



*Planning Direction Pty. Ltd.*  
*Town Planning & Development Services*

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

**Proposed Six Lot Subdivision**

**at**

**No 40-60 Brundah Road Thirlmere**

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## **1.0 INTRODUCTION**

This statement of environmental effects has been prepared to accompany a development application that is being submitted to Wollondilly Shire Council. The applicant seeks development consent to undertake the following development on land known as No 40-60 Brundah Road Thirlmere:

- Subdivide the existing two lots into six (6) allotments.

The proposal has been prepared in accordance with the provisions of Wollondilly Local Environmental Plan 2011 and Wollondilly Development Control Plan 2016.

The subject site falls within an Urban Release Area as identified under clause 6.1 of the Wollondilly Local Environmental Plan 2011. The subject site therefore has been identified as having subdivision potential subject to satisfying considerations relating to the environment and utility service connections.

The applicant attended a predevelopment application meeting on the 19th December 2017. The applicant presented to Council a proposed subdivision involving the creation of 10 lots across the site.

Council through the pre-DA notes dated the 11th January 2018 advised of the following:

- The proposal is permissible and the minimum lot size is 4000sqm.
- An application to transfer the Crown land to a public road needs to be submitted with the development application so as to gain Council endorsement.
- Stormwater, sewerage and vehicle access arrangements need to be satisfactorily resolved.

Upon review of the proposal, the applicant has been reduced the proposal to the creation of six lots comprising of 5 lots with full frontage to Brundah Road and one residue lot to the rear, subject to future consideration.

This statement of environmental effects is intended to assist Wollondilly Council in its assessment of the development application and includes;

- A description of the site and the locality and a description of the proposed development;
- A description of the statutory framework in which the development application will be assessed inclusive of the local planning instruments and the provisions of the Environmental Planning and Assessment Act 1979; and
- Conclusions in respect of the proposed development.

This statement of environmental effects should be considered in conjunction with the following supporting plans and documents:

- the survey and subdivision plans prepared by *TSS Total Surveying Solutions*;
- a bushfire report prepared by *Australian Bushfire Protection Planners P/L*;
- a biodiversity study report prepared by *ACS Environmental P/L*;
- A contamination land study report prepared by *Harvest Scientific Study P/L*;
- a European Heritage assessment report prepared by *Rein Warry and Co*;
- a stormwater design prepared by *ACOR*; and
- a Aboriginal Cultural Heritage report prepared by *Tharawal LALC*.

The application is submitted pursuant to Section 4.22 of the Environmental Planning and Assessment (EPA) Act 1979.

*Section 4.22 of the EPA Act relates to Concept development applications and states the following:*

*(1) For the purposes of this Act, a concept development application is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.*

*(2) In the case of a staged development, the application may set out detailed proposals for the first stage of development.*

*(3) A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.*

*(4) If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless:*

*(a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*

*(b) the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.*

*The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.*

*(5) The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.*

*Note.*

*The proposals for detailed development of the site will require further consideration under section 4.15 when a subsequent development application is lodged (subject to subsection (2)).*

**Comment:**

The application is made to Council with supporting documents prepared previously for a planning proposal for the broader precinct. The proposed subdivision plan relates to the creation of complying lots subject to further investigation and endorsement by Council and the Crown Lands Department. The issue of development consent for the complying subdivision pursuant to Section 4.22 will provide the applicant with certainty to proceed and undertake the necessary expenses to satisfy Council's full requirements.

Extracts from prior reports are provided to highlight the suitability of the site for future residential development.

## 2.0 SITE AND CONTEXT

## 2.1 Subject Site

The subject site is situated on the southern side of Brungah Road and is known as No 40-60 Brundah Road Thirlmere.



## Locality Plan

The subject site comprises of Lot 1 in DP 244682 (2.031 hectares) and Lot 2 in DP 244682 (2.02 hectares).

The subject land has extensive frontages to Brundah Road and an unformed road along its western boundary. The unformed road appears to be owned by the Crown and requires an application being made to Council to apply for gazettal of the Crown Land to a public road.

The subject site is a large allotment and benefits from a total site area of **40,051sqm or 4.051 hectares**.

The subject site currently contains two detached dwellings and associated sheds. These two dwellings will be retained as part of the

proposed subdivision. The subject site is not heritage listed nor is the site located within a heritage conservation area.

With regards to topography, the subject site has a gradual fall from Brundah Road to the rear boundary.

Issues to resolve include the disposal of stormwater from each lot and the treatment of sewage.



**View from Brundah Road looking south west**

## **2.2 Site Context**

The subject site is situated on the south-eastern fringe of the Thirlmere town centre and north of the township of Tahmoor. The subject site maintains a semi-rural setting.

It is noted that a recent subdivision and retirement complex has been constructed to the west.

Land to the east and south maintains a semi-rural setting awaiting the augmentation of utility services to furnish subdivision within the identified release area.

### 3.0 **PROPOSED DEVELOPMENT**

The applicant seeks development consent to undertake the following at No 40-60 Brundah Road Thirlmere:

- Subdivide the existing two lots into six (6) allotments.



Subject site

### 3.1

### Proposed Torrens Title Subdivision



**Proposed subdivision Plan**

The applicant proposes to subdivide the subject site into 6 lots as a staged development given the circumstances of the site, its context and future planning opportunities.

The adjoining land to the west has been identified as being a local road, however as the road has not been formed and is owned by the Crown, a series of events needs to occur before the road can be formalised.

The subject site also has a gradual fall to the rear, thus requiring a drainage solution based on gravity flow of storm water. As formal drainage lines have not been created within the unformed road, drainage of the subdivision will be directed via gravity flow to Council's drainage infrastructure in Brundah Road.

In view of the above, the applicant proposes to create 5 lots with full frontage to Brundah Road taking advantage of existing utility services, postal, garbage services and vehicle access. The proposed subdivision pattern neatly accommodates two existing dwellings on the site.

A sixth residue lot is to be created across the rear of the site awaiting the formalisation of the unformed road and augmentation of utility services.

Each of the five proposed lots across the frontage of the site will have a compliant minimum 4000sqm lot size. Two of the five proposed lots will retain an existing dwelling on each lot.

Sewerage arrangements for the proposed lots will be an on-site Bio Septic system as per existing houses.

