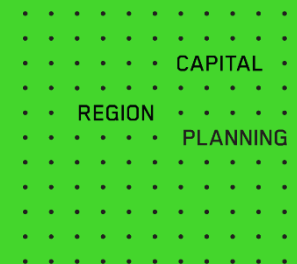


# Planning Proposal

80 Murrumbateman  
Road Murrumbateman  
(Lot 10 DP1218866)

Prepared for: Pixiu Holding Pty Ltd

September 2020



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# 1

## Introduction

### 1.1 Commission

This Planning Proposal has been prepared by Capital Region Planning on behalf of Pixiu Holdings Pty Ltd (also referred to as **the Proponent**) relating to Lot 10 DP 1218866 being 80 Murrumbateman Road, Murrumbateman (**the subject site**).

It is submitted to the Yass Valley Council (**Council**) to accompany a request to amend the Yass Valley Local Environmental Plan 2013 (**YVLEP 2013**) in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).

This Planning Proposal includes the following:

- A statement of the objectives and intended outcomes of the proposed instrument.
- An explanation of the provisions that are to be included in the proposed instrument.
- The justification for those objectives, outcomes and the process for their implementation.
- Maps, where relevant, to identify the intent of the Planning Proposal and the area to which it applies.

This Planning Proposal has been prepared having regard to discussions with Council and 'A Guidelines of the Preparing Planning Proposals' and 'A Guide to Preparing Local Environmental Plans' published by the Department of Planning, Industry and Environment (DPIE) dated August 2016. This Planning Proposal also references the following documents:

- Relevant State Environmental Planning Policies and Section 9.1 Directions.
- Yass Valley Local Environmental Plan 2013.
- Regional Community Strategic Plan 2016 - 2036
- Yass Valley Settlement Strategy 2036.
- South East and Tablelands Regional Plan 2036.

This Report concludes that the Planning Proposal should be supported and recommended to the DPIE for Gateway Determination.

## 1.2 Planning Proposal Reports and Documents

This Planning Proposal is accompanied by the following drawings, studies and reports:

- Planning Proposal Application Form (Completed, signed by applicant and all fees paid);
- Detailed Survey for Lot 10 DP 1218866;
- Preliminary Site Investigation of Lot 10 DP 1218866, prepared by Murrang Earth Sciences;
- Aboriginal Due Diligence Assessment – Lot 10 DP 1218866, prepared by Ecological Australia;
- Biodiversity Development Assessment Report – Lot 10 DP 1218866, prepared by Capital Ecology;
- Bushfire Assessment Report – Lot 10 DP 1218866, prepared by Ember Bushfire Consulting;
- Land Capability Assessment Soil and Water – Lot 10 DP 1218866, prepared by Franklin Consulting Australia Pty Ltd;
- Traffic Impact Assessment – Lot 10 DP 1218866, prepared by OnTolt;
- Baseline Heritage Assessment – Lot 10 DP 1218866, prepared by Ecological Australia; and
- Subdivision Site Plan – Lot 10 DP 1218866.

# 2

## Site Analysis

This Section of the Report describes the physical characteristics of the subject site, the adjoining development and character of the locality.

### 2.1 Regional Site Location

The land the subject of this Planning Proposal is situated to the east of Murrumbateman Township within the Yass Valley Local Government Area (LGA). Murrumbateman is a town in the Southern Tablelands of New South Wales. It is located on the Barton Highway, approximately 30 kilometres north west of Canberra. As at the 2016 Census, the Town had a population of 3,804 people.

The Town has a traditional rural base, which in more recent years been enhanced by viticulture, the establishment of boutique wineries and growing tourism industry. The Town is well serviced offering an array of services and community facilities to both local residents and visitors alike. Land use pattern on the periphery of the Town has experienced some rural residential growth of more recent times. The regional site location is depicted in **Figure 1** below.

### 2.2 Site Description and Context

The site is legally described as Lot 10 DP 1218866 being 80 Murrumbateman Road, Murrumbateman and is located approximately 1 kilometre south east of the Murrumbateman commercial centre. It is an undulating, irregular shaped parcel of land that has an area of approximately 18.70 hectares. The site has a sole road frontage to Murrumbateman Road, which is a sealed (2 lanes) Council maintained Road.

The subject site is used for grazing purposes and supports an existing dwelling, a number of farm buildings and structures and farm dams. Mature shelter belt plantings internal to the site and along sections of common boundaries are evident together with major plantings within the curtilage of the dwelling.

With the exception of the existing main driveway entrance and secondary farm entry, the entire property frontage is characterised by noteworthy major plantings, which significantly contribute to streetscape character.

Land opposite and to the east of Murrumbateman Road has been subject to past 'broad acre' rural residential release and is characterised in the main by well-established and maintained dwellings and surrounds. Lands to the north, south and west are generally characterised by agricultural activities. Dwellings on these lands and their surrounds are generally well maintained. The land adjoins a corridor of land (lot 11 DP 1218866), which has been dedicated in subdivision for road purposes associated with the Barton Highway Duplication Corridor.

**Figure 2** shows the site in its local context.

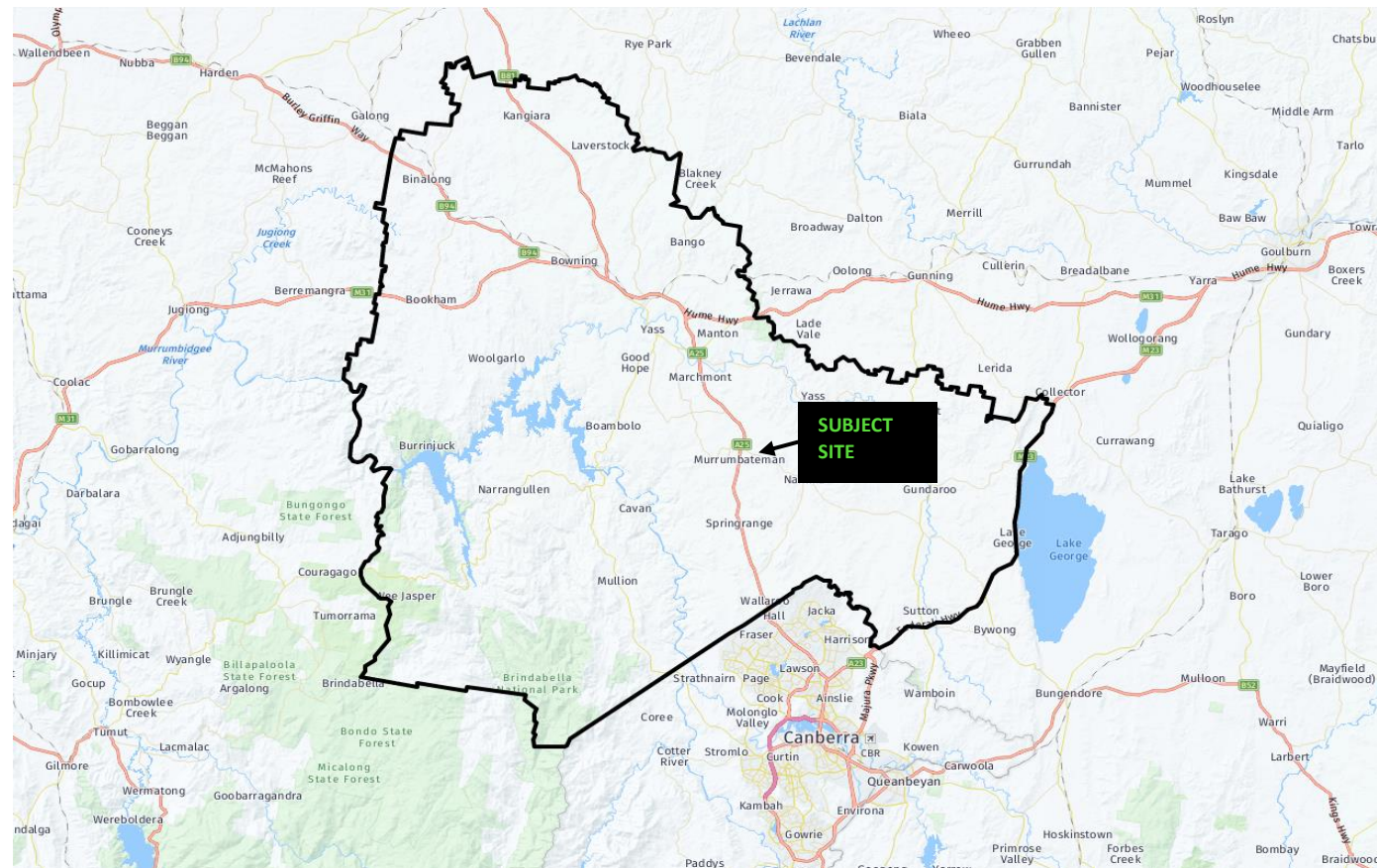


Figure 1: Regional Site Context (<https://profile.id.com.au/yass-valley/about/>, March 2020)





Figure 2: Local Site Context (SIX Maps, March 2020)



# 3

## Current Planning Controls

### 3.1 Yass Valley Local Environmental Plan 2013

The principal planning instrument applying to the subject site is the Yass Valley Local Environmental Plan 2013 (**YVLEP 2013**). This is the statutory planning instrument that establishes the form of development and land use activities on all land within the Yass Valley Local Government Area (**LGA**). The YVLEP 2013 was gazetted on 19 July 2013.

The land subject to this Planning proposal is currently zoned RU4 – Primary Production Small Lots and immediately adjoins the Barton Highway Duplication Corridor to the east. See **Figures 3 and 4** below.

The key YVLEP 2013 planning controls that apply to the subject site are detailed within **Table 1** below and apply to both the current and proposed land use zones and activities provided for as part of this Planning Proposal.

