INVERELL
SHIRE COUNCIL

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA-4/2024 PAN-402615
Applicant	James Tom
Description of development	above ground swimming pool
Property	9 FROUDE STREET INVERELL 2360 1/-/DP18304
Determination	Approved Consent Authority - Council
Date of determination	16/01/24
Date from which the consent operates	16/01/24
Date on which the consent lapses	16/01/29
Building Code of Australia building classification	Class 10b

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 Zone.

2. The built form and design of the pool, subject to conditions is consistent with the streetscape and development in the locality.

3. In consideration of the controls of the Inverell Development Control Plan 2013, the development is considered appropriate within the locality.

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.

Anthony Alliston
Manager Development Services
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	**Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989**
	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— 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.
	Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.
2	**Erection of signs**
	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— 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 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 **Notification of Home Building Act 1989 requirements**

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—
   a. for work that requires a principal contractor to be appointed—
      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—
      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.

Condition reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.

4 **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 documents			
Document title	Version number	Prepared by	Date of document
Clipper Pool 160K Structural Capacity Design Assessment 5 Pages		Austica Pty Ltd	19/7/2023
Site Plan 2 Pages		James	8/1/2024

	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.
5	**Commencement of works on site**
	No activity is to be carried out on site until a Construction Certificate has been issued, other than: • site investigation for the preparation of the construction; and/or • implementation of environmental protection measures, such as erosion control etc. that are required by this consent.
	Condition reason: To ensure no works commence until a Construction Certificate has been issued and any pre-construction conditions have been satisfied.

Building Work

Before issue of a construction certificate

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

Before building work commences

6	**Construction -Erosion and Sediment Control**
	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: • 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

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

Before issue of an occupation certificate

7	**Swimming pool- child – restraint barrier**

	To comply with the *Swimming Pools Act 1992* the owner of the premises on which a swimming pool is situated must ensure that the swimming pool is at all times surrounded by a child-resistant barrier: • that separates the swimming pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises; and • that is designed, constructed, installed and maintained in accordance with the regulations and *Australian Standard 1926-2007 Swimming pool safety*.
	Condition reason: To comply with the Swimming Pools Act 1992
8	**Swimming pool - external lighting**
	Any external pool lighting shall be positioned and shielded to prevent a glare nuisance to neighbouring premises.
	Condition reason: To protect the amenity of adjoining properties.
9	**Swimming pool filtration equipment amenity**
	The swimming pool filtration equipment is to be located so as to prevent the possibility of any offensive noise to adjoining or nearby residences.
	Condition reason: To protect the amenity of adjoining properties
10	**Swimming pool – Resuscitation poster**
	A resuscitation techniques flow sequence sign/poster is to be displayed in a prominent position adjacent to the pool. The sequence must be in accordance with the Cardiopulmonary Resuscitation Guideline, illustrated by drawings with key words only in bold print, and contain a statement to the effect that formal instruction in resuscitation is also essential. The sign shall comply with the other relevant guidelines of the Australian Resuscitation Council and include the name of the teaching organisation or other body that published the sign and the date of its publication.
	Condition reason: To comply with the Swimming Pools Act 1992.
11	**Swimming pool - waste water**
	Swimming pool wastewater must be drained to Council's sewer in accordance with the requirements of Council and *Australian Standard 3500.2 Plumbing and drainage*.
	Condition reason: To require appropriate disposal of pool wastewater.

Occupation and ongoing use

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.

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