

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING**

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE

Author Executive Manager Planning
Responsible Officer Executive Manager Planning
Link to Strategic Plans CSP 3.2.2 Ensure regulatory compliance with environmental legislation
 DP 3.3.2.1 Ensure all development approvals consider existing utilities infrastructure in their determination

Executive Summary

Application lodged	24 June 2019
Applicant/s	CW Campbell c/- Doherty Smith & Associates
Land description	Lot 10 DP 817854 34 Merilba Street Narromine
Proposed development	Two (2) lot residential subdivision (Torrens Title)
Value of the proposed development	\$10,000.00

Report

Council's consent is sought for the subdivision of land at 34 Merilba Street, Narromine – Lot 10 DP 817854 (Figure 1). The development site comprises an existing dwelling and ancillary outbuildings.



Figure 1 Locality Sketch

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING**

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

The subject land has a total area of 982.1 m². The proponent is proposing to subdivide the land into two (2) allotments as per the below table:

PROPOSED LOT NUMBER	LOT SIZE
341	530 m ²
342	452.1 m ²

The proposal has been assessed pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended) and is considered to be suitable.

The proposal is consistent with the zone objectives and controls in the Narromine Local Environmental plan (LEP) 2011, however seeks minor variations to the Narromine Development Control Plan (DCP) 2011 regarding lot width and the removal of a carport. These variations are considered justified and the impacts are reasonable and can be addressed by conditions of consent. Approval of the application is recommended, subject to conditions of consent in the attached Notice of Determination.

DECISION FRAMEWORK

Narromine Local Environmental Plan 2011

The provisions of the LEP must be considered by the Council in determining the application. LEPs govern the types of development that are permissible or prohibited in different parts of the town and also provide some assessment criteria in specific circumstances. Uses are either permissible or not. The objectives of each zoning and indeed aims of the LEP itself are also to be considered and can be used to guide decision making around the appropriateness of development.

Narromine Development Control Plan 2011

The DCP provides guidelines for development. In general it is a performance based document rather than prescriptive in nature. For each planning element there are guidelines that indicate ways of achieving planning outcomes and it is recognised that there may also be other solutions of merit. All design solutions are considered on merit by planning and building staff. Applications should clearly demonstrate how the planning outcomes are being met where alternative design solutions are proposed. The DCP enables developers and architects to use design to achieve the planning outcomes in alternative ways.

LEGAL AND REGULATORY COMPLIANCE

Environmental Planning and Assessment Act 1979
Environmental Planning and Assessment Regulations 2000
Narromine Shire Council Development Control Plan 2011

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT ISSUES

Nil

INTERNAL/EXTERNAL CONSULTATION

Essential Energy

The development was referred to Essential Energy for comment in accordance with Clause 45 of *State Environmental Planning Policy (Infrastructure) 2007*. Essential Energy had no comments to make as to potential safety risks arising from the proposed development.

FURTHER CONSIDERATIONS

Consideration has been given to the impacts on Council's service delivery; image and reputation; political; environmental; health and safety; employees; stakeholders and project management; and no further implications or risks have been identified.

SUPPORTING INFORMATION

THE PROPOSAL

Council's consent is sought for a residential subdivision of land at 34 Merilba Street, Narromine. The subdivision will create two (2) residential allotments (Figure 2), one of which is already occupied by a dwelling house and ancillary outbuildings.

The proposed lots will comprise the following areas and future uses, subject to further development consent where applicable:

Lot	Area	Existing Improvements	Possible Uses
341	530 m ²	Dwelling house and ancillary outbuildings	Uses permitted in the R1 General Residential zone
342	452.1 m ²	Ancillary outbuildings	Uses permitted in the R1 General Residential zone

