

Housing Plus
113 Byng Street
ORANGE NSW 2800

**DEVELOPMENT APPLICATION
NOTICE OF DETERMINATION**

Issued under the *Environmental Planning and Assessment Act 1979*
Sections 4.16, 4.17 & 4.18 (1)(a) and Schedule 1, Clause 20(2)

Tamworth Regional Council Development Consent No:	DA2023-0322
NSW Government Portal Application Number (PAN):	PAN-312797
Property Address:	[REDACTED] [REDACTED] Street EAST TAMWORTH NSW 2340
Description of Development:	Group Homes Comprising Eight (8) Dwellings, Community Facility & Associated Ancillary Development
Determination:	Approved – Development consent granted subject to the conditions specified in this notice and in accordance with the stamped approved plans.
Determination Date:	Thursday, 16 November 2023
Determination Authority:	Joint Regional Planning Panel (Northern Region)
Approval Authority:	Tamworth Regional Council
Consent to operate from:	Thursday, 23 November 2023
Consent to lapse on: (unless physical commencement has occurred)	Thursday, 23 November 2028

Information contained in this decision:

- Schedule 1 – Conditions of consent
- Schedule 2 – Reasons for determination and reasons for conditions
- Schedule 3 – Rights of appeal and review

SIGNED on behalf of Tamworth Regional Council


Sam Lobsey
Manager – Development

Contact: Alice Elsley on Phone (02) 6767 5507 or Email: a.elsley@tamworth.nsw.gov.au

SCHEDULE 1 – CONDITIONS OF CONSENT

General Conditions of Consent

- 1) Development shall take place in accordance with the attached endorsed plans:
 - a) Cover Sheet prepared by Housing Plus, Job No 001, Dwg No 1 of 13, Issue DA.E, Dated 27/10/2023;
 - b) General Notes prepared by Housing Plus, Job No 001, Dwg No 2 of 13, Issue DA.E, Dated 27/10/2023;
 - c) Proposed Site Plan & Sedimentation Control Plan (as amended in red) prepared by Housing Plus, Job No 001, Dwg No 4 of 13, Issue DA.E, Dated 27/10/2023;
 - d) Proposed Floor Plan prepared by Housing Plus, Job No 001, Dwg No 5 of 13, Issue DA.E, Dated 27/10/2023;
 - e) Proposed Roof Plan prepared by Housing Plus, Job No 001, Dwg No 6 of 13, Issue DA.E, Dated 27/10/2023;
 - f) Proposed Core Building prepared by Housing Plus, Job No 001, Dwg No 7 of 13, Issue DA.E, Dated 27/10/2023;
 - g) Proposed Unit 1-3 Building prepared by Housing Plus, Job No 001, Dwg No 8 of 13, Issue DA.E, Dated 27/10/2023;
 - h) Proposed Unit 4, 5 & 6 Building prepared by Housing Plus, Job No 001, Dwg No 9 of 13, Issue DA.E, Dated 27/10/2023;
 - i) Proposed Unit 7 & 8 Building prepared by Housing Plus, Job No 001, Dwg No 10 of 13, Issue DA.E, Dated 27/10/2023;
 - j) Proposed Site Elevations & External Colours prepared by Housing Plus, Job No 001, Dwg No 11 of 13, Issue DA.E, Dated 27/10/2023;
 - k) Proposed Site Sections prepared by Housing Plus, Job No 001, Dwg No 12 of 13, Issue DA.E, Dated 27/10/2023; and,
 - l) Landscape Concept, Ref No D1362, Amendment D, Dated 16/03/2023.

In the event of any inconsistency between the conditions of this approval and the drawings/documents referred to above, the conditions of consent shall prevail.

- 2) The development must be carried out in accordance with the Development Application and accompanying plans, drawings and other documents as amended by conditions of this consent. Any amendment to the development or to these conditions will require the consent of the Council.
- 3) All building work must be carried out in accordance with the provisions of the National Construction Code (NCC) and the disability (Access to Premises - Buildings) Standards 2010.
- 4) The Applicant shall consult with, as required:
 - a) Natural gas company; and
 - b) a telecommunications carrier,

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by the proposed works, either on site or on the adjacent public road(s).

