DRAFT

MINUTES – 9 MAY 2017

PORT STEPHENS
COUNCIL

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 9 May 2017, commencing at 5.55pm.

PRESENT: Mayor B MacKenzie, Councillors G. Dingle, C. Doohan, S. Dover, K. Jordan, P. Kafer, P. Le Mottee, J. Morello, J Nell, S. Tucker, General Manager, Corporate Services Group Manager, Facilities and Services Group Manager, Development Services Group Manager and Governance Manager.

092	**Councillor Steve Tucker** **Councillor Chris Doohan** It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 25 April 2017 be confirmed.

	Cr Ken Jordan declared a significant non-pecuniary conflict of interest in Item 5, Rescission Motion No. 1 and Notice of Motion No. 2. The nature of the interest is a friendship with the neighbours of South Street,

	Medowie, relating to Rescission Motion No. 1 and Notice of Motion No. 2, and with one of the applicants of Item 5. Cr Paul Le Mottee declared a pecuniary conflict of interest in Item 5 Rescission Motion No. 1 and Notice of Motion No. 2. The nature of the interest is that the Le Mottee Group did survey works on the road design for Item 5, and prepared a plan for the applicant in relation to Rescission Motion No. 1 and Notice of Motion No. 2.

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MOTIONS TO CLOSE

ITEM NO. 1 **FILE NO: 17/86881**
RM8 REF NO: Click here to enter text.

MOTION TO CLOSE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

1) That pursuant to section 10A(2) (c) of the *Local Government Act 1993*, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 1on the Ordinary agenda namely ***Sale of part of 795 Medowie Road, Medowie***.
2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:

- information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 9 MAY 2017
MOTION

093	**Councillor Steve Tucker** **Councillor Ken Jordan** It was resolved that Council: 1) That pursuant to section 10A(2) (c) of the *Local Government Act 1993*, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 0 on the Ordinary agenda namely ***Sale of part of 795 Medowie Road, Medowie***. 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing: • information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ITEM NO. 2 **FILE NO: 17/86884**
RM8 REF NO: Click here to enter text.

MOTION TO CLOSE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION:

1) That pursuant to section 10A(2) (i) of the *Local Government Act 1993*, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item 2on the Ordinary agenda namely ***CODE OF CONDUCT***.
2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing:

- alleged contraventions of any code of conduct requirements applicable under section 440.

3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 9 MAY 2017
MOTION

094	**Councillor Steve Tucker** **Councillor Ken Jordan** It was resolved that Council: 1) That pursuant to section 10A(2) (i) of the *Local Government Act 1993*, the Committee and Council resolve to close to the public that part of its meetings to discuss Confidential Item on the Ordinary agenda namely ***CODE OF CONDUCT***. 2) That the reasons for closing the meeting to the public to consider this item is that the discussion will include information containing: • alleged contraventions of any code of conduct requirements applicable under section 440. 3) That the report remain confidential and the minute be released in accordance with Council's resolution.

ORDINARY COUNCIL MEETING - 9 MAY 2017
MOTION

095	**Mayor Bruce MacKenzie** **Councillor Ken Jordan** It was resolved that Rescission Motion No. 1 and No.2 be brought forward and dealt with prior to Item 1.

RESCISSION MOTIONS

Councillor Ken Jordan left the meeting at 6:02pm, in Open Council.
Councillor Paul Le Mottee left the meeting at 6:02pm, in Open Council.

NOTICE OF RESCISSION

ITEM NO. 1 **FILE NO: 17/80841**

RM8 REF NO: 16-2016-862-1

DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392)

COUNCILLOR: MAYOR BRUCE MACKENZIE
JOHN NELL
JOHN MORELLO

THAT COUNCIL:

Rescind its decision of Minute No. 060 of 28 March 2017 on Item No. 1, Development Application No. 16-2016-862-1 for a Torrens title subdivision of one into two lots, and new shed at 111 South Street, Medowie (Lot 14 DP 1079392).

ORDINARY COUNCIL MEETING - 9 MAY 2017
MOTION

096	**Mayor Bruce MacKenzie** **Councillor John Morello** It was resolved that Council rescind its decision of Minute No. 060 of 28 March 2017 on Item No. 1, Development Application No. 16-2016-862-1 for a Torrens title subdivision of one into two lots, and new shed at 111 South Street, Medowie (Lot 14 DP 1079392).

In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Sally Dover, John Morello and John Nell.

Those against the Motion: Crs Geoff Dingle, Chris Doohan, Peter Kafer and Steve Tucker.

The motion on being put was carried with the casting vote of the Mayor.

ORDINARY COUNCIL MEETING - 9 MAY 2017
MOTION

	Mayor Bruce MacKenzie **Councillor John Morello** That Council: 1) Approve development application (DA) No. 16-2016-862-1 for Torrens title subdivision of one into two lots, and new shed at No. 111 South Street, Medowie (Lot 14, DP 1079392), subject to the conditions contained in (ATTACHMENT 2) of the Council report dated 28 March 2017. 2) Approve the request to refund of DA fees totalling $735.

In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Crs Sally Dover, Bruce MacKenzie and John Morello.

Those against the Motion: Crs Geoff Dingle, Chris Doohan, Peter Kafer, John Nell and Steve Tucker.

The motion of being put was lost.

ATTACHMENTS

1) Ordinary Council Minutes from 28 March 2017 for Item No. 1 - Development Application No. 16-2016-862-1 for Torrens Title Subdivision of One into Two Lots, and new Shed at 111 South Street, Medowie (Lot 14 DP 1079392).

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

MINUTES ORDINARY COUNCIL - 28 MARCH 2017

ITEM NO. 1 **FILE NO: 17/10311**
RM8 REF NO: 16-2016-862-1

DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392)

REPORT OF: MATTHEW BROWN - DEVELOPMENT ASSESSMENT AND COMPLIANCE SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Approve Development Application (DA) No.16-2016-862-1 for Torrens title subdivision of one into two lots, and new shed at No.111 South Street, Medowie (Lot 14 DP 1079392), subject to the conditions contained in **(ATTACHMENT 2)**.
2) Approve the request for a refund of DA fees totalling $735.

ORDINARY COUNCIL MEETING - 28 MARCH 2017
MOTION

059	**Mayor Bruce MacKenzie** **Councillor John Nell** It was resolved that Council move into Committee of the Whole.

