

15 Environmental Planning Instruments

Environmental Planning Instruments (EPIs) are plans that are created under the *Environmental Planning and Assessment Act 1979* to control the development of land to which the plan applies. EPIs created under the EP&A Act are:

- State Environmental Planning Policies (SEPPs);
- Regional Environmental Plans (REPs); and
- Local Environmental Plans (LEPs); and
- Development Control Plans and Section 94 Plans.

The EPIs which apply to the Yass Valley LGA will be discussed in further detail in this section of the report. The Yass Valley LGA has a number of SEPPs and LEPs which apply to the area.

15.1 State Environmental Planning Policies (SEPPs)

State Environmental Planning Policies (SEPPs) outline planning provisions on a range of matters which are considered to be of significance for the State. SEPPs may apply State wide or to particular areas of the State as established by the relevant SEPP.

The provisions of SEPPs will generally prevail over other Environmental Planning Instruments (LEPs for example) in the event of any inconsistency.

Appendix 2 outlines all the SEPPs which apply to the Yass Valley LGA. The SEPPs which are relevant to planning in rural areas are discussed in this section.

15.1.1 Rural Lands SEPP

Of particular relevance to rural land in the Yass Valley LGA is the SEPP (Rural Lands) 2008 which was gazetted on 9 May 2008 and applies to all Councils in NSW with rural land.

The SEPP was one of the key policy outcomes of the Central West Rural Lands Inquiry, which was established to investigate rural planning policy issues in the Central Western NSW. While the Inquiry related only to the Central West, the recommendations were found to be applicable to all rural land in NSW.

Of particular relevance to the Yass Valley LGA, was the repeal of the concessional allotment provisions of Yass LEP 1987.

The key policy initiatives of the Rural Lands SEPP are:

- **Introduction of Rural Planning Principles**

These principles include the matters for consideration in preparing LEPs for rural areas. The 117 Direction for Rural Lands requires that where LEPs are prepared for rural and environment protection zones that the LEP is consistent with these principles.

The Rural Planning Principles are:

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (b) *recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or*

State,

- (c) *recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (d) *in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) *the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- (f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- (h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

- **Introduction of Rural Subdivision Principles**

The Rural Subdivision Principles are to be considered when Council reviews minimum lot sizes in rural and environment protection zones. The 117 Direction for Rural Lands requires that where LEPs are prepared for rural and environment protection zones that the LEP is consistent with these principles.

The Rural Subdivision Principles are:

- (a) *the minimisation of rural land fragmentation,*
- (b) *the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,*
- (c) *the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,*
- (d) *the consideration of the natural and physical constraints and opportunities of land,*
- (e) *ensuring that planning for dwelling opportunities takes account of those constraints.*

It is important to note that Councils are not required to review or change minimum lot sizes. However, where changes are proposed, they must be in accordance with the principles.

An assessment of the Rural Planning and Rural Subdivision Principles is provided in Section 19 of this Study.

15.3 Regional Environmental Plans (REPs)

Regional Environmental Plans (REPs) establish provisions on matters which are considered to be of significance for the environmental planning of a region.

There are no REPs or draft REPs which apply to Yass Valley LGA.

15.4 Local Environmental Plans (LEPs)

LEPs contain provisions relating to a wide range of matters, usually zones and permitted and prohibited uses, subdivision, dwelling entitlements, conservation of heritage items, exempt and complying development, acquisition and reservation of land and other matters which Councils determined were necessary to regulate.

The Department of Planning has introduced an LEP template (Standard Instrument) which Councils are required to implement when preparing new LEPs. The Standard Instrument is discussed in further detail in this section.

Three LEP's currently apply to the Yass Valley LGA as a result of Council amalgamations in February 2004. Figure 6.1 shows the former LGA's which now make up Yass Valley LGA. These LEP's are discussed below.

