

PLANNING PROPOSAL

Yass Valley LEP 2013
Administrative Amendment
for
82 Laidlaw Street, Yass

December 2019



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PART 1 - OBJECTIVES / INTENDED OUTCOMES

The Planning Proposal seeks to amend the Yass Valley Local Environmental Plan (YVLEP) 2013 to address minor administrative matters by making changes to and updating some maps within the YVLEP 2013.

The intent of the Planning Proposal is to correct anomalies created by cadastral errors in the LEP maps relating to 82 Laidlaw Street, Yass.

PART 2 - EXPLANATION OF PROVISIONS

The proposed amendment to the YVLEP 2013 and their intended outcome is identified below.

Item 1: Amend the Land Zoning, Lot Size, Floor Space Ratio and Height of Building Maps for 82 Laidlaw Street and Yass Valley Way, Yass

Council received a Development Application for residential subdivision of 82 Laidlaw Street, Yass in 2018. During the assessment Council noted discrepancies in the Land Zoning, Lot Size, Floor Space Ratio and Height of Building Maps (YVLEP Map 1H) of Lot 1 DP 660006 and Lot 2 DP 853358. The discrepancies arose in part due to the cadastre not accurately reflecting the alignment of the Yass River, and also transfer of zoning extent from the previous Yass LEP 1987 as shown below. As the cadastre for this land appears to be based on old system titles, the boundary with the Yass River River would not have been based on survey. The land titles are within **Appendix 1** to the Planning Proposal and the 2017 plan of survey within **Appendix 2**.



Figure 1: Yass LEP 1987 (former) v's Yass Valley LEP 2013

As such, the land zoning, minimum lot size, floor space ratio and building height maps of the site are not consistent with the characteristics of the land nor does it comply with the Department's Practice Note regarding the application of land zoning and other relevant controls for land with particular characteristics – in this case a waterway.

NSW Land Registry Services (LRS) has since updated the cadastre consistent with the Yass River alignment. It is now necessary to remove the anomalies in land zoning, minimum lot size, floor space ratio and building height applicable to the site.

It is proposed to make the following amendments to the LEP maps for the site:

- a. The W1 Natural Waterways zone be applied to the Yass River only (bank to bank).
- b. The RE1 Public Recreation Zone follow the extent of the 1% AEP flood level as identified in the Yass Flood Study (2016) rather than the previous arbitrary width of 80 metres.

It should be noted that the RE1 Public Recreation zone was a transfer from the previous 6(a) Open Space zoning within the former Yass LEP 1987. It is recognised that at that time this zone was applied in anticipation of development, and that land adjacent to the river would be set aside for passive public open space. At that time the northern parcel of land was owned by Yass Valley Council. The current masterplan for the site indicates the area subject to the 1% AEP flood to be set aside as future open space.

- c. The residual part of Lot 1 DP 660006 and Lot 2 DP 853358 abutting the proposed RE1 be zoned R1 General Residential. The proposed notation for land zoning is identified in Figure 2 below.
- d. The minimum lot size of Lot 1 DP 660006 and Lot 2 DP 853358 should also be updated in accordance with the land zones identified above. A minimum lot size should not be applied to W1 and RE1 zones, however, R1 zone should have a 700 sqm minimum lot size (Figure 3).
- e. The floor space ratio control should not be applied to W1 and RE1 whereas a floor space ratio of 0.5:1 should only apply to R1 zone as shown in Figure 4.
- f. The land zoned R1 should have a building height control of 8 metres whereas W1 and RE1 should not have any controls for building height as identified in Figure 5 below.