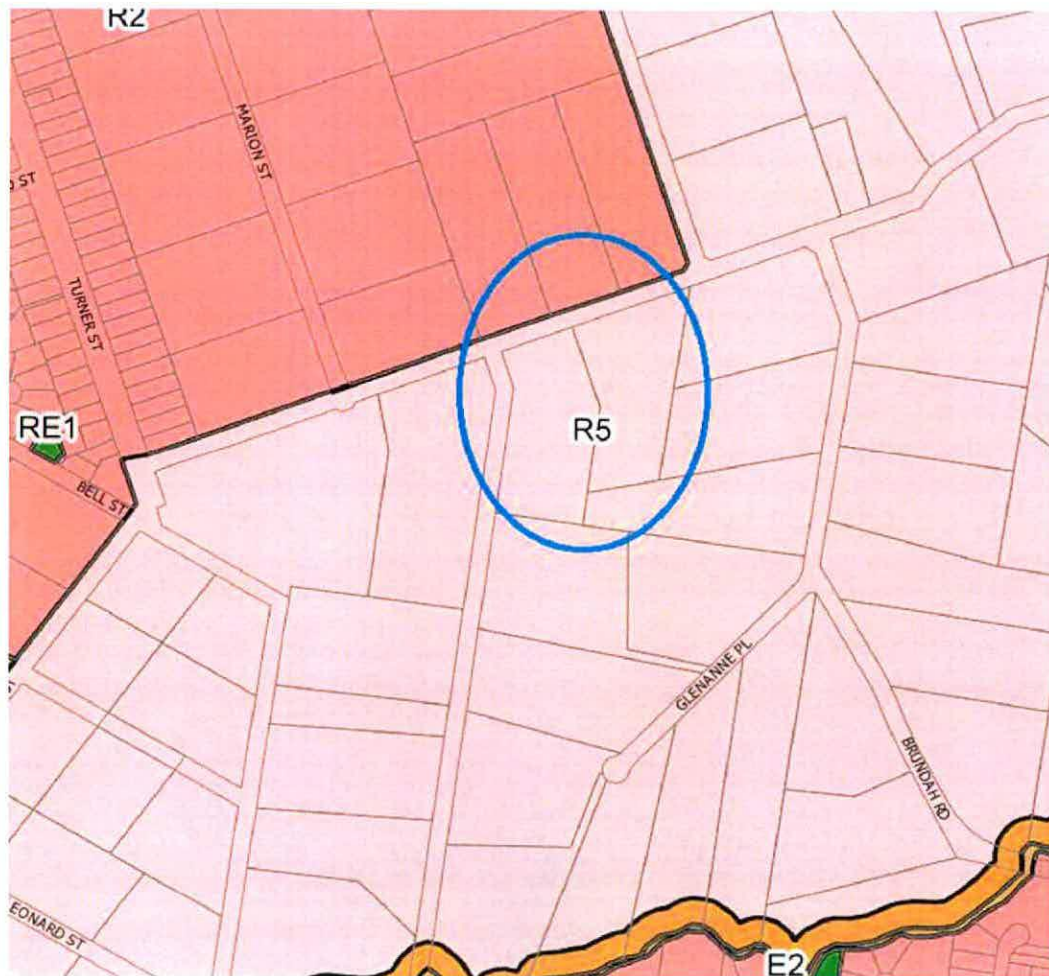
A access corridor for maintenance purposes is proposed to the rear residue lot via the unformed Crown Road. An application to have the road corridor transferred to Council's ownership from the Crown is attached as part of this application.

A future development application will be made upon undertaking further site specific investigation studies relating to contamination, flora and fauna, bushfire and utility services.

#### **4.0 WOLLONDILLY LOCAL ENVIRONMENTAL PLAN 2011**

##### **4.1 Zoning and Zone Objectives**

The subject site is zoned R5 Large Lot Residential pursuant to the Wollondilly LEP 2011.



**Zone Extract**

The land use table and objectives of the Zone R5 Large Lot Residential zone are as follows:

1 Objectives of zone

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

2 Permitted without consent

*Home occupations*

3 Permitted with consent

*Bed and breakfast accommodation; Cemeteries; Centre-based child care facilities; Community facilities; Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Flood mitigation works; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Places of public worship; Recreation areas; Residential accommodation; Respite day care centres; Roads; Sewerage systems; Signage; Veterinary hospitals; Water supply systems*

4 Prohibited

*Attached dwellings; Biosolids treatment facilities; Dual occupancies; Multi dwelling housing; Residential flat buildings; Rural workers' dwellings; Semi-detached dwellings; Shop top housing; Water recycling facilities; Water treatment facilities; Any other development not specified in item 2*

**Comment:**

The applicant proposes to subdivide the subject site. Subdivision is permitted pursuant to clause 2.6 of the LEP.

**Clause 2.6** of the LEP permits Subdivision—consent requirements

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

*Notes.*

*If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the Act enables it to be carried out without development consent.*

*2*

*Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides that the strata subdivision of a building in certain circumstances is **complying development**.*

*(2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.*

*Note.*

*The definition of secondary dwelling in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.*

*Comment:*

The application is submitted as local development requiring the issue of development consent by Council.

**Clause 4.1** of the LEP relates to Minimum subdivision lot size:

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

*(a) to provide for suitable lot sizes,*

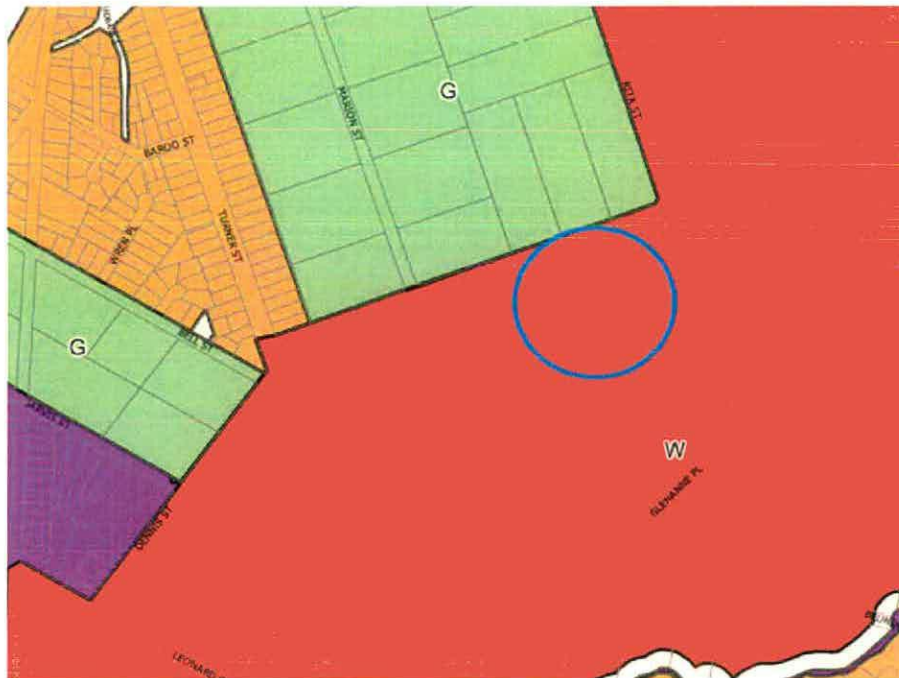
*(b) to ensure that the subdivision of land is compatible with the landscape and environmental constraints of the land.*

