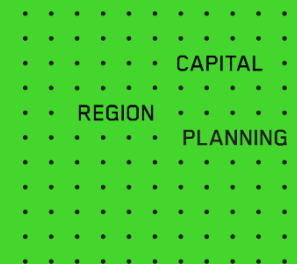


# Planning Proposal

Lot 5 DP838497  
Sutton Road Sutton

Prepared for: Cartwright Family

September 2019



Version Control

Final for Submission to DPIE: 04.09.2019

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# 1

## Introduction

### 1.1 Background to this Planning Proposal

The land the subject of this Planning Proposal – Lot 5 DP838497, has been in the ownership of the Cartwright family (the Proponent) for more than 150 years. With a total area of some 180 hectares, the land is a remnant of a previously much larger and commercially viable farming and grazing property. As a direct result of the Cartwright's long-term tenure and sustainable management of the land, almost 100 hectares of the site retains significant native vegetation and wildlife. These biodiversity values now act as a restriction to the use of the land for long-term commercially viable agricultural practices. **Photos 1 – 4** below are representative of the site's current condition.

Following the adoption of the Yass Valley Settlement Strategy in September 2017, the Yass Valley Council resolved to adopt the Sutton Village Master Plan on 20 December 2017. The subject land, which is significant to Sutton in that it is the 'front door' of the Village (when approaching from the Federal Highway), was nominated as being capable of accommodating an extension to Sutton Village as well as some commercial development, further large lot residential subdivision and the subsequent erection of dwellings.

In response to the adoption of the Master Plan, the Cartwright family has worked in close collaboration with a team of technical consultants to prepare a concept re-zoning and development scheme that is sympathetic to the environmental and biodiversity attributes of the land. Whilst the proposed scheme defers from the Master Plan as it applies to nominated land use, proposed zone boundaries and minimum lot size requirements, the proposal will result in an environmentally superior outcome that generates a similar development yield.

Specifically, the proposed scheme will avoid land identified as being unsuitable for future development and will conserve the bulk of the moderate, high and very high-quality vegetation in up to five (5) suitably sized stewardship sites. These stewardship sites will provide 'in perpetuity' protection and enhancement of the biodiversity values of the land. To further ensure optimal regulatory control over those lots, it is proposed to apply an environmental management zoning with specified minimum lot sizes of 20 and 40 hectares respectively.

The balance of the land is noted to be of low environmental significance. Part of this land is proposed to be appropriately zoned so as to accommodate a sympathetic extension to the Sutton Village. The remaining land is

proposed to be zoned part RU5 Village and part R5 Large Lot Residential so as to support large residential/rural residential allotments. The RU5 Village Zone is proposed to have a minimum lot size control of 5,000m<sup>2</sup> whilst the R5 Large Lot Residential Zone is proposed to have a minimum lot size control of 1.5 hectares (with an ability to average provided the area of all allotments created would be 1.5 hectares). The proposed lot size provisions will be adequate to support the on-site management of potable water and sewage.

Together with their consultant team, the Cartwright family has had continual dialogue with officers representing Yass Valley Council, the Department of Planning and Environment and the Office of Environment and Heritage. This ongoing correspondence has been critical in understanding and resolving matters of concern and in preparing a concept re-zoning and development scheme that provides certainty for all stakeholders and warrants their support.

The Cartwright family has long been (and continues to be) prominent in the life and times of Sutton Village and wish to continue to contribute to the Village and the surrounding area via a sensitive and staged development of the site – as a legacy to the history of their family in the locality. This proposal will support the Sutton community through benefits such as, the availability of diverse residential/rural residential living options, environmental preservation and retained and added public amenity, including the provision of public access via equestrian and walking trails.

An illustration of the Cartwright's vision for the site is attached to this Planning Proposal for information purposes only (refer to **Appendix 1**). It is important to note that detailed subdivision layout and design would be the subject of a separate Development Application following the favourable determination of this re-zoning proposal.



**Photo 1:** Undulating landscape typical of proposed residential areas



**Photo 2:** Woodland landscape typical of the residential and stewardship areas



**Photo 3:** Cleared land typical of the proposed Village extension



**Photo 4:** Proposed residential area adjacent to Yass River

## 1.2 Commission

This Planning Proposal has been prepared by Capital Region Planning on behalf of Woodbury Ridge Estate Pty Ltd (also referred to as **the Proponent**) relating to Lot 5 DP 838497 Sutton Road, Sutton (**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 ongoing discussions with the Department of Planning and Environment (**DPE**), the Office of Environment and Heritage (**OEH**) and Council and 'A Guide to Preparing Planning Proposals' and 'A Guide to Preparing Local Environmental Plans' published by the DPE 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.
- Yass Valley Settlement Strategy September 2017.
- Sutton Village Master Plan December 2017.
- South East and Tablelands Regional Plan 2017.
- Report prepared by Ecological Australia entitled 'Lot 5 DP 838497 Sutton Road, Sutton, Ecological Constraints Assessment', July 2016
- Report prepared by Ecological Australia entitled 'Lot 5 DP 838497 Sutton Road, Sutton, Summary Report – Spring Survey', November 2016.
- Report prepared by Ecological Australia entitled 'Lot 5 DP 838497 Sutton Road, Sutton, Planning Proposal Ecological Investigation', May 2018.
- Report prepared by Ecological Australia entitled 'Lot 5 DP 838497 Sutton Road, Sutton, Planning Proposal Ecological Investigation', July 2018.

- Report prepared by Franklin Consulting Australia Pty Ltd entitled 'Soil and Water Lot 5 DP 838497, Sutton Land Capability Assessment', May 2018.
- Letter prepared by Franklin Consulting Australia Pty Ltd addressing the comments made by the Natural Resources Access Regulator, March 2019.
- Reports prepared by Ecological Australia entitled 'Aboriginal Heritage Due Diligence Assessment – Lot 5 DP 838497', May 2018 and 'Lot 5 DP 838497 Sutton Road – Historic Heritage', May 2018.
- Regional Community Strategic Plan 2011 – 2030 (Yass Valley, Goulburn-Mulwaree and Upper Lachlan Shire Councils).
- Report prepared by Murrang Earth Sciences entitled 'Preliminary Site Investigation of Lot 5 DP 838497, Sutton NSW', May 2018.
- Report prepared by Ontoit entitled 'Sutton Re-Zoning Project Traffic Impact Assessment', July 2018.
- Sutton Floodplain Risk and Management Study and Plan 21 December 2016.
- Report prepared by Ecological Australia entitled 'Bushfire Opportunities/Constraints Analysis Residential Subdivision Lot 5 DP 838497 Sutton', 25 May 2018.
- Report prepared by Ecological Australia entitled 'Bushfire Opportunities/Constraints Analysis Residential Subdivision Lot 5 DP 838497 Sutton', July 2018.
- Illustrative Concept Plan prepared by Place Logic, 15 February 2019

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



# 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 south of Sutton village within the Yass Valley Local Government Area (**LGA**). Sutton village is located between the Yass River (on the eastern side of the village) and McLaughlin's Creek (on the western side of the village). It is approximately 22km north of Canberra and approximately 57km to the south of Yass.

The regional site location is depicted in **Figure 1** below.

### 2.2 Site Description and Context

The site is legally described as Lot 5 DP838497 Sutton Road, Sutton. It is an irregular shaped parcel of land that has an area of approximately 180 hectares. The site has frontages to Sutton Road (west) measuring approximately 1.5 kilometres, the Federal Highway (south) measuring approximately 1.2 kilometres and Guise Street (north) measuring approximately 800 metres. Adjoining the site to the east is the Yass River.

The subject site is un-developed and has had a long history of agricultural use (circa >150 years), which has altered the original woodland vegetation through successive years of cropping, pasture improvement and livestock grazing. This has included removal of the native shrub layer and simplification of the ground layer. Some areas in the northwest of the site, which have a history of cropping, are dominated by exotic species in the ground layer.

The site comprises a range of slope gradients, ranging from very gentle (<3%) to moderately sloping (10-15%). Elevations range between 600m near the Yass River boundary and 670m in the southwestern corner near to the Federal Highway and Sutton Road interchange. Two prominent ridgelines extend from this higher ground to the north and northeast respectively. In response to the site's undulating landform, there are a number of existing farm dams that have been constructed to support the agricultural use of the site.

Key features of the locality surrounding the subject site, include:

- Adjoining the site to the southeast is the 'Tulip Top Gardens', which is a privately-owned garden and nursery that is open periodically to the public.
- To the north of the site on the opposite side of Guise Street, is Sutton village, which is characterised by low density residential housing, and other services and facilities that are associated with a rural village.
- On the opposite side of Sutton Road (west) and the Federal Highway (south) is rural land that is currently utilised for agricultural pursuits.

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

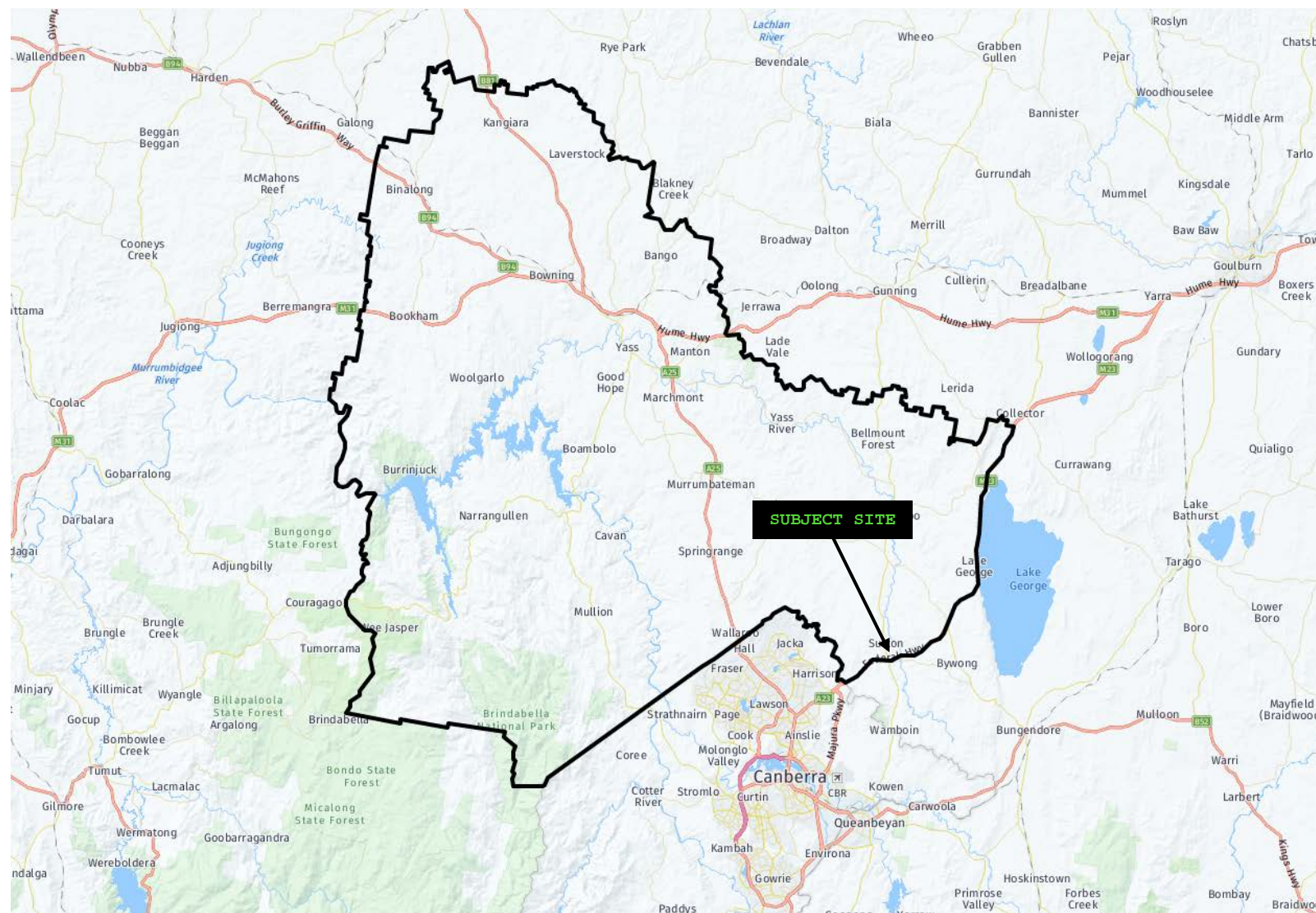


Figure 1: Regional Site Context (<https://profile.id.com.au/yass-valley/about/>, April 2018)





