



PORT STEPHENS
C O U N C I L

SUPPLEMENTARY INFORMATION

ORDINARY COUNCIL MEETING
9 FEBRUARY 2021

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Nb. **Bold** Items listed above have not been previously received or viewed by Councillors.

SUPPLEMENTARY INFORMATION

ITEM NO. 1

FILE NO: 21/27688
EDRMS NO: 16-2020-758-1

DEVELOPMENT APPLICATION 16-2020-758-1 FOR 2 INTO 3 LOT TORRENS TITLE SUBDIVISION AT 77 AND 93 DAWSON ROAD, RAYMOND TERRACE

REPORT OF: KATE DRINAN - DEVELOPMENT ASSESSMENT AND
COMPLIANCE SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application DA No. 16-2020-758-1 for a 2 into 3 lot Torrens title subdivision subject to the conditions contained in **(ATTACHMENT 1)** of this supplementary report.

BACKGROUND

The purpose of this report is to amend the recommended draft conditions contained within Item 1 - Development Application No.16-2020-758-1 for a 2 into 3 lot Torrens title subdivision at 77 and 93 Dawson Road, Raymond Terrace.

Upon review of the Recommended Conditions of Consent contained within Item 1, the applicant requested that the conditions be amended to remove the requirement for bulk earthworks to regrade proposed Lots 2 and 3 to have a 1% grade toward Dawson Road as part of initial subdivision works. As an alternative, the applicant requested the inclusion of a positive covenant for the regrading of proposed Lots 2 and 3 prior to installation of impervious areas to a grade of 1% towards Dawson Road for stormwater discharge. This request was supported by Council officers.

The inclusion of this positive covenant as part of condition 8 under Section 5.0 - Prior to Issue of a Subdivision Certificate, will ensure stormwater is drained via a legal point of discharge to the public stormwater system as part of future works.

It was considered appropriate to adopt the change in conditions as requested by the applicant to enable the broader development to be delivered in a timely and integrated manner.

The condition is recommended to be amended to read:

5.0 - Prior to Issue of a Subdivision Certificate

(8) Section 88B Instrument – The applicant must prepare a Section 88B Instrument which incorporates easements, positive covenants and restrictions to user where necessary:

- a) easement for services
- b) easement to drain water and drainage easement/s over overland flow paths
- c) positive covenant for regrading of proposed Lots 2 and 3 prior to installation of impervious areas to a grade of 1% towards Dawson Road for stormwater discharge.

A copy of the updated Recommended Conditions of Consent are contained in **(ATTACHMENT 1)** and the amended Planning Assessment Report in **(ATTACHMENT 2)**.

ISSUES

Nil.

ATTACHMENTS

- 1) Recommended Conditions. [↓](#)
- 2) Planners Assessment Report. [↓](#)

SCHEDULE 1 – CONDITIONS OF CONSENT

1.0 - General Conditions of Consent

The following conditions of consent are general conditions applying to the development.

- (1) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference/ drawing No.	Name of plan	Prepared by	Date
P1334	Plan of Subdivision of Lot 23 DP843416 & Lot 139 DP264505	Kristopher Richard Humphries	20/10/2020

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

2.0 - Prior to Issue of a Subdivision Works Certificate

The following conditions of consent shall be complied with prior to the issue of a Subdivision Certificate.

- (1) **Soil, erosion, sediment and water management** – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council’s Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.
- (2) **Hunter Water Corporation approval** - A Section 50 Application under the *Hunter Water Act 1991* must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.

3.0 - Prior to Commencement of Works

The following conditions of consent shall be complied with prior to any works commencing on the development site.

- (1) **Public liability insurance** – The owner or contractor must take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc.) for the full duration of the proposed works.
Evidence of this Policy must be provided to Council and the Certifying Authority.
- (2) **Notice of Principal Certifying Authority appointment** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS.



