

# RURAL LIVING IN PALERANG

## A DISCUSSION PAPER TO

### GUIDE THE PALERANG COUNCIL

### RURAL STRATEGY

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For: PALERANG COUNCIL

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# **1 INTRODUCTION**

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## **1.1 PURPOSE OF THIS DISCUSSION PAPER**

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The Palerang Rural Lands Strategy has three components:

- The Palerang Rural Lands Study Report - a report that draws out the data and issues applying to rural land in the Palerang local government area (LGA) (the Study).
- The Palerang Rural Lands Strategy - which draws on the Study and the public submissions on the exhibition of the Study to develop a 20 year strategy for the rural lands of the Palerang LGA.
- The Discussion Paper on Palerang Rural Settlement - this document is a background paper to the Strategy that explores some of the more challenging issues facing the rural land of Palerang and develops options for Council to address those issues.

It is stressed that this Discussion Paper is a draft document prepared by Council's consultant Garret Barry Planning Services (GBPS) for the purposes of consulting the community on the direction for Palerang Rural Lands for the coming 20 years. It represents the views of the consultant and the options it presents will be considered by Council once public comment on both the Discussion Paper and the draft strategy have been received.

This Discussion Paper and the draft Strategy adopted by Council for community consultation will be exhibited together. Public submissions on both are welcome and vital to ensure a robust strategy to guide Council activities in the rural areas. A final Strategy will only be adopted by Council following consideration of community comment.

## 1.2 EXECUTIVE SUMMARY

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This Discussion Paper allows a more detailed examination of some of the more complex issues facing the rural areas of Palerang. Most of these issues revolve around settlement and as such this paper works through the following topics:

**Section 2** explores **the range and themes for settlement** in Palerang and draws conclusions for a possibly wider range of living opportunities. In particular it suggests new living opportunities which have a higher focus on delivering economic and social benefit to Palerang.

Section 2 also repeats the conclusions drawn from the earlier Study phase of this Strategy that there is no short term supply shortage for any category of rural living and as such Council has the coming 5 years to review and address further supply options.

**Section 3** focuses on **rural living in the general rural areas** of Palerang outside of the rural residential zones. The major focus is on exploring the lot size options that might apply in the Palerang LEP and the types of control and protection for existing expectations for a dwelling on vacant land.

Council faces a significant challenge in reviewing the current 40 and 80 ha lot sizes. The growth pressures applying in Palerang mean the land market has long ago factored in the potential value of subdivision of rural properties. As such any increase in the minimum lot size requirement for dwelling parcels in the general rural areas has adverse impacts on development potential for some rural landholders. This paper presents three options for consideration ranging from a 'do nothing' option to a flexible lot size option with some measures to retain reasonable land development potential.

**Section 4** focuses on **rural living in rural residential zones**. It examines the current mix of rural residential opportunities and explores the potential for a further zone, the RU4 Primary Production Small Lots zone as an option to expand small lot farming opportunities and larger hobby farm estates. This section suggests a focus on siting these new zones to increase economic and social connection to Palerang settlements. Principles are put forward for selection of the desired new areas and an assessment is presented with some preliminary target areas for new sites that Council might include in a review over the coming five years.

Section 4 also effects a review of the suitability of the Bywong E4 zone given concerns raised by some residents as to the suitability of that zone for the Bywong area.

**Section 5** then condenses options for Council to address the above rural living issues. Some of these issues roll over into the draft Strategy as specific actions and others are identified for further exploration and development by Council over time.

## **2 SETTLEMENT IN PALERANG**

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### **2.1 WHAT WE LEARNED FROM THE STUDY PROCESS TO DATE**

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Palerang is not a typical rural LGA. Its proximity to Canberra and Queanbeyan has seen it develop with a very high proportion (almost 70%) of its population living in the rural or rural residential areas.

In the order of 70% of all employment in Palerang is outside the LGA with residents commuting – mostly to Canberra/Queanbeyan.

51% of all population growth between 2001 and 2011 (2,151 persons) has occurred in the rural residential areas close to Canberra/Queanbeyan and a very high proportion of that population obtain many of their services outside of the LGA. The eastern rural area has experienced less development pressure but still increased by 624 persons in the same period.

The exhibition of the Palerang Rural Lands Study Report drew little adverse comment from the community as to continuing a role for Palerang as being a supplier of rural living opportunities for people who otherwise often work and relate in a community sense to Canberra/Queanbeyan, although concern was expressed from some residents in the eastern half of the LGA as to a perception the focus of Palerang is in the west.

Submissions on the Study and subsequent review by the Palerang Rural Lands Committee, did suggest that the Strategy explore a wider range of rural living opportunities, including options of some growth focus being more internal in Palerang – for example, strengthening the population and new settlement where it may connect with settlements like Bungendore and Braidwood.

There is resistance to rural commuting beyond certain distances and times. It is suggested that the resistance might lessen a little, especially as high speed broadband expands to allow more home based work and allows people to select living opportunities more to the central/east of Palerang. However, while a supply of rural living opportunities is available in the western sections of Palerang or close to Canberra in other LGAs such as Yass Valley, the growth of new residential areas east of Bungendore will remain much smaller and with a focus on retirees, self/home employed, rural retreaters and weekenders and similar people without much need to commute regularly to Canberra/Queanbeyan.



## 2.2 SUMMARISING CURRENT PALERANG SETTLEMENT

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### 2.2.1 Urban settlement and the influence on the rural area

Palerang has two small towns, Bungendore (2,754 people 2011) and Braidwood (1,162 people 2011).

Bungendore now provides a dormitory suburb role for Canberra/Queanbeyan and has experienced an increase of 1,192 people from 2001 to 2011 but Braidwood is more distant and only grew by 179 persons in the same period.

There are five small rural villages with a local service function. Each of these villages has had only very small growth or in some cases a small decline. With most of the villages though, there has been some growth in the number of rural residents in the village catchment.

### 2.2.2 Types of rural living

There is a range of rural living experiences. Terminology varies across the planning profession in its attempts to categorise the various types of rural living.

The Study offered the following definitions for the more common types of rural living experience:

*Rural residential* – usually a small parcel where the primary use is rural living with no or minimal commercial agriculture. A significant proportion of the current E4 zones in Palerang have been developed for this use.

*Rural retreat* – usually a large, often remote bush block where rural living in natural surroundings is sought. Generally minimal commercial agriculture is practiced. There is a wide scattering of these types of ownership around the edges of the rural lands of Palerang, more often on the poorer quality and remote rural lands. A significant proportion are only used for 'weekend' style recreational use and have no or basic accommodation facilities. There is also a proportion of this type of land use occupied by permanent residents seeking a remote living experience.

*Hobby farm* – generally a rural holding, often under 40 ha where the level of agricultural activity does not approach a commercial scale or create even a modest net farm income once annual operating costs are deducted. There is often small scale agriculture such as beef and many hobby farms in the Palerang LGA as well horses for recreational use.

Additionally, there are the more commercial scale rural living experiences. Part-time commercial farming is now more numerous than full-time farming in Palerang if the definition relates to income source. The work from the Study indicated over 100 ha of reasonable quality agricultural land is probably required to generate sufficient net return to warrant a definition of a part-time commercial farm. There are exceptions but there are also examples where a property of 200 or more ha would struggle to provide a meaningful part-time net income.

Very few landholders now make all or most of their income from agriculture on the property. Off-farm and on-farm non-agricultural income sources are now common across many properties. Recent research by Garret Barry Planning Services (GBPS) in the Eurobodalla LGA identified that there are estimated to be over 1,000 small non-agricultural related

businesses undertaken from rural properties. The uses range from information technology to construction, to a range of home scale industries and professional activities. It is likely that the Palerang LGA has a similar scale of income sources but also has significantly greater access to off-farm employment for those parts of the LGA closer to Canberra/Queanbeyan.

Following the exhibition of the Study, the Palerang Rural Lands Committee reflected on the range of rural land use opportunities sought after in the Palerang LGA and identified the following five categories:

*Hamlet* - possible features and desirable characteristics:

- clusters of small lots (2,000 m<sup>2</sup> - 5,000 m<sup>2</sup>) in a rural area.
- no shops
- the lots are large enough for effluent disposal or there is a shared on-site sewerage system
- shared water supply
- surrounded by rural land
- maybe a community title approach with shared rural land.

*Rural residential* - possible features and desirable characteristics:

- estate style development with lot sizes ranging from 2-10 hectares
- lots are directly accessed from a sealed public road
- boutique agriculture (except intensive animal) may be undertaken on lots and the produce sold at local markets
- lots are preferably less than 15 minutes drive from local shops and a public primary school
- local community infrastructure such as a community hall, playground, tennis courts and skate parks are within a short car drive/bike ride or reasonable walking distance
- the land is mostly class 4 or 5 agricultural land
- compatible non-agricultural activities could be undertaken
- there is a sustainable ground water supply which may be used for residential purposes
- tourism land uses that involve low traffic volumes can be undertaken
- the lots are not in a stressed water catchment
- the residential lots are not in an endangered ecological community or an area containing threatened species
- the lots are not in an area of Aboriginal significance
- the lots are not in an extractive industries area (shown on the NSW Department of Primary Industries 117 Direction map)
- lots which would contain structures are not on a visually prominent ridge.

*Rural living* - possible features and desirable characteristics:

- scattered or clustered small lot farms mostly under 50 hectares in agricultural areas
- industry and agriculture is an appropriate distance from urban areas where lights, noise and dust from agricultural may cause conflict
- limited local community infrastructure such as a community hall.
- compatible non-agricultural activities could be undertaken depending on the lot size
- the land is class 3 or 4 agricultural land
- there is access to non-potable water
- there are few environmental assets
- land that is class 3 agricultural land should have a lot size larger than rural residential minimum lot size in most cases unless the land is highly productive for intensive use (e.g. lot sizes over 16 hectares)
- agricultural/education/cultural tourism land uses
- small lot farms and boutique agriculture (except intensive animal) can be undertaken on lots and produce sold at the property gate.

*Rural* - Possible features and desirable characteristics:

- broadscale agricultural operations usually over 100 hectares
- includes forestry and extractive industries
- lots are more than 40 minutes from local shops and a public primary school
- class 2-4 agricultural land
- land is used for sustainable agriculture, there is:
- access to water
- access to transport infrastructure (roads and bridges)
- agricultural/education/cultural tourism land uses
- non-agricultural land uses (that do not involve large traffic volumes)
- land uses include hard infrastructure, including telecommunications.

*Environmental land* - Possible features and desirable characteristics:

- generally, more remote natural areas over 50 hectares with low impact and low density living
- there is a good coverage of native vegetation and may include endangered ecological communities and threatened species
- agriculture is less intensive
- may be a drinking water catchment
- areas of visual prominence/importance, Aboriginal heritage and prominent ridges
- agricultural/education/cultural tourism land uses
- low levels of hard and soft infrastructure.

## 2.3 WHAT FORMS OF SETTLEMENT MIGHT BE ADDED AND WHAT MIX?

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### 2.3.1 How much emphasis on benefitting Palerang?

Much of the supply of rural living opportunity of the past 20 years in Palerang has focused on small lot rural residential and hobby farms, in formal rural residential zones bordering Queanbeyan and the ACT.

The uptake of (mostly) larger and scattered rural holdings in the general rural areas of west Palerang and to a much lesser extent east Palerang has also been significant but only about 20% of the rate or growth of the formal rural residential areas.

The rural residential development adjoining ACT/Queanbeyan might be seen to have generated only modest economic and social benefit for Palerang. How important this is as an issue is debatable and it did not rank highly in the public submissions on the Palerang Rural Lands Study Report. But in considering the location of further supply of rural living options and opportunities Council might at least include social and economic benefit to Palerang in the assessment criteria. These criteria are introduced below.

### 2.3.2 Urban satellites

Recent years have seen a trend in development of new urban satellites creating urban housing opportunities for Canberra and Queanbeyan. The new Googong estate is an example and there are satellites in Yass Valley.

One submission on the Study included suggestions for a 'Googong' style urban satellite in the Palerang LGA near the ACT border. Others suggest smaller hamlet style clusters but with urban servicing. Also there seems to be the capacity for Bungendore to expand to a true urban satellite.

It is not the function of the Rural Lands Strategy to set urban policy for Council but there are common impacts between rural and urban settlement, including the following:

- The growth of Canberra/Queanbeyan will mostly be housed in urban areas. Rural living is a niche market, often priced out of the reach of first home buyers and persons on lower incomes.
- A true urban satellite in Palerang would be a new housing product and generate different forms of growth and demand for services. In a small way Bungendore has been developing as a satellite but might be accelerated and see some clear economic benefit within Palerang.
- True urban size satellites bordering ACT do not seem to offer the same scale of advantages in social and economic terms to say an expansion of Bungendore. They would invoke a demand for new urban servicing such as water and sewer and very significant cost and offer the risk, like some of the existing rural residential, of having a social focus outside of Palerang.

### 2.3.3 Small lot rural residential (Rural residential as defined by the Committee)

There seems to be some unmet demand for very small lot rural residential development. Essentially, large lot residential under 2 ha. Much of the rural residential focus to date has been on lots of several hectares. Of the total 2,383 lots in the current E4 zones, only 196 (8%) are 2 ha or less.

There are challenges in permitting too many small lots with on-site sewerage. However, more lots down to 5,000 m<sup>2</sup> might be considered provided average densities of 2 ha or more are maintained across estates and small lots are selected with better than average soil and disposal sites.

The Rural Land Use Committee has identified some potential for hamlet style development to address this niche and this is discussed further in Section 4.

### 2.3.4 Small Lot agriculture (an element of the Rural Living category defined by the committee)

To date there is in theory little shortage of opportunity to find a small lot farm almost anywhere in the LGA. The 40 and 80 ha lot sizes and the other LEP provisions allowing dwellings on smaller properties that qualify as existing holdings or lots previously approved for dwellings, mean there are still many opportunities.

A formal hobby or small commercial scale farm zone seems supportable, especially if there is to be an increased variety of rural living options across the general rural areas.

The main focus in the Palerang LGA for many years with rural estate style development was to supply rural residential and smaller scale hobby lots- many with elements of environmental land. This is probably still the area of greatest interest and demand and introducing new areas of supply of strategically planned small lot farming areas may be warranted and are explored in Section 4.

### 2.3.5 Protecting commercial agriculture

In theory, the prevention of further fragmentation of agricultural properties over 100 ha has merit. Options relating to this are explored in detail in Section 3. But there are also opportunities in those sections of the general rural area that are already fragmented, to possibly allow more generous lot sizes below 40 ha and to create further small lot farming opportunities.

## 3 LIVING IN THE GENERAL RURAL AREA

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### 3.1 WHAT IS THE GENERAL RURAL AREA?

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The general rural area is seen as the agricultural zones outside of the rural residential areas and are currently defined by zones RU1 Primary Production and E3 Environmental Management. Map 1 depicts these areas by colour. It also depicts the range of property sizes across the general rural area.

This land includes three of the living categories defined by the committee:

- Rural Living on smaller ownerships scattered throughout the broadacre areas.
- The Rural category which includes commercial part time and full time farms.
- Environmental Land- generally larger holdings where natural values are dominant and often agricultural production a secondary factor.

### 3.2 EXISTING SUBDIVISION AND DWELLING RULES IN THE GENERAL RURAL AREAS

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Currently, there are two lot sizes applicable to the creation of lots for dwellings in the *Palerang Local Environmental Plan 2014* (PLEP). There is a lot size of 40 ha over the area of the former Tallaganda Shire and an 80 ha lot size over the remainder of the LGA in the north-west (mostly the section of the former Yarrowlumla Shire within Palerang).

So in theory, ownerships over 80 ha in the 40 ha lot size area and over 160 ha in the 80 ha lot size area have the ability to apply for subdivision to create one or more dwelling lots.

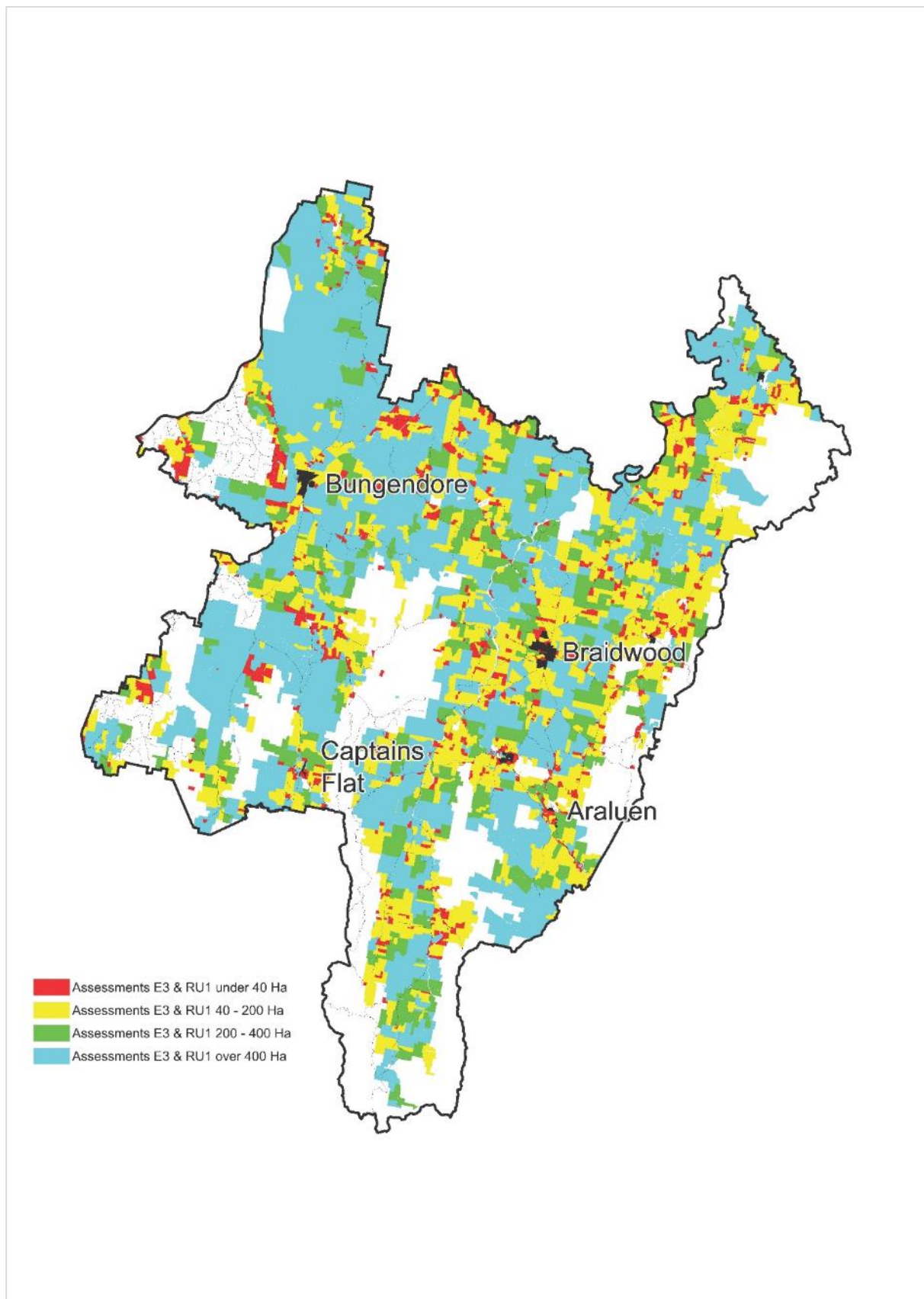
This statement needs qualification in that, while properties twice the lot size or larger have an implied right to apply for subdivision for dwelling lots, a large number of parameters govern the practical limits of subdivision. These include, complying with other provisions of the PLEP (for example large lots created by a previous average lot size subdivision cannot be further subdivided), topography, access road quality, access to reticulated power and proximity to demand. Council has the ability to set controls in its Development Control Plan (DCP) and other controls including Section 94 development contributions on such rural subdivision to limit lots in less desirable areas.

Clause 4.2A of the PLEP specifies a number of paths to be able to apply for consent to erect a dwelling. These mostly relate to land that is below lot size but is either a lot approved for a dwelling under former planning schemes or land that meets the test of an *existing holding*. Land with an area over the minimum lot size (40 or 80 ha) can qualify for a dwelling. Given some rural properties are made up of numerous small titles, it is possible to purchase sufficient small titles to allow the assembly of a property larger than the lot size that then can qualify for a dwelling (subject to consolidation into one lot).

Map 1 presents an outline of current ownerships of different sizes in the RU1 and E3 zones.



**Map 1: General rural area and ownership sizes**



Source: Developed by GBPS from Council GIS data

### 3.3 REVIEW OF THE IMPACTS OF THE CURRENT 40 AND 80 HA LOT SIZES IN PALERANG

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Palerang is an amalgamation of parts of 6 former LGAs and as such has retained a number of different planning provisions applying to those former council areas and their planning schemes.

The current 40 ha lot size over that part of Palerang matching the former Tallaganda Shire has been in place since the inception of rural planning controls in the shire in 1974.

Most of the current 80 ha lot size area came from the former Yarrawlumla Shire. Under Yarrawlumla planning instruments the minimum lot size went from 20 ha in 1964 to 16 ha in 1966, to 40 ha in 1973, to 80 ha in 1975 and an average of 80 ha was introduced in 1995.

Small sections of the current 80 ha lot size area came from the former councils of Cooma-Monaro (80 ha lot size from 1999 and lot averaging), Gunning (80 ha lot size from 1970 but no lot averaging), Mulwaree 1995 (40 lot size but no lot averaging) and Goulburn Mulwaree 2009 (100 ha lot size but no lot averaging).

The current PLEP retains most of the complex differentiation of the 6 former schemes. This summarises as 2 lot size areas (40 ha for the former Tallaganda and 80 elsewhere) and access to lot averaging provisions for the former Cooma- Monaro and Yarrawlumla parts of the 80 ha lot size area.

#### 3.3.1 The 40 ha lot size area

The 40 ha provisions relating to dwelling permissibility have been in force over much of the LGA for 40 years. What have been the implications? The Council Geographic Information System (GIS) data was interrogated to derive the following figures:

- Lots created by private subdivision:
  - Just under 700 lots have been created in the former Tallaganda Shire area of size 40 to 79 ha.
  - Approximately 220 have been created of size 80 to 119 ha.
  - Approximately 120 have been created of size 120 to 160 ha.
  - These estimates have qualifications as they are only the tally of non-Crown lots existing in those sizes and as such would include quite a number of lots created by subdivision before 1974 and a number of lots created for purposes other than a dwelling lot.
  - The above figures summarise that approximately 1,000 lots have been created by private subdivision in the 40 ha lot size area. From modelling some sections of the LGA, we estimate nearly 70% of that number are lots created since 1974 for the purposes of a dwelling but a more detailed survey of actual deposited plans would be required to derive an accurate summary.
- We estimate in the 40 years that the 40 ha lot size has been in place, approximately 700 lots in the range 40 to 160 ha may have been created from larger properties for the purpose of small lot farm with dwelling.