Figure 2: Local Site Context (<https://profile.id.com.au/yass-valley>, April 2018)

# 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 RU1 – Primary Production. See **Figure 3** 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 (Tiles 005 and 005F) ( <b>Figure 3</b> ). The Land Zoning Map indicates that the subject site is located within the RU1 Primary Production Zone.
2.3	Zone objectives and land use table	<b>Zone RU1 Primary Production</b> <b>1. Objectives of zone</b> <ul style="list-style-type: none"> <li>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</li> <li>To encourage diversity in primary industry enterprises and systems appropriate for the area.</li> <li>To minimise the fragmentation and alienation of resource lands.</li> <li>To minimise conflict between land uses within this zone and land uses within adjoining zones.</li> <li>To protect and enhance the biodiversity of Yass Valley.</li> <li>To protect the geologically significant areas of Yass Valley.</li> </ul>

Clause	Matter	Requirement
		<ul style="list-style-type: none"> <li>To maintain the rural character of Yass Valley.</li> <li>To encourage the use of rural land for agriculture and other forms of development that are associated with rural industry or that require an isolated or rural location.</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 prime crop and pasture land.</li> <li>To prevent the subdivision of land on the fringe of urban areas into small lots that may prejudice the proper layout of future urban areas.</li> </ul> <p><b>2. Permitted without consent</b> Environmental protection works; Extensive agriculture; Forestry; Home-based child care; Home businesses; Home occupations; Intensive plant agriculture; Water storage facilities.</p> <p><b>3. Permitted with consent</b> Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Correctional centres; Crematoria; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Function centres; Helipads; High technology industries; Home industries; Industrial retail outlets; Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Landscaping material supplies; Markets; Open cut mining; Places of public worship; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Serviced apartments; Signage; Timber yards; Transport depots; Truck depots; Turf farming; Waste or resource management facilities; Water recreation structures; 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 RU5 Village</b></p> <p><b>1. Objectives of zone</b></p> <ul style="list-style-type: none"> <li>To provide for a range of land uses, services and facilities that are associated with a rural village.</li> <li>To ensure that development is compatible with village character and amenity.</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> Home-based child care; Home businesses; Home occupations</p>

Clause	Matter	Requirement
		<p><b>3. Permitted with consent</b></p> <p>Amusement centres; Boat building and repair facilities; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Centre-based child care facilities; Commercial premises; Community facilities; Crematoria; Depots; Dwelling houses; Entertainment facilities; Environmental facilities; Environmental protection works; Exhibition villages; Function centres; Information and education facilities; Light industries; Mortuaries; Neighbourhood shops; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Respite day care centres; Roads; Schools; Service stations; Signage; Storage premises; Tourist and visitor accommodation; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Water recycling facilities; Water supply systems; Wholesale supplies</p> <p><b>4. Prohibited</b></p> <p>Boarding houses; Cellar door premises; Farm stay accommodation; Hostels; Landscaping material supplies; Multi dwelling housing; Residential flat buildings; Roadside stalls; Rural workers' dwellings; Timber yards; Vehicle sales or hire premises; Any development not specified in item 2 or 3</p>
2.3	Zone objectives and land use tables	<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></p> <p>Environmental protection works; Extensive agriculture; Home-based child care; Home businesses; Home occupations</p> <p><b>3. Permitted with consent</b></p> <p>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></p> <p>Any development not specified in item 2 or 3</p>

Clause	Matter	Requirement
2.3	Zone objectives and land use tables	<p><b>Zone E3 Environmental Management</b></p> <p><b>1. Objectives of zone</b></p> <ul style="list-style-type: none"> <li>To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.</li> <li>To provide for a limited range of development that does not have an adverse effect on those values.</li> </ul> <p><b>2. Permitted without consent</b></p> <p>Environmental protection works; Home-based child care; Home businesses; Home occupations</p> <p><b>3. Permitted with consent</b></p> <p>Bed and breakfast accommodation; Boat launching ramps; Camping grounds; Dual occupancies; Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Extensive agriculture; Farm buildings; Flood mitigation works; Horticulture; Information and education facilities; Research stations; Roads; Signage; Water storage facilities</p> <p><b>4. Prohibited</b></p> <p>Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other 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	<p>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.</p> <p>The Minimum Lot Size Map indicates a minimum lot size of 40 hectares for the subject site.</p>
4.1AA	Minimum subdivision lot size for community title schemes	<p>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.</p> <p>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:</p> <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>



Clause	Matter	Requirement
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.
4.1B	Subdivision using average lot sizes	Development may be granted to subdivide land in Zone RU1 Primary Production if: <ul style="list-style-type: none"> <li>a) the average area of all the lots will be at least 40 hectares, and</li> <li>b) none of the lots created will have an area of less than 20 hectares, and</li> <li>c) none of the lots created will have an area of greater than 70 hectares.</li> </ul>
4.1C	Additional requirements for subdivision in certain rural zones	Development consent must not be granted for the subdivision of land unless the consent authority is satisfied that: <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	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. However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot. A dwelling cannot be erected on such a lot.

Clause	Matter	Requirement
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> <li>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</li> <li>d) is a lot resulting from a subdivision under Clause 4.1 or Clause 4.1B, or</li> <li>e) would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by: <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> </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> </ul>

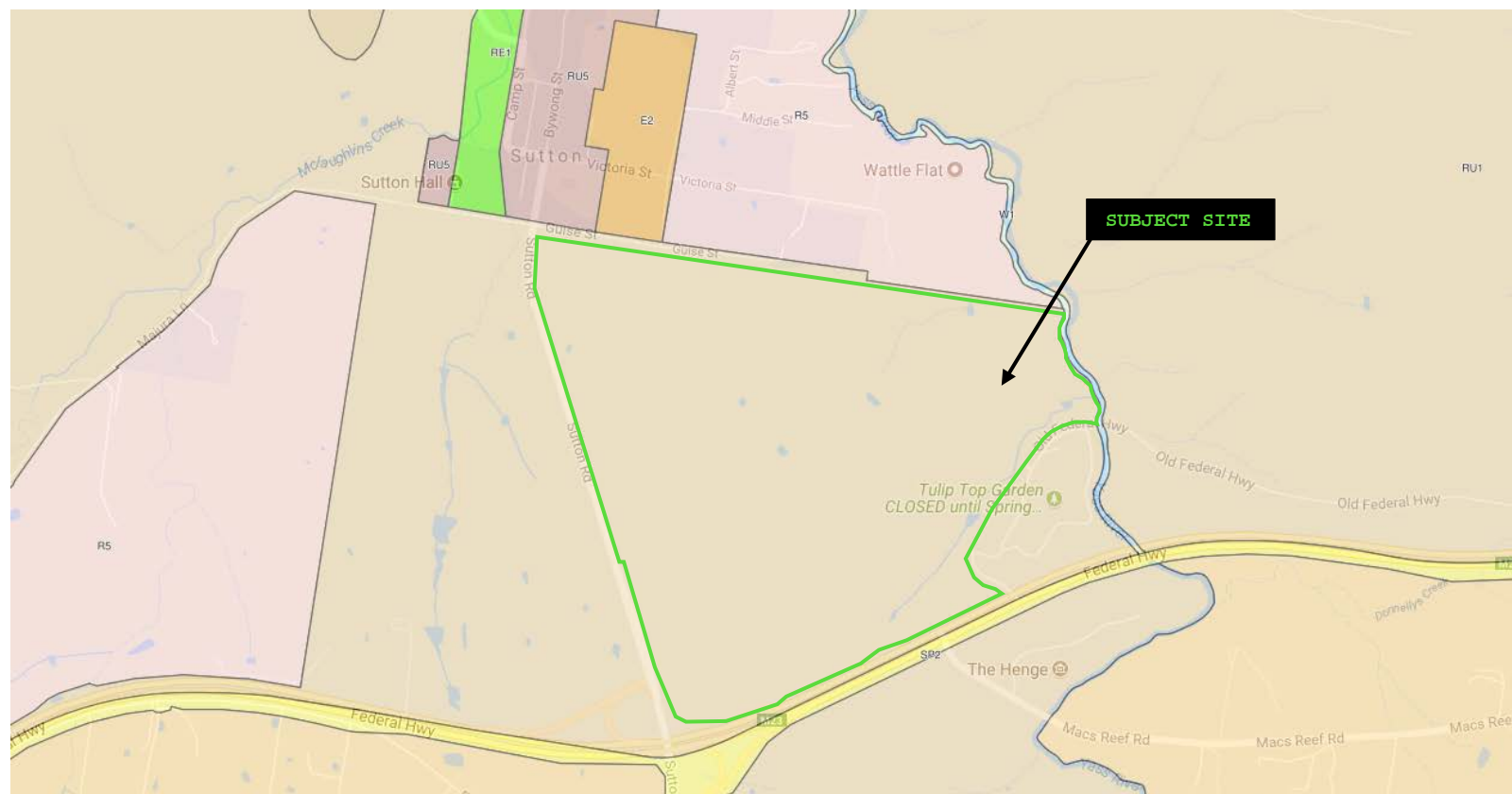
Clause	Matter	Requirement
		<p>c) if development consent has been granted in relation to such an application—the consent has been surrendered or it has lapsed.</p> <p>5) Development consent must not be granted for the erection of a dual occupancy unless:</p> <p>a) no dual occupancy has been erected on the land, and</p> <p>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</p> <p>c) if development consent has been granted in relation to such an application—the consent has been surrendered or it has lapsed.</p> <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>
4.2C	Erection of rural worker's dwellings on land in Zone RU1 and Zone RU2	<p>3) Development consent must not be granted for the erection of a rural workers' dwelling on land to which this clause applies unless the consent authority is satisfied that:</p> <p>a) there is a demonstrated economic capacity of the agricultural or rural industry to support the on-going employment of rural workers, and</p> <p>b) the development is necessary considering the nature of the agricultural or rural industry land use lawfully occurring on the land or as a result of the remote or isolated location of the land, and</p> <p>c) the development will not result in more than one rural worker's dwelling being erected on the land comprising the agricultural or rural industry.</p>
4.6	Exceptions to development standards	<p>(1) The objectives of this clause are as follows:</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p> <p>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</p> <p>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:</p>

Clause	Matter	Requirement
		<p>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p> <p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p> <p>(4) Development consent must not be granted for development that contravenes a development standard unless:</p> <p>(a) the consent authority is satisfied that:</p> <p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p> <p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p> <p>(b) the concurrence of the Secretary has been obtained.</p> <p>(5) In deciding whether to grant concurrence, the Secretary must consider:</p> <p>(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</p> <p>(b) the public benefit of maintaining the development standard, and</p> <p>(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.</p> <p>(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:</p> <p>(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</p> <p>(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</p> <p><b>Note.</b> When this Plan was made it did not include all of these zones.</p> <p>(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).</p> <p>(8) This clause does not allow development consent to be granted for development that would contravene any of the following:</p> <p>(a) a development standard for complying development,</p> <p>(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to</p>

