

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

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

TO: **Mr Bradley James Tindall and Mrs Tracey Jane Tindall**  
OF: **55 Fernhill Road  
Inverell NSW 2360**

being the applicant in respect of **Application No DA-54/2020**

Notice is hereby given of the determination by Council of **Application No. DA-54/2020** relating to the land described as follows:

**Lot 2 DP 1261930 – Yetman Road, INVERELL 2360  
Lot 3 DP 1261930 – Bolands Lane, INVERELL 2360**

The development proposal is: **Subdivision**

The Determination is **consent granted subject to conditions described below** made on **17 June 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 80A of the Environmental Planning and Assessment Act 1979.

Consent is granted for a subdivision.

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. Lots may be released together or individually in separate stages subject to the satisfactory completion of the conditions of consent applicable to the relevant allotment(s).
3. The 'Public Road Variable Width' nominated on the plan is not supported. A Right of Access Variable Width benefitting Lot 106 and 107 is to be created.
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 COMMENCEMENT OF ANY SUBDIVISION WORK**

5. Prior to the commencement of any subdivision works, including earthworks, a Subdivision Works Certificate must be obtained.

6. Prior to issue of a Subdivision Works Certificate, detailed engineering survey and design must be submitted to and approved by Council for:
- The shared access crossing off Yetman Road to serve proposed Lots 105, 106 and 107. The shared access crossing is to:
    - Be bitumen sealed;
    - Include drainage structures where necessary;
    - Be designed in accordance with Austroads Guidelines; and
    - Include a layby to be used as a school bus stop / mail service shelter / garbage bin collection point.
  - The access handle of proposed Lot 105, which is to be bitumen sealed 4 metres wide on 6 metre gravel pavement, from the Yetman Road boundary to 20 metres past the western boundary of proposed Lot 106;
  - Site drainage and erosion/sediment controls measures for the access handle; and
  - Water service connection (to cross Yetman Road) for proposed Lot 105.

#### **DURING SUBDIVISION WORKS**

7. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the carrying out of subdivision works:
- 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 ISSUE OF SUBDIVISION CERTIFICATE**

8. 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.
9. Prior to the issue of a Subdivision Certificate, electricity and telecommunications services are to be provided to proposed Lots 104, 105, 106 and 107. The proponent is required to submit to Council, certificates from:

- An approved electricity service provider indicating that satisfactory arrangements have been made for the provision of electricity to proposed Lots 104, 105, 106 and 107.
  - An approved telecommunications service provider indicating that satisfactory arrangements have been made for the provision of telecommunications to proposed Lots 104, 105, 106 and 107.
10. Prior to the issue of a Subdivision Certificate, contributions/fees must be paid to Council for water supply to proposed Lots 104, 105, 106 and 107 (4 lots). This will require payment to Council of:
- A Contribution per lot under Council's Development Servicing Plan No. 1 for 1 equivalent tenement (total 4 equivalent tenements); and
  - A water connection fee in accordance with Council's fees and charges.

*Note: The water connection for Lot 104, 106 and 107 will be provided in Gillespies Lane. The water connection for Lot 105 will be provided from Yetman Road and be subject to engineering survey and design.*

11. Prior to the issue of a Subdivision Certificate, contributions for proposed Lots 105, 106 and 107 (3 lots) must be paid to Council pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979*:
- General Rural Roads; and
  - Community Services.
12. Prior to issue of a Subdivision Certificate, the shared access crossing and access handle for proposed Lots 105, 106 and 107 must be constructed in accordance with the approved engineering survey and design.
13. Prior to issue of a Subdivision Certificate, a 'Restriction as to User' under Section 88b of the *Conveyancing Act 1919* is to clearly state:
- No access to proposed Lot 106 or proposed Lot 107 may be taken from Gillespies Lane; and
  - Any new dwelling on proposed Lots 104, 105, 106 and 107 is to be serviced by an aerated waste water treatment system or similar system approved by the NSW Department of Health.

#### **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 R5 Large Lot Residential zone.
2. The proposed lots comply with the minimum lot size provisions of the Inverell Local Environmental Plan 2012.
3. In consideration of the subdivision controls of the Inverell Development Control Plan 2013, the proposed subdivision is considered to be consistent with the rural residential 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 : 17 June 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.