

Notice of Determination of Development Application

Environmental Planning and Assessment Act 1979

Notice is hereby given of the determination by Council to the following Development Application pursuant to Section 4.18(1) of the Environmental Planning & Assessment Act, 1979.

Application Number:	DA23/0381
Applicant:	Fernleigh Drafting Po Box 45 THIRROUL NSW 2515
Land to be Developed:	10 Henschke Ave SAN ISIDORE NSW 2650 Lot 18 DP 245101
Description	Demolition of two existing sheds and construction of a new shed
Determination:	Right click here for list
Date of Determination:	
Consent to Operate from:	
Consent to Lapse on:	
Other Approvals:	Nil

On behalf of the Council

Right of Appeal - Where an applicant is dissatisfied with this determination, the applicant has the right to appeal the decision to the Land and Environment Court within a period of 6 months from the date the decision is notified or registered on the NSW planning portal. An objector has no right of appeal against this determination.

Review of Determination - The applicant may request the Council to review the determination. A determination cannot be reviewed after the period within which an appeal may be made to the Land and Environment Court has expired or, if an appeal has been made against the determination, after the Court has disposed of that appeal.

CONDITIONS OF CONSENT FOR APPLICATION NO. DA23/0381

A. SCHEDULE A – Reasons for Conditions

The conditions of this consent have been imposed for the following reasons:

- A.1 To ensure compliance with the terms of the Environmental Planning and Assessment Act 1979 and Regulation 2000.
- A.2 Having regard to Council's duties of consideration under Section 4.15 and 4.17 of the Act.
- A.3 To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites.
- A.4 To improve the amenity, safety and environmental quality of the locality.
- A.5 Having regard to environmental quality, the circumstances of the case and the public interest.
- A.6 Having regard to the Wagga Wagga Development Control Plan 2010.
- A.7 To help retain and enhance streetscape quality.
- A.8 Ensure compatibility with adjoining and neighbouring land uses and built form.
- A.9 To protect public interest, the environment and existing amenity of the locality.
- A.10 To minimise health risk to neighbouring residents and workers.

B. SCHEDULE B – Deferred Commencement Conditions

N/A

C. SCHEDULE C – Conditions

Approved Plans and Documentation

- C.1 The development must be carried out in accordance with the approved plans and specifications as follows.

Plan/DocNo.	Plan/Doc Title	Prepared by	Issue	Date
Job No. 221209 Sheet 01	Site Plan	Fernleigh Drafting	-	20/01/2024
Job No. 221209 Sheet 02	Floor Plan and Stair Detail	Fernleigh Drafting	-	20/01/2024
Job No. 221209 Sheet 03	East and North Elevation	Fernleigh Drafting	-	20/01/2024
Job No. 221209 Sheet 04	West and South Elevation	Fernleigh Drafting	-	20/01/2024
Job No. 221209 Sheet 05	Typical Section and Typical Absorption Trench Detail	Fernleigh Drafting	-	20/01/2024
-	Statement of Environmental Effects	Fernleigh Drafting	-	20/07/2023

The Development Application has been determined by the granting of consent subject to and as amended by the conditions of development consent specified

below.

NOTE: Any modifications to the proposal shall be the subject of an application under Section 4.55 of the Environmental Planning and Assessment Act, 1979.

Requirements before the commencement of any works

C.2 Prior to works commencing on site, toilet facilities must be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a) a standard flushing toilet connected to a public sewer, or
- b) if that is not practicable, an accredited sewage management facility approved by Council, or
- c) if that is not practicable, any other sewage management facility approved by Council.

NOTE 1: The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced and the toilet facility must not be removed without the prior written approval of Council.

NOTE 2: "Vicinity" in this condition is defined to mean within 50 metres of the subject building site.

NOTE 3: The toilet facilities are to comply with all WORK COVER NSW requirements.

C.3 A CONSTRUCTION CERTIFICATE must be obtained pursuant to Section 6.7 of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority certifying that the proposed works are in accordance with the Building Code of Australia PRIOR to any works commencing.

