



Rural Lands Planning Proposal
2013
(Amended 2016)

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To lower the minimum lot size across the Yass Valley LGA in the RU1 Primary Production and RU2 Rural Landscape zones from 80 hectares with lot averaging to 40 hectares with lot averaging.

And

To make a dual occupancy permissible in the RU1, RU2, RU4, E3 and E4 Zones wherever a dwelling can be or has been lawfully erected on the land.

Part 2 – explanation of provisions

The proposed outcome will be achieved by:

- Amending the Yass Valley LEP 2013 Lot Size Map for all RU1 and RU2 land from 80 ha (AC) to 40 ha (AB5).
- Amending Section 3 of Clause 4.1B *Subdivision using average lot sizes* to read -

Despite clause 4.1, development consent may be granted to subdivide land in Zone RU1 Primary Production and Zone RU2 Rural Landscape if:

- (a) the average size of all of the lots created will be not less than 40 hectares; and*
- (b) none of the lots created will have an area of less than 20 hectares; and*
- (c) none of the lots created as part of the averaging process will have an area of greater than 70 hectares.*

Note. *Under clause 4.1 a subdivision can create a lot with an area greater than 70 hectares.*

And

- Amending Clause 4.2B *'Erection of dwelling houses and dual occupancies on land in certain rural and environment protection zones'* of the Yass Valley LEP 2013 as follows:
 - (6) Development consent may be granted for the erection of a dwelling house or a dual occupancy on land to which this clause applies if there is a lawfully erected dwelling house or a dual occupancy on the land and the dwelling house or the dual occupancy to be erected is intended ~~only~~ to replace the existing dwelling house or dual occupancy.*
 - (7) 'Despite any other provision of this clause development consent may be granted for the erection of a dual occupancy on land in a zone to which this clause applies if a dwelling house can be or has been lawfully erected on the land.'*

And

- Adding an additional Clause 4.1C *'Additional requirements for subdivision in certain rural zones'* as follows:
 - (1) The objective of this clause is to enable appropriate subdivision design of rural land having regard to topography, agricultural productivity, biodiversity values and environmental impacts.*

- (2) *This clause applies to land in the following zones:*
- (a) *Zone RU1 Primary Production,*
 - (b) *Zone RU2 Rural Landscape,*
 - (c) *Zone RU4 Environmental Management,*
- (3) *Development consent must not be granted to a subdivision of land to which this clause applies unless:*
- (a) *the pattern of lots created by the subdivision and the future location of any buildings on those lots are not likely to have a detrimental impact on any riparian land or watercourses, identified biodiversity values, or exacerbate existing erosion or salinity processes, and*
 - (b) *the subdivision layout has regard to protecting areas of remnant vegetation and will minimise the need for clearing for any future buildings, accessways, fences and any associated Bushfire Asset Protection Zones,*
 - (c) *the subdivision avoids the creation of additional lots that front a watercourse, and*
 - (d) *the subdivision will not adversely affect the use of the surrounding land for agriculture, and will not create lots less than the minimum size shown on the lot size map for any land identified as high value agricultural land.*

Note. *High Value agricultural land with an Agricultural Land Classification of 'Class 1' or 'Class 2' is identified on mapping prepared by the NSW Department of Primary Industries (2002)*

Part 3 – justification

Section A – Need for the planning proposal

Q1. *Is the planning proposal a result of any strategic study or report?*

Prior to the Yass Valley LEP 2013, subdivision of rural land was able to occur under:

- Clause 11 - Yass LEP 1987;
- Clauses 18 & 19 – Yarrowlumla LEP 2002; or
- Clauses 11, 12 & 13 – Gunning LEP 1997.

Each of these LEP's specified an average lot size of 80 ha, however the subdivision and rural dwelling entitlement requirements of each LEP varied.

Prior to the gazettal of these environmental planning instruments, minimum lot sizes were determined in accordance with the following.

Under the former Shire of Goodradigbee Interim Development Order (IDO) No.1 (1966), non-urban zones 1 (a) and 1 (b) had a minimum subdivision lot size of 40 acres (16 hectares) where the intended use of the allotment/s was for a 'country dwelling'. The subsequent Yass Local Environmental Plan No.1 (1981) stipulated a minimum subdivision lot size of 40 hectares, which was later increased to 80 hectares under the provisions of the Yass LEP 1987.

Under the provisions of the Interim Development Order No.1 – Shire of Yarrowlumla (1964), the minimum subdivision lot size for land within non-urban zones 1 (a) and 1 (b) was 50 acres (20 hectares) where the intended use of the allotment was for a 'country dwelling'. Subsequent amendments to the IDO changed the minimum lot size to 40 hectares before the Yarrowlumla LEP 1986 set an 80 hectare minimum lot size for land in the 1 (a) Rural Zone. The Yarrowlumla LEP 1993 maintained the 80 hectare minimum lot size but introduced lot averaging provisions.

Under the provisions of the Gunning Local Environmental Plan No.1 (1981) the minimum subdivision lot size for land zoned 1 (a) and 1 (b) was 80 hectares. This minimum lot size was later carried forward into the Gunning LEP 1997. Yass Valley Council has no records pertaining to the rural minimum lot size of land in the former Gunning Local Government Area prior to 1981.

Yass Valley Council undertook a number of Strategic Planning Studies to inform the preparation of the comprehensive Yass Valley LEP 2013. This included the draft Non-Urban Lands Study which sought to provide the basis for decision making for the future development of Yass Valley's rural lands.

The draft Non Urban Lands Study was prepared by GHD consultants, and provided two options with respect to recommended minimum lot sizes. Option 1 recommended the retention of an 80 hectare minimum lot size, whilst Option 2 recommended 300 hectares in the northern and western parts of the LGA, 80 hectares in the east and 16 hectares in Wallaroo.

During the public exhibition of the draft study in 2009, 105 individual submissions and two (2) petitions with 302 and 85 signatures respectively were provided to Council. The vast majority of comments made in these submissions all opposed the 300 hectare minimum lot size and all supported the retention of rural lot averaging, but overall there was no clear consensus for a minimum lot size for rural land.

Meanwhile, Council continued to lobby the (former) NSW Minister for Planning to retain averaging provisions for rural subdivision in the (then) draft Yass Valley LEP.

During this time, Council focused its resources on the completion of the draft Yass Valley LEP, and it was clear that the additional time and resources required to review the recommendations of the draft Non Urban Lands Study would further delay the comprehensive Yass Valley LEP. Council sought approval from the NSW Planning Minister to defer all non urban lands from the new LEP. In November 2010, the (then) Planning Minister subsequently advised that Council should apply the 80ha minimum lot size as an interim measure, to allow the draft LEP to be finalised as a priority.

As a result, the preparation of the draft LEP continued concurrently with strategic work in relation to Rural Lands Planning. To assist in this strategic Yass Valley Council at its meeting of 28 September 2011 resolved that:

- (a) *A Council Committee be formed under Section 355 of the Local Government Act (1993) and delegated powers under Section 377 of the Local Government Act (1993). This Committee is to be known as the "Yass Rural Lands Planning Committee" and has the following role, responsibilities and structure:*

Role:	To assess any aspect of "Rural Lands Planning" referred to the committee by the Council.
Responsibilities:	▪ To independently consider and provide advice on a number of aspects of "Rural Lands Planning" including but not limited to: 1. Maintaining a right to farm; 2. Rural superannuation; 3. Rural succession planning; 4. Maintaining productive agricultural land; 5. The influence of banks / borrowing capacity on rural land management; 6. Managing rural conflict; 7. Sustainable land management in a variable landscape; 8. Native vegetation management; 9. Rural minimum lot sizes; 10. Rural allotment averaging; and 11. The demand for a range of rural minimum lot sizes. ▪ To conduct all necessary meetings and make any such other inquiries as are necessary for the committee to inform itself; <u>and</u> ▪ To critically review the specific work undertaken by Council Staff in relation to "Rural Lands Planning".
Delegations:	Nil
Meetings:	As determined by voting members
Voting Members:	The Mayor of Yass Valley Council 1 Representative of the Rural Banking sector 1 Local Representative of the NSW Department of Agriculture 1 Local Representative of the NSW Farmers Federation 1 Representative of the Murrumbidgee Catchment management Authority 1 Local agricultural economist 1 Local agronomist

	1 Local Representative of the Livestock Health and Pest Authority 1 Local Real Estate Agent 1 Representative of the Rural Financial Counselling Service 2 Community members who are owners / managers of rural holdings with a land area between 16 and 80 hectares 2 Community members who are owners / managers of rural holdings with a land area greater than 80 hectares
Non Voting Members:	Strategic Planning Manager and Strategic/Environmental Planner
Chair:	The Mayor of Yass Valley Council
Reports to:	Submits reports and recommendations to Council through the Director
Responsible Officer:	Director of Planning and Environmental Services

- (b) *The Mayor be appointed to the Committee as Chair;*
- (c) *Nominations be called from the local community for all non Council positions on the Committee;*
- (d) *A report be brought back to Council by no later than December 2011 detailing the nominations received from the local community for all non Council positions on the Committee;*
- (e) *The following process be adopted for the preparation of a rural lands planning study so that a planning proposal can be prepared.*

This committee met on six occasions. At its meeting of 26 July 2012, the committee recommended that Council lodge its submission titled *'Enhancing the sustainable development of rural land in the Yass Valley Local Government Area'* direct to the Minister for Planning and Infrastructure. A copy of the submission is included at Appendix A.

The Minister for Planning and Infrastructure subsequently replied on 25 September 2012, recommending that Council 'make' the Yass Valley LEP with the 80 hectare minimum lot size (with averaging) and then approach the Department to consider a Planning Proposal to change the minimum lot size for rural land.

And

The draft Yass Valley LEP 2013 was publicly exhibited between 25 July and 22 August 2012. The draft version included clause 4.2C Erection of dual occupancies on land in certain rural and environmental protection zones. Part (4) of the draft clause was drafted as follows:

'Despite any other provision of this clause development consent may be granted for the erection of a dual occupancy on land in a zone to which this clause applies if a dwelling house can be or has been lawfully erected on the land.'

Part (4) was included to address an issue with Clause 15 of the (former) Yass LEP 1987 to enable the consideration of a 'dual occupancy' on land where an existing dwelling – although lawful, may not have had development consent due to the age of the building. It was important to address this inconsistency between older or heritage dwellings within rural and environmental areas compared to more recently constructed dwellings which obtained development consent. There is no basis for distinguishing dual occupancy permissibility between the two.

A copy of the draft clause 4.2C as publicly exhibited is included as Appendix B.

Following public exhibition, clauses 4.2B and 4.2C were merged to cover both dwelling houses and dual occupancies within certain rural and environmental protection zones. 4.2C (4) was omitted, although it appears that this was an unintentional oversight from the NSW Planning Legal Branch.

Q2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The primary objective of this planning proposal is to lower the minimum lot size across the Yass Valley LGA in the RU1 and RU2 Zones from 80 hectares with lot averaging to 40 hectares with lot averaging.

The most feasible way to facilitate this, is through amending the applicable Lot Size maps for all RU1 and RU2 land from 80 ha (AC) to 40 ha (AB5), and amending Section 3 of Clause 4.1B *Subdivision using average lot sizes*. This allows for a consistent approach to rural land development and management across the local government area.

The only alternative mechanism within the LEP to enable this, is through Schedule 1 *Additional Permitted Uses*, however this would only facilitate subdivision over particular land which was so described in Schedule 1. This approach is considered inequitable and inconsistent, and would require significant resourcing as Planning Proposals would need to be prepared and considered on a site specific basis.

Clause 4.2(3) of the Yass Valley LEP 2013 already allows for subdivision for the purpose of primary production to create a lot less than the minimum lot size shown on the Lot Size Map. Clauses 4.2(4) and (5) however prevents either an existing or new dwelling being located within that lot. The *Yass Rural Lands Planning Committee* provided advice to Council that it was critical that dwellings be permitted on these smaller lots for several reasons, including the ability to satisfactorily manage the primary production undertaken on the land, as well as undertaking effective pest and weed management.

This issue has been considered in other states and in particular it is worthy to note the Municipal Association of Victoria Small Rural Lots Project (September 2012) which discussed the implications of not allowing dwellings on small lots. It focused on the lack of weed management, as well as the potential for owners to use the land for Carbon Farming plantations –which, if left unmanaged increases bushfire risk.

Also, there is no other way to change the permissibility of dual occupancies incorporating existing lawful dwelling houses, other than to amend Clause 4.2B as proposed.

Section B – Relationship to strategic planning framework.

Q3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The Sydney Canberra Corridor Regional Strategy (2008) highlights the need to adapt to new technologies and climatic conditions. Smaller rural lot sizes would enable landowners within the Yass Valley to move away from traditional wool and meat industries and pursue new enterprises enabled by off farm incomes. As the strategy states- *"Farmers need to be able to pursue new markets and forms of production without unreasonable restrictions on land use."*

The Yass Valley abuts the ACT and as such, it is able to provide for small lot primary production which can supply Canberra or Sydney markets via the Barton, Hume and Federal Highways. Its location facilitates off farm income through employment in the ACT, enabling the continuation of primary production and a range of other agricultural/rural uses.

The ability to use 'averaging' within subdivisions will allow for a mix of lot sizes, enabling the retention of larger 'residual' lots for extensive agricultural production, as well as smaller more intensive agriculture or rural lifestyle lots. Lot averaging also allows for more site responsive lot layouts to take into account the environmental values and topography of the land.

The Sydney Canberra Corridor Regional Strategy states that: *'Population growth is being driven by people moving into the Region because of their desire to live within a rural setting, as well as those seeking more affordable housing, but with continued access to the economic opportunities provided by Sydney or Canberra.'*

The issue of long term land use in peri-urban areas is raised in the strategy. The NSW and ACT Governments subsequently signed a Memorandum of Understanding (MOU) for Regional Collaboration in 2011. One of the actions under this MOU is the preparation of a strategic plan for land use and infrastructure across the ACT–NSW border, incorporating this peri-urban area. This together with a local strategy undertaken by Yass Valley Council will review land and settlement locations within this peri-urban area. It is likely that these two strategies will recommend further changes to zones or lot sizes, together with infrastructure requirements. Until such time however, it is intended that the proposed minimum lot size would act as a 'green' buffer between urban ACT development and the existing established settlements of Yass and its Villages.

In addition, allowing for the permissibility of dual occupancies on land where there is an existing lawful dwelling addresses an inconsistency between the draft Yass Valley LEP 2013 and the Yass Valley LEP 1987 as gazetted.