Councillor Ken Jordan left the meeting at 06:32pm.
Councillor Paul Le Mottee left the meeting at 06:32pm.
Councillor Peter Kafer left the meeting at 06:32pm.
Councillor Peter Kafer returned to the meeting at 06:33pm.

COMMITTEE OF THE WHOLE RECOMMENDATION

	Mayor Bruce MacKenzie **Councillor John Nell** That Council: 1) Acknowledge the petition received; 2) Approve Development Application (DA) No.16-2016-862-1 for Torrens title subdivision of one into two lots, and new shed at No.111 South Street, Medowie (Lot 14 DP 1079392), subject to the conditions contained in **(ATTACHMENT 2)**; and 3) Approve the request for a refund of DA fees totalling $735.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

ORDINARY COUNCIL MEETING - 28 MARCH 2017
AMENDMENT

	Councillor John Nell That the item be deferred to allow for further information and legal advice.

The amendment lapsed without a seconder.

ORDINARY COUNCIL MEETING - 28 MARCH 2017
AMENDMENT

	Councillor Chris Doohan **Councillor John Nell** That the item be deferred to the next Council meeting to allow for further information and seek legal advice.

In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Cr John Nell.

Those against the Motion: Mayor Bruce MacKenzie, Crs Geoff Dingle, Chris Doohan, Peter Kafer and Steve Tucker.

The amendment on being put was lost.

ORDINARY COUNCIL MEETING - 28 MARCH 2017
MOTION

	Councillor Chris Doohan **Councillor Steve Tucker** That Council refuse development application no. 16-2016-862-1 for Torrens title subdivision of one into two lots, and new shed at 111 South Street, Medowie (Lot 14 DP 1079392).

In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Chris Doohan, Peter Kafer, John Nell and Steve Tucker.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

Those against the Motion: Mayor Bruce MacKenzie.

The motion on being put was carried.

Councillor Paul Le Mottee left the meeting at 07:41pm, in Open Council.
Councillor Ken Jordan left the meeting at 07:42pm, in Open Council.
Councillor Ken Jordan returned to the meeting at 07:42pm, in Open Council.

ORDINARY COUNCIL MEETING - 28 MARCH 2017
MOTION

060	**Councillor Chris Doohan** **Councillor John Nell** It was resolved that Council refuse development application no. 16-2016-862-1 for Torrens title subdivision of one into two lots, and new shed at 111 South Street, Medowie (Lot 14 DP 1079392).

In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Chris Doohan, Peter Kafer, John Nell and Steve Tucker.

Those against the Motion: Mayor Bruce MacKenzie.

The motion on being put was carried.

BACKGROUND

The purpose of this report is to present Development Application (DA) No.16-2016-862-1 to Council for determination. The DA proposes a one (1) into two (2) lot Torrens title subdivision and new shed at 111 South Street, Medowie (Lot 14 DP 1079392). A locality plan is provided at **(ATTACHMENT 1)**.

The application has been called to Council by Councillor Jordan. A copy of the call up form has been included as **(ATTACHMENT 3)**.

A two way conversation/briefing was held with Councillors on 21 February 2017.

Development Proposal

The application proposes a one into two lot Torrens title subdivision and a shed. The proposed subdivision will create the following allotments:

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

- Lot 1 with an area of 1,561m^2 which will contain the existing dwelling onsite. Access to this lot is currently provided directly from South Street; and
- Lot 2 with an area of 700m^2 and will be suitable for supporting a future dwelling. Access to this lot will be available from Sylvan Avenue.

The proposed shed will be located to the west of the existing dwelling, along the Sylvan Avenue frontage. Landscaping has been provided to screen the shed from the street.

Site Details

The subject site is located at Lot 14 DP 1079392 and is known as 111 South Street. It is zoned R2 Low Density Residential and is a corner lot located on the intersection of South Street and Sylvan Street. The site is 2,262m^2 in size and comprises a single storey dwelling located along the South Street frontage.

The site slope towards the south and an existing driveway provides access to the existing dwelling from South Street.

Surrounding developments comprise predominantly detached single dwellings (of both one and two stories in height). The land to the south of the subject land is zoned R2, with a minimum lot size of 600m^2. The land to the north is zoned R5 Large Lot Residential with a minimum lot size of 2,000m^2.

A recent approval (DA 16-2015-682-1) for three dual occupancies (six single storey dwellings) across three lots was approved on 1, 1A, and 1D Sylvan Avenue. This is situated to the west of the subject site, directly across the road from the property at 8 Sylvan Avenue. This land is zoned R5, with a minimum lot size of 2,000m^2.

Site History

The subject site was previously zoned as 1C (Rural Small Holdings) under Port Stephens Local Environmental Plan 2000, with an accompanying minimum lot size of 2,000m^2.

A planning proposal was submitted to Council in February 2012 on behalf of Pacific Dunes Estate, which included the subject site. The intent of the rezoning was to facilitate higher densities in Pacific Dunes Estate, by rezoning land 2(a) Residential and lowering the applicable minimum lot size. Council endorsed the proposal with a minimum lot size of 700m^2. Council resolved to prepare the planning proposal on 24 April 2012 and resolved to proceed with the planning proposal post-exhibition on 13 August 2013. Both resolutions were unanimous.

At some time between the exhibition period and gazettal an administrative error resulted in the minimum lot size being reduced to 450m^2. The error was not realised until after gazettal of the planning proposal which occurred concurrently with the Port Stephens Local Environmental Plan 2013 (LEP 2013). To date this error has not

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

been rectified and the current minimum lot size for the site remains at 450m^2. There are plans however to rectify the matter as part of the forthcoming housekeeping LEP.

Assessment Outcomes

The proposed shed is considered ancillary to the existing dwelling and is therefore considered permissible with consent in the R2 Low Density Residential zone. An assessment of the shed has determined that it complies with the relevant development standards and Port Stephens Development Control Plan 2014 requirements.

The application includes a one into two lot Torrens title subdivision that requires consent under Clause 3.6 of LEP2013. The proposed development is considered to be compliant with Clause 4.1 – Minimum Subdivision Lot Sizes of LEP2013 and Chapter C1 – Subdivision of Port Stephens of the Development Control Plan (DCP2014) with a lot size of above 450m^2. In addition, it is noted that the proposal complies with the 700m^2 minimum lot size intended for the land and as endorsed by Council. A detailed assessment of the proposal against the provisions of s.79C *Environmental Planning and Assessment Act 1979* (EP&A Act) is provided at **(ATTACHMENT 4).**

The development addresses the objectives of the zone by providing the opportunity for additional residential development to cater for the housing needs of the community. The proposal will not have any significant impacts on the amenity of adjoining properties.