- 5) Essential Energy's records indicate that there are existing overhead powerlines located across the street frontage of the property, which are affected by the proposal:
 - a) Minimum safety clearance requirements are to be maintained at all times for any proposed driveway access and/or exit (concrete crossovers), as such driveway access will pass under Essential Energy's existing overhead powerlines located at the front of the property. The driveway 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.

- b) Any proposed driveway 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.
 - c) Any excavation works in this area or works on the driveway must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
 - d) Any landscaping, tree planting, gardens in this area must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
- 6) The Applicant must make satisfactory arrangements with Essential Energy for the provision of power to the proposed development:
- 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, such as a pad mount substation and required easement/s. 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.
 - b) Minimum separation / clearances and segregation for fire risk from any substation to any building, fence, planting, retaining walls or other development must be maintained at all times. Refer to AS2067, Essential Energy's policy CEOM7098 Distribution Underground Design Construction Manual and the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure prior to any works being carried, out in this location.
- 7) The Applicant must engage the services of an Accredited Service Provider to ensure adequate provision of power is available to the proposed dwellings etc 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.

Prior to Works Commencing

- 8) The Developer must submit to Council and the Principal Certifier a copy of any Controlled Activity Approval issued by the NSW Department of Planning and Environment – Water with respect to any Controlled Activity Works, as required by the General Terms of Approval (GTAs) issued by the NSW Department of Planning and Environment – Water for this development (see **Schedule 2**).

Advisory Note: The GTAs issued by the NSW Department of Planning and Environment in Annexure 1 do not constitute a Controlled Activity Approval under the Water Management Act 2000. The development consent holder must apply to the Department for a Controlled Activity Approval after the consent has been issued by Council and before the commencement of any work or activity.

- 9) The approved development which is the subject of this development consent must not be commenced until:
- a) a Construction Certificate for the building work has been issued by the consent authority, Council (if Council is not the consent authority) or an accredited Certifier;
 - b) the person having the benefit of the development consent has:
 - i) appointed a Principal Certifier for the building work; and
 - ii) notified the Principal Certifier that the person will carry out the building work as an owner-builder, if that is the case;
 - c) the Principal Certifier has, no later than two days before the building work commences:
 - i) notified the consent authority and Council (if Council is not the consent authority) of his or her appointment; and

- ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and
 - c) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - i) appointed a Principal Contractor for the building work who must be the holder of a contractor license if any residential building work is involved;
 - ii) notified the Principal Certifier of any such appointment;
 - iii) unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and
 - iv) given at least two days notice to Council of the persons intention to commence the erection of the building.
- 10) The applicant must ensure that a sign containing the following information is erected in a prominent position and maintained on the site at all times:
- a) the name, address and telephone number of the Principal Certifier for the work; and
 - b) the name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - c) a statement that unauthorised entry to the work site is prohibited.
- The sign is to be removed when the work has been completed.
- 11) The contractors engaged on the development must maintain public liability insurance cover to the minimum value of \$20 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to Council prior to the commencement of work and upon request, during the progress of the work.
- 12) Erosion and sediment control measures that will minimise damage to and avoid pollution of the environment are required for this development. An erosion and sediment control plan (ESCP) shall be prepared in accordance with the "Blue Book" Managing Urban Stormwater – Soils and Construction (Landcom 2004). The ESCP is to be submitted to Council for approval and implemented prior to the commencement of any construction works.
- 13) A Traffic Management Plan (TMP) detailing how movements in and out of the site during the construction will be adequately managed so as not to adversely impact the safe operation of the road network shall be submitted to Council. This TMP shall consider both vehicular and pedestrian movements. Where the TMP is of a level of complexity that Traffic Guidance Scheme (TGS) are required, the TGS's shall be prepared by a person with the applicable certification from Transport for NSW (TfNSW) in accordance with AS1742.3-2009 and the TfNSW current version of the "Traffic Control at Worksites" manual.
- 14) Prior to carrying out any works, a "Dial Before You Dig" enquiry must be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW).

Prior to the release of a Construction Certificate

- 15) Pursuant to Section 306 of the *Water Management Act 2000*, Council (as the Local Water Supply Authority) requires the following payments to be made and design plans to be submitted for approval prior to the issue of a Construction Certificate:

Headworks (Additional)

Sewer – \$9,898

Advisory Note: The above headworks contributions have been adopted under the 2023/2024 Council Annual Operation Plan. Revised rates adopted in subsequent Annual Operation Plans will apply to Headworks Contributions paid in later financial years.

