



BERRIGAN

DEVELOPMENT CONTROL PLAN

2014

## CONTENTS

|      |  |    |
|------|--|----|
| 1.   | INTRODUCTION.....                                  | 1  |
| 1.1  | Title .....  | 1  |
| 1.2  | Land to which this DCP applies .....               | 1  |
| 1.3  | Purpose.....                                       | 1  |
| 1.4  | Operation .....                                    | 1  |
| 1.5  | Relationship with other planning instruments ..... | 1  |
| 1.6  | Structure .....                                    | 1  |
| 1.7  | Application .....                                  | 1  |
| 1.8  | Variation to controls.....                         | 1  |
| 1.9  | Notes .....  | 1  |
| 2.   | RESIDENTIAL DEVELOPMENT.....                       | 2  |
| 2.1  | Neighbourhood character .....                      | 3  |
| 2.2  | Streetscape .....                                  | 4  |
| 2.3  | Landscaping .....                                  | 5  |
| 2.4  | Private open space.....                            | 5  |
| 2.5  | Building setbacks .....                            | 6  |
| 2.6  | Car parking & access.....                          | 8  |
| 2.7  | Site facilities.....                               | 9  |
| 2.8  | Security.....                                      | 9  |
| 2.9  | Privacy.....                                       | 9  |
| 2.10 | Energy efficiency .....                            | 10 |
| 2.11 | Outbuildings .....                                 | 10 |
| 3.   | INDUSTRIAL DEVELOPMENT .....                       | 11 |
| 3.1  | Appearance.....                                    | 12 |
| 3.2  | Landscaping .....                                  | 12 |
| 3.3  | Building setbacks .....                            | 13 |
| 3.4  | Parking & access .....                             | 14 |
| 3.5  | Outdoor areas .....                                | 15 |
| 3.6  | Amenity.....                                       | 15 |
| 3.7  | Signage.....                                       | 16 |
| 4.   | COMMERCIAL DEVELOPMENT .....                       | 17 |
| 4.1  | Location .....                                     | 18 |
| 4.2  | Appearance & design.....                           | 18 |
| 4.3  | Landscaping .....                                  | 19 |
| 4.4  | Heritage.....                                      | 19 |

|      |   |    |
|------|---|----|
| 4.5  | Signage.....                                  | 19 |
| 4.6  | Parking.....                                  | 20 |
| 5.   | TOURIST ACCOMMODATION.....                    | 23 |
| 6.   | HERITAGE ITEMS AND CONSERVATION AREAS .....   | 25 |
| 6.1  | Inventory forms.....                          | 26 |
| 6.2  | Verandahs & Awnings.....                      | 26 |
| 6.4  | Building height.....                          | 26 |
| 6.5  | Roof forms & pitch .....                      | 27 |
| 6.6  | Setbacks.....                                 | 27 |
| 6.7  | Materials.....                                | 27 |
| 6.8  | Fenestration .....                            | 27 |
| 6.9  | Advertising & signage.....                    | 27 |
| 6.10 | Fences.....                                   | 28 |
| 6.11 | Infill development.....                       | 28 |
| 7.   | SUBDIVISION .....                             | 29 |
| 7.1  | Context .....                                 | 30 |
| 7.2  | Neighbourhood character.....                  | 30 |
| 7.3  | Staging.....                                  | 30 |
| 7.4  | Movement network.....                         | 31 |
| 7.5  | Activity centres & community facilities ..... | 31 |
| 7.6  | Public open space.....                        | 32 |
| 7.7  | Landscaping .....                             | 32 |
| 7.8  | Lot design .....                              | 33 |
| 7.9  | Infrastructure & services .....               | 34 |
| 7.10 | Natural hazards.....                          | 35 |
| 7.11 | Site management .....                         | 35 |
| 8.   | VEGETATION REMOVAL.....                       | 36 |
| 9.   | TOCUMWAL AERODROME .....                      | 37 |
| 10.  | WATERCOURSES & RIPARIAN LAND .....            | 38 |
| 10.1 | Visual amenity .....                          | 39 |
| 10.2 | Boat ramps .....                              | 39 |
| 10.3 | Pontoons & walkways.....                      | 40 |
| 10.4 | Retaining walls .....                         | 40 |
| 10.5 | Stairs .....                                  | 41 |
| 10.6 | Moorings .....                                | 41 |
| 10.7 | Liability & public safety.....                | 42 |
| 10.8 | Landscaping .....                             | 42 |

|      |  |    |
|------|--|----|
| 10.9 | Unauthorised Structures .....                          | 42 |
| 11.  | FLOOD PRONE LAND.....                                  | 43 |
| 11.1 | Objectives.....  | 43 |
| 11.2 | Decisionguidelines.....                                | 43 |
| 11.3 | Consultation .....                                     | 44 |
| 11.4 | Flood PlanningArea.....                                | 44 |
| 11.5 | Definitions .....                                      | 45 |
| 12.  | NOTIFICATION POLICY .....                              | 54 |
| 12.1 | Objectives.....  | 54 |
| 12.2 | Development applications requiring notification.....   | 54 |
| 12.3 | Notification requirements - Who will be notified?..... | 55 |
| 12.4 | Othernotificationrequirements .....                    | 57 |

## 1. INTRODUCTION

### 1.1 Title

The title of this Plan is the Berrigan Development Control Plan 2014 (DCP).

### 1.2 Land to which this DCP applies

The DCP applies to all land within the Local Government Area of Berrigan.

### 1.3 Purpose

The purpose of the DCP is:

- to reflect the objectives of the Environmental Planning and Assessment Act 1979;
- to assist in the administration of Berrigan Local Environmental Plan 2013; and
- to provide good planning outcomes for development in the Shire.

### 1.4 Operation

The DCP has been prepared in accordance with Section 74C of the Environmental Planning and Assessment Act 1979.

It was adopted by Council on \_\_\_\_\_ and came into effect on the \_\_\_\_\_.

### 1.5 Relationship with other planning instruments

The DCP should be read in conjunction with:

- the Berrigan Local Environmental Plan (LEP) 2013; and

- any relevant State Environmental Planning Policies (SEPPs).

Where there is a conflict between a provision in the DCP and one in an Environmental Planning Instrument (EPI namely a State Environmental Planning Policy and Local Environmental Plan), the provisions of the EPI shall prevail to the extent of that inconsistency.

### 1.6 Structure

The DCP is made up of a number of chapters that address particular development matters. More than one chapter may be relevant to development proposals.

### 1.7 Application

Where a development application is required, a person shall not develop land except in accordance with the provisions of the DCP.

### 1.8 Variation to controls

Variations to the controls in the DCP may be considered by Council. Details as to the process of seeking a variation to a development control expressed in the DCP are detailed in each chapter.

### 1.9 Notes

Notes expressed in the DCP are for information purposes only and do not form a formal part of the DCP.

Record of amendments to the DCP

| No. | Date commenced | Details of change |
|-----|----------------|-------------------|
|     |                |                   |
|     |                |                   |
|     |                |                   |

## 2. RESIDENTIAL DEVELOPMENT

This chapter of the DCP applies to all forms of residential development within and adjacent to existing urban areas in the Shire for which a development application is required.

The overall purpose of the controls in this chapter is to create well-designed residential environments for current and future residents of the Shire.

The specific objectives of the controls are as follows:

- To provide for a variety of residential development that caters for the housing needs of local residents.
- Encourage dwelling design that has minimal impact on adjoining neighbours.
- Ensure that residential buildings offer visual interest and variety in their appearance and style.
- Make sure that new development is sympathetic with the established form of an area to ensure that neighbourhoods with distinct character are developed over time.
- Ensure that new residential development is consistent and compatible with the desired future form and density of an area.
- Encourage residential development that is respectful to the character of areas which are developed over time.
- Maintain and enhance the amenity of residential areas in the Berrigan Shire.

The controls in this chapter are expressed firstly as the objective Council is seeking for residential development and secondly the development controls considered by Council to deliver these outcomes. Compliance with all development controls should result in consistency with the objective and consequently the granting of development consent (if SEPP and LEP requirements are also met). In exceptional circumstances Council may consider a variance to a development control but only where the applicant has demonstrated in writing and/or with plans that the objective can still be achieved.

The development controls are grouped under different components of residential development. Within each component there are general development controls that relate to all types of proposals as well as specific development controls for specific types of residential development. The specific types of residential development are:

- Higher density being generally but not exclusively groups of two or more dwellings on a single lot (regardless of lot size) or single dwellings on small lots (<600m<sup>2</sup>).
- Average density being generally but not exclusively single detached dwellings located on urban sized lots (600m<sup>2</sup> to 1500m<sup>2</sup>). The majority of residential development undertaken in the Shire is within this category.
- Lower density being generally but not exclusively single dwellings on larger lots (>1500m<sup>2</sup>).
- Rural being generally but not exclusively dwellings within the Primary Production (RU1) and Environmental Management (E3) zones as well as residential dwellings on large lots within a rural setting.

In applying the development controls to a particular development proposal, both the general and specific development controls to that particular type of development are applicable. Where there is conflict between a general and a specific development control, the specific development control shall apply to the extent of the inconsistency.

It is important to note that dwellings compliant with the controls expressed in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 ("the Codes SEPP") can be approved as 'complying development' and are exempt from the provisions of the DCP. Any proposed dwelling not compliant with the Codes SEPP will require a development application and be subject to the provisions of the DCP.

## 2.1 Neighbourhood character

### Objectives

- Provide for a mix of compatible dwelling types.
- Create aesthetically pleasing residential neighbourhoods.
- Residential areas providing high levels of amenity.
- Encourage higher density housing to be located in close proximity of town centres.
- Maintain a lower density residential character outside of the immediate town centres.
- Ensure a transition in density from lower to higher density residential areas.
- Maintain the character of existing average and lower density residential neighbourhoods.

### Controls

#### General

- The design of residential development is to suit the existing scale, density, setbacks and character of the neighbourhood.

#### Higher density

- High density residential development should be located in proximity to public open space areas, community services and commercial centres.
- Roofing materials utilised in urban residential areas is to be low reflective.

#### Previously used residences

- Previously used residences will generally only be considered appropriate as infill development in older established areas, not in newly established subdivisions or housing estates. Developers must satisfy Council that the project will be completed within an acceptable period of time and the structure will be required to have the external appearance of a new dwelling within 3 months of its relocation to any site.
- Where the proposed (previously used) residence is located on a site outside the Shire, the applicant must provide the Council with clear and current photographs of the structure as well as details of any proposed modifications and a written report from a suitably qualified and experienced building professional to state that the building is structurally sound and suitable for transportation by a competent person.
- Any building which was constructed elsewhere more than five years previously will be carefully scrutinized by the Council and applicants will need to provide a compelling submission to support the proposal to relocate.

## 2.2 Streetscape

### Objectives

- Residential design that makes a positive contribution to the streetscape.
- The provision of passive surveillance to the street.
- The integration of new development into the streetscape and neighbourhood.

### Controls

#### General

- Dwellings are to 'face' the primary street frontage.
- The rear or service areas of a dwelling (bathrooms, laundry, etc) shall not face the primary street frontage.
- Fences to primary street frontages are to be designed to complement the character of the area. Fences should be low (less than 1.2 metres in height) or if taller, provided with openings. Solid fences taller than 1.2 metres will fail the objective for streetscape and therefore are unlikely to be supported (see Figure 2.2).
- Bulk and scale should be kept of a compatible size with the existing or likely development in the residential precinct. Varying the pitch of the roof and angles of eaves and inserting parapet features is encouraged.
- High quality materials and finishes should be used for residential building exteriors as well as any fences constructed as part of the development.
- Retain existing trees in the streetscape.
- Retain and enhance heritage items where they make a positive contribution to the streetscape.

#### Average density

- The width of a garage (door) facing a public road is to be no greater than 7 metres, or 50% of the width of the building frontage, whichever is the lesser.

#### Higher density

- Residential flat buildings are to be designed in accordance with the requirements of SEPP 65 – Design Quality of Residential Flat Development.



Unsuitable front fencing



Preferred front fencing

Figure 2.2 –Front fencing characteristics



## 2.3 Landscaping

### Objectives

- Front landscaping that contributes to an attractive streetscape.
- Enhancement of the natural environment.
- Reduction in stormwater run-off from allotments.
- Landscaping that contributes to the solar efficiency of the dwelling.

### Controls

#### General

- At least 15% of the entire lot area is to remain penetrable to water.
- Existing mature trees should be incorporated in the development where possible.
- Where ever possible native plant species are to be utilised in landscaping with preference given to drought tolerant species.
- Deciduous species of trees to be used in open space located on the northern side of living areas.

#### Higher density

- A landscaping plan detailing the site features, hardstand areas, number and type of plant species and planting locations is to be submitted to the Council's satisfaction prior to the issue of the Construction Certificate.

## 2.4 Private open space

### Objectives

- A private outdoor space for residents.
- Practical and useable outdoor areas for residents.
- Outdoor areas that enhance residential amenity.
- Private outdoor areas to maximise solar access.

### Controls

#### General

- Private open space (i.e. space that is not visible at ground level from a public place or adjoining property) is to be provided at the rate of 50m<sup>2</sup> per dwelling with a minimum width of 4 metres.
- The principal private open space area must receive a minimum of three hours direct sunlight between 9am and 3pm at the Winter Solstice.
- The principal private open space is to be in close proximity to the main living area of the dwelling.

#### Higher density

- Private open space in the form of a balcony is to be provided at a rate of 8m<sup>2</sup> per dwelling with a minimum width of two metres for units that have no ground floor access from the living areas of the unit.
- Private open space (i.e. space that is not visible at ground level from a public place or adjoining property) is to be provided at the rate of 20m<sup>2</sup> per dwelling with a minimum width of 3 metres.



Figure 2.3 – Private open space should relate to principal living areas

## 2.5 Building setbacks

### Objectives

- Attractive streetscapes through consistency in front building setbacks.
- The maintenance of existing character in residential areas (e.g. average density, lower density, etc.).
- Adequate separation between dwellings through side setbacks.

### Controls

#### General

- An articulation zone is permitted in front of the building setback for a distance of 1 metre from the foremost edge of the building line and for 25 per cent of the overall building width. The articulation zone allows for building elements, such as porticos, awnings and the like where necessary or which enhance the quality of the building and/or contribute to the visual quality of the streetscape.
- In these controls, setbacks are measured to the building line which means the line of an existing or proposed external wall (other than a wall or roof of any building element within an articulation zone) of a dwelling house, closest to a boundary of a lot.