- a) a description of the work to be carried out;
 - b) the address of the land on which the work is to be carried out;
 - c) the Registered number and date of issue of the relevant development consent;
 - d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;
 - e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
 - f) a telephone number on which the PCA may be contacted for business purposes.
- (3) **Notice commencement of work** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:
- a) the name and address of the person by whom the notice is being given;
 - b) a description of the work to be carried out;
 - c) the address of the land on which the work is to be carried out;
 - d) the Registered number and date of issue of the relevant development consent and construction certificate;
 - e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
 - f) the date on which the work is intended to commence.
- (4) **Sign of PCA and contact details** – A sign must be erected in a prominent position on the site stating the following:
- a) that unauthorised entry to the work site is prohibited;
 - b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
 - c) the name, address and telephone number of the Principal Certifying Authority.
- The sign must be maintained while the work is being carried out and must be removed upon the completion of works.
- (5) **Subdivision Works Certificate Required** – In accordance with the provisions of Section 6.13 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*, subdivision works approved by this consent must not commence until the following has been satisfied:
- a) a Subdivision Works Certificate has been issued by a Consent Authority;
 - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the *EP&A Act 1979*; and



- c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

4.0 - During Works

The following conditions of consent shall be complied with during the construction phase of the development.

- (1) **Unexpected finds contingency (general)** – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.

Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

- (2) **Soil, erosion, sediment and water management** – All requirements of the Erosion and Sediment Control Plan or Soil and Water Management Plan must be maintained at all times during the works and any measures required by the plan must not be removed until the site has been stabilised.

5.0 - Prior to Issue of a Subdivision Certificate

The following conditions of consent shall be complied with prior to the issue of a Subdivision Certificate.

- (1) **Requirement for a Subdivision Certificate** - The application for Subdivision Certificate(s) must be made in accordance with the requirements of Clause 157 of the *Environmental Planning & Assessment Regulations 2000*.

The applicant will be required to submit documentary evidence that the property has been developed in accordance with the plans approved by this development consent [16-2020-758-1], and of compliance with the relevant conditions of consent, prior to the issuing of a Torrens Plan of Subdivision.

In addition, one signed original copy of the original plans and/or documents, and final plan of survey/title, must be submitted to Council. A USB containing an electronic copy of all relevant documents must also be provided.

- (2) **Show easements / restrictions on the Plan of Subdivision** - The developer must acknowledge all existing easements and/or restrictions on the use of the land on the final plan of subdivision.

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS.



- (3) **Subdivision Certificate** – The issue of a Subdivision Certificate is not to occur until all conditions of this development consent have been satisfactorily addressed and all engineering works are complete.

Works As Executed Plans must be prepared and provided to the Principal Certifying Authority in accordance with Council's Infrastructure Specifications and approved plans.

- (4) **Surveyor's Report** – A certificate from a Registered Surveyor must be provided to the Principal Certifying Authority, certifying that all services and drainage lines have been laid within their proposed easements.

Certification is also to be provided stating that no services or accessways encroach over the proposed boundary other than as provided for by easements as created by the final plan of subdivision.

- (5) **Services** – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:

- a) Electricity.
- b) Water.
- c) Sewer.
- d) Gas (where available).

Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.

- (6) **Development Contributions** - A monetary contribution is to be paid to Council for the provision of one additional lot, pursuant to Section 7.11 of the *Environmental Planning & Assessment Act 1979* and the Port Stephens Local Infrastructure Contributions Plan 2020 towards the provision of the following public facilities:

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$593	\$593
Civic Administration – Works Depot	\$1,546	\$1,546
Town Centre Upgrades	\$4,165	\$4,165
Public Open Space, Parks & Reserves	\$929	\$929
Sports & Leisure Facilities	\$2,207	\$2,207
Road Works	\$5,188	\$5,188
Shared Paths	\$2,510	\$2,510
Bus Facilities	\$17	\$17
Fire & Emergency Services	\$34	\$34
Flood & Drainage	\$672	\$672
Total		\$17,861

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

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



Note: The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount must be indexed at the time of actual payment in accordance with the applicable Index.

- (8) **Section 88B Instrument** – The applicant must prepare a Section 88B Instrument which incorporates easements, positive covenants and restrictions to user where necessary:
- a) easement for services;
 - b) easement to drain water and drainage easement/s over overland flow paths;
 - c) positive covenant for regrading of proposed Lots 2 and 3 prior to installation of impervious areas to a grade of 1% towards Dawson Road for stormwater discharge.

Advice Note(s):

- (1) **'Dial Before you Dig'** – Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables.
- (2) **Aboriginal archaeological deposit** – In the event of any Aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Heritage NSW shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.
- (3) **Works near/adjoining electricity network assets** – There are underground electricity network assets adjacent to the proposed development in Dawson Road. Any works undertaken adjacent to Ausgrid underground assets / Ausgrid assets must be undertaken with care in accordance with Ausgrid Network Standard Document NS 156 – Work Near or Around Underground Cables
- (4) **Council must be nominated as PCA for subdivision works** – Under Section 6.5 of the *Environmental Planning & Assessment Act 1979*, Council shall be nominated as the Principal Certifying Authority for subdivision work and has the option of undertaking inspection of physical construction works.
- (5) **Responsibility for damage** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.