**Table 1:** Relevant YVLEP 2013 Planning Controls

Clause	Matter	Requirement
2.2	Zoning of land to which Plan applies	The zoning of the subject site is shown on the Land Zoning Map ( <b>Figure 3</b> ). The Land Zoning Map indicates that the subject site is located within the RU4 Primary Production Small Lot Zone.
2.3	Zone Objectives and Land Use Table	<b>Zone RU4 Primary Production Small Lot Zone</b> <ol style="list-style-type: none"> <li><b>Objectives of zone</b> <ul style="list-style-type: none"> <li>To enable sustainable primary industry and other compatible land uses.</li> <li>To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.</li> <li>To minimise conflict between land uses within this zone and land uses within adjoining zones.</li> <li>To enable residential development if it supports viable primary production on the land.</li> <li>To ensure that the location, type and intensity of development is appropriate, having regard to the characteristics of the land, the rural environment and the need to protect significant natural resources, including ground and surface water.</li> <li>To prevent premature and sporadic subdivision of land on the fringe of urban areas into small lots that may prejudice the proper layout of these areas in the future.</li> </ul> </li> </ol>

Clause	Matter	Requirement
		<p><b>2. Permitted without consent</b> Environmental protection works; Extensive agriculture; Home-based child care; Home businesses; Home occupations; Horticulture; Viticulture; Water storage facilities</p> <p><b>3. Permitted with consent</b> Agricultural produce industries; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Cellar door premises; Cemeteries; Dual occupancies; Dwelling houses; Farm buildings; Farm stay accommodation; Flood mitigation works; Function centres; High technology industries; Home industries; Industrial retail outlets; Intensive plant agriculture; Markets; Plant nurseries; Recreation areas; Restaurants or cafes; Roads; Roadside stalls; Rural supplies; Signage; Truck depots; Veterinary hospitals; Water supply systems</p> <p><b>4. Prohibited</b> Any development not specified in item 2 or 3</p>
2.3	Zone Objectives and Land Use Table	<p><b>Zone R5 Large Lot Residential</b></p> <p><b>1. Objectives of zone</b></p> <ul style="list-style-type: none"> <li>To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.</li> <li>To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.</li> <li>To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.</li> <li>To minimise conflict between land uses within this zone and land uses within adjoining zones.</li> <li>To ensure that development is provided with an adequate water supply and the disposal of sewage.</li> </ul> <p><b>2. Permitted without consent</b> Environmental protection works; Extensive agriculture; Home-based child care; Home businesses; Home occupations</p> <p><b>3. Permitted with consent</b> Animal boarding or training establishments; Bed and breakfast accommodation; Bee keeping; Camping grounds; Caravan parks; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental facilities; Exhibition homes; Farm buildings; Group homes (transitional); High technology industries; Home industries; Information and education facilities; Recreation areas; Respite day care centres; Roads; Signage; Truck depots; Veterinary hospitals</p> <p><b>4. Prohibited</b> Any development not specified in item 2 or 3</p>
2.6	Subdivision – consent requirements	Land to which this Plan applies may be subdivided, but only with development consent.
4.1	Minimum subdivision lot size	The size of any lot resulting from a subdivision of land is not to be less than the minimum size shown on the Lot Size Map. The Minimum Lot Size Map indicates a minimum lot size of 16 hectares for the subject site.
4.1AA	Minimum subdivision lot size for community title schemes	The size of any lot resulting from a subdivision of land is not to be less than the minimum size shown on the Lot Size Map. Notwithstanding, development consent may be granted for the subdivision of land resulting in lots that are less than the minimum size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that:

Clause	Matter	Requirement
		<ul style="list-style-type: none"> <li>a) the use of the land after subdivision will be for the purpose of an eco-tourist facility permitted under an existing development consent for the land, and</li> <li>b) the development is complementary to the rural and environmental attributes of the land and its surrounds, and</li> <li>c) there is or will be appropriate vehicular access servicing the lots, and</li> <li>d) if there is or will be a reticulated sewerage scheme for the land being subdivided — all of the lots created will have an area of at least 2,000 square metres, and</li> <li>e) if on-site sewage management is proposed to dispose of sewage on each individual lot — all of the lots created will have an area of at least 4,000 square metres.</li> </ul>
4.1A	Minimum subdivision lot size for strata plan schemes in certain rural, residential and environmental protection zones	The size of any lot resulting from a subdivision of land for a strata plan scheme (other than any lot comprising common property within the meaning of the <i>Strata Schemes (Freehold Development) Act 1973</i> or <i>Strata Schemes (Leasehold Development) Act 1986</i> is not to be less than the minimum size shown on the Lot Size Map.
4.1C	Additional requirements for subdivision in certain rural zones	<p>Development consent must not be granted for the subdivision of land unless the consent authority is satisfied that:</p> <ul style="list-style-type: none"> <li>a) the pattern of lots created by the subdivision and the location of any future buildings on the land are not likely to have a detrimental impact on any riparian land, watercourses or biodiversity values, or exacerbate existing erosion or salinity processes, and</li> <li>b) the subdivision layout has regard to protecting areas of remnant vegetation and will minimise the need for clearing vegetation for any future buildings, accessways, fences and any associated asset protection zones, and</li> <li>c) the pattern of lots will not significantly increase access to a watercourse for stock and domestic purposes, and</li> <li>d) the subdivision will not adversely affect the use of the land and surrounding land for agriculture.</li> </ul>
4.2	Rural subdivision	<p>Land may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map.</p> <p>However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.</p> <p>A dwelling cannot be erected on such a lot.</p>
4.2A	Exceptions to minimum lot sizes for certain rural subdivisions	<p>Land may, with development consent, be subdivided to create a lot of a size that is less than the minimum size shown on the Lot Size Map if the consent authority is satisfied that the use of the land after the subdivision will be the same use (other than a dwelling house or a dual occupancy) permitted under an existing development consent for the land.</p> <p>Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that:</p> <ul style="list-style-type: none"> <li>a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and</li> <li>b) the subdivision is necessary for the ongoing operation of the permissible use, and</li> <li>c) the subdivision will not increase rural land use conflict in the locality, and</li> <li>d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land</li> </ul>
4.2B	Erection of dwelling houses and dual occupancies on land in certain rural and environmental protection zones	<p>3) Development consent must not be granted for the erection of a dwelling house or a dual occupancy on land unless the land:</p> <ul style="list-style-type: none"> <li>a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or</li> <li>b) is a lot created before this Plan commenced and on which the erection of a dwelling house or a dual occupancy was permissible immediately before that commencement, or</li> </ul>

Clause	Matter	Requirement
		<p>c) is 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 or a dual occupancy would have been permissible if the plan of subdivision had been registered before that commencement, or</p> <p>d) is a lot resulting from a subdivision under Clause 4.1 or Clause 4.1B, or</p> <p>e) would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by:</p> <ul style="list-style-type: none"> <li>i. a minor realignment of its boundaries that did not create an additional lot, or</li> <li>ii. a subdivision creating or widening a public road or public reserve or for another public purpose, or</li> <li>iii. a consolidation with an adjoining public road or public reserve or for another public purpose.</li> </ul> <p>Note. A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2.</p> <p>4) Development consent must not be granted for the erection of a dwelling house unless:</p> <ul style="list-style-type: none"> <li>a) no dwelling house has been erected on the land, and</li> <li>b) if a development application has been made for development for the purpose of a dwelling house on the land—the application has been refused or it was withdrawn before it was determined, and</li> <li>c) if development consent has been granted in relation to such an application—the consent has been surrendered or it has lapsed.</li> </ul> <p>5) Development consent must not be granted for the erection of a dual occupancy unless:</p> <ul style="list-style-type: none"> <li>a) no dual occupancy has been erected on the land, and</li> <li>b) if a development application has been made for development for the purpose of a dual occupancy on the land—the application has been refused or it was withdrawn before it was determined, and</li> <li>c) if development consent has been granted in relation to such an application—the consent has been surrendered or it has lapsed.</li> </ul> <p>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.</p> <p>7) Despite the above, development consent may be granted for the erection of a dwelling house to create a dual occupancy on the land if there is a lawfully erected dwelling house on the land.</p>
6.1	Earthworks	<p>1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>2) Development consent is required for earthworks unless:</p> <ul style="list-style-type: none"> <li>a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or</li> <li>b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.</li> </ul> <p>3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <ul style="list-style-type: none"> <li>a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</li> <li>b) the effect of the development on the likely future use or redevelopment of the land,</li> </ul>

Clause	Matter	Requirement
		<ul style="list-style-type: none"> <li>c) the quality of the fill or the soil to be excavated, or both,</li> <li>d) the effect of the development on the existing and likely amenity of adjoining properties,</li> <li>e) the source of any fill material and the destination of any excavated material,</li> <li>f) the likelihood of disturbing relics,</li> <li>g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> <li>h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>
6.8	Essential Services	<p>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:</p> <ul style="list-style-type: none"> <li>a) the supply of water,</li> <li>b) the supply of electricity,</li> <li>c) the disposal and management of sewage,</li> <li>d) stormwater drainage or on-site conservation,</li> <li>e) suitable vehicular access,</li> <li>f) connection to a communications network with voice or data capability (or both).</li> </ul>
6.10	Development on land intended to be acquired for Barton Highway duplication	<ul style="list-style-type: none"> <li>1) The objective of this clause is to limit development on land intended to be acquired for the construction of the Barton Highway duplication.</li> <li>2) This clause applies to land identified as "Barton Highway Corridor" on the Barton Highway Duplication Map.</li> <li>3) Development consent must not be granted for any development of a permanent nature (for example, a building) on land to which this clause applies unless the development is consistent with the purpose for which the land is intended to be acquired.</li> <li>4) A condition of a development consent granted under subsection (3) may require the demolition or removal of the work for which consent is granted before the land is acquired for the purpose of the Barton Highway duplication.</li> </ul>

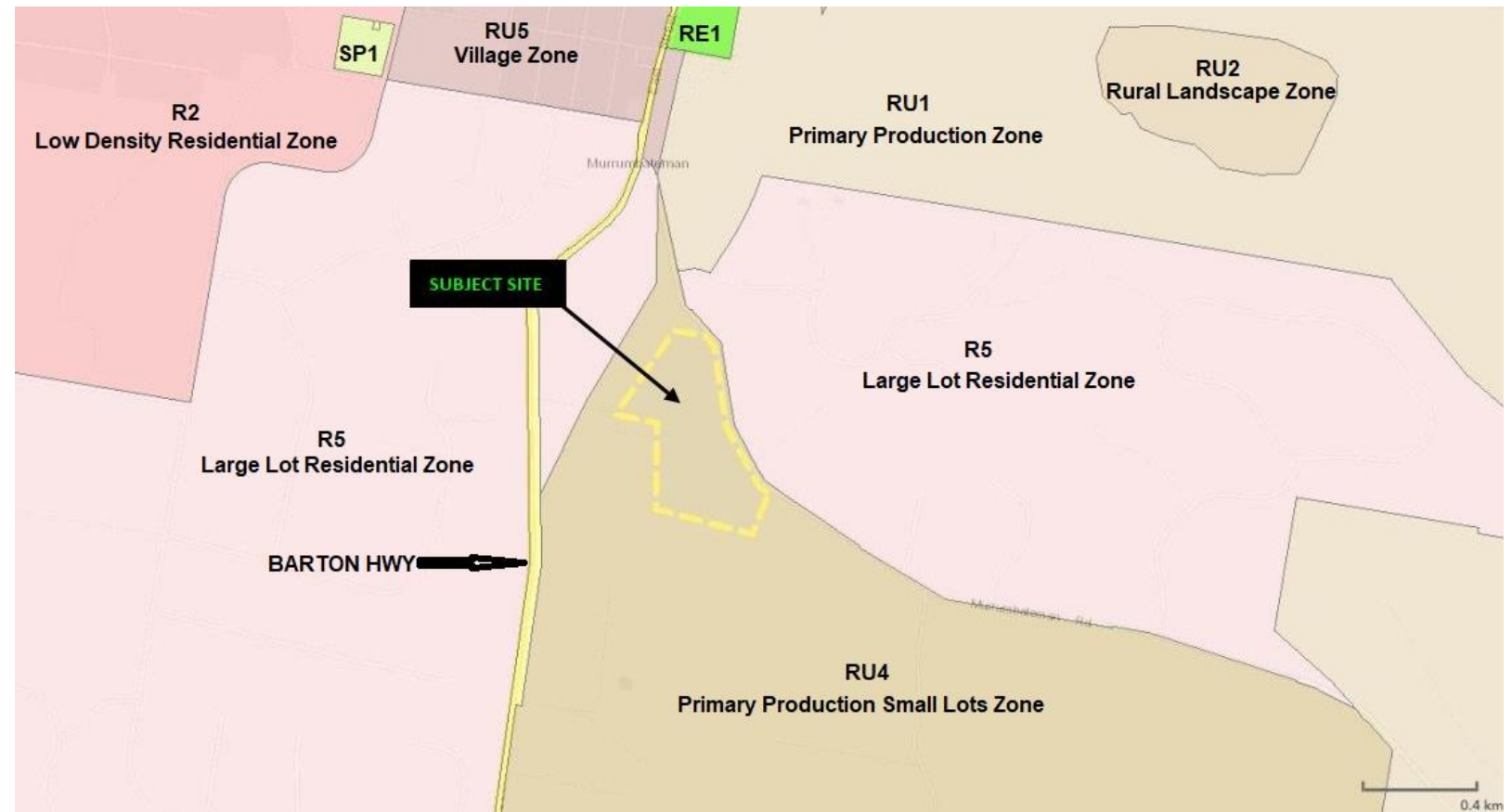


Figure 3: Current Zoning under YVLEP 2013 (NSW Planning Portal, March 2020)