#### Controls

##### Average Density

- A dwelling must have a minimum building line setback from the front (primary) property boundary of;
  - The average building line setback of dwelling houses adjoining the subject allotment or a minimum of 4.5m.
  - If no dwelling houses exist 4.5m
- A minimum 3 metres from the side (secondary) property boundary on corner lots.
- Garages should not extend forward of the front building line. Where the front building setback is less than 6m, any garage must be setback a minimum of 1 metre behind the building setback. (see Figure 2.7)
- Side and rear setbacks from adjoining properties should comply with the standards detailed in the Building Code of Australia.

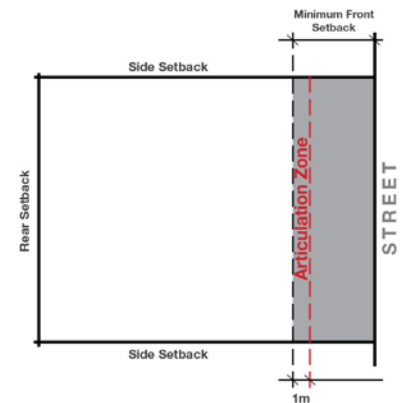


Figure 2.5 - Control lot setbacks

## Objectives

### Higher density

- A dwelling must have a minimum building line setback from the front (primary) property boundary of;
  - The average building line setback of dwelling houses adjoining the subject allotment, or a minimum of 4.5m.
  - If no dwelling houses exist 4.5m
- A minimum 3 metres to the side (secondary) property boundary on a corner site (does not apply to detached dwellings that face the second frontage to which the front setback applies).
- Garages should not extend forward of the front building line. Where the front building setback is less than 6m, any garage must be setback a minimum of 1 metre behind the building setback. (see Figure 2.7)
- A minimum 8 metres between the main entrance of a dwelling and the main entrance of another dwelling which is visible by direct line of sight.

### Lower density

- A dwelling must have a minimum building line setback from the front (primary) property boundary of;
  - The average building line setback of dwelling houses adjoining the subject allotment, or
  - if no dwelling houses exist 6.5m
- Within the RU5 (>1,500m<sup>2</sup>) zone, a minimum 1.5 metres from the secondary or side boundary and 5 metres from the rear boundary.
- Within the R5 zone, a minimum 5 metres from the secondary or side boundary and 10 metres from the rear boundary.
- Within the R5 zone, a minimum building setback of 20 metres from the top of the bank of a lake or dam.

### Rural

- A minimum 10 metres from any boundary for residential and farm buildings.

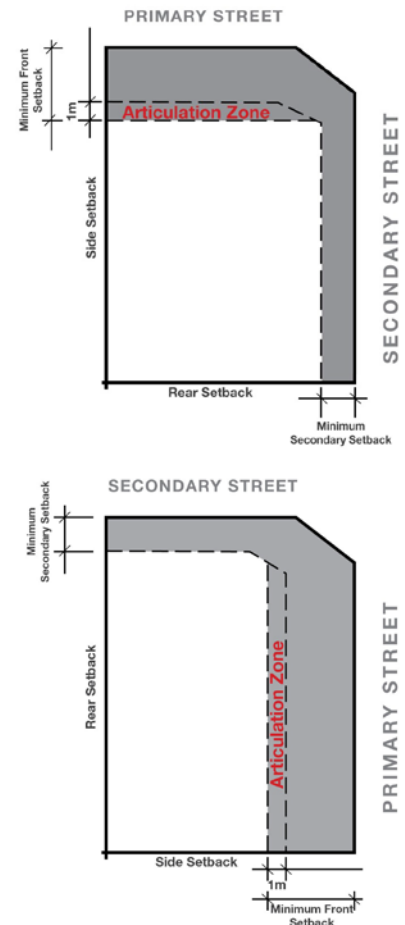


Figure 2.6 –Corner lot setbacks

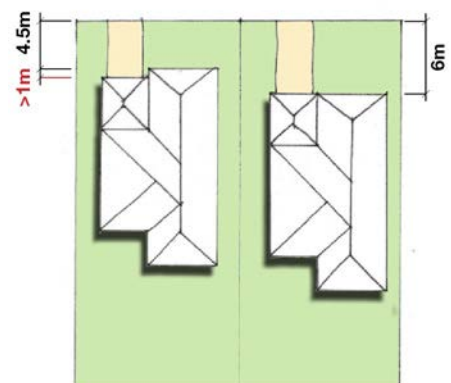


Figure 2.7 – Garage setbacks for Average and Higher Density

## 2.6 Car parking & access

### Objectives

- Sufficient on-site parking for residents and their visitors.
- Safe movement of vehicles within a site.
- Adequate space provided in front of garages for overflow parking.
- High control of construction and appearance of hardstand areas associated with vehicle movement and parking.

### General

- On-site parking at the following rates:
  - One bedroom dwelling: 1 space
  - Two or more bedroom dwelling: 2 spaces
- The parking spaces to be located in a safe and convenient location for residents and visitors.
- Driveways must be a minimum of 3 metres wide.
- Driveways are to be made from attractive and hard wearing paved surfaces.
- All driveways, exposed car parks and manoeuvring areas are to be constructed to provide stormwater drainage.
- Minimum dimensions for a single car garage to be 3 metres wide by 6 metres deep.
- Minimum dimensions for a double car garage is to be 5.5 metres wide by 6 metres deep.
- Access and parking on battle-axe allotments must be designed so that vehicles enter and exit in a forward direction.

### Higher density

- For every four dwellings on the one site: 1 visitor space.
- Shared driveways longer than 20 metres in multi-dwelling developments shall be 5 metres wide or provide passing bay(s).
- Access and parking within multi-dwelling developments featuring a shared driveway must be designed so that all on-site vehicle movements (apart from manoeuvring) are in a forward direction.
- Manoeuvring areas within the site must be designed to minimise the number of vehicle movements, and particularly rearward movements.
- Manoeuvring areas must be designed so that all movements can be contained within the hardstand areas provided for that purpose.

## 2.7 Site facilities

### Objectives

- Site facilities not to detract from the public aesthetics of the building.
- Site facilities not to be detrimental to residential amenity.

### Controls

#### Higher density

- External storage areas for each unit are to be located within the private open space.
- Clothes drying facilities are to be provided within the private open space of each dwelling.
- The mail box design and location should be complementary to the front setback landscaping and the dwelling design.
- Garbage bins for each unit are to be stored within the building or private open space. If a common bin storage area is proposed, it shall be located in a screened enclosure central to the development.

## 2.8 Security

### Objectives

- Living environments that enhance residents' feelings of safety and security.
- Building and layout designs that allow surveillance of common and public spaces by residents.
- Environments that reduce opportunistic crime.

### Controls

#### General

- The site layout enhances personal safety and minimises the potential for fear, crime and vandalism.
- The design of dwellings enables residents to survey streets, public areas and dwelling entries to enable surveillance of the neighbourhood to take place.
- Adequate lighting must be provided for all paths, access ways, parking areas and building entries.
- Private open space should only be accessed from within the site i.e. not accessible directly from the street or other public space.

## 2.9 Privacy

### Objectives

- The protection of privacy and amenity of neighbouring properties.
- Privacy and amenity for residents within medium density developments.

### Controls

#### General

- A window in a new dwelling house or a new window in any alterations or additions to an existing dwelling house must have a privacy screen if:
  - it is a window in a habitable room, that has a floor level of more than 1m above ground level (existing), and
  - the window has a sill height of less than 1.7m.
  - directly overlooks the living area or private open space of a neighbouring property
- A new balcony, deck, patio, pergola, terrace or verandah and any alterations to an existing balcony, deck, patio, pergola, terrace or verandah must have a privacy screen if it:

## Objectives

## Controls

- has a floor level more than 1 metre above ground level (existing), and
- directly overlooks the living area and/or private open space of an neighbouring property
- A detached deck, patio, pergola or terrace or any alterations or additions to an existing deck, patio, pergola or terrace must not have a floor level that is more than 600mm above ground level (existing).
- For two storey buildings, upper floor walls should be set back from the sides to reduce the amount of overshadowing on adjoining lots.
- Noise transmission between attached dwellings is to comply with the Building Code of Australia.
- External lighting (including tennis courts and outdoor living areas) shall be baffled so there is minimal light spillage onto adjoining properties.

## 2.10 Energy efficiency

### Objectives

- Buildings to meet projected user requirements for daylight access.
- Siting and design buildings to promote energy efficiency.

### Controls

#### General

- Buildings should be oriented to make appropriate use of solar energy, be sited and designed to ensure energy efficiency of existing dwellings is not unreasonably reduced.
- Living areas and private open space should be located on the north side of development where practicable.
- Developments should be designed so that solar access to north facing windows is maximised.
- Buildings shall be designed to ensure living areas and private open space of adjoining residences maintain at least three hours direct sunlight between 9am and 3pm at the Winter Solstice. Overshadowing diagrams may need to be provided to demonstrate this development control can be achieved.

## 2.11 Outbuildings

### Objectives

- Outbuildings not to be detrimental to residential amenity.
- Outbuildings to be in proportion with the size of the lot they are placed.

### Controls

#### General

- The use of shipping containers for sheds in urban areas will be considered by Council to be non-compliant with the objectives of this control.
- Outbuildings (except in rural areas) are to be clad in factory pre-coloured metal, timber, brick or masonry material.
- The colour of cladding used on outbuildings is to be low-reflective (except in rural areas).
- The total floor area and height of an outbuilding in the R5 and RU5 zones shall be considered on its merit and against the objectives of this section.

### 3. INDUSTRIAL DEVELOPMENT

This chapter of the DCP applies to all forms of industrial development within the Shire for which a development application is required.

The overall purpose of the controls in this chapter is to create well-designed precincts that cater for the wide range of industrial activities.

The specific objectives of the controls are:

- Focus the development of industries outside of commercial and residential areas so as to minimise conflict between the different uses.
- Direct different types of industrial development to locations best suited for that activity.
- Provide a level of amenity in industrial areas for those that visit and work there.
- Ensure that development incorporates safe and functional movement of vehicles on and off site.
- Ensure the implementation of landscaping for both screening and enhancement of industrial areas.

The controls in this chapter are expressed firstly as an objective Council is seeking for industrial development and secondly the development controls considered by Council to deliver these objectives. Compliance with all development controls should result in consistency with the objectives and consequently the granting of development consent (if SEPP and LEP requirements are also met). In exceptional circumstances Council may consider a variance to a development control but only where the applicant has comprehensively demonstrated in writing and/or with plans that the objective can still be achieved.

The development controls are grouped under different components of industrial development. Within each component there are general development controls that relate to all types of proposals.

## 3.1 Appearance

### Objectives

- Buildings and sites to make a positive contribution to the streetscape.
- Buildings on sites fronting the highways to be designed to a high standard and make a positive contribution to the town entrances.
- Outdoor areas to be screened and/or landscaped so as to make a positive contribution to the streetscape.

### Controls

#### General

- Buildings are to have their main building facade and entries addressing the primary street frontage.
- High quality materials and finishes should be used for building exteriors as well as any fences.
- Office components shall be located at the street frontage of the structure to enable the placement of windows and doors to 'break up' the façade.
- Industrial developments which are not located in industrial zones must be compatible with and minimize impacts on adjoining land uses.

## 3.2 Landscaping

### Objectives

- To improve the visual quality and amenity of industrial development through the provision of effective, low maintenance landscaping.
- Landscaping as a means of screening outdoor areas from adjoining properties and from public places (including roads).
- A landscape buffer between industrial developments and adjoining or nearby non industrial land uses.

### Controls

#### General

- All industrial sites are to be landscaped.
- Landscaping areas are to be identified on development application plans submitted to Council with a comprehensive landscape plan required to show all areas of vegetation, pathways and vehicles access areas.
- A range of plant species of various heights are to be used in the landscaping to create interest, improve visual amenity and help screen storage and car parking areas.
- Landscaping areas are to be protected from vehicle movement areas to prevent the damage to these vegetated areas.
- Landscaping must be designed to ensure low maintenance.
- Existing mature trees should be incorporated in the development where possible.
- Where ever possible native plant species are to be utilised in landscaping with preference given to drought tolerant species.
- See Figure 3.1 Site Landscaping for Industrial Sites (over).



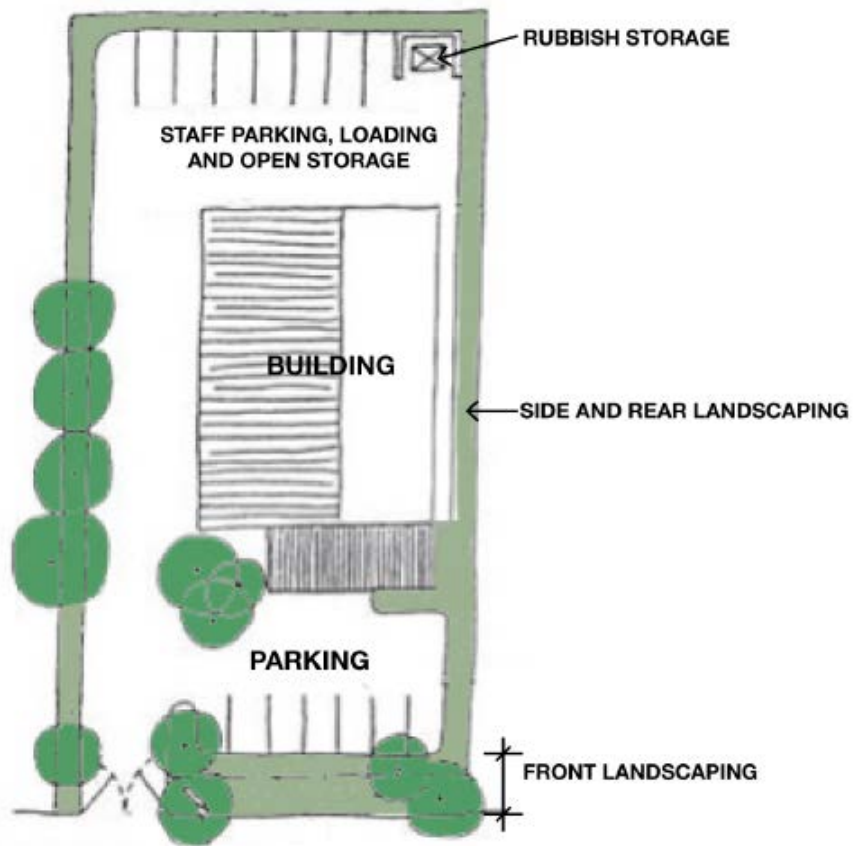


FIGURE 3.1 – SITE LANDSCAPING FOR INDUSTRIAL SITES

### 3.3 Building setbacks

#### Objectives

- Sufficient land is available for landscaping, vehicle parking and vehicle circulation.
- Buildings are appropriately sited to provide an attractive streetscape and reduce any adverse impact

#### Controls

##### General

- A minimum 10 metres from the front (primary) property boundary.
- A minimum 3 metres from the side (secondary) property boundary.
- Side and rear setbacks from adjoining properties should comply with the standards detailed in the Building Code of Australia.

