



## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

<b>Application number</b>	DA-105/2024 PAN-475814
<b>Applicant</b>	Melissa Perrin
<b>Description of development</b>	Change of use to cafe and florist
<b>Property</b>	140 BYRON STREET INVERELL 2360 3/-/DP228393
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	20/11/24
<b>Date from which the consent operates</b>	20/11/24
<b>Date on which the consent lapses</b>	20/11/29
<b>Building Code of Australia building classification</b>	6

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

### Reasons for approval

- <sup>1</sup> The development, subject to conditions, is consistent with the objectives of the E2 Commercial Centre zone.
- <sup>2</sup> The built form and design of the café and florist, subject to conditions is consistent with the streetscape and development in the area.
- <sup>3</sup> In consideration of the controls of the Inverell Development Control Plan 2013, the development is considered appropriate within the locality.

### Right of appeal / review of determination

If you are dissatisfied with this determination:

### **Request a review**

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

### **Rights to appeal**

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.



Liam Spalding  
Development Officer  
Person on behalf of the consent authority

**Terms and Reasons for Conditions**

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

**General Conditions**

1	<p><b>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</b></p> <ol style="list-style-type: none"> <li>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 <i>Building Code of Australia</i>.</li> <li>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 <i>Home Building Act 1989</i>, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li> <li>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 <i>Building Code of Australia</i>.</li> <li>4. In subsection (1), a reference to the <i>Building Code of Australia</i> 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.</li> <li>5. In subsection (3), a reference to the <i>Building Code of Australia</i> is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li> <li>6. This section does not apply—             <ol style="list-style-type: none"> <li>a. to the extent to which an exemption from a provision of the <i>Building Code of Australia</i> or a fire safety standard is in force under the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, or</li> <li>b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li> </ol> </li> </ol> <p><b>Condition reason:</b> Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>															
2	<p><b>Approved plans and supporting documentation</b></p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p> <table border="1" data-bbox="322 1796 1262 1971"> <thead> <tr> <th colspan="5">Approved plans</th> </tr> <tr> <th>Plan number</th> <th>Revision number</th> <th>Plan title</th> <th>Drawn by</th> <th>Date of plan</th> </tr> </thead> <tbody> <tr> <td>N/A</td> <td>N/A</td> <td>Proposed Cafe and Florist - 140</td> <td>Northaven</td> <td>08/09/2024</td> </tr> </tbody> </table>	Approved plans					Plan number	Revision number	Plan title	Drawn by	Date of plan	N/A	N/A	Proposed Cafe and Florist - 140	Northaven	08/09/2024
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	Byron Street Inverell - Lot 3 DP 228393	Ltd	
	In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.		
	<b>Condition reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.		
3	<b>Trade Waste Agreement</b>		
	Prior to the occupation/operation of a business, a trade waste application will need to be submitted and the fees paid.		
	<b>Condition reason:</b> To ensure a trade waste application is submitted.		
4	<b>NATIONAL CONSTRUCTION CODE COMPLIANCE - CHANGE OF USE/CLASSIFICATION (NO BUILDING WORK PROPOSED)</b>		
	<p>a) Pursuant to Section 62 of the Environmental Planning and Assessment Regulation 2021, the building part (the subject tenancy) must comply with the Category 1 fire safety provisions and structural adequacy provisions as required by Section 14 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. Prior to a Construction Certificate / any Occupation Certificate being issued for the new use, documentation detailing compliance with the provisions of the Building Code of Australia as prescribed below must be submitted to and be approved by the Registered Certifier or Principal Certifier.</p> <ul style="list-style-type: none"> <li>i. Access and egress – Part D1;</li> <li>ii. Provision of escape - Part D2;</li> <li>iii. Construction of exits - Part D3;</li> <li>iv. Access for people with disability - Part D4;</li> <li>v. Fire fighting equipment - Part E1; and</li> <li>vi. Visibility in an emergency lighting, exit signs and warning systems -</li> <li>vii. Part E4;</li> </ul> <p><b>Note:</b> The obligation under the above condition to comply with the Category 1 fire safety provisions * may require building work to be carried out even though none is proposed or required in this consent. A Construction Certificate must therefore be obtained prior to work commencing for any building work required to be undertaken.</p> <p>* Category 1 fire safety provisions are the following provisions of the Building Code of Australia, namely, E1P3, E1P4, E1P6, E2P1, E2P2 and E3P2 in Volume One of the Code and H3P2 in Volume Two of the Code.</p>		
	<b>Condition reason:</b> To ensure the Building Code of Australia is complied with.		

## Change of use

### Ongoing use for change of use

5	<b>Hours of operation</b>
	The hours of operation are limited to 8:00am to 5:30pm Monday to Friday and 8:30am to

	3:00pm on Saturday.
	<b>Condition reason:</b> To limit the hours of operation
6	<b>Annual Fire Safety Statement</b>
	An annual Fire Safety Statement must be given to Council and Fire and Rescue NSW commencing within 12 months after the date on which the Fire Safety Certificate is issued or the use commencing, whichever is earlier.
	<b>Condition reason:</b> To ensure annual checks on fire safety system measures.

### Building Work

#### Before issue of a construction certificate

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

#### Before building work commences

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

#### During building work

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

#### Before issue of an occupation certificate

7	<b>Fire Safety</b>
	Prior to the issue of an Occupation Certificate the owner of the building must provide Council with a fire safety certificate with respect to each fire safety or other safety measure installed within the building.
	<b>Condition reason:</b> To ensure the building complies with the necessary fire safety measures
8	<b>Occupation of premise</b>
	Prior to occupation of the premises, an Occupation Certificate must be issued in accordance with <i>Environmental Planning and Assessment Act 1979</i> .
	<i>Note: Prior to issue of the Occupation Certificate, the Principal Certifying Authority is required to be satisfied, amongst other things, that:</i>
	<ul style="list-style-type: none"> <li>* all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and</li> <li>* any preconditions to the issue of the certificate required by a development consent have been met.</li> </ul>
	<b>Condition reason:</b> To ensure an Occupation Certificate is obtained prior to use of the building.

### Occupation and ongoing use

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

#### General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of*

*development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent. Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

## Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

**Construction certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

**Council** means INVERELL SHIRE COUNCIL.

**Court** means the Land and Environment Court of NSW.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the *Environmental Planning and Assessment Act 1979*.

**EP&A Regulation** means the *Environmental Planning and Assessment Regulation 2021*.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Occupation certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**Strata certificate** means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

**Sydney district or regional planning panel** means Northern Regional Planning Panel.