
NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

1. DEVELOPMENT APPROVALS

Author	Director Community and Economic Development
Responsible Officer	Director Community and Economic Development
Link to Strategic Plans	CSP – 3.1.6 – Encourage developers to consider energy efficiency and sustainable building design options in new developments DP – 3.1.6.1 - Ensure compliance with relevant building codes and regulations

Executive Summary

This report provides information to Council on the approved Development Applications for December 2022 and January 2023.

Report

The approvals for the month of December 2022 brings the total approved Development Applications for the financial year to 25, with a total value of \$8,216,725.80.

DECEMBER 2022

DA No.	Location	LOT/DP	Description	Value	Assessment Time/Days
2022/44	66 Myall Street, Tomingley	450/1259511	Signage	\$25,000.00	17
2022/50	12 Kingsford Smith Place, Narromine	65/1271467	Dwelling House	\$551,311.00	4
2021/102	76 Narromine Street, Trangie	100 & 101 / 878264 & 832919	Temp Refuelling Facility	\$250,000.00	36

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT**

1. DEVELOPMENT APPROVALS (Cont'd)

The approvals for the month of January 2023 brings the total approved Development Applications for the financial year to 28, with a total value of \$9,049,111.80

JANUARY 2023

DA No.	Location	LOT/DP	Description	Value	Assessment Time/Days
2022/55	3 Nancy Bird-Walton Drive, Narromine	44/1271467	New Dwelling	\$765,586.00	0
2022/56	165 Dandaloo Street, Narromine	5A/380457	Carport	\$18,500.00	0
2022/57	55 Meryula Street, Narromine	3/338029	Swimming Pool	\$48,300.00	13

There are currently 16 applications under assessment.

Legal and Regulatory Compliance

Environmental Planning and Assessment Act 1979
Environmental Planning and Assessment Regulation 2021

Risk Management Issues

Nil

Internal/ external Consultation

Nil

Attachments

Nil

RECOMMENDATION

That the information be noted.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT

Author	Manager Planning
Responsible Officer	Director Community and Economic Development
Link to Strategic Plans	LSPS – Priority 4 – A range of housing options for the community. LSPS – Priority 6 – Sustain and grow our local population.

Executive Summary

The development application DA2022/43 (PAN-265919) received by Council, proposes a Community Title subdivision. The subject land is located on the within the R5 Large Lot Residential zone where the applicable minimum lot size for subdivision is 3.5ha. However, the Narromine LEP 2011, *clause 4.1 Minimum subdivision lot size* does not apply to subdivision pursuant to the *Community Land Development Act 2021*. The development proposes to create opportunity for two (2) additional development lots (residential lots of approx. 0.9ha each) in a community scheme, where the development is provided with a shared, 'community' domestic water supply bore. Key constraints to development, include the ability of the land to be adequately serviced, in particular dispose of effluent, and potential for flooding with the Town Cowal Floodway impacting the land.

Report

Background:

The land is currently in two Torrens title lots with total area of 4.09ha and has an established dwelling with ancillary structures. The land cannot be subdivided conventionally as the minimum lot size cannot be met for the creation of additional Torrens title lots. Council does not have specific provisions relating to development controls for community title and has not commonly been carried out previously in the LGA.

Community titles are defined by the lot boundaries and surveyed measurement similar to Torrens title, however the proposed community scheme will include shared infrastructure on the common lot, being the access driveway and water bore for shared domestic water supply.

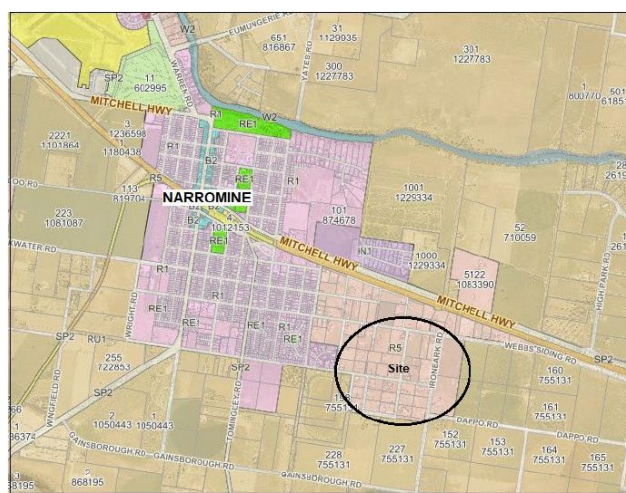
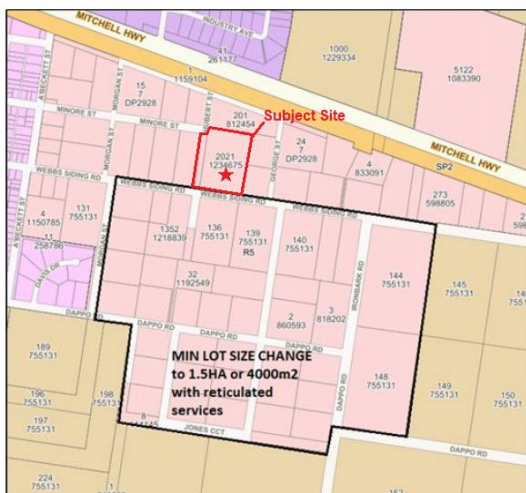
The development proposes the registration of a Community plan. The newly created lots are to be owned by individual owners in the future, and the common lot is owned by an association comprised of those owners.

The land is located on the northern side of Webb Siding Road and adjacent to land included in the LEP amendment in progress (Planning Proposal PP-2022-1579) Residential / Rural Residential Strategy implementation – refer to the map below which locates the development site in relation to the nearest land included in the Planning Proposal where the minimum lot size (MLS) is proposed to be reduced.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

NARROMINE EAST AREA A2: Amend MLS. R5 zoning to remain.



Proposed Community title development lot sizes	Min lot size applicable for subdivision (cl 4.1)	LEP amendment
1.903ha – parcel with existing dwelling; Vacant lots – 0.943ha (with shared bore)	3.5ha (no reticulated services)	1.5ha (no reticulated services); 4000m2 (with water and sewer reticulated services)

Hence the proposal is seeking the opportunity to create residential development lots at an area, smaller than the applicable minimum lot size, and smaller than the proposed reduced minimum to size to be applied to land opposite the site in the LEP amendment.

Application Details:

Development Application No: DA2022/43 (PAN-265919)

Description of Development: Community Title residential subdivision to create 2 development lots and 1 common lot.

Applicant: Mr Wayne Rowe of Langford and Rowe (Surveyors)

Landowners consent provided: Yes

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Property Description and Context:

Legal Description: Lot 14 DP114146 and Lot 2021 DP1234675 located at 127 Webbs Siding Rd (the site)

Existing Improvements: Dwelling and tennis court, with ancillary domestic structures, including a water bore.

Current land-use: R5 Large Lot Residential

The site has an area of 4.4957ha and is regular in shape with frontages to Webbs Siding Road to the south and Minore Street terminates at the north western boundary. Existing low density rural/residential occupation is typical for the locality.



Figure 1: Locality and Site Context Map

Development Description:

What is a Community title Scheme?

A Community Title scheme may consist of:

- a sole Neighbourhood scheme or
- a Community scheme that may be further subdivided into:
 - Neighbourhood schemes
 - Precinct schemes and/or
 - Strata schemes.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

The schemes are created by registration of a Community, Neighbourhood or Precinct plan and allow for various levels of management and stages of development.

As is the case with Strata legislation, common areas within a Community, Neighbourhood or Precinct scheme are owned and managed by a body corporate comprising all lot owners within the scheme. The body corporate is known as the Association. The Associations for Neighbourhood and Precinct schemes, and the Owners Corporations for Strata schemes, within a staged Community Title scheme are members of the Community Association.

The common areas within a Community Title scheme are known as the Association property and are comprised in lot 1 of the scheme.

It is mandatory for a scheme plan to be accompanied by a management statement that complies with Schedule 2 *Community Land Development Act 2021*.

Conditions of consent and further detail will be required to finalise a Community Management Statement.

Duffy Elliot Lawyers provided Council with an overview of the development and what was intended to be included in a future Community Management Statement.

