

NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION

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

TO: **Mr Joshua Joseph O'Brien and Ms Rachel Yvonne Lamb**
OF: **301 Fernhill Road**
Inverell NSW 2360

being the applicant in respect of **Application No DA-73/2019**

Notice is hereby given of the determination by Council of **Application No. DA-73/2019** relating to the land owned by **Mr Joshua Joseph O'Brien and Ms Rachel Yvonne Lamb, of 301 Fernhill Road, Inverell NSW 2360** and is described as follows:

Lot 4 DP 1153104
301 Fernhill Road, INVERELL 2360

The development proposal is: **Use of unauthorised alterations and additions to shed**
Change of use of the shed to a dwelling, resulting in a dual occupancy (detached)
Alterations and additions to the dwelling, including installation of privacy screen

The Determination is **consent granted subject to conditions described below** made on **11 October 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:

- Use of un-authorised alterations and additions to shed; and
- Change of use of the shed to a dwelling, resulting in a dual occupancy (detached); and
- Alterations and additions to the dwelling, including installation of privacy screen.

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. The landscaping and privacy screens must be maintained in a reasonable manner, in perpetuity.
4. The proposed shade sail must not extend above the gutter line of the proposed dwelling.

PRIOR TO CONSTRUCTION

5. Prior to the commencement of any building works on the site (shade sail, privacy screen, internal works, etc.) 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.

PRIOR TO OCCUPATION OF THE SHED AS A DWELLING

6. Prior to occupation of the shed as a dwelling, 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.

7. Prior to issue of an Occupation Certificate, a Building Information Certificate pursuant to Division 6.7 of the Environmental Planning and Assessment Act 1979 must be obtained for the proposed dwelling, to confirm that the completed unauthorised works are to an acceptable standard.
8. Prior to issue of an Occupation Certificate, the kitchen and bathroom in the proposed dwelling must be connected to an on-site sewage management system approved under Section 68 of the Local Government Act 1993.

Note: Separate application will need to be made to obtain approval under Section 68 of the Local Government Act 1993.

9. Prior to issue of an Occupation Certificate, all landscaping is to be completed in accordance with the approved plans.
10. Prior to issue of an Occupation Certificate, the premise (310 Fernhill Road) will need the main electrical switch replaced with a load limiting circuit breaker sized to the original premise load approval.

Note: Any additional load over this limit will need to be approved via an Application for Connection through Essential Energy's web portal before connection of that additional load.

11. Prior to issue of an Occupation Certificate, the applicant must obtain a Certificate of Compliance of Electrical Work (CCEW) from a licenced electrical contractor ensuring compliance with the Australian Standard AS/NZS 3000 2018 for the proposed dwelling.
12. Prior to the issue of an Occupation Certificate, the following contributions must be paid to Council pursuant to Section 7.11 (previously Section 94) of the Environmental Planning and Assessment Act 1979:
 - General Rural Roads; and
 - Community Services.
13. Prior to issue of an Occupation Certificate, a hard wired smoke alarm is to be installed within the proposed dwelling.
14. Prior to issue of an Occupation Certificate, laundry facilities are to be installed within the proposed dwelling in accordance with the Building Code of Australia.

15. Prior to issue of an Occupation Certificate, all stormwater shall be drained in accordance with Australian Standard 3500.3 Plumbing and drainage.
16. Prior to issue of an Occupation Certificate a privacy screen must be installed. This privacy screen must:
 - Comprise a 2100mm high colorbond fence (woodland grey or similar), topped with a 300mm high lattice screen, for a total privacy screen height of 2400mm;
 - Be located on the boundary between 291 and 301 Fernhill Road; and
 - Have an approximate length of 20 metres, measured from the gates/tanks on 291 Fernhill Road to a distance (approximately two fence panels) north of the cubby house on 291 Fernhill Road.

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

Reasons for Approval

1. The site is zoned R5 Large Lot Residential under the *Inverell Local Environmental Plan 2012*. The change of use from a shed to a dwelling will result in a 'dual occupancy (detached)', which is permissible with consent in the R5 Large Lot Residential zone.
2. There are no Building Code of Australia issues, which would preclude issuing of development consent.
3. The development can incorporate privacy screens and landscaping to adequately protect the privacy and amenity of the adjoining 291 Fernhill Road.
4. The site is considered suitable for the proposed dual occupancy, and the development is not considered to significantly affect the amenity of adjoining properties.

Community Consultation

Two submissions were received in response to the neighbour notification of DA-73/2019. These submissions were considered a part of the assessment of DA-73/2019, 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 : 11 October 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.