*(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.*

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

*(4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.*

*(5) Despite subclause (3), the size of any lot resulting from a subdivision of land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential that is not serviced by a reticulated sewerage scheme must not be less than 975 square metres.*



Extract from the LEP

Comment:

The minimum lot size is 4,000sqm.

It is noted that land to the north has a minimum lot size of 450sqm.

The proposed subdivision involves the creation of 6 lots in compliance with the development standard.

**Clause 6.1** of the LEP relates to Arrangements for designated State public infrastructure and states the following:

*(1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs*

*that arise from development on the land, but only if the land is developed intensively for urban purposes.*

*(2) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before:*

*(a) in relation to land shown as "Silverdale" on the Urban Release Area Map—16 September 2005, or*

*(b) in relation to land shown as "Wilton" on the Urban Release Area Map—23 February 2007, or*

*(c) in relation to any other land—the land became, or became part of, an urban release area,*

*unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.*

*(3) Subclause (2) does not apply to:*

*(a) any lot identified in the certificate as a residue lot, or*

*(b) any lot to be created by a subdivision of land that was the subject of a previous development consent granted in accordance with this clause, or*

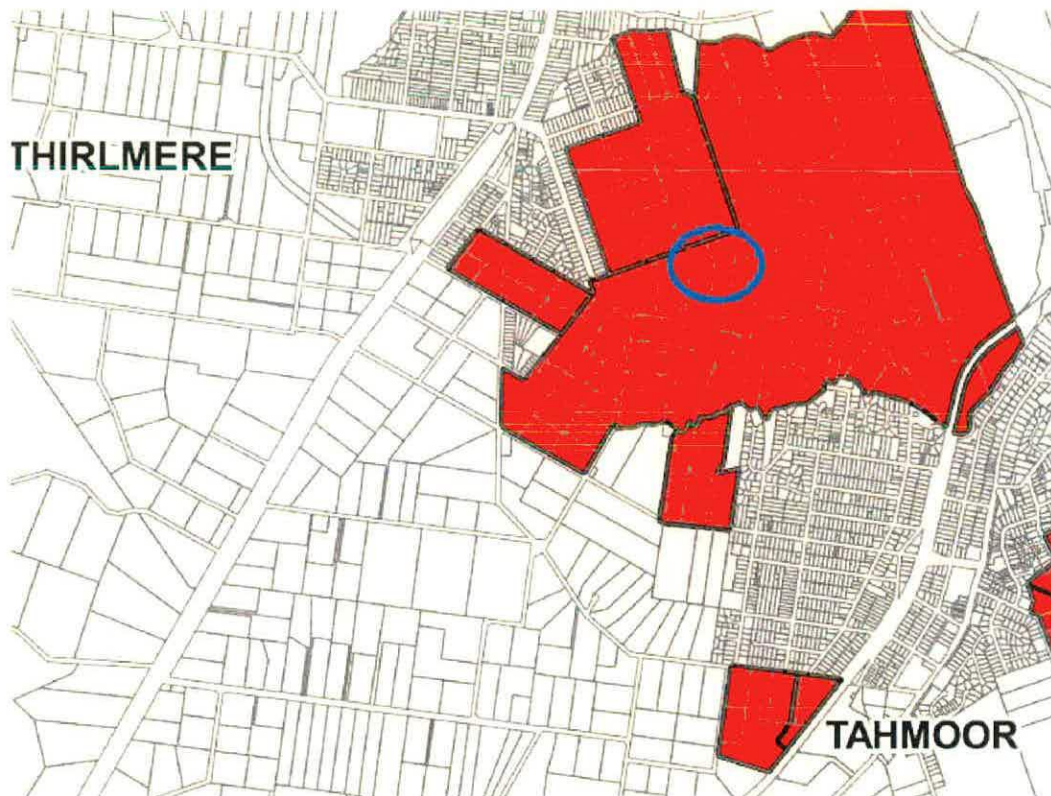
*(c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or*

*(d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.*

*(4) This clause does not apply to land in an urban release area if all or any part of the land is in a special contributions area (as defined by section 93C of the Act).*

**Comment:**

The subject site falls within the designated land release area as identified on the map over the page. Notwithstanding it is the applicant's intention to create complying lots on the subject site.



The above map identifies the site as being within an urban release area.

**Clause 6.2** of the LEP relates to Public utility infrastructure and states the following:

*(1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.*

*(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.*

Comment:

The proposed subdivision has access to Brundah Road and utility services.

**Clause 6.3** of the LEP relates to Development control plan and states the following:

*(1) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.*

*(2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.*

*(3) The development control plan must provide for all of the following:*

*(a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,*

*(b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,*

*(c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,*

*(d) a network of passive and active recreational areas,*

*(e) stormwater and water quality management controls,*

*(f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,*

*(g) detailed urban design controls for significant development sites,*

*(h) measures to encourage higher density living around transport, open space and service nodes,*

*(i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,*

*(j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.*

*(4) Subclause (2) does not apply to any of the following development:*

*(a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,*

- (b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,*
- (c) a subdivision of land in a zone in which the erection of structures is prohibited,*
- (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated,*
- (e) proposed development on land shown as "Wilton" on the Urban Release Area Map.*
- (5) Development consent must not be granted for development on land shown as "Silverdale" on the Urban Release Area Map unless a development control plan that provides for the following matters specified has been prepared for the land:*
  - (a) measures to protect the water quality in, and the ecological integrity of, any special area in the vicinity of that land,*
  - (b) security measures of any special area in the vicinity of that land,*
  - (c) measures to ameliorate any adverse affect on the operation of Water NSW helipad that is adjacent to that land.*
- (6) In this clause, special area has the same meaning as in the Water NSW Act 2014.*

**Comment:**

The applicant does not rely on the urban release area provisions with this application as the proposed subdivision relates to the provision of compliant lots pursuant to the LEP.