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING**

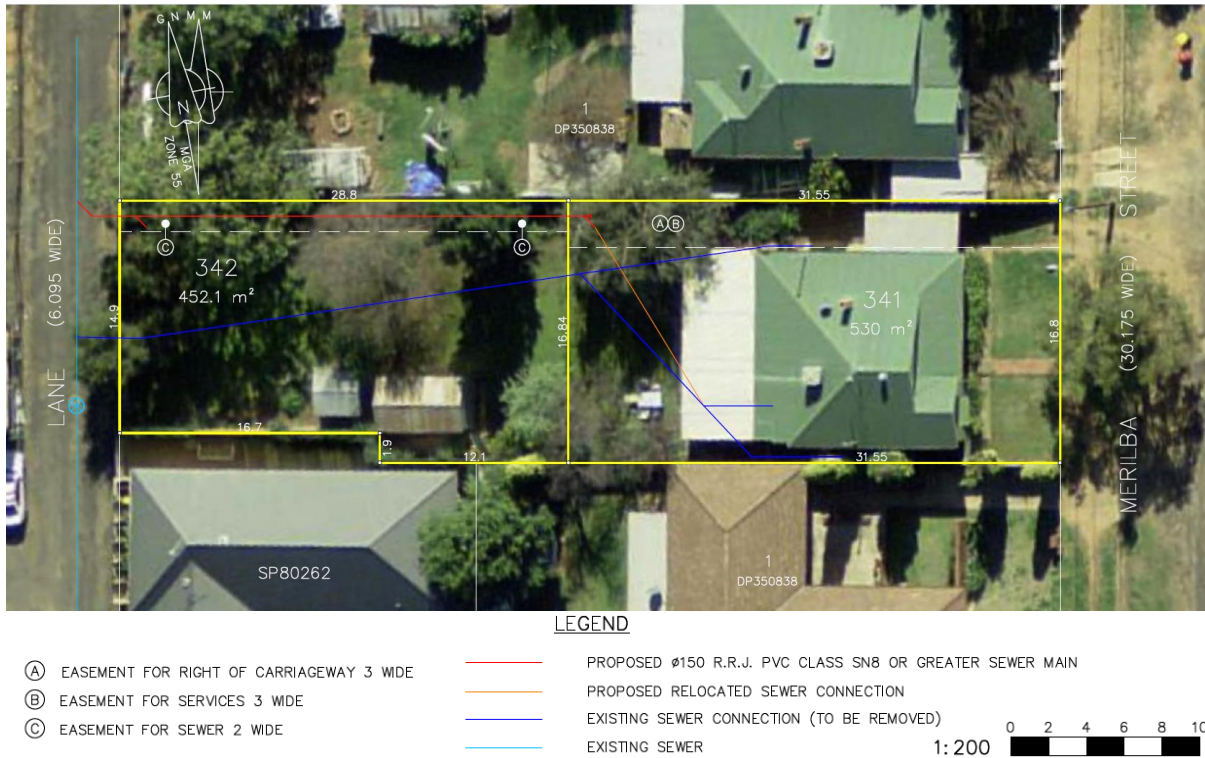


Figure 2 Proposed Subdivision Layout and Servicing

MATTERS FOR CONSIDERATION

Environmental Planning and Assessment Act 1979

Section 1.7 Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994*.

Section 1.7 of the EP&A Act 1979 identifies that Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994* have effect in connection with terrestrial and aquatic environments.

A Biodiversity Development Assessment Report is not required in support of the proposal. It is evident that the parcels are unlikely to contain significant habitat or biodiversity value. It is considered that the proposed development is not likely to significantly affect a threatened species.

Section 4.15 Evaluation

Section 4.15 of the *Environmental Planning and Assessment Act 1979* requires Council to consider various matters, those pertaining to the application are listed below.

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING**

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT S4.15 (1) (a) (i)

Narromine Local Environmental Plan 2011

Part 1 – Preliminary

Clause 1.2 Aims of Plan

- (1) *This Plan aims to make local environmental planning provisions for land in Narromine in accordance with the relevant standard environmental planning instrument under section 33A of the Act.*
- (2) *The particular aims of this Plan are as follows:*
- (a) to encourage economic development through tourism activities, business, employment initiatives and fostering industry growth,*
 - (b) to protect and conserve the natural environment including surface and ground water, soil, air and native vegetation by encouraging sustainable development,*
 - (c) to encourage sustainable agricultural practices, including intensive agriculture, by minimising land use conflicts and facilitating farm adjustments*

The proposed subdivision will provide an additional lot for dwelling stock to accommodate the housing needs of the community. The proposed lot size and layout is of little environmental impact.

Clause 1.6 Consent Authority

Clause 1.6 states that:

The consent authority for the purposes of this Plan is (subject to the Act) the Council.

Clause 1.7 Maps

Land Zoning Map	R1 General Residential
Lot Size Map	Minimum Lot Size 450 m ²
Heritage Map	No
Flood Map	Yes
Terrestrial Biodiversity Map	No
Groundwater Vulnerability Map	Yes
Watercourse Map	No
Wetlands Map	No

Those matters that are of relevance are addressed in detail in the body of this report.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

Clause 1.9A Suspension of covenants, agreements and instruments

- (1) *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.*
- (2) *This clause does not apply:*
- (a) *to a covenant imposed by the Council or that the Council requires to be imposed, or*
 - (b) *to any prescribed instrument within the meaning of section 183A of the [Crown Lands Act 1989](#), or*
 - (c) *to any conservation agreement within the meaning of the [National Parks and Wildlife Act 1974](#), or*
 - (d) *to any Trust agreement within the meaning of the [Nature Conservation Trust Act 2001](#), or*
 - (e) *to any property vegetation plan within the meaning of the [Native Vegetation Act 2003](#), or*
 - (f) *to any biobanking agreement within the meaning of Part 7A of the [Threatened Species Conservation Act 1995](#), or*
 - (g) *to any planning agreement within the meaning of Division 6 of Part 4 of the Act.*
- (3) *This clause does not affect the rights or interests of any public authority under any registered instrument.*
- (4) *Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).*

In considerations of the above Clause, Council staff are not aware of the title of the subject property being affected by any of the above.

Part 2 – Permitted or Prohibited Development

Clause 2.1 Land Use Zones

The subject land is zoned R1 General Residential as per the below.

