

Enquiries
Please ask for Ms T Jolly
Direct
Our reference DA 2020/136

MUSWELLBROOK SHIRE COUNCIL

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION
Issued under the Environmental Planning
and Assessment Act 1979 (Section 4.18)

DEVELOPMENT APPLICATION:	2020/136
APPLICANT NAME:	Ken Lees Building Consultancy NSW
APPLICANT ADDRESS:	PO Box 77 Swansea NSW 2281
LAND TO BE DEVELOPED:	LOT: 2 DP: 1179404 1831 Merriwa Road SANDY HOLLOW
PROPOSED DEVELOPMENT:	Tourist Accommodation and Function Centre

DETERMINATION MADE ON:	27 July 2021
DETERMINATION:	Consent granted subject to conditions described below.
CONSENT TO OPERATE FROM:	27 July 2021
CONSENT TO LAPSE ON:	27 July 2026 if work has not commenced in accordance with Section 4.53(4) of the Environmental Planning and Assessment Act 1979.
INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL OBTAINED FROM:	NSW Rural Fire Service

IDENTIFICATION OF APPROVED PLANS

(1) Development in Accordance with Plans

The development being carried out in accordance with the development application and the drawings referenced below, and endorsed with Council's approval stamp, except where amended by the following conditions.

Drawing No.	Drawn by	Drawing Date	Received
Master Plan (As Amended)	<i>Michael Bligh & Associates Pty Ltd</i>	04/09/2020	25/04/2021
Proposed Ellamara Front Sandstone Fence	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Blacksmiths/Storage – Plan 1	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Blacksmiths Storage – Plan 2	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Congregational Facility 1	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Congregational Facility 2	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Congregational Facility 3	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Disability Facility – Dis 1	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Existing Grain Shed & Old Kitchen Plan 1	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Existing Grain Shed & Proposed Old Kitchen Plan 2	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Existing Metallic Shed & Bedrooms Plan F1	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Metallic Shed to Bedrooms/ Brides Quarters – Plan 2	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Metallic Shed to Bedrooms/ Brides Quarters – Plan 3	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Upgraded Existing Post Office & Residence – Plan B2	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Existing Post Office & Residence – Plan B1	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Kitchen Meeting, Bedroom, Decking – Sheet 1	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Managers Residence – Plans	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Managers Residence – Elevations	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Equestrian Stables – Plans	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020

Proposed Equestrian Stables – Elevations	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Cottage, Store & Water Hole	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed Tank Toilet & Kids Carriage	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Proposed kitchen Meeting, Bedroom, Decking - Elevations	<i>Ken Lees Building Consultancy NSW</i>	Not Dated	17/12/2020
Site Survey (sheet 1)	<i>RAP Surveying</i>	June 2020	17/12/2020
Site Survey (sheet 2)	<i>RAP Surveying</i>	June 2020	17/12/2020

(2) Development in Accordance with Documentation

The development is to be carried out generally in accordance with the following documents:

Title	Written by	Date
Traffic Impact Study	<i>Northern Transport Planning and Engineering Pty Ltd</i>	March 2021
Statement of Environmental Effects	<i>Larry Cook Consulting Pty Ltd</i>	11 December 2020
Statement of Heritage Impact	<i>Rapport Pty Ltd</i>	November 2020
RFS General Terms of Approval	<i>NSW Rural Fire Service</i>	26 May 2021

(3) Easement for Electricity

The development so far as it relates to the electricity easement and electricity infrastructure on-site is to be carried out in accordance with the letter from AUSGRID dated 24 June 2021 (this letter will be marked with Council's approval stamp for ease of reference).

The requirements of this letter extend to all building works, pools water features or landscaping within the vicinity of the power lines and electrical easement.

OPERATIONAL CONDITIONS IMPOSED UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS AND OTHER RELEVANT LEGISLATION

(4) Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

(5) Home Building Act

- (1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:

- (a) in the case of work to be done by a licensee under that Act:
 - (i) has been informed in writing of the licensee's name and contractor license number, and
 - (ii) is satisfied that the licensee has complied with the requirements of the Home Building Act, or
 - (b) in the case of work to be done by any other person:
 - (i) has been informed in writing of the person's name and owner-builder permit number, or
 - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
- Note: The amount referred to in paragraph (b)(ii) is prescribed by regulations under the Home Building Act 1989. As at the date on which this Regulation was Gazetted, that amount was \$5,000. As those regulations are amended from time to time, that amount may vary.
- (2) A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.
 - (3) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is 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.