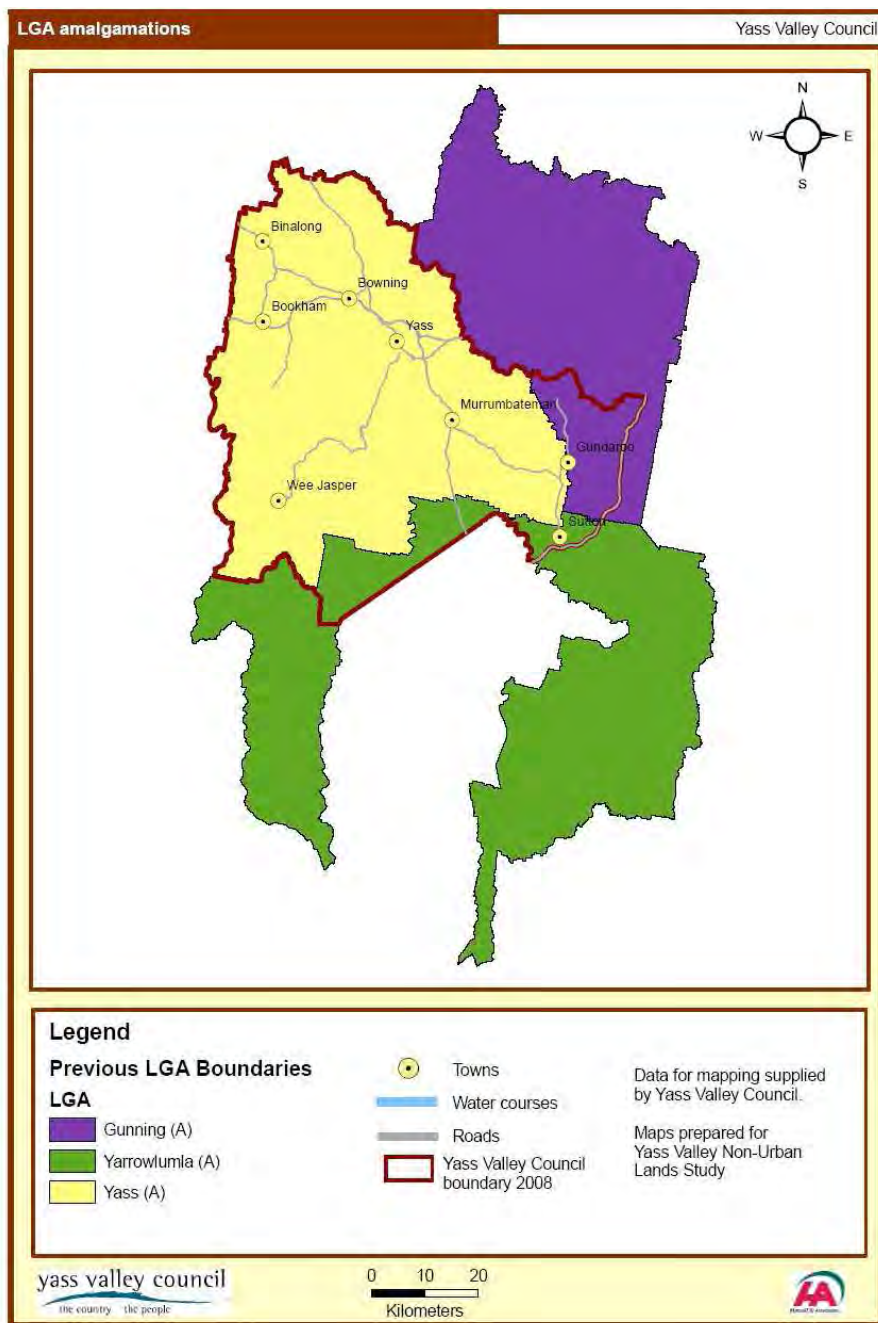


Figure 15.1 LEPs which apply to the Yass Valley LGA

This section will discuss the zoning and subdivision provisions of each LEP to provide a background as to how land can be used and subdivided under each LEP.

15.4.1 Yass Local Environment Plan 1987

Yass LEP 1987 applies to the former Yass Shire Council area and applies to most of the current Yass Valley LGA.

