

# Planning Proposal

Accommodation -Shaw Winery and Cellar Door - Additional Permitted Use

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Amendment to Yass Valley Local Environmental Plan 2013

**Prepared for Murrumbateman Land Projects Pty Ltd**

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Submitted to Yass Valley Council

April 2024

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# 1 Introduction

This Planning Proposal has been prepared by Eight Mile Planning on behalf of Murrumbateman Land Projects Pty Ltd to support a change to the *Yass Valley Local Environmental Plan 2013* (YVLEP). The report has been prepared in accordance with the requirements of Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and having regard to the *Local Environmental Plan Making Guidelines* (LEP Guidelines) prepared by the Department of Planning, Industry and Environment (DPE).

The Planning Proposal supports an amendment to *Schedule 1 Additional permitted uses* of the YVLEP to enable the development of small-scale tourist and visitor accommodation associated with the Shaw Winery, Cellar Door and Restaurant which also includes events at, 34 Isabel Drive Murrumbateman.

The use (accommodation) was permitted under the previous environmental planning instrument (EPI) and made prohibited following the rezoning of the land under the Standard Instrument Local Environmental Plan Order with the publication of the YVLEP in 2013.

## 1.1 Site context

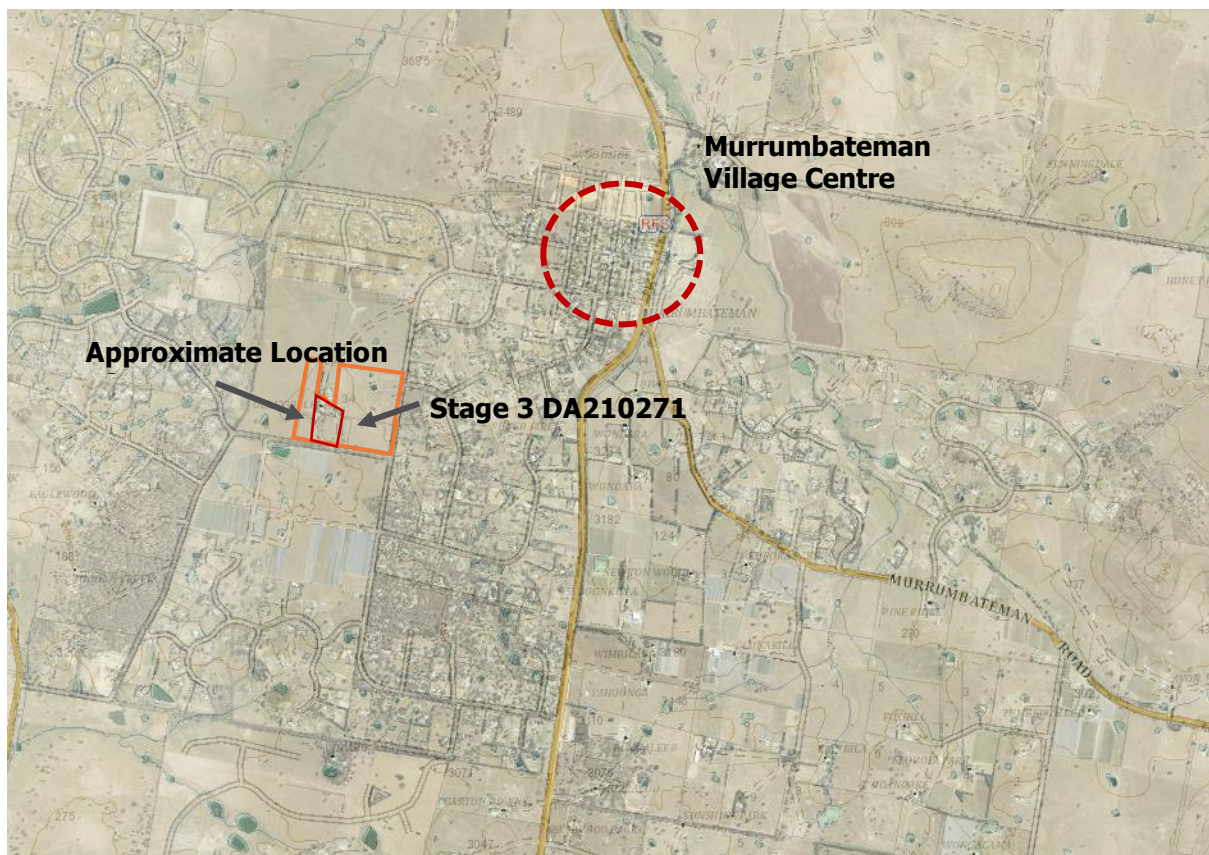
The property is located in Murrumbateman, and the site of the Shaw Vineyard Estate. The estate includes a cellar door, restaurant, gallery, and several dwellings and outbuildings.

Murrumbateman is a prominent wine producing area and is surrounded by multiple vineyards and boutique wineries. The town has a low population density, and the predominant character of dwellings is large lot residential, with surrounding larger rural land holdings. The core of the Murrumbateman village is located on the Barton Highway. It comprises a small street grid-oriented north-south and east-west. The surrounding large lot residential land has curved streets with no regular pattern. Dwellings in Murrumbateman are predominantly large detached single storey buildings of brick masonry construction. Lots are large and provide the opportunity for separation of dwellings through the combination of space and landscaping.

The site is located approximately 2.2km southwest of the Murrumbateman town centre.

The land is identified as residual Lot 27 (with an area of 6.2ha) in the development of Stage 3 of The Fields rural residential development. The lot has been retained with sufficient curtilage to accommodate the existing tourist related uses which provide a level of amenity within the context of the low density rural residential neighbourhood.

Figure 1 Site context



Source: Six Maps 2023

The site is identified in **Figures 1 and 2**. The land immediately north of the site was the subject of Stages 1 and 2 of The Fields subdivision approved in 2020 under DA200049. The Fields Stage 3 was approved in March 2022 under DA210271 and a DA is currently under consideration for the development of Stage 4 being DA230374 to the south of the site.

## 1.2 Site description

The property is legally described as Lot 27 DP1301590, 34 Isabel Drive, Murrumbateman.

