

## 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 Number</b>	<b>DA-129/2022</b>
<b>Applicant</b>	Newton Denny Chapelle
<b>Land to be developed</b>	Lot 1 DP 1279101, Lot 2 DP 1279101, Lot 1 DP 334109, Lot 2 DP 322074, Lot 1 DP 326225, Lot 2 DP 326225, Lot 3D DP 360441 – 24 to 28 Glen Innes Road, INVERELL and 1 to 7 Chester Street, INVERELL
<b>Approved development</b>	Construction and operation of a Service Station, Rural Supplies and Specialised Retail Premises, including associated civil works, signage and landscaping
<b>Determination</b>	The determination is <b>consent granted subject to conditions.</b>
<b>Determination date</b>	24 May 2023
<b>Consent is to operate from</b>	24 May 2023
<b>Consent will lapse on</b>	24 May 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 construction and operation of a Service Station, Rural Supplies and Specialised Retail Premises, including associated civil works, signage and landscaping.

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 from this 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 proposed 7.2 metre high pylon sign adjacent to Glen Innes Road must be located in accordance with the stamped and approved Electrical (ISCC20) Report.
4. The development must include an internal concrete footpath to connect to the footpath in Glen Innes Road.

#### *Prior to Commencement of Any Works*

5. Prior to the commencement of any works (including earthworks) 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 shall include plans and specifications demonstrating full compliance with the Building Code of Australia and associated standards.

6. Prior to issue of a Construction Certificate, details of the proposed noise barriers, as per the approved Acoustic Assessment, are to be submitted to and approved by Council.
7. Prior to issue of a Construction Certificate, the following mechanical plant details are to be submitted to and approved by Council:
  - The final location of the plant; and
  - Suitable acoustic screening in accordance with the approved acoustic assessment.
8. Prior to issue of a Construction Certificate, a Construction Environmental Management Plan is to be submitted and approved by Council. At the minimum, the Construction Environmental Management Plan must address:
  - Noise mitigation;
  - Pre-works dilapidation assessment of all adjacent buildings;
  - Dust and vibration management;
  - Crane locations and lift paths to minimise lifting;
  - Site storage;
  - Temporary servicing and service relocations;
  - Erosion and sediment controls;
  - Traffic management, including site accesses, primary haul routes and public safety in the use of roads and footpaths adjoining the development;
  - Continued pedestrian and vehicle access for adjoining premises; and
  - Sanitary amenities and ablutions proposed.
9. Prior to issue of a Construction Certificate, detailed engineering plans and specifications are to be submitted to and approved by Council for:
  - Concrete access crossings in Chester Street;
  - Internal driveways, parking spaces and forecourt, which must be finished with surface coatings which prevent tyre squeal (an uncoated or unpolished concrete or bitumen surface is acceptable);
  - Internal footpath connection to Glen Innes Road;
  - Retaining walls; and
  - Stormwater drainage.
10. Prior to issue of a Construction Certificate, details of the "Class 1 Separator" for the stormwater from the forecourt must be submitted to and approved by Council. This separator must ensure that stormwater discharged from the service station contains less than 5-parts per million (ppm) of total petroleum hydrocarbons (TPHs).
11. Prior to issue of a Construction Certificate, a detailed landscaping plan is to be submitted to and approved by Council. At minimum, this plan must nominate:
  - Plant species;
  - Plant location;
  - Maximum height of the plant species; and
  - Indicative height of species at the time of planting.
12. Prior to issue of a Construction Certificate, certification (or other form approval) is to be obtained from Essential Energy demonstrating that all works comply with the working clearances from electricity infrastructure. A copy of this certification is to be provided to the Accredited Certifier.
13. Prior to issue of a Construction Certificate, approval under Section 138 of the Roads Act 1993 is to be obtained from Council for all works within the road reserve.
14. Prior to issue of a Construction Certificate, approval under Section 68 of the Local Government Act 1993 is to be obtained for:
  - Sewerage works;
  - Water supply works;
  - Stormwater drainage works; and
  - Disposal of liquid trade waste to sewer (food preparation areas).

