5 Smoke-free environment legislation

The use and operation of the site shall, at all times, comply with the *Smoke-free Environment Act 2000* and the *Smoke-free Environment Regulation 2000*. Guidance may also be obtained from the NSW Health Department.