Site topography is slightly undulating with a high point on the northern boundary of Lot 27 and falling east and north.

The land is zoned R2 Low Density Residential with a corresponding MLS of 6,500m<sup>2</sup> although Lot 27 has an area of 6.2ha. The residual lot has been created to accommodate the existing tourism uses being the cellar door and restaurant, winery carparking and ancillary infrastructure. There are several smaller buildings, some of which have been removed through a separate DA for demolition process.

### Site Services

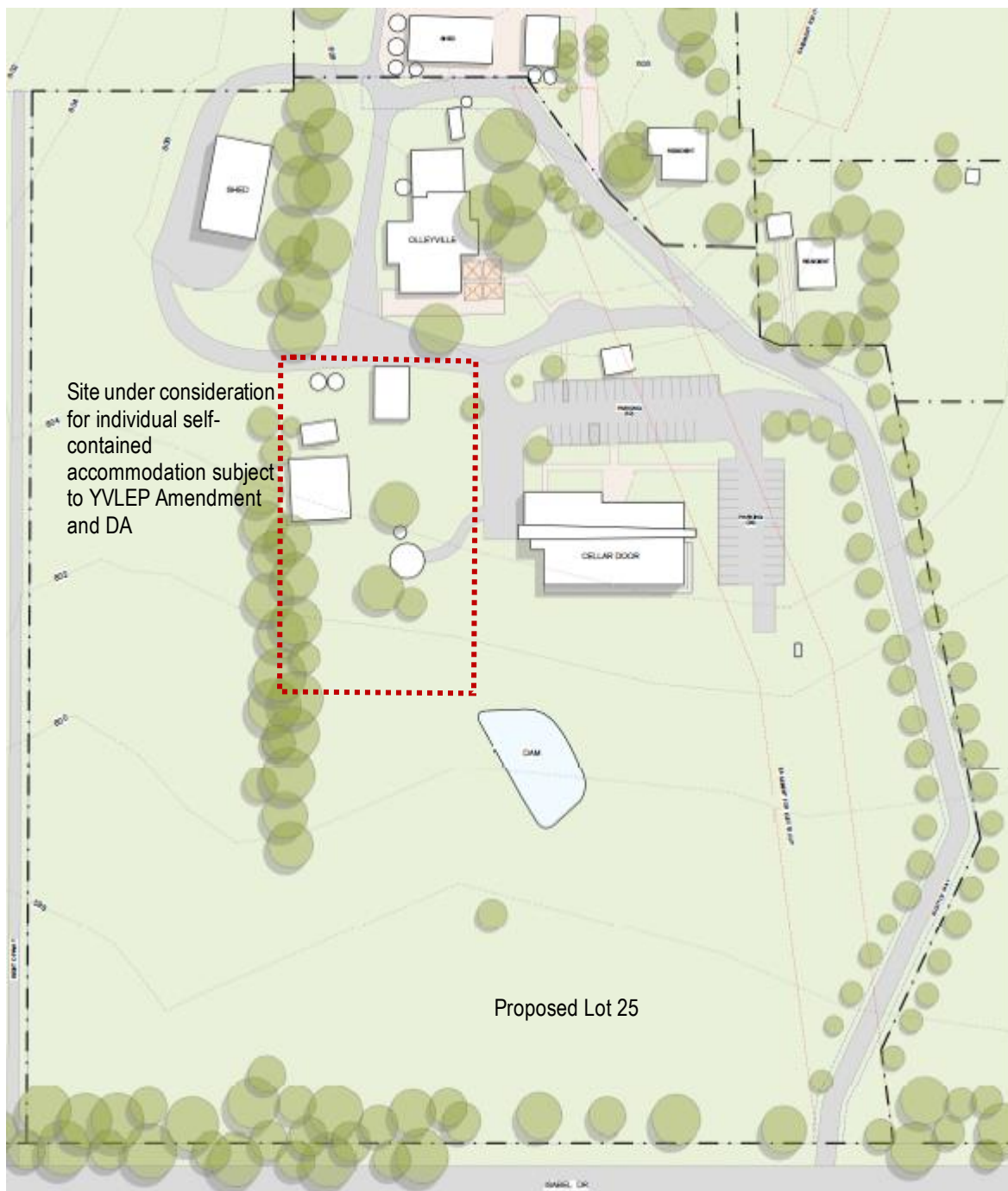
The existing site is self-sufficient in terms of required infrastructure and essential services. Sufficient power and water area available to support the proposed accommodation use. Water is to be utilised from the existing tanks and non-potable water supply from bores. There is no reliance on town water.

Figure 2 Subject Site



Source: SixMaps, 2021

Figure 3 Site Plan



Source: Stewart Architecture, 2023.

## 1.3 Planning Controls

The land is zoned R2 Low Density Residential with a corresponding MLS of 6,500m<sup>2</sup>. The R2 zone is a closed zone, in so far as only listed uses are permissible with everything else, including tourist and visitor accommodation prohibited. The objectives of the R2 Low Density Residential zone and associated land use table is provided as follows:

### 1 Objectives of zone

*To provide for the housing needs of the community within a low density residential environment.*

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

To ensure that development is provided with an adequate water supply and the disposal of sewage.

