

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

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

TO: **Mr Brett William Tomlinson**
OF: **122 Roseneath Lane**
Inverell NSW 2360

being the applicant in respect of **Application No DA-139/2019**

Notice is hereby given of the determination by Council of **Application No. DA-139/2019** relating to the land owned by **Mr Brett William Tomlinson and Ms Emilie Cate Jorgensen and Mr Gary Bruce Cracknell and Mrs Wendy Cracknell, of 122 Roseneath Lane, Inverell NSW 2360** and is described as follows:

Lot 1 DP 745239
61-67 Otho Street, INVERELL 2360

The development proposal is: **Alterations/Additions to Oxford Hotel**

The Determination is **consent granted subject to conditions described below** made on **16 March 2020**.

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 4.17 of the *Environmental Planning and Assessment Act 1979*.

Consent is granted for alterations and additions to the Oxford Hotel.

To confirm and clarify the terms of consent, the development must be carried out in accordance with the stamped and approved plans prepared by Abode Building Design, Project Title 'Proposed Alteration 61-67 Otho St Inverell Lot 1 DP 745239', Drawing Number '190401B' dated 03/03/2020 (being revision b) Further Information for DA), unless modified by any following condition.

Any deviation will require the consent of Council.

2. Demolition of the window and front façade to reinstate the original carriageway must not be undertaken until a Construction Certificate has been issued for the development inclusive of the proposed disabled access ramp.
3. No changes (including fittings, size or shape) must be undertaken to the restaurant windows of the front façade without the prior approval of Council.
4. 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).

Conditions Relating to Demolition Works

5. All waste materials (including excavation, demolition, construction and vegetation waste materials) must be managed on the site and then disposed of at a waste management facility.

Within 14 days of completion of demolition, copies of receipts stating the following must be given to Council:

- The place to which waste materials were transported;
- The name of the contractor transporting the materials; and
- The quantity of materials transported off-site and recycled or disposed of.

6. Any demolition work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.

The owner must provide Council with a copy of a signed contract with such a person before any development pursuant to this development consent commences.

Any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered.

If the contract indicates that bonded asbestos material or friable asbestos material will be removed to a specified landfill site, the owner must give Council a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

7. All demolition work is to be carried out in accordance with *Australian Standard 2601 The demolition of structures*.

8. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:

- Demolition works 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 demolition works shall not interfere with the quiet enjoyment of the surrounding neighbourhood;
- Demolition 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;
- Operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken on the building block. The pollutants from building operations shall be contained on site; and
- 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.

9. 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.

Prior to Commencement of Building Works

10. Prior to the commencement of any building works (including earthworks) on the site 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 shall include plans and specifications demonstrating full compliance with the *Building Code of Australia* and associated standards.
11. Prior to issue of a Construction Certificate, a dilapidation report is to be prepared by a practicing structural engineer at full cost to the applicant and submitted to Council. The dilapidation report must detail:
 - The structural adequacy of the adjoining property Lot 1 DP 82586, 69-71 Otho Street, Inverell (St Elmo Chambers); and
 - The ability of the adjoining property (St Elmo Chambers) to withstand the proposed excavation for footings and construction of the masonry wall/fence along the south-eastern boundary of the site.

Any damage not shown in the dilapidation report submitted to Council before site works commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense.

12. Prior to issue of a Construction Certificate, approval is to be obtained under the *Local Government Act 1993* for water supply work, sewerage works and stormwater drainage work. The application/s for these approvals must be accompanied by:
 - Detailed stormwater drainage plans; and
 - A hydraulic plan for water and sewer within the building.
13. Prior to issue of a Construction Certificate, a plan detailing the temporary fencing/hoarding and pedestrian management requirements for the Otho Street footpath must be submitted to and approved by Council under Section 138 of the *Roads Act 1993*.

During Building Works

14. Prior to construction of the masonry wall/fence along the south-eastern boundary of the site, a survey report is required to ensure that the proposed development is located on the correct allotment and at the approved distance from the boundary. The survey report is to be prepared by a registered land surveyor and be provided to the Principal Certifying Authority. This report is to be verified:
 - by the pegging of the site prior to the commencement of work; and
 - on completion of footings.
15. 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.
16. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of this consent, must at their own expense:
- Protect and support the adjoining premises from possible damage from the excavation, and
 - Where necessary, underpin the adjoining premises to prevent any such damage.

Prior to Occupation of the Building

17. Prior to occupation of the premises, 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.
18. Prior to issue of an Occupation Certificate, 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; and/or
 - Any damage to Lot 1 DP 82586, 69-71 Otho Street, Inverell (St Elmo Chambers) not shown in the dilapidation report submitted to Council.
19. Prior to issue of an Occupation Certificate, all water supply work, sewerage works and stormwater drainage work is to be completed in accordance with the approval under Section 68 of the Local Government Act 19993.
20. Prior to issue of Occupation Certificate, a Flood Emergency Plan for the premises must be submitted to, and approved, by Council
21. Prior to issue of an Occupation Certificate, the owner of the building shall furnish to the Principal Certifying Authority a final/interim Fire Safety Certificate with respect to each essential fire safety measure for the building to which the Certificate relates. The Certificate shall state that each essential fire safety measure has been assessed by a properly qualified person and that each essential fire safety measure was found, when it was assessed, to be capable of performing to the required standard
22. Prior to the issue of an Occupation Certificate the development must be accessible in compliance with the requirements of the Disability (Access to Premises - Buildings) Standards and Building Code of Australia.

Note: Compliance with the Disability (Access to Premises – Buildings) Standards 2010 does not cover all aspects of discrimination covered by the Disability Discrimination Act.

Ongoing Use

23. The owner of the building must certify to Inverell Shire Council every year that the essential fire safety measures installed in the building have been inspected and are capable of operating to the required minimum standard.
24. Air conditioning units, solar hot water systems, satellite dishes and the like must not be visible from the Otho Street public domain.

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 B2 Local Centre zone.
2. The works will improve the functionality and accessibility of the Oxford Hotel and is considered to have a positive social and economic impact for the building and the Inverell CBD.
3. The development will reinstate the original carriageway of the Oxford Hotel and is not considered to adversely impact the heritage significance of the Oxford Hotel or the Inverell CBD Heritage Conservation Area.
4. In consideration of commercial, parking, flood and heritage controls of the Inverell Development Control Plan 2013, the development is considered appropriate for the site and the locality.

Community Consultation

Neighbour notification was undertaken in accordance with the Inverell Community Participation Plan. 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 SERVICES COORDINATOR
DATE : 16 March 2020

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.