

PLANNING REPORT  
INCLUDING STATEMENT OF  
ENVIRONMENTAL EFFECTS

32 BURMA ROAD TOCUMWAL  
DECEMBER 2023

PREPARED FOR URBAN LAND  
DEVELOPMENTS

This report has been prepared by the office of Spiire  
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Urban Land Developments  
 Afflux Consulting  
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## 1. INTRODUCTION

### 1.1 TOCUMWAL

Located on the northern banks of the Murray River the town of Tocumwal is in the southern Riverina region of New South Wales, 270 kilometres north of Melbourne. As well as being home to approximately 2,880 residents (2023), the town is a popular holiday destination for fishing, camping, golfing and exploring the natural environs of the Murray River and its associated river red gum forests. Tocumwal also has a unique history associated with the aerodrome.

At the Murray River, the Goulburn Valley Highway (Victorian side) and Newell Highway (NSW side) meet, forming the main route between Melbourne and Brisbane. According to .id community Tocumwal's population is forecast to grow to 3,655 by 2046.

### 1.2 URBAN LAND DEVELOPMENT

Urban Land Development (ULD) has been delivering high quality estates for over 20 years, including 3 award winning developments recognised by the Urban Development Institute of Australia (UDIA).

Urban Land Development (ULD) has owned the site since 2004 and has undertaken extensive research to understand the current and future housing needs of Tocumwal including consultation with the Club Tocumwal (Tocumwal Golf Club). The Club is experiencing issues with attracting and retaining staff due to the lack of accommodation and a lack of accommodation for members and visitors to the Club.

ULD has identified significant lack in diversity in lot size and dimensions across the town of Tocumwal. This site provides an excellent opportunity to provide diversity, particularly given its ideal location adjacent to the Tocumwal Golf Club. The new development will be unique as it will provide a variety of lot sizes and dimensions to respond to the high demand for lots. It will cater for the shortfall in lots for smaller households, 'lock and leave', short term accommodation and the rental market, whilst still providing suitable residential lots for young families.

### 1.3 DEVELOPMENT APPLICATION

This Report including Statement of Environmental Effects has been prepared by Spiire Australia on behalf of Urban Land Development in support of a Development Application for a staged residential subdivision of land and removal of native vegetation at 32 Burma Road, Tocumwal (Lot 32 in Deposited Plan 778129).

The proposed subdivision is anticipated to create:

- ▶ Approximately 261 new residential lots, with an average lot size of 491m<sup>2</sup>;
- ▶ Approximately 3.24 hectares of open space/reserves,
- ▶ A local road network and pedestrian/buggy link; and
- ▶ Associated servicing infrastructure.

This Report provides a response addressing the relevant requirements of the following:

- ▶ The Environmental Planning and Assessment Act 1979 (EP&A Act)
- ▶ The relevant State Environmental Planning Policies (SEPP)
- ▶ The relevant provisions of the Berrigan Local Environmental Plan 2013 (BLEP)
- ▶ The Berrigan Development Control Plan 2014 (DCP)
- ▶ Consistency with Berrigan Shire Land Use Strategy 2018
- ▶ Consistency with the Riverina Murray Regional Plan 2041
- ▶ As required by the EP&A Regulations, this Report includes a Statement of Environmental Effects (SEE) which identifies and addresses the environmental impacts of the development.

This Report should be read in conjunction with the following documents:

- ▶ Letter for DA dated 2 November 2023 prepared by ULD
- ▶ Proposed Subdivision Plan dated 11 April 2023 prepared by Millar Merrigan
- ▶ Traffic Impact Assessment Report dated August 2023 prepared by Spotto Consulting
- ▶ Test of Significance dated 8 November 2023 prepared by Hamilton Environmental Services
- ▶ Stormwater Drainage Strategy dated 18 September 2023 prepared by Afflux Consulting
- ▶ Infrastructure Report, dated 23 October 2023 prepared by Premise
- ▶ Limited Soil Contamination Assessment Report dated 17 October 2005 prepared by Coffey Geosciences Pty Ltd

## 2. SITE AND SURROUNDS

### 2.1 SUBJECT SITE

The subject site is located approximately 2 kilometres east of the Tocumwal town centre and on the southwest corner of Burma Road and Hutson Road, Tocumwal. The land is formally identified as Lot 32 in Deposited Plan 778129.

The land is owned by Urban Land Development Pty Ltd and is clear of built form. The site is generally rectangular in shape (see Figure 1), comprises 21.19 hectares and is generally flat.

There are three large patches of trees and a few scattered trees across the site. One patch to the southern corner is adjacent to a watercourse which traverses the corner of the site in an east-west alignment.

The Title Plan identifies a watercourse which traverses the southern corner of the site. A Crown Grant reservation and condition applies to the land and allows the Crown to search for mine dig and removal minerals on the land. Refer to Title Plan and Crown Grant Volume 11963 Folio 65 attached for further details.

The subject site has direct road frontage to Hutson Road to the north and Burma Road to the east.



Figure 1: Subject site

## 2.2 SURROUNDING LAND

The subject site is strategically located on the urban fringe of Tocumwal and immediately adjacent to the Tocumwal Golf Club.

The subject site abuts the following:

- ▶ Hutsons Road and farming land to the north
- ▶ Burma Road and Tocumwal Airport and industrial land to the east
- ▶ Tocumwal Golf Club to the south
- ▶ Established residential development to the west.

An aerial photo of the subject site in the context of its surroundings is provided at Figure 2.



Figure 2: Surrounding context

### 3. PROPOSAL

This Development Application seeks approval for the subdivision of approximately 21 hectares and the removal of native vegetation. Key aspects of the proposal are described below.

#### 3.1 SUBDIVISION

The subdivision is expected to create approximately 261 residential lots, open spaces and local parks with associated roadways.

The proposed subdivision layout is illustrated in the town planning drawings, prepared by Millar Merrigan, forming part of the development application supporting documentation. An excerpt of the plan is provided at Figure 3 below.

LOT 32 ON DP778129  
TOTAL SITE AREA: 21.19ha



Figure 3: Proposed Subdivision Plan (excerpt)

### 3.2 RESIDENTIAL LOTS

The breakdown of lot sizes is summarised in the table below. A variety of lot sizes have been provided, and with the exception of the larger lots which are typically provided along Burma Road, the different lot sizes are distributed throughout the development.

**Table 1: Summary of lot types**

Lot size range	Quantity
800m <sup>2</sup> +	15 lots
500-799m <sup>2</sup>	61 lots
400-499m <sup>2</sup>	144 lots
300-399m <sup>2</sup>	41 lots
<b>Total</b>	<b>261 lots</b>

### 3.3 OPEN SPACE

Open space/reserves areas will consist of two parks and two conservations reserves. The two parks will be located near the northeast corner of the site and along the southern boundary adjacent to the Golf Course and have an area of 851m<sup>2</sup> and 732m<sup>2</sup> respectively. Both these allow pedestrian access between the development and Hutsons Road to the north and the Golf Club to the south.

The southern corner of the site, approximately 2.1ha will be set aside as a conservation reserve. A 1.12ha conservation reserve will also be located along the western boundary of the site.