Q4. *Is the planning proposal consistent with a council's local strategy or other local strategic plan?*

Council has a standing resolution from its meeting of 26 November 2003 to prepare an amendment to the (former) Yass LEP 1987 to address the dual occupancy issue.

Clause 4.2C (4) of the draft Yass Valley LEP 2013 sought to address a matter which has been an ongoing issue with Clause 15 of the (former) Yass LEP 1987 for in excess of ten years. In an initial attempt to address this issue, Amendment 81 to the Yass LEP 1987 was submitted to the (then) Department of Infrastructure, Planning and Natural Resources in December 2003.

This amendment was to enable the consideration of a dual occupancy in a rural or environmental zone wherever there was a "legal" existing dwelling or where a new dwelling could be erected under Clause 14 Existing Parcel provisions. Amendment 81 did not proceed at that time, due to Local Government Amalgamations.

Although not directly applicable to the Yass Valley, the ACT Planning Strategy was endorsed in July 2012, and it emphasises the importance of retaining the rural landscape setting and agriculturally productive land around Canberra.

It also states that *"The lifestyle opportunities afforded by the region will be recognised and supported – the opportunity to live in an urban or suburban environment, rural village, the 'bush' or on a farm."*

The strategy acknowledges the need to manage land use conflicts, bushfire risk and weed control at the 'suburban edge'. It is considered that this proposal is consistent with the ACT Planning Strategy.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

State Environmental Planning Policy (Rural Lands) 2008

7 Rural Planning Principles

(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,

The predominant agricultural use within the Yass Valley LGA remains extensive agriculture as the majority of rural land is best suited for this use (see **Table 1**). Unlike areas of western NSW, it is not an option within the Yass Valley to convert to large scale cropping. The profitability of sheep grazing enterprises has however changed substantially over the past twenty years, with increased costs and reduced income. As the cost price pressures have increased there has been a need for farmers to run more stock to earn the same net income. This can be done by either increasing the productivity of their existing holding and/or by purchasing additional land. Stocking requirements for a profitable sheep operation in NSW have increased from 2000 sheep in 1970 (Dept Ag/CSIRO Yass Valley Project 1970) to 7,500 or more sheep under current conditions. In recent years, returns from sheep have improved, and the outlook for the Yass Valley is that it will continue to have a significant grazing industry into the future.

Table 1: Primary Agricultural Commodities Yass Valley LGA

Yass Valley LGA Agricultural Commodities data		
Commodity	Area (hectares)/ total no.	No. of businesses
Sheep (no.)	761,601	368
Cattle (no.)	43,231	321
Horses - stud (no.)	573	47
Goats (no.)	871	23
Poultry (no.)	3,697	12
Broadacre crops (ha)	8,554	65
Grapevines for wine production (ha)	393	65
Orchard fruit and nut trees (ha)	57	16
Vegetables for human consumption (ha)	19	10
Nurseries, cut flowers or cultivated turf (ha)	14	8
Berry fruit (ha)	2	3

ABS, Agricultural Census, 2010-11

The Yass Grazing Comparative Analyses undertaken in 2001 and 2007 did not demonstrate any correlation between scale and profitability (**See Figures 1 & 2**).

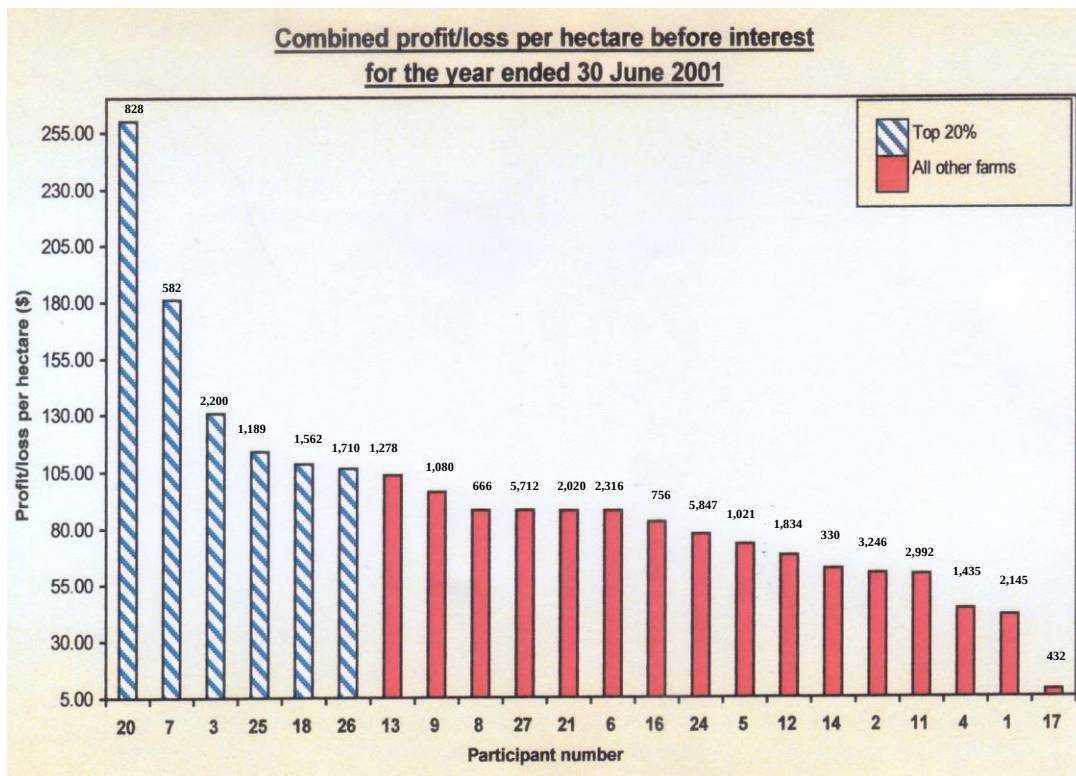


Figure 1

Figure 1 suggests that the quality of land and farm management are the key differences in the profitability of farms. The more successful grazing enterprises have the ability to focus on the three key profit drivers:

- Land productivity – sustainable stocking rate (DSE/ha)
- Labour productivity – DSE's managed per labour unit
- Livestock productivity – genetics

The carrying capacity of land is dependent upon its physical characteristics (pasture, rainfall, soil, slope etc) as well as fertiliser use. It ranges from 3 to 12 DSE/ha or more with intensive grazing. Yass Valley has a similar DSE range to surrounding areas, however this is not reflected in a consistent minimum lot size for rural subdivision across adjacent local government areas.

To be fully self employed as a grazier within the Yass Valley LGA, you would need to stock the following scale:

- Self-replacing merino flock 8,000 DSE
- Store lamb flock 10,000 DSE
- Cattle breeding 15,000 DSE

As such, the current 80 ha minimum lot size is already considerably less than the 'productive' area required for this type of industry and therefore a reduction in the minimum lot size to 40 ha, should make very little difference in terms of overall productivity.

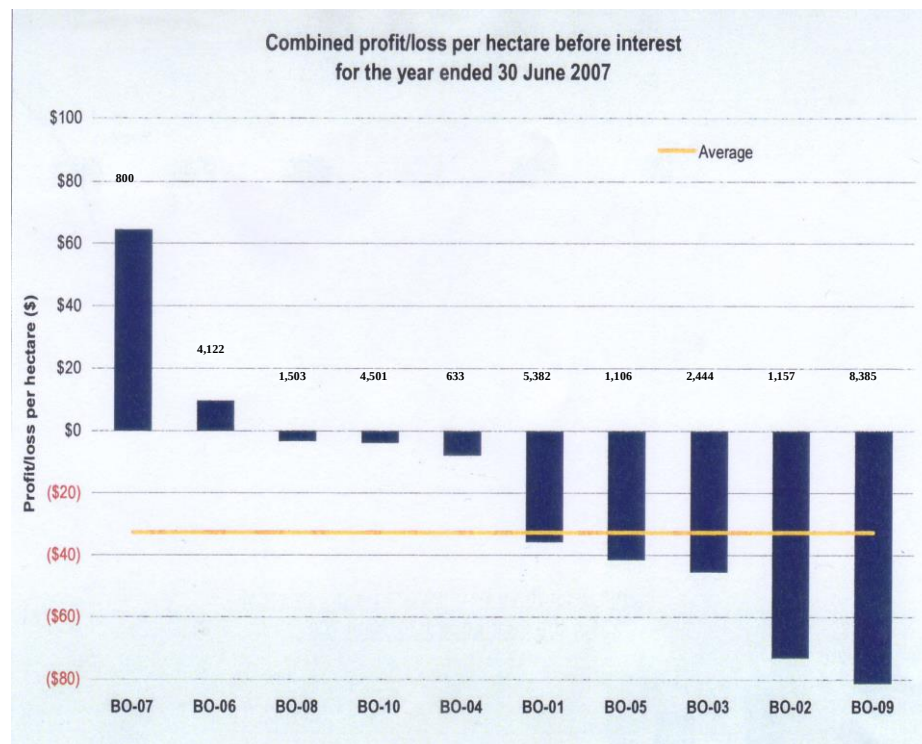


Figure 2

The current trend across the Yass Valley rural landscape is towards smaller properties and the focus has shifted from the wool industry, towards more cattle, prime sheep. This has occurred for a number of reasons including changing commodity prices and less on-farm labour being required for cattle enterprises. The last ten years has also seen an increase in stocking livestock that are not traditionally farmed within the Yass Valley such as alpacas, goats, exotic sheep breeds and miniature cattle. These niche breeds generally require far less land area than traditional livestock.

There has been a continuing trend towards smaller, more intensive agriculture for food production including horticulture, hydroponics and free range egg/poultry production. **Table 1** details the extent of the intensive agricultural activities undertaken in the Yass Valley LGA at the time of the 2010-11 Agricultural Census. This has been combined with a focus on 'farm to plate' approaches across the Yass Valley complemented by farmer's markets in Yass, Murrumbateman and Canberra; cellar doors, truffle hunts, organic farming suppliers and the 'Poacher's Way' food and wine trail extending over the Yass Valley into the ACT. As more intensive uses are facilitated, it increases the capital and employment flow into the Yass Valley Local Government Area. It also increases rural economic diversity moving away from a traditional homogenous grazing economy.

The existing wine industry is concentrated in the Murrumbateman – Nanima- Jeir section of the LGA, which coincidentally has the largest concentration of smaller rural allotments due to the presence of the former 1(d) Rural Small Holdings zone and concessional allotments under the Yass LEP 1987 and the historic 16 ha and 20 ha minimum subdivision sizes under the Goodradigbee and Yarrawlumla IDOs respectively. The former Yass, Gunning and Yarrawlumla LEP's were also reasonably restrictive in the nature of the uses permitted within each respective rural zone. The Yass Valley LEP 2013 has introduced a broader, consistent range of permitted uses across all rural lands within the LGA.

Smaller lots between 20 and 40 hectares are best suited for these types of intensive agriculture. The smaller lots around 20 hectares in area are suited to those who have off farm employment and still want to undertake some form of agricultural activity. Larger lots in the 70-100 ha range are still required for extensive grazing, but are generally larger than buyers require or can manage whilst engaged in off farm income.

While the creation of smaller 20 ha lots may result in some being removed from agricultural productivity, it does provide the ability to generate income for farmers to help manage a difficult economic period with the least amount of impact on the residual portion of the property. The *Yass Rural Lands Planning Committee* have advised that in the bigger picture, this does more to maintain the local agricultural productivity of the Yass Valley and region as a whole. At the other end of the spectrum are larger more traditional farms, which are often starved for income and capital injection to either expand or improve existing farming techniques.

The planning proposal provides the opportunity to diversify the economic activities undertaken on rural land in the Yass Valley LGA while maintaining the viability of existing agricultural enterprises in RU1 and RU2 Zones and is therefore consistent with this principle.

(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,

The planning proposal acknowledges that the agricultural economy in the Yass Valley LGA is becoming more diverse. While extensive agriculture remains the dominant land use in the RU1 and RU2 Zones, intensive agriculture and tourism are also significant contributors to the local economy.

Reducing the minimum lot size in the RU1 and RU2 Zones will increase the number of smaller rural lots available for intensive agricultural activities and where appropriate, other suitable land uses including restaurants and tourist accommodation.

As stated above, the planning proposal encourages the retention of large landholdings for extensive agricultural purposes through the ability to undertake site responsive subdivisions while also improving the financial position of these enterprises.

While some allotments created via subdivision will be used for rural living purposes, it is considered that the majority of this type of land use will be accommodated by land already zoned R5 Large Lot Residential. In addition, allotments in excess of 20 hectares in size are not considered to be desirable for this type of land use due to the resources required to effectively manage the land.

In short, lowering of the minimum lot size in the RU1 and RU2 Zones will create the flexibility required to respond to changing trends and evolving pressures.

(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

The planning proposal could create opportunity for innovation and diversity in the RU1 and RU2 Zones. Lowering the minimum lot size will encourage the continuation and expansion of existing extensive agricultural land uses while providing more land for intensive agriculture and tourism related activities.

Intensive agricultural and tourist land uses are currently permitted with consent in the RU1 and RU2 Zones and are consistent with the zone objectives. Therefore, the planning proposal does not undermine the significance of rural land uses in the Yass Valley LGA.

Increased investment in rural land uses in the Yass Valley LGA will contribute to the rural economy and rural communities through employment generation, better land management, increased access to a broader range of goods and services, increased social diversity, and an increased rate base to fund the provision of essential services and infrastructure.

In accordance with Schedule 2 of the Rural Lands SEPP there is no State significant agricultural land in the Yass Valley LGA.

(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,

Primary production is extremely sensitive to a range of external factors including climate, regional, state and federal economies, as well as local and global commodity market conditions. Given these financial sensitivities and the resultant impacts on the wider regional economy, flexibility is needed for farming assets to allow landowners to retain the farm, but also to reinvest back into the farm.

Banks have a lower lending value for rural property, as opposed to residential property. Generally this relates to the liquidity and purpose of the asset – and residential property is more liquid than farming property. Lending value for farming property is up to 70% of the valuation/market value, whereas it is up to 80% for residential and rural residential properties. Other factors which influence borrowing capacity are asset value, the ability to service debt, and the equity a landowner has built up in a property. The minimum subdivision size within an LEP has a substantial impact on rural asset value. If the land can be subdivided, and the resultant lot has a dwelling entitlement, the land value is significantly higher – sometimes double. Furthermore, the zoning of the land and its proximity to village/urban areas also affects its value and therefore the ability to borrow against it.