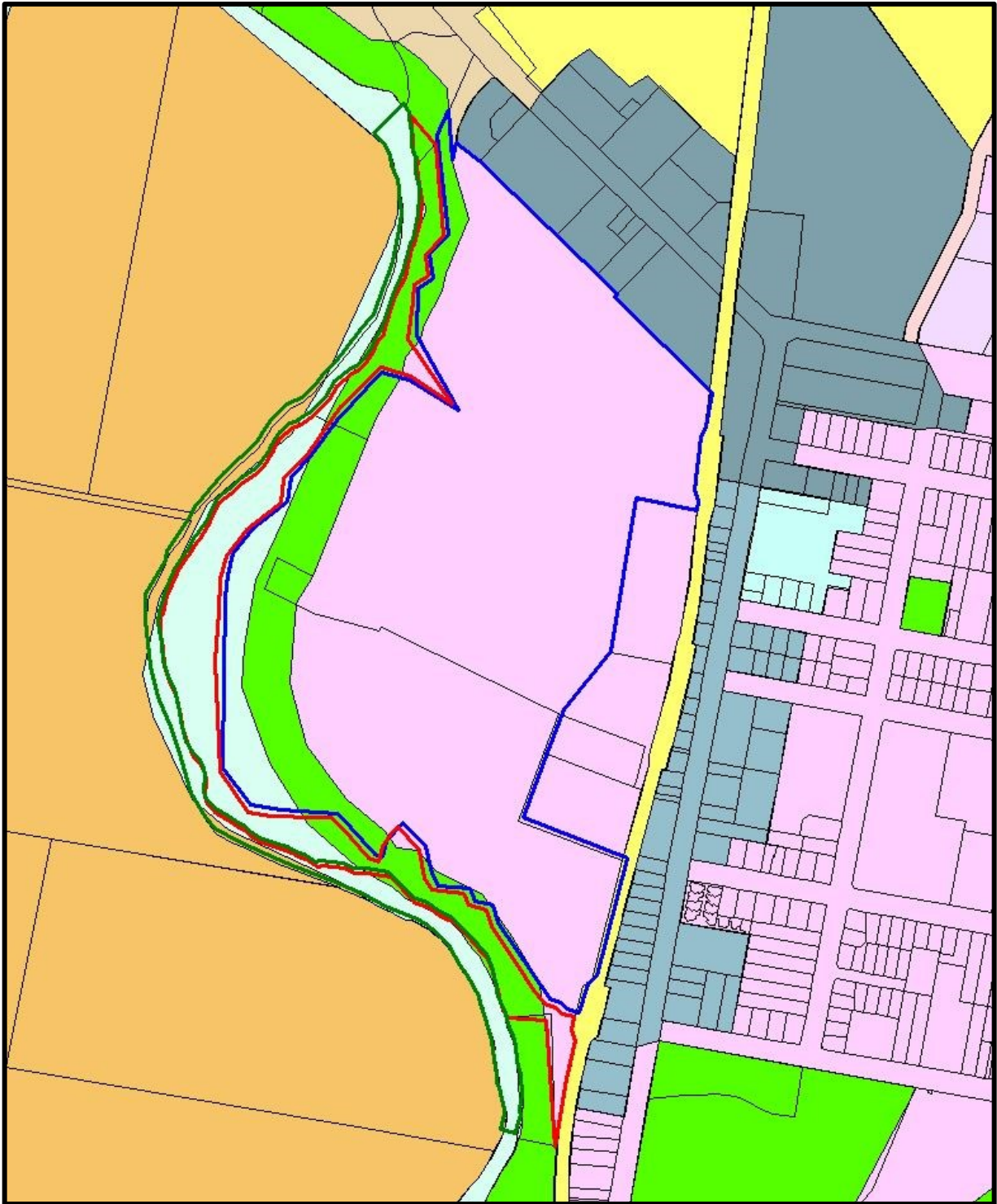


Figure 2: Existing Land Zoning Map.
Amend the zone of land outlined green to W1, the land outlined red should be RE1 and the land outlined blue should be R1

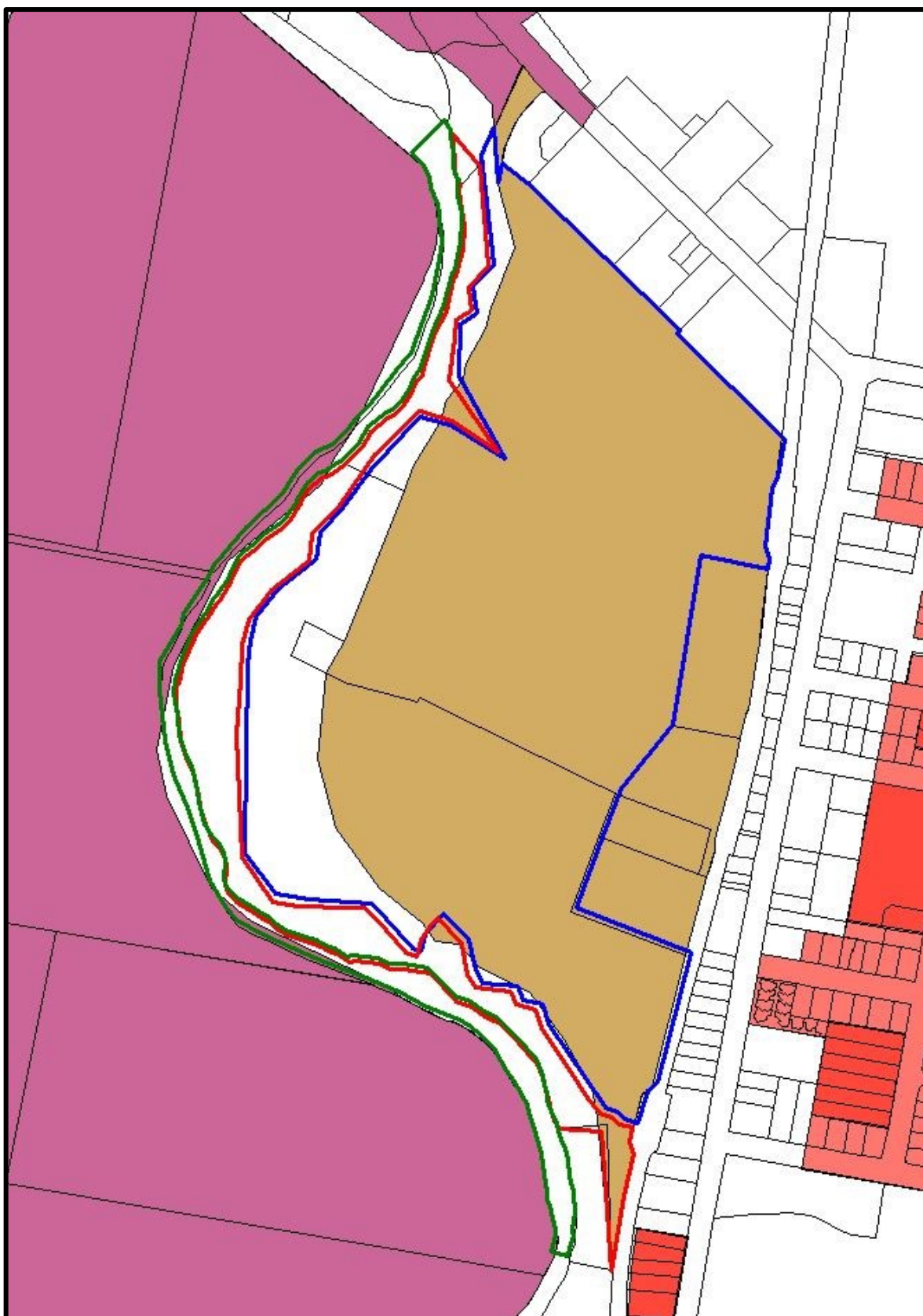


Figure 3: Existing Lot Size Map.
Land outlined green and red should not have any MLS control
and the land outlined blue should have MLS 700sqm