### 3.4 ROAD NETWORK

The proposed transport network has been designed to provide functional, logical and safe connections within the subdivision. Primary access is via a boulevard entrance from Hutsons Road, generally in a north south alignment with a number of east-west connection roads from the main boulevard road.

### 3.5 PEDESTRIAN NETWORK

In addition to footpaths on both sides of the roads, pedestrian and golf buggy links will be provided to the south through the southern reserve to the Golf Course and also through the conservation reserve to the north to provide connection to the existing residential development to the west of the site.

### 3.6 STAGING

Whilst the staging of the development has not been finalised, staging will carefully consider the provision of infrastructure and servicing. Given this, it is likely to commence in the northern areas and progress southward.

### 3.7 LAND USE BUDGET AND YIELD

A detailed land budget and lot yield is set out in the application drawings and is copied below.

OVERALL AREA 21.19ha  
261 Lots @ 491m<sup>2</sup> average

DENSITY: 14.5 LOTS/ha

LAND BUDGET			
	<u>SITE AREA</u>	21.19ha	
	ENCUMBERED LAND	AREA	% SITE
	CONSERVATION RESERVE	3.24ha	15.3%
	<u>TOTAL</u>	3.24ha	15.3%
	<u>NET DEVELOPABLE AREA</u>	17.95ha	0%
	LAND USES		% NET DEV. AREA
	LOCAL ROADS	4.98ha	27.7%
	RESERVE	0.16ha	0.9%
	41 RESIDENTIAL LOTS 300-399m <sup>2</sup>	1.51ha	8.4%
	144 RESIDENTIAL LOTS 400- 499m <sup>2</sup>	6.24ha	34.8%
	61 RESIDENTIAL LOTS 500-799m <sup>2</sup>	3.33ha	18.5%
	15 RESIDENTIAL LOTS 800m <sup>2</sup> +	1.74ha	9.7%
	<u>TOTAL AREA</u>	17.95ha	100.0%

Figure 4: Land Budget (excerpt)

### 3.8 INTERFACE WITH RESIDENTIAL LAND TO THE WEST

The land to the immediate west of the subject site contains standard residential lots of approximately 800-1,000m<sup>2</sup> in area. As there is a drainage basin on the shared boundary, there are only 12 residential lots which adjoin the shared boundary with the subject site. Due to the location of the conservation reserve, only 7 existing lots will ultimately share a boundary with new lots.

A pedestrian/buggy link will provide connectivity between the existing residential and the new development. The link will be located through the conservation reserve, providing the ability to walk/ride between the residential areas and through to the Golf Club.

The proposed residential development responds appropriately to the adjoining residential neighbourhood.

### **3.9 NATIVE VEGETATION REMOVAL**

All vegetation across the site has been assessed in a Test of Significance prepared by Hamilton Environmental Services. The Test found 318 trees which included 228 remnant Grey Box, 64 River Red Gum, 1 weeping myall and 25 individual woody weed African Boxthorn (non-native).

Of the 293 native trees found on the site 83 remnant trees and ground layer patch of 178m<sup>2</sup> will be impacted. 59 of three trees are juvenile and are permitted without development under Clause 6(2) of the Berrigan Development Control Plan 2014.

### **3.10 SERVICING INFRASTRUCTURE**

The proposed lots will be connected to the necessary urban infrastructure in accordance with the relevant authority's requirements and standards. This includes reticulated water, sewer, electricity, gas and telecommunications. Refer to the Infrastructure Report prepared by Premise for details on these connections.

In brief, the subdivision will be serviced by:

#### **3.10.1 SEWER**

Berrigan Shire Council is the responsible authority in relation to sewer reticulation for the area and the subject site. A new sewer pumpstation and rising main will need to be installed and discharge into the manhole on Hutsons Road, which has a 225mm dia sewer gravity main running through it and then changes to 300mm dia sewer main leading to the treatment plant. Further assessments and discussions will be held with Council at the time of detailed design to consider ways to increase the capacity by programming of pump stations or by augmenting the pipe network for this subdivision and the current network.

#### **3.10.2 WATER**

Berrigan Shire Council is the responsible authority in relation to potable water reticulation for the area and the subject site. There is an existing 150mm potable water main on the southern side of Hutsons Road (fronting the development) and eastern side of Burma Road north of Babingtons Road available for connection.

#### **3.10.3 GAS RETICULATION**

APA Group is the responsible authority for gas reticulation in the area and the subject land.

An existing high pressure gas distribution main resides on the southern side of Hutsons Road fronting the development, available for supply connection.

#### **3.10.4 ELECTRICITY RETICULATION**

Essential Energy is the responsible authority for electrical reticulation in the area and the subject land. An electrical substation will be installed to provide electricity to all proposed lots and the proposed sewer pump station.

#### **3.10.5 TELECOMMUNICATIONS**

NBN is the responsible authority for telecommunications in the area and the subject land. The subject land is currently in a fixed wireless area.

### 3.10.6 STORMWATER DRAINAGE

The Berrigan Shire Council is the relevant authority responsible for the provision of drainage. Afflux Consulting has prepared a drainage strategy which explored two options. Option 2 is the preferred option which minimises impacts on native vegetation.

Option 2 provides overland flows paths within streets, raingarden in the northern conservation reserve and a wetland and sediment basin the southern conservation reserve. Refer to the Stormwater Management Plan submitted with the application for further details.

## 4. RELEVANT LEGISLATION AND PLANNING CONTROLS

The site is in the Berrigan Shire Council where the following legislation, planning instruments and Council Plans and Policies are relevant to the proposed development:

- ▶ *Environmental Planning and Assessment Act 1979 (EP&A Act)*
- ▶ *Environmental Planning and Assessment Regulation 2000 (EP&A Regs)*
- ▶ *Biodiversity Conservation Act 2016*
- ▶ *State Environmental Planning Policy*
- ▶ *Berrigan Local Environmental Plan 2013 (BLEP)*
- ▶ *Berrigan Development Control Plan 2014 (BDCP)*
- ▶ *Berrigan Shire Land Use Strategy 2018*
- ▶ *Riverina Murray Regional Plan 2041*

The proposal requires consideration against the above legislation and Environmental Planning Instruments (EPI's) as detailed below.

### 4.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

This application is made under the provisions of EP&A Act 1979. Specifically, this application is made pursuant to *Part 4* of the EP&A Act 1979. Under this Part the proposed development is NOT considered to be an 'Integrated Development'.

### 4.2 ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

The development is not considered to be 'Advertised Development' or 'State Significant Development'. Application details and information have been provided in accordance with the EP&A Regs.