Sewer

Proximity of sewer main and its depth relative to location of proposed Core Building raises "Zone of Influence" issues. Council's policy on Excavating/Filling or Building Adjacent to or Over Existing Sewer Mains applies as follows;

For mains up to and including 1.5m deep

- a) Structures/foundations placed further from council's sewer main than the Zone of Influence of the main (in this case 2.0m), do not require an engineer's certificate.
- b) Structures/foundations are not to be constructed closer than 1.0m to the centreline of Council's sewer main measured horizontally from the sewer main. No piercing will be permitted within 1.0 m of sewer main.
- c) Structures/foundations placed within the Zone of Influence of Council's sewer main (in this case 1.0m to 2.0m from the centreline of the sewer main), must ensure the following;
 - i) The foundation design must ensure that no loading from the structure is to be transmitted to the main.
 - ii) The structure/foundations (including piercing) are not constructed closer than 1.0m to the centreline of Council's sewer main measured horizontally from the sewer.
 - iii) The structure will not suffer damage should the sewer trench subside or be re-excavated for maintenance.

A certificate signed by a suitably experienced qualified civil or structural engineer that the design satisfies these conditions is to be included with the design.

Advisory Note: For additional information please refer to councils Policy for "Excavating/Filling or Building Adjacent to or Over Existing Sewer Mains".

- 16) Prior to the release of the Construction Certificate, a noise management plan (NMP) must be prepared to control and reduce noise pollution during the construction stage of the development. The NMP shall detail preventative and reactive measures to reduce the impact of noise emissions, including but not limited to:
 - a) Noise barriers between construction activities and receivers
 - b) Minimising the simultaneous use of noisy plant
 - c) Implement a complaint procedure to address noise complaints in the first instance
 - d) Provide community consultation and notification for scheduled noisy activities, detailing the duration, nature of the noise and a complaint procedure
 - e) Plant shall be shut down when not in use
 - f) Signage shall be installed on all entrances to the site advising workers to minimise noise on and off site.
 - g) Provide toolbox meetings, training and education to drivers and contractors visiting the site during construction so they are aware of the location of noise sensitive receivers and to be cognisant of any noise generating activities
- 17) The developer must produce written evidence that an agreement can be put in place with Council's Water and Waste Directorate or a waste collection contractor for the collection of rubbish bins from private property prior to issue of any Construction Certificate.
- 18) Prior to the release of the Construction Certificate, a detailed Construction Management Plan must be provided to Council for approval.
- 19) An approval under Section 138 of the *Roads Act 1993* to a construct vehicle crossing for this development shall be obtained from Council. Construction plans shall be provided to Council for approval as a part of the Section 138 application.

- 20) An approval under Section 68 of the *Local Government Act 1993* to carry out stormwater, sewer and water works for this development is required to be obtained from Council.

Engineering drawings for internal water and sewer, and stormwater shall be provided to Council for approval as a part of the Section 138 application. All plans are to include details of the location of all existing utility services. All engineering drawings and the associated specifications are to be certified by a suitably qualified and experienced design practitioner.

- 21) Prior to the release of the Construction Certificate, an outdoor lighting plan must be provided to Council demonstrating compliance with AS/NZ1158 and AS4282.

During Construction or Work

General

- 22) Work on the project shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:
- a) **Monday to Friday - 7.00am to 5.00pm;**
 - b) **Saturday - 8.00am to 1.00pm if audible on other residential premises, otherwise 7.00am to 5.00pm;**

No work to be carried out on Sunday or Public Holidays if it is audible on other residential premises.

