



# INVERELL SHIRE COUNCIL

## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

<b>Application number</b>	DA-99/2023 PAN-347964
<b>Applicant</b>	Angus Witherby
<b>Description of development</b>	Replacement of existing storage silos with increased capacity silos in the same location.
<b>Property</b>	262 BYRON STREET INVERELL 2360 71-/DP1010430
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	4/10/23

### **Date from which the consent operates**

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.

### **Right of appeal / review of determination**

If you are dissatisfied with this determination:

#### **Request a review**

You do not have the right to request a review of the determination under section 8.3 of the EP&A Act.

#### **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.

**Objector's right of appeal against the determination**

An objector who is dissatisfied with the consent authority's determination to grant consent, has the right to appeal to the Court against the determination under section 8.8 of the EP&A Act within 28 days after the date that the objector was notified of the determination appealed against.

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



Person on behalf of the consent authority

## Terms and Reasons for Conditions

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

### General Conditions

1	<p><b>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</b></p> <ol style="list-style-type: none"> <li>1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the <i>Building Code of Australia</i>.</li> <li>2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the <i>Home Building Act 1989</i>, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li> <li>3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the <i>Building Code of Australia</i>.</li> <li>4. In subsection (1), a reference to the <i>Building Code of Australia</i> is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.</li> <li>5. In subsection (3), a reference to the <i>Building Code of Australia</i> is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li> <li>6. This section does not apply—             <ol style="list-style-type: none"> <li>a. to the extent to which an exemption from a provision of the <i>Building Code of Australia</i> or a fire safety standard is in force under the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, or</li> <li>b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li> </ol> </li> </ol> <p><b>Condition reason:</b> Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
2	<p><b>Erection of signs</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</li> <li>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"> <li>a. showing the name, address and telephone number of the principal certifier for the work, and</li> </ol> </li> </ol>

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

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

**3 Approved plans and supporting documentation**

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

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
SK001	B	Site Plan	Archwon Design Pty Ltd	2022.12.19
SK002	B	Fertiliser Silo Demolition Plan	Archwon Design Pty Ltd	2022.12.19
SK003	B	Fertiliser Silo Plan and Elevation	Archwon Design Pty Ltd	2022.12.19
Untitled Survey Plan				

Approved documents			
Document title	Version number	Prepared by	Date of document
Environmental Impct Assessment - Silo Redevelopment - 262 Byron Street, Inverell - Lot 7 DP 1010430	1.3	Wakefield Planning	4 July 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.

## Demolition Work

### Before demolition work commences

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

### During demolition work

4	<b>Hours of work</b>
	Site work must only be carried out between the following times –  7.00am to 5.00pm on Monday to Friday.  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.
	<b>Condition reason:</b> To protect the amenity of the surrounding area.
5	<b>Demolition - Australian Standards</b>
	All demolition work is to be carried out in accordance with Australian Standard 2601 The demolition of structures.  <b>Condition reason:</b> All demolition work must comply with Australian Standard 2601.
6	<b>Demolition - Supervision</b>
	At all times during demolition a competent person shall directly supervise work. It is the responsibility of the person to ensure that:  <ul style="list-style-type: none"><li>• The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work;</li><li>• Precautions are to be taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained particularly in the event of sudden and severe weather changes; and</li><li>• The site shall be sealed off at all times against the unauthorised entry of persons or vehicles.</li></ul> <b>Condition reason:</b> To protect adjoining properties and public safety.
7	<b>Demolition - Local amenity, noise and environmental pollution</b>
	To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the demolition period:  <ul style="list-style-type: none"><li>• 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;</li><li>• 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;</li><li>• Operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken on the building block. The pollutants from these operations shall be contained on site;</li></ul> 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; and
- Where the proposed development involves the disturbance of any existing survey monuments, those monuments affected will need to be relocated by a registered surveyor under the Surveying and Spatial Information Act 2002. A plan showing the relocated monuments will then be required to be lodged as a matter of public record at the Lands Titles Office.