### ***During Works***

15. Hours of construction and associated activities are restricted to between 7.00am and 5.00pm on Monday to Saturday and no work is to be carried out at any time on a Sunday or a public holiday.
16. All activities are to be undertaken in accordance with the approved Construction Environmental Management Plan.
17. A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:
  - could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
  - could cause damage to adjoining lands by falling objects, or
  - involve the enclosure of a public place or part of a public place.
18. A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.

The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
19. For the duration of any work on site, the principal contractor must maintain a copy of the specification, stamped approved plans, copy of development consent and construction certificate on site.
20. The applicant will:
  - Repair, or pay the full costs associated with repairing any public infrastructure that is damaged by the development, and
  - Relocate, or pay the full costs associated with relocating any public infrastructure that needs to be relocated as a result of the development.
21. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path of easement, natural watercourse, footpath, kerb or road surface and shall implement measures to prevent the movement of such material off site.
22. Where the proposed development involves the disturbance of any existing survey monuments, those monuments affected will need to be relocated by a Surveyor registered under the Surveyors Act. A plan showing the relocated marks will then be required to be lodged as a matter of public record at the Lands Titles Office.

### ***Prior to Occupation***

23. Prior to occupation of the premises, an occupation certificate must be issued in accordance with the Environmental Planning and Assessment Act 1979.

*Note: Prior to the issue of the Occupation Certificate, the Principal Certifying Authority 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.*
24. Prior to issue of an occupation certificate, the noise barriers are to be constructed in accordance with the approved details. Certification from a suitably qualified acoustic engineer is to certify that the barrier meets the requirements of the approved noise assessment.

25. Prior to issue of an Occupation Certificate, the mechanical plant is to be located and screened in accordance with the approved details. Certification from a suitably qualified acoustic engineer is to certify that the barrier meets the requirements of the approved noise assessment.
26. Prior to issue of an occupation certificate, the following works are to be completed in accordance with the approved engineering details:
  - Concrete access crossings in Chester Street;
  - Internal driveways, parking spaces and forecourt;
  - Internal footpath connection to Glen Innes Road;
  - Retaining walls; and
  - Stormwater drainage.

*Note 1: Minimum safety clearance requirements are to be maintained at all times for the proposed driveways access and/or exit (concrete crossovers), as such driveways access will pass under Essential Energy's existing overhead powerlines located at the front of the properties. The driveways must comply with clearances for trafficable land, ground clearances must be maintained. Refer Essential Energy's policy CEOM7106.25 Minimum Clearance Requirements for NSW and the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*

*Note 2: Any proposed driveways access and/or exit (concrete crossovers) must remain at least 1.0 metre away from any electricity infrastructure (power pole, streetlight) at all times, to prevent accidental damage.*

*Note 3: Any excavation works in this area or works on the proposed driveways must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*

27. Prior to issue of an occupation certificate, the "Class 1 Separator" is to be installed in accordance with the approved plans and details.
28. Prior to issue of an occupation certificate, all landscaping is to be completed in accordance with the approved plans.
29. The underground petroleum storage systems are not to be commissioned unless they have been appropriately designed, installed and equipped by duly qualified persons in accordance with the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014.
30. Prior to issue of an occupation certificate, "No Stopping" signs are to be installed in Chester Street between the entry and exit crossings, at the applicant's expense.
31. Prior to issue of an occupation certificate, a "Left Turn Only" sign must be installed on the dedicated exit from the site.
32. Prior to issue of an Occupation Certificate the kitchen must be inspected by Council's Environmental Health Officer to ensure compliance with applicable food regulations.
33. Prior an Occupation Certificate being issued the owner of the building shall 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 shall 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.
34. Prior to issue of an Occupation Certificate, the proposed signage:
  - Must have all conductive parts earthed; and
  - If power is connected, must have suitable protection between the signage and the power source e.g. isolating transformer.

### **Ongoing Use**

35. The hours of operation for the Service Station, Rural Supplies and Specialised Retail Premises are limited to:
  - Monday to Friday: from 4.30am to 8pm; and
  - Saturday and Sunday: from 6am to 8pm.
36. Deliveries at the MRV loading area are only permitted between 7am and 6pm.
37. Waste collection is only permitted between 7am and 6pm.
38. On-site forklifts are restricted to electric type only.
39. The service station tyre pressure alarm must be a visual type (not audible) or set to a noise level less than 60 dB(A) at 1m.
40. The noise barriers and acoustic treatment of mechanical plant are to be maintained in a reasonable manner in perpetuity to retain its transmission loss quality. Where the barrier no longer complies with the relevant acoustic standards it is to be replaced at the applicant/owner's expense.
41. All illuminated signage must comply with the luminance levels contained with Section 3.3.3 of Department of Planning's Transport Corridor Outdoor Advertising and Signage Guidelines (November 2017).
42. External lighting must:
  - Comply with AS/NZS 4282:2019, 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.
43. The use of the underground petroleum storage systems is to be in accordance with the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014 including provisions of an environment protection plan, procedures must also be prepared and documented for loss monitoring and detection and incident management.
44. Waste receptacles are to be provided around the service station site for the use of patrons.
45. The service station site is to be kept in a clean and tidy manner with any discarded waste collected and placed in a waste receptacle.
46. All landscaping is to be maintained in perpetuity in a reasonable manner.
47. Portable signs, commonly described as sandwich boards and the like must not be placed on the footway of other public areas without the prior approval of Council.

*Note: The operator of an approved business must apply to Council to lease Council's property (i.e. footpaths) should it be required for use in conjunction with the approved business.*
48. All loading, unloading and storage of goods must be carried out within the confines of the property. No loading or unloading of goods on the public roadway system is permitted.
49. All parking and vehicle movement areas are to be maintained in a reasonable manner, in perpetuity, at the operator's expense.
50. 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.

51. The discharge of stormwater from the site must not exceed a maximum allowable discharge concentration of 5-parts per million (ppm) of total petroleum hydrocarbons (TPHs).

Monitoring for the concentration of TPHs must be done in accordance with the most current version of the publication: Approved Methods for the Sampling and Analysis of Water Pollutants in New South Wales.

52. The sale of fertilisers must be undertaken in pre-packaged bags or containers. The storage and sale of fertiliser in bunkers or by other "open" method is not permitted.
53. The operation of the food premises must comply with all applicable legislation/regulation and standards including:
- The Food Act 2003;
  - Food Regulation 2004;
  - Food Standards Australia and New Zealand – Food Standards Code 2001;
  - Relevant Australian Standards for Design, Construction and Fit out of Food Premises; and
  - Mechanical ventilation – Australian Standard 1668.2-2002 The use of ventilation and air-conditioning in buildings - Ventilation design for indoor air contaminant control.
54. A maximum of fifteen (15) seats are permitted, whether inside or outside, for on-site dining.

#### **Advice**

55. Essential Energy's records indicate there is overhead electricity infrastructure located within the properties and within close proximity of the properties. Any activities within these locations must be undertaken in accordance with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the properties encroach on the electricity infrastructure.

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).

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](http://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 Assets."

#### **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 is "permitted with consent" in both the B1 Neighbourhood Centre (current at the date of lodgement of DA-129/2022) and E1 Local Centre (current from 26 April 2023).
2. The development was assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 and is considered to be consistent with the relevant State Environmental Planning Polices, *Inverell Local Environmental Plan 2012* and *Inverell Development Control Plan 2013*.
3. DA-129/2022 was referred to Transport for NSW and Essential Energy in accordance with the provisions of *State Environmental Planning Policy (Transport and Infrastructure) 2021*. The comments received from these agencies have been considered as part of this assessment and do not preclude issuing of development consent.

## COMMUNITY CONSULTATION

As a result of public exhibition of DA-129/2022, two (2) submissions were received. The matters raised by the submission makers were considered in a report to Civil and Environmental Services Committee on 10 May 2023.

## 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**