Request for Refund of DA Fees

It is acknowledged that the original proposal incorporated a lot of less than 700m^2 (624m^2). The applicant had been given preliminary verbal advice that the proposal they were intending to lodge complied with the minimum lot size requirements of the PSLEP 2013. Although this lot was compliant with the requirements of the PSLEP 2013, following consultation, in the interest of the community the applicant amended their original plan to increase this lot size to 700m^2. This change came at cost to the applicant. Given the change was required largely as a result of an administrative error by Council staff, the applicant has requested a refund of DA fees which total $735 as compensation for the additional monetary, design and time costs they have been subject to. It is recommended that Councillors consider this refund.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Sustainable Development.	Provide Strategic Land Use Planning Services. Provide Development Assessment and Building Certification Services.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

FINANCIAL/RESOURCE IMPLICATIONS

There are no known financial implications resulting from the recommendation of this report.

Source of Funds	Yes/No	Funding ($)	Comment
Existing budget	Yes		The existing budget can accommodate a fee refund if Councillors wish to support this request.
Reserve Funds	No		
Section 94	Yes		Refer to conditions of consent.
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

The development application is consistent with *Port Stephens Local Environmental Plan 2013* (LEP2013) and Port Stephens Development Control Plan 2014 (DCP2014). Further details are provided in the Planners Assessment Report contained in **(ATTACHMENT 4).**

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that if the application is refused, it may be challenged at the Land and Environment Court.	High	Approve the application as recommended.	Yes
There is a risk that if the application is refused, available development opportunities for residential subdivision may not be realised.	Low	Approve the application as recommended.	Yes

SUSTAINABILITY IMPLICATIONS
Includes Social, Economic and Environmental Implications

The development will result in positive economic, social and environmental outcomes. The proposed development represents a one into two lot Torrens title subdivision and will result in an additional residential lot to service the needs of the community.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

The proposed subdivision will reinforce the residential character in the locality and will act as a transition between the R2 zone in the south and the R5 zoned land in the north. There are no anticipated adverse impacts on the built environment as a result of the proposed development.

The proposed additional lot has adequate site access for vehicles and is of a size which can easily accommodate a future dwelling. It should be acknowledged that any future dwelling design will be subject to a separate assessment.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Development Assessment and Compliance Section during the development application process.

The objective of the consultation was to inform the relevant parties of the development application and obtain their feedback on the proposal to ensure all potential concerns have been investigated.

Internal

The application was reviewed by a range of Councils internal specialists. The application was referred to Councils Engineering Section, Building Surveyor, and Section 94 Officer for comment. The application was supported unconditionally by Council's Engineering Section, general conditions of consent were provided by Council's Building Surveyor, and the proposal attracted Section 94 contributions for which a condition is proposed.

A two way conversation/briefing was held with Councillors on 21 February 2017.

External

In accordance with the requirements of the Port Stephens Development Control Plan 2013, the application was not notified or advertised. However, following interest from surrounding property owners, consultation was undertaken and as a result eight (8) submissions were received.

A meeting was also held with concerned residents.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

The issues identified in the submissions have been addressed below:

Issue Raised	Comment
Parking and Road Networking	A referral was sent to Council's Traffic Engineer to assess the traffic impacts of the proposed subdivision with consideration to submissions. It was concluded there is sufficient frontage to Sylvan Avenue from the proposed lot so as to allow safe access to each proposed lot, with acceptable minimum sight distances in accordance with Austroads requirements. It was noted that Sylvan Avenue is too narrow to support on-street parking, however the lot is sufficiently sized so as to allow for on-site parking of vehicles. Further consideration of car parking will be required during the assessment of any future development on the proposed vacant lot. No new vehicular access is required to the shed.
Zoning and Minimum Lot Sizes	The proposed development exceeds the current minimum lot size of 450m^2. In addition, the proposal meets the intended minimum lot size of 700m^2 as endorsed by Council. The proposal does not increase lot yield above the densities envisaged in the planning proposal and is in keeping with the objectives of the zone.
Covenants/restrictions on title	A number of submissions stated that the subject site cannot be subdivided as the result of a restriction on the title. However there is no restriction registered over the lot and the subdivision of this site is not burdened.
Notification	In accordance with Chapter A.12 of the Port Stephens Development Control Plan 2014, the application was not initially notified or advertised. However given the level of interest from surrounding land owners, direct consultation was undertaken to identify concerns.
Privacy	Proposed Lot 2 (700m^2) is deemed to have sufficient space to facilitate future residential development without creating any substantial privacy or amenity issues. The subject land is located downslope from adjoining properties to the north and east, and it is noted that these properties feature garages, driveways and park areas adjacent to the development site. Consideration of privacy impacts from specific development is required to be undertaken during the assessment of any future proposal. There are no anticipated privacy impacts from the subject development.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

Increase demand for services	It is considered that the additional allotment, included in the proposal, will not impact significantly on the services in the area. The site is located in a residential area with adequate access to sewer, water, electricity, stormwater and road infrastructure.
Existing streetscape/character	The submissions described the subdivision as out of character from the rest of the Sylvan Ridge Estate. However, the intent of the Pacific Dunes planning proposal was to facilitate smaller residential lots. It is noted that the proposal respects the intended minimum lot size of 700m^2 and the resulting lots will act as a transition between the R2 and R5 zonings. It is considered that the proposed subdivision will not detrimentally impact on the streetscape of character of the area.
Stormwater	The subject site naturally slopes downwards towards Sylvan Avenue and any surface water runoff will naturally fall to this direction.

CONCLUSION

The proposed development is considered to suitably address the requirements of the Port Stephens Local Environmental Plan 2013 and Port Stephens Development Control Plan 2014. Mitigation measures proposed in the application, in addition to the proposed conditions of consent, are anticipated to adequately address any potential impacts of the development.

OPTIONS

1) Accept the recommendations.
2) Amend the recommendations.
3) Reject the recommendations.

ATTACHMENTS

1) Locality Plan.
2) Notice of Determination.
3) Call Up Form.
4) Planner's Assessment Report.