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING**

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)



Figure 3 Land Zoning and Surrounding Cadastre.

The proposal is defined pursuant to Clause 6.2 of the *Environmental Planning and Assessment Act 1979*, as the subdivision of land which means the division of land into 2 or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The proposed development is permitted with the consent of Council.

Clause 2.3 Zone Objectives and Land Use Tables

The objectives of the R1 General Residential Zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

The development is considered to be consistent with the objectives of the R1 General Residential Zone. The proposed subdivision will provide an additional lot for dwelling stock to accommodate the housing needs of the community.

The proposed lot size and layout is considered to be of a sufficient width and depth ratio and is generally consistent with the existing pattern of development in Merilba Street.

The proposed subdivision will result in one additional lot at the rear of 34 Merilba Street. The proposed lot size and resulting pattern of development is generally consistent with that of the locality. Any future development application for a dwelling on proposed lot 342 will be required to address potential impacts on the amenity of adjoining development.

Clause 2.6 Subdivision – consent requirements

(1) Land to which this Plan applies may be subdivided, but only with development consent.

Consent is sought for a Torrens Title subdivision in accordance with this clause.

Part 3 – Exempt and Complying Development

The application is not exempt or complying development.

Part 4 – Principal Development Standards

Clause 4.1 Minimum Subdivision Lot Size

Clause 4.1 applies and states in part:

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.

The minimum lot size for the R1 General Residential zone is 450 m². The proposed subdivision will result in lot sizes of 530m² and 452.1m², both of these are above the LEP prescribed minimum lot size.

Part 5 – Miscellaneous Provisions

The Part 5 provisions are not applicable to the subject land or proposed development.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

Part 6 – Additional local provisions

Clause 6.2 Flood Planning

(1) *The objectives of this clause are as follows:*

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) *to avoid significant adverse impacts on flood behaviour and the environment.*

(2) *This clause applies to:*

- (a) *land identified as "Flood planning area" on the [Flood Planning Map](#), and*
- (b) *other land at or below the flood planning level.*

(3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*

- (a) *is compatible with the flood hazard of the land, and*
- (b) *is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *incorporates appropriate measures to manage risk to life from flood, and*
- (d) *is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

(4) *A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published by the NSW Government in April 2005, unless it is otherwise defined in this clause.*

(5) *In this clause:*

flood planning level *means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard.*

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

The subject land is identified as being within the "Flood planning area" in accordance with the Narromine LEP Flood Planning Map. The land is located in the intermediate floodplain as per the Narromine Floodplain Risk Management Study.

The intermediate floodplain is inundated by the 1% AEP flood. With reference to Council's Flood Policy for Developments in Urban Floodplains 2018, all land uses are permitted in the zone subject to minimum floor level requirements. As the development seeks consent for the subdivision of land only, the development application is not subject to flood related development controls. Any future development application for residential development would be subject to flood related development controls.

Clause 6.3 Stormwater

- (1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining downstream properties, native bushland and receiving waters.*
- (2) This clause applies to all land in residential, business and industrial zones.*
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
 - (a) is designed to maximise the use of water permeable surfaces on the land, having regard to the soil characteristics affecting on-site infiltration of water, and*
 - (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
 - (c) avoids any significant impacts of stormwater runoff on adjoining downstream properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Stormwater from the site is currently drained to Council's stormwater infrastructure located in Merilba Street with overland flow currently draining to the street. The applicant has proposed to drain stormwater from proposed lot 342 into the rear laneway. As there is no formal stormwater infrastructure located in the rear laneway, a condition of consent will be imposed to ensure that an easement for stormwater/services is to be registered on the title at the same location as the easement for the right of carriageway.

Clause 6.6 Groundwater Vulnerability

- (1) The objectives of this clause are to maintain the hydrological functions of key groundwater systems and to protect vulnerable groundwater resources from depletion and contamination as a result of inappropriate development.*

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

- (2) *This clause applies to land identified as “Vulnerable Land” on the [Groundwater Vulnerability Map](#).*
- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider:*
- (a) whether or not the development (including any on-site storage or disposal of solid or liquid waste and chemicals) is likely to cause any groundwater contamination or have any adverse effect on groundwater dependent ecosystems, and*
 - (b) the cumulative impact (including the impact on nearby groundwater extraction for potable water supply or stock water supply) of the development and any other existing development on groundwater.*
- (4) *Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The land is identified as being “Vulnerable Land” in accordance with the Narromine LEP 2011 on the Groundwater Vulnerability Map. The proposed development is unlikely to affect groundwater dependent ecosystems or to cause groundwater contamination. Urban residential subdivision does not involve processes or activities that would impact on groundwater resources. The proposed lots will be serviced by reticulated sewer.

Clause 6.8 Essential Services

Clause 6.8 states that:

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable road access.*

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

In consideration of the above clause, the listed utility services are available to the land and are considered to be adequate to support the proposed development.

STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy 55 Remediation of Land

- (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, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
- (a) *land that is within an investigation area,*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING**

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

- (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

In consideration of this clause, the subject site is located in an urban area and is zoned for residential purposes. The land is not known to have been used for a purpose that could have resulted in land contamination.