- 23) The Developer shall be responsible to instruct and control their contractors regarding the hours of work. Council will exercise its powers under the *Protection of the Environment Operations Act 1997*, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.
- 24) A site rubbish enclosure shall be provided on the site for the period of the proposed construction works.
- 25) Erosion and sediment control measures in accordance with the ESCP are to be maintained by the developer at all times.
- 26) The approved Traffic Management Plan (inclusive of any resultant Pedestrian Management Plans and the Traffic Guidance Scheme) shall be implemented and any associated barriers, signage and controls shall be maintained in a functional state at all times.
- 27) The footpath and/or road reserve shall not be used for construction purposes or placing of building materials or construction fencing without prior written approval from Council. Approval will only be considered in extreme or highly constrained circumstances.
- 28) Any damage caused to Council infrastructure in, on or under the road reserve as a result of works undertaken for the development site shall be rectified by the Developer to the satisfaction of the Council so as to ensure the integrity of Council's infrastructure.
- 29) Any spillage of materials onto Council infrastructure, as a result of delivery or handling for this development, must be removed as soon as practicable by the developer and placed into suitable receptacles for reclamation or disposal in a manner that does not cause pollution of the environment.
- 30) The Developer shall ensure that dust suppression is undertaken to ensure there is no visible dust emitted due to any works associated with the works associated with the development. This can be in the form of constant water spraying or other natural based proprietary dust suppressant, to ensure that dust caused by any vehicles moving in, out or within the development site does not cause a nuisance to surrounding properties.
- 31) Any allotment filling that may be required for the development site shall meet the requirements of AS3798 (as amended) – Guidelines on Earthworks for Commercial and Residential Developments.

Certification of the allotment filling shall be provided by a geotechnical testing authority registered under NATA.

- 32) The NMP prepared under Condition No. 16 of this consent shall be implemented to mitigate noise produced during all construction activities.

Heritage

- 33) While building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

Remediation of Contaminated Land

- 34) Remediation of the site must be completed in accordance with the Remediation Action Plan v.2 (RAP) prepared by Lachlan McWha from SLR Consulting, reference number 610.17324-R04-v2.0, dated 26 August 2019. Upon completion of the remediation, a site validation report prepared by a suitably qualified consultant must be provided to Council within thirty (30) days of its completion.
- 35) A long-term environmental management plan (EMP) shall be prepared by a suitably qualified consultant and submitted to Council for approval for the contaminated soils that will remain in-situ. The EMP is to outline routine reporting requirements to Council, where a summary report of encapsulated material at the site shall be provided to Council annually. The summary report is to be prepared by a suitably qualified consultant and must include all site inspection reports for completed routine inspections of the encapsulated soils.
- 36) In the event that any contamination (a concentration of substances above that naturally present that poses, or is likely to pose an immediate or long-term risk to human health or environment) is discovered the following actions should be taken in accordance with *State Environmental Planning Policy (Resilience and Hazards 2021 – Chapter 4 Remediation of Land*. Work must immediately cease and Council’s Environmental Health Division must be contacted to arrange an inspection.

Inspections

- 37) It is required for a Principal Certifier (PC) to be appointed to undertake all critical stage inspections as prescribed under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*. The owner may appoint either the Council or an accredited certifier to be the PC.

Traffic & Parking

- 38) The new vehicle crossover on Gladys Street shall be constructed at the location shown on the drawings provided with the Development Application and in accordance with Council’s

Advisory Note: The installation of the vehicle crossing is an approved structure in accordance with Section 138 of the Roads Act 1993. The ongoing maintenance and/or repair of the vehicle crossing is the responsibility of the adjoining owner in accordance with Section 142 of the Roads Act 1993.

- 39) The internal driveways, parking and manoeuvring areas shall be designed and constructed in accordance with the provisions of AS2890.1, AS2890.2, AS2890.6 (as amended).
- 40) All internal driveways and parking areas to be constructed with a base course of adequate depth to accommodate light truck loading, being sealed with either asphaltic concrete, concrete or interlocking pavers.
- 41) On-site parking accommodation shall be provided for a minimum of **sixteen (16)** vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Such parking must be set out generally in accordance with the details indicated on the submitted plans, except as otherwise stated by the conditions of this consent.

