



INVERELL SHIRE COUNCIL

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA-111/2023 PAN-367184
Applicant	ABODE Building Design
Description of development	i) The subdivision of 1 lot into 2 Lots with a dividing fence and inter-allotment concrete curb. ii) Demolition of a small carport located behind the existing dwelling. iii) Construction of a timber framed, 3-bedroom dwelling on a concrete slab and associated earthworks.
Property	143 BRAE STREET INVERELL 2360 8A/-/DP158304
Determination	Approved Consent Authority - Council
Date of determination	6/10/23
Date from which the consent operates	6/10/23
Date on which the consent lapses	6/10/28

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

- ¹ The development, subject to conditions, is consistent with the objectives of the R1 General Residential zone.
- ² The proposed subdivision complies with the minimum lot size provisions of the Inverell Local Environmental Plan 2012 and subdivision controls of the Inverell Development Control Plan 2013.

³ In consideration of residential controls of the Inverell Development Control Plan 2013, the proposed new dwelling is considered appropriate within the locality and not considered to have a significant adverse impact on the amenity of the area.

Community Consultation

Neighbour notification was undertaken in accordance with the Inverell Community Participation Plan. No submissions were received.

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.



Chris Faley
Development Services Coordinator
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 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—<ol style="list-style-type: none">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, orb. 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>Erection of signs</p> <ol style="list-style-type: none">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—<ol style="list-style-type: none">a. showing the name, address and telephone number of the principal certifier for the work, and

	<ul style="list-style-type: none"> 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. <p>3. The sign must be—</p> <ul style="list-style-type: none"> a. maintained while the building work, subdivision work or demolition work is being carried out, and b. removed when the work has been completed. <p>4. This section does not apply in relation to—</p> <ul style="list-style-type: none"> 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.
	<p>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
3	<p>Fulfilment of BASIX commitments</p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled—</p> <ul style="list-style-type: none"> 1. BASIX development, 2. BASIX optional development, if the development application was accompanied by a BASIX certificate. <p>Condition reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>
4	<p>Notification of Home Building Act 1989 requirements</p> <ul style="list-style-type: none"> 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— <ul style="list-style-type: none"> a. for work that requires a principal contractor to be appointed— <ul style="list-style-type: none"> 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— <ul style="list-style-type: none"> 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. <p>Condition reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
5	<p>Approved plans and supporting documentation</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.

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
221111 (Sheets 1 to 6)	A	Subdivision & New Dwelling	Abode Building Design	6/10/2023

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.

Subdivision Work

Before issue of a subdivision works certificate

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

Before subdivision work commences

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

During subdivision work

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

Before issue of a subdivision certificate

6	<p>Subdivision Certificate – Electricity and telecommunications services</p> <p>Before the issue of a Subdivision Certificate, electricity and telecommunications services are to be provided to Lot 2. The proponent is required to submit to Council, certificates from:</p> <ul style="list-style-type: none"> • An approved electricity service provider indicating that satisfactory arrangements have been made for the provision of electricity to Lot 2. • An approved telecommunications service provider indicating that satisfactory arrangements have been made for the provision of telecommunications to Lot 2. <p>Condition reason: To require electricity and telecommunications to be provided to the subdivision.</p>
7	<p>Sewer Connection</p> <p>Before the issue of a Subdivision Certificate, contributions/fees must be paid to Council for Lot 2 for sewer supply and sewer connections. This will require payment to Council of:</p> <ul style="list-style-type: none"> • A Contribution under Council's Development Servicing Plan No. 1 for 1 equivalent tenement; and • A sewer junction fee in accordance with Council's fees and charges. <p><i>Note: Any contributions/fees paid prior to issue of a Construction Certificate (if obtained first) for the new dwelling will be credited towards the subdivision.</i></p> <p>Condition reason: To confirm the contributions and fees payable for the connection of sewer to the development.</p>
8	<p>Water Connection</p>