### 4.3 STATE ENVIRONMENTAL PLANNING POLICY

The following State Environmental Planning Policy are relevant to this proposal:

- ▶ *State Environmental Planning Policy (Biodiversity & Conservation) 2021*
- ▶ *State Environmental Planning Policy (Resilience & Hazards) 2021*

#### 4.3.1 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY & CONSERVATION) 2021

SEPP (Biodiversity & Conservation) aims to:

- ▶ *(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*
- ▶ *(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

A Test of Significance by Hamilton Environmental Services has been undertaken across the site and the recommendations included:

- ▶ *“the proposed development area not mapped as Vulnerable or Sensitive Regulated Land according to the Section 60F of the Local Land Services Act 2013, and is also not mapped as an area of Biodiversity Value (DPE 2023e; see Appendix E), and a BDAR is not triggered on the basis of this mechanism.”*
- ▶ *“The whole property has been evaluated and subjected to a Test of Significance under Part 7 Division 1 Section 7.3 of the Biodiversity Conservation Act 2016, and it is concluded that in the event of the development incurring the loss of 85 remnant trees, of which two are hollow-bearing, and a ground layer patch of 0.0190 ha (190 m<sup>2</sup>) within the southern patch if Option 1 for stormwater management is utilised, OR, a total of 83 remnant trees – of which two are hollow-bearing and of which 77 are ≤ 35 cm dbh – and ground layer patches of 0.0178 ha (178 m<sup>2</sup>) within the southern patch if Option 2 for stormwater management is utilised, there will not be any significant impacts on any threatened species or community as a consequence, and a BDAR is not triggered on the basis of this mechanism.”*

It is noted approval for loss of some native vegetation is required under the BDCP which is detailed in Section 4.5 of this Report.

#### 4.3.2 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

SEPP (Resilience and Hazards), Chapter 4 (Remediation of land) aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Subsection 4.6 (Contamination and remediation to be considered in determining development application) generally requires that consideration be given to whether or not land proposed to be developed is contaminated and fit for its intended purpose.

A Limited Environmental Site Assessment was undertaken on the site in 2005 and found the site *‘exhibited contaminant concentrations at less than applicable guidelines.’*

Refer to the Limited Soil Contamination Assessment Report for further details.

#### 4.4 BERRIGAN LOCAL ENVIRONMENTAL PLAN 2013

The BLEP provides legislative rules and guidelines for the control of land (both private and public) through zoning. It aims to reduce possible conflict between adjoining land uses, and to ensure there is adequate land to meet the diverse needs of the municipality.

The BLEP was gazetted by the NSW Minister for Planning in 2013, the following chapters of the BLEP are applicable to the proposed development:

- ▶ Clause 1.2 – Aims of the Plan
- ▶ Clause 2.6 Subdivision – Consent Requirements
- ▶ Land Use Table – Zone RU5 Village
- ▶ Land Use Table – Zone RU1 Primary Production
- ▶ Clause 4.1 Minimum subdivision lot size

- ▶ Clause 4.6 Exceptions to development standards
- ▶ Clause 6.3 Terrestrial biodiversity
- ▶ Clause 6.8 Airspace operations
- ▶ Clause 6.9 Development in areas subject to aircraft noise
- ▶ Clause 6.10 Essential Services

Details and overview of consistency and compliance of the proposal against the relevant Parts of the LEP are outlined below.

#### 4.4.1 CLAUSE 1.2 AIMS OF THE PLAN

According to the BLEP the particular aims are as follows:

- ▶ *(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- ▶ *(a) to encourage development that complements and enhances the unique character and scenic values of Berrigan, offering a diverse economy, significant natural resources and an attractive rural lifestyle,*
- ▶ *(b) to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Berrigan in a way that allows the needs of present and future generations to be met by implementing the principles of ecologically sustainable development,*
- ▶ *(c) to recognise and manage valued environmental and cultural heritage, landscape and scenic features of Berrigan,*
- ▶ *(d) to promote the efficient and equitable provision of public services, infrastructure and amenities.*

#### 4.4.2 CLAUSE 2.6 SUBDIVISION – CONSENT REQUIREMENTS

Clause 2.6 (1) states *Land to which this Plan applies may be subdivided, but only with development consent.*

#### 4.4.3 LAND USE TABLE

Majority of the subject site is located within the Zone RU5 Village of the Berrigan LEP. The southern corner of the subject site, approximately 2hectares, is contained within Zone RU1 Primary Production.

##### Zone RU5 Village

The objectives of the Zone RU5 are:

- ▶ *“To provide for a range of land uses, services and facilities that are associated with a rural village.*
- ▶ *To enhance and maintain the unique village character of Berrigan, Barooga, Finley and Tocumwal.*

- ▶ *To ensure there are opportunities for economic development.*
- ▶ *To encourage development that relates to tourists and visitors.”*

Zone RU1 Primary Production

The objective of the Zone RU1 are:

- ▶ *“To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- ▶ *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- ▶ *To minimise the fragmentation and alienation of resource lands.*
- ▶ *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- ▶ *To permit development that enhances the agricultural and horticultural production potential of land in the locality.*
- ▶ *To permit low-key tourist and visitor accommodation that is compatible with the scenic amenity, and promotes the character, of the area.*

*To enable function centres to be developed in conjunction with agricultural uses”*



**Figure 5: Zoning illustration (site outlined by yellow dotted line).**

The proposal is considered to be consistent with the objectives of the zones. The land contained within the Zone RU1 Primary Production will be contained within a conservation reserve, whilst the balance of land in the Zone RU5 will be developed for residential purposes.

Given the site’s ideal location adjacent to the Tocumwal Golf Club, the proposed subdivision has been designed to encourage development which will provide suitable accommodation for tourists and visitors, whilst also catering for more permanent residents.

#### 4.4.4 CLAUSE 4.1 MINIMUM SUBDIVISION LOT SIZE

The objectives for this Clause are:

- ▶ (a) to protect the productive capacity of agricultural land by preventing unnecessary fragmentation,
- ▶ (b) to ensure that lot sizes do not undermine the land's capacity to support rural development,
- ▶ (c) to ensure that subdivision does not impact on the natural and environmental values of the area,
- ▶ (d) to provide for a range of lot sizes appropriate for the services available to the area,
- ▶ (e) to ensure that new subdivisions reflect existing lot sizes and patterns in the surrounding locality.

As shown in the Lot Size Map at Figure 6, the minimum lot size for the land within the RU5 zone is 600m<sup>2</sup> and the land within the RU1 zone is 120 hectares.



**Figure 6: Lot Size Map**

Clause 4.6 of the BLEP allows for approval to be sought to vary development standards and in this instance a variation is sought for the minimum lot size. Refer to Section 4.4.6 of this Report for further details.

#### 4.4.5 CLAUSE 4.2 RURAL SUBDIVISION

- ▶ (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.
- ▶ (2) This clause applies to the following rural zones:
  - (a) **Zone RU1 Primary Production,**
  - (b) **Zone RU2 Rural Landscape,**

- (c) Zone RU4 Primary Production Small Lots,
  - (d) Zone RU6 Transition.
- ▶ (3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the [Lot Size Map](#) in relation to that land.
  - ▶ (4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.
  - ▶ (5) A dwelling cannot be erected on such a lot.

This clause provides ability to provide a lot in the RU1 Primary Production less than the minimum lot size. Given the land abuts the Golf Course this land has been set aside for conservation/open space purposes.

#### 4.4.6 CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

Clause 4.6 variation request can be sought to apply flexibility to development standards, including minimum lot sizes. In this instance, a variation request is being made to the minimum lot size.