CONSTRUCTION CERTIFICATE REQUIREMENT

(6) Construction Certificate Requirement

No works shall commence on-site until such time as a Construction Certificate has been issued for either part or all of the works to be undertaken. If a Construction Certificate is issued for part of the approved works, it must relate to all works being undertaken.

Note:

A construction certificate issued by an Accredited Certifying Authority must be uploaded to the eplanning portal at least 48 hours prior to the commencement of any earthworks, engineering or building work at the site.

CONDITIONS TO BE COMPLETED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE
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(7) Section 7.12 Contributions

Pursuant to section 4.17(1) of the Environmental Planning and Assessment Act 1979, and the Muswellbrook Shire Council Section 94A Development Contributions Plan 2010, a contribution of \$15,000 shall be paid to Muswellbrook Shire Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Muswellbrook Shire Council Section 94A Development Contributions Plan 2010. The contribution is to be paid prior to the issue of the Construction Certificate.

(8) Sediment Control

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including plans and specifications shall be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Muswellbrook Shire Council's DCP provisions on Erosion and Sediment Control, or a suitable and effective alternative method. The Control Plan shall incorporate and disclose:

- (a) all details to protect and drain the site during the construction processes;
- (b) all sediment control devices, barriers and the like;
- (c) sedimentation tanks, ponds or the like;
- (d) covering materials and methods;
- (e) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing that these design requirements have been met shall be submitted with the Construction Certificate and approved in writing by the Certifying Authority prior to issuing of the Construction Certificate

(9) Fit-out of kitchen to be in accordance with relevant legislation and standards

Prior to the issue of a Construction Certificate for the communal kitchen area the applicant shall submit detailed design plans to the Principle Certifying Authority demonstrating that the fit out of the food preparation, storage,

handling and serving areas complies with the requirements of Food Act 2003, Food Regulation 2015 and Australian Standards relevant design construction and fit out of food premises (AS4674).

(10) Geotechnical Wastewater Report for the On-Site Sewage Management System

Prior to the issue a Construction Certificate, a detailed Geotechnical Wastewater Report prepared by a suitably qualified consultant is required to be submitted to, and approved by, Council's Environmental Health Officer.

The Wastewater Assessment Report shall include but not be limited to specific details of the site, the proposed on-site sewage management system and effluent disposal system type, hydraulic loading, NATA accredited soil results, and supporting calculations.

(11) External Colour Scheme

Prior to the issue of a construction certificate, a schedule of external colours and finishes (include paint manufacturers sample chips) is to be submitted to Council for the consideration and approval of Council's Heritage Advisor.

Documentary evidence demonstrating compliance with this requirement is to be provided to the Certifying Authority prior to the issue of a Construction Certificate.

All works are to be carried out in accordance with the approved colour schedule.

(12) Waste Management Plan

A Waste Management Plan is to be submitted with the Construction Certificate. The plans should include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, all landfill removed from the site, haulage routes, design of on-site wind proof waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process.

(13) Bushfire Protection

Prior to the issue of a Construction Certificate the person acting with this consent shall provide the Certifying Authority with design plans demonstrating that the part of the development for which a Construction Certificate is being sought has been designed to comply with the relevant bushfire safety requirements imposed by the NSW Rural Fire Service General Terms of Approval issued in relation to this development application and referenced by this Notice of Determination.

(14) Parking and Stormwater Design Plans

Prior to the issue a Construction Certificate, stormwater, parking and access plans are to be provided to Council's Community Infrastructure Department for approval. The submitted plans should consider and address the following:

- a) A parking plan is to be provided detailing a minimum of 48 off-street parking spaces to be provided as part of the development. The parking plan proposed should nominate any accessible parking spaces to be provided in accordance with the requirements of the Access to Premises Standard and Building Code of Australia.
- b) Plans should include details to demonstrate all vehicle manoeuvring and parking areas have been designed to support anticipated traffic loads. As a minimum a gravel finish should be applied to all parking areas and egress areas.
- c) Details of erosion control and stormwater management measures for all parking and hardstand areas are to be provided. It is recommended that the design include a one-way cross fall to driveways and access ways with appropriate grassed or sealed table drains, rock check dams and surface spreaders at discharge points. Stormwater detention should be considered for large storm events.
- d) Bus drop off areas and turning bays should be identified and provided with appropriate signage.
- e) Site entrance/exits are to be sealed to a minimum of 3m within the proposed boundary in accordance with Council's Rural Property Access Drawing SD No: 004/1.