## 3.4 Parking & access

### Objectives

- Sufficient on-site parking for employees and visitors.
- Safe movement of vehicles and pedestrians within a site.
- High standard of construction of areas associated with vehicle movement and parking.

### Controls

#### General

- Parking is to be provided on-site at the following minimum rates:
  - Industry component: 1 space per 100m<sup>2</sup> of gross floor area or part thereof.
  - Warehouse/storage component: 1 space per 100m<sup>2</sup> of gross floor area or part thereof.
  - Office/showroom components: 1 space per 50m<sup>2</sup> of gross floor area or part thereof.
  - Disabled: Minimum of 1 space in accordance with the Building Code of Australia.

The total minimum number of parking spaces to be provided on-site is the sum total of the components.

- Council may consider a reduction in these controls if it can be demonstrated the proposed use of the premises does not warrant such provision. However applicants must demonstrate there is sufficient room on the site to provide parking in accordance with the controls should the use of the premises change.
- Council may require on-site parking at a rate in excess of the above if the proposed use of the premises warrants such an outcome.
- Parking spaces must be physically separated from access ways, loading and unloading areas, and manoeuvring areas.
- All parking areas are to be constructed so as to allow for the catchment and disposal of stormwater to a point of discharge agreed to by Council.
- All parking, loading or unloading of vehicles is to be carried out on the development site.
- All vehicles (including trucks) must be capable of entering and exiting the site in a forward direction.
- Developments must be designed with sufficient turning areas for the vehicles expected to require access to the site. If the development is likely to be accessed by larger vehicles, the appropriate access and maneuvering areas are to be shown on plans provided with the development application.

It is expected that major expansion of existing developments and new developments will provide the required parking spaces. Should this not be the case, Council may require a financial contribution towards the provision of parking within the town area. To calculate these payments, refer to Council's s.94 Contributions Plan in force at the time.

### 3.5 Outdoor areas

#### Objectives

- Enhance the visual amenity of industrial areas.
- Screen outdoor storage and work areas as seen from public land and non industrial land uses.

#### Controls

##### General

- Outdoor storage and work areas are to be substantially screened from public roads and adjoining lots by landscaping, fencing etc.
- Outdoor storage and work areas must be suitably surfaced to prevent dust rising from vehicle movements or wind, should this be a potential impact dust suppression measures are to be employed.

### 3.6 Amenity

#### Objectives

- Locating industrial activities in locations that minimise detrimental offsite impacts.
- Minimise amenity impacts on residential and future residential areas.

#### Controls

##### General

- All development is required to comply with the requirements of the Protection of the Environment Operations Act 1997 (as amended) and it's Regulation.
- Applications for potentially hazardous or offensive development are to submit information demonstrating compliance with SEPP 33- Hazardous and Offensive Development.
- Outdoor areas must be treated and maintained to minimize the impacts of dust.
- All stormwater is to be appropriately managed.
- A trade waste agreement is to be entered into with Council for disposal of liquid waste to Councils sewerage system for certain activities.
- Land uses or development considered by Council to potentially have a detrimental impact on adjoining properties through noise or air emissions (e.g. dust or odour) are to provide information in respect to the likely impacts and proposed mitigation measures of these impacts.
- Land uses or development considered by Council to potentially have a detrimental impact on existing or future residential areas through noise or air emissions (e.g. dust or odour) will be discouraged without the submission of a relevant Impact Statement by the applicant demonstrating otherwise. Compliance with the Impact Statements will then become a condition of consent.

## 3.7 Signage

### Objectives

- Signage that is of a high professional standard.
- Signage that does not detrimentally affect the streetscape or highway corridor.
- Signage to the minimal extent necessary.

### Controls

#### General

- Signage to be restricted to identifying and promoting the business activity occupying the site and the goods and services it offers.
- Signage relating to a product, activity or service unrelated to the business on the site is not permitted unless it applies to the dominant use of the land.
- Signage must be maintained in good condition at all times.
- Advertising signs and structures shall be of a size, colour and design which are compatible with the building to which they relate.
- Signs should not visually dominate the area of building walls nor should they extend above the roof of the building.

## 4. COMMERCIAL DEVELOPMENT

This chapter of the DCP applies to all forms of commercial development within the Shire for which a development application is required.

The overall purpose of the controls in this chapter is to create attractive and functional buildings that contribute to the character of town centres.

The specific objectives are:

- to encourage orderly and economic development within the Shire having regard to its commercial and retail needs;
- to accommodate the expansion of retail, commercial, professional services and community facilities for local residents in convenient locations within the Shire;
- to promote pedestrian movement and connectivity within commercial areas;
- to ensure that new commercial development is compatible with the character of the area and enhances the streetscape;
- to promote a variety of uses within the Berrigan, Finley, Tocumwal and Barooga town centres that increases their role as a local centres;

- to consolidate the retail and commercial functions of the Berrigan, Finley, Tocumwal and Barooga town centres and discourage isolated retail development.

The controls in this chapter are expressed firstly as an objective Council is seeking for commercial development and secondly the development controls considered by Council to deliver these objectives. Compliance with all development controls should result in consistency with the objective and consequently the granting of development consent (if SEPP and LEP requirements are also met). In exceptional circumstances Council may consider a variance to a development control but only where the applicant has demonstrated in writing and/or with plans that the objectives can still be achieved.

## 4.1 Location

### Objectives

- To consolidate existing town centres.
- To discourage isolated commercial development.
- To encourage infill development within existing town centres.
- To increase retail expenditure in the Shire by enhancing the town centres.

### Controls

- New commercial activities are generally to be located within the existing commercial centres of Berrigan, Finley, Barooga and Tocumwal.
- Within Berrigan, the preferred location for 'shops' is on Chanter Street from the intersection with Carter Street and extending west to Mitchell Street as well as the Jerilderie and Carter Street localities. Council will consider retail proposals outside of this area as inconsistent with the objectives of this clause unless it can be adequately demonstrated that compliance with such objectives is unreasonable and unnecessary under the circumstances.
- Within Finley, the preferred location for 'shops' is in the vicinity of Murray Street between Woolamai Street to the north and Osborne Street to the south as well as Warmatta Street between Endeavour and Denison Street. Council will consider retail proposals outside of this area as inconsistent with the objectives of this clause unless it can be adequately demonstrated that compliance with such objectives is unreasonable and unnecessary under the circumstances.
- Within Barooga, the preferred location for 'shops' is along Vermont Street encompassing the intersection with Banker Street to the north and as far as Golfcourse Road to the south. Council will consider retail proposals outside of this area as inconsistent with the objectives of this clause unless it can be adequately demonstrated that compliance with such objectives is unreasonable and unnecessary under the circumstances.
- Within Tocumwal, the preferred location for 'shops' is on Deniliquin Road from the intersection with Dean Street to Murray Street and on Deniliquin Street from Morris Street to Murray Street as well as Murray Street from the intersection with Deniliquin Road to Bent Street. Council will consider retail proposals outside of this area as inconsistent with the objectives of this clause unless it can be adequately demonstrated that compliance with such objectives is unreasonable and unnecessary under the circumstances.
- Commercial activities are to be located in areas accessible to residents and visitors.

## 4.2 Appearance & design

### Objectives

- Encourage the use of a combination of materials articulation and fenestration when designing buildings.
- A positive contribution to the existing character and streetscape of the town centres.

### Controls

- Shopfronts predominantly in glass to be provided on commercial buildings constructed to the front building line.
- Shopfronts are to be inviting and active at street level, such as use of large glazed openings and activity at street level, to ensure buildings are inviting and attractive to pedestrians and contribute to the preferred 'main street' character of each town.
- Large expanse of walls along the street frontage will not be supported.
- Development is designed having regard to safety and where possible implements measure for Crime Prevention Through Environment Design.

### 4.3 Landscaping

#### Objectives

- Landscaping to a standard that enhances the amenity of the development and commercial areas.

#### Controls

- Developments which are set back from the street frontage shall incorporate appropriate landscaping within the front setback that enhances the visual quality and character of the street.
- Car parks in excess of 10 spaces are to be provided with appropriate internal landscaping.

### 4.4 Heritage

#### Objectives

- Ensure new development is compatible and sympathetic to heritage items.

#### Controls

- Developments adjoining and in the vicinity of a heritage item are to be designed to complement the item.
- Developments located within the heritage conservation areas of Berrigan and Tocumwal must be designed to complement the heritage value of the area and in accordance with the provisions contained within Clause 5.10 Berrigan Local Environmental Plan 2013.

### 4.5 Signage

#### Objectives

- Signage does not detrimentally affect the character and amenity of the area.

#### Controls

- Signage to be kept to a minimum and appropriate for the type of commercial activity being undertaken.
- Signage to be of a scale in proportion of the building (i.e. must not to dominate the building facade or street frontage).
- Signage not to be a hazard for pedestrians or motorists.
- Moving and/or flashing signs are to be avoided.

## 4.6 Parking

### Objectives

- To match the supply of off-street car parking with the demand likely to be generated by customers and employees.
- To ensure off-street car parking and maneuvering areas are to an acceptable standard.
- Minimisation of the visual impact of large areas of car park.
- Buffer between car parks and adjoining property.
- Safe car parks (particularly at night).
- Pedestrian and vehicular movement through commercial areas in a functional, safe and integrated fashion.

### Controls

- Surface car parking is to be located to the side or rear of the development if possible.
- Car parking to be provided at the rate required in Chapter 5 of the NSW Roads & Maritime guide, shown in Table 4.1 below.
- Parking spaces must be designed in accordance with Australian Standard 2890.1 and 2890.2.
- Car parks adjoining public land (including a road) shall be provided with a landscaped strip at the interface.
- Car parking is to be accessible at all times during the business hours of the premises.
- Lighting must be provided in accordance with the relevant Australian Standard to ensure the safety and security of car parks at night.
- Car parks to be designed to provide pedestrian connectivity and minimise conflicts between vehicles and pedestrians.
- Loading facilities are to be located at the rear or side of the building and not adjacent to any residential property.

It is expected that major expansion of existing developments and new developments will provide the required parking spaces. Should this not be the case, Council may require a financial contribution towards the provision of parking within the town area. To calculate these payments, refer to Council's s.94 Contributions Plan in force at the time.



TABLE 4.1 - CAR PARKING REQUIREMENTS

| Land Use                                | Parking Requirements  |                                   |
|---|---|-----------------------------------|
| Casual accommodation                    |   |                                   |
| Motels                                  | 1 space for each unit + 1 space per 2 employees.<br>If restaurant included then add the greater of 15 spaces per 100m <sup>2</sup> GFA of restaurant/function room, or 1 space per 3 seats.                           |                                   |
| Hotels (traditional or tourist)         | Comparisons should be drawn with regard to similar developments.  |                                   |
| Office & commercial                     |   |                                   |
| Commercial premises                     | Unrestrained situation: 1 space per 50m <sup>2</sup> GFA<br>Restrained situation: consult with Council  |                                   |
| Retail                                  |   |                                   |
| Shopping centres                        | GLFA (m <sup>2</sup> )  | spaces per 100m <sup>2</sup> GLFA |
|   | 0-10,000  | 6.1                               |
|   | 10,000-20,000   | 5.6                               |
|   | 20,000-30,000   | 4.3                               |
|   | over 30,000   | 4.1                               |
| Service stations and convenience stores | The sum total of:<br>6 spaces per work bay, plus<br>5 spaces per 100m <sup>2</sup> GFA of convenience store<br>If restaurant present, then greater of 15 spaces per 100m <sup>2</sup> GFA, or<br>1 space per 3 seats. |                                   |
| Motor showrooms                         | 0.75 spaces per 100m <sup>2</sup> site area plus + 6 spaces per work bay (for vehicle servicing facilities)   |                                   |
| Car tyre retail outlets                 | Whichever is the greater of:<br>3 spaces per 100m <sup>2</sup> GFA, or<br>3 spaces per work bay   |                                   |
| Roadside stalls                         | 4 spaces  |                                   |
| Drive-in liquor stores                  | Nil   |                                   |
| Markets                                 | 2.5 spaces per stall (customers only).  |                                   |
| Bulky goods retail stores               | Comparisons should be drawn with similar developments   |                                   |
| Video stores                            | 6.1 spaces per 100m <sup>2</sup> GFA  |                                   |

| Land Use                        | Parking Requirements   |
|---------------------------------|--|
| Drive-in take-away food outlets | Developments with no on-site seating: 12 spaces per 100m <sup>2</sup> GFA<br>Developments with on-site seating:<br>12 spaces per 100m <sup>2</sup> GFA<br>or greater of:<br>1 space per 5 seats (internal and external), or<br>1 space per 2 seats (internal)<br>Developments with on-site seating and drive through facilities:<br>The greater of:<br>1 space per 2 seats (internal), or<br>1 space per 3 seats (internal and external)<br>plus queuing area for 5 to 12 cars |
| Restaurants                     | Whichever is greater of:<br>15 spaces per 100m <sup>2</sup> GFA,<br>or 1 space per 3 seats   |
| Clubs                           | Comparisons should be drawn with similar clubs   |
| Recreational                    |  |
| Squash courts                   | 3 spaces per court   |
| Tennis courts                   | 3 spaces per court   |
| Bowling alleys                  | 3 spaces per alley   |
| Bowling greens                  | 30 spaces for first green plus 15 spaces for each additional green   |
| Gymnasiums                      | 4.5 spaces per 100m <sup>2</sup> GFA (minimum)   |
| Tourist Facilities              |  |
| Caravan parks                   | 1 space per caravan site   |

## 5. TOURIST ACCOMMODATION

This chapter of the DCP applies to tourist accommodation in the Shire for which a development application is required.