NOTE 1: No building, engineering, excavation work or food premises fitout must be carried out in relation to this development until the necessary Construction Certificate has been obtained.

NOTE 2: YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE, even if you made an application for a Construction Certificate at the same time as you lodged this Development Application.

NOTE 3: It is the responsibility of the applicant to ensure that the development complies with the provision of the Building Code of Australia in the case of building work and the applicable Council Engineering Standards in the case of subdivision works. This may entail alterations to the proposal so that it complies with these standards.

- C.4 Prior to works commencing a container must be erected on site for the enclosure of all building rubbish and debris, including that which can be wind blown. The enclosure shall be approved by Council and be retained on site at all times prior to the disposal of rubbish at a licenced Waste Management Centre.

Materials and sheds or machinery to be used in association with the construction of the building must not be stored or stacked on Council's footpath, nature strip, reserve or roadway.

NOTE 1: No building rubbish or debris must be placed, or be permitted to be placed on any adjoining public reserve, footway, road or private land.

NOTE 2: Weighbridge certificates, receipts or dockets that clearly identify where waste has been deposited must be retained. Documentation must include quantities and nature of the waste. This documentation must be provided to Council prior to application for an Occupation Certificate for the development.

NOTE 3: The suitable container for the storage of rubbish must be retained on site until an Occupation Certificate is issued for the development.

- C.5 Prior to the commencement of works erosion and sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with Council's:-

- a) Development Control Plan 2010 (Section 2.6 and Appendix 2)
- b) Erosion and Sediment Control Guidelines for Building Sites; and
- c) Soils and Construction Volume 1, Managing Urban Stormwater

Prior to commencement of works, a plan illustrating these measures shall be submitted to, and approved by, Council.

NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing.

- C.6 A Section 68 Approval must be obtained from Council prior to any sewer or stormwater work being carried out on the site.

The licensed plumber must submit to Council, at least two (2) days prior to the commencement of any plumbing and drainage works on site a "Notice of Works".

NOTE: A copy of the Notice of Works form can be found on Council's website.

Requirements during construction or site works

- C.7 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.

- C.8 All excavation and backfilling associated with the erection/demolition of the building must be properly guarded and protected to prevent them from being dangerous to life or property.
- C.9 The demolition must be carried out in accordance with the provisions of Australian Standard AS2601-2001: The Demolition of Structures.

Within fourteen (14) days of completion of demolition, the following information shall be submitted to Council for assessment and approval:

- a) an asbestos clearance certificate prepared by a competent person; and
- b) a signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with any Waste Management Plan approved with this consent. In reviewing such documentation Council will require the provision of actual weighbridge receipts for the recycling/disposal of all materials.

NOTE 1: Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

NOTE 2: Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".

NOTE 3: Competent Person (as defined under Safe Removal of asbestos 2nd Edition [NOHSC: 2002 (2005)]) means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill, for the safe performance of the specific work.

NOTE 4: A licence may be required for some of the tasks described in the document entitled Safe Removal of Asbestos 2nd Edition as requiring a competent person.

- C.10 The permitted construction hours are Monday to Friday 7.00am to 6.00pm and Saturday 7.00am to 5.00pm, excepting public holidays. All reasonable steps must be taken to minimise dust generation during the demolition and/or construction process. Demolition and construction noise is to be managed in accordance with the Office of Environment and Heritage Guidelines.

Requirements prior to issue of an Occupation Certificate or prior to operation

- C.11 Prior to the issue of Occupation Certificate an all weather driveway from the property entrance of the development site to the edge of the carriageway must be provided and maintained, having a minimum clear width of 3 metres.
- C.12 An Occupation Certificate, must be obtained pursuant to Section 6.9 of the Environmental Planning and Assessment Act 1979, from either Council or an accredited certifying authority, prior to occupation of the building.

In order to obtain this, the "Final Occupation Certificate" form must be completed and submitted to Council with all required attachments - failure to submit the completed

Occupation Certificate Application form will result in an inability for Council to book and subsequently undertake Occupation Certificate inspection.