Stormwater

- 42) All roof water stormwater discharging from the proposed development site, buildings and works must be conveyed to the approved point of discharge by underground pipe drains complying with AS3500.3 (as amended) to the satisfaction of Council. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system
- 43) Runoff from all hardstand areas shall be captured on site and piped to the approved point of discharge in accordance with the current version of the Engineering Design Minimum Standards.
- 44) Additionally, the stormwater discharge drainage system must be constructed to comply with the following requirements as a minimum: -
 - a) All plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3 (as amended) Plumbing and Drainage – Stormwater Drainage;
 - b) Temporary down pipes shall be connected as soon as the roof has been covered so as to not cause a nuisance to adjoining properties;
 - c) All overland surface flow paths must have a practical and satisfactory destination with due consideration to erosion and sediment control during all stages of development. A system to prevent overland flows discharging onto adjoining properties shall be implemented.
 - d) Any interruption to the natural overland flow of stormwater drainage which could result in the disruption of amenity, or drainage or deterioration to any other property is not permitted.
 - e) All overflow from rainwater tanks shall be collected and piped to the approved point of discharge;
 - f) Only a single point of discharge is permitted to the approved point of discharge.
- 45) The approved point of discharge for the development site is defined as the Two-Mile Gully located on the eastern side of the development site.
- 46) Major storm overland flows from the upstream catchment shall be managed through the development site to its natural point of discharge.

Survey Work

- 47) While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the Principal Certifier:
 - a) All footings / foundations in relation to:
 - i) the site boundaries;

- ii) any registered and proposed easements; and,
 - iii) to confirm the finished floor levels are above the Flood Planning Level (386.16m AHD); and,
- b) At other stages of construction – any marks that are required by the Principal Certifier.

Prior to the release of an Occupation Certificate

- 48) All works as required by these conditions of consent shall be completed.
- 49) The applicant must enter into discussions with the Tamworth Police Crime Prevention Officer to discuss the most effective implementation of security measures throughout the premises. This must include (but not be limited) to the installation of:
- a) CCTV cameras;
 - b) Alarm systems; and
 - c) Security lighting.

Prior to the issue of an Occupation Certificate, the measures must be installed in compliance with the Tamworth Police recommendations.

- 50) An Operational Management Plan (OMP) must be developed for the day-to-day operations of the group home and to minimise any adverse effects upon neighbours. The OMP must include, but not limited to, the following:
- a) Day to Day Operations Policy;
 - b) Noise Management Plan;
 - c) Details on complaints and resolution process;
 - d) Security and safety Plan. The Plan must address the following:
 - i) All trees and shrubs must be maintained to prevent people hiding in and around the premises;
 - ii) The Tamworth Police contact number is clearly displayed and accessible for staff to use;
 - iii) The entry and alarm codes must be provided to the Tamworth Police; and,
 - iv) Reasonable measures be implemented to discourage congregation of patrons and others outside the premise at night.
 - v) Any measures agreed to during discussion with Tamworth Police, as per Condition No. 49.
 - e) An emergency response plan that addresses all types of emergencies, including but not limited to bushfire, flooding, medical and security breaches. The emergency response plan shall be prepared in consultation with the NSW Police and any other relevant agencies, and include the requirement for testing emergency response procedures.

The Operational Management Plan shall be submitted to the Manager of Development at Tamworth Regional Council for approval prior to the issue of an Occupation Certificate.

- 51) A Compliance Certificate pursuant to Section 307 of the *Water Management Act 2000* must be obtained from the Council (as the Local Water Supply Authority) prior to the issue of an Occupation Certificate. Council requires the following works to be completed pursuant to Section 306 of *Water Management Act 2000* prior to the issue of a Compliance Certificate:

Water

- a) The existing water service shall be disconnected and removed,
- b) An appropriately sized water service shall be provided to the lot from the existing DN100 water main on the Gladys Street,
- c) Works shall be undertaken in accordance with Council's Engineering Design Minimum Standards,
- d) Work on live water mains is to be undertaken by Council at full cost to developer.