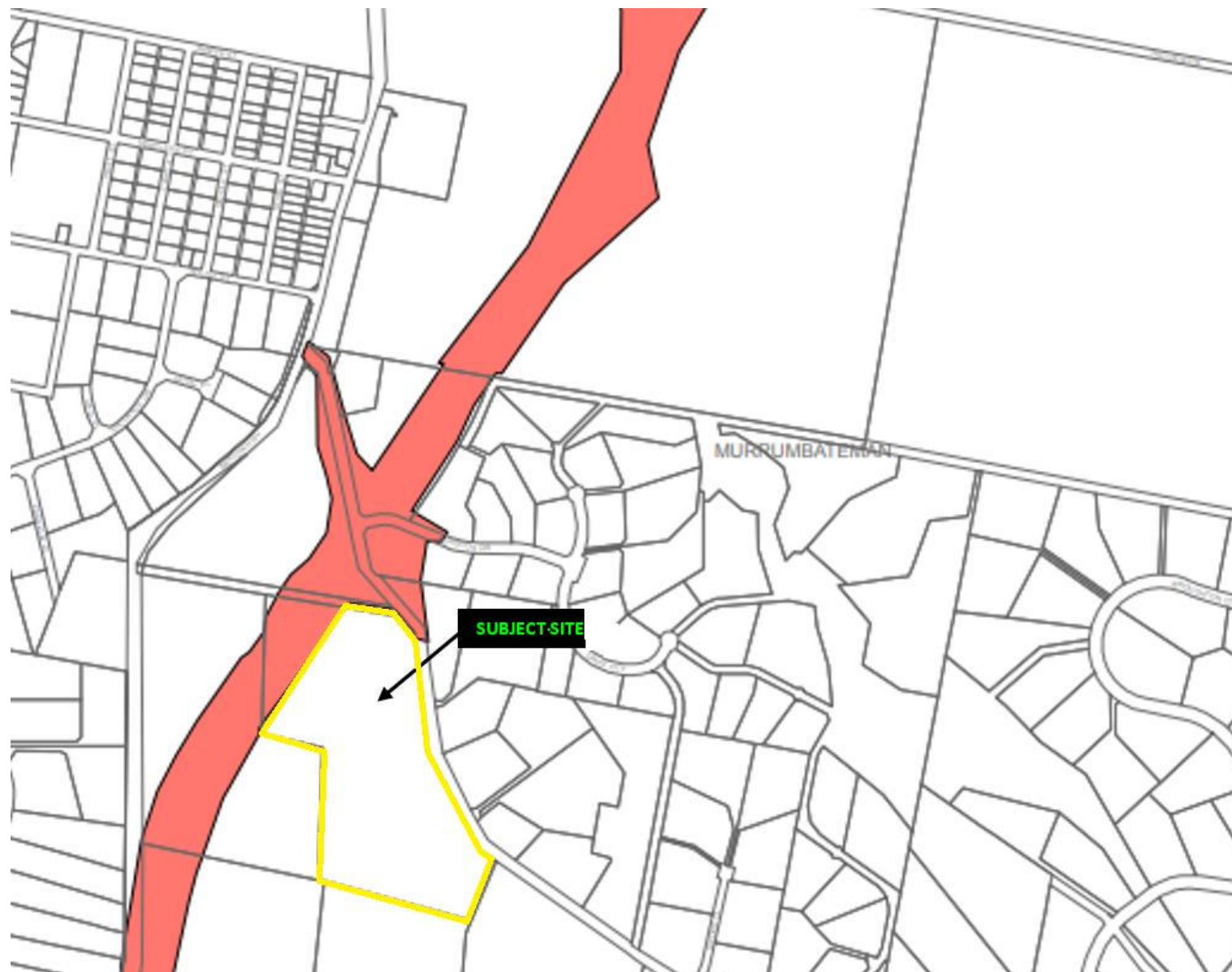


Figure 4: Barton Highway Duplication Map YVLEP 2013 (March 2020)

# 4

## Planning Proposal

### 4.1 Part 1 – Objectives or Intended Outcomes

The objective of this Planning Proposal is to re-zone privately owned land from RU4 Primary Production Small Lots to R5 Large Lot Residential having a corresponding minimum lot size of 2 hectares.

### 4.2 Part 2 – Explanation of Provisions

This Planning Proposal is seeking amendment to the YVLEP 2013 to permit future subdivision and residential/rural residential development on Lot 10 DP1218866. This will be achieved by:

- Amending Map Sheet LZN\_005C by replacing the existing RU4 Primary Production Small Lot Zone with R5 Large Lot Residential with area specific minimum lot size requirements.
- Amending Map Sheet LSZ\_005C by replacing the existing (AB2) 16 hectare minimum lot size with the (Z1) 2 hectare minimum lot size.
- With the exception of the amendments documented above, retain the existing land use tables and the controls governing subdivision, the erection of dwellings and environmental integrity as prescribed by the provisions of the YVLEP 2013.

The current Planning Proposal is a product of ensuring consistency in the future application of the minimum lot size requirements as relevant to the specific zone in the future subdivision and the development of the land.

### 4.3 Part 3 – Justification

#### 4.3.1 Section A – Need for the Planning Proposal

##### 4.3.1.1 Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes. This Planning Proposal responds to the strategic direction detailed in the following and Settlement Strategy as detailed below.

#### Yass Valley Settlement Strategy 2036

The Yass Valley Settlement Strategy was adopted by Council in October 2017 and followed Council's earlier strategic direction outlined in the Murrumbateman Master Plan 2031. The Strategy was subsequently endorsed by the Department of Planning, Industry and Environment (DPIE) on 20 September 2018.

The purpose of the Settlement Strategy being to provide clear direction for the long-term growth and development within Council's local government area. The Strategy's primary focus being to identify sustainable growth potential and opportunity over the short and medium term (to 2036) within existing settlements with the aspiration of strengthening the role of Yass within the region and its growth into a regional centre.

The Strategy acknowledges that Murrumbateman will grow into a major town through staged development of greenfield sites contiguous with the existing settlement. However, sustainable growth would be reliant on a secure water supply being sourced.

The Strategy identifies a triangular area of land between the Barton Highway Duplication Corridor and Murrumbateman Road as being suitable to support rural residential living on a minimum lot size of 2 hectares. The subject site is located within the nominated area. See **Figure 5**.

The Strategy also acknowledges that large lot rural dwellings typically capture their own rainwater and in some cases source ground water by way of bores.

On review, the current Planning Proposal would not be inconsistent with the directions and ultimate goals of the Strategy as it would facilitate the sustainable and progressive subdivision and release of land for rural residential living whilst ensuring the visual character of the Township and the preservation of the environmental and biodiversity values of the land and that of adjoining and adjacent lands.

The current Planning Proposal is supported by a detailed development application effectively demonstrating that the subject land has development potential for the purpose of residential living (refer to **Figure 6** below), which was generally reflective of the design concepts detailed in the Settlement Strategy.

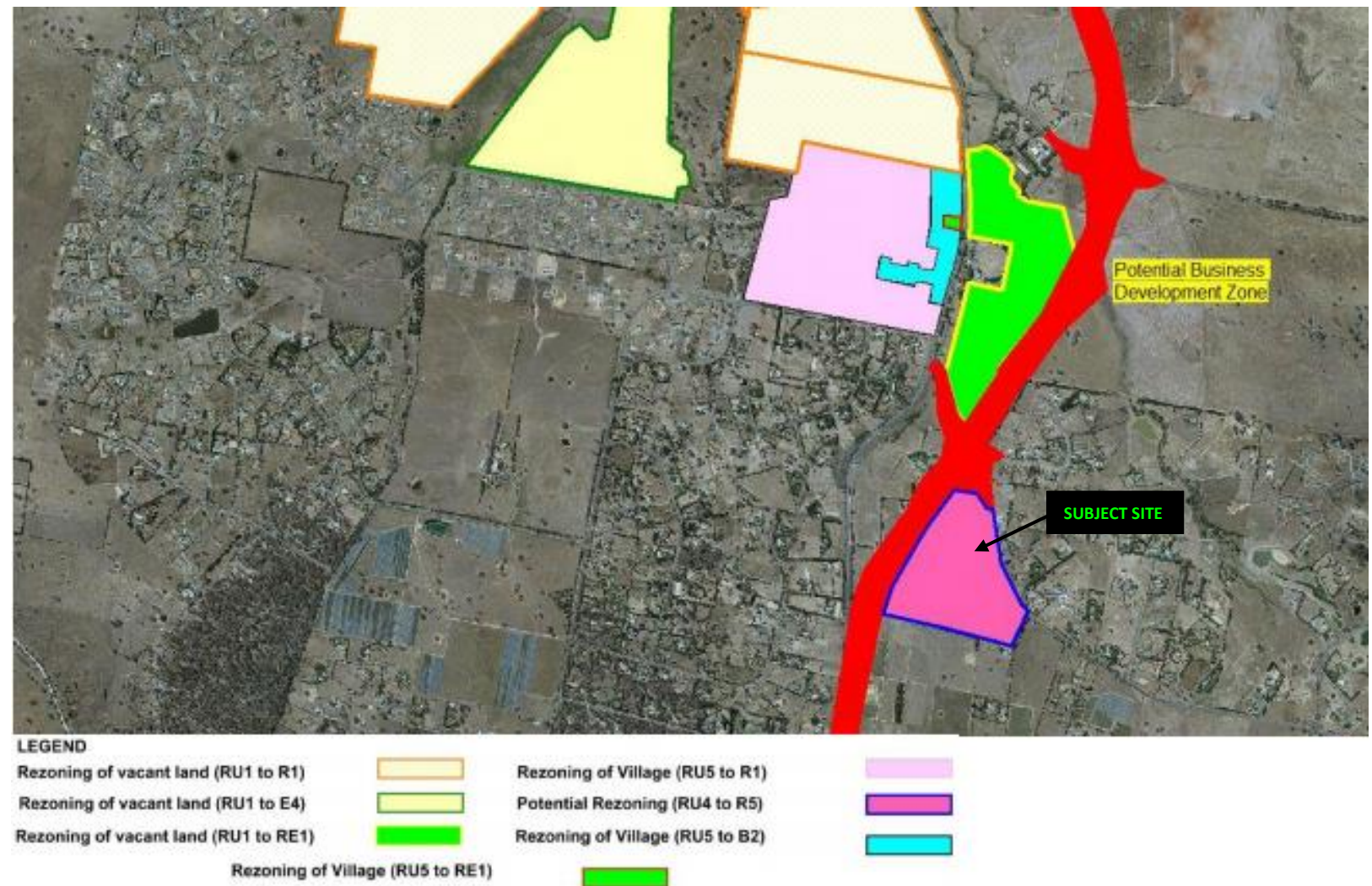


Figure 5: Map extract Yass Valley Settlement Strategy 2036 (March 2020)





Figure 6: Proposed Subdivision Plan dated October 2019 Revision 6.