The following provides an assessment against Clause 4.6:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,**
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.**

**Response:**

Given increase in demand for housing in Tocumwal, and a changing preference to smaller lot sizes, flexibility is required to achieve the objectives of the RU5 Zone, particularly in regard to maintaining the unique character of Tocumwal by containing urban form within the defined urban area, and in regard to providing for tourism and visitor needs for “lock and leave” housing.

Allowing flexibility will achieve better outcomes for and from the development in terms of providing housing choice to the market and containing growth in the defined urban areas. The overall lot yield would be considerably reduced if the development standard minimum lot size was applied, resulting in more pressure for the development of agricultural land to provide for housing demands.

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.**

**Response:** Noted

**(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—**

**(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and**

**(b) that there are sufficient environmental planning grounds to justify contravening the development standard.**

**Response:**

Compliance with the development standard is unreasonable and unnecessary in this circumstance.

There are significant benefits of providing a variety of lot sizes. The proposal:

- ▶ responds to current demand,
- ▶ meets objectives of lifestyle properties (lock and leave) in proximity to the golf course,
- ▶ facilitates efficient use of infrastructure,
- ▶ provides an appropriate urban “bookend”, and
- ▶ is complementary to subdivisions within Tocumwal,

For these reasons, the proposal complies with the RU5 objectives and other requirements of the BLEP. Importantly, the proposal to vary the minimum lot size allows for flexibility to meet the growth needs of Tocumwal.

There are sufficient environmental planning grounds to justify contravening the development standard in this instance.

The proposal addresses relevant environmental issues, and these are addressed in this Planning Report including the Statement of Environmental Effects at Section 5. The proposal:

- ▶ responds to location of vegetation and flood prone land,
- ▶ proposes a lot size mix which is appropriate for the context and village zoning of the land,
- ▶ responds to neighbourhood character,
- ▶ represents efficient use of infrastructure, and
- ▶ will not result in adverse impacts to the streetscape or amenity of the neighbourhood.

**(4) Development consent must not be granted for development that contravenes a development standard unless—**

**(a) the consent authority is satisfied that**

**(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and**

***(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and***

***(b) the concurrence of the Planning Secretary has been obtained.***

**Response:**

This Planning Report including the Statement of Environmental Effects at Section 5 adequately address the matters outlined in Clause 4.6 (3) as above.

As per Practice Note PS-20-002 issued on 5 May 2020 it is considered the concurrence of the Planning Secretary is not required to be obtained on the basis that whilst the variation is greater than 10%, the application will be considered by the council, and it will therefore be subject to greater public review than decisions made by council staff under delegation.

***(5) In deciding whether to grant concurrence, the Planning Secretary must consider –***

***(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and***

***(b) the public benefit of maintaining the development standard, and***

***(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.***

**Response:**

Considered not applicable (see above)

***(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if***

**Response:**

Not applicable as the land is in the Zone RU5 Village.

***(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).***

**Response:**

It is requested Council keep a record of it is assessments.

***(8) This clause does not allow development consent to be granted for development that would contravene any of the following –***

***(a) a development standard for complying development,***

**(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,**

**(c) clause 5.4.**

**Response:**

In this instance none are applicable.

To assess whether compliance with a development standard is unreasonable or unnecessary, the NSW Land and Environment Court established a “five part test”. This test requires: [own emphasis]

- a) *the **objectives of the Standard are achieved** notwithstanding non-compliance with the Standard;*
- b) *the underlying objective or purpose of the Standard is not relevant to the development and therefore compliance is unnecessary;*
- c) *the underlying objective or purpose would be defeated or thwarted if compliance is required and therefore compliance is unreasonable;*
- d) *the Development Standard has been virtually abandoned or destroyed by the Council’s own decisions in granting consents that depart from the Standard and hence compliance with the Standard is unnecessary and unreasonable;*
- e) *The zoning of the particular land on which the development is proposed is unreasonable or inappropriate so that the Development Standard, (which is appropriate for the zoning), is also unreasonable or unnecessary as it is applied to that land, and that compliance with the Standard in the circumstances of the case will also be unreasonable or unnecessary.*

Not all of the above must be satisfied in each circumstance. In this instance Tests 1 and 3 are considered relevant. The objectives of the minimum subdivision size standard as outlined in Clause 4.1 *Minimum subdivision lot size* are: [own emphasis]

- a) *to protect the productive capacity of agricultural land by preventing unnecessary fragmentation,*
- b) *to ensure that lot sizes do not undermine the land’s capacity to support rural development,*
- c) *to ensure that subdivision does not impact on the natural and environmental values of the area,*
- d) *to **provide for a range of lot sizes** appropriate for the services available to the area,*
- e) *to ensure that new subdivisions reflect existing lot sizes and patterns in the surrounding locality.*

It is considered the proposed subdivision achieves these objectives.

Further, the objectives of the RU5 Village zone include:

- ▶ *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- ▶ *To enhance and maintain the unique village character of Berrigan, Barooga, Finley and Tocumwal.*
- ▶ *To ensure there are opportunities for economic development.*
- ▶ *To encourage development that relates to tourists and visitors.*

Similar to the development standard objectives, the proposed subdivision achieves the objectives of the RU5 Village Zone.

#### 4.4.7 CLAUSE 6.3 TERRESTRIAL BIODIVERSITY

The objectives of this clause are:

- ▶ *(a) protecting native fauna and flora, and*
- ▶ *(b) protecting the ecological processes necessary for their continued existence, and*
- ▶ *(c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

This applies all land identified as “Biodiversity” on the Terrestrial Biodiversity Map. The subject site is partly covered by the terrestrial biodiversity areas in the southern corner, along the northern boundary and partly to the northwest of the site as shown in Figure 7 below.



**Figure 7: Terrestrial Biodiversity Map**

This clause requires any development within these areas to avoid any significant environmental impacts. A Test of Significance has been prepared by Hamilton Environmental Services and whilst some native vegetation will be impacted, the impact will not be significant.

#### 4.4.8 CLAUSE 6.9 DEVELOPMENT IN AREAS SUBJECT TO AIRCRAFT NOISE

The objectives of Clause 6.9 are:

- (a) to prevent certain noise-sensitive developments from being located near the Tocumwal Airport and its flight paths,
  - (b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,
  - (c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.
- ▶ (2) This clause applies to development that:
- (a) is on land that:
    - (i) is near the Tocumwal Airport, and
    - (ii) is in an ANEF contour of 20 or greater, and
  - (b) the consent authority considers is likely to be adversely affected by aircraft noise.
- ▶ (3) Before determining a development application for development to which this clause applies, the consent authority:
- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and
  - (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and
  - (c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.
- ▶ (4) In this clause:
- ANEF contour means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for the Tocumwal Airport prepared by the Department of the Commonwealth responsible for airports.
  - AS 2021—2000 means AS 2021—2000, Acoustics—Aircraft noise intrusion—Building siting and construction.

The Aerodrome Noise Forecast Plan is provided at Figure 8. The subject site is outside of the noise contours. Furthermore, given the limited use of the airport and no nighttime flights, it is unlikely any future residents will be significantly impacted by noise associated with flights.



