

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

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

TO: **Mr Opat Thivakon**  
OF: **17 Fernhill Road**  
**Inverell NSW 2360**

being the applicant in respect of **Application No DA-150/2018**

Notice is hereby given of the determination by Council of **Application No. DA-150/2018** relating to the land owned by **Mr Opat Thivakon and Mrs Chareonsri Thivakon, of 17 Fernhill Road, Inverell NSW 2360** and is described as follows:

**Lot 21 DP 1126017, Lot 22 DP 1126017**  
**166 Otho Street, INVERELL 2360**

The development proposal is: **Proposed Redevelopment of Existing Masonic Hall**

The Determination is **consent granted subject to conditions described below** made on **20 February 2019**.

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 redevelopment of the Masonic Lodge:

- Alterations, additions and associated works to create two separate tenancies; and
- Change of use – One "Shop" within the left hand facing tenancy; One "Food and Drink Premises" within the right hand facing tenancy.

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).

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

3. 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.

4. Prior to issue of a Construction Certificate rear car park design drawings are to be submitted to and approved by Council. The design must include:
  - the new central location of the 6m wide layback off Otho Lane;
  - details on how the electricity pole guy wire will be augmented to allow access to the proposed carpark in the new location; and
  - surface treatment (bitumen sealed or concrete).
5. Prior to the issue of a Construction Certificate a site stormwater drainage plan must be submitted to and approved by Council. The drainage plan is to address the car park drainage and any potential inter allotment drainage issues.
6. Prior to issue of a Construction Certificate, approval under Section 68 of the *Local Government Act 1993* is to be obtained from Council for the discharge of liquid trade waste to Council's sewer system.

#### ***During Construction***

7. 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.
8. The handrail on the new front entrance ramp must be simple in form and design.
9. The Masonic symbols and dates located on the façade parapets must be retained but they can be painted in the surrounding wall colour if preferred.
10. Any original building fabric that is to be removed during construction, such as but not limited to doors and hardware, are to be stored off site in a secure environment in the event that they are to be reinstated or required for the building in the future.
11. The construction and operation of the food premises must comply with all applicable legislation/regulation and standards including:
  - *The Food Act 2003*;
  - *Food Regulation 2004*;
  - *Food Standards Australia and New Zealand – Food Standards Code 2001*;

- *Relevant Australian Standards for Design, Construction and Fit out of Food Premises; and*
  - *Mechanical ventilation – Australian Standard 1668.2-2002 The use of ventilation and airconditioning in buildings - Ventilation design for indoor air contaminant control.*
12. Any new electrical wiring is to be located 1m above the 1991 flood level or be designed for continuous submergence in water.

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

13. 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.
14. 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.
  - 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.
15. Prior to issue of an Occupation Certificate, all stormwater (i.e. roof water and/or surface water) shall be drained in accordance with *Australian Standard 3500.3 Plumbing and drainage* and the approved drainage plan.
16. Prior to issue of an Occupation Certificate, the trade waste system is to be installed and operational in accordance with the approval under Section 68 of the *Local Government Act 1993*.
17. Prior to issue of an Occupation Certificate, all sewer connections to the building are to be fitted with reflux valves to prevent backflow of sewage in a flood event.
18. Prior to issue of an Occupation Certificate, the rear car park is to be completed and the on-site parking spaces are to be clearly delineated on-site in accordance with the approved plans.
19. 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. In addition, 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.
20. Prior to issue of an Occupation Certificate the premises must be inspected by Council's Environmental Health Officer to ensure compliance with applicable food regulations.

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

21. To protect the heritage significance of the no signage is to be attached to the building. Any future signage for the premises tenancies should be located on a single, simply designed

directory board at the front of the property and off centre to the building entrance. This structure will be subject to separate approval from Council.

22. 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.
23. Both tenancies must not be operated outside the following hours:
  - 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,
24. The use of amplified music is only permitted between the hours of 8.00am to 6.00pm.
25. The cooking of food at the premises must not be by barbecue or charcoal methods.
26. All loading, unloading and storage of goods must be carried out within the confines of the property.
27. All vehicles must enter and leave the site in a forward direction.
28. At no time may any 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, or outside the site without the prior consent of Council.
29. The operating noise level of the plant and equipment shall not exceed 5dB above the background noise level when measured at the boundaries of the premises. *(To ensure the protection of the amenity of occupants of the subject site and surrounding properties.)*
30. All car parking and vehicle movement areas are to be maintained in perpetuity in a reasonable manner.
31. The Masonic symbols and dates located on the façade parapets must be retained but they can be painted in the surrounding wall colour if preferred.

#### **Reasons for Conditions:**

The above conditions have been imposed:

1. To ensure compliance with the terms of the applicable environmental planning instruments.
2. Having regard to Council's duties of consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, as well as Section 80A which authorizes the imposing of the consent conditions.

#### **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 alterations and additions, subject to conditions is consistent with the streetscape, the building form and function and other development in the locality.
3. The reactivation of the vacant heritage item is a positive outcome for the premises and diversity of commercial premises in the Inverell CBD.
4. In consideration of flood, heritage and commercial controls of the *Inverell Development Control Plan 2013*, the development is considered appropriate within the Town Center Core Area and locality.

### **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



**CHRIS FALEY**  
**DEVELOPMENT PLANNER**  
**DATE : 18 February 2019**

## 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.