



Office of Environment & Heritage

Your Reference
Our reference:
Contact:

PP-2012-01
DOC14/125953
Amanda Sullivan
6229 7093

The General Manager
Yass Valley Council
PO Box 6
Yass NSW 2582

Attention Liz Makim,

Dear Sir,

RE: Yass Valley Rural Lands Planning Proposal (PP-2012-01)

I refer to your letter of 8 July 2014 inviting the Office of Environment and Heritage (OEH) to comment on the Yass Valley Rural Lands Planning Proposal to amend the Yass Valley Local Environmental Plan 2013 (LEP) to reduce the average lot size of RU1 and RU2 zoned lands from 80 hectares to 40 hectares.

OEH has reviewed the Yass Valley Council Rural Lands Planning Proposal 2013, and the Yass Valley –Rural Lands Planning Proposal Independent Review 2014 prepared by EDM group.

OEH objects to this proposal. OEH's objections are based on the following:

- The proposal potentially doubles the environmental impacts associated with rural settlement of clearing for house sites, fences, roads, electricity lines, rural infrastructure, sheds and bushfire asset protection requirements. Full subdivision potential is likely to be realised over time given that there is a high demand for rural lifestyle blocks in the area.
- A thorough consideration of the cumulative impacts of the proposal upon the environment has not occurred. OEH is of the view that the impacts to the environment may be significant.
- Past examples of applying a minimum lot size of 40 ha within the ACT subregion have caused unacceptable fragmentation on patches of intact native vegetation.
- Justification for the planning proposal to be applied evenly across the rural zones of the Local Government Area has not been clearly articulated. The arguments that the rural landscape supports two distinct areas: (1) south-eastern and (2) northern and western would suggest the need to consider two distinct minimum lot size standards.
- Consistency with statutory documents, such as the Yass Valley LEP 2013, Rural Lands SEPP, Section 117 Directions and the Sydney Canberra Corridor Regional Strategy in regards to the protection of the environment have not been established.

OEH supports the position that a "one size fits all" approach may not be appropriate across the broadacre rural zones. A larger lot size than proposed is considered more appropriate in holdings of primarily intact native vegetation.

A discussion expanding on these points is provided in **Attachment 1** of the OEH detailed comments on Yass Valley Rural Lands Planning Proposal'.

OEH is willing to assist Council to identify lands where the reduction of lot size will have minimal environmental impact and developing provisions that protect the biodiversity values of the rural zones of Yass Valley LGA in the LEP amendment. The environmental data to make an informed decision in this regard already exists.

Should you wish to discuss any of issues raised in this letter, or require additional information, please contact Conservation Planning Officer, Amanda Sullivan on phone number 6229 7093 or by email on amanda.sullivan@environment.nsw.gov.au (Mon-Wed).

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Michael Saxon', with a date '22.08.14' written to its right.

MICHAEL SAXON
Regional Manager South East
Regional Operations Group

Attachment 1

OEH Detailed Comments on Yass Valley Rural Lands Planning Proposal (PP-2012-01)

Environmental Impacts

OEH acknowledges that one of the goals of the Rural Lands Planning Proposal (the Planning Proposal) is to encourage diversity of agricultural activities within Yass Valley LGA; however this goal needs to have regard to the impact upon the environment, as directed in Clause 7(e) of the State Planning Policy (Rural Lands) 2008;

'the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,'

The planning proposal has not demonstrated how the environment is to be protected and constrained land is to be avoided.

On a strategic level, there appears to have been no comprehensive consideration of the cumulative impacts of the proposal. The Planning Proposal and the EDM Independent Review only consider the need to protect the environment at the individual Development Application (DA) stage. Relying upon protecting the environment at the DA stage provides no certainty in planning outcomes. (See comments below on the use of Councils biodiversity map).

OEH has estimated that the planning proposal potentially could yield an additional 1549 lots of 40 ha within RU1 and RU2 zoned land and 3000 additional dwellings. There is no acknowledgment in the supporting documents that the change in minimum lots sizes, will cause the clearance of native vegetation associated with house sites, fences, roads, electricity lines, rural infrastructure, sheds and bushfire asset protection requirements. Fences restricting native animal movements, firewood collection, additional cats and dogs potentially impact on native species and there will be impacts on riparian areas and aquatic environments by creating additional water rights.

This approach of protecting the environment at the DA level may lead to unacceptable fragmentation and loss of biodiversity. One of the greatest threats to biodiversity in peri-urban regions is loss of large remnant patches of native vegetation (Hollier C et al, 2002). As seen in the Figure 1 overleaf, within Yass Valley LGA there are 210 patches of remnant native vegetation greater than 40 ha, this equates to 80% of the LGA's remnant native vegetation. It is unclear how these patches are going to be protected with the reduction in minimum lot sizes.