**Clause 7.1** of the LEP relates to Essential services and states the following:

- (1) Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:*
  - (a) the supply of water,*
  - (b) the supply of electricity,*

(c) the disposal and management of sewage.

(2) This clause does not apply to the following:

(a) development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this clause,

(b) land to which Part 6 applies.

(3) In this clause:

disposal and management of sewage means the disposal and management of sewage in the form of a reticulated sewerage scheme:


(a) that is provided to each separate lot proposed as part of the development, and

(b) if a lot contains 2 or more dwellings, is for the purposes of dual occupancy, multi dwelling housing, residential flat buildings, attached dwellings and shop top housing.

reticulated sewerage scheme means a network of pipes that conveys sewage from dwellings to a treatment facility licensed or required to be licensed under the Water Industry Competition Act 2006.

Comment:

The proposed lots fronting Brundah Road benefits from access to existing utility services and includes vehicle access. Each lot will be fitted with a Bio Septic system for the collection and treatment of sewage. A specification of the system is provided below:



**BioSeptic** *Simply the Best!*

**PRODUCT GUIDE: PERFORMA 2100 AWTS**

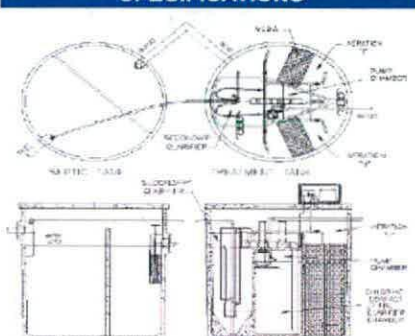
**DESCRIPTION**

- Australian designed and manufactured all concrete wastewater system.
- Providing reliable treatment for over 7000 households.
- Turns your household wastewater into clear, odourless, safe water for your gardens and lawns.
- Supported by the best customer service and after sales support.

**FEATURES**

- 30 Year Warranty — Tanks and Insert
- 2 Year Warranty — Pumps and Blowers and all Original Electrical Components
- 5 Year Warranty — Internal pipe work
- Integrated Alarm System
- Chlorine Disinfection
- Two-tank Design
- 1st Year Servicing Free
- Includes Basic Irrigation System
- Choice of Pumps
- Suits New and Existing Buildings
- Environmentally Friendly
- Accredited by the NSW Health Dept.
- Testing revealed:
  - 97% Reduction in Organic Waste
  - 96% Reduction in Suspended Solids
  - 99.99% Reduction of Faecal Coliforms

**SPECIFICATIONS**



**Clause 7.2** of the LEP relates to Biodiversity protection and states the following:

*(1) The objective of this clause is to maintain terrestrial and aquatic biodiversity including:*

- (a) protecting native fauna and flora, and*
- (b) protecting the ecological processes necessary for their continued existence, and*
- (c) encouraging the recovery of native fauna and flora and their habitats, and*
- (d) protecting water quality within drinking water catchments.*

*(2) This clause applies to land identified as “sensitive land” on the Natural Resources—Biodiversity Map.*

*(3) Before determining a development application for land to which this clause applies, the consent authority must consider any adverse impact of the proposed development on the following:*

- (a) native ecological communities,*
- (b) the habitat of any threatened species, populations or ecological community,*
- (c) regionally significant species of fauna and flora or habitat,*
- (d) habitat elements providing connectivity,*
- (e) water quality within drinking water catchments.*

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

- (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or*
- (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The applicant benefits from a broad based biodiversity study undertaken for the precinct, which forms part of the application.

Figure 5, page 19 of the report – Distribution of Ecological communities denotes an area of “Moderate Conservation value, tree

canopy 10 to 30% CCPD" maps an area abutting the site to the east and south.

Figure 16, page 44 "Fauna Habitats" identifies the site and adjoining land area as "Poor Habitat".

Figure 18, page 51 "DEC (2002)" mapping shows "Areas that are Support for Core Habitat" to the east and west. The area to the west has been cleared as part of the Bluegum Lifestyle Resort.

Figure 23, page 67 shows areas of Biodiversity Value to the east and south of the site.

Council desktop mapping identified an area of significance at the north west corner of the site. A house has been constructed in this area in the last 18 months.

The subject site is suitably clear of significant vegetation and established trees particularly across the proposed front lots.

There are no ecological issues arising in this regard.

**Clause 7.3** of the LEP relates to Water protection and states the following:

*(1) The objective of this clause is to maintain the hydrological functions of riparian land, waterways and aquifers, including protecting the following:*

- (a) water quality,*
- (b) natural water flows,*
- (c) the stability of the bed and banks of waterways,*
- (d) groundwater systems.*

*(2) This clause applies to land identified as "sensitive land" on the Natural Resources—Water Map.*

*(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider any adverse impact of the proposed development on the following:*

- (a) the water quality of receiving waters,*
- (b) the natural flow regime,*
- (c) the natural flow paths of waterways,*
- (d) the stability of the bed, shore and banks of waterways,*
- (e) the flows, capacity and quality of groundwater systems.*
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
  - (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or*
  - (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

**Comment:**

The subject site is not identified as being sensitive land near a watercourse.

**Clause 7.4** of the LEP relates to Flood planning and states the following:

- (1) The objectives of this clause are as follows:*
  - (a) to minimise the flood risk to life and property associated with the use of land,*
  - (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
  - (c) to avoid significant adverse impacts on flood behaviour and the environment.*
- (2) This clause applies to land that is at or below the flood planning level.*
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
  - (a) is compatible with the flood hazard of the land, and*
  - (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*

*(c) incorporates appropriate measures to manage risk to life from flood, and*

*(d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*

*(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

*(4) A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7 347 54760) published in 2005 by the NSW Government, unless it is otherwise defined in this clause.*

*(5) In this clause, flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.*

Comment:

The subject site is not flood affected.

**Clause 7.5** of the LEP relates to Earthworks and states the following:

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

*(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*

*(b) to allow earthworks of a minor nature without requiring separate development consent.*

*(2) Development consent is required for earthworks unless:*

*(a) the work is exempt development under this Plan or another applicable environmental planning instrument, or*

*(b) the work is ancillary to other development for which development consent has been given.*

*(3) Before granting development consent for earthworks, the consent authority must consider the following matters:*

*(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*

*(b) the effect of the proposed development on the likely future use or redevelopment of the land,*

*(c) the quality of the fill or the soil to be excavated, or both,*

- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

*Note.*

*The National Parks and Wildlife Act 1974, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.*

Comment:

No earthworks are proposed with the application excepting for utility service connection.