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

### On completion of demolition work

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

### Building Work

### Before issue of a construction certificate

8	<p><b>Construction Environmental Management Plan</b></p> <p>Prior to issue of a Construction Certificate, a Final Construction Environmental Management Plan (CEMP) is to be submitted to and approved by Council. This plan is to be consistent with the Draft CEMP and the commitments of the approved Environmental Impact Assessment. It must address (at minimum):</p> <ul style="list-style-type: none"> <li>• Erosion control measures in accordance with 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)';</li> <li>• Crane locations and lift paths to minimise lifting;</li> <li>• Site storage and stockpile locations;</li> <li>• Public safety in the use of roads and footpaths adjoining the development;</li> <li>• Construction traffic and vehicles;</li> <li>• Dust control;</li> <li>• Continued pedestrian and vehicle access for adjoining premises;</li> <li>• Waste management;</li> <li>• Noise and vibration; and</li> <li>• Sanitary amenities and ablutions.</li> </ul> <p><b>Condition reason:</b> To manage construction impacts in accordance with the Environmental Impact Assessment.</p>
9	<p><b>Operational Environmental Management Plan</b></p> <p>Prior to issue of a Construction Certificate, a Final Operational Environmental Management Plan (OEMP) is to be submitted to and approved by Council. This plan is to be consistent with the Draft OEMP and the commitments of the approved Environmental Impact Assessment. It must address (at minimum):</p> <ul style="list-style-type: none"> <li>• Acoustic amenity;</li> <li>• Viual amenity (including landscaping monitoring and maintenance);</li> <li>• Internal site hardstand, stormwater and parking;</li> <li>• Incident management, including response to any spills or leakage of chemicals; and</li> <li>• Community consultation and complaint management.</li> </ul> <p><b>Condition reason:</b> To manage operational impact in accordance with the Environmental Impact Assessment.</p>
10	<p><b>Stormwater Drainage Plan</b></p> <p>Prior to issue of a Construction Certificate, a stormwater drainage plan is to be submitted to</p>

	and approved by Council for the proposed development, including the diversion of surface water around the silos and concrete slab without impacting adjoining properties.
	<b>Condition reason:</b> To ensure stormwater drainage does not cause a nuisance to adjoining properties.
11	<b>Landscaping Plan</b>
	Prior to issue of a Construction Certificate, a detailed landscaping plan is to be submitted to and approved by Council for the proposed landscaping:
	<ul style="list-style-type: none"> <li>• Along the northwest boundary; and</li> <li>• In the south-west corner of the site.</li> </ul>
	<b>Condition reason:</b> To require landscaping to be undertaken in accordance with the commitments of the Environmental Impact Assessment.
12	<b>Flood Certification</b>
	Prior to issue of a Construction Certificate, engineering certification from a practising structural engineer is to be provided to the Accredited Certifier, that certifies that the proposed silos are unlikely to suffer significant damage as experienced during the 1991 (1 in 100 year) flood.
	<b>Condition reason:</b> To comply with Chapter 6 of the Inverell Development Control Plan 2013.

### **Before building work commences**

13	<b>Construction -Erosion and Sediment Control</b>
	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:
	<ul style="list-style-type: none"> <li>• Diverting uncontaminated run-off around cleared or disturbed areas;</li> <li>• Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties;</li> <li>• Preventing the tracking of sediment by vehicles onto roads; and</li> <li>• Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.</li> </ul>
	Run-off and erosion control measures must be in place for the duration of building work and until adequate 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.
	<b>Condition reason:</b> To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

### **During building work**

14	<b>Hours of work</b>
	Site work must only be carried out between the following times –
	7.00am to 5.00pm on Monday to Friday.
	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.

	<b>Condition reason:</b> To protect the amenity of the surrounding area.
15	<b>Implementation of Construction Environmental Management Plan</b>
	During construction, a copy of the approved Construction Environmental Management Plan (CEMP) is to be maintained on-site and all commitments of the CEMP implemented.
	<b>Condition reason:</b> To protect the amenity of the surrounding area during construction.