The overall purpose of the controls in this chapter is to provide for well-designed, suitably located, sustainable and high quality tourist accommodation in the Shire.

The specific objectives of the controls are:

- to encourage and promote development of tourist accommodation within the Shire;
- to maximise utilisation and promotion of existing tourist resources;
- to protect the natural environment;
- to provide for tourist oriented activities that are appropriately located; and
- to promote diversification of development types and forms.

Compliance with all development controls should result in consistency with the development outcome and consequently the granting of development consent (if other DCP, SEPP and LEP requirements are also met). Council may consider a variance to a development control in this chapter but only where the applicant has demonstrated in writing and/or with plans that the development outcome can still be achieved.

For the purposes of this chapter, tourist accommodation includes the following types as defined 'Tourist and Visitor Accommodation' in the Dictionary of the LEP:

- Backpackers accommodation
- Bed & breakfast accommodation
- Farm stay accommodation
- Hotel or motel accommodation
- Serviced apartments

For the purposes of this chapter the following land uses are also considered to be types of tourist accommodation;

- Camping ground
- Caravan park
- Eco-tourist facility

### Controls

Tourist accommodation will only be permitted where adequate water supply, both quality and quantity, is available, having regard to the proposed use of the site. It will also only be encouraged where provision of a reticulated sewerage system is available. Where this is not available development will only be permitted if it can be demonstrated that soil types in the area are suitable for the installation and operation of an on-site wastewater treatment and disposal system.

The definition of 'Eco-tourist facility' in the LEP is very specific. To consider a proposal for an Eco-tourist facility, Council firstly has to be satisfied that it meets the land use definition with the key consideration being whether it is located in or adjacent to an area with "special ecological or cultural features". Council must then be satisfied the proposal meets the criteria of Section 5.13 of the LEP. Having regard for the extensive requirements of this section, Council would expect a detailed proposal to be submitted with a development application. The level of detail is likely to be considerably greater than what might be expected for other tourist accommodation proposals.

Development that has the potential to have a detrimental impact on the natural landscape or environment will not be supported.

The design and construction of caravan parks or camping grounds is to be in accordance with the provisions of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. For other developments of a similar nature the provisions / principles of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 are to be considered and incorporated into the design where appropriate.

## Matters for consideration

Council shall not grant consent to the development of tourist accommodation unless it has been provided with sufficient detail in the application to determine whether the proposal is acceptable in terms of:

- (a) the impact of the development on the natural environment and the means of protection to be employed against any potential effect;
- (b) the impact of the development on the built environment, the character of the area and significant places of heritage value;
- (c) the proximity and means of access to an urban centre and facilities;
- (d) the impact of the development on adjoining land use activities and the amenity of nearby residents;
- (e) the potential economic benefit;
- (f) provision of suitable of road access and egress;
- (g) provision of a potable water supply;
- (h) provision of wastewater disposal facilities;
- (i) the availability of electricity and telecommunication services;
- (j) natural hazards including flooding, bushfire or other *risks to public safety and property; and*
- (k) landscaping including retention of existing vegetation and proposed planting.

In respect to the conversion of existing residential dwellings to serviced apartments, proposals must:

- (a) not exceed 5 bedrooms or a capacity for 12 occupants for any one apartment;
- (b) provide at least one off street car parking space for each apartment and at least two spaces for apartments with three or more bedrooms;
- (c) install fire safety measures including fire extinguisher and fire blanket in the kitchen and emergency lighting and smoke alarms in accordance with the Building Code of Australia;
- (d) ensure privacy for the occupants and adjoining and nearby residents;
- (e) provide facilities or arrangements for adequate storage and removal of household waste;
- (f) implement measures to limit unreasonable impacts on the amenity of the surrounding areas;
- (g) be located within proximity of town services and tourist facilities; and
- (h) upgrade the building in accordance with the Premises Standards and Building Code of Australia in respect to disabled access and facilities.

## 6. HERITAGE ITEMS AND CONSERVATION AREAS

This chapter of the DCP applies to the Tocumwal and Berrigan Heritage Conservation Areas shown as red hatching on the Heritage Maps within the Berrigan Local Environmental Plan 2013.

This chapter does not apply to any development for which a Development Application is not required (e.g. exempt or complying development).

### OBJECTIVES

The objectives of the controls are:

- to set out matters which Council will consider in determining development applications that might affect the environmental heritage of a Conservation Area;
- to provide development guidelines to assist applicants in addressing the particular considerations for a Conservation Area;
- to detail specific considerations in relation to a Conservation Area;
- to provide residents, landowners and developers with a document which details Council's policies on building and associated development; and
- to protect and enhance the character of the towns and, in particular, that of a Conservation Area.

### DECISION GUIDELINES

Proposed developments will be considered on their merits in terms of heritage impacts. In considering development applications within a Conservation Area, Council will make an assessment of:

- the heritage significance of a heritage Conservation Area and the contribution which any building, work, relic, tree or place affected by the proposed development makes to this heritage significance,
- the impact that the proposed development would have on the heritage significance of a heritage Conservation Area,
- the compatibility of any proposed development with nearby original buildings and the character of a heritage Conservation Area, taking into account the size, form, scale, orientation, setbacks, materials and detailing of the proposed development,
- the measures proposed to conserve the significance of a heritage Conservation Area and its setting,
- whether any landscape or horticultural features would be affected by the proposed development,
- whether any archaeological site or potential archaeological site would be affected by the proposed development,
- the extent to which the carrying out of the proposed development in accordance with the consent would affect any historic subdivision pattern, and
- the issues raised by any submission received in relation to the proposed development in response to the notification or advertising of the application.

## 6.1 Inventory forms

### **Objective**

- To maintain a record of heritage items within Shire.
- To provide continuation of understanding of heritage significance in the Shire.

### **Standards**

1. For a development involving alteration, addition, renovation, restoration to an existing identified heritage building(s) or place(s), an assessment, where relevant, is required to be made of the inventory form applicable to the respective building or place and Council must be satisfied that the proposal is consistent with the building's heritage character.
2. Council may require an assessment of the heritage impact to be provided with an application or alter, add to, renovate, restore or demolish an existing identified heritage building(s) or place(s).

## 6.2 Verandahs & Awnings

### **Objective**

- Retain and reinstate the characteristic architectural elements of heritage items and within Conservation Areas.
- To respect and respond to the heritage context of particular areas of the Shire.

### **Standards**

1. Verandahs and upper floor balconies are required to remain open, other than by use of traditional lattice work or blinds.
2. Verandahs must be retained unless exhaustive research has been undertaken and the applicant is able to demonstrate that there is no other economic option available.
3. All new commercial development shall incorporate the continuation of existing awning levels and where appropriate existing styles.

## 6.3 Parapets

### **Objective**

- Retain and reinstate the characteristic architectural elements of the heritage items and Conservation Areas.

### **Standards**

1. All existing above awning parapets are to be retained or reinstated.

## 6.4 Building height

### **Objectives**

- Ensure new buildings contribute positively to the skyline of the townscape.

### **Standards**

1. The height of new buildings within a Conservation Area must not exceed plus or minus 10% of the height of the existing adjacent buildings.
2. Dwelling houses within a conservation area are not to exceed two storeys in height.

## 6.5 Roof forms & pitch

### Objectives

- Ensure roof forms and pitch integrate with existing and retain the heritage conservation value of the area.

### Standards

1. Alterations to existing buildings are to reflect and integrate with existing roof forms.
2. The roof forms for all new construction are to be similar to that of the existing adjacent forms.
3. The roof pitch for all new buildings and alterations are to be similar to that of the existing adjacent roof lines.

## 6.6 Setbacks

### Objectives

- Ensure a continuity of buildings lines within significant heritage areas of the Shire.

### Standards

1. Building setbacks for all new developments are to be relative to adjacent buildings.

## 6.7 Materials

### Objectives

- Retain architectural elements.
- Recognise and promote the heritage character of the Shire.

### Standards

1. Building materials used in construction of all alterations and additions to the exterior of existing buildings are to be compatible with those used in the original construction of the building; and
2. The colours to be used in construction of the building works should be in keeping with the original building's colour and in sympathy with the existing streetscape.

## 6.8 Fenestration

### Objectives

- Encourage architectural detailing and building features which recognise and respond to the identified heritage themes of the Shire.

### Standards

1. The building design for all works to be carried out on both new and existing buildings are to ensure an ordered symmetry or rhythm of wall area to window and door openings is achieved; including style, size, proportion and position of the openings for windows and doors.

## 6.9 Advertising & signage

### Objectives

- Ensure creative and sympathetic advertising and signage to enhance the appearance of the building and add vitality to the area.

### Standards

1. On buildings with awnings, advertising signage is required to be below awning advertising which complements the historical nature of the building, adjoining buildings or the historical streetscape.
2. The design of all signage must have regard to the controls contained within *State Environmental Planning Policy No. 64 – Advertising and Signage, State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* as well as *Clause 5.10 and Schedule 2 of Berrigan Local Environmental Plan 2013*.

## 6.10 Fences

### **Objectives**

- To ensure fences create a positive contribution to the sense of continuity in a streetscape.

### **Standards**

1. Fences must be uniform and reflect the historical period of the building.

## 6.11 Infill development

### **Objectives**

- Ensure infill development is compatible with existing buildings and streetscape.

### **Standards**

1. Council may seek the preparation, at the applicant's expense, of a Conservation Report for the proposed works to ensure the development successfully integrates with the existing historical development.



## 7. SUBDIVISION

This chapter of the DCP applies to the subdivision of land.

The purpose of the chapter 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.

The controls in this chapter are expressed firstly as an objective Council is seeking for subdivision and secondly the development controls by which compliance will be considered by Council to deliver these objectives. In exceptional circumstances Council may consider a variance to a development control but only where the applicant has comprehensively demonstrated in writing and/or with plans that the objective can still be achieved.

The development controls are grouped under different components of subdivision development. Within each component there are general development controls that relate to all types of proposals as well as specific development controls for different types of subdivision, being:

- Residential being generally related to subdivision in the village zones.
- Industrial being generally related to subdivision in industrial zones.
- Rural being generally related to subdivision in rural zones.

In applying the development controls to a particular development proposal, both the general and specific development controls to that particular location of development are applicable. Where there is conflict between a general and a specific development control, the specific development control shall apply to the extent of the inconsistency.

All subdivision proposals (Torrens, Strata and Community Title) must be consistent with the objectives and should be consistent with the development controls.

### Minimum lot size

For minimum lot size requirements for subdivision refer to the minimum lot size maps associated with Berrigan Local Environmental Plan 2013 applicable to the zone.

### Exceptions to Minimum Lot Size

Section 4.6 of the LEP provides for exceptions to development standards, including minimum lot size for subdivision. Subsection (3) sets out the application requirements for where an exemption or variation to a development standard is sought and subsection (4) sets out Council's obligations when considering such a request. Requests for a variation of development standards relating to minimum lot size in the rural (with the exception of the RU5 Village zone) and environmental zones will be considered by Council in the first instance and will require the concurrence of the Director-General of the Department of Planning and Environment.

To assist Council in considering a variance to a minimum lot size development standard in the Village Zone (RU5) of the LEP the criteria contained within 7.8 'Lot Design' will be utilised.

Requests for reduction in lot size in other residential zones will be considered by Council not to be in the public interest.

All subdivision applications will be considered against the following objectives and controls. Consequently the objectives and controls should be addressed in a development application for subdivision to the extent they are relevant to the purpose of the subdivision.

## 7.1 Context

### Objectives

- To ensure that the layout and design of a subdivision is consistent with and implements any objective, policy, strategy or plan for the area.

### Controls

#### General

- Subdivision shall be consistent with the Berrigan Shire Strategic Land Use Plan.

## 7.2 Neighbourhood character

### Objectives

- To create urban places with identity and character.
- To design subdivisions that are consistent and compatible with existing development in the neighbourhood.
- Ensure a transition in density from lower to higher density residential areas.
- Maintain the character of average and lower density residential development in Berrigan Shire

### Controls

#### General

- Subdivision to be generally consistent with the theme and character of adjoining development relating to the same land use.

#### Residential

- Where land zoned RU5 adjoins land zoned R5 Council will regard any of the following as inconsistent with the objectives for neighbourhood character:
  - More than two lots in the RU5 zone adjoining a single lot in the R5 zone.
  - A lot with an area of less than 1300m<sup>2</sup> in the RU5 zone adjoining a lot in the R5 zone.
- Infill development of a higher density is to be compatible with the existing pattern and form of development in the area.

## 7.3 Staging

### Objective

- To ensure the timely and efficient release of urban land making provision for necessary infrastructure and sequencing.

### Controls

- Where staging of a subdivision is proposed, the lodgment of a staging plan with the development application.
- Consistency with Councils Strategic Land Use Plan.
- Council will consider any subdivision of a residential nature that is isolated from existing services and infrastructure or remote from existing urban development as inconsistent with the objective of this control.

## 7.4 Movement network

### Objectives

- To create compact neighbourhoods that are oriented around easy walking distances to activity centres, schools and community facilities, public open space and public transport.
- To allow easy movement through and between neighbourhoods for all people.
- To provide safe and direct movement through and between neighbourhoods by pedestrians and cyclists.
- To reduce car use, greenhouse gas emissions and air pollution.

### Controls

#### General

- Compliance with the Berrigan Shire Engineering Guidelines for Subdivisions and Development.
- The use of cul-de-sacs in subdivision design should only be contemplated in circumstances where constraints dictate a through street cannot be accommodated.

#### Industrial

- Streets and intersections to be designed to accommodate the movement and manoeuvring of heavy vehicles.

## 7.5 Activity centres & community facilities

### Objectives

- To provide for mixed-use activity centres, including neighbourhood activity centres, of appropriate area and location.
- To provide appropriately located sites for community facilities.