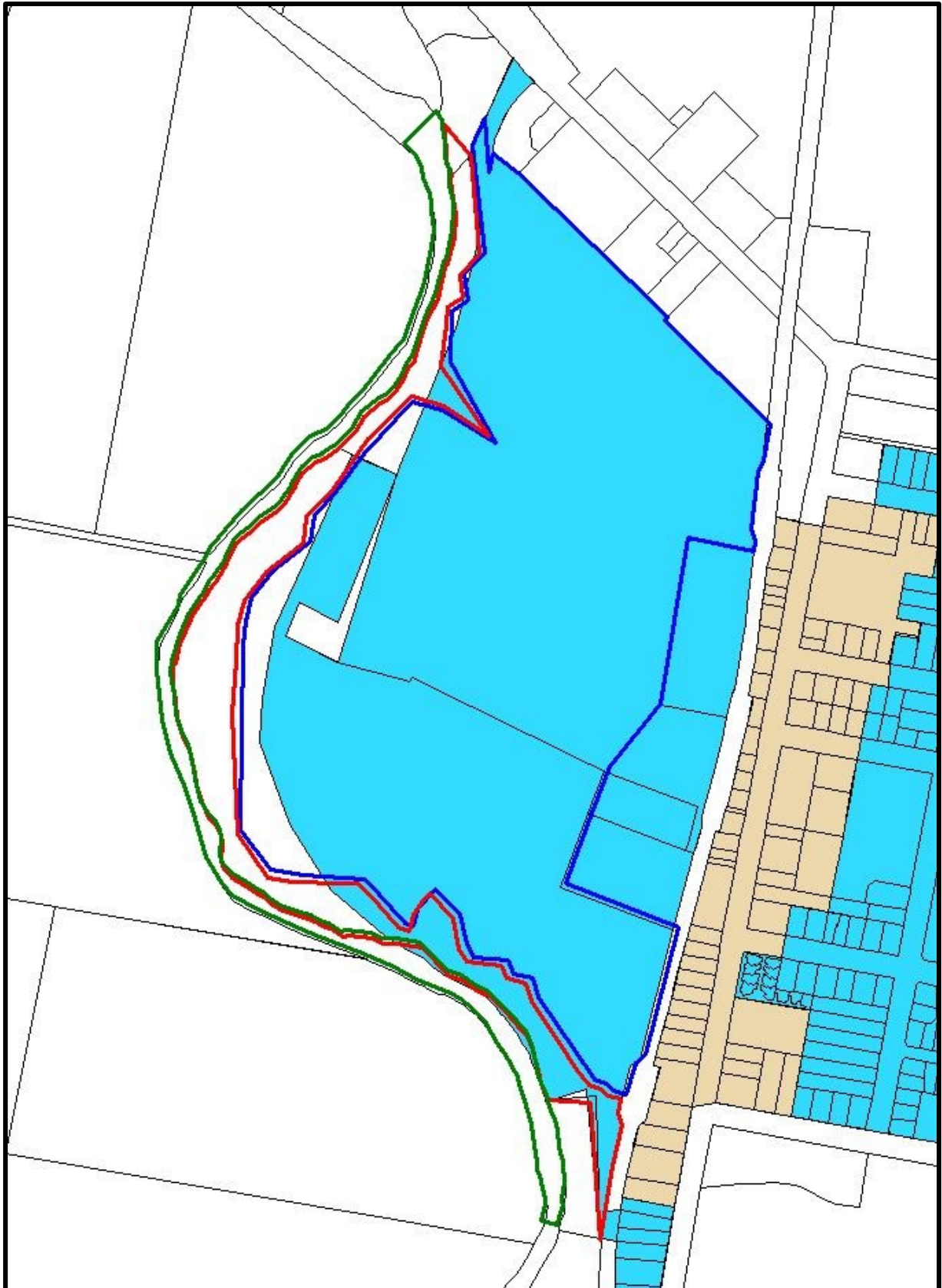


Figure 4: Existing Floor Space Ratio Map.
Land outlined green and red should not have any floor space ratio control
and the land outlined blue should have floor space ratio 0.5:1