(15) BASIX Commitments

Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. Details and plans demonstrating compliance with these requirements are to be submitted to the Certifying Authority for approval with the Construction Certificate.

In this condition:

- (a) relevant BASIX Certificate means:
 - (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- (b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

(16) Vehicle Access Design and Construction Requirements

The eastern and western vehicle access to the site are to be designed in accordance with the following:

Eastern Access:

- Must operate as left-in / left out only.
- A raised, triangular concrete median should be provided at the throat of the intersection and “Left Out Only” signage shall be installed at the exit for drivers leaving the site.
- Type AUL(S) turn treatment in accordance with (Austroads Part 4A) should be provided on Golden Highway at the approach to the Eastern Access.
- The strategic design drawing must demonstrate approach sight distance (ASD) of 126m on a long section for design speed for left out as per Austroads Part 4A, Table 3.1.

Western Access:

- The proposed Western Access arrangement for right turn in and left turn out is generally acceptable.
- Type BAR turn treatment in accordance with the (Austroads Part 4A) should be provided on Golden Highway at the approach to the Western Access. The design must ensure.
- minimum of 201m SISD required (refer Table 3.2 of Austroads Part 4A) in each direction of the intersection and demonstrate in the long section in reference to Figure 3.2 of Austroads Part 4A.
- No left turns are permitted into the Western Access. A design restricting the left turn entry must be provided for TfNSW consideration. In the absence of a suitable design restricting left-turn movements, an AUL(S) treatment is required on the Golden Highway to safe facilitate westbound traffic turning left into site.

Access- General

- Both accesses shall be designed to comply with the requirements of *Austroads Guide to Road Design Part 4A:Unsignalised and Signalised Intersections* (Austroads Part 4A) and the relevant Australian Standards (i.e. AS2890:1:2004).
- Design speed shall be taken as posted speed limit + 10 km/h.
- Design vehicle swept paths at the intersection for the largest vehicle accessing the site should be shown in the design drawings.
- Both accesses should be wide enough to accommodate two-way vehicle flow.
- Proposed signs directing traffic to Merriwa and Sandy Hollow should be adjusted to reflect the restrictions recommended below for Eastern access.
- Strategic design plans of required road upgrade works must be submitted for TfNSW consideration prior to determination of the subject application.

Prior to the issue of a Construction Certificate, the person acting on this consent is to provide suitable documentary evidence to the Certifying Authority, demonstrating that the vehicular access design prepared in relation to the development and the requirements referenced above, has been accepted by Transport for NSW, as the Roads Authority for the carrying out of works in relation to the Golden Highway (a classified State Road).

Council would consider either of the following to comprise suitable documentary evidence:

- a) A Works Authorisation Deed (WAD) entered into between the developer and Transport for NSW for the carrying out of the work referenced by this condition.
- b) Written correspondence from Transport for NSW approving the design plans prepared in relation to the work referenced by this condition.

Note: *A WAD must be entered into between the developer and Transport for NSW prior to the commencement of the works related to the Golden Highway improvements required by this condition related requirements of this approval. The WAD process, including acceptance of design documentation and construction, can take time. The developer should be aware of this and allow sufficient lead time within the project development program to accommodate this process. It is therefore suggested that the developer work through this process as soon as possible with the Traffic for NSW.*

(17) Clause 93/94 Requirements for Building Upgrades

Under clause 93 and 94 of the Environmental Planning & Assessment Regulation, the following fire safety/Building Code of Australia (BCA) works are to be undertaken with the construction certificate works and are to be completed prior to the issue of the occupation certificate:

- (i) Portable fire extinguishers are to be provided to the grain shed gallery, the old kitchen, the blacksmiths shop/BBQ area, the kid's carriage and food preparation area/meeting room in accordance with AS 2444 and E1.6 of Volume 1 of the BCA.
- (ii) The stairs and handrail providing access to the kid's carriage are to comply with D2.13 and D2.17 of Volume 1 of the BCA.
- (iii) Smoke alarms are to be provided/upgraded to the post office/dwelling in accordance with NSW 3.7.5.2, 3.7.5.4 and 3.7.5.5 of Volume 2 of the BCA.
- (iv) Lighting to assist evacuation is to be provided to the post office/dwelling in accordance with 3.7.5.6 of Volume 2 of the BCA.
- (v) Smoke alarms are to be provided/upgraded to the accommodation/bride's quarters in accordance with NSW 3.7.5.2, 3.7.5.4 and 3.7.5.5 of Volume 2 of the BCA.