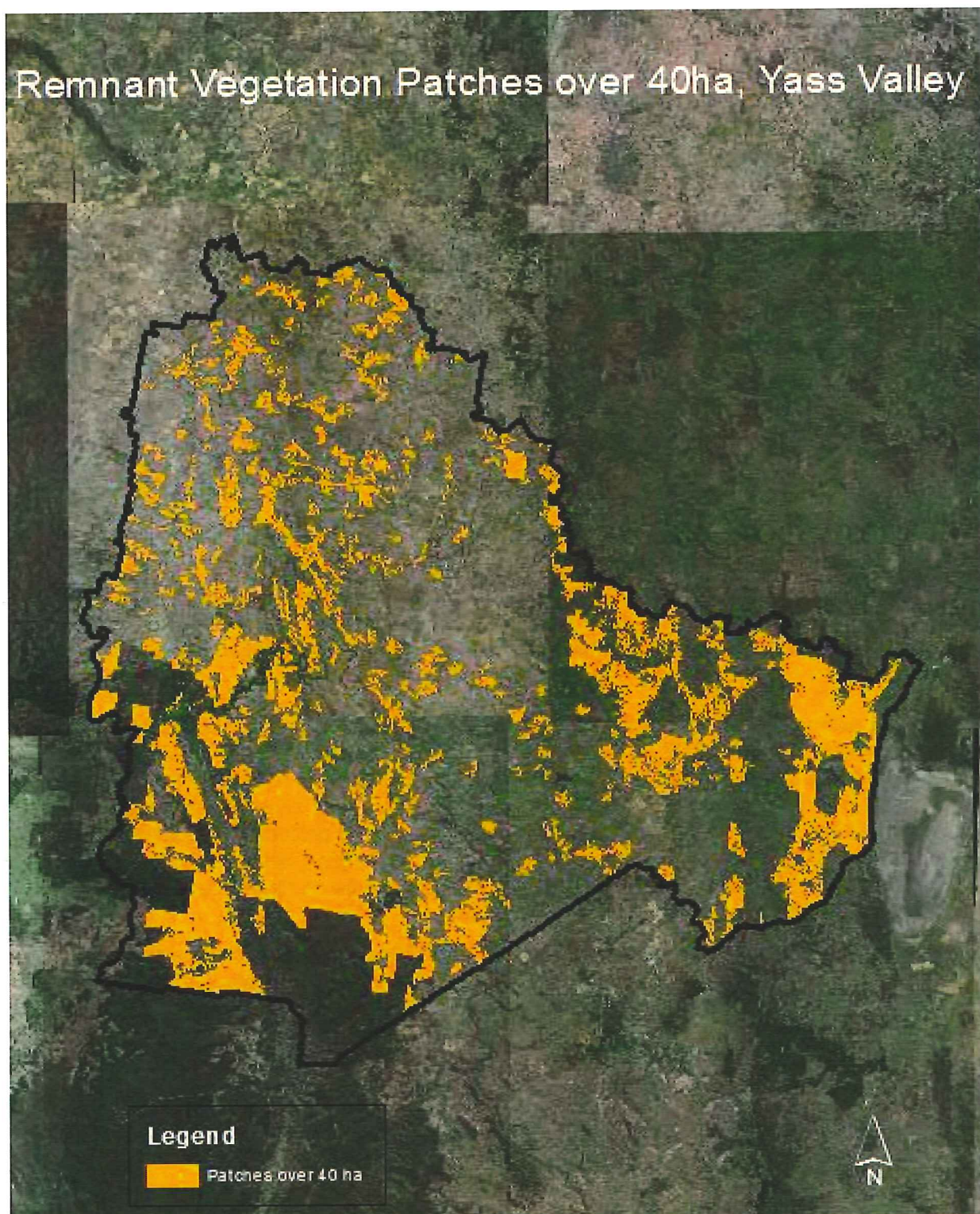
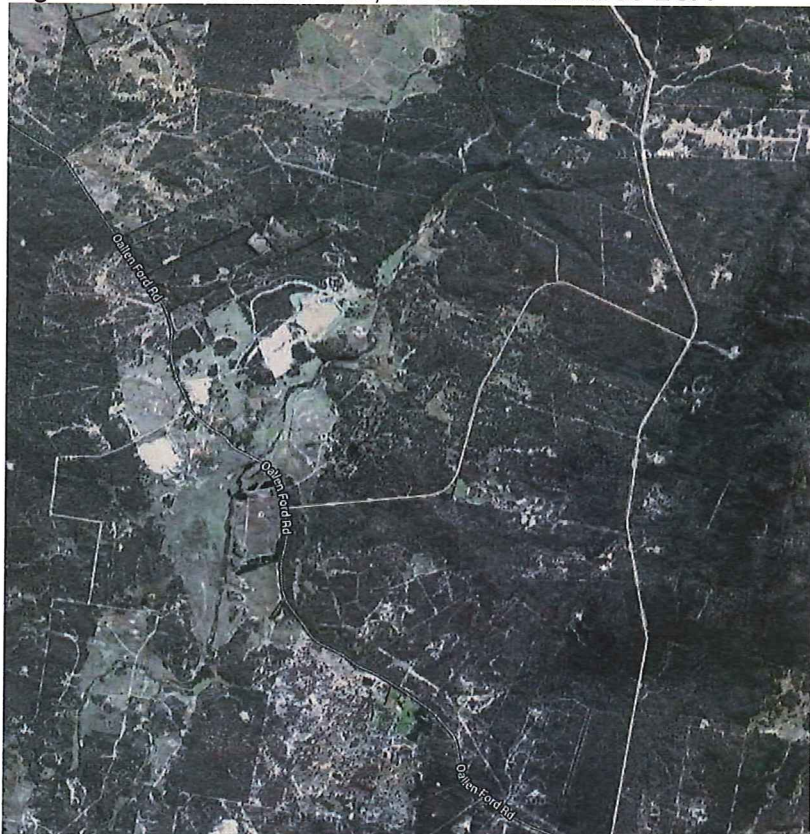