## **5.0 WOLLONDILLY DEVELOPMENT CONTROL PLAN 2016**

### **5.1 Volume 3 Subdivision of Land**

Relevant sections of the DCP are as follows:

#### **Traffic and Transport**

##### ***Objectives***

- 1. To ensure that new allotments created by the subdivision of land are provided with adequate public roads.*
- 2. To ensure that the subdivision of land is only undertaken in locations where the road network is able to provide, or be made capable of providing adequate servicing.*
- 3. To ensure new roads are safe and efficient.*
- 4. To ensure access points for rural subdivisions are located at safe locations within the road network.*
- 5. To ensure pedestrian and cycle paths are provided where required to maximise the uptake of healthy and sustainable transport options.*
- 6. To ensure splay corners are dedicated at intersections so that intersections can be maintained to maximise sight distances and to maximise flexibility to upgrade intersections in the long term.*

Comment:

The proposed five lots with frontage to Brundah Road satisfy the criteria.

The proposed residue lot will be serviced at a future time.

#### **Wastewater**

- 1. All lots created must have access to one or more of the following:*
  - a. A reticulated sewage scheme operated by the relevant statutory sewage authority; or*
  - b. A private reticulated sewage scheme operated by person licensed under relevant legislation; or*

*c. Sufficient land with the correct physical and chemical characteristics to allow for the wastewater to be treated and disposed of within the boundaries of the lot.*

*2. A "pump out" system is not a satisfactory method of wastewater disposal for the purposes of Control 1.*

*3. Any subdivision that is carried out on unsewered land (i.e. carried out under control 1(c) above) must meet the requirements of Council's "On-site Sewage Management System and Grey Water re-use Policy".*

Comment:

A suitable wastewater treatment process is proposed via a Bio Septic system to be installed on each lot.

#### Stormwater

*1. Development involving the subdivision of land must demonstrate that stormwater management arrangements will allow for drainage to be directed to either a natural water body or a constructed stormwater management system without causing significant environmental harm or risks to human health and safety.*

*2. Medium and Large subdivisions must include provision of integrated stormwater management systems to achieve Water Sensitive Urban Design outcomes. These shall be detailed in an assessment report (a Water Cycle Management Study or Similar) to be submitted with the development application which must include modelling of both water quantity and quality and must also include a short and long term maintenance management plan.*

Comment:

A stormwater concept plan accompanies the application.

#### Lot Size and Shape

Area	Minimum Lot Width	Minimum Lot Width (Corner allotment)	Minimum Lot Depth
1500m <sup>2</sup> or	20m	30m	30m or Greater

Comment:

The proposed street frontage lots readily comply with the minimum controls.

Landscape and Character

- 1. The subdivision of land in environmental and rural zones must demonstrate, to the satisfaction of the consent authority that the location of all building envelopes and access driveways will not result in degradation of the landscape character of the surrounding area.*
- 2. The subdivision of land in residential zones must ensure that there are no two access handles along the same property boundary.*
- 3. Access handles to lots in residential zones (excluding R5 Large Lot Residential zones) must be provided with landscaping between the edge of the driveway pavement and the property boundary. The minimum width of such landscaping shall be 1m at all points. Formal landscaping is not required for those parts of access handles where driveways connect the access handle to vehicle parking or manoeuvring areas.*
- 4. Landscaping required by control 2.5(3) shall be provided with:*
  - a. An automatic watering system; and*
  - b. A mix of ground covers and shrubs that are appropriate for the width of the handle; and*
  - c. A mulched or rocked garden bed with permanent edging.*
- 5. Landscaping for access handles shall not obscure the buildings at the rear of the handle.*
- 6. The subdivision of land that proposes the opening of a new public road must include embellishment of the new road verges in accordance with Council's Street Tree Risk Plan.*

Comment:

The above is not overly relevant to the subject application.

Building Envelopes

Not required for large lot residential subdivision.

### Environmental Protection

- 1. The subdivision of land that comprises significant stands of native vegetation must provide for asset protection zones for all future development outside of that vegetation. The allotment size and layout must facilitate this provision.*
- 2. The layout of any proposed subdivision must be designed to limit or avoid any adverse impacts on watercourses and vegetation and prevent future development occurring on steep and constrained lands.*

#### Comment:

The subject site is effectively devoid of significant trees. No tree removal is required with this application.

### Land Between Picton, Tahmoor and Thirlmere (commonly known as PTTAG)

- 1. Prior to the grant of consent for any subdivision of land to which this clause applies must demonstrate that all downstream stormwater infrastructure, including culverts, are adequate for post development flows or can and will be upgraded to accommodate such flows.*
- 2. The consent authority shall consult with local aboriginal groups as a part of the assessment for any subdivision application within the PTTAG precinct and may require additional archaeological assessment on a site by site basis.*

#### Comment:

The above is noted.

## **5.2 Volume 2 Urban Release Area**

Applicable to the site is the consideration outlined below:

### **2.4 Land Between Picton Tahmoor and Thirlmere (commonly known as PTTAG).**

#### **Requirement of LEP**

*(a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,*

*(b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,*

*(c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,*

*(d) a network of passive and active recreational areas,*

*(e) stormwater and water quality management controls,*

*(f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any*

#### **Control(s)**

1. The development may be undertaken in any number of stages.  
2. There is no particular requirement for any part of the precinct to be developed before or after any other.

1. The road hierarchy shall be provided in accordance with the provisions contained in Part 2 of Volume 3 of this plan.

The objective of this provision is otherwise achieved by satisfying Parts 7, 8, 9, 10 and 11 of Volume 1 and Part 2 of Volume 3 of this plan.

Lots created by the future subdivision of the site would utilise the existing facilities at Tahmoor, Thirlmere and Picton.

These measures are to be provided in accordance with Sections 2.3 and 3.8 of Volume 3 of this plan.

#### **Bushfire**

Development is to comply with the most recent version of the NSW Rural Fire Service's Planning for Bushfire Protection.

#### **Flooding**

*land so affected,*

Development is to comply with Part 8 of Volume 1 of this plan.

Contamination

Development is to comply with State Environmental Planning Policy No. 55 – Remediation of Land.

*(g) detailed urban design controls for significant development sites,*

The land contains no significant development sites.

*(h) measures to encourage higher density living around transport, open space and service nodes,*

The site contains no areas which are particularly desirable for higher density living.