Zoning

Yass LEP 1987 has 18 zones that are broadly grouped into 6 land use categories. The zones

are listed in the table below.

Table 15.1 Land Use Zones of Yass LEP 1987

Rural zones	
	1 (a) (Rural Agriculture Zone)
	1 (b) (Rural Highway Zone)
	1 (d) (Rural Small Holdings Zone)
Residential	
	2 (a) (Residential Zone)
	2 (v) (Village Zone)
	1 (c) (Rural Residential Zone)
	1 (c1) (Rural Residential Zone)
	1 (c2) (Rural Residential— Hobby Farms Zone)
	1 (e) (Rural Village Zone)
Business	
	3 (a) (Business Zone)
	3 (b) (Highway Services Zone)
	4 (a) (Industrial Zone)
Open space	
	6 (a) (Open Space Zone)
	6 (b) (Proposed Open Space Zone)
Environmental	
	7 (c) (Environmental Protection— Water Catchment Zone)
	7 (d) (Environmental Protection— Scenic Zone)
Miscellaneous zones	
	5 (a) (Special Uses Zone)
	9 (b) (Proposed Road Zone)

Subdivision

The subdivision provisions as they apply to rural zones under Yass LEP 1987 are provided below.

1(a) Rural Agriculture and 1(b) Rural Highway zones

The subdivision clauses for the 1(a) and 1(b) zones are outlined below.

Table 15.2 Subdivision Clauses for 1(a) Rural Agriculture and 1(b) zones for Yass LEP 1987

Subdivision Clauses	Interpretation
<p>Clause 11(3) The Council may consent to the subdivision of land to which this clause applies if it is satisfied that:</p> <p>(a) the average area of the allotments having an area of greater than 60 per cent and less than 200 per cent of the area shown on the map proposed to be created by the subdivision is not less than the area shown on the map and the area of all other allotments proposed to be created by the subdivision is not less than 200 per cent of</p>	<p>The average lot size is for 1(a) and 1(b) land is 80 ha, except for some small areas of land near the town of Yass where the average lot size is 40 ha.</p> <p>To subdivide under this clause, the average area of all lots created by the subdivision is to equal 80 (or 40 ha for some 1(b) land around Yass). The size of the lots can vary in size from 60% to 200% of 80 ha, or 48 to 159 ha. This method is known as averaging.</p>

<p>the area shown on the map,</p> <p>(b) each of those allotments is compatible in shape with the likely use of the land, adjoining land uses and the physical environment generally, and</p> <p>(c) if such an allotment has a frontage to a main or arterial road, that frontage is not less than 400 metres.</p>	<p>It is important to note that the Standard Instrument does not permit the averaging of lot sizes in a subdivision and therefore Council will need to determine new minimum lot sizes for rural land.</p>
<p>Clause 11(4) The Council may consent to the subdivision of land to which this clause applies so as to create an allotment having an area of not less than 2 hectares if it is satisfied that:</p> <p>(a) the allotment is to be used for the purposes of an intensive agricultural enterprise,</p> <p>(b) the shape of the allotment is compatible with the likely use of the land, adjoining land uses and the physical environment generally, and</p> <p>(c) the frontage of the allotment to a main or arterial road is not less than 200 metres.</p>	<p>This subdivision clause allows subdivision of not less than 2 hectares for the purpose of an intensive agricultural enterprise which does not require as large a land holding as extensive forms of agriculture, such as grazing or cropping. Intensive forms of agriculture may include viticulture, horticulture and the like.</p> <p>The Standard Instrument permits the subdivision of land smaller than the minimum lot sizes for primary production purposes, but does not permit the erection of a dwelling.</p>
<p>Clause 11(5) and (6) The Council may consent to the subdivision of land to which this clause applies, so as to create an allotment having an area of not less than 2 hectares, if it is satisfied that the land constitutes the whole of an existing parcel held in one ownership when the consent is granted (whether or not in the same ownership as all the land was held at 15 April 1966). In this subclause, existing parcel means land that comprised an existing parcel on 15 April 1966.</p> <p>(6) The total number of allotments of the type referred to in subclauses (4) and (5) that may be created by a subdivision of an existing parcel (as at 15 April 1966), shall not exceed:</p> <p>(a) none where the existing parcel (as at 15 April 1966), has an area of less than 80 hectares,</p> <p>(b) 1 where the existing parcel (as at 15 April 1966), has an area of not less than 80 hectares but less than 160 hectares,</p> <p>(c) 2 where the existing parcel (as at 15 April 1966), has an area of not less than 160 hectares but less than 240 hectares, or</p> <p>(d) 3 where the existing parcel (as at 15 April 1966), has an area of not less than 240 hectares.</p> <p>For the purpose of this clause, existing parcel is defined as: <i>where occurring in conjunction with a particular date, means the total area of all adjoining or adjacent land held in the same ownership at that date.</i></p>	<p>This clause enables the subdivision of concessional allotments.</p> <p>This clause enables the subdivision of lots much smaller than the average lot size, where a parcel of land has been held in the same ownership pattern since the required date.</p> <p>It is important to note that concessional allotment provisions were repealed by the Rural Lands SEPP.</p> <p>The Standard Instrument does not allow concessional allotment subdivision as this type of subdivision is no longer supported by the Department of Planning.</p>
<p>Clause 11(7)</p>	<p>This subdivision clause permits the exchange</p>