	<p>Before the issue of a Subdivision Certificate, contributions/fees must be paid to Council for Lot 2 for water supply and water connection. This will require payment to Council of:</p> <ul style="list-style-type: none"> • A Contribution under Council's Development Servicing Plan No. 1 for 1 equivalent tenement; and • A water connection fee in accordance with Council's fees and charges. <p>Note: Any contributions/fees paid prior to issue of a Construction Certificate (if obtained first) for the new dwelling will be credited towards the subdivision.</p> <p>Condition reason: To confirm the contributions and fees payable for the connection of water to the development.</p>
9	<p>Inter-Allotment Drainage</p> <p>Before the issue of a Subdivision Certificate, the "inter-boundary concrete kerb" and stormwater pit, along the common boundary of Lots 1 and 2 is to be constructed in accordance with the approved plans.</p> <p>Condition reason: To manage stormwater drainage associated with the development.</p>
10	<p>Section 7.11 Contributions</p> <p>Prior to the issue of a Subdivision Certificate, a contribution for Lot 2 must be paid to Council pursuant to Section 7.11 (formerly Section 94) of the <i>Environmental Planning and Assessment Act 1979</i> for Community Services.</p> <p>Note: Any contributions/fees paid prior to issue of a Construction Certificate (if obtained first) for the new dwelling will be credited towards the subdivision.</p> <p>Condition reason: To require payment of contributions in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979.</p>
11	<p>Upgrade of the Access Crossing to Existing Dwelling</p> <p>Before the issue of a Subdivision Certificate, the access crossing to the existing dwelling in Brae Street is to be concreted in accordance with Council's Access Crossing Across Footpaths Residential Premises (Concrete) Specifications. All work must be completed to Council's satisfaction, at the applicant's expense.</p> <p>Condition reason: The existing gravel access does not comply with Council's current standards and is to be upgraded as part of the subdivision.</p>

Ongoing use for subdivision work

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

Building Work

Before issue of a construction certificate

12	<p>Sewer Connection</p> <p>Before the issue of a Construction Certificate, contributions/fees must be paid to Council for sewer supply and sewer connection to the new dwelling. This will require payment to Council of:</p> <ul style="list-style-type: none"> • A Contribution under Council's Development Servicing Plan No. 1 for 1 equivalent tenement; and • A sewer junction fee in accordance with Council's fees and charges.
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	<p><i>Note: Any contributions/fees paid prior to issue of a Subdivision Certificate (if obtained first) for the new dwelling will be credited towards the dwelling.</i></p> <p>Condition reason: To confirm the contributions and fees payable for the connection of sewer to the development.</p>
13	<p>Water Connection</p> <p>Before the issue of a Construction Certificate, contributions/fees must be paid to Council for water supply and water connection to the new dwelling. This will require payment to Council of:</p> <ul style="list-style-type: none"> • A Contribution under Council's Development Servicing Plan No. 1 for 1 equivalent tenement; and • A water connection fee in accordance with Council's fees and charges. <p><i>Note: Any contributions/fees paid prior to issue of a Subdivision Certificate (if obtained first) will be credited towards the dwelling.</i></p> <p>Condition reason: To confirm the contributions and fees payable for the connection of water to the development.</p>
14	<p>Section 7.11 Contributions</p> <p>Before the issue of a Construction Certificate, a contribution for the new dwelling must be paid to Council pursuant to Section 7.11 (formerly Section 94) of the Environmental Planning and Assessment Act 1979 for Community Services.</p> <p><i>Note: Any contributions/fees paid prior to issue of a Subdivision Certificate (if obtained first) for the new dwelling will be credited towards the dwelling.</i></p> <p>Condition reason: To require payment of contributions in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979</p>
15	<p>Carport Details</p> <p>Before the issue of a Construction Certificate, final construction details of the carport are to be submitted to and approved by the Accredited Certifier.</p> <p><i>Note: Minor changes to the design of the carport may be possible without the need to modify the development consent, where the carport is not inconsistent with the approved plans.</i></p> <p>Condition reason: To enable final construction details of the carport, not inconsistent with the development consent, to be provided to the Accredited Certifier</p>
16	<p>Section 138 Approval</p> <p>Before the issue of a Construction Certificate, approval under Section 138 of the <i>Roads Act 1993</i> is to be obtained for the construction of a concrete access crossing to the new dwelling. The application for this approval is to be accompanied by a longsection of the access crossing.</p> <p><i>Note: The developer should give consideration to widening the existing layback.</i></p> <p>Condition reason: To ensure approval is obtained for the new access crossing.</p>

