



NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

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

TO: Ruralplan Consultants
OF: PO Box 5
Glen Innes NSW 2370

being the applicant in respect of **Application No DA-71/2020**

Notice is hereby given of the determination by Council of **Application No. DA-71/2020** relating to the land owned by **M A Kirkby (Trpl) Pty Limited, of PO Box 767, Newport NSW 2106** and is described as follows:

**Lot 173 DP 753285
13420 Guyra Road, TINGHA 2369**

The development proposal is: **Alterations and Additions to Existing Cellar Door Premises**

The Determination is **consent granted subject to conditions described below** made on **28 July 2020**.

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 alterations and additions to the existing cellar door premises, consisting of:

- Relocation of existing combined cellar door and office container building to the south and retained as a storage building;
- Construction of a new cellar door, associated administration building, decking and amenities (detached from existing cellar door); and
- Upgrade of managers residence for bush fire construction compliance.

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 proposed cellar door must be constructed to comply with:
 - Section 3 and Section 5 of *Australian Standard 3959-2018 Construction of buildings in bushfire-prone areas*; and
 - Section 7.5.1 of *Planning for Bushfire Protection 2019*.

Prior to Construction

4. Prior to the commencement of any works (including earthworks) on the site a Construction Certificate must be issued in accordance with Section 109C (1)(b) and 81A (2) of the *Environmental Planning and Assessment Act 1979*. The application for a Construction Certificate shall include plans and specifications demonstrating full compliance with the *Building Code of Australia* and associated standards.

During Construction

5. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:
 - Works on site are to be carried out in accordance with the *Protection of the Environment Operations Act 1997* in relation to noise, dust and associated nuisances from the site. The carrying out of works shall not interfere with the quiet enjoyment of the surrounding neighbourhood;
 - Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path of easement, natural watercourse, footpath, kerb or road surface and shall implement measures to prevent the movement of such material off site;
 - Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken on the building block. The pollutants from these building operations shall be contained on site;
 - Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a waste disposal depot;
 - Sediment and erosion control measures are to be implemented onsite and maintained until the site is fully stabilised, in accordance with Council's Erosion and Sedimentation Control Policy 2004; and
 - Where the proposed development involves the disturbance of any existing survey monuments, those monuments affected will need to be relocated by a registered surveyor under the *Surveying and Spatial Information Act 2002*. A plan showing the relocated monuments will then be required to be lodged as a matter of public record at the Lands Titles Office.

Prior to Occupation and In Perpetuity

6. Prior to occupation of the premises, an Occupation Certificate must be issued in accordance with Section 109M of the *Environmental Planning and Assessment Act 1979*.

Note: Prior to issue of the Occupation Certificate, the Principal Certifying Authority is required to be satisfied, amongst other things, that:

- all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
 - any preconditions to the issue of the certificate required by a development consent have been met.
7. Prior to issue of an Occupation Certificate, the new cellar door must be constructed to comply with:
 - Section 3 and Section 5 of *Australian Standard 3959-2018 Construction of buildings in bushfire-prone areas*; and
 - Section 7.5.1 of *Planning for Bushfire Protection 2019*.
 8. Prior to issue of an Occupation Certificate, the existing manager's dwelling must be upgraded for the protection from ember attack, which will require include:
 - Installation of mesh screens, maximum 2mm aperture, made from non-corrosion steel, bronze or aluminium to completely cover the openable portion of the windows. There

- shall be less than 3mm gap between the screens and building elements;
 - Protection for the subfloor area on the south and west façades of the building by installation of mesh screens, maximum 2mm aperture, made from non-corrosion steel, bronze or aluminium;
 - Provision of weather strips, draught excluders or door seals to the base of side opening external doors; and
 - Install non-combustible gutter guards to prevent any accumulation of leaf litter.
9. Prior to issue of an Occupation Certificate and in perpetuity, a distance of 20 metres surrounding the existing manager's dwelling must be managed as an Asset Protection Zone to the standard described in Appendix 4 of Planning for Bushfire Protection 2019.
 10. Prior to issue of an Occupation Certificate and in perpetuity, the vegetation surrounding the cellar door must be managed for a distance of 139 metres to limit the radiant heat exposure at the cellar door to less than 10kW/m² and achieved by actively grazing this area prior to the commencement of the bushfire danger period and at additional periods where the grass is greater than 100mm in height (8T/Ha fuel load).
 11. Prior to issue of an Occupation Certificate, a minimum 20,000L water storage is to be provided for fire-fighting operations in accordance with Table 7.4a of Planning for Bushfire Protection 2019.
 12. Prior to issue of an Occupation Certificate, a bushfire emergency management plan must be submitted to and approved by Council. The bushfire emergency management plan must be prepared in accordance with *Australian Standard 3745-2010 Planning for emergencies in facilities*, *Planning for Bushfire Protection 2019* and relevant Rural Fire Service publications.

The requirements of the bushfire emergency management plan must be implemented (where relevant) in perpetuity.

The bushfire emergency management plan must be maintained onsite and be available for inspection by Council and/or Rural Fire Service officers.
 13. Any food preparation and handling must comply with all applicable legislation/regulation and standards including:
 - *The Food Act 2003*;
 - *Food Regulation 2015*; and
 - *Food Standards Australia and New Zealand – Food Standards Code 2001*.

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 RU1 Primary Production zone.
2. The alterations and additions are associated with the existing winery and the works are not considered to have adverse environmental impact.

3. A Bushfire Hazard Assessment has been completed by an accredited bush fire consultant for the proposed development, with the recommendations imposed as conditions of consent.

Community Consultation

As per the Inverell Community Participation Plan 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 SERVICES COORDINATOR
DATE : 28 July 2020

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.