<p>(7) The Council may consent to the subdivision of land to which this clause applies so as to create an allotment having an area of not less than 2 hectares if it is satisfied that:</p> <p>(a) the allotment is to be created to enable the exchange of agricultural land between neighbouring landowners, and</p> <p>(b) the shape of the allotment is compatible with the likely use of the land, adjoining land uses and the physical environment generally.</p>	<p>of agricultural land of not less than 2 hectares. Council must be satisfied that the land exchange is for agricultural purposes.</p> <p>The Standard Instrument permits subdivision for the purpose of agricultural land exchange, provided that an existing dwelling will not be located on the lot and a dwelling cannot be erected on the lot.</p>
<p>Clause 11(8)</p> <p>(8) The Council may consent to the subdivision of land to which this clause applies so as to create an allotment of land having an area of less than that shown on the map in relation to that land if it is satisfied that:</p> <p>(a) the allotment is intended to be used for a purpose (other than agriculture or a dwelling-house) that may be carried out only with the consent of the Council,</p> <p>(b) the shape of the allotment is compatible with the intended use of the land, adjoining land uses and the physical environment generally, and</p> <p>(c) the frontage of the allotment to a main or arterial road is not less than 200 metres.</p>	<p>This clause enables the subdivision of land below the average lot size for a purpose other than agriculture or a dwelling.</p> <p>The Standard Instrument permits the subdivision of land smaller than the lot. There are no provisions for this type of subdivision in the Standard Instrument.</p>

15.4.2 Gunning Local Environmental Plan 1997

Gunning LEP 1997 applies to the former Gunning Shire Council area that now is part of the Yass Valley LGA.

Zoning

Gunning LEP 1987 has 3 zones that are broadly grouped into 2 land use categories. The zones are listed in the table below.

Table 15.3 Land Use Zones of Gunning LEP 1997

Rural zones	
	1 (a) Rural Agriculture Zone
Residential	
	1 (c) Rural (Small Holdings) Zone
	2 (v) Village Zone

Subdivision

The subdivision provisions as they apply to the 1(a) Rural zone under Gunning LEP 1997 are provided below.

1(a) Rural zone

The subdivision clause for the 1(a) zone is outlined below.