“We are instructed the Community Management Statement will include, but it not limited to, the following:

- (a) The location of the access is noted on the draft plans and will be a private access way and will be community title land (noted as lot 1 on the draft plans).
The control and management of the private access way will be governed by the owners of the community title lots, through the body corporate.
The guidance for decision making by the body corporate will be detailed in the management statement and the overall philosophy will be for the owners of the community title lots to contribute in the proportions of their land size as a percentage of the total (unsubdivided) lot size to the maintenance of the private access way.
Entry to each subdivided lot will be from the private access way.*

- (b) The community title lot, being used as an access way will have a minimum standard of road surface being (describe this eg all-weather access).
The community title lot (lot 1) will also be used for the distribution of water to each of the lots from the common bore/well which will also be located on the community title lot.
Control, use and management of the water will be detailed in the community management statement and in ancillary documents required to be submitted and approved through Water NSW.*

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

(c) *It is intended that the developer will erect internal dividing fences but that each lot thereafter will contribute to the body corporate (in their respective proportions) to the maintenance and upkeep of fences dividing the community title lot from the individually owned lots. Each individual lot will be responsible for their own fencing where in shares a boundary with anyone other than the community title lot.*

(d) *It is hoped that the council collection will be utilised for garbage collection. It would be intended to include a provision for the collection of bins to be made from a central point on the public road at the entrance to the community title lot.*

The community management statement will contain provisions for each lot to be kept in a reasonably neat and tidy condition and will prohibit the storage of refuse on the property.

(e) *The community title lot (lot 1) will also be used for the distribution of water to each of the lots from the common bore/well which will also be located on the community title lot.*

Council sewer does not service the parent lot and such it is intended that each lot have their own septic.

Council sewer does not service the parent lot and drainage will not connect to the stormwater but will connect to any existing or future infrastructure if required.

Gas will be made available to each lot if it becomes available in the future; otherwise each lot owner will be responsible for their own gas (bottle) supply. If required, the management statement can include the power for the body corporate to agree to any easement or access for gas in the future.

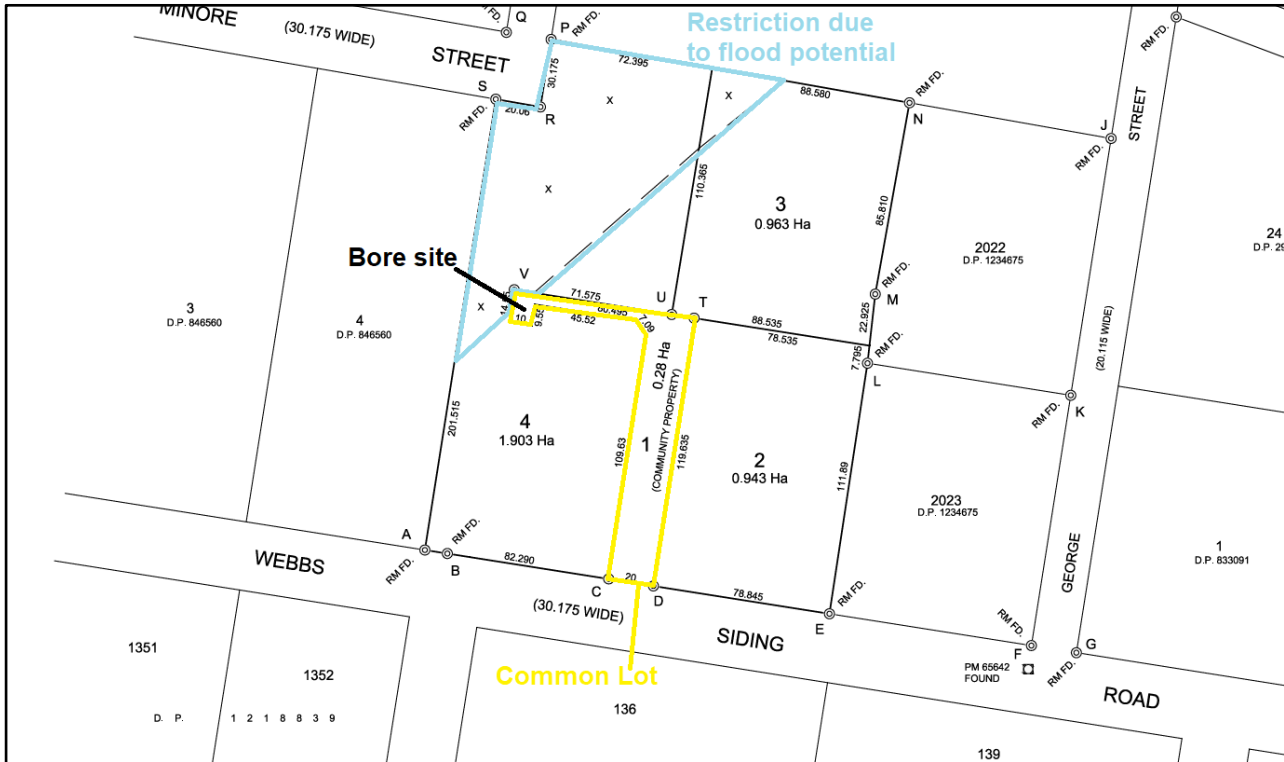
Electricity is available to the proposed subdivision. A full electrical design will be completed in the CC stage.

(f) *The community title lot will be insured in accordance with applicable legislation and to a sufficient standard noting its intended use as an access point and water supply easement."*

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT**

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Figure 6: Excerpt Proposed Detail Plan



Site Location:

Has the subject land been correctly identified on Development Application Plans and Statement of Environmental Effects? Yes No N/A

Is the land freehold title with all owners consent? Yes No N/A

Is the site vacant of buildings? Yes No N/A

Are there other buildings / structures located on the subject land? Yes No N/A

Has the proposed building location been confirmed on the subject land? Yes No N/A

Do the provided plans, specifications and supporting documents accurately depict the site conditions? Yes No N/A

Comments: Site has been identified by a survey plan, as well as site plan which demonstrates the current structures and proposed layout.

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT**

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Site Inspection:

Was the Applicant present?

Yes

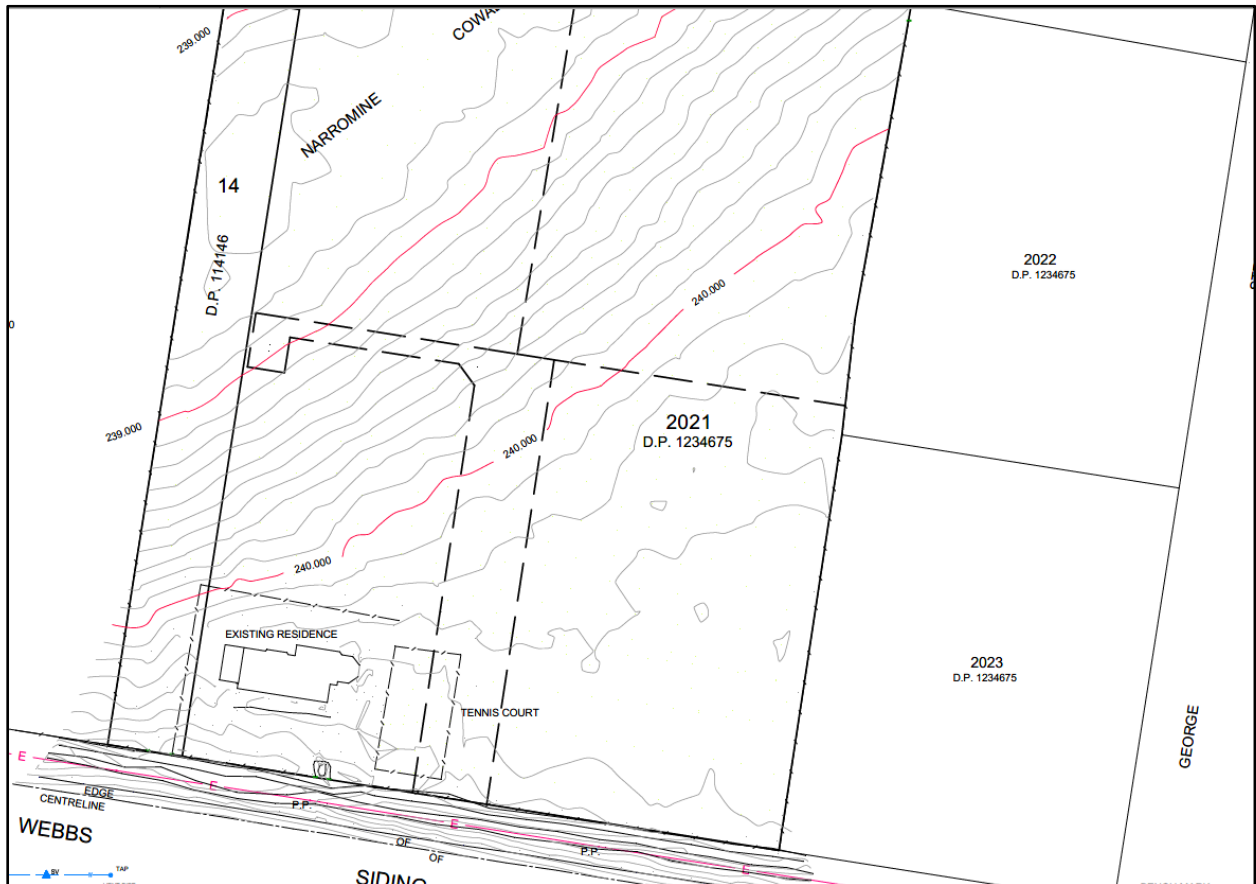
No

Was the owner present?