Prior to the 2002-10 drought, many existing farmers had off farm investments, which they needed to sell to retain the farm. The vast majority of farmers now have few, if any off-farm assets, leaving them asset rich and cash poor. As a result, many rural purchasers will pay a premium for agricultural properties that have the potential for future subdivision. It provides them with an 'insurance policy' if economic conditions downturn.

The *Yass Rural Lands Planning Committee* advised that the majority of traditional primary production will only be able to continue on larger farms if landowners can access a more secure capital base and an off-farm income. With the exception of horticulture, properties less than 500 hectares usually have some form of off-farm income. The number of farmers and their families with off-farm secondary income has increased over the past 20 years in the Yass Valley. This has occurred for a number of reasons including the collapse of the wool floor price in the early 1990's, the drought from 2002-2010, and the subsequent difficulties in servicing farm debt. This trend has also increased with many women now seeking an income and/or career away from the farm. Off-farm income allows not only for a financial 'safety net' during difficult conditions, but also a source of re-investment into the farm during good conditions. This however creates other issues in terms of the ability to manage and operate a traditional large grazing enterprise whilst being employed off farm. This will become an increasing issue within an ageing 'full time' farming community. The median age for farmers in Australia was recorded by the ABS as 53 years (2010-11). Attracting and retaining young farmers in the agricultural industry will be a challenge given the ongoing economic pressures and drought/climatic conditions – especially if the only option is to take on larger farms and the associated debt.

Farming business structures have traditionally centered around family partnerships, and as such, the ability to fund intergenerational succession planning is increasingly difficult. When many existing farmers began their businesses, superannuation was uncommon, and as farmers of the older age group are unlikely to have had off-farm employment, no contributions have been made on their behalf. Superannuation is also not compulsory for (farm) business owners, and profits which could have been set aside as superannuation, have usually been reinvested in the farm to improve productivity or pay debt. As a result, the farmer relies on their asset – the farm, for their superannuation, and if unable to sell part of the farm to realise the value, is forced to sell the farm in its entirety, and ultimately leave the farming industry early. Alternatively, they are forced to continue on the farm with reduced productivity until they are able to bequeath it to their children.

In the Yass Valley, succession planning for the next generation is critical from a very early stage due to the high cost of land, and the inability of children to purchase the property from their parents upon retirement. Furthermore, lifestyle requirements (e.g. younger, time poor,

frequent travelers) have seen the demand for larger properties over 80 hectares diminish. Planning provisions which enable the next generation to farm alongside their parents as they approach retirement – perhaps on a smaller scale- without inheriting significant debt, is important in supporting agricultural viability in the Yass Valley into the future. The success of intergenerational change within the farming industry needs to be supported by flexibility in LEP subdivision provisions.

In summary, when a minimum lot size is too high, it removes the flexibility for farmers to respond to drought, superannuation or succession by selling a portion of the farm. When a minimum lot size is too high, it also increases the likelihood that the whole farm will be required to be sold, rather than be able to be split between siblings to allow the family business to continue. Providing more flexibility and options increases rural social diversity within the Yass Valley. This includes diversity in age, education, income, social and political background equating to a more progressive rural community, while also supporting the continuation of productive traditional family farming practices.

(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,

Council's LEP Natural Resource Mapping identifies areas of biodiversity significance, areas subject to groundwater vulnerability and areas subject to soil erosion and salinity. These maps enable Council to identify areas of potential significance and vulnerability in the assessment of Development Applications. Where land is believed to be of significance or vulnerability a Development Application will be assessed in accordance with the applicable local provision in the Yass Valley LEP 2013.

(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

The planning proposal will increase the number of allotments in the RU1 and RU2 Zones with dwelling entitlements.

The planning proposal does not however propose to rezone any land to R5 Large Lot Residential. Council's Town and Villages Study has identified sufficient rural residential land supply for a 20-30 year period, based on forecasted population growth rates.

Increasing the number of allotments with dwelling entitlements will increase rural housing opportunities ancillary to the primary use of the land for rural or tourist purposes that would otherwise not exist.

In addition, the ability to create allotments with dwelling entitlements in the RU1 and RU2 Zones provides an alternative means of income generation and financial security for extensive agricultural enterprises in particular. This enables these enterprises to survive and flourish while also encouraging intergenerational farming and succession planning.

The permissibility of dual occupancies is also important, particularly as it supports ongoing family involvement and intergenerational management of primary production. This change will ensure that there is equitable access to this housing option across the Yass Valley LGA.

(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,

Allotments created via subdivision in accordance with the provisions contained within the planning proposal will not be serviced by reticulated water or sewerage infrastructure. On-site water supply and effluent disposal will be required for all new dwelling houses in the RU1 and RU2 Zones.

Road infrastructure, upgrades and maintenance will, where applicable, be paid for and maintained in accordance with Yass Valley Council's Section 94 Contributions Plans. Adequate property vehicular access must be provided where a dwelling house is to be erected on an allotment in the RU1 or RU2 Zones in accordance with Council's Road Standards Policy.

The provision of electricity and telecommunications infrastructure is the responsibility of the landholder and will be taken into consideration during the development assessment process.

(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

The NSW Sydney-Canberra Corridor Regional Strategy outlines a plan for growth up to 2031. The Yass Valley lies within the southern subregion of the Sydney-Canberra Corridor.

The Strategy identifies the importance of supporting the agricultural industry, encouraging a diversity of rural land uses and providing certainty for rural and rural residential land uses. The demand for land for intensive agriculture and tourism in the Yass Valley LGA is already demonstrated in various locations throughout the LGA.

The planning proposal will encourage the stability and growth of extensive agricultural enterprises in the Yass Valley LGA through providing greater financial security to landholders. The ability to create smaller rural allotments will increase equity, enable the maintenance of business operations in times of climatic fluctuations, ability to carry out succession planning, ability to increase the borrowing capacity to grow the business, etc. In addition, the provision of smaller lot sizes will diversify the rural economy in the Yass Valley LGA by providing more opportunities for investment in intensive agriculture and tourism.

8 Rural Subdivision Principles

(a) the minimisation of rural land fragmentation,

Lots created via subdivision in accordance with the proposed lot size provisions will not necessarily constitute a shift in the use of the land away from rural uses towards rural residential uses. Rather, smaller rural allotments created via subdivision will increase the opportunities for intensive rural uses similar to those currently seen in the RU4 Primary Production Small Lots Zone. Given the time and financial resources required to effectively manage allotments in excess of 20 hectares in size, it is highly unlikely that lots created via subdivision will be utilised for rural residential purposes. The lot averaging clause included in the proposed lot size provisions will enable subdivision of land/s in excess of 80 hectares to occur using a range of lot sizes to cater for the agricultural suitability of the land/s, environmental constraints and land ownership patterns. Therefore, although the number of allotments created via subdivision in the RU1 and RU2 Zones will increase as a result of the planning proposal rural land uses will continue to be undertaken in these zones.

(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,

Although the planning proposal will increase the number of rural lots with dwelling entitlements in the Yass Valley LGA it is not anticipated that this will lead to a significant increase in land use conflict. Given the planning proposal will only apply to land already zoned for rural purposes, conflict resulting from rezoning should be minimal. In addition, lots created via subdivision in accordance with the proposed lot size provisions will be too large for use as residential or rural residential allotments. Rather, these allotments will enable the continuation of rural land uses, through providing farmers with the ability to increase their equity, or establishment of new intensive uses through the creation of more allotments economically viable for intensive rural enterprises.

(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,

The planning proposal does not identify any additional areas for potential rural residential development. Rural residential and small lot primary production land supply was considered by Council within the Yass Valley Town and Villages Study 2010, endorsed by the NSW Department of Planning & Infrastructure. The Town and Villages Study identified land which was subsequently rezoned in the Yass Valley LEP 2013 as well as land which Council considers may be appropriate for future investigation for a range of uses, including residential and rural residential. The land either rezoned or identified for future investigation will supply the Yass Valley LGA with sufficient greenfield residential and rural residential land for the next 20-30 years based on current population forecasts.

(d) the consideration of the natural and physical constraints and opportunities of land,

The Yass Valley LEP 2013 natural resource management mapping will enable Council to ensure that development applications in areas identified as having particular biodiversity, land and/ or water significance or vulnerabilities will be assessed accordingly and referrals undertaken where appropriate.

The proposed lot averaging clause will enable landholders to undertake site responsive subdivisions which preserve land suitable for extensive agriculture or of high biodiversity or environmental values while maximizing the potential of land more suitable for a range of intensive agricultural land uses and rural tourism opportunities.

(e) ensuring that planning for dwelling opportunities takes account of those constraints.

Although any allotments created via the provisions contained in the planning proposal will automatically have dwelling entitlements, the primary use of allotments created via the provisions will not be residential. It is anticipated that the use of the land for residential purposes will be ancillary to land uses such as extensive or intensive agriculture, cellar doors or tourist facilities and accommodation.

The provisions of Council's *Bird Scaring Devices* policy and *Building Line – Rural and Rural Residential Land* policy will be applied where appropriate to minimise land use conflict.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Section 117 Directions	
1. Employment and Resources	
1.1 Business and Industrial Zones	Not applicable.
1.2 Rural Zones	Consistent. The planning proposal does not recommend that land zoned Rural be rezoned for residential, business, industrial, village or tourism purposes. Direction 4(b) does not apply to the Yass Valley Local Government Area.
1.3 Mining, Petroleum Production and Extractive Industries	Consistent. The NSW Department of Primary Industries (NSW DPI) Mineral Resource Audit for the Yass Valley LGA identifies resource areas, potential resource areas and associated transition areas. Council acknowledges that the planning proposal may result in additional development of Rural land in proximity to identified resource areas. Accordingly, Council will consult with NSW DPI following the receipt of a gateway determination in accordance with 5(a), (b) and (c) of the s117 direction.
1.4 Oyster Aquaculture	Not applicable.
1.5 Rural Lands	Consistent. Refer to SEPP (Rural Lands) 2008 – Rural Planning Principles and Rural Subdivision Principles assessment (above).
2. Environment and Heritage	
2.1 Environment Protection Zones	Consistent. The planning proposal does not apply to land zoned for environmental protection in the Yass Valley LEP 2013. Council will continue to assess development applications for land zoned RU1 or RU2 in accordance with local provisions for terrestrial biodiversity, riparian land and watercourses, groundwater vulnerability, salinity and highly erodible soils, and associated natural resource management mapping.
2.2 Coastal Protection	Not applicable.
2.3 Heritage Conservation	Consistent. The Yass Valley LEP includes a comprehensive Schedule of items of Environmental Heritage as well as Heritage Conservation Areas which will facilitate the conservation of items and places of significance in the Yass Valley. The planning proposal does not alter the comprehensive heritage schedule or the associated heritage provisions. Enabling the permissibility of dual occupancies in relation to those items on the LEP schedule in rural and environmental zones may assist in ensuring their retention, particularly as most would not have obtained formal development consent. The current wording of clause 4.2B only allows for a new dwelling/dual occupancy in these situations if it is intended to

	replace the existing dwelling. There is one declared Aboriginal Place within the Yass Valley LGA, located within Yass Town. There are many other Aboriginal objects or sites protected under the National Parks and Wildlife Act 1974 in the Yass Valley LGA (Aboriginal Heritage Information Management System -AHIMS register). Council's draft Aboriginal Heritage Study is on public exhibition at the time of preparing this planning proposal. The study makes some additional recommendations for possible inclusion in the AHIMS register, together with possible management recommendations.
2.4 Recreation Vehicle Areas	Not applicable.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Not applicable.
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.
3.3 Home Occupations	Consistent. The Standard Instrument LEP mandates that Home Occupations are Permitted without Consent in the RU1, RU2, RU4, RU5, R1, R2, R5, E3 and E4 Zones. The Yass Valley LEP 2013 has also included Home Occupations as Permitted without Consent in the R3 Zone. The planning proposal does not alter permitted and prohibited uses in the Yass Valley LEP 2013.
3.4 Integrating Land Use and Transport	Not applicable.
3.5 Development Near Licensed Aerodromes	Consistent. The planning proposal does not recommend that land within the ANEF 20 contour surrounding Canberra Airport be rezoned.
3.6 Shooting Ranges	Not applicable.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Not applicable.
4.2 Mine Subsidence and Unstable Land	Not applicable.
4.3 Flood Prone Land	Consistent. Development Applications for land zoned RU1 or RU2 will continue to be assessed in accordance with Clause 6.12 <i>Flood Planning</i> of the Yass Valley LEP 2013 where the land is at or below the flood planning level.
4.4 Planning for Bushfire Protection	Consistent. Council will consult with the NSW Rural Fire Service following the receipt of a Gateway Determination.
5. Regional Planning	
5.1 Implementation of	Consistent. Refer to SEPP (Rural Lands) 2008 – Rural Planning

Regional Strategies	Principles assessment.
5.2 Sydney Drinking Water Catchments	Not applicable.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not include any provisions that will require concurrence, consultation or referral to a Minister or Public Authority. The wording for dual occupancies in certain rural and environmental zones was previously notified to the community and public agencies as part of the public exhibition of the Yass Valley LEP 2013. Council acknowledges that Clause 4.6 of the Yass Valley LEP 2013 may be used more regularly where lots do not meet the Minimum Lot Size in the RU1 or RU2 Zone. The planning proposal does not identify any development as designated development.
6.2 Reserving Land for Public Purposes	Consistent. The planning proposal does not affect land zoned for public purposes.
6.3 Site Specific Provisions	Consistent. The planning proposal does not recommend the application of any site specific provisions.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Not applicable.

Section C – Environmental, social and economic impact

Q7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

There are numerous native species within the Yass Valley LGA protected under the provisions of the NSW *National Parks and Wildlife Act 1974*, NSW *Threatened Species Conservation Act 1995*, and the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*.

The NSW Wildlife Atlas lists a total of 66 fauna and 37 flora threatened species within the Yass Valley LGA (Table 2 and Table 3). Seven ecological communities are listed as endangered under the provisions of the TSC Act and the EPBC Act (Table 4).

