

## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

*Approval Issued under Section 4.18(1)(a) of the Environmental Planning and Assessment Act 1979*

<b>Application No.</b>	<b>DA-174/2021</b>
<b>Applicant</b>	Fyfe Pty Ltd
<b>Land to be developed</b>	Lot 2 DP 1129003, Lot 4 DP 1138793, Lot 34 DP 753646, Lot 38 DP 753646, Lot 52 DP 753649 114 Tienga Road, BUNDARRA 2359
<b>Approved development</b>	Boundary Adjustment between Lot 52 DP 753649 and Lot 4 DP 1138793
<b>Building Code of Australia Classification</b>	Not Applicable
<b>Determination</b>	The determination is <b>consent granted subject to conditions.</b>
<b>Determination date</b>	1 November 2021
<b>Consent is to operate from</b>	1 November 2021
<b>Consent will lapse on</b>	1 November 2026 Unless the work or use to which this consent relates has lawfully commenced on-site in accordance with Section 4.53 of Environmental Planning and Assessment Act 1979.

### CONDITIONS OF CONSENT

#### *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 boundary adjustment between Lot 52 DP 753649 and Lot 4 DP 1138793.

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*.

#### *Prior to issue of a Subdivision Certificate*

3. The location of the Private Cemetery on proposed Lot 1 must be clearly identified and shown on the plan of subdivision. A Restriction on the Use of Land must be created over the Private Cemetery, which states:

- "Within the area shown so burdened on the attached plan a grave site is located and no construction or excavation is permitted without the prior written consent of Council; and
- Any future burials must be contained to the identified cemetery area, be notified to Council and be undertaken in accordance with *Guidance on Burying a Body on Private Land - Public Health Regulation 2012* published by NSW Health (or any updated guidelines at the date of burial).

4. A Right of Carriageway must be created over Lot 2 to provide access to Lot 1. The terms of the Right of Carriageway must permit access to:

- The owners of Lot 1; and
- Any relative of the person/s interred within the Private Cemetery.

The right of carriageway to proposed Lot 1 must incorporate the existing all-weather access over Tienga Creek.

5. A Restriction on the Use of Land must be created that clearly states that "no dwelling is permitted to be constructed on Lot 1".
6. Prior to issue of a Subdivision Certificate, the boundaries of the Private Cemetery (as shown on the plan of subdivision) must be suitably fenced and the existing grave permanently marked (e.g. plaque) with the details of the deceased.

### **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 4.15 of the *Environmental Planning and Assessment Act 1979*, as well as Section 4.17 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 complies with Clause 4.2C of the Guyra LEP 2012
2. The purpose of the boundary adjustment is to retain the existing Private Cemetery within the same family ownership. Subject to conditions of consent, this Private Cemetery is compliant with *Guidance on Burying a Body on Private Land - Public Health Regulation 2012* published 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.

### **RIGHT OF APPEAL**

If you are dissatisfied with this decision, Division 8.3 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 Division 8.2 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**