- (vi) Lighting to assist evacuation is to be provided to the accommodation/bride's quarters in accordance with 3.7.5.6 of Volume 2 of the BCA.
- (vii) The meeting room/kitchen in the building identified as cottage/Ellamara Water Hole is to be solely used for residential purposes and only by the occupant of the accommodation which it is associated with. Alternatively, a review of the building is to be undertaken, to ensure conditions are tenable during occupant evacuation, the building maintains structural stability in the event of a fire and avoids the spread of fire to the degree necessary, appropriate for the type of construction that exists in the building and the relevant classifications.
- (viii) Smoke alarms are to be provided/upgraded to the cottage/Ellamara Water Hole in accordance with NSW 3.7.5.2, 3.7.5.4 and 3.7.5.5 of Volume 2 of the BCA.
- (ix) Lighting to assist evacuation is to be provided to the cottage/Ellamara Water Hole in accordance with 3.7.5.6 of Volume 2 of the BCA.
- (x) The post office/dwelling, accommodation/brides' quarters and cottage/Ellamara Water Hole are to be provided with facilities required by Clause 3.8.3.2 of Volume 2 of the BCA. If any of the facilities are detached from the building, they must be set aside for the exclusive use of the occupants of the building.
- (xi) A review of the food preparation area/meeting room/bedroom is to be undertaken to ensure conditions are tenable during occupant evacuation, the building maintains structural stability in the event of a fire and avoids the spread of fire to the degree necessary, appropriate for the type of construction that exists in the building and the relevant classifications.
- (xii) A certificate of structural adequacy is to be submitted to the Principal Certifying Authority (PCA), certifying the structural strength and load bearing capacity of the, kids carriage (including tie-down), post office/dwelling, accommodation/brides quarters, cottage/Ellamara Water Hole and the food preparation area/meeting room/bedroom will be appropriate for the building's use.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT
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(18) Sediment and Erosion Control

Prior to the commencement of works, sediment and erosion controls are to be installed at the site in accordance with the Erosion and Sediment Control Plan prepared in relation to the proposed development and referenced by this consent.

All required erosion and sedimentation techniques are to be maintained in a functional and effective condition throughout the construction activities until the site is stabilised.

(19) Site Facilities

- (a) If the development involves building work or demolition work, the work site must be fully enclosed by a temporary security fence (or hoarding) before work commences.
- (b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway so as to facilitate the safe movement of pedestrians.
- (c) Any such hoarding or fence is to be removed when the work has been completed.
- (d) A garbage receptacle fitted with a tight-fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.
- (e) Toilet facilities must be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the work site.
- (f) Each toilet provided must:
 - be a standard flushing toilet, connected to a public sewer, or
 - if connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or
 - an approved temporary chemical closet.
- (g) The provision of toilet facilities must be completed before any other work is commenced.
- (h) A person having the benefit of this certificate who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land must at their own expense and where necessary:
 - protect and support the building from damage, and
 - If necessary, underpin and support the building in accordance with the details prepared by a professional engineer.
- (i) A person having the benefit of this certificate who causes the excavation must, at least 7 days before commencing this work, give notice of intention to do so to the owner of the adjoining allotment of land and provide particulars of the proposed work.
- (j) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site.

(20) Site Sign

A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (a) stating that unauthorised entry to the work site is prohibited;

- (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
- (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while building work or demolition work is being carried out but must be removed when the work has been completed.

This condition does not apply to building works being carried out inside an existing building.

(21) Damage to Public Infrastructure

The applicant shall bear the cost of all restoration works to Council property damaged during the course of this development. The applicant shall submit in writing and/or photographic record, of any existing damage to Council property before commencement of work.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. If no documentation is received prior to commencement of work, it will be assumed that the infrastructure was undamaged, and the applicant will be required to restore all damaged infrastructure at their expense.

