

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

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

TO: **New England Surveying & Engineering**  
OF: **PO Box 656**  
**Armidale NSW 2350**

being the applicant in respect of **Application No DA-65/2019**

Notice is hereby given of the determination by Council of **Application No. DA-65/2019** relating to the land owned by **Alifous Pty Limited, of 39 Braund Street, Armidale NSW 2350** and is described as follows:

**Lot 1 DP 523984, Lot 2 DP 523984**  
**24 Church Street, GILGAI 2360**

The development proposal is: **Four (4) Lot Subdivision**

The Determination is **consent granted subject to conditions described below** made on **28 August 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 a two (2) into four (4) lot subdivision.

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. Lots may be released together or individually in separate stages subject to the satisfactory completion of the conditions of consent applicable to the relevant allotment(s).
3. 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).

### **DURING SUBDIVISION WORKS**

4. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the carrying out of subdivision works:
  - 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.

#### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

5. A Subdivision Certificate must be obtained from Council in accordance with Section 109C (1)(d) of the Environmental Planning and Assessment Act 1979. The applicant must submit a completed Subdivision Certificate application form (with applicable fee), four (4) copies of the survey plan, two (2) copies of any 88b instrument and documentary evidence demonstrating compliance with the conditions of this development consent.
6. Prior to issue of a Subdivision Certificate, the existing carport is to be removed and the proposed cantilevered carport constructed on proposed Lot 101. The new cantilevered carport is to be same dimensions and in the same location as the removed carport.
7. Prior to the issue of a Subdivision Certificate, electricity and telecommunications services are to be provided to all lots. The proponent is required to submit to Council, certificates from:
  - An approved electricity service provider indicating that satisfactory arrangements have been made for the provision of electricity to each lot in the subdivision.
  - An approved telecommunications service provider indicating that satisfactory arrangements have been made for the provision of telecommunications to each lot in the subdivision.

*Note: Subject to the requirements of the electricity service provider, the power supply for proposed Lot 101 will need to be relocated.*

8. Prior to issue of a Subdivision Certificate, inter-allotment drainage is to be provided along the common boundaries of the four (4) proposed lots.

Prior to construction of this inter-allotment drainage, plans of the inter-allotment drainage, prepared by a suitably qualified engineer, are to be submitted to and approved by Council. These plans are to show piped and surface drainage paths, including kerbs as necessary beneath fences, to direct drainage to Church Street.

9. Prior to the issue of a Subdivision Certificate, contributions/fees must be paid to Council for sewer supply to proposed Lots 102, 103 and 104. This will require payment to Council of:
  - A Contribution under Council's Development Servicing Plan No. 1 for 1 equivalent tenement, for proposed Lots 102, 103 and 104; and
  - A sewer junction fee in accordance with Council's fees and charges for proposed Lot

103.

*Note: Existing sewer junctions will serve proposed Lots 101, 102 and 104.*

10. Prior to the issue of a Subdivision Certificate, contributions/fees must be paid to Council for water supply to proposed Lots 101, 103 and 104. This will require payment to Council of:
- A Contribution per lot under Council's Development Servicing Plan No. 1 for 1 equivalent tenement, for proposed Lots 101, 103 and 104; and
  - A water connection fee in accordance with Council's fees and charges for Lots 101, 103 and 104.

*Note: The existing water service is to be retained for proposed Lot 102.*

11. Prior to the issue of a Subdivision Certificate, a Community Services Contribution per lot must be paid to Council pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 for Lots 102 and 103.
12. Prior to issue of a Subdivision Certificate, a concrete access crossing is to be constructed from the kerb in Church Street to the boundary of Lots 101 and 104. The location of the access is to be in accordance with the approved plan. Prior to the commencement of this work the applicant is required to:
- Apply to Council for approval under Section 138 of the Roads Act 1993 to install a paved vehicular access across the footpath (a copy of the application form is enclosed); and
  - Contact Council for footpath levels so that the driveway can be constructed to provide vehicle access onto the site.

The installation of the vehicular access crossing must be carried out under the supervision of Council and the applicant must give Council two (2) working days' notice to inspect the formwork prior to pouring any concrete.

All work is to be completed to the standard approved by Council, at the applicant's expense.

13. Prior to issue of a Subdivision Certificate, the access handles for Lots 101 and 104 are to be:
- Concreted 3 metres wide; and
  - Incorporate a landscaping strip 500mm wide, being located:
    - On the northern side of the concrete access for proposed Lot 101; and
    - On the southern side of the concrete access for proposed Lot 104.
- A minimum 50% of the landscaping is to comprise plant species with a full growth height of at least 1.5 metres.

Prior to construction of the access handles, plans nominating the concrete and landscaping details are to be submitted and approved by Council.

All landscaping is to be maintained in a reasonable manner, in perpetuity.

#### **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 4.15 of the *Environmental Planning and Assessment Act 1979*, as well as Section 80A which authorizes the imposing of

the consent conditions.

3. Having regard to the circumstances of the case and the public interest.

### **Reasons for Approval**

1. The site is zoned RU5 Village and no minimum lot size for subdivision is specified within the *Inverell Local Environmental Plan 2012* for RU5 Village zoned land in Gilgai. All essential services are available (water, sewer, electricity, access and stormwater drainage). Accordingly, the proposed subdivision is fully compliant with the *Inverell Local Environmental Plan 2012*.
2. The development has been assessed against the *Inverell Development Control Plan 2013* and is considered to be generally compliant with the acceptable solutions. Whilst proposed Lot is less than the recommended size, it has sufficient area for a typical dwelling.
3. The proposed subdivision caters for building envelopes, setbacks and open space compliant with Council controls. The lots are capable of co-existing in harmony with the broader village.

### **Community Consultation**

Two submissions were received in response to the neighbour notification of DA-65/2019. These submissions were considered a part of the assessment of DA-65/2019, at Council's Civil and Environmental Services Committee.

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 : 29 August 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.