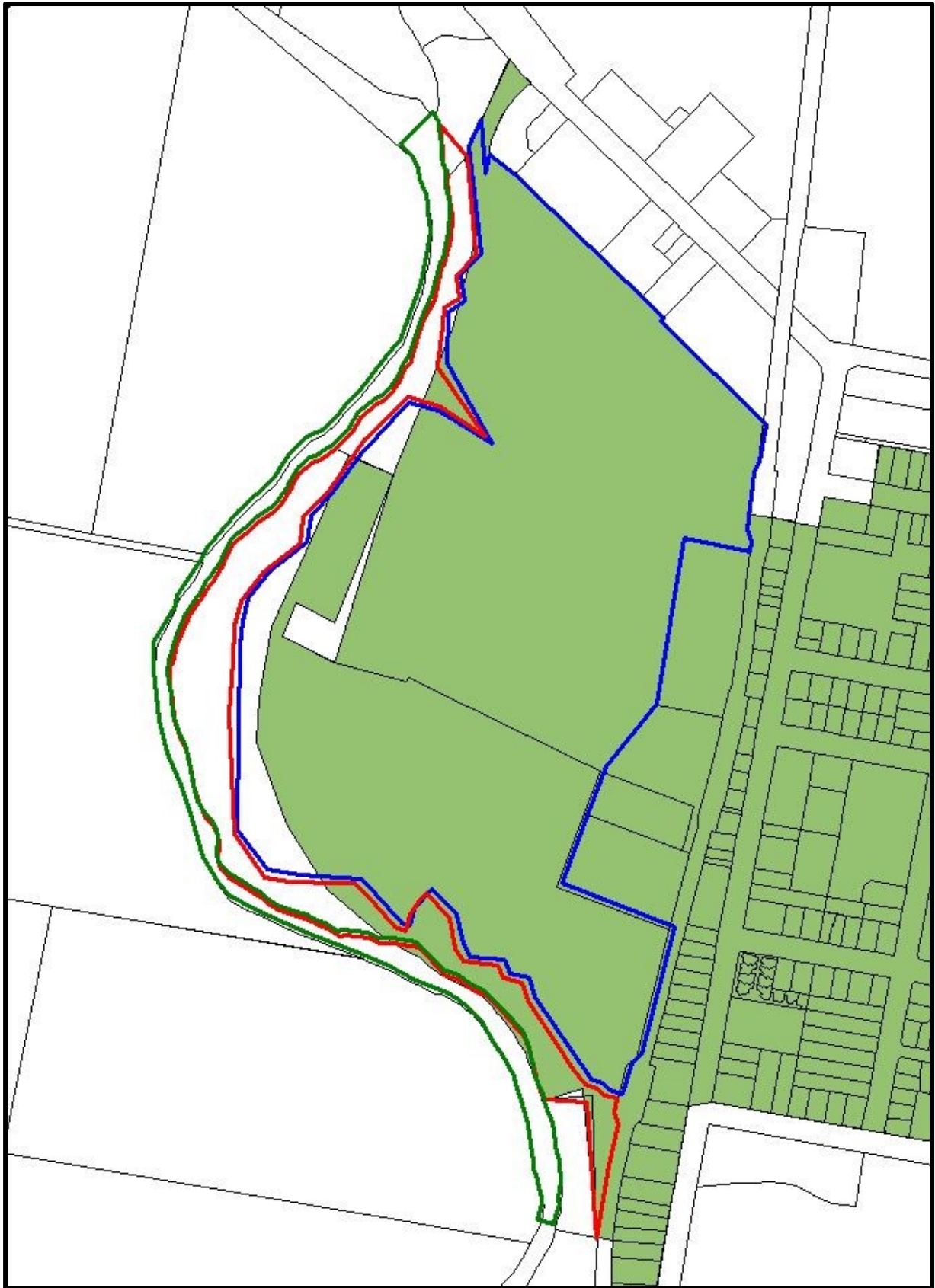


Figure 5: Existing Height of Buildings Map.
Land outlined green and red should not have any building height control
and the land outlined blue should have 8 metres building height

PART 3 - JUSTIFICATION

The objective of the Planning Proposal is to seek to amendment to the YVLEP 2013 by correcting errors and anomalies by updating the Land Zoning, Lot Size, Floor Space Ratio and Height of Building Maps for Lot 1 DP 660006 being 82 Laidlaw Street, Yass and Lot 2 DP 853358 being Yass Valley Way, Yass (the site).

The intent is to support the effective implementation of the YVLEP 2013 for the sustainable growth of Yass Valley. LEP controls will also be more consistent with the Yass Flood Study (2016).

Section A - Need for the planning proposal

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

The Planning Proposal is not a result of any local strategic planning statement nor has the proposed amendment been identified in any strategic study. The discrepancy in the cadastre and zones became apparent through the planning for the development application for the first stage of the site.