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

Yes. This Planning Proposal is an appropriate mechanism to formalise the zoning and built form controls for the subject land, which are required to facilitate the future residential development of the subject site. The following points are made in support of this view:

- The current zoning of the subject land and associated minimum lot size requirements for the erection of dwellings as prescribed by the provisions of the YVLEP 2013 would effectively preclude residential release.
- There is adopted strategic land use planning policy in place, which provides clear direction for long term sustainable residential growth and development within the Yass Valley (Murrumbateman) in context with environmental character and community expectations.
- The current Planning Proposal would not be inconsistent with the Objectives and adopted Design Standards of the strategic planning policy as relevant.
- The provisions of the YVLEP 2013 and any future comprehensive development control plan (as adopted by Council) would ultimately control and regulate the orderly and proper future development of the subject land for residential living.

**4.3.2 Section B – Relationship to Strategic Planning Framework**

**4.3.2.1 Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?**

Yes. This Planning Proposal is consistent with the applicable regional plan as detailed below.

**South East and Tablelands Regional Plan 2036**

The primary purpose of the South East and Tablelands Regional Plan 2036 is to ensure that adequate land is available and appropriately located to sustainably accommodate projected housing and employment needs for the Region for the next 25 years. The relevant matters for consideration under the Plan are as follows:

Direction 8: Protect Important Agricultural Land

The Plan outlines an action framework designed to open an awareness and acknowledgment of the importance of protecting significant agricultural lands in the interests of sustained productivity, employment opportunity and food security.

The subject land and that of adjoining and adjacent lands have a long history of agricultural use over successive years of pasture improvement and livestock grazing and of more recent times, viticulture and the establishment of boutique wineries.

The current Planning Proposal facilitates the orderly and proper release of existing agricultural lands for residential purposes in accordance with adopted strategic and statutory planning policy. The release of the land for residential purposes would have no significant impact on agricultural worth in the region and any potential land use conflict at the interface with existing agricultural lands, can be managed through sustainable subdivision design reflective of the existing land use activities and the natural environment.



Direction 14: Protect Important Environmental Assets

The Plan acknowledges the presence of lands within the Region as having high environmental values, which must be preserved and protected against the impacts of urban development and other forms of non-compatible land use activities.

On review, it would appear that the subject land has not been identified as having a 'High Environmental Value' or being located within a 'State or Regional Biodiversity Corridor' as nominated by the Plan.

Nonetheless, the current Planning Proposal acknowledges the biodiversity values of the subject land and the importance of preserving those values through the strategic and statutory planning process.

This Planning Proposal and the accompanying Development Application is supported by a detailed Biodiversity Report prepared by Ecological dated 5 May 2019. The Report concludes that future subdivision of the land will effectively create 9 lots suitable for the erection of dwellings.

Direction 15: Enhance Biodiversity Connections

Refer to Direction 14 immediately above.

Direction 18: Secure Water Resources

The Plan recognises that future growth and development, coupled with uncertainties of drought and climate change places an importance on long term integrated and strategic planning and management of the Region's water sources. The Plan acknowledges that the provision of potable water must be reliable, affordable and of a quality that meets relevant health standards and that new development must be designed, constructed and managed to minimise potential impacts on water catchments.

As previously documented, sustainable growth within Murrumbateman will be reliant on a secure water supply being sourced and that dwellings on rural residential type lots generally stand alone to any reticulated town water supply by typically capturing their own rainwater.

This Planning Proposal and the accompanying Development Application is supported by a detailed land capability assessment prepared by Franklin Consulting Australia Pty Ltd Soil and Water dated 7 October 2019. The Report concludes that future subdivision of the land will effectively create 9 lots suitable for the erection of dwellings.

Direction 23: Protect the Region's Heritage

The Plan acknowledges the importance of preserving indigenous and non-indigenous heritage and culture in the Region to the benefit of present and future generations. The Plan recommends that early and appropriate consideration be given to heritage values as part of the strategic planning process for the purpose of providing greater certainty for stakeholders during the development assessment process.

This Planning Proposal and the accompanying Development Application is supported by a Baseline Historical Heritage Assessment prepared by Ecological Australia dated 6 August 2019. The Report concludes that the neither the site or adjacent study areas contain historic heritage items and therefore a Heritage Impact Statement is not warranted.

#### Direction 24: Deliver Greater Housing Supply and Choice

The Plan acknowledges that having a ready supply of appropriately located residential land has the potential to place downward pressure on property values and existing infrastructure whilst ensuring the integrity of environmentally sensitive areas. The Plan places an importance on the adoption of Regional and localised flexible housing strategies, which promote sustainable growth in existing centres (rather than isolated land releases) and which meet community aspirations in relation to housing and lifestyle choice.

The current Planning Proposal is consistent with adopted land use strategies, which have identified the subject land as being suitable for sustainable residential release. Furthermore, the current Planning Proposal does not seek to remove housing choice as currently provided by the provisions of the YVLEP 2013. The likes of dwellings and dual occupancies would continue to be permissible forms of land use with Council consent.

Also, it is to be noted that under the proposed zonings and minimum lot size requirements as nominated in the current Planning Proposal, the size and shape of individual lots would more than cater for the siting and design of future residential development without adverse impact on existing and future amenity, biodiversity and agricultural worth of adjoining and adjacent lands. The proposed subdivision plan illustrates building envelopes have been designed and located within each lot to afford considerable separation, amenity and privacy for neighbouring residents and the other lots within the subdivision.

#### Direction 25: Focus Housing Growth in Locations that Maximise Infrastructure and Services

The Plan acknowledges that the market demand for low density and semi-rural housing in the Yass Valley Local Government Area is placing undue pressure on the delivery of cross boarder (NSW/ACT) housing and infrastructure strategies.

The Plan promotes the position that future settlements should be located:

- to maximise the availability of existing infrastructure and services whilst minimising the need for new services;
- prioritise increased densities within existing urban areas; and
- prioritise new release areas that are an extension of existing strategic and local centres.

The current Planning Proposal is reflective of adopted localised land use strategies. The future development of the subject land for residential purposes would involve a logical extension to the Murrumbateman township and would effectively and efficiently utilise existing road transport corridors and available utility services.

The delivery of service infrastructure would be at the cost of the developer and in accordance with the requirements of Council and/or service provider.

#### Direction 27: Deliver More Opportunity for Affordable Housing

The Plan acknowledges the need to promote and provide greater delivery of affordable housing options across the Region.

The current Planning Proposal would not limit or remove affordable housing options available under the provisions of the YVLEP 2013 or State Environmental Planning Policy (Affordable Rental Housing) 2009.

#### Direction 28: Manage Rural Lifestyles

The Plan acknowledges that rural residential development can conflict with environmental and agricultural lands and have a negative impact on water catchments.

The Plan also draws attention to the potential loss of vegetation communities as a result of land clearing operations associated with the provision of roads and utility infrastructure and for the purpose of mitigating the risk of bushfire attack.

The Plan outlines essential parameters for the design of rural residential development for the purpose of ensuring agricultural worth, environmental quality and the preservation of items of cultural and heritage significance. In doing so, it places importance on the need for the preparation and adoption of local housing strategies, the selective location of new rural residential areas and the management of land use conflict resulting from cumulative impacts of successive development decisions.

The current Planning Proposal involves land that has been identified in an adopted land use strategy in a location, which would form a logical expansion of the Murrumbateman township without placing undue pressure on existing infrastructure and/or major infrastructure augmentation. The proposed residential subdivision will provide for a total of 9 lots, construction of roads, drainage and associated services. The proposed internal traffic networks has been designed to connect all lots with Murrumbateman Road and OnTolt has prepared a detailed Traffic Impact Statement which supports the development having regards to traffic, transport and parking impacts. Accordingly, the proposed development is acceptable having regard to traffic, parking and vehicular access for further detail refer to the Traffic Impact Assessment.

Also, it is to be noted that under the proposed zonings and minimum lot size requirements as nominated in the current Planning Proposal, the size and shape of individual lots would more than cater for the siting and design of future residential development and its associated bush fire mitigation requirements without adverse impact on existing and/or future amenity, biodiversity and agricultural worth of adjoining and adjacent lands.

#### Local Government Narratives: Yass Valley

The Plan highlights the long and short term opportunities and attractiveness of the Yass Valley Local Government Area and the need to promote and facilitate sustainable regional growth without compromising the very attributes, which local communities and visitors seek out and enjoy on a day to day basis such as, but not limited to, the proximity to Canberra and its urban personality, environmental quality, participation in and/or exposure to local agricultural and tourism industries, employment and recreational opportunities and the availability of service infrastructure.

The current Planning Proposal would be in keeping with those aspirations and would ultimately contribute to the regional housing market by providing some surety in land and housing availability and affordable choice in a much sought after rural/rural residential setting whilst realising and enjoying the urban benefits offered by Canberra and surrounding districts. The proposed subdivision indicates that a number of the lots can contain future dual occupancies, this type of residential development will increase housing diversity within the locality and broader Murrumbateman area, providing much needed housing which is close to services and infrastructure.

#### **4.3.2.2 Q4. Will the planning proposal give effect to a Council endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?**

Yes. This Planning Proposal is consistent with Council's local strategy and relevant strategic plans as detailed below.

### **Regional Community Strategic Plan 2016 – 2030**

Yass Valley Council, in conjunction with Goulburn-Mulwaree and Upper Lachlan Shire Councils, prepared a Regional Community Strategic Plan (**CSP**), which was adopted on 22 February 2017.

Entitled 'The Tablelands Regional Community Strategic Plan 2016-2036' it articulates the community's and the participating Council's shared vision, values, aspirations and priorities with reference to other local government plans, information and resourcing capabilities.

Specifically, the CSP aims to:

- Inform Council's priority setting and decision making;
- Inform the decision making of other agencies and organisations, including the State and Federal Governments;
- Provide a rationale for any organisation pursuing grants and other resources for specific projects that can be shown to fit within a particular strategic priority outlined in the Plan;
- Inform stakeholders of the community's long-term vision for the region; and
- Guide local and regional planning documents and initiatives.