## 2 Permitted without consent

Environmental protection works; Home-based child care; Home businesses; Home occupations

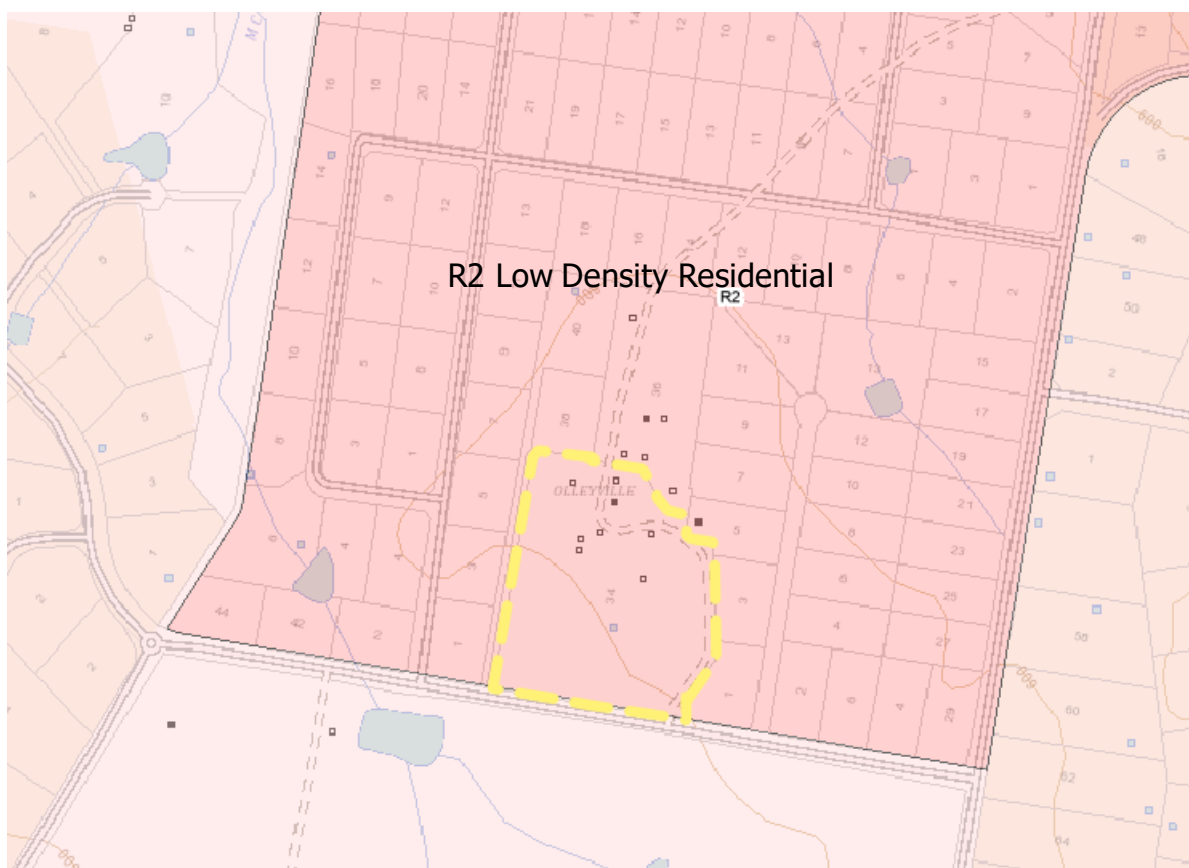
## 3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Centre-based child care facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental facilities; Exhibition homes; Group homes; Home industries; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Signage; Tank-based aquaculture; Water supply systems

## 4 Prohibited

Any development not specified in item 2 or 3

Figure 4 Zoning

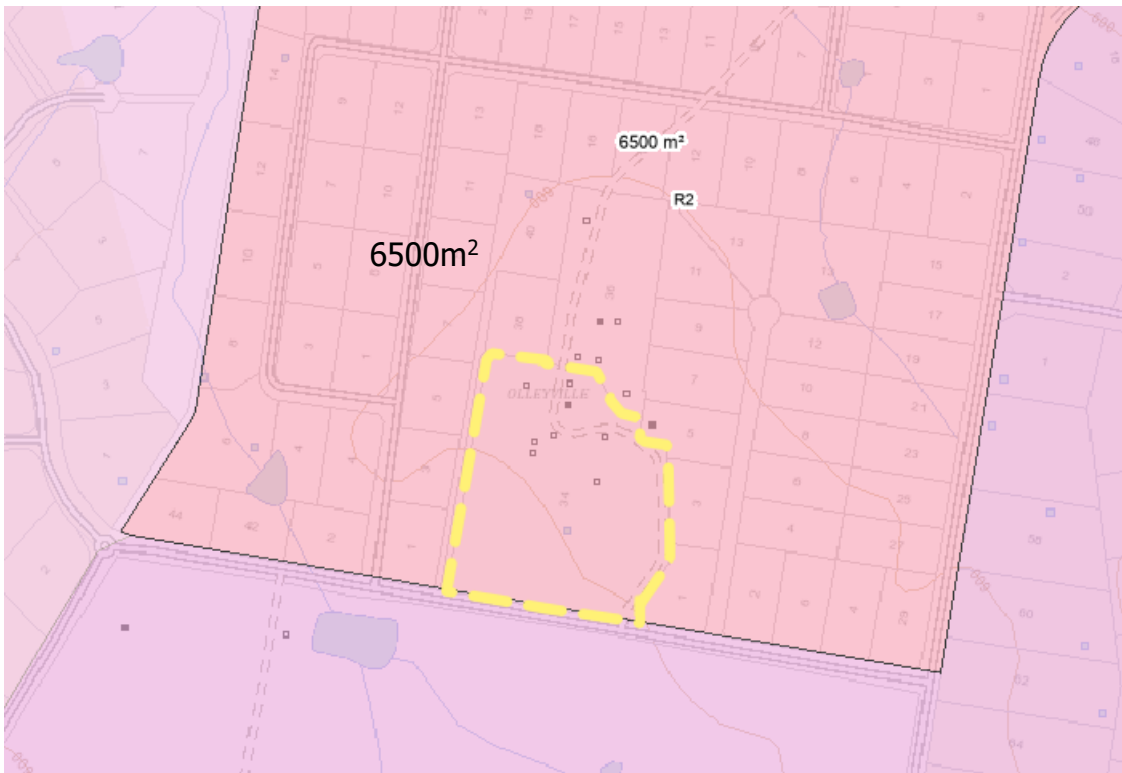


Source: ePlanning Spatial Viewer 2023 (site outline added)

The site is on the boundary between the R2 Low Density Residential and R5 Large Lot Residential zone (to the south and east). The R5 zone has a significantly larger minimum lot size (2ha) and provides a transition between the 6,500sqm development and rural areas further south and west.