Clause	Matter	Requirement
		<p>which <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> applies or for the land on which such a building is situated,</p> <p>(c) clause 5.4,</p> <p>(ca) clause 6.12.</p>
6.2	Flood Planning	<p>2) This clause applies to land at or below the flood planning level, which means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.</p> <p>3) Development consent must not be granted to development on land unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> <li>a) is compatible with the flood hazard of the land, and</li> <li>b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</li> <li>c) incorporates appropriate measures to manage risk to life from flood, and</li> <li>d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</li> <li>e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</li> </ul>
6.3	Terrestrial biodiversity	<p>2) This clause applies to land identified as 'Biodiversity' on the Natural Resources Biodiversity Map.</p> <p>3) Before determining a development application for development on land, the consent authority must consider:</p> <ul style="list-style-type: none"> <li>a) whether the development is likely to have: <ul style="list-style-type: none"> <li>i. any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and</li> <li>ii. any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and</li> <li>iii. any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and</li> <li>iv. any adverse impact on the habitat elements providing connectivity on the land, and</li> </ul> </li> <li>b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul> <p>4) Development consent must not be granted to development on land unless the consent authority is satisfied that:</p> <ul style="list-style-type: none"> <li>a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</li> </ul>

Clause	Matter	Requirement
		<ul style="list-style-type: none"> <li>b) if that impact cannot be reasonably avoided by adopting feasible alternatives–the development is designed, sited and will be managed to minimise that impact, or</li> <li>c) if that impact cannot be minimised–the development will be managed to mitigate that impact.</li> </ul>
6.4	Ground water vulnerability	<ul style="list-style-type: none"> <li>2) This clause applies to land identified as 'Groundwater vulnerability' on the Groundwater Vulnerability Map.</li> <li>3) Before determining a development application for development on land, the consent authority must consider the following: <ul style="list-style-type: none"> <li>a) the likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals),</li> <li>b) any adverse impacts the development may have on groundwater dependent ecosystems,</li> <li>c) the cumulative impact the development may have on groundwater (including impacts on nearby groundwater extraction for a potable water supply or stock water supply),</li> <li>d) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul> </li> <li>4) Development consent must not be granted to development on land unless the consent authority is satisfied that: <ul style="list-style-type: none"> <li>a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</li> <li>b) if that impact cannot be reasonably avoided–the development is designed, sited and will be managed to minimise that impact, or</li> <li>c) if that impact cannot be minimised–the development will be managed to mitigate that impact.</li> </ul> </li> </ul>
6.5	Riparian land and watercourses	<ul style="list-style-type: none"> <li>2) This clause applies to all of the following: <ul style="list-style-type: none"> <li>a) land identified as 'Watercourse' on the Riparian Lands and Watercourses Map,</li> <li>b) all land that is within 40 metres of the top of the bank of each watercourse on land identified as "Watercourse" on that map.</li> </ul> </li> <li>3) Before determining a development application for development on land the consent authority must consider: <ul style="list-style-type: none"> <li>a) whether or not the development is likely to have any adverse impact on the following: <ul style="list-style-type: none"> <li>i. the water quality and flows within the watercourse,</li> <li>ii. aquatic and riparian species, habitats and ecosystems of the watercourse,</li> <li>iii. the stability of the bed and banks of the watercourse,</li> <li>iv. the free passage of fish and other aquatic organisms within or along the watercourse,</li> <li>v. any future rehabilitation of the watercourse and riparian areas, and</li> </ul> </li> </ul> </li> </ul>

Clause	Matter	Requirement
		<ul style="list-style-type: none"> <li>b) whether or not the development is likely to increase water extraction from the watercourse, and</li> <li>c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul> <p>4) Development consent must not be granted to development on land unless the consent authority is satisfied that:</p> <ul style="list-style-type: none"> <li>a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</li> <li>b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</li> <li>c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</li> </ul>



**Figure 3:** Current Zoning under YVLEP 2013 (NSW Planning Portal, [https://www.planningportal.nsw.gov.au/find-a-property/3098570\\_2090\\_Sutton\\_Road\\_5\\_Sutton\\_DP838497](https://www.planningportal.nsw.gov.au/find-a-property/3098570_2090_Sutton_Road_5_Sutton_DP838497), May 2018)



# 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 RU1 Primary Production to part RU5 Village, part R5 Large Lot Residential and part E3 Environmental Management.

### 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 5 DP838497. This will be achieved by:

- Amending Map Sheets LZN\_005 and LZN\_005F for land within the subject site to replace the existing RU1 Primary Production Zone with part RU5 Village, part R5 Large Lot Residential and part E3 Environmental Management with area specific minimum lot size requirements.
- Amending Map Sheets LSZ\_005 and LSZ\_005F for land within the subject site to replace the existing (AB5) 40 hectare minimum lot size with the following:
  - (X1) 5,000m<sup>2</sup> minimum lot size for that part of the land proposed to be zoned RU5 Village Zone.
  - 1.5 hectare minimum lot size for that part of the land proposed to be zoned R5 Large Lot Residential.
  - (AB3) 20 or (AB5) 40 hectare minimum lot sizes for specific parts of the land proposed to be zoned E3 Environmental Management.
- Inserting a new local provision into Part 6 of the YVLEP 2013 enabling subdivision of the land where the average area of all lots created within the R5 Large Lot Residential Zone would be 1.5 hectares. None of the lots created would have an area less than 5,000m<sup>2</sup> and none of the lots created would have an area greater than 2.5 hectares. This will prevent future requests for re-subdivision under Clause 4.6 thereby ensuring that the development retains, and is complementary to, the environmental attributes of the nominated land and adjoining lands.

- 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 each specific zone in the future subdivision and the development of the land.

It had previously been considered that specific sections of the land, given their biodiversity values, could support an E4 Environmental Living Zone. However, it was established that the application of the lot averaging provisions of Clause 4.1B of the Yass Valley Local Environmental Plan 2013 would have enabled, subject to application, a reduction in the minimum lot size requirements applicable to the proposed E4 Zone to below the minimum lot size requirements in the adjoining proposed RU5 Village Zone.

Such a proposition would have been at variance with responsible strategic and statutory planning outcomes for the land and potentially, to the detriment of the lands' biodiversity values. Accordingly, the proposed E4 Zone was not pursued as part of the current planning proposal.

## **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 any strategic study or report?**

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

#### **Yass Valley Settlement Strategy**

The Yass Valley Settlement Strategy was adopted by Council in September 2017. The purpose of the 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 development within Sutton is highly constrained due to the lack of secure water supply and adequate sewerage treatment. Given these constraints and the local community's desire for Sutton to retain its village character, the Strategy acknowledges that any future growth potential would be limited and reliant on its potential impact on village character and that of the surrounding agricultural land use.

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 residential and rural residential purposes whilst ensuring the visual character of the Township and preserving the environmental and biodiversity values of the land and that of adjoining and adjacent lands.

### **Sutton Village Master Plan**

Following on from the adoption of the Yass Valley Settlement Strategy, the Sutton Village Master Plan was adopted by Council on 20 December 2017. It is to be noted that the Plan, whilst adopted, is to be inserted into Council's Comprehensive Development Control Plan, which is in draft form at the present time. However, in application, the Plan has relevance in this instance given its strategic weight within Council's adopted Policy framework.

The subject land is included within the geographical boundaries as nominated by the Plan.

The Plan also nominates specific land use zones and minimum lot size requirements within those zones for the purpose of subdivision and subsequent erection of dwellings on the land. The adopted zones and minimum lot size requirements are generally reflective of site characteristics and constraints.

The Plan also documents adopted Objectives and Design Standards to ensure the orderly and proper future development of land as nominated. In relation to the land the subject of this Planning Proposal, the Master Plan suggests that the land has potential to accommodate a village extension, commercial development, village entry and larger lots (subject to further ecological assessment) (refer to **Figure 4** below).

The current Planning Proposal was initially supported by a conceptual development scheme (refer to **Figure 5** below) for the subject land, which was generally reflective of the design concepts detailed in the Master Plan. However, there were some departures from the Master Plan as it applied to nominated land use, proposed zone boundaries and minimum lot size requirements.

The departures were attributed to the difference in level of technical investigation and reporting undertaken as part of the Master Plan exercise and that associated with the current Planning Proposal, which has been more site specific and to a higher level of detail.

Following more detailed environmental and biodiversity investigations and reporting, it was considered necessary to review the development strategy in the original concept plan. The process culminated in the preparation of a revised conceptual development scheme (refer to **Figure 6** below), which now supplements and is supportive of this Planning Proposal.

The current conceptual development scheme is generally reflective of the requirements of the Master Plan. However, there are still some departures from the Master Plan as it applies to nominated land use, proposed zone boundaries and minimum lot size requirements. These departures are considered responsive and warranted given that they will result in an environmentally superior outcome that will generate a similar development yield for the site.

Specifically, the current development scheme will avoid land identified as being unsuitable for future development and will conserve the bulk of the moderate, high and very high-quality vegetation in three to four suitably sized stewardship sites. These stewardship sites will provide 'in perpetuity' protection and enhancement of the biodiversity values of the land. To further ensure optimal regulatory control over those lots, it is proposed to apply an environmental management zone with specified minimum lot sizes of 20 and 40 hectares respectively.

The balance of the land is noted to be of low environmental significance. Part of this land is proposed to be appropriately zoned RU5 Village Zone having a corresponding minimum lot size of 5,000m<sup>2</sup> so as to accommodate a sympathetic extension to the Sutton Village. The remaining land is proposed to be zoned R5 Large Lot Residential having a corresponding minimum lot size of 1.5 hectares to support large residential/rural residential allotments. The nominated minimum lot size in each of these Zones has been purposeful to ensure environmental integrity and sustainable on-site management of potable water and the treatment and disposal of sewage. Notwithstanding, a new provision enabling a reduction in the minimum lot size in the nominated R5 Zone is proposed to provide some flexibility in the subdivision of land in recognition of site-specific biodiversity attributes.

In this instance, the departures are considered justified and would have no implications for the application of the Master Plan over the long term given the fact that any future subdivision and/or development of the land would be subject to detailed design and endorsement by Council through the development process.

#### **General Comment**

















It would be fair to say that the Proponent has actively pursued the need to fully assess the land's development capabilities in context with its environmental and biodiversity values and the perceived desired future character of the Township of Sutton and surrounding lands.

By doing so, the Proponent has demonstrated a strong commitment to due process and the need for careful site planning and design.

Should the current Planning Proposal come to fruition, this same commitment will continue to be pursued through the development process with the aim to produce sustainable housing and lifestyle opportunities in which the preservation and conservation of the land's environmental and biodiversity values are duly recognised and appreciated.