The current Planning Proposal is considered to be consistent with the aims and strategic direction of the CSP in that:

- It responds to identified regional growth patterns and requirements.
- It would have no adverse impact on the Region's social, cultural and economic diversity.
- It addresses community expectations relating to sustainable growth whilst preserving environmental quality and land use diversity.
- It is not inconsistent with regional and local strategic land use and infrastructure policy as relevant.
- It maintains a balance between sustainable growth, development and environmental protection through governance and sensible planning.

### **Barton Highway Improvement Strategy**

The Barton Highway Improvement Strategy prepared by Transport for NSW (TfNSW) identifies objectives specific to the Barton Highway that support the NSW Long Term Transport Master Plan and Regional Transport Plans such as the Southern Regional Transport Plan.

Some of the proposed short-term priorities include:

- Improving access and safety for cyclists, pedestrians, and horse riders within Murrumbateman village;
  - More overtaking lanes along the southern section, upgrading the road surface, and carrying out safety improvements at various intersections;
  - Safety works including better road delineation, and widening clear zones in high crash areas;
  - The roll-out of Intelligent Transport Systems technology to inform and help road users with travel decisions while improving incident management;
  - Continued planning for future staged duplication, including a review of the strategic design; and
-

- Monitoring the performance of the corridor every three years.

The land subject to this Planning Proposal immediately adjoins a section (approximately 350m in length) of the designated Barton Highway Duplication Corridor to the east. The corridor has been dedicated in subdivision as public road (Lot 11 DP1218866). An easement was created over the site as part of the acquisition of Lot 11 which was acquired as part of the Barton Highway expansion. The property owners solicitor is presently in discussions with the TfNSW to extinguish the easement noting that it will not be required as part of the Barton Highway expansion.

The siting and design of future dwellings within the proposed large lot subdivision has considered the potential impact of road traffic noise on residential amenity. The existing tree plantings along the site boundary to the north and east will provide considerable visual screening from the Barton Highway expansion and also assist with mitigating potential acoustic impacts.

#### 4.3.2.3 Q5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

There are a number of State Environmental Planning Policies (SEPPs) which are considered relevant in the development of the subject land in accordance with both the existing provisions of the YVLEP 2013 or as promoted by the current Planning Proposal. Notwithstanding, there are specific SEPPs which are considered to have a higher order of importance in assessing the appropriateness of the objectives of the Planning Proposal. They are detailed and reviewed below.

For a complete checklist of SEPPs, refer to **Appendix 2**.

#### **State Environmental Planning Policy No. 55 – Remediation of Land**

The Policy applies to the State with the aim of facilitating the remediation of contaminated land.

The subject land's long standing agricultural history prompts consideration of the possibility that the land may have been exposed to contaminants associated with human occupation and routine farm management and agricultural activities. The Planning Proposal is accompanied by a Preliminary Site Investigation Report prepared by Murrang Earth Sciences. The purpose of the Report being to assess the contamination status of the site by:

- Identify potential sources of contamination and determine potential contaminants of concern
- Identify areas of potential contamination
- Identify potential human and ecological receptors
- Identify potentially affected media (soil, sediment, groundwater, surface water, indoor and/or ambient air).

The Report concludes that the scope of the investigations and reporting, has found no indications of potential contaminants of concern with proposed lots within the exception of proposed Lot 3.

Proposed Lot 3 contains a 15,000 litre underground diesel storage system immediately adjacent the existing long standing dwelling. The Report indicates that the tank poses an environmental risk due to its:

- location in a UPSS sensitive area, where is located within the vicinity of both a drinking water
- catchment and groundwater wells used to source drinking water;
- the tanks age;
- the lack of independent monitoring of the tank and surrounds for indications of leaks; and

- the tank containing diesel, which contains contaminants including phenols, polycyclic aromatic
- hydrocarbons, and total recoverable hydrocarbons known to be a hazard to human health and the environment.

The PSI recommends that the tank be decanted (approximately 1000 litres) and removed unless the extraction process compromises the structural integrity of the immediately adjacent dwelling. The current application provides for the removal of the tank as recommended in the PSI. The PSI recommends that the UPSS be removed and the area remediated. Removal would appear to be the simplest option and is the property owners preference. However, retention of the UPSS may be acceptable provided it can be demonstrated that the site is acceptable for the proposed use. Accordingly, it is requested that Council include a DA condition which requires compliance with the recommendations in the PSI.

Current Guidelines<sup>1</sup> state that once contamination concern is raised in an initial investigation a pathway for remedial of that land needs to be planned within that DA.

The options are:

- if the remediation requires consent under SEPP 55 (category 1 work) - prepare the Remediation Action Plan (RAP) as part of the DA; or
- if the remediation may be carried out without consent under SEPP 55 (category 2 work) remediation can be dealt with via a condition or deferred commencement matter.

Category 1 remediation works relate to development outlined in clause 9 of the SEPP and do not relate to the proposal.

Category 2 remediation works relate to development outlined in clause 14 of the SEPP and encompasses the remediation works needed in this instance.

The Proponent accepts that a suitable deferred commencement matter or condition will be imposed on any consent granted, which will require the development to be carried out in accordance with the recommendations of the PSI. Accordingly, the consent authority can be satisfied that the land will be suitable for the re-development and therefore the proposed residential subdivision DA submission is consistent with the provisions of SEPP 55.

This assessment and the expert PSI provided satisfy Section 7(2) of SEPP 55 and further detailed investigation is not warranted. Accordingly, the site is considered suitable for residential use.

#### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

The Policy applies to the State and aims to provide a consistent planning regime and development standards for the provision of affordable rentable housing.

The current Planning Proposal is not inconsistent with the provisions or application of the SEPP. Any future development of the subject land for this purpose would involve a detailed evaluation and determination based on the merits of the case under the provisions of the SEPP.

#### **State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

The SEPP applies to the State except as provided for in the SEPP. It aims to provide streamlined assessment processes for development that complies with specified development standards.

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<sup>1</sup> Department of Urban Affairs and Planning • Environment Protection Authority 1998 Managing Land Contamination Planning Guidelines SEPP 55–Remediation of Land



The current Planning Proposal is not inconsistent with the provisions or application of the SEPP. Any future development of the subject land for the purposes specified in the SEPP would involve a detailed evaluation and determination under the provisions of the SEPP.

#### **State Environmental Planning Policy (Primary Production and Rural Development) 2019**

In part, the Policy aims to facilitate through the adoption and implementation of rural planning and subdivision principles, the orderly and economic use and development of rural lands for rural and related purposes.

The current Planning Proposal would not be inconsistent with the provisions or application of the Policy. In support of this position, the following observations are made. The Planning Proposal would:

- Respond to the needs and changing nature of agriculture in the Region, more specifically, the Yass Valley given its proximity to Canberra and its potential influence over the continuance of viable traditional forms of agricultural land use in favour of new rural industries, an emerging regional tourism industry and demands for affordable residential/rural residential living.
- Be consistent with adopted regional strategic land use policy thus insuring against indiscriminate fragmentation of rural land whilst facilitating measured residential and rural residential subdivision reflective of environmental character.
- Have no significant impact on the Region's agricultural worth – strategic location, land availability, and productivity.
- Make a positive contribution towards the Region's social and economic diversity.
- Address established community expectations relating to sustainable residential growth whilst preserving environmental quality and land use diversity.
- Maintain a balance between sustainable growth, development and environmental protection through governance and sensible planning.
- The proposed rezoning will allow for a variety of large lot residential developments including single dwellings, dual occupancies and secondary dwellings. This outcomes is consistent with the residential use envisaged for the site in the Yass Settlement Strategy and will provide greater diversity in housing throughout Murrumbateman.

#### **4.3.2.4 Q6. Is the Planning Proposal consistent with applicable Ministerial Directions (s. 9.1 Directions)?**

The Section 9.1 Directions that are relevant to this Planning Proposal have been detailed and reviewed below. For a complete checklist of Section 9.1 Directions, refer to **Appendix 3**.

### **1 Employment and Resources**

#### **1.2 Rural Zones**

The Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

The purpose of this Direction is to protect the agricultural production value of rural land.

The current Planning Proposal is inconsistent with the Direction in that it would facilitate the rezoning of rural land for residential purposes. However, the extent of the inconsistency is considered reasonable and justified on the basis that the current Planning Proposal would:

- Not be inconsistent with adopted regional and local strategic land use policy thus insuring against the indiscriminate fragmentation of rural land whilst also facilitating measured residential subdivision, which is reflective of biodiversity values and land use diversity in the locality and the greater regional area.
- Not create an undesirable precedent in the future application of the Direction.
- The site has not been used for agricultural grazing or farming purposes for many years. The previous owner used the property as a family home and home business for horse stables and veterinarian services. Accordingly, the proposal will not result in a loss of rural zoned land which are used for agricultural purposes.

### **1.5 Rural Lands**

The Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural or environmental protection zone or changes the existing minimum lot size on land within a rural or environmental protection zone.

The Direction aims to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.

The current Planning Proposal facilitates the rezoning of land and its subsequent subdivision for residential purposes and in doing so, adopts a minimum lot size requirement contrary to that prescribed under the current YVLEP 2013. However, the inconsistency is considered reasonable and justified on the basis that:

- The proposed zonings and corresponding proposed minimum lot size requirements would not be inconsistent with the Rural Planning and Rural Subdivision Principles prescribed by State Environmental Planning Policy (Rural Lands) 2008.
- The proposed minimum lot size requirements are reflective of community expectations in preserving the existing character of Murrumbateman and its surrounding environments.
- Not create an undesirable precedent in the future application of the Direction.

## **2 Environment and Heritage**

### **2.1 Environment Protection Zones**

The Direction applies when a relevant planning authority prepares a Planning Proposal.

The Direction aims to protect and conserve environmentally sensitive areas. It stipulates that a Planning Proposal must include provisions that facilitate the protection and conservation of environmentally sensitive lands.

The Planning Proposal is accompanied by a Biodiversity Development Assessment Report (BDAR), prepared by Capital Ecology. The BDAR has been completed in accordance with the NSW Biodiversity Assessment Method (BAM) to assess the significance of the impacts of the proposed development on biota listed threatened under the NSW Biodiversity Conservation Act 2016. The BDAR also includes assessment of the potential impacts of the proposed development on Matters of National Environmental Significance (MNES) listed pursuant to the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. The BDAR includes results from five ecological surveys and vegetation and potential flora/fauna habitat were surveyed and mapped in accordance with the BAM.

The BDAR concludes that the subject land does not support vegetation with a vegetation integrity score high enough for its clearance to generate ecosystem credits. Accordingly, the proposed development does not generate an ecosystem credit obligation. The subject land does not support habitat of potential significance to any species credit species. Accordingly, the proposed development does not generate a species credit obligation.

