

COMPLYING DEVELOPMENT CERTIFICATE

Approval Issued under Section 4.28(6) of the Environmental Planning and Assessment Act 1979

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| Application Number | CD-1/2024 |
| Applicant | Mr John David Williams |
| Land to be developed | 226 Old Bundarra Road, INVERELL NSW 2360 |
| Approved development | Deck and pool fence, alterations and additions |
| Cost of development | \$26,600.00 |
| Determination | The application was determined under delegation of Council and the complying development certificate is issued subject to the conditions in Schedule 1 and the Statutory Fire Safety Schedule in Schedule 2 (where applicable). |
| Building Code of Australia Classification | Class 1a Class 10b |
| Land use zone | R5 – Large Lot Residential |
| Complying development code/s and SEPP | State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 - Inland Code |
| Date of determination | 19 February 2024 |

Consent will lapse on

Unless the work or use to which this consent relates has lawfully commenced on-site in accordance with Section 4.29 of Environmental Planning and Assessment Act 1979.

This approval (certificate) relates to complying development and (if carried out as specified in the certificate) will comply with all development standards applicable to the development and with such other requirements prescribed by the Regulations concerning the issue of this certificate.



JADE McILWAIN
BUILDING SURVEYOR
ACCREDITATION NUMBER: BDC 0984

SCHEDULE 1

CONDITIONS OF ISSUE OF COMPLYING DEVELOPMENT CERTIFICATE

APPROVED DEVELOPMENT

Development must be undertaken in accordance with Complying Development Certificate Application No. CD-1/2024 dated and information and drawings numbered and dated as attached and subject to the following conditions:

136A Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

- (1) A complying development certificate for development that involves any building work must be issued subject to the following conditions—
 - (a) that the work must be carried out in accordance with the requirements of the *Building Code of Australia*,
 - (b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance must be entered into and be in force before any building work authorised to be carried out by the certificate commences.
 - (1A) A complying development certificate for a temporary structure that is used as an entertainment venue must be issued subject to the condition that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the *Building Code of Australia* (as in force on the date the application for the relevant complying development certificate is made).
 - (2) This clause does not limit any other conditions to which a complying development certificate may be subject, as referred to in section 4.28(6)(a) of the Act.
 - (3) This clause does not apply—
 - (a) to the extent to which an exemption is in force under clause 164B, 187 or 188, subject to the terms of any condition or requirement referred to in clause 164B(4), 187(6) or 188(4), or
 - (b) to the erection of a temporary building, other than a temporary structure that is used as an entertainment venue.
 - (4) In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant complying development certificate is made.
- Note.** There are no relevant provisions in the *Building Code of Australia* in respect of temporary structures that are not entertainment venues.

136AA Condition relating to fire safety systems in class 2–9 buildings

- (1) A complying development certificate for building work involving the installation, extension or modification of any relevant fire safety system in a class 2, 3, 4, 5, 6, 7, 8 or 9 building, as defined in the *Building Code of Australia*, must be issued subject to the condition required by this clause.
- (2) The condition required by this clause is that the building work involving the installation, modification or extension of the relevant fire safety system cannot commence unless—
 - (a) plans have been submitted to the principal certifier that show—
 - (i) in the case of building work involving the installation of the relevant fire safety system—the layout, extent and location of key components of the relevant fire safety system, or
 - (ii) in the case of building work involving the modification or extension of the relevant fire safety system—the layout, extent and location of any new or modified components of the relevant fire safety system, and
 - (b) specifications have been submitted to the principal certifier that—

- (i) describe the basis for design, installation and construction of the relevant fire safety system, and
 - (ii) identify the provisions of the *Building Code of Australia* upon which the design of the system is based, and
 - (c) those plans and specifications—
 - (i) have been certified by a compliance certificate referred to in section 6.4(e) of the Act as complying with the relevant provisions of the *Building Code of Australia*, or
 - (ii) unless they are subject to an exemption under clause 164B, have been endorsed by an accredited practitioner (fire safety) as complying with the relevant provisions of the *Building Code of Australia*, and
 - (d) if those plans and specifications were submitted before the complying development certificate was issued—each of them was endorsed by the certifier with a statement that the certifier is satisfied that it correctly identifies both the performance requirements and the deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (e) if those plans and specifications were not submitted before the complying development certificate was issued—each of them was endorsed by the principal certifier with a statement that the principal certifier is satisfied that it correctly identifies both the performance requirements and the deemed-to-satisfy provisions of the *Building Code of Australia*.
- (3) In this clause—
relevant fire safety system means any of the following—
- (a) a hydraulic fire safety system within the meaning of clause 165,
 - (b) a fire detection and alarm system,
 - (c) a mechanical ducted smoke control system.