In January 2018, the Department of Planning and Environment released an Explanation of Intended Effect and draft Guidelines outlining the intent to review SEPP 55. The draft Guidelines state that when undertaking an initial evaluation of contamination, a planning authority should consider whether there is any known or potential contamination on nearby or neighbouring properties, or in nearby groundwater, and whether that contamination needs to be considered in the assessment and decision making process.

The site is not identified on the NSW Environment Protection Authority's register of contaminated lands, nor is it identified as being potentially contaminated on Council's contamination register.

Based on the above, the subject land is considered suitable in its current form for the proposed development.

PROVISIONS OF ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT THAT HAS BEEN PLACED ON EXHIBITION 4.15 (1) (a) (ii)

There are no draft environmental planning instruments that apply to the subject land or proposed development.

DESIGNATED DEVELOPMENT

The development is not designated development.

INTEGRATED DEVELOPMENT

The development is not integrated development.

PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN 4.15 (1) (a) (iii)

Narromine Shire Council Development Control Plan 2011

The following chapters and clauses are specifically relevant to the assessment of the proposed development:

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

Chapter 5a) Residential Developments

Objectives

- *To conserve the local character and amenity of the Narromine Shire, and to protect and encourage a rural lifestyle based on community values.*
- *To ensure that new development does not negatively impact on the amenity, privacy and views of the adjoining development.*
- *To reduce the potential for land use conflict.*
- *To ensure that development is consistent with the character of the streetscape.*

The development is considered to be broadly consistent with the objectives of the chapter. The proposed subdivision does not involve the erection of any buildings or structures and therefore does not adversely impact on the amenity, privacy and views of the adjoining development. The newly created lot is considered to be consistent with the surrounding cadastre and development pattern.

Private Open Space

To ensure private open space provided for dwellings is clearly defined, useable and meets user requirements for privacy, access, outdoor activities and landscaping.

- *For dwelling houses no less than 20% of the lot area with a minimum depth of 5 metres*

The amount of private open space required for proposed lot 341 is 106 m². The private open space on lot 341 is estimated to be approximately 269 m² and therefore satisfies the DCP in this regard.

The private open space provisions of lot 342 will be subject to a future development application for residential development. However it is considered that the lot is of an appropriate width and depth ratio that would allow a future dwelling to meet the private open space requirement.

Flooding

Certain land in the Narromine Shire is identified as flood prone in accordance with the Narromine Local Environmental Plan 2011. While this hazard may not prohibit the development, additional actions may need to be taken by the applicant to assist in further development of the land. In some cases, an individual flood study may need to be conducted on the site to determine the extent of flooding on the land.

The compatibility of the development with the flood hazard of the land has been addressed under section Part 6 – Additional local provisions.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

Access and Car Parking

All land must have legal access to a public road. Usually this is in the form of direct vehicular access to a public road. In certain circumstances where direct access to a road is not possible, a right of carriageway can be created over adjoining land.

- *Single dwellings should be provided with two onsite parking spaces, one of which is protected from weather.*
- *Vehicle access must be designed and constructed such that:*
 - o *Public utilities and drainage infrastructure are able to be accommodated; and*
 - o *Construction materials must be concrete or other all-weather seal approved by Council so they do not cause noise or dust issues to the road surface or adjoining residences.*
- *Shared driveways/access for two or more dwellings must be a minimum of 8 metres for the first 6 metres from the entrance to the property and 6 metres thereafter*
- *Shared driveways must incorporate a minimum of 1 metre landscaped area along the side property boundary*

The subject land has legal access to Merilba Street. An easement for a right of carriageway (3 metres wide) has been proposed along the northern boundary of proposed lot 341 to provide access to proposed lot 342 which requires the demolition of the existing carport on the western boundary of proposed lot 341. There is sufficient on street parking located in the vicinity of the development site to cater for the proposed development.

Subdivision

The Narromine Local Environmental Plan 2011 specifies a minimum allotment size for residential subdivision.

As previously addressed in the above Part 4 – Principal Development Standards, the minimum lot size for the R1 General Residential zone is 450 m². Both lots are above the minimum lot size for the zone.

Dimensions

The minimum width of an allotment at the front boundary must be not less than 25 metres. Consideration may be given to lots where access is via a battleaxe access handle. The width of the battleaxe handle is to have a minimum width of 6 metres for access to a single dwelling and a minimum of 8 metres for the first 6 metres from the entry of the lot, and 6 metres thereafter, for two or more dwellings.

The subject site has a front boundary width of 16.8 metres and therefore does not comply with the prescribed DCP standard. The applicant has sought a departure from this development standard to vary the lot width by 33% from 25 metres to 16.8 metres.

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING**

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

The applicant justifies the proposed variation by stating that the proposed three (3) metre right of carriageway is able to satisfy the access and car parking requirements as prescribed by the DCP.

