



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA-17-2024 PAN-433231
Applicant	John D Whiteley [REDACTED]
Description of development	Dwelling Attached Outbuilding (Shed)
Property	21 ROWENA ROAD KINGSTOWN 2358 2/-/DP877427 2/-/DP1203946 3/-/DP241689
Determination	Approved Consent Authority - Council staff under delegated authority
Date of determination	7/06/24
Date from which the consent operates	13/06/24
Date on which the consent lapses	13/06/29

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.

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.



Simon Vivers
Interim Manager Development & Planning
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>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</p> <ol style="list-style-type: none"> 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— <ol style="list-style-type: none"> 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. <p>Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
2	<p>Erection of signs</p> <ol style="list-style-type: none"> 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— <ol style="list-style-type: none"> a. showing the name, address and telephone number of the principal certifier for the work, and

	<ul style="list-style-type: none"> 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. <p>3. The sign must be—</p> <ul style="list-style-type: none"> a. maintained while the building work, subdivision work or demolition work is being carried out, and b. removed when the work has been completed. <p>4. This section does not apply in relation to—</p> <ul style="list-style-type: none"> 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.
	<p>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
3	<p>Fulfilment of BASIX commitments</p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled—</p> <ul style="list-style-type: none"> 1. BASIX development, 2. BASIX optional development, if the development application was accompanied by a BASIX certificate. <p>Condition reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>
4	<p>Notification of Home Building Act 1989 requirements</p> <ul style="list-style-type: none"> 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— <ul style="list-style-type: none"> a. for work that requires a principal contractor to be appointed— <ul style="list-style-type: none"> 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— <ul style="list-style-type: none"> 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. <p>Condition reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
5	<p>Approved plans and supporting documentation</p>

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/Page number	Revision number	Drawn by	Date of plan
2 - 4 & 6-7 inclusive	-	New England Drafting	19.03.2024
		Job ref: 2024-006	

Approved documents			
Document title	Ref number	Prepared by	Date of document
Bushfire Attack Level Certificate incorporating Bushfire Hazard Assessment	ARM 23/71	Stephen Cotter	07.11.2023
BASIX Certificate	1743328S	PEM Group Pty Ltd	11.04.2024

In the event of any inconsistency between the approved plans and documents, the approved documents prevail.

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.

Building Work

Before issue of a construction certificate

6	<p>BAL 12.5 - Ember Risk</p> <p>Before the issue of the Construction Certificate (CC), plans accompanying the CC application are to meet the performance criteria for construction standards given in the NSW RFS Planning for Bushfire Protection 2019, as follows:</p> <ul style="list-style-type: none"> • Construction standards in accordance with Section 3 and 5 of AS3959-2018 and Section 7.5 of Planning for Bushfire Protection 2019 <p>Condition reason: To ensure the proposed new dwelling is designed in accordance with the construction requirements for BAL 12.5.</p>
7	<p>Construction Certificate</p> <p>In accordance with the provisions of Section 6.6 and 6.7 of the Environmental Planning and Assessment Act 1979, construction works approved by this consent must not commence until:</p> <p>a) a Construction Certificate has been issued;</p>

- b) the NSW Planning Portal has been advised of;
- (i) the intention to commence work; and
- (ii) the specific Principal Certifying Authority (building inspector) that has been appointed to the project.

Documentation required under this condition must show that the proposal complies with all relevant development consent conditions and is not inconsistent with the approved plans, the Building Code of Australia and the relevant Australian Standards.

ADVISING: Council or a Private Certifier may provide this service.

Condition reason:

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Section 68 Approvals

Before issue of a construction certificate, an approval is required under Section 68 of the Local Government Act for the works described below. A separate application is required for works under each part:

<p>Part B Water supply, sewerage and stormwater drainage work</p>	<p>Carry out water supply work, stormwater drainage work and sewerage work</p>
<p>Part C Management of waste</p>	<p>Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility (installation, alteration, or operation of an on-site waste water management system)</p> <p><i>ADVISING: Council acknowledges an applicaton is lodged under this part.</i></p>

Condition reason: To ensure the appropriate section 68 approvals are in place prior to issue of a construction certificate for the development.

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Section 7.12 Contributions

Before the issue of a Construction Certificate, a contribution is to be paid to Council towards the provision or improvement of public facilities (as per Uralla Shire Council's section 7.12 Contributions Plan 2021).

Proposed Cost of Development *	Levy Percentage	Total Contribution	Note
\$190,000.00	0.5	\$950.00	Contribution Rate remains current until first date of next quarter

*Proposed cost of carrying out the development less any credits which may apply.

Contributions are indexed annually at the end of each financial year.

Condition reason: To assist the Council to provide the appropriate public facilities which are

required to maintain and enhance amenity and service delivery within the LGA.

