

## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

*Approval Issued under Section 4.18(1)(a) of the Environmental Planning and Assessment Act 1979*

<b>Application No.</b>	<b>DA-126/2021</b>
<b>Applicant</b>	Mr Gary David Leitch
<b>Land to be developed</b>	Lot 3 DP 826509 165-189 Moore Street, INVERELL 2360
<b>Approved development</b>	25 Lot Subdivision with Associated Roads and Infrastructure
<b>Building Code of Australia Classification</b>	Not Applicable
<b>Determination</b>	The determination is <b>consent granted subject to conditions.</b>
<b>Determination date</b>	30 September 2021
<b>Consent is to operate from</b>	30 September 2021
<b>Consent will lapse on</b>	30 September 2026

Unless the work or use to which this consent relates has lawfully commenced on-site in accordance with Section 4.53 of Environmental Planning and Assessment Act 1979.

### CONDITIONS OF CONSENT

#### *Preliminary*

1. Inverell Shire Council issues its consent, subject to conditions stated hereunder, in accordance with Section 4.17 of the *Environmental Planning and Assessment Act 1979*.

Consent is granted for the staged subdivision of Lot 3 on DP826509 into:

- Twenty-Five (25) Lots; and
- Construction of New Roads and Infrastructure.

To confirm and clarify the terms of consent, the development must be carried out in accordance with the stamped and approved plans and accompanying documentation, unless modified by any following condition. Any deviation will require the consent of Council.

2. The applicant must comply with all relevant prescribed conditions as contained in Division 8A of the *Environmental Planning & Assessment Regulation 2000* (as detailed at the end of this consent).
3. All lots within the subdivision must be serviced by:
  - Council's reticulated water service,
  - Council's reticulated sewerage service,
  - Electricity in accordance with the relevant energy provider, and
  - Telecommunications in accordance with the relevant carrier.

The services must be provided prior to the issue of a Subdivision Certificate.

4. As the development is located outside the Development Servicing Zone for sewer, as defined in Appendix A of the Inverell Shire Council *Development Servicing Plan No 1*, the applicant is responsible for the preparation cost of a separate Development Servicing Plan (DSP) for sewer that is applicable to the development. The separate DSP must be adopted by Inverell Shire Council and registered by the NSW Office of Water prior to issue of a Subdivision Certificate for Stage 1 of the development.
5. Lots 2 to 25 (**24 lots**) will be levied Section 7.11 (formerly Section 94) Contributions in accordance with Inverell Shire Council *Section 94 Contributions Plan 1992* (as amended in 2003). The contributions must be paid prior to the issue of the relevant Subdivision Certificate.
6. All fees, Section 7.11 and other contributions will be adjusted in accordance with Council's fees and charges applicable at the time of payment.
7. All works in Moore Street, including the intersection of the new road (Victor Drive) with Moore Street, required for the subdivision must be generally consistent with the Preliminary Engineering Design Plans prepared by Local Government Engineering Services on behalf of Inverell Shire Council project title "Proposed Moore Street Upgrade from Swanbrook Road CH0.0 to CH469 Moore Street". A copy of the General Arrangement plan is included with tis consent.
8. Lots may be released altogether or in separate stages (as nominated as part of the Subdivision Works Certificate) subject to the satisfactory completion of the conditions of consent applicable to the relevant lots.

#### ***Prior to Commencement of any Works***

9. Prior to the commencement of any subdivision works, including earthworks, a Subdivision Works Certificate must be obtained. The Subdivision Works Certificate may be issued for the whole development or as separate Subdivision Works Certificates in accordance with the approved stages of development.

#### ***Prior to the Issue of a Subdivision Works Certificate***

10. Prior to the issue of a Subdivision Works Certificate, a detailed engineering survey and design for the entire subdivision must be prepared. The detailed design must be in accordance with the following:

##### **NATSPEC Specifications**

- Group 0 – Planning and Design;
- Group 01 – General;
- Group 11 – Construction – Roadways; and
- Group 13 – Construction – Public Utilities.

##### **Water Supply Code of Australia**

- WSA 02 – Sewerage Code of Australia; and
- WSA 03 – Water Supply Code of Australia.