Council officers consider that the proposed variation is justified given that the proposed lots will have sufficient vehicular access and there is sufficient off street parking provided to service the existing dwelling if required. Furthermore, the proposed development involves frontages that are consistent with the surrounding area as illustrated below. It should also be noted that the proposed additional lot to the rear has the same frontage of the adjoining lot to its eastern boundary, meaning it is not possible for it to be any larger.

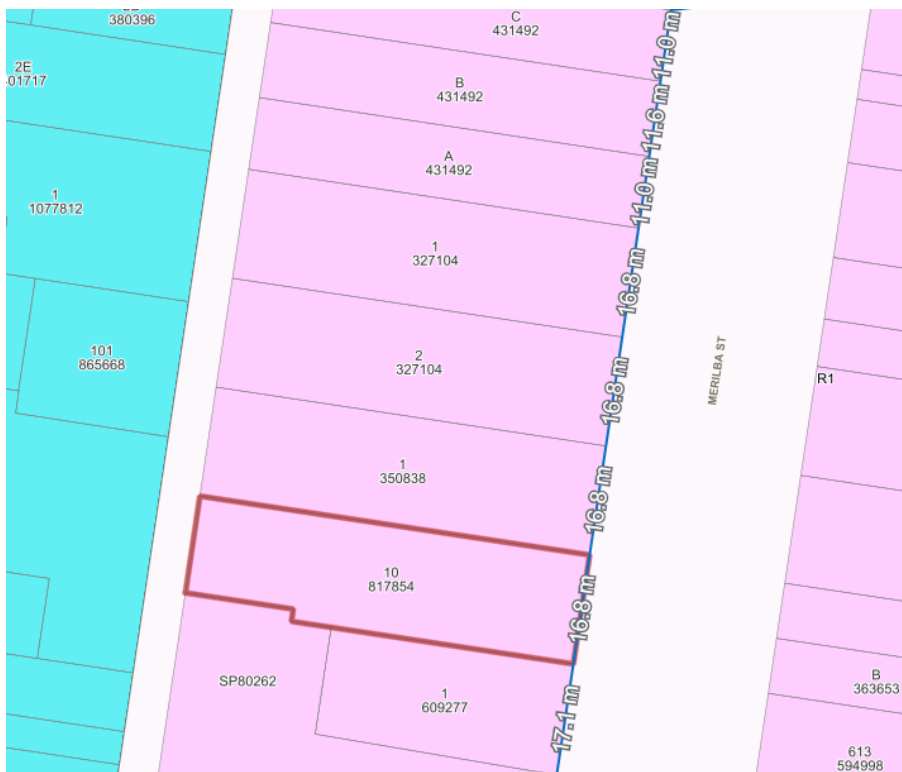


Figure 4 Front Boundary Widths of Adjoining Lots

Services, Stormwater and Roads

Considerations should be given to the availability of electricity, telephone and gas services available to the site.

The listed utility services are available to the above land and are considered adequate to support the proposed development. The attached Draft Notice of Determination includes a Condition of Consent requiring that easements for sewer and servicing be provided prior to the release of the Subdivision Certificate.

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

Interim Policy – Development Adjoining Laneways

The provisions of Council's Development Adjoining Narrow Laneways – Interim Policy apply in this circumstance as the land adjoins a laneway. The provisions of the Interim Policy are as follows:

- a) *Laneways are not to be used as primary frontages, except in cases where the laneway is the only legal and practical access.*
- b) *Development proposals to increase vehicular access and servicing along narrow laneways that have a road reserve width of less than 10m, are not supported. Intensification of lots with rear lane access would need to propose access and servicing from the primary street.*
- c) *Development proposals to increase vehicular access and servicing along laneways that have a road reserve width of 10m or greater may be supported where Council can be satisfied that:
 - i. *The development results in minimal impact on existing residential amenity, and*
 - ii. *Provision of infrastructure, car parking and waste collection is adequate to facilitate the development.**
- d) *Where an Area Specific Development Control Plan Chapter exists, it prevails over the interim policy position, to the extent of the inconsistency.*
- e) *That this policy apply until suitable development controls are in place in the Narromine Development Control Plan (DCP) 2011.*

In respect of the above provisions of the Interim Policy, the development does not propose to utilise the laneway as the primary frontage for lot 342; access derives from the right of carriageway that traverses the western boundary of lot 341. In this regard, the access and car parking arrangements to the site are adequately addressed and satisfy the requirements of the DCP and Interim Policy.

PROVISIONS PRESCRIBED BY THE REGULATIONS 4.15(1)(a)(iv)

Division 8 of Part 6 of the Environmental Planning and Assessment Regulation 2000 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 92 – Government Coastal Policy – Not applicable to the Narromine Shire Local Government Area.

Clause 92 – Building Demolition – The demolition of the carport is to be undertaken in accordance with AS 2601-1991 *The Demolition of Structures*.

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING**

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

Clauses 93 & 94 – Fire Safety Upgrades – Not relevant.

Clause 94A – Temporary Structures – Not relevant.

Clause 95 – Deferred Commencement – Not relevant.

