



CENTRAL DARLING SHIRE COUNCIL

14 September 2021

Mr Jacob Forner
630 Fisher Street
BROKEN HILL NSW 2880

NOTICE OF DETERMINATION - APPROVAL
APPLICATION NO: D 16/21 – PAN 124243

Dear Sir

Please find enclosed the Notice of Determination and advisory notes relating to your development application for Lot 2876 DP765037 - Pooncarie Road Menindee.

A copy of the development application delegated assessment report can be viewed online at the Central Darling Shire Council website-
<https://www.centraldarling.nsw.gov.au/planning/development-applications>.

If further information is required, please contact **Glenda Dunn ph. 08 8083 8900**,
email - dunng@centraldarling.nsw.gov.au.

Yours faithfully

Reece Wilson
Director Environmental Services
Central Darling Shire Council



NOTICE OF DETERMINATION - APPROVAL

Issued under Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979

Development Application No.	D16/21- PAN 124243
Applicant	Jacob Michael Forner
Land to be developed	Lot 2876 DP765037 - Pooncarie Road Menindee
Approved development	D16/21- PAN 124243 Construction of a new shed and carport. The development includes associated site works.
Cost of development	\$45,000.00
Determination	The application was determined under delegation of Council and was granted consent subject to the conditions.
Other Approvals	Before commencing <i>building work</i> or <i>subdivision work</i> , a relevant Construction Certificate must be obtained from Council or an Accredited Certifier. Council must be appointed the Principal Certifier for any <i>subdivision work</i> under the Act.
Consent is to operate from	14 September 2021
Consent will lapse on	16 September 2026

Reasons for conditions

Unrestricted consent may affect the environmental amenity of the area and would not be in the public interest. The conditions also ensure statutory and regulatory compliance for all construction and site work, and compliance with the National Construction Code – Building Code of Australia.

Reasons for Approval

1. The development, subject to conditions, is consistent with the objectives of the R5 Large Lot Residential zone.
2. The development is compatible with the character of the Menindee residential area and locality that is adjacent to the Darling River on the Pooncarie Road; and
3. The development, subject to conditions, for the erection of the metal shed and attached carport and the associated site works; and
4. The development accords with objectives of relevant planning controls.



**CENTRAL DARLING
SHIRE COUNCIL**

Right of appeal

If you are dissatisfied with this decision, Section 8.7 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six (6) months of the date of this notification.

Division 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination.

Division 8.2 does not apply to complying development, designated development, integrated development, or a determination made by Council under Division 4.2 in respect of Crown applications.

If further information is required, please contact Glenda Dunn ph. 08 8083 8900, email - dunnq@centraldarwin.nsw.gov.au.

A handwritten signature in black ink, appearing to read 'Reece Wilson', is written over a light yellow rectangular background.

Reece Wilson
Director Environmental Services
Central Darling Shire Council



CONDITIONS OF CONSENT

SCHEDULE 1A

APPROVED DEVELOPMENT/ DESIGN MODIFICATIONS/ COVENANTS AND CONTRIBUTIONS/ USE AND OPERATION

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D16/21 PAN124243, Lot 2876 DP765037 - Pooncarie Road Menindee dated 14/07/2021 for the construction a metal shed and attached carport with associated site works and the drawings as amended by the conditions of this consent.
- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans and consent condition documents will prevail.

PRESCRIBED CONDITIONS

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitment specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be



appointed:

- A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
- A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

SCHEDULE 1B - GENERAL REQUIREMENTS

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 1 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 1 8.00 am to 1.00 pm inclusive on Saturday,
 - 1 No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 1 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground)



- stratum or are breaking up/removing materials from the site).
- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
 - (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
 - (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
 - (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
 - (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
 - (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
 - (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
 - (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
 - (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the



development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWorkNSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

SCHEDULE 1C

1. INSTALLATION OF WATER EFFICIENT TAPS

All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be submitted for the approval of the Principal Certifier, prior to any Occupation



Certificate being issued.

