

## **NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION**

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

TO: **Mr John David Williams**  
OF: **1 Kuna Avenue  
Inverell NSW 2360**

being the applicant in respect of **Application No DA-89/2018**

Notice is hereby given of the determination by Council of **Application No. DA-89/2018** relating to the land owned by **A & C G Lee Pty Ltd, of PO Box 47, Salamander Bay NSW 2317** and is described as follows:

**Lot 1 DP 83672  
53 Vivian Street, INVERELL 2360**

The development proposal is: **New Commercial Building**

The Determination is **consent granted subject to conditions described below** made on **24 August 2018**.

This consent expires five (5) years from the date on which it commences to operate 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 construction of a commercial building; and
- The use of the building as a shop, in 1 or 2 tenancies.

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

2. The 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. In the event that the building is divided into separate tenancies, any separate water and sewer services required for the tenancies, will be subject to payments of costs and/or contributions in accordance with Council's current fees and charges.

### ***Prior to Construction***

5. Prior to the commencement of any works (including earthworks) 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 shall include plans and specifications demonstrating full compliance with the *Building Code of Australia* and associated standards.

6. Prior to issue of a Construction Certificate, detailed engineering design for the car park for Lot 1 DP 83672, Lot 1 DP 194349 and Lot 2 DP 194349 is to be submitted to and approved by Council. This plan should include:
  - Bitumen sealing of the car park.
  - Widening of the layback in Otho Lane by 4 metres to cater for a service vehicle;
  - 1 metre clearances and bollards at the entrances to each building;
  - Delete (or modification) of car park 10 to provide circulation around the car park; and
  - The pedestrian and shared zone can be combined to provide greater circulation for Parking Space 26.
7. Prior to issue of a Construction Certificate, details of the location and method of flood protection measures, certified by an engineer, is to be submitted to and approved by Council. Flood protection measures are to be installed to protect the building, to a level of 585.61 AHD (500mm above the 1991 flood level).
8. Prior to issue of a Construction Certificate, a detailed stormwater drainage plan is to be submitted to and approved by Council.
9. Prior to issue of a Construction Certificate, plans of the works in Vivian Street is to be submitted to and approved by Council. These works must include capping the existing layback in Vivian Street and reinstating the footpath.
10. The awning on the front of the building must match the height (above ground) and dimensions (width, depth, etc.) of the awning on 51 Vivian Street. Prior to issue of a Construction Certificate, revised plans and structural engineering showing the revised awning are to be submitted to and approved by Council.
11. Prior to issue of a Construction Certificate, details and a plan of the signage for the customer entrance at the rear of the building is to be submitted to and approved by Council. This requires:
  - A 'Parking at Rear' sign installed on the front of the building; and
  - A clear signage / delineation of the customer entrance at the rear.
12. Prior to issue of a Construction Certificate, a Section 94 Car Parking Contribution of \$3,035.00 is to be paid to Council for the shortfall of one (1) parking space.
13. Prior to issue of a Construction Certificate, approval under Section 138 of the *Roads Act 1993* is to be obtained for:
  - The works in Vivian Street;
  - The awning over Vivian Street footpath; and
  - Works within Otho Lane.
14. Prior to issue of a Construction Certificate, approval is to be obtained under the *Local Government Act 1993* for:
  - Storm water drainage works;
  - Water supply work; and
  - Sewerage work.
15. Prior to issue of a Construction Certificate, a dilapidation report is to be prepared by a practising structural engineer at full cost to the proponent. It must detail the structural adequacy of adjoining properties, including Council's property (such as the Vivian Street footpath), and their ability to withstand the proposed site works. Any damage not shown in the dilapidation report submitted to Council before site works commenced, will be assumed to have

been caused as a result of the site works undertaken and must be rectified at the proponent's expense.

### ***During Construction***

16. 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;
  - Construction may only be carried out between 7.00am and 5.00pm, Monday to Saturday, and no construction is to be carried out at any time on a Sunday or Public Holiday. Council may consent to vary these hours in particular circumstances where it can be demonstrated that it is unavoidable;
  - 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.
17. A report by a registered surveyor is required to certify that the floor level of the building is at the required 584.9 AHD level. This report is to be submitted to Council prior to the work proceeding past floor level.
18. Electrical wiring is to be located 1m above the 1991 flood level or be designed for continuous submergence in water.
19. All sewer connections to the building(s) are to be fitted with reflux valves to prevent backflow of sewage in a flood event.
20. To the maximum extent possible, all heating and cooling systems are to be located 1m above the 1991 flood level.
21. All fill imported to the site must meet the criteria of 'Virgin Excavated Natural Material' as defined by the *Protection of the Environment Operations Act 1997*.

### ***Prior to Occupation***

22. 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.