Clause 96 – Ancillary aspects of the development – Not relevant.

Clause 97 – Modification or surrender of development consent or existing use – Not relevant.

Clause 97A – Fulfilment of BASIX commitments – Not relevant.

THE LIKELY IMPACTS OF THE DEVELOPMENT 4.15 (1)(b)

The likely impacts of the development have been considered in the foregoing assessment under the Narromine Local Environmental Plan 201 and the Narromine Shire Development Control Plan 2011. It is considered that the likely impacts of the proposed development are acceptable and can be adequately managed through the Conditions of Consent in the attached Notice of Determination.

Context and Setting

The development site is located within metres of the Narromine Central Business District. The subject land has been zoned for residential purposes for many years. The site is surrounded by residential dwellings to the north, east and south. It is not anticipated that the development will create significant adverse impacts on the context and setting of the area. The proposal will not have any negative impacts regarding limiting views or solar access to neighbouring properties.

Land Use Conflict

The subject site is surrounded by developed residential allotments to the north, east and south. Land to the west is currently zoned B2 Local Centre. The proposed development is consistent with existing development in the locality and concerns surrounding land use conflict is unlikely to arise as a result of this development.

Access and Traffic

The proposed subdivision has primary vehicular access to Merilba Street. A right of carriageway 3 metres wide is proposed over lot 341 to provide legal access to lot 342. A Condition of Consent has been included requiring that the applicant seal the right of carriageway to an all-weather standard to minimise the impacts of noise, dust generation and to improve the overall amenity of the development.

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING**

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

THE SUITABILITY OF THE SITE 4.15(1)(c)

The proposed subdivision located at 34 Merilba Street Narromine, is considered to be consistent with the Narromine Local Environmental Plan 2011 and the Narromine Shire Development Control Plan 2011. The suitability of the site has been addressed in the above sections of the report.

The development of the site will not create significant adverse impacts on the context and setting of the area. Additionally, the development of the site will not detrimentally affect adjoining land and is unlikely to lead to land use conflict.

- The development is compliant and permissible with the relevant provisions of the Narromine Local Environmental Plan 2011.
- The development is consistent with the relevant planning outcomes of the Narromine Shire Council Development Control Plan 2011.
- The proposal is considered to be satisfactory in regard to Section 4.15 of the Environmental Planning and Assessment Act 1979.
- The potential impacts of the development are considered to be minor and can be managed appropriately through Conditions of Consent.
- There are no planning or environmental concerns surrounding the development that would warrant refusal.

ANY SUBMISSIONS MADE IN ACCORDANCE WITH THE ACT 4.15(1)(d)

The proposed development was not required to be advertised or notified in accordance with the Narromine Shire Development Control Plan 2011.

PUBLIC INTEREST 4.15(1) (e)

The proposed development is considered to be of only minor interest to the public due to the relative localised nature of the potential impacts. The economic and social benefits generated as a result of this development are considered to be in the public interest.

As this matter relates to a planning decision made in the exercise of a function of Council under the EP&A Act, and relates to a development contribution plan under that Act, **a division is required to be called on the motion.**

Attachments

Notice of Determination
Plans

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING

1. DEVELOPMENT APPLICATION 2019/41 – TWO LOT SUBDIVISION – 34 MERILBA STREET, NARROMINE (Cont'd)

RECOMMENDATION

That Council resolves to issue consent to Development Application 2019/41 for a *Two Lot Subdivision* at Lot 10 DP 817854 - 34 Merilba Street Narromine, pursuant to the conditions of consent attached in the Notice of Determination.

2. DEVELOPMENT APPROVALS

Author Executive Manager Planning
Responsible Officer General Manager
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 the month of September 2019

Report

The approvals for the month of September 2019 bring the total approved Development Applications for the financial year to 22 with a total value of \$2,101,120.

DA No.	Location	LOT/DP	Description	Value	Assessment Time/Days
2019/37	Dandaloo Street Trangie	9/3903/1	Verandah additions	\$5,000	7
2019/45	John Street Trangie	12/581470	Shed & Awning USE ONLY	\$8,000	8
2019/48	Birch Street Narromine	75/810143	Carport & Shed	\$7,290	5
2019/56	Temoin Street Narromine	23/621966	Dwelling	\$70,000	7
2019/59	Mitchell Hwy Narromine	44/1209533 320/1198226	Boundary adjustment	Nil	22
2019/62	Bowden Fletcher Drive Narromine	42/1209533	Shed	\$16,000	12

**NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 9 OCTOBER 2019
REPORTS TO COUNCIL – PLANNING**

2. DEVELOPMENT APPROVALS (Cont'd)

2019/63	Dubbo Burroway Road Narromine	55/752572	Swimming Pool	\$43,330	1
2019/64	Third Avenue Narromine	5/7833/2	Swimming Pool	\$37,500	1
2019/65	Manildra Street Narromine	8/249367	Carport	\$8,000	6

There are currently 7 applications under assessment.