COUNCILLORS ROOM

1) Development plans.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

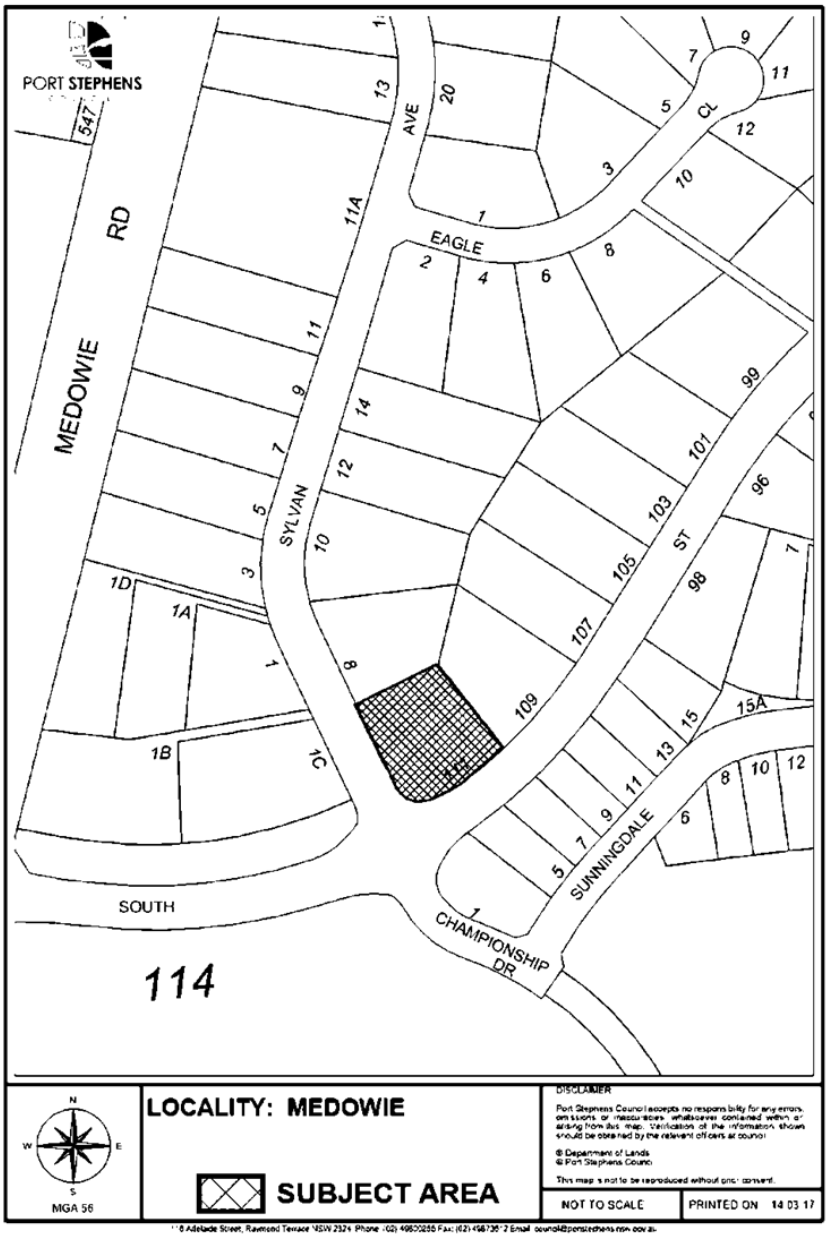
TABLED DOCUMENTS

Nil.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

MINUTES ORDINARY COUNCIL - 28 MARCH 2017

ITEM 1 - ATTACHMENT 1 LOCALITY PLAN.



ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

MINUTES ORDINARY COUNCIL - 28 MARCH 2017

ITEM 1 - ATTACHMENT 2 NOTICE OF DETERMINATION.

PORT STEPHENS

Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

Development consent is granted to development application 16-2016-862-1 subject to the conditions in Schedule 1.

Notice is hereby made under Section 81 of the Environmental Planning and Assessment Act 1979 (the Act) of a Development Consent issued under Section 80 of the Act, for the development described below. The consent should be read in conjunction with the conditions contained in Schedule 1 and the notes contained in Schedule 2. Details of approvals under Section 78A(3) of the Act are contained in Schedule 3.

Determination Outcome:	Approval, subject to conditions
APPLICATION DETAILS	
Application No:	16-2016-862-1
Property Address:	LOT: **14** DP: 1079392 **111 South Street MEDOWIE**
Description of Development:	**Torrens Title Subdivision of One into Two Lots and Shed**
Date of determination:	28 March 2017
Date from which the consent operates:	28 March 2017
Date on which the consent shall lapse: (unless physical commencement has occurred)	29 March 2022

MR H C JONES
Cadet Town Planner
Port Stephens Council

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Email council@portstephens.nsw.gov.au

16-2016-862-1

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ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

ITEM 1 - ATTACHMENT 2 NOTICE OF DETERMINATION.

PORT STEPHENS

Notice of Determination

Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

SCHEDULE 1

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.

CONDITIONS THAT IDENTIFY APPROVED PLANS AND LIMITATIONS OF CONSENT

1. The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent or as noted in red by Council on the approved plans:

Plan/Doc.Title	Plan Ref. No	Sheet.	Date	Drawn By
Proposed Subdivision Contour & Detailed Overlay	6307 PS-V3	1 of 2	7/2/2017	LeMottee Group
Proposed Subdivision	6307 PS-V3	2 of 2	7/2/2017	LeMottee Group
Shed Location Plan	SLP_001	1 of 1	7/2/2017	MM
Shed Detail	30825	1 of 1	26/8/2016	Shed Boss

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail. If there is any inconsistency between the plans and documentation referred to above the most recent document shall prevail to the extent of any inconsistency.

2. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION

3. **Prior to the commencement of works on the shed**, erosion and sediment control measures shall be put in place immediately down contour of any disturbed ground, and maintained post completion until the site is fully stabilised, to prevent the movement of soil by wind, water or vehicles onto any adjoining property, drainage

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MINUTES ORDINARY COUNCIL - 28 MARCH 2017

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Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

line, easement, natural watercourse, reserve or road surface, in accordance with *Managing Urban Stormwater – Soils and Construction, Volume 1* (Landcom, 2004).