Figure 5 Minimum lot sizes



Source: ePlanning Spatial Viewer 2023 (site outline added)

## 2. Proposal

The proposal is for the development of tourist and visitor accommodation and ancillary uses on the site. This land use, defined in the YVLEP to include serviced apartments, is prohibited in the current zone. Therefore, any development of this characterisation will require an amendment to the YVLEP.

The process for amending the YVLEP includes identification of the strategic merit of the proposal having regard to the land use planning and policy framework both at the Regional and Local level.

### 2.1 Background

The Shaw Winery has developed over time with a significant investment of the new Cellar Door and Restaurant/event catering as a destination within the established Canberra Wine Region. It has long been the intention of the landowner (Mr Shaw) to incorporate short stay accommodation as an ancillary and compatible addition to the existing development.

The site was previously zoned 1(c1) Rural residential under the former Yass Local environmental Plan 1987 (YLEP1987). Under the 1(c1) zone, both viticulture and grazing fell under the broad definition of agriculture which was permitted without consent. The YLEP1987 included accommodation as a permissible use in the 1(c1) zone.

A 'Winery Cellar door and Café ancillary to Rural Industry' was approved by council 4 February 2004. The Shaw Cellar Door and Restaurant continues to operate on Isabel Drive as an existing use and is a key element of The Fields development.

In late 2016, Mr Shaw approached Council seeking advice as to the process for preparing a development application for the site for ancillary uses, including accommodation. It was at this time that Mr Shaw was made aware of the implications of change in the zoning of the land from 1(c1) Rural Residential to R2 Low Density residential with the gazettal of the YVLEP in 2013 in so far as the plans he had for the cellar door site, including accommodation, under the previous planning instrument, could not be realised (refer correspondence **Appendix B**).

In February 2017, representation was made by National Business Lawyers (on behalf of Graeme Shaw) to Council in relation to the Standard Instrument LEP, YVLEP2013. National Business Lawyers proposed that changing the permissible land uses applicable to the site was an error on the part of Council and that it should be rectified. In response, the reply from Council at the time claimed that retaining the original zones and land use was not possible under the Standard Instrument.

Although misleading when read in the context of the correspondence that it was responding to which related largely to the protection of the right to lodge a development application for certain uses that subsequently became prohibited. Council did and does have the ability to "save" the relevant original land uses this could have been achieved via additional permissible use provisions under clause 2.5 and the inclusion of the specific uses in Schedule 1 of the YVLEP. This was not communicated at the time but has since been used as a means of enabling other APUs on certain land with the first amendment to Schedule 1 being published 29 March 2019.

### 2.2 Tourist accommodation

As part of the continuation of and ancillary to the existing use, we propose to include accommodation on the site. Accommodation would be in the form of architecturally designed, transportable, self-contained accommodation adjacent to the existing cellar door.

A Master Plan has been prepared to indicate the arrangement of the winery lot to include the accommodation on the western side of the site (refer **Figure 6** below).

Figure 6 Proposed Master Plan



**LEGEND**  
 (1) CONSTRUCTION (2) TREES  
 (3) EXISTING AND PROPOSED UTILITIES

**StewartArchitecture**  
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PROJECT NAME: SHAW WINERY  
 PARCEL NUMBER: 2316  
 CLIENT: COLLERS  
 LOCATION: 34 Isabel Dr, Murrumbateman NSW 2502

DRAWING TITLE: MASTER PLAN  
 SCALE: 1:500 @ A1

DRAWING NUMBER: 0112

Each of the building envelopes above represents a double occupancy, self-contained domicile that includes a lounge/bedroom area and an ensuite. The architectural design has not been developed, however the following imagery provides an indication as to the vision for the site. Detailed design will be developed for the Development Application following the amendment to the planning instrument.

Figure 7 Conceptual Vision



Image Credit: Five Acres (Image: Marnie Hawson)

## Water and Sewer

The site is currently not serviced by reticulated water and sewer. The winery/cellar door lot was created as a residual lot under DA210271. A Land Capability Assessment was undertaken as part of that assessment which, consistent with the earlier Stages 1 and 2 demonstrated that the soil landscape and drainage is suitable for on-site waste water management. In addition, the existing winery, cellar door and restaurant manage on-site waste water and potable water supply via rainwater tanks. Bores contribute to the non-potable water.

Should additional development be accommodated at the site, a strategy for the waste water, drainage and potable water for the whole development should be considered. At this stage, and for the purpose of the amendment to Schedule 1, it is sufficient to confirm that soil profile and site is suitable for on-site management of water.

## Traffic

A preliminary traffic assessment has been undertaken by CBR Consulting to determine whether the capacity of the existing local road network to accommodate additional traffic. The assessment (**Appendix A**) considered both the existing land uses (restaurant, cellar door) and proposed accommodation use to determine the anticipated impact on the network.

Regarding the 12 accommodation units, assuming full unit occupancy, peak hour traffic generated by the units can be estimated at 5 vehicles per hour. However, when considering existing similar developments and available unit occupancy data, applying rates based on 85th percentile occupancy during the peak day of the week is advisable. Consequently, the PM peak traffic generated by the accommodation units is estimated at approximately 4 vehicles per hour.

Overall, the afternoon PM peak traffic generated by the development (including the existing uses) totals 54 vehicles per hour during this period. This volume accounts for approximately 38.5% of the calculated traffic load on Isabel Drive during the current peak period of 2024 and 33.5% of the PM peak hour traffic anticipated in 2041.

## 2.3 Planning controls

The proposal is defined under the YVRLEP as serviced apartments which is a use under the wider definition of tourist and visitor accommodation.

***Tourist and visitor accommodation*** means

*a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—*

- (a) backpackers' accommodation,*
- (b) bed and breakfast accommodation,*
- (c) farm stay accommodation,*
- (d) hotel or motel accommodation,*
- (e) serviced apartments,*

*but does not include—*

- (f) camping grounds, or*
- (g) caravan parks, or*
- (h) eco-tourist facilities.*

Serviced apartment, as listed above has a separate definition as follows:

***serviced apartment*** means *a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.*

*Note—*

*Serviced apartments are a type of tourist and visitor accommodation—see the definition of that term in this Dictionary.*

Serviced apartments are prohibited in the current R2 zone and therefore will require an amendment to the YVLEP prior to the submission of a development application to council. The intention is to amend the YVLEP to allow for serviced apartments to be permissible only on the subject site.