- The pattern varies, in some cases whole properties of several hundred hectares have been completely subdivided into 40 ha style lots. In other cases only 1 or 2 x 40 ha style lots have been cut from a larger holding.
- In the case of the lots under 80 ha a high proportion are now in separate ownership i.e. are being run as small lot farms. There is some aggregated ownership of the above 80 ha lots but still a majority from sampling appear to be in separate ownerships.
- There are still 315 properties in the 40 ha lot size area over 200 ha (i.e. possibly some commercial agricultural scale) and their total area equals 184,000 ha or 68% of the total 40 ha lot size area.
- If every current property of 80 ha or greater area in the former Tallaganda Shire area was to be subdivided to the maximum extent permitted in the LEP, the following hypothetical yield might result:

**Table 1: Maximum Potential Yield from subdivision in current 40 ha lot size area**

Property size Ha	Number of Properties	Yield Factor	Maximum Lot Yield
80 - 119	189	1	189
120 - 159	116	2	232
160 - 199	67	3	201
200 - 239	40	4	160
240 - 279	40	5	200
280 - 319	38	6	228
320 - 359	24	7	168
360 - 399	16	8	128
> 400	157	9	1413
<b>Totals</b>	<b>687</b>		<b>2919</b>

- This hypothetical yield needs significant qualification in the light of the following factors:
  - There are physical and economic constraints to the creation of many of the potential lots.
  - There is only so much demand for “100 acre lots”. The “market” has been relatively unconstrained for 40 years now and has only taken up about 700 lots.
  - Only a proportion of land owners seek to subdivide, some elect to retain their properties intact.
- But Palerang is an area in which most demand is for small lot farming and as such, if a 40 ha lot size was to remain for dwellings it is likely many more 40 ha lots would be created at some considerable fragmentation cost to larger holdings. (Determining what proportion of the hypothetical 2,919 lots might actually be created would require a rigorous review of most properties to cull out more challenged land. Such a review is

beyond the scope of this project and not needed to draw the conclusion that the 40 ha lot size has been a factor in fragmenting larger properties and would continue to be a significant factor. We believe at least 1,000 lots are probably economically viable and as such may be excised over time if the 40 ha lot size remained.)

- The 40 ha lot size also allows sale of existing old titles of 40 ha or greater with an implied right to apply for consent for a dwelling. There are approximately 450 small old Crown portions in the size range 40 to 80 ha in the former Tallaganda area. From a sample survey of the GIS data we estimate approximately 200 now appear to have been transferred into separate ownership.
- Other fragmentation of larger properties has occurred using grouping of small lot transfers to create additional ownerships over 40 ha. Perhaps 200 further small ownerships have been generated from this source.

**So in total, over 40 years, the 40 ha dwelling lot size in former Tallaganda area has seen perhaps 1,100 small farms split out of larger holdings and potential remaining to easily double that if market demand dictated. The conclusion is clear that the 40 ha lot size is causing some fragmentation of larger holdings. But even today, nearly 70% of the whole 40 ha lot size area is in holdings over 200 ha.**

**If protection of the remaining agricultural holdings in larger sizes is the strategic goal, a change from the 40 ha standard to a higher lot standard, seems justified. But there are significant implications with any change and these are explored in the following Sub-sections 3.4 to 3.6.**

### 3.3.2 The 80 ha lot size area

Council's GIS data was interrogated for the 80 lot size area (largely the section of Palerang in the former Yarrowlumla Shire) to reveal 201 lots in the size range 80 to 119 ha where the lot was not a Crown portion and hence had been created by some form of private subdivision. Not all these lots would have been specifically created under the 80 ha lot size provisions in force since 1986 as they represent all non-Crown lots in that size range and many would have been created much earlier than 1986.

But from a quick survey of these lots perhaps 80 to 100 are in separate ownership and as such the 80 ha lot size has facilitated that division of ownership.

The current provisions also allow lot averaging to create small dwelling lots down to 8 ha. For example, a landowner with 160 ha can apply for subdivision to create 2 lots, one could be 8 ha and the other lot, the residue of the property - 152 ha.

Using GIS data, it is estimated approximately 380 lots with an area of between 8 and 40 ha exist in the 80 ha lot size area which are not original Crown titles. A proportion of these, which we estimate to be approximately 250 have been created to date under an averaging provision. Map 2 depicts the location of these lots and the spread seems reasonably even across the 80 ha lot size area. Most are in separate ownership.

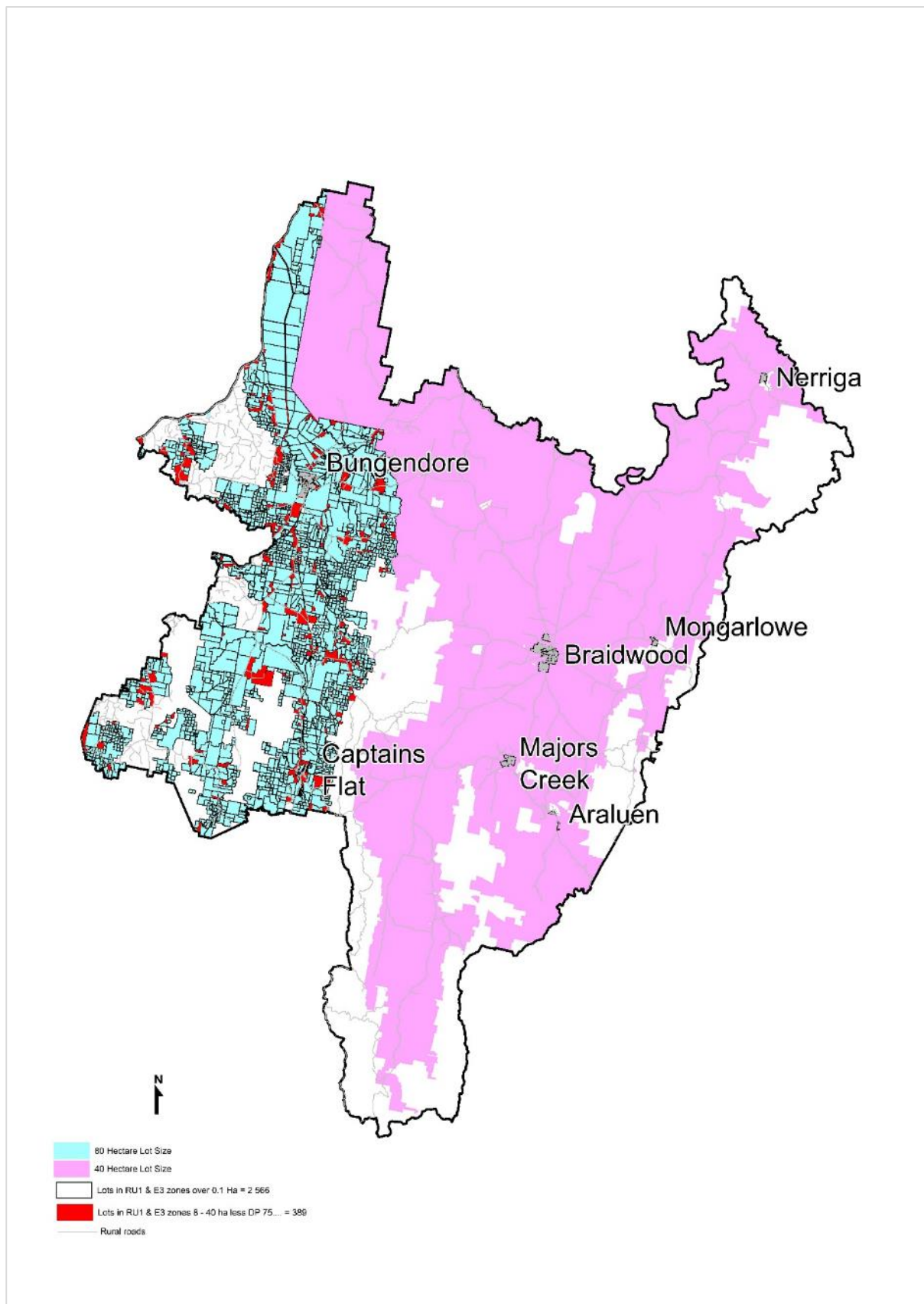
The 80 ha lot size area still has 282 properties 80 ha or larger. And there are 115 properties over 200 ha which indicates some commercial scale. There are 23 large holdings ranging from 800 to over 5,000 ha which mostly seem to be large commercial agricultural operations although a few have large areas of lower quality agricultural land.

Overall, approximately 70% of the 80 ha lot size area is in properties over 200 ha.

The 80 ha lot size area covers about 110,000 ha of private farmland as opposed to the 40 ha lot size area which covers 269,000 ha. But the following assumptions might still be drawn:

- **The 80 ha lot size is possibly a greater brake on fragmentation than 40 ha. There appears to be less demand for small farms over 40 ha. But given the proximity of the large demand market of Canberra, a proportion of people seeking 40 ha may accept and be able to afford 80 ha if it was all that was available.**
- **The 80 ha lot size has been in force 30 years and perhaps about 300 to 400 smaller lots have been created from former large properties in that time. But still nearly three-quarters of the total RU1/E3 zoned area in the 80 ha lot size is in holdings 200 ha or larger which mostly might be called at least part-time farms. So a conclusion seems to be that the 80 ha standard has not contributed significantly to the fragmentation of commercial scale holdings.**
- **80 ha of better quality agricultural land in Palerang would not under normal commercial beef or sheep operations be of a scale to generate a real net return once true operational costs are deducted. If conserving the remaining holdings of commercial viability for at least part-time agriculture is the goal, then lot sizes more like 200 ha seem required. However, the data above suggests an 80 ha lot size is to some extent a brake on fragmentation of commercial holdings over 200 ha and as such it seems questionable if a lot size above 80 ha is necessary.**

**Map 2: Small lots created by subdivision in the 80 ha lot size area**



Source: Developed by GBPS from Council GIS data.

### 3.4 IMPLICATIONS OF A LGA WIDE 40 HA LOT SIZE

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Yass Valley Council has proposed an amendment to its LEP to reduce the lot size in its general rural zones from 80 ha to 40 ha across the LGA. As of drafting this Discussion Paper, Yass Valley Council has resolved to proceed with a planning proposal to change the lot size to 40 ha.

Should this amendment succeed to gazettal, there are obvious planning implications for the Palerang LGA as some of the arguments in the reports on the Yass Valley proposal may have applicability in the Palerang LGA.

Most of the argument in support of the 40 ha proposal in Yass Valley is summarised in the report “Yass Valley Rural Lands Planning Proposal - Independent Review” (Booth Associates et al, June 2014).

The principle arguments in favour of an LGA wide 40 ha lot size for Yass Valley seem to be:

- There is a quite high proportion of smaller ownerships in the section of the LGA within 40 minutes commute of Canberra. (Note: this is not so much the case in the Palerang LGA where almost 70% of the LGA is in holdings over 200 ha and even closer to Canberra that proportion holds.)
- The high proportion of small ownerships and high per hectare land value close to Canberra means the *horse has bolted* regarding trying to conserve larger properties.
- Land values in this area are already well beyond commercial agricultural prices and as such commercial agriculture is challenged in the south-east of the LGA. (Rural land values are also very high in the west half of Palerang.)

The core consideration is that a lot size of 40 ha for the whole Palerang LGA is likely to accelerate the fragmentation of many larger commercial scale holdings over time. The questions from the Yass Valley work warrant careful consideration, for example:

- What future have larger agricultural holdings in an area within commuting distance to work in a large city and the associated pressures for subdivision and speculation in land values that proximity generates? What economic and social difference is there in more commercial part-time farms as compared to full-time larger holdings in an area of development pressure where people can get off-farm work to cross support a part-time farm?
  - Land prices certainly rule out farm aggregation on the basis of what agriculture can earn on the investment.
  - Farm succession is challenging where ‘buy outs’ of family members are required, meaning either holdings are fragmented or sold to corporate buyers with speculative price creep in mind as much as agricultural return.

**Should the Yass Valley proposal succeed there is a significant implication for the Palerang LGA. In a general sense, all the Councils surrounding Canberra are in competition for land supply. If Yass Valley is to have the sudden capacity to create a large increase in 40 ha lots then it raises the question why Palerang should constrain its landowners and might introduce a 40 ha lot size across the LGA as well.**

Discussion with land agents indicates more demand for '100 acre' (40 ha) lots than larger properties so increasing the supply of such properties near the ACT will likely see an increase in uptake and the further fragmentation of larger properties.

According to the Yass Valley reports, a large proportion of properties close to Canberra are already fragmented, but actual tallies of property sizes in the half hour commute distance to Canberra are not provided and an examination of their report mapping reveals quite a number of properties over 200 ha and a considerable number over 100 ha in the third of the LGA closest to Canberra.

The difference in property sizes in the sections of Palerang and Yass Valley closest to the ACT may not be significant but would require a more detailed survey of Yass Valley data.

It would appear a 100 ha property with good average agricultural land in either Palerang or Yass Valley would struggle to run 50 breeding cows in average seasons. The net return from 50 cows is quite small and it is debatable if it might be termed a commercial operation. Forty ha is surely only a hobby scale farm without any real margin of net return over operational costs.

Allowing more 40 ha properties in Yass Valley or Palerang LGAs will change agricultural activities to more hobby scale operations. Evidence from recent Garret Barry Planning Services work in the Eurobodalla LGA points to a fact that hobby scale farms do not necessarily produce less output per hectare to large farms, some actually produce considerably more per hectare. The owners of hobby scale farms often subsidise the inputs way beyond what a commercial producer would. As long as there is the wealth and off-farm income to fund the hobby operations, it may be questionable that the local agricultural economy actually suffers from fragmentation in an area like the Palerang LGA with the more significant pressures for hobby scale lifestyles.

The purchase of inputs by hobby farmers per hectare may exceed commercial farmers and support local produce businesses. The annual overall turnoff of cattle, sheep, etc. across the LGA may not drop at all (i.e. production may not necessarily be lower under small farms compared to larger holdings - especially in a region where high land prices constrain the aggregation of holdings to create the economies of scale of large holdings).

Rural production is not only a function of property size. Factors such as technology, innovation and specialising product can make a greater difference. Where aggregation to create larger holdings is a factor in lifting production, areas close to the ACT are ruled out by the already inflated land prices caused by that proximity.



### 3.5 IMPLICATIONS OF AN 80 HA LOT SIZE ACROSS THE LGA

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An 80 ha lot size across the LGA means no change for the current 80 ha lot size area close to the ACT but has implications for the 40 ha area that currently comprises nearly 70% of all the general rural land area. For example, the hypothetical subdivision potential lessens for all land owners with properties over 80 ha in the 40 ha lot size area.

The following is a summary of some of the potential impacts of increasing the lot size in the current 40 ha area to 80 ha:

- Property owners between 80 and 160 ha would lose any consideration to subdivide, whereas they currently have a theoretical potential of 1-3 new lots. There are about 305 such properties. (See Map 3).
- Properties over 160 ha basically drop their potential yield by half. For example, a 400 ha property would have a 10 lot potential under 40 lot size and 5 lots under an 80 ha lot size. There are approximately 380 properties over 160 ha in the 40 ha lot size area, of which approximately 274 are over 240 and 111 over 480.
- Unless the actions suggested in Section 3.7 were taken, some owners of vacant properties between 40 and 80 ha with a current ability to apply for consent for a dwelling may lose such an ability. There are about 725 such properties of which about 540 are estimated to be vacant. (See Map 4).
- In terms of land use merit, an 80 ha lot size might lessen the fragmentation of larger holdings given likely market resistance to the larger lots. Map 5 depicts the current 510 existing ownerships across the LGA above 160 ha in area where the property is mostly class 4 or better agricultural land. Map 6 is similar and depicts the 348 properties over 250 ha. If the lot size remains 40 ha it seems certain more of these properties would be fragmented over time.
- 80 ha in most cases is still below a commercial part-time farm size but may still be an effective barrier to fragmentation of larger holdings given greater market resistance to a large lot size.

The loss of subdivision potential through increasing the lot size needs to be qualified by the fact the theoretical and real potential for subdivision for some properties is very different. A more isolated property with poor access may face large development costs when subdividing, sometimes of a scale to make the subdivision uneconomic. At the other extreme, a property with existing 40 ha titles which is able to be easily accessed and serviced allows the owner to sell off existing titles, without subdivision and with minimal development costs.

### **What is the value of a dwelling right to a rural property owner?**

The value of a potential dwelling in rural land as opposed to just farm value is quite variable.

Council land transfer data for 2014 was interrogated and produced the following deductions:

- Larger rural properties of average land quality and not close to the ACT seem to be fetching \$2,000 to \$2,500 per ha and around \$3,500 per ha where closer to Canberra.
- 40 ha properties range from \$3,000 per ha for remote bush blocks to around \$7,000 per ha for good agricultural land with good roads and within commute time of Canberra.
- This would suggest the dwelling value in a 40 ha ownership might be something like \$500 per ha for more remote properties and maybe as much as \$3,000 per ha for 40 ha properties of quality land close to ACT.
- The property owner does not receive all the dwelling gain through selling parts of the property. Where subdivision is required, subdivision and development costs can easily absorb \$50,000 per dwelling on a 40 ha lot and in cases of poor access or substantial distance from power, it can be considerably more. At the other extreme, if the land owner is fortunate to have existing saleable titles without the need for subdivision then much of the dwelling value is returned.
- So landowner returns from a 40 ha standard can range from negative to perhaps as high as  $\$3,000 \times 40 = \$120,000$  more for disposal of a 40 ha parcel with dwelling right as compared to the raw per hectare farm value (without dwelling entitlement).
- If lot size went to 80 ha or larger for the current 40 ha lot size area, there is the added impact of market resistance to lots much over 40 ha. As a result not only would fewer lots be possible but the larger lots may not be as saleable.

### **Are there measures that might lessen the value loss for landowners?**

In the past, some Councils made a move to larger lot sizes to protect commercial scale holdings but were able to offer some provisions to help offset the perceived and real economic impacts of a lift in lot size. For example, Bega Valley Shire moved from a 40 ha lot size to a 120 ha lot size in 1987 but offset this by allowing landowners similar subdivision potential to the 40 ha lot size but as small lots, generally under 10 ha.

With the abolition of concessional lots by the State Government in 2006, the flexibility for such trade-offs was lost and is no longer an option for Council to consider.

A provision that might be utilised is the minimum averaging provision. This provision already exists for the 80 ha lot size area of Palerang.

If, for example, the lot size went from 40 to 80 ha for the current lot size area, lot averaging provisions (if permitted) would have some mitigating effects on the loss of subdivision potential.

Properties over 160 ha could apply to create small lots in a section of their property. For example, a 320 ha property is 4 times the 80 ha lot size and in theory would retain a right to apply for a split into 4 lots each of 80 ha. Lot averaging would just add the flexibility of 3 of the 4 lots being able to be small lots instead of all being 80 ha lots. This also provides gives



greater options for siting for the small lots and allows the residual property to remain of a size that may be a part time agricultural operation.

Overall, there is still the loss of subdivision potential compared to a 40 ha lot size. Minimum averaging just gives a little more flexibility for the larger properties to create predominantly small lots and retain most of the holding in one large lot for continued farming.

There are some negative planning aspects associated with a minimum averaging provision. It is largely a 'shotgun' approach to subdivision with no potential for a strategic approach to where rural residential scale lots are created. As a result, small clusters of lots can suddenly appear against farming neighbours and bring increased neighbour conflict issues such as potential complaints against broadscale agricultural practices like spraying.

The 2009 Palerang Council paper on minimum averaging (Discussion Paper - Comparison of Minimum Lot Size & Average Lot Size LEP Provisions in General Rural Zones) provides a detailed analysis of the advantages and disadvantages of minimum averaging.

A measure that may offset the real and perceived losses of a shift to a higher lot size would be to allow a sunset clause. For example, the PLEP might be amended to introduce an 80 ha lot size but include a clause that allows, say 5 or 10 years for the current 40 ha provision to continue. This may be coupled with the lot averaging provisions so larger ownerships can avoid fragmentation into 40 or 80 ha lots and instead have the option of a cluster of small lots and one substantial agricultural lot.