Table 15.4 Subdivision Clauses for 1(a) Rural zone for Gunning LEP 1997

Subdivision Clause	Interpretation
<p>Clause 13</p> <p>(1) Allotments proposed in Zone 1 (a) must meet the following standards:</p> <p>(a) Where the allotment is being created for the purpose of agriculture or to facilitate farm adjustment, and there is no dwelling on the land, the allotment can be of any size.</p> <p>(b) Where there is a dwelling on the land, the allotment on which it will be situated must have an area of not less than 80 hectares.</p> <p>(c) Where the allotment will be created for the purpose of erecting a dwelling, the allotment must have an area of not less than 80 hectares.</p> <p>(2) The Council can consent to the subdivision of land within Zone 1 (a) to create an allotment that will be used otherwise than for the purpose of agriculture or a dwelling (being development that may be carried out under Part 2), only if:</p> <p>(a) the area of the allotment to be created is appropriate for the development for which it is intended to be used, and</p> <p>(b) where the land is identified as Class 3, 4 or 5 on a map prepared by the Department of Agriculture and held in the office of the Council, there is no reasonable alternative to using the allotment for the proposed development.</p>	<p>The minimum lot size is for 1(a) zone is 80 ha.</p> <p>It is important to note that the Standard Instrument does not permit the averaging of lot sizes in a subdivision and therefore Council will need to determine new minimum lot sizes for rural land.</p>

15.4.3 Yarrawlumla Local Environmental Plan 2002

Yarrawlumla LEP 2002 applies to the former Yarrawlumla Shire Council area that now is part of the Yass Valley LGA.

Zoning

Yarrawlumla LEP 2002 has 5 zones that are broadly grouped into 3 land use categories which apply to the Yass Valley LGA. The zones are listed in the table below.

Table 15.5 Land Use Zones of Yarrawlumla LEP 2002

Rural	
	1 (a) General Rural Zone
Residential	
	1 (d) Rural Residential Zone
	2 (v) Village Zone
Miscellaneous	
	1 (f) State Forest Zone
	7 (e) Environmental Protection Zone

Subdivision

The subdivision provisions as they apply to the 1(a) Rural zone under Gunning LEP 1997 are provided below.

1(a) General Rural zone

The subdivision clause for the 1(a) zone is outlined below.

Table 15.6 Subdivision Clauses for 1(a) General Rural zone for Yarrowlumla LEP 2002

Subdivision Clause	Interpretation
<p>Clause 19</p> <p>(1) Consent may be granted to the subdivision of land within Zone No 1 (a) only if the consent authority is satisfied that:</p> <p>(a) each allotment proposed to be created by the subdivision will have an area of not less than 8 hectares, and</p> <p>(b) the average area of all lots into which the land comprising each 1995 holding affected by the subdivision is divided will be not less than 80 hectares at any time, and</p> <p>(c) where lots having an area of less than 80 hectares are proposed to be created, the total number of allotments having an area of less than 80 hectares created through successive subdivisions of the land comprising each 1995 holding affected by the subdivision will not exceed 5, and</p> <p>(d) each proposed allotment which will have a frontage to a main or arterial road will have a frontage to that road of not less than 200 metres or one entry point to that road for vehicles, and</p> <p>(e) each proposed allotment which will have a frontage to a lake or river will have a frontage to that lake or river of not less than 200 metres, and</p> <p>(f) the land to which the development application applies has not previously been subdivided in accordance with this clause, unless it is the land nominated by the owner to the Council as the residue lot in the last subdivision which involved the land.</p> <p>(2) Despite subclause (1) (b), consent may be granted to the subdivision of a 1995 holding between 88 hectares and 159 hectares in area so as to create 2 allotments if the subdivision was permissible immediately prior to the gazettal of <i>Yarrowlumla Local Environmental Plan 1993 (Amendment No 6)</i>.</p> <p>(3) Land identified as Class 1, 2 or 3 on the map prepared by the Department of Agriculture and held in the office of the Council is not to be subdivided so as to create an allotment of less than 16 hectares.</p> <p>(4) Consent may be granted to the subdivision of land within Zone No 1 (a) to create an allotment of any size that will be used otherwise than for the purpose of agriculture or a dwelling (the proposed use being development that may be carried out under Part 2), if:</p> <p>(a) in the opinion of the consent authority, the</p>	<p>The average lot size is for 1(a) zone is 80 ha.</p> <p>To subdivide under this clause, the average area of all lots created by the subdivision is to equal 80. The size of the lots can vary in size from 8 ha (with the creation of no more than 5 allotments less than 80 ha).</p> <p>It is important to note that the Standard Instrument does not permit the averaging of lot sizes in a subdivision and therefore Council will need to determine new minimum lot sizes for rural land.</p> <p>For the purpose of this clause, 1995 holding means:</p> <p>(a) except as provided by paragraph (b)—an allotment, portion or parcel of land in existence at the date of gazettal of <i>Yarrowlumla Local Environmental Plan 1993 (Amendment No 6)</i> (13 October 1995), as a separate allotment, portion or parcel, or</p> <p>(b) where, as at the date of gazettal of <i>Yarrowlumla Local Environmental Plan 1993 (Amendment No 6)</i>, a person owned 2 or more adjoining or adjacent allotments, portions or parcels of land having access to a public road—the land comprised of the aggregation of the areas of those allotments, portions or parcels,</p> <p>but does not include land held under the <i>Crown Lands Act 1989</i>.</p>