Yes

No

Comments: Site inspection carried out by Council staff on 6 November 2022.



The existing tennis court will be removed to accommodate the development access road.

Public Exhibition:

The development application was on exhibition from 20 October 2022 to 3 November 2022. The proposal was placed on public exhibition for a period of 14 days in accordance with Council's Community Participation Plan and the *Environmental Planning & Assessment Act 1979* (EP&A Act), *Environmental Planning & Assessment Regulations 2021* (EP&A Regulations).

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Three (3) submissions were received during the notification period.

Internal Referral Advice:

Has an Internal Engineering Referral been received? Yes No N/A
Has an Internal Building Referral been received? Yes No N/A
Has an Internal Heritage Advice Referral been received? Yes No N/A

Comments: The application was discussed at the development control meetings held by staff. Standard conditions are expected to address most of Council requirements. A shared driveway is preferred with condition to restrict a further direct driveway access for Lot 2, with this development lot to obtain access via the Common driveway only.

Easement(s):

Are there any easements applying to the subject land? Yes No N/A
Is the proposed development clear of easements? Yes No N/A
Are there any proposed easements? Yes No N/A
Are easements required? Yes No N/A

Comments: No known registered easements are located on the subject site. Easements will be required to address utility services including drainage, sewer and electricity. Restriction/covenant is required to reflect the restrictive elements (flood – Town Cowal). The adoption of a Community Management Statement is required as part of the Community Title establishment, Council will be conditioned to have an approval role for this document.

Consolidation of Lots:

Are there more than one lot owned by the landowner in same holding? Yes No
Is there a need to consolidate lots? Yes No N/A

Comments: The proposed development is for the subdivision of 2 Torrens title parcels into the community title scheme to be registered.

Section 4.14 Consultation and development consent—certain bush fire prone land:

Is the site identified on the Bushfire Prone Land Map? Yes No N/A

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Does the development comply with "Planning for Bushfire Protection" or a certificate provided by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirement?

Yes No N/A

Has consultation been done Commissioner for Rural Fire Service?

Yes No N/A

Comments: Not mapped bushfire prone land, section 100B of the *Rural Fires Act 1997*, approval is not required. Dedicated tanks for firefighting would be required for future dwellings – should be addressed in the future Community Management Statement.

Contributions:

Does the Section 7.11 Contributions Plan apply? Yes No N/A

Does the Section 7.12 Contributions Plan apply? Yes No N/A

Does the Developer Services Plan apply? Yes No N/A

Comments: The proposed development is valued at \$170,000, which is over \$100,000.00 and therefore is subject to the Section 7.12 Contributions Plan 2019 rate of 0.25% = \$425 at time of this report (to be updated with CPI in accordance with 7.12 contribution plan).

Section 4.15(1) Assessment

**S4.15 (1) (a) (i) The provisions of any environmental planning instrument
Local Environmental Plans**

The *Narromine Local Environmental Plan 2011* (LEP) applies to all land within the Narromine Local Government Area. The site of the proposed development is zoned R5 – Large Lot Residential under the *Narromine Local Environmental Plan 2011*. The Land Use Table for the R5 Large Lot Residential zone permits subdivision with consent of Council (pursuant to clause 2.6).

Clause 2.3(2) of the LEP provides that the Council shall have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives of the R5 zone are:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
 - *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
 - *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
 - *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
-

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

The proposed subdivision to create 2 additional residential allotments is consistent with the objectives of the R5 zone to provide residential housing in a rural setting. The proposed community title subdivision will not have any adverse impacts on the adjoining allotments or the environment (with mitigation measures). The site is proximity to services and facilities within the town centre of Narromine. The shared water supply will address the essential service required and will reduce the conflict of additional onsite effluent disposal and water supply bores.

The following provisions of the LEP have been considered in the assessment of the proposal:

Clause 4.1 Minimum subdivision lot size – Not applicable to development pursuant to the Community Land Development Act 2021.

Clause 4.3 Height of Buildings - No height of building maximum applies to the site.

Clause 4.4 Floor Space Ratio - No FSR control applies to the site.

Clause 4.6 – No variations to development standards are sought as part of this application.

Clause 5.10 Heritage Conservation - The site is neither listed, nor adjoining an item of environmental heritage.

Clause 5.21 Flood planning -

- (2) *Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—*
- (a) *is compatible with the flood function and behaviour on the land, and*
 - (b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
 - (d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
 - (e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*
- (3) *In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—*
- (a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
 - (b) *the intended design and scale of buildings resulting from the development,*
 - (c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
 - (d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

The Planning Report prepared by Bernie Wilder in support of the development concept included clarification of the location of the Town Cowal and flood constraint mapping in relation to the land prepared by Lyall and Associates.

The application proposes a *(R) restriction on the use of land* marked with an 'x' on the proposed plans. The Planning Report does not further clarify the detail of the proposed restriction on the use of land.

The conditions are to clarify that the restriction is to prevent any dwelling/structure/effluent disposal area from being located in the land identified as Flood Planning Constraint 1.

Town Cowal – FPCC1 - Comprises areas where factors such as the depth and velocity of flow, time of rise, and evacuation problems mean that the land is unsuitable for most types of development. The majority of new development types are excluded from this zone due to its potential impact on flood behaviour and the hazardous nature of flooding.

With reference to the Narromine Town Floodplain Risk Management Study and Plan Update 2021 - The following is not permitted in FPCC1 –

“Subdivision of land involving the creation of new allotments for residential purposes; Earthworks or filling operations covering 100 m² or more than 0.3 m deep.”

The proposed legal instrument, to provide a restriction on the use of land, aims to address this constraint. Proposed Lot 3 is limited in opportunity for future dwelling sites, when you combine the constraint of the restriction due to flooding, and buffer for effluent disposal system to neighbouring bores.

It is considered relevant to include a condition that the Community title community management statement also address any specific rules for flood management. Including future fencing:

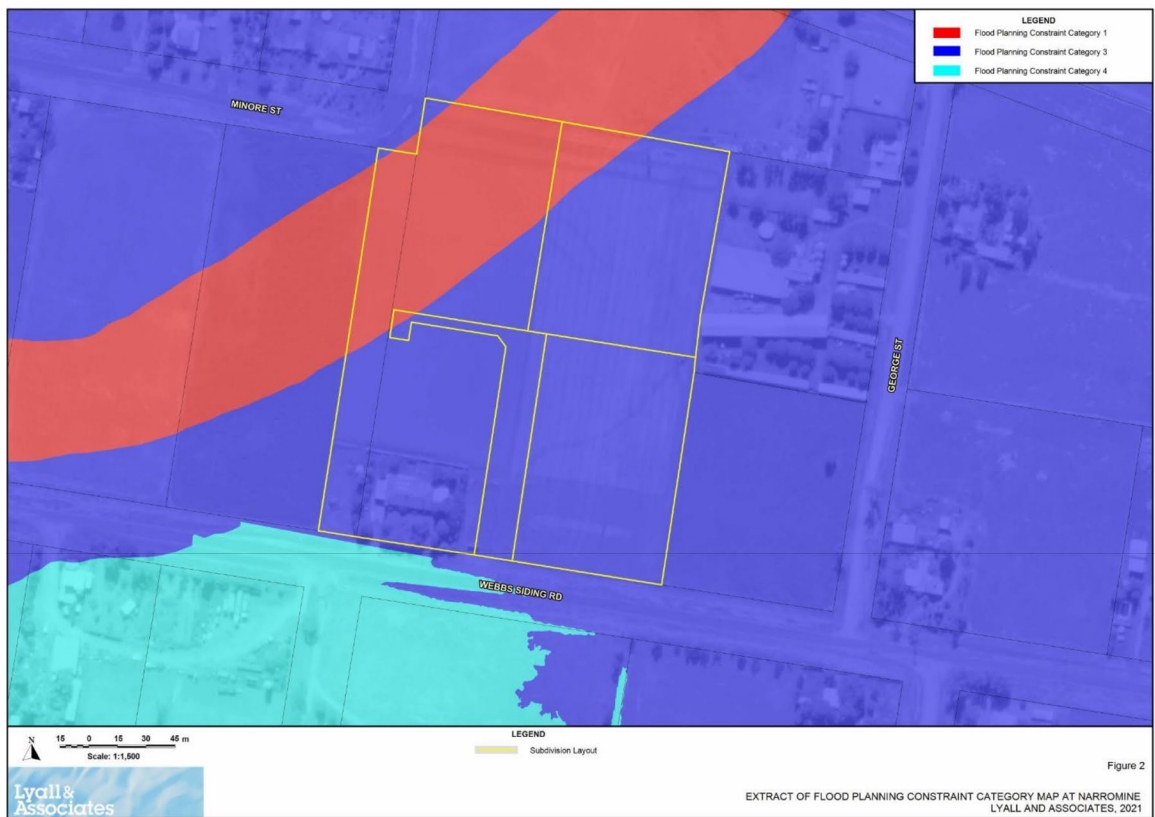
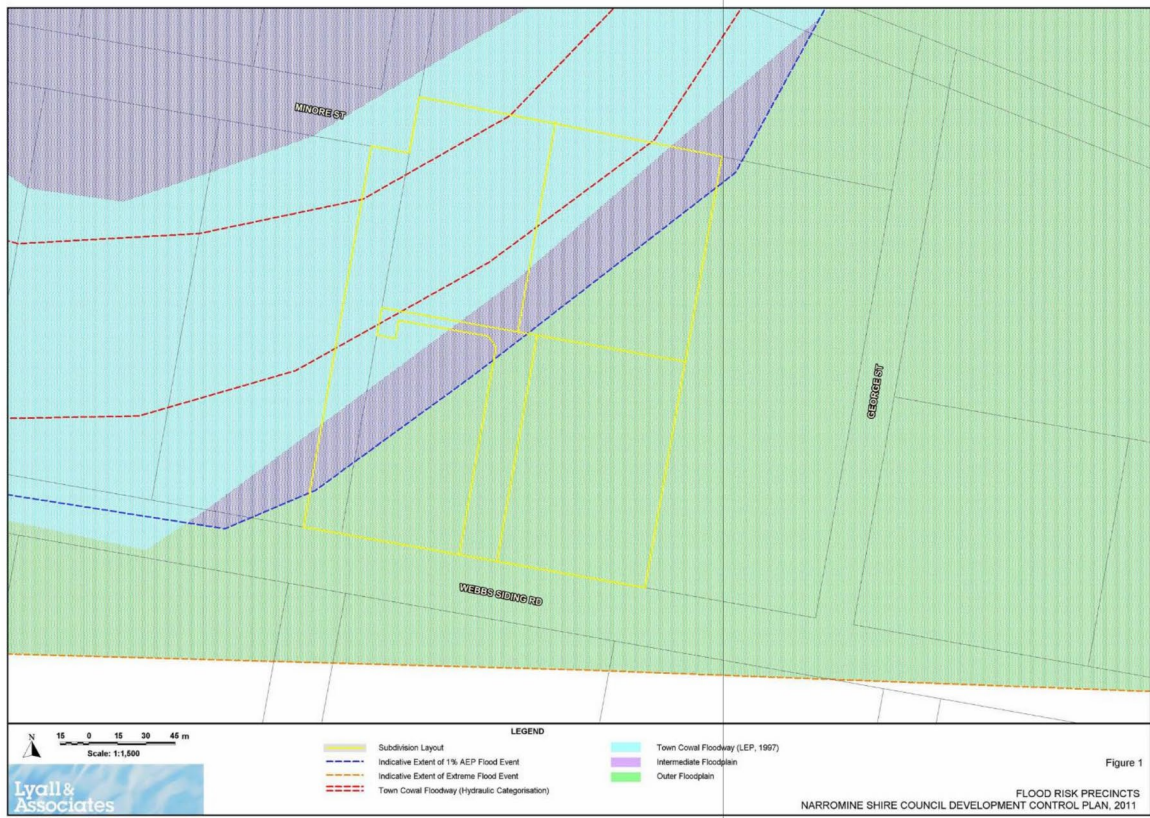
An applicant will need to demonstrate that the fence (new or replacement fence) would create no impediment to the flow of floodwater.

Address future land filling restrictions.

Rules for effluent disposal.

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT**

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)



2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

6.1 Earthworks – Bulk earthworks will not be undertaken as part of the subdivision works. The earthworks will relate to the making of new internal road, and the trenching of underground drainage and services (including bore sharing infrastructure). Suitable conditions will be included in the development consent to ensure the impact of these earthworks is satisfactory.

Clause 6.3 Stormwater Management – The DA submission indicates that no specific SW management is proposed.

6.4 Terrestrial Biodiversity - Not applicable. The site is not shown in Map BIO 004 in the LEP. The site is also not identified on the Biodiversity Values Map under the *Biodiversity Conservation Regulation 2017*.

6.5 Riparian Land and Watercourses - Not applicable. The site is not in or within 40 metres of a sensitive area as shown in Map WCL 004 in the LEP.

Clause 6.6 Groundwater vulnerability - The site is wholly identified as being vulnerable land. Accordingly, the impact of the development on groundwater needs to be considered consistent with clauses 6.6 (3) and (4) of the LEP. The proposed development has potential to impact on groundwater quality due to the reliance on on-site effluent disposal. A Geotechnical Report has also been provided. In fulfilling these conditions, the clause can be satisfied.

K&H Geotechnical Services were engaged by the applicant to carry out soil investigation and provide a “*Site and soil evaluation for onsite sewage systems for the proposed subdivision of Lot 2021, DP1234675, 127 Webbs Siding Road, Narromine, NSW*”.

The report stated:

“K & H Geotechnical Services Pty Ltd is pleased to present our findings from the site and soil evaluation undertaken at Lot 2021, DP1234675, 127 Webbs Siding Road, Narromine, NSW.

It has been proposed that the current lot will be subdivided into 3 new lots. This investigation was required to demonstrate that the size of these proposed lots can accommodate the generated onsite effluent disposal. The proposed onsite sewage systems have been designed for three new houses with each comprising of three to four bedrooms. All lots will share groundwater from a common bore.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

The lots were considered suitable for surface and subsurface irrigation of advanced secondary treated effluent (aerated system with disinfection). Effluent from an aerated wastewater system with disinfection could also be distributed through mounds, beds and trenches. Secondary and primary treatment systems were considered unsuitable given the close location of bores with the small lot size (1-2 Ha) limiting potential for implementing required buffer distances (Figure 1).

A risk assessment showed that by recommending effluent be treated to an advanced secondary (disinfection) quality and by using conservative modelling the small to moderate lot size 1-2 Ha was able to provide adequate buffer distances to sensitive environment. As such the risk to human health and the environment will be reduced.

An approximate 750 m² was calculated as suitable for receiving effluent across two of the proposed lots and >2,000 m² for the third. (Figure 1 and Figure 2). These areas were large enough to provided reserve application area.

The site was moderately drained with a soil depth >2.0 m. Subsoil consisted of a medium clay subsoil and a moderately structured soil which was estimated to have a permeability of <0.05 m/day.

Soil is a suitable growing medium with low salt content <5 dS/m and pH in the range of 7.5-8.0. Soil aggregates had a modified Emerson class of 2 which indicates only slaking and no dispersion. However, to maintain the moderate soil structure we recommend that gypsum be applied to the land application (trenches and beds) areas at minimum rate of 1kg/m².