### Controls

#### General

- Subdivision shall be consistent with the Berrigan Shire Strategic Land Use Plan.

## 7.6 Public open space

### Objectives

- 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.
- To provide a network of public open space that caters for a broad range of users.
- To encourage healthy and active communities.
- To ensure land provided for public open space can be managed in an environmentally sustainable way and contributes to the development of sustainable neighbourhoods.

### Controls

#### General

- Compliance with the Berrigan Shire Engineering Guidelines for Subdivisions and Development.
- Dedication of land or payment of public open space contributions in accordance with Berrigan Shire Section 94 Development Contributions Plan as amended from time to time.

## 7.7 Landscaping

### Objective

- 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.

### Controls

#### General

- A Landscape Plan is required to be submitted to Council detailing proposed landscaping
- On land to which Council's Roadside Vegetation Management Plan applies, consistency with the provisions of that plan.

## 7.8 Lot design

### Objectives

- 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.
- To provide lot design that is consistent with the character and desired density of an area
- To ensure smaller lots are located only in areas suitable for higher density housing and will consistent with the direction of the LEP.
- To provide lots for industrial and commercial purposes that allow for the appropriate siting of buildings, landscaping, parking and the manoeuvring of vehicles.
- 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.

### Controls

#### General

- Compliance with the Berrigan Shire Engineering Guidelines for Subdivisions and Development.

#### Residential

- For rectangular shaped blocks:
  - 16m frontage
  - 16m square width
  - 30m depth
  - 600m<sup>2</sup> area, 650m<sup>2</sup> for corner lots
- For radial shaped blocks:
  - 12m frontage
  - Chord width at 6 metres from street alignment tangential to curve – 16m
  - 600m<sup>2</sup> area
- For battle-axe allotments:
  - 4.5m minimum width access corridor
  - 700m<sup>2</sup> area
  - Access corridor will not constitute a nuisance to adjoining dwellings
  - Lot frontage to a public reserve or waterway
- Subdivisions are to be designed to maximise solar access and the number of rectangular shaped allotments
- A proposal to subdivide land that creates lots of less than 600 square metres in RU5 Village Zone must satisfy the following criteria:
  - Clause 4.1C of Berrigan Local Environmental Plan 2013 applies to the exception of minimum lot sizes for certain residential development and should referred to when considering potential development.
  - An application must address the impact of higher density development on the surrounding area.
  - Consideration may be given to any special circumstances relating to the land and/or development that justify the smaller lot.

#### Industrial

- For rectangular shaped blocks:
  - 25m frontage
  - 1000m<sup>2</sup> area, 1200m<sup>2</sup> for corner lots
- For battleaxe allotments:
  - 5.5m wide access
  - 1300m<sup>2</sup> area

#### R5 Large Lot Residential

- A minimum average width of 50m to ensure functionality for rural residential use.

## 7.9 Infrastructure & services

### Objectives

- To provide public utilities to each lot in an efficient manner.
- To design and implement infrastructure that minimises Council's ongoing maintenance burden.
- To minimise increases in stormwater run-off and protect the environmental values and physical characteristics of receiving waters from degradation by urban run-off.
- To encourage Water Sensitive Urban Design techniques in new subdivisions.
- To maximise the opportunities for shared trenching.
- To provide public lighting to ensure the safety of pedestrians, cyclists and vehicles.

### Controls

#### General

- Compliance with the Berrigan Shire Engineering Guidelines for Subdivisions and Development.
- Payment of infrastructure contributions in accordance with Councils Development Servicing and Development Contributions Plans.
- All services, including but not limited to the following, are to be considered for each subdivided allotment:
  - Water
  - Sewer
  - Power
  - Gas
  - Stormwater
  - Roads
  - Kerb and Gutter
  - Footpaths
  - Street lighting
  - Public open space
  - Road naming
  - Access
  - Effluent management
  - Fencing

## 7.10 Natural hazards

### Requirement

- 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.

### Controls

#### General

- On land mapped as bushfire prone, compliance with the NSW Rural Fire Service document Planning for Bushfire Protection (2006).
- On land identified as flood liable in the LEP maps, compliance with clause 6.2 of the LEP and the State Government's Floodplain Development Manual (2005).
- On land that is potentially contaminated an investigation in accordance with the requirements of State Environmental Planning Policy No.55 – Remediation of Land. The investigation should be in accordance with the process detailed in the State Government's Managing Land Contamination – Planning Guidelines (1998).

## 7.11 Site management

### Objectives

- To protect drainage infrastructure and receiving waters from sedimentation and contamination.
- To protect the site and surrounding area from environmental degradation or nuisance prior to and during construction of subdivision works.
- To encourage the re-use of materials from the site and recycled materials in the construction of subdivisions where practicable.

### Controls

#### General

- Compliance with the Berrigan Shire Engineering Guidelines for Subdivisions and Development.
- Compliance with the Blue Book – Managing Urban Stormwater: Soils and Construction (2004).
- Payment of stormwater contributions in accordance with Councils Development Contributions Plans.

## 8. VEGETATION REMOVAL

This chapter of the DCP applies to vegetation removal and should be read in conjunction with sections 5.9 and 5.9AA of the LEP.

Section 5.9 of the LEP relates to the “preservation of trees or vegetation”. It requires a development application to be lodged to “ringbark, cut down, top, lop, remove, injure or wilfully destroy” certain species of trees or vegetation nominated in a DCP.

The purpose therefore of this chapter is to prescribe the species of tree and vegetation to which Section 5.9 of the LEP applies.

For the purpose of Clause 5.9 of the LEP, trees which meet the following criteria are prescribed:

- (1) located in one of the following zones or areas:
  - RU5 – Village
  - R5 - Large Lot Residential
  - SP2 - Infrastructure
  - IN1 - General Industrial
  - E3 - Environmental Management:
  - within riparian land as defined under clause 6.4 of the LEP
- (2) is five metres or more in height; or trunk diameter of 20cm or more one metre above the ground and;
- (3) is 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 microcarpa    | Grey Box            |
| Jacaranda mimosifolia    | Blue Jacaranda      |
| Lagerstroemia species    | Crape Myrtle        |
| Ulmus species            | Elms                |
| Eucalyptus melliodora    | Yellow Box          |

For trees and vegetation not covered by this chapter the relevant provisions of the:

- Native Vegetation Act 2003
- Threatened Species Conservation Act 1995
- National Parks and Wildlife Act 1974

still apply and consideration to applicable clauses within the LEP are still relevant to tree and vegetation removal required as part of a development application.

### NOTE:

Although a particular species of tree or vegetation is nominated above, development consent may not require to ringbark, cut down, top, lop, remove, injure or wilfully destroy it in certain circumstances. Reference should be made to Section 5.9 of the LEP to ascertain these circumstances and clarification sought from Council if necessary.

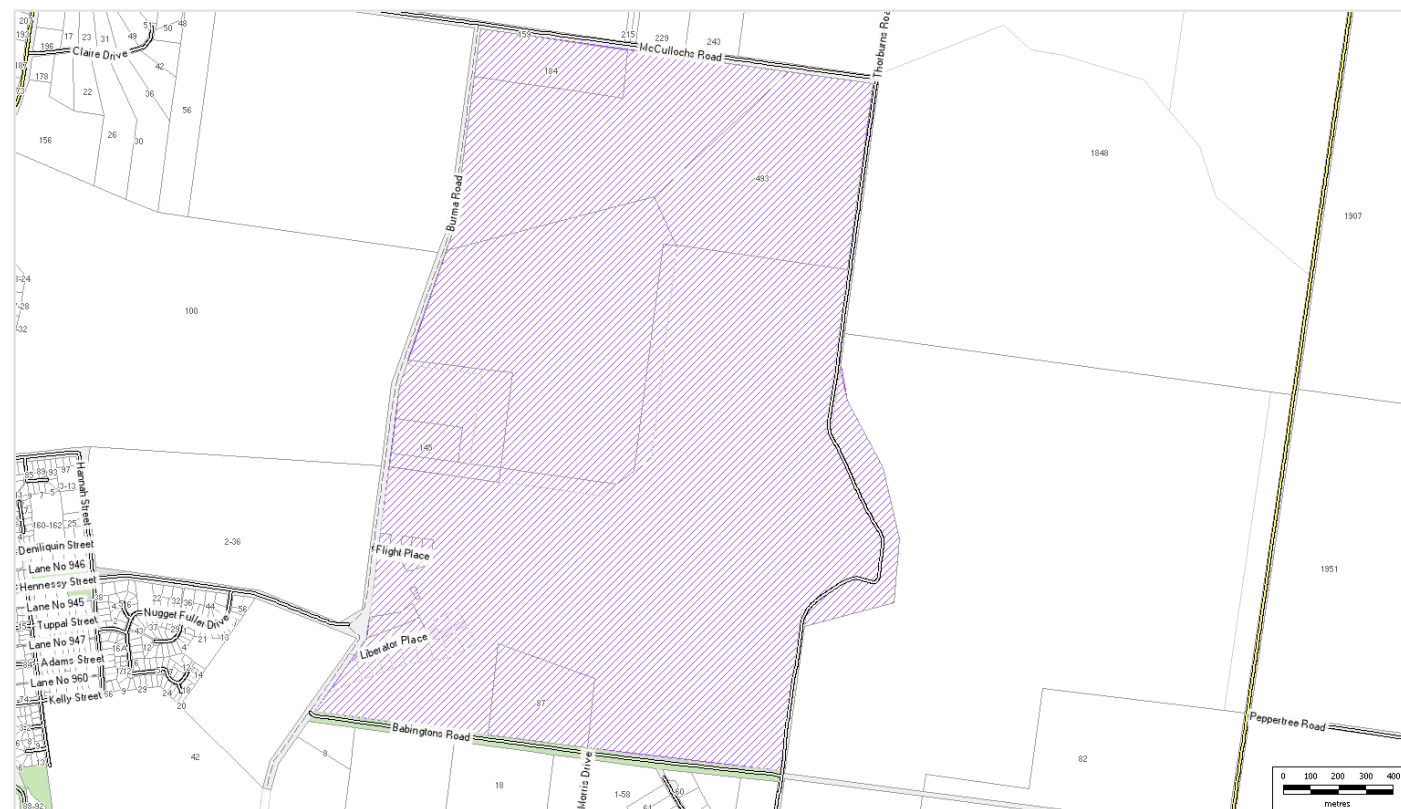
Under Section 5.9AA of the LEP consent is not required to ringbark, cut down, top, lop, remove, injure or destroy any tree or other vegetation not nominated in the above list.



## 9. TOCUMWAL AERODROME

This chapter of the DCP applies to land shown hatched on the figure below and should be read in conjunction with Clause 6.8 and 6.9 of Berrigan LEP 2013.

The aims of the chapter are to ensure consideration is given to the availability of land adjacent to the Tocumwal aerodrome for aerodrome related uses when applications for development are considered and to restrict non-aerodrome related uses to temporary or short term tenure on land not suitable for aerodrome related uses.



### OBJECTIVES

The objectives of the controls are:

- to identify land considered critical to the long-term sustainability of the Tocumwal Aerodrome;
- to ensure consideration is given to the impact on the aerodrome when applications for development consent are being determined;
- to ensure that development does not preclude the long term-growth of the aerodrome.

### DECISION GUIDELINES

In assessing and determining applications for consent on the subject land Council must consider:

- the potential need for that land by future aerodrome related industry;
- the Obstacle Limitations Plan;
- the impact of aircraft using the aerodrome on that development;
- the impact of the development on aircraft using the aerodrome;
- the provisions of Council's Local Environmental Plan;
- any submission to Council by the Civil Aviation Safety Authority.

### NOTE:

Industrial zones that are located adjoining the Tocumwal Aerodrome are not constricted to aerodrome related activities however the decision guidelines above still apply.

## 10. WATERCOURSES & RIPARIAN LAND

The overall purpose of this chapter of the DCP is to provide controls for development and to minimise environmental impacts on land within or adjacent to a watercourse.

The chapter applies to land:

- mapped as “riparian land and waterways” on the Watercourse Map of the LEP being generally the bed and banks of a watercourse (Note whilst the boundary of the mapped “riparian land and waterway” may not align with the actual watercourse they should be regarded as one of the same for the purposes of applying this chapter of the DCP);
- within 40 metres of the “top of the bank” of a watercourse identified as a “riparian land and waterway” on the Watercourse Map of the LEP (Note whilst the boundary of the mapped “riparian land and waterway” may not align with the actual “top of the bank” they should be regarded as one of the same for the purposes of applying this chapter of the DCP);
- within 40 metres of the “top of the bank” of the Murray River in the R5 zones of the LEP; and
- within 100 metres of the “top of the bank” of the Murray River in the RU1 and E3 zones of the LEP.

The land to which this chapter of the DCP applies is aligned with the definitions and controls expressed in Sections 6.4, 6.6, and 6.7 of the LEP relating to development in “river front areas”, “riparian land” and “river bed and banks of the Murray river”. Consequently interpretation of this chapter should be undertaken with reference to these sections of the LEP.

The term “top of the bank” is not defined in planning legislation or any environmental planning instrument (including the LEP). Consequently it falls to Council officers to make this interpretation when required. In most cases the “top of the bank” will be easily discernible, often being the erosion line or point at which the principal bank has collapsed. This criterion is likely to be adequate to determine the “top of the bank” along most sections of river within the Shire. In other cases the bank can be identified simply by a distinct change in slope between land in the river bed and that which isn't.

It is appreciated that in some locations the bank may be difficult to identify in which case Council will make a determination based on the available evidence and information at hand.

The objectives of the controls within this chapter are:

- to ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River Murray and watercourses within Berrigan Shire, including the cumulative impacts and to ensure the long term sustainability of their essential biophysical function;
- to establish a consistent and co-ordinated approach to environmental assessment of proposed river structures along the River Murray;
- to conserve and promote the better management of the natural and cultural heritage values of the riverine environment of the Murray River and watercourses;
- to manage rivers in ways which slow, halt or reverse the overall rate of degradation in their systems;
- to maintain the beneficial use of the rivers resources but not however at the expense of the environment; and
- to implement the objectives of the local provisions contained within Berrigan LEP 2013.

