

NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION

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

TO: **Danbuilt Pty Ltd**
OF: **PO Box 616**
Inverell NSW 2360

being the applicant in respect of **Application No DA-106/2019**

Notice is hereby given of the determination by Council of **Application No. DA-106/2019** relating to the land owned by **Mr Heath William Cox and Mrs Kristie Maree Cox, of 55 Clive Street, Inverell NSW 2360** and is described as follows:

Lot 30 DP 1154940
14 Stainfield Drive, INVERELL 2360

The development proposal is: **Earthworks & Retaining Wall**

The Determination is **consent granted subject to conditions described below** made on **22 November 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:

1. ***Preliminary***

Inverell Shire Council issues its consent, subject to conditions stated hereunder, in accordance with Section 4.17 of the *Environmental Planning and Assessment Act 1979*.

Consent is granted for earthworks and a retaining wall.

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 location of the retaining wall must be as per the approved architectural site plan by Precise Design, subject to:
 - Council being provided with the consent of the owners of 12 Stainfield Drive, prior to the commencement of works, for the location of drainage 'ag' line' within their property; or
 - If the consent of the owners of 12 Stainfield Drive is not provided, the retaining wall and drainage line being located entirely within the boundaries of the development site.

During Construction

4. Prior to commencement of works the common boundary between the development site (14 Stainfield Drive) and the adjoining property (12 Stainfield Drive) must be clearly marked by a

Registered Surveyor.

5. 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.
6. For the purposes of section 4.17(11) of the Environmental Planning and Assessment Act 1979 it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (a) protect and support the building, structure or work from possible damage from the excavation, and
 - (b) where necessary, underpin the building, structure or work to prevent any such damage.
- If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:
- (a) all excavation or disturbance of the area must stop immediately, and
 - (b) the person making the discovery must advise the Chief Executive (within the meaning of the *National Parks and Wildlife Act 1974*) of the discovery in accordance with section 89A of that Act.
6. 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.

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 development, subject to conditions, is consistent with the objectives of the R1 General Residential zone.
2. The proposed earthworks and retaining wall are considered to comply with Clause 6.1 of the *Inverell Local Environmental Plan 2012* and will facilitate the further residential development of the site.
3. The proposed earthworks are not considered to adversely impact the amenity of the area and any future residential development is considered to be able to achieve compliance with the *Inverell Development Control Plan 2013*.

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 : 22 November 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.