Legal and Regulatory Compliance

Environmental Planning and Assessment Act 1979
Environmental Planning and Assessment Regulation 2000

Risk Management Issues

Nil

Internal/External Consultation

Nil

Attachments

Nil

RECOMMENDATION

That the information be noted.

Carmel O'Connor
Executive Manager Planning

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Issued under Section 4.16 of the Environmental Planning and Assessment Act 1979

APPLICANT DETAILS

Applicant:	CW Campbell c/- Doherty Smith & Associates
Address:	PO Box 4764 DUBBO NSW 2830

APPLICATION DETAILS

Development Application Number:	2019/41
Description of Development:	Subdivision (Two Lot Torrens Title)

LAND TO BE DEVELOPED

Address:	34 Merilba Street, Narromine
Property Description:	Lot 10 DP 817854

DETERMINATION DETAILS

Decision:	Approved subject to conditions
Determination Date:	9 October 2019
Approval to operate from:	10 October 2019
Approval to lapse on:	10 October 2024

OTHER COUNCIL APPROVALS

Sec 68 Local Government Act	Nil
Roads Act	Nil

A. ADMINISTRATIVE CONDITIONS

Approved Plans

1. The development shall be carried out in accordance with:
 - a) The approved and stamped drawing prepared by Doherty Smith & Associates, dated 18 September 2019, Job Number 18080 – Drawing number 18080-DA05.
 - b) The approved stamped Statement of Environmental Effects prepared by Doherty Smiths & Associates.

Except where amended by any of the following conditions.

Limits of Approval

2. The consent will lapse five (5) years from the date of consent unless the works associated with the development have physically commenced.

B. PRIOR TO COMMENCEMENT OF WORK

Notice of Commencement

3. Notice of commencement (at least 48 hours prior) is to be given to Council in writing.

Section 68 Approval

4. An approval under Section 68 of the *Local Government Act* is to be sought from Narromine Shire Council, as the Water and Sewer Authority, for alterations to water and sewer. No plumbing and drainage is to commence until approval is granted.

Section 138 Roads Act Approvals

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

Erosion and Sediment Control

6. Erosion and sediment control measures shall be implemented on the site.

Damage to Public Assets

7. The developer or his agent must undertake a site inspection 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.

C. DURING CONSTRUCTION/SITWORKS

Approved hours of Construction

8. Construction and demolition work may only be undertaken in accordance with the provisions of the Environmental Protection Authority – Interim Construction Noise Guidelines as identified below:

DAY	HOURS
Monday to Friday	7:00am to 6:00pm
Saturday	8:00am to 1:00pm
Sunday & Public Holidays	Nil

Utilities

9. Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.

Water and Sewer

10. The developer is to be entirely responsible for the provision of water, sewerage and drainage facilities capable of servicing all the lots from Council's existing infrastructure. The developer is to be responsible for gaining access over adjoining land for services where necessary and easements are to be created about all water, sewer and drainage mains within and outside the lots they serve.
11. All work shall be carried out by a licensed plumber and drainer and to the requirements of the AS3500 and WSAW Sewer Codes of Practice.

Soil and Water Management

12. All practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur.

In particular, a silt fence or equivalent must be provided downhill from the cut and fill area (or any other disturbed area). The fence must be regularly inspected and cleaned out and/or repaired as necessary and all collected silt must be disposed of to the satisfaction of the Principal Certifying Authority (PCA).

Unnecessary disturbance of the site must not occur.

All cuts and fills must be stabilised or revegetated as soon as possible after the completion of site earthworks.

Crossover Upgrade

13. An all-weather access is to be constructed from the property boundary to the pavement edge line of the road.

Demolition

14. Demolition work shall be carried out in accordance with Australian Standard AS2601-1991: The Demolition of Structures.

Essential Energy

15. 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*.
16. A "Dial Before You Dig" should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995 (NSW)*.

D. PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

Subdivision Certificate

17. An application for a Subdivision Certificate must be made on the approved form. 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.

18. The original plan of subdivision and three (3) copies are 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) The 88B instrument plus three (3) copies, and
 - e) All surveyor's or engineer's certification if required by the Development Consent
19. The application **MUST** be one complete, concise package, addressing all those conditions. Failure to provide the abovementioned information in one package, will likely result in the application being refused/rejected and returned to you.

Registration of Easements

20. Prior to the release of the Subdivision Certificate, the creation by the developer, under Section 88B of the Conveyancing Act of a minimum 3 m wide Right of Carriageway burdening Lot 341 and in favour of Lot 342 over the proposed access way at a minimum of 3 m for its entire length. An easement for services shall also be shown in the same location as the Right of Carriageway.

21. Prior to the release of the Subdivision Certificate, the creation by the developer, Under Section 88B of the Conveyancing Act, of an easement for sewer a minimum of 2m in width, in favour of Lot 341 and burdening Lot 342.
22. A restriction as to user whereby it is noted that responsibility for the maintenance of the right of carriageway is with the owner(s) of the lots benefited.
23. All easements and restrictions required by this consent must nominate Narromine Shire Council as the authority to release vary or modify the easements or restrictions.
24. The final plan of subdivision shall show easements over all utility services for water, sewer, and stormwater drainage facilities in favour of Narromine Shire Council.