Table 2: Threatened Fauna within the Yass Valley LGA

	Common Name	NSW status	C'th status
Frogs (7)	Sloane's Froglet	V	
	Northern Corroboree Frog	E4A	V
	Green and Golden Bell Frog	E1	V
	Booroolong Frog	E1	E
	Yellow-spotted Tree frog	E4A	E
	Southern Bell Frog	E1	V
	Alpine Tree Frog	E1	V
Reptiles (5)	Pink-tailed Legless Lizard	V	V
	Striped Legless Lizard	V	V
	Grassland Earless Dragon	E1	E
	Rosenberg's Goanna	V	
	Little Whip Snake	V	
Birds (38)	Magpie Goose	V	
	Blue-billed Duck	V	
	Freckled Duck	V	
	Australasian Bittern	E1	E
	Spotted Harrier	V	
	Little Eagle	V	
	Square-tailed Kite	V	
	Grey Falcon	E1	
	Brolga	V	
	Bush Stone-curlew	E1	
	Australian Painted Snipe	E1	V
	Black-tailed Godwit	V	C,J,K
	Gang-gang Cockatoo	V	
	Glossy Black-Cockatoo	V	
	Major Mitchell's Cockatoo	V	
	Little Lorikeet	V	
	Swift Parrot	E1	E
	Turquoise Parrot	V	
	Superb Parrot	V	V
	Barking Owl	V	
	Powerful Owl	V	
	Eastern Grass Owl	V	
	Brown Treecreeper (eastern subspecies)	V	
	Speckled Warbler	V	

	Common Name	NSW status	C'th status
	Regent Honeyeater	E4A	E
	Pied Honeyeater	V	
	White-fronted Chat	V	
	Painted Honeyeater	V	
	Black-chinned Honeyeater (eastern subspecies)	V	
	Grey-crowned Babbler (eastern subspecies)	V	
	Varied Sittella	V	
	Gilbert's Whistler	V	
	Olive Whistler	V	
	Hooded Robin (south-eastern form)	V	
	Scarlet Robin	V	
	Flame Robin	V	
	Pink Robin	V	
	Diamond Firetail	V	
Mammals (15)	Spotted-tailed Quoll	V	E
	Brush-tailed Phascogale	V	
	Koala	V	V
	Eastern Pygmy-possum	V	
	Yellow-bellied Glider	V	
	Squirrel Glider	V	
	Yellow-bellied Sheath-tail-bat	V	
	Little Pied Bat	V	
	Eastern False Pipistrelle	V	
	Eastern Bentwing-bat	V	
	Southern Myotis	V	
	Corben's Long-eared Bat	V	V
	Greater Broad-nosed Bat	V	
	Broad-toothed Rat	V	
	Smoky Mouse	E4A	E
Insect	Golden Sun Moth	E1	CE

V Vulnerable (NSW *Threatened Species Conservation Act 1995*)

E1 Endangered (NSW *Threatened Species Conservation Act 1995*)

E4A Critically Endangered (NSW *Threatened Species Conservation Act 1995*)

V Vulnerable (Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*)

E Endangered (Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*)

CE Critically Endangered (Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*)

C Listed on China Australia Migratory Bird Agreement (CAMBA)

J Listed on Japan Australia Migratory Bird Agreement (JAMBA)

K Listed on Republic of Korea Australia Migratory Bird Agreement (RoKAMBA)

Table 3: Threatened Flora within the Yass Valley LGA (OEH, 2012)

	Common Name	NSW status	C'th status
Herbs and Forbs (20)	Yass Daisy	V	V
	Mauve Burr-daisy	V	V
	Monaro Golden Daisy	V	V
	Button Wrinklewort	E1	E
	Woolly Ragwort	V	V
	Aromatic Peppergrass	E1	E
	Round-leafed Wilsonia	E1	
	Trailing Monotoca	E1	
	<i>Bossiaea fragrans</i>	E4A	
	Small Scurf-pea	E1	
	Michelago Parrot-pea	E1	
	Dwarf Bush-pea	V	

	Common Name	NSW status	C'th status
	Small Purple-pea	E1	E
	Silky Swainson-pea	V	
	Austral Pillwort	E1	
	<i>Austrostipa wakoolica</i>	E1	E
	Austral Toadflax	V	V
	Creeping Hop-bush	V	V
	Mueller's Eyebright	E1	E
	Rough Eyebright	E1	
Orchids (5)	Sand-hill Spider Orchid	E1	E
	Crimson Spider Orchid	E1	V
	Buttercup Doubletail	E1	V
	Pine Donkey Orchid	V	
	Tarengo Leek Orchid	E1	E
Shrub (9)	Kydra Westringia	E1	E
	Wee Jasper Grevillea	E4A	E
	Tumut Grevillea	E1	E
	Leafy Anchor Plant	V	
	Cotoneaster Pomaderris	E1	E
	Pale Pomaderris	V	V
	Araluen Zieria	E4A	E
	Lemon Zieria	E1	V
	Dwarf Kerrawang	E1	E
Trees (3)	Black Gum	V	
	Small-leaved Gum	E1	V
	Silver-leaved Gum	V	V

V Vulnerable (NSW *Threatened Species Conservation Act 1995*)

E1 Endangered (NSW *Threatened Species Conservation Act 1995*)

E4A Critically Endangered (NSW *Threatened Species Conservation Act 1995*)

V Vulnerable (Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*)

E Endangered (Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*)

Table 4: Endangered Ecological Communities in the Yass Valley LGA (OEH, 2012)

NSW Listed Name	NSW status	C'th status	Recovery Plan
<u>Fuzzy Box Woodland</u> on alluvial Soils of the South Western Slopes, Darling Riverine Plains and Brigalow Belt South Bioregions	E3	(not listed)	Nil
<u>Inland Grey Box Woodland</u> in the Riverina, NSW South Western Slopes, Cobar Penepplain, Nandewar and Brigalow Belt South Bioregions	E3	E (Grey Box Grassy Woodland)	In prep. (as of 29/3/2012)
<u>Montane Peatlands and Swamps</u> of the New England Tableland, NSW North Coast, Sydney Basin, South East Corner, South Eastern Highlands and Australian Alps bioregions	E3	E (Alpine Sphagnum Bogs & Assoc. Ferns)	In prep. (as of 29/3/2012)
<u>Natural Temperate Grassland</u> of the Southern Tablelands of NSW and the Australian Capital Territory		E	Yes (Environment ACT, 2005)
<u>Tableland Basalt Forest</u> in the Sydney Basin and South Eastern Highlands Bioregions	E3	(not listed)	Nil
<u>Tablelands Snow Gum, Black Sallee, Candlebark and Ribbon Gum Grassy Woodland</u> in the South Eastern Highlands, Sydney Basin, South East Corner and NSW South Western Slopes Bioregions	E3	(not listed)	Nil
<u>White Box Yellow Box Blakely's Red Gum Woodland</u>	E3	CE (Box-Gum Grassy)	In prep. (as of 29/3/2012)

		Woodland)	
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E3: Endangered Ecological Community (NSW *Threatened Species Conservation Act 1995*)

E: Endangered (Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*)

The likelihood of threatened species or ecological communities being adversely affected as a result of the proposal would not be known until an individual site assessment is carried out, however the Natural Resources-Biodiversity maps within the Yass Valley LEP 2013 show distribution of high conservation value vegetation, including habitat areas for threatened species and known areas of EEC's (Endangered Ecological Communities). Where land has been identified for 'Biodiversity', it is shown on the Natural Resources Biodiversity Map within the Yass Valley LEP 2013. Clause 6.3 of the LEP requires that before determining a development application on land so identified, Council must consider:

- (a) whether the development is likely to have:
 - (i) Any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
 - (ii) Any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
 - (iii) Any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
 - (iv) Any adverse impact on the habitat elements providing connectivity on the land
- (b) any appropriate measures proposed to avoid, minimize or mitigate the impacts of the development.

Q8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The Yass Valley LGA covers an area of 4087 square kilometres, and encompasses a range of topography, landscape, soil and vegetation types. As such, environmental effects of increased rural subdivision could range from negligible to significant depending on the value and condition of each site.

The Yass Valley LGA falls predominantly within the 'Tablelands landscape' of the Murrumbidgee Catchment, however a small northwestern section of the LGA sits within the Lachlan Catchment. The Murrumbidgee Catchment Action Plan (CAP) 2013 is a strategic document to guide natural resource management within the catchment. It outlines the following Management Priorities which are relevant to managing and planning for change within the rural landscape:

- Farm systems developed to deliver production and environmental services;
- Land managed to according to capability;
- Agreed water sharing principles and plans implemented;
- Farm businesses with capacity to optimise profitability and water use efficiency;
- Rangeland vegetation communities managed for diversity and sustainable production;
- Areas of intact native vegetation managed;
- Water balance managed for variety of resource users;
- Viable production enterprises and land uses maintained;
- Diversity of lifestyle options and opportunities supported;
- Viable irrigation and other production enterprises maintained;
- Enterprises and communities adapted for change;

The Management Actions outlined for the 'Tablelands landscape' within the CAP will be implemented and developed through the forthcoming Local Land Services structure, in

partnership with relevant state agencies and Yass Valley Council. These Management Actions and any resultant strategies will support the development of guidelines for rural subdivision.

Any resulting land use or development of rural land from this Planning Proposal would be managed through requiring site responsive subdivision and development guided by the Natural Resource mapping within the Yass Valley LEP 2013. These maps include information on Biodiversity, Groundwater Vulnerability, Riparian areas, Salinity and Erosion.

Bushfire prone land is identified on mapping prepared by the NSW Rural Fire Service (RFS).

A summary of the potential environmental effects and how they will be managed is outlined below.

Potential Effects On:	Management
Groundwater	Where land has been identified as being subject to 'Groundwater vulnerability', it is shown on the Groundwater Vulnerability Map within the Yass Valley LEP 2013. Clause 6.4 of the LEP requires that before determining a development application on land so identified, Council must consider- (a) The likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals) (b) Any adverse impacts the development may have on groundwater dependent ecosystems, (c) The cumulative impact the development may have on groundwater (including impacts on nearby groundwater extraction for a potable water supply or stock water supply) (d) Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
Rivers and Creeks	Where land has been identified as a 'Watercourse', it is shown on the Riparian Land and Watercourses Map within the Yass Valley LEP 2013. Clause 6.5 of the LEP requires that before determining a development application on land so identified and all land within 40 metres of the bank of the watercourse, Council must consider- (a) Whether or not the development is likely to have any adverse impact on: (i) the water quality and flows within the watercourse, (ii) aquatic and riparian species, habitats and ecosystems of the watercourse, (iii) the stability of the bed and banks of the watercourse, (iv) the free passage of fish and other aquatic organisms within or along the watercourse, (v) any future rehabilitation of the watercourse and riparian areas, and (b) whether or not the development is likely to increase water extraction from the watercourse, and (c) any appropriate measures proposed to avoid, minimize or mitigate the impacts of the development.
Salinity	Where land has been identified as being subject to 'Dryland Salinity', it is shown on the Natural Resources Land Map within the Yass Valley LEP 2013. Clause 6.6 of the LEP requires that before determining a development application on land so identified, Council must consider- (a) Whether the development is likely to have any adverse impact on salinity processes on the land; (b) Whether salinity is likely to have an impact on the development; (c) Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
Erosion	Where land has been identified as being subject to 'High Soil Erodibility', it

	is shown on the Natural Resources Land Map within the Yass Valley LEP 2013. Clause 6.7 of the LEP requires that before determining a development application on land so identified, Council must consider- (a) Whether the development is likely to have any adverse impact on soil erosion processes on the land; (b) Whether soil erosion is likely to have an impact on the development; (c) Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
Bushfire risk	Bushfire risk is managed for subdivision and development of land which is identified as 'bushfire prone' on NSW Rural Fire Services (RFS) mapping by considering against guidelines within the RFS publication - 'Planning for Bushfire Protection' (2006).

Another major environmental issue associated with rural land in the Yass Valley is the management of foxes, domestic dogs, rabbits, feral pigs and wild dogs, combined with the issue of noxious weeds. Successful pest and weed management on rural properties is not necessarily dependent on property size - it is usually a function of awareness, education and a landowner's willingness to manage their property effectively. While some smaller landowners involved in non-traditional rural enterprises may be unaware of pest and weed management obligations, absentee landowners of larger properties can also create ongoing management issues.

NSW Livestock Health and Pest Authority (LHPA) provide advice and assistance in the management and eradication of declared pest species. Currently, landowners of properties with an area of 10 ha or more are required to pay rates to the LHPA. The LHPA will merge into the new NSW Local Land Services as of 1 January 2014. Noxious weed management, including, inspecting, spraying and issue of notices within the Yass Valley LGA is undertaken by a County Council known as the Southern Slopes Noxious Plants Authority (SSNPA).

Hollier & Reid have stated that small farmers can be effective stewards of natural resources, operate diverse farming systems, incorporating and preserving significant functional biodiversity within the farm. By preserving biodiversity, open space and trees, and by reducing land degradation, small landholders provide valuable ecosystems services to the wider community. *(Hollier & Reid, 2007)*

With the application of the new land management provisions within the Yass Valley LEP 2013, improved environmental outcomes can result from subdivision into smaller, more manageable lots.

Q9. *Has the planning proposal adequately addressed any social and economic effects?*

The Section 355 *Yass Rural Lands Planning Committee* have provided advice to Yass Valley Council, in relation to social effects of rural minimum lot sizes and the economic climate created by the proximity of the Yass Valley to the ACT.

The Canberra effect

The Yass Valley is well placed within the region to access major transport routes, markets and the employment and tourism opportunities that Canberra offers. It also has the advantage of being located approximately 2.5 hours from Sydney. While this brings significant opportunities for the LGA, it also has the effect of hyper-inflating rural land values. The arc of rural land surrounding the ACT – particularly within 40 minutes commute time from Canberra Civic requires financial investment in the range of \$800,000 to \$1 million for 80 hectares and above.

The Yass Valley location has created a unique situation of small boutique rural industries and tourism operated by owners with off farm income and varied educational backgrounds and employment experience. The peri urban location of the Yass Valley also capitalises on the Canberra and Sydney consumer markets, and has ready access to 'daytripper' tourists with relatively high disposable incomes.

Existing businesses have predominantly established between Murrumbateman, south to the border – easily accessible from the Canberra market (e.g., Poacher's Pantry, Robyn Rowe Chocolates, Geranium House Day Spa, Murrumbateman Wineries etc). These land uses do not require large parcels of land, and in most circumstances do require a dwelling on site for management and security uses. It is anticipated that the flexibility that a lower minimum lot size brings, would assist in attracting additional similar uses to the area.