Designated buffer or setback distances are required in the design of the wastewater treatment system as it allows nutrient and pathogens to be adsorbed by soil and plants before reaching the groundwater or offsite locations. Required buffer distances have been outlined by Narromine Shire Council. However, a 200 m buffer to neighbouring bores was not obtainable with the proposed subdivision. Given the site and soil conditions the site-specific buffer distance was reduced to 100 m to neighbouring groundwater bores. This reduction was justified by recommending that effluent be treated to an advanced secondary standard (bacteria treatment), depth to groundwater was >10 m and large layer of clay 5-10 m was above groundwater bearing zone. Although the site's specific buffer distances were reduced the implemented buffer distances still conform to the ASNZ 1547 (2012) standards.

Guidelines require that all proposed effluent treatment areas should be at least 10-15 m from the buildings and property boundaries, 40 m from any dams, 100 m from creeks and rivers and 50 m from onsite groundwater bores and 100 m from neighbouring groundwater bores. These guidelines can all be satisfied and have been outlined in Figure 1 of the report.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Design specifications for the land disposal of secondary treated effluent have been based on the water balance method to account for limiting site characteristics.

Specifications for the treatment systems are:

- *an aerated wastewater treatment system with disinfection (capable of treating six to seven people in a three to four bedroom house) requires an irrigation area (subsurface or surface) of 370 m². No wet weather storage is required (based on a water balance method);*
- *advanced secondary treatment systems will require a bed footprint of 72 m² for mounds, beds and trenches. This could be configured as:*
 - *the preferred option is for an aerated wastewater treatment system in combination with an amended soil mound (Ecomax). Specification details have been provided in Appendix C. The amended soil mound will have a footprint of 72 m²;*
 - *an ETA bed with dimensions 1.5 m in width and 0.4 m wetting depth, requires a length of 48 m. The configuration would consist of three parallel trenches 16 m in length connected to a distribution box; and*
 - *a conventional bed 4 m wide will require one bed with a length of 18 m. Alternatively, a 1.0 m wide trench will require four 18 m trenches and a standard 0.6 m wide trench will require 6 trenches 20 m in length connected to a central distribution box. All systems will require between 0.2 – 0.4 m of light topsoil mounded over the system.*

A minimum tank size of 3500 – 4000 L is recommended by the Australian/New Zealand Standard for On-site domestic-wastewater management (2012)."

Staff comments:

The Community title mechanism is sought as an alternative subdivision option, rather than seeking an LEP amendment and proposed Torrens title subdivision. A key reason for the minimum lot size, is to ensure that unserviced parcels are presented with the best opportunity to meet effluent disposal buffers between lot boundaries, sensitive environments (riparian corridors) and neighbouring effluent disposal fields and provide buffers to water supply bores.

If Council supports this proposed development, it will be in acknowledgement of the site-specific findings in the '*Site and soil evaluation for on-site sewage systems*' which found that the site and soil conditions allowed for the site-specific buffer distance to be reduced to 100 m to neighbouring groundwater bores.

It is recommended that the findings of this report be passed onto future purchasers and conditioned to be incorporated into the Community Management Statement.

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT**

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Clause 6.8 Essential Services – Consent must not be granted unless the following essential services are available:

a) the supply of water – the development is proposing to share supply from an existing irrigation bore to supplement roof water for a future dwelling with 2 additional entitlements created.

b) the supply of electricity – the development is proposing to connect into the existing electricity system and a Notice of Arrangement to connect is included as a condition of consent.

c) the disposal and management of sewage – on-site effluent management is required.

D) storm water drainage or on-site conservation – the proposed stormwater management will be dealt with internally and new road drainage.

e) suitable road access – the site will connect directly onto Webbs Siding Road with no access to the frontage to Minore Road. Condition for future s138 Roads Act approval and to prevent direct access for the propose Lot 2 where the driveway is proposed for a common driveway internal access.

6.9 Airspace Operations - The proposal will not penetrate the Limitation or Operations Surface of Narromine Aerodrome.

Schedule 1 Additional Permitted Uses - The site is not affected by Schedule 1.

State Environmental Planning Policies

The following State Environmental Planning Instruments (SEPPs) apply to the Narromine Local Government Area:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- State Environmental Planning Policy (Housing) 2021.
- State Environmental Planning Policy (Industry and Employment) 2021.
- State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development.
- State Environmental Planning Policy (Planning Systems) 2021.
- State Environmental Planning Policy (Precincts—Central River City) 2021.
- State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021.
- State Environmental Planning Policy (Precincts—Regional) 2021.
- State Environmental Planning Policy (Precincts—Western Parkland City) 2021.
- State Environmental Planning Policy (Primary Production) 2021.
- State Environmental Planning Policy (Resilience and Hazards) 2021.
- State Environmental Planning Policy (Resources and Energy) 2021.
- State Environmental Planning Policy (Transport and Infrastructure) 2021.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

The following SEPPs are specifically relevant to the assessment of the proposed development:

- **State Environmental Planning Policy (Transport & Infrastructure) 2021** – Referral under Clause 2.48 of SEPP (Transport and Infrastructure) 2021, is not required, given the development is not:
 - (i) within or immediately adjacent to an easement for electricity purposes or
 - (ii) immediately adjacent to an electricity substation.
 - (iii) within 5m of an exposed overhead electricity power line.

Notice of Arrangement will be required for electricity to the subdivision. Connection to be provided to each lot (including common lot) to provide separately metered power supply to the bore.

- **State Environmental Planning Policy (Resilience and Hazards) 2021** - Under Clause 4.6 (1) a consent authority must not consent to the carrying out of any development on land unless:
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The current and previous land use history of the site is not known to have included any of the potentially contaminating activities listed in Table 1 of Managing Land Contamination Planning Guidelines. There are no buildings or structures within the site that indicate potentially contaminating activities associated with previous industrial/rural chemical storage type of land use.

Condition 4.6 (1) is satisfied as there is no evidence of historical land uses of contamination. In the event contamination is discovered it must be suitably managed and controlled.

- **State Environmental Planning Policy (Biodiversity and Conservation) 2021** – The land is cleared and does not have any significant vegetation on site. The site is removed from areas of biodiversity value. Part 2.2 Clearing vegetation in non-rural areas of the SEPP is satisfied.

S4.15 (1) (a) (ii) The provisions of any proposed environmental planning instrument

There are no draft LEPs or draft SEPPs that apply to the site for the purposes of section 4.15(1)(a)(ii) of the EP&A Act.

S4.15 (1) (a) (iii) The provisions of any development control plan

Narromine Shire Council Development Control Plan 2011 (DCP) applies to the land. The following clauses within the Rural Residential Development Chapter 5(b) of the DCP are specifically relevant to the assessment of the proposed development:

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Minimum Lot Size		
Control	Proposed	Complies
The Narromine Local Environmental Plan 2011 specifies a minimum allotment size for residential subdivision. Proposed subdivisions which create lots less than the minimum lot size will not be supported.	Reduction in min lot size as a community title development	No. Council through approving the Community Title subdivision with reduced lot size will set a precedent for dealing with Community title proposals.
Dimensions		
Control	Proposed	Complies
The minimum width of an allotment at the front boundary must be not less than 100 metres.	Lot 4 with existing dwelling (82.290m) Lot 2 vacant new lot (78.845m) Common Lot (driveway – 20m)	No. The proposed variation is not inconsistent with the existing parcels in vicinity to the land and the reduction is not opposed in this instance. The 20m wide common lot should be suitable for installation of services and driveway areas.
Services, Storm water and Roads		
Control	Proposed	Complies
Development applications for subdivisions that propose to connect to reticulated water, storm water and sewerage systems must also include preliminary engineering drawings. Such drawings must include the design of the water and sewerage systems and any roads proposed. Consideration should be given to the availability of electricity, telephone and gas services available to the site.	No connection to town water and sewer reticulation. Other services considered.	Yes.
Access		
Control	Proposed	Complies
All land must have legal access to a public road. Usually this is in the form of direct vehicular access to a public road. I	Lot 2 & 3 – are provided access via connection to a Common lot for access purposes and sharing of the bore water/infrastructure.	DCP does not address community title specifically.

