

**NOTICE TO APPLICANT OF DETERMINATION
OF AN AMENDED DEVELOPMENT APPLICATION**

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

TO: **Devlin Enterprises Pty Ltd**
OF: **43 Otho Street**
Inverell NSW 2360

being the applicant in respect of **Application No DA-49/2018/A**

Notice is hereby given of the determination by Council of **Application No. DA-49/2018/A** relating to the land owned by **Proprietor of SP 31821, of 43 Otho Street, Inverell NSW 2360** and is described as follows:

SP31821 (1/735563)
43 Otho Street, INVERELL 2360

The development proposal is:

**Additional Use of Building for Takeaway Food and Drink, Signage, Shopfront Alterations,
Removal of Rear Sheds and Installation of Rear Fence**

The determination is amended in accordance with s.96(1A) of the Environmental Planning and Assessment Act 1979 on 10 April 2019.

This consent expires five (5) years from **23 May 2018** 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:

- Relocation of the hairdressers from Lot 2 to Lot 1 in SP31821;
- Takeaway coffee sales in addition to the retail use of Lot 2 in SP 31821; and
- Shop front alterations, signage, demolition of the outbuildings and installation of a security fence on SP31821.

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. To allow the free flow of flood water, fence panels are to be designed with hinge points at the bottom corners and lockable supports at their top corners where exposed within the floodway to allow them to be lowered in the event of a flood.

Conditions relating to demolition

4. All demolition work is to be carried out in accordance with *Australian Standard 2601 The demolition of structures*.
5. At all times during demolition a competent person shall directly supervise work. It is the responsibility of the person to ensure that:
 - The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work;
 - Precautions are to be taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained particularly in the event of sudden and severe weather changes; and
 - The site shall be sealed off at all times against the unauthorised entry of persons or vehicles.
6. If necessary, all utilities are to be disconnected from the site and capped to the satisfaction of the relevant authority.

Conditions relating to the takeaway coffee use

7. 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*.
8. ~~The takeaway coffee use is restricted to the preparation and service of takeaway coffee and the sale of food that has been prepared offsite. The staff kitchen is not to be used for the preparation of food for sale.~~
9. ~~If food preparation at the site is proposed, or~~ If the takeaway coffee use is to be expanded to a café on the site, a new development application will be required. The application must include a food premises fit-out plan and specifications detailing compliance with the relevant standards.
10. Prior to occupation of the sidewalk with tables associated with the takeaway coffee use an Application to Operate a Sidewalk Café and fee must be submitted to and approved by Council.
11. 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.
12. The takeaway coffee and food use must operate in accordance with any relevant Trade Waste approval issued under Section 68 of the Local Government Act 1993.

Conditions relating to the hairdresser use in Lot 1 SP 31821

13. Prior to the relocation of the "Babs Lorraine" sign from Lot 2 to Lot 1 SP 31821, the signs dimensions and a photo indicating the new location of the sign must be submitted to Council.
14. The relocation and shop fit-out of the existing hairdressers to the adjoining tenancy in SP 31821 must be undertaken in accordance with the relevant standards. The fit-out must be inspected by Council officers prior to occupation.

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 : 10 April 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*.
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.