

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

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

TO: **Mr Mark Stephen Atack and Mrs Julie Dulcie Atack**  
OF: **23 Home Ridge Terrace  
Port Macquarie NSW 2444**

being the applicant in respect of **Application No DA-108/2019**

Notice is hereby given of the determination by Council of **Application No. DA-108/2019** relating to the land owned by **Mr Mark Stephen Atack and Mrs Julie Dulcie Atack, of 23 Home Ridge Terrace, Port Macquarie NSW 2444** and is described as follows:

**Lot 4 DP 1124721  
6E Brewery Street, INVERELL 2360**

The development proposal is: **Use of unauthorised alterations and additions to the existing dwelling and studio/garage.  
Change of use of the studio/garage approved under DA-140/2012/A into a dwelling-house, resulting in a dual occupancy (detached).**

The Determination is **consent granted subject to conditions described below** made on **25 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:

***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 unauthorised alterations and additions to the existing dwelling and studio/garage; and
- Change of use of the studio/garage approved under DA-140/2012/A into a dwelling-house, resulting in a dual occupancy (detached).

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 Occupation of the Studio/Garage as a Dwelling-House***

3. Prior to occupation of the studio/garage 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.*
4. 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 dwelling, to confirm that the completed unauthorised works are to an acceptable standard.
  5. Prior to the issue of an Occupation Certificate, the following contributions must be paid to Council pursuant to Council's Development Servicing Plan No. 1 for the new dwelling (formerly studio/garage):
    - A Water Contribution based on 0.6 Equivalent Tenements; and
    - A Sewer Contribution based on 0.75 Equivalent Tenements.

*Note: The two dwellings are to utilise the existing services. In the event that the dwellings are subdivided onto separate allotments, separate connections and payment of additional water and sewer contributions may be required..*

6. Prior to issue of an Occupation Certificate, a hard wired smoke alarm is to be installed within the new dwelling (formerly studio/garage).
7. Prior to issue of an Occupation Certificate, laundry facilities are to be installed within the new dwelling (formerly studio/garage) in accordance with the Building Code of Australia.
8. All commitments of the approved BASIX Certificate are to be fulfilled prior to occupation of the dwelling. Certification that the requirements have been completed in accordance with the Certificate is to be submitted to Council by the owner/builder prior to occupation of the building.

#### **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. In consideration of residential controls of the Inverell Development Control Plan 2013, the development is considered appropriate within the area and not considered to adversely affect the amenity of adjoining land.
3. There are no Building Code of Australia issues, which would preclude issuing of development consent.

### **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 : 25 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.