**Figure 8: Aerodrome Noise Forecast Plan**

#### 4.4.9 CLAUSE 6.10 ESSENTIAL SERVICE

This clause requires that development consent must not be granted to development unless essential services are available including water, electricity, sewer, stormwater and suitable road access.

As outlined in Section 3.8 of this Report the proposed lots will be appropriately serviced.

#### 4.5 BERRIGAN DEVELOPMENT CONTROL PLAN 2014

The Berrigan Development Control Plan (BDCP) commenced operation in 2014. The BDCP outlines the relevant controls, standards and provisions for land development in the Berrigan LGA.

The following chapters of the DCP are applicable to the proposed development:

- ▶ Part 7 – Subdivision
- ▶ Part 8 – Vegetation Removal

The following section takes into consideration the relevant Parts of the BDCP 2014 and matters therein that are of relevance to the proposed subdivision.

#### 4.5.1 PART 7 – SUBDIVISION

The purpose of Part 7 Subdivision is:

- ▶ *to encourage a diversity of lot sizes for residential, industrial and commercial development that is compatible with the character of an area and appropriate for the proposed use*
- ▶ *to provide lots with areas and dimensions which protect environmental features and take account of site constraints.*
- ▶ *to have regard to energy conservation principles in the orientation of lots where for residential subdivisions at least 70% of the lots will have favourable solar orientation.*
- ▶ *to ensure public open space, of appropriate quantity and quality, is provided to meet the recreational and social needs of the community.*
- ▶ *to ensure all public utilities for the development of new lots are adequately planned as part of subdivision.*
- ▶ *to ensure the provision of utilities and infrastructure meets minimum standards.*
- ▶ *to provide a road network that places a high priority upon vehicular and pedestrian connectivity, convenience and safety.*
- ▶ *to encourage the use of other transport modes as an alternative to motor vehicle transport.*

Part 7 of the DCP list objectives and controls which need to be considered in a development application for subdivision of land. The following summarises these requirements and assesses the development:

Table 3: Assessment against Part 7 BDCP

OBJECTIVES	RESPONSE
<p><b>Context</b></p> <ul style="list-style-type: none"> <li>▶ To ensure that the layout and design of a subdivision is consistent with and implements any objective, policy, strategy or plan for the area.</li> </ul>	<p>The Berrigan Land Use Strategy is strategic document which reflects Council’s vision for the future land use planning context for the next 20 years. In relation to Tocumwal, it is projected an average 20 dwellings/year is required to cater for demand. The subject site has been identified as vacant zoned land on the Tocumwal Structure Plan. It also states:</p> <p><i>“With a current minimum lot size of 600m<sup>2</sup>, there is options to reduce this development standard in strategic locations, or to include local provision into the LEP to allow, and support, an increased density. There are also opportunities for senior housing.”</i></p> <p>The Riverina Murray Regional Plan 2041 also supports a diversity in lots sizes to accommodate a diversity housing typologies in Murray Riverina areas. The site has been zoned for residential development for over 20 years and is in an ideal location to support a diversity in lot sizes which is lacking in Tocumwal.</p>
<p><b>NEIGHBOURHOOD CHARACTER</b></p> <ul style="list-style-type: none"> <li>▶ To create urban places with identity and character.</li> <li>▶ To design subdivisions that are consistent and compatible with existing development in the neighbourhood.</li> <li>▶ Ensure a transition in density from lower to higher density residential areas.</li> <li>▶ Maintain the character of average and lower density residential development in Berrigan Shire</li> </ul>	<p>The site does not adjoin any land zoned R5. Whist the subdivision will provide smaller lots to what is typically found historically in Tocumwal, ULD has identified a demand for smaller lots. Tocumwal is an attractive location for retirees and for holiday makers, both typically do not want large properties to maintain. This has been supported by the Tocumwal Golf Club which is experiencing housing difficulties for staff and for visitors to their venue.</p> <p>The subdivision has been carefully designed to limit the number of existing lots which adjoin the future new lots, through the designation of a reserve and larger sized lots to the north west corner of the land.</p>

OBJECTIVES	RESPONSE
<p><b>STAGING</b></p> <ul style="list-style-type: none"> <li>▶ To ensure the timely and efficient release of urban land making provision for necessary infrastructure and sequencing.</li> </ul>	<p>The proposed development will be undertaken in multiple stages, the final staging will be confirmed following the detailed infrastructure assessment process.</p>
<p><b>MOVEMENT NETWORK</b></p> <ul style="list-style-type: none"> <li>▶ To create compact neighbourhoods that are oriented around easy walking distances to activity centres, schools and community facilities, public open space and public transport.</li> <li>▶ To allow easy movement through and between neighbourhoods for all people.</li> <li>▶ To provide safe and direct movement through and between neighbourhoods by pedestrians and cyclists.</li> <li>▶ To reduce car use, greenhouse gas emissions and air pollution.</li> </ul>	<p>A Traffic Impact Assessment has been prepared by Spotto Consulting and found the design of the development is appropriate. It found “<i>There is sufficient capacity in the surrounding road network and key intersections to accommodate the additional traffic generated by the proposed development.</i>”</p> <p>It also found there will be adequate provisions for the movement of pedestrians and cyclists.</p>
<p><b>ACTIVITY CENTRES &amp; COMMUNITY FACILITIES</b></p> <ul style="list-style-type: none"> <li>▶ To provide for mixeduse activity centres, including neighbourhood activity centres, of appropriate area and location.</li> <li>▶ To provide appropriately located sites for community facilities.</li> </ul>	<p>The Berrigan Shire Strategic Land Use Plan does not identify any activity centres and community facilities on the subject land.</p>
<p><b>PUBLIC OPEN SPACE</b></p>	<p>Open space/reserves areas will consist of two parks and two conservations reserves. The two parks will be located near the northeast corner of the site</p>

OBJECTIVES	RESPONSE
<ul style="list-style-type: none"> <li>▶ To provide a network of quality, well-distributed, multi-functional and cost effective public open space that includes local parks, active open space, linear parks and trails, and links to regional open space.</li> <li>▶ To provide a network of public open space that caters for a broad range of users.</li> <li>▶ To encourage healthy and active communities.</li> <li>▶ To ensure land provided for public open space can be managed in an environmentally sustainable way and contributes to the development of sustainable neighbourhoods.</li> </ul>	<p>and along the southern boundary adjacent to the Golf Course, and have an areas of 851m<sup>2</sup> and 732m<sup>2</sup> respectively.</p> <p>In the southern corner of the site, approximately 2.1ha will be set aside as a conservation reserve. A 1.1ha conservation reserve will also be located along the western boundary of the site.</p>
<p><b>LANDSCAPING</b></p> <ul style="list-style-type: none"> <li>▶ An overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping for the public domain.</li> </ul>	<p>A Landscape Plan will be prepared for the development. It is request this be required as a condition of approval.</p>
<p><b>LOT DESIGN</b></p> <ul style="list-style-type: none"> <li>▶ To provide lots with areas and dimensions that enable the appropriate siting and construction of a dwelling, solar access, private open space, vehicle access and parking, water management, easements and the retention of significant vegetation and site features.</li> </ul>	<p>As previously outlined ULD has identified a lack of diversity in lot sizes and dimensions and identified a shortage for smaller lots for the following:</p> <ul style="list-style-type: none"> <li>▶ Stay in place</li> <li>▶ Lock up and leave</li> </ul>