Before building work commences

10	Erosion and sediment controls in place
	Before any site work commences, the principal certifier must be satisfied suitable erosion and sediment controls are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).
	Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

During building work

11	Noise and Vibration requirements
	While site work is being carried out, noise generated from the site must not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at a lot boundary of the site.
	Condition reason: To protect the amenity of the neighbourhood during construction.
12	Procedure for critical stage inspections
	While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.
	Condition reason: To require approval to proceed with building work following each critical stage inspection.
13	Discovery of relics and Aboriginal objects
	While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered: <ol style="list-style-type: none">1. the work in the area of the discovery must cease immediately;2. the following must be notified<ol style="list-style-type: none">1. for a relic – the Heritage Council; or2. for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85. Site work may recommence at a time confirmed in writing by: <ol style="list-style-type: none">1. for a relic – the Heritage Council; or2. for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.
	Condition reason: To ensure the protection of objects of potential significance during works.
14	Hours of Work
	The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between: <ul style="list-style-type: none">• 7am to 6pm on Monday to Friday AND 8am to 1pm on Saturday

	<p>(No work on Sundays and public holidays)</p> <p>The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.</p> <p>Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.</p> <p>Note: Any variation to the hours of work requires Council's approval.</p> <p>Condition reason: To protect the amenity of the surrounding area</p>
15	<p>Stormwater Disposal</p> <p>Stormwater from:</p> <ul style="list-style-type: none"> • All roof areas; • Surface water from paved and impervious areas; and • Any overflow from tanks <p>Is to be collected, controlled, and conveyed in a suitable manner within the site and away from any footings or on-site wastewater system.</p> <p>Condition reason: To alleviate any potential stormwater problems with respect to the buildings on the allotment or adjoining allotments.</p>
16	<p>Section 138 Approval</p> <p>For all work required on Council land, applicant is to submit an Application to Conduct Work on Land to Which Council is the Regulatory Authority, which will incorporate seeking any necessary approvals for work in road reserves under the Roads Act 1993.</p> <p>The required work includes:</p> <ul style="list-style-type: none"> • Reshaping of the existing access including any import of gravel as part of these works. <p>Note: a piped crossover is not required.</p> <p>The Application must be approved prior to any driveway works commence for the development.</p> <p>Condition reason: To ensure access meets relevant standards.</p>
17	<p>During Construction Matters</p> <p>During the construction of the development, the following is to be adhered to:</p> <ul style="list-style-type: none"> • Effective dust control measures are to be maintained. • No materials are to be burned on site. Waste is to be removed from the site. • The uppermost layer of soil (top soil) is to be retained onsite, stockpiled and surrounded at its base with silt fencing to ensure topsoil is maintained in a usable condition. Stockpiles are to be limited to 3m high and should not be located in areas visually prominent. <p>Condition reason: To protect the amenity of the locality.</p>
18	<p>Plumbing and Drainage Work</p> <p>Any required plumbing and drainage work shall comply with the Plumbing and Drainage Act 2011, Plumbing and Drainage Australian Standard AS3500, Plumbing Regulations 2017 and the Plumbing Code of Australia (NCC 2016).</p>

Condition reason: To ensure the work meets relevant standards.

Before issue of an occupation certificate

19	Occupation Certificate
	The relevant Occupation Certificate must be obtained before the approved use commences, in accordance with the Environmental Planning & Assessment Act 1979 and to ensure the health and safety of the building's occupants.
	ADVISING: Failure to obtain an Occupation Certificate is an offence under the legislation
	Condition reason: To ensure the building is suitable for occupation (in accordance with its BCA classification).
20	Plumbing and Drainage
	Prior to issue of an occupation certificate, the principal certifier shall be provided with a copy of the Final Plumbing and Drainage Certificate confirming compliance with the Plumbing and Drainage Act 2011.
	Condition reason: To ensure any plumbing and drainage work complies with the relevant requirements of the Plumbing and Drainage Act 2011
21	Property Number
	The property number is to be provided in a visible place on or near the entrance for the convenience of visitors, emergency services and postal services prior to the issue of an Occupation Certificate. Numbers shall be 100mm high x 50mm wide (minimum) and of a colour contrasting with the surface to which they are affixed.
	Condition reason: So that first responders can locate the property in case of an emergency.
22	Rural Water Supply
	Prior to issue of an Occupation Certificate, the development is to be provided with a minimum 70,000 litre domestic water supply, in accordance with Council's Development Control Plan 2011.
	In addition to the minimum quantities of domestic water storage required above, a dedicated reserve for fire fighting purposes of 20,000L is also required to be provided, with details in accordance with Part 3.3 of the approved Bushfire Hazard Assessment.
	Condition reason: To ensure there is a reliable rural water supply for the development.
23	Driveway Completion
	The driveway shall be completed in accordance with the Section 138 approval before issue of an Occupation Certificate. The driveway shall be in accordance with Part 3.2 of the Bushfire Hazard Assessment.
	Condition reason: To ensure safe and practical access.

Occupation and ongoing use

24	Management of asset protection zones (APZ)
	During ongoing use of the site, the APZ must be managed in accordance with the approved Bushfire Hazard Assessment, Planning for Bushfire Protection 2019 and the NSW Rural Fire Service's Standards for Asset Protection Zones.
	Condition reason: To ensure ongoing protection from bush fires.
25	Use Limitations

The approved non-habitable part (shed) shall:

- not be used for any habitable purposes without the benefit of further planning permission; and
- not be occupied on any commercial or industrial basis (unless exempt under relevant Environmental Planning Instruments) without the benefit of further planning permission.

Condition reason: To ensure the building complies with the Building Classifications and to protect the amenity of the locality.

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 URALLA 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.