The detailed engineering plans and specifications must be prepared by a practising civil engineer and must include but are not limited to the following detail:

- Road works and pavement standards;
- Stormwater drainage and inter-allotment drainage;
- Stormwater drainage within Moore Street;
- Water quality measures;
- Earthwork details including cut and fill ratios, quantities and stockpiling;

- Kerb and gutter within the subdivision;
- Kerb and gutter including drainage works, shoulder widening and bitumen sealing in Moore Street fronting the whole length of the development site;
- Bulk earthworks;
- Erosion and sediment control measures;
- Water supply works including reticulation, services, valves, hydrants and markers;
- Sewer works including mains extension, reticulation, manholes and junctions;
- Street and road signs;
- Design and location of access crossings;
- Street lighting;
- Street landscaping;
- Staging of the subdivision and civil works including road termination infrastructure; and
- Location of all service conduits (telephone, electricity).

*Note: Prior to preparation of any engineering design plans, it is recommended that the consultant(s) preparing the design plans contact Council's Civil and Environmental Services division to confirm the extent and scope of all works and detail required on the design plans and specifications.*

11. Prior to the issue of a Subdivision Works Certificate(s) separate approval(s) from Council under Section 138 of the Roads Act 1993 is required for any works within Council's road reserve. For any such works, design plans must be submitted to Council for approval prior to issue of the Subdivision Works Certificate.

#### ***During Construction***

12. During construction the applicant must ensure that arrangements are made for the principal certifying authority, Council or a private certifier, to carry out inspections. Request for Council inspections may be made either by telephone or in person. Forty eight (48) hours notice must be given for inspections.

Inspections are required to be carried out in order to ensure that a Subdivision Certificate can be issued for the relevant stage. In the event that any inspection is not carried out, a Subdivision Certificate cannot be issued. Inspections will generally be required at the following stages:

- After stripping of topsoil from roads and fill areas (all erosion and sediment control devices and traffic control signs shall be installed at this stage);
- After completion and compaction of the road sub grade;
- After placement and compaction of each layer of gravel pavement material prior to sealing;
- After laying and jointing of all stormwater drainage pipelines prior to backfilling;
- During application of bitumen seal or asphaltic concrete wearing surface;
- After restoration and completion of all works; and
- As otherwise required to confirm that the works are satisfactorily executed and in conformity with engineering specifications, environmental controls and conditions of development consent.

It should be noted that Council charges fees for inspections. These inspection fees must be paid prior to release of the Subdivision Works/Subdivision Certificate associated with the development consent. Inspection fees will be adjusted in accordance with Council's fees and charges operating at the time of inspection. In the event additional inspections are required, those inspections will attract inspection fees at the rate applicable at the time the inspections are carried out.

13. During construction all work must be carried out under the supervision of a suitably qualified project manager. The details and qualifications of the Project Manager must be provided to Council prior to commencing any works at the site.

14. During construction any relocation or alteration of public utilities required as a result of the development is to be carried out at no cost to Council.
15. During construction a copy of the approved engineering plans, specifications, management plans and documents incorporating conditions of approval must be kept on site at all times and must be readily available for perusal by Council.
16. During construction, 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 must not interfere with the amenity of the surrounding lands.
17. During construction, stockpiles of topsoil, sand, aggregate, spoil or other material must be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and measures must be in place to prevent the movement of such material off site.
18. During construction, waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
19. The hours of construction for all stages of the subdivision, including the delivery of materials or equipment to the site are restricted to between 7:00 a.m. and 5:00 p.m., Mondays to Saturdays inclusive and no work on Sundays and public holidays. Council may consent to vary these hours in particular circumstances where it can be demonstrated that it is unavoidable.
20. During construction 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. The sign is to be maintained while work is being carried out, but must be removed when the work has been completed. The sign must:
  - include the name, address and telephone number for the principal certifying the work;
  - include the name of the principal contractor (if any) for the building work and telephone number on which that person may be contacted outside work hours; and
  - state that unauthorised entry to the work site is prohibited.
21. Should any aboriginal artefacts or places be discovered during excavation/construction, all works are to cease immediately. The NSW Heritage Office is to be contacted immediately and any direction or requirements complied with.
22. Should any relics be uncovered during excavation/construction on site, the applicant must ensure that works cease in that area and the Heritage Officer is immediately notified in accordance with Section 146 of the Heritage Act 1977.
23. During construction works sediment and erosion control measures are to be implemented in accordance with the approved engineering plans and maintained until the site is fully stabilised.

***Prior to Issue of Subdivision Certificate – General***

24. Prior to the issue of a Subdivision Certificate an application for a Subdivision Certificate must be submitted to and approved by Council for each stage of the subdivision (as applicable). A Subdivision Certificate will not be issued nor the final plan signed by Council until all relevant conditions have been complied with.
25. Prior to the issue of a Subdivision Certificate for each stage of the subdivision, all necessary easements, restrictions as-to-user pursuant to Section 88B of the Conveyancing Act 1919 must be clearly marked on the plan of subdivision. Council is to be nominated as a party empowered to release, vary or modify only those easements and/or restrictions required by the conditions of this development consent.