The process for amending the YVLEP includes the preparation of a Planning Proposal and the identification of the strategic merit of the proposal having regard to the land use planning and policy framework both at the regional and local level.

## Additional permitted uses

The YVLEP sets out the legislative framework for land use and development in the Yass Valley LGA through the application of land use zones and development controls through the provisions in the plan. One such provision allows for development that would otherwise be prohibited, to be permissible on certain land and under particular circumstances.

This Planning Proposal relies on the existing provision in clause 2.5 which reads as follows:

### **2.5 Additional permitted uses for particular land**

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out—
  - (a) with development consent, or
  - (b) if the Schedule so provides—without development consent,
 in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

Schedule 1 of the YVLEP already accommodates a number of additional permitted uses as follows:

#### **Schedule 1 Additional permitted uses**

(Clause 2.5)

##### **1 Use of certain land at 27782 Hume Highway, Bowning**

(1) This clause applies to land at 27782 Hume Highway, Bowning, being part of Lots 16 and 18, DP 246891 and part of Lot 172, DP 649063, identified as “1” on the Additional Permitted Uses Map.

(2) Development for the purpose of a highway service centre is permitted with development consent.

##### **2 Use of certain land at the intersection of Barton Highway and Long Rail Gully Road, Murrumbateman**

(1) This clause applies to part of Lot 12, DP 1158637, at the intersection of Barton Highway and Long Rail Gully Road, Murrumbateman, identified as “2” on the Additional Permitted Uses Map.

(2) Development for the purposes of highway service centres is permitted.

##### **3 Use of certain land in Zone E3**

(1) Development for the purposes of dwelling houses and shop top housing is permitted with development consent on land in Zone E3 identified as “3” on the Additional Permitted Uses Map.

(2) Development for the purposes of pubs is permitted with development consent on land in Zone E3 identified as “A4” on the Additional Permitted Uses Map.

The Planning Proposal contemplates an additional permitted use, being self-contained accommodation, on the subject site and reflected in Schedule 1.

## 2.4 Need for the development

Tourism contributes over \$50.9 million to the Yass Valley Local Government Area and supports over 211 full time jobs<sup>1</sup>. The region is known for its cool climate wines grown across 20 boutique wineries<sup>2</sup>. Despite this, accommodation options within Murrumbateman are very limited.

The COVID 19 Global Pandemic has impacted the way in which people are engaging with regional tourism. There has been a renewed interest in travel in regional NSW and the Yass Valley is well situated, given the proximity to Canberra and Sydney, to take advantage of this trend. Continuing to provide a wide selection of accommodation options catering for all prospective visitors will be a key part of the continued economic development of the industry.

The proposed development is for self-contained boutique tourist accommodation at a scale compatible with the existing use of the Cellar Door, Winery and Restaurant. The proposal responds to the lack of similar style accommodation options, in addition to the growing need for accommodation in Murrumbateman.

### Current Murrumbateman offerings

The range of current tourist accommodation options available in Murrumbateman are detailed below. As demonstrated in the table below tourist accommodation in the town is limited to two hotel/motels with a small number of B&B or self-contained type accommodation. In a general sense, motel-style accommodation is mostly suited to a portion of the market consisting of temporary workers, those travelling for work, or overnight stays.

As such, there is a gap in the tourist accommodation market of Murrumbateman for high-end, self-contained accommodation that encourages weekender and holiday type travel.

**Table 1 Murrumbateman Tourist Accommodation**

Name	Address	Type
Abode Murrumbateman	57 Rose St Murrumbateman	Motel, 50 rooms
Murrumbateman Country Inn	Barton Highway, Murrumbateman	Hotel, 14 rooms
Historic Merryville Homestead	1143 Dog Trap Road, Murrumbateman	Guesthouse, two bedrooms
Redbrow Garden Guesthouse	1143 Nanima Road, Murrumbateman	Guesthouse and functions centre, 7 bedrooms
Bertie Tiny House	Wallaroo	Single self-contained, single bedroom
Last Stop Ambledown Brook	198 Brooklands Road, Wallaroo	Self-contained, 2 carriages
Warrambui Retreat and Conference Centre	322 Greenwood Road, Murrumbateman	Conference and function centre, 180 beds, group accommodation

<sup>1</sup> Yass Valley Council, website, accessed November 2023.

<sup>2</sup> <https://www.visitnsw.com/destinations/country-nsw/yass-area/murrumbateman>

## 3. Strategic Planning Context

### 2.1 South East and Tablelands Regional Plan

*The South East and Tablelands Regional Plan 2036* provides a 20 year blueprint for the future of the region. The vision for the region will be delivered through 4 goals to create:

Goal 1 A connected and prosperous economy

Goal 2 A diverse environment interconnected by biodiversity corridors

Goal 3 Healthy and connected communities

Goal 4 Environmentally sustainable housing choices

These goals are proposed to be met through various directions under the South East and Tablelands Regional Plan. The relevant directions are outlined in the following table.

**Table 3.1 Regional Plan Relevant Directions**

Goal A connected and prosperous economy	Comment
Direction 5: Promote agricultural innovation, sustainability and value-add opportunities	The goal recognises the value of tourism to the region and ensuring that the planning system responds to the specific needs of growth sectors of the economy including tourism.
Actions Promote commercial, tourism and recreational activities that support the agricultural sector.	
Direction 9: Grow tourism in the region	
	Although the intensive agricultural use (viticulture) is being relocated, the site will continue to support a winery and cellar door as a value add to the operations. Supporting accommodation further diversifies the continuing operation of the winery.
	The Planning Proposal support the growth of the tourism industry.

### Local Government Narratives – Yass Valley

The narrative references the value of the Yass Valley for visitors, “with its historic buildings, Burrinjuck Dam and cool climate wineries, it is an attractive place for visitors” and states that:

*Tourism will continue to be a significant economic driver, with opportunities to capitalise on tourists accessing the region from Canberra Airport.*

The priorities for Yass Valley include:

*Promote the area as a destination that visitors to Canberra should also visit.*

The Planning Proposal is consistent with the Regional Plan.