#### **Conclusions on a larger lot size:**

**We conclude that a shift to an 80 ha lot size (or higher) in the Palerang LGA 40 ha lot size area does have some serious land value considerations for those larger land owners who can economically produce 40 ha lots or existing titles for sale under current provisions.**

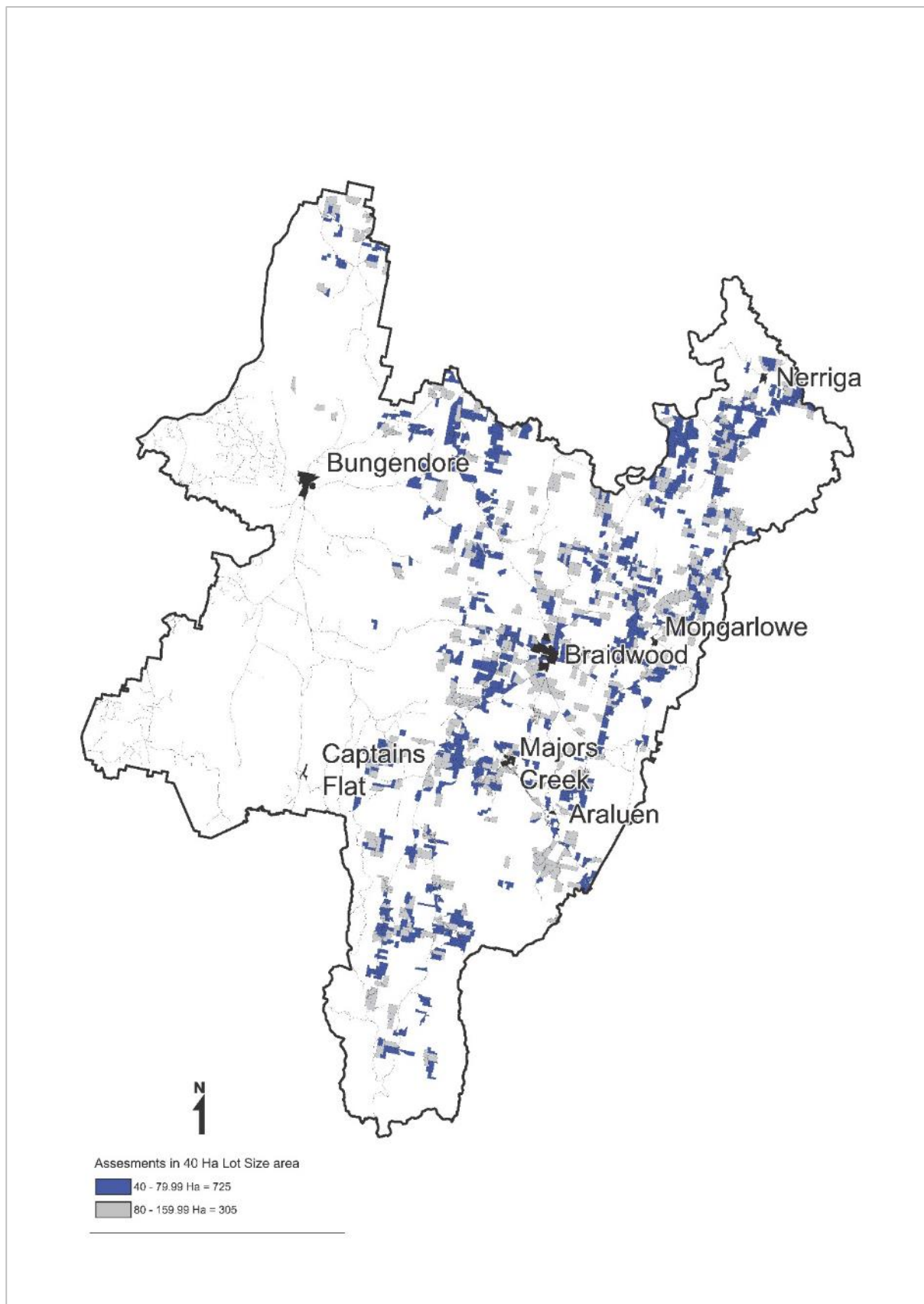
**Is the adverse impact on these landholders warranted in the interests of conserving Palerang agriculture in large holdings? The discussion in Section 3.4 raises some questions as to the benefit of larger holdings to the Palerang economy.**

**The Consultants feel the adverse impacts of an increased lot size warrant some offset if Council was to move to a higher lot size.**

**The minimum averaging option for subdivision may assist but this would only provide a partial offset to larger land owners and has some positive and negative impacts in terms of land use planning.**

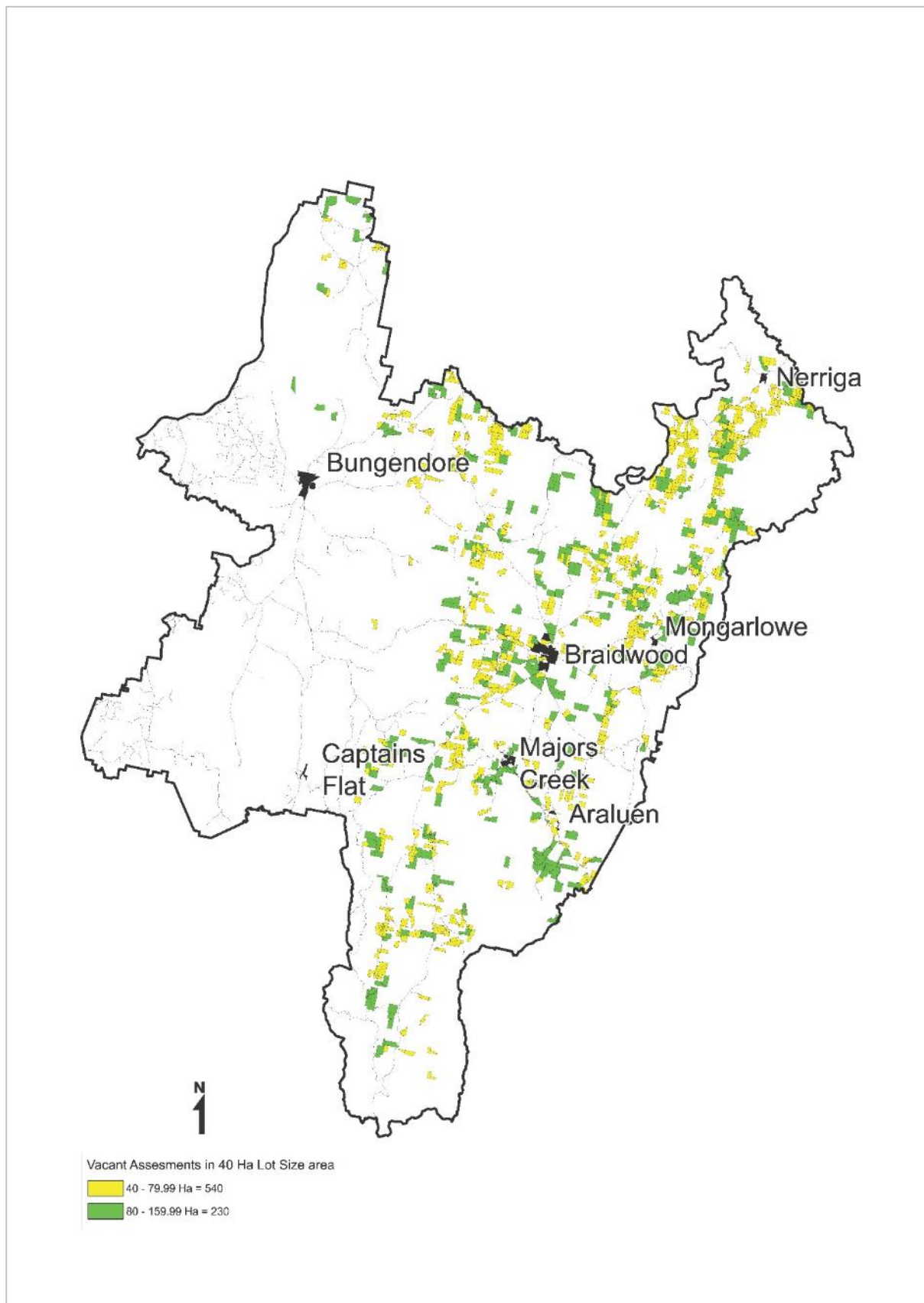
**If the 80 hectare lot size was coupled with a minimum averaging provision and there was a sunset clause of 5 to 10 years that would allow a reasonable time for landholders to take advantage of the current provisions if they had such desire but also see an eventual end to the smaller lot size, there may be benefits that might assist in retaining larger farms.**

**Map 3: Assessments in 40 ha lot Size between 40 and 80 and between 80 and 160 ha**



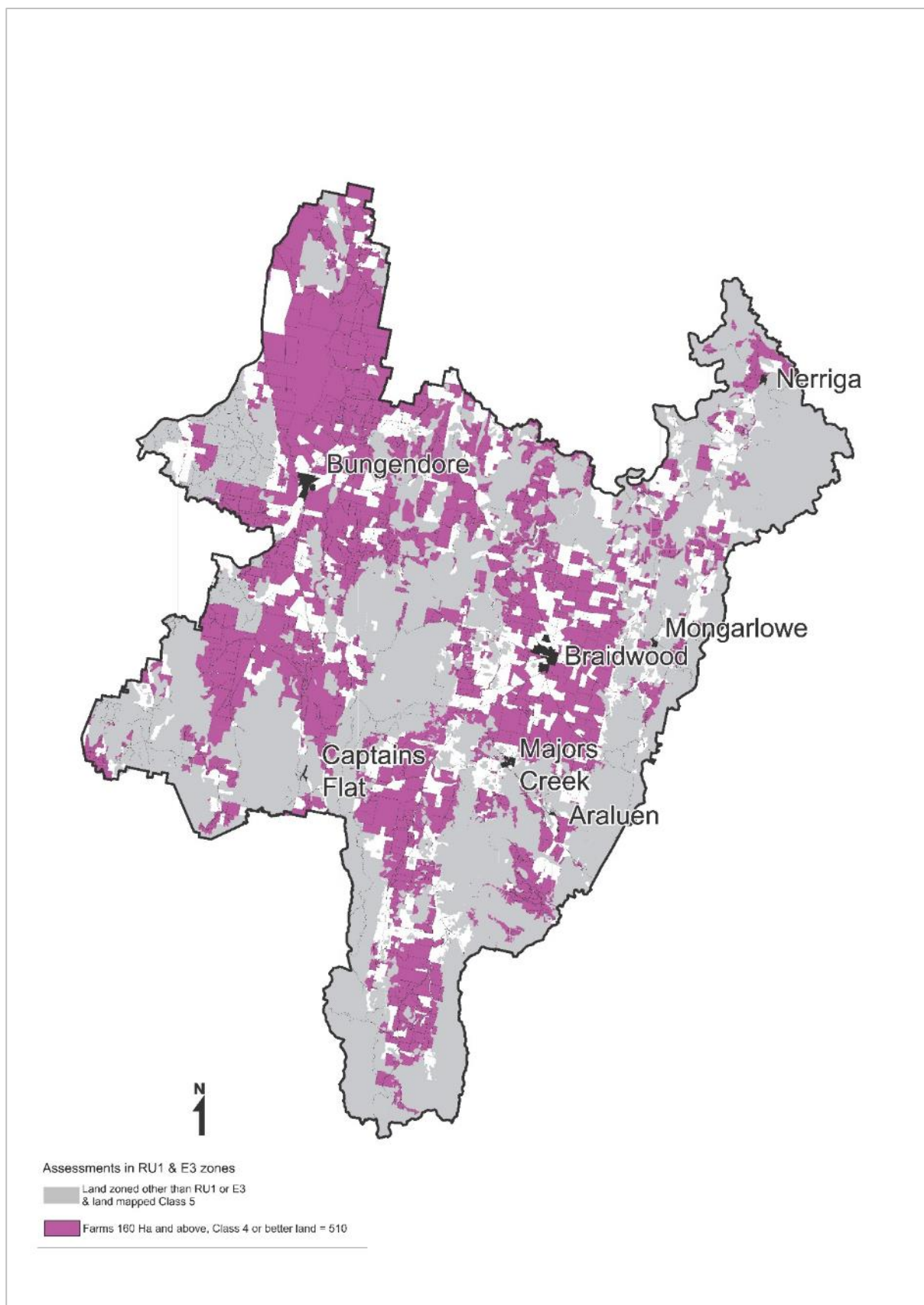
Source: Developed by GBPS from Council GIS data.

**Map 4: Vacant assessments in the 40 ha lot size area between 40 and 80 ha and between 80 and 160 ha**



Source: Developed by GBPS from Council GIS data.

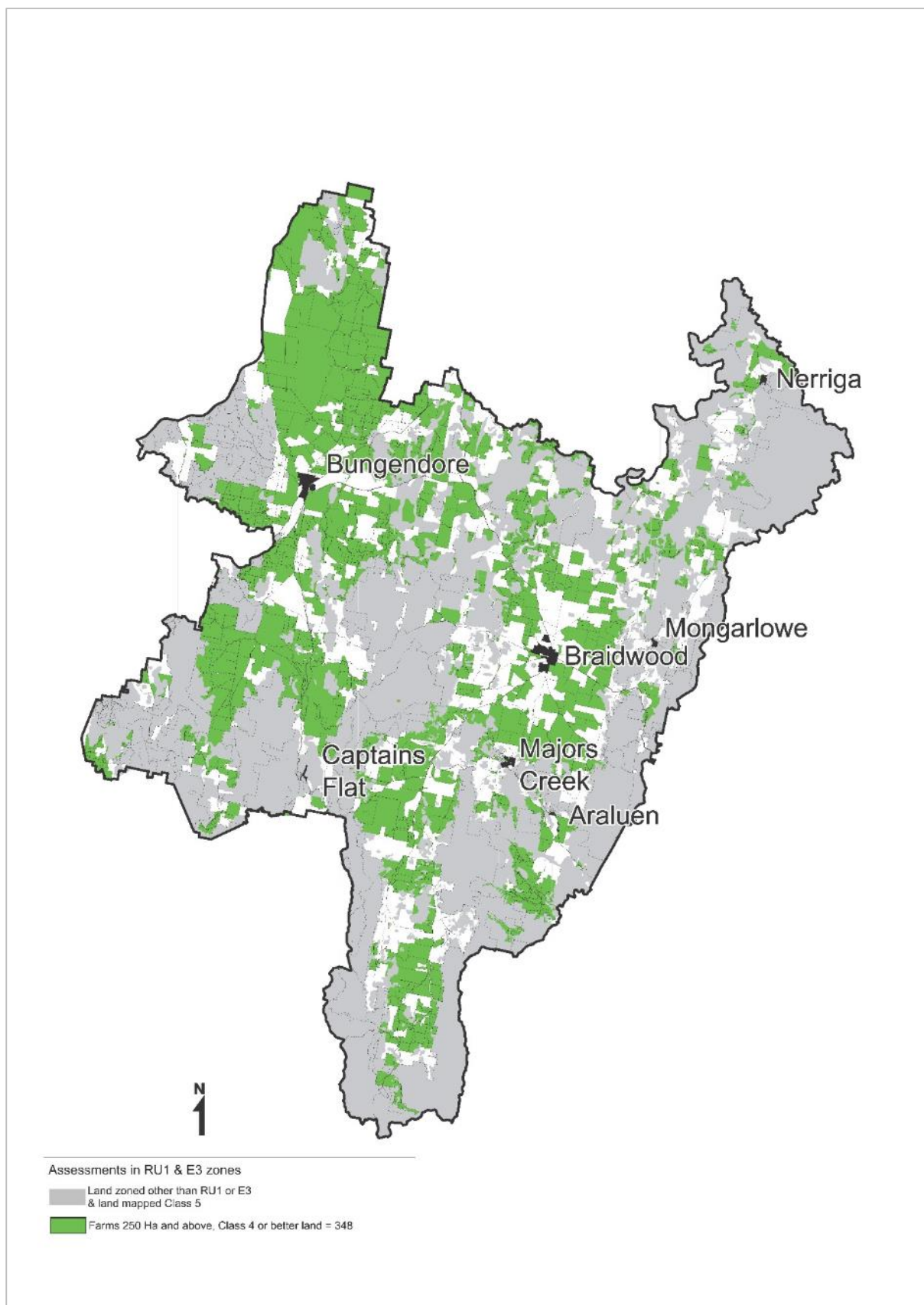
**Map 5: Assessments in the LGA 160 ha and over**



Source: Developed by GBPS from Council GIS data.



**Map 6: Assessments in the LGA 250 ha and over**



Source: Developed by GBPS from Council GIS data.

### 3.6 IMPLICATIONS OF A VARIABLE LOT SIZE

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There is no requirement for a lot size to have to apply to a uniform area or land use zone. In theory, lot sizing can vary from lot to lot. Given the Palerang LGA has areas of fragmented holdings (e.g. where the majority of ownerships are under 100 ha) and other areas where most holdings are of a commercial size (e.g. 200 ha plus) it could be possible to create a range of lot size areas across the RU1 and E3 zones based on some assessment principles but in particular based on protecting the larger holding areas from further fragmentation.

By default, areas proposed for smaller lot sizes given they are already fragmented, could become targets for even smaller lot sizes over time as a supply mechanism to address demand for small lot farms.

There are implications and winners and losers in such an approach:

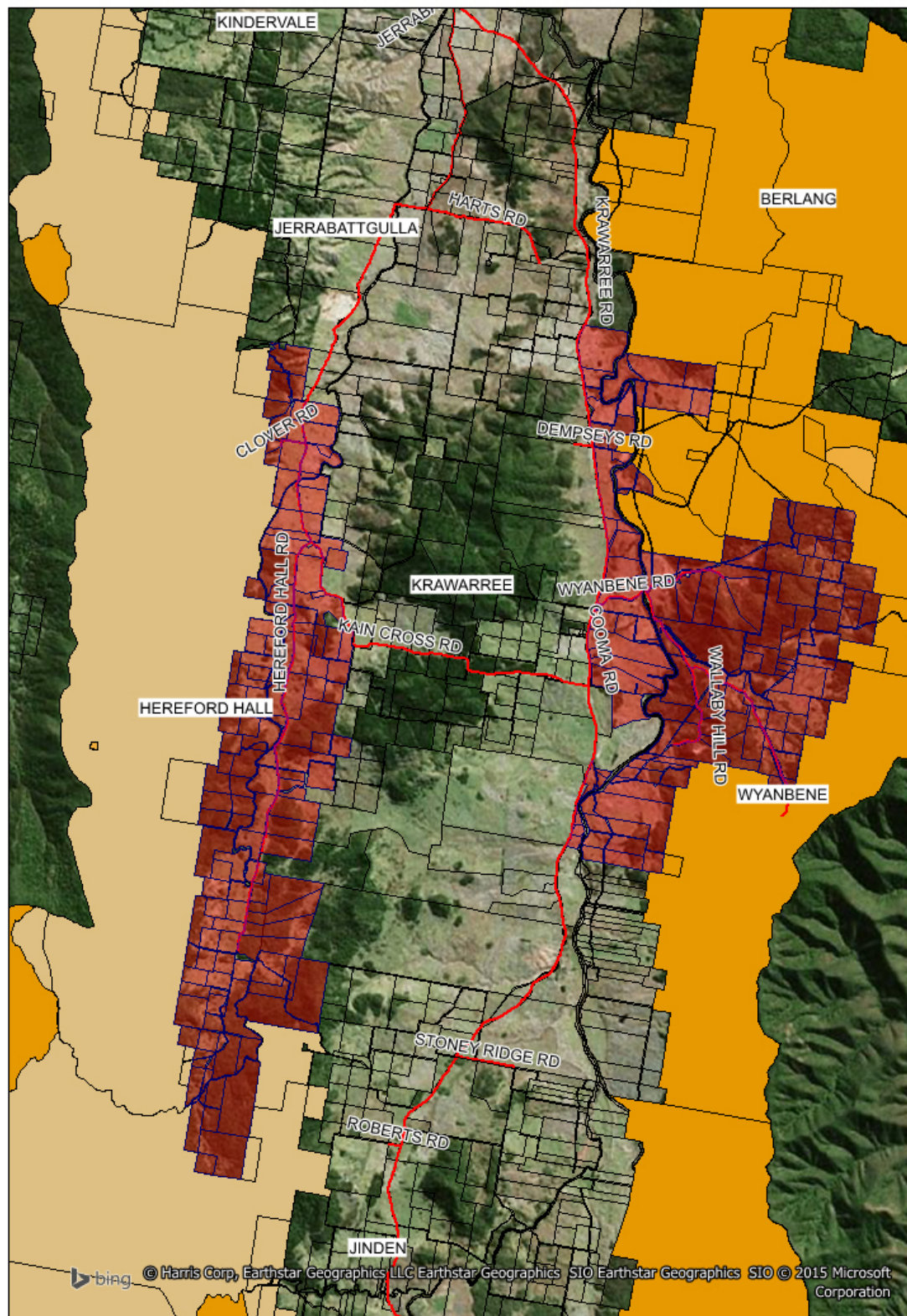
- People in fragmented areas may find the lot size reduces and their subdivision potential increases.
- People owning larger holdings where the lot size might increase would face a loss of theoretical subdivision potential as discussed in Section 3.5. For example, if an area was lot sized 200 ha, as most properties in the area had that sized holding or more, then the theoretical subdivision potential for these owners may disappear altogether for properties under 400 ha and reduce to about 1/5 for the properties over 400 ha.

Some sample areas are modelled below:

Map 7 depicts the Krawarree district in the south of the Palerang LGA surrounding the Cooma Road. From analysing property sizes and land quality in Council's GIS data, it was revealed the red wash areas centres on Hereford Hall and Wyanbene represent mostly smaller holdings under 200 ha without large areas of prime agricultural land. Whereas, the central section of Krawarree is characterised more by larger holdings, some with a range of land quality but most demonstrating commercial scale agricultural capacity.

Putting aside the loss of subdivision potential at this point, an argument can be mounted that it would be beneficial for commercial agriculture and for limiting further pressure on Council road upgrading to stem further fragmentation of these larger holdings by applying a lot size higher than 40 ha - say 200 ha. Conversely, the red wash areas that are already in a mix of smaller ownership sizes might stay in a 40 ha lot size which would allow a few more splits of properties but not overload these neighbourhoods beyond the capacity of the existing road standards.

**Map 7: Krawarree district lot size modelling**



Source: Developed by GBPS from Council GIS data.



The second model is centred around Braidwood as depicted in Map 8.

In this map, the red wash area comprises mostly properties below 200 ha and with a high proportion below 100 ha. Whereas much of the remaining area of rural land close to Braidwood is in larger holdings of good quality land.

The red wash area includes good quality land but is largely fragmented in ownership. It mostly has good road services or capacity to expand them. As such, this might be a model of an area for smaller lot sizes to 20 or even 10 ha in parts, perhaps sections might be suitable for rezoning for small lot farms if the RU4 zone is selected. Under this model most of the larger properties outside the red wash would be conserved by a 100 ha or 200 ha lot size but the fragmented area would become a base for growth of small lot farming opportunities and add to the diversity of rural settlement choice supporting Braidwood.

### **Conclusions on a variable lot size**

**A variable lot size adds a degree of sophistication to just applying a single blanket lot size, especially in an LGA like Palerang where there is a diversity of holding sizes and areas that are already fragmented.**

**A variable approach allows fragmented areas to be further reviewed as a source for additional small lot farms without the need to break up larger holdings.**

**Sections of the LGA can, where most properties are larger and of productive land, be lot sized to conserve those larger holdings. However, for these areas, the loss of subdivision potential has the same issues as detailed in Section 3.5.**

**If the conclusion is that larger holdings of productive agricultural land need to be protected from fragmentation, for the wider economic and social good of the Palerang LGA, then a variable lot size has benefits over a single, LGA wide, lot size. Minimum averaging might be combined with variable lot sizing for the larger lot size areas.**

**As in Section 3.5, there would still be some loss of perceived and real subdivision potential in a shift from the current 40 and 80 ha lot sizes to a variable one. This would impact where current 40 ha areas went to a higher lot size. But as in section 3.5, Council might allow a sunset period and protect existing dwelling expectations through mapping or a new existing holdings date.**



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### 3.7 DEVELOPMENT OF A PREFERRED OPTION FOR LOT SIZE IN THE GENERAL RURAL AREAS OF PALERANG

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Sections 3.1 to 3.6 explore available options for lot size in the general rural area.