ITEM 1 - ATTACHMENT 1 RECOMMENDED CONDITIONS.



(6) **Street Numbering – Prior to occupying the development or Release of Subdivision Certificate**, (whichever occurs first) the approved dwellings are to be identified as follows:

- a) Lot 1 – 93 Dawson Road, Raymond Terrace
- b) Lot 2 – 75 Dawson Road, Raymond Terrace
- c) Lot 3 – 77 Dawson Road, Raymond Terrace

Council's Spatial Services Team should be contacted via email at: addressing@portstephens.nsw.gov.au to obtain correct property addressing details. Please state your Development Approval number and property address in order to obtain the correct house numbering.

Note: any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.



DEVELOPMENT ASSESSMENT REPORT

APPLICATION REFERENCES

Application Number	16-2020-758-1
Development Description	Torrens Title Subdivision (2 into 3 lots)
Applicant	MONTEATH & POWYS SURVEYORS
Land owner	Port Stephens Council
Date of Lodgement	18/11/2020
Value of Works	\$6,500.00
Submissions	One

PROPERTY DETAILS

Property Address	77 Dawson Road RAYMOND TERRACE, 93 Dawson Road RAYMOND TERRACE
Lot and DP	LOT: 23 DP: 843416, LOT: 139 DP: 264505
88B Restrictions on Title	Nil relevant
Current Use	Vacant and Public Park
Zoning	R2 LOW DENSITY RESIDENTIAL
Site Constraints	Aircraft Noise Planning Area ASS – Class 5 RAAF Base Williamtown - Brid Strike Group B ANEF Contour – 20 – 25 Flood Prone Land - PMF
State Environmental Planning Policies	State Environmental Planning Policy No. 55 – Remediation of Land

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

PROPOSAL

The development proposes a two into three lot Torrens subdivision creating two residential allotments and consolidation of a residual part of the R2 low-density residential land with Kittyhawk Park, currently zoned RE1 Public Recreation. The resulting development will see the proposed Lots 2 and 3 capable for future residential development and Lot 1 being absorbed into the Park for continued use as Public Recreation. There is a provision for access to the newly created lots from Dawson Road.

The applicant has noted the zoning anomaly will be resolved as part of a future 'housekeeping' amendment to the LEP.