(22) Section 138 Permit

Prior to the carrying out of any works within the Golden Highway Road Reserve a Section 138 Permit is to be obtained from Council for the relevant works in addition to approvals from Transport for NSW.

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK
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(23) Construction Hours

- (a) Unless otherwise approved by Council in writing, or authorised by a Section 10.17 COVID-19 pandemic Ministerial Order building construction is to be carried out during the following hours:
 - i. between Monday to Friday (inclusive)—7.00am to 5.00pm
 - ii. on a Saturday—7.00am to 4.00pm
- (b) Building construction must not be carried out on a Sunday or a public holidays.
- (c) Demolition works and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5.00pm.
- (d) The builder and excavator must display, on-site, their 24-hour contact

telephone numbers, which are to be clearly visible and legible from any public place adjoining the site.

(24) Cost of Work Affecting Public Infrastructure

The person acting with this consent shall be responsible for all costs incurred related to any works related to the relocation, alteration or improvement of public utility, infrastructure or service required as part of the carrying out of the development. All works affecting public infrastructure are to be carried out in accordance with the requirements of the relevant service provider.

(25) Archaeological Relics

If any archaeological relics are uncovered during the course of the work, all works shall cease immediately in that area, and the OEH Heritage Branch shall be contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977, may be required before further works can continue in that area.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE
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(26) Occupation

The building is not to be used or occupied until a final inspection has been carried out and an occupation certificate has been obtained from the Principal Certifying Authority.

(27) Vehicle Access Construction

Prior to the issue of an Occupation Certificate the eastern and western vehicle accesses to the site is to be constructed in accordance with the requirements of this consent, approved design plans and any Works Authorisation Deed (WAD) entered into between Transport for NSW and the developer.

(28) On-site Sewage Management

The development will require On-Site Sewage Management System. Such a system requires approval from Council to install, construct or modify under s68 Local Government Act. A current Approval to Operate will also be required before an Occupation Certificate can be provided. Applications to install a system must be accompanied with a Wastewater Management Plan including Site and Soil Assessment by a suitably qualified person

(29) Final inspection by Council's Environmental Health Officer required

Prior to the issue of an Occupation Certificate, a satisfactory final inspection of the kitchen must be undertaken by Council's Environmental Health Officer to determine compliance with relevant requirements.

(30) Registration with Council's Environmental Health Department

Prior to the issue of the Occupational certificate, the business is to be registered with Council's Environmental Health Department

(31) Private Water Supply

Where reticulated water cannot be provided to the site for use by staff or members of the public, a private drinking water supply is required. The Public Health Act 2010 and the Public Health Regulation 2012 require drinking water suppliers to have a quality assurance program (QAP) that complies with the Regulation and comply with the approved QAP. You are required to develop and submit a copy of the QAP to NSW Health (Hunter New England Public Health Unit) prior to occupation of the site.

(32) Site Services

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.

(33) Bushfire Protection Measures

Prior to the issue of an Occupation Certificate all bushfire protection measures required by the NSW Rural Fire Service General Terms of Approval and as referenced by this Notice of Determination are to be implemented/complied with to the satisfaction of the Principle Certifying Authority.

(34) Swimming Pools

Access to the pool shall be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act, 1992, and:

- (a) the pool must not to be completely filled with water until such time as a safety fence has been erected in accordance with this certificate.
- (b) Where the depth of water in the pool exceeds 300mm during construction a temporary barrier or fence must be erected, or other precautions taken so as to prevent the entry of children into the pool.
- (c) Any boundary fence used as pool fencing must have a height no less than 1800mm.
- (d) The swimming pool including overflow water must be drained to the sewer or, if the sewer is not available, overflow water must be disposed of for Council's satisfaction.
- (e) The consent of the Council must be obtained 48 hours prior to any emptying of pool water into the sewer.

Certification from an appropriately qualified person confirming compliance with these requirements shall be provided prior to the issuing of any Occupation Certificate for the pool.

(35) Pool Safety Requirements

The owner of the pool shall display a notice showing:

- (a) The words:
 - (i) 'YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL' and
 - (ii) 'POOL GATES MUST BE KEPT CLOSED AT ALL TIMES' and
 - (iii) KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES'

Note: This notice shall be kept in legible condition and at the pool side.

