

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

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

Application Number	DA-162/2022
Applicant	777 Investments Pty Ltd
Land to be developed	Lot 7A DP 157849, Lot 1 DP 195703, Lot 2 DP 195703 141 Otho Street, INVERELL 2360
Approved development	Construction and use of motel accommodation, including 31 rooms, a managers residence, on site car parking, ingress and egress driveways and associated landscaping.
Building Code of Australia Classification	Class 3
Determination	The determination is consent granted subject to conditions.
Determination date	22 February 2023
Consent is to operate from	22 February 2023
Consent will lapse on	22 February 2028 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 construction and use of motel accommodation, including 31 rooms, a manager's residence, on site car parking, ingress and egress driveways and associated landscaping.

To confirm and clarify the terms of consent, the development must be carried out in accordance with the stamped and approved plans and documentation, unless modified by any conditions of consent.

Any deviation from the plans or conditions will require the consent of Council.

2. The applicant must comply with all relevant prescribed conditions as contained in Part 4, Division 2 of the *Environmental Planning & Assessment Regulation 2021*.
3. The existing northern boundary fence is to be retained or (if proposed) replaced with a fence of similar material and dimensions.
4. All mechanical air conditioning units are to be located on top of the building.

Prior to Commencement of Works

5. Prior to the commencement of any works on the site a Construction Certificate must be issued in accordance with the *Environmental Planning and Assessment Act 1979*. The application for a Construction Certificate must include plans and specifications demonstrating full compliance with the *Building Code of Australia* and associated standards.

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6. Prior to the issue of a Construction Certificate, in reliance upon Section 64 of the Local Government Act 1993 and Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000, a Certificate of Compliance must be issued by Council for the development and complied with by the applicant.

Note:

- This will require payment to Council of a Contribution for water under Council's Development Servicing Plan No. 1 for 9.3 equivalent tenements.
- This will require payment to Council of a Contribution for sewer under Council's Development Servicing Plan No. 1 for 13.95 equivalent tenements.

7. In accordance with Chapter 6 of the Inverell Development Control Plan 2013, the motel building is to be provided with flood protection to level equal to the 1991 flood plus 500mm (i.e. **587.05m** AHD).

Prior to issue of a Construction Certificate, details of the flood protection are to be submitted to and approved by Council.

8. Prior to issue of a Construction Certificate, engineering plans for the footings of the rear wall along County Lane must be submitted to and approved by Council demonstrating compliance with the document *Building in the Vicinity of Sewer and Trunk Water Mains Guidelines - Part 2 Building in the Vicinity of Sewer Main Guidelines (NSW Water Directorate February 2019)* or subsequent revisions, in relation to the zone of influence of the sewer main in County Lane.

9. Prior to issue of a Construction Certificate, approval under Section 68 of the *Local Government Act 1993* is to be obtained for stormwater drainage work, water supply work and sewerage works.

10. Prior to issue of a Construction Certificate, a Construction Management Plan (CMP) prepared by a suitably qualified person must be submitted to and approved by Council. The CMP must address as a minimum, the following matters (in no particular order):

- Dust and vibration protection/management;
- Crane locations and lift paths to minimise lifting;
- Site storage and stockpile locations;
- Temporary servicing and service relocations;
- Public safety in the use of roads and footpaths adjoining the development;
- Construction traffic and vehicles;
- Continued pedestrian and vehicle access for adjoining premises;
- Waste management in accordance with the approved Waste Management Plan;
- Construction noise mitigation in accordance with the approved Acoustic Assessment; and
- Sanitary amenities and ablutions.

11. Prior to issue of a Construction Certificate, a Remediation Action Plan (RAP) incorporating an Unexpected Finds Protocol (UFP) must be prepared in accordance with *NSW EPA Contaminated Land Guidelines – Consultant Reporting on Contaminated Land (2020)* and submitted to and approved by Council.