Before building work commences

17	<p>Construction -Erosion and Sediment Control</p> <p>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:</p>
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- 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

18	<p>Hours of work</p> <p>Site work must only be carried out between the following times –</p> <p>From 7.00am to 5.00pm on Monday to Friday.</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p>Condition reason: To protect the amenity of the surrounding area.</p>
19	<p>Construction - Local amenity, noise and environmental pollution</p> <p>To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:</p> <ul style="list-style-type: none"> • 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 <i>Surveying and Spatial Information Act 2002</i>. A plan showing the relocated monuments will then be required to be lodged as a matter of public record at the Lands Titles Office. <p>Condition reason: To protect local amenity and survey monuments during construction.</p>

Before issue of an occupation certificate

20	<p>Occupation of premise</p> <p>Prior to occupation of the premises, an Occupation Certificate must be issued in accordance with <i>Environmental Planning and Assessment Act 1979</i>.</p> <p><i>Note: Prior to issue of the Occupation Certificate, the Principal Certifying Authority is required to be satisfied, amongst other things, that:</i></p> <ul style="list-style-type: none"> · <i>all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and</i> · <i>any preconditions to the issue of the certificate required by a development consent have been met.</i> <p>Condition reason: To ensure an Occupation Certificate is obtained prior to use of the building.</p>
21	<p>Stormwater drainage</p> <p>Prior to issue of an Occupation Certificate, all stormwater (i.e. roof water and/or surface water) shall be drained in accordance with <i>Australian Standard 3500.3 Plumbing and drainage</i>.</p> <p>Condition reason: To ensure stormwater is disposed without causing a nuisance to adjoining properties</p>
22	<p>Access Crossing (New Dwelling)</p> <p>Before the issue of an Occupation Certificate, the access crossing to the dwelling is to be concreted in accordance with the approval under Section 138 of the <i>Roads Act 1993</i>.</p> <p>Condition reason: To ensure a suitable access crossing is constructed for the development in accordance with Council's standards.</p>
23	<p>Inter-Allotment Drainage</p> <p>Before the issue of an Occupation Certificate, the "inter-boundary concrete kerb" and stormwater pit, along the common boundary of Lots 1 and 2 is to be constructed in accordance with the approved plans.</p> <p>Condition reason: To manage stormwater drainage associated with the development.</p>

Occupation and ongoing use

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

Demolition Work

Before demolition work commences

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

During demolition work

24	<p>Demolition - asbestos</p> <p>If the development is found to contain asbestos:</p> <ul style="list-style-type: none"> · The applicant/builder must investigate, and carry out, their obligations as specified under the <i>Work Health and Safety Regulation 2011</i>; and · All asbestos waste must be stored, transported and disposed of in accordance with the <i>Protection of the Environment Operations (Waste) Regulation 1996</i>. <p>Condition reason: To require asbestos is handled, transported and disposed in accordance</p>
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	with the relevant legislation.
25	Demolition - Australian Standards
	All demolition work is to be carried out in accordance with <i>Australian Standard 2601 The demolition of structures</i> .
	Condition reason: All demolition work must comply with Australian Standard 2601.

On completion of demolition work

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.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision work certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

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