



# INVERELL SHIRE COUNCIL

## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

<b>Application number</b>	DA-44/2024 PAN-414855
<b>Applicant</b>	Andrew Howard
<b>Description of development</b>	Duplex
<b>Property</b>	51-53 INVERELL STREET ASHFORD 2361 2/44/DP758036 1/44/DP758036
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	25/07/24
<b>Date from which the consent operates</b>	25/07/24
<b>Date on which the consent lapses</b>	25/07/29

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 RU5 Village zone.
2. The built form and design of the development, subject to conditions is consistent with the streetscape and development in the area.
3. In consideration of the controls of the Inverell Development Control Plan 2013, the development is considered appropriate within the locality.

### 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.



Liam Spalding  
Development Officer  
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><b>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</b></p> <ol style="list-style-type: none"> <li>1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.</li> <li>2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li> <li>3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia.</li> <li>4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.</li> <li>5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li> <li>6. This section does not apply—             <ol style="list-style-type: none"> <li>a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or</li> <li>b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li> </ol> </li> </ol> <p><b>Condition reason:</b> Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
2	<p><b>Erection of signs</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</li> <li>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"> <li>a. showing the name, address and telephone number of the principal certifier for the work, and</li> </ol> </li> </ol>

- d. 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—
  - 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—
  - 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 Building Code of Australia under the Act, Part 6.

**Condition reason:** Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

**3 Fulfilment of BASIX commitments**

It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled—

- 1. BASIX development,
- 2. BASIX optional development, if the development application was accompanied by a BASIX certificate.

**Condition reason:** Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.

**4 Approved plans and supporting documentation**

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
D1-D11		Proposed New Dual Occupancy Units - Ashford Ageing Care Facility Inc	Precise Designs	17/03/2024

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.

**5 Addressing of Units**

The units shall be numbered as follows:

- 41A Duff Street, shown on plan as unit B; and
- 41B Duff Street, shown on plan as unit A.

	<b>Condition reason:</b> To provide a street number for formal addressing of the units.
6	<b>Sewer Main Extension</b>
	The sewer main in Inverell Street is to be extended to serve Lot 2 Sec 44 DP 758036 at the applicant's expense.
	<b>Condition reason:</b> To ensure sewer services the development site.

## Building Work

### Before issue of a construction certificate

7	<b>Section 138</b>
	A separate application shall be made to Council for approval under Section 138 of the <i>Roads Act 1993</i> to undertake any of the following: <ul style="list-style-type: none"> <li>• Erect a structure or carry out a work in, on or over a public road; or</li> <li>• Dig up or disturb the surface of a public road; or</li> <li>• Remove or interfere with a structure, work or tree on a public road; or</li> <li>• Pump water into a public road from any land adjoining the road; or</li> <li>• Connect a road (whether public or private) to a classified road.</li> </ul>
	<b>Condition reason:</b> To ensure all necessary approvals under the Roads Act 1993 are obtained for the development.
8	<b>Section 7.11 Fees</b>
	Prior to issue of a Construction Certificate, a single contribution must be paid to Council pursuant to Section 7.11 (previously Section 94) of the Environmental Planning and Assessment Act 1979 for Community Services.
	<b>Condition reason:</b> To confirm that all fees and charges are calculated at the date of payment.
9	<b>Sewer DSP</b>
	Prior to the issue of a Construction Certificate, contributions/fees must be paid to Council for sewer supply and sewer connections to the main. This will require payment to Council of: <ul style="list-style-type: none"> <li>• A Contribution under Council's Development Servicing Plan No. 1 of 0.75 equivalent tenement; and</li> <li>• A sewer junction fee in accordance with Council's fees and charges.</li> </ul>
	<b>Condition reason:</b> To ensure contributions are paid prior to the issue of Construction Certificate.
10	<b>Water - DSP</b>
	Prior to the issue of a Construction Certificate, contributions/fees must be paid to Council for the connection of water. This will require payment to Council of: <ul style="list-style-type: none"> <li>• A Contribution under Council's Development Servicing Plan No. 1 for 0.6 equivalent tenement; and</li> <li>• A water connection fee via quotation.</li> </ul>
	<b>Condition reason:</b> To confirm the contributions and fees payable for the connection of water to the development.

### Before building work commences

11	<p><b>Construction -Erosion and Sediment Control</b></p> <p>Prior to commencement of works (including earthworks), run-off and erosion control measures must be implemented to prevent soil erosion, water pollution and the discharge of loose sediment on the surrounding land. Measures are to include:</p> <ul style="list-style-type: none"> <li>• Diverting uncontaminated run-off around cleared or disturbed areas;</li> <li>• Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties;</li> <li>• Preventing the tracking of sediment by vehicles onto roads; and</li> <li>• Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.</li> </ul> <p>Run-off and erosion control measures must be in place for the duration of building work and until adequate (more than 70%) vegetation (grass) cover is established on the site to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads. In the event that the building contract is completed, it is the responsibility of the owner to maintain the run-off and erosion control measures.</p>
	<p><b>Condition reason:</b> To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>

**During building work**

12	<p><b>Hours of work</b></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><b>Condition reason:</b> To protect the amenity of the surrounding area.</p>
13	<p><b>Construction - Local amenity, noise and environmental pollution</b></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"> <li>• 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;</li> <li>• 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;</li> <li>• Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken on the building block. The pollutants from these building operations shall be contained on site;</li> <li>• Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a waste disposal depot;</li> </ul> <p>Where the proposed development involves the disturbance of any existing survey</p>

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 an occupation certificate

14	<b>Addressing of multiple dwellings</b>
	Prior to issue of an Occupation Certificate, each dwelling is to be individually numbered and the number displayed in 100mm numerals on each dwelling and associated mailbox. The street number is to be displayed in 150mm numerals adjacent to the mailboxes.
	<b>Condition reason:</b> To ensure the dwellings are identified with a formal street number.
15	<b>Mailbox installation</b>
	Prior to issue of an Occupation Certificate, mailboxes must be provided adjacent to the footpath.
	<b>Condition reason:</b> To rationalise the placement of mailboxes and reduce visual clutter in the streetscape.
16	<b>Occupation of premise</b>
	Prior to occupation of the premises, an Occupation Certificate must be issued in accordance with <i>Environmental Planning and Assessment Act 1979</i> .
	<p><i>Note: Prior to issue of the Occupation Certificate, the Principal Certifying Authority is required to be satisfied, amongst other things, that:</i></p> <ul style="list-style-type: none"> <li>▸ <i>all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and</i></li> <li>▸ <i>any preconditions to the issue of the certificate required by a development consent have been met.</i></li> </ul>
	<b>Condition reason:</b> To ensure an Occupation Certificate is obtained prior to use of the building.
17	<b>Stormwater drainage</b>
	Prior to issue of an Occupation Certificate, all stormwater (i.e. roof water and/or surface water) shall be drained in accordance with <i>Australian Standard 3500.3 Plumbing and drainage</i> .
	<b>Condition reason:</b> To ensure stormwater is disposed without causing a nuisance to adjoining properties
18	<b>Sewer Main Extension</b>
	Prior to issue of an Occupation Certificate, the sewer main extension in Inverell Street to serve the lot, is to be completed in accordance with the approved engineering plans at the applicant's expense.
	<b>Condition reason:</b> To ensure sewer services the allotment.

### Occupation and ongoing use

No additional conditions have been applied to this stage of development.

### 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.

**Building work** means any physical activity involved in the erection of a building.

**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.

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