The controls in this chapter are expressed firstly as an objective Council is seeking for development within watercourses and riparian land and secondly the development controls considered by Council to deliver these objectives. Compliance with all development controls should result in consistency with the objective and consequently the granting of development consent (if other SEPP and LEP requirements are also met in particular Murray Regional Environmental Plan No.2 – Riverine Land). In exceptional circumstances Council may consider a variance to a development control but only where the applicant has demonstrated in writing and/or with plans that the objectives can still be achieved.

## 10.1 Visual amenity

### Objectives

- To protect the visual amenity created by the natural river environment.
- To avoid works and structures that have a detrimental visual impact.

### Controls

- All structures and buildings are to be designed to minimise the visual impact on the natural environment.
- Buildings and structures are to utilise building materials and colours that blend with the natural environment. Bright or reflective colours (unless necessary for safety reasons) and materials will not be supported by Council.
- Landscaping of native riparian vegetation is to be used to soften visual amenity impacts but not used as a substitute for appropriate siting of buildings and structures in the river environment

## 10.2 Boat ramps

### Objectives

- To restrict boat ramps to an appropriate density to provide for practical usage and accessibility.
- To preserve the riverine environment from artificial structures that have a detrimental affect on the ecological river system.

### Controls

- Not to be located within 10 kilometres of a public boat ramp measured via the most direct public road access.
- A comprehensive landscaping plan is to be submitted with the development application. This will restore the bank of the river with native vegetation or other less intrusive methods to the satisfaction of Council.
- Natural slopes are to be used as opposed to deep excavations so as to minimise erosion impacts.
- Ramps are to be located on inside bends or on straight sections of a waterway.
- The ramp is to be at an angle greater than 90 degrees to the downstream flow.
- The ramp is to be tied into the bed and bank of the river utilising a concrete apron into the bed and wing walls/aprons into the bank.
- All surface drainage from the boat ramp is to be directed to low flow water level by either a pipe or lined channel.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into the adjacent waterway to the satisfaction of Council.

## 10.3 pontoons & walkways

### Objectives

- To restrict floating pontoons, walkways and jetties on the Murray River.
- To preserve the riverine environment from unsightly, artificial structures that have a detrimental effect on the ecological river system.
- To ensure river structures do not impact on river traffic safety.

### Controls

- pontoons, walkways and jetties for private recreational use are not permitted.
- pontoons and walkways will be assessed on their merits where they are fundamental and ancillary to large scale tourist developments.
- pontoons and walkways may still be permissible within private waterways/marinas and to provide safe access to approved mooring sites.
- pontoons and walkways for the placing of a water pumps will only be considered in exceptional circumstances where the pump is substantial and will service many properties.
- Walkways and landings are to be hinged to the high bank of the waterway and floating so they can rise and fall with the water levels.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into the adjacent waterway.
- pontoons and walkways are to be fitted with reflective markers for the purposes of river navigation.

## 10.4 Retaining walls

### Objectives

- To restrict retaining walls to be only installed where there are no other means of bank stabilisation.
- To preserve the riverine environment from artificial structures that have a detrimental effect on the river system in Berrigan Shire.

### Controls

- Retaining walls will only be considered by Council if the following alternative solutions have been demonstrated to be unachievable:
  - limit access to the site
  - direct access to a small area which may be stabilised with one of the options below:
    - revegetation of the bank (particularly the toe) with aquatic reeds and grasses as well as shrubs
    - revegetate the riparian area with locally native grass, shrub and tree species (for a width of at least 20 metres from the high bank of the watercourse)
    - rock rip rap along the toe of the bank (where erosion is occurring at the toe) and revegetation of the bank face
    - construct timber groynes which allow the bank to re-establish and revegetate
- 'H' beams are to be driven into the bed of the watercourse to a minimum depth of two times greater than the height of the wall. If 'deadmen' are utilised to anchor the wall the depth of the 'H' beams can be minimised to one third that of the wall height (if designs differ from this then an engineering certificate is to be provided to prove stability of the structure).
- An engineering certificate is also to be provided for any structure exceeding one metre in height (so as to confirm structural stability).
- Geotextile material is to be placed between the wall and the bank so as water movement can occur freely but soil movement is hindered.

## Objectives

## Controls

- Clean fill only is to be utilised between the wall and the bank.
- The wall is to be adequately tied into existing bank at a stable point or to adjacent works to prevent any under or back cutting occurring.
- The bottom panel of the wall is to be sunk into the bed of the river so as undercutting is minimised.
- Drainage from the immediate surrounding area is to be conveyed by pipe or lined channel to low water level and not be discharged above this level.
- Any batters are to be constructed to a suitable grade (slopes should not be greater than 1 vertical to 3 horizontal). These batters are to be stabilised with suitable vegetation.

## 10.5 Stairs

### Objectives

- To allow pedestrian access to the river that is both appropriate and non destructive to the river bank.

### Controls

- If cut into the river bank the stairs are to be at an angle greater than 90 degrees to the downstream flow.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into the adjacent waterway.

## 10.6 Moorings

### Objectives

- To control the approval of new moorings and ensure that new moorings are appropriately located.
- To ensure new moorings do not adversely impact on river traffic safety.
- To minimise the environmental impact caused by moorings.

### Controls

- Moorings cannot be transferred from private marinas to the Murray River.
- The mooring is to be constructed at a stable point in the river i.e. at a site not prone to erosion or an outside bend of a river.
- Moorings are to be hinged to the high bank of the waterway and floating so they can rise and fall with the water levels.
- Deep water or weir pools are the preferred location for moorings.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into the adjacent waterway.
- All mooring locations are to be situated at a safe and appropriate location in consultation with relevant agencies.
- Moorings will be discouraged where snag removal is required.

Council will use the following criteria in assessing applications for moorings:

- If the mooring or mooring structure is located within the Murray River, whether it is located in a Roads and Maritime Services designated mooring zone.
- No more than one mooring or mooring structure per lot or holding is permitted (this does not apply to a marina).
- Site analysis and design response given location and site specific constraints.
- Written referral comments from relevant government departments and agencies.
- Whether the proposed works are likely to impact upon Aboriginal or European cultural heritage, including known maritime archaeological sites.

- Visual impact issues.
- Vehicle and pedestrian access issues.
- Waste management issues.
- Whether the connection of services is proposed and the impact of any necessary works.
- Whether there are any cumulative impacts.

## 10.7 Liability & public safety

### Objectives

- To protect the public from harm or injury from using approved river structures.

### Controls

- All pontoons or walkways are to be provided with an engineer's certificate validating the structural integrity.
- All private structures are to have restricted access and appropriate signage to prohibit unauthorised use.
- Owners of public facilities are to supply Council with a copy of their public liability insurance.

## 10.8 Landscaping

### Objectives

- To restore the riverine vegetation within the Berrigan Shire.
- To screen buildings and structures from the river.

### Controls

- All development applications are to include a landscaping plan.
- Landscaping must utilise indigenous species of riparian vegetation.
- Where land is degraded, landscaping shall include measures to rehabilitate these areas.
- Landscaping must be designed to screen or at least soften the appearance of buildings and structures.

## 10.9 Unauthorised Structures

### Objectives

- To remove any unauthorised structures.

### Controls

- All unauthorised structures must be removed from the watercourse. No retrospective development approvals will be issued on existing structures.
- All removal of structures and remediation work is at the expense of the landowner.
- Any disturbance to the bank of the watercourse or surrounding area shall be rehabilitated at the landowner's expense and undertaken to the satisfaction of Council and appropriate statutory authority.

## 11. FLOOD PRONE LAND

This chapter applies to land use and development on flood prone land within the Shire. For the purposes of this chapter, "flood prone land" is defined as land identified as 'flood planning area' on the flood planning map associated with Berrigan LEP 2013.

Outside of this flood planning area the extent of flooding in a Probable Maximum Flood is not known and consequently Council will use its discretion in applying this chapter of the DCP to land considered to potentially lie between the 1 in 100 year ARI flood level.

This chapter should be read in conjunction with Section 6.2 of the LEP.

- including the protection of associated vegetation and wetlands;
- (k) inform the community as to the extent and hazard of flood affected land in Berrigan Shire;
- (l) deal consistently with applications for development on flood affected land, generally in accordance with the Floodplain Management Manual: The Management of Flood Liable Land issued by the New South Wales Government 2005; and
- (m) encourage the development and use of land which is compatible with the indicated flood hazard.

### 11.1 Objectives

The objectives of this chapter are to:

- (a) provide detailed controls and criteria for the assessment of development applications on land effected by flooding in Berrigan Shire;
- (b) consolidate existing flood planning principles and policies from relevant government agencies into a coherent framework for application at the development control level by Berrigan Shire Council;
- (c) reduce the impact of flooding and flood liability on individual property owners and occupiers;
- (d) reduce private and public losses resulting from flooding;
- (e) restrict the intensification of development below the Flood Planning Level (FPL);
- (f) limit development below the FPL to those activities and works considered to have an essential relationship with the river and its floodplain;
- (g) provide specific measures for the control of caravan parks and associated development types within flood affected areas;
- (h) provide for the consideration of the cumulative effects of any development on flood affected land, which in or of itself may be considered to be insignificant;
- (i) provide for and protect the natural passage, storage and quality of flood waters;
- (j) recognise and help sustain the natural ecosystems of floodplains and riparian zones

### 11.2 Decision guidelines

Proposed developments will be considered on their merits in terms of flooding impacts. Issues to be taken into consideration regarding the particular merits of development on flood liable land include the following:

- Whether the proposed development is reasonable having regard for the flood risk and resources available to the location. Applicants should place no reliance on the implementation of a condition specifying a private evacuation/flood management plan as a means to overcome an unacceptable flood risk.
- The need for a benefit/cost assessment that takes account of the full cost to the community of the flood response and flood damage likely to be incurred to the development and upon other development.
- Specific principles relating to flood liable land contained within Murray Regional Environmental Plan No.2 - Riverine Land (MREP2) including:
  - the benefits to riverine ecosystems of periodic flooding;
  - the hazard risks involved in the development of that land;
  - the redistribution effect of the proposed development on floodwater;
  - the availability of other suitable land in the locality not liable to flooding;
  - the availability of flood free access for essential facilities and services;

- the pollution threat represented by any development in the event of a flood;
  - the cumulative effect of the proposed development on the behaviour of floodwater;
  - the cost of providing emergency services and replacing infrastructure in the event of a flood; and
  - flood mitigation works constructed to protect new urban development should be designed and maintained to meet the technical specifications of the NSW government department responsible for such works.
- The Floodplain Development Manual – the Management of Flood Liable Land (2005)

is within the PMF and therefore subject to the controls of this chapter of the DCP.

Generally, it is not physically or economically possible to provide complete protection against this event and consequently the PMF is primarily for the purpose of flood awareness and emergency response rather than development control.

Council will utilise the State Government's 2005 Floodplain Development Manual as a guide to determine the impacts of an extreme flood or PMF on development.

### 11.3 Consultation

Council may consult with relevant authorities on any development proposal received for flood liable land which, in the opinion of Council, may affect the flow of floodwaters, including:

- MurrayLocal Land Services
- NSW Office of Water
- Murray Darling Basin Authority (MDBA)
- Authorities prescribed by Murray Regional Environmental Plan No.2 – Riverine Land

### 11.4 Flood Planning Area

For the purposes of applying development controls to the flood planning area, two hydraulic categories of flood prone land (flood storage and floodway) and two hazard categories (low and high) have been identified. In combination, these categories provide for four separate categories within which issues relating to land use and development in the flood planning area can be assessed. These categories are Low Hazard Flood Storage, High Hazard Flood Storage, Low Hazard Floodway and High Hazard Floodway (see Table 1).

Table 1 summarises their characteristics of these categories. The category which development will be assessed against will need to be determined at the development application stage, based on the flooding characteristics at the subject site.

It is not possible to accurately map the limits of flooding in a Probable Maximum Flood (PMF) event. Consequently Council will use its discretion in determining whether land outside of the flood planning area to which a proposal relates



## 11.5 Definitions

The definitions of terms used in this chapter are as follows.

|                                     |   |
|-------------------------------------|---|
| Annual Exceedance Probability (AEP) | Is the chance of a flood of a given or larger size occurring in any one year, usually expressed as a percentage. For example if a peak flood discharge of 500m <sup>3</sup> /s has an AEP of 5%, it means that there is a 5% chance (that is 1-in-20 chance) of a 500m <sup>3</sup> /s or larger events occurring in any one year (see ARI).  |
| Average Recurrence Interval (ARI)   | Is the long-term average number of years between the occurrence of a flood as big as or larger than the selected event. For example, floods with a discharge as great as or greater than the 20 year ARI flood event will occur on average once every 20 years. ARI is another way of expressing the likelihood of occurrence of a flood event (see AEP).   |
| Flood Planning Area (FPA)           | Is the area or areas to which planning controls relating to flooding apply (i.e. flood liable land).  |
| Flood Planning Level (FPL)          | The FPL is the level 500mm above a 1% AEP or 1 in 100 Year ARI flood event.   |
| Flood storage areas                 | Flood storage areas are those parts of the floodplain utilised for the temporary storage of floodwaters during the passage of a flood. Substantial reduction of the capacity of flood storage in an area may cause a significant redistribution of flood flows or increase peak discharge downstream.   |
| Floodway areas                      | Floodways are those areas where a significant volume of water flows during flood events and are often aligned with obvious natural channels. They are areas that, even if only partially blocked, would cause a significant increase in flood levels and/or a significant redistribution of flood flow, which may in turn adversely affect other areas. They are often, but not necessarily, areas with deeper flow or areas where higher velocities occur. |
| Probable Maximum Flood (PMF)        | The PMF is the largest flood that could conceivably occur, usually estimated from probable maximum precipitation coupled with the worst flood producing catchment conditions. Generally, it is not physically or economically possible to provide complete protection against this event and consequently the PMF is identified for the purpose of flood awareness and emergency response rather than development control.                                  |
| Low hazard                          | Low hazard refers to the depth and velocity of flood waters that if necessary, trucks could evacuate people and their possessions, able bodied adults would have little difficulty in wading to safety. Water depths are less than 1.0m   |
| High hazard                         | High hazard refers to the depth and velocity of flood waters where there is possible danger to personal safety, evacuation by trucks difficult, able bodied adults would have difficulty in wading to safety, potential for significant structural damage to buildings. The depth of flood waters are generally 1.0m or more.   |