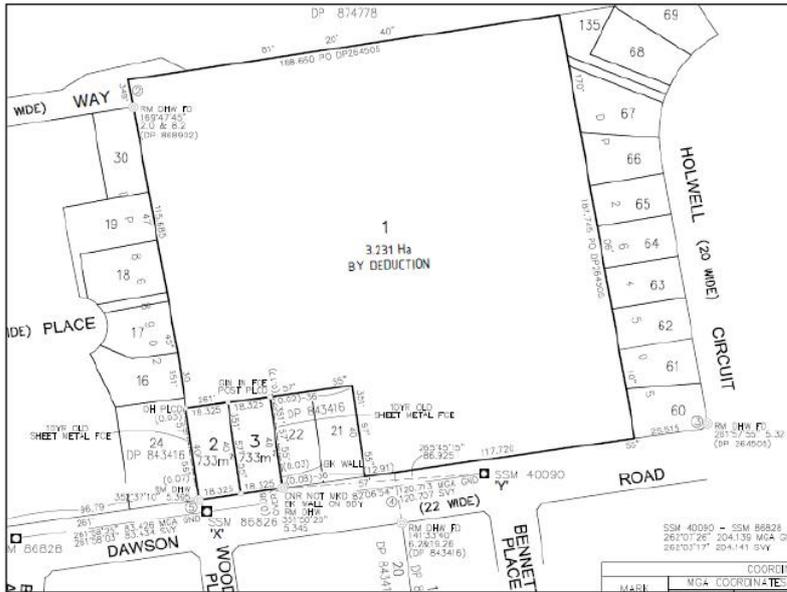


Figure 1 – Proposed lot layout



Figure 2 – Existing lot layout

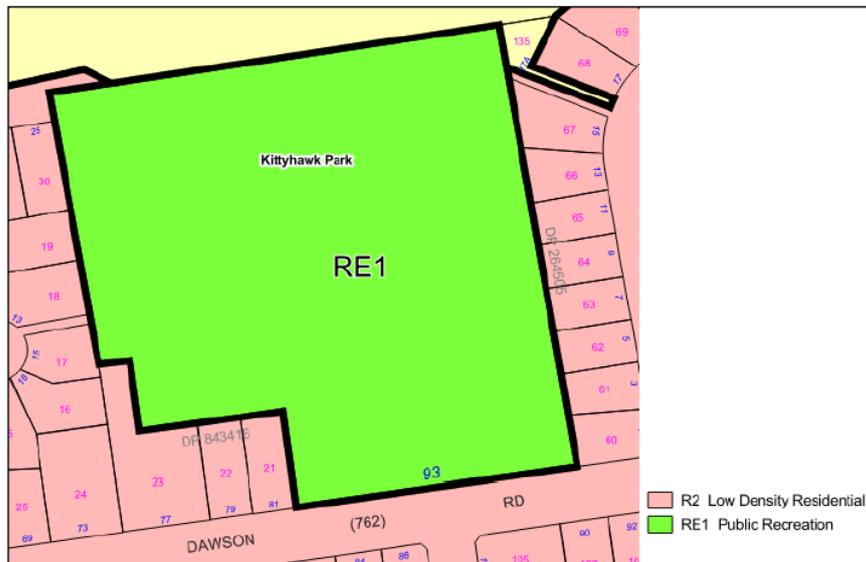


Figure 3 – PSLEP Zone Map

SITE DESCRIPTION

The site is situated at 77 and 93 Dawson Road, Raymond Terrace, legally defined as Lot 23 DP 843416 and Lot 139 DP 264505 respectively. Lot 23 DP 843416 is vacant, contains minimal vegetation and accessible from Dawson Road.

Lot 139 DP264505 is known as 'Kittyhawk Park' supporting playground equipment, barbeque facilities, tables and seating and contains a range of vegetation throughout the site, with small, medium and large trees mainly surrounding the barbeque facilities and a row of large trees on the northernmost boundary of the site. This part of the development site is accessed from Dawson Road.

Both land holdings are owned by Port Stephens Council. The land at 77 Dawson Road (Lot 23 DP 843416) is classified as operational land and zoned for residential purposes, while 93 Dawson Road (Lot 139 DP 264505) is classified as community land and zoned for recreational purposes.

Surrounding development consists primarily of Low Density Residential to the south, east and west. The land to the north of Kittyhawk Park forms part of the Irawang Swamp, a coastal wetland managed by Hunter Water.

SITE INSPECTION

A site inspection was carried out on 12 January 2021. The subject site can be seen in the photographs below:



Photograph 1 – Residential zoned portion of the site fronting Dawson Road



Photograph 2 – Residential zoned portion of the site and adjoining dwelling



Photograph 3 – Kittyhawk Park viewed from Dawson Road

PLANNING ASSESSMENT

The application was assessed, and comments provided, by the following external agencies and internal specialist staff:

Internal

Development Engineer – Supported with conditions.

External

Department of Defence – No response received within 21 days, therefore assumed concurrence.

Environmental Planning and Assessment Act 1979

Section 4.15 - Matters for consideration

The proposal has been assessed under the relevant matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Section 4.15(a)(i) - any environmental planning instrument

An assessment has been undertaken against each of the applicable environmental planning instruments (EPI's), as follows:

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.

It is noted that the NSW list of contaminated sites and list of notified sites published by the EPA does not identify the site as being contaminated, nor has previous record of contamination in Council's system. The land is not within an investigation area, there are no records of potentially contaminating activities occurring on the site, and the proposed use is not listed as a possible contaminating use, per Table 1 of the Guidelines. Noting this, the proposed development satisfies the requirements of SEPP No. 55.

Port Stephens Local Environmental Plan 2013 (LEP)

Clause 2.3 – Zone Objectives and Land Use Table

The development site is split zoned, with 77 Dawson Road (Lot 23 DP 843416) zoned R2 Low Density Residential and 93 Dawson Road (Lot 139 DP 264505) zoned RE1 Public Recreation. As noted in this report, 93 Dawson Road (Lot 139 DP 264505) supports Kittyhawk Park.