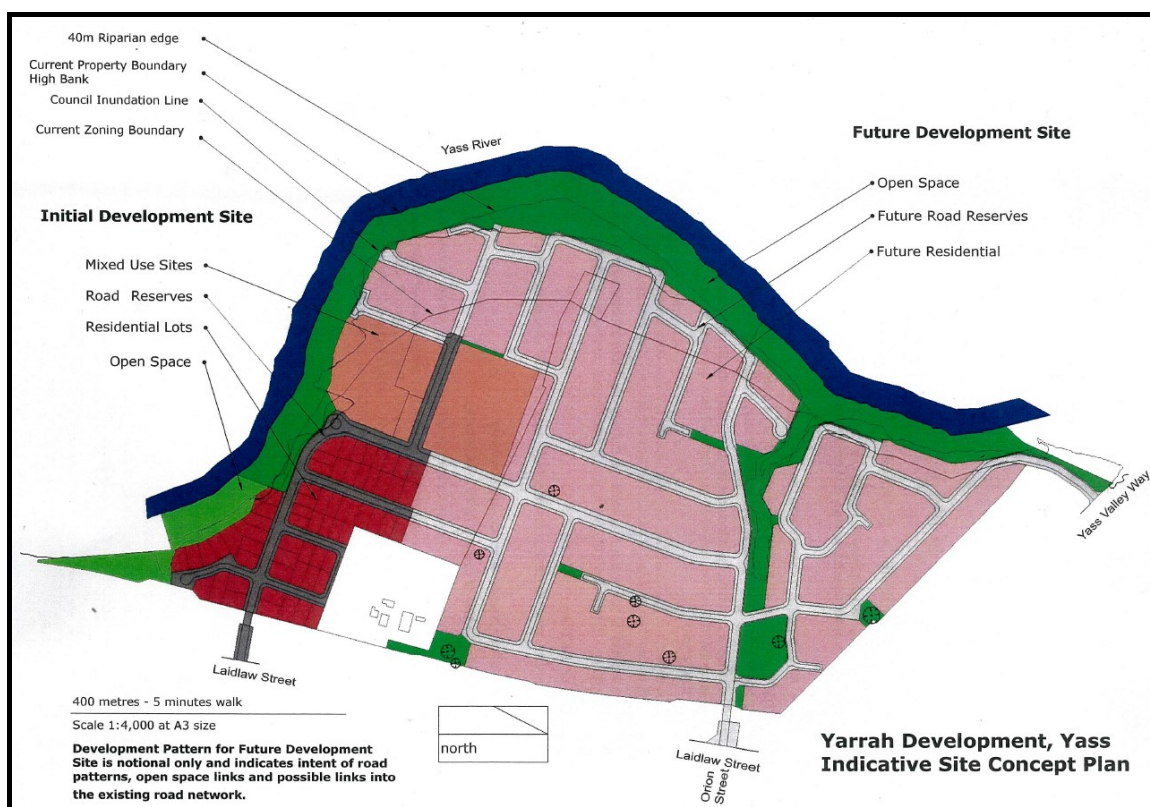


Figure 6: Concept Plan for Subject Site

The Planning Proposal simply seeks to correct the application of the zones in accordance with the cadastre which has now been corrected.



Figure 7: Previous Cadastre supplied by NSW LRS for Yass Valley LEP 2013 and Yass LEP 1987

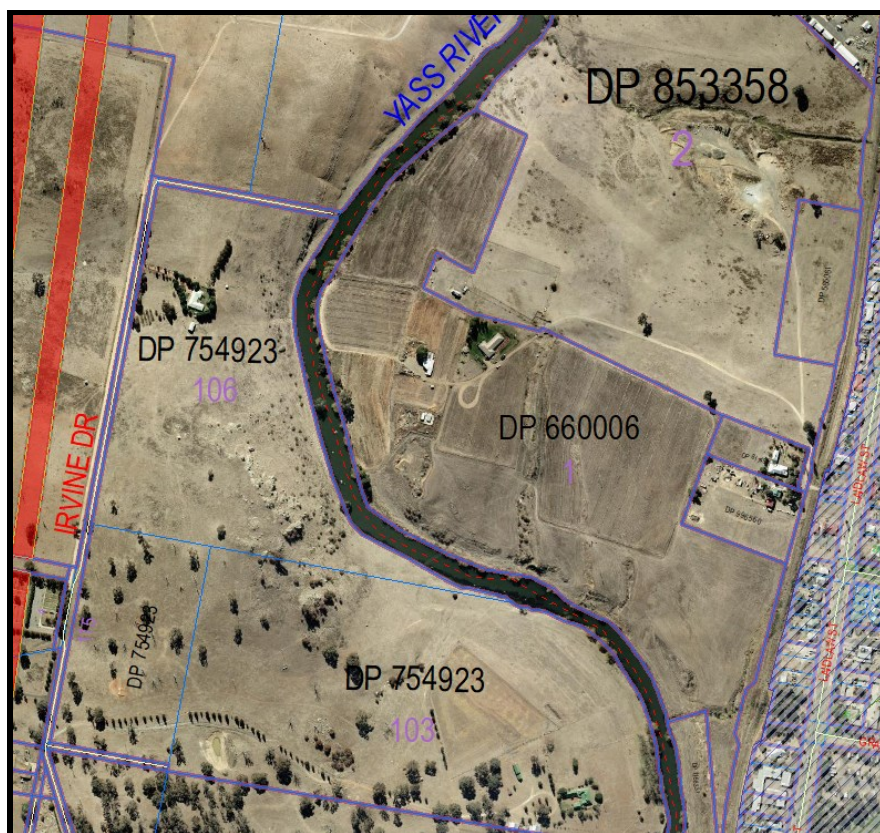


Figure 8: Cadastre corrected by NSW LRS

The proposed extent of the RE1 Public Recreation zone is also consistent with the Yass Flood Study (2016) which was endorsed by Council as shown in Figure 9 below.

The *Environmental Planning and Assessment Act 1979* requires councils to keep their local environmental plans under regular and periodic review to ensure the objects of the Act are, having regard to changing circumstances as may be relevant. As such, the amendment is proposed to correct errors and anomalies for effective implementation of the YVLEP 2013.



Figure 9: Yass Flood Study (2016) 1% AEP Flood Event

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

The proposed amendment could have been made through the expedited amendment process under section 3.22 of the Act, however, the Department advised preparing a planning proposal is a more suitable option for this proposed amendment.

Section B - Relationship to strategic planning framework.

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)?

The Planning Proposal is only intended to correct errors and anomalies in the YVLEP maps. As such, considering the nature and intent of the Planning Proposal, the objectives and actions of the South East and Tablelands Regional Plan 2036 have limited application to the Planning Proposal.