## Master Plan Features

### Legend

-  Village Extents
-  Existing Public Open Space
-  Place of Community Focus
-  Yass River and Village Creeks
-  Pedestrian Link
-  Public Domain Strategy
-  Sutton Entrance Avenue
-  Landscape Buffers
-  Potential Yass River Monitoring Point
-  Crown Reserve including 'Sutton Common'
-  Encourage Commercial Development
-  Indicative alignment of Bypass (subject to further investigation)
-  Link to existing Village
-  Potential Rezoning to R2 (5000m<sup>2</sup>)
-  Potential Rezoning to E4 (2.5ha)
-  Potential Rezoning to E3 (40ha)

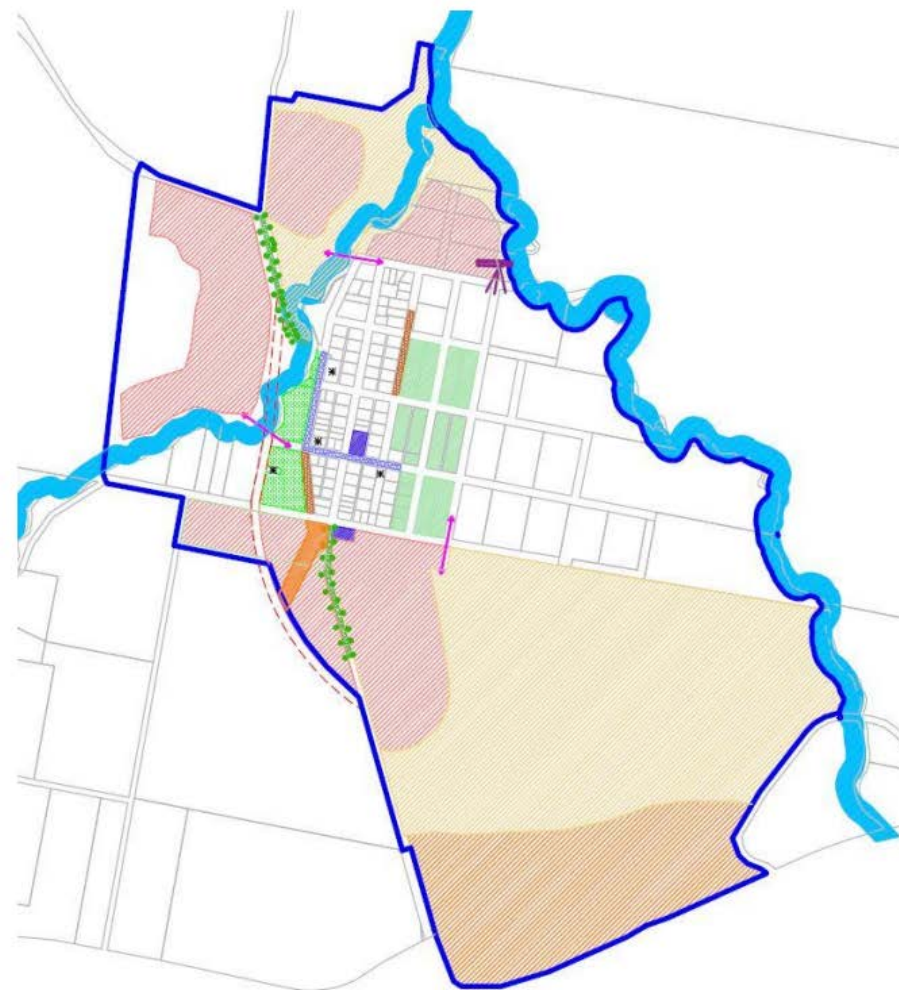


Figure 4: Extract from Sutton Village Master Plan 2017

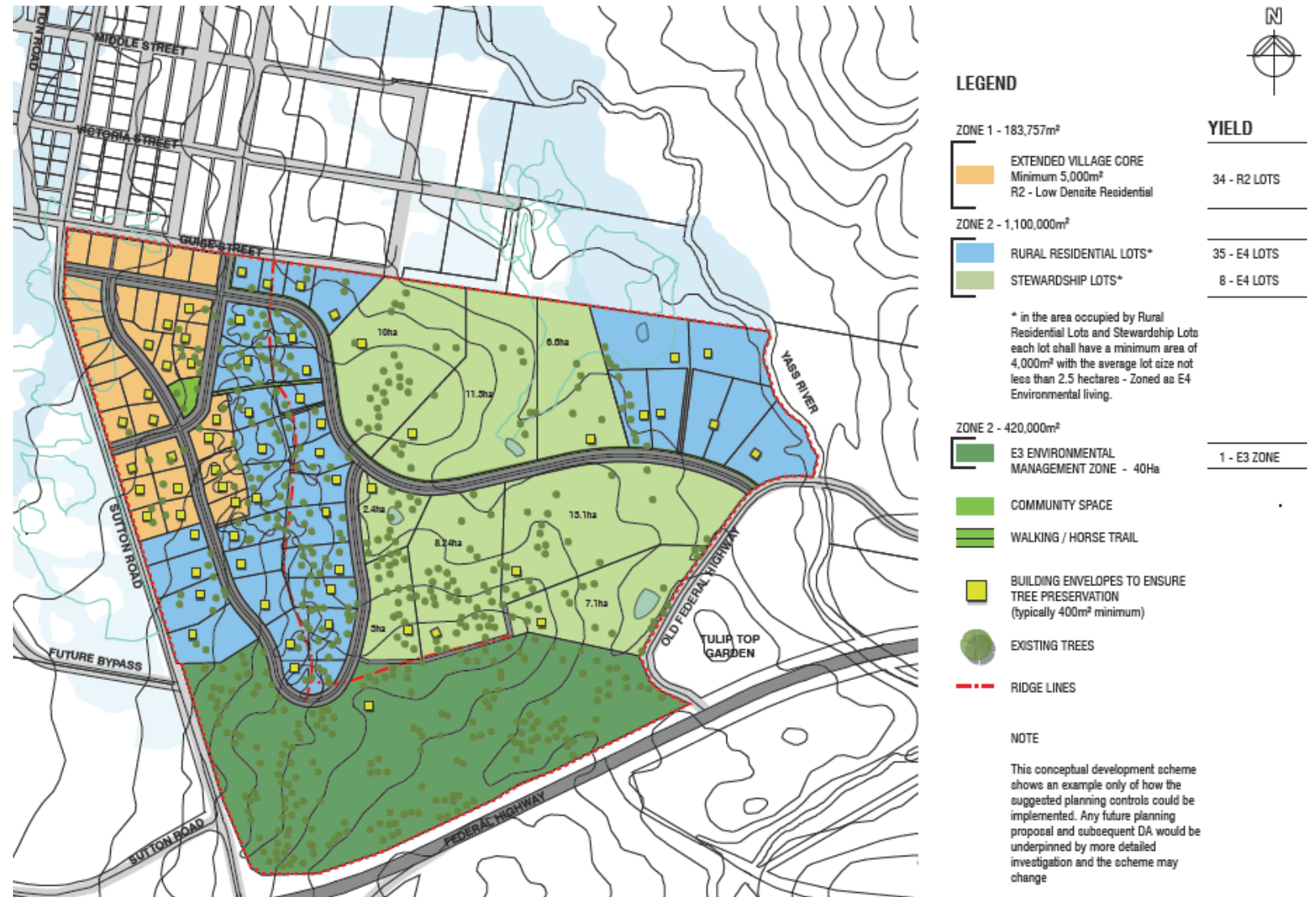


Figure 5: Original Concept Plan in Response to Sutton Master Plan





**Figure 6:** Conceptual Development Scheme/Subdivision

**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 (Sutton Village) 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. Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-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 cropping, pasture improvement and livestock grazing.



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.

Potential land use conflict between proposed residential and existing agricultural land use activities can be assessed as part of any future development application process. This would involve the undertaking of a land use conflict risk assessment in accordance with the NSW DPI publication "Land Use Conflict Risk Assessment Guide". The assessment could be used in finalising the subdivision design for the land.

#### 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 (refer to **Section 4.3.3.1** below).

#### 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, development potential within Sutton is highly constrained due to the lack of a secure water supply.

The potential impact associated with the future development of the land on local water sources has been considered by way of site-specific investigation and reporting. The process culminated in the preparation of a report prepared by Franklin Consulting Australia Pty Ltd entitled 'Soil and Water Lot 5 DP 838497, Sutton Land Capability Assessment' dated 29 May 2018.

The Report concludes that the proposed land use zones and corresponding minimum lot size requirements as nominated in the planning proposal (at the time) would cater for the provision of compliant, environmentally sustainable, on-site sewage management without risk to sensitive receiving catchments.

In relation to potable water, the Report noted that the future development of the subject land would not be reliant on the provision of a reticulated town water supply. Rather, any future subdivision and development of the land would rely on roof rainwater catchment, large volume tank storage and reuse, which is an acceptable and viable water supply initiative for households in rural areas.

To ensure the viability of roof catchment and tank storage as the primary potable water supply, there are a number of measures that could be employed, including mandating minimum roof catchment areas (i.e. dwellings and sheds), minimum tank storage requirements and water saving fixtures throughout all dwellings. It is to be noted that the final suite of measures to provide viable potable water supply to each allotment would be detailed as part of the future Development Application process.

The Report also assessed the potential impacts associated with the provision of non-potable supply to each new dwelling lot. Specifically, the Report considered that it would be unlikely that each lot (or many) would install a groundwater bore to provide non-potable water given the small size of lots (therefore limited need for non-potable water) and cost to install/operate. The requirement for a 250-metre buffer between bores and effluent disposal areas also makes this option unfeasible for many of the smaller lots. The installation of a surface water storage (i.e. dam) on each, or some, of the lots would also generally be prohibited as each newly created lot would be inadequate for a feasible dam storage to be constructed.

The riparian rights associated with the site's frontage to the Yass River can be managed as part of the future Development Application process so as to ensure that there is no net change. This could involve the inclusion of the entire riparian zone within one of the larger allotments with frontage to the Yass River. This would however be subject to further consideration as part of any future subdivision Development Application.

Since the initial reporting, the subdivision concept plan has been reviewed in response to the significant environmental and biodiversity values of the land. The revised concept plan is not overly dissimilar to that of the original concept plan in terms of lot yield, subdivision pattern and minimum lot size requirements. Accordingly, it is unlikely that the use of on-site sewage management practices would pose unacceptable risk to sensitive receiving catchments. Further, the provision of potable and non-potable water requirements through roof catchment and tank storage is considered to be a viable water supply for the future rural/rural residential purpose.

Given the above, the current Planning Proposal would not be inconsistent with the Plan as there is no intent to remove existing statutory land use controls and obligations to consider potential impact. Accordingly, and given the potential lot yield across the subdivision and the nature of prescribed permissible land use activities within the nominated zones, any potential impact on existing catchment characteristics would be minor.

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.

The potential impact of the proposed rezoning and subsequent subdivision of the land on indigenous and non-indigenous heritage and culture has been considered as part of the current Planning Proposal by way of site-specific investigation and reporting. The process culminated in the preparation of reports prepared by Eco Logical Australia entitled 'Aboriginal Heritage Due Diligence Assessment – Lot 5 DP 838497' dated 29 May 2018 and 'Lot 5 DP 838497 Sutton Road – Historic Heritage' dated 29 May 2018.

The reporting has identified sites (indigenous) that are archaeologically sensitive to the extent that they would require further investigation as part of any subsequent application for the subdivision of the land. At that time, the local Aboriginal land Council could be engaged for the purpose of providing direction in the subdivision design.

Furthermore, the reporting has established that the land contains no items of historic heritage (non-indigenous) value and that any impact on known heritage listed sites within the locality would be negligible.

Since the initial reporting, the subdivision concept plan has been reviewed in response to the environmental and biodiversity values of the land. The revised concept plan is not dissimilar to that of the original concept plan in terms of lot yield, subdivision pattern and minimum lot size requirements. Accordingly, potential impact on indigenous and non-indigenous heritage and culture would be no greater than that initially identified.

The current Planning Proposal would not be inconsistent with the Plan 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.

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.

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 Sutton Township and would effectively and efficiently utilise existing road transport corridors and available utility services. Notwithstanding, any future subdivision of the subject land would require detailed investigation, planning and construction of new roads, utility services and drainage infrastructure. This may involve necessary upgrades to existing infrastructure as considered warranted.

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 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 adopted land use strategies in a location, which would form a logical expansion of the Sutton Township without placing undue pressure on existing infrastructure and/or major infrastructure augmentation.

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.

#### **4.3.2.2 Q4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?**

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

#### **Regional Community Strategic Plan 2011 – 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.

#### **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 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 contamination status of the land has been the subject of site-specific investigation and reporting. The process culminated in the preparation of a report prepared by Murrang Earth Sciences entitled 'Preliminary Site Investigation of Lot 5 DP 838497, Sutton NSW' dated 25 May 2018 (refer to **Appendix 4**).

The Report concludes that whilst preliminary investigation has confirmed the presence of contaminants in several locations, the severity and extent of contamination would not limit the future development of the site for residential purposes. However, the reporting has recommended more detailed investigations are required to better understand the level of potential environmental risk.

The current Planning Proposal is not inconsistent with the provisions or application of the SEPP. Any future development of the subject land would involve a detailed evaluation and determination based on the merits of the case under the provisions of the SEPP. Additional investigative work would take place as part of any future development process.

