



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

| | |
|---|--|
| Application number | DA-32-2024 PAN-456531 |
| Applicant | Ambrose Hallman [REDACTED] |
| Description of development | Part Change of Use - Artisan Food and Drink Industry |
| Property | 182 BRIDGE STREET URALLA 2358 2/-/DP1165357 |
| Determination | Deferred commencement Consent Authority - Council staff under delegated authority |
| Date of determination | 25/10/24 |
| Date on which the consent lapses | 23/10/29 |

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 deferred commencement consent using the power in section 4.16(3) of the EP&A Act, subject to the conditions set out in this notice.

Relevant matters

This consent does not operate and may not be acted on until the consent authority is satisfied of the following matter(s):

- 1) The western boundary of the land (fronting the New England Highway [classified road]) shall be fenced in manner to prevent any pedestrian access to the approved development. Fencing shall accord with the (exempt development) requirements of Part 2, Division 1, Subdivision 19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, but must exclude any entrance gate and be a minimum 1.5m high.
- 2) Signage shall be installed at the western boundary of the land (if not installed already) identifying the access / assisting with wayfinding to the approved development. Signage shall accord with Part 2, Division 2, Subdivision 2 (Building Identification Signs) of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, but is permitted to be attached to the boundary fence.

3) Existing Shipping Containers located on the land shall be removed, unless further planning permission is obtained (given the containers require Development Consent). ADVICE: The existing number (5) and location of containers would not be unlikely to be supported.

Evidence of the above relevant matter(s) must be produced to the consent authority, within 1824 days of the date of the determination, otherwise the consent will lapse.

Under section 88(3) of the EP&A Regulation, the consent authority will notify you in writing if the matters above have been satisfied and the date from which this consent operates.

The conditions of development consent below apply from the date that this consent operates.

Note: Section 76(3) of the EP&A Regulation enables a consent authority to specify the period within which the applicant must produce evidence to the consent authority sufficient enough to enable it to be satisfied as to the relevant matter(s) that it requires before a deferred commencement consent can operate. Where a period is specified under section 76(3), a deferred commencement consent will lapse if the applicant has not produced sufficient evidence for the consent authority to be satisfied of the relevant matters on the expiration of the specified period.

Where the applicant produces evidence of the relevant matters in accordance with section 76(4) of the EP&A Regulation, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matter(s). If the consent authority has not notified the applicant within 28 days after receiving the applicant's evidence, the consent authority is taken to have notified the applicant that is not satisfied about the relevant matter(s) on the date on which that period expires, for the purposes of section 8.7 of the EP&A Act (see sections 76(4), (5) and (6) of the EP&A Regulation).

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.



Simon Vivers
Interim Manager Development and Planning
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>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</p> <ol style="list-style-type: none"> 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>. 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. 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>. 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. 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. 6. This section does not apply— <ol style="list-style-type: none"> 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 b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies. <p>Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p> |
| 2 | <p>Approved Plans and Documentation</p> <ul style="list-style-type: none"> • Approved Plan details shall be included following satisfaction of deferred commencement matters) <p>Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p> |
| 3 | <p>Approved Land Use</p> <p>The approved development (land use) is defined as follows in accordance with the Uralla Local Environmental Plan 2012:</p> |

- artisan food and drink industry

The approved land use shall be carried out in accordance with the details and proportions identified in the approved plans, identified within 'service area' as notated within drawing SK 100.

ADVICE: This consent does not relate to other parts of the building, given the applicant/developer has sought to comply with 'exempt development' change of use provisions.

ADVICE: This consent authorises/assumes use of outdoor area for serving as part of the approval.

Condition reason: For the avoidance of doubt and in the interests of proper planning.

4

ADVICE - Exempt Change of Use

Pursuant to Part 2, Division 1, Subdivision 10A (Change of Use of Premises) of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the applicant is reminded of the Development Standards (expressed under Clause 2.20B) for the Change of Use to Wholesale Bakery which must be complied with. This includes (but is not limited to):

- **The new use must not involve building alterations, other than alterations that are exempt development under the above policy,**
- **The new use must not cause the contravention of an existing condition of the most recent development consent that applies to the premises relating to noise, car parking, vehicular movement, traffic generation, loading, waste management and landscaping.**
- **The new use must not cause the contravention of an existing condition of the most recent development consent that applies to the premises relating to hours of operation.**
- **Development that relates to an existing building that is classified under the Building Code of Australia as class 1b or class 2–9 is exempt development for the purposes of this Policy only if—**
 1. **the building has a current fire safety certificate or fire safety statement, or**
 2. **no fire safety measures are currently implemented, required or proposed for the building.**

In this regard, Development Consent ref: DA-80-2007 (Manufacture and Sale of Horse Floats) includes the following relevant conditions:

8. The hours of operation being limited to between 8.00am to 5.00pm weekdays and 8.00am to 12 noon Saturdays (excluding public holidays) to so as not to affect the amenity of the locality.
9. The premises is not to be used or operated in a manner causing excessive noise (defined in the Protection of the Environment Operations Act as being noise sufficient to provoke justifiable public complaint) to maintain the amenity of the locality. Noise levels must be restricted to a maximum of 5dBA above the background noise levels at any time, measured at the boundaries of the site.
10. All loading and unloading being carried out on-site or in the loading bay, to provide for safe

off-street loading and unloading of vehicles servicing the site and prevent interference with the use of the public road by vehicles and pedestrians.