*(i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,*

Neighbourhood shops are not to be provided with the precinct.

*(j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.*

The precinct will rely on existing facilities at Tahmoor, Thirlmere and Picton.

Comment:

The subject site falls within the broad precinct.

The proposed subdivision relates to the creation of 5 developable and complying large residential lots and 1 residue lot.

The proposed subdivision pattern has been designed as a staged consideration given the topographical characteristics of the site and its context and given the unformed road adjoining the site to the west and the future zoning potential.

The proposal can satisfy the following:

- NSW Rural Fire Service's Planning for Bushfire Protection (PBP).
  - Figure 11, page 27 of the "Bushfire Constraints Report" indicates the land to the south of the site will require a 32m APZ. The lots 5 lots proposed in this application are outside of this 32m APZ and will not be affected by PBP.
- Part 8 of Volume 1 of this plan.

- State Environmental Planning Policy No. 55 – Remediation of Land

The land contains no significant development sites.

The site contains no areas which are particularly desirable for higher density living.

Neighbourhood shops are not proposed within the precinct.

Overall the proposed subdivision complies with the provisions of the DCP.

## **6.0 SECTION 4.15 EVALUATION CHECKLIST**

The following provides an assessment of the proposal against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

*(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*(a) the provisions of:*

*(i) any environmental planning instrument, and*

*(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

*(iii) any development control plan, and*

*(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*

*(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*

*(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*

### **Comment:**

The proposed subdivision is permissible in the zone and is reasonable pursuant to the provisions of the Wollondilly LEP 2011 and the associated DCP. The proposed subdivision is compliant with the numerical controls and suitably allows for future upgrade of roads and services as part of stage 2 subdivision works.

No issues arise in respect of the DCP or draft plans or coastal management.

#### SEPP 55 Remediation of Land

The subject site has been used more recently for residential purposes. Preliminary investigations of the precinct have identified that there is no substantial contamination over the subject land/within the precinct. A detailed site specific contamination report has also been prepared identifying that the land is suitable for residential habitation.

#### Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River

The aim of this plan is as follows:

*The aim of this plan is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.*

**Clause 5** of the SREP relates to General planning considerations and states the following:

*The general planning considerations relevant for this Part are:*

- (a) the aim of this plan, and*
- (b) the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, and*
- (c) whether there are any feasible alternatives to the development or other proposal concerned, and*
- (d) the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored.*

**Clause 6** of the SREP relates to Specific planning policies and recommended strategies and states the following:

*The specific planning policies and recommended strategies for this plan are as follows:*

*(1) Total catchment management*

***Policy: Total catchment management is to be integrated with environmental planning for the catchment.***

***Strategies:***

*(a) Refer the application or other proposal for comment to the councils of each adjacent or downstream local government area which is likely to suffer a significant adverse environmental effect from the proposal.*

*(b) Consider the impact of the development concerned on the catchment.*

*(c) Consider the cumulative environmental impact of development proposals on the catchment.*

*(2) Environmentally sensitive areas*

***Policy: The environmental quality of environmentally sensitive areas must be protected and enhanced through careful control of future land use changes and through management and (where necessary) remediation of existing uses.***

***Note.***

*Environmentally sensitive areas in the Hawkesbury-Nepean catchment are: the river, riparian land, escarpments and other scenic areas, conservation area subcatchments, national parks and nature reserves, wetlands, other significant floral and faunal habitats and corridors, and known and potential acid sulphate soils.*

***Strategies:***

*(a) Rehabilitate parts of the riverine corridor from which sand, gravel or soil are extracted so that attached aquatic plant beds are replaced and water quality and faunal habitats improved.*

*(b) Minimise adverse impacts on water quality, aquatic habitats, riverine vegetation and bank stability.*

*(c) Minimise direct and indirect adverse impacts on land reserved or dedicated under the National Parks and Wildlife Act 1974 or the Forestry Act 1916 and conservation area sub-catchments in order to protect water quality and biodiversity.*

*(d) Protect wetlands (including upland wetlands) from future development and from the impacts of land use within their catchments.*

*(e) Consider the need to include buffer zones (such as adequate fire radiation zones) for proposals on land adjacent to land reserved or*

*dedicated under the National Parks and Wildlife Act 1974 or the Forestry Act 1916.*

*(f) Consider the views of the Director-General of National Parks and Wildlife about proposals for land adjacent to land reserved or dedicated under the National Parks and Wildlife Act 1974.*

*(g) Consideration should be given to the impact of the development concerned on the water table and the formation of acid sulphate soils.*

*(h) New development in conservation area sub-catchments should be located in areas that are already cleared.*

*(3) Water quality*

***Policy: Future development must not prejudice the achievement of the goals of use of the river for primary contact recreation (being recreational activities involving direct water contact, such as swimming) and aquatic ecosystem protection in the river system. If the quality of the receiving waters does not currently allow these uses, the current water quality must be maintained, or improved, so as not to jeopardise the achievement of the goals in the future. When water quality goals are set by the Government these are to be the goals to be achieved under this policy.***

*Note.*

*Aquatic ecosystems and primary contact recreation have the same meanings as in the document entitled Australian Water Quality Guidelines for Fresh and Marine Waters, published in 1992 by the Australian and New Zealand Environment and Conservation Council.*

***Strategies:***

*(a) Quantify, and assess the likely impact of, any predicted increase in pollutant loads on receiving waters.*

*(b) Consider the need to ensure that water quality goals for primary contact recreation and aquatic ecosystem protection are achieved and monitored.*

*(c) Approve development involving primary contact recreation or the withdrawal of water from the river for human contact (not involving water treatment), such as showers, only in locations where water quality is suitable (regardless of water temperature).*

*(d) Do not carry out development involving on-site disposal of sewage effluent if it will adversely affect the water quality of the river or groundwater. Have due regard to the nature and size of the site.*

*(e) Develop in accordance with the land capability of the site and do not cause land degradation.*

(f) *Consider the need for an Erosion and Sediment Control Plan (to be in place at the commencement of development) where the development concerned involves the disturbance of soil.*

(g) *Minimise or eliminate point source and diffuse source pollution by the use of best management practices.*

(h) *Site and orientate development appropriately to ensure bank stability. Plant appropriate native vegetation along banks of the river and tributaries of the river, but not so as to prevent or inhibit the growth of aquatic plants in the river, and consider the need for a buffer of native vegetation.*

(i) *Consider the impact of the removal of water from the river or from groundwater sources associated with the development concerned.*