TABLE 1: GUIDANCE & CONTROLS APPLICABLE TO TYPES OF DEVELOPMENT IN THE FLOOD PLANNING AREA

|                          | Nature of flooding  | Flooding implications  | General   | Flood control works  | Residential, commercial & industrial development   | Caravan parks & tourist developments   |
|--------------------------|---|--|---|--|--|--|
| Low Hazard Flood Storage | <ul style="list-style-type: none"> <li>a) Water depths are less than 1.0m</li> <li>b) Should it be necessary, people and their possessions can be evacuated by trucks</li> <li>c) Able-bodied adults would have little difficulty in wading to safety.</li> <li>d) Damage potential is low</li> </ul> | <ul style="list-style-type: none"> <li>a) The impact of new development on flood storage and therefore flood behaviour needs to be addressed.</li> <li>b) Suitable for developments subject to evaluation of cumulative impact, except for some special use developments which by their nature are sensitive to flooding or where the use is especially necessary in times of flooding.</li> </ul> | <ul style="list-style-type: none"> <li>i. No intensification of existing development will be permitted which is likely to cause a significant reduction in flood storage capacity or change in flood behaviour.</li> <li>ii. Council may consult with the NSW Office of Water and the appropriate Victorian Catchment Management Authority in determining whether a development proposal is likely, either independently or in combination with other similar developments, to cause a significant reduction in flood storage capacity or change in flood behaviour.</li> </ul> | <ul style="list-style-type: none"> <li>i. Some flood control works may be referred to the NSW Office of Water as integrated development. If approved, the NSW Office of Water will issue their General Terms of Approval (GTA's) that will appear as conditions on any consent granted by Council.</li> <li>ii. Construction will conform to an accredited standard approved by the NSW Office of Water and/or Council.</li> <li>iii. Existing licensed flood control works will not be limited in height.</li> <li>iv. Internal flood control works within a licensed levee are permitted in accordance with the restriction applying to the current licences.</li> <li>v. Ring levees protecting dwellings and associated outbuildings of unlimited height will be permitted up to 1ha in area.</li> </ul> | <ul style="list-style-type: none"> <li>i. Floor levels will be at least the height of the FPL.</li> <li>ii. Any part of the new dwelling or addition below that floor level shall be constructed from flood compatible materials.</li> <li>iii. Non-habitable and minor additions may be permitted on flood liable land provided any part of the new building or structure below that level is built from flood compatible materials.</li> </ul> | <ul style="list-style-type: none"> <li>i. Floor levels of any permanent structures/amenities will be atleast the height of the FPL.</li> <li>ii. Access roads will not be built up more than 100mm above natural ground level.</li> <li>iii. All services to the development shall be designed to withstand inundation and the force of floodwaters.</li> <li>iv. All services to the development shall be designed to be capable of being disengaged and sealed in times of flooding to prevent contamination of floodwaters.</li> <li>v. All applications shall be accompanied with a report from a suitably qualified engineer, demonstrating that all moveable dwellings can either be rapidly relocated to flood-free ground, or can withstand the force of flood waters without significantly affecting flood behaviour or river water quality.</li> </ul> |

|                           | Nature of flooding   | Flooding implications  | General  | Flood control works   | Residential, commercial & industrial development   | Caravan parks & tourist developments  |
|---------------------------|--|--|--|---|--|---|
|                           |  |  |  |   |  | <ul style="list-style-type: none"> <li>vi. Existing developments liable to flooding must have the ability to be evacuated at short notice in times of flooding. A flood emergency and evacuation plan will be required to be submitted with applications for new developments.</li> <li>vii. Existing developments shall be required to implement a flood emergency and evacuation plan.</li> </ul>   |
| High Hazard Flood Storage | <ul style="list-style-type: none"> <li>a) The depth of floodwaters can generally be 1m or more.</li> <li>b) The velocity of floodwaters is low; in effect the floodwater forms a pond.</li> <li>c) Evacuation of people and persons may be difficult and require boat or helicopter, often at some risk to the operators.</li> <li>d) There may be danger to personal safety.</li> <li>e) Social disruption and financial loss could be high.</li> </ul> | <ul style="list-style-type: none"> <li>a) The impact of new developments on flood storage and flood behaviour needs to be addressed.</li> <li>b) Whilst new development is not generally considered appropriate in a high hazard area, it may be acceptable under certain conditions. Such conditions should be based on a detailed review of the impact of the development on flooding and the potential hazard to the proposed development.</li> </ul> | <ul style="list-style-type: none"> <li>i. No intensification of development on land below the FPL will be permitted which is likely to place the owner or occupants (including their property) at risk from flooding or generate demand for emergency services or place others involved in evacuation at risk.</li> <li>ii. Council may consult with relevant government agencies in determining whether a development proposal is likely, either independently or in combination with other similar developments, to cause a significant</li> </ul> | <ul style="list-style-type: none"> <li>i. Some flood control works may be referred to the NSW Office of Water as integrated development. If approved, the NSW Office of Water will issue their General Terms of Approval (GTA's) that will appear as conditions on any consent granted by Council.</li> <li>ii. Construction will conform to an accredited standard approved by the NSW Office of Water and/or Council.</li> <li>iii. Existing licensed flood control works will not be limited in height.</li> <li>iv. Internal flood control works within a licensed</li> </ul> | <ul style="list-style-type: none"> <li>i. Development shall be restricted to necessary rural dwelling houses and associated outbuildings.</li> <li>ii. Floor levels to be at least the height of the FPL. Any part of the new dwelling or addition below that floor level shall be constructed from flood compatible materials.</li> <li>iii. Non-habitable and minor additions may be permitted below the FPL, provided any part of the new building or structure below that level is built from flood compatible materials.</li> </ul> | <ul style="list-style-type: none"> <li>i. Special consideration should be given to caravan parks because :- <ul style="list-style-type: none"> <li>- they are often difficult to evacuate, a fact compounded by permanent vans, visitors lacking flood awareness;</li> <li>- caravans are easily damaged; and</li> <li>- caravans can float away and obstruct bridge waterways or create other hazards</li> </ul> </li> <li>ii. Primitive camping grounds will be considered provided that any permanent facilities associated with the provision of a water supply, toilet and refuse</li> </ul> |

|  | Nature of flooding | Flooding implications | General  | Flood control works   | Residential, commercial & industrial development   | Caravan parks & tourist developments   |
|--|--------------------|-----------------------|--|---|--|--|
|  |                    |                       | <p>reduction in flood storage capacity or change in flood behaviour.</p> <p>iii. Where new development has potential to cause a significant reduction in flood storage capacity or change in flood behaviour, the proponent will need to demonstrate the proposal will not cause a significant increase in flood levels or flood hazard. Need to also provide adequate compensating works for flood storage, together with an engineering report and a detailed environmental study to support the application.</p> <p>iv. The feasibility of effective evacuation is to be demonstrated to Council including permanent, fail-safe, measures to ensure the timely, orderly and safe evacuation of people from the area. It is also to be demonstrated that the displacement of these people will not significantly add to the overall cost and community disruption caused by the flood.</p> | <p>levee are permitted in accordance with the restriction applying to the current licences.</p> <p>v. Ring levees protecting dwellings and associated outbuildings of unlimited height will be permitted up to 1ha in area.</p> | <p>iv. All applications must be accompanied by a report from a structural or civil engineer, demonstrating that the building or structure can withstand the force and duration of flood waters in a flood of 0.5% AEP, including debris and buoyancy forces as appropriate. As part of the consulting engineers' report, it will be necessary to demonstrate to the satisfaction of Council that fail-safe access for the evacuation of occupants is available.</p> <p>v. The application must be able to demonstrate that the development would not impede the free flow of water so as to have an impact on adjoining properties or the distribution of floodwaters in the floodplain.</p> | <p>disposal are in keeping with the basic needs of the camping ground, and can be shown to withstand the force and duration of flooding in a flood of 0.5% AEP, and will not adversely impact on river water quality under flood conditions.</p> <p>iii. No approval will be considered for any permanent facilities associated with caravan parks or tourist accommodation, including:</p> <ul style="list-style-type: none"> <li>- permanent or non-flexible connection to services such as power, water and sewerage;</li> <li>- permanent residency areas of caravan parks;</li> <li>- relocatable homes (homes not being capable of being registered under the Traffic Act);</li> <li>- the subdivision of lots for separate occupation sites; and</li> <li>- permanent flood control works.</li> </ul> |

|                     | Nature of flooding  | Flooding implications   | General   | Flood control works  | Residential, commercial & industrial development  | Caravan parks & tourist developments  |
|---------------------|---|---|---|--|---|---|
| Low Hazard Floodway | <ul style="list-style-type: none"> <li>a) Water depths are less than 1m</li> <li>b) Should it be necessary, trucks can evacuate people and their possessions.</li> <li>c) Able bodied adults would have little difficulty in wading to safety</li> <li>d) Damage potential would be low.</li> </ul> | a) It is necessary to check the impact of new developments on the depth, velocity or distribution of floodwaters. | <ul style="list-style-type: none"> <li>i. No intensification of development will be permitted which is likely to place the owner or occupants (including their property) at risk from flooding or generate demand for emergency services and placing others involved in evacuation at risk.</li> <li>ii. Council may consult with relevant government agencies in determining whether a development proposal is likely, either independently or in combination with other similar developments, to cause a significant reduction in flood storage capacity or change in flood behaviour.</li> <li>iii. The developer or property owner should demonstrate that any building or structure could withstand the force of flowing floodwaters, including debris, buoyancy forces as appropriate. A detailed report from an appropriate consulting engineer is required to support a development application.</li> <li>iv. New development will not</li> </ul> | <ul style="list-style-type: none"> <li>i. No new levees or flood control works to be permitted within floodways.</li> <li>ii. Individual ring levees of unlimited height around existing rural dwellings and associated outbuildings are permitted.</li> <li>iii. Ring levees shall not be located more than 10 metres from private dwellings.</li> <li>iv. Existing unlicensed flood control works and impediments to flood flows to be removed and no future flood control works to be permitted.</li> <li>v. Existing licensed flood control works are to be limited to their current height or equivalent 1993 flood level, which ever is the lower.</li> <li>vi. Internal flood control works within a licensed levee are permitted in accordance with the conditions applying to the current licence.</li> </ul> | <ul style="list-style-type: none"> <li>i. Commercial or industrial buildings are unsuitable for a low hazard floodway.</li> <li>ii. Dwelling houses must have a floor level at least the height of the FPL. Any part of the new dwelling or addition below that floor level shall be constructed from flood compatible materials.</li> <li>iii. Non habitable and minor additions may be permitted below the FPL provided any part of the new building or structure below that level is built from flood compatible materials.</li> <li>iv. Internal alterations, maintenance and minor repairs to existing structures are permitted.</li> <li>v. Minor additions to existing dwellings will be considered on merit for each individual application.</li> <li>vi. Non-habitable additions and outbuildings are not permitted.</li> <li>vii. Redevelopment of substantially damaged buildings by a flood event will only be permitted if the applicant is able to</li> </ul> | <ul style="list-style-type: none"> <li>i. Special consideration should be given to caravan parks because: <ul style="list-style-type: none"> <li>- they are often difficult to evacuate, a fact compounded by permanent vans and visitors lacking flood awareness;</li> <li>- caravans are easily damaged; and</li> <li>- caravans can float away and obstruct bridge waterways or create other hazards.</li> </ul> </li> <li>ii. Primitive camping grounds will be considered provided that any permanent facilities associated with the provision of a water supply, toilet and refuse disposal are in keeping with the basic needs of the camping ground, and can be shown to withstand the force and duration of flooding, and will not adversely impact on river water quality under flood conditions.</li> <li>iii. No approval will be considered for any permanent facilities associated with caravan parks or tourist</li> </ul> |

|  | Nature of flooding | Flooding implications | General  | Flood control works | Residential, commercial & industrial development  | Caravan parks & tourist developments  |
|--|--------------------|-----------------------|--|---------------------|---|---|
|  |                    |                       | <p>be supported within floodway areas.</p> <p>v. Where new development is likely to cause a significant reduction in flood storage capacity or change in flood behaviour, proponent will need to demonstrate a proposal will not cause a significant increase in flood levels or flood hazard (including cumulatively with future similar developments).</p> <p>vi. Need to also provide adequate compensating works for flood storage, together with engineering report and a detailed environmental study to support the application.</p> <p>vii. The feasibility of effective evacuation is to be demonstrated to Council including permanent, fail-safe, measures to ensure the timely, orderly and safe evacuation of people from the area. It is also to be demonstrated that the displacement of these people will not significantly add to the overall cost and community disruption caused by the flood. Council may also consult</p> |                     | <p>demonstrate that the proposed development will be reconstructed in a manner compatible with the flood risk.</p> <p>viii. Where a dwelling has previously existed on a property any replacement dwelling must have a similar building footprint. Additions/alterations to an existing building footprint must comply with appropriate conditions above.</p> <p>ix. New buildings should be aligned to minimise impacts on the flow and/or passage of floodwaters.</p> | <p>accommodation, including:</p> <ul style="list-style-type: none"> <li>- permanent or non flexible connection to services such as power, water and sewerage;</li> <li>- permanent residency areas of caravan parks;</li> <li>- relocatable homes (homes not being capable of being registered under the Traffic Act);</li> <li>- the subdivision of lots for separate occupation sites; and</li> <li>- permanent flood control works.</li> </ul> |