They expose a fundamental question that needs resolution before a preferred lot size option might be selected. That question is: ***what is the true value to Palerang of raising the lot size?***

Traditional planning theory seeks to retain commercial scale agricultural land in larger holdings. This action is seen as having the following benefits:

- In many situations, it can be demonstrated that economies of scale apply in commercial agriculture and any LGA retaining its agricultural lands in larger holdings has more flexibility to retain that economy of scale and possibly allow for aggregations to increase it.
- A point is reached in the fragmentation of rural holdings where the scale falls below a commercial scale and often requires a hobby farming approach where the land operator is prepared to put in more capital inputs than the land can return. In other words, the net productive value of the land in terms of the agricultural economy of the area falls or may become negative.
- A larger lot size can contain land value speculation and allow land process to retain relevance to the capacity of the land to produce food and fibre. This may also assist in improving the prospects of farmers aggregating holdings to expand properties and reap greater economies of scale.
- Larger lot sizes can also have service benefits for local councils. Where scattered subdivision for dwellings occurs, it can overtax rural roads and utility services that otherwise may have remained adequate for rural scale purposes. This can generate costly service upgrades for the community that often are not fully funded from the developer of the rural dwelling lots.

This traditional theory of the benefits of larger lot sizes is simplistic in the context of a LGA like Palerang where:

- There has been a long period of availability of small lot sizes (40 - 80 ha) which allow significant opportunities subdivision and sale of rural dwelling parcels.
- There is substantial pressure and demand for rural living driven by an adjacent expanding regional centre.
- There has been a significant uptake of existing smaller properties scattered across the LGA.
- The economic benefits and costs of smaller farms as opposed to larger ones are less clear. Certainly in most cases small farms are supported, even subsidised in their operation by off-farm income. However, there is little evidence of overall production declining (in terms of total stock numbers across the LGA) under increasing small lot development and the ability to apply higher capital inputs because of off-farm income (pasture improvement, water supplies, and such like) can mean greater vitality for local rural supplies and the agricultural support businesses in the Palerang LGA.

- Research reveals that, while there certainly has been fragmentation over the past 30 to 40 years due in large measure to small lot sizes, even today close to three-quarters of the rural land resource outside small holding zones is in ownerships over 200 ha.

The local factors in the first three dot points above mean the rural land prices have long been factored into the development potential of the land under the current suite of planning controls and the extent of regional demand. As a consequence, a rise in lot size means a loss of real development potential for many rural landowners.

This high land value also works against farm aggregation and generally the value of agricultural land in Palerang is so high as to be well beyond reflecting a sound investment return from commercial agriculture. There is a built in speculative anticipation element in the land value – in other words landowners are relying on real land value growth over time at rates higher than what commercial agriculture would deliver and certainly over the past few decades that speculative growth has occurred and is likely to be a driving factor in the purchase of larger farms.

If the loss of development potential to many rural land owners was not so significant, then we are clear there are benefits in Council adopting a policy position of a variable lot size approach as detailed in Section 3.6. Retaining larger holdings has a built in resilience for the rural economy and for real net production gain. Creation of a large proportion of small lot operations supported by off-farm income has risks, for example:

- A prolonged period of economic stringency may see off-farm incomes shrink and both production from and management of small holdings decline.
- There are costs to the community in allowing scattered small rural living options in terms of road and utility upgrades.

It is open to Council to stay with the 40 and 80 ha lot size areas as they are. Their location is more historic than a planned strategy to benefit the Palerang LGA but it is extremely difficult to design a change without there being losers and winners amongst the rural land owners.

It also may be pragmatic for Council to wait for the resolution of the Yass Valley planning for a 40 ha lot size across the rural areas of their LGA. Should the State Government permit that proposal, there is some equity argument for Palerang rural land owners to have the same LGA wide 40 ha standard. Following Yass Valley also has some risks for the long term agricultural economy of Palerang in exposing it to a reliance on a high proportion of small lot farming and to issues like increasing demands for road improvements without the income sources to address such improvements.

There seems to be little benefit in raising lot sizes above 80 ha in the context of the land pressures in the Palerang LGA and evidence that 80 ha seems to be a useful break on fragmentation while retaining commercial part time scales.

Measures such as minimum averaging and a sunset period for the 40 ha area can significantly lessen the adverse impacts caused by an increase in lot size.



## RECOMMENDED LOT SIZE OPTIONS

While there are theoretically a large number of lot size options for the broadacre areas, several have some clear disadvantages that suggest they be culled.

### ***Lot sizes over 80 ha***

While lot sizes over 80 hectares may achieve a greater brake on fragmentation, the Palerang LGA is already substantially a part time farming area with supplementary income options greater than most rural LGAs and the adverse value impacts of lot sizes over 80 ha are not considered justified for the minor potential additional break on fragmentation over an 80 ha lot size.

Also most of the LGAs near the ACT have lot sizes in the range of 40 to 100 ha so it would seem inequitable to require Palerang LGA landholders to have to be more constrained.

### ***All Palerang broadacre areas to have a 40 ha lot size.***

A minimum lot size of 40 ha across the Palerang LGA is not supported as it may increase the potential for the fragmentation of the existing larger properties in the current 80 ha lot size area and continue higher levels of farm breakup in the current 40 ha lot size area. However, it may be difficult to argue against if the Yass Valley 40 ha proposal is accepted by the Minister.

The recommendation to Council is that the following three options be considered by the community and government agencies before a final option is selected.

### ***Lot Size Option One***

**That Council develops a planning proposal for lot sizes in the general rural areas (RU1 and E3 land use zones) based on the following principles:**

- **That the areas where ownerships are mostly below 160 ha in size be lot sized at 40 ha where the land demonstrates constraints in terms of access, topography, high bushfire hazard and environmental values and where the land is not well suited for further intensification of small lot farming in proximity to Palerang settlements.**
- **That those areas where ownerships are mostly below 160 ha and the attributes are well suited to small lot farming and in proximity to Palerang settlements be reviewed for a possible range of lot sizes down to 10 or 20 ha and some sections form a reservoir for future extensions of rural residential zones.**
- **That those areas where ownerships are predominantly 160 ha or greater and comprise mostly lands of agricultural class 4 or better, be lot sized 80 ha as a protection measure to limit fragmentation but have access to a minimum average lot size provision, with a lot range of 5 to 20 ha.**
- **That a sunset clause of 10 years apply to the 40 ha lot size area to allow time for landowners to transition to the 80 ha standard.**
- **That DCP provisions and Section 94 contributions be further developed to guide the siting and control the quality of small lots created under the minimum averaging provisions.**

- **That existing dwelling expectations on separate ownerships be protected using the techniques modelled in Section 3.8.**

Map 9 is a preliminary attempt to identify these various areas but would require further development before a planning proposal might come forward to resolve the mix of lot sizes.

### **Advantages and disadvantages of Lot Size Option One**

The advantages of this approach are that larger holdings retain their flexibility for commercial agriculture and the numerous areas already fragmented become targets to either remain at similar densities to current or to be a supply source for further rural residential or for smaller lot farming. Thus, both ensuring a wide diversity of choice for rural living and all levels of farming from hobby scale to commercial and conserving the commercial agricultural resource.

We consider 80 ha will be a reasonable break on the fragmentation of larger holdings as it is a size in much less demand than 40 ha and the use of the averaging provision with a 20 ha maximum will see larger holdings mostly retained in a large residual lot. Yet it does retain some development value for many landholders. The minimum averaging proposal will require a strengthening of DCP and contribution plan provisions to ensure the wider opportunities it may create for small lot subdivisions are controlled with regard to the less capable areas for servicing and to require buffers for commercial agriculture and maintenance of scenic quality. The averaging provisions coupled with a maximum 20 ha size for new subdivision lots would preserve the bulk of the size of larger holdings.

This model would lessen the subdivision potential for many landowners. But realism needs to be applied to sort out what is an economic and well planned subdivision, achievable under the current plan from the remainder of the hypothetical potential of just applying the lot size to derive the maximum yield. To soften the impacts and allow a transition, a 10 year sunset clause could be applied to the 40 ha lot size.

There also needs to be realism as to the potential lot uptake sought by the market in the medium to long term. The theoretical yield across the LGA from just dividing lot size into properties, even if adjusted down in terms of economic and adequately planned subdivisions, is many times the likely market demand. In other words, the capable lot yield would not likely be developed even in the long term and as such the lessened yield of the recommended proposal may not equate with a significant real loss for many landholders.

Some examples of the proposed changes are modelled below:

#### **Example 1: An 800 ha property in the current 40 ha lot size area**

Yield under the current plan would be a maximum theoretical potential of 20 x 40 ha lots.

Yield under the proposal would be up to 10 lots, 9 of which would have to be less than 20 ha and one large residue lot.

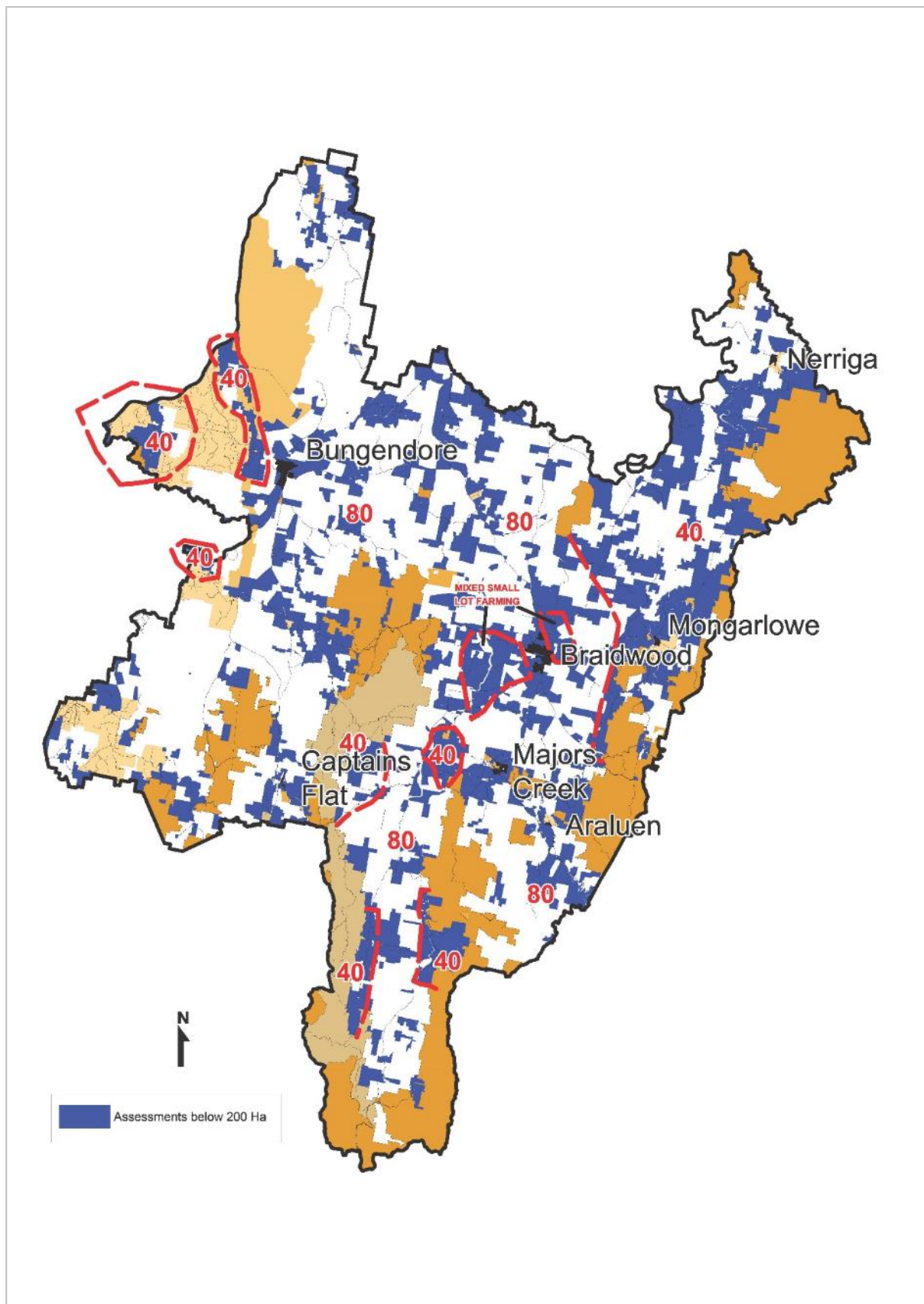
If the property has existing suitable titles that could be assembled into one or more 80 ha parcels then a consolidation may achieve a dwelling lot for each such group.

#### **Example 2: A 100 ha property in the current 40 ha lot size area**

Yield under the current plan would be a maximum theoretical yield of 2 dwelling lots.

Yield under the proposal would be nil as at least 160 ha would be needed for any subdivision potential.

**Map 9: Preliminary mapping of the recommended lot size model**



Source: GBPS utilising Council GIS data.

### ***Lot Size Option Two***

A common 80 ha lot size for the whole broadacre area but with minimum averaging and with a 10 year sunset clause for areas currently with a 40 ha lot size.

#### **Advantages and disadvantages of Lot Size Option Two**

Like option one, this option has the potential to reduce the fragmentation of larger commercial farms. It would be simpler for administration and community understanding of the provisions as one lot size would apply across all the broadacre areas of Palerang LGA. Also like option one the sunset and minimum averaging provisions could be applied to lessen the adverse impacts of a rise in lot size.

Unlike option one this option would not differentiate the fragmented areas from the larger commercial farms. This is not to say that Council can't review the data from the Rural Lands Study and draft Strategy, select some fragmented areas and later introduce some new zones or lot sizes for such areas. Initially, Option 1 would have the advantage of increasing small farm options sooner and setting some certainty as to where further small lot areas might be focused and servicing could be planned in advance.

### ***Lot Size Option Three***

This is the 'do nothing' option of leaving the lot sizes as they are in the PLEP. (i.e. 80 ha in the west and 40 ha in the east.)

#### **Advantages and disadvantages of Lot Size Option Three**

The advantage is that there is no change and hence no loss of real or perceived subdivision value. There would be a greater risk of commercial farm fragmentation in the 40 ha lot size area over time. In the context of the Palerang LGA, the extent of the problem is difficult to qualify. There would be no new options for small lot farms and variations/increased flexibility in the introduction of provisions such as lot averaging.

## **3.8 PROTECTING EXISTING EXPECTATIONS FOR A DWELLING AND SIMPLIFYING PROCEDURES TO DEFINE DWELLING PERMISSIBILITY**

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The current planning provisions specify a number of paths by which the owner of rural land may apply for development consent for a dwelling (clause 4.2A of the PLEP). They are summarised below:

- If the land is of an area equal to or larger than the specified lot size in the PLEP minimum lot size map for that land. For example, 40 ha in the east of the LGA.
- If the land comprises a lot approved under the current or a former planning scheme for the purposes of a dwelling. For example, a lot created under the former concessional lot provisions or when lots size requirements were less than current.
- If the land meets the definition of an existing holding in the PLEP which is a defined parcel of land as at a specified past date. This is complex in the Palerang LGA as it is

an LGA made up of parts of five former council areas and each had a different existing holding date. These five dates have been rolled over into the PLEP.

The second and third dot points above are paths by which some parcels below the lot size area can qualify for a dwelling. Utilising Council GIS data, we have estimated that there are currently approximately 760 ownerships in the general rural area that currently do not have a dwelling.

While not all of these would qualify for a dwelling under the above provisions, a significant proportion would. Unfortunately, to determine an accurate tally would involve an assessment of each ownership to see if it meets one of the above PLEP provisions (which is beyond the scope of the Rural Lands Study).

Map 10 depicts vacant ownerships in the general rural area. In addition to the 760 small vacant ownerships, we estimate that there are a further 691 between 40 ha and 100 ha and another 239 between 100 ha and 200 ha. Most of these 2 larger categories would qualify for a dwelling currently by being over the current lot size.

Changing the lot size can affect the ability to be able to apply for a dwelling unless some amendments are also simultaneously made to the dwelling provisions. For example, if the lot size changed from 40 ha to 80 ha in an area and there was no change to the current PLEP provisions that allow a DA for a dwelling, then current owners of properties between 40 ha and 80 ha would lose the option to apply for a dwelling under the test of meeting the lot size. Some of these owners might still qualify under the other two tests above but those currently relying on lot size would lose the ability to apply for a dwelling.

In the interests of equity, existing opportunities as defined in the PLEP to be able to apply for development consent for a dwelling should be preserved.

The current provisions relating to existing holdings are cumbersome and complex with regard to people being able to simply and transparently assess if a parcel of land qualifies for a dwelling. Conversion to a map to define land where a dwelling is permissible with consent has many advantages and can easily be read by most people to resolve if a dwelling is permissible with consent. However, accurate mapping of all existing holdings is a massive resource task for Council, requiring an examination of most ownerships under the lot size and, if raising the lot size, included the need to review all ownerships under the new lot size as well. We estimate that the task would take several person months of effort and given the risk of errors in accurately determining ownerships in some cases up to 50 years ago, even this effort will not produce precise results.

**The following options are recommended for further review and community comment:**

**Option 1 - A New Holding Date**

- **Council move to a new 'existing holdings' date for the entire LGA. It should be a recent past date (i.e. earlier than October 2015) to avoid speculation and a date at which Council has accurate GIS mapping of current assessments.**
- **Council produce a map of all assessments in the general rural area under the resolved lot size(s) as of that date. This should be a simple process if the date coincides with a known date of assessment mapping.**



- **At the same time any LEP amendment for a change in lot size is gazetted, the LEP dwellings clause (4.2A) is also amended to introduce the new existing holdings date and to expand the definition of ‘existing holding’ to include land defined on the map, with the map becoming an overlay map attached to the LEP.**
- **Council might consider applying a sunset clause to the new date of say 10 years so that by that time the process simplifies to just the map for definition of the right to apply for consent for a dwelling on land below lot size. (The reason for retaining a date for 10 years is one of equity so if a landholder is overlooked by the mapping process, they have a window of time to apply for a dwelling and/or be included on the map.)**

There is an issue with this option in that it would expand the number of owners able to have a dwelling, as a proportion of the estimated 760 vacant ownerships under 40 ha do not currently qualify for a dwelling. But we estimate the proportion is not great – perhaps 200. These owners would receive a windfall but merit assessment would still apply as DA is required for all rural dwellings and there would be a cull of any land unsuitable for a dwelling. There are a raft of issues already with some of these ownerships such as dwellings developed without consent and such like that would need to be resolved.

Council would also then achieve a clean starting date from which permissibility for a dwelling would be transparent and unambiguous across the LGA. This option requires less resources to implement than option 2B and has more benefits regarding simplicity and administration than option 2A.

### **Option 2A - The Status Quo**

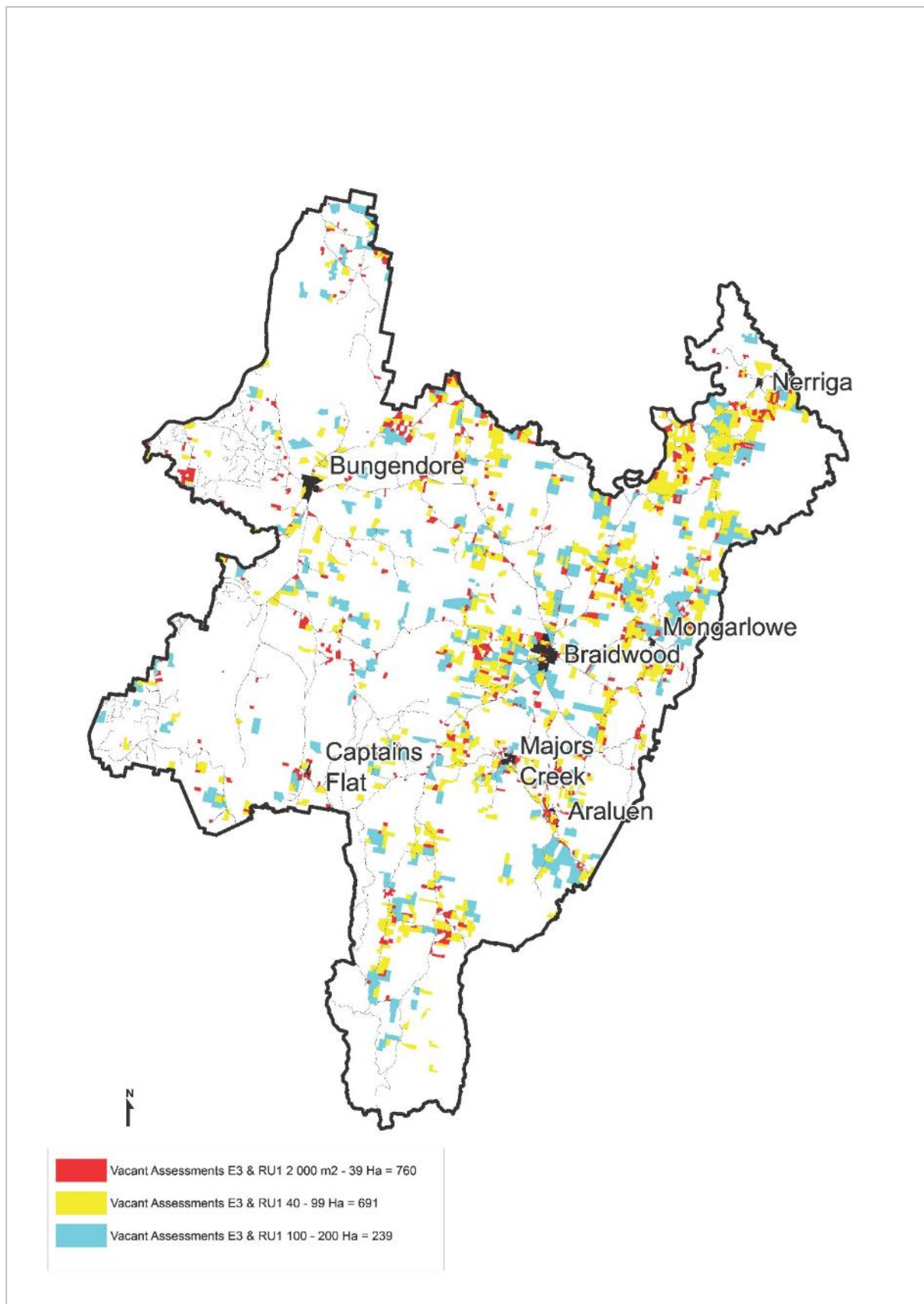
**This option could apply if there was no change in lot sizes. It is essentially the current system of searching the status of ownerships at the relevant appointed date for each former LGA.**

It is a complex option that has ongoing resource costs and leads to unnecessary complexity for the community in understanding the provisions.