As a result of the 'Canberra effect', many farmers - especially traditional graziers are being priced out of these areas of the Yass Valley. Existing farmers have difficulty affording the purchase of additional land for expansion, and younger generation farmers have difficulty entering the market. Rural land outside this arc – particularly in the Bowning, Bookham and Binalong areas is more reasonably priced and remains sought after by larger commercial grazing enterprises.

Adjacent Local Government Areas

Table 5 details the minimum lot sizes utilised in surrounding LGAs, LGAs with similar characteristics to the Yass Valley LGA and the ACT.

Those LGAs bordering the Yass Valley LGA have either a 40 hectare minimum lot size or, in the case of Upper Lachlan and Tumut LGAs, a mix of minimum lot sizes. In comparison, the Yass Valley LGA operates under minimum lot size provisions that result in a lack of consistency and equity for landowners.

2010-11 Agricultural commodities data reveals that cattle, sheep and broadacre cropping remain the primary agricultural commodities in the Capital Region. This trend is reflected in a number of LGAs where the minimum lot size is less than 80 hectares. This demonstrates that reducing the minimum lot size in the Yass Valley LGA to 40 hectares will have a negligible impact on the viability of extensive agricultural uses in the Yass Valley LGA.

As indicated in **Table 1** the Yass Valley LGA is also home to over 100 intensive agricultural uses, the most prevalent of which is the growing of grapes for wine production. As previously discussed reducing the minimum lot size in the RU1 and RU2 Zones will provide additional opportunities to undertake activities including wine production, horticulture and poultry farming while not jeopardising the viability of extensive agricultural businesses.

A minimum lot size of 40 hectares is consistent with that utilised in surrounding LGAs while the inclusion of an averaging provision will facilitate responsive subdivision that is provided by the mix of minimum lot sizes that is utilised in LGAs such as Upper Lachlan, Tumut and Wollondilly.

Table 5: Surrounding and comparative LGA minimum lot sizes and primary agricultural commodities

Environmental Planning Instrument	Rural Zone(s)	Minimum Lot Size(s)	Primary Agricultural Commodities ABS, Agricultural Census, 2010-11		
			Commodity	Area (ha)/ total no.	No. of businesses
Harden LEP 2011	RU1 Primary Production (Majority of LGA)	40 hectares			
			Cattle	33,382	131
			Sheep	401,721	154

			Broadacre crops (ha)	48,204	129
			Grapevines for wine production (ha)	470	13
Upper Lachlan LEP 2010	RU1 Primary Production	Mixture 40 hectares, 80 hectares & 100 hectares	Cattle	80,516	593
			Sheep	1,143,958	679
			Broadacre crops (ha)	2,826	73
	RU2 Rural Landscape	Mixture 80 hectares, 100 hectares & 200 hectares	Grapevines for wine production (ha)	33	8
Goulburn Mulwaree LEP 2009	RU1 Primary Production	100 hectares	Cattle	35,067	271
			Sheep	264,381	191
	RU2 Rural Landscape	40 hectares & 100 hectares	Broadacre crops (ha)	4,792	50
			Grapevines for wine production (ha)	16	6
			Poultry	315,856	17
Palerang LEP 2014	RU1 Primary Production	Mixture 40ha & 80ha	Cattle	56,716	327
			Sheep	155,115	171
	RU2 Rural Landscape	Mixture 40ha & 80ha	Broadacre crops (ha)	2,110	31
			Grapevines for wine production (ha)	29	9
			Poultry	22,501	16
Gundagai LEP 2011	RU1 Primary Production	40 hectares	Cattle	60,910	187
			Sheep	323,615	164
			Broadacre crops (ha)	7,065	71
			Grapevines for wine production (ha)	341	7

Boorowa LEP 2012	RU1 Primary Production	40 hectares	Cattle	29,161	144
			Sheep	481,791	223
			Broadacre crops (ha)	16,562	80
			Grapevines for wine production (ha)	27	2
Tumut LEP 2012	RU1 Primary Production	30 hectares, 80 hectares & 150 hectares	Cattle	87,421	312
			Sheep	126,641	148
			Broadacre crops (ha)	2,256	13
			Grapevines for wine production (ha)	54	6
			Orchard and fruit trees	1,423	59
Wollondilly LEP	RU1 Primary Production	16 hectares, 20 hectares, 40 hectares & 100 hectares	Cattle	11,261	147
			Sheep	2,564	38
			Broadacre crops (ha)	510	10
	RU2 Rural Landscape	16 hectares, 20 hectares, 35 hectares, 40 hectares & 100 hectares	Grapevines for wine production (ha)	7	2
			Vegetables for human consumption (ha)	728	74
			Poultry	2,259,324	36
Territory Plan (ACT)	All Non-urban zones	No MLS. However, <i>Planning and Development Act 2007</i> prohibits subdivision of land with a 'rural lease'.	Cattle	8,807	51
			Sheep	54,092	32
			Broadacre crops (ha)	304	2
			Grapevines for wine production	95	2

			Poultry	84,270	7
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Dual Occupancies

The change in the provision seeks to address existing potential for social or economic disadvantage to landowners who need to undertake a dual occupancy on their land, but own an existing lawful older dwelling house. Amending clause 4.2B of the Yass Valley LEP will address this inconsistency.

Section D – State and Commonwealth interests

Q10. *Is there adequate public infrastructure for the planning proposal?*

Council has three Section 94 Contributions Plans in operation for the provision and maintenance of rural road infrastructure in the Yass Valley LGA. The Yass Section 94 Contributions Plan – Rural Roads, Yarrawlumla Section 94 Contributions Plan – Provision of Access Roads and Gunning Section 94 Contributions Plan – Provision of Public Amenities and Services apply to the jurisdictions of the former Yass LEP 1987, Yarrawlumla LEP 2002, Gunning LEP 1997.

The respective Section 94 Contributions Plans will continue to operate until such time as they are replaced by a comprehensive local infrastructure contributions plan and any related regional plans. Council considers that the existing Section 94 Contributions Plans will continue to adequately facilitate the provision and maintenance of rural road infrastructure in the Yass Valley LGA.

Appropriate rural property access standards are set out by Council Policy RD-POL-9 (Road Standards Policy). Council requires new property accesses to comply with the technical specifications contained within section 6 of this policy.

In addition, Clause 6.8 of the Yass Valley LEP 2013 relates to provision of essential services, and states:

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access,
- (f) connection to a communications network with voice or data capability (or both).

As previously stated the supply of water and the disposal and management of sewage is to be provided on-site by the landholder as there is no access to reticulated systems in the RU1 and RU2 Zones.

It is considered that Council's existing Section 94 Contributions Plans, Road Standards Policy and Clause 6.8 of the Yass Valley LEP 2013 will address the infrastructure requirements stemming from an amendment to lower the minimum lot size in the RU1 and RU2 Zones from 80 hectares to 40 hectares with lot averaging.

With regard to dual occupancies, the Yass Shire Council Section 94 Contributions Plan (Rural Roads) and Yarrawlumla Section 94 Contributions Plan (Access Roads) both levy contributions for development applications incorporating dual occupancies.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The Gateway Determination issued on the 25th October 2013, required consultation with the following state and territory agencies under section 56(2) (d) of the Environmental Planning and Assessment Act 1979 with the following Authorities:

- ACT Government
- Office of Environment and Heritage
- Local Land Services (Murrumbidgee Catchment Management Authority)
- Department of Primary Industries – NSW Office of Water
- Department of Primary Industries – Agriculture
- NSW Rural Fire Service

Further to this consultation, two of the state agencies – OEH and DPI (Agriculture) raised concerns regarding the Planning Proposal – primarily relating to the potential loss of biodiversity values and inconsistency with the Rural Land SEPP 2008.

As a result, Council received an amended Gateway Determination which re-authorised Council as a delegate of the Minister for Planning to determine the Planning Proposal subject to the inclusion of a specific clause to ensure potential impacts on agriculture and biodiversity are considered i.e.

Council is not to approve a rural subdivision in the RU1 Primary Production Zone or RU2 Rural Landscape Zone unless it is satisfied that the proposed lots will protect and consolidate high value agricultural land, minimise loss of environmental values from clearing and have appropriate access to water.

The requirement for the clause is intended to address the concerns raised by the Office of Environment & Heritage and Department of Primary Industries.

The proposed wording of this specific clause is as follows:

4.1C Additional requirements for subdivision in certain rural zones

- (1) *The objective of this clause is to enable appropriate subdivision design of rural land having regard to topography, agricultural productivity, biodiversity values and environmental impacts.*
- (2) *This clause applies to land in the following zones:*
 - (a) *Zone RU1 Primary Production,*
 - (b) *Zone RU2 Rural Landscape,*
 - (c) *Zone RU4 Environmental Management,*
- (3) *Development consent must not be granted to a subdivision of land to which this clause applies unless:*
 - (a) *the pattern of lots created by the subdivision and the future location of any buildings on those lots are not likely to have a detrimental impact on any riparian land or watercourses, identified biodiversity values, or exacerbate existing erosion or salinity processes, and*
 - (b) *the subdivision layout has regard to protecting areas of remnant vegetation and will minimise the need for clearing for any future buildings, accessways, fences and any associated Bushfire Asset Protection Zones,*
 - (c) *the subdivision avoids the creation of additional lots that front a watercourse, and*

- (d) *the subdivision will not adversely affect the use of the surrounding land for agriculture, and will not create lots less than the minimum size shown on the lot size map for any land identified as high value agricultural land.*

Note. *High Value agricultural land with an Agricultural Land Classification of 'Class 1' or 'Class 2' is identified on mapping prepared by the NSW Department of Primary Industries (2002)*

Part 4 – Mapping

Amended maps have been prepared in accordance with the requirements of the Department of Planning and Environment's *Standard technical requirements for LEP maps*. The maps reflect the changes to the 'Lot Size Map' set, which alter the Minimum Lot Size from 80 ha (AC) to 40ha (AB5) over RU1 Primary Production and RU2 Rural Landscape zones. These maps will be forwarded separately to the Department of Planning and Environment.

Part 5 – community consultation

In considering the Planning Proposal, community consultation was required under section 57 of the Environmental Planning and Assessment Act 1979.

The exhibition incorporated:

- Notification through the Yass Valley Council page (Yass Tribune), website, e-newsletter and Facebook page.
- Notices in the Gundaroo Gazette and Sutton Chatter newsletters;
- Notification by mail to all landowners who previously lodged submissions regarding the draft Non Urban Lands Study, or rural minimum lot sizes during public exhibition of the (draft) Yass Valley LEP 2013.
- Notices displayed at:
 - Delta Agribusiness, Yass
 - Landmark, Yass
 - Murrumbateman Rural Supplies
 - Canberra Rural Stock Feeds, Hall
 - Sutton Rural Supplies/Store
 - Thompson Rural Supplies, Binalong
 - Wallaroo Fire Shed

A total of 120 submissions were received as a result of community consultation.

Part 6 – project timeline

The following indicative timeline is provided to assist the Department in preparing the Gateway determination. It is acknowledged that it will be influenced by a range of external factors, and that is also subject to amendments by the Department through the Gateway process.

Stage	Estimated timeframe
Submission to Minister to make the amending LEP under section 59 of the Environmental Planning and Environment Act 1979	March – April 2016

APPENDIX A

Yass Valley Council

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Office of the Mayor

30 August 2012

The Hon Brad Hazzard, MP
Minister for Planning and Infrastructure
Minister Assisting the Premier on Infrastructure NSW
Governor Macquarie Tower
Level 31, 1 Farrer Place
SYDNEY NSW 2000

Dear Minister

Request to change the Rural Minimum Lot Size provisions in the Draft Yass Valley Local Environmental Plan 2012

Yass Valley Council has prepared a comprehensive draft Local Environmental Plan for the Yass Valley Local Government Area.

As you may be aware, Council has established a section 355 committee to assess all aspects of rural lands planning in the Yass Valley LGA. The committee is comprised of 14 community members, which were endorsed for representation on the Committee by Council for their expertise in relation to the issues affecting the management of rural lands.

The Committee was established in response to the community feedback that was provided following the exhibition of Council's draft Non-Urban Lands Study in 2009. This feedback discredited the findings of the study and requested Council to utilise the local academic and practical resource base available within the Yass Valley to develop a new strategy for the management of rural land.

Since its first meeting on 16 February 2012, the Committee has discussed and debated many issues surrounding rural lands planning in the Yass Valley LGA, including minimum lot sizes and land use zones.

At the Ordinary Meeting of Council on 8 August 2012, Council formally adopted a recommendation from the Committee to request you to change the proposed rural minimum lot size provisions within the Draft LEP. This request relates to the RU1 Primary Production and RU2 Rural Landscape zones.

In this regard, the Committee considered that approaching you directly would save both Council and the Department of Planning and Infrastructure considerable time and resources instead of preparing a planning proposal to amend the new Yass Valley LEP.

COUNCIL CHAMBERS
209 COMUR STREET
YASS NSW 2582

Administration (02) 6226 1477
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Therefore, as part of this request both Council and the Committee seek the following amendment to the draft Yass Valley LEP 2012:

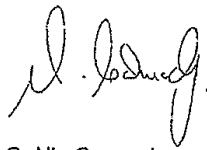
"The adoption of a 40 hectare minimum lot size with averaging across the proposed RU1 Primary Production and RU2 Rural Landscape zones in the Draft LEP subject to:

- a) *None of the lots created as part of the averaging process being less than 20 hectares;*
- b) *None of the lots created as part of the averaging process being greater than 70 hectares; and*
- c) *Residual lots that are not part of the averaging process being able to be created in excess of 70 hectares"*

In support of this proposal, please find attached a list of Committee members, their expertise and a submission generated by the section 355 committee which was endorsed by Council, justifying why the minimum lot size should be altered in the proposed RU1 and RU2 zones.

Council and the section 355 committee look forward to your favourable response.

Yours sincerely



Cr Nic Carmody
Mayor

cc: The Hon Katrina Hodgkinson MP
Minister for Primary Industries
Minister for Small Business
Member for Burrinjuck

APPENDIX A

The attached submission has been prepared by Yass Valley Council's Section 355 Rural Lands Planning Committee. The committee members who contributed to this submission and their expertise is listed below.

Brian Welsh – Rural Banking Sector

Westpac Agribusiness Manager – South Western slopes and Southern Tablelands. Based in Yass for the last 5 years, 25 years experience in the industry.

Ed Storey – NSW Farmers Federation

B.Ec., Executive Counsellor NSW Farmers Federation, Local 4th generation grazier.