136AB Notice to neighbours

- (1) A complying development certificate for development on land that is in a category 1 local government area and that is not in a residential release area and that involves—
- (a) a new building, or
 - (b) an addition to an existing building, or
 - (c) the demolition of a building,
- must be issued subject to a condition that the person having the benefit of the complying development certificate must give at least 7 days' notice in writing of the person's intention to commence the work authorised by the certificate to the occupier of each dwelling that is located on a lot that has a boundary within 20 metres of the boundary of the lot on which the work is to be carried out.
- (2) A complying development certificate for development on land that is in a category 2 local government area or a residential release area and that involves—
- (a) a new building, or
 - (b) an addition to an existing building, or
 - (c) the demolition of a building,
- must be issued subject to a condition that the person having the benefit of the complying development certificate must give at least 2 days' notice in writing of the person's intention to commence the work authorised by the certificate to the occupier of each dwelling that is located on a lot that has a boundary within 20 metres of the boundary of the lot on which the work is to be carried out.
- (3) In this clause—
category 1 local government area means any of the local government areas of Ashfield, City of Auburn, City of Bankstown, City of Blacktown, City of Blue Mountains, City of Botany Bay, Burwood, Camden, City of Campbelltown, Canada Bay, City of Canterbury, City of Fairfield, City of Hawkesbury, City of Holroyd, Hornsby, Hunter's Hill, City of Hurstville, City of Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, City of Liverpool, Manly, Marrickville, Mosman, North Sydney, City of Parramatta, City of Penrith, Pittwater, City of Randwick, City of Rockdale, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Warringah, Waverley, City of Willoughby, Wingecarribee, Wollondilly or Woollahra.
category 2 local government area means any local government area that is not a category 1 local government area.

residential release area means any land within—

- (a) an urban release area identified within a local environmental plan that adopts the applicable mandatory provisions of the Standard Instrument, or
- (b) a land release area identified under the *Eurobodalla Local Environmental Plan 2012*, or
- (c) any land subject to *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*, or
- (d) any area included in Parts 6, 26, 27, 28 and 29 of Schedule 3 to *State Environmental Planning Policy (Major Development) 2005*.

136B Erection of signs

- (1) A complying development certificate for development that involves any building work, subdivision work or demolition work must be issued subject to a condition that the requirements of subclauses (2) and (3) are complied with.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out—
 - (a) showing the name, address and telephone number of the principal certifier for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building, that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a complying development certificate issued before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal certifiers and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

136C Notification of Home Building Act 1989 requirements

- (1) A complying development certificate for development that involves any residential building work within the meaning of the *Home Building Act 1989* must be issued subject to a condition that the work is carried out in accordance with the requirements of this clause.
- (2) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information—
 - (a) in the case of work for which a principal contractor is required to be appointed—
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by an owner-builder—
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

136D Fulfilment of BASIX commitments

- (1) This clause applies to the following development—
 - (a) BASIX affected development,
 - (b) any BASIX optional development in relation to which a person has made an application for a complying development certificate that has been accompanied by a BASIX certificate or BASIX certificates (despite there being no obligation under clause 4A of Schedule 1 for it to be so accompanied).
- (2) A complying development certificate for development to which this clause applies must be issued subject to a condition that the commitments listed in each relevant BASIX certificate for the development must be fulfilled.

136E Development involving bonded asbestos material and friable asbestos material

- (1) A complying development certificate for development that involves building work or demolition work must be issued subject to the following conditions—
 - (a) work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the *Work Health and Safety Regulation 2011*,
 - (b) the person having the benefit of the complying development certificate must provide the principal certifier with a copy of a signed contract with such a person before any development pursuant to the complying development certificate commences,
 - (c) any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered,
 - (d) if the contract indicates that bonded asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the complying development certificate must give the principal certifier a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.
- (2) This clause applies only to a complying development certificate issued after the commencement of this clause.
- (3) In this clause, ***bonded asbestos material, bonded asbestos removal work, friable asbestos material and friable asbestos removal work*** have the same meanings as in clause 317 of the *Occupational Health and Safety Regulation 2001*.