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT**

Contamination		
Control	Proposed	Complies
Certain previous uses on a site can have effect on land that may make it unsuitable for residential development....an applicant to research the previous uses of the site to determine if any remediation works are required prior to any subdivision work.	No remediation work required based on assessment by Bernie Wilder and Associates.	Yes
Bushfire		
Control	Proposed	Complies
Development in areas identified as bushfire prone should consult with the NSW Rural Fire Service Document Planning for Bushfire Protection for additional controls that may be applicable to the development.	No specific controls required.	Yes. Condition to ensure land management and water supply for firefighting volumes for future dwellings to be accounted for /tanks included for a dedicated supply.
Flooding		
Control	Proposed	Complies
Substantial subdivisions may require an individual flood study to be conducted on the site to determine the extent of flooding on the land. Subdivision of land is not encouraged in high hazard flood areas.	Restriction on the use of the land to prevent inappropriate developments within the mapped/known Town Cowal location.	The risk of flooding is acknowledged by the developer and DCP /Flood study provisions are to be adopted in the Community Management Statement.
Biodiversity		
Control	Proposed	Complies
Development which is identified as being within an area of terrestrial biodiversity (according to the Narromine Local Environmental Plan 2011) may require further investigation, depending on the site history and identified vegetation concerned.	No clearing of native vegetation proposed.	N/A
Watercourses		
Control	Proposed	Complies
Development which is identified as being within an area containing a watercourse (according to the Narromine Local Environmental Plan 2011) may require further investigation, depending on the distance of the development to the watercourse.	No additional measures.	No mapped watercourses occur that trigger integrated development and further consideration of riparian environments. Town Cowal is considered a floodway and not a mapped watercourse addressed by clause 6.5 of the LEP.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

S4.15 (1) (a) (iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4.

A Voluntary Planning Agreement (VPA) is not sought to be entered with Council as part of the subdivision.

S4.15 (1) (a) (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

Division 1 of Part 4 of the *Environmental Planning and Assessment Regulation 2021* specifies additional matters that must be taken into consideration by a consent authority in determining a development application.

Consideration of these matters is included below:

- **Clause 61 - Building Demolition** – no demolition is proposed.
- **Clauses 62 – Fire Safety Upgrades** – not relevant to the proposal.
- **Clause 63 - Temporary Structures** - not relevant to the proposal.
- **Clause 64 – Upgrade of buildings** – not relevant to the proposal.
- **Clause 67 - Modification or surrender of development consent or existing use** - not relevant to the proposal.
- **Clause 68 - Voluntary surrender of development consent** – not relevant to the proposal.

S4.15 (1) (b) the likely impact on the natural and built environment(s) and the likely social and/or economic impact on the locality

- The proposed land use is rural/residential which is consistent with the existing setting. The site is in proximity to Narromine town centre, which provides key services including supermarkets, health care, schools etc. The additional dwelling entitlements created through use of the Community title provisions is acceptable as the continued use of the land for irrigation is limited due to land use conflict constraint. Also, the LEP amendment to reduce the minimum lot size on the opposite side of Webbs Siding Road is consistent with the proposal
- No known items of European or Indigenous heritage are located on the site. Past investigations indicate no archaeological or significant sites have been identified in close proximity of the site and it has been cleared in the past. No sandstone outcrops are evident and no known areas of importance to the Aboriginal community are known to be located within the site. Nevertheless, conditions of consent have been included if items of heritage significance are discovered during construction.
- Access – driveway works are to be designed and maintained to permit emergency vehicle access – includes ensuring overhanging branches to trees in the Common Lot do not impede any emergency vehicle.

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT**

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

- Safety Security and Crime Prevention – The proposed development is designed to comply with crime prevention principles. It is not anticipated that the development will result in adverse impacts in regard to safety and crime prevention within the locality.
- Social Impact in the Locality - The proposal will have a positive social through increasing housing supply.
- Economic Impact in the Locality – The proposed development will positively stimulate the local economy by creating new residential lots for future dwellings.
- Construction impacts are expected to be short term and limited to the construction program.
- Site Design and Internal Design – The proposed subdivision layout is considered acceptable. All development lots will have a site to build (subject to flood compatible design) and sufficient capacity to dispose of effluent.
- Cumulative Impacts – There are no adverse cumulative impacts from the proposed development.

S4.15 (1) (c) The suitability of the site for the development,

The capacity to support the large lot residential subdivision without creating adverse impacts on the site and adjoining land has been sufficiently demonstrated. The Community Title subdivision will be subject to ongoing management requirements.

S4.15 (1) (d) Any submissions made in accordance with this Act or the regulations,

The development was notified/advertised. Three (3) submissions were received during the exhibition period the matters raised are outlined in the table below:

Submission 1
There is a real need for more large residential land lots to be made available in and adjoining the town of Narromine. By providing 2 extra lots, both 2 acres in size, the subdivision will appear to be in line with the adjoining lots on the northern side of Webbs Siding Road. The only issue I can see in this subdivision is the most northern lot, is in a more flood prone area, so any building construction would need extra protection to safeguard it from the effects of any flooding. I am sure Council Planning department will ensure this happens.
<u>Staff comments</u> The total of the land is considered flood prone land. The northern section of the proposed Lot 4 is the Town Cowal (as mapped). This lot already has a dwelling established. No development is encouraged to occur in the flood way mapped areas and Town Cowal is included in this constraint. A restriction on the title is proposed in the application to prevent unsuitable land uses due to the potential for flooding. The future DA/CC application for a dwelling/ancillary structures will also require further consideration of flooding and the specific design for future building work.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

It is considered that the concerns of this submission can be addressed by implementation of the Council's Flood Policy and proposed DCP updates in the Narromine Town Floodplain Risk Management Study and Plan Update 2021, and conditions of consent imposed.

Submission 2

I am writing to object to the above application. When I purchased my property on Webbs Siding Road, one of the reasons was it being a lifestyle block over 4 acres, but still close to town. At present my property is surrounded by other houses on acreage, this gives the ability to have a little more freedom than being in developed areas, like in town. By freedom I mean kids riding motorbikes, running certain businesses from your home and having horses etc. By allowing development of smaller lots or town size block it will completely take away from the integrity of these existing lots. It will also take away some of the freedom these lots allow. The eastern side of Narromine has always been known for these types of lots so I ask Council to reconsider this application.

Staff comments

The wider setting has existing lots of varying sizes. The comments in the submission may also be referencing the proposed LEP amendment. It is a valid concern that land use conflicts be considered in the R5 Large Lot Residential setting. The development will increase the number of dwelling entitlements in the locality. Generally, the development lot sizes proposed are slightly smaller than existing parcels in vicinity to the site. Without the use of the Community title scheme the subdivision could not occur.

The minimum lot size clause of the LEP is not applicable to subdivisions proposed through use of the Community Land Development Act 2021. Other LGA's have adopted an approach to amend the LEP provisions to clarify their minimum lot size provisions further to ensure that 'development lots' continue to meet the minimum lot size, and it is only the common lot which is permitted to be of a lesser area in the community scheme.

Narromine LEP 2011 has a clause pertaining to community title schemes, however the provisions only apply to the RU1 and E3 zones aiming to prevent fragmentation of rural land.

Council has supported the implementation of the Residential Rural Residential Strategy - Planning proposal (Department Ref: PP-2022-1579): to rezone certain land to zone R1 General Residential and zone R5 Large Lot Residential and change minimum lot size to increase the supply of residential land in Narromine and Trangie. The reduction to minimum lot size for land opposite in Webb Siding Road is on schedule to be completed by July 2023.

Support for the subdivision proposal will not change that the R5 Large Lot Residential zone objectives and land use table would be applicable.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

Submission 3

I would like to raise concerns about this proposed subdivision. I believe that Council will need to supply town water mains to these new subdivisions, for them to have reliable water supply. At this time existing houses along Webbs Siding Road who only have bore water supply, struggle when there is a high demand for water. The water level in many of these bores drops very low and some to nothing, especially when irrigation bores to south and east of this area are in operation.

Therefore, additional bores in these new lots, and other future subdivision in this area will further impact this already unreliable supply.

I would propose that Council continue water mains out along Webbs Siding Road to all existing lots, as well as to all new lots in the area to make this a viable project. This will stop the need for drilling of additional bores.

There is also a bad drainage problem along this road that needs to be fixed by Narromine Shire Council ASAP. And at least before additional houses are constructed.

Narromine Shire Council have a duty of care to existing residents along this road as well as new subdivisions to supply reliable water supply to them. If further new bores were to operate in these new subdivisions it would cause greater bore water shortages to all. As they have no town water, it would be agreed that Council will breach their duty of care to current residents by allowing these subdivisions to take place without proper care and planning. This could trigger a Class Action against Narromine Shire Council.

