

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

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

TO: **John Green Pty Ltd**  
OF: **26B Vivian Street**  
**Inverell NSW 2360**

being the applicant in respect of **Application No DA-27/2020**

Notice is hereby given of the determination by Council of **Application No. DA-27/2020** relating to the land described as follows:

**Lot 3 DP 1257677, 2 Max Place, INVERELL 2360**  
**Lot 5 DP 1257677, 4 Max Place, INVERELL 2360**

The development proposal is: **Subdivision and Semi-Detached Dwellings (Duplex)**

The Determination is **consent granted subject to conditions described below** made on **8 May 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:

- Subdivision of 2 Max Place;
- Construction of Semi-Detached Dwellings (Duplex) on 2 Max Place; and
- Construction of a retaining wall on 4 Max Place.

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. Separate water and sewer connections are to be provided to each unit/lot.
3. The units shall be numbered as follows:
  - 1/2 Max Place being Unit A shown on plan; and
  - 2/2 Max Place being Unit B shown on plan.
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).

### **Prior to Construction**

5. Prior to the commencement of any 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.
6. Prior to the issue of a Construction Certificate, contributions/fees must be paid to Council for water supply and water connections for Unit B. This will require payment to Council of:
  - A single Contribution under Council's Development Servicing Plan No. 1 for 0.6 equivalent tenement; and
  - A single water connection fee in accordance with Council's fees and charges.

*Note: The existing water service will serve Unit A.*

7. Prior to the issue of a Construction Certificate, contributions/fees must be paid to Council for sewer supply for Unit B. This will require payment to Council of:
  - A single Contribution under Council's Development Servicing Plan No. 1 for 1 equivalent tenement; and
  - A sewer junction fee in accordance with Council's fees and charges.

*Note 1: As agreed with Simon Green on 28 April 2020, for Unit B Council will provide a riser on the existing sewer main with an inlet pipe into the property at 1m below ground level.*

*Note 2: The existing sewer junction will serve Unit A.*

8. Prior to the issue of a Construction Certificate, a single contribution must be paid to Council pursuant to Section 7.11 (previously Section 94) of the *Environmental Planning and Assessment Act 1979* for Community Services.

### **During Construction**

9. 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.

### **Prior to Occupation**

10. 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.
11. Prior to issue of an Occupation Certificate, where applicable, the following works are to be completed:
- All adjacent public and private land must be cleared of obstructions such as stockpiles of topsoil, building material, waste and other material associated with construction.
  - 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.
  - Any unused layback in the kerb and gutter is to be capped to Council's satisfaction.
  - Sediment and erosion control measures, which are no longer required, are to be removed including any silt/sediment in gutters and/or drains.
12. Prior to issue of an Occupation Certificate, each dwelling is to be individually numbered and the number displayed in 100mm numerals on each dwelling and associated mailbox. The street number is to be displayed in 150mm numerals adjacent to the mailboxes.
13. Prior to issue of an Occupation Certificate, the following stormwater drainage works are to be completed in accordance with the approved plans and *Australian Standard 3500.3 Plumbing and drainage*:
- Inter-allotment drainage being a 150mm high concrete kerb is to be constructed along the eastern boundary of Lot 3 DP 1257677; and
  - All roofwater and/or tank overflows are to be discharged to the kerb and gutter in Max Place.
14. Prior to issue of an Occupation Certificate, the access crossing and driveways must be concreted in accordance with Council's 'ACCESS CROSSING ACROSS FOOTPATHS FOR RESIDENTIAL PREMISES (CONCRETE) SPECIFICATIONS' and include the following:
- The provision of key jointing 600mm either side of the water main;
  - Driveway levels to be constructed as per plan and be flush with the existing sewer maintenance hole lid; and
  - The existing sewer maintenance hole lid is to be upgraded to a Class D trafficable lid at applicants expense.

### **Subdivision Conditions**

15. 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.
16. Prior to issue of a Subdivision Certificate, an Occupation Certificate must be issued for each dwelling.

### ***Retaining Wall Conditions – 4 Max Place***

17. The retaining wall must be located to ensure that the wall, footing and drainage are located wholly within Lot 5 DP 1257677, 4 Max Place, Inverell.
18. Inter-allotment drainage in the form of an extra block on the retaining wall or 1m wide x 100mm deep grass swale drain on the top side of the retaining wall along the eastern boundary is to be constructed and maintained to direct surface run-off to the existing stormwater easement at the rear of the block.
19. The owner of Lot 5 DP 1257677, 4 Max Place, Inverell is responsible for maintaining the retaining wall and associated drainage 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 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 subdivision complies with the provisions of Clause 4.1D of the *Inverell Local Environmental Plan 2012*.
3. The built form and design of the semi-detached dwellings is consistent with the streetscape and locality.
4. The development is consistent with the subdivision and residential controls of the Inverell Development Control Plan 2013.
5. The development has been designed to minimize impacts associated with earthworks and stormwater.

#### **Community Consultation**

Neighbour notification was undertaken in accordance with the Inverell Community Participation Plan. One submission was received (not an objection), which was considered during the assessment process.

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**

## **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.