The Regional Plan is currently under review. The Planning Proposal is considered to be consistent with the **Draft South East and Tablelands Regional Plan 2041**.



## 2.2 Local Strategic Planning Statement

The Yass Valley Local Strategic Planning Statement (LSPS) works alongside the Community Strategic Plan to set out the community's long-term vision and aspirations for all Councils planning activities.

The LSPS is the strategic land-use planning roadmap for the future and provides the framework for Councils land-use needs over the next 20 years. It sets out the long-term vision and aspirations for the community and is Council's key strategic land-use planning document. The LSPS articulates the long term planning priorities and how these will be achieved.

### **Planning Priority 6 Maximise opportunities for tourism, industry and investment in the Yass Valley.**

#### Rationale

*...Yass Valley enjoys a low unemployment rate however this is due to our increasing role as a commuter location, exporting significant levels of labour into the ACT. Our focus is on fostering an adaptive and innovative agricultural industry, growing our visitor economy and providing opportunities for the establishment of new businesses.*

*Ensuring our local planning tools are flexible and responsive to both existing and new businesses is critical. At present, the provisions within the Yass Valley LEP are relatively rigid and unless a use falls within standard NSW land use definitions it is currently automatically prohibited. Altering the structure of the land use tables would enable uses which are rapidly evolving to be considered.*

The proposal is aligned and supports the above planning priority and the overall aspirations of the LSPS.

## 2.3 Community Strategic Plan 2042

The Yass Valley Community Strategic Plan 2042 (CSP) sets out Council's vision and priorities for the LGA. The CSP has a broader focus than the LSPS as it addresses long term social, environmental and economic goals for the community that have been developed following extensive community consultation and engagement.

The CSP includes the theme EC. Our Economy under which is the following Strategic Objective:

### **EC2 2 The local and regional tourism offering is expanded, increasing visitation to the region.**

The strategies identified for achieving the objective include to: **Support and encourage the growth of tourism infrastructure such as accommodation, visitor facilities and restaurants.**

The proposal is consistent with the Community Strategic Plan.

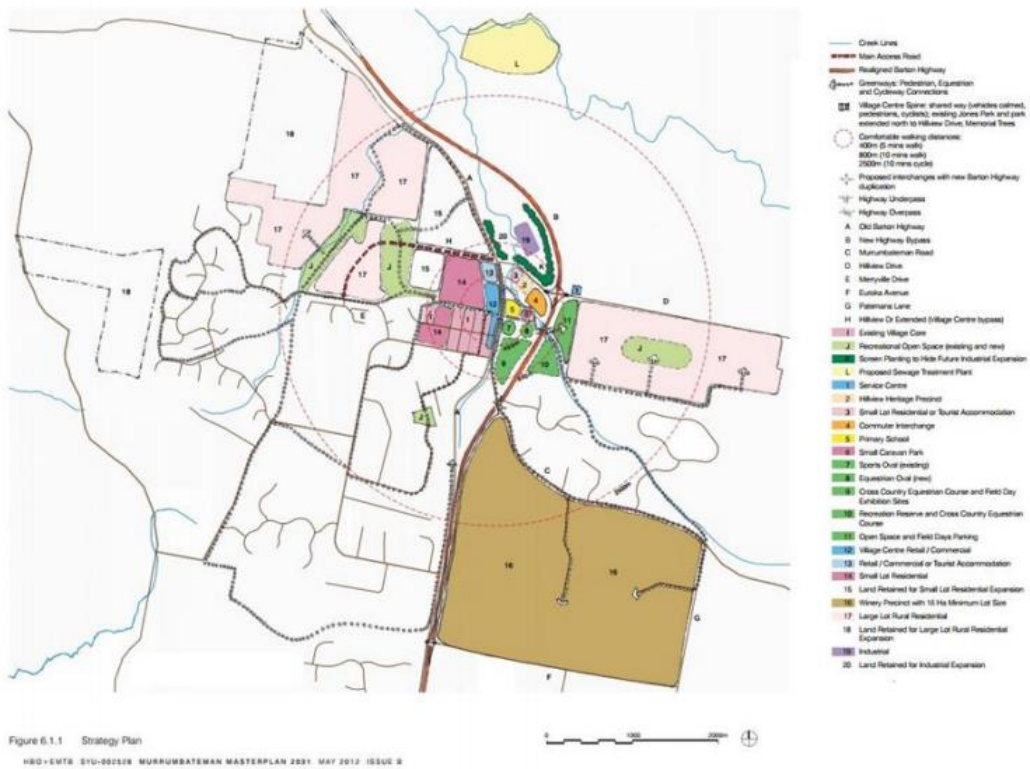
## 1.2 Murrumbateman Structure Plan

The Murrumbateman Structure Plan was endorsed by Council in August 2012, shown in **Figure 6**. It identified areas for future rural residential development and established concentric radii from the village centre of 500m (5-minute walk), 800m (10-minute walk) and 2,500m (10-minute cycle). The Structure Plan did not identify the subject site for future rural-residential because it was associated with the Shaw Vineyard Estate at the time. However, the YVLEP did rezone the site despite the Structure Plan.

The Planning Proposal does not seek to alter the R2 zone, or add tourist and visitor accommodation as a permissible use. It relates only to the subject site which is suitable due to the nature and scale of the existing uses on the site.

The proposal is not inconsistent with the Structure Plan.

Figure 8 Murrumbateman Structure Plan 2012



Source: Yass Valley Council, 2012

## 5. The Planning Proposal

The Planning Proposal has been prepared in accordance with Section 3.33(2) of the EP&A Act which outlines the required contents of a Planning Proposal. Accordingly, this Planning Proposal includes:

- » A description of the Site and the surrounding locality (refer Section 1)
- » A statement of the objectives or intended outcomes of the proposed instrument (refer Section 5 Part 1)
- » An explanation of the provisions that are to be included in the proposed instrument (refer Section 5 Part 2)
- » The justification for those objectives, outcomes and provisions and the process for their implementation, including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1 of the EP&A Act (refer Section 5 Part 3)
- » Maps to be adopted by the proposed instrument (refer Section 5 Part 4)
- » Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument (refer Section 5 Part 5)
- » Details on the proposed project timeframe for the completion of the Planning Proposal (refer Section 5 Part 6).