### **Option 2B - Keep the Current Holding Dates but Map the Holdings**

This is a variation on option 2A where the current holding dates are phased out and replaced by a map. This is a large initial resourcing task but once the holdings were mapped it would be superior to 2A in terms of clarity and ease of administration.

**Map 10: Vacant Ownerships in the General Rural Area**



Source: GBPS utilising Council GIS data.

## **4 RURAL LIVING IN SMALL HOLDING ZONES**

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### **4.1 INTRODUCTION**

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Rural living opportunities are diverse and exist in both the general rural area (which are addressed in Section 3) and in specific zones supplying a range of rural residential through to hobby scale farming experiences. Section 4 focuses on the specific rural residential zones.

We recommend, in the absence of a specific rural residential zone being provided by Department of Planning and Environment in the near future, that Council retain the E4 zone to define areas where environmental living is the flavour and direction but also move to add the RU4 zone to the rural residential zone mix to define small lot farming areas.

### **4.2 USE OF THE E3, E4 AND R5 ZONE**

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Council's current position is that the E3 Environmental Management Zone has been utilised to apply added protection to the sensitive catchments of Lake George and to critical landscapes such as the escarpments to the west of Bungendore.

We recommend no further extension of the E3 zone or only limited increases for the reasons developed in Section 4.3.

The E3 zone does allow dwellings subject to lot size controls. Currently, the lot sizing for E3 is 80 ha in the section comprising the former Yarrowlumla and Gunning Shires and 40 ha in the section comprising the former Mulwaree Shire. These lot sizes are considered appropriate for the areas currently mapped E3 subject to Council's resolution of future lot size for the current 40 ha lot size area. The intent with these E3 areas is to constrain further rural settlement given the constraints.

Council has selected the R5 Large Lot Residential Zone as a land use zone to be limited to large lot residential living on the perimeters of towns and to possibly have some servicing such as reticulated water.

Council has used the E4 Environmental Living Zone as the main zone to define all types of rural residential living where the land does not adjoining existing towns.

We recommend a second zone (RU4) should be introduced to define small lot farming areas in contrast to the E4 zone which would retain its environmental living objectives.

## 4.3 FUTURE USE OF THE E3 ENVIRONMENTAL MANAGEMENT ZONE

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Currently, only a small proportion of the LGA is mapped in the E3 Environmental Management Zone. (See Map 11).

Council has requested as part of this Strategy we make recommendations for the future use of E3.

The use of E3 has been reviewed over a sample of NSW 20 councils on the coast and tablelands of NSW. It revealed the following:

- Use of E3 varies considerably.
- Some councils have elected not to use it at all and just rely on overlay mapping of environmentally sensitive areas by using Terrestrial Biodiversity overlays and similar environmental mapping.
- Others have quite extensive areas of E3 but none of the councils reviewed has placed environmental zones over all the environmentally sensitive lands of their LGA.
- A majority of the coastal councils surveyed restrict its use to discrete areas such as sensitive coastal zone lands. Similarly, on the tablelands LGAs, use of E3 is mostly confined to discrete areas, probably of particular environmental sensitivity and in proximity to development pressures.
- A number of councils are also using E3 to identify the more immediate catchments of drinking water storages.

As detailed in Section 2.6.12 of the Rural Lands Study Report, the North Coast review into the use of Environmental Zones of 2014 has seen an interim response of the Department of Planning and Environment to the effect zones including E3 be limited to defining areas of verified environmental sensitivity. The Department released its *Northern Councils E Zone Review (Final Response)* as of 20 October 2015 which can be read in full at <http://www.planning.nsw.gov.au/en/Policy-and-Legislation/Environment-and-Heritage/Environmental-Zones>.

The Minister for Planning has issued a 117 Direction (No. 2.5) on how Councils can use E2 and E3 zones, but only at this stage to North Coast Councils. But the Final Recommendations Document suggests other Councils can elect to use it as a guide for their E2 and E3 zone work.

The core of the North Coast recommendations for distinguishing between rural and E2 or E3 lands are:

- a) The main use of the land is to be determined based on evidence about the nature of the activities and operations occurring on the land over the last two years.*
- b) If the main use is for rural or farming operations, agricultural practices need to be demonstrated. Specific farming activities (such as grazing) do not need to have occurred in the last two years if the operations on the land (for*

*example keeping paddocks fallow) are part of broader farm management practices.*

- c) *If the main use is for environmental conservation or management, the environmental values of the land and vegetation need to be demonstrated and the absence of any agricultural or other land use confirmed.*

It is clear Council has the option to minimise further use of E3 or to extend it to cover much of the environmentally sensitive rural lands of the LGA. We do not support widespread use of E3 for the following reasons:

- Council's role in environmental management in the rural areas is mostly limited to the assessment of DAs (e.g. for dwellings and subdivision) or rezoning of defined areas for more intensive use. Currently, the state government is responsible for most vegetation management on private lands. As such the PLEP overlay maps such as the Terrestrial Biodiversity and Riparian Lands and Watercourses overlays are adequate tools for facilitating Council's planning role in protecting the environmental values of the private rural lands.
- The Final Response report on the north coast (see above) favours councils using overlay maps in preference to E zones where land's primary use is other than environmental. With most commercial rural properties in the current RU1 landuse zone, larger sections of land mapped as having biodiversity values are also legally grazed.
- Should the state government's review of biodiversity legislation propose a larger role for councils in private vegetation management, accurate and updated overlay mapping is still an adequate planning tool.
- The application of E3 zoning across productive agricultural landscapes can be problematic. In the Palerang LGA, many areas of native vegetation within rural properties are used for light grazing (and in the case of the extensive native grasslands, much higher economic use) and splitting the property into environmental and rural zones is firstly often subjective as to where zone lines are placed and secondly adds an unnecessary complication to any assessment and planning of the farms by landowners.
- Concerns have been expressed by some commercial farmers that E zoning within their property could adversely affect land values.

If there were to be extensions of E3 zoning, we suggest they be structured on the principle that an entire area warrants E3 zoning and that split zoning of commercial agricultural holdings is avoided.

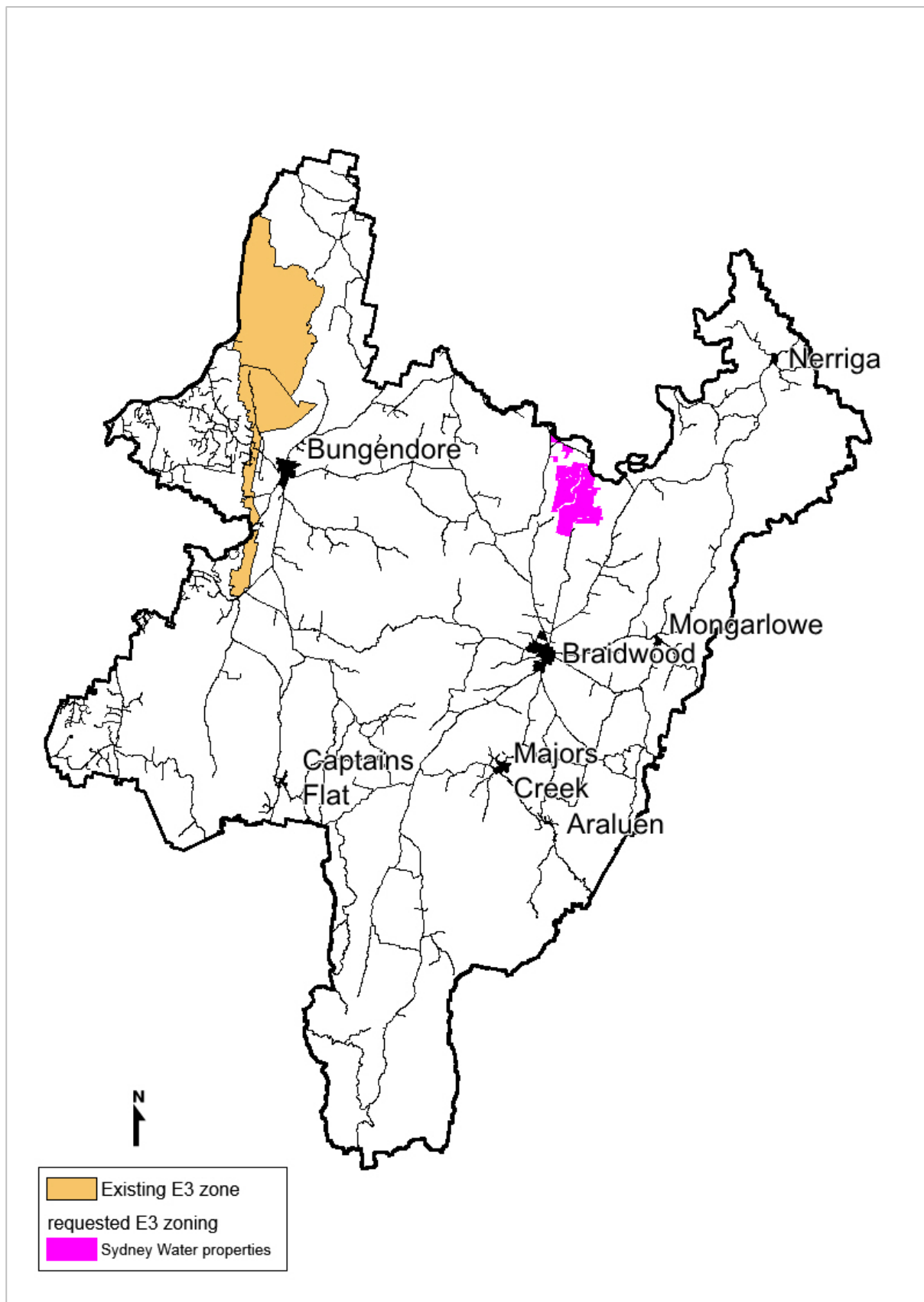
For example, much of the Googong Dam catchment is environmentally sensitive land, of relatively low agricultural value and most of the properties in this area might justify E3 zoning with a more detailed review.

Similarly, districts such as Mongarlowe and Nerriga contain sections where the agricultural value is low, the holdings relatively small, important native vegetation and the current use by many residents in such areas appears predominantly environmental.

**We recommend:**

- That Council limit the further use of the E3 zone in the rural areas of Palerang to either the current E3 zones or only additional areas where there is a substantial section of land used primarily for environmental purposes. Commercial part and full time farms with some high value native vegetation should be zoned RU1.
- Council should give emphasis to the detailed Terrestrial Biodiversity overlay to define rural lands of environmental sensitivity. It is noted this overlay is a 'living map' and continues to be updated and refined. As such it is a more accurate and current tool to guide Council in rural development assessment of commercial agricultural lands than the E3 zones.
- That the current E3 zones be retained as they reflect areas warranting particular definition and landscape protection - namely the Lake George flood plain and escarpment areas near Bungendore. That a possible extension area be researched in the Googong Catchment and in the north and far east of the LGA where there are sections that are primarily used for environmental living and where the whole section can justify E3 zoning on the environmental values.
- The WaterNSW owns land in the Sydney Drinking Water Catchment and has requested its ownerships be zoned E3. The recommendation is Council defer on this request and write to WaterNSW requesting it reconsider its request in the light of the recent Northern Councils E Zone Review (Final Response) which recommends against use of E zones for catchment protection purpose.
- That a lot size of 80 ha apply to the E3 zone with measures applied as recommended in Section 3.8 to conserve existing expectations for a dwelling.

**Map 11: Current E3 Zones and Requested Additions**



Source: GBPS utilising Council GIS data



## 4.4 RU4 PRIMARY PRODUCTION SMALL LOTS AS AN ADDITION TO THE MIX

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### 4.4.1 Reasons to add a further rural small holdings zone

Comment from some submissions on the exhibition of the Rural Lands Study and observations from the Rural Lands Committee, resulted in some investigation of a possible widening of rural living opportunities.

Our response to that is to suggest the following mix:

- The general rural area be defined mostly as RU1 Primary Production Zone to contain part-time and full-time agriculture as its priority. But to recognise:
  - the considerable number of existing vacant and developed small ownerships (which range from hobby farms to small part-time commercial farms); and
  - the potential in fragmented areas for possible further provision of small area farming through considered application of variations in lot sizing in the PLEP.
- Retention of the E4 zone as a zone to define areas of rural residential living in environmental surroundings where agricultural activity is mostly at hobby scale. Note, the Department of Planning and Environment has released new guidelines for the definition of future E zones see <http://www.planning.nsw.gov.au/en/Policy-and-Legislation/Environment-and-Heritage/Environmental-Zones>.
- Introduction of a further zone to supply small lot farming options – mostly at hobby scale and where there are less environmental constraints in the land. Lot sizes might vary from as low as 5 ha to perhaps 30 or 40 ha.

We recommend the RU4 Primary Production Small Lots landuse zone for this last category of rural living. Initially, the Department of Planning and Environment initially reserved this zone for true small lot commercial agricultural areas such as intensive orcharding. But it has now permitted a number of councils to utilise RU4 as part of the mix to add variety to rural residential zoning with lot sizes in the range 2-40 ha. There has also been suggestion from the Department that it may introduce a true 'rural residential' landuse zone similar in form to the 1(c) and 1(d) zones that existed before the introduction of the Standard Instrument. However, as of concluding this Discussion Paper, no such option is available and our recommendation is that Council adopt RU4 as a further zone for rural residential supply where the land has qualities to enable small lot farming.

### 4.4.2 Criteria for zoning E4 or RU4

We suggest Council follow the most recent advice of the Department of Planning and Environment in making a distinction between future rural small holding zones that might be E4 Environmental Living and those that might go to the new suggested zone of RU4 Primary Production (Small Holdings).

The Northern Councils E Zones Report (Final Response) at page 8 has the following recommendation for selection of E4 zoned land:

*"...if the environmental significance is not the primary consideration, then the land should not be allocated an environmental zoning..."*



*“...in future and throughout the Far North Coast and the State, an E4 zone can be applied if the zoning is consistent with the Department’s Practice Note PN09-002 Environment Protection Zones. The zone will be typically applied to existing low impact residential development. This may include areas already zoned for rural residential that have higher conservation values...”*

Our interpretation of this advice and the 09-002 Circular is as follows:

The E4 zone in future be limited to rural residential areas where natural values predominate over hobby agricultural or exotic garden potential. The Northern Councils, E Zones Report (Final Response) details the environmental data that might trigger E2 or E3 zoning and these might also help to define a need for E4 as opposed to RU4 classification. Essentially, if proposed rural small holding land is predominantly mapped in the Terrestrial Biodiversity overlay as having native vegetation excluding areas of native grassland, then such land is better defined as E4.

(The reason we suggest excluding native grasslands from definition of E4 is that we consider these represent quality grazing land. We accept they are of biodiversity importance but their management is different and requires the cooperation of property owners in conducting balanced grazing programs. High quality stands of native grasslands, just like defined high value native forest vegetation, should be grounds for exclusion of rural small holding development altogether unless lot sizing is large enough to protect such values.)

Proposed RU4 lands should not have a dominant percentage of mapped terrestrial biodiversity and should be mostly cleared lands of some grazing or farming value.

Obviously, there needs to be some rationalisation where E4 transitions to RU4. E4 might have some small areas of agricultural land, and conversely, RU4 may have smaller areas of important biodiversity where the overlay will provide adequate protection.

## 4.5 BYWONG E4 REVIEW

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There continues to be concern expressed by a number of residents in the Bywong E4 zone as to the appropriateness of the E4 zone in this area.

The preliminary conclusions from the Rural Lands Study suggested that the E4 zoning seemed appropriate. However, concern continues to be held by many Bywong residents and so the following further review is presented in an effort to finally resolve this contentious local issue.

Our review of the submissions on the Bywong E4 Zoning concluded as follows:

- As Council had selected the R5 zone for a specific urban periphery purpose and given until recently the Department’s resistance to the use of RU4 for some rural residential zoning, the general adoption of E4 zoning in the Palarang LGA to define former 1(d) zoning was appropriate.
- This position was further strengthened by the fact the former 1(d) zone had stronger environmental direction than average 1(c) zones in existence in the region prior to the introduction of the Standard Instrument.

- Council has set a range of permissible uses and defined uses not requiring consent that address most reasonable land use expectations for the nature of this rural residential land. Some minor reduction in uses that were permissible under the former 1(d) zone has occurred but we stress we consider they are minor and that little that has been practiced under the 1(d) has changed under the current E4 provisions.
- The objectors to the E4 point to two issues that we agree warrant further discussion:
  - A perception E4 zoning may deter purchasers and affect prices for land of this zoning. The perception might be that the land has additional constraints.
  - A view that sections of Bywong E4 zone contain lands of little significance for environmental protection.

### **E4 zoning and land values**

The concern is that the value of a rural residential lot named E4 Environmental Living as opposed to a zone title that does not imply environmental objectives, may be adversely affected if purchasers perceive additional constraints. This is a complex issue as many factors influence land value, for example:

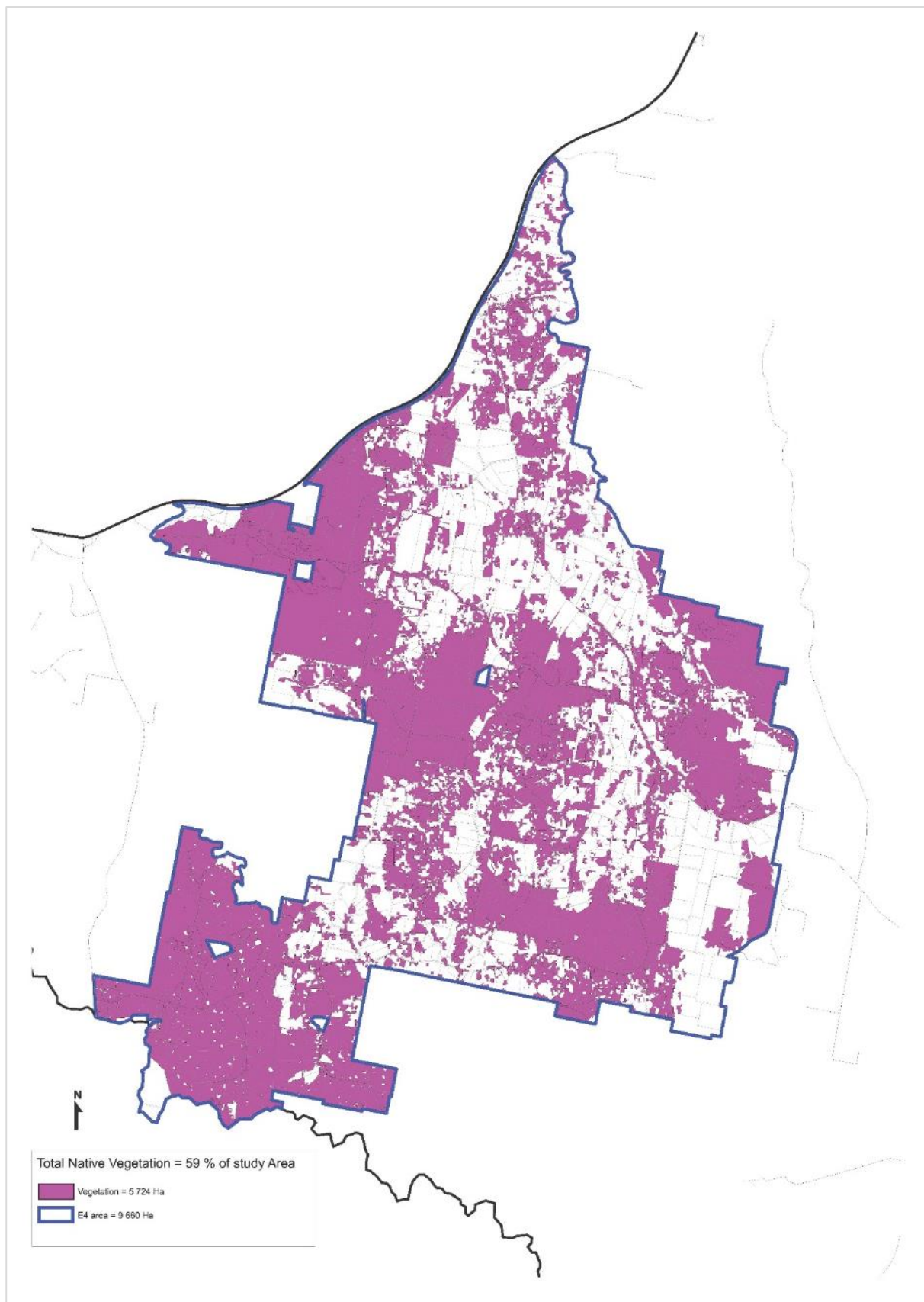
- If the lot has significant existing constraints such as biodiversity, steep topography, poor soils, etc., then the real constraint of E4 zoning is likely minimal compared to any available alternative.
- Some people have expressed a preference for the identification of their living area as having environmental values and for these people the “E” classification may even be value positive.
- In the Bywong case, there is the issue of the northern section being in proximity to areas zoned R5 in the Yass Valley Shire at Sutton and where the land types are similar to the northern section of Bywong E4. Would the ‘market’ perceive a greater constraint in the E4 label and hence, that perception affect land value?
- The answer to this question would require a detailed land valuation study over time to establish if there was any basis to the proposition of the E4 label adversely affecting land value. Additionally, given the current supply of R5 in Yass Valley, close to the Bywong E4 is limited, such a comparison may be of limited objectivity.
- Our conclusion is the perception could exist and may influence some purchasers where the lot zoned E4 appears to have little high quality environmental value. Such less environmentally constrained lots may be viewed as having wider development opportunities.

### **The Environmental significance of Bywong/Wamboin E4 lots**

The Northern Councils E Zones Report drew a final response from the Department of Planning and Environment with respect to E2 and E3 zoning on the North Coast that such zoning should be based on the land demonstrating verified environmental values. The Department’s recommendations on E4 are detailed in Section 4.4.2.

We have effected a review of the environmental values of the Bywong/Wamboin E4 zone. As part of the Rural Lands Study, a revised native vegetation GIS layer has been prepared. This data will be exhibited in April 2016. Map 12 depicts the areas under some form of defined native vegetation.