**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.

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 (Rural Lands) 2008**

The Policy applies to the State unless specifically nominated in the SEPP. The Yass Valley Local Government Area is not nominated in the SEPP. Therefore, the SEPP applies.

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 Policy is supported by Planning Circular PS 08-002 issued by the Department of Planning on 9 May 2008. The purpose of the Circular being to explain the reasoning behind the adoption of the SEPP and relevant Section 117 Directions (now Section 9.1 Directions).

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.

**State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The Policy applies to the non-rural areas of the State and aims to protect and preserve the biodiversity and amenity values of trees and other vegetation.



The current Planning Proposal facilitates the orderly development of existing rural land for residential purposes and as such, the Policy has no force or effect at the present time. However, the subject land has noteworthy biodiversity and amenity values notwithstanding its long established agricultural use. Should the current Planning Proposal come to fruition, the nominated proposed zones would necessitate the need to fully consider potential biodiversity and amenity impacts associated with tree and vegetation loss as part of the development process.

Given the above, it is considered that the current Planning Proposal has some relevance with the Policy in that there are likely issues 'in fact', but those issues have no real weight under the Policy at the present time.

Further consideration of biodiversity matters is provided in **Section 4.3.3.1** below.

#### **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 and rural 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 and rural 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.

#### **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 and rural 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 Sutton's Township 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 subject land has established noteworthy biodiversity values. The current Planning Proposal acknowledges these values through the nomination of appropriate land use zones and corresponding minimum lots size requirements designed to control and regulate the orderly and proper development of the land.

Further consideration of biodiversity matters is provided in **Section 4.3.3.1** below.

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 environmentally sensitive lands.

### **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 potential impact of the proposed rezoning and subsequent subdivision of the land on indigenous and non-indigenous heritage and culture has been considered as part of the current Planning Proposal by way of site-specific investigation and reporting. The process culminated in the preparation of reports prepared by Eco Logical Australia entitled 'Aboriginal Heritage Due Diligence Assessment – Lot 5 DP 838497' dated 29 May 2018 and 'Lot 5 DP 838497 Sutton Road – Historic Heritage' dated 29 May 2018.

The reporting has identified sites (indigenous) that are archaeologically sensitive to the extent that they would require further investigation as part of any subsequent application for the subdivision of the land. At that time, the local Aboriginal land Council could be engaged for the purpose of providing direction in the subdivision design.

Furthermore, the reporting has established that the land contains no items of historic heritage (non-indigenous) value and that any impact on known heritage listed sites within the locality would be negligible.

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. Such obligations would be considered as part of a future Development Application for the subdivision of the land.

### **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.

#### **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.

Potential impacts associated with the proposed rezoning and subsequent subdivision of the subject land on the capacity and function of road infrastructure has been the subject of detailed investigation and reporting. The process culminated in the preparation of a report prepared by Ontoite entitled 'Sutton Re-Zoning Project Traffic Impact Assessment' dated 10 July 2018 (refer to **Appendix 4**).

The Report concludes that 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 Report also acknowledges the need to ensure adequacy in the design of future roads in the subdivision of land and that active pedestrian and cycle travel routes should be integrated into the final subdivision design.

The current Planning Proposal 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 any subsequent subdivision of the land would have negligible impact on existing road infrastructure and access to public transport. Furthermore, the current Planning Proposal would not preclude a final subdivision design, which promoted improved public/pedestrian access both internal and external to the subdivision thus reducing car dependency.

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

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

This Direction applies when a planning authority prepares a Planning Proposal that creates, removes, alters a zone or a provision that affects flood prone land.

The Direction effectively precludes the rezoning of land located within specific land use zones (inclusive of Rural Zones) for the purpose of facilitating residential development.

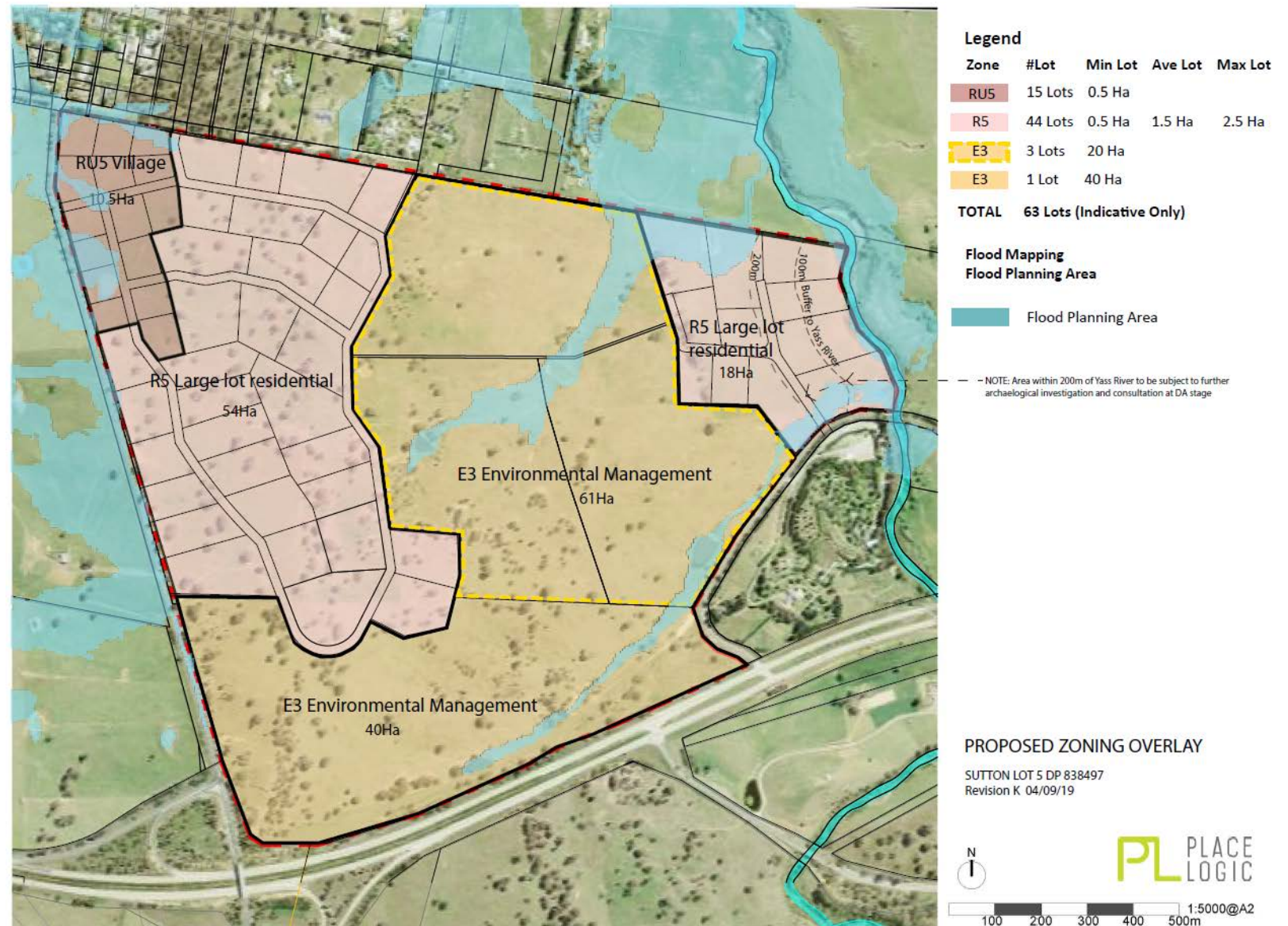
The subject land immediately adjoins the Yass River and supports a number of minor tributaries, which would have a susceptibility to localised flooding during major storm events. The land is included within a flood planning area defined by the Sutton Floodplain Risk Management Study and Plan, which was adopted by Council on 21 December 2016.

The adopted Study and Plan was prepared in accordance with the principles and guidelines of the State Government's Flood Plain Development Manual 2005.

The adopted Study and Plan acknowledge the land's susceptibility to localised flooding and details a strategic direction in mitigating flood impacts in the development of land located within the planning area (refer to **Figures 7** and **8** below).

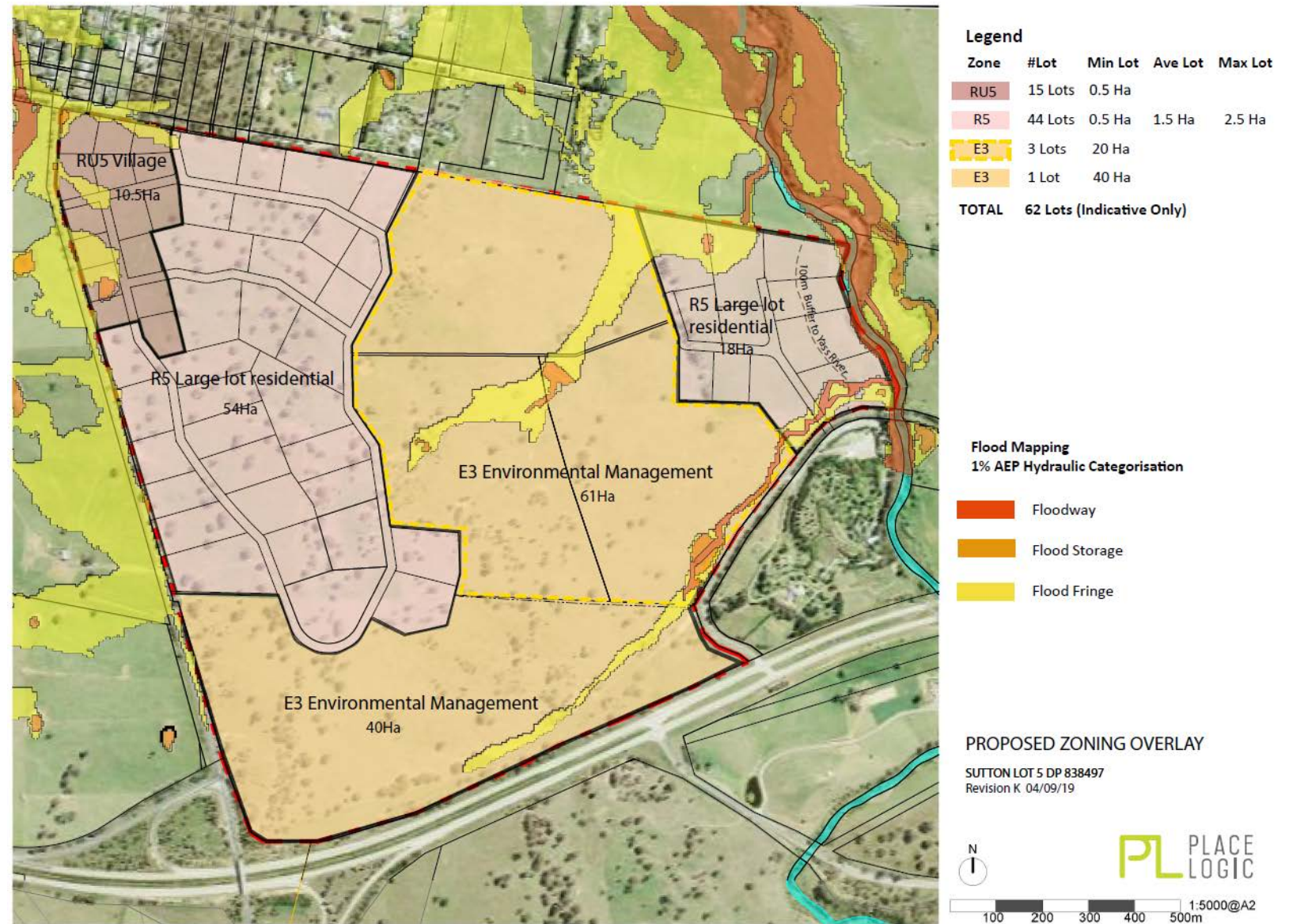
The Planning Proposal is inconsistent with Direction 4.3 Flood Prone Land as part of the area proposed to be zoned RU5 Village and R5 Large Lot Residential is flood prone land as identified in the Sutton Floodplain Risk Management Study and Plan (**Sutton FRMS&P**). However, Council has adopted a flood planning level of 1:100 ARI (average recurrent interval) floor event plus 500mm and incorporated this into the current Yass Valley LEP 2013. Furthermore, Council has also adopted the Sutton FRMS&P, which details the planning controls to mitigate flood impacts.