- Note 1.** Under clause 317 removal work refers to work in which the bonded asbestos material or friable asbestos material is removed, repaired or disturbed.
- Note 2.** The effect of subclause (1)(a) is that the development will be a workplace to which the *Occupational Health and Safety Regulation 2001* applies while removal work involving bonded asbestos material or friable asbestos material is being undertaken.
- Note 3.** Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Office of Environment and Heritage.
- Note 4.** Demolition undertaken in relation to complying development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* must be carried out in accordance with Australian Standard AS 2601—2001, *Demolition of structures*.

136H Condition relating to shoring and adequacy of adjoining property

- (1) A complying development certificate for development must be issued subject to a condition that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the certificate must at the person's own expense—
 - (a) protect and support the building, structure or work from possible damage from the excavation, and

- (b) where necessary, underpin the building, structure or work to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the complying development certificate owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

136I Traffic generating development

If an application for a complying development certificate is required to be accompanied by a certificate of Roads and Maritime Services as referred to in clause 4(1)(j1) or (k) of Schedule 1, the complying development certificate must be issued subject to a condition that any requirements specified in the certificate of Roads and Maritime Services must be complied with.

136J Development on contaminated land

- (1) If an application for a complying development certificate is required to be accompanied by a statement of a qualified person as referred to in clause 4(1)(l) of Schedule 1, the complying development certificate must be issued subject to a condition that any requirements specified in the statement must be complied with.
- (2) Subclause (1) does not apply to complying development carried out under the complying development provisions of *State Environmental Planning Policy (Three Ports) 2013* in the Lease Area within the meaning of clause 4 of that Policy.

136K When complying development certificates must be subject to section 4.28(9) condition

- (1) This clause applies if a council's contributions plan provides for the payment of a monetary section 7.11 contribution or section 7.12 levy in relation to development for a particular purpose (whether or not it is classed as complying development under the contributions plan).
- (2) The certifier must issue the relevant complying development certificate authorising development for that purpose subject to a condition requiring payment of such contribution or levy, as required by section 4.28(9) of the Act.
- (3) Subclause (2) applies despite any provision to the contrary in the council's contributions plan.

136L Contributions and levies payable under section 4.28(9) must be paid before work commences

- (1) A complying development certificate issued subject to a condition required by section 4.28(9) of the Act must be issued subject to a condition that the contribution or levy must be paid before any work authorised by the certificate commences.
- (2) Subclause (1) applies despite any provision to the contrary in the council's contributions plan.

136M Condition relating to payment of security

- (1) This clause applies to a complying development certificate authorising the carrying out of development if—
 - (a) the development is demolition of a work or building, erection of a new building or an addition to an existing building and the estimated cost of the development (as specified in the application for the certificate) is \$25,000 or more, and
 - (b) the development is to be carried out on land adjacent to a public road, and
 - (c) at the time the application for the certificate is made, there is specified on the website of the council for the area in which the development is to be carried out an amount of security determined by the council that must be paid in relation to—
 - (i) development of the same type or description, or
 - (ii) development carried out in the same circumstances, or
 - (iii) development carried out on land of the same size or description.

- (2) A complying development certificate to which this clause applies must be issued subject to a condition that the amount of security referred to in subclause (1) is to be provided, in accordance with this clause, to the council before any building work or subdivision work authorised by the certificate commences.
- (3) The security may be provided, at the applicant's choice, by way of—
 - (a) deposit with the council, or
 - (b) a guarantee satisfactory to the council.
- (4) The funds realised from a security may be paid out to meet the cost of making good any damage caused to any property of the council as a consequence of doing anything (or not doing anything) authorised or required by the complying development certificate, including the cost of any inspection to determine whether damage has been caused.
- (5) Any balance of the funds realised from a security remaining after meeting the costs referred to in subclause (4) is to be refunded to, or at the direction of, the person who provided the security.

136N Principal certifier to be satisfied that preconditions met before commencement of work

- (1) This clause applies to building work or subdivision work that is the subject of a complying development certificate.
- (2) A principal certifier for building work or subdivision work to be carried out on a site, and over which the principal certifier has control, is required to be satisfied that any preconditions in relation to the work and required to be met before the work commences have been met before the work commences.