In summary the BDAR has concluded that the site is acceptable for the proposed rezoning and subsequent subdivision and development will not result in any other direct impacts on native vegetation or habitat. Furthermore, the proposed development is unlikely to result in biodiversity impacts that are unforeseen or uncertain. Accordingly, the proposed rezoning and subsequent development is considered acceptable on biodiversity and environmental protection grounds.

### **2.3 Heritage Conservation.**

The Direction applies when a relevant planning authority prepares a Planning Proposal.

The Direction aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The Direction effectively acknowledges the importance of preserving indigenous and non-indigenous heritage and culture to the benefit of present and future generations whilst ensuring a strategic and statutory planning process designed to provide greater certainty for stakeholders.

The current Planning Proposal would not be inconsistent with the Direction as there is no intent to remove existing statutory land use controls and obligations to consider potential impact of development on indigenous and non-indigenous heritage and culture.

This Planning Proposal and the accompanying Development Application is supported by a Baseline Historical Heritage Assessment prepared by Ecological Australia dated 6 August 2019. The Report concludes that the neither the site or adjacent study areas contain historic heritage items therefore a Heritage Impact Statement is not warranted as the proposal will not impact on the regions heritage. Furthermore a detailed Aboriginal Cultural Heritage Assessment (ACHA) prepared and submitted with this Planning Proposal investigates and examines the presence, extent and nature of any Aboriginal heritage sites within the site. The ACHA recommends no further aboriginal heritage investigations and recommends conditions of consent for compliance with during construction of the subdivision and associated works.

### **2.6 Remediation of Contaminated Land**

This direction applies when a planning proposal authority prepares a planning proposal applying to land specified in the section of the Directions entitled “where this direction applies”.

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authority.

The subject land has been used for agricultural purposes over a period of time and there is a possibility that the land may have contaminants associated with human occupation, routine farm management and agricultural activities. Therefore, a Preliminary Site Investigation (PSI) Report has been prepared to assess the contamination status of the subject site.

The Report concludes that part of the subject site the Lot 3 is proposed on, contains a 15,000 litre underground diesel storage system immediately adjacent to the existing long standing dwelling. The Report indicates that the tank poses an environmental risk due to its:

- location in a UPSS sensitive area, where is located within the vicinity of both a drinking water;
- catchment and groundwater wells used to source drinking water

- the tanks age
- the lack of independent monitoring of the tank and surrounds for indications of leaks;
- the tank containing diesel, which contains contaminants including phenols, polycyclic aromatic; and
- hydrocarbons, and total recoverable hydrocarbons known to be a hazard to human health and the environment.

The PSI recommends that the tank be decanted (approximately 1000 litres) and removed unless the extraction process compromises the structural integrity of the immediately adjacent dwelling. The PSI recommends that the UPSS be removed and the area be remediated. The current application provides for the removal of the tank as recommended in the PSI.

However, retention of the UPSS may be acceptable provided it can be demonstrated that the site is acceptable for the proposed use. As such, further investigation will be carried out and appropriate work will be undertaken to satisfy that the planning proposal is consistent with the Minister's Direction.

### **3 Housing, Infrastructure and Urban Development**

#### **3.1 Residential Zones**

The Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed residential zone or any other zone in which significant residential development is permitted or proposed to be permitted.

The Direction aims to encourage variety and choice in housing types and the efficient use of infrastructure and services whilst minimising potential impact on the environmental and resource lands.

The current Planning Policy would not be inconsistent with the Direction given the fact that it would be in accordance with adopted local and regional strategic land use policy, and that there is no intent to remove existing statutory controls and obligations to consider the appropriateness of all forms of residential development and its potential impacts. The proposed rezoning will facilitate a number of residential land uses the proposed subdivision will seek to provide dual occupancy housing which will improve housing diversity in the immediate locality.

#### **3.4 Integrating Land Use and Transport**

The Direction applies when a relevant planning authority prepares a Planning Proposal, which will create, alter or remove a zone or a provision relating to urban land (as defined).

The Direction aims to ensure that the characteristics of urban form achieve specific objectives being:

- Improved access to housing, jobs and services through various means such as, walking, cycling and public transport.
- Increased choice in available transport and a reduction in car dependence.
- Reduction in travel demand - number of trips generated and distance travelled, especially by car.
- Supporting the efficient and viable operation of public transport.
- Provide for the efficient movement of freight.

It is considered that the planning proposal is consistent with the direction because the proposed large lot residential development Urban Release Area has a public bus service. The Planning Proposal is accompanied by a Traffic Impact Assessment (TIA) prepared by OnTolt. This TIA has reviewed the existing and future transport conditions as part of considering the proposed rezoning and subdivision of the site. The summary and recommendations of the TIA state that scale of the proposed development would only result in an additional maximum of 18 vehicular trips on the network in peak periods which is unlikely to cause any observable impacts on traffic flow or traffic operations in the area. The TIA states that the proposed development will have a negligible impact on the subject site and the small number of residents that will inhabit the area and generate traffic in the future. It is considered that the transport network in the area has enough capacity to support the projected increase in local traffic. The TIA recommends a number of design requirements which can be readily accommodated within the site.

#### **4 Hazard and Risk**

##### **4.3 Flood Prone Land**

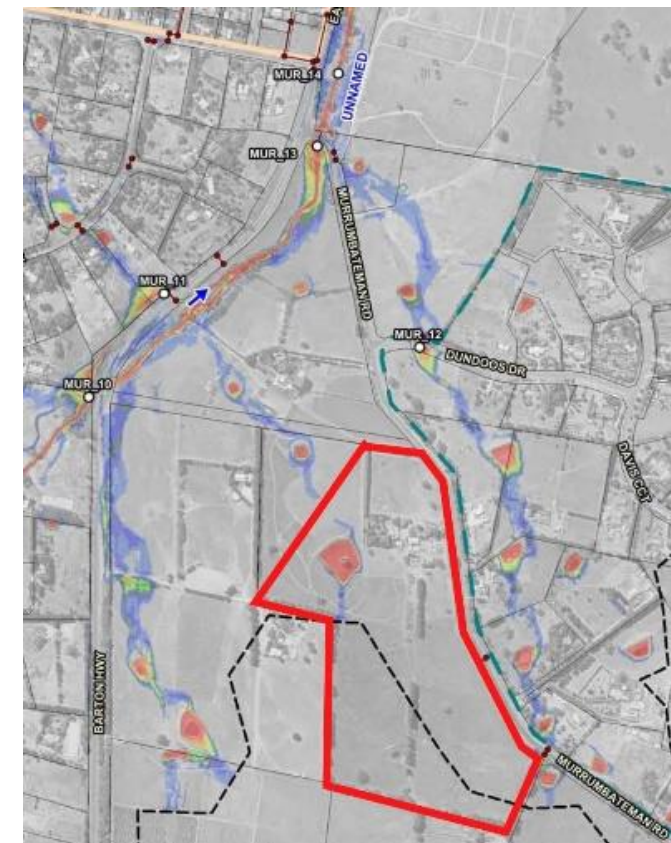
This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. The objective of this direction are:

- a. to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005*, and
- b. to ensure that the provision of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The Yass Valley Council has commissioned the Murrumbateman, Bowning, Bookham and Binalong Flood Study. The Draft Flood Study was placed on public exhibition which identifies that the north-western part of the subject site is identified as flood prone land. A map showing the land affected by the 1% AEP flood level is shown in Figure 7.

According to the Draft Flood Study the part of subject site affected by the high flood risk (area shown red in Figure 7) and low flood risk (area shown blue in Figure 7) is an existing dam and is away from the proposed building envelop (refer Figure 6).

As such, the proposed dwelling appears to have no impact by 1% AEP flood levels and therefore it is confirmed that the planning proposal is consistent with the Direction. Furthermore, Council will have to ensure at the development assessment stage that the proposed dwelling/s would not be impacted by flood nor would it have any adverse impact on the neighbouring properties especially downstream.



**Figure 7: Flood Prone Land 1% AEP (Draft Flood Study)**

#### **4.4 Planning for Bushfire Protection**

This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect or is in proximity to land mapped as bushfire prone land.

The Planning Proposal is accompanied by a Bushfire Assessment Report (BAR), prepared by Ember Bushfire Consulting. The BAR adopts the methodology provided under the requirements of Section 100B of the Rural Fires Act and the Rural Fire Regulations 2013 to assess the adequacy for bushfire protection of the subdivision as planned. The BAR establishes the level of bushfire threat to the development and examines bushfire protection for the existing residence and the proposed building envelope with future residents in mind. These measures include asset protection zones, landscaping, access, service and construction requirements.

The BAR adopts the pre-release version of Planning for Bushfire Protection (2019) as the basis for assessment, which is accepted by the NSW RFS as an acceptable “performance based” document through which the aims and objectives of the PBP 2006 can be achieved. The BAR concludes that given the low threat grassland setting, the close proximity to surrounding managed land, the relatively flat topography and ample opportunity to provide setbacks for future residents, the overall threat potential of the site can be described as low. The low bushfire threat can also be further moderated by using the standard suite of protection measures offered by PBP 2019 and for which the proposed development can comply. Access throughout the development will comply with the acceptable solutions set out in the PBP.

Based on the assessment and recommendations in the BAR, the proposed development is deemed capable of complying with the specific and broad objectives of the PBP, the requirements of the Rural Fire regulations 2013 and therefore suitable for submission to the NSW RFS for the issuing of a bush fire safety authority.

In the preparation of a draft LEP a Council shall consult with the Commissioner of the NSW Rural Fire Service under section 3.34 of the EP&A Act, and take into account any comments so made. The Planning Proposal is consistent with this direction as appropriate consultation can be undertaken with NSW Rural Fire Service as part of the LEP preparation process.

### **5 Regional Planning**

#### **5.10 Implementation of Regional Plans**

This Direction requires Planning Proposals to be consistent with a Regional Plan released by the Minister for Planning.

As detailed at **Section 4.3.2.1**, this Planning Proposal is consistent with the vision, land use strategy, policies, outcomes and actions defined by the applicable regional, sub-regional or district plan or strategies.

### **6 Local Plan Making**

#### **6.1 Approval and Referral Requirements**

This Direction aims to minimise the inclusion of provisions that require the concurrence, consultation or referral of development to a Minister or public authority.

This Planning Proposal does not propose to include additional forms of land use and/or land use controls, which require the adoption of a concurrence, consultation or referral process beyond that prescribed by the current YVLEP 2013. Therefore, the current Planning Proposal is consistent with this Direction.

#### **6.3 Site Specific Provisions**

This Direction relates to the use of site specific planning controls.



This Planning Proposal does not seek to include additional uses beyond what is permitted within the land use table. It is noted that the R5 Large Lot Residential Zone will permit the type of development that is envisaged for the site in the future.

Additionally, and with the exception of the LEP amendments documented in the current Planning Proposal, there is no intent to remove the existing controls governing subdivision, the erection of dwellings and environmental integrity as prescribed by the provisions of the YVLEP 2013.

Accordingly, the current Planning Proposal is consistent with this Direction.