The planning controls from the Sutton FRMS&P will be applied as part of any approval for future subdivision or building approval. On this basis, the Planning Proposal's inconsistency with Direction 4.3 is not considered to be significant and is a justified variation in this instance.



**Figure 7:** Proposed Zoning with Flood Mapping Overlay





**Figure 8:** Proposed Zoning with Flood Mapping Overlay – 1% AEP Hydraulic Categorisation

#### 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.

Effectively, the Direction requires consultation with the Commissioner of the NSW Rural Fire Service following receipt of the gateway determination and outlines requirements for consideration in the preparation of a Planning Proposal.

The subject land is not currently mapped as fire prone. However, it was considered that in the preparation of any subsequent Planning Proposal, a bushfire opportunities/constraints analysis was warranted. The necessary investigation and reporting was undertaken by Ecological Australia and culminated in a report entitled 'Bushfire Opportunities/Constraints Analysis Residential Subdivision Lot 5 DP 838497 Sutton' dated 25 May 2018 (refer to **Appendix 4**).

Prior to the preparation of the Report, clarification was sought from the NSW Rural Fire Service for the purpose of confirming the need and scope of the study.

The Report was purposeful in that it reviewed a preliminary subdivision concept against the requirements of the Rural Fires Act 1997, Rural Fires Regulation 2013 and the NSW RFS publication 'Planning for Bushfire Protection 2006'.

The Report concluded, that with appropriate subdivision design, the siting and design of future dwellings would satisfy the requirements of the NSW RFS publication 'Planning for Bushfire Protection 2006'.

Since the initial reporting, the subdivision concept plan has been reviewed in response to the environmental and biodiversity values of the land being more closely examined.

Whilst the revised concept plan is not dissimilar to that of the original concept plan, it was considered necessary to review the original bush fire risk assessment undertaken by Ecological Australia.

In response, a revised report by Ecological Australia entitled 'Bushfire Opportunities/Constraints Analysis Residential Subdivision Lot 5 DP 838497 Sutton' dated July 2018 was prepared to address the scope of the changes in context with the bush fire legislation (refer to **Appendix 4**).

The Report concludes that the provision of appropriate asset protection zones, adequate access arrangements, water supply for fire-fighting, safe installation of utilities and building construction standards for future dwellings must be taken into consideration and as necessary, integrated into the design of any future subdivision of the land. Most critical being, the provision of appropriate asset protection zones and safe fire-fighting access.



Given the size and shape of the land and its subdivision potential as advocated by the current planning proposal, there would appear to be no impediment in designing a subdivision which satisfies the provisions of the Rural Fires Act 1997, Rural Fires Regulation 2013 and the NSW RFS publication 'Planning for Bushfire Protection 2006'.

Accordingly, the current Planning proposal would not be inconsistent with the objectives of the Direction.

## **5 Regional Planning**

### **5.1 Implementation of Regional Strategies**

This Direction requires Planning Proposals to be consistent with a Regional Strategy 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.

### **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 RU5 Village Zone, R5 Large Lot Residential Zone and E3 Environmental Management 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 subject land, notwithstanding its long-standing agricultural use, has retained significant biodiversity values, which have prompted the undertaking of a number of ecological investigations to assess the potential impacts of the proposed rezoning and subsequent subdivision of the land for residential/rural residential purposes.

The process has culminated in the following reports prepared by Ecological Australia:

- Lot 5 DP 838497 Sutton Road, Sutton Ecological Constraints Assessment, dated 7 July 2016
- Lot 5 DP 838497 Sutton Road, Sutton Summary Report – Spring Survey 2016, dated 14 November 2016

Since the 2016 reports were prepared, the *Threatened Species Conservation Act 1995* has been repealed and replaced by the *Biodiversity Conservation Act 2016*. In addition, the BioBanking Assessment Methodology 2014 was replaced with a new Biodiversity Assessment Methodology – the Biodiversity Assessment Method (**BAM**).

To understand the implications (if any) of the new *Biodiversity Conservation Act 2016* and BAM on the proposed rezoning and subsequent subdivision of the land, Eco Logical Australia prepared a supplementary report entitled 'Lot 5 DP 838497 Sutton Road Sutton Planning Proposal Ecological Investigation', dated May 2018 (refer to **Appendix 4**).

Utilising the past site investigations and reporting, the May 2018 Report confirmed the significance of the land's biodiversity attributes and outlined specific matters for consideration given the provisions of the *Environment Protection and Biodiversity Conservation Act 1999* and the new *Biodiversity Conservation Act 2016* as applied to the future residential/rural residential development of the land.

The Report identified indicative biodiversity credits, credit shortfalls and potential offset options under the different legislative frameworks. The Report also identified the need for further site-specific assessment to more accurately define the biodiversity attributes of the land and to assist in resolving on the most appropriate course of action to progress the development of the land in recognition of those attributes.

In response to the findings of the May 2018 Report, the conceptual development scheme for the subject land was revised with the aim to minimise the biodiversity credit shortfalls as identified in the Report and to further assess the likelihood of Serious and Irreversible Impacts (**SAIIs**) on biodiversity values.

A plan showing the revised conceptual development scheme overlaying the mapped biodiversity constraints is included in **Figure 9** below.

Given the process to that date, it was considered essential that the revised conceptual development scheme should be subject to further review. The process culminated in the preparation of a further supplementary report by Eco Logical Australia entitled 'Lot 5 DP 838497 Sutton Road Sutton Planning Proposal Ecological Investigation', July 2018 (refer to **Appendix 4**).

The objectives of the Report were to review the revised conceptual development scheme and to evaluate the potential biodiversity impacts in context with the requirements of the *Biodiversity Conservation Act 2016* and the BAM.

The findings of the Report have estimated that the proposed subdivision layout as shown in the revised conceptual development scheme would:

- Require 187 ecosystem credits to be offset (or retired) for impacts on native vegetation and that the proposed stewardship lots would generate approximately 262 ecosystem credits for the conservation and management of native vegetation. Leaving an extra 75 ecosystem credits that can be sold to generate income.
- Require 189 species credits for proposed impacts on potential breeding habitat of the Superb Parrot (*Polytelis swainsonii*), with 34 species credits generated from the proposed stewardship lots leaving a deficit of 155 species credits for the Superb Parrot.
- In relation to the Silky Swainsona-pea (*Swainsona sericea*), generate 41 species credits on the stewardship lots.

The findings of the Report indicate that the revised conceptual development scheme is more reflective of the biodiversity values of the land to that as proposed in the original concept design for the land and as reported on previously. However, the Report acknowledges that the credit calculations will need to be reassessed, and additional data collected as part of any subsequent application for the future subdivision of the land or biodiversity certification.

The Report highlights the need for the consent authority (Council) to consider potential SAIIs on biodiversity values and draws reference to one threatened species and one endangered ecological community that occur within the study area, which meet specific principles and criteria for SAIIs, being:

- White Box Yellow Box Blakely's Red Gum Woodland Endangered Ecological Community (**EEC**).

However, the Report notes that there are no impact (clearing) thresholds listed at the present time for the EEC. Notwithstanding, if a threshold was published prior to the submission of any subsequent development application for the subdivision of the land and the proposed development exceeded the threshold, then Council would have no option but to refuse the application.

- Eastern Bentwing-bat is a split Ecosystem (foraging and roosting) and Species (breeding) Credit Species. The SIAs threshold states that the breeding habitat is to be identified by survey. The species breeds in caves (in the Blue Mountains) and is therefore only likely to use the study area for foraging and roosting. Thus, the species is not considered an SAI for the purpose of assessment within the study area and its foraging habitat has been included in the Ecosystem Credit requirements.

In summary, and in relation to the Box-Gum Woodland EEC, the Report effectively concludes that with careful site planning, design and the regulation of land use practices (stewardship agreements and covenants), the potential impacts associated with the future subdivision and development of the land can be appropriately mitigated and managed. However, any subsequent development application lodged for the subdivision of the land will need to be supported by a suitably prepared biodiversity development assessment report which will require additional investigation and assessment at that time based on the scope of the proposed subdivision.

The Report also acknowledges that referral to the Commonwealth Department of Environment and Energy (**DoEE**) may be required under the provisions of the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (**EPBC**) based on potential impacts on Matters of National Environmental Significance (**MNES**). This includes:

- Direct impact on approximately 2,200m<sup>2</sup> of Box-Gum Woodland that satisfies the EPBC Act criteria, which is listed as a critical endangered ecological community under the EPBC Act; and
- Superb Parrot which is listed as Vulnerable under the EPBC Act.

In relation to the Box-Gum Woodland EEC, the Report indicates that DoEE may regard the entering into of stewardship agreements designed to manage and conserve the EEC in perpetuity as an appropriate off-set mechanism and as such, may not require referral of any subsequent development application for the subdivision of the land. Nonetheless, an appropriate assessment would need to be undertaken at the development application stage which addresses the assessment guidelines of the EPBC Act.

In regard to the Superb Parrot, the Report acknowledges the need to undertake further survey work to map hollow bearing trees, which may be used as breeding habitat and to identify any trees with nesting pairs. The Report also notes that impacts on habitat can be minimised by selective positioning of building envelopes on individual lots to avoid the removal of significant trees.

The report also recommends early consultation with DoEE for the purpose of discussing likely impacts associated with the subdivision of the land, the likely off-set obligations and whether the proposed offsets under the *Biodiversity Conservation Act 2016* would be sufficient to offset impacts to MNES. The Report highlights that having 'in principle support' from the DoEE is essential prior to lodging any subsequent development application for the subdivision of the land.

In December 2018, Council referred the Draft Planning Proposal to the NSW Office of Environment and Heritage. In response to comments received, the Proponent agreed to revisit the nature and extent of the proposed zonings and corresponding minimum lot size requirements to better reflect the biodiversity attributes of the land. The review culminated in the following (Refer to **Figure 12**):

- A reduction in the area component in the RU5 Village Zone thereby reducing potential lot yield from 21 lots to 15 lots (indicative) in recognition of biodiversity attributes whilst maintaining a minimum lot size of 5,000m<sup>2</sup> across the Zone.
- Removing the opportunity to reduce the minimum lot size in the RU5 Village Zone to 2,000m<sup>2</sup> subject to the availability of reticulated town water and sewer infrastructure.
- An increase in the area component of the R5 Large Lot Residential Zone increasing the potential lot yield from 39 to 44 lots (indicative) to reflect biodiversity attributes whilst maintaining a minimum lot size of 1.5 hectares across the Zone.
- The insertion of a provision enabling a reduction in the minimum lot size in the nominated R5 Zone to provide some flexibility in the subdivision of land in recognition of site-specific biodiversity attributes.

The changes are considered noteworthy as they effectively provide greater opportunity to retain high valued vegetation and habitat in the future development of the land.

#### **General Comment**

It would be fair to say that the Proponent has actively pursued the need to fully assess the land's development capabilities in context with its environmental and biodiversity values and the perceived desired future character of the Township of Sutton and surrounding lands.