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

4. A monetary contribution is to be paid to Council for the provision of 1 additional lot, pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979*, Section 94 of the *Environmental Planning and Assessment Act 1979*, and Councils Section 94 Contribution Plan towards the provision of the following public facilities:

Facility	Per lot/dwelling	Total
Civic Administration	$1,154.00	$1,154.00
Public Open Space, Parks & Reserves	$2,529.00	$2,529.00
Sports and Leisure Facilities	$6,828.00	$6,828.00
Cultural and Community Facilities	$2,435.00	$2,435.00
Road Works	$1,607.00	$1,607.00
Fire & Emergency Services	$224.00	$224.00
Medowie Traffic	$2,516.00	$2,516.00
	Total	$17,293.00

Payment of the above amount shall apply to Development Applications as follows:

a) **Subdivision and building work - prior to the issue of the Subdivision Certificate.**

Note: The amount of contribution payable under this condition has been calculated at the time of determination and in accordance with the Port Stephens Section 94 contributions plan. The contribution amount is valid for twelve months from the consent date. Should payment take plan after twelve months the contribution shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics.

CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES

6. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

7. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:
   - Monday to Friday, 7:00am to 6:00pm;
   - Saturday, 7:00am to 5:00pm
   - no construction work to take place on Sunday or Public Holidays.

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When the construction site is in operation the L10 level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

8. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.

CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

9. **Prior to release of the Occupation Certificate for the shed**, the applicant shall restore, replace or reconstruct any damaged sections of kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve which results from construction activities, as determined by Council's Development Engineers or Civil Assets Engineer. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Council.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

10. For endorsement of the Subdivision Certificate, the person having the benefit of the development consent shall submit an original plan of subdivision plus an electronic copy (USB or CD), suitable for endorsement by Council. The following details must be submitted with the plan of subdivision and its copies:
    a. the endorsement fee current at the time of lodgement;
    b. the 88B instrument;
    c. the Section 50 (Hunter Water) Compliance Certificate for the subdivision;
    d. Documentary evidence detailing essential service connections to both allotments; and
    e. Proof of payment of Section 94 contribution

11. A registered surveyor shall provide certification that the service as constructed in contained within each lot, or within appropriate easements to accommodate the service. The certification is to be provided to the PCA, **prior to the issue of a Subdivision Certificate**.

ADVICES

a. **Prior to making the application for a Subdivision Certificate**, the person having the benefit of this consent is to contact Council's Mapping Section via email at: **addressing@portstephens.nsw.gov.au** stating your Development Approval number, address of the property and the assessing officer, to obtain the correct house numbering. Be advised that any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.

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Under section 80, 80A, 80(1) and 81(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

b. Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/the person having the benefit of the development consent to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.

c. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposal. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

d. The development was referred to the NSW Rural Fire Service for an integrated referral. The application was supported unconditionally; the document is referenced D16/4382 and dated 11 January 2017.

SCHEDULE 2

RIGHT OF APPEAL

If you are dissatisfied with this decision:

- a review of determination can be made under Section 82A of the Act, or
- a right of appeal under Section 97 of the Act can be made to the Land and Environment Court within six (6) months from the date on which that application is taken to have been determined.

NOTES

- This is not an approval to commence work. Building works cannot commence until a construction certificate is issued by Council or an accredited certifier.
- Consent operates from the determination date. For more details on the date from which the consent operates refer to section 83 of the Environmental Planning and Assessment Act 1979.
- Development consents generally lapse five years after the determination date, however different considerations may apply. For more details on the lapsing date of consents refer to section 95 of the Environmental Planning and Assessment Act 1979.

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ITEM 1 - ATTACHMENT 3 CALL UP FORM.

Port Stephens

CALL TO COUNCIL FORM
DEVELOPMENT APPLICATION

I, Councillor **Ken Jordan**.....

require Development Application Number..... [redacted] 16-2016-862-1

for subdivision at 111 South Street

at 111 South Street

to be subject of a report to Council for determination by Council.

Reason:

The reason for this call-up to Council is the community are not happy with the subdivision, the neighbours were not notified and they should have been told.

Declaration of Interest:

I have considered any pecuniary or non-pecuniary conflict of interest (including political donations) associated with this development application on my part or an associated person. **I have a conflict of interest? Yes/No** (delete the response not applicable).

If **yes**, please provide the nature of the interest and reasons why further action should be taken to bring this matter to Council:

PORT STEPHENS COUNCIL
Customer Relations
18 JAN 2017
File No. 17-00061
Action by
Parcel

Signed: ... .**Date:** 18/1/2017

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ITEM 1 - ATTACHMENT 4 PLANNER'S ASSESSMENT REPORT.

PORT STEPHENS COUNCIL

DEVELOPMENT ASSESSMENT REPORT

APPLICATION DETAILS

Application Number	16-2016-862-1
Development Description	Torrens Title Subdivision One into Two Lots and new Shed
Applicant	MRS M L MORRISSEY & MR A MORRISSEY
Date of Lodgement	15/12/2016
Value of Works	$24,000.00

Development Proposal

The application proposes a one (1) into two (2) lots Torrens title subdivision and a shed.

The proposed subdivision proposes the following allotments:

- Lot 1 with an area of 1,561m^2 which will contain the existing dwelling onsite. Access to this lot is currently provided directly from South Street; and
- Lot 2 with an area of 700m^2 and will be suitable for supporting a future dwelling. Access to this lot will be available from Sylvan Avenue.

The proposed shed will be located to the west of the existing dwelling, along the Sylvan Avenue frontage. Landscaping has been provided to screen the shed from the street.

The initial application included the addition of a deck to the existing dwelling, however compliance issues were raised and subsequently the deck was withdrawn from the current application. The deck is part of an ongoing compliance action.

PROPERTY DETAILS

Property Address	111 South Street MEDOWIE
Lot and DP	LOT: 14 DP: 1079392
Current Use	Single Storey Dwelling
Zoning	R2 LOW DENSITY RESIDENTIAL
Site Constraints	Bushfire Prone Land – Category 3 Acid Sulfate Soils – Class 5 Koala Habitat – Preferred Habitat Linking area over Cleared Land RAAF Height Trigger Area – Structures over 15m RAAF Bird Strike zone – Group B Extraneous Lighting (CASA) Port Stephens Development Control Plan 2014 – D10 Pacific Dunes, Medowie Flood Prone Land – Minimal Risk Flood Prone Land

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Site Description

The subject site is located at Lot 14 DP 1079392 and is known as 111 South Street, Medowie. The subject site is 2,262m^2 in size, and comprises a single storey dwelling located along the south Street frontage.

The site is sloping downwards towards the south and driveway provides access from South Street.

The surrounding development comprise of predominantly of detached dwellings, with the Pacific Dunes Golf Course located to the south west of the site.