2. WASTE AND RECYCLING MANAGEMENT - MINOR

Council requires the proposal facilities to minimise and manage waste and recycling generated by the proposal.

- (1) A waste management plan for the work must be submitted to the principal certifying authority at least 2 days before work commences on the site
- (2) The waste management plan must—
 - (a) identify all waste (including excavation, demolition and construction waste materials) that will be generated by the work on the site, and
 - (b) identify the quantity of waste material in tonnes and cubic metres to be—
 - (i) reused on-site, and
 - (ii) recycled on-site and off-site, and
 - (iii) disposed of off-site, and
 - (c) if waste materials are to be reused or recycled on-site—specify how the waste material will be reused or recycled on-site, and
 - (d) if waste materials are to be disposed of or recycled off-site—specify the contractor who will be transporting the materials and the waste facility or recycling outlet to which the materials will be taken.
- (3) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (4) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

3. RUN – OFF AND EROSION CONTROLS

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by—

- diverting uncontaminated run-off around cleared or disturbed areas, and
- erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- preventing the tracking of sediment by vehicles onto roads, and
- stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

SCHEDULE 1D

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

4. OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.



5. HOURS OF WORK AND NOISE

The hours of construction and work on the development must be as follows:

- i. All work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.00am and 7.00pm on Mondays to Fridays, inclusive, and 7.00am and 5.00pm on Saturdays, and no work must be carried out on Sundays or public holidays.
- ii. All work, including demolition, excavation and building work must comply with the Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.
- iii. Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection, and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Unit, prior to works proceeding.

The Council allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

6. NOISE – DURING CONSTRUCTION

Construction noise

Noise caused by construction must not exceed an LAeq (15 min) of 5dB(A) above background noise when measured at any lot boundary of the property where the construction is being carried out.

7. ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

8. DEMOLITION

Any demolition must be carried out in accordance with AS 2601—2001, *The demolition of structures*.



9. MAINTENANCE OF SITE

All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.

- Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- Copies of receipts stating the following must be given to the principal certifying authority—
 - the place to which waste materials were transported,
 - the name of the contractor transporting the materials,
 - the quantity of materials transported off-site and recycled or disposed of.
- Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- During construction—
 - all vehicles entering or leaving the site must have their loads covered, and
 - all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- At the completion of the works, the work site must be left clear of waste and debris.

10. EARTHWORKS, RETAINING WALLS AND STRUCTURAL SUPPORT

Any earthworks (including any structural support or other related structure for the purposes of the development)—

- 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
 - must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
 - that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and
 - that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.
- Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442 [PDF] and ISBN 978-0-642-785459 [DOCX]), published in July 2012 by Safe Work Australia.

11. DRAINAGE CONNECTIONS

- If the work is the erection of, or an alteration or addition to, a building, the roof stormwater drainage system must be installed and connected to the drainage system before the roof is installed.
- Any approval that is required for connection to the drainage system under the *Local Government Act 1993* must be held before the connection is carried out.



12. ARCHAEOLOGY DISCOVERED DURING WORKS

If any object having interest due to its age or association with the past is uncovered during the course of the work—

- all work must stop immediately in that area, and
- the Office of Environment and Heritage must be advised of the discovery.

• **Note**

Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the *Heritage Act 1997* may be required before further the work can continue.

13. ABORIGINAL OBJECTS DISCOVERED DURING WORKS

If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work—

- all excavation or disturbance of the area must stop immediately in that area, and
- the Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

• **Note—**

If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

14. COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

15. LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- i. All loading and unloading associated with construction activity must be accommodated on site, where possible.
- ii. If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- iii. A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.



- iv. Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 and Section 138 of the Roads Act 1993 must be obtained.

16. NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

17. USE OF MOBILE CRANES

The following requirements apply:

- Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.
- For special operations including the delivery of materials, hoisting of plant and equipment and erection, and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- The use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of approved hours of construction can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

18. CONTAMINATED SOILS

Requirement to Notify about New Contamination Evidence

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment.

Compliance with the Remediation Action Plan

The requirements of the Remediation Action Plan required by this consent are to be fully implemented from commencement of any excavation, demolition or development works until the issue of any interim / final occupation certificate.

Reason: Protection of the environment, SEPP 55 compliance.

A validation report, is to be prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

If the site requires ongoing activities to control contamination, the validation report is to



provide a list of ongoing measures to be undertaken to protect adjacent properties, the environment and the water table from further contamination.

Reason: To ensure environmental amenity is maintained.

19. VEHICULAR ACCESS

If the work involves the construction of a vehicular access point, the access point must be completed before the occupation certificate for the work on the site is obtained.

20. UTILITY SERVICES

If the work requires alteration to, or the relocation of, utility services on, or adjacent to, the lot on which the work is carried out, the work is not complete until all such works are carried out.

21. LANDSCAPING – TREES AND PLANTING

All landscape works including nominated tree species and other shrubs and vegetation species are to be approved by council prior to Occupation Certificate issue.

SCHEDULE 2 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* may apply:

Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*

Clause 98A Erection of signs

Clause 98B Notification of *Home Building Act 1989* requirements

Clause 98C Conditions relating to entertainment venues.

Clause 98D Conditions relating to maximum capacity signage.

Clause 98E Conditions relating to shoring and adequacy of adjoining property Refer

to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at:

<http://www.legislation.nsw.gov.au>



IMPORTANT ADDITIONAL INFORMATION

Advisory notes:

The *Environmental Planning and Assessment Act 1979* requires you to:

1. Obtain a **Construction Certificate** prior to the commencement of any works. An application may be lodged through the NSW Planning Portal to nominate either Central Darling Shire Council as the Principal Certifying authority, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Development application approval** to review the conditions of this development consent, where indicated before issuing the Construction Certificate.
2. **Note: it is compulsory to lodge digital copies of applications, including plans and documentation if lodging an application through the NSW Planning Portal to Central Darling Shire Council. Please refer to the link below for any further information about digital requirements and electronic files.**
3. Nominate a **Principal Certifier** which may be either Council or an accredited certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement.
4. Give Council at least two days' notice of your intention to commence the erection of a building **before** commencing construction works. You cannot lawfully commence works without complying with this requirement.
5. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

You may also need to:

6. Obtain approval through the lodgement of an application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* for an activity which is proposed to be undertaken in, on or above a road reservation (including footways). Such activities include:
 - (a) installation of hoardings/scaffolding.
 - (b) installation and/or alterations to advertising/business signs and street awnings.
 - (c) crane operation and other hoisting activities.
 - (d) temporary works (e.g.: barricading, road openings, mobile hoisting devices).
 - (e) works zone (for loading and unloading from the roadway); and
 - (f) temporary ground anchoring and shoring to support a roadway when excavating.
7. Lodge an **Application for Subdivision** to obtain a **Subdivision Certificate** if a land (including stratum) subdivision is proposed and an Application for Subdivision to obtain **Strata Title Subdivision** under the relevant Strata Titles Act if strata title of the development is proposed.
8. Comply with the Food Act 2003, the Australia New Zealand Food Standards Code, Australian Standard 4674 – 2004, and register the business with Council if the premises are used for the manufacture, preparation, packing, storing, conveying, or delivering of food or beverage for sale.
9. Contact NSW Water and Central Darling Shire Council regarding the water and sewerage services to this development.
10. Carry out critical stage inspections in accordance with Section 6.5 of the EP&A Act 1979 and clauses 162A, 162B and 163 of the EP&A Regulation 2000.

Applications and submissions referred to in this consent may be lodged at:

Central Darling Shire Council

21 Reid Street
Wilcannia NSW 2836