The Planning Proposal has also been prepared in accordance with the Department's *Local Environmental Plan Making Guideline* (As revised: August 2023).

### Part 1 - Objectives and intended outcomes

The primary purpose of this Planning Proposal is to amend the YVLEP to enable the development of the site for the purposes of self-contained accommodation.

The intended outcomes are to:

- » Enable the lodgement of a development application on the site.
- » Facilitate the investment in tourism infrastructure to support the growth of the industry in the region consistent with the LSPS, CSP and Regional Plan.
- » Provide a site which has an area that is sufficient to accommodate self-contained accommodation in an urban setting without impacting on adjoining and adjacent land uses.
- » enable the continuation of the winery, cellar door and restaurant uses on the site as part of the integration of agriculture and tourism.

### Part 2 - Explanation of provisions

The proposal seeks to achieve the intended outcomes outlined in Part 1 of this report by proposing amendments to the YVLEP as follows:

- » Include into Schedule 1 Additional permitted uses the following:

**4 Use of certain land at 34 Isabel Drive, Murrumbateman**

(1) This clause applies to land at 34 Isabel Drive, Murrumbateman, being Part Lot 2 DP 1269071 and Part Lot 34 DP 270197, (proposed Lot 25)<sup>3</sup> identified as “4” on the Additional Permitted Uses Map.

(2) Development for the purposes of serviced apartments is permitted.

» Amend the YVLEP Additional Permissible Use Map.

## Part 3 - Justification

Part 3 of the Planning Proposal provides the justification of the proposal within the relevant strategic planning context. In accordance with the guidelines the level of justification is to be proportionate to the impact of the proposal and the stage of the of the LEP amendment process. At this initial stage the issues relevant to the proposal must be identified to provide sufficient confidence to both Council and DPE the amendment has merit.

### Section A – Need for the planning proposal

#### Q1. Is the planning proposal a result of any strategic study or report?

Yes. The Planning Proposal is consistent with the goals and priorities outlined in the following strategic plans and reports that have been prepared and endorsed by Council:

Local Strategic Planning Statement

Yass Valley Community Strategic Plan - 2042

The above listed plans are addressed in further detail at Section 3.

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

Yes. A planning proposal seeking to amend YVLEP is considered the best means of achieving the objectives and intended outcomes set out in Part 1 of this Planning Proposal and the most effective way of providing certainty for Council, the local community and the landowner as to the future intended use of the land.

### Section B – Relationships to Strategic planning framework

#### Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

Yes. The proposal is consistent with the South East and Tablelands Regional Plan 2036 and the recently exhibited Draft South East and Tablelands Regional Plan 2041. Refer Section 3.

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

As noted above, the Planning Proposal will give effect to the LSPS and the Yass Valley Community Strategic Plan as they relate to the growth of the tourism industry in the LGA.

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

Yes. The Planning Proposal is consistent with the relevant State Environmental Planning Policies as follows:

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<sup>3</sup> To be updated following registration of the subdivision.

Table 5.1 State Environmental Planning Policies

SEPP	Consistency	Comment
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes	The Planning Proposal will not contain provisions that would contradict or hinder the application of the SEPP.
State Environmental Planning Policy (Building sustainability Index: BSIX) 2004	N/A	-
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Yes	The Planning Proposal will not contain provisions that would contradict or hinder the application of the SEPP.
State Environmental Planning Policy (Housing) 2021	N/A	-
State Environmental Planning Policy (Industry and Employment) 2021	N/A	-
State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development	N/A	-
State Environmental Planning Policy (Planning Systems) 2021	Yes	The Planning Proposal will not contain provisions that would contradict or hinder the application of the SEPP.
State Environmental Planning Policy (Precincts-Eastern Harbour City) 2021	N/A	-
State Environmental Planning Policy (Precincts-Western Parkland City) 2021	N/A	-
State Environmental Planning Policy (Precincts-Regional) 2021	N/A	-
State Environmental Planning Policy (Primary Production) 2021	N/A	-
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes	The Planning Proposal will not contain provisions that would contradict or hinder the application of the SEPP.
State Environmental Planning Policy (Transport and Infrastructure) 2021	N/A	-

**Q6. Is the planning proposal consistent with applicable Ministerial Directions?**

The Ministerial Directions under section 9.1 of the EP&A Act requires planning proposals to be consistent with the terms of the relevant direction. The relevant directions are considered below.

**Table 5.2 9.1 Directions**

Directions	Objective of Direction	Consistency and Implications
------------	------------------------	------------------------------

**Focus Area 1 — Planning Systems**

1.1 Implementation of Regional Plans	The objective of this direction is to give legal effect to the vision, land use strategy, goals, direction and actions contained in Regional Plans	Consistent. Refer Section 3.
1.3 Approval and Referral Requirements	The objective of this direction is to ensure that the LEP provisions encourage efficient and appropriate assessment of development.	Consistent.
1.4 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent.  The mechanism proposed complies with 1.4(1)(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

**Focus Area 4 — Resilience and Hazards**

4.3 Planning for Bushfire Protection	The objectives of this direction are to:  (a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and  (b) encourage sound management of bush fire prone areas.	Consistent
4.4 Remediation of Contaminated Land	The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.	Consistent  The Direction refers to the rezoning of land. The site is already zoned R2 Low Density Residential.

**Focus Area 6 — Housing**

Directions	Objective of Direction	Consistency and Implications
6.1 Residential zones	<p>The objectives of this direction area to:</p> <p>a) encourage a variety of housing types to provides for existing and future housing needs,</p> <p>b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>c) minimise the impacts of residential development on the environment and resources land.</p> <p>Application</p> <p>This direction applies to any planning proposal that impacts a residential zone.</p>	<p>Consistent. The planning proposal applies to a planning proposal within an existing residential zone.</p> <p>The terms of the direction relate to the delivery of housing in residential zones. In this instance, the site has been established (historically) with a winery, cellar door and restaurant.</p> <p>The inconsistency is therefore considered minor and justified.</p>

**Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats will be adversely affected as a result of the proposal?**

No. The site is not identified as an area of significant biodiversity.