Andrew Stoeckel – Agricultural Economist

PHD Ec., Former Head of Bureau of Agricultural Economics (now ABARE), Member of Sutton Landcare Group.

Colin Medway - Agronomist

B.App.Sc (Agriculture), Stock and Station Agent, 19 Years Industry Experience.

Michael Gray – Real Estate Agent

President – Yass Progress Association, Committee Member of the Real Estate Institute of NSW (rural chapter), Licensed Real Estate and Stock and Station Agent.

William Bladwell – Rural Financial Counsellor

Former Rural Financial Counsellor for the Southern Tablelands (14 years), member of the Australian Institute of agricultural Science Technology.

Roxanna Henderson – Owner/ manager of large rural holding with land area greater than 81 hectares

Local Merino Grazier (Stud/ Commercial), Committee Member Wool Connect Wool Marketing Group.

Barry Walker – Owner/ manager of large rural holding with land area greater than 81 hectares

Local 5th generation Merino Grazier, Former Shire President (6 years), Local Government Representative for 11 years.

Kim Turner – Owner/ manager of large rural holding with land area greater than 81 hectares

30 years experience in the NSW DPI and the LHPA (RLPB), background in Yass district since 1964

Bernie Johnson – Real Estate Agent

Licensed Real Estate Agent, Local Grazier, Wool Classer, Master Farrier.

Ian Wearing – Owner/ manager of small rural holding with land area between 16-80 hectares

B.Ec.(Hons), Dip Ag, Former Exec Director of the Grains Council of Australia, Former Principal Advisor to Shadow Finance Minister, Fomer Principal Advisor to ACT Chief Minister and Treasurer.

John Connelly - Owner/ manager of small rural holding with land area between 16-80 hectares

Involved in the Wallarooo Community since 1983, Wallaroo Landcare Group (founding member), Former President of Wallaroo ratepayers Association.

Enhancing the sustainable development of rural land in the Yass Valley Local Government Area

A report by the Section 355 Committee established by Yass Valley Council to examine the issue of rural minimum lot sizes and averaging

July 2012

Executive summary

The Yass Valley LGA is one of the fastest growing rural areas in New South Wales. But this growth is not driven by favourable developments in agriculture; it is a result of the rapid growth of population and incomes of the adjoining National Capital — Canberra. The Yass Valley LGA makes up roughly 70 per cent of the Canberra subregion.

This rapid growth is welcome, but it brings management challenges for Yass Valley Council to ensure development happens in a sustainable way. The three biggest obstacles the Council faces in ensuring the best use of rural land are:

- the 80 ha minimum lot size for rural subdivision;
- the way the minimum lot size is applied to proposals; and
- a planning system that is complex, legalistic and easily bogged down in time consuming processes that disenfranchise the community.

Simply put, there is not enough flexibility in the current planning rules and system to effectively manage the sustainable development of rural land in the LGA. This review examines the best way to overcome these obstacles and recommends a way forward.

There is nothing the Council or the NSW Government can or should do to stop Canberra's growth, so the demand for small farm lots will continue to rise. The 80 ha rule, which has not changed for over 30 years, restricts the supply of small farm lots, drives up the price of existing lots, increases pressure for ad hoc spot rezoning proposals and increases the opportunity cost of farmers staying in business. Moreover, up until now, the lack of flexibility in applying the minimum lot size rule means issues such as preserving the best agricultural land for the best use, and issues of topography and aspect, cannot be fully addressed in the assessment process.

The first two obstacles are best overcome by a smaller minimum lot size combined with the principle of averaging. Averaging has existed for over 35 years within the Yass Valley LGA and was permitted to continue by the Minister in December 2011. To be fully effective however it needs to be combined with smaller lot sizes. After considering a range of factors — such as conforming to the NSW Office of Water's policy of minimum harvestable rights for a small farm lot — it was decided that a minimum lot size of 40 ha should be combined with averaging, so that lot sizes could range from 20 ha to 70 ha.

In evaluating a 40 ha minimum lot size with averaging, the Section 355 Committee used criterion for sustainable development to assess each of the thirteen relevant clauses under the planning and subdivision principles enunciated in *State Environmental Planning Policy (Rural Lands) 2008*. The sustainable development test is elaborated on in the body of this report, but in simple terms it is about achieving positive growth by making economic, environmental and social progress for current and future generations.

As a result of this process it has been found that reducing the minimum lot size from 80 ha to 40 ha combined with an 'averaging' methodology would enhance sustainable development in the Yass Valley LGA. These changes work 'hand-in-glove' and together increase choice and flexibility, and better allow the right land to be used for the best use. It minimises land use conflicts, protects large lot sizes where appropriate, minimises fragmentation of agriculturally productive land and leaves all interested parties better off because choice does not have to be exercised. The change to a smaller

lot size is consistent with the Sydney–Canberra regional strategy that also seeks sustainable development.

Two frequently cited objections to smaller lot sizes are fragmentation and preserving agricultural land. The purpose of averaging is to minimise fragmentation. Besides, too much can be made of the issue as the overriding nation-wide trend over the last few decades has been farm amalgamation, not fragmentation. On average, across Australia, average farm size has *increased* by 23 per cent with *fewer* small (less than 100 ha) farms and more large farms. This nation-wide trend will stay since it is driven by rising productivity and falling terms of trade for farmers. Across Australia, in general, farms are amalgamating to reap economies of scale to stay afloat – hence the cliché: ‘get big or get out’.

On preserving agricultural land, several points can be summarised. Averaging helps choice and allows the best use of land for the right purpose. Whether it is 80 ha or 40 ha, the land is still there. What typically happens on smaller lots is the intensity of land use changes with a switch from grazing to mostly horticulture. Across Australia, over the last 30 years for example, sheep numbers have halved and wine production has trebled, a pattern mirrored in the Yass Valley. The limited evidence cited in this report is that the value of agricultural production in peri-urban areas is higher than the rest of the State. Part of this increase in value-added is associated activities like rural tourism with over 1 million visitors for food and wine tourism in the ACT region in 2006. From alpacas to zucchinis, the land is mostly used productively in agricultural and related pursuits, albeit in a different form from the past.

The third obstacle, the complex, cumbersome and drawn out planning system (the current unfinished LEP by the Council has taken some seven years to prepare), was noted by the Section 355 Committee. These problems are well recognised by the government and are the basis for the overhaul of the NSW planning system spelled out in the Green Paper released in July 2012.

But, after comment on the Green Paper, there will be a White Paper, draft legislation and a debate in Parliament, which will all take time before a more streamlined process is enacted that better incorporates the wishes of the community as foreshadowed in the Green Paper. Current legislation permits the Minister to make a ruling on minimum lot sizes if submitted directly to him. This is the course of action the Section 355 Committee proposes to bring this matter to finality without further delay and endless reporting.

The Section 355 Committee therefore **recommends** that Yass Valley Council make a direct approach to the Minister for Planning and Infrastructure **requesting** the following:

That a 40 ha minimum lot size with averaging be broadly imposed across the proposed RU1 Primary Production and RU2 Rural Landscape zones in the Draft Yass Valley LEP 2012 provided that:

- *none of the lots created as part of the averaging process are less than 20 ha;*
- *none of the lots created as part of the averaging process are greater than 70 ha; and*
- *residual lots that are not part of the averaging process can be created in excess of 70 ha.*

Background

Rural land use planning has a vital role in securing the sustainable development of the Yass Valley. Over the last 30 years, pressures on land use, technology, awareness of the environment and human needs have changed. But what has not changed for 30 years is the primary planning instrument to secure sustainable development, namely minimum lot sizes for rural subdivision and the methodology in the way those minimums are applied to potential subdivisions. A Section 355 Committee was established by Yass Valley Council to examine this issue and complements the work undertaken in the preparation of the Draft-Yass Valley LEP 2012 to date.

The focus of this assessment is the impact of minimum lot sizes and the methodology of applying that minimum to the potential subdivision of rural land. The overriding criteria is how these aspects of rural land use planning currently affect the sustainable development of rural land in the Yass Valley LGA and what changes could be made to enhance sustainable development in the future.

While enhanced sustainable development is the primary goal of amendments to planning laws, any change to the planning process that also makes it simpler, fairer and more efficient is also a step forward.

What is meant by sustainable development?

The most widely adopted definition of 'sustainable development' comes from Resolution 42/187 of the United Nations General Assembly¹. That resolution defines sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable development was recently simply stated by the UK Minister for Planning in a revised planning document that replaced over a thousand pages of policy with around fifty², a simplified report lauded in the NSW Department of Planning's review of international best practice³ as input into its recent green paper for a new planning system for NSW⁴.

'Development' means growth. It means providing more income and housing for an increasing population and meeting their growing needs.

'Sustainable' means ensuring that better lives for us now does not mean worse lives for future generations. So a polluted river that is undrinkable, devoid of wildlife and becomes unusable for recreation would leave the next generation worse off. Polluting the river is unsustainable.

But there is sometimes confusion on this point because '... the ability of future generations to meet their own needs' depends not only on the stock of resources and the ecology passed on to the next generation, but also depends on the needs of and the technologies available to the next generation. There is nothing unsustainable about digging copper out of the ground and using the proceeds to invest in R&D to make plastic pipes that are cheaper and more efficient to install than the copper ones they replace. The next generation is better off.

¹ United Nations 1987, Report of the World Commission on Environment and Development, General Assembly Resolution 42/187, retrieved 14 November 2007.

² Department for Communities and Local Government 2012, *National Planning Policy Framework*, London.

³ Stein L 2012, *A Review of International Best Practice in Planning Law*, NSW Department of Planning, Sydney.

⁴ NSW Department of Planning 2012, *A New Planning System for NSW: Green Paper*, July.

So 'sustainable' does not mean 'no change' or 'keeping things the way they are'. In fact it implies the opposite. It implies a changing and evolving set of rules that incorporates new knowledge about changing needs, technologies and understanding about environmental pressures. In the words of the UK Planning Minister: 'sustainable development is about positive growth – making economic, environmental and social progress for this and future generations'⁵. Often sustainable development is discussed under the triple bottom line issues of economic, environment and social, with mention of the trade-offs that can be involved that need evaluating. Since this issue arises later, it is expanded in box 1. Emphasis on triple bottom line issues can imply that government is not doing its job by developing market based instruments to address market failures, thereby allowing markets to work well. As correctly noted in the new Planning Green Paper; '.... individuals and markets are best placed to deliver diverse choices, vibrant communities and strong and sustainable economies'⁶.

Box 1: The triple bottom line: has government done its job?

The 'triple bottom line' is valid and must be considered, but care has to be taken not to overemphasise this aspect. The reason is, one primary purpose of government is to address spill-overs or external effects where markets fail. If no-one owns the air, it will be polluted. If no-one owns the water in the river, people will extract too much until nothing is left. Fishing resources will be overexploited without government intervention. It is the well-known 'tragedy of the commons'. In each case the right response is to assign property rights or impose a tax to reflect the social cost of the economic activity and let market forces allocate who gets the quota to irrigate or burn fossil fuel or whatever. That way, the environment is protected and the scarce resource is used where it contributes the most.

That is, the triple bottom line issue has been put into the single bottom line of 'economic'¹, and the market automatically makes the right allocation of effort and use. Trade-offs are resolved without further involvement of government. Once rights to water, say, are properly assigned and a market is established to trade those entitlements, the social cost of water is automatically included in the irrigator's accounts and appears in Gross Domestic Product - the single bottom line of economic growth.

So to argue a triple bottom line issue implies the government has not done its job. Of course some market failures are difficult to address, for example 'noise', or 'smell' and the cost of doing so would be notoriously high. Here, a triple bottom line assessment would be warranted.

Sustainable development is about change for the better. As set out below, there are new needs, new technologies and new awareness of environmental pressures including the best ways to address those issues that are not reflected in the current set of rural planning rules, the main elements of which had their origins over 35 years ago. Current planning rules do not meet the objective of sustainable development in the Yass Valley LGA. Yet that is supposedly the primary purpose of those planning rules.

Some changes since 1979

The decision to make 80 ha the minimum lot size for rural subdivision in the Yass Valley LGA was made in 1977. Since that time some major changes affecting the rural landscape have been:

⁵ Department for Communities and Local Government 2012 op cit., Minister's foreword.

⁶ NSW Department of Planning 2012, *A New Planning System for NSW: Green Paper*, p. 18.

- The Australian wool industry (once Australia's biggest rural industry and one of the main rural industries in the Yass Valley Council) has *halved* in size as measured by sheep numbers⁷
- The Australian viticulture industry (an industry of growing importance in the shire) has more than *trebled* by volume Australia-wide. And whereas wool was once Australia's biggest rural export the value of wine exports, it is now *double* that of wool⁸
- The agricultural terms of trade (the ratio of prices received by farmers to prices paid) have *fallen* by 44%⁹ (see chart set 1)
- The number of full-time farmers has *fallen* by 70,000 and the average age has risen by nearly ten years¹⁰ (chart set 1)
- Across Australia, the average farm size has *risen* by 23%¹¹ (chart set 1)
- 'Farmers markets' where local product is sold directly by farmers to consumers did not exist in their current form 30 years ago
- Canberra's population as a city adjacent to the LGA has roughly *doubled*, increasing the demand for housing, rural residential land and rural lifestyle blocks¹²
- Rural tourism has grown into a significant industry in its own right with 1 million domestic overnight visitors for food and wine in the ACT region in 2006¹³
- Thirty years ago State and Federal Departments of the environment did not exist let alone a host of environmental legislation and a raft of other environment protection rules.

Despite these substantial changes, rural minimum lot sizes and the method by which that minimum is applied to subdivision applications has not changed. What is required is a fresh look at how sustainable development can be enhanced in the Yass Valley LGA. Two changes to current planning rules (one has recently been made) could be made to enhance sustainable development.

Current minimum lot sizes and Rural Planning Principles

Rural Planning in NSW is currently governed by *State Environmental Planning Policy (Rural Lands) 2008*. This policy comprises several parts, the relevant sections for this reappraisal being seven and eight. Under section seven (principles) there are eight clauses. Under section eight (dealing with subdivision) there are five clauses. Each of which is now evaluated according to their ability to contribute to sustainable development in the Yass Valley LGA given the extensive changes that have occurred, some of which were summarised above. The clauses in section seven are addressed first.

⁷ ABARE (Australian Bureau of Agriculture and Resource Economics), Australian statistics for wool, www.daff.gov.au/abares/publications.

⁸ ABARE, Australian horticulture production, www.daff.gov.au/abares/publications.