- (b) A simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults).
- (c) A statement to the effect that formal instruction in resuscitation is essential.
- (d) The name of the teaching organization or other body that published the sign and the date of its publication.

Details demonstrating compliance are to be provided with any Occupation Certificate/Compliance Certificate issued for the pool.

(36) Registration of Swimming Pool

Prior to issue of an Occupation Certificate for the swimming pool/spa, it is to be registered on the NSW state register of swimming pools and spas. To register the swimming pool/spa you are to log onto www.swimmingpoolregister.nsw.gov.au and follow the prompts. A copy of the registration certificate is to be submitted to the Principal Certifier to confirm the registration.

CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

(37) Right of Carriageway

The carrying out of this development is not to impact on the existing right of carriageway or any other easement or restriction burdening the subject site and benefiting a neighbouring property without the agreement of the benefited parties.

The maintenance, management and operation of the right of carriageway is generally a private matter between the benefited and burdened parties and provided that the development is carried out as proposed and does not

unlawfully restrict access across the site, any future alterations to the access agreement do not require further Council involvement.

(38) Hours of Operation –

Functions held at the premises in accordance with the terms of this consent are not to be held outside the following hours:

- 10am to 11:30pm

Upon expiry of the permitted hours, all function services and entertainment shall immediately cease, all noise generating devices turned off and patrons are to leave the premises with the exception of those staying on-site who are to retire to their accommodation.

(39) Noise Management

At all times the person acting with this consent shall:

- a) take reasonable steps to ensure that the operation of the premises does not cause offensive noise in accordance with the provisions of the *Protection of the Environment Operations Act 1997*.
- b) The operator of the premises should ensure that the volume of any noise associated with the operation of the premises does not exceed the background noise level by more than 5 decibels (dB) between the hours of 12:00am midnight to 7:00am.
- c) Notwithstanding compliance with the above the noise from the premises should be controlled so as not be audible from any habitable room in any residential premises in the vicinity of the site between the hours of 10:00pm and 7:00am

(40) Noise Management and Complaint Handling

At all times the premises is operated for functions the person acting with this consent is to take reasonable steps to ensure the premises is operated in such a way to limit its impact on the amenity of adjoining properties.

The person acting with this consent shall:

- Provide neighbouring properties with contact details for the premises operator and/or site manager.
- Install a sign with the contact details of the premises operator and/or site manager.
- Keep a record of complaints received (complaints register) from neighbours or impacted property owners related to functions and events held at the premises.
- Where a complaint is received the person acting with this consent is to take reasonable steps to investigate the issue. Where it is identified or perceived likely that the late-night operation of the premises is impacting the amenity of a neighbouring property the person acting with this consent is to take steps to

mitigate that impact. The complaints register is to include notes on the investigation of any complaints and any outcomes.

The complaint register is to be made available to Council Officers for inspection on request.

(41) Litter Management

At all times appropriate waste reciprocals are to be installed through the development site for the collection and management of litter. Reciprocals should allow the source separation of waste into recyclables and general waste. Waste is to be collected regularly and litter through the site.

(42) Identification of site boundaries

The person acting with this consent is to ensure that appropriate signage is installed adjacent to or on boundary fences between the development site and neighbouring properties to identify the site's boundary for the information of patrons and to ensure that they do not inadvertently trespass on adjoining land.

(43) Parking, Access and Stormwater Construction

Prior to the issue of an Occupation Certificate internal parking, vehicle manoeuvring areas and hardstand stormwater management controls are to be constructed in accordance with the requirements of this consent and the detailed plans approved by Council in accordance with pre-Construction Certificate conditions of consent.

(44) Site speed limit

The person acting with this consent is to ensure that appropriate signage is displayed within the site identifying a 10km/hour maximum speed limit for vehicles within the site.

(45) Vehicle access and egress

At all times all vehicles including service vehicles and buses are to enter and exit the site in a forward direction.

(46) Redundant Vehicle Access to be closed

All redundant vehicle entrances between the premises and the Golden Highway that are part of the development on the approved plans, are to be fenced to prevent their use.

(47) Traffic management

At all times the person acting with this consent is to maintain traffic signage at the site.

(48) Traffic management

At all times vehicles exiting and entering the site must do so in accordance with the Transport for NSW requirements referenced by this consent or any subsequent correspondence.

In accordance with these requirements left out vehicle movements only are permitted from the eastern access.