23. Prior to issue of an Occupation Certificate, where applicable, the following works are to be completed:
  - All adjacent public and private land must be cleared of obstructions such as stockpiles of topsoil, building material, waste and other material associated with construction.
  - The applicant will repair/restore, or pay the full costs associated with repairing/restoring:
    - any footpath, public reserve and infrastructure that is damaged by the development; and
    - Any damage to adjoining properties that is damaged during construction of the development.
  - Any unused layback in the kerb and gutter is to be capped to Council's satisfaction.
  - Sediment and erosion control measures, which are no longer required, are to be removed including any silt/sediment in gutters and/or drains.
24. Prior to issue of an Occupation Certificate, the Right of Carriageway over the car park, loading area and driveways is to be registered at the Lands Titles Office.

The Right of Carriageway must benefit/burden (as required) Lot 1 DP 83672, Lot 1 DP 194349 and Lot 2 DP 194349.

Council must be a beneficiary of the ROW or alternatively, the authority to revoke or modify the Right of Carriageway must be vested in Council.
25. Prior to issue of an Occupation Certificate, the car park on Lot 1 DP 83672, Lot 1 DP 194349 and Lot 2 DP 194349 is to be bitumen sealed and line marked in accordance with the approved engineering plans.
26. Prior to issue of an Occupation Certificate, the capping or the layback and reinstatement of the footpath in Vivian Street is to be completed in accordance with the approved plans and approval granted under Section 138 of the Roads Act 1993.
27. Prior to issue of an Occupation Certificate, the awning in Vivian Street is to be constructed in accordance with the approved revised awning drawings and approval granted under Section 138 of the *Roads Act 1993*.
28. Prior to issue of an Occupation Certificate, all stormwater is to be drained in accordance with the approved engineering drawings.
29. Prior to issue of an Occupation Certificate, the 'Parking at Rear' sign on the front of the building and the customer entrance at the rear of the building must be completed in accordance with the approved plans.
30. Prior to occupation of the premises, the owner of the building must provide Council with a fire safety certificate with respect to each fire safety or other safety measures installed in the building.
31. Prior to issue of an Occupation Certificate, flood protection measures are to be installed in accordance with the approved details.
32. Prior to issue of an Occupation Certificate, a flood emergency plan is to be prepared and submitted to Council.

#### ***Ongoing Use***

33. The shop must not be used for the sale of food/drink, liquor or firearms without separate consent from Council.

34. The hours of operation are limited to 7.00 am to 10.00 pm Monday to Saturday and 7.00 am to 8.00 pm on a Sunday or a public holiday.
35. The 'Parking at Rear' sign on the front of the building and the customer entrance at the rear of the building must be maintained in perpetuity.
36. All car parking and vehicle movement areas (subject to the ROW) for Lot 1 DP 83672, Lot 1 DP 194349 and Lot 2 DP 194349 are to be maintained in perpetuity in a reasonable manner.
37. A fence is not permitted to be erected along the rear boundary of Lot 1 DP 83672, Lot 1 DP 194349 and Lot 2 DP 194349.
38. At no time may goods for sale, display or storage be placed on the public road, public footpath, service land, parking area and driveways, public or private pedestrian walkways, outside the site without the prior consent of Council.
39. Portable signs, commonly described as sandwich boards and the like, must not be placed on the footpath of other public areas without the prior approval of Council.
40. Separate approval must be obtained from Council prior to the installation of any signs, other than signs which may be installed as 'Exempt Development' in accordance with *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
41. Loading and unloading must not be undertaken directly from Otho Lane.
42. Delivery vehicles accessing the site must not exceed an 8.8m medium rigid service vehicle.
43. All new external lighting must:
  - comply with AS 4282–1997 *Control of the obtrusive effects of outdoor lighting*; and
  - be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.
44. All waste and recycling bins must be suitably located and screened so they are not visible from the car park, pedestrian areas or public land.
45. 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.
46. 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.
47. Service equipment (air conditioning, satellite dishes, etc.) must not be located on the Vivian Street elevation of the building.

### **Reasons for Approval**

1. The development, subject to conditions, is consistent with the objectives of the B2 Local Centre zone.
2. The built form and design of the building, subject to conditions is consistent with the streetscape.
3. In consideration of heritage and flood controls of the Inverell Development Control Plan 2013, the development is considered appropriate within the low hazard flood fringe and CBD heritage conservation areas.

## **Community Consultation**

Neighbour notification was undertaken in accordance with the *Inverell Development Control Plan 2013*. No submissions were received.

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



**ANTHONY ALLISTON**  
**MANAGER DEVELOPMENT SERVICES**  
**DATE : 24 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*.
2. 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.
3. 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.

4. 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.

5. 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.