**Map 12: Existing native vegetation in Bywong/Wamboin E4 Zone**



Source: Council GIS Terrestrial Biodiversity 2015

Regardless of the zoning of land as E4 or some other rural residential zoning, both the PLEP and the *Native Vegetation Act* 2003 are considered to apply to all the areas mapped as native vegetation on that overlay and as such consent would be needed for most development where any disturbance was proposed to the defined vegetation, regardless of the zone name.

GIS data was used to establish the number of existing lots in the Bywong/Wamboin E4 zone which had 40% or less cover of native vegetation as defined in the revised native vegetation layer and produced Map 13. This produced an estimate of approximately 330 lots out of a total of 1,233 in the study area where there was 40% or less native vegetation cover. This suggests about 70% of lots in the current E4 have a significant cover of native vegetation and by implication some environmental significance. Even some lots with less than 40% coverage may contain important habitat such as Endangered Ecological Communities.

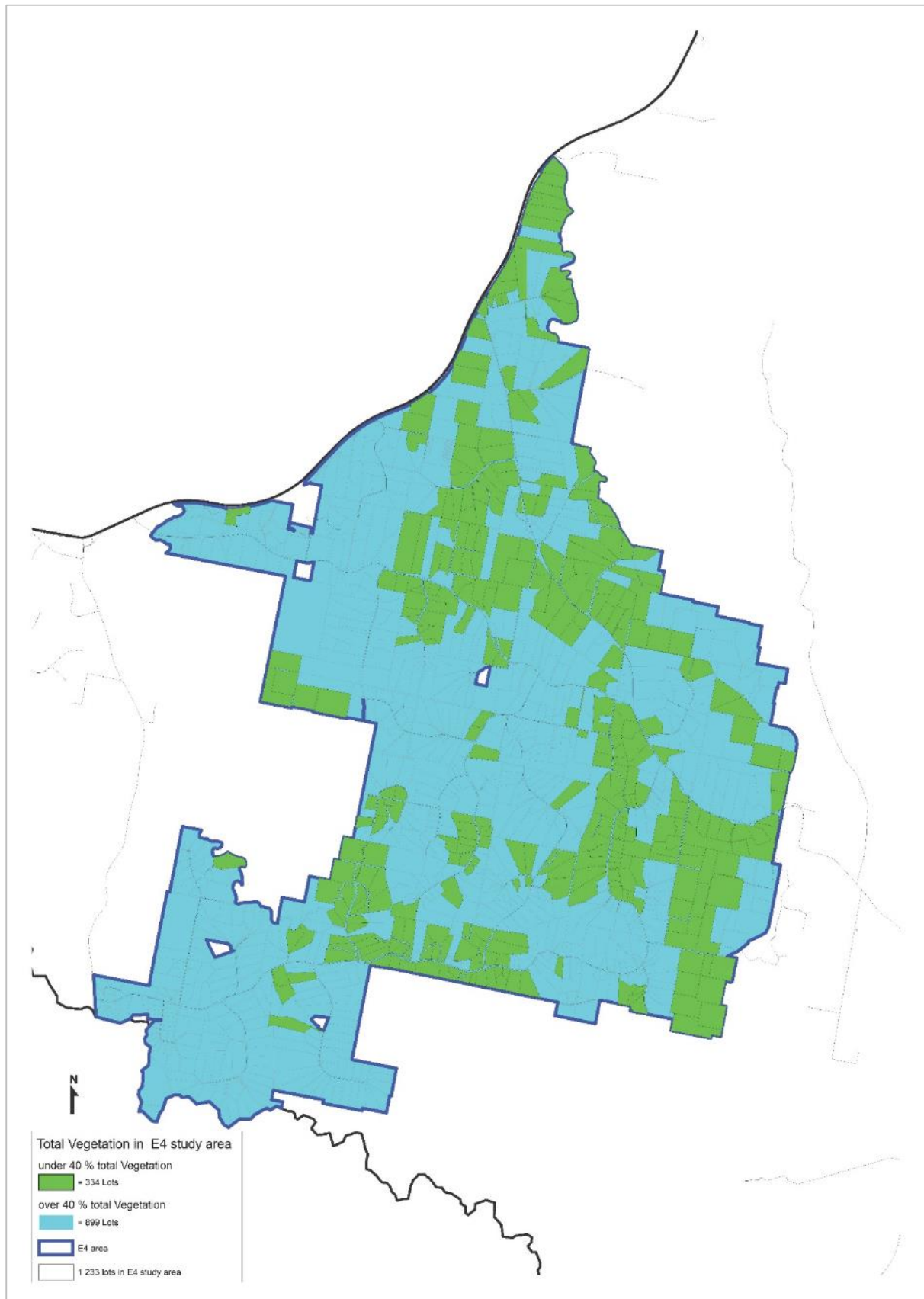
There is an extensive area of various native grasslands without woodland mapped in the study area as native vegetation. Alteration of defined native grasslands still triggers the PLEP or the *Native Vegetation Act* assessments and approval requirements but the management approach is often different in that native grasslands can be utilised for agriculture and the issue is more of conserving the native grasslands over replacement with improved pastures. If native grassland areas are excluded from the study area assessment, then the number of lots with 40% or less native vegetation cover increases to about 500.

Our conclusion is that a case may be argued that the north-east section of Bywong may qualify for a rural residential zone with less environmental emphasis such as RU4. If Council and the Department of Planning and Environment (DPE) were to accept our recommendation to introduce a further rural residential zone into the Palerang LGA such as RU4 to define small lot farming areas, then the north section of Bywong may qualify an addition to that zone. However, we stress the implications are quite minor either way with the adverse impacts of retaining E4 zoning over such area being a possible perception of some constraint on land value and to objectively test that perception would take a very detailed valuation study over some years.

Of importance, there are more lots in Wamboin/Bywong current E4 zone that we consider justify E4 zoning on the criteria that we have defined than those that might justify RU4 and both are so intermixed as to make objective zone sections impossible unless zoning changes are undertaken on an individual property basis. The north-east third of Bywong has more RU4 style lots than E4 if native grasslands are excluded from the E4 criteria but still a lot of E4 style biodiversity.

If Wamboin/Bywong was still a few large properties under consideration today for rezoning for rural residential use under the latest DPE guidelines, we consider most of the area would justify going to the E4 zone but perhaps some of the north-east section might be recommended for RU4.

**Map 13: Existing lots in Bywong/Wamboin E4 zone with 40% or less coverage of native vegetation**



Source: GBPS utilising Council GIS data



## 4.6 IMPLICATIONS FOR RURAL SMALL HOLDINGS OF LOT SIZE POLICY IN THE GENERAL RURAL AREAS

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Section 3 has identified that there is a significant reservoir of existing vacant smaller property ownerships in the general rural area and that this reservoir will supply certain sections of the rural living market demand for several years. Further supply can be readily accommodated through the revision and reduction of minimum lot sizes in fragmented ownership areas of the general rural areas.

Rural and rural living ‘products’ such as rural retreats, larger hobby farms, part-time and full-time commercial agriculture are best accommodated in the general rural areas.

Rural residential with minimal agriculture, small lot environmental living and small lot hobby/small commercial farming are best supplied through the rural residential zones which we recommend be a mix of RU4 and E4.

## 4.7 RURAL RESIDENTIAL SUPPLY PRINCIPLES

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Section 4.8 details some preliminary recommendations for the further supply of rural small holding zones.

It is beneficial to summarise the principles on which those recommendations have been developed:

1. ‘Benefitting Palerang’. An issue with some rural residential development supplied to date is the limited interaction of these estates with the Palerang community and the significant link with Canberra/Queanbeyan as the social and economic focus. It seems possible for some new rural residential development to be planned with greater social and economic connection to the LGA, in particular Bungendore.
2. The submissions on the Rural Land Study Report and subsequent research has identified some types of rural living opportunity are in less supply than others – in particular small lot farming estates. So more emphasis is given to selecting areas with RU4 potential in Section 4.7.
3. New estate areas should have the capacity to fund adequate sealed access roads, reticulated power and demonstrate potential for additional water supply options to roof collection including dams and groundwater.
4. Utilise fragmented RU1 zoned lands: it is important new rural residential sites not be developed at the expense of sacrificing larger productive agricultural holdings. There are numerous areas where fragmentation into properties of 200 ha and less has already occurred and these should be areas for focus.
5. The vegetation and relief should present an interesting and attractive rural living environment.

## 4.8 PRELIMINARY RECOMMENDATIONS FOR FUTURE RURAL RESIDENTIAL AREAS

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### 4.8.1 Overview

The work in Sections 4.1 to 4.7 above sets a pattern to expand options in rural living choice and sets principles for selection of possible future areas for rural residential development.

This subsection focuses on rural living options in formal rural residential style zones. We are recommending two types of rural residential land use at this time – environmental living and small lot farms.

Section 3 detailed rural living options and recommendations for the General Rural Areas.

The remainder of this Section is a preliminary survey for possible additions to the rural residential zones. Eleven areas have been evaluated as outlined in Map 14. Six of these areas are recommended for further review and it is accepted that additional areas could be identified but this work is as much as can be addressed within the scope of our Brief. It is stressed this is a preliminary assessment and that other areas may qualify for similar review.

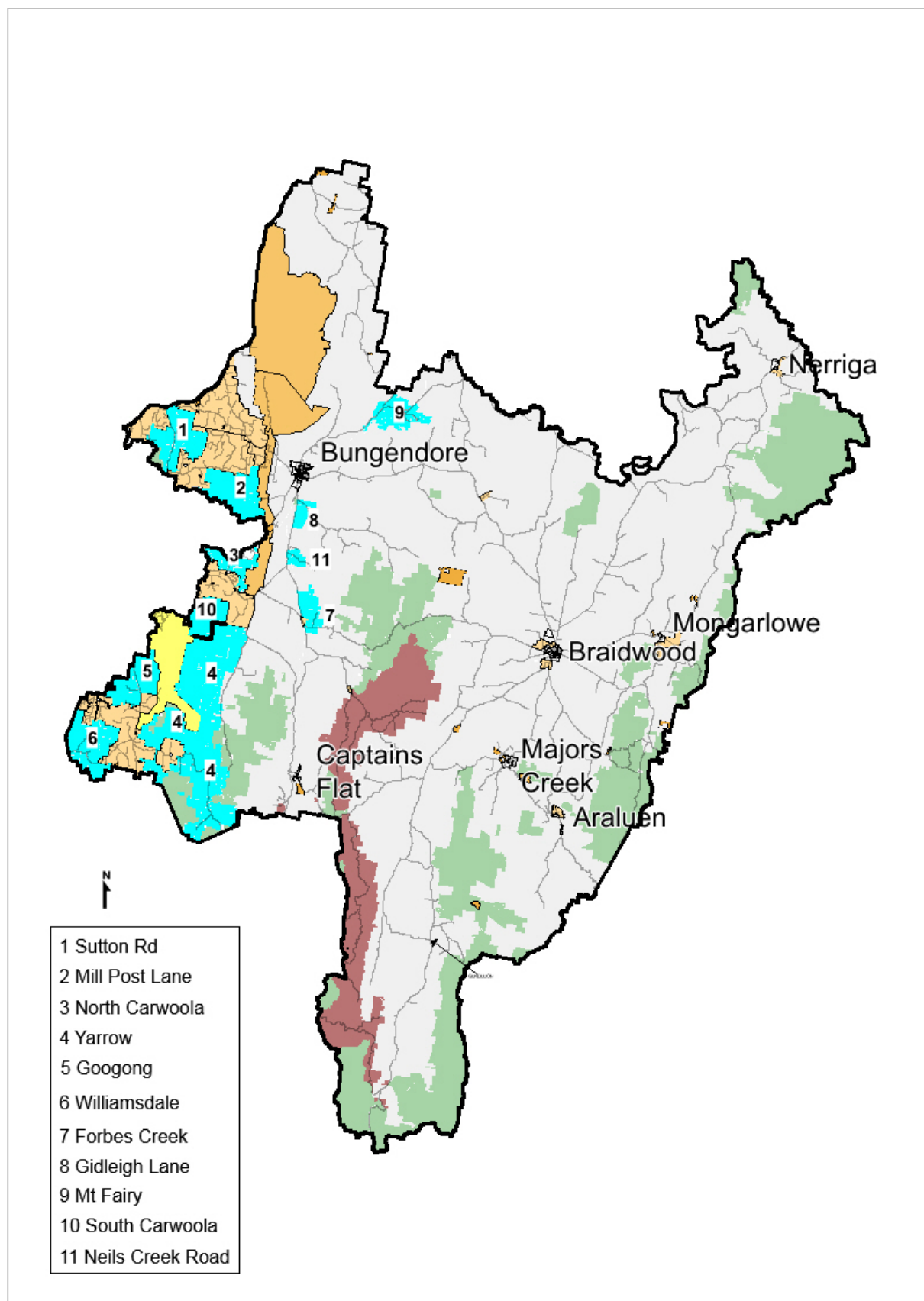
We have identified that there is no pressing urgency for Council to move to the creation of additional rural residential zones as there is a comfortable supply of most rural living opportunities on hand for at least 5 years. However, supply investigations should commence over the next 5 years to ensure the estimated average uptake of 30 lots per year can be delivered and that relevant planning proposals be developed to progress any rezonings should as far as possible be funded by the benefiting landowners.

We recommend the initial focus should be on the definition of some supply of small lot farms as there is currently sufficient supply of environmental living style lots for probably up to 10 years.

The Rural Lands Committee favours some flexibility with respect to potential for “hamlet” style rural living where a cluster of small lots- perhaps down to 2,000 m<sup>2</sup> is sited in a rural setting. The PLEP allows this style of development if it is created as community title but limits lot sizes to 1 ha in the E4 landuse zone and the yield is limited to averaging by the lot size. The development of community title lots is not permissible in the RU1 landuse zone.

Provided effluent management can be addressed, for example a shared common effluent scheme, lot sizes below 1 ha may be justified. A one-off planning proposal might be encouraged for a selected area to test the demand for this form of rural residential living.

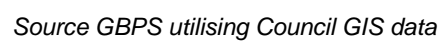
**Map 14: Preliminary survey of 11 areas for rural residential zoning potential**



Source GBPS utilising Council GIS data



### Map 15: Area 1 - Sutton Road



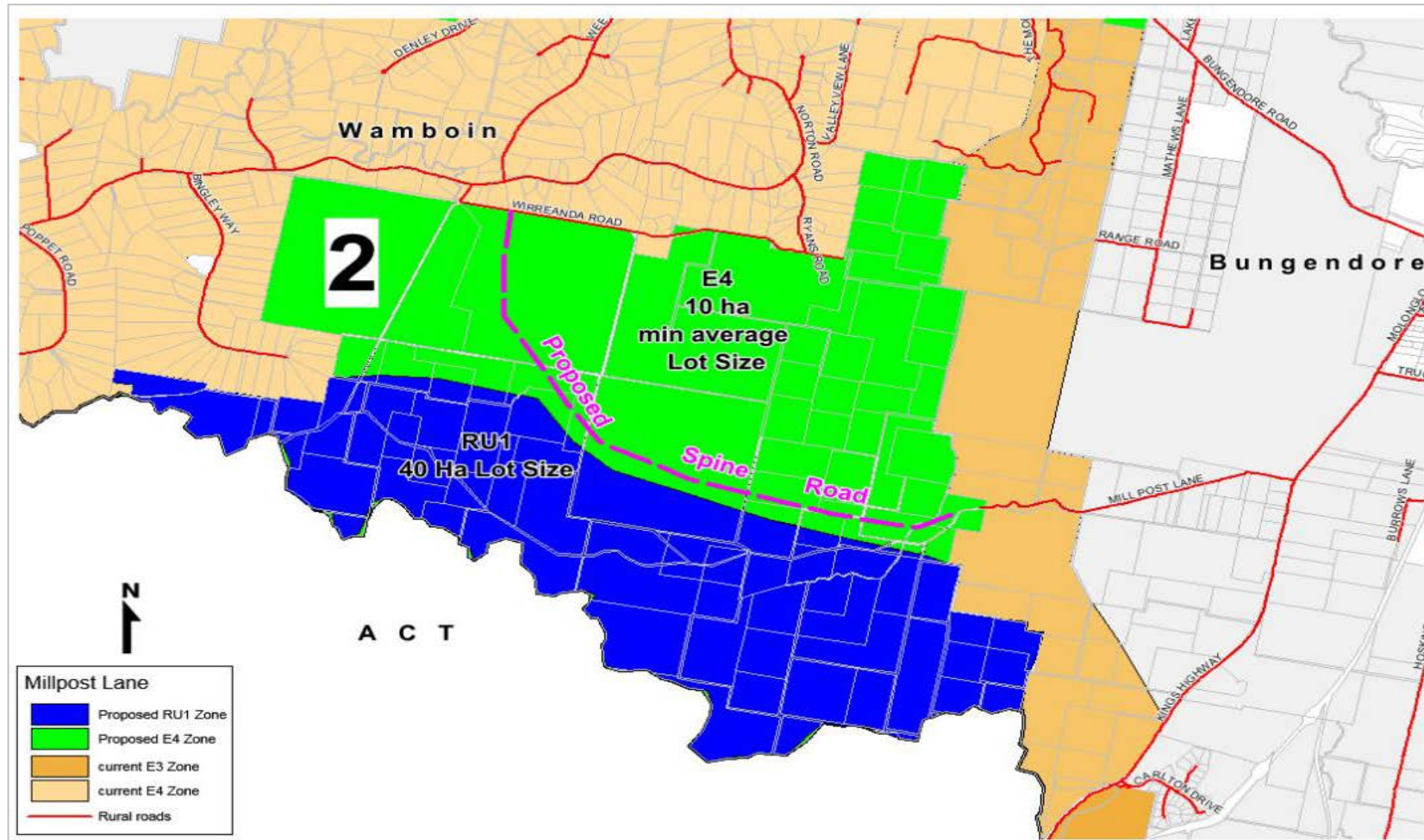
The Sutton Road area consists of approximately 3,100 ha and has the following challenges to overcome if rural residential development was to occur:

- Limited access. Sutton Road is a major traffic artery and further entrance points to this road should be limited. Any upgrading of existing entrances will be expensive and affect development margins.
- Nearly 70% of the total area is mapped as having native vegetation of conservation value. This also poses bushfire management issues.
- Over half the area is steep and in larger ownerships. The land being in a large ownership, may be better means of managing the land.
- The area has characteristics which are better suited to large lot residential than small lot agriculture.
- The land is within the catchment of the Yass River which is already under water stress.

This area is not recommended for future rural residential. Over time Council may review lot sizes to allow minor increases in density where this can be done within the above constraints.

### 4.8.3 Area 2 - Mill Post Lane Area

**Map 16: Area 2 - Mill Post Lane possible Rural Residential Area**



Source GBPS utilising Council GIS data

Subject to the resolution of an appropriate access to the south east, this area of about 3,200 ha demonstrates capacity for an extension south of the existing Wamboin E4 zoning. There are constraints as outlined below and the whole area warrants a masterplan as part of any planning proposal for rezoning.

Opportunities:

- Mostly larger landholdings which would simplify the preparation of a coordinated masterplan. A masterplan would be essential to achieve the necessary access road spines and manage biodiversity. Interest has been expressed in the development of this area.
- The agricultural capability of the area is not high and the loss of productive agricultural holdings not significant.
- This area has the potential to access and identify towards Bungendore – hence improving socio-economic benefits for the Palerang LGA.

Constraints:

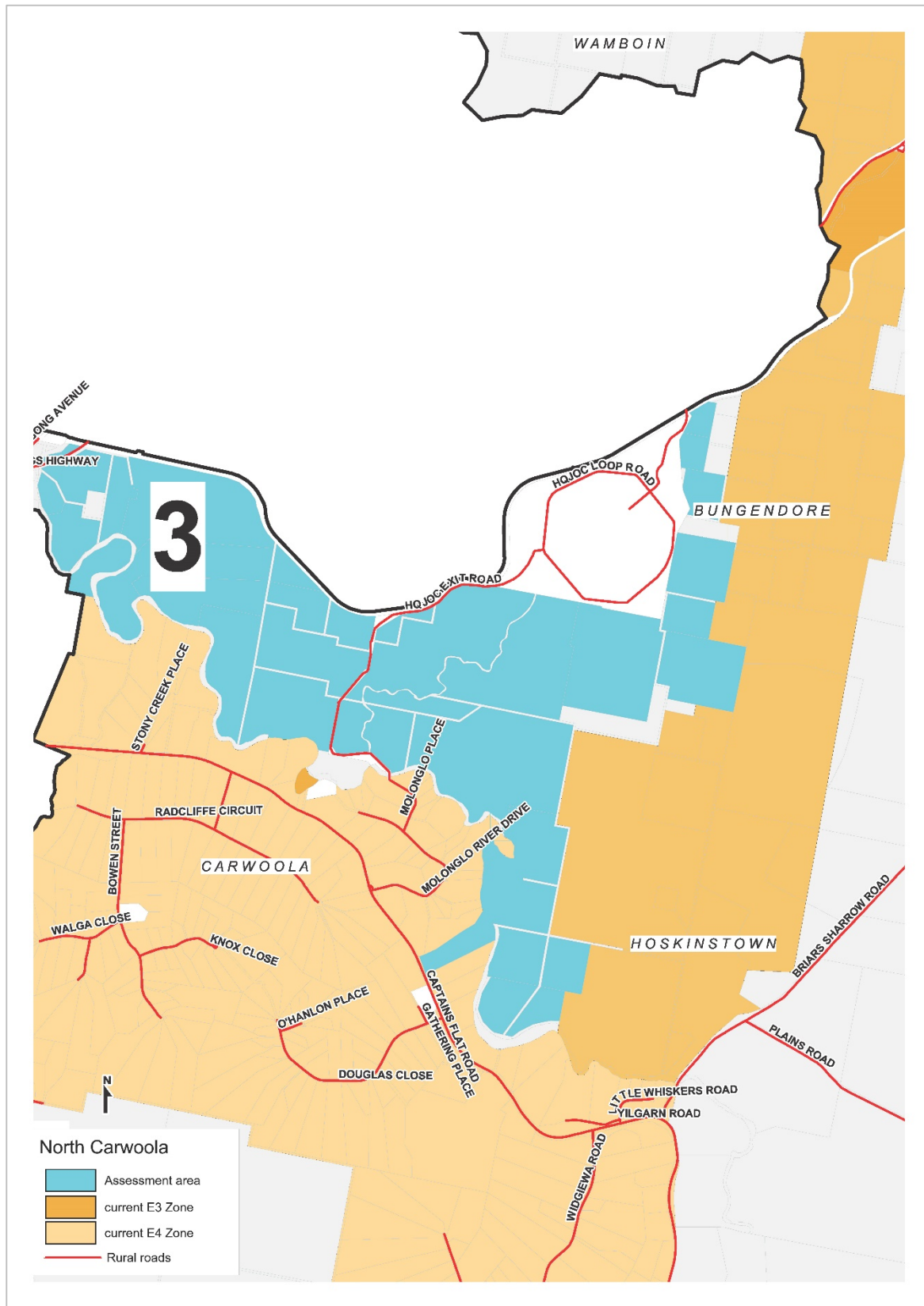
- Approximately 50% of the area is mapped as containing native vegetation and 10% of that is estimated to be native grasslands. A biodiversity strategy would be necessary as part of a master plan.
- The southern boundary adjoins large areas of pine forest in the ACT. Site planning would be required to set lower densities in this section and ensure that there are adequate buffers and management strategies for bushfire management. Part of this area might be retained in the RU1 zone with larger lot sizes.
- The Mill Post Lane road access would be expensive to develop to a good 2 lane sealed rural commuter road but possibly feasible as part of a planning agreement for the whole area where the full cost of the upgrade is funded by the developers. Access from the north and south east should be a prerequisite to any intensification of settlement in this area.