The proposed development is for the purpose of subdivision to enable future development on the 77 Dawson Road (Lot 23 DP 843416) holding. The proposal is consistent with the objectives of the R2 Low Density Zone as the development will:

- provide additional developable land to support the housing needs of the community within a low density residential environment; and
- create additional allotments that will enhance the existing residential amenity and character of Raymond Terrace in the R2 Low Density Residential zoned area of the development site.

The proposal is also consistent with the objectives of the RE1 Public Recreation zone in that:

- it will preserve the natural environment for recreational purposes;
- additional land will be made available to be used for public open space and recreational purposes through the subdivision of the battle-axe handle of 77 Dawson Road (Lot 23 DP 843416) and amalgamation of the residue area of 379m² of land with Kittyhawk Park; and
- allow the land to be continued to be used for public open space or recreational purposes.

Clause 4.1 – Minimum Subdivision Lot Size

Clause 4.1 outlines the minimum lot size applicable to the subject sites, as identified on the minimum lot size map, to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls.

The land at 77 Dawson Road (Lot 23 DP 843416) includes a minimum lot size of 500m². The application proposes to subdivide the subject land to achieve two residential lots each 733m² and amalgamate the residue area of 379m² of land with Kittyhawk Park Lot 139 DP264505.

The land zoned RE1 Public Recreation (Lot 139 DP264505) does not have a minimum lot size requirement under PSLEP2013 and therefore the RE1 portion of the development site does not trigger Clause 4.1.

The proposed lots exceed the minimum subdivision lot size requirements 500m², with each proposed lot in the R2 zoned land being 733m². Therefore, the proposed subdivision seeks to create allotments which exceed the minimum lot size specified under the Minimum Lot Size Map, and consequently achieve the objectives and requirements of this clause.

5.2 Classification and reclassification of public land

The objective of this clause is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the Local Government Act 1993 (LGA).

The land at 77 Dawson Road (Lot 23 DP 843416) is currently classified as operational land under the LGA. This classification enables dealings (sale) and the use the land (development and permissible uses in the zone) to occur with the same limitations as any other freehold land.

The Lot 23 DP 843416 parcel is zoned R2 Low Density Residential with an area of 1845m². The minimum lot size requirements identified for the subject land is 500m². The application proposes to subdivide the subject land to achieve two residential lots each 733m² and amalgamate the residue area of 379m² of land with Kittyhawk Park Lot 139 DP264505.

Kittyhawk Park is classified as community land under the Local Government Act 1993 (LGA). It is however noted there is no subdivision or development works proposed on this holding, other than amalgamating the residue area of 379m² of land from Lot 23 DP 843416. The applicant has noted the zoning and classification anomaly for the residue parcel of land will be resolved as part of a future ‘housekeeping’ amendment to the LEP.

Clause 5.10 – Heritage conservation

Clause 5.10 aims to conserve the heritage significance of heritage items and heritage conservation areas.

A search of the Aboriginal Heritage Information Management Services (AHIMS) was undertaken on 28 October 2020. The AHIMS search did not identify any Aboriginal sites or deposits on or within a 50-metre buffer of the proposed development site.

There are no local or State listed heritage items located on the site. Further, the site is not located within a Heritage Conservation Area.

Clause 7.1 – Acid Sulfate Soils

The subject land is mapped as containing potential Class 5 Acid Sulfate Soils. The proposed development is essentially a paper subdivision with only minor earthworks proposed to occur, being that of the disturbance of topsoil for the placement of relevant survey marks and future regrading for stormwater management.

It is not anticipated proposed or future works on the site will require excavations within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the

watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. Therefore it is not expected that acid sulfate soils would be encountered during future works on the residential allotments.

Clause 7.2 – Earthworks

This clause provides that development requiring earthworks must be assessed against select criteria to ensure minimal environmental impacts will be produced during and as a result of development.

Only minor earthworks are proposed to occur under the proposal, being limited to the disturbance of topsoil for the placement of relevant survey marks and minor regrading via a positive covenant for stormwater drainage due to the flat nature of the site. The minor earthworks will not have negative impacts on surrounding properties. The proposed earthworks are minor in nature and are not anticipated to disrupt nearby drainage patterns, soil stability or future development of the land.

Clause 7.3 – Flood Planning

The proposed development is located on land mapped as being Flood Planning Area. Council's Development Engineer advised the site is not flood prone under 1% AEP. The proposed and existing lots already have direct access to Dawson Road above 1% AEP. Further, the works will not significantly adversely affect the environment or cause avoidable erosion. On this basis, the development is compatible with the flood hazard of the land and risk to life and property is considered acceptable under the proposal. The proposal accords with the provisions of this clause.