Sewer

- a) The existing Sewer Junction shall be disconnected and removed,
 - b) A new sewer connection shall be provided from the sewer manhole near Two-Mile Gully,
 - c) Works shall be undertaken in accordance with Council's Engineering Design Minimum Standards,
 - d) Work on live sewer mains is to be undertaken by Council at full cost to the developer,
 - e) Existing sewer manholes in the lot shall have unobstructed access at all times.
- 52) To ensure that the required Fire Safety Measures are provided in accordance with the building's use and operating in accordance with the appropriate standards, the owner of the building must cause a copy of a Final or Interim fire safety certificate to be given to the person issuing the occupation certificate in accordance with Clause 84 of the *Environmental Planning and Assessment (Development Certification & Fire Safety) Regulation 2021* for each measure listed in the fire safety schedule. The certificate must only be in the form specified by Clause 86 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building. Email address for lodgement of Fire Safety Certificate is - firesafety@fire.nsw.gov.au
- 53) Prior to the issue of an Occupation Certificate, an Identification Survey prepared by a Registered Surveyor shall be provided to the Principal Certifier to confirm the development is sited in accordance with the approval.
- 54) Pursuant to Section 75 of the *Environmental Planning and Assessment Regulation 2021*, all commitments listed in the relevant BASIX Certificate for the development must be fulfilled at the listed milestones.

Ongoing Requirements

- 55) The approved Operational Management Plan shall be adhered to at all times.
- 56) The sealing, marking and lighting to all crossovers, vehicular parking, manoeuvring and loading areas is to be maintained at all times.
- 57) All vehicle movements (including deliveries) into and out of the development site shall be in a forward direction.
- 58) To ensure that the required parking, loading/unloading facilities and associated driveways are able to function efficiently for their intended purpose, proposed parking area, service bays, truck docks, driveways, vehicular ramps and turning areas shall be maintained clear of obstruction and be used exclusively for their intended purpose. Under no circumstances are such areas to be used for the storage of goods or waste material.
- 59) The on-site stormwater systems shall be maintained at all times so as to ensure their effective operation for their intended purpose.
- 60) The waste storage area is to be maintained in a clean and tidy manner at all times.

Advice Note(s)

Note 1: Clause 89 of the *Environmental Planning & Assessment (Development Certification & Fire Safety) Regulation 2021* requires the owner of a building to which an essential fire safety measure is applicable to maintain each essential fire safety measure as identified by virtue of a fire safety schedule, to a standard no less than that specified in the schedule inclusive of the entire building.

Note 2: Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 89 of the *Environmental Planning and Assessment (Development Certification & Fire Safety) Regulation 2021* for each measure listed in the schedule for the entire building. The statement must only be in the form specified by Clause 92 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South

Wales Fire Brigade. Email address for lodgement of Annual Fire Safety Statement - afss@fire.nsw.gov.au and a copy must also be sent to Council development@tamworth.nsw.gov.au

Note 3: At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building.

Note 4: Essential Energy's records indicate there is overhead electricity infrastructure located within close proximity of 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.

Note 5: 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 Assets.

SCHEDULE 2 – APPROVALS UNDER SECTION 4.46

The proposed development shall be carried out in accordance with the General Terms of Approval (GTAs) issued by the NSW Department of Planning and Environment – Water (reference IDAS-2023-10275 and dated 24 August 2023) and NSW Rural Fire Service (reference DA20230412001512-CL55-1 and dated 17 October 2023). The aforementioned GTAs are attached as **ANNEXURE 1** of this consent.

SCHEDULE 3 – RIGHT OF APPEAL AND REVIEW

RIGHT OF REVIEW

Division 8.2 of the *Environmental Planning and Assessment Act 1979* provides that the Applicant may request the Council to review the determination for a development consent or modification of a development consent, provided this application is not made in respect to designated or Crown development. The request must be made in writing (or on the review application form) within six (6) months after the date as specified in this notice of determination, together with payment of the appropriate fee. A determination or decision reviewed under this Division is not subject to a further review.

RIGHT OF APPEAL

If you are dissatisfied with this decision Section 8.7 of the *Environmental Planning and Assessment Act 1979* (Act) gives you the right to appeal to the Land and Environment Court. In accordance with Section 8.10 of the Act, your appeal must be made within six (6) months after the date on which you receive this notice; or, the date on which that application is taken to have been determined under Section 8.11 of the Act.

Section 8.8 of the Act does not give an objector the right of appeal against this determination notice as the development does not constitute designated development.