OBJECTIVES	RESPONSE
<ul style="list-style-type: none"> <li>▶ To provide lot design that is consistent with the character and desired density of an area.</li> <li>▶ To ensure smaller lots are located only in areas suitable for higher density housing and will consistent with the direction of the LEP.</li> <li>▶ To provide lots for industrial and commercial purposes that allow for the appropriate siting of buildings, landscaping, parking and the manoeuvring of vehicles.</li> <li>▶ To ensure that subdivision of commercial or industrial land is appropriately sized for the expected use and would not compromise its productive or desired use.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Short term accommodation</li> <li>▶ rentals</li> </ul> <p>The lots have been designed to accommodate this diversity of housing. This is further supported by Club Tocumwal who has experienced issues with attracting and retaining staff due to the lack of accommodation available. Furthermore, their members prefer to have a small lot to minimise maintenance and visitors are looking for short term accommodation.</p> <p>Where possible lots are orientated in an east-west or north-south alignment to maximise solar access to any future dwellings on the property.</p>
<p><b>INFRASTRUCTURE &amp; SERVICES</b></p> <ul style="list-style-type: none"> <li>▶ To provide public utilities to each lot in an efficient manner.</li> <li>▶ To design and implement infrastructure that minimises Council’s ongoing maintenance burden.</li> <li>▶ To minimise increases in stormwater run-off and protect the environmental values and physical characteristics of receiving waters from degradation by urban run-off.</li> <li>▶ To encourage Water Sensitive Urban Design techniques in new subdivisions.</li> <li>▶ To maximise the opportunities for shared trenching.</li> </ul>	<p>The proposed development will be serviced with all required infrastructure. a Stormwater Management Strategy has been prepared by Afflux to ensure stormwater is appropriately managed.</p> <p>Where possible shared trenching will be utilised.</p>

OBJECTIVES	RESPONSE
<ul style="list-style-type: none"> <li>▶ To provide public lighting to ensure the safety of pedestrians, cyclists and vehicles.</li> </ul>	
<hr/>	
<b>NATURAL HAZARDS</b>	
<ul style="list-style-type: none"> <li>▶ Amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected.</li> </ul>	<p>Whilst there are no identified natural hazards relevant to the site, the Stormwater Management Strategy has taken into consideration potential impact from flooding. Due to the Tocumwal levee bank the only potential flooding is from rainfall. The proposed development will be appropriately graded and any future dwellings on the lots impacted by flooding (along the southern boundary) will be required to be built above the designated flood level.</p>
<hr/>	
<b>SITE MANAGEMENT</b>	
<ul style="list-style-type: none"> <li>▶ To protect drainage infrastructure and receiving waters from sedimentation and contamination.</li> <li>▶ To protect the site and surrounding area from environmental degradation or nuisance prior to and during construction of subdivision works.</li> <li>▶ To encourage the re-use of materials from the site and recycled materials in the construction of subdivisions where practicable.</li> </ul>	<p>The Stormwater Management Plan prepared for the development has considered sediment control. The strategy has recommended a sediment pond/basin to be provided in the southern conservation reserve and also recommended gross pollutant traps to provided.</p> <p>A construction management plan will be prepared to ensure the site is appropriately managed during the construction stage of the subdivision.</p>

#### 4.5.2 PART 8 – VEGETATION REMOVAL

Part 8 specifies a Development Application is required to be lodged to ‘ringbark, cut down, top, lop, remove, injure or wilfully destroy vegetation which is 5 or more metres in height or trunk diameter of 20cm or more at 1m above the ground and is any of the following species:

- ▶ *Acacia pendula*: Weeping Myall
- ▶ *Allocasuarina iuehannii*: Bulloak
- ▶ *Brachychiton acerfolius*: Flame Tree
- ▶ *Brachychiton populneus*: Kurrajong
- ▶ *Callitris glaucophylla*: White Cypress Pine
- ▶ *Callitris gracilis*: Murray Cypress Pine
- ▶ *Corymbia Maculata*: Spotted Gum
- ▶ *Corymbia Ficifolia*: Red Flowering Gum
- ▶ *Eucalyptus camaldulensis*: River Red Gum
- ▶ *Eucalyptus largeiflorens*: Black Box
- ▶ *Eucalyptus macrocarpa*: Grey Box
- ▶ *Jacaranda mimosifolia*: Blue Jacaranda
- ▶ *Lagerstroemia* species: Crape Myrtle
- ▶ *Ulmus* species: Elms
- ▶ *Eucalyptus melliodora*: Yellow Box

A Test of Significance has been undertaken and whilst it proposed to remove 83 native trees, 59 of these trees are juvenile and do not require development consent. Refer to the Test of Significance for further details.

#### 4.6 STRATEGIC PLANNING DOCUMENTS

##### Berrigan Land Use Strategy 2018

The Berrigan Land Use Strategy is strategic document which reflects Council’s vision for the future land use planning context for the next 20 years.

In relation to Tocumwal, it is projected an average 20 dwellings/year will be required to cater for anticipated demand. The subject site has been identified as Vacant Zoned Land on *the Tocumwal Structure Plan*. It also states:

*“With a current minimum lot size of 600m<sup>2</sup>, there is options to reduce this development standard in strategic locations, or to include local provision into the LEP to allow, and support, an increased density. There is also opportunities for senior housing.”*