⁹ Based on ABARE figures and the average trend decline over 30 years since there can be booms and busts in commodity prices that can hide the steady downward pressure of farmers to adapt operations to make a living.

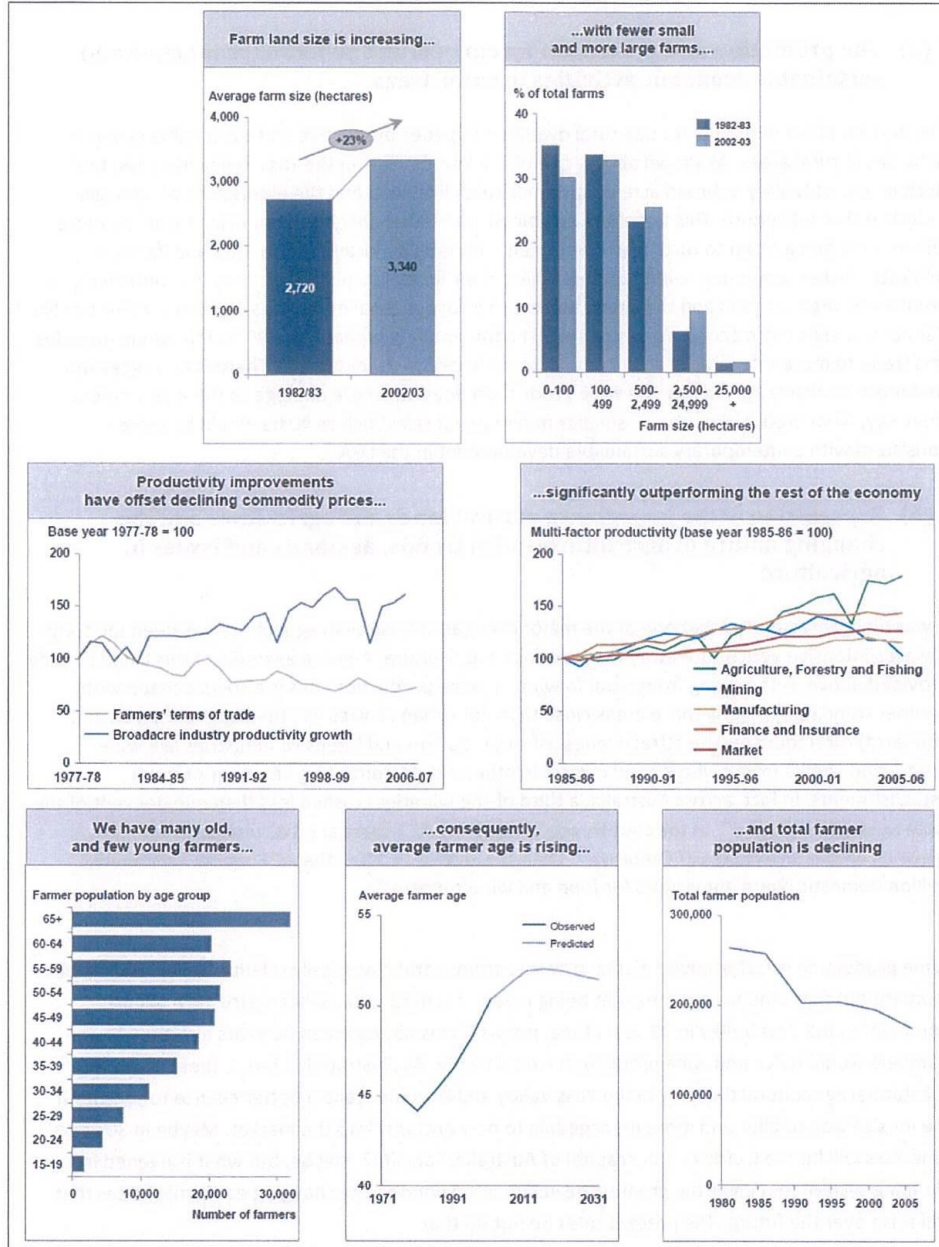
¹⁰ ABARE 2012, <http://www.australia2020.gov.au/topics/docs/rural.pdf>.

¹¹ ABARE 2012, <http://www.australia2020.gov.au/topics/docs/rural.pdf>.

¹² ABS (Australian Bureau of Statistics), Australian Social Trends, cat 4102.0.

¹³ Yass Valley Council 2009, *Draft Non-Urban Lands Study*, Yass.

Chart Set 1: Some changes in Australian agriculture over the last 30 years



Source: Australian Government 2008, Australia 2020 Summit: The future of rural and regional Australia, background docs.

The section seven rural planning principles

7(a) The promotion and protection for current and potential productive and sustainable economic activities in rural areas

The current 80 ha minimum lot size rural dwellings impedes productive and sustainable economic activities in rural areas. As shown above, one of the key changes in the Yass Valley has been the decline in profitability of broad acre grazing industries like wool and the emergence of intensive industries like viticulture. This trend has combined with other phenomenon: rising incomes, more leisure time and a trend to rural tourism with an emphasis on locally grown food and 'farmers markets'. Richer consumers want to know where their food is coming from; they are more likely to emphasise 'organic' food and they have income to afford it. Smaller lot sizes close to a major city like Canberra makes more economic sense. An 80 ha minimum compared to a 40 ha minimum, impedes this trend to more intensive agriculture and hence impedes development. There is no suggestion that more intensive agriculture like wine production does any more damage to the environment than, say, wool production. Hence, smaller minimum lot sizes such as 40 ha would be more consistent with contemporary sustainable development in the LGA.

7(b) Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture

It was highlighted earlier that one of the major changes in Australian agriculture has been the trend towards intensive agriculture away from extensive agriculture. A prime example of this trend already provided above, is the swing from wool to wine. In wine production, this is also associated with another trend (particularly those areas close to major urban centres like the Yass Valley LGA and Canberra) rural tourism. The attractiveness of rural tourism and intensive industries like wine production comes from diversity and choice: in other words from a large number of small establishments. In fact, across Australia, a third of the wineries crushed less than one per cent of the total tonnage of grapes¹⁴. In the countryside around the ACT there are 140 vineyards with 33 wineries within 35 minutes of Canberra¹⁵. Data shows that in 2006, the ACT region welcomed 1 million domestic overnight visitors for food and wine tourism¹⁶.

Wine production is facing adverse price pressure from world oversupply relative to demand at the moment but that emphasises the point being made: it is hard to tell what agriculture will be dominant in the Yass Valley in 30 years time, just as it was not foreseen 30 years ago that sheep numbers would halve and wine production would treble. As illustrated in box 2, there is already substantial agricultural diversity in the Yass Valley and it would stand a better chance to prosper if the lot size was smaller and more manageable to new entrants into the market. Maybe in 30 years' time Yass will be the truffle or tulip capital of Australia. Fanciful? Maybe, but what is needed is a planning system that gives the greatest flexibility to respond to the changing economic forces that will arise over the future. The present rules do not do that.

¹⁴ ABS 2012, Australian Wine and Grape Industry 2010-2011, catalogue 1329.0, Canberra

¹⁵ Canberra District Wines, <http://www.canberrawines.com.au/index.html>, Accessed 21 July 2012.

¹⁶ Yass Valley Council op cit., p. 35.

Box 2: Diversity along Dog Trap Road

There is already enormous diversity of agriculture in the Yass Valley. There are truffles, tulips, free range eggs, nurseries, olives, alpacas and many, many more. Just south of Yass is a rural road with the quaint name 'Dog Trap Road' and a drive down this road illustrates what diversity there is.

There are wineries, bulb growers, a garlic farmer, rosehip production, a warm-blood stud, alpacas, sheep studs, lucerne hay and improved grass seed production enterprises as well as sheep and cattle grazing.

This diversity extends to society as well. Besides traditional farming families, the mix of new residents along Dog Trap Road includes: engineers, project managers, a dentist, Federal Police, members of the defence forces, a train driver, builders, a nurse, a small business owner, dressage athletes, CEOs of varying business, information technology experts, teachers, university teachers and researchers, an insurance broker, a real estate agent, and employees of ACT and Commonwealth departments. All of this is healthy for a vibrant community.

Source: Personal discussion with long term resident of Dog Trap Road.

The emphasis on local food, farmer's markets and 'organics', and rural tourism means that changing the minimum lot size to 40 ha from the current 80 ha would promote sustainable development under this criteria.

7(c) Recognition of the significance of rural land use to the State and rural communities, including the social and economic benefits of rural land use and development

A strong community is an important goal of Yass Valley Council. But more population, not less promotes healthier communities. There is evidence to suggest that more people combined with even simple forms of participation, such as attending events and helping neighbours, are the precursors of strong networks in local areas¹⁷. Indeed the Sutton Landcare Group, is just one example of the more active groups in the area with plenty of participation from small landholders. Smaller lot sizes and more subdivision, not less, are consistent with the promotion of a healthier rural community in the Yass Valley LGA. As shown in box 2, there is a lot of social diversity made possible by new entrants and more of this would be possible with smaller lot sizes.

7(d) In planning for rural lands, to balance the social, economic and environmental interests of the community

When considering the balance between the social, economic and environmental interests of the community a judgement about the relative value of these three elements of sustainable development is required. That is, if one or two criteria are enhanced at the expense of another, have the community's interests have been enhanced? For example, economic interests might be promoted by a planning decision change at the expense of the environment, if so has the community moved forward or backward on sustainable development grounds? Community values are required.

One set of values comes from the real estate market, provided, and it is a big proviso, all 'external' effects are fully accounted for. So, provided adequate policies protect the environment, these

¹⁷ Perkins D, Brown B and Taylor R 1996, 'The ecology of empowerment', *Journal of Social Issues*, vol. 52, no. 1, pp. 85–110; and Foley G 1999, *Learning in Social Action: A Contribution to Understanding Informal Education*, Zed Books, London.

policies will be reflected in the relative prices of different pieces of land. That means, say, if carbon pollution is an issue for the community, provided a 'social charge' is put on carbon (e.g. by a carbon tax) then the price of land will automatically reflect this environmental cost. In jargon terms, the 'external' cost will have been 'internalised' and this issue was discussed earlier in box 1.

In practical terms, using the carbon tax example, that means a piece of peri-urban rural land that is further out from an urban centre will be valued less because it will cost more to commute because doing so implies more greenhouse emissions which are now taxed. The community's values are reflected in the market-place and the right balance is automatically struck without any further input from outsiders.

If a trade-off is involved between the social, economic and environmental interests, the best way to make judgements about the relative merits of each criterion is to allow more choice to potential buyers and provide the greatest amount of competition and flexibility in rural subdivision rules. In other words, create a flexible, robust competitive market for rural land. If a criteria, say the environment, is not fully reflected in the market place, then the right way to fix this is to change the environmental rules, not to interfere with planning rules or somehow constrain or restrict the market for rural land.

Sustainable development in the Yass Valley LGA would be promoted by having smaller minimum lot sizes, thereby creating more choice and establishing a more competitive market where relative values can be reflected in the decisions people make. There is however another change that would enhance flexibility and promote sustainable development. This other change deals with the methodology used to make decisions about subdivisions called 'averaging'. This concept is discussed in depth below. For now, it needs noting that if there are issues where decision makers do not believe community interests are fully reflected in market outcomes, say with respect to the environment, then the right thing to do is change the environmental policy and not interfere with planning rules.

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

Protecting natural resources is important. But there are two issues to be considered:

- whether planning rules are the best way to achieve this aim or whether other policies, such as tree preservation orders or water policies are more effective; and
- whether minimum lot sizes i.e. 40 ha compared to 80 ha, make any *extra* material difference to the protection of the natural resource.

On the first point, a whole generation of environmental protection legislation and bureaucracies to manage this legislation and enforce it have come into existence since the 80 ha minimum lot size was first established. These policies are targeted at specific ends: such as preserving trees or protecting waterways. Because they are targeted, they are more effective at achieving their end goal. If they are not fully effective, the solution is to amend those policies to make them effective and not put the onus on planning rules. If these environmental rules are not effective and cannot be made to be effective they should be repealed.

On the second point, whether the 80 ha minimum lot size makes any difference to natural resource preservation than a 40 ha minimum lot size, the evidence points to 'no'. The main point is that *all*

farming makes some impact on the environment and an 80 ha lot badly managed could do far more damage than two well managed 40 ha lots. Hollier et al found that small lifestyle farmers, with their predominantly urban backgrounds are likely to have different values and aspirations compared to that of their traditional farming neighbours¹⁸. Two positive things small farmers on the peri-urban fringe are likely to bring to the rural scene are money and an educated view of the environment.

'Money' is important since the primary enemy of the environment is poverty. Prosperous societies care more for the environment through a well-researched phenomenon called the environmental Kuznets curve¹⁹. Under financial pressure, it is more likely farms will care less for the environment. Small peri-urban farms have their primary source of income off-farm, a trend that extends to large farms too as the terms of trade have fallen.

The second thing is that the desire for more environmental protection policies has been driven by the urban population where the bulk of voters live. Policy changes have not been driven by farmers themselves, even though farmers do care about the environment. The motivation for purchasing small acreage in the urban fringe is about lifestyle, the environment, not cheap land for housing.

Water availability requires special consideration since the harvestable water for a small farm lot depends on the size of the land. NSW Office of Water policy proposes that a 16 ha block permits a minimum of 1.1 megalitre of surface water per year based on a harvestable right dam capacity for a region with surface water runoff of approximately 0.07 megalitres per ha²⁰. These numbers suggest that a lot size of approximately 20 ha could be a minimum as a ten per cent variation could apply. Sufficient and secure water is highly sought after by purchasers so smaller lot sizes without adequate water are highly discounted and slow to sell.

7(f) The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities

This criterion is a self-evident plus for changing rural minimum lot sizes. Smaller lot sizes create more opportunity for rural lifestyle blocks and it has been noted that around Australia, lifestyle towns and environs like Bowral, Macedon and the Adelaide Hills and are prospering while those in say, the Wimmera and the remote wheat / sheep belt are not²¹. Yass, Murrumbateman and environs would be two more examples of the benefits of rural lifestyle development.

Smaller lot sizes also make another contribution to rural communities; they bring diverse skills into the community as already discussed. One of the problems facing rural communities is the lack of skills, not just farming skills, but people with education across the social spectrum. The lack of skills in the rural sector is noted in a report from the Australian Council of Deans which has estimated that rural industry needs 4000 graduates a year to fill vacancies, yet there are currently only 700²².