Generally, the Planning Proposal is consistent with the South East and Tableland Regional Plan 2036, in particular Action 16.4 to incorporate the best available hazard information in LEP's consistent with current flood studies.

Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

This Planning Proposal is not intended to introduce any new provisions within the LEP and in general, the planning proposal is consistent with the local strategic work which underpinned the preparation of the Yass Valley Local Environmental Plan.

In addition, the planning proposal is also consistent with the Yass Valley Settlement Strategy, and Tablelands Community Strategic Plan 2016-2036 though it has limited application to this Planning Proposal.

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

The table below outlines the applicability and consistency of the proposed amendments to the YVLEP 2013 with all the NSW State Environmental Planning Policies (SEPPs).

| Active State Environmental Planning Policies | Relevance of SEPP to the Planning Proposal |
|---|---|
| SEPP 1 - Development Standards | Not applicable |
| SEPP 19 - Bushland in Urban Areas | Not applicable |
| SEPP 21 - Caravan Parks | Not applicable |
| SEPP 33 - Hazardous and Offensive Development | Not applicable |
| SEPP 36 - Manufactured Home Estates | Not applicable |
| SEPP 44 - Koala Habitat Protection | Not applicable |
| SEPP 47 - Moore Park Showground | Not applicable |
| SEPP 50 - Canal Estate Development | Not applicable |
| SEPP 55- Remediation of Land | This SEPP applies to the strip of land proposed to be zoned R1 General Residential. |

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| | <p>A preliminary site investigation for the entire site was undertaken by Robson Environmental in 2017 as part of the Development Application for Lot 1 DP 660006. It identified areas of potential fill, as well as a former machinery shed on this subject strip of land. As a result conditions were placed on the consent:</p> <p>(1) <i>Prior to issue of Construction Certificate, the developer shall engage a suitably qualified environmental consultant to prepare a Remediation Action Plan (RAP) detailing how the Areas of Environmental Concern (AECs) within the development footprint identified in Preliminary Site Assessment and Soil & Water Assessment by Robson Environmental Pty Ltd will be remediated and methodology for ensuring that the site can be validated following remediation.</i></p> <p>(2) <i>Submit to Council a statement from an accredited site auditor engaged by the developer in accordance with the "Contaminated Sites: Guidelines for the NSW Site Auditor Scheme (3rd Edition) that provides evidence that:</i></p> <ul style="list-style-type: none"> <i>• An appropriate process has been undertaken in preparing the RAP, and</i> <i>• If the RAP is implemented in accordance with consultant's recommendations it is likely the site will be remediated to the extent that the ultimate use of the land will be suitable.</i> <p><i>Nothing in this consent prevents remediation works being carried out prior to issue of the Construction Certificate subject to those works being carried out in accordance with approved Remediation Action Plan.</i></p> <p><i>A site audit report shall be prepared by an accredited site auditor and be submitted to Council. The site audit report must indicate that the site has been remediated and</i></p> |
|--|---|

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| | <p><i>validated to allow it to be used for its ultimate use.</i></p> <p>(3) <i>Prior to commencing works, the developer shall prepare and submit to Council a Construction Environment Management Plan (CEMP) with an unexpected find protocol which includes both surface and ground water monitoring. The CEMP is to be implemented onsite prior to any development works be undertaken on site.</i></p> <p>Council has therefore considered whether the land is contaminated and is satisfied the land will be remediated before the land is used for residential purposes.</p> |
| SEPP 64 - Advertising and Signage | Not applicable |
| SEPP 65 - Design Quality of Residential Apartment Development | Not applicable |
| SEPP 70 - Affordable Housing (Revised Schemes) | Not applicable |
| SEPP Aboriginal Land 2019 | Not applicable |
| SEPP Affordable Rental Housing 2009 | Not applicable |
| SEPP Building Sustainability Index: BASIX 2004 | The planning proposal does not contain any provision that would be inconsistent with or hinder the application of the SEPP. |
| SEPP Coastal Management 2018 | Not applicable |
| SEPP Concurrences 2018 | The planning proposal does not contain any provision that would be inconsistent with or hinder the application of the SEPP. |
| SEPP Educational Establishments and Child Care Facilities 2017 | Not applicable |
| SEPP Exempt and Complying Development Codes 2008 | The planning proposal does not contain provisions that would be inconsistent with or hinder the application of the SEPP. |
| SEPP Gosford City Centre 2018 | Not applicable |
| SEPP Housing for Seniors or People with a Disability 2004 | The planning proposal does not contain any provision that would be inconsistent with or hinder the application of the SEPP. |
| SEPP Infrastructure 2007 | Not applicable |
| SEPP Kosciuszko National Park - Alpine Resorts 2007 | Not applicable |
| SEPP Kurnell Peninsula 1989 | Not applicable |

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| SEPP Mining, Petroleum Production and Extractive Industries 2007 | Not applicable |
| SEPP Miscellaneous Consent Provisions 2007 | Not applicable |
| SEPP Penrith Lakes Scheme 1989 | Not applicable |
| SEPP Primary Production and Rural Development 2019 | Not applicable |
| SEPP State and Regional Development 2011 | Not applicable |
| SEPP State Significant Precincts 2005 | Not applicable |
| SEPP Sydney Drinking Water Catchment 2011 | Not applicable |
| SEPP Sydney Region Growth Centres 2006 | Not applicable |
| SEPP Three Ports 2013 | Not applicable |
| SEPP Urban Renewal 2010 | Not applicable |
| SEPP Vegetation in Non-Rural Areas 2017 | The planning proposal does not contain provisions that would be inconsistent with or hinder the application of the SEPP. |
| SEPP Western Sydney Employment Area 2009 | Not applicable |
| SEPP Western Sydney Parklands 2009 | Not applicable |

