

NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

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

TO: **Mr Athol Henry Caine**
OF: **'Backwood'**
Nullamanna NSW 2360

being the applicant in respect of **Application No DA-90/2020**

Notice is hereby given of the determination by Council of **Application No. DA-90/2020** relating to the land owned by **Mr Athol Henry Caine, of 'Backwood', Nullamanna NSW 2360** and is described as follows:

Lot 21 DP 750126
1021 Nullamanna Road, NULLAMANNA 2360

The development proposal is: **Private Cemetery**

The Determination is **consent granted subject to conditions described below** made on **30 August 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 a private cemetery.

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 the First Burial

3. Prior to the first burial, a plan of the cemetery clearly specifying boundary dimension and an indicative burial layout is to be submitted to and approved by Council.
4. The existence of a cemetery is to be designated on the land title as a permanent record. A copy of the amended title or planning instrument is to be registered and provided to Council for its records prior to use of the site as a private burial ground.
5. A Restriction as to User on the land pursuant to Section 88B of the Conveyancing Act, or a Dealing, is to be registered and copy provided to Council for its records prior to use of the site as a private burial ground. This is to include the following:

- i. Provision for public access from a public road reserve to the cemetery. This may be provided by a right of way or easement, minimum 20 metres wide, to permit required access for maintenance of the site, access by the general public or the exhumation of the remains should that be required, in perpetuity.
 - ii. Include the following or similar wording:
"Within the area shown so burdened on the attached plan, a grave site is located and no construction or excavation is permitted without prior written consent of the Council."
6. The cemetery must be permanently and suitably fenced prior to use to delineate the boundaries of the site and to secure the location.
7. An open dish drain or contour is to be installed above the cemetery to collect and divert all waters around the designated cemetery site.

Conditions Relating to All Burials

8. A burial permit is required to be submitted to Council for approval, prior to any burial taking place.
9. A cemetery authority must maintain a register of all burials carried out at the cemetery. A record must be kept and made immediately after a burial has been carried out. Each entry must include the following:
 - the name, age and last address of the person whose body or remains have been buried;
 - the date of the person's death;
 - the date of the burial;
 - the section and allotment where the burial has been made;
 - the name of the person (if any) who continues to hold any right of burial in that allotment; and
 - the name of the funeral director who transported the body to the cemetery.
10. A plan or map showing the position of the burial allotments within that cemetery must be prepared and kept with the register at all times with a copy being sent to Council immediately after each burial.
11. All burials undertaken are to comply with the *Public Health Regulation 2012* and Guidance on Burying a Body on Private Land (or subsequent revisions) issued by NSW Health. A copy of this guidance is included with this consent.
12. Bodies are not to be buried unless they have first been placed in a coffin and the lid securely sealed.
 A person who buries a body contained in a coffin must place the coffin so that its upper surface is not less than 900 millimetres below the natural surface level of the soil where it is buried.
13. Each grave must be permanently marked with details of the deceased and the boundaries of the grave excavation should also be permanently marked.
14. No above ground burial chambers may be installed within the cemetery.

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 RU1 Primary Production zone.
2. Subject to conditions, the development will comply with *Guidance on Burying a Body on Private Land - Public Health Regulation 2012* issued by NSW Health.

Community Consultation

As per the Inverell Community Participation Plan the development was considered to be a minor development with minimal environmental impact and notification was not necessary.

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 : 30 August 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.