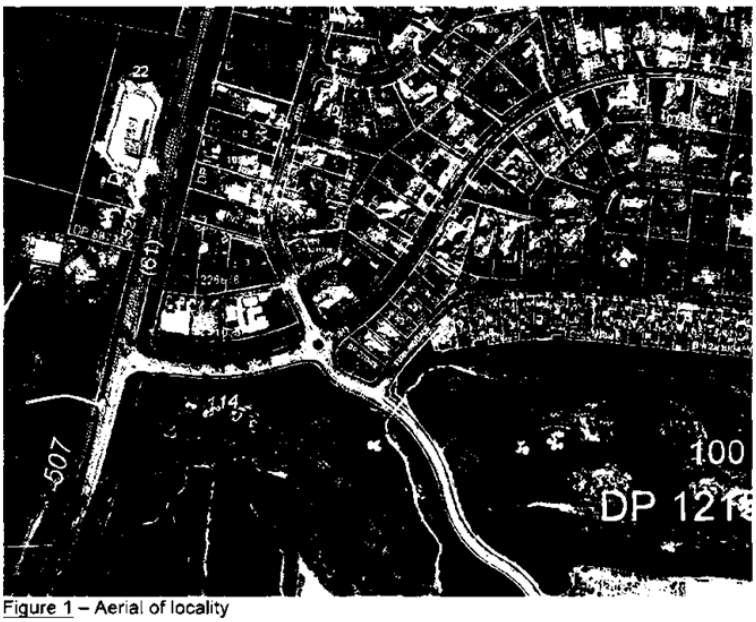

Figure 1 – Aerial of locality

Site History

The following consents have been approved on the subject site:

DA 16-2002-727-1: Approval for a Golf Course (approved 8 August 2002)
DA 16-2004-701-1: Approval for a 3 lot Torrens Title Subdivision & Road Widening (approved 29 October 2004)
DA 16-2013-262-1: Single Storey Dwelling (approved 3 July 2013)

There are no outstanding matters relating to these consents which would prevent the proposed development from being carried out.

A planning proposal was submitted to Council in February 2012 on behalf of Pacific Dunes Estate, which included the subject site. The intent of the rezoning was to facilitate higher densities in the Pacific Dunes Estate and the planning proposal included the site within the Hillside 2 precinct. This precinct was to be rezoning to 2(a) Residential and the provision of a minimum lot size of 700m^2.

On 24 April Council resolved to prepare a planning proposal for the Pacific Dunes Estate. The planning proposal was merged into the comprehensive Port Stephens Local Environmental Plan

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2013 (commenced 10 January 2014).

After consultation with Council's Strategic Planning section, it is understood that the current minimum lot size of 450m^2 appears to be a mapping anomaly that occurred during the adoption of PSLEP 2013.

Site Inspection

A site inspection was carried out on Friday 3 February 2017.

The subject site can be seen in figures 2 to 7 below:

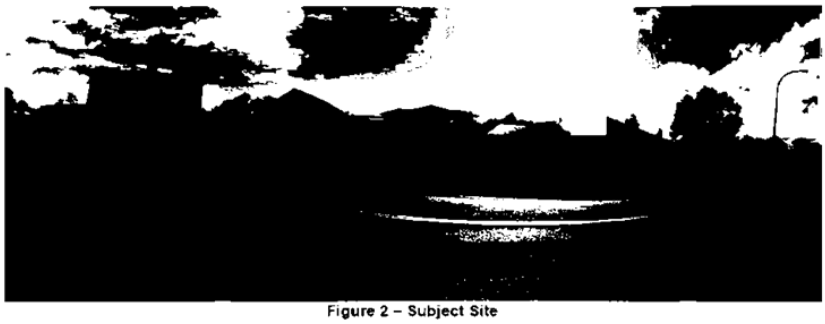

Figure 2 – Subject Site

Figure 3 – Location of proposed lot

Figure 4 – Sylvan Avenue facing north

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Figure 5 – Proposed lot

Figure 6 – Existing residency

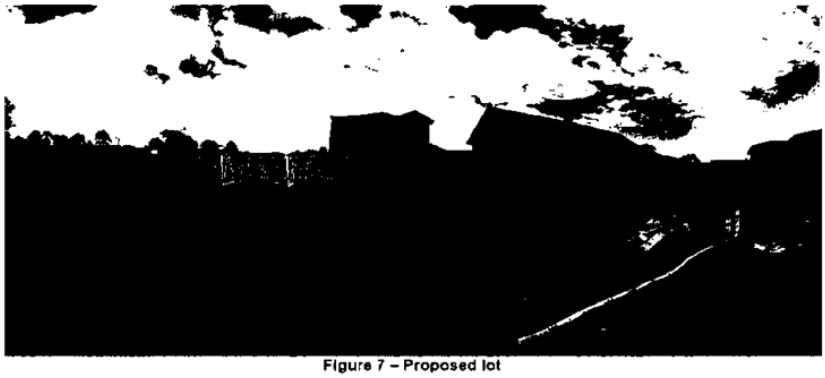

Figure 7 – Proposed lot

ASSESSMENT SUMMARY	
Designated Development	The application is not designated development
Integrated Development	The application does require additional approvals listed under s.91 of the EP&A Act
Concurrence	The application does not require the concurrence of another body

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Internal Referrals

The proposed modification was referred to the following internal specialist staff. The comments of the listed staff have been used to carry out the assessment against the S79C Matters for Consideration below.

Building Surveyor – The application was referred to Council's Building Unit for comment. The application was supported with general conditions of consent provided.

Section 94 Officer – The Contributions Officer reviewed the application and found that S94 contribution will be applicable to the subdivision. A condition of consent has been attached to reflect this requirement.

Traffic Engineer – The application was referred to Council's Traffic Engineer for assessment and comment. It was concluded there is sufficient frontage to Sylvan Avenue from the proposed lot to provide the desired separation of driveways if the lot was subsequently developed. Minimum sight distance on Sylvan Avenue, from an access point to the proposed lot can be achieved in accordance with Austroads requirements. However, it was noted Sylvan Avenue is too narrow to support on-street parking so any future development on the proposed lot will have to consider any parking requirements to accommodate off-street parking. The assessment considered all of the public submissions and the application was supported unconditionally.

External Referrals

The proposed modification was referred to the following external agencies for comment.

RFS – The applications was referred to the RFS as integrated development. In response, the application was supported unconditionally by the RFS.