GENERAL TERMS OF APPROVAL PURSUANT TO SECTION 4.46 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The following General Terms of Approval have been issued by the NSW Rural Fire Service pursuant to the integrated development provisions of the Environmental Planning and Assessment Act 1979 and must be complied with through the carrying out of this development:

(49) Asset Protection Zones

At the issue of an occupation certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the following areas must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.

- the tourist facility precinct (including homestead, accommodation, blacksmith shop, kitchen, bride quarters and church)
 - north and north-west to the property boundary;
 - east and south for 40 metres; and
 - west for 32 metres.
- manager's residence
 - north for 45 metres; and
 - east south and west for 40 metres.
- stables and machinery shed
 - 10 metres, or to the property boundary (whichever is less) in all directions

When establishing and maintaining an IPA the following requirements apply

- a) tree canopy cover should be less than 15% at maturity;
- b) trees at maturity should not touch or overhang the buildings;
- c) lower limbs should be removed up to a height of 2 metres above the ground;
- d) tree canopies should be separated by 2 to 5 metres;
- e) preference should be given to smooth barked and evergreen trees;
- f) large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- g) shrubs should not be located under trees;
- h) shrubs should not form more than 10% ground cover;

- i) clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- j) grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- k) leaves and vegetation debris should be removed

Reason: *The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants.*

(50) Construction Standards

- a) Construction of the manager's residence, church and disability dwelling must comply with Sections 3 and 5 (BAL 12.5) of Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or the relevant BAL 12.5 requirements of the 'NASH Standard - Steel Framed Construction in Bushfire Areas' (incorporating Amendment A - 2015). New construction must also comply with the construction requirements for BAL 12.5 in Section 7.5 of 'Planning for Bush Fire Protection 2019'.
- b) New construction within the tourist facility precinct (e.g. additions to heritage buildings) must comply with the relevant sections of Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or the relevant requirements of the 'NASH Standard - Steel Framed Construction in Bushfire Areas' (incorporating Amendment A - 2015). New construction must also comply with the relevant construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.
- c) The existing buildings in the tourist facility precinct must be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

Reason: *The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.*

(51) Access Roads

Internal access roads around the tourist facility and to the manager's residence, must comply with the following requirements of Planning for Bush Fire Protection 2019:

- Internal access roads are two-wheel drive, all weather roads;
- access is provided to all structures;
- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- access roads must provide suitable turning areas in accordance with Appendix 3;

- the capacity of road surfaces and any bridges / causeways is sufficient to carry fully loaded fire fighting vehicles (up to 23 tonnes);
- bridges / causeways clearly indicate load rating;
- access is provided to within 4 metres of the static water supply;
- minimum 5.5 metre carriageway width kerb to kerb;
- parking is provided outside of the carriageway width;
- curves of roads have a minimum inner radius of 6 metres;
- the maximum grade is 15 degrees and average grade of not more than 10 degrees;
- the road crossfall does not exceed 3 degrees; and
- a minimum vertical clearance of 4 metres to any overhanging obstructions, including tree branches, is provided.

Pedestrian paths from the accommodation buildings to the church / refuge building are to be provided and clearly marked.

Reason: *The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.*

(52) Water and Utility Services

The provision of water, electricity and gas must comply the following requirements of Planning for Bush Fire Protection 2019:

- a minimum 70,000 litre static water supply must be provided at the tourist facility precinct;
- a minimum 20,000 litre static water supply must be provided at the manager's residence;
- a connection for firefighting purposes is located within the IPA or non-hazard side and away from the structure;
- a 65mm Storz outlet with a ball valve is fitted to the outlet;
- ball valve and pipes are adequate for water flow and are metal;
- supply pipes from tank to ball valve have the same bore size to ensure flow volume;
- underground tanks have an access hole of 200mm to allow tankers to refill direct from the tank;
- a hardened ground surface for truck access is supplied within 4 metres;
- above-ground tanks are manufactured from concrete or metal;
- raised tanks have their stands constructed from non-combustible material or bush fire resisting timber -(See Appendix F of AS 3959);
- unobstructed access can be provided at all times;
- underground tanks are clearly marked;
- tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;
- all exposed water pipes external to the building are metal, including any fittings;
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack;
- any hose and reel for firefighting connected to the pump shall be 19mm internal diameter;

- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are installed with:
 - short pole spacing (30 metres), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and shielded on the hazard side;
- connections to and from gas cylinders are metal;
- polymer sheathed flexible gas supply lines are not used; and -
- above-ground gas service pipes are metal, including and up to any outlets.