Staff comments

It is noted that the existing bore proposed to be shared infrastructure is currently licensed for irrigation purposes. The change to a community bore, for strictly domestic purposes, will reduce the volume of water potentially used (no new bores proposed). The extension of water main and sewer reticulation may become more viable with the LEP amendment currently progressing.

Council can consider the provision of town infrastructure as a separate matter, as the DA proposal has adequately demonstrated a shared water supply suitable for supplementation of rainwater to any future dwelling in the community scheme.

Note: A response to the issues raised in the submissions was also received from the applicant.

Legal and Regulatory Compliance

Environmental Planning and Assessment Act 1979
Environmental Planning and Assessment Regulation 2021

Risk Management Issues

Community Title as a development option is not specifically addressed in the Narromine Shire DCP 2011. Future updates should address relevant subdivision controls specific to community title to manage expectations.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

The LEP provision supports growth in the Shire by clarifying development standards for residential subdivision. However, the intent of minimum lot size provisions and application to community title developments for the R5 zone should be explored and improved in future LEP revisions.

Internal/ external Consultation

Consultation and exhibition periods were carried out in accordance with the Community Participation Plan and Environmental Planning and Assessment Act/Regulation.

Attachments (Annexure A)

As this is a planning decision made in the exercise of a function of a Council under the Environmental Planning and Assessment Act 1979, including a decision relating to an environmental planning instrument under that Act, a division is required to be called.

RECOMMENDATION

1. That Council grant consent subject to condition(s) detailed in Annexure 'A' attached.

Annexure A

SCHEDULE A – CONDITIONS OF CONSENT

PART A - GENERAL CONDITIONS

Approved plans and supporting documentation

1. Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise. Any modification otherwise required to the approved plans will require the submission of a modification application under section 4.55 of the Environmental Planning and Assessment Act.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Plan No. & Revision	Plan Title.	Drawn By.	Dated.
2022009.dwg Surveyors Ref 2022/009	Plan Showing Detail and Contours over Lot 14 in DP114146 and Lot 2021 in DP1234675	Langford and Rowe	13/06/2022
Sheet 1 of 3	Location Plan (DRAFT Community Plan)	Langford and Rowe	
Sheet 2 of 3	Detail Plan Sheet 1 of 1	Langford and Rowe	
Sheet 3 of 3	Community Property Plan	Langford and Rowe	

Other documents:

Document Title.	Report No.	Prepared By.	Dated.
Site and Soil evaluation for on-site sewage systems Proposed subdivision Lot 2021 DP1234675, 127 Webbs Siding Road, Narromine New South Wales	KHEFF2226	K&H Geotechnical Services	August 2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

NOTE: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

2. This development consent includes approval for the following:
 - a. A community title subdivision of land (1 existing lot into 3 development lots and 1 common lot).
 - b. No consent is granted for any dwelling or secondary dwelling. Any proposal for habitable building works is to be subject to future development application to be submitted to Council and to be supported by a flood assessment.

3. A restriction as to the use of the land is to be applied to the land to identify the Town Cowal and prevent inappropriate land use within the flood area. An instrument, under Section 88B of the Conveyancing Act, shall be created to give effect to the provision. This shall be created prior to the relevant subdivision certificate. The restriction is to prevent any dwelling/structure/effluent disposal area/inappropriate filling of land from being located in the land identified as Flood Planning Constraint 1.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Development Expenses

4. It is the responsibility of the applicant to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this consent.
5. Costs associated with all development works including any necessary alterations, relocations of services, public utility mains or installations must be met by the developer. The developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.
6. All costs associated with the preparation of Survey Plan and associated easement/s and community management statement documentation are to be borne by the developer.

Shoring and adequacy of adjoining property

7. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —
 - a) Protect and support the building, structure or work from possible damage from the excavation, and
 - b) Where necessary, underpin the building, structure or work to prevent any such damage.
 - c) Repair, restore, replace or make good any damage to the meet applicable standards, codes or performance criteria and to the satisfaction of the affected party.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Note: This is a prescribed condition - EP&A Regulation clause 74.

PART B – PRIOR TO THE ISSUE OF SUBDIVISION WORKS CERTIFICATE

Subdivision Works Certificate Application

8. A Subdivision Works Certificate (SWC) application is to be submitted via the NSW Planning Portal to, and issued by Council or an Accredited Certifier, prior to any excavation or building works being carried out on site.
 - a. The plans submitted in association with the SWC application are to demonstrate compliance with conditions. The plans are to be approved by Council or an Accredited Certifier, as relevant as satisfying this requirement prior to the issue of a SWC.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

- b. A Community scheme plan to be accompanied by a management statement.

NOTE 1: There are conditions in this consent that must be satisfied before a Subdivision Works Certificate can be issued.

NOTE 2: If the Subdivision Works Certificate is issued by a Principal Certifying Authority that is not Council it will be necessary to lodge the Certificate and other approved documents with Council via the NSW Planning Portal.

Community Management Statement

9. A Community Management Statement is to be prepared complying with *Schedule 2 Community Land Development Act 2021*. Prior to the issue of a subdivision works certificate the draft Community Management Statement is to be provided to Council. The Community Management Statement is to reflect the commitments in the proposal, and address the following items, not limited to:
- a. Specific rules for flood management. Including future fencing, will need to demonstrate that the fence (new or replacement fence) would create no impediment to the flow of floodwater.
 - b. Address future land filling restrictions.
 - c. Rules for effluent disposal. Adopt the provisions of the Site and soil evaluation for on-site sewage systems prepared by K&H Geotechnical Services.
 - d. Management of water supply sharing and cost distribution.

Engineering Plans

10. Engineering plans, showing details of all proposed work and adhering to any conditions of development consent, are to be submitted to, and approved by, Council or an Accredited Certifier, prior to issue of the SWC.
11. A detailed Engineering Design is to be submitted to and approved by Council prior to the issue of a subdivision works certificate. The engineering design is to comply with Council's requirements, adopted guidelines and standards. A SWC is required for, but not limited to the following civil works:
- a. Stormwater drainage;
 - b. Road construction work including shared driveway and driveway connection to Webbs Siding Road (subject to s138 Roads Act Approval);
 - c. Water sharing infrastructure to each lot from the bore within Lot 1 to each lot;

Note: No works is permitted to commence prior to the issue of a Subdivision Works Certificate.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Road – Engineering Requirements

12. Vehicles should be able to enter and leave the scheme land in a forward direction. Provision shall be made to provide vehicle access for Lot 2, 3 and Lot 4 from the common property driveway access, with no additional direct access onto Webbs Siding Road approved.

Damage to Public Assets

13. The developer or their agent must undertake a site inspection and prepare a preconstruction dilapidation report of the adjacent kerbs, gutters, footpaths, walkways, carriageway, reserves and the like, prior to commencement of work and document evidence of any damage to existing assets. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense.
14. This dilapidation report is to be accepted by Council prior to issue of the Subdivision Works Certificate and prior to any works commencing on site.

Construction Site Management Plan

15. Prior to the issue of a subdivision works certificate a construction site management plan (CSMP) must be prepared and provided to the Certifier for approval. The plan must include the following matters:
- a. The location and materials for protective fencing and hoardings on the perimeter of the site;
 - b. Provisions for public safety.
 - c. Soil Erosion and Water Management Control measures in accordance with the guidelines set out in the manual 'Managing Urban Stormwater: Soils and Construction Certificate' (The Blue Book) (as amended from time to time) and shall be submitted and approved by Council or an Accredited Certifier prior to issue of the SWC. The site shall be protected from erosion and sediment loss during the construction works. All erosion and sediment control measures must be in place prior to earthworks commencing.

Use of Fill

16. Where filling is required all finished surface levels and contours to Australian Height Datum (AHD) shall be shown on the plans submitted for the Subdivision Works Certificate. Where it is proposed to import fill, the material shall be free of hazardous materials and contamination and be classed as VENM to ENM under the guidelines of the NSW Environment Protection Authority by a qualified Geotechnical Engineer.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Services

17. Other services such as telecommunication, gas, electrical and lighting shall be designed by accredited persons in accordance with the relevant standards.
18. The applicant shall ensure that a terrestrial telecommunication service (telephone and internet) and adequate electrical supply is provided to all development lots.
19. Shared Water Supply is to be designed to provide a supplementary water supply volume for domestic and firefighting purposes. The subdivision works plans and community management statement are to demonstrate the infrastructure proposed including pipes, meters, tanks included in the system.