area of the allotment to be created is appropriate for the development for which it is intended to be used, and
 (b) where the land is identified as Class 1, 2 or 3 on the map prepared by the Department of Agriculture and held in the office of the Council, the consent authority is satisfied that there is no reasonable alternative to using the allotment for the proposed development.

15.5 Section 94 Plans

Section 94 of the Environmental Planning and Assessment Act 1979, enables local councils or other consent authorities to levy contributions for public amenities and services required as a consequence of development.

As a result of the amalgamation in February 2004, the Yass Valley LGA currently has five Section 94 Plans that apply to parts of the LGA. These plans and where they apply are outlined in Table 15.7.

Table 15.7 Section 94 Plans that apply to the Yass Valley LGA

Section 94 Plans	Land to which the plan applies
Yass Valley Council Section 94 Plan (community facilities, urban roads, open space)	Applies to whole LGA
Yass Shire Council Section 94 Plan (rural roads)	Applies to former Yass Shire Council
Gunning Council Section 94 Plan (rural roads)	Applies to former Gunning Shire Council
Yarrowlumla Council Section 94 Plan (rural roads)	Applies to former Yarrowlumla Shire Council

15.6 Standard Instrument for Local Environmental Plans

In March 2006, the Standard Instrument (Local Environmental Plans) Order 2006 was gazetted. This Standard Instrument (also known as the LEP template) prescribes a standard form and content of a principal LEP.

The standard instrument provides a 'template' that all councils in NSW are required to use as the basis for preparing a new LEP for their local area within the next five years, using standard:

- zones (including standard zone objectives and some mandated permitted and prohibited uses);
- definitions;
- clauses; and
- format.

In preparing new LEPs in accordance with the Standard Instrument, councils can:

- prepare additional local provisions that address local planning issues and which reflect the outcomes of local and regional strategies;
- add local objectives to the core zone objectives;
- add additional permitted or prohibited land uses for each zone in the land use table;
- decide whether or not to include optional provisions in their LEP;
- specify what will be permitted as exempt and complying development;
- insert local criteria or standards into certain mandatory clauses;

- prepare maps that specify the lot sizes, building heights and floor space ratios appropriate for their local area;
- define terms within a local provision in certain circumstances; and
- suggest new definitions to the Department of Planning that could be suitable for inclusion in the standard dictionary for all councils to use.

However, councils cannot:

- add new zones or create sub-zones;
- prohibit uses that are mandated as permissible in a zone;
- permit uses that are mandated as prohibited in a zone;
- add local provisions that are inconsistent with the mandatory provisions;
- change the standard dictionary by altering or adding to the standard definitions;
- change the standard clause numbering;
- change the format; or
- change the wording of the provisions.

All local provisions prepared by councils must be consistent with the relevant core zone objectives and mandated land uses, other mandatory provisions, and relevant State or regional planning guidance (including SEPPs, REPs, section 117 directions, metropolitan or regional strategies and other relevant policy guidance).

As a result of the introduction of the Standard Instrument, the LEPs that will be developed to implement this and other planning strategies in the local government area will be considerably different in format and content than the LEPs that currently apply.