



INVERELL SHIRE COUNCIL

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA-132/2023 PAN-379920
Applicant	ABODE Building Design
Description of development	Change of Use to Centre-Based Child Care Facility and Associated Alterations and Additions
Property	1 BURGESS STREET INVERELL 2360 2/-/DP818029
Determination	Approved Consent Authority - Council staff under delegated authority
Date of determination	16/11/23
Date from which the consent operates	16/11/23
Date on which the consent lapses	16/11/28

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 is an Additional Permitted Use on Lot 2 DP 818029 pursuant to Schedule 1 of the Inverell Local Environmental Plan 2012.
2. The development is consistent with Amendment No. 6 of the Inverell Local Environmental Plan 2012.
3. The development is consistent with the NSW Child Care Planning Guidelines and State Environmental Planning Policy (Transport and Infrastructure) 2021.
4. In consideration to the commercial and parking controls of the Inverell Development Control Plan 2013, the proposed development is suitable for the site and compatible with the locality.

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, or b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies. <p>Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
2	<p>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

- u. 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
220103	A	Proposed New Child Care Centre - 1 Burgess Street, Inverell NSW 2360	Abode Building Design	17 October 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.

Building Work

Before issue of a construction certificate

4 Detailed Car Parking Plan

Before the issue of a Construction Certificate, a final car parking plan is to be submitted to and approved by Council. This parking plan must nominate:

- A minimum of fourteen (14) parking spaces, inclusive of one (1) accessible space, consistent with the approved plans;
- The accessible parking space and associated shared space to be located as per the approved plans;
- Compliance with AS/NZS 2890.1:2004 Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 Parking facilities Off-street parking for people with disabilities;

	<ul style="list-style-type: none"> • The car parking bitumen seal to be rehabilitated; • Concrete specifications for the access crossings and layback adjustments; • Signposting / delineation of the southern access crossing as "Entry Only" • Signposting / delineation of the northern access crossing as "Exit Only / No Entry"; and • Stormwater drainage.
	<p>Condition reason: To require the car park to be designed and constructed in accordance with the relevant Australian Standards.</p>
5	<p>Fire Safety Measures</p> <p>Before the issue of a Construction Certificate, a detailed plan of the existing Best Nursery and the proposed centre-based child care facility is to be submitted to the Accredited Certifier nominating all existing and proposed fire safety measures within the development site.</p> <p>Condition reason: To ensure that suitable fire safety measures are provided in the event of an emergency.</p>
6	<p>Water and Sewer Contributions</p> <p>Before the issue of a Construction Certificate, in reliance upon Section 64 of the <i>Local Government Act 1993</i> and Division 5 of Part 2 of Chapter 6 of the <i>Water Management Act 2000</i>, a Certificate of Compliance must be issued by Council for the development and complied with by the developer.</p> <p><i>Note 1: This will likely require payment of a Water Contribution based on 1.8 Equivalent Tenements under Council's Development Servicing Plan No. 1. For the 2023/2024 financial year, the contribution is \$22,500.00.</i></p> <p><i>Note 2: This will likely require payment of a Sewer Contribution based on 3 Equivalent Tenements under Council's Development Servicing Plan No. 1. For the 2023/2024 financial year, the contribution is \$12,165.00.</i></p> <p><i>Note 3: Should the development require an adjustment to the water and sewer connections to the development, this will be a additional cost by quote from Council.</i></p> <p>Condition reason: To require a Certificate of Compliance to be obtained for the development.</p>
7	<p>Section 138</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 access crossing and layback work in the road reserve.</p> <p>Condition reason: To ensure all necessary approvals under the <i>Roads Act 1993</i> are obtained for the development.</p>
8	<p>Section 68</p> <p>Before the issue of a Construction Certificate, approval under Section 68 of the <i>Local Government Act 1993</i> is to be obtained from Council for water supply, sewerage and stormwater drainage work.</p> <p>Condition reason: To ensure approval under <i>Local Government Act 1993</i> is obtained for the development.</p>

Before building work commences

9	<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

10	<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>
11	<p>Demolition</p> <p>All demolition work is to be carried out in accordance with <i>Australian Standard 2601 The demolition of structures</i>.</p> <p>Condition reason: All demolition work must comply with Australian Standard 2601.</p>

Before issue of an occupation certificate

12	<p>Occupation of premise</p> <p>Prior to occupation of the premises, an Occupation Certificate must be issued in accordance</p>
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with *Environmental Planning and Assessment Act 1979*.

Note: Prior to issue of the Occupation Certificate, the Principal Certifying Authority is required to be satisfied, amongst other things, that:

- *all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and*
- *any preconditions to the issue of the certificate required by a development consent have been met.*

Condition reason: To ensure an Occupation Certificate is obtained prior to use of the building.

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Construction of Car Park

Before the issue of an Occupation Certificate, the following work is to be completed in accordance with the final car parking plan:

- Construction of the concrete access crossings and layback widening;
- Rehabilitation of the car park bitumen seal;
- Delineation of the fourteen (14) parking spaces, inclusive of one (1) accessible space;
- Signposting / delineation of the southern access crossing as "Entry Only"
- Signposting / delineation of the northern access crossing as "Exit Only / No Entry"; and
- Stormwater drainage.

Condition reason: To require the car park to be constructed as per the approved plans.

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Stormwater drainage

Prior to issue of an Occupation Certificate, all stormwater (i.e. roof water and/or surface water) shall be drained in accordance with *Australian Standard 3500.3 Plumbing and drainage*.

Condition reason: To ensure stormwater is disposed without causing a nuisance to adjoining properties

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Fire Safety Schedule

Before the issue of an Occupation Certificate, the owner of the building must provide Council with a fire safety certificate/s with respect to each fire safety or other safety measures installed within Lot 2 DP 818029.

Condition reason: To ensure essential fire safety measures, as per the approved CC plans, are installed within the existing Best Nursery and proposed Centre-Based Child Care Facility.

Occupation and ongoing use

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Maximum Number of Children

The maximum number of licensed early education places must not exceed thirty (30).

Condition reason: To limit the number of children attending the Centre-Based Child Care Facility consistent with the approved documentation.

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Installation of advertising signs

Separate approval must be obtained from Council prior to the installation of any advertising signs, other than signs which may be installed as 'Exempt Development' in accordance with *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or Schedule 2 of the *Inverell Local Environmental Plan 2012*.

Condition reason: To ensure the necessary development consent is obtained for installation of signage.

18	Maintenance of carparking
	All car parking and vehicle movement areas are to be maintained in perpetuity in a reasonable manner.
	Condition reason: To ensure ongoing maintenance of the car park.
19	Portable advertising signs
	Portable signs, commonly described as sandwich boards and the like, must not be placed on the footpath of other public areas without the prior approval of Council.
	Condition reason: Separate approval from Council is required for the use of public land for portable signs.
20	Food Safety
	Any food preparation undertaken on the site must comply with all applicable legislation/regulation and standards including: <ul style="list-style-type: none"> • The Food Act 2003; • Food Regulation 2004; • Food Standards Australia and New Zealand – Food Standards Code 2001; • Relevant Australian Standards for Design, Construction and Fit out of Food Premises; and • Mechanical ventilation – Australian Standard 1668.2-2002 The use of ventilation and airconditioning in buildings - Ventilation design for indoor air contaminant control.
	Condition reason: The require any food supplied as part of the Centre-Based Child Care Facility to comply with the applicable food safety standards.

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.