

NOTICE TO APPLICANT OF DETERMINATION OF AN AMENDED DEVELOPMENT APPLICATION

Issued under the Environmental Planning & Assessment Act, 1979 Section 81(1)(a)

TO: **Local Government Engineering Service**
OF: **17 Byron Street Street
Inverell NSW 2360**

being the applicant in respect of **Application No DA-51/2015/A**

Notice is hereby given of the determination by Council of **Application No. DA-51/2015/A** relating to the land owned by **Inverprop Pty Ltd, of P O Box 644, Armidale NSW 2350** and is described as follows:

**Lot 1 DP 222198, Lot 2 DP 222198
53-61 Byron Street, INVERELL 2360**

The development proposal is: **Construction of Shop Top Housing (42 8 Apartments) and Alterations/Additions to Vivian Street Shopfront**

The determination is amended in accordance with s.96(1A) of the Environmental Planning and Assessment Act 1979 on 3 August 2018.

This consent expires five (5) years from **1 July 2015** in accordance with Section 83 of the Environmental Planning and Assessment Act 1979 unless the work to which it relates has physically commenced on site within that period. Where the approval relates to a use of the land rather than to the carrying out of works then that use must have commenced on site within that five year period.

The conditions of consent are set out as follows:

Preliminary

1. Inverell Shire Council issues its consent, subject to conditions stated hereunder, in accordance with Section 80A of the *Environmental Planning and Assessment Act 1979*.

Consent is granted for the re-development of the second level of 53 Bryon Street including:

- Shop Top Housing,
- Associated car parking,
- Redevelopment of Vivian street entrance,
- Alterations/additions to façade of the building, and
- Alterations to the roof structure.

To confirm and clarify the terms of consent, the development must be carried out in accordance with the modified stamped and approved plans and accompanying documentation, unless modified by any following condition. Any deviation will require the consent of Council.

2. The applicant must comply with all relevant prescribed conditions as contained in Division 8A of the *Environmental Planning & Assessment Regulation 2000* (as detailed at the end of this consent).
3. Access and facilities are to be provided for the disabled in accordance with the requirements of the *Building Code of Australia*.

4. Each residential unit is to be connected to:
 - Council's water supply;
 - Council's sewer system;
 - Electricity; and
 - Telephone.
5. The fence and security gate adjoining Otho Lane and Vivian Street is to be "open style pool" fencing.
6. The existing windows above the above the awning in Byron and Vivian Street are not be replaced with aluminium windows. The existing windows are to be retained, or if replaced, they are to be replaced with timber framed double hung windows with the same frame/glass detail/sizes to match existing.

Prior to Construction

7. Prior to the commencement of any building works on the site a Construction Certificate must be issued in accordance with Section 109C (1)(b) and 81A (2) of the *Environmental Planning and Assessment Act 1979*. The application for a Construction Certificate, made to Council or an Accredited Certifier, must include plans and specifications demonstrating full compliance with the *Building Code of Australia* and associated standards.
8. Prior to the issue of a Construction Certificate, detailed and scale engineering plans must be submitted to and approved by Council for the car parking design.

The design is to include the details of disabled parking, turning circles, pavement treatment, carport, access crossings and kerb treatment.
9. Prior to the issue of a Construction Certificate, details of the proposed awning including dimensions, materials, colours and footings are to be submitted to and approved by Council.
10. Prior to the issue of a Construction Certificate, approval under Section 68 of the Local Government Act 1993 is to be obtained to:
 - Carry out water supply work
 - Carry out sewerage work; and
 - Carry out stormwater drainage work.
11. Prior to the issue of a issue of a Construction Certificate, a detailed sewer layout plan showing the drainage of the units and connection to Council's sewer system, is to be submitted to and approved by Council.
12. Prior to the issue of a Construction Certificate, contributions/fees must be paid to Council for water supply and water connections to each unit. This will require payment to Council of:
 - Contributions under Council's Development Servicing Plan No. 1; and
 - Water connection fees in accordance with Council's fees and charges.
13. Prior to the issue of a Construction Certificate, contributions/fees must be paid to Council for sewer supply and sewer connections. This will require payment to Council of:
 - Contributions under Council's Development Servicing Plan No. 1; and
 - Sewer junction fees in accordance with Council's fees and charges.
14. Prior to the issue of a Construction Certificate, a Section 94 Contribution of \$115.00, towards Community Services, is to be paid to Council for each unit. ~~(12 units). The total contribution payable to Council will be \$1,380.00.~~

15. Prior to the issue of a Construction Certificate, approval under Section 138 of the Roads Act 1993 is to be obtained for:
 - The awning over Vivian Street; and
 - ~~The Juliet balconies over Otho Lane; and~~
 - Any other works in the road reserve.

16. Prior to the issue of a Construction Certificate, a construction management plan is to be submitted to and approved by Council. This plan must address impacts on surrounding businesses (within and outside the site) including but not limited to:
 - Hours and days of construction;
 - Noise and vibration;
 - Access, parking, loading and unloading;
 - Storage areas; and
 - Pedestrian management.

17. A Heritage Interpretation Strategy must be incorporated into the façade. Prior to issue of a Construction Certificate, a concept Heritage Interpretation Strategy must be submitted to and approved by Council.