NOTE: The issuing of an Occupation Certificate does not necessarily indicate that all conditions of development consent have been complied with. The applicant is responsible for ensuring that all conditions of development consent are complied with.

- C.13 A final inspection must be carried out upon completion of plumbing and drainage work and prior to occupation of the development, prior to the issuing of a final plumbing certificate Council must be in possession of Notice of Works, Certificate of Compliance and Works as Executed Diagrams for the works. The works as Executed Diagram must be submitted in electronic format in either AutoCAD or PDF file in accordance with Council requirements.

All plumbing and drainage work must be carried out by a licensed plumber and drainer and to the requirements of the Plumbing and Drainage Act 2011.

NOTE: Additional fees for inspections at the Plumbing Interim Occupancy / Plumbing Occupation stage may apply. This will depend on the number of inspections completed at this stage of the work/s.

General requirements

- C.14 Any earthworks (including any structural support or other related structure for the purposes of the development):
- (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
 - (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
 - (c) retained material must have a gradient of at least 5%, and
 - (d) must be constructed in accordance with the approved plans for such work(s).
 - (e) must be wholly located within the subject site (including footings of any retaining structures)
- C.15 Landscaping proposed around the perimeter of proposed shed shall be established within 3 months from the date of issue of Occupation Certificate for the shed and shall be maintained in perpetuity.
- C.16 The owner of the property shall ensure that the absorption trench is constructed clear of the Onsite Sewer Management System disposal area on the site.

D. SCHEDULE D – Activity Approval Conditions (Section 68)

N/A

E. SCHEDULE E – Prescribed Conditions

Conditions under this schedule are prescribed conditions for the purposes of section 4.17 (11) of the Environmental Planning and assessment Act 1979.

- E1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 (clause 69 EP&A Reg 2021)
- (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 the Building Code of Australia, Volume 1, Part B1 and NSW Part I5.
 - (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 relevant date.
 - (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.
 - (7) In this section -

relevant date has the same meaning as in the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, section 19.
- E2 Erection of signs (clause 70 EP&A Reg 2021)
- (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.
- E3 Notification of Home Building Act 1989 requirements (clause 71 EP&A Reg 2021)
 - (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.
- E4 Entertainment venues (clause 72 EP&A Reg 2021)
 - (1) The requirements specified in this section are conditions of development consent for the use of a building as an entertainment venue.
 - (2) During a stage performance at an entertainment venue, there must be at least 1 suitably trained person in attendance in the stage area at all times for the purpose of operating, if necessary, a proscenium safety curtain, drencher system and smoke exhaust system.
 - (3) If a proscenium safety curtain is installed at an entertainment venue, there must be no obstruction to the opening or closing of the curtain and the curtain must be operable at all times.

- (4) When a film is being screened at an entertainment venue, there must be at least 1 person in attendance at the entertainment venue who is trained in-
 - (a) the operation of the projectors being used, and
 - (b) the use of the fire fighting equipment in the room in which the projectors are installed (the projection room).
- (5) If the projection room is not fitted with automatic fire suppression equipment and a smoke detection system, in accordance with the Building Code of Australia, the person required by subsection (4) to be in attendance must be in the projection suite in which the projection room is located during the screening of a film.
- (6) A member of the public must not be present in the projection suite during the screening of a film.
- (7) An entertainment venue must not screen a nitrate film.
- (8) An emergency evacuation plan must be prepared, maintained and implemented for a building, other than a temporary structure, used as an entertainment venue.
- (9) The emergency evacuation plan must specify the following-
 - (a) the location of all exits, and fire protection and safety equipment, for the part of the building used as an entertainment venue,
 - (b) the number of fire safety officers that must be present during performances,
 - (c) how the audience will be evacuated from the building if there is a fire or other emergency.
- (10) A fire safety officer appointed to be present during a performance must have appropriate training in evacuating persons from the building if there is a fire or other emergency.
- (11) In this section-
exit has the same meaning as in the Building Code of Australia.