Reason: *The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.*

(53) Landscaping Assessment

Landscaping of the site is to be designed and managed in accordance with the following:

- compliance with the NSW RFS 'Asset protection zone standards' and Appendix 4 of 'Planning for Bush Fire Protection 2019';
- a clear area of low-cut lawn or pavement is maintained adjacent to the buildings;
- trees and shrubs are located so that:
 - the branches will not overhang the roof;
 - the tree canopy is not continuous; and
 - any proposed windbreak is located on the elevation from which fires are likely to approach.
- new fencing is constructed in accordance with section 7.6 of 'Planning for Bush Fire Protection 2019'.

Reason: *The intent of measures is for landscaping to minimise the risk of bush fire attack*

(54) Emergency and Evacuation Planning Assessment

Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan. The Bush Fire Emergency Management and Evacuation Plan must consider a mechanism for the early relocation of occupants on days when adverse fire weather is notified, or adverse fire activity occurs in the local government area in which the development

operates. Details of the bush fire refuge building and emergency procedures should be notified to visitors upon their arrival to the site.

Note: A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to occupation of the development.

Reason: *The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments*

REASON FOR IMPOSITION OF CONDITIONS:

The reason for the imposition of the following conditions is to ensure, to Council's satisfaction, the objects of the *Environmental Planning and Assessment Act 1979* (as amended) are achieved:

- (a) To encourage:
 - (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, cities, towns, and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
 - (ii) The promotion and co-ordination of the orderly and economic use of development of land;
 - (iii) The protection, provision, and co-ordination of communication and utility services;
 - (iv) The provision of land for public purposes;
 - (v) The provision and co-ordination of community services and facilities;
 - (vi) The protection of the environment, including the protection and conservation of native animals and plants including threatened species, populations, and ecological communities and their habitats;
 - (vii) Ecologically Sustainable Development; and
 - (viii) The provision and maintenance of affordable housing.
- (b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State.
- (c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.

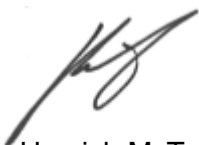
ADVICE:

- The NSW Rural Fire Service recognises that the development is proposed with regard to provisions for historic buildings in Planning for Bush Fire Protection 2019. As such, construction standards and asset protection zones for the historic buildings may be insufficient to protect life and property in the event of a bush fire impacting the tourist facility. Emergency and evacuation procedures, including the use of an on-site emergency refuge building, are relied upon for the safety of occupants
- Where indicated by specific reference in a condition above, approval is also granted for Section 68 of the Local Government Act 1993 to carry out sewer drainage, water supply work and stormwater drainage.
- You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration or internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a modification under Section 96 of the Environmental Planning & Assessment Act, 1979. Any such changes may need to be the subject of a separate Development Application.
Please bear this in mind before preparing documentation in support of a Construction Certificate application. Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of the Environmental Planning & Assessment Act.
- This document is a development consent only and does not authorise construction or subdivision works to commence. Prior to commencing any building, subdivision or associated construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:
 - (i) A Construction Certificate is to be obtained in accordance with Section 6.7 of the Act.
 - (ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6(1) of the Act.
 - (iii) Council is to be notified at least two (2) days before the intention to commence building works, in accordance with Section 6.6(2) of the Act.
- The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue necessary documentary evidence or certificate/s.
- Failure to comply with any of the above requirements is an offence under the provisions of the Act and may result in enforcement action being taken by Council if these requirements are not complied with.

RIGHT OF APPEAL:

Sections 8.2, 8.3, 8.4, 8.5 of the Environmental Planning and Assessment Act 1979 provide that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within six (6) months *after receipt of this Notice of Determination*, together with payment of the appropriate fees. It is recommended that the applicant discuss any request for a review of the determination with Council Officers before lodging such a request.

If you are dissatisfied with this decision, Section 8.7, 8.10 of the Environmental Planning and Assessment Act, 1979 give you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.

**APPROVED BY COUNCIL AND SIGNED ON BEHALF OF THE CONSENT
AUTHORITY**

Hamish McTaggart
Development Coordinator
Date: 3 August 2021