12. Prior to the issue of a Construction Certificate, a dilapidation report is to be prepared by a practicing structural engineer at full cost to the proponent. It must detail the structural adequacy of adjoining properties, including Council's property, and their ability to withstand the proposed excavation. Any damage not shown in the dilapidation report submitted to Council before site works commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified prior to issue of an Occupation Certificate.

13. Prior to issue of a Construction Certificate, approval under Section 138 of the *Roads Act 1993* is to be obtained for all works within Otho Street and Campbell Lane, including

construction of access crossings, capping of existing laybacks and construction of a paved footpath in Otho Street.

The access crossings must have a minimum clearance of 500 millimetres from its closest point to the Essential Energy service pit(s) located at the front of the properties.

The application for approval under Section 138 of the Roads Act 1993 must be accompanied by detailed plans of all work in the road reserve.

During Construction

14. A survey report is to be provided to the Accredited Certifier to ensure that the proposed development is located on the correct allotment and at the approved distance from the boundary. The survey report is to be prepared by a registered land surveyor and be verified by the pegging of the site prior to the commencement of work.
 15. A report by a registered surveyor is required to certify that the floor level of the building is at the required **586.45m** AHD level. This report is to be submitted to the Accredited Certifier prior to the work proceeding past floor level.
 16. During construction, a copy of the approved Construction Management Plan (CMP) is to be maintained on-site and all commitments of the CMP implemented.
 17. During construction, all commitments of the Remediation Action Plan, incorporating an Unexpected Finds Protocol are to be implemented.
 18. During construction, erosion and sediment control measures are to be implemented and maintained in accordance with the approved Civil Drawings.
 19. Construction may only be carried out between:
 - 7.00am and 6.00pm on Monday to Friday; and
 - 8.00am to 1.00pm on Saturday.
- No construction is to be carried out at any time on a Sunday or a public holiday.
20. 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 quiet enjoyment of the surrounding neighbourhood.
 21. All waste must be contained and removed to the Inverell Waste Depot located at 55 Burtenshaw Road, Inverell.
 22. Where the proposed development involves the disturbance of any existing survey monuments, those monuments affected will need to be relocated by a registered surveyor under the *Surveying and Spatial Information Act 2002*. A plan showing the relocated monuments will then be required to be lodged as a matter of public record at the Lands Titles Office.
 23. For the duration of any work on site, the builder must maintain a copy of the specification, stamped approved plans, copy of development consent and construction certificate on site.
 24. Any fill brought to the demolition site must be:
 - Virgin excavated natural material as defined in the *Protection of the Environment Operations Act 1997*; and/or
 - Comprise materials covered by a resource recovery exemption under the *Protection of the Environment Operations (Waste) Regulation 2014*.

25. All sewer connections to the building(s) are to be fitted with reflux valves to prevent backflow of sewage in a flood event.
26. Any excavation works in this area or works on the proposed driveway/s must comply with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.

Prior to Occupation

27. In accordance with Section 6.9 of the Environmental Planning and Assessment Act 1979, an application for an Occupation Certificate, must be made on completion of the works. All works specified in the development consent and approved Construction Certificate plans must be completed and all development consent conditions complied with prior to the issue of the Occupation Certificate.

Note: Prior to issue of the Occupation Certificate, the Accredited Certifier is required to be satisfied, amongst other things, that:

- *all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and*
 - *any preconditions to the issue of the certificate required by a development consent have been met.*
28. Prior to issue of an Occupation Certificate, Lot 7A DP 157849, Lot 1 DP 195703 and Lot 2 DP 195703 are to be consolidated into a single allotment.
 29. Prior to the issue of an Occupation Certificate, all stormwater is to be completed in accordance with the approved engineering plans and *Australian Standard 3500.3 Plumbing and drainage*.
 30. Prior to issue of an Occupation Certificate, all car parking is to be constructed, concreted and line-marked in accordance with the approved plans.
 31. Prior to issue of an Occupation Certificate, the access crossings on Otho Street and Campbell Lane are to be constructed in accordance with the approved plans and approval under Section 138 of the Roads Act 1993.
 32. Prior to issue of an Occupation Certificate, the existing laybacks in Otho Street are to be capped to Council's satisfaction and in accordance with the approval under Section 138 of the Roads Act 1993.
 33. Prior to issue of an Occupation Certificate, the Otho Street footpath fronting the development site is to be reinstated/reconstructed as a paved footpath consistent with Council's Central Business District paving standard.
 34. Prior to issue of an Occupation Certificate, the owner of the building must furnish to the Accredited Certifier a final/interim Fire Safety Certificate with respect to each essential fire safety measure for the building to which the Certificate relates. The Certificate must state that each essential fire safety measure has been assessed by a properly qualified person and that each essential fire safety measure was found, when it was assessed, to be capable of performing to the required standard.
 35. Prior to issue of an Occupation Certificate, all landscaping is to be completed in accordance with the approved plans.
 36. Prior to issue of Occupation Certificate, a Flood Emergency Plan for the premises must be submitted to, and approved, by Council.
 37. Prior to issue of an Occupation, the approved flood protection measures are to be implemented on-site.

38. Prior to issue of an Occupation Certificate, any damage to adjoining properties or infrastructure (not identified within the dilapidation report) is to be repaired at no cost to the relevant property owner or authority.

Ongoing Use

39. The owner of the building must certify to Inverell Shire Council every year that the essential fire safety measures installed in the building have been inspected and are capable of operating to the required minimum standard.
40. The provision of any food to motel guest must comply with the Food Act 2003 and associated standards.
41. All car parking and vehicle movement areas are to be maintained in perpetuity in a reasonable manner.
42. All landscaping is to be maintained in perpetuity in a reasonable manner.
43. All external lighting must:
- comply with AS 4282–1997 *Control of the obtrusive effects of outdoor lighting*, and
 - be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Advice Only

Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW) to locate these cables.

Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines/Underground*.

The service cables must meet the requirements of the *NSW Service and Installation Rules*. A Level 2 Electrician will be able to advise on these requirements.

Works around the service cables must be managed. If the ground levels over the cables are to be altered, clearances must be maintained and cables integrity protected.

The Applicant should also be aware that as per the *NSW Service and Installation Rules*, if anything is constructed over the service cables and at any point the service cables have to be removed or replaced due to damage, that the Applicant is responsible for all costs associated with that replacement or removal.

Any garden beds etc. or any cut and fill on the properties must not affect the service pit(s). If it does and the service pit(s) must be raised or lowered to comply with Essential Energy's requirements, these works will be at the Applicant's/Landowner's expense.

Satisfactory arrangements must be made with Essential Energy for the provision of power with respect to the proposed development. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the development, which may include the payment of fees, contributions and if required, new designated electrical infrastructure. If it is deemed that designated electrical infrastructure is required, then all fees for such infrastructure (which may be substantial) will be borne by the Applicant. Refer Essential Energy's Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au.

The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to the unit(s) in accordance with *NSW Service and Installation Rules*. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.

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 B2 Local Centre zone.
2. A flood report has been submitted with DA-162/2022, which certifies that the development is unlikely impact flood levels of velocities. Subject to conditions, the development is considered to comply with the flood controls of the Inverell LEP 2012 and Inverell DCP 2013.
3. DA-162/2022 was referred to Essential Energy and Transport for NSW in accordance with State Environmental Planning Policy (Transport and Infrastructure) 2021. The matters raised by these agencies have been addressed via conditions of consent and/or advice.
4. In consideration of design controls of the *Inverell Development Control Plan 2013*, the new motel is considered appropriate in its style, scale and finishes.

Community Consultation

Neighbour notification and advertising was undertaken in accordance with the *Inverell Development Control Plan 2013*. One submission was received in regard to contamination and competition. Both matters have been adequately considered as part of the assessment and where necessary addressed via conditions of consent.

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