



NOTICE OF MODIFICATION TO DETERMINATION OF A DEVELOPMENT APPLICATION

Issued under Clause 122 of the Environmental Planning and Assessment Regulation 2000.

Application No.	DA-134/2023/A
Applicant	Ruralcert Pty Ltd
Land to be developed	Lot 2 DP 1227030 Gwydir Highway, ELSMORE NSW 2360
Approved development	Dwelling
Building Code of Australia Classification	Class 1a
Determination	The determination is amended in accordance with Section 4.55 of the Environmental Planning and Assessment Act 1979.
Original date of determination	6 December 2023
Modification determination date	26 August 2024
Consent will lapse on	6 December 2028

Unless the work or use to which this consent relates has lawfully commenced on-site in accordance with Section 4.53 of Environmental Planning and Assessment Act 1979.

CONDITIONS OF CONSENT

General Conditions

- 1 Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989**
 1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.
 2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.
 3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia.
 4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.
 5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for

development consent was made.

6. This section does not apply—
 - a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or
 - b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.

Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.

2 Erection of signs

1. This section applies to a development consent for development involving building work, subdivision work or demolition work.
2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out—
 - a. showing the name, address and telephone number of the principal certifier for the work, and
 - b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
3. The sign must be—
 - a. maintained while the building work, subdivision work or demolition work is being carried out, and
 - b. removed when the work has been completed.
4. This section does not apply in relation to—
 - a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
 - b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

3 Notification of Home Building Act 1989 requirements

1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council.
2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following—
 - a. for work that requires a principal contractor to be appointed—
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,
 - b. for work to be carried out by an owner-builder—
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989—the number of the owner-builder permit.
3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.
4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition reason: Prescribed condition under section 71 of the Environmental Planning and

Assessment Regulation 2021.

4 **Approved plans and supporting documentation**

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
Sheets D1-D3	-	No.4682 Gwydir Hwy. Elsmore Lot 2 D.P.1227030	Precise Designs	19/09/2023

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

5 **Bushfire Construction Standard**

The dwelling is to be constructed in accordance with the BAL-12.5 requirements of Australian Standard 3959 Construction of buildings in bushfire prone areas.

Condition reason: To ensure the development complies with AS 3959

6 **Setback from Power Lines**

The development is to be a minimum 10m from the power lines.

Condition reason: To ensure satisfactory clearance from the power line.

Building Work

Before issue of a construction certificate

No additional conditions have been applied to this stage of development.

Before building work commences

7 **Construction -Erosion and Sediment Control**

Prior to commencement of works (including earthworks), run-off and erosion control measures must be implemented to prevent soil erosion, water pollution and the discharge of loose sediment on the surrounding land. Measures are to include:

- Diverting uncontaminated run-off around cleared or disturbed areas;
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties;
- Preventing the tracking of sediment by vehicles onto roads; and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

Run-off and erosion control measures must be in place for the duration of building work and until adequate (more than 70%) vegetation (grass) cover is established on the site to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads. In the event that the building contract is completed, it is the responsibility of the owner to maintain the run-off and erosion control measures.

Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

During building work

8 Construction - Local amenity, noise and environmental pollution

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;
- 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.

Condition reason: To protect local amenity and survey monuments during construction.

Before issue of an occupation certificate

9 Bushfire protection zone

Prior to issue of an Occupation Certificate a distance of 30 metres must be provided around the dwelling and maintained in perpetuity as an Asset Protection Zone in accordance with *Planning For Bush Fire Protection 2019* and the NSW Rural Fire Service document 'Standards for Asset Protection Zones'. In this regard it is the applicant's responsibility to provide documentary evidence that this condition has been met.

Condition reason: To comply with Planning for Bush Fire Protection.

10 Bushfire - Water Supply

Prior to issue of an Occupation Certificate a 20,000 litre dedicated water supply is to be provided and maintained in perpetuity for the dwelling, with a 65mm storz outlet with a gate or ball valve for connection of a Rural Fire Service tanker. The water supply must be located within the Asset Protection Zone. In this regard it is the applicant's responsibility to provide documentary evidence that this condition has been met

Condition reason: To comply with Planning for Bush Fire Protection.

11 Onsite Sewage Management System

Prior to issue of an Occupation Certificate, a system of onsite sewage management must be installed and operational.

Condition reason: To require the dwelling to be connected to a sewage management system.

12 Rural addressing

Prior to the issue of Occupation Certificate, a rural addressing fee in accordance with Council's fees and charges is to be paid to Council.

Condition reason: To provide a road number for formal addressing of the property.

13 Stormwater drainage

Prior to issue of an Occupation Certificate, all stormwater (i.e. roof water and/or surface water) shall be drained in accordance with *Australian Standard 3500.3 Plumbing and drainage*.

Condition reason: To ensure stormwater is disposed without causing a nuisance to adjoining properties

14 **Protection of Services from Bushfire**

Prior to issue of an Occupation Certificate, any gas supply is to comply with *Planning for Bushfire Protection 2019*.

Condition reason: To ensure compliance with Planning for Bushfire Protection 2019.

Occupation and ongoing use

15 **Maintenance of APZ**

A distance of 30 metres must be provided around the dwelling and maintained in perpetuity as an Asset Protection Zone in accordance with Section 4. *Planning for Bush Fire Protection 2019*.

Condition reason: To ensure APZ is maintained at all times.

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 4.15 of the *Environmental Planning and Assessment Act 1979*, as well as Section 4.17 which authorizes the imposing of the consent conditions.
3. Having regard to the circumstances of the case and the public interest.

RIGHT OF APPEAL

If you are dissatisfied with this decision, Division 8.3 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 Division 8.2 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



**MARK LYNDON
MANAGER DEVELOPMENT SERVICES**