Figure 1. Remnant Vegetation Patches over 40 ha, within Yass Valley LGA

Within ACT subregion, Goulburn Mulwaree LEP introduced a 40 minimum lot size, which caused fragmentation of patches of intact native vegetation (see Figures 2 and Figure 3 below).

Figure 2 – Windellema Area, Goulburn Mulwaree LGA



Figures 2 and 3 show by way of example what can happen to intact native vegetation when a minimum 20-40 ha lot size is introduced

Figure 3 – Windellema Area, Goulburn Mulwaree LGA



Potential Impacts on Threatened Species and Ecological communities

The proposal has the potential to lead to significant impacts on threatened species. Specifically, the proposal may have a significant impact on the the distribution and long term viability of the *White Box Yellow Box Blakely's Red Gum Woodland* (commonly referred to as Box-Gum Woodland) *Endangered Ecological Community*, Superb Parrots and the Yass Daisy.

OEH considers that sensitive environmental areas need to be identified across the rural landscape, and consideration be given on how the minimum lot size will impact upon those values. Such areas include:

- intact native vegetation over 40ha in size,
- Box-Gum woodland,
- Nesting habitat of Superb Parrots
- Known threatened species sites
- National Parks and Reserves and
- identified significant geological areas.

Justification

The justification to reduce the rural minimum lot size from 80 ha to 40 ha across the RU1 and RU2 zones, which equates to over 80% of the LGA, is not clearly articulated in the Planning Proposal.

Alternative proposals such as adjusting the minimum lot size as allowed using lot averaging or considering an intensive agriculture clause as identified in the NSW DPE Planning Team Report do not seem to have been addressed.

It is noted that the NSW DPE Planning Team recommendations required a peer review be carried out. OEH has reviewed the Yass Valley Rural Lands Planning Proposal Independent Review 2014 (EDM) and finds:

Whilst the report provides a detailed review of economic and social implications based on extensive research, the environmental implications are poorly considered. Section 3.3 states that biodiversity was considered from '*observations made in the brief inspection of Yass Valley LGA*' (p.30)

The report considers that a '*key need is to promote the use of native species rather than exotics*' in replanting vegetation. OEH disagrees with this finding.

OEH considers that the key needs are:

- retention of large patches of intact native vegetation,
- retention of hollow resources of large trees and
- improving the condition of grassy box woodlands.

The concluding comments of the EDM Independent Review (p 43) confirms that the proposal has not fully proven that there will be better environmental outcomes and that only limited evidence has been provided.

The Gateway Determination includes the introduction of proposed dual occupancies permissible in certain rural and environmental protection zones where a dwelling is permitted. It is not clear whether this Planning Proposal also includes the provision for dual occupancy. If so there is no discussion examining and supporting this proposal. OEH opposes the introduction of dual occupancies in certain environmental zones without first viewing supportive information.

The following statement within the EDM Independent Review is incongruent with the justification for a blanket minimum lot size reduction across the rural zones:

'there is a pressing need to consider the role of at least two minimum lot size standards, being one for lower lot sizes in the southern section and another a larger minimum lot sizes in the northern and western section of the Yass Valley LGA as supported by land holdings and land value figures' (p.42)

OEH acknowledges the EDM recommendation may have merit as long as sensitive environmental values are identified and avoided in the lower minimum lot size areas by specific provisions.

Consistency with statutory documents

The Planning proposal is inconsistent with the following statutory documents in regards to the protection of the environment.

