



INVERELL SHIRE COUNCIL

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number DA-107/2023
PAN-360793

Applicant Matthew Ritchie

Description of development Single lot to be divided into 3 residential lots with a common private residential access road, per plans attached provided.

Property 52 KOOKABURRA LANE INVERELL 2360
22/-/DP1288154

Determination Approved
Consent Authority - Council

Date of determination 17/11/23

Date from which the consent operates 17/11/23

Date on which the consent lapses 17/11/28

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Reasons for approval

- ¹ The development, subject to conditions, is consistent with the objectives of the R5 Large Lot Residential zone.
- ² The subdivision complies with the minimum lot size and servicing requirements of the Inverell Local Environmental Plan 2012
- ³ In consideration of the subdivision controls of the Inverell Development Control Plan 2013, the development is compatible with the surrounding rural residential. The proposed access handle is considered acceptable given the dimensions of the access.

- Subject to bitumen sealing of the access and landscaping requirements (conditions of consent), the development is not considered to have a significant adverse impact on the amenity of adjoining lots.

Community Consultation

Neighbour notification was undertaken in accordance with the Inverell Community Participation Plan. One submission was received. Council's Development Services Coordinator met with the submission maker and conditions of consent have been imposed in relation to their concerns.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.



Anthony Alliston

Manager Development Services

Person on behalf of the consent authority

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

General Conditions

1	<p>Erection of signs</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving building work, subdivision work or demolition work. 2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out— <ol style="list-style-type: none"> a. showing the name, address and telephone number of the principal certifier for the work, and b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and c. stating that unauthorised entry to the work site is prohibited. 3. The sign must be— <ol style="list-style-type: none"> a. maintained while the building work, subdivision work or demolition work is being carried out, and b. removed when the work has been completed. 4. This section does not apply in relation to— <ol style="list-style-type: none"> a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or b. Crown building work certified to comply with the <i>Building Code of Australia</i> under the Act, Part 6. <p>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>															
2	<p>Approved plans and supporting documentation</p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p> <table border="1" data-bbox="320 1715 1259 1971"> <thead> <tr> <th colspan="5">Approved plans</th> </tr> <tr> <th>Job number</th> <th>Revision number</th> <th>Plan title</th> <th>Drawn by</th> <th>Date of plan</th> </tr> </thead> <tbody> <tr> <td>TAS026</td> <td>A</td> <td>52 Kookaburra Lane Strategic Plan 1 into 3 Lot Subdivision Subdivision Layout Plan</td> <td>Local Government Engineering</td> <td>11 August 2023</td> </tr> </tbody> </table>	Approved plans					Job number	Revision number	Plan title	Drawn by	Date of plan	TAS026	A	52 Kookaburra Lane Strategic Plan 1 into 3 Lot Subdivision Subdivision Layout Plan	Local Government Engineering	11 August 2023
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		Services	
	In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.		
	Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.		
3	Subdivision Works Certificate		
	Prior to commencement of any works (including earthworks) a Subdivision Works Certificate must be obtained.		
	Condition reason: To ensure a Subdivision Works Certificate is obtained.		

Subdivision Work

Before issue of a subdivision works certificate

4	Engineering Plans
	Before issue of a Subdivision Works Certificate, a detailed engineering survey and design for the access road is to be submitted to and approved by Council. 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: <ul style="list-style-type: none"> • The bitumen seal access crossing, including splays off Kookaburra Lane; • The access handle, which must comprise a six (6) metre bitumen seal on a seven (7) metre compacted granite pavement, from the Kooakburra Lane boundary tp the entrances t Lots 1, 2 and 3; • Stormwater drainage on the northern side of the access road to protect the adjoining Lot 4 DP 878242, 54 Kookaburra Lane; and • Erosion and sediment control measures to be implemented during construction in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book)
	Condition reason: To ensure that the access to Lots 1, 2 and 3 are constructed to Council requirements and protect the amenity of adjoining land.
5	Landscaping Plan
	Before the issue of a Subdivision Works Certificate, a landscaping plan is to be submitted to and approved by Council. This landscaping plan must nominate: <ul style="list-style-type: none"> • Landscaping along the southern side of the access road (adjacent to Lot 3 DP 878242, 50 Kookaburra Lane) for the length of the bitumen seal; • The species to be planted, which must have a minimum growth height of 3 to 4 metres; • The spacing of the plantings, which are to be undertaken in manner to provide an effective visual screen along the boundary; • Size of the species at the time of planting.
	Condition reason: To minimise amenity impacts on the adjoining property.

Before subdivision work commences

6	Erosion and sediment controls in place
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Before any site work commences, **Council** , must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).

Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

During subdivision work

7	<p>Hours of work</p> <p>Site work must only be carried out between the following times –</p> <p>From 7.00am to 5.00pm on Monday to Friday.</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p>Condition reason: To protect the amenity of the surrounding area.</p>
8	<p>Soil management</p> <p>While site work is being carried out, Council must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <ol style="list-style-type: none"> a. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility b. All fill material imported to the site must be: <ol style="list-style-type: none"> a. Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i>; or b. a material identified as being subject to a resource recovery exemption by the NSW EPA; or c. a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> and a material identified as being subject to a resource recovery exemption by the NSW EPA. <p>Condition reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.</p>
9	<p>Construction - Local amenity, noise and environmental pollution</p> <p>To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:</p> <ul style="list-style-type: none"> • 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 shall not interfere with the quiet enjoyment of the surrounding neighbourhood; • 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; Operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken on the building block. The pollutants from these building operations shall

	<p>be contained on site;</p> <ul style="list-style-type: none"> • Waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a waste disposal depot; • 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.
	Condition reason: To protect local amenity and survey monuments during construction.

Before issue of a subdivision certificate

10	<p>Obtaining Subdivision Certificate</p> <p>A Subdivision Certificate must be obtained from Council in accordance with the <i>Environmental Planning and Assessment Act 1979</i>. The applicant must submit documentary evidence demonstrating compliance with the conditions of this development consent.</p> <p>Condition reason:</p>
11	<p>Subdivision Certificate – Electricity and telecommunications services</p> <p>Prior to the issue of a Subdivision Certificate, electricity services are to be provided to all lots. The proponent is required to submit to Council, certificates from:</p> <ul style="list-style-type: none"> • An approved electricity service provider indicating that satisfactory arrangements have been made for the provision of electricity to each lot in the subdivision. <p>Condition reason: To require electricity and telecommunications to be provided to the subdivision.</p>
12	<p>Access Construction</p> <p>Before issue of a Subdivision Certificate, the access crossing and access handle are to be constructed (including bitumen seal and drainage) in accordance with the approved engineering plans and Subdivision Works Certificate.</p> <p>Condition reason: To require the access to be constructed in accordance with approved engineering plans.</p>
13	<p>Completion of Landscaping</p> <p>Before issue of a Subdivision Certificate, the landscaping along the southern side of the access road (adjacent to Lot 3 DP 878242, 50 Kookaburra Lane) is to be completed in accordance with the approved landscaping plan.</p> <p>Condition reason: To require the landscaping to be completed in accordance with the approved plan.</p>
14	<p>Water Connections</p> <p>Water is to be connected to Lots 1, 2 and 3 (3 lots). Before issue of a Subdivision Certificate, contributions/fees must be paid to Council for water supply and water connection for each lot. This will require payment to Council of:</p> <ul style="list-style-type: none"> • Contributions under Council's Development Servicing Plan No. 1 for 1 equivalent tenement per lot; and • A water connection fee per lot in accordance with Council's fees and charges. <p>Condition reason: The lots must be connected to town water in accordance with Chapter 2 of the Inverell Development Control Plan 2013.</p>

15	Section 7.11 Contributions
	Before issue of a Subdivision Certificate, contributions for Lots 2 and 3 (2 lots) must be paid to Council pursuant to Section 7.11 (formerly Section 94) of the Environmental Planning and Assessment Act 1979 for: <ul style="list-style-type: none"> • General Rural Roads; and • Community Services.
	Condition reason: The subdivision requires payment of contributions in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and Council's Section 94 Plan.
16	Rural Addressing Fee
	Before issue of a Subdivision Certificate, a rural addressing fee for Lots 1, 2 and 3 (3 lots) is to be paid to Council in accordance with Council's fees and charges.
	Condition reason: To allocate a street address to each lot.
17	88b Restrictions
	Before issue of a Subdivision Certificate, a Restriction on the Use Land pursuant to Section 88b of the Conveyancing Act 1919 is to clearly state that: <ul style="list-style-type: none"> • Any dwelling constructed on Lot 101 is to be serviced by an aerated waste water treatment system or similar system approved by the NSW Department of Health; and • No building is permitted to have a zincalume roof or walls.
	Condition reason: To protect the environment and amenity of the area.

Ongoing use for subdivision work

18	Maintenance of Landscaping
	The owner of Lot 1 must maintain the landscaping along the access handle, in a reasonable manner, in perpetuity.
	Condition reason: To ensure that the landscaping is maintained.

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent. Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means INVERELL SHIRE COUNCIL.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision work certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Northern Regional Planning Panel.