(j) *Protect the habitat of native aquatic plants.*

(4) *Water quantity*

***Policy: Aquatic ecosystems must not be adversely affected by development which changes the flow characteristics of surface or groundwater in the catchment.***

***Strategies:***

(a) *Future development must be consistent with the interim or final river flow objectives that are set for the time being by the Government.*

(b) *Ensure the amount of stormwater run-off from a site and the rate at which it leaves the site does not significantly increase as a result of development. Encourage on-site stormwater retention, infiltration and (if appropriate) reuse.*

(c) *Consider the need for restricting or controlling development requiring the withdrawal or impoundment of water because of the effect on the total water budget of the river.*

(d) *Consider the impact of development on the level and quality of the water table.*

(5) *Cultural heritage*

***Policy: The importance of the river in contributing to the significance of items and places of cultural heritage significance should be recognised, and these items and places should be protected and sensitively managed and, if appropriate, enhanced.***

***Strategies:***

(a) *Encourage development which facilitates the conservation of heritage items if it does not detract from the significance of the items.*

(b) *Protect Aboriginal sites and places of significance.*

(c) Consider an Aboriginal site survey where predictive models or current knowledge indicate the potential for Aboriginal sites and the development concerned would involve significant site disturbance.

(d) Consider the extent to which heritage items (either identified in other environmental planning instruments affecting the subject land or listed in Schedule 2) derive their heritage significance from the river.

(6) Flora and fauna

**Policy: Manage flora and fauna communities so that the diversity of species and genetics within the catchment is conserved and enhanced.**

**Strategies, generally:**

(a) Conserve and, where appropriate, enhance flora and fauna communities, particularly threatened species, populations and ecological communities, aquatic habitats, wetland flora, rare flora and fauna, riverine flora, flora with heritage value, habitats for indigenous and migratory species of fauna, and existing or potential fauna corridors.

(b) Locate structures where possible in areas which are already cleared or disturbed instead of clearing or disturbing further land.

(c) Minimise adverse environmental impacts, protect existing habitat and, where appropriate, restore habitat values by the use of management practices.

(d) Consider the impact on ecological processes, such as waste assimilation and nutrient cycling.

(e) Consider the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms.

(f) Consider the need to provide and manage buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas.

(g) Consider the need to control access to flora and fauna habitat areas.

(h) Consider the need to maintain corridors for fish passage, and protect spawning grounds and gravel beds.

**Strategies for wetlands:**

(i) Maintain the ability of wetlands to improve the quality of water entering the river through the filtering of sediments and the absorption of nutrients.

- (j) Maintain the ability of wetlands to stabilise soils and reduce bank erosion.*
- (k) Maintain the ability of wetlands to reduce the impact of flooding downstream through the retention of floodwaters.*
- (l) Maintain a variety of wetland flora and fauna species in the region and consider the scarcity of particular species on a national basis.*
- (m) Encourage the appropriate management of wetlands, including monitoring and weed control.*
- (n) Provide opportunities for recreation, scientific research and education where they are compatible with the conservation of wetlands.*
- (o) Consider the need to protect and improve the quality and quantity of surface water and groundwater entering wetlands by controlling development in the catchment of wetlands.*
- (p) Consider the desirability of protecting any wetlands of local significance which are not included on the map.*
- (q) Consider the desirability of protecting or, if necessary, actively managing, constructed wetlands if they have significant conservation values or make a significant contribution to improvements in water quality.*
- (7) Riverine scenic quality*

***Policy: The scenic quality of the riverine corridor must be protected.***

***Strategies:***

- (a) Maintain areas of extensive, prominent or significant vegetation to protect the character of the river.*
- (b) Ensure proposed development is consistent with the landscape character as described in the Scenic Quality Study.*
- (c) Consider the siting, setback, orientation, size, bulk and scale of and the use of unobtrusive, non-reflective material on any proposed building or work, the need to retain existing vegetation, especially along river banks, slopes visible from the river and its banks and along the skyline, and the need to carry out new planting of trees, and shrubs, particularly locally indigenous plants.*
- (d) Consider the need for a buffer between new development and scenic areas of the riverine corridor shown on the map as being of significance beyond the region (which are also scenic areas of significance for the region) or so shown as being of regional significance only.*
- (e) Consider the need for controls or conditions to protect those scenic areas.*

(f) Consider opportunities to improve riverine scenic quality.

(8) Agriculture/aquaculture and fishing

**Policy: Agriculture must be planned and managed to minimise adverse environmental impacts and be protected from adverse impacts of other forms of development.**

*Note.*

*Refer also to items (1)–(7) and (12) for relevant strategies.*

**Strategies:**

(a) Give priority to agricultural production in rural zones.

(b) Ensure zone objectives and minimum lot sizes support the continued agricultural use of Class 1, 2 and 3 Agricultural Land (as defined in the Department of Agriculture's Agricultural Land Classification Atlas) and of any other rural land that is currently sustaining agricultural production.

(c) Incorporate effective separation between intensive agriculture and adjoining uses to mitigate noise, odour and visual impacts.

(d) Protect agricultural sustainability from the adverse impacts of other forms of proposed development.

(e) Consider the ability of the site to sustain over the long term the development concerned.

(f) Consider the likely effect of the development concerned on fish breeding grounds, nursery areas, commercial and recreational fishing areas and oyster farming.

(9) Rural residential development

**Policy: Rural residential development should not reduce agricultural sustainability, contribute to urban sprawl, or have adverse environmental impacts (particularly on the water cycle or on flora or fauna).**

*Note.*

*Refer also to items (1)–(7) and (12) for relevant strategies.*

**Strategies:**

(a) Give priority to agricultural production in rural zones.

(b) When considering a proposal for the rezoning or subdivision of land which will increase the intensity of development of rural land (for example, by increasing cleared or hard surface areas) so that effluent equivalent to that produced by more than 20 people will be generated, consider requiring the preparation of a Total Water Cycle Management Study or Plan.

