

## NOTICE OF MODIFICATION TO DETERMINATION OF A DEVELOPMENT APPLICATION

Issued under Clause 122 of the *Environmental Planning and Assessment Regulation 2000*.

<b>Application No.</b>	DA-138/2021/A
<b>Applicant</b>	John Green Pty Ltd
<b>Land to be developed</b>	Lot 41 DP 1262135 79 Mather Street, Inverell NSW 2360
<b>Approved development</b>	Attached Duplex and Subdivision
<b>Building Code of Australia Classification</b>	Class 1a
<b>Determination</b>	The determination is amended in accordance with Section 4.55 of the <i>Environmental Planning and Assessment Act 1979</i> .
<b>Original date of determination</b>	18 October 2021
<b>Modification determination date</b>	7 November 2023
<b>Consent will lapse on</b>	18 October 2026
	Unless the work or use to which this consent relates has lawfully commenced on-site in accordance with Section 4.53 of <i>Environmental Planning and Assessment Act 1979</i> .

### 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:

- Construction of a Duplex; and
- Subdivision.

Amended consent (DA-138/2021) is granted for the inclusion of stairs within the rear retaining wall.

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*.
3. No vehicle access is to be permitted off Onus Avenue.

*Note: Landscaping has been undertaken along Onus Avenue at the rear of the lot as a condition of approval on Parklands Estate. The owner of Lot 41 DP 1232135 is responsible for maintaining this landscaping.*

4. Separate water and sewer services are to be provided to each unit/lot.
5. The units shall be numbered as follows:
  - 79A Mather Street, being Unit A shown on plan; and
  - 79B Mather Street, being Unit B shown on plan.

#### ***Prior to Construction***

6. 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.
7. Prior to the issue of a Construction Certificate, contributions/fees must be paid to Council for water supply and water connection one additional dwelling. 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.
8. Prior to the issue of a Construction Certificate, contributions/fees must be paid to Council for sewer supply for one additional dwelling. This will require payment to Council of:
  - A single Contribution under Council's Development Servicing Plan No. 1 for 1 equivalent tenement; and
  - A single sewer junction fee in accordance with Council's fees and charges.
9. 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.
10. Prior to issue of a Construction Certificate, approval under Section 138 of the Roads Act 1993 is to be obtained for the construction of the concrete access crossing. This application is to be accompanied by a longitudinal section of the entire driveway, from kerb to garage, with gradients shown.
11. Prior to issue of a Construction Certificate, the applicant must provide the correct finished floor levels on the architectural and engineering plans submitted, and to also provide a stormwater drainage plan showing the water being discharged out into Mather Street.

#### ***During Construction***

12. 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.

13. Prior to commencement of works (including earthworks), run-off and erosion control measures must be implemented in accordance with Council's Erosion and Sedimentation Control Policy (2005) to prevent soil erosion, water pollution and the discharge of loose sediment on the surrounding land. Measures are to include:

- Diverting uncontaminated run-off around cleared or disturbed areas;
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties;
- Preventing the tracking of sediment by vehicles onto roads; and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

Run-off and erosion control measures must be in place for the duration of building work and until adequate cover is established on the site.

#### ***Prior to Occupation***

14. Prior to occupation of the duplex, an Occupation Certificate must be issued for each building 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.*

15. 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.

16. 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.

17. Prior to issue of an Occupation Certificate, the concrete access crossings and driveways are to be constructed from the kerb of Mather Street, to the boundary of the site in accordance with the approved plans and the approval under Section 138 of the *Roads Act 1993*. All work is to be completed to the standard approved by Council, at the applicant's expense.
18. Prior to issue of an Occupation Certificate, all roofwater, surface water and/or tank overflows are to be discharged to Mather Street in accordance with *Australian Standard 3500.3 Plumbing and drainage* and to Council's satisfaction.

#### **Subdivision Conditions**

19. 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.
20. Prior to issue of a Subdivision Certificate, the common fire wall between the units is to be completed in accordance with the Construction Certificate and certified as correct by an Accredited Certifier.

#### **Advice Only**

As part of the construction of a dwelling, outbuildings and/or other development it is the responsibility of the property owners to manage stormwater drainage through the installation of contours, retaining walls, pits and pipes and the like to reduce potential stormwater nuisances, in manner which does detrimentally impact downstream properties. Council is unlikely to take any future action in relation surface water runoff that is caused by extreme rainfall events or that is deemed to be natural runoff from higher properties due to natural topography.

#### **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 R1 General Residential zone.
2. The built form and design of the development is not considered to be inconsistent with the surrounding residential area and the 'Parklands Estate' subdivision.
3. The proposed subdivision complies with Clause 4.1D of the *Inverell Local Environmental Plan 2012*.
4. The proposed modification will have minimal environmental impact and results in substantially the same development.

## **COMMUNITY CONSULTATION**

DA-138/2021 was notified in accordance with the Inverell Community Participation Plan (Inverell CPP) and no submissions were received. The modification was considered to be a minor development under the Inverell CPP and further 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



**ANTHONY ALLISTON  
MANAGER DEVELOPMENT SERVICES**