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The following table documents the relevance and consistency of all Ministerial Directions issued under section 9.1 of the *Environmental Planning & Assessment Act 1979*.

| Ministerial Directions under Section 9.1 of the EP&A Act | |
|--|---|
| 2. Environment and Heritage | |
| 2.3 Heritage Conservation | <p>Consistent</p> <p>This direction applies when a relevant planning authority prepares a planning proposal.</p> <p>The planning proposal is not introducing any provisions that would affect any significant environmental heritage. The planning proposal is neither proposing any amendment to land that is identified in the YVLEP 2013 as a heritage item or is within a heritage conservation area.</p> |
| 3. Housing, Infrastructure and Urban Development | |
| 3.1 Residential Zones | <p>Consistent</p> <p>This direction applies when a planning proposal will affect land within:</p> <p>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</p> |

| | |
|--|---|
| | <p>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</p> <p>The planning proposal does include provisions that would encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> contain a requirement that residential development is not permitted until the land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and not contain provisions which will reduce the permissible residential density of land. |
| 3.3 Home Occupations | <p>Consistent</p> <p>This direction applies when a relevant planning authority prepares a planning proposal.</p> <p>The planning proposal will not affect the permissibility of home occupations in R1 General Residential Zone.</p> |
| 4. Hazard and Risk | |
| 4.3 Flood Prone Land | <p>Consistent</p> <p>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.</p> <p>Council is preparing the Floodplain Risk Management Study and Plan for Yass that will be adopted in the near future.</p> <p>No residential development would be permissible on land affected by flood within 1% AEP flood level given it is proposed to be included within the RE1 Public Recreation Zone. Furthermore, appropriate measures would be taken to mitigate flood impact as recommended in the Floodplain Risk Management Studies and Plans for Yass for any development that may impact the flood behaviour at the development assessment stage.</p> |
| 5. Regional Planning | |
| 5.10 Implementation of Regional Plans | <p>Consistent</p> |

| | |
|---|---|
| | <p>This direction applies when a relevant planning authority prepares a planning proposal.</p> <p>The planning proposal is consistent with the vision, land use strategy, goals, directions and actions contained in the South East and Tableland Regional Plan 2036.</p> |
| 6. Local Plan Making | |
| 6.1 Approval and Referral Requirements | <p>Consistent</p> <p>This direction applies when a relevant planning authority prepares a planning proposal.</p> <p>The planning proposal does not include any provisions that will require concurrence, consultation or referral to a Minister or Public Authority. The proposal does not identify any development as designated development either.</p> |
| 6.2 Reserving Land for Public Purposes | <p>Minor inconsistency due to rectifying zone anomalies between the residential, recreation and environmental zones associated with errors in the cadastre and the location of the Yass River on the LEP Maps.</p> |

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?

Assessment of critical habitat, threatened species, population or ecological communities or their habitat will not be impacted by the Planning Proposal. The intent is to address errors and anomalies identified in the YVLEP 2013 maps. As such, the correct application of the zone consistent with the Yass River corridor alignment will assist in protecting natural ecological communities in the river and riparian area.

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

There is no other likely environmental effect as a result of the amendment proposed in the planning proposal. The amendments are only intended to update the YVLEP 2013 maps by making them consistent with the Yass River corridor and land abutting the river within the 1% AEP flood level.

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

The Planning Proposal will have very limited social and economic effect as it only relates to updating the YVLEP maps by correcting errors and anomalies.

Section D - State and Commonwealth interests

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

The Planning Proposal does not trigger any requirement for additional infrastructure.

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

Council has not consulted any state or Commonwealth public authority, however Spatial Services within the Department of Finance, Services & Innovation have amended the base cadaster at the request of the landowner.

Considering the nature and intent of the Planning Proposal it is not considered necessary to consult with any state agency.

PART 4 - MAPPING

The planning proposal is intended to update the Land Zoning, Lot Size, Floor Space Ratio and Height of Building Maps for Lot 1 DP 660006 being 82 Laidlaw Street, Yass and Lot 2 DP 853358 being Yass Valley Way, Yass.

Accordingly, the maps that require amendment in the Planning Proposal are listed in the table below.

| Yass Valley LEP Maps to be amended | |
|------------------------------------|-----------------------------------|
| Map Type | Map Sheet (identification number) |
| Land Zoning Map | |
| LZN_001F | 8710_COM_LZN_001F_020_20190319 |
| LZN_001H | 8710_COM_LZN_001H_020_20190319 |
| Lot Size Map | |
| LSZ_001F | 8710_COM_LSZ_001F_020_20190319 |
| LSZ_001H | 8710_COM_LSZ_001H_020_20190319 |
| Floor Space Ratio Map | |
| FSR_001F | 8710_COM_FSR_001F_020_20190319 |
| FSR_001H | 8710_COM_FSR_001H_020_20190319 |
| Height of Building Map | |
| HOB_001F | 8710_COM_HOB_001F_020_20190319 |
| HOB_001H | 8710_COM_HOB_001H_020_20190319 |

PART 5 - COMMUNITY CONSULTATION

In considering a planning proposal, community consultation is usually required under section 3.34(2)(c) of the *Environmental Planning and Assessment Act 1979*. Council considers this Planning Proposal to be very 'low impact', and therefore it is proposed to be exhibited for a maximum of **14 days** pursuant to the Department's '*A guide to preparing local environmental plans*'.