11. All vehicles to enter and leave the site in a forward direction, to ensure traffic/pedestrian safety.

12. An annual fire safety statement shall be provided to Council at least once every 12 months.

13. The bitumen sealed accessways and car parking areas serving the site (as required under DA 2446) shall be completed to Council's satisfaction.

14. The external display area shall be kept in a clean and neat manner to protect the visual amenity of the area.

15. No trade waste shall be directed to Council's sewer system without prior approval from Council. All waste associated with the development shall be collected and disposed to a appropriate waste collection facility.

The onus is on you as the applicant or developer to comply with the above requirements. Should the development be determined not to be complying with the exempt change of use requirements, enforcement action may be taken.

Condition reason: Advice Only

5 **Parking and Manouvring Area Requirements & Standards**

Before the issue of an Occupation Certificate, the following works shall be undertaken:

- Provision of three (3) delineated parking spaces, suitably located to ensure acceptable conflict with heavy vehicles and pedestrians.

Condition reason: In the interests of safety and amenity.

6 **Trade Waste**

Before the issue of an Occupation Certificate, a trade waste assessment must be undertaken by Council. Subject to the findings of the assessment, a Trade Waste Approval or an amendment to an existing approval may be required before the issue of an Occupation Certificate.

ADVISING: Please consult with Council's engineering department for further advice.

Condition reason: To ensure that any pollutants associated with the bakery aspect have an acceptable impact on drainage infrastructure.

7 **Food- Related Development Standards**

Before the issue of an Occupation Certificate, the premises shall comply with:

- Food Standards Code (Australian Food Safety Standard 3.2.2 - Food Safety Practices and 3.2.3 – Food Premises and Equipment);
- Food Act 2003 and Food Regulation 2015;
- Australian Standard 4674:2004: Design, Construction and Fit-out of Food Premises; and
- Australian Standard 1668: The use of ventilation and air-conditioning in buildings, also ensuring that all generate heated air, smoke, fumes, steam or grease vapours do not:

1. cause a nuisance to persons within or nearby to the premises, or cause air pollution as defined under the NSW Protection of the Environment

| | |
|----|---|
| | Operations Act 1997. |
| | Condition reason: To ensure the development complies with relevant standards. |
| 8 | Food Premises Final Inspection |
| | Before the issue of an Occupation Certificate, the food premises shall be inspected by an Authorised Officer of Uralla Shire Council under the Food Act 2003, to determine compliance with the Food Act 2003, Food Safety Standards and Australian Standard 4674:2004: Design, Construction and Fit-out of Food Premises. |
| | Condition reason: To enable council to ensure compliance with the Food Act 2003. |
| 9 | ADVICE - Signage |
| | Council would be supportive of location of a temporary A-Frame sign (removed daily) on Council's land near the vehicular entrance to the land, to assist with wayfinding to the development and assist to prevent illegal U-turns at the classified road. |
| | This would require an approval under Section 138 of the Roads Act 1993, which is currently free. |
| | Condition reason: N/A Advice |
| 10 | Occupation Certificate |
| | An Occupation Certificate must be obtained within three (3) months of the consent becoming operable (following satisfaction of deferred commencement matters), in accordance with the Environmental Planning & Assessment Act 1979. |
| | ADVISING: Failure to obtain an Occupation Certificate is an offence under the legislation |
| | Condition reason: To ensure the building is suitable for occupation (in accordance with its BCA classification). |

Change of use

Ongoing use for change of use

| | |
|----|--|
| 11 | Fire Safety Statement |
| | A Fire Safety Statement shall be provided to Council annually covering each of the essential fire and other safety measures installed on the property. |
| | A copy of the Certificate and Statements are also to be given to the Commissioner of NSW Fire Brigades and a further copy is to be prominently displayed in the building as required under Part 9 Division 3 Part 12 clauses 87, 88, 89, 90, 91, 92. |
| | Condition reason: To ensure the use remains acceptable with regards to fire safety. |
| 12 | Lighting |
| | Any lighting used on site in connection with the development is to comply with AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting (current version). |
| | Condition reason: To protect the amenity of the locality. |
| 13 | Waste Storage |
| | Storage facilities for waste and recyclables sufficient for the maximum accumulation between collections shall be provided in a secure location screened from public view. |
| | Condition reason: In the interests of amenity. |
| 14 | Operational Matters |

| | |
|----|--|
| | <p>All Operational conditions in connection with DA-80-2007 shall be maintained at all times. Notwithstanding:</p> <ul style="list-style-type: none"> • The approved development authorised under this consent may operate 6am - 7pm daily. |
| | <p>Condition reason: For the avoidance of doubt and in the interests of amenity.</p> |
| 15 | <p>Classified Road Operational Requirements</p> |
| | <p>Fencing and signage associated with the deferred commencement matters shall be maintained at all times, until the use ceases</p> |
| | <p>Condition reason: In the interests of safety.</p> |

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.

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.

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 URALLA 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.