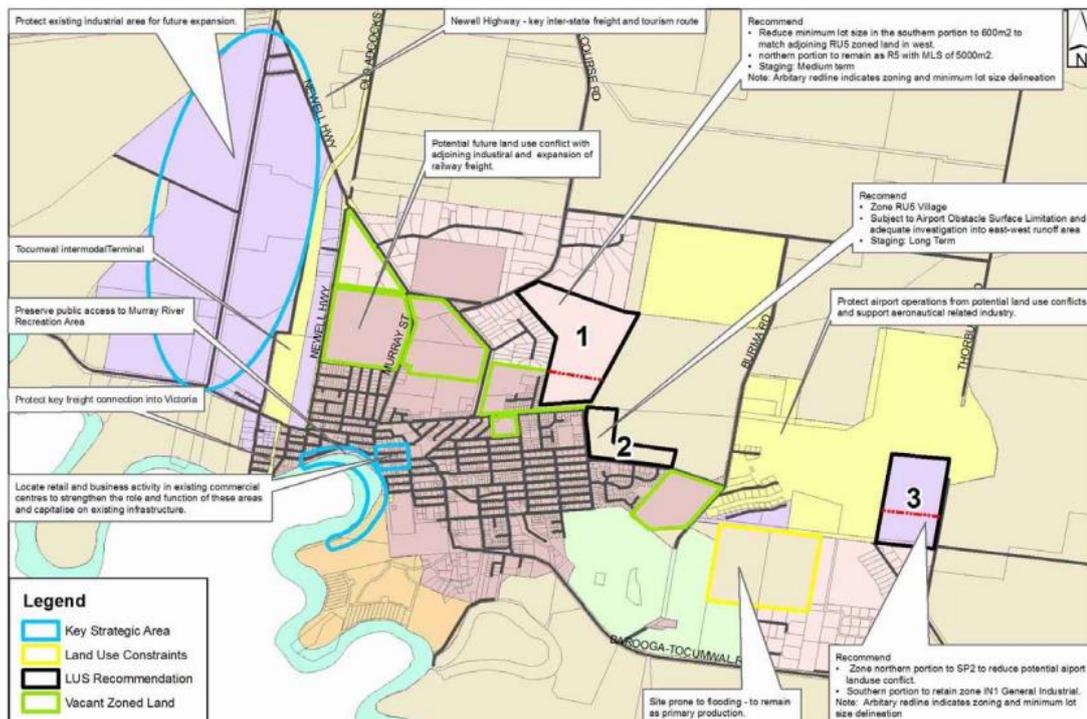


Figure 9: Tocumwal Structure Plan

#### 4.7 RIVERINA MURRAY REGIONAL PLAN 2041

The Riverina Murray Regional Plan 2041 (RMRP 2041) outlines the NSW Governments visions for land uses in the Riverina Murray region. The key outcomes of the regional plan are (author emphasis):

- ▶ *Capitalise on a changing regional economy and catalyst projects such as the Wagga Wagga Special Activation Precinct, Albury Regional Job Precinct, Inland Rail, South-West Renewable Energy Zone (South West REZ) and multiple Murray River bridge projects*
- ▶ *Understand the region's relationships with other NSW regions and states and territories, particularly Victoria, and how to optimise investment and policy decisions that impact the border area and broader Riverina Murray communities*
- ▶ ***Recognise stronger than expected population growth, particularly along the Murray River, and related housing pressures***
- ▶ *Better understand and provide more guidance to manage growth pressures in regional cities, commuting towns, border communities, along waterways, and in areas where there is demand for rural residential living.*
- ▶ ***Plan for different types of housing to meet changing demographics and to meet demand from temporary workers and visitors without impacting availability and affordability for residents***
- ▶ *Continue to assist Local Aboriginal Land Councils to better utilise the planning system and removing obstacles to achieve the objectives of the Aboriginal Land Rights Act 1983*

- ▶ *Focus on rivers and riverine corridors as places for cultural connection, activation, recreation, conservation and economic activity*
- ▶ *Align water and land use planning early, as residential or industrial growth must come from within existing water allocations in the context of more frequent and prolonged drought and floods*
- ▶ *Ensure the aims of the Biodiversity Conservation Act 2016 are considered early in the strategic planning and development process*
- ▶ *Plan for efficient, sustainable and cost-effective infrastructure and services early in the development process*
- ▶ *Support the transition to a net zero carbon emission State by 2050, including enabling the establishment of the South-West REZ*
- ▶ *Plan for the implications of climate change and the need for resilient and sustainable communities.*

As previously outlined, ULD research has found there is no/very little diversity in lot sizes and dimensions in Tocumwal. Like the RMRP 2041, ULD has also found the need to provide for a change in housing types in order to cater for the changing demographics. The proposed development has been designed to cater for a variety of demographics including smaller households, retirees, 'lock & leave' (golf and bowls club), short term accommodation, and the rental market, as well as for young families.

## 5. STATEMENT OF ENVIRONMENTAL EFFECTS

The following section of the Planning Report identifies any potential impacts which may occur as a result of the proposed development and considers the relevant matters under Section 4.15(1)(b) to (e) of the *Environmental Planning & Assessment Act 1979*.

### 5.1 CONTEXT AND SETTING

The subject land is located just 2 kilometres to the east of the Tocumwal town centre and on the urban fringe of the town. The land is bound by Hutsons Road to the north (farming land further north), the airport and industrial land to the east, the Tocumwal Golf Club to the south and existing residential development to the west. This land has been zoned for residential development for approximately 20 years. Given this, the site is ideal for infill development.

As outlined in Section 4.6 of this Report, the BLUP has identified the subject site as vacant zoned land, with the BLUP also noting ability to use the minimum lot size of 600m<sup>2</sup> in strategic locations.

ULD has identified a lack of diversity in lot sizes and housing typologies in Tocumwal and found there is a high demand for diversity, particularly in the smaller lots for residents wanting to downsize, the 'lock and leave' market (members of the Club Tocumwal), short term visitor accommodation and the rental market. The development also provides lots suitable for permanent residents, including young families.

Given the sites strategic location, it provides an opportunity to provide a diversity of lot sizes to cater for a changing market demand.

### 5.2 TRAFFIC, TRANSPORT AND ACCESS

A Traffic Impact Assessment has been prepared and found the existing and proposed road network as being appropriate. It concluded that:

- ▶ *Traffic data and assessment of nearby roads show that in the vicinity of the site, key intersections and midblock sections currently operate at an excellent Level of Service (LOS A, the highest level) during the relevant AM and PM peak periods;*
- ▶ *The proposed development involves subdividing the property to create a total of 261 residential lots, as well as creation of an internal road network with two new T-intersections connecting to the existing road network at Hutsons Road in the north and Burma Road in the east;*
- ▶ *The proposed development is anticipated to generate an additional 185 vehicle trips per hour during the AM peak period, 204 vehicle trips during the PM peak period, and 1,931 vehicle trips per day;*
- ▶ *There is sufficient capacity in the surrounding road network and key intersections to accommodate the additional traffic generated by the proposed development. Modelling shows that all intersections and midblock sections of road will operate at a good level of service (LOS B) or better across all time periods;*
- ▶ *Parking requirements can be met by providing off-street parking in accordance with the Berrigan Shire Development Control Plan;*
- ▶ *There will be no significant impact on public transport service provision; and*

- ▶ *Adequate provision has been made for the movement of pedestrians and cyclists.*

It also recommended that:

- ▶ *Consideration be given to undertaking a speed zone review on Hutsons Road (from the limit of the existing 50km/h zone further east) and on Burma Road (from Hutsons Road to Babbingtons Road) to evaluate extending the existing 50km/h speed zone limit; and*
- ▶ *Curve warning and advisory speed signage be placed on approach to the intersection of Burma Road and Babbingtons Road.*

### **5.3 UTILITIES AND INFRASTRUCTURE**

As outlined in Section 3.10 of this Report, the site can be serviced with all necessary infrastructure.

### **5.4 HERITAGE**

The site has not been identified for having an aboriginal heritage significance.

The site was inspected by Cumerangunja Local Aboriginal Land Council on the 14 September 2005 and found that the site had been disturbed and no evidence of cultural significance.

As there is no built form on site, there is no apparent European heritage associated with the site.

### **5.5 SOIL CONTAMINATION**

A Limited Environmental Site Assessment was undertaken on the site in 2005 and found the site 'exhibited contaminant concentrations at less than applicable guidelines.'

Whilst the land has been cropped recently, since 2005 it has not been utilised or occupied, therefore risk of contamination is low.