Payment of building and construction industry long service levy

20. Before the issue of a Construction Certificate or Subdivision Works Certificate, the applicant is to ensure that the person liable pays the long service levy to be calculated based on a cost estimate prepared by a suitably qualified person to the Long Service Corporation or Council under section 34 of the Building and Construction Industry Long Service Payments Act 1986 and provides proof of this payment to the certifier. The final revised cost estimate and proof of payment is required to be provided to the certifier prior to issue of the relevant certificate.

NOTE: In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the current levy payable is \$0 (No levy is payable on work with a total value of less than \$250000). This payment can be made directly to the Long Service Levy Corporation. All benefits and requirements are determined by the [Building and Construction Industry Long Service Payments Act 1986](#).

Fencing and signage

21. Fencing should be considerate to the setting and purpose:
 - d. Non-combustible fencing material should be used for new boundaries.
 - e. Fencing should be of an open design to permit the flow of flood water where possible. Any solid fencing panel designs should have provision to allow the passage of water in the event of a flood.
 - f. Where ponding of water is likely, suitable fencing and signage should be considered for safety and restriction of access.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

PART C - BEFORE THE COMMENCEMENT OF WORKS

Issue of Subdivision Works Certificate

- 22.** This consent does not permit commencement of any site works. Works are not to commence until such time as a Subdivision Works Certificate has been obtained and the appointment of a Principal Certifier.

S138 Roads Act Approvals

- 23.** Under Section 138 of the Roads Act 1993, should any work on the verge, footpath, or public road reserve be required, a S138 Roads Act Approval will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The S138 application is to be submitted to, and approved by, Council prior to works commencing.

Notice of Commencement

- 24.** Prior to commencement of subdivision works, the following actions are required to be carried out:
- g. A site supervisor including contact details is to be nominated;
 - h. Council is to be provided with two (2) days' notice of works commencing; and
 - i. Council is to be notified in writing of any existing damage to Council's infrastructure (dilapidation report). Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the developer's expense.

Erection of signs

- 25.** A sign must be erected in a prominent position on any site on which demolition or construction work, is being carried out:
- a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - b) showing the name of the principal contractor (if any) for any work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Erosion and sediment controls in place

- 26.** Before the commencement of any work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, are in place, and remain until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- 27.** Potentially affected residents shall be notified prior commencement of construction works and informed about potential disruptions to traffic.

Temporary Onsite Toilet

- 28.** A temporary on-site toilet is to be provided and must remain throughout the construction of the construction works. Disposal of sewage shall be to an approved site.

Dial Before You Dig

- 29.** Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

PART D – DURING CONSTRUCTION

General

- 30.** The development shall be constructed in accordance with the plans submitted with the Development Application, unless modified by subsequent design plans submitted with the application for the Subdivision Works Certificate for the subdivision. Construction shall be in accordance with the most current version as approved by Council.

Hours of work

- 31.** The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

7:00am to 6:00pm on Monday to Friday

8:00 am to 1pm on Saturday

Nil on Sunday & Public Holidays

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

NOTE: Any variation to the hours of work requires Council's approval.

Construction noise

- 32.** While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

Uncovering relics or Aboriginal objects -unexpected finds

- 33.** While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

Land Contamination

- 34.** Council is to be notified immediately any contaminants or hazardous substances are identified at levels of concern for human health and work is to stop until further direction from Council.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Cut and fill

35. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.

b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.

Ground Levels

36. Finished ground levels are to be graded away from adjoining properties which must achieve natural drainage. The concentrated flows are to be dispersed down slope or collected and discharged to the stormwater drainage system.

Procedure for critical stage inspections

37. While construction work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.

Essential Energy

38. All works must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

PART E - REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

Subdivision Certificate

39. An application for a Subdivision Certificate must be made via the NSW Planning Portal. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application.

NOTE: The application must address ALL those conditions of consent required to be complied with "Prior to the issue of a Subdivision Certificate" with a clear explanation of how that condition has been complied with, together with supplying ALL the relevant information/documents/certificate and/or plans that is required by that condition.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 8 FEBRUARY 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

40. The plan of subdivision is to be submitted to Council together with payment of the Subdivision Certificate application fee, in accordance with Council's adopted schedule of fees and charges. The following details shall also be submitted:
- a) A copy of the development consent,
 - b) Evidence that all conditions of Development Consent have been satisfied,
 - c) Evidence of payment of all relevant fees,
 - d) Any 88B instrument,
 - e) All surveyor's or engineer's certification if required by the Development Consent, and
 - f) Community Management Statement.

Registration of Easements and Restriction to User (88B instrument)

41. All easements required for restriction as to use of land, drainage, sewer, water and electricity shall be approved by Council and registered on the title of the relevant lot(s) with Land and Property Information NSW in accordance with section 88E of the Conveyancing Act 1919.
42. Easement/s are to be created for any existing or new electrical infrastructure, using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision.

7.12 Development Contributions

43. The monetary contribution set out in the following table is to be paid to Council prior to the issue of a Subdivision Certificate unless otherwise addressed in a Voluntary Planning Agreement. The contribution is current as at the date of this consent and is levied in accordance with the Narromine Shire Council Section 7.12 Contributions Plan 2019, adopted on 29 January 2020.

The contribution payable will be calculated in accordance with the contributions plan current at the time of payment and will be adjusted at the time of payment in accordance with the Consumer Price Index (CPI) (All Groups Index for Sydney) published by the Australian Bureau of Statistic (ABS). Contribution amounts will be adjusted by Council each quarter.

Contribution Type	Proposed Cost of Development	Levy Payable (%)	Total Payable
Section 7.12 Contribution	\$170,000	0.25%	\$425

A documented costing of the costs of the subdivision works and/or building work shall be provided to Council to enable the amount of the contribution to be accurately calculated. The applicant is to contact Council's Planning & Regulatory Services Department for a quotation. The quotation is valid for one month.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

Electricity

- 44.** Documentary evidence is to be provided to Council showing that arrangements have been made with the relevant electricity authority for the provision of electricity services to the proposed lots (including the common lot).
- a. A Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) must be issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision and development, which may include the payment of fees and contributions. Any requested changes by Essential Energy will require a separate Section 4.55 modification application to be submitted for approval by Council.

Telecommunications

- 45.** Application is to be made to Telstra/NBN for infrastructure to be made available to each individual development lot within the scheme. Either a Telecommunication Infrastructure Provisioning Confirmation or Certificate of Practical Completion is to be submitted to the Principal Certifying Authority confirming that the specified lots have been declared ready for service prior to the issue of a Subdivision Certificate.

All Services Provided Within Lots

- 46.** A registered surveyor shall provide certification that all services (e.g. drainage, stormwater, water supply, electricity, telephone) as constructed are contained within each lot, or within appropriate easements to accommodate such services. The certification is to be provided to the Certifying Authority prior to the issue of a Subdivision Certificate.

Public Infrastructure

- 47.** The applicant shall rectify any damage to public infrastructure (including roads, gutters, footpaths, street trees etc.) prior to the issue of the Subdivision Certificate at no cost to Council.

Completion Requirements

- 48.** All of the foregoing conditions are to be completed at the full cost of the developer and to be completed prior to the issuing of the Subdivision Certificate, unless otherwise stated.

2. DEVELOPMENT APPLICATION – DA2022/43 PROPOSED COMMUNITY TITLE RESIDENTIAL SUBDIVISION TO CREATE TWO NEW DEVELOPMENT LOTS AND ONE COMMON LOT (Cont'd)

PART F. GENERAL ADVICE

ENGINEERING SITE SUPERVISION

Where Council is the Principal Certifying Authority, the applicant shall pay engineering site supervision fees in accordance with Council's current fees and charges with the application for a Construction Certificate for the site. Council's current engineering site supervision fee can be found in its adopted Annual Fees and Charges. Package Engineering inspections are also available for Roads, Water and Sewer in Council's current fees and charges.

BOUNDARY ENCROACHMENTS

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on, or encroach over, the allotment boundary. Your attention is directed to the provisions of the *Dividing Fences Act*, which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position. This may necessitate a survey to identify the allotment boundary.

LAPSING OF DEVELOPMENT CONSENT

Development consent does not lapse if the approved use has actually commenced or the proposed work is physically commenced before the consent lapse date, except where a condition specifies a limit to the duration of the consent. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the *Environmental Planning and Assessment Act*.

Phil Johnston
Director Community and Economic Development