26. Prior to the issue of a Subdivision Certificate for each stage of the subdivision, any pavement damage or structural deterioration caused to Council's roads by the use of roads as haulage routes for materials used in construction of the subdivision must either be repaired to the satisfaction of Council, or a payment made of the costs incurred by Council to undertake the repairs.
27. Prior to the issue of a Subdivision Certificate for each stage of the subdivision, electricity and a telecommunications service is to be provided to all lots within that stage. The proponent is required to submit to Council, certificates from:
  - An approved electricity service provider indicating that satisfactory arrangements have been made for the provision of electricity to each lot in the subdivision.
  - An approved telecommunications service provider indicating that satisfactory arrangements have been made for the provision of telecommunications to each lot in the subdivision.
28. Prior to the issue of a Subdivision Certificate for each stage of the subdivision, all civil works are to be completed in accordance with the approved Subdivision Works Certificate, engineering plans and specifications. The works are to have had all necessary inspections.
29. Prior to the issue of a Subdivision Certificate for each stage of the subdivision, the proponent is to enter a Defects Liability Period contract with Council, guaranteeing performance of work of any contractors for a period of twelve (12) months from the date of the issue of a Subdivision Certificate.
30. Prior to the issue of a Subdivision Certificate for each stage of the subdivision, Works as Executed Plans must be submitted to and accepted by Council. The plans are to be endorsed by a suitably qualified and practising civil engineer certifying that the plans accurately reflect the Works as Executed.
31. Prior to the issue of a Subdivision Certificate for each stage of the subdivision, the plan of subdivision must include the dedication of public roads to Council at no cost to Council. The registered surveyor who prepares the plan of subdivision must certify to Council that the constructed road is wholly contained within the road reserve boundaries shown on the plan of subdivision.
32. Prior to the issue of a Subdivision Certificate for each stage of the subdivision, a Community Services Contribution for Lots 2 to 25 inclusive must be paid to Council pursuant to Section 7.11 (formerly Section 94) of the Environmental Planning and Assessment Act 1979.
33. Prior to the issue of a Subdivision Certificate for each stage of the subdivision, in reliance upon Section 64 of the Local Government Act and Division 5 of Part 2 of Chapter 6 of the Water Management Act, a Certificate of Compliance must be issued by Council for Lots 1 to 25 inclusive and complied with by the applicant.

*Note:*

  - *This will require payment to Council of a Contribution (for water) for Lots 2 to 25 inclusive under Council's Development Servicing Plan No. 1 for one (1) equivalent tenement per lot.*
  - *This will require payment to Council of Contributions required pursuant to the separate DSP for sewer, as adopted by Council in accordance with Condition 4 for Lots 1 to 25 inclusive.*
34. Prior to the issue of a Subdivision Certificate for each stage of the subdivision, water connection fees for Lots 1 to 25 inclusive must be paid in accordance with Council's fees and charges.

## **REASONS FOR CONDITIONS**

The above conditions have been imposed:

1. To ensure compliance with the terms of the applicable environmental planning instruments.
2. Having regard to Council's duties of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, as well as Section 4.17 which authorizes the imposing of the consent conditions.
3. Having regard to the circumstances of the case and the public interest.

## **REASONS FOR APPROVAL**

1. The development, subject to conditions, is consistent with the objectives of the R1 General Residential zone.
2. The subdivision is consistent with the previous consent under DA-83/2015 (lapsed) and is not considered to have a significant impact on the New Residential Area. The design of the subdivision is consistent with the Inverell Development Control Plan 2013.
3. All essential services are available to the subdivision, subject to the requirements of the relevant utility authorities.
4. The design of the subdivision, including proposed new road, is not considered to have a significant adverse impact on Moore Street of the Inverell Hospital entrance.

## **COMMUNITY CONSULTATION**

Neighbour notification was undertaken in accordance with the Inverell Community Participation Plan. No submissions were received.

## **RIGHT OF APPEAL**

If you are dissatisfied with this decision, Division 8.3 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice. You are also advised that Division 8.2 of the *Environmental Planning and Assessment Act 1979* provides that you may apply to Council for a review of this decision subject to the limitations contained in that section and payment of the prescribed fee.

On behalf of Inverell Shire Council



**CHRIS FALEY**  
**DEVELOPMENT SERVICES COORDINATOR**