

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

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

Application Number	DA-56/2023
Applicant	Mr Gregory Ian Cannon
Land to be developed	Lot 1 DP 65656 36 Oliver Street, Inverell NSW 2360
Approved development	Use for specialised retail premises, signage and fitout
Building Code of Australia Classification	Class 6
Determination	The determination is consent granted subject to conditions.
Determination date	19 June 2023
Consent is to operate from	19 June 2023
Consent will lapse on	19 June 2028

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 change of use (bus storage to specialised retail premises), fit-out and signage.

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 Part 4, Division 2 of the *Environmental Planning & Assessment Regulation 2021*.

Prior to Construction

3. Prior to the commencement of any works (including earthworks) on the site a Construction Certificate must be issued in accordance with 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.
4. In accordance with the *Inverell Development Control Plan 2013*, the development has a deficit of two (2) car parking spaces. Prior to the issue of a Construction Certificate, a car parking contribution of \$3,035 per space (total \$6,070) is to be paid to Council pursuant to Section 7.11 (formerly Section 94) of the *Environmental Planning and Assessment Act 1979*.

5. Prior to issue of a Construction Certificate, approval under Section 68 of the *Local Government Act 1993* is to be obtained from Council for the discharge of liquid trade waste from the "D.I.Y Dog Wash" to Council's sewer system.
6. Prior to issue of a Construction Certificate, approval under Section 138 of the *Roads Act 1993* is to be obtained for:
 - Demolition of the existing access crossing in Oliver Street and reinstatement of the footpath;
 - Construction of the new access crossing in Oliver Street; and
 - Construction of the new layback and access off Byron Lane.

During Construction

7. 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; 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

8. An Occupation Certificate must be issued in accordance with 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.*
9. Prior to issue of an Occupation Certificate, the six (6) on-site car parking spaces and associated pedestrian areas are to be line marked on-site in accordance with the approved plans and relevant Construction Certificate.

10. Prior to issue of an Occupation Certificate, the following works are to be completed in accordance with the Section 138 approval:
 - Demolition of the existing access crossing in Oliver Street and reinstatement of the footpath;
 - Construction of the new access crossing in Oliver Street; and
 - Construction of the new layback and access off Byron Lane.
11. Prior to issue of an Occupation Certificate, any required pre-treatment devices for the "D.I.Y Dog Wash" are to be installed in accordance with the approval under Section 68 of the *Local Government Act 1993*.
12. Prior to issue of an Occupation Certificate a flood emergency plan is to be prepared and submitted to Council for the premises.
13. Prior to an Occupation Certificate being issued the owner of the building shall furnish to the Accredited Certifier 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.

Ongoing Use

14. The hours of operation are limited:
 - Monday to Friday – 9.00am to 5.30pm;
 - Saturday – 9.00am to 5.00pm; and
 - Sunday – 10.00am to 4.00pm.
15. The three (3) parking spaces at the rear of the building must remain accessible to staff during opening hours. These parking spaces must not be used for the storage, loading/unloading or other means that restricts access for staff parking.
16. All loading, unloading and storage of goods must be carried out within the confines of the property.
17. At no time may any goods for sale, display or storage be placed on the public road, public footpath, service land, parking area and driveways, public or private pedestrian walkways, or outside the site without the prior consent of Council.
18. Portable signs, commonly described as sandwich boards and the like, must not be placed on the footpath of other public areas without the prior approval of Council.
19. All vehicles must exit the site in a forward direction.
20. Any external lighting must:
 - Comply with AS/NZS 4282:2019, Control of the obtrusive effects of outdoor lighting, and
 - Be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.
21. The noise level emanating from any air-conditioning systems, plant and/or equipment must not exceed the background level by more than 5dB(a) when measured at the worst affected property not associated with the development.
22. 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.

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, subject to conditions, is consistent with the objectives of the E2 Commercial Centre zone.
2. The proposed development is consistent with Council's Employment Lands Strategy 2011 and the "Town Centre Core Area" identified under Chapter 4 of the Inverell Development Control Plan 2013.
3. Subject to payment of contributions for the shortfall of two (2) on-site parking spaces, the proposed development is considered to be consistent with the parking and traffic controls of the Inverell Development Control Plan 2013.
4. The proposed development does not increase the floor area of the existing building and is not considered to have an adverse impact on flood matters.

COMMUNITY CONSULTATION

Neighbour notification was undertaken in accordance with the Inverell Community Participation Plan. No submissions were received.

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