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

No. As the Planning Proposal will not result in other environmental effects.

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

The proposal does not trigger specific social and economic effects. However, it will provide for additional employment and contribute to the growth of tourism in the region.

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

Yes. The proposal does not impact the delivery of or demand for infrastructure.

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

The views of State and Commonwealth Public Authorities will not be known until after the Gateway Determination. This section of the planning proposal is completed following consultation with those public authorities identified in the Gateway Determination.

## Part 4 - Maps

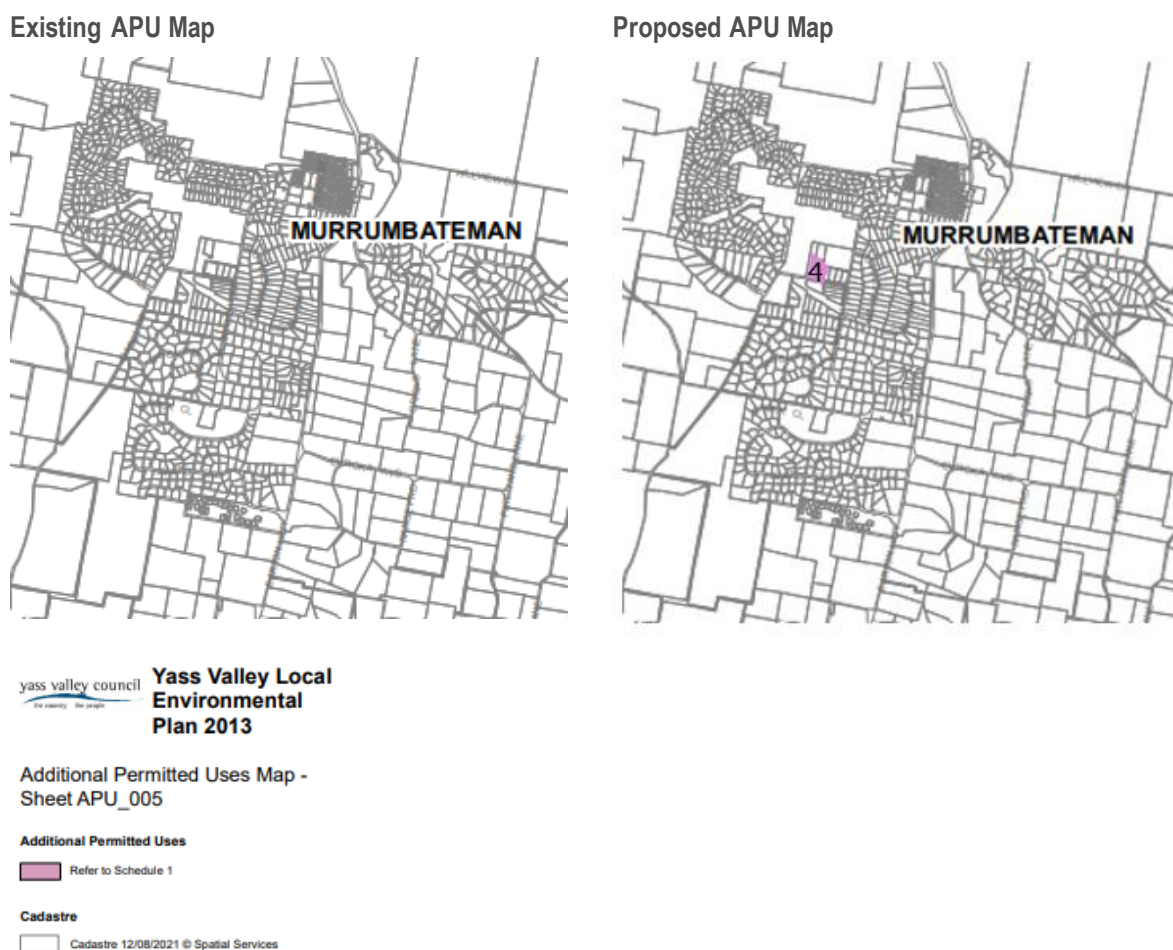
The proposal will amend the following Map Sheet:

**Table 5.3 Map Amendment**

Map Sheet	Description
Additional Permitted Uses Map – Sheet APU_005	Amend the APU Map to include the subject Lot.

Existing and proposed YVLEP Maps are shown below.

**Figure 5.1 Existing & Proposed APU Map**



Source: Extracted YVLEP Additional Permitted Uses Map – Sheet APU\_005



## Part 5 - Consultation

Division 3.4 of the EP&A Act requires the relevant planning authority to consult with relevant agencies and the community in accordance with the Gateway Determination. The Gateway Determination will specify the community consultation requirements that must be undertaken on the planning proposal. The Gateway Determination will:

- » Outline the timeframe for exhibition.
- » Identify relevant state or Commonwealth authorities to be consulted.
- » Determine whether a public hearing is to be held into the matter by the IPC or other specified person or body.

It is expected that the planning proposal will be publicly exhibited for 28 days. The Planning Proposal is unlikely to require further concurrence with agencies.

## 6. Conclusion

The Planning Proposal is seeking the support of Council to reinstate accommodation as a permissible use of the subject site. It is proposed to use the *Clause 2.5 Additional permitted uses of certain land*, provision with the use included in Schedule 1 of the YVLEP and a corresponding amendment to the Additional Permitted Uses Map.

The Planning Proposal demonstrates the strategic merit of the amendment as summarised in the table below.

The Planning Proposal is seeking Council support for the amendment and a recommendation that it proceed to Gateway.

**Table 6.1 Strategic Merit**

Criteria	Assessment
<b>Strategic merit test criteria</b>	
Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or	<b>Consistent.</b> The Planning Proposal is consistent with the Regional Plan
Consistent with a relevant local strategy that has been endorsed by the