#### **4.3.3 Section C – Environmental, Social and Economic Impact**

##### **4.3.3.1 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?**

The Planning Proposal is accompanied by a Biodiversity Development Assessment Report (BDAR), prepared by Capital Ecology. The BDAR has been completed in accordance with the NSW Biodiversity Assessment Method (BAM) to assess the significance of the impacts of the proposed development on biota listed threatened under the NSW Biodiversity Conservation Act 2016. The BDAR also includes assessment of the potential impacts of the proposed development on Matters of National Environmental Significance (MNES) listed pursuant to the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. The BDAR includes results from five ecological surveys and vegetation and potential flora/fauna habitat were surveyed and mapped in accordance with the BAM.

The BDAR concludes that the subject land does not support vegetation with a vegetation integrity score high enough for its clearance to generate ecosystem credits. Accordingly, the proposed development does not generate an ecosystem credit obligation. The subject land does not support habitat of potential significance to any species credit species. Accordingly, the proposed development does not generate a species credit obligation.

In summary the BDAR has concluded that the site is acceptable for the proposed rezoning and subsequent subdivision and development will not result in any other direct impacts on native vegetation or habitat. Furthermore, the proposed development is unlikely to result in biodiversity impacts that are unforeseen or uncertain. Accordingly, the proposed rezoning and subsequent development is considered acceptable on biodiversity and environmental protection grounds.

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

No. The current Planning Proposal would have no additional environmental effects to those identified and discussed in this Report.

##### **4.3.3.3 Q9. Has the Planning Proposal adequately addressed any social and economic effects?**

The current Planning Proposal would have a positive social and economic effect in that it would facilitate the orderly and proper development of the subject land for residential purposes, which offer choice in housing type, lifestyle opportunity and affordability without adverse environmental consequence and/or impact on existing service infrastructure.

In addition, it is likely that developer contributions would be levied on the Proponent of any future subdivision in accordance with Council adopted and applied policy for the provision/maintenance of open space and/or community facilities. The contribution(s) would normally be in the form of a 'one off' payment, the monetary value of which would be determined at the time of payment and following the favourable determination of any subsequent development application lodged with Council for the subdivision of the land. The proposed rezoning will stimulate economic development and activity in the region. The property owner is looking to utilise local goods and services where possible to deliver the development, this will generate jobs and local investment. Following the completion of the rezoning and subdivision development further residents will be situated on the site contributing to local economic growth and activity.

#### **4.3.4 Section D – State and Commonwealth Interests**

##### **4.3.4.1 Q10. Is there adequate public infrastructure for the Planning Proposal?**

Yes. Adequate, but limited public infrastructure would be available to the land.

Murrumbateman is serviced by local/regional bus/taxi services. These services would be available to the subject land.

The subject land is serviced by existing Local and National road infrastructure having sufficient operational function and capacity to cater for the future subdivision of the land as promoted by the current Planning Proposal.

The land is also serviced by reticulated electricity and telecommunication networks, which may or may not have spare capacity to cater for the future subdivision of the land for residential/rural residential purposes. New service infrastructure would need to be constructed and commissioned as part of the subdivision process. Existing services would need to be upgraded as warranted to cater for the additional demand generated by the subdivision.

The cost of these works would be borne by the developer and in accordance with the requirements of the individual supply authority.

The land is not serviced by reticulated town water or sewerage infrastructure. Any future development of the subject land for residential/rural residential purposes would be reliant of rain water catchment, storage and reuse and possibly bore water. Sustainable on-site sewage management practice would also need to be adopted and managed in the development of land. The proposed subdivision lot size is more than adequate to house and facilitate rain water catchment and acceptable two stage on site sewerage purification practices. For full details refer to the Land Capabilities Assessment Soil and Water report.

##### **4.3.4.2 Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

As part of preparing this Planning Proposal engagements have been undertake with the NSW DPIE and TfNSW.

The applicant and project team has engaged extensively with Council representatives and other agencies over the last 12 months, both on the Planning Proposal and proposed residential subdivision and associated works. Below is an overview the proponent and project teams engagements with Council representative on a variety of matters pertaining to the design development of the residential subdivision:

**Pre-DA with Yass Valley Council Staff** – Summary of Meeting email issued by Council 11 November 2019

A Pre-DA meeting was held with Council staff in November 2019. At this meeting Council staff provided a variety of advice pertaining to the Planning Proposal and submission of a subdivision DA. Key points raised during the meeting and included in summary of meeting email are listed below.

- Agreement by Council to accept a concurrent lodgement of a Planning Proposal to rezone the site and DA for residential subdivision.
- Review by Council of the specialist studies and documents prepared as of late 2019.
- List of required further studies and information to accompany the Planning and Proposal and DA submission.
- Overview of steps involved in the assessment of rezoning and DA, including engagements and referrals to external agencies.
- List of additional requirements for submission of the Planning Proposal and DA, along with other key considerations noting the site characteristics location and context.

**Engineering Acceptance Yass Valley Council** – Email by Engineering Services Manager dated 9 May 2019

On 9 May 2019 email advice was received from Councils Engineering Services Manager stating that the proposed plan, specifically the vehicular access points and design generally satisfies Council requirements.

**NSW Government – Transport for NSW** – Email advice 10 January 2019

This email advice from the TfNSW Manager Land Use outlined a range of considerations and comments having regard to the sites proximity to the future Barton Highway bypass. Furthermore, the advice confirmed that Murrumbateman Road is an unclassified regional road which is under the control and maintenance of the Council and any future road within the site and connecting to Murrumbateman Road should be to the satisfaction of Council.

### **4.3.5 Part 4 – Mapping**

This Planning Proposal will result in changes to the following YVLEP 2013 maps:

**Land Zoning Map**

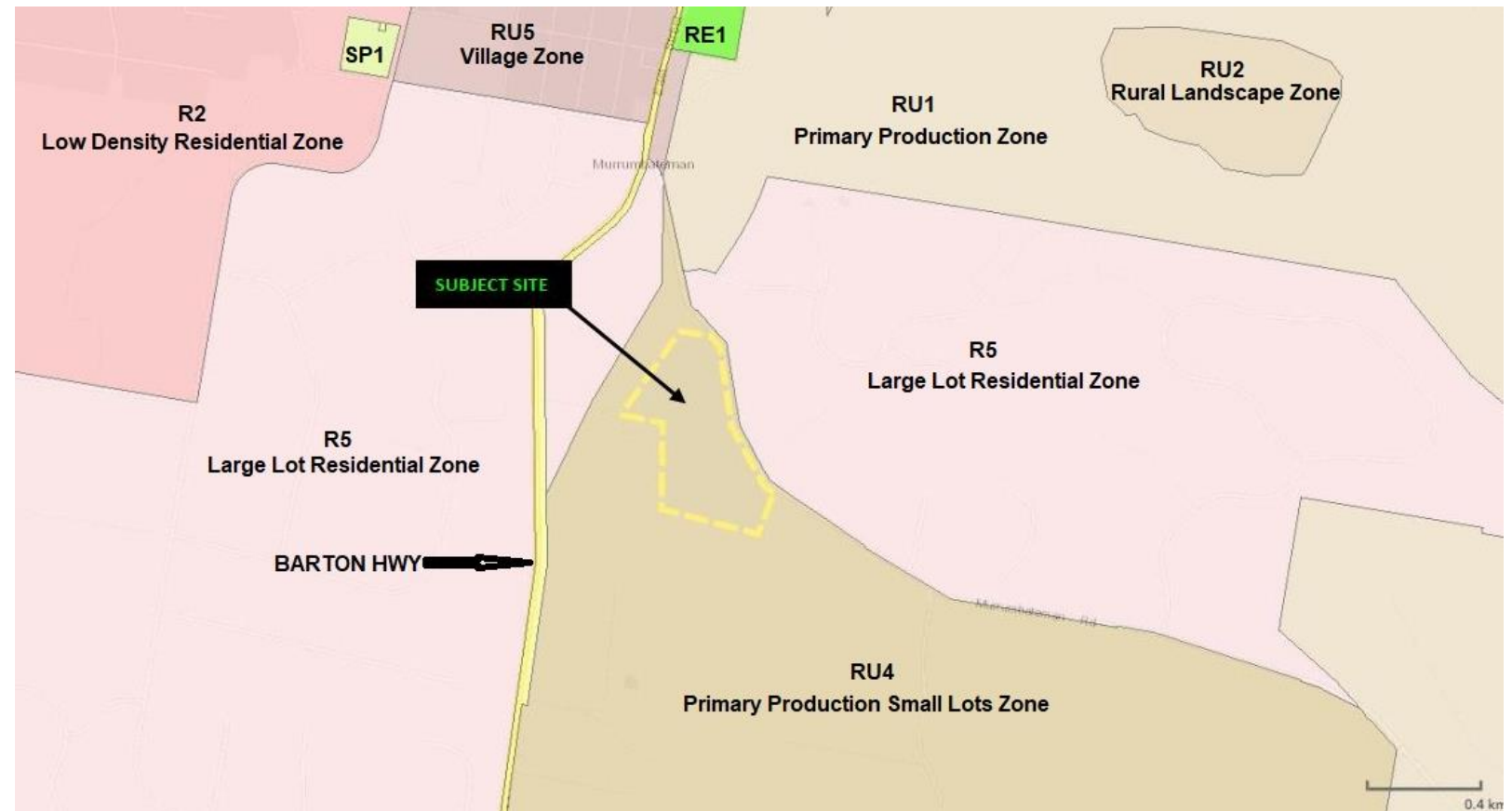
Amend map sheet LZN\_005C by:

- Deleting the RU4 Primary Production Small Lot Zone from all of Lot 10 DP 1218866
- Applying an R5 Large Lot Residential Zone to all of Lot 10 DP 1218866.