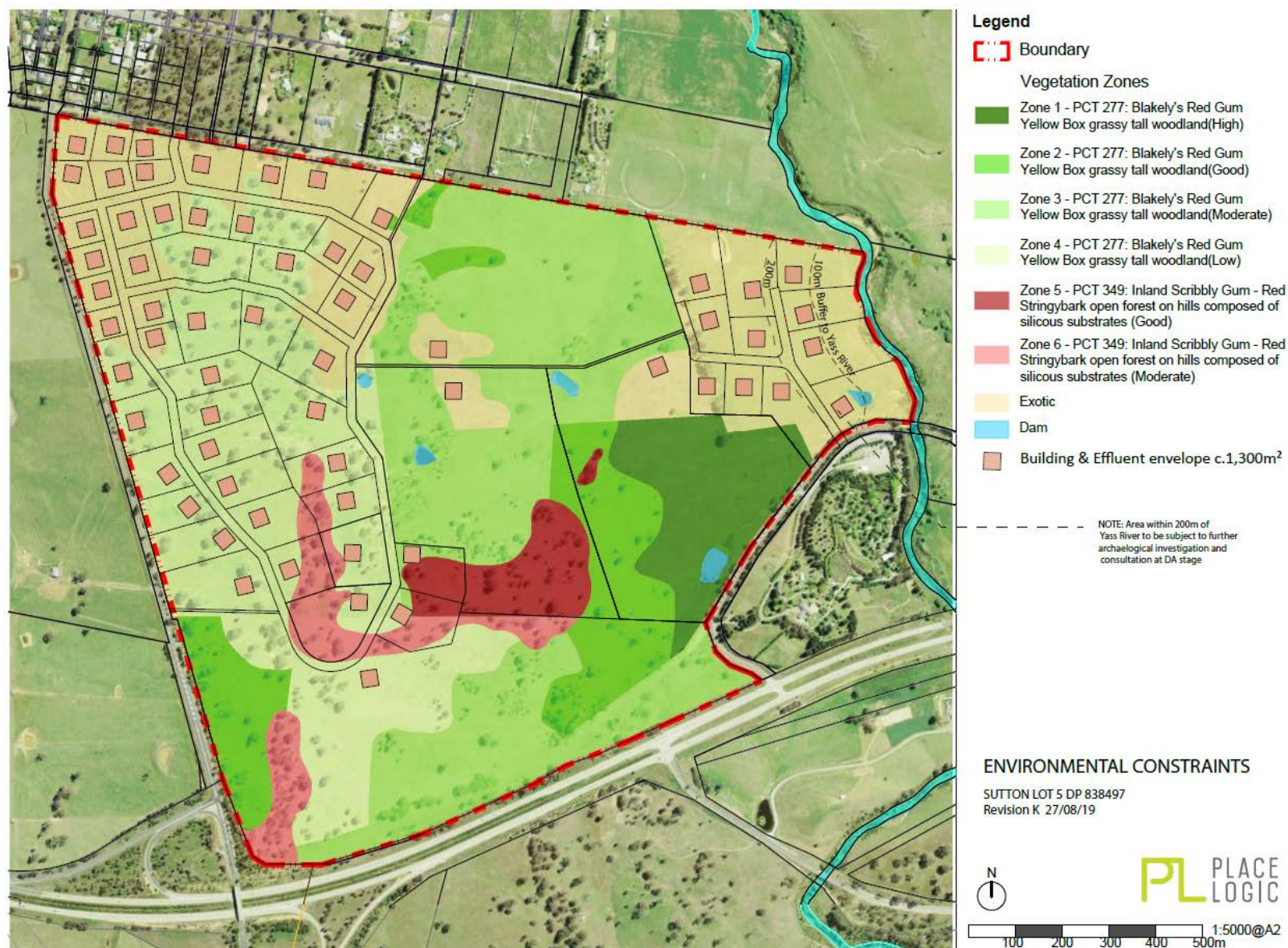
By doing so, the Proponent has demonstrated a strong commitment to due process and the need for careful site planning and design.

Should the current Planning Proposal come to fruition, this same commitment will continue to be pursued through the development process with the aim to produce sustainable housing and lifestyle opportunities in which the preservation and conservation of the land's environmental and biodiversity values are duly recognised and appreciated.

For instance, at the time of subdivision, suitably worded positive covenants (or Community Title By-Laws) could be created over the proposed R5 Large Lot Residential zoned allotments on which low to moderate quality Box Gum Woodland has been identified. The covenants / by-laws could:

- Require the establishment of a suitably located building / effluent disposal / APZ envelope;
- Preclude development outside of the nominated envelope; and
- Prohibit the removal of trees.

The location of the nominated envelopes would be at the discretion of Council and would be subject to site investigation prior to the preparation of the final plan of subdivision, having particular regard to the protection of existing trees, the type of boundary fencing, and the location of driveway access points and driveways within individual lots.



**Figure 9:** Revised Conceptual Development Scheme Overlaying Mapped Biodiversity Constraints

**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/rural residential purposes, which offer choice in housing type, lifestyle opportunity and affordability without adverse environmental consequence and/or impact on existing service infrastructure.

As facilitated by the current Planning Proposal, suitable open space will be provided by the Proponent and to the satisfaction of the Yass Valley Council as part of any subsequent subdivision of the land. Future open space components would be located and designed to enhance recreational opportunities both internal to the subdivision and the broader community of Sutton. The nature and extent of the open space components would be reflective of adopted and applied Council policy and would be finalised as part of any subsequent development application lodged with Council.

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.

**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.

Sutton 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.

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

There has been no formal consultation with Commonwealth and State public authorities. Preliminary, informal joint discussions have taken place involving the Department of Planning and Environment and the Office of Environment and Heritage for the purpose of defining the scope of the Planning Proposal and matters of significance, which would require detailed investigation and reporting.

These discussions took place on Thursday 26 April 2018 and Friday 15 June 2018.

Government agencies identified for consultation are:

- Commonwealth Department of Environment and Energy
- Department of Planning and Environment
- Office of Environment and Heritage
- Department of Primary Industries
- NSW Rural Fire Service
- Roads and Maritime Services
- Natural Resource Access Regulator

#### **4.3.5 Part 4 – Mapping**

Changes to the proposed map sheets will be undertaken by Council in a suitable format for public exhibition once the Gateway Determination is issued. This Planning Proposal will result in changes to the following YVLEP 2013 maps:

##### **LZN\_005 and LSZ 005F**

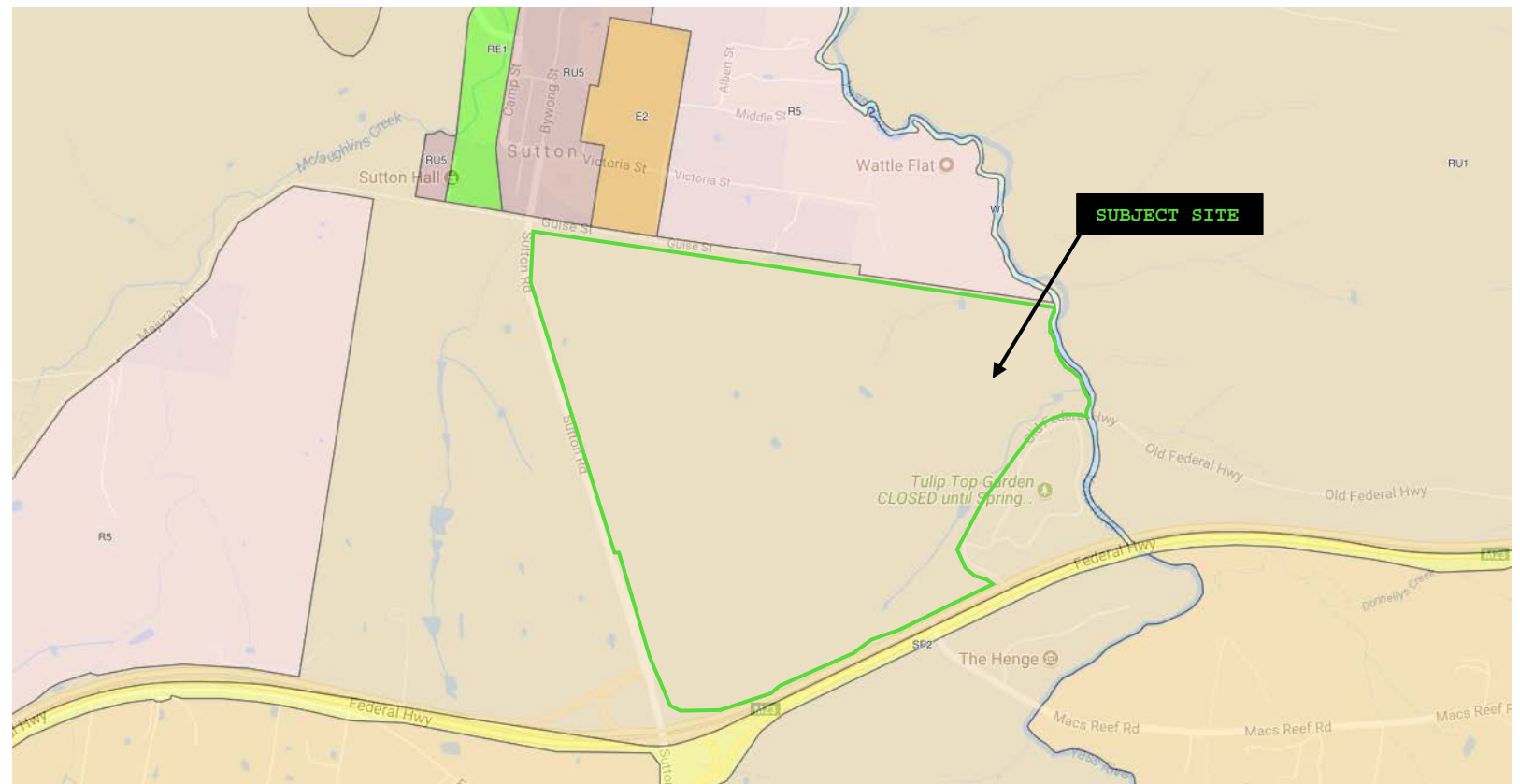
Amend map sheets LZN\_005 and LSZ\_005F by:

- Deleting the RU1 Primary Production Zone from all of Lot 5 DP838497
- Applying an RU5 Village Zone to part of the land
- Applying an R5 Large Lot Residential Zone to part of the land
- Applying an E3 Environmental Management Zone to part of the land