MATTERS FOR CONSIDERATION – SECTION 79C

s79C(1)(a)(i) – The provisions of any EPI

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The proposed shed is considered ancillary to the existing dwelling. Dwellings are permissible with consent in the R2 Low Density Residential zone. The development addresses the objectives of the zone by providing additional the opportunity for additional residential development that will cater for the housing needs of the community.

Clause 2.6 – Subdivision

Clause 4.1 – Minimum Lot Size

Resulting lots of the proposed subdivision both exceed the minimum lot size of 450m^2 applicable to the subject land. Proposed lot 1 has an area of 1,561m^2 and lot 2 has 700m^2. The applicant has agreed to increase the size of the proposed from 624.3m^2 to 700m^2 in accordance with the planning proposal lodged in 2012.

As discussed above, the current minimum lot size of 450m^2 appears to be a mapping anomaly that occurred during the adoption of PSLEP 2013. Council is bound by the current LEP and given the existing dwelling and the proposed lot size the subdivision does not increase lot yield above the densities envisaged in the planning proposal.

Clause 4.3 – Height of Buildings

The proposed shed has a maximum height of 3.05m, which is below the maximum permissible building height of 9m specified on the Height of Buildings Map.

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Clause 7.1 – Acid Sulfate Soils
The subject land is mapped as containing potential Class 5 acid sulfate soils. The proposed development is not anticipated to include any significant excavations and therefore there are no expected impacts as a result of acid sulfate soils.

Clause 7.3 – Flood Planning
The proposed development is located on land mapped as being a minimal risk flood planning area; however this flood prone land only consists of approximately 75m^2 in the eastern corner of the site. As only the eastern corner of the lot is mapped as flood prone and all of the proposed development is to be undertaken outside of the area, as such the proposed development will not create any significant negative impacts on the local flooding characteristics.

Clause 7.6 – Essential Services
The subject site is serviced by reticulated water, electricity and sewer. The subject land also maintains direct access to South Street via the existing driveway. In the future under a separate application the proposed additional lot will gain access from Sylvan Avenue meeting the requirements of this clause. A condition is proposed that requires the provision of evidence that all essential services are available to the resulting lots, prior to the issue of a subdivision certificate.

s79C(1)(a)(ii) – Any draft EPI

There are no draft EPI's relevant to the proposed development.

s79C(1)(a)(iii) – Any DCP

Port Stephens Development Control Plan 2014

The Port Stephens Development Control Plan 2014 (DCP) is applicable to the proposed development and has been assessed below.

Chapter A.12 – Notification and Advertising
In accordance with the requirements of chapter A.12, the development application was not required to be notified.

Chapter B3 – Environment Management
B3.A Bushfire Prone Land
The subject site is mapped as Bushfire Prone Land, and as a result is considered integrated development and referred to the New South Wales Rural Fire Service. The application was supported unconditionally by the RFS.

B3.B Acid Sulfate Soils
The subject land is mapped as containing potential Class 5 acid sulfate soils. The proposed development is not anticipated to include any significant excavations and therefore there are no expected impacts as a result of acid sulfate soils.

Chapter B5 – Flooding
The subject land is mapped as being within the Flood Planning Area. Following from the discussion against Clause 7.3 of the PSLEP above, the proposed development is acceptable in this regard.

Chapter B6 – Essential Services
Reticulated water, electricity and sewer are available to the subject site. The area included in proposed Lot 2 naturally slopes towards Sylvan Avenue, thus any stormwater will flow towards the drainage infrastructure located on Sylvan Avenue. Proposed Lot 2 will have direct access to a Sylvan Avenue.

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Chapter B9 – Road Network and Parking

There is sufficient frontage to Sylvan Avenue from the proposed lot to provide the desired separation of driveways if the lot was subsequently developed. Minimum sight distance on Sylvan Avenue, from an access point to the proposed lot can be achieved in accordance with Austroads requirements. However it was noted Sylvan Avenue is too narrow to support on-street parking so any future development on the proposed lot will have to consider any parking requirements to accommodate off-street parking. Ample site area is available to accommodate for future on-site parking for a single dwelling.

Chapter C1 – Subdivision

Clause	Requirement	Assessment
C1.2	Subdivision defined as either minor or major	The proposed subdivision is a one into two lot Torrens title subdivision, with no new roads. Accordingly the subdivision is classified as a minor subdivision.
C1.5	Maximum lot dimensions of 80m deep and 160m long	The resulting lots have dimensions of: • Lot 1 – approx. 31.21m deep by approx. 43.24m long; and • Lot 2 – approx. 43.24m deep by approx. 19m long. The above dimensions comply with the DCP.
C1.11	New lots support a building footprint of 15x8m or 10x12m	Proposed Lot 2 is capable of supporting a building footprint in accordance with this requirement.
C1.14	Where possible, lots should be orientated to provide one axis within 30 degrees east and 20 degrees west of true solar north. Where a northern orientation is not possible, lots should be wider to allow private open space on the northern side of the dwelling. Subdivision design should take account for solar access opportunities afforded by land topography.	The resulting lots do not comply with the orientation requirements of the DCP, however the subject site is a result of a previous subdivision and thus is not a subdivision of a green field site. The subject site does not allow for sufficient solar access in accordance with Chapter 1.14, however both resulting lots are large enough to obtain sufficient northerly solar access into private open spaces and dwellings.
C1.21	Each lot must achieve gravity drainage to the public drainage network, and may include the use of inter-allotment drainage.	Proposed Lot 2 naturally slopes towards Sylvan Avenue, thus any stormwater will flow towards the existing drainage infrastructure located on Sylvan Avenue.

Chapter C4 – Ancillary Development

Clause	Requirement	Assessment
C4.1	Lodgement Requirements	The application includes relevant information required under this clause.
C4.9	Building height to be max.	The proposed development has a maximum height of

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	9m on land with no maximum building height specified in LEP	3.05m above ground level, which is below the maximum permissible building height of 9m specified on the Height of Buildings Map.
C4.10	Minimum front setback of 4.5m in greenfield sites or average of adjacent properties, or 10m in rural, environmental or R5 zoned land	The proposed development is setback approximately 13.5m from the front property boundary which complies with the minimum setback requirements.
C4.11	Minimum setback from secondary street frontage of 2m or 10m in rural or environmental zones	The proposed development is setback between 3.7m and 5.4m from the secondary street frontage property boundary, which complies with the minimum setback requirements.
C4.21	Development to be sympathetic to the street character	The proposed development is typical of other developments in the locality and colour coordinates with the existing dwelling on the subject site. The proposal is located on a corner lot, accordingly contains a secondary frontage and as such the proposal is screened by an existing 1.8m colourbond fence and existing hedging.
C4.31	Ancillary shed on residential land to have max. gross floor area of 72m^2 and min setback from side and rear boundaries of 0.9m, or uses a merits bases approach to floor area on R5 zoned land with a 10m front boundary setback and 5m rear and side boundary setback	The proposed development includes an ancillary shed to the dwelling located at 111 South Street. The shed has a gross floor area of 34m^2 and is setback between 3.7m and 5.4m from the secondary street frontage (Sylvan Avenue) and approximately 15m from proposed rear property boundary. The floor area and setbacks of the proposed ancillary shed meet the requirements of the DCP.