This area is not seen as a priority for zoning review given the current availability of environmental living style lots and the need for more research on the above constraints as part of a detailed planning proposal which should be funded by the major landowners of Area 2. Careful review of road and power development costs is also warranted to ensure development is economic.



#### 4.8.4 Area 3 - North Carwoola

**Map 17: Area 3 - North Carwoola Area**



Source GBPS utilising Council GIS data

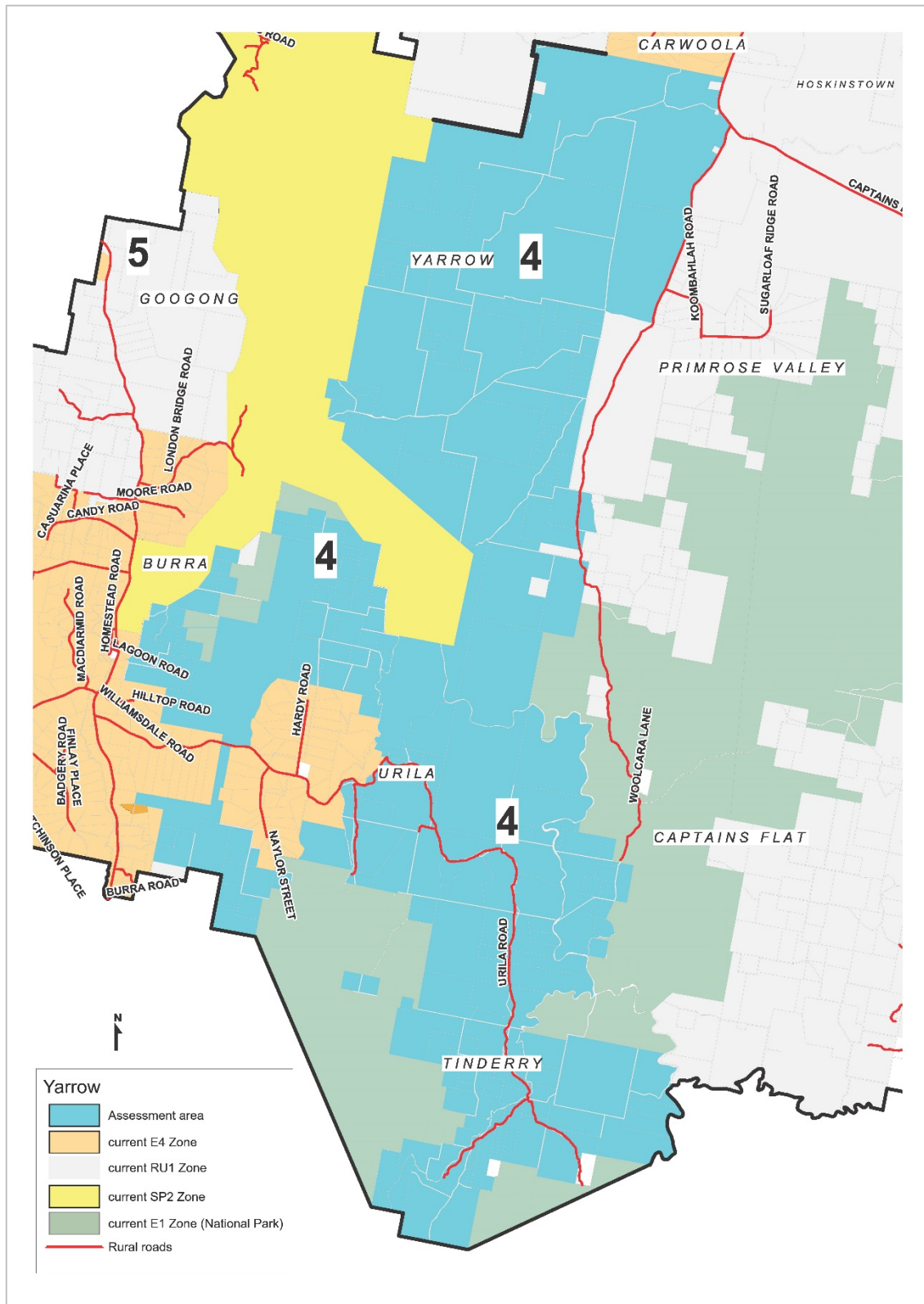
This is a relatively small area of rural land of about 1,100 ha which adjoins a restricted area held for the Australian Defence Headquarters of Joint Operational Command. It would seem likely Defence would seek a large buffer to its facility.

The area has access, topography and shape constraints which would limit its potential for intensification such as expansion of environmental living. About 40% of the area is mapped as having native vegetation. It is recommended that this area not be considered for a zoning review.



#### 4.8.5 Area 4 - Yarrow/Urila Area

**Map 18: Area 4 - Yarrow/ Urila Area**



Source GBPS utilising Council GIS data

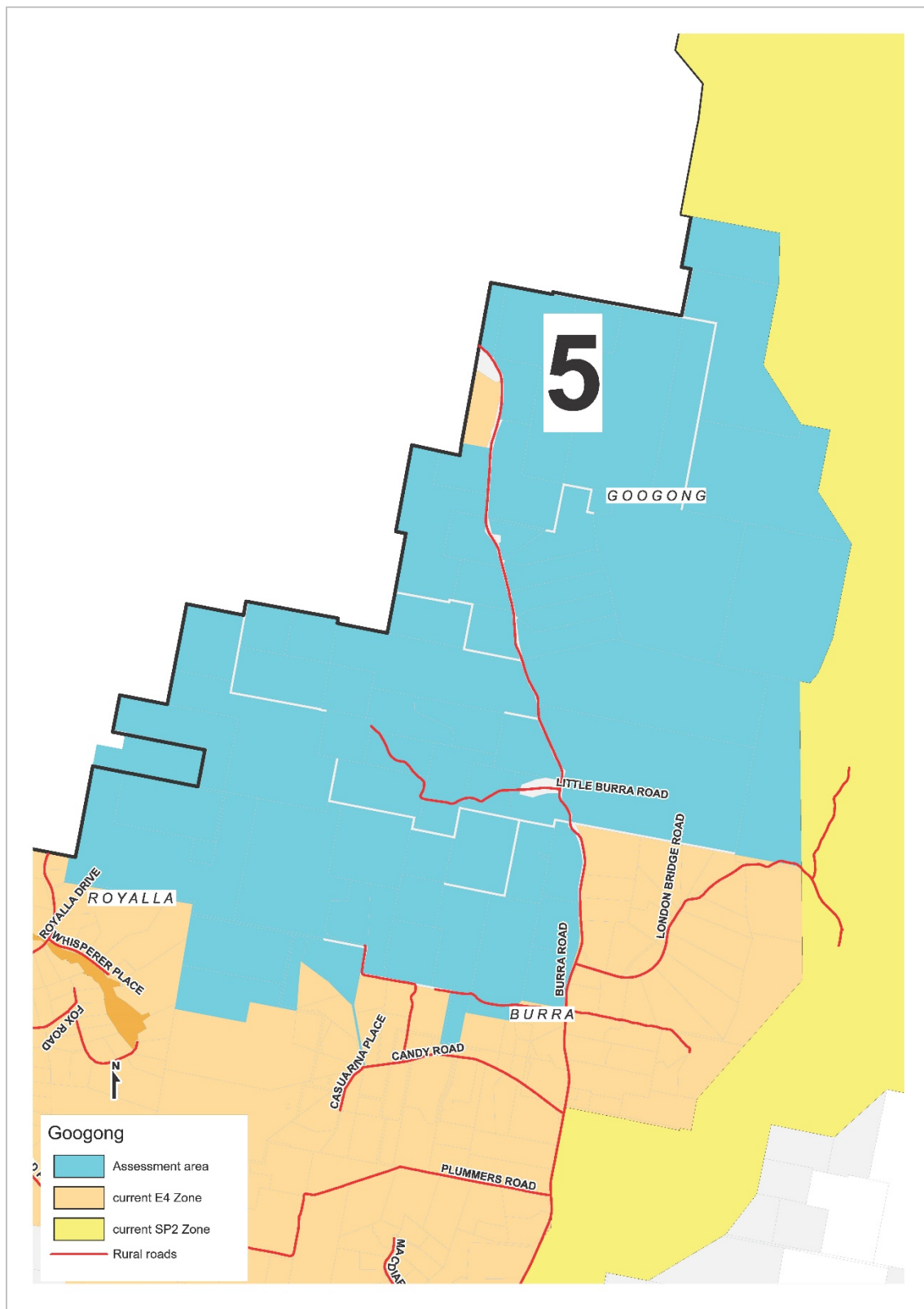
This is a large area of rural land of about 14,500 ha. Much of the area is steep lands and approximately 75% of this area is in the catchment of the Googong water supply dam. Small sections on the east side may be physically suitable for more intensive rural settlement but most of the area is in larger holdings.

About 60% of the area is mapped as native vegetation.

Excluding the current E4 zones, it is recommended the current 80 ha lot size be retained for this area and zoning be retained RU1 or rezoned to E3 provided commercial agricultural holdings are retained as RU1.

#### 4.8.6 Area 5 - Googong Area

**Map 19: Area 5 - Googong Area**



Source GBPS utilising Council GIS data

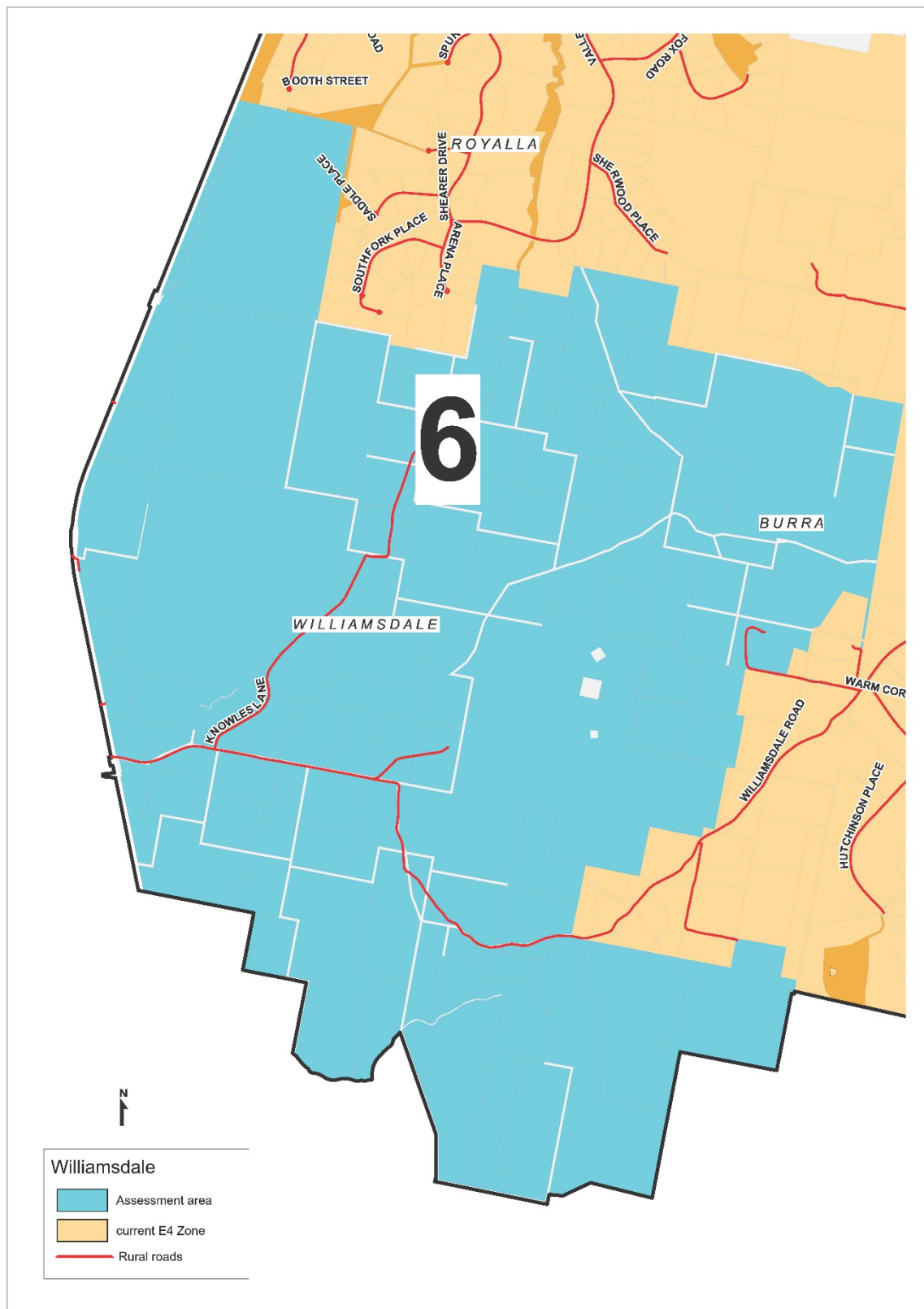
Much of this area of about 2,600 ha is steep and the eastern half drains direct to the Googong Dam which is a town water supply. Approximately half the area is mapped as containing native vegetation.

This area is considered to have limited potential for intensified use but might be a target for review over the coming decade if lot sizes were decreased to perhaps 20-40 ha over sections of the area, to allow some infill of small lot farming within the lands capability.

If additional areas are to be considered for E3 and E2 zoning then sections of Area 5 warrant consideration.

#### 4.8.7 Area 6 - Williamsdale Area

**Map 20: Area 6 - Williamsdale Area**



Source GBPS utilising Council GIS data

This area of about 3,200 ha is isolated from most of the Palerang LGA and has more connection links with Queanbeyan.

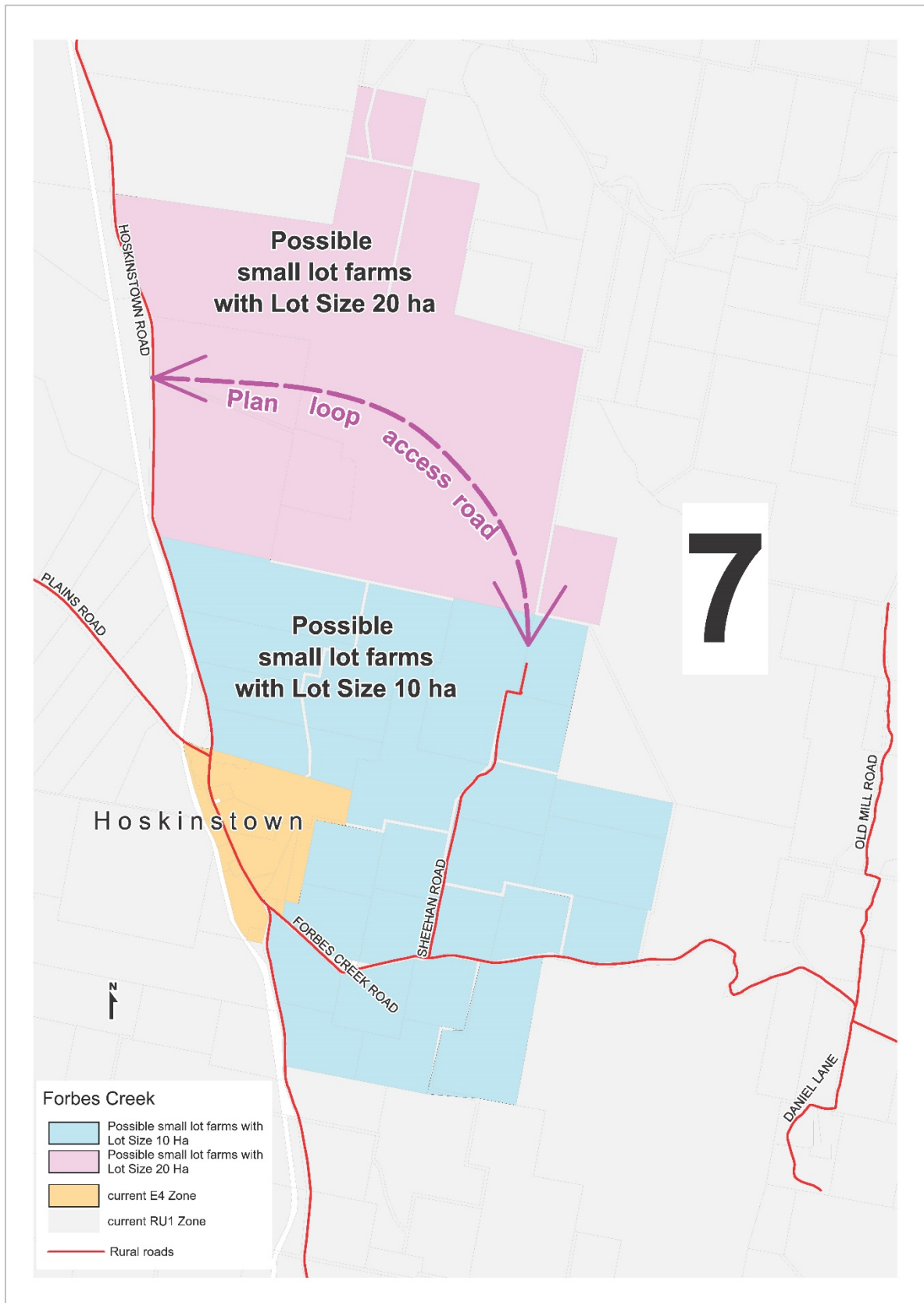
About 75% of this area is steep land with limited potential for more intensive rural residential development. Approximately half the area is mapped as having native vegetation.

Small sections such as the parts fronting Williamsdale Road might be targets for reduced lot sizing to perhaps 20 ha over the coming decade.



#### 4.8.8 Forbes Creek Road Area

Map 21: Area 7 - Forbes Creek potential small lot farming area



Source GBPS utilising Council GIS data

This area to the east of Hoskinstown is considered to have sufficient potential to warrant further investigation for rezoning for small lot farms or environmental living with a mix of 10 and 20 ha lot sizes.

It is within reasonable commuting distance to employment outside the Palerang LGA but would also have prospects of identification of community with Bungendore.

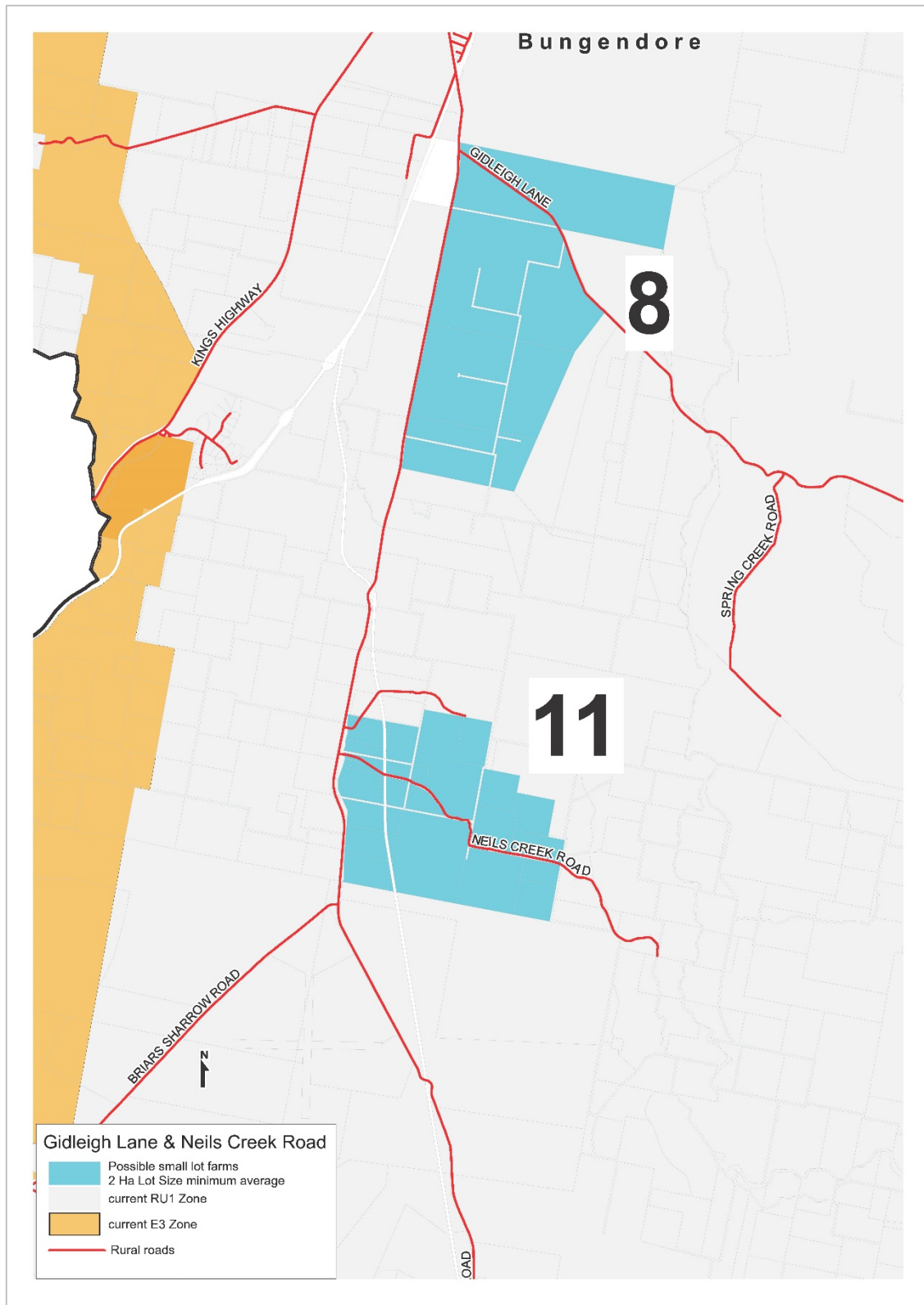
Road access can be improved through development contributions if the site is masterplanned.