|                      | Nature of flooding   | Flooding implications   | General  | Flood control works   | Residential, commercial & industrial development   | Caravan parks & tourist developments  |
|----------------------|--|---|--|---|--|---|
|                      |  |   | the SES, and be provided by the proponent with a detailed engineering report and environmental study to support the application.   |   |  |   |
| High Hazard Floodway | <p>a) The depth and velocity of floodwaters are such that buildings could sustain major structural damage and in extreme cases, light framed houses could be washed away.</p> <p>b) The depth of floodwaters are generally 1m or more</p> <p>c) There could be major difficulties and dangers in evacuating people and their possessions.</p> <p>d) There may be danger to personal safety. Social disruption and financial loss could be very high.</p> | <p>a) New development is generally not considered appropriate in a high hazard floodway.</p> <p>b) The impact of any proposed development on the floodway and therefore on flood behaviour must be addressed.</p> | <p>i. No intensification of development will be permitted which is likely to place the owner or occupants and their property, at risk from flooding or generate demand for emergency services and placing others involved in evacuation at risk.</p> <p>ii. Council will consult with relevant government agencies in determining whether a development proposal is likely, either independently or in combination with other similar developments, to cause a significant reduction in flood storage capacity or change in flood behaviour.</p> <p>iii. New developments are not suitable in high hazard floodways.</p> <p>iv. Where new development is likely to cause a significant reduction in flood storage capacity or change in flood behaviour, proponents will</p> | <p>i. No new levees or flood control works to be permitted within floodways.</p> <p>ii. Individual ring levees of unlimited height around existing rural dwellings and associated outbuildings are permitted.</p> <p>iii. Ring levees protecting private dwellings will be located no more than 10 metres from the building.</p> <p>iv. Existing unlicensed flood control works and impediments to flood flows to be removed and no future flood control works to be permitted.</p> <p>v. Existing licensed flood control works are to be limited to their current height or equivalent 1993 flood level whichever is the lower.</p> <p>vi. Internal flood control works within a licensed levee are permitted in accordance with the restriction applying to the</p> | <p>i. New dwellings, commercial and industrial buildings, are not suitable for high hazard floodway's.</p> <p>ii. Internal alterations, maintenance and minor repairs to existing structures are permitted.</p> <p>iii. Major additions are not encouraged and applicants must comply with all conditions listed in general above.</p> <p>iv. Minor additions to existing dwellings will be considered on merit for each individual application.</p> <p>v. Proposed buildings should be aligned to compliment the flow and/or passage of floodwaters.</p> <p>vi. Non-habitable additions and outbuildings are not permitted.</p> <p>vii. Redevelopment of substantially damaged buildings will only be permitted if the applicant is able to demonstrate</p> | <p>i. Primitive camping grounds will be considered provided that any permanent facilities associated with the provision of a water supply, toilet and refuse disposal are in keeping with the basic needs of the camping ground, and can be shown to withstand the force and duration of flooding, and will not adversely impact on river water quality under flood conditions.</p> <p>ii. No approval will be considered for any permanent facilities associated with caravan parks or tourist accommodation, including:</p> <ul style="list-style-type: none"> <li>- permanent or non flexible connection to services such as power, water and sewerage;</li> <li>- permanent residency areas of caravan parks;</li> <li>- relocatable homes (homes not being capable of being registered under the Traffic Act);</li> <li>- the subdivision of lots for</li> </ul> |

|  | Nature of flooding | Flooding implications | General   | Flood control works      | Residential, commercial & industrial development  | Caravan parks & tourist developments  |
|--|--------------------|-----------------------|---|--------------------------|---|---|
|  |                    |                       | <p>need to demonstrate proposal will not cause a significant increase in flood levels or flood hazard (including cumulatively with future similar developments).</p> <p>v. Need to also provide adequate compensating works for flood storage, together with engineering report and a detailed environmental study to support the application.</p> <p>vi. The feasibility of effective evacuation is to be demonstrated to the consent authority including permanent, fail-safe, measures to ensure the timely, orderly and safe evacuation of people from the area. It is also to be demonstrated that the displacement of these people will not significantly add to the overall cost and community disruption caused by the flood. Council may also consult the SES, and be provided by the proponent with a detailed engineering report and environmental study to support the application.</p> <p>vii. The developer or property</p> | <p>current licences.</p> | <p>that the proposed development will be reconstructed in a manner compatible with the flood risk.</p> <p>viii. Where a dwelling has previously existed on a property any replacement dwelling must have a similar building footprint. Additions/alterations to an existing building footprint must comply with appropriate conditions above.</p> | <p>separate occupation sites; and</p> <p>- permanent flood control works.</p> |



|  | Nature of flooding | Flooding implications | General   | Flood control works | Residential, commercial & industrial development | Caravan parks & tourist developments |
|--|--------------------|-----------------------|---|---------------------|--|--------------------------------------|
|  |                    |                       | owner should demonstrate that any building or structure can withstand the force of flowing floodwaters, including debris and buoyancy forces as appropriate. A detailed report from an appropriate consulting structural engineer is required to support a development application. |                     |  |                                      |

## 12. NOTIFICATION POLICY

This chapter of the DCP applies to Council's policy for notifying development matters.

Whilst a Notification Policy does not relate to 'development control' as such, there are several references throughout the Environmental Planning and Assessment Act 1979 relating to the process of notifying various development matters via the requirements of a DCP.

The purpose therefore of this chapter is to ensure that notification procedures are incorporated in a DCP to allow for administration of the legislation.

building that will not result in changes to the height, elevations or facade;

- applications under section 96(1) of the Environmental Planning and Assessment Act 1979 being a modification to a development consent involving the

### 12.1 Objectives

The objectives of this chapter are to:

- establish an efficient and effective process for public notification and advertising, which will minimise delays in the processing of development applications and improve the quality of decisions;
- maintain the community's right to participate in the development assessment process;
- clarify the circumstances in which a development application does not require public notification or advertising; and
- detail the form of and requirements for public notification and advertising.

### 12.2 Development applications requiring notification

Notification or advertising will be required for development applications for development of a type listed in Table 12.1.

Notification or advertising will not be required for development proposals that:

- qualify as 'exempt development' (see section 3.1 of the LEP);
- are processed as 'complying development' (see section 3.2 of the LEP) and which don't require notification under the EP&A Reg. 2000;
- represent minor alterations to an existing

correction of minor errors, mis-descriptions or miscalculations;

- applications under section 96(1A) of the Environmental Planning and Assessment Act 1979 being a modification to a development application involving minimal environmental impact;
- in the opinion of the responsible Council officer, will not detrimentally affect the amenity of persons who own or occupy adjoining or neighbouring land, in terms of the matters, listed in 12.3 of this chapter.

### 12.3 Notification requirements - Who will be notified?

Notification or advertising will occur where, in the responsible Council officer's opinion, the enjoyment of adjoining or neighbouring land may be detrimentally affected, in terms of the matters listed below, by the proposed development. Where required, a notification letter will be sent to the affected owners of relevant land. In addition, in some instances it may be pertinent to notify the affected occupiers of the relevant land.

In identifying the owners of land, Council will rely on the information within its property system, as per the day of preparing the notification letter. In certain circumstances, Council will, at its discretion, undertake wider notification of a development application. During the exhibition period, exhibition material can also be viewed at Council's Office and the local library.

#### Determining the extent of notification

Council will give notice of a development application to owners or occupiers of adjoining or neighbouring land to the development site where, in the responsible Council officer's opinion, the enjoyment of the land may be detrimentally affected by or in relation to:

- a) views to and from the land;
- b) overshadowing;
- c) privacy;
- d) air pollution, in terms of dust, odour, smoke and the like;
- e) noise;
- f) the visual quality of the building in relation to the streetscape;
- g) the scale or bulk of the proposed building;
- h) the siting of the proposed development in relation to the site boundaries;
- i) hours of use;
- j) light spillage or reflection;
- k) means of access to or provision of parking on the development site;
- l) proposed changes to any easement that may impact the adjoining or neighbouring land;
- m) the height, materials and position of fences erected on a boundary;
- n) traffic generation; or
- o) suitability of the land for the proposed development.

## Public notification and advertising period

If notification is required, the exhibition period for a development application is a minimum of 14 days unless otherwise specified by the Environmental Planning and Assessment Act 1979 or Environmental Planning and Assessment Regulation 2000 or an environmental planning instrument such as the LEP or State Environmental Planning Policy (SEPP). This is further detailed in Table 12.1.

The public notification requirements, as detailed in Table 12.1, may consist of one or a combination of the following:

- notification letter(s),
- local newspaper(s) advertisement(s),
- site sign (at the discretion of the authorised officer), and
- public authority notification.

If land is owned or occupied by more than one person, a written notice to one owner or one occupier is taken to be a written notice to all the owners and occupiers of that land.

If land is a lot within the meaning of the Strata Schemes (Freehold Development) Act 1973, a written notice to the owners' corporation is taken to be a written notice to the owner or occupier of each lot within the strata scheme. If land is a lot within the meaning of the Strata Schemes (Leasehold Development) Act 1986, a written notice to the lessor under the leasehold strata scheme concerned and to the owners' corporation is taken to be a written notice to the owner or occupier of each lot within the strata scheme.

## Notification letters and plans

The notification letter will be posted or dispatched to affected persons before the exhibition period commences and is to contain the following information:

- a) the property address to which the development application relates;
- b) a description of the proposed development;
- c) an invitation to view the development application;
- d) the time during and the locations at which the development application can be inspected;
- e) the affected person's right to lodge a written submission in relation to the application;
- f) the closing date for making written submissions to Council;
- g) that the contents of written submissions may be included in reports; and
- h) a notification plan.

For the purposes of this section, the notification plan(s) are to:

- a) be prepared by the applicant and submitted with the development application;
- b) be contained in an A4 size sheet(s) and may be a reduced copy of the development plans submitted with the development application;
- c) be of a scale which will clearly delineate the features of the building;
- d) include a site plan, to scale, showing the relationship of the proposed building to the property boundaries;
- e) indicate any new buildings or additions to existing buildings by means of cross hatching;
- f) indicate the levels of floors, ceilings and ridges in relation to the existing and finished levels of the site;
- g) show the location of existing and proposed driveways, trees or other significant features; and
- h) include any other information which, in the opinion of the responsible officer, is appropriate to the application.

## Newspaper advertisements

Advertisements will be placed in the most appropriate local newspaper (namely Southern Riverina News and/or Cobram Courier). Contents of the advertisements will be in accordance with the Environmental Planning & Assessment Act 1979, Environmental Planning & Assessment Regulation 2000 and other statutory instruments.

### **12.4 Other notification requirements**

This chapter covers the main types of Development Applications received by Berrigan Shire Council. It does not cover all of the notification requirements for those Development Applications where other environmental planning instruments or other chapters of this DCP may apply.

Where other notification requirements apply (other than those identified by this chapter), those requirements will be applied to that particular Development Application. Where an application falls into more than one category of notification, the Development Application will be notified in accordance with the more onerous requirements.

TABLE 12.1 NOTIFICATION & EXHIBITION REQUIREMENTS

| Application Category                   | Definition  | Local Paper        | Adjoining/Adjacent Owners Notification                         | Public Authority notification (Integrated) | Public Authority notification (e.g. MREP2) | Exhibition period                                  |
|--|---|--------------------|--|--|--|--|
| Section 82A Review                     | See s82A EPAA, clause 113A  | As per original DA | To any authors of submissions and as per original DA (cl 113A) | Not applicable as per s82A(1)(c).          | As per original DA                         | 14 days (commencing the day after notice is given) |
| Section 96(1) or 96AA(1) modification  | Modifications involving minor error, mis-description or miscalculation.   | Not required.      | Not required.  | See Act                                    | See Act                                    |  |
| Section 96(1A) or 96AA(1) modification | Modifications involving minimal environmental impact.   | Not required.      | Not required.  | See Act                                    | See Act                                    |  |
| Section 96(2) or 96AA(1) modification  | Relating to Designated Development  | Yes                | To any authors of submissions and as per original DA           | See Act                                    | See Act                                    | 14 days (commencing the day after notice is given) |
| Section 96(2) or 96AA(1) modification  | All other Development Applications  | As per original DA | To any authors of submissions and as per original DA           | See Act                                    | See Act                                    | 14 days (commencing the day after notice is given) |
| Section 96AB                           | Review where modification application refused or conditions imposed (within 28 days after modification determined -refer clause 123I) | As per original DA | To any authors of submissions and as per original DA           | Not applicable as per s82A(1)(c).          | As per original DA                         | 14 days (commencing the day after notice is given) |

| Application Category                              | Definition  | Local Paper                             | Adjoining/Adjacent Owners Notification  | Public Authority notification (Integrated) | Public Authority notification (e.g. MREP2)         | Exhibition period   |
|---|---|---|---|--|--|---|
| Designated Development (s 79(1))                  | As defined in Sch 3 of the Environmental Planning & Assessment Regulation 2000  | Yes                                     | Yes   | Where required.                            | Where required.                                    | 30 days (commencing the day after notice is first given in the newspaper)       |
| Murray REP2                                       | Development required to be advertised in accordance with clause 13.<br>Consultation may also be required for any development in accordance with clause 12.  | Yes – for “Advertised” development only | Yes<br>(There is no requirement to notify adjacent privately owned Victorian property). | Where required.                            | Yes. As specified by clause 12 and/or 13 of MREP2. | 21 days (commencing the day after notice is given)                              |
| Nominated Integrated Development (clause 5(1)(b)) | Requires approval under s91(1) of the Act for: <ul style="list-style-type: none"> <li>• Heritage Act 1977,</li> <li>• Water Management Act 2000,</li> <li>• Protection of the Environment Operations Act 1997.</li> </ul> | Yes                                     | Yes   | Where required.                            | Where required.                                    | 30 days (commencing the day after notice is given)                              |
| Threatened Species Development                    | Development referred to in s78A(8)(b) EPAA.   | Yes                                     | Yes   | Where required.                            | Where required.                                    | 30 days (commencing the day after notice is first given in the local newspaper) |
| Class 1 aquaculture                               | Development referred to in SEPP No. 62.   | Yes                                     | Yes   | Where required                             | Where required.                                    | 14 days (commencing the day after notice is first given in the local newspaper) |

| Application Category | Definition   | Local Paper  | Adjoining/Adjacent Owners Notification | Public Authority notification (Integrated) | Public Authority notification (e.g. MREP2) | Exhibition period |
|----------------------|--|--|--|--|--|-------------------|
| Other                | Any development that Council staff determine should be exhibited which may, in the opinion of the responsible officer, detrimentally affect adjoining land in relation to the matters detailed in clause 12.3 of this chapter. | To be determined by staff.<br><br>Notification / referral may also extend to other bodies such as the NSW Police Force, Local Aboriginal Land Council and other relevant public authorities that maybe affected by the development or able to provide special comment. |  |  |  | 14 days           |

Note: Where an application falls into more than one of the above categories, the notification procedure followed shall be that with the higher requirements. For example, a Development Application for nominated integrated development that requires referrals under Murray REP 2 shall be notified and exhibited as per the requirements listed for Murray REP 2.