Chapter D10 – Pacific Dunes – Medowie (Hillside Lots Precinct)
Site specific development controls are applicable to the proposed development and have been assessed below as follows.

D10.1	Landscape Plan	The proposed shed is to be screened by the existing hedging, which are represented on the plan.
D10.5	Setbacks – Hillside Precinct	The proposed shed complies with the setback requirements of the Hillside Precinct.

s79C(1)(a)(iiia) – Any planning agreement or draft planning agreement entered into under section 93F
There are no planning agreements that have been entered into under section 93F relevant to the proposed development.

s79C(1)(a)(iv) – The regulations
There are no clauses of the regulations that require consideration for the proposed development.

s79C(1)(a)(v) – Any coastal management plan

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There are no coastal management plans applicable to the proposed development.

s79C(1)(b) – The likely impacts of the development

Social and Economic Impacts
The proposed subdivision will result in an additional residential lot and will therefore service the needs of the community. There are no anticipated adverse social or economic impacts as a result of the proposed development.

Impacts on the Built Environment
The proposed development will reinforce the residential nature of the locality. It is acknowledged that it is not of the same size as other larger surrounding lots, however these matters were addressed during the planning proposal which created the new minimum lot size for the proposal site. The proposal addresses the street and provides logical and convenient connections to the road network and pedestrian facilities in the locality. There are no anticipated adverse impacts on the built environment as a result of the proposed development.

Impacts on the Natural Environment
The proposal is for a Torrens Title subdivision and shed. The development is not envisaged to generate any impacts on the natural environment.

s79C(1)(c) – The suitability of the site
The subject site is located within an existing residential area and is relatively clear of vegetation. The site has access to all relevant services and the proposed development makes good use of the available land. The application design includes all elements required under the relevant planning instruments and policies and there are no anticipated negative impacts on the locality as a result of the development.

s79C(1)(d) – Any submissions
Eight (8) submissions have been received in relation to the proposed development and are discussed in further detail below.

Issue Raised	Comment
Parking and Road Networking	A referral was sent to Council's Traffic Engineer to assess the traffic impacts of the proposed subdivision with consideration to submissions. It was concluded there is sufficient frontage to Sylvan Avenue from the proposed lot to provide the desired separation of driveways, if the lot was subsequently developed. Minimum sight distance on Sylvan Avenue, from an access point to the proposed lot can be achieved in accordance with Austroads requirements. However it was noted Sylvan Avenue is too narrow to support on-street parking therefore any future development on the proposed lot will have to consider any parking requirements to accommodate off-street parking. Ample site area is available to achieve future on-site parking for a single dwelling.
Zoning and Minimum Lot Sizes	As discussed above, the current minimum lot size of 450m^2 appears to be a mapping anomaly that occurred during the adoption of PSLEP 2013. Council is bound by the current LEP and given the existing dwelling and the proposed lot size the subdivision does not increase lot yield above the densities envisaged in the planning proposal. It is noted that the applicant increased the size of proposed Lot 2 to 700m^2 to reflect the intent of the 2012 planning proposal.

ITEM 1 - ATTACHMENT 1 ORDINARY COUNCIL MINUTES FROM 28 MARCH 2017 FOR ITEM NO. 1 - DEVELOPMENT APPLICATION NO. 16-2016-862-1 FOR TORRENS TITLE SUBDIVISION OF ONE INTO TWO LOTS, AND NEW SHED AT 111 SOUTH STREET, MEDOWIE (LOT 14 DP 1079392).

ITEM 1 - ATTACHMENT 4 PLANNER'S ASSESSMENT REPORT.

Covenants/restrictions on title	A number of submissions stated that the subject site cannot be subdivided as the entire Sylvan Ridge Estate has a restriction on the title, which does not allow for the further subdivision of land. However the subject site was under a different Deposited Plan, (Pacific Dunes) which subsequently did not have this same restriction on title. The subdivision of this site is therefore not burdened by this restriction.
Notification	The application was notified in accordance with *Chapter A.12* of the *Port Stephens Development Control Plan 2014*.
Privacy	The proposed Lot 2 (700m^2) is deemed to have sufficient space to facilitate future residential development without creating any substantial privacy issues.
Increase demand for services	The application is for subdivision and an ancillary shed. It is noted that the subject site is zoned R2 which facilitates future residential development. It is considered that the proposal will not impact significantly on the services in the area.
Existing streetscape/character	The submissions described the subdivision as out of character from the rest of the Sylvan Ridge Estate. However, the intent of the Pacific Dunes Planning Proposal was to facilitate smaller residential lots, and as such the subject site was included in the proposal as an appearance to the entrance of the Pacific Dunes Estate. The original planning proposal had the subject site mapped as a one (1) into three (3) lot subdivision; in conclusion the proposed one (1) into two (2) lot subdivision is an improved outcome as it will act as a transition between two zonings.
Stormwater	The subject site naturally slopes downwards towards Sylvan Avenue, thus any stormwater that will not infiltrate on the current undeveloped site (proposed Lot 2) will drain to the drainage infrastructure located on Sylvan Avenue.

The issues raise in the submissions have been considered in the context of the proposal, surrounding locality and relevant legislation. The issues raised have been determined to not be of significance as to warrant refusal or modification of the proposed development.

s79C(1)(e) – The public interest

The additional lot in the locality will service the needs of the community, whilst not anticipated to have any significant adverse impacts on surrounding properties or the amenity of the locality. The proposed development reinforces the residential nature of the land and is in keeping with the character of surrounding developments. The proposed development has created a significant amount of community interest, however complies with all the applicable planning provisions required for the subject development.

The proposed shed is also considered in keeping with the amenity and street scape of the area.

DETERMINATION

The application is recommended to be approved under delegated authority, subject to conditions as contained in the notice of determination.
Hugh Jones
Cadet Town Planner