



INVERELL SHIRE COUNCIL

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA-72/2024 PAN-429542
Applicant	Pierre Hanna
Description of development	Change of Use
Property	101-121 BYRON STREET INVERELL 2360 2/-/DP1036159 5/-/DP543911 2/-/DP1149104
	3 121 BYRON STREET INVERELL 2360 2/-/DP1036159 5/-/DP543911 2/-/DP1149104
Determination	Approved Consent Authority - Council
Date of determination	24/07/24
Date from which the consent operates	24/07/24
Date on which the consent lapses	24/07/24
Building Code of Australia building classification	5

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 E2 zone.
2. In consideration of commercial, parking, flood and heritage controls of the Inverell Development Control Plan 2013, the development is considered to have minimal impacts and is compatible with the Inverell CBD.

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.



Liam Spalding
Development Officer
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>National Construction Code Compliance - Alterations and Additions - Change of Use</p> <p>Pursuant to Section 64 of the Environmental Planning and Assessment Regulation 2021, the building part (the subject tenancy on the ground floor) must comply with the Building Code of Australia including:</p> <ul style="list-style-type: none"> • Access and egress - Part D1; • Provision of escape - Part D2; • Construction of exits - Part D3; • Access for people with disability - Part D4; <p><u>Note:</u> Compliance with the access provisions of Part D4 may necessitate design modifications prior to a Construction Certificate being issued.</p> <ul style="list-style-type: none"> • Fire fighting equipment - Part E1; • Smoke hazard management - Part E2; and • Visibility in an emergency, exit signs and warning systems - Part E4. <p>Note: If compliance with the above cannot be achieved through the deemed-to-satisfy pathway, a performance solution in accordance with the BCA must be prepared and submitted to the Registered Certifier illustrating how the relevant performance provisions are to be satisfied prior to the issuing of a construction certificate.</p> <p>Condition reason: To ensure the works comply with relevant regulations.</p>
2	<p>Compliance with Accessibility Standards</p> <p>Prior to issue of an Occupation Certificate, the internal works are to be accessible in accordance with the <i>Building Code of Australia and Disability (Access to Premises — Buildings) Standards 2010</i>.</p> <p>Condition reason: To ensure compliance with Building Code of Australia and Disability (Access to Premises — Buildings) Standards 2010.</p>
3	<p>Fire Safety Certificate</p> <p>Prior to occupation of the premises, the owner of the building must provide Council with a fire safety certificate with respect to each fire safety or other safety measures installed in the building.</p> <p>Condition reason: To ensure fire safety certificate is supplied to Council.</p>
4	<p>Construction Certificate required prior to commencement of works on site</p> <p>No activity is to be carried out on site until a Construction Certificate has been issued, other than:</p>

- 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.

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Approved Plans

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	D	Benevolent Society Inverell	APEX	4/02/2024
RCP001	D	Benevolent Society Inverell	APEX	4/02/2024
PA001	D	Benevolent Society Inverell	APEX	4/02/2024
FL001	D	Benevolent Society Inverell	APEX	4/02/2024
DH001	D	Benevolent Society Inverell	APEX	4/02/2024
JD001	D	Benevolent Society Inverell	APEX	4/02/2024

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Condition reason:

Change of use

Ongoing use for change of use

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Annual Fire Safety Statement

The owner of the building must certify to Inverell Shire Council every year that the essential fire safety measures installed in the building have been inspected and are capable of operating to the required minimum standard.

Condition reason: To ensure annual checks on fire safety measures.

7	Hours of Operation
	The hours of operation are to be limited to 8.30 am to 5.00 pm Monday to Saturday.
	Condition reason: To limit hours of operation

Building Work

Before issue of a construction certificate

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

Before building work commences

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

During building work

8	Construction - Local amenity, noise and environmental pollution
	To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period: <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.
	Condition reason: To protect local amenity and survey monuments during construction.

Before issue of an occupation certificate

9	Occupation of premise
	Prior to occupation of the premises, an Occupation Certificate must be issued in accordance with <i>Environmental Planning and Assessment Act 1979</i> . <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>
	Condition reason: To ensure an Occupation Certificate is obtained prior to use of the

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.