



INVERELL SHIRE COUNCIL

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

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| Application number | DA-77/2024 PAN-445054 |
| Applicant | Carolyn McMullen |
| Description of development | Private cemetery |
| Property | 146 ABERDEEN ROAD STANBOROUGH 2360 3/-/DP255937 |
| Determination | Approved Consent Authority - Council |
| Date of determination | 19/07/24 |
| Date from which the consent operates | 19/07/24 |
| Date on which the consent lapses | 19/07/29 |

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 RU1 Primary Production Zone.
2. Subject to conditions, the development will comply with *Guidance on Burying a Body on Private Land - Public Health Regulation 2012* issued by NSW Health.

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

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| 1 | Cemetery Layout Plan |
| | Prior to the first burial, a plan of the cemetery clearly specifying boundary dimension and an indicative burial layout is to be submitted to and approved by Council. |
| | Condition reason: To ensure the cemetery dimensions and layout is determined |
| 2 | Registration of Cemetery on Title |
| | The existence of a cemetery is to be designated on the land title as a permanent record. A copy of the amended title or planning instrument is to be registered and provided to Council for its records prior to use of the site as a private burial ground. |
| | Condition reason: to ensure the cemetery is registered on the title |
| 3 | Restriction on Use on 88B |
| | A Restriction as to User on the land pursuant to Section 88B of the Conveyancing Act, or a Dealing, is to be registered and copy provided to Council for its records prior to use of the site as a private burial ground. This is to include the following: <ul style="list-style-type: none"> i. Provision for public access from a public road reserve to the cemetery. This may be provided by a right of way or easement, minimum 20 metres wide, to permit required access for maintenance of the site, access by the general public or the exhumation of the remains should that be required, in perpetuity. ii. Include the following or similar wording: <i>"Within the area shown so burdened on the attached plan, a grave site is located and no construction or excavation is permitted without prior written consent of the Council."</i> |
| | Condition reason: To ensure the land identified as the cemetery has restricted use. |
| 4 | Fencing of Cemetery |
| | The cemetery must be permanently and suitably fenced prior to use to delineate the boundaries of the site and to secure the location. |
| | Condition reason: To delineate the boundaries of the cemetery. |
| 5 | Dish Drain |
| | An open dish drain or contour is to be installed above the cemetery to collect and divert all waters around the designated cemetery site. |
| | Condition reason: to ensure surface water is diverted around cemetery. |
| 6 | Required to Obtain Burial Permit |
| | A burial permit is required to be submitted to Council for approval, prior to any burial taking place. |
| | Condition reason: To ensure that a burial permit is obtained for any burials. |

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| 7 | <p>Register of Burials</p> <p>A cemetery authority must maintain a register of all burials carried out at the cemetery. A record must be kept and made immediately after a burial has been carried out. Each entry must include the following:</p> <ul style="list-style-type: none"> • the name, age and last address of the person whose body or remains have been buried; • the date of the person's death; • the date of the burial; • the section and allotment where the burial has been made; • the name of the person (if any) who continues to hold any right of burial in that allotment; and • the name of the funeral director who transported the body to the cemetery. <p>Condition reason:</p> |
| 8 | <p>Plan of Burials</p> <p>A plan or map showing the position of the burial allotments within that cemetery must be prepared and kept with the register at all times with a copy being sent to Council immediately after each burial.</p> <p>Condition reason:</p> |
| 9 | <p>Compliance with Public Health Regulations</p> <p>All burials undertaken are to comply with the <i>Public Health Regulation 2012</i> and Guidance on Burying a Body on Private Land (or subsequent revisions) issued by NSW Health. A copy of this guidance is included with this consent.</p> <p>Condition reason: To ensure burials comply with Public Health Regulations</p> |
| 10 | <p>Burial Requirements</p> <p>Bodies are not to be buried unless they have first been placed in a coffin and the lid securely sealed.</p> <p>A person who buries a body contained in a coffin must place the coffin so that its upper surface is not less than 900 millimetres below the natural surface level of the soil where it is buried.</p> <p>Condition reason: To ensure appropriate burial depth and coffin sealing.</p> |
| 11 | <p>Marking of grave and Details of Deceased.</p> <p>Each grave must be permanently marked with details of the deceased and the boundaries of the grave excavation should also be permanently marked.</p> <p>Condition reason:</p> |
| 12 | <p>No Above Ground Burial Chambers</p> <p>No above ground burial chambers may be installed within the cemetery.</p> <p>Condition reason: to ensure burials are not above ground chambers.</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.

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.

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.