### Before issue of an occupation certificate

16	<b>Occupation of premise</b>
	Prior to use of the silos, an Occupation Certificate must be issued in accordance with <i>Environmental Planning and Assessment Act 1979</i> .
	<i>Note: Prior to issue of the Occupation Certificate, the Principal Certifying Authority is required to be satisfied, amongst other things, that:</i>
	<ul style="list-style-type: none"> <li>· all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and</li> <li>· any preconditions to the issue of the certificate required by a development consent have been met.</li> </ul>
	<b>Condition reason:</b> To ensure an Occupation Certificate is obtained prior to use of the building.
17	<b>Completion of Concrete Slab</b>
	Before the issue of an Occupation Certificate, the entire concrete slab is to be constructed as shown on the approved plans.
	<b>Condition reason:</b>
18	<b>Survey Report for Finished Silo Level</b>
	Before the issue of an Occupation Certificate, a report by a registered surveyor is to be provided to the Accredited Certifier confirming that the bottom of the silos (bottom cone) is at the required 584.25 metres AHD level.
	<b>Condition reason:</b> To ensure that the finished level of the silos is above the 1 in 100 (1991) flood level.
19	<b>Completion of landscape and tree works</b>
	Before the issue of an Occupation Certificate, the Accredited Certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.
	<b>Condition reason:</b> To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).
20	<b>Stormwater Drainage</b>
	Before the issue of an Occupation Certificate, all stormwater is to be completed in accordance with the approved design plans and Australian Standard 3500.3 Plumbing and drainage.
	<b>Condition reason:</b> To require stormwater to be discharged in accordance with the approved details.

### Occupation and ongoing use

21	<b>Hours of Operation</b>
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	<p>The hours of operation of the silos are limited to:</p> <ul style="list-style-type: none"> <li>• 8am - 6pm Monday-Friday;</li> <li>• 8am - 1pm Saturdays; and</li> <li>• No trade Sundays or public holidays</li> </ul> <p><b>Condition reason:</b> To limit the hours in accordance with the Environmental Impact Assessment.</p>
22	<p><b>Noise Limit</b></p> <p>The noise level emanating from the use of the silos and/or associated equipment must not exceed the background level by more than 5dB(a) when measured at:</p> <ul style="list-style-type: none"> <li>• The Royal Motel located at Lot 2 DP 1222621, 254-260 Byron Street, Inverell; or</li> <li>• The worst affected residential property not associated with the development.</li> </ul> <p><b>Condition reason:</b> To protect the amenity of the surrounding area.</p>
23	<p><b>Maintenance of Landscaping</b></p> <p>Landscaping shall be maintained in accordance with the approved plan in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the development.</p> <p>If any vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and be of similar maturity as the vegetation which has died or was removed; within three (3) months of the vegetation dying or being removed.</p> <p><b>Condition reason:</b> To ensure landscaping is adequately maintained for the life of the project.</p>
24	<p><b>External Lighting</b></p> <p>External lighting must:</p> <ul style="list-style-type: none"> <li>• Comply with AS/NZS 4282:2019, Control of the obtrusive effects of outdoor lighting, and</li> <li>• Be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.</li> </ul> <p><b>Condition reason:</b> To protect the amenity of the surrounding area.</p>
25	<p><b>Implementation of Operational Environmental Management Plan</b></p> <p>All commitments of the approved Operational Environmental Management Plan are to be implemented and maintained on-site, including precautions to protect the environment from spills and leaks from the silos. Spilled chemicals are not to be hosed down stormwater drains or directed in any manner towards the Macintyre River.</p> <p><b>Condition reason:</b> To mitigate potential environmental impacts associated with the operation of the development.</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. Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

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

## Dictionary

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

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

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

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

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

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

**Council** means INVERELL SHIRE COUNCIL.

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

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

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

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

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

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

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

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

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

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

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

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