Clause 7.5 – Areas Subject to Aircraft Noise

The proposed development is located on land identified as being within the 20-25 ANEF contour on the RAAF Base Williamtown & Salt Ash Weapons Range 2025 Australian Noise Exposure Forecast Map. Under this clause, the consent authority must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise. Noting residential development in the 20-25 ANEF contour is considered conditionally acceptable and the Department of Defence raised no objections, the proposal is considered acceptable in this regard.

Future development on the proposed residential lots will be required to satisfy the relevant indoor design sound levels in AS2021-2000.

Clause 7.6 – Essential Services

The subject site is serviced by reticulated water, electricity and sewer. The subject land also maintains direct access to Dawson Road, meeting the requirements of this clause.

Section 4.15(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition

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

Section 4.15(a)(iii) – any development control plan

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 B2 – Natural Resources

The proposed development site does not contain items of environmental significance.

The site is not identified as being within 500m of wetlands.

The proposed development does not include the removal of any vegetation.

The proposed development site is located within the Management Unit Boundaries for Koala Habitat and has been identified as 'Mainly Cleared', as a result of the site being well maintained and does not contain Koala Habitat.

Chapter B3 – Environmental Management

Acid Sulfate Soils

The objective of this DCP Chapter is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage. As detailed within clause 7.1 discussion above, future or proposed development on the site is unlikely to disturb or expose ASS. In this regard the development is consistent with the objective and requirements of the DCP.

Noise

The proposed subdivision will not increase any levels of noise.

Earthworks

As discussed at clause 7.2 above, the proposed development involves minor earthworks limited to survey works and regarding for stormwater drainage. Standard conditions have been included for erosion and sediment control.

Chapter B4 – Drainage and Water Quality

The proposed subdivision does not increase the surface run-off. A stormwater management plan would be required upon application for the construction of a dwelling.

It is noted that the site is not located within a stormwater drainage problem area or stormwater drainage requirement area. The topography of the site is however flat with no slope to the street, therefore, Council's Development Engineer provided a condition for a positive covenant to be imposed for the purpose of regrading Lots 2 and 3 to have a 1% grade toward Dawson Road prior to construction of any impervious area. This covenant will ensure stormwater is drained via a legal point of discharge to the public stormwater system. Taking into account that the maximum cut (600mm) and fill (600mm) under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the site could viably achieve a level site and drain to Dawson Street.

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 land achieves direct access to a public road. In addition, a covenant has been imposed to ensure adequate stormwater arrangements are undertaken as part of future works.

Chapter B7 – Aircraft Noise and Safety

The impact of aircraft noise on the proposed development has been assessed in the discussion against clause 7.5 of the PSLEP above, and found to be acceptable in this instance. Future development on the proposed residential lots will be required to satisfy the relevant indoor design sound levels in AS2021-2000.

Chapter B9 – Road Network and Parking

There is existing access from Dawson Road and sufficient onsite parking for the future dwellings.

There is existing pedestrian access via the concrete footpath along the frontage of Dawson Road for pedestrian connection to surrounding streets.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

It is noted that there are multiple possible locations for a future driveway and therefore the construction of the driveway is not required as part of this subdivision as it may restrict the future development potential of the lot.

As the proposed development is less than 20 dwellings a traffic impact assessment is deemed not to be required.

On this basis, the proposed development will have a minor impact on the existing road network.

Chapter C – Development Types

The development proposes subdivision, therefore the provisions of chapter C1 are applicable.

Chapter C1 – Subdivision

Reference	Control	Assessment
Objective C1.A Requirement C1.1-C1.5	Block and Street Layout <ul style="list-style-type: none"> To ensure local streets are well connected to the street network with obvious pedestrian and cycle links to higher order streets. To ensure priority is provided to residents' needs when designing local streets to encourage usability To ensure pathways follow desire lines 	There are no new streets or internal roads included as part of the subdivision. Road hierarchy, block and street layout will remain unchanged.
Objective C1.B Requirement C1.6–C1.9	Lot Size and Dimensions <ul style="list-style-type: none"> To ensure all new lots have a size and shape appropriate to their proposed use, and to allow for the provisions of necessary services and other requirements 	Proposed lots exceed the minimum lot size requirement of 500sqm. All proposed lots can support the required footprint dimensions.
Objective C1.C Requirement C1.10	Solar Access <ul style="list-style-type: none"> To maximise solar access for residential dwellings 	The proposed subdivision can support adequate solar access for future development.
Objectives C1.D Requirement C1.11-C1.15	Public Open Space <ul style="list-style-type: none"> To provide a hierarchy of public open space in accordance with public open space hierarchy To provide parks that are multi-functional To ensure parks achieve centrality by being located near transport nodes, public buildings, waterfronts, libraries or places of public worship To ensure public open space meets the demands of the local community to encourage usability and critical mass 	<p>The application is a minor subdivision and does not require additional public open space provisions.</p> <p>The application proposes to amalgamate the residue area of 379m² of land with Kittyhawk Park, increasing the availability of public open space for existing residents.</p>