### **5.6 WATER QUALITY & STORMWATER**

A Stormwater Management Strategy and has provided two options for drainage. Option 2 has the least impact on native vegetation and therefore is the preferred option. Option 2 concept design is shown at Figure 10. The design provides overland flow paths through the street network, a raingarden in the northern conservation reserve and sediment basin and wetland in the southern conservation reserve.

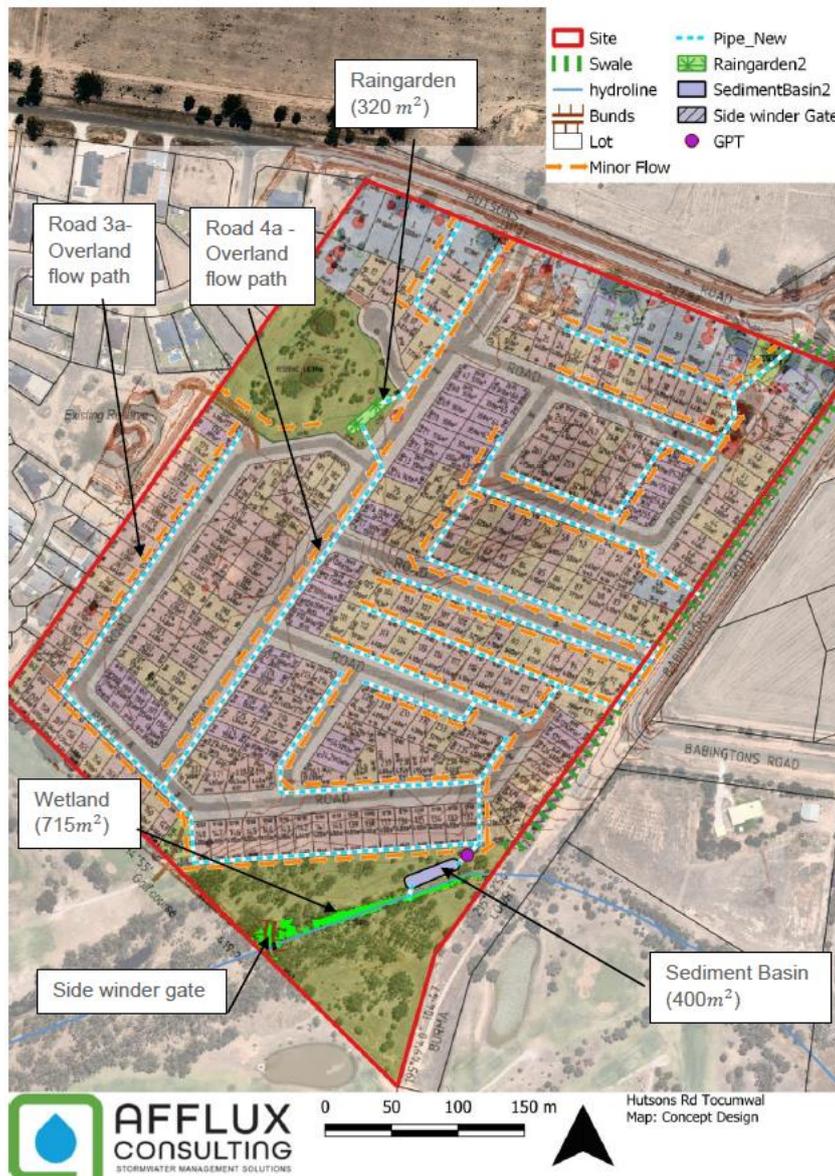


Figure 10: Stormwater Drainage Concept Plan

## 5.7 EROSION AND SEDIMENT CONTROL

The site is generally flat and there is no apparent susceptibility to erosion. A Construction Management Plan including relevant sediment control measure will be required before construction commences.

The Stormwater Management Plan prepared by Afflux considers sediment control measures for the proposed development. These will include a sediment basin provided in the southern reserves and gross pollutant traps throughout the development.

## 5.8 BIODIVERSITY

A Test of Significance has been prepared as per Part 7 Division 1, Section 7.3 of the Biodiversity Conservation Act 2016 and concluded a BDAR is not trigger. Whilst a number of native trees and some grasses will be impacted by the development only small number require consent for removal under the BDCP.

*The proposed development is not in a declared area of outstanding biodiversity value, the proposed development area is not mapped as Vulnerable or Sensitive Regulated Land according to the Section 60F of the Local Land Services Act 2013, and is also not mapped as an area of Biodiversity Value (DPE 2023e; see Appendix E), and a BDAR is not triggered on the basis of this mechanism.*

## 5.9 NOISE

Whilst the site is adjacent to the Tocumwal Airport, the land is not with the Airport ANEF contours. Given the limited movements of aircrafts at the airport and it does not operate at nighttime, future residents are unlikely to be significantly impacted by aircraft noise.

## 5.10 NATURAL HAZARDS

The subject site has not been mapped as flood prone or bushfire prone.

Flood modelling was undertaken as par to the Stormwater Management Plan and found the site is only subject to flooding from rainfall. The flooding impacts a small area of the site and therefore can be appropriately managed through the grading of the land, overland flow paths along road networks and designated floor levels for the dwelling constructed along the southern boundary of the site. Refer to the Stormwater Management Plan for further details.

## 5.11 ECONOMIC AND SOCIAL IMPACTS

The proposed development is expected to have positive and social impacts from this subdivision and associated dwelling construction on the new lots. The proposed development will open up a new growth front in Tocumwal and proposes to provide a diversity of lot sizes which is currently non-existent.

Like Club Tocumwal, many of the local businesses/industries are experiencing difficulties with attracting and retaining staff due to the limited accommodation options in the area. Furthermore, many of the local businesses are heavily dependent on the tourism/visitors to the area. There is a lack of options including 'lock & leave' and short term accommodation, with many preferring a small lot size due maintenance.

The flow on effects from the development includes local contractors, services and trades with this development expected to be gradually developed and released to the market.

## 5.12 PUBLIC INTEREST

The subject site has been zoned for residential development for many years. The proposed development is orderly and therefore in the public interest.

## 6. CONCLUSION

This Planning Report and Statement of Environmental Effects has considered all the relevant environmental, social and economic impacts for the residential subdivision of land at Burma Road, Tocumwal.

The development will provide 261 additional residential lots in an identified growth area of Tocumwal.

The application seeks development consent under Part 4 of the EP&A Act and this SEE has provided an assessment of the proposal against the relevant matters under Section 4.15(1) of the EP&A Act.

All the relevant environmental planning instruments and environmental impacts have been considered and the development will have a positive social, environmental, and economic outcome.

The proposed application should be recommended for approval for the following reasons:

- ▶ it is consistent with the aims and objectives of Berrigan Local Environmental Plan 2013, and Berrigan Development Control Plan 2014;
- ▶ it is consistent with the relevant State Environmental Planning Policies;
- ▶ it is consistent with the Berrigan Land Use Strategy Plan;
- ▶ it is considered with Riverina Murray Regional Plan 2041;
- ▶ the specialist assessments submitted with the proposal confirm there will be no detrimental environmental impacts from the development;
- ▶ the proposed development is suitable for the site and in the public interest.