¹⁸ Hollier C, Reid, M and Francis J 2004, 'Understanding drivers of land use change associated with life style farms: Background report 4', in Croswaithe J, Callagan J, Farman-Bowers Q, Hollier C and Straker A (eds), *Land Use Changes, Their Drivers and Impact on Native Biodiversity — Driver Research Phase One: Overview Report*, Department of Sustainability and Environment, Melbourne, <http://www.dse.vic.gov.au>.

¹⁹ The environmental Kuznets curve is described in World Bank 1992, *World Development Report 1992*, New York, Oxford University Press.

²⁰ Yass Valley Council, Draft non-urban lands study 16.3.4, p. 181.

²¹ Hollier C and Reid M 2007, *Small Farms: Valued Contributors to Healthy Rural Communities*, Rural Industries Research and Development Corporation, Canberra

²² Hare J 2012, 'How to woo graduates back to the farm', *The Australian*, 23 June.

One other important issue for the social and economic welfare of rural communities is superannuation and succession planning. For a lot of farmers, their farm is their 'super' and the ability to free up this capital is important. Succession is another issue and the discussion in box 3 says it all. A smaller lot size combined with averaging, would help access the capital needed and by increasing flexibility would minimise disruption to existing operations. On this score, a smaller minimum lot size would promote sustainable development in the Yass Valley LGA.

Box 3: Helping young farmers on to the land

David (not his real name) lives on his parent's property and wants to make farming his career. He is approaching 30 and has formal qualifications from one of Australia's top agricultural colleges. He is keen to expand the family business. The farm is big enough to support a full-time farmer. But even now, as typical, David's wife works off-farm to earn extra income.

Given the aging and declining farmer population shown in chart set 1 and the declining skill base already noted, David is the ideal person who should be encouraged into farming. He is young, keen, and well trained. And he should have every opportunity to expand the business.

But David has two siblings who, while have no interest in becoming farmers themselves, have an inheritance stake in the family farm. David knows he will have to buy their interest out at some stage. After a few years of bad drought and the possibility of even more extreme weather events, David does not want to 'gear' the property up too much and borrow heavily. Fortunately there are a couple of blocks on the family farm that will help here but greater scope for selling some smaller, sort after, farm blocks on parts of the farm without jeopardising the farm business would free up needed capital. And David's neighbouring property could well come on to the market in the next few years and he would love to buy that. But where will he get the capital from? Even without subdividing, the opportunity to do so is more attractive to a bank to lend extra capital. Smaller minimum lot sizes combined with averaging would help a young farmer like David enormously.

Source: Personal communication with 'David'.

7(g) The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing.

This criterion really applies to rural residential lands outside the scope of this review. For rural subdivisions we note that the onus on providing infrastructure services lies on the landowner desiring to subdivide so it is incorporated into the value of land. It is a case of 'user pays'.

7(h) Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-general

The main regional strategy applicable to the Yass Valley LGA is the *Sydney-Canberra Corridor Regional Strategy 2006-31*. In the words of the strategy, the:

'...primary purpose of the Regional Strategy is to accommodate and manage growth while ensuring that the rural landscapes and environmental settings that define the Region's character are not compromised'²³.

In other words, the objective is to promote sustainable development. And the strategy notes:

²³ Department of Planning 2008, *Sydney-Canberra Corridor Regional Strategy 2006-31*, p. 1.

'Key elements of this strategic approach include long term planning to accommodate demand for rural lifestyle housing as well as considering the most appropriate minimum sizes of rural lots'²⁴.

When each of the criteria are carefully examined, a change in the minimum lot size from 80 ha to 40ha with averaging would enhance sustainable development in the LGA. This change is therefore consistent with the Sydney-Canberra regional strategic document.

We now turn to examine the section 8 criteria (to be applied to rural land subdivision).

The section eight planning principles

8(a) The minimisation of rural land fragmentation

Superficially, a minimum lot size of 40 ha (instead of 80 ha) would appear to increase the fragmentation of rural land. There is however a methodology of applying a 40 ha minimum lot size that will limit the extent of fragmentation. This methodology is 'averaging' and it works as follows.

Suppose there is a rural property of 240 ha. Under current rules that would qualify the farm for three smaller lots of 80 ha. Under a 40 ha minimum rule, it would qualify the farm for six smaller lots of equal size. But soils, topography and aspect over the LGA are highly variable and rather than 'forcing' six lots of equal size, six lots could still be created *on average* but with the flexibility of a range of sizes to reflect particular aspects of rural land. So several lots smaller than 40 ha could be created and several bigger ones that might for example, keep a patch of cropping land together so it stays in cropping. What should the range be? There are many possibilities but as discussed earlier, considerations such as harvestable water, which the market prices in anyway, means 20 ha is an effective minimum. The maximum is best set at 70 ha so a block size of this sort would not qualify for further subdivision. So a 40 ha minimum lot size with averaging whereby lots can range from 20 ha to 70 ha is recommended by the Section 355 Committee.

Through averaging, those areas of land best suited for rural lifestyle blocks could be excised and those areas best suited for other uses preserved. By increasing the supply of rural lifestyle blocks, the price of these blocks is reduced and places less economic pressure on other farmers who want to continue to farm.

Simply reclassifying the LGA with a 40 ha minimum lot size, does not necessarily mean fragmentation will occur as shown in the example in box 4. An across-the-board 40 ha minimum does not stop amalgamations occurring and it was shown earlier that the dominant trend across all of Australian agriculture is for farm sizes to get bigger, not smaller.

Box 4: Subdivision does not always lead to fragmentation of farming

In 1979 a block of land over 240 ha close to Canberra was offered at auction. It was to be sold as one parcel but did not make the reserve so it was passed in. Three interested parties got together to purchase the land with the aim of subdividing it into three lots of 80 ha, the minimum lot size applying at the time. In the event, one party dropped out and the other two parties purchased the land under three titles with the aim of

²⁴ Department of Planning 2008 op cit., p. 18.

reselling one of the lots at a later date, which did not happen. One house was built and one block leased from the other party.

Thirty years on and the same 240 ha block has been run as one rural entity even though it qualifies for three separate entities with a dwelling. If a 40 ha minimum lot size was applied, it might mean the owner could acquire adjoining land more easily and run an even larger operation. But combined with 'averaging' it would give more choice and would be more likely lead to the right land being used for the right purposes. Changing minimum lot size to a smaller area does not necessarily lead to fragmentation, the opposite can and does happen.

Source: Personal communication with land owner.

There is also another aspect to the fragmentation argument which is part philosophical. That is, across the nation, as shown earlier (see chart set 1 again), on average, farm sizes have got bigger with fewer small farms and more large ones. The *opposite* of fragmentation has happened across the nation and the State overall. Moreover this trend is driven by some fundamental long term economic forces of rising productivity and falling terms of trade that will continue. It has given rise to the cliché, "Get big or get out". Farm amalgamation, not fragmentation is the overall story.

So if the facts show fragmentation is not a nation-wide or state-wide issue overall, the argument has to be mounted as to why it is an issue for particular pockets like the Yass Valley LGA. Perhaps the best alternative may be a 'rule of thumb' that says 'where there is pressure for fragmentation, let's make sure the flexibility is there to minimise this effect'. Averaging does that.

8(b) The minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses

Rural land use conflicts arise most where choice is restricted and people are forced to acquire a rural lot larger than they really need for residential or lifestyle purposes. The Sydney–Canberra regional strategy specifically calls for another 25,200 extra dwellings and 46,300 people by 2031²⁵. Some of these extra homes and extra people will reside in the Yass Valley, and they will be accommodated in rural residential areas or on rural lifestyle blocks. There is no escaping the need to increase the supply of suitable blocks. Reducing the minimum lot size to 40 ha achieves this and if it is *combined with averaging*, choice and flexibility will be increased, competition will be greater, helping home affordability and the most suitable land will be preserved. Sustainable development will have been enhanced.

8(c) The consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land use when considering lot sizes for rural lands

Much of the land in the Yass Valley already reflects market pressure and the peri-urban nature of the LGA, as a result of its location next to a prosperous and growing city, Canberra. There is nothing that can change the demand for rural lifestyle blocks, short of a special tax on such blocks which could never work or would never get up. So the best solution is to make the choice set as wide and diverse as possible with as much competition that can be achieved. This way a robust market will evolve and reducing the minimum lot size to 40 ha with an averaging achieves that.

²⁵ Department of Planning 2008 op cit., p. 13.

outcomes ...'. Hence the Green paper by the Department of Planning to streamline process, focus on community wishes and embrace strategic planning as the primary tool for delivering better outcomes. All of this is welcome but meaningful change is still some years off. Meanwhile, the Section 355 Committee still has to recommend to Council how to deliver a better outcome for sustainable development for rural land in the Yass Valley LGA.

The way to bring this matter to finality quickly, given all the reviews and reports over the last seven years, is to make a direct approach to the Minister who has the authority to declare 40 ha the new minimum lot size for rural subdivisions in place of 80 ha. This must occur simultaneously with the adoption of the principle of averaging. It is the *interaction* of these two policies that does the most good and this point cannot be emphasised enough. This is the course of action the Section 355 Committee now recommends.

Conclusion

Planning rules are used over rural land in NSW to achieve sustainable development. These rules are implemented through *State Environmental Planning Policy (Rural Lands) 2008*.

Sustainable development means growth in a way that does not compromise the ability of future generations to meet their own needs. But the 'ability of future generations to meet their own needs' changes as technologies, environmental policies and needs change. So the rules to achieve sustainable development need to change with these changes.

There has been massive change in the Yass Valley LGA and environs over the last thirty years that weighs heavily on achieving sustainable development. Yet the primary elements of planning rules to achieve sustainable development, namely the minimum lot size on rural land and the way that minimum is applied to subdivision applications, has not changed over the last 35 years.

The State's rural lands planning policy has 13 relevant clauses listed as either planning or subdivision principles. Each has been examined for their ability to affect sustainable development given the scope of change in the LGA. Current rules impede the achievement of sustainable development.

This review has concluded that reducing the minimum lot size from an 80 ha to a 40 ha minimum combined with 'averaging' would enhance sustainable development in the Yass Valley LGA. These two changes work 'hand-in-glove' and together increase choice, flexibility and better allow the right land to be used for the best use. It minimises land use conflicts, it protects large rural holdings where these are most appropriate, minimises fragmentation of rural land and must leave all interested parties better off because choice does not have to be exercised. These two changes should be implemented forthwith.



The Hon Brad Hazzard MP

Minister for Planning and Infrastructure

Minister Assisting the Premier on Infrastructure NSW

The Mayor
Yass Valley Council
Council Chambers
209 Comur Street
YASS NSW 2582

YASS VALLEY

27 SEP 2012

COUNCIL

12/14569

Dear Councillor

I refer to the former Mayor's correspondence concerning draft *Yass Valley Local Environmental Plan (LEP) 2012*.

I have been advised Council has recently completed its formal exhibition and consultation on the draft LEP. I have also been advised any change to the minimum or average lot size for rural areas at this time would represent a significant change to the policy intention of the Plan and require new consultation with relevant Government agencies and the public.

I am further advised the current draft plan for Yass Valley (as exhibited) provides for significant new residential, rural-residential, commercial and industrial development. The plan resolves a number of long-standing planning issues associated with rural settlement around Yass Valley's towns and villages.

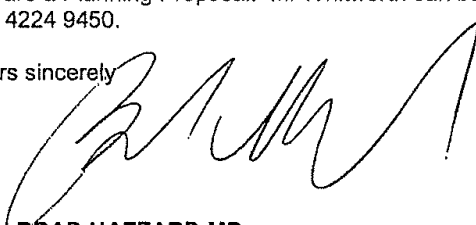
In order to deliver these important outcomes at the earliest opportunity, I would recommend Council make the Plan with the 80 hectare average (as exhibited) and instead approach the Department to consider a Planning Proposal for this matter after the current draft Plan has been notified.

I would expect any Planning Proposal would have at its core the work already done by Council's Section 355 Committee to justify the change to rural minimum lot sizes. This will enable a Gateway Determination to be considered that sets out the consultation necessary to ensure the proposed change represents the best balance between the protection of valuable agricultural land and the need for additional residential and rural settlement.

So that any future planning proposal is progressed quickly, I have asked staff at the Department of Planning and Infrastructure to assist Council.

I believe there is value in Council discussing this matter in detail with Mr Brett Whitworth, Regional Director - Southern Region, of the Department of Planning and Infrastructure, before resolving to prepare a Planning Proposal. Mr Whitworth can be contacted on telephone number (02) 4224 9450.

Yours sincerely


HON. BRAD HAZZARD MP
Minister

25 SEP 2012

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(3) had it not been affected by:

- (i) a minor realignment of its boundaries that did not create an additional lot, or
- (ii) a subdivision creating or widening a public road, public reserve or for another public purpose, or
- (iii) a consolidation with adjoining public road, a public reserve or for another public purpose.

4.2C Erection of dual occupancies on land in certain rural and environmental protection zones [local]

- (1) The objectives of this clause are as follows:
 - (a) to minimise unplanned rural development, and
 - (b) to enable the replacement of lawfully erected dual occupancies in rural and environmental protection zones.
 - (2) This clause applies to land in the following zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone RU4 Rural Small Holdings,
 - (d) Zone E3 Environmental Management.
 - (e) Zone E4 Environmental Living
 - (3) Development consent must not be granted for the erection of a dual occupancy on a lot in a zone to which this clause applies, and on which no dwelling house has been erected, unless the lot is:
 - (a) a lot that is at least the minimum lot size specified for that lot by the Lot Size Map, or
 - (b) a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
 - (c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or
 - (d) a lot resulting from a subdivision in accordance with Clause 4.1 or Clause 4.1B.
- Note.** A dwelling cannot be erected on a lot created under clause 9 of *State Planning Policy (Rural Lands) 2008* or clause 4.2.
- (4) Despite any other provision of this clause development consent may be granted for the erection of a dual occupancy on land in a zone to which this clause applies if a dwelling house can be or has been lawfully erected on the land.
 - (5) Development consent must not be granted for a dual occupancy unless:
 - (a) the dual occupancy is located on the same parcel of land as the existing dwelling, or

References

Hollier, C. & Reid, M., 2007. *Small Farms: Valued contributors to healthy rural communities*. Rural Industries Research and Development Corporation, Barton ACT.

Spiire, 2012. Final Report. Small Rural Lots Project. Rural Councils Victoria/ Municipal Association of Victoria. Melbourne VIC.