ANNEXURE 1 – General Terms of Approval

Department of Planning and Environment



Contact: Department of Planning and Environment-Water

Phone: 1300081047

Email: waterlicensing.servicedesk@dpie.nsw.gov.au

Our ref: IDAS-2023-10275

Your ref: DA2023-0322

24 August 2023

The General Manager
TAMWORTH REGIONAL COUNCIL
<no address on record>

Attention: Alice Elsley

Uploaded to the ePlanning Portal

Dear Sir/Madam

Re: IDAS-2023-10275 - Integrated Development Referral – General Terms of Approval
Dev Ref: DA2023-0322
Description: Construction of Group Homes Comprising Eight (8) Dwellings, Community Facility & Associated Ancillary Development
Location: [REDACTED], [REDACTED] STREET EAST TAMWORTH 2340

I refer to your recent referral regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Department of Planning and Environment-Water's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the department requests these GTA be included (in their entirety) in Council's development consent. Please also note the department requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

The Department of Planning and Environment-Water will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, the department recommends the following condition be included in the development consent:

The attached GTA issued by the Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the department for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application must be submitted to the department together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Applications for controlled activity approval should be made to the department, by lodgement of a Controlled Activity Approval – New approval application on the NSW Planning Portal at:
<https://www.planningportal.nsw.gov.au/>

The Department of Planning and Environment-Water requests that Council provide a copy of this letter to the development consent holder.

The Department of Planning and Environment-Water also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) the EPA Act.

Yours Sincerely



For
Patrick Pahlow
Team Leader
Licensing and Approvals
Department of Planning and Environment-Water



General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS-2023-10275
Issue date of GTA: 24 August 2023
Type of Approval: Controlled Activity
Location of work/activity: [REDACTED], [REDACTED] STREET EAST TAMWORTH 2340
Waterfront Land: Peel River & Two Mile Gully
DA Number: DA2023-0322
LGA: TAMWORTH REGIONAL

The GTA issued by Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the Department of Planning and Environment-Water for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
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TC-G001	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment-Water, and obtained, for a controlled activity approval under the Water Management Act 2000.
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TC-G004	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application DA2023-0322 provided by Council to Department of Planning and Environment-Water.
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B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment-Water, must be notified in writing to determine if any variations to the GTA will be required.

TC-G005	A. The application for a controlled activity approval must include the following plan(s):
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- Erosion and sediment control plans
- Construction stormwater drainage outlet plan
- Vegetation management plan

B. The plan(s) must be prepared in accordance with Department of Planning and Environment-Water's guidelines located on the website

<https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what/guidelines>



General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by Department of Planning and Environment-Water for integrated development associated with IDAS-2023-10275 as provided by Council:

Statement of environmental effects prepared by Premise dated 21 March 2023

Cover letter prepared by HousingPlus dated 20 June 2023

Letter report prepared by Statewide Bushfire Consulting dated 26 July 2023

Controlled activity approval plan prepared by Trigend dated 20 July 2023



NSW RURAL FIRE SERVICE

Tamworth Regional Council
PO Box 555
TAMWORTH NSW 2340

Your reference: (CNR-54021) DA2023-0322
Our reference: DA20230412001512-CL55-1

ATTENTION: Alice Elsley

Date: Tuesday 17 October 2023

Dear Sir/Madam,

**Integrated Development Application
s100B – SFPP – Group Home (SEPP)**

██████████ STREET EAST TAMWORTH NSW 2340, ██████████

I refer to your correspondence dated 09/10/2023 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1(a). At the commencement of works and in perpetuity, all land to boundary in the north, south and east directions and 36m to the west, shall be established and managed as an Inner Protection Area (IPA) as outlined in Appendix 4 of PBP:

- The exception is area extending to the top embankment on the southern bank of the Peel River where mapped Grassland hazard under the Bush fire prone land (BFPL) layer forms the closest assessed bush fire hazard to the site (Category 3 vegetation) which is to have an IPA setback subject to proposed Vegetation Management Plan (VMP).

When establishing and maintaining an inner protection area, the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2 m above the ground;
- tree canopies should be separated by 2 to 5 m;
- preference should be given to smooth-barked and evergreen trees;

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

- large discontinuities or gaps in the shrubs layer should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed regularly.

1(b). A positive covenant and 88b instrument is to be included over the grassland area identified in the proposed Vegetation Management Plan. The area is to be managed as required by the VMP to ensure does not alter from a grassland hazard i.e. no forest, shrub or exotic regrowth permitted.

1(c). A positive covenant and 88b restrictions is to be included to ensure dwellings are not placed within the "Asset Protection Zone" (APZ) and "Managed Land to be Maintained as Grassland".