Consultation would incorporate:

- Notice in the Council page within the Yass Tribune,
- Notification through the Yass Valley Council website, e-newsletter and Facebook page.

No Public Hearing would be required as no land is proposed to be reclassified, and also the matters included in the planning proposal are of minor nature.

It should be noted that Council is seeking authorisation to exercise its delegation of local plan-making authority under section 3.36 of the *Environmental Planning and Assessment Act 1979*, as this planning proposal is considered to be a routine, minor matter.

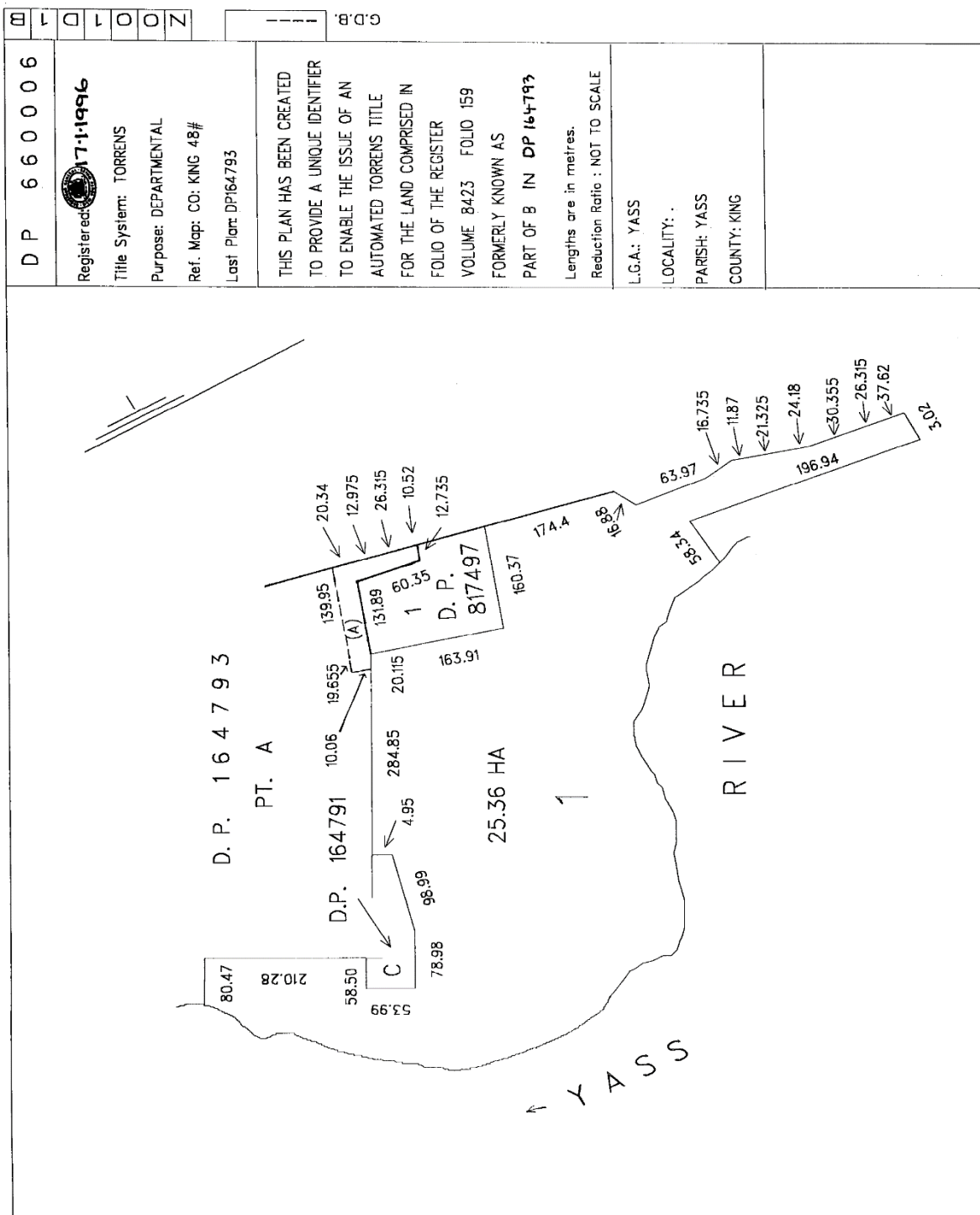
PART 6 - PROJECT TIMELINE

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

A timeline for actions required to finalise the planning proposal is documented in the following table.

| Stage | Estimated timeframe |
|--|--|
| Anticipated commencement date (date of Gateway determination) | February 2020 (assuming six weeks from submission to DPI&E) |
| Completion of any additional required technical information | N/A |
| Government Agency Consultation | Concurrent – Feb/March 2020 |
| Public Exhibition (14 days) | Concurrent - Feb/March 2020 |
| Consideration of submissions by staff | April 2020 |
| Public Hearing | Not required |
| Post Exhibition consideration of planning proposal by Council | May Council Meeting 2020 (only if Council receives any major submission) |
| Submission to Minister to make the amending LEP under section 3.36 of the <i>Environmental Planning and Environment Act 1979</i> | June/July 2020 |

APPENDIX 1



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APPENDIX 2