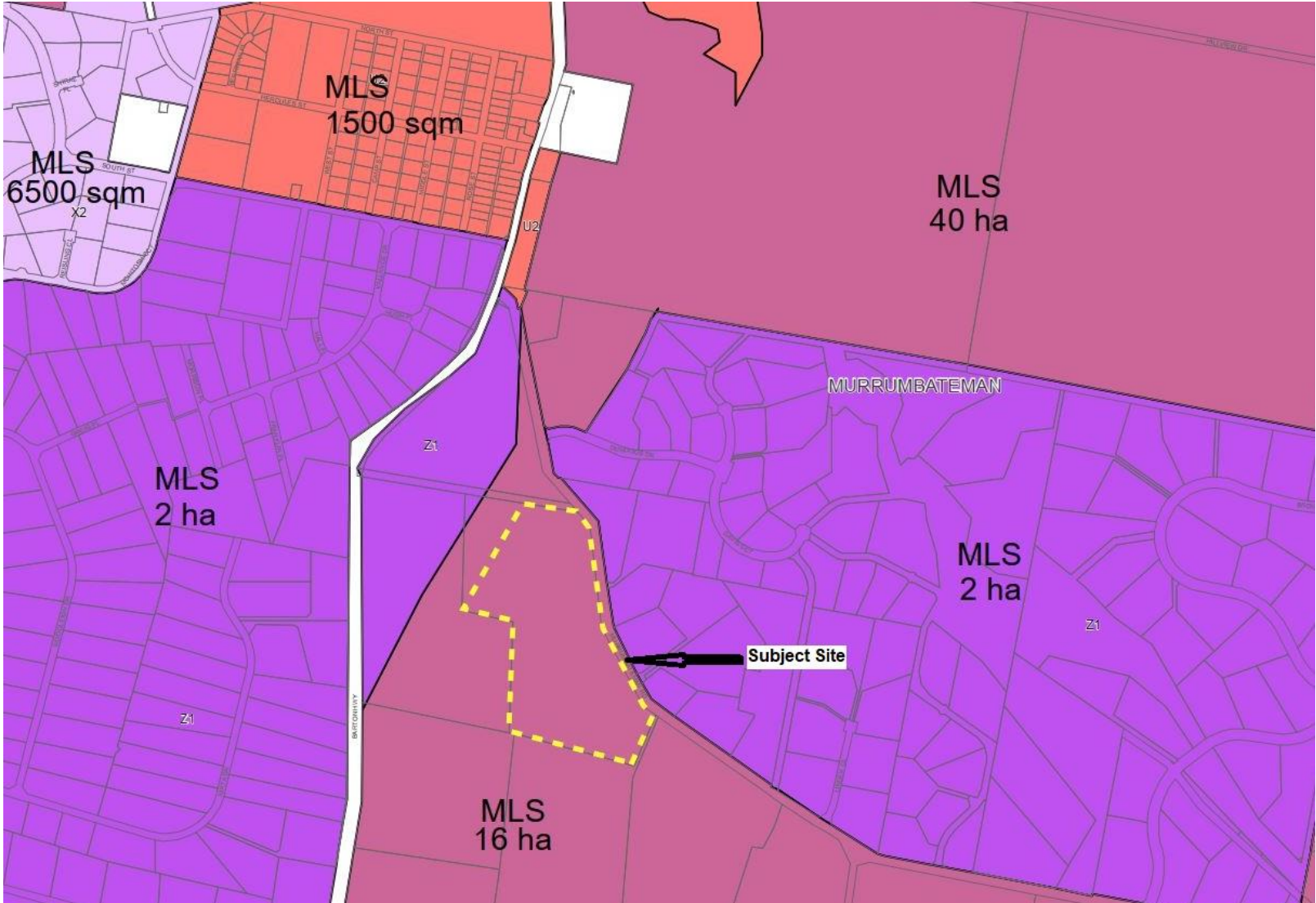
**Lot Size Map**

Amend map sheet LSZ\_005C by:

- Deleting the AB2 16 hectare minimum lot size from all of Lot 10 DP 1218866
- Applying the Z1 minimum lot size of 2 hectares to all of Lot 10 DP1218866.



**Figure 8:** Existing Zoning under YVLEP 2013 (NSW Planning Portal, January 2020)



**Figure 9: Existing Zoning under YVLEP 2013 (NSW Planning Portal, January 2010)**

#### 4.3.6 Part 5 – Community Consultation

The Gateway Determination will condition community consultation requirements. It is likely that the Planning Proposal will be exhibited for a period of not less than 28 Days.

Public exhibition of the Planning Proposal will include notification on Facebook and Council notification pages on local newspapers that circulate widely in the area and in writing to affected adjoining and adjacent landowners.

Due to COVID-19 and social distancing requirements, a printed copy of the Planning Proposal will not be displayed at any location and as such, the Planning Proposal and associated documents will only be accessible online.

#### 4.3.7 Part 6 – Project Timeline

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It is estimated that this amendment to the Yass Valley Local Environmental Plan 2013 will be completed by March-April 2021.

Key Stages	Estimated Timeframe
STAGE 1 – Submit Planning Proposal to Council	April 2020
STAGE 2 – Council resolves to support the Planning Proposal	May 2020
STAGE 3 – Council submits the Planning Proposal to the Department of Planning and Environment	June 2020
STAGE 4 – Receive Gateway Determination	September 2020
STAGE 5 – Preparation of documentation for Public Exhibition	September 2020
STAGE 6 – Public Exhibition of the Planning Proposal	September-October 2020
STAGE 7 – Review/consideration of submissions received	November 2020
STAGE 8 – Council Report	December 2020
STAGE 9 - Meetings	December 2020
STAGE 10 – Request Parliamentary Counsel’s Office (PCO) seeking legal opinion	January 2021
STAGE 11 – Plan making by Council as local plan making authority	March-April 2021

# 5

## Summary and Recommendations

The submitted Planning Proposal seeks an amendment to the YVLEP 2013 to re-zone privately owned land, being Lot 10 DP1218866, 80 Murrumbateman Road, Murrumbateman from RU4 Primary Production Small Lot to R5 Large Lot Residential with minimum lot size of 2 hectares. The Planning Proposal also seeks to adopt appropriate planning controls that will assist in facilitating a future subdivision for residential purposes.

This will be achieved by amending the YVLEP 2013 as follows:

- Amending Map Sheet LZN\_005C by replacing the existing RU4 Primary Production Small Lot Zone with R5 Large Lot Residential with area specific minimum lot size requirements.
- Amending Map Sheet LSZ\_005C by replacing the existing (AB2) 16 hectare minimum lot size with the (Z1) 2 hectare minimum lot size.
- With the exception of the amendments documented above, retain the existing land use tables and the controls governing subdivision, the erection of dwellings and environmental integrity as prescribed by the provisions of the YVLEP 2013.

The Planning Proposal accords with the objectives of the South East and Tablelands Regional Plan, applicable SEPPs and Section 9.1 Directions as well as local strategic directions and plans adopted by the Yass Valley Council. There would be no significant adverse environmental, social or economic impacts arising as a result of the Planning Proposal.

It is therefore requested that Council resolve to forward this Planning Proposal to the Department of Planning, Industry and Environment for a Gateway Determination in accordance with the *Environmental Planning and Assessment Act 1979*.

## **Appendix 1 – Illustrative Concept Plan**



## **Appendix 2 – State Environmental Planning Policies**

State Environmental Planning Policy	Relevance	Consistency
State Environmental Planning Policy No. 19 – Bushland in Urban Areas	Not relevant	N/A
State Environmental Planning Policy No. 21 – Caravan Parks	Yes	Not inconsistent
State Environmental Planning Policy No. 33 – Hazardous and Offensive Development	Not relevant	N/A
State Environmental Planning Policy No. 36 – Manufactured Homes Estates	Yes	Not inconsistent
State Environmental Planning Policy No. 55 – Remediation of Land	Yes	Not inconsistent
State Environmental Planning Policy No. 64 – Advertising and Signage	Not relevant	N/A
State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development	Not relevant	N/A
State Environmental Planning Policy No. 70 – Affordable Housing (Revised Schemes)	Not relevant	N/A
State Environmental Planning Policy (Aboriginal Land) 2019	Not relevant	N/A
State Environmental Planning Policy (Activation Precincts) 2020	Not relevant	N/A
State Environmental Planning Policy (Affordable Rental Housing) 2009	Not relevant	N/A
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes	Not inconsistent
State Environmental Planning Policy (Coastal Management) 2018	Not relevant	N/A
State Environmental Planning Policy (Concurrences and Consents) 2018	Not relevant	N/A
State Environmental Planning Policy (Educational Establishments and Child care Facilities) 2017	Yes	Not inconsistent
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Yes	Not inconsistent
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	Yes	Not inconsistent
State Environmental Planning Policy (Infrastructure) 2007	Yes	Not inconsistent
State Environmental Planning Policy (Koala Habitat Protection) 2019	Not relevant	N/A
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	Yes	Not inconsistent
State Environmental Planning Policy (Major Infrastructure Corridors) 2020	Relevant	Not inconsistent
State Environmental Planning Policy (Primary Production and Rural Development) 2019	Yes	Not inconsistent
State Environmental Planning Policy (State and Regional Development) 2011	Yes	Not inconsistent
State Environmental Planning Policy (State Significant Precincts) 2005	Not relevant	N/A
State Environmental Planning Policy (Urban Renewal) 2010	Not relevant	N/A
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes	Not inconsistent

## **Appendix 3 – Section 9.1 Directions**

Section 117 Ministerial Directions		Relevance	Consistency
<b>1. Employment and Resources</b>			
1.1 Business and Industrial Zones		Not relevant	N/A
1.2 Rural Zones		Relevant	Inconsistent, but reasonable and justified
1.3 Mining, Petroleum Production and Extractive Industries		Not relevant	N/A
1.4 Oyster Aquaculture		Not relevant	N/A
1.5 Rural Lands		Relevant	Inconsistent, but reasonable and justified
<b>2. Environment and Heritage</b>			
2.1 Environment Protection Zones		Not relevant	N/A
2.2 Coastal Management		Not relevant	N/A
2.3 Heritage Conservation		Relevant	Not inconsistent
2.4 Recreation Vehicle Areas		Not relevant	N/A
2.5 Application of E2 and E3 Zones and Environmental Overlays in far North Coast LEPs		Not relevant	N/A
2.6 Remediation of Contaminated Land		Relevant	Not inconsistent
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1 Residential Zones		Relevant	Not inconsistent
3.2 Caravan Parks and Manufactured Home Estates		Not relevant	N/A
3.3 Home Occupations		Relevant	Not inconsistent
3.4 Integrating Land Use and transport		Relevant	Not inconsistent
3.5 Development Near Regulated Airports and Defence Airfields		Not relevant	N/A
3.6 Shooting Ranges		Not relevant	N/A
3.7 Reduction in non-hosted short term rental accommodation period		Not relevant	N/A
<b>4. Hazard and Risk</b>			
4.1 Acid Sulfate Soils		Not relevant	N/A
4.2 Mine Subsidence and Unstable Land		Not relevant	N/A
4.3 Flood Prone Land		Relevant	Not inconsistent
4.4 Planning for Bushfire Protection		Relevant	Not inconsistent
<b>5. Regional Planning</b>			
5.1 Implementation of Regional Strategies		Relevant	Not inconsistent

Section 117 Ministerial Directions	Relevance	Consistency
5.2 Sydney Drinking Water Catchments	Not relevant	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not relevant	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not relevant	N/A
5.9 North West Rail Link Corridor Strategy	Not relevant	N/A
5.10 Implementation of Regional Plans	Relevant	Not inconsistent
5.11 Development of Aboriginal Land Council Land	Not relevant	N/A
<b>6. Local Plan Making</b>		
6.1 Approval and Referral Requirements	Relevant	Not inconsistent
6.2 Reserving Land for Public Purposes	Not relevant	N/A
6.3 Site Specific Provisions	Relevant	Not inconsistent
<b>7. Metropolitan Planning</b>		
7.1 Implementation of A Plan for Growing Sydney	Not relevant	N/A
7.2 Implementation of Greater Macarthur Land Release Investigation	Not relevant	N/A
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not relevant	N/A
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not relevant	N/A
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not relevant	N/A
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not relevant	N/A
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not relevant	N/A
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	Not relevant	N/A
7.9 Implementation of Bayside West Precincts 2036 Plan	Not relevant	N/A
7.10 Implementation of Planning principals for the Cooks Cove Precinct	Not relevant	N/A

## **Appendix 4 – Site Specific Technical Reports**

