

**NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION**

Issued under the *Environmental Planning & Assessment Act, 1979 Section 81(1)(a)*

TO: **Ray White Real Estate**
OF: **19 Byron Street**
Inverell NSW 2360

being the applicant in respect of **Application No DA-84/2019**

Notice is hereby given of the determination by Council of **Application No. DA-84/2019** relating to the land owned by **Hong Yuen Central Plaza Pty Ltd, of C/- Forsyths, PO Box 114, Armidale NSW 2350** and is described as follows:

Lot 2 DP 1036159, Lot 5 DP 543911, Lot 2 DP 1149104
101-121 Byron Street, INVERELL 2360

The development proposal is: **Fitout of Food Premises**

The Determination is **consent granted subject to conditions described below** made on **18 October 2019**.

This consent expires five (5) years from the date on which it commences to operate in accordance with Section 83 of the Environmental Planning and Assessment Act 1979 unless the work to which it relates has physically commenced on site within that period. Where the approval relates to a use of the land rather than to the carrying out of works then that use must have commenced on site within that five year period.

The conditions of consent are set out as follows:

Preliminary

1. Inverell Shire Council issues its consent, subject to conditions stated hereunder, in accordance with Section 4.17 of the *Environmental Planning and Assessment Act 1979*.

Consent is granted for the fit-out of the food premises.

To confirm and clarify the terms of consent, the development must be carried out in accordance with the stamped and approved plans and accompanying documentation, unless modified by any following condition. Any deviation will require the consent of Council.

2. The applicant must comply with all relevant prescribed conditions as contained in Division 8A of the *Environmental Planning & Assessment Regulation 2000* (as detailed at the end of this consent).
3. The construction and operation of the food premises must comply with all applicable legislation/regulation and standards including:
 - *The Food Act 2003;*
 - *Food Regulation 2004;*
 - *Food Standards Australia and New Zealand – Food Standards Code 2001;*
 - *Relevant Australian Standards for Design, Construction and Fit out of Food Premises;*
and
 - *Mechanical ventilation – Australian Standard 1668.2-2002 The use of ventilation and airconditioning*

Prior to Operation of the Food Premises

4. Prior to operation of the food premises, a closed circuit television system (CCTV) must be installed within the premises and on the rear deck in accordance *Australian Standard 4806.2:2006 Closed Circuit Television (CCTV)* (Extract attached as Appendix 1 to this consent).

To enable identification of potential offenders, the CCTV must have the ability for facial identification.

5. Prior to operation of the food premises, suitable lighting for the internal and external areas (foyer, entry and deck) of the premises must be installed and comply with *Australian Standard 1680.2.1:2008 Interior and Workplace Lighting* (Extract attached as Appendix 2 to this consent).

The lights must have suitable colour, brightness and effectiveness, that when fully working, they fully illuminate all areas and remove hiding spots.

6. Prior to operation of the food premises, a secure night safe is to be installed to hold cash to prevent the risk of robbery offences.
7. Prior to operation of the food premises the premises must be inspected by Council's Environmental Health Officer to ensure compliance with applicable food regulations.

Ongoing Use

8. The hours of operation of the food premises are limited to:
 - Sunday to Wednesday – 7am to 8pm; and
 - Thursday to Saturday – 7am to 12am.
9. In accordance with Section 48 of the *Work Health and Safety Regulation 2017* (and any subsequent revisions), the operator of the food premises must manage risks to the health and safety of a worker associated with remote or isolated work, in accordance with Part 3.1 of the *Work Health and Safety Regulation 2017* (and any subsequent revisions).

Note: The operator must have a safe system of work that includes effective communication with the worker – and which allows them to call for help in the event of an emergency.

10. All security lighting and CCTV must be maintained in perpetuity.
11. If incidents of robbery, violence and/or anti-social behaviour occurs inside the retail outlet, during late night trading, suitable access control measures will need to be installed (e.g. night serve window) to contain customers to the porch over Byron lane

Any access control measures (e.g. night serve window) must be approved by Council prior to installation and use.
12. The operator of the food premises must ensure that porch over Byron lane, the surrounding car parks and public areas are kept free of litter, waste material and food scraps.

Reasons for Conditions:

The above conditions have been imposed:

1. To ensure compliance with the terms of the applicable environmental planning instruments.
2. Having regard to Council's duties of consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, as well as Section 80A which authorizes the imposing of the consent conditions.

3. Having regard to the circumstances of the case and the public interest.

Reasons for Approval

1. The development, subject to conditions, is consistent with the objectives of the B2 Local Centre zone.
2. The application was referred to the NSW Police who have not raised any objections to the development. The recommendations from the NSW Police have been incorporated as conditions of consent.
2. In consideration of the heritage and commercial controls of the *Inverell Development Control Plan 2013*, the works are considered appropriate within the premises and CBD.
3. Subject to conditions of consent, the works will comply with the applicable food standards.

Community Consultation

As per section 1.11 of the *Inverell Development Control Plan 2013* the development was considered to be a minor development with minimal environmental impact and notification was not necessary.

If you are dissatisfied with this decision section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

You are also advised that section 82A of the *Environmental Planning and Assessment Act 1979* provides that you may apply to Council for a review of this decision subject to the limitations contained in that section and payment of the prescribed fee.

On behalf of Inverell Shire Council



CHRIS FALEY
DEVELOPMENT PLANNER
DATE : 22 October 2019

Annexure

Prescribed Conditions Summary

As per condition 2 of this consent, the following matters prescribed under Division 8A of the *Environmental Planning & Assessment Regulation 2000* must be complied with, where relevant:

1. All work must be carried out in accordance with the requirements of the *Building Code of Australia*.
2. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. Prior to commencement of building work, subdivision work or demolition work a sign must be erected in a prominent position on the site. The sign must:
 - show the name, address and telephone number of the principal certifying authority for the work;
 - show the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - state that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.

4. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - in the case of work for which a principal contractor is required to be appointed:
 - the name and licence number of the principal contractor; and
 - the name of the insurer by which the work is insured under Part 6 of that Act; and
 - in the case of work to be done by an owner-builder:
 - the name of the owner-builder; and
 - if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified as required above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

5. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of this consent, must at the person's own expense:
 - protect and support the building, structure or work from possible damage from the excavation; and
 - where necessary, underpin the building, structure or work to prevent any such damage.