E5 Maximum capacity signage (clause 73 EP&A Reg 2021)

- (1) This section applies to a development consent, including an existing development consent, for the following uses of a building, if the development consent contains a condition specifying the maximum number of persons permitted in the building-
 - (a) an entertainment venue,
 - (b) a function centre,
 - (c) a pub,
 - (d) a registered club,
 - (e) a restaurant or cafe.
- (2) It is a condition of the development consent that a sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in the development consent, that are permitted in the building.

- E6 Shoring and adequacy of adjoining property (clause 74 EP&A Reg 2021)
- (1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.
 - (2) It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense-
 - (a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and
 - (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.
 - (3) This section does not apply if-
 - (a) the person having the benefit of the development consent owns the adjoining land, or
 - (b) the owner of the adjoining land gives written consent to the condition not applying.
- E7 Fulfilment of BASIX commitments (clause 75 EP&A Reg 2021)
- It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled-
- (a) BASIX development,
 - (b) BASIX optional development, if the development application was accompanied by a BASIX certificate.
- E8 Deferred commencement consent (clause 76 EP&A Reg 2021)
- (1) A development consent with a deferred commencement, as referred to in the Act, section 4.16(3), must be clearly identified as a "deferred commencement" consent, whether by using the expression, referring to that section or otherwise.
 - (2) A deferred commencement consent must clearly distinguish between-
 - (a) conditions that relate to matters about which the consent authority must be satisfied before the consent can operate (the relevant matters), and
 - (b) other conditions.
 - (3) A consent authority may specify the period within which the applicant must produce sufficient evidence to the consent authority to enable it to be satisfied about the relevant matters.
 - (4) If the applicant produces evidence in accordance with this section, the consent authority must notify the applicant whether it is satisfied about the relevant matters.
 - (5) If the consent authority does not notify the applicant within 28 days after the applicant produces the evidence, the consent authority is taken to have notified the applicant, on the day on which the period expires, that it is not satisfied about the relevant matters.
 - (6) Subsection (5) applies for the purposes of the Act, section 8.7 only.

- E9 Conditions for ancillary aspects of development (clause 77 EP&A Reg 2021)
- (1) If a consent authority grants development consent subject to a condition referred to in the Act, section 4.17(2) in relation to an ancillary aspect of the development, the consent authority may specify the period within which the ancillary aspect must be carried out to the satisfaction of the consent authority or a person specified by the consent authority.
 - (2) The applicant may produce evidence to the consent authority, or to the person specified by the consent authority, sufficient to enable the consent authority or the person to be satisfied in relation to the ancillary aspect of the development.
 - (3) For the purposes of the Act, section 4.17(3), the relevant period is the period of 28 days after the applicant's evidence is produced to the consent authority or a person specified by the consent authority.
- E10 Conditions for State significant development (clause 78 EP&A Reg 2021)
- A development consent may be granted subject to a condition referred to in the Act, section 4.17(4A) or (4B) only if the development is State significant development.
- E11 Review conditions-the Act, s 4.17(10C) (clause 79 EP&A Reg 2021)
- (1) A development consent that is granted subject to a reviewable condition may, as referred to in the Act, section 4.17(10B), be granted subject to a further condition (a review condition) if the development consent relates to the following kinds of development-
 - (a) an entertainment venue,
 - (b) a function centre,
 - (c) a pub,
 - (d) a registered club,
 - (e) a restaurant or cafe.
 - (2) A development consent that is subject to a review condition must contain the following-
 - (a) a statement that the development consent is subject to the review condition and the purpose of the review condition,
 - (b) a statement that the consent authority will carry out the reviews,
 - (c) when, or at what intervals, the reviews must be carried out.
 - (3) The consent authority must give written notice to the operator of a development that is subject to a review condition at least 14 days before carrying out a review.
 - (4) The consent authority may notify other persons of the review as it considers appropriate.
 - (5) The consent authority must take into account submissions that are received from any person within 14 days after notice of a review is given to the person.

F. SCHEDULE F – General Terms of Approval (Integrated Development)

N/A