*(c) Maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development.*

*(d) Do not locate development in areas identified for future urban purposes in the Metropolitan Strategy.*

*(e) Consider the suitability of the land for keeping livestock, whether or not for commercial purposes, and appropriate mitigating measures to prevent land degradation.*

*(f) Consider the ability of the land to accommodate on-site effluent disposal in the long term.*

*(g) Consider any adverse environmental impacts of infrastructure associated with the development concerned.*

*(10) Urban development*

***Policy: All potential adverse environmental impacts of urban development must be assessed and controlled.***

*Note.*

*Refer also to items (1)–(7) and (12) for relevant strategies.*

***Strategies:***

*(a) When considering a proposal for the rezoning or subdivision of land which will increase the intensity of development of that land (for example, by increasing cleared or hard surface areas) so that effluent equivalent to that produced by more than 2,500 people will be generated, consider requiring the preparation of a Total Water Cycle Management Study or Plan.*

*(b) Consider urban design options to reduce environmental impacts (such as variable lot sizes and shapes, and the clustering of development).*

*(11) Recreation and tourism*

***Policy: The value of the riverine corridor as a significant recreational and tourist asset must be protected.***

*Note.*

*Refer also to items (1)–(7) and (12) for relevant strategies.*

***Strategies:***

*(a) Provide a wide range of recreational opportunities along the river which are consistent with conserving the river's natural values and character.*

*(b) Plan and manage recreational and tourist developments, and associated access points, cycleways and footpaths, so as to minimise any adverse environmental impacts on the river. Locate them where river banks are stable, away from river shallows, major beds of*

*attached aquatic plants or fish breeding areas, where the proposed activities do not conflict with surrounding recreational activities and where significant flora and fauna habitats will not be adversely affected. The upgrading of existing public access to the river is to be preferred over the creation of new access points.*

*(c) Minimise conflicts between recreational uses.*

*(d) Consider the availability of, or need to provide, land for vehicle parking and for suitable access (including access for cars and buses), for boat service areas and for water, electricity and sewage disposal.*

*(e) Consider the environmental impact of ancillary services for recreation and tourist developments, such as amenities blocks and vehicle parking.*

*(f) Consider the visual impact of development on the surrounding area.*

*(12) Metropolitan strategy*

***Policy: Development should complement the vision, goal, key principles and action plan of the Metropolitan Strategy.***

***Strategies:***

*(a) Consider the impacts of transport infrastructure proposals on water quality and air quality.*

*(b) Consider the impacts of metropolitan waste disposal on water quality.*

*(c) Consider the impacts of development on air quality.*

*(d) Consider the need for waste avoidance, waste reduction, reuse and recycling measures.*

*(e) Consider the implications of predicted climate change on the location of development and its effect on conservation of natural resources*

**Comment:**

The subject site is suitably distant from natural watercourses and is situated within a precinct earmarked for future residential development.

The subject site is devoid of natural features and will be subject to stringent sewerage and storm water management compliance.

No issues arise in terms of potential threats to the natural environment from the proposed subdivision.

**Clause 8** of the SREP relates to Development controls and states the following:

*(1) Prohibited development*

*Development defined in an item in clause 11 that is prohibited is indicated in the item by the word Prohibited.*

*(2) Development requiring consent Any such development that may be carried out only with development consent is indicated in the item by the words Consent required. The council of the area in which development is proposed to be carried out is the consent authority for that development for the purposes of this plan, except where the Act provides otherwise.*

*(3) Development requiring concurrence Any such development that may be carried out only with development consent granted with the concurrence of the Director is indicated in the item by the word Concurrence, together with a reference to the Director.*

*(4) (Repealed)*

*(5) Development requiring certain matters to be considered The consent authority must not grant consent to the carrying out of any such development if the words Additional matters for consideration by the consent authority appear in the item until it has considered those matters in addition to the matters specified in section 90 of the Act.*

*Note.*

*The matters required to be taken into consideration by Part 2 and any relevant matters listed in any other environmental planning instrument must also be taken into consideration by the consent authority.*

*Matters that must be considered by the Director, if the Director's concurrence to a grant of consent is required by this plan, in determining whether to grant that concurrence are indicated in the Table by the words Matters for consideration by the concurrence authority.*

*(6) Development for which consent may be granted in special circumstances Any circumstances in which consent may be granted to the carrying out of the particular development even though the development is not in accordance with the other provisions of this plan are indicated in the item by the words Special circumstances.*

*(7) Designated development*

*Any such development declared to be designated development for the purposes of the Act is indicated in the item by the words Designated development.*

**Comment:**

The proposed residential subdivision is permissible and compliant with Council's planning controls. No issues arise in this regard.

*(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,*

**Comment:**

The subject site is highly suitable for the proposed subdivision and accommodates two existing dwellings within the subdivision pattern. There will be no adverse impacts to the natural environment and there will be no adverse social or economic considerations arising.

*(c) The suitability of the site for the development.*

**Comment:**

The subject site has an area and configuration suited to the proposed subdivision. The design solution is based on sound site analysis and responds positively to the characteristics of the site and locality. Minimal works are required on-site to facilitate the subdivision.

*(d) any submissions made in accordance with this Act or the regulations,*

**Comment:**

Nil

*(e) the public interest.*

*Note.*

*See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.*

**Comment:**

The proposal is in the public benefit as it appropriately utilises an existing underutilised parcel of land on the fringe of two established town centres and provides affordable housing opportunities.

*(2) Compliance with non-discretionary development standards—development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:*

*(a) is not entitled to take those standards into further consideration in determining the development application, and*

*(b) must not refuse the application on the ground that the development does not comply with those standards, and*

*(c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,*

*and the discretion of the consent authority under this section and section 4.16 is limited accordingly.*

*(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:*

*(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and*

*(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.*

*Note.*

*The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).*

Comment:

Not applicable.

*(3A) Development control plans If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:*

*(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*

*(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*

*(c) may consider those provisions only in connection with the assessment of that development application.*

*In this subsection, standards include performance criteria.*

Comment:

The development control plan has limited application to the proposal.

*(4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.*

*(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).*

*(6) Definitions In this section:*

*(a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and*

*(b) non-discretionary development standards means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.*

**Comment:** Not applicable.

## **7.0            CONCLUSION**

The proposal is consistent with the zoning and zone objectives. The proposal is satisfactory in consideration of the design principles prescribed under the DCP relating to subdivision.

The proposed subdivision is compliant with the currently numerical controls and provides future opportunity for smaller lot housing consistent with the planning potential for the precinct.

The proposed subdivision represents orderly development by accommodating two existing dwellings within the lot pattern and through providing future subdivision potential via the residue lot.

The proposed subdivision is reasonable in that future dwellings can be reasonably designed to ensure that adverse overshadowing or privacy impacts will not arise. No adverse environmental issues arise with the proposal. The proposal is reasonable pursuant to the provisions of the LEP/DCP.

In view of the above, the proposed subdivision is appropriate and Council approval is recommended.