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

Objectives C1.E Requirement C1.16-C1.18	Infrastructure <ul style="list-style-type: none"> To ensure detailed consideration is provided to the provision of integrated and quality public infrastructure 	All infrastructure available, including kerb / gutter, footpaths, street lighting southern side of Dawson Road, existing bus stop at the south eastern corner of Kittyhawk Park and on southern side of Dawson Road at frontage of two residential lots.
Objective C1.F Requirement C1.19-1.21	Public Scale Drainage <ul style="list-style-type: none"> To ensure further guidance is provided for subdivision that is consistent with B4 Drainage and water quality 	No public scale drainage approach required.

Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

There are no sections of Regulation applicable to the land at the time of this report.

Section 4.15 (1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Social and Economic Impacts

The prospective lots are positioned within close proximity to existing and planned essential facilities and services, ensuring positive social outcomes for residents. Further, the subdivision will amalgamate the residue area of land with Kittyhawk Park, ensuring the park remains viable as a public recreation area.

There will be no adverse economic impacts as a result of the proposal.

Impacts on the Built Environment

The application is essentially for the purpose of a paper subdivision, there will be no change to the existing built form.

Impacts on the Natural Environment

There will be no significant impacts to the natural environment as a result of the proposed development as the site does not contain items of environmental significance, nor propose any vegetation removal.

Section 4.15(1)(c) the suitability of the site for the development

The proposal is in keeping with the existing and future character of the subject land, aligns with the objectives of the relevant strategies and deemed to satisfy the relevant development controls and standards as well as being consistent with the objectives of the R2 Low Density Residential Zone and the RE1 Public Recreation Zone. On this basis, it is considered that the site is suitable for the proposed development.

Section 4.15(1)(d) any submissions made in accordance with this act or the regulations

Public Submissions

The application was exhibited from 1 December to 2020 15 December 2020, in accordance with the provisions of the Port Stephens Council Community Participation Plan. One submission was received during this time. The matters raised during the exhibition period have been detailed in the table below.

ITEM 1 - ATTACHMENT 2 PLANNERS ASSESSMENT REPORT.

No.	Author of submission	Comment	Council response
1	Resident	<p>Traffic Generation</p> <p>Safety of Dawson Road</p> <p>Kittyhawk Park embellishments and signage</p>	<p>The proposal would result in only one additional residential lot. This is a very minor increase and not likely to result in significant traffic generation in the area.</p> <p>There is no nexus for the entire road network to be reviewed as part of this development. However, the comments have been provided to Council's Assets section for consideration.</p> <p>Noted, however signage and park improvements are not a relevant matter for this application. The application seeks to subdivide the residential land and amalgamate the residual parcel into the Park. Signage and embellishments are Facilities and Services matters, not in the remit of this application.</p>

Section 4.15(1)(e) the public interest

The proposed development is consistent with the relevant strategies, is permissible with consent and complies with the relevant policies and controls governing the land. The zoning anomaly will be resolved by Council as part of a future LEP amendment to ensure the residue R2 zoned land aligns with the remainder of Kittyhawk Park, to be reclassified as public land and rezoned to secure its continued use for public recreation.

Section 7.11 – Contribution towards provision or improvement of amenities or services (developer contributions)

The proposed development would realign part of the existing boundaries of the lot, as well as create one additional lot within the R2 zoned land. Given the development would result in an additional lot that would have the potential to accommodate residential accommodation, it is considered that it would increase the demand for public services. Therefore, s7.11 contributions are applicable.

DETERMINATION

The application is recommended to be approved by elected Council, subject to conditions of consent provided as contained in the notice of determination.

RYAN FALKENMIRE