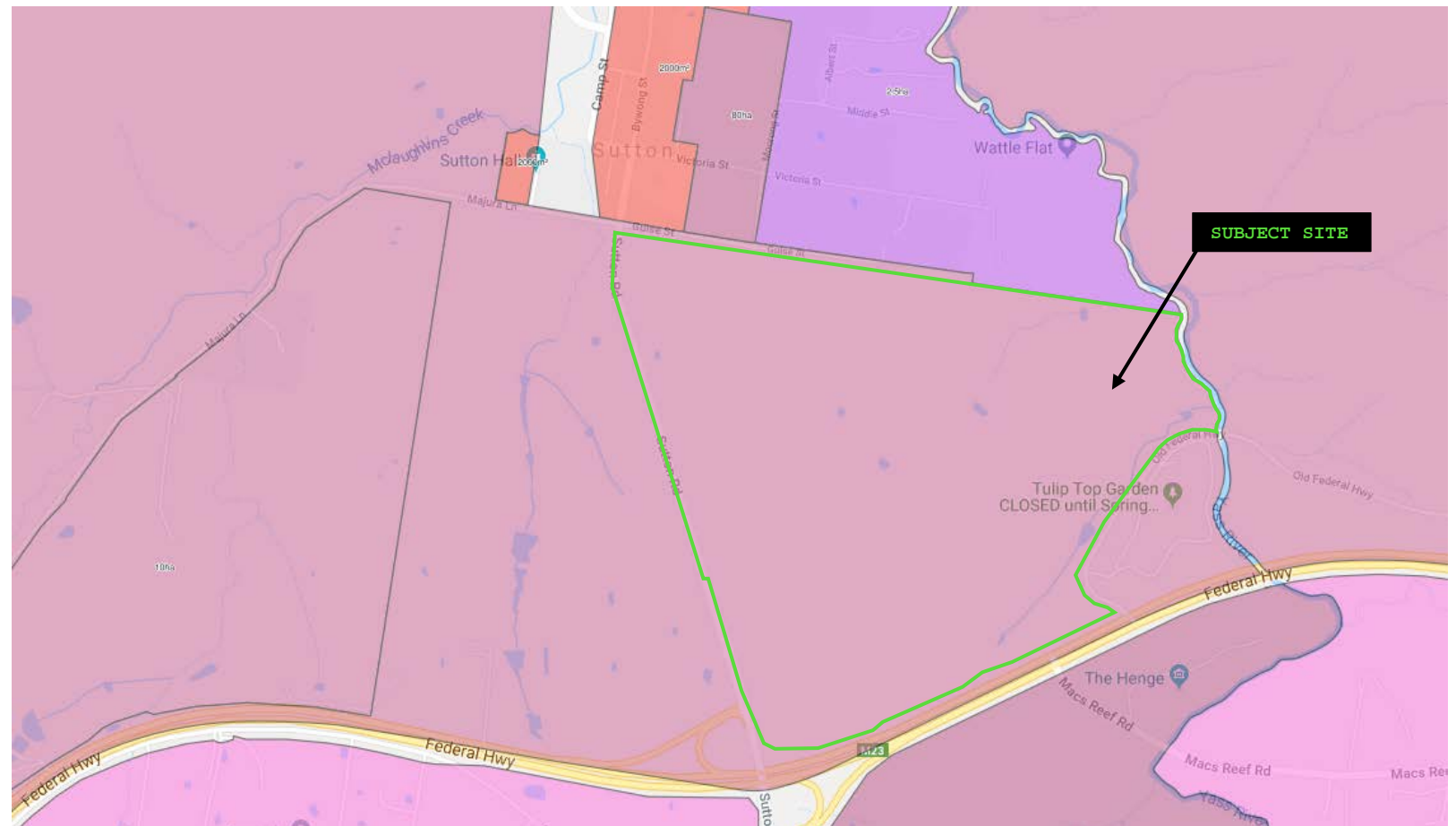
##### **LSZ\_005 and LSZ 005F**

Amend map sheet LSZ\_005 and LSZ\_005F by:

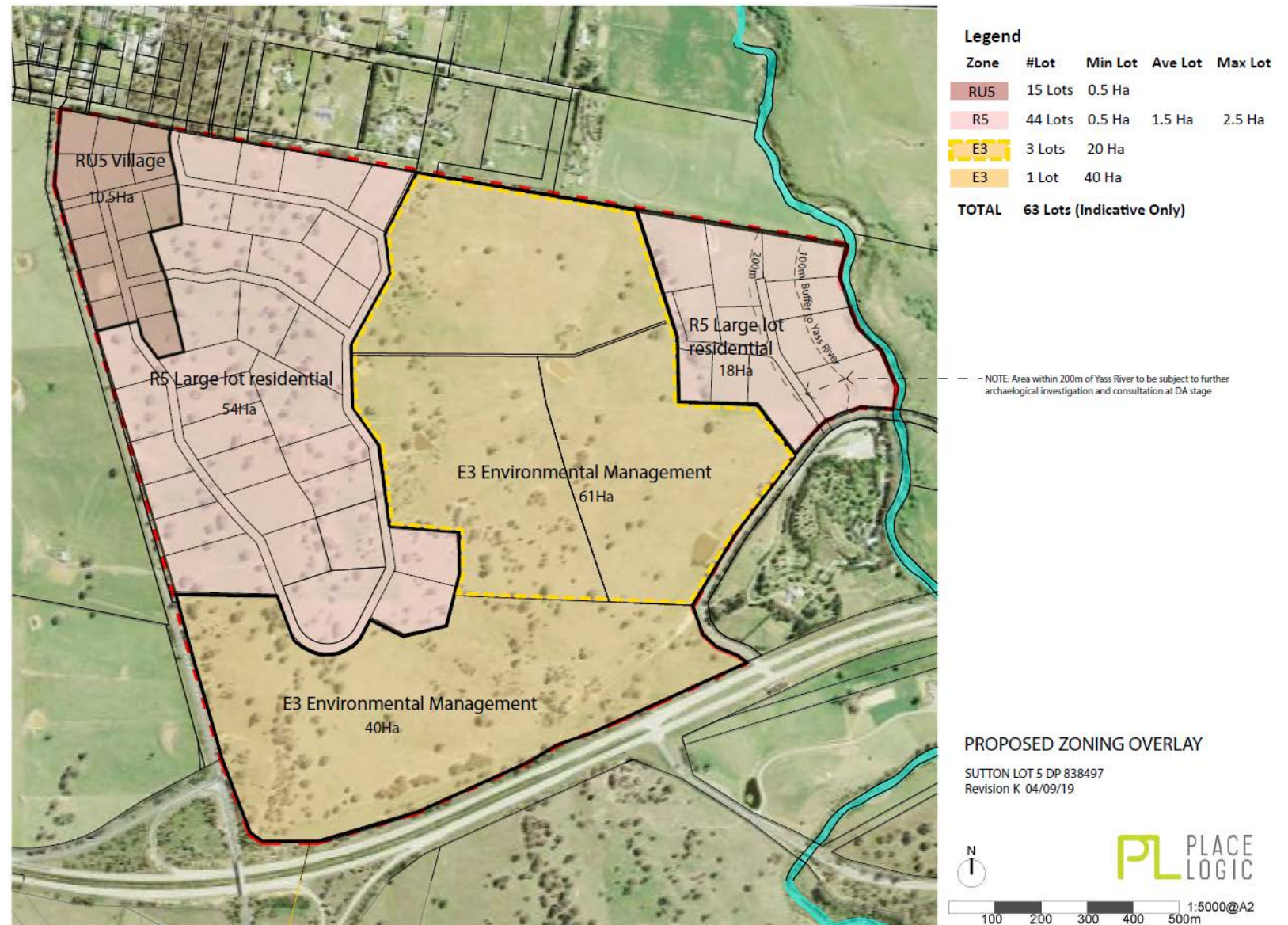
- Deleting the AB5 40 hectare minimum lot size from all of Lot 5 DP838497
- Applying a minimum lot size of 5,000m<sup>2</sup> to the RU5 Village Zone
- Applying a minimum lot size of 1.5 hectares to the R5 Large Lot Residential Zone
- Applying a minimum lot size of 20 hectares to part of the E3 Environmental Management Zone
- Applying a minimum lot size of 40 hectares to part of the E3 Environmental Management Zone



**Figure 10:** Existing Zoning under YVLEP 2013



**Figure 11:** Existing Minimum Lot Sizes under YVLEP 2013



**Figure 12:** Proposed YVLEP Zoning and Minimum Lot Sizes

#### 4.3.6 Part 5 – Community Consultation

The Gateway Determination will confirm 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 the Yass Valley Council website, newspapers that circulate widely in the area and in writing to affected adjoining and adjacent landowners.

Information relating to the Planning Proposal will also be on display at Yass Valley Council's Administration Office – 209 Comur Street Yass.

#### 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 2019.

Key Stages	Estimated Timeframe
STAGE 1 – Submit Planning Proposal to Council	July 2018
STAGE 2 – Council resolves to support the Planning Proposal	July-August 2018
STAGE 3 – Council submits the Planning Proposal to the Department of Planning and Environment	August 2018
STAGE 4 – Receive Gateway Determination	October 2018
STAGE 5 – Preparation of documentation for Public Exhibition	October-November 2018
STAGE 6 – Public Exhibition of the Planning Proposal	November 2018
STAGE 7 – Review/consideration of submissions received	December 2018
STAGE 8 – Council Report	December-January 2018
STAGE 9 – Meetings	January 2019
STAGE 10 – Forward Planning Proposal to the Department of Planning and Environment with request that the amendment is made	February 2019
STAGE 11 – Date Council will make the Plan (if delegated), including any required consultation with the Parliamentary Counsel	March 2019

# 5

## Summary and Recommendations

The submitted Planning Proposal seeks an amendment to the YVLEP 2013 to re-zone privately owned land, being Lot 5 DP838497, Sutton Road, Sutton, from RU1 Primary Production to part RU5 Village, part R5 Large Lot Residential and part E3 Environmental Management. The Planning Proposal also seeks to adopt appropriate planning controls that will assist in facilitating a future subdivision for residential/rural residential purposes.

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

- Amending Map Sheets LZN\_005 and LZN\_005F for land within the subject site to replace the existing RU1 Primary Production Zone with part RU5 Village, part R5 Large Lot Residential and part E3 Environmental Management with area specific minimum lot size requirements.
- Amending Map Sheets LSZ\_005 and LSZ\_005F for land within the subject site to replace the existing (AB5) 40 hectare minimum lot size with the following:
  - (X1) 5,000m<sup>2</sup> minimum lot size for that part of the land proposed to be zoned RU5 Village Zone.
  - 1.5 hectare minimum lot size for that part of the land proposed to be zoned R5 Large Lot Residential.
  - (AB3) 20 or (AB5) 40 hectare minimum lot sizes to specific parts of the land proposed to be zoned E3 Environmental Management.
- Inserting a new local provision into Part 6 of the YVLEP 2013 enabling subdivision of the land where the average area of all lots created within the R5 Large Lot Residential Zone would be 1.5 hectares. None of the lots created would have an area less than 5,000m<sup>2</sup> and none of the lots created would have an area greater than 2.5 hectares. This will prevent future requests for re-subdivision under Clause 4.6 thereby ensuring that the development retains, and is complementary to, the environmental attributes of the nominated land and adjoining lands.
- 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 and Environment for LEP Gateway Determination in accordance with the *Environmental Planning and Assessment Act 1979*.



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





NOTE: Area within 200m of Yass River to be subject to further archaeological investigation and consultation at DA stage

#### Legend

- Site boundary
- Large lot residential
- Stewardship lots
- Village lots
- Building envelopes
- Fire trail
- Equestrian trail along the fire trail
- Pedestrian/cycle path along the fire trail

Note: Subject to further archaeological investigation and consultation at DA stage

Note: This concept layout is for illustrative purposes only. Detailed subdivision layout and design will be subject to a separate Development Application following the re-zoning of the land.





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

State Environmental Planning Policy	Relevance	Consistency
State Environmental Planning Policy No. 1 – Development Standards	Yes	Not inconsistent
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. 30 – Intensive Agriculture	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. 44 – Koala Habitat Protection	Yes	Not inconsistent
State Environmental Planning Policy No. 47 – Moore Park Showground	Not relevant	N/A
State Environmental Planning Policy No. 50 – Canal Estate Development	Not relevant	N/A
State Environmental Planning Policy No. 55 – Remediation of Land	Yes	Not inconsistent
State Environmental Planning Policy No. 62 – Sustainable Aquaculture	Not relevant	N/A
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 (Affordable Rental Housing) 2009	Yes	Not inconsistent
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 (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 (Integration and Repeals) 2016	Not relevant	N/A
State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007	Not relevant	N/A

State Environmental Planning Policy	Relevance	Consistency
State Environmental Planning Policy (Kurnell Peninsula) 1989	Not relevant	N/A
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	Yes	Not inconsistent
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007	Yes	Not inconsistent
State Environmental Planning Policy (Penrith Lakes Scheme) 1989	Not relevant	N/A
State Environmental Planning Policy (Rural Lands) 2008	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 (Sydney Drinking Water Catchment) 2011	Not relevant	N/A
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	Not relevant	N/A
State Environmental Planning Policy ((Three Ports) 2013	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
State Environmental Planning Policy (Western Sydney Employment Area) 2009	Not relevant	N/A
State Environmental Planning Policy (Western Sydney Parklands) 2009	Not relevant	N/A

## **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	Relevant	Not inconsistent
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
<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	Not relevant	N/A
3.4 Integrating Land Use and transport	Relevant	Not inconsistent
3.5 Development Near Licensed Aerodromes	Not relevant	N/A
3.6 Shooting Ranges	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	Inconsistent, but reasonable and justified
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
5.8 Second Sydney Airport: Badgerys Creek	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
<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



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