Yass Valley LEP 2013

The Planning Proposal does not address how the following aim and objectives of the LEP are met:

Clause 1.2

(j) to protect and enhance the environmental and biodiversity values of Yass Valley' and

Land Use Table - Zone RU1:

- To protect and enhance the biodiversity of Yass Valley'.*
- To protect the geologically significant areas of Yass Valley'.*

Use of Council's Biodiversity Map

Environmental considerations in the Planning Proposal and the EDM Independent Review, incorrectly rely upon Clause 6.3 Terrestrial Biodiversity and land identified as "Biodiversity" on the Natural Resources Biodiversity Map to protect areas with environmental value through assessing development applications on a needs basis (p57).

The Natural Resources Mapping does not provide for a strategic overview, or consider cumulative impacts of a widespread planning policy. The inappropriate application of this tool beyond the individual DA consent process would promote the 'death by a thousand cuts' scenario in terms of vegetation clearance and potentially lead to significant impacts upon listed threatened species.

117 Directions

The planning proposal has not demonstrated consistency with all sections of 1.5 Rural Lands of the 117 Directions. Specifically, Section 6(a) requires the proposal to be 'justified by a strategy' and 6(b) requires the planning proposal 'be of minor significance'. OEH considers the potential impact of this planning proposal on the environment within Yass Valley LGA is not of a minor significance.

The consistency with (4) Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008 is discussed below.

State Environmental Planning Policy (Rural Lands) 2008

As mentioned above, OEH considers that the two supporting reports do not adequately consider:

Clause 7 (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,

It is essential that impacts upon the environment are considered at a strategic level, simply saying that it will be addressed at the DA level is not considered adequate. There are existing environmental datasets available to assist Council in identifying the important sensitive areas.

Sydney Canberra Corridor Regional Strategy 2006-2031 (NSW Department of Planning, 2008)

The two supporting reports failed to fully consider the following actions from the Sydney Canberra Corridor Regional Strategy:

"Councils are to ensure that strategies are prepared to manage rural lands to accommodate and protect the range of values that comprise rural lands being scenic, environmental and economic." (p21).

'Local Environmental Plans will:

-Include provisions to limit the number of dwellings in the rural and environmental zones.' (p.21)

'Councils will confirm the location and conservation significance of key assets such as remnant vegetation... in consultation with the Department of Environment and Climate Change (now OEH)in managing rural lands' (p. 44)

'Councils will ensure new rural residential development is directed away from land assessed as being of high conservation value and appropriate planning controls incorporated into local environmental plans to protect biodiversity values on other conservation land' (p.44).

'New development adjoining or adjacent to areas of high biodiversity value will incorporate buffers to avoid land use conflict' (p44).

'Councils will consider controls to limit the creation of additional water rights on land fronting watercourses when preparing local environmental plans...'(p44)

Rural Fires Amendment (Vegetation Clearing) Act 2014

This Act introduces provisions that allow the owner of land situated within a "10/50 vegetation clearing entitlement area" to carry out certain vegetation clearing work on their land without needing approval for the clearing under any other legislation.

Should the planning proposal proceed in its current form, where there is the potential to allow for 3000 additional new dwellings within Yass Valley LGA, clearing of native vegetation associated with this new ACT is likely to be widespread.

OEH welcomes the opportunity to work further with Council in fulfilling requirements of the Section 117 Directions and the Sydney Canberra Corridor Regional Strategy in terms of protection of environmental values across the rural landscape of Yass Valley LGA.

References

Hollier C, Reid M, Francis J and Avery A (2002) "Small and lifestyle farms - has the horse bolted for biodiversity gains?" – in Croswaithe J, Farmar-Bowers & Hollier C (eds) (2003) 'Rural Land Use Change –YES! But will Biodiversity be OK?' Conference proceedings 19-20 August 2002 Attwood, Victoria Department of Sustainability and Environment, Melbourne (p26)

'Practice Note for using spatial information in Local Environmental Plans to protect and manage Environmentally Sensitive Lands Murray-Murrumbidgee Region', Department of Environment and Climate Change NSW, 2009.

<http://www.environment.nsw.gov.au/resources/biodiversity/09353pnforesl.pdf>

Rural Lands Planning Proposal, Yass Valley Council, 2013

State Environmental Planning Policy (Rural Lands) 2008

Sydney Canberra Corridor Regional Strategy 2006-2031, NSW Department of Planning, 2008

Yass Valley Local Environmental Plan 2013

Yass Valley Rural Lands Planning Proposal – Independent Review, EDM, June 2014

Yass Valley – Proposal to Reduce Rural Lot Size from 80 ha to 40 ha with lot averaging, Planning Team Report Dept. Planning and Environment, Oct 2013