Development of the area could be staged with an initial area of 600 ha accessing Forbes Creek and Sheehan Roads and a second stage extension to the north to an area of about 600 ha.

The initial area is approximately 75% under native vegetation cover and would appear to be an environmental living style of area. A vegetation study would need to form part of the planning proposal and would define lot size detail and areas requiring protection. The extension area is well suited to small lot farming.

#### 4.8.9 Area 8 - Gidleigh Lane Area and Area 11 Neils Creek Road Area

**Map 22: Gidleigh Lane and Neils Creek Road Areas**



Source: GBPS utilising Council GIS data

### **Gidleigh Lane Area**

This area of approximately 600 ha fronts Gidleigh Lane just off the Hoskinstown Road.

It is mostly generally sloping land with a good north-western aspect. About 70% of the area is mapped as containing native vegetation.

It is considered to be suitable for further investigation for small lot farming – possibly with a different zoning over vegetated areas with a range of lot sizes from 2 ha to 10 ha minimum average lot size. A concept masterplan should be a requirement of any planning proposal.

The area has a strong potential relationship in social and economic terms with Bungendore but still is sited well for employment commuting to Canberra/Queanbeyan.

It would require the breakup of one part-time farm, otherwise the ownership pattern is already fragmented.

### **Neils Creek Road Area**

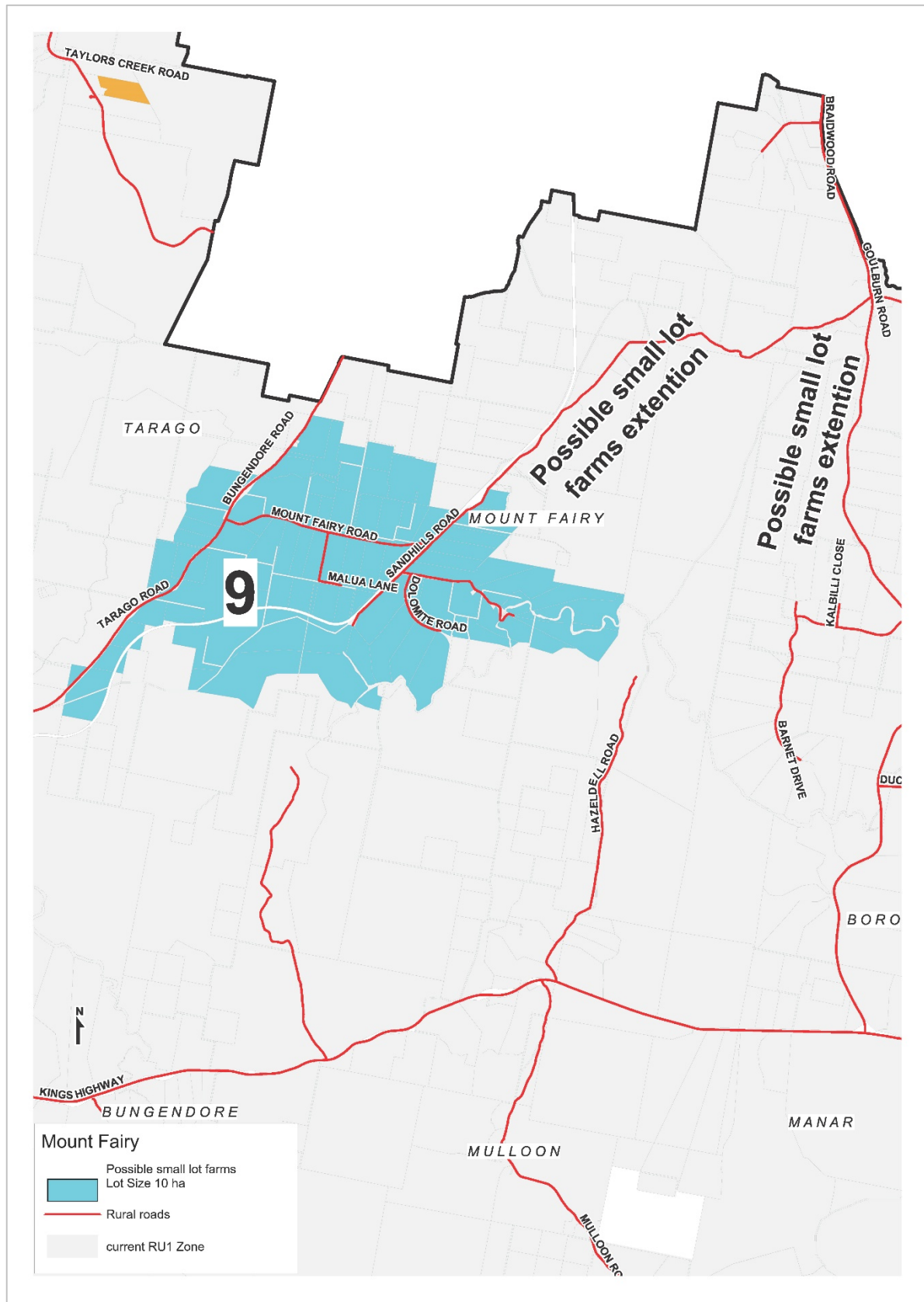
This area of approximately 400 ha has similar characteristics to Gidleigh Lane (Area 8) and might be reviewed for possible small lot farms at 2-10 ha lot sizes. Vegetation mapping shows it has less than 10% native vegetation cover and it appears well suited to small lot hobby farming.

The ownership pattern is already fragmented and will not cause a reduction in commercial farms.

Like Gidleigh Lane, it has good potential social and economic links with Bungendore.

#### 4.8.10 Area 9 - Mt Fairy

Map 23: Mt Fairy Area



Source: GBPS utilising Council GIS data

This is an existing small lot farming area north-east of Bungendore with many properties in the 20 to 60 ha range. The area is centred around Mt Fairy Road. The area has less than 20% cover of native vegetation and is already largely developed to small lot farms.

It is recommended this area be further investigated for small lot farms with a 10 ha lot size. This may allow creation of about 30 additional lots.

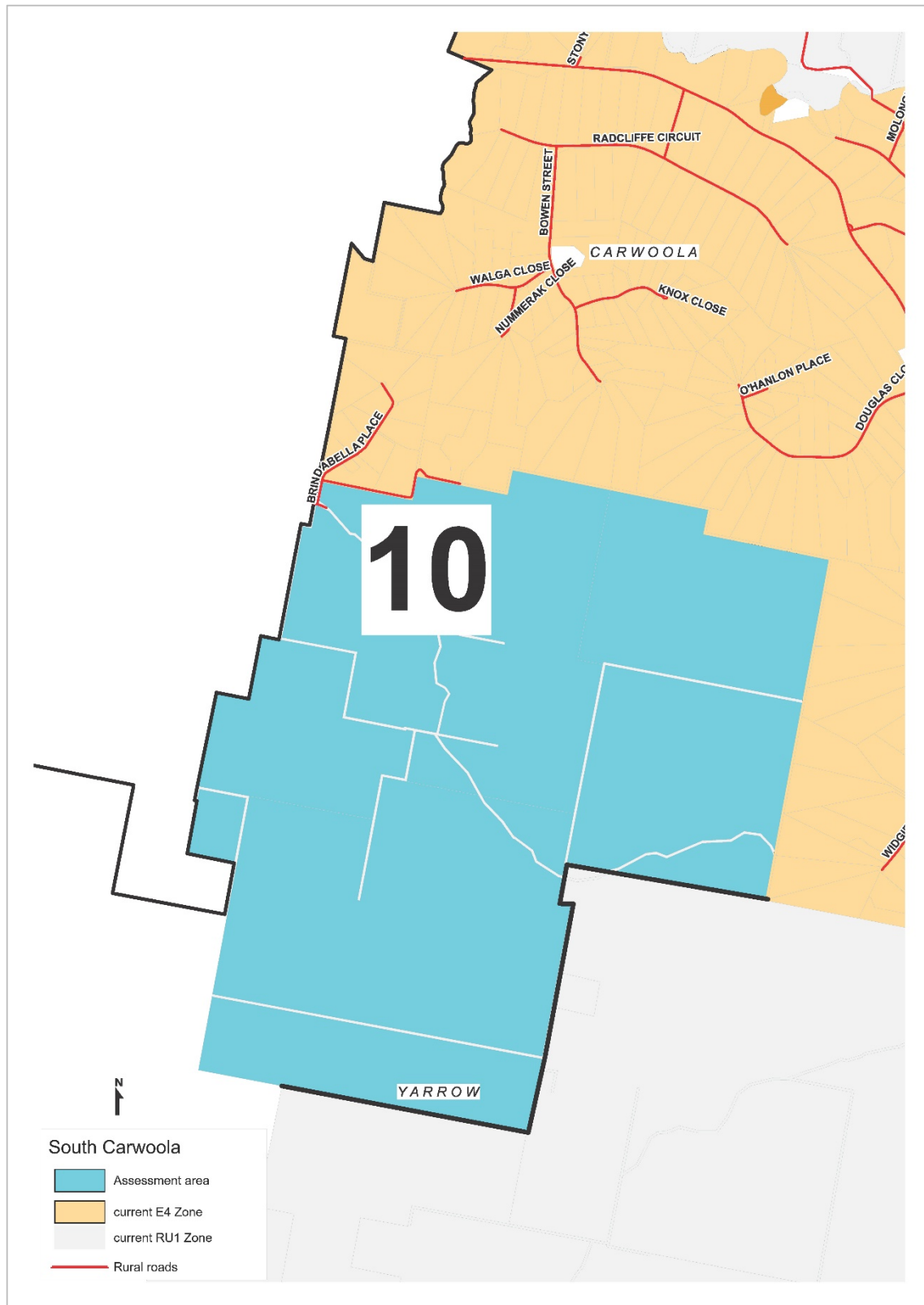
The area has good social and economic connectivity to Bungendore but is still within reasonable work commute expectations.

As a later investigation, small lot farms might be extended north-east wards of this area fronting Sandhills Road and flowing through to include some of the smaller lot areas fronting the Goulburn Road and Barnet Drive.



#### 4.8.11 Area 10 - South Carwoola

**Map 24: South Carwoola Area**



Source: GBPS utilising Council GIS data

This area of approximately 1,800 ha is sited immediately south of the current Carwoola E4 zone.

It suffers from only one practical access and that is direct from Queanbeyan. The topography presents considerable challenges in allowing a second route of egress for this area. A second access is considered important if this area is to have increased density given bushfire planning requirements.

About 1/3 of the area has quite steep topography. The native vegetation mapping shows about 10% of the area as containing native vegetation.

Most of this area is in a single ownership and is the subject of submission from the owner seeking urban zoning of similar style to the new Googong Estate in Queanbeyan. The benefit of any urban zoning for the Palerang LGA would seem doubtful and necessitate a new stand-alone water supply and sewerage system. The access problems outlined above do not favour urban or even more intensive rural residential use.

The area might be reviewed for small lot farms with a lower lot density of perhaps 20 ha minimum average to contain the scale of development given the site constraints.

## 5 RECOMMENDED STRATEGIES FOR RURAL SETTLEMENT

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### 5.1 SETTLEMENT BENEFITTING PALERANG

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There is some evidence that some of the past landuse zoning for the supply of rural living opportunities has not had significant benefits for the Palerang LGA.

For example, some areas of rural residential zones have little affinity with the Palerang LGA and have stronger economic and social ties to Queanbeyan or Canberra. This is not necessarily a negative position as the supply of living opportunities in these areas addresses various needs and has been a major factor in the rate of the growth of the Palerang LGA. However, there are opportunities to provide a new supply of rural residential in areas that would have a closer association with Palerang settlements and facilities.

The majority of employment being outside of the Palerang LGA will remain a feature but rural living within proximity of Palerang towns and villages can have more economic and social ties. These factors are considered important enough that Council have a “benefit to Palerang” as a selection criteria in identifying areas of future rural small holding supply.

Given its siting close to Canberra, Bungendore will benefit more from such a strategy than Braidwood due to its slower growth. Although growth is occurring further east and improving opportunities for rural living such as small lot farms close to Braidwood will “benefit Palerang” and specifically Braidwood.

By default most rural living in the general rural areas does relate with Palerang settlements as most is sited in areas with closer proximity to Palerang towns, villages and facilities than Canberra/Queanbeyan.

#### **Recommendation:**

**That Council include “benefit to Palerang” as a selection criteria in the definition of future rural small holding areas. This benefit is defined as the new rural settlements being sited so that there is proximity to Palerang towns, villages and facilities.**

## 5.2 LOT SIZES IN THE GENERAL RURAL AREA

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There are four options facing Council in making a decision on preferred lot sizes to apply across the general rural areas (RU1 and E3 zones):

1. Support the Yass Valley proposition of a LGA-wide 40 ha standard. (This implies firstly that the State Government will permit the Yass Valley amendment, and secondly, that the Palerang Council supports the Yass Valley argument as being applicable in Palerang.)
2. Retain the status quo. In other words, the current 80 and 40 ha lot sizes remain.
3. Introduce a LGA wide 80 ha lot size with measures to lessen loss of perceived and real value such as lot averaging and a sunset clause. (See Section 3.5).
4. Introduce a variable lot size approach as detailed in Section 3.7.

All four options have positive and negative impacts as detailed in Section 3.7.

The “Yass” option assumes that there is no value in protecting the larger agricultural holdings but on equity grounds it may be hard for Council to resist if Yass Valley is successful.

The status quo avoids the inevitable winners and losers that will result with any move to an increase lot sizes but ignores the long term adverse impacts of the fragmentation of larger agricultural properties.

Options 3 and 4 seem to have greater planning merit and are recommended for public comment.

### **Recommendation on lot size for the Broadacre areas:**

#### **Either:**

1. **Option 3 - an LGA wide 80 ha lot size for the broadacre areas but supported with a minimum averaging clause as currently exists in the former Yarrawluma area and with the current 40 ha lot size area being the subject of a 10 year sunset clause during which time landowners may seek consent for 40 ha lot options.**
2. **Option 4 - A variable lot size option based on the following principles:**
  - **That the areas where ownerships are mostly below 160 ha in size be lot sized at 40 ha where the land demonstrates constraints in terms of access, topography, high bushfire hazard and environmental values and where the land is not well suited for further intensification of small lot farming in proximity to Palerang settlements.**
  - **That those areas where ownerships are mostly below 160 ha and the attributes are well suited to small lot farming and in proximity to Palerang settlements be reviewed for a possible range of lot sizes from**

**40 down to 10 or 20 ha and that some sections form a reservoir for future extensions of rural residential zones.**

- That those areas where ownerships are predominantly 160 ha or greater be lot sized 80 ha as a protection measure to limit fragmentation but have access to a minimum average lot size provision, with lot range of 5 to 20 ha.**
- That a sunset clause of 10 years apply to the 40 ha lot size area to allow time for landowners to transition to the 80 ha standard.**
- That DCP provisions and Section 94 contributions be further reviewed to guide the siting and control the quality of small lots created under the minimum averaging provisions.**
- That existing dwelling expectations on separate ownerships be protected using the technique modelled in Section 3.8 of the Strategy.**

## 5.3 PROTECTING EXISTING EXPECTATIONS FOR A DWELLING

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If Council accepts the recommendations for a partial increase in lot size, some existing property owners will need the benefit of an amendment to the dwellings clause in the PLEP to protect their current ability to apply for consent to build a dwelling. In addition, there is a potential to simplify the provisions relating to determining the ability to erect a rural dwelling. These issues are detailed in Section 3.8. As such the following recommendation is made:

- **Council move to a new “existing holdings” date for the entire LGA. It should be a recent past date to avoid speculation and a date at which Council has accurate GIS mapping of current assessments.**
- **Council produce a map of all assessments in the general rural area under the resolved lot size(s) as of that date. This should be a simple process if the date coincides with a known date of assessment mapping.**
- **At the same time any LEP amendment for a change in lot size is gazetted the LEP dwellings clause (4.2A) should also be amended to introduce the new existing holdings date and to expand the definition of “existing holding” to include land defined on the map, with the map becoming an overlay map attached to the LEP.**
- **Council might consider applying a sunset clause to the new holding date of say 10 years. By the end of that time the process would simplify with only a map to define where consent for a dwelling can be applied for on land below lot size. (The reason for retaining a date for 10 years is one of equity so if a landholder is “missed” by the mapping process, they have a window of time to apply for a dwelling and/or be included on the map.)**

If Council elects to stay with the current lot sizes, the following recommendation is offered:

**That Council retain the current existing holding dates but replace these provisions with mapping over time as resources allow.**

## 5.4 USE OF ZONE E3 ENVIRONMENTAL MANAGEMENT

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For the reasons developed in Section 4.3, we do not recommend extensive use of the E3 zone and make the following recommendation:

- **That Council not make extensive further use of the E3 zone in the rural areas of the Palarang LGA and instead rely on the detailed Terrestrial Biodiversity overlay to define rural lands of environmental sensitivity. It is noted this overlay is a “living map” and continues to be updated and refined. As such it is a more accurate and current tool to guide Council in rural development assessment than static E3 zones.**
- **That the current E3 zones be retained as they reflect areas warranting particular definition and landscape protection - namely the Lake George flood plain and escarpment areas near Bungendore.**



- If Council favours additional E2 and E3 zoning, the selection process should follow that recommended in the North Coast Final Recommendations Report. E3 zoning should not be employed where it creates split zoning of commercial agricultural holdings.
- The WaterNSW owns land in the Sydney Drinking Water Catchment and has requested its ownerships be zoned E3. It is recommended that Council request WaterNSW review this request in the light of the recent determination of guidelines for use of E3 zones on the NSW North Coast, which suggest E3 should not be used for catchment protection unless the use of the land is primarily environmental.
- That a lot size of 80 ha apply to the E3 zone with measures applied as recommended in Section 3.8 to conserve existing expectations for a dwelling.

## 5.5 RECOMMENDED MIX OF ZONES FOR PALERANG RURAL

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Only one additional zone is recommended for Council's consideration to add to the Palerang LEP. That is the RU4 Primary Production Small Lot zone.

That leads to the following recommendation for appropriate zones in the rural areas of Palerang to address rural living and protection of resources:

**That Council utilise the following zones for the rural areas of Palerang:**

- RU1 Primary production as the major zone for the bulk of the general rural area of the LGA.
- RU4 Primary Production Small Lot as a form of rural residential zone to compliment the E4 zone and to define small lot farming areas where lot size ranges are mostly 5-30 ha.
- E2 Environmental Conservation as a zone to cover areas of special environmental significance such as wetlands.
- E3 Environmental Management not to be deployed extensively but retained over the existing areas and possibly extended in discrete areas where commercial farms are not impacted and the environmental value meets the North Coast guidelines.
- E4 Environmental Living as a form of rural residential zone where there are environmental values in the area so zoned and a lesser emphasis on small lot farming.

**That a detailed Terrestrial Biodiversity overlay map be retained in the PLEP as a living resource map to be updated from time to time as additional data is obtained.**

## 5.6 BYWONG E4 ZONE REVIEW

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Some residents of the current Bywong and to a lesser extent the Wamboin E4 zone have concerns as to the suitability of the E4 as a landuse zone for their area. Research in Section 4.5 concludes that there is a sound environmental basis for most of this E4 zone area with approximately 70% of lots having a coverage of 40% or more of native vegetation and very few lots having minimal area of native vegetation. However, if Council accepts the concept of an additional zone to distinguish lands mostly suited to small lot farming, then the northern section of the current E4 zone may qualify for such zoning.

### **Recommendation:**

**Should Council resolve to add the RU4 zone to the Palerang LEP, Council might effect a review of the Bywong/Wamboin E4 zone to establish if a logical boundary could be determined to create sections of RU4 zone from the current E4 area.**

## 5.7 RURAL RESIDENTIAL SUPPLY PRINCIPLES

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The following principles are offered to be used to assist in identification of future rural residential zones:

1. “Benefitting Palerang”. An issue with some rural residential development to date is the limited interaction of these estates with the Palerang community and the significant economic and social focus of some areas on Canberra/Queanbeyan. It seems possible for some new rural residential development to be planned with greater social and economic connection to the Palerang LGA, particularly Bungendore.
2. The submissions on the Rural Land Study Report and subsequent research has identified some types of rural living opportunity are in less supply than others – in particular small lot farming estates. Greater priority is recommended for policy in relation to this category
3. New estate areas should have the capacity to fund appropriate sealed access roads, reticulated power and demonstrate potential for additional water supply options.
4. Utilise fragmented RU1 zoned lands: it is important new rural residential sites not be developed at the expense of sacrificing larger productive agricultural holdings. There are numerous areas where fragmentation into properties of 200 ha and less has occurred and these should be areas for focus.
5. The vegetation and relief should present an interesting and attractive rural living environment.

## 5.8 OPPORTUNITIES FOR SMALL RURAL RESIDENTIAL LOTS

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Research for the Rural Lands Strategy has identified that there is a comfortable 5 years supply of E4 style living opportunities in Palerang and possibly 10 years. There is also a wide choice and supply of rural retreat and small farm opportunities in the general rural areas in the eastern two-thirds of the Palerang LGA and a more modest supply in the west third.

There is no urgent need for Council to commence rezoning for additional supply but given the lead times for such work, Council should commence a program aimed at progressing planning proposals over the next 5 years.

The Rural Lands Strategy Committee has indicated a desire to further explore “hamlet” style development and a specific proposal over a defined area might be encouraged as a planning proposal.

There is no short term shortage of small lot farms but it is recommended that Council add the RU4 zone to its options for rural residential zones and commence gradual investigation for further supply.

### **Recommendation:**

**That Council commence a program to develop planning proposals to supply additional environmental living and small lot farm style opportunities so that the necessary rezonings might come forward over the next 5 to 8 years.**

**That Council include in these proposals the introduction of the RU4 Primary Production Small Lots zone as a planning tool to define and improve supply of small lot farming estate options.**

**That Council include the areas recommended in this Discussion Paper at Section 4.8 in the investigations for additional rural residential zones that might be effected over the next 5 years.**

**That the owner of a specific area with possible attributes for “Hamlet” style development be encouraged to progress a planning proposal to test the market demand for this category of use.**