During Construction

18. All works are to be undertaken in accordance with the approved construction management plan.

19. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:
 - 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;
 - 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;
 - 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;
 - Sediment and erosion control measures are to be implemented onsite and maintained until the site is fully stabilised, in accordance with Council's Erosion and Sedimentation Control Policy 2004; and
 - 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.

20. For the duration of any work on site, the builder must maintain a copy of the specification, stamped approved plans, copy of Development Consent and Construction Certificate on site.

21. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one (1) toilet plus one (1) additional toilet for every 20 persons employed at the site. Each toilet must:
 - be a standard flushing toilet connected to a public sewer; or
 - have an on-site effluent disposal system approved under the *Local Government Act 1993*; or

- be a temporary chemical closet approved under the *Local Government Act 1993*.
22. A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:
- could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
 - could cause damage to adjoining lands by falling objects, or
 - involve the enclosure of a public place or part of a public place.

The placement of a hoarding fence on Council land requires approval under Section 138 of the Roads Act 1993.

23. Any new electrical wiring is to be located 1m above the 1991 flood level or be designed for continuous submergence in water.
24. To the maximum extent possible, all heating and cooling systems are to be located 1m above the 1991 flood level.
25. All sewer connections to the building(s) are to be fitted with reflux valves to prevent backflow of sewage in a flood event.
26. Measures are to be installed to protect the street furniture in road reserve from damage. These measures are to be maintained during the construction period.

Prior to Occupation

27. Prior to occupation of the premises, an Occupation Certificate must be issued in accordance with Section 109M of the *Environmental Planning and Assessment Act 1979*.

Note: Prior to issue of the Occupation Certificate, the Principal Certifying Authority is required to be satisfied, amongst other things, that:

- all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
 - any preconditions to the issue of the certificate required by a development consent have been met.
28. Prior to issue of an Occupation Certificate a flood emergency plan is to be prepared and submitted to Council. This plan must address emergency evacuation during a flood event.
29. Prior to issue of an Occupation Certificate, the owner of the building must provide Council with a fire safety certificate (in the form attached) with respect to each fire safety or other safety measures installed in the building.
30. Prior to the issue of an Occupation Certificate the car park is to be completed in accordance with the approved engineering plans, at the applicant's expense.
31. Prior to issue of an Occupation Certificate, electricity and telephone is to be provided to each residential unit, to the requirements of the relevant service provider, at the applicant's expense.
32. Prior to issue of an Occupation Certificate, water and sewer are to be connected to each residential unit.
33. Prior to issue of an Occupation Certificate, the awning over Vivian Street and Juliet balconies ~~over Otho Lane are~~ is to be completed in accordance with the approval under Section 138 of the Roads Act 1993.

34. Prior to the issue of an Occupation Certificate, the awning is to be completed in accordance with the approval under Section 138 of the Roads Act 1993.
35. Prior to the issue of an Occupation Certificate, the applicant will:
 - repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
 - relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.
36. Prior to issue of an Occupation Certificate all landscaping and fencing is to be completed as per the approved plan(s).
37. Prior to the issue of an Occupation Certificate, the development must be accessible in compliance with the requirements of the Disability (Access to Premises – Building) Standards and Building Code of Australia.

Note: Compliance with the Disability (Access to Premises – Buildings) Standards 2010 does not cover all aspects of discrimination covered by the Act.
38. Prior to issue of an Occupation Certificate, the approved Heritage Interpretation Strategy must be completed.

Ongoing Use

39. The security gates must be kept continually open during daylight hours.
40. All landscaping is to be maintained in perpetuity in a reasonable manner.
41. All car parking and vehicle movement areas are to be maintained in perpetuity in a reasonable manner.
42. The owner is required to have Public Risk Insurance in relation to the awning over Vivian Street ~~and the Juliet balconies over Othe Lane~~. The policy is to note Council as an interested party.
43. The owner of the building must certify to Inverell Shire Council every year that the essential fire safety measures installed in the building have been inspected and are capable of operating to the required minimum standard.
44. Any graffiti or vandalism is to be removed / repaired immediately, at the owner's expense.
45. The noise level emanating from any air-conditioning systems must not exceed the background level by more than 5dB(a) when measured at the worst affected property not associated with the development.

If you are dissatisfied with this decision section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice. You are also advised that section 82A of the *Environmental Planning and Assessment Act 1979* provides that you may apply to Council for a review of this decision subject to the limitations contained in that section and payment of the prescribed fee.

On behalf of Inverell Shire Council



CHRIS FALEY
DEVELOPMENT PLANNER
DATE : 3 August 2018

Annexure

Prescribed Conditions Summary

As per condition 2 of this consent, the following matters prescribed under Division 8A of the *Environmental Planning & Assessment Regulation 2000* must be complied with, where relevant:

1. All work must be carried out in accordance with the requirements of the *Building Code of Australia*.
1. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
2. Prior to commencement of building work, subdivision work or demolition work a sign must be erected in a prominent position on the site. The sign must:
 - show the name, address and telephone number of the principal certifying authority for the work;
 - show 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
 - state that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.

3. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - in the case of work for which a principal contractor is required to be appointed:
 - the name and licence number of the principal contractor; and
 - the name of the insurer by which the work is insured under Part 6 of that Act; and
 - in the case of work to be done by an owner-builder:
 - the name of the owner-builder; and
 - if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified as required above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

4. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of this consent, must at the person's own expense:
 - protect and support the building, structure or work from possible damage from the excavation; and
 - where necessary, underpin the building, structure or work to prevent any such damage.