

## 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-125/2021</b>
<b>Applicant</b>	Zone Planning Group
<b>Land to be developed</b>	Lot 1 DP 1152567 31 Brownleigh Vale Drive, INVERELL 2360
<b>Approved development</b>	Staged Development - 2 lot subdivision (Torrens Title) and Manufactured Home Estate
<b>Determination</b>	The determination is <b>consent granted subject to conditions.</b>
<b>Determination date</b>	4 May 2023
<b>Consent is to operate from</b>	4 May 2023
<b>Consent will lapse on</b>	4 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

#### GENERAL CONDITIONS

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:

- A two (2) lot subdivision; and
- Construction of a manufactured home estate on proposed Lot 2.

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 development is to be undertaken in accordance with the General Terms of Approval (**Appendix 1** of this consent) and any subsequent Controlled Activity Approval (as amended), issued by the Department of Planning and Environment - Water.
3. All fees, Section 7.11 (formerly Section 94) contribution and other contributions will be adjusted in accordance with Council's fees and charges at the date of payment.
4. The development must comply with all relevant prescribed conditions as contained in Part 4, Division 2 of the Environmental Planning & Assessment Regulation 2021

#### CONDITIONS RELATING TO THE 2 LOT SUBDIVISION

##### Prior to Commencement of any Subdivision Works

5. Prior to the commencement of any subdivision works, including earthworks, a Subdivision Works Certificate must be obtained.

### **Prior to issue of a Subdivision Works Certificate**

6. Prior to the issue of a Subdivision Works Certificate, a detailed engineering survey and design must be submitted to and approved by Council for the following works:
- The extension of Brownleigh Vale Drive and cul-de-sac, (which is to be bitumen sealed with rollover kerb and gutter or similar);
  - The extension of the street lighting into the proposed cul-de-sac;
  - The two existing 100mm diameter water mains running along Brownleigh Vale Drive will need to be cross connected at the end of the cul-de-sac servicing the proposed development. Stop valves will need to be provided to allow flow from alternate sources during water main outages;
  - Stormwater drainage for the cul-de-sac; and
  - Erosion and sediment control during construction.

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.
7. Prior to issue of a Subdivision Works Certificate, a geotechnical/hydrological report is to be submitted to and approved by Council. At minimum, this report must:
- Investigate geotechnical conditions below the depth of excavation and/or likely foundation depth to determine the presence of groundwater on both proposed Lot 1 and proposed Lot 2;
  - Where groundwater is present, the report must include recommendations in relation to:
    - Design parameters for the Manufactured Home Estate (e.g. foundations, permanent and temporary supports, road pavement); and
    - Design parameters for any future residential construction on proposed lot 1; and
    - Measures to be implemented during construction of the Manufactured Home Estate and installation of homes to mitigate potential groundwater impacts.
8. Prior to issue of a Subdivision Works Certificate, a Traffic Management Plan (TMP) relating to the construction traffic shall be submitted to Council for approval. The TMP should at a minimum:
- Discuss measures to mitigate impacts to traffic flow and adjoining residents associated with construction traffic for the subdivision; and
  - Provide a transport code of conduct that ensures any impacts are reduced as far as reasonably practical.
9. Prior to the issue of a Construction 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 Subdivision Works**

10. The applicant will:
  - repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
  - re-locate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.
11. 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.
12. Should any aboriginal artefacts or places be discovered during excavation/construction, all works are to cease immediately. Heritage NSW is to be contacted immediately and any direction or requirements complied with.
13. During construction the applicant must ensure that arrangements are made for Council 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, water pipelines and sewer 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 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.

14. During subdivision works, 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, 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.
16. 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.

**Prior to Issue of a Subdivision Certificate**

18. An application for a Subdivision Certificate must be submitted to and approved by Council. A Subdivision Certificate will not be issued nor the final plan signed by Council until all relevant conditions have been complied with.
19. Prior to issue of a Subdivision Certificate, the extension of Brownleigh Vale Drive and cul-de-sac are to be dedicated as public road, at no cost to Council.
20. Prior to the issue of a Subdivision Certificate, 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.
21. Prior to the issue of a Subdivision Certificate, 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.
22. Prior to the issue of a Subdivision Certificate, electricity and National Broadband services are to be provided to all lots. 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; and
  - An approved National Broadband Network service provider indicating that satisfactory arrangements have been made for the provision of telecommunications to each lot in the subdivision.
23. Prior to the issue of a Subdivision Certificate, 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.
24. Prior to the issue of a Subdivision Certificate, 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.
25. Prior to the issue of a Subdivision Certificate, Works as Executed Plans must be submitted to and accepted by Council. The plans are to be endorsed by a suitably qualified and practicing civil engineer certifying that the plans accurately reflect the Works as Executed.
26. Prior to the issue of a Subdivision Certificate, a Community Services Contribution for Lot 2 must be paid to Council pursuant to Section 7.11 (formerly Section 94) of the Environmental Planning and Assessment Act 1979.
27. Prior to the issue of a Subdivision Certificate, 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 Lot 2 and complied with by the applicant.