Water Meters

25. A water service and water meter must be connected to proposed Lot 342 in the subdivision. It is the applicant's responsibility to engage a licensed plumber who shall liaise with Council during this process. Any new water service and meter will be at the applicants cost.

Telecommunications/NBN

26. Application is to be made to Telstra/NBN for infrastructure to be made available to each individual lot within the development. 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.

Essential Energy

27. A Notice of Arrangement from Essential Energy stating arrangement have been made for the provision of electricity supply to the development, is to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.
28. The final plan of subdivision shall show easement/s for any existing electrical infrastructure. The easement/s is/are to be created using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision.

Removal of Erosion and Sediment Controls

29. Any temporary soil erosion control measure installed during development works shall be removed.

E. PRESCRIBED CONDITIONS

30. Prescribed conditions of development consent in accordance with Division 8A of the Environmental Planning and Assessment Regulation 2000 that must be fulfilled:

- a) Clause 98: Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- b) Clause 98A: Erection of signs
- c) Clause 98B: Notification of Home Building Act 1989 requirements
- d) Clause 98C: Conditions relating to entertainment venues
- e) Clause 98D: Condition relating to maximum capacity signage
- f) Clause 98E: Condition relating to shoring and adequacy of adjoining property

Please refer to the NSW State legislation for full text of the clauses under Division 8A of the Environmental Planning and Assessment Regulation 2000. This can be accessed at <http://www.legislation.nsw.gov.au>.

F. GENERAL ADVICE

NOTES

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.

RIGHT OF APPEAL

If you are the applicant:

You can appeal against this decision in the Land and Environment Court within six (6) months of the date of this notice (section 8.7 of the *Environmental Planning and Assessment Act, 1979*).

REVIEW OF DETERMINATION

An applicant may request the Council to review this determination within six (6) months after the date the applicant received this notice. The prescribed fee must be paid

with the request for a review. Once the review is completed the Council may confirm or change the determination.

If there is an appeal, the period of time within which Council may undertake a review is extended up to the time the Court hands down its decision.

A Review cannot be requested for:

- a determination to issue or refuse to issue a complying development certificate, or
- a determination in respect of designated development, or
- a determination made by Council under Section Division 4.6 in respect of an application by the Crown.

Date of notice: 10 October 2019

Carmel O'Connor
Executive Manager Planning

G. ADVISORY NOTES

Primary Access

The laneway servicing the rear of the development is not to be used as the primary frontage.

National Broadband Network

If, as a result of this approval, you wish to connect to the NBN (National Broadband Network), you must do so online via:

<http://www.nbnco.com.au/develop-or-plan-with-the-nbn/new-developments.html>

H. REASONS FOR CONDITIONS

These conditions have been imposed to ensure the proposed development:

1. Achieves the objectives of the Environmental Planning and Assessment Act 1979;
2. Complies with the provisions of all relevant environmental planning instruments;
3. Is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies;
4. Ensure that the relevant public authorities have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities;
5. Meet the increased demand for public amenities and services attributable to the development in accordance with Section 7.12 of the Environmental Planning and Assessment Act 1979;

6. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development;
7. Minimise any potential adverse environmental, social or economic impacts of the proposed development; and
8. Ensure that all traffic, car parking and access requirements arising from the development are addressed.



LEGEND

- (A) EASEMENT FOR RIGHT OF CARRIAGEWAY 3 WIDE
- (B) EASEMENT FOR SERVICES 3 WIDE
- (C) EASEMENT FOR SEWER 2 WIDE
- PROPOSED Ø150 R.R.J. PVC CLASS SN8 OR GREATER SEWER MAIN
- PROPOSED RELOCATED SEWER CONNECTION
- EXISTING SEWER CONNECTION (TO BE REMOVED)
- EXISTING SEWER

Notes:
This plan was prepared for Mr Craig Campbell as a proposed subdivision to accompany a subdivision application to Narramine Council and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to field survey and also to the requirements of council and to any other authority which may have requirements under any relevant legislation. In particular, no reliance should be placed on the information on this plan for any financial dealings involving the land. This note is an integral part of this plan.

<p>4/2 Blueridge Drive PO Box 4764 DUBBO EAST NSW 2830 P: 6884 1008</p>		<p>Job Number 18080</p>		<p>Date 18/09/2019</p>		<p>Scale 1:200</p>	
<p>DOHERTY SMITH & ASSOCIATES CONSULTING SURVEYORS</p> <p>www.dohertysmith.com.au dsa@dohertysmith.com.au</p>		<p>Draftsman JMC</p>		<p>Checked by EKS</p>		<p>Approved</p>	
<p>LOT 10 DP817854 34 MERILBA STREET NARRIOMINE</p>				<p>MR CRAIG CAMPBELL PROPOSED SITE PLAN</p>			
<p>Drawing No. 18080-DA05</p>				<p>Revision A</p>		<p>Sheet 1 of 1</p>	