1(d). Vegetation Riparian Zone (VRZ)- planting within the APZ include:

- Embankment Type 1 shall consist of strips of vegetation less than 20 metres in width (measured perpendicular to the elevation exposed to the strip of vegetation) regardless of length and not within 20m of the site or 2 each other, or other areas of vegetation being Category 1, 2 or 3 vegetation.
- Embankment Type 2 area shall consist of vegetation to comply with the conditions of an Inner Protection Zone (IPA) under PBP (ie – 2-5m separation between canopies and overall density within the APZ of less than 15% at maturity). Ongoing compliance with the conditions of an IPA in perpetuity is to maintained within the minimum 20m distance between the proposed plantings in Embankment Type 1 and the 2 Mile Gully excluded area.
- All plantings within the Vegetated Riparian Zone (VRZ) comply with the APZ and Landscaping conditions prescribed under PBP2019.

1(e). A Vegetation Management Plan (VMP) is to be provided detailing on how the APZ will be implemented and maintained. The management plan should include, but not be limited to:

- The mechanical means necessary to complete the management required;
- A schedule for maintenance to occur to ensure the APZ is regularly managed; and
- The relevant body responsible for maintaining the APZ.

Construction Standards

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

2. New construction must comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant requirements of the *NASH Standard - Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

Access - Internal Roads

The intent of measure is to provide safe operational access for emergency services personnel in suppressing a bush fire while residents are accessing or egressing an area.

3. Access roads for special fire protection purpose (SFPP) developments must comply with general requirements of Table 6.8b of *Planning for Bush Fire Protection 2019*:

- SFPP access roads are two-wheel drive, all-weather roads;
- access is provided to all structures;
- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- access roads must provide suitable turning areas in accordance with Appendix 3; and

- one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression

Water and Utility Services

The intent of measure is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

4. The provision of water, electricity and gas must comply with the following in accordance with Table 6.8c of *Planning for Bush Fire Protection 2019*:

- reticulated water is to be provided to the development where available;
- fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419;
- hydrants are and not located within any road carriageway;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419;
- all above-ground water service pipes are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in *ISSC3 Guideline for Managing Vegetation Near Power Lines*.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 - *The storage and handling of LP Gas*, the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal; polymer-sheathed flexible gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

Landscaping Assessment

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

5. Landscaping within the required asset protection zone must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

Emergency and Evacuation Planning Assessment

The intent of measure is to provide suitable emergency and evacuation arrangements for occupants of SFPP developments.

- A Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan and Australian Standard AS 3745:2010 Planning for emergencies in facilities. The plan must also include the following:
 - a. a mechanism for the early relocation of occupants on days when adverse fire weather is notified or adverse fire activity occurs in the local government area in which the development operates; and
 - b. contact details for the local Rural Fire Service office.
- A copy of the Bush Fire Emergency Management and Evacuation Plan must be provided to the Local Emergency Management Committee for its information prior to the occupation of the development.
- Detailed plans of all emergency assembly areas, including on-site and off-site arrangements as stated in AS 3745 'Planning for emergencies in facilities', are clearly displayed, and an annual emergency evacuation is conducted.

General Advice - Consent Authority to Note

The recommendations are based on Controlled Activity Approval VRZ Plan (21/02/23) prepared by Tricend and Bushfire report by Stephen Houghton, Statewide Bushfire Consulting 26/07/2023.

Council is advised that where a minor amendment to the above-noted documents is proposed, Council may use its discretion to determine whether the minor amendment warrants further assessment by the NSW RFS.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 30/05/2023.

For any queries regarding this correspondence, please contact Khatera Tokhi on 1300 NSW RFS.

Yours sincerely,

Timothy Carroll
Manager Planning & Environment Services
Built & Natural Environment



NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

SFPP – Group Home (SEPP)

██████████ STREET EAST TAMWORTH NSW 2340, ██████████

RFS Reference: DA20230412001512-CL55-1

Your Reference: (CNR-54021) DA2023-0322

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority DA20230412001512-Original-1 issued on 30/05/2023 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

Timothy Carroll

Manager Planning & Environment Services
Built & Natural Environment

Tuesday 17 October 2023