**Note:**

- *This will require payment to Council of a Contribution (for water) for Lot 2 under Council's Development Servicing Plan No. 1 for one (1) equivalent tenement; and*
- *This will require payment to Council of a Contribution (for sewer) for Lot 2 under Council's Development Servicing Plan No. 1 for one (1) equivalent tenement.*

## CONDITIONS RELATING TO THE MANUFACTURED HOME ESTATE

### Prior to Commencement of Works

28. Prior to commencement of any works for the manufactured home estate, a staging plan must be submitted to and approved by Council for the construction of civil infrastructure, landscaping and installation of manufactured homes.

This staging plan must nominate the following works to be completed as part of Stage 1:

- Access crossings off Brownleigh Vale Drive;
  - Construction of the main community building at the estate entrance;
  - Construction of the community swimming pool;
  - Construction of the lawn bowling green;
  - Construction of the community shed;
  - The car parking adjacent to the main community building; and
  - Boundary landscaping.
29. Prior to commencement of any works for the manufactured home estate, a Construction Certificate must be obtained for the construction of civil and infrastructure and community facilities.

Separate Construction Certificates may be obtained for each stage, or a combined Construction Certificate inclusive of multiple stages may be obtained, consistent with the approved staging plan.

### Prior to Issue of a Construction Certificate

30. Prior to the issue of a Construction Certificate, detailed engineering survey and design must be submitted to and approved by Council for the following works (as relevant to the stage):

- Bulk earthworks and retaining walls, which are to be wholly contained within the development site (including footing and sub-surface drainage);
- Sealed access roads;
- Sealed car parking, including line marking and visitor parking signage;
- Provision of water services to each lot;
- Fire hydrants in accordance with Clause 34 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005;
- Adjustments to Council's sewer main and provision of sewer services, which must comply with the following:
  - New Council sewer mains to be constructed in the footpaths (not centre of road);
  - No horizontal bending of sewer mains at deflection points. Sewer manholes will be required; and
  - Council does not use "Wang" sewer junctions. "Cut-in" sewer junctions will be required.
- Stormwater drainage, including the provision of inter-allotment drainage along the boundary with Auburn Road properties. This inter-allotment drainage must be wholly located within the development site;
- Provision of lighting along the internal access roads; and
- Erosion and sediment control during construction.

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.
  - **NSW Water Directorate, building in the Vicinity of Sewer Mains Guidelines 2019 (or any subsequent revisions); and**
  - **The geotechnical/hydrological report provided prior to issue of a Subdivision Works Certificate.**
31. Prior to issue of a Construction Certificate, a Traffic Management Plan (TMP) relating to the construction traffic for the relevant stage/s shall be submitted to Council for approval. The TMP should at a minimum:
- Discuss measures to mitigate impacts to traffic flow and adjoining residents associated with construction traffic; and
  - Provide a transport code of conduct that ensures any impacts are reduced as far as reasonably practical.
32. Prior to the issue of a Construction 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**

33. The applicant will:
- repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
  - re-locate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.
34. 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.
35. Should any aboriginal artefacts or places be discovered during excavation/construction, all works are to cease immediately. Heritage NSW is to be contacted immediately and any direction or requirements complied with.
36. 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.
37. 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.
38. 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.
39. 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.

### Prior to Operation of the Manufactured Home Estate

40. Prior to operation of the manufactured home estate, an approval to operate must be obtained for the relevant stage/s in accordance with Section 68 of the Local Government Act 1993.

#### Prior to issue of an Approval to Operate under Section 68 of the Local Government Act 1993

41. Prior to issue of an approval to operate under Section 68 of the Local Government Act 1993, all civil works, services, car parking, lighting and landscaping is to be completed in accordance with the approved staging plan, landscaping plans and relevant Construction Certificate.
42. Prior to issue of an approval to operate under Section 68 of the Local Government Act 1993, a three (3) metre easement for sewer is to be created over all sewer mains through the site and dedicated in favour of Council.
43. Prior to issue of an approval to operate under Section 68 of the Local Government Act 1993, 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 the relevant stage/s of the manufactured home estate.

*Note: This will require payment to Council of contributions for water and sewer under Council's Development Servicing Plan No. 1 for each dwelling site consistent with the following table.*

	<i>Water Contribution</i>	<i>Sewer Contribution</i>
<i>Manufactured Home Type</i>	<i>Equivalent Tenement (ET)</i>	<i>Equivalent Tenement (ET)</i>
<i>3 bedrooms</i>	<i>0.8</i>	<i>1 ET</i>
<i>2 bedrooms</i>	<i>0.6</i>	<i>0.75</i>
<i>2 bedrooms</i>	<i>0.6</i>	<i>0.75</i>
<i>1 bedroom</i>	<i>0.4</i>	<i>0.5</i>

44. Prior to issue of an approval to operate under Section 68 of the Local Government Act 1993, a Traffic Management Plan (TMP) relating to the transport of manufactured homes for the relevant stage/s shall be submitted to Council for approval. The TMP should at a minimum:
- Identify the transport route;
  - Discuss measures to mitigate impacts to traffic flow and adjoining residents associated with the process of transporting moveable dwellings; and
  - Provide a transport code of conduct that ensures and impacts are reduced as far as reasonably practical.
45. Prior to issue of an approval to operate under Section 68 of the Local Government Act 1993, a flood emergency plan for the manufactured home estate is to be submitted to and approved by Council.
46. Prior to issue of an approval to operate under Section 68 of the Local Government Act 1993, a suitable agreement must be in place with a private contractor or Council for collection of waste. A copy of this agreement is to be provided to Council.

### Ongoing Use

47. Manufactured homes are not permitted to be constructed on-site.
48. The transport of manufactured homes to the estate must be undertaken in accordance with the approved Traffic Management Plan.

49. Each manufactured home must be connected to:
- Reticulated water;
  - Reticulated sewer;
  - Electricity; and
  - Telephone.
50. No manufactured home is permitted to exceed one (1) storey in height.
51. A manufactured home must have a floor level equal to (or above), 1 metre above the 1 in 100 flood level.
52. The community facilities are only permitted to be used by residents of the manufactured home estate and their guests.
53. The community facilities must comply with the following hours of operation:
- Main communal facilities building – 7:00am – 9:00pm Mon-Sun;
  - Main communal outdoor facilities – 7:00am – 8:00pm Mon-Sun; and
  - Communal shed – 7:00am – 6:00pm Mon-Sun.
54. The swimming pool pump and filtration equipment must not be used in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- (a) before 8.00 am or after 8.00 pm on any Sunday or public holiday; and
  - (b) before 7.00 am or after 8.00 pm on any other day.
55. Musical instruments and electrically amplified sound equipment must not be used in the community facilities in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- Before 8 am and after midnight on any Friday, or Saturday or the day immediately before a public holiday; and
  - Before 8 am and after 10 pm on any other day.
56. Service vehicles (e.g. waste) for the manufactured home estate and delivery vehicles to the community facilities are restricted to:
- 7 am to 6 pm Monday to Saturday; and
  - 8 am to 6 pm on Sundays and public holidays.
57. All access roads must be adequately lit between sunset and sunrise.
58. All 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.
59. The use of the main community building as a 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.
60. To comply with the Swimming Pools Act 1992 the owner of the premises on which a swimming pool is situated must ensure that the swimming pool is at all times surrounded by a child-resistant barrier:
- that separates the swimming pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises; and
  - that is designed, constructed, installed and maintained in accordance with the regulations and Australian Standard 1926-2007 Swimming pool safety.
61. A resuscitation techniques flow sequence sign/poster is to be displayed in a prominent position adjacent to the pool. The sequence must be in accordance with the Cardiopulmonary Resuscitation Guideline, illustrated by drawings with key words only in bold print, and contain a statement to the effect that formal instruction in resuscitation is also essential. The sign shall comply with the other relevant guidelines of the Australian Resuscitation Council and include the name of the teaching organisation or other body that published the sign and the date of its publication.

#### **Advice Only**

- (a) 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, which may also require easements to be created. 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](mailto:contestableworks@essentialenergy.com.au).
- (b) The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to all dwelling(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.
- (c) Any proposed landscaping in the vicinity of electrical infrastructure 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.
- (d) As part of the subdivision, easement/s are to be created for any existing electrical infrastructure, using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision. This will also include satisfactory arrangements with Essential Energy in relation to the existing overhead powerlines and poles located at the proposed extension of Brownleigh Vale Drive. Refer to Essential Energy's Contestable Works Team for requirements via email [contestableworks@essentialenergy.com.au](mailto:contestableworks@essentialenergy.com.au).
- (e) Essential Energy's records indicate there is overhead electricity infrastructure located within close proximity to the property. Any activities within this location 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 property encroach on the electricity infrastructure.
- (f) 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).
- (g) 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 proposed subdivision complies with the minimum lot size and servicing requirements of Inverell Local Environmental Plan 2012.
2. The manufactured home estate is "permitted with consent" in the R1 General Residential zone in accordance with the provisions of State Environmental Planning Policy No. 36 – Manufactured Home Estates.
3. The development has been 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.
4. The development is consistent with the North West Regional Plan 2041 and Inverell Shire Local Strategic Planning Statement 2036; and is not prejudicial to the public interest.
4. DA-125/2021 was referred the Department of Planning and Environment – Water as the proposed development involves works within forty (40) metres of Spring Creek requiring a Controlled Activity Approval under the Water Management Act 2000. General Terms of Approval were issued by the Department of Planning and Environment – Water on 4 May 2023.
5. In accordance with the Traffic Impact Assessment was submitted with DA-125/2021, Brownleigh Vale Drive, Wesley Street and Auburn Vale Road are considered suitable for the additional traffic generated by the development.

## COMMUNITY CONSULTATION

As a result of public exhibition of DA-125/2021, four (4) submissions were received. The matters raised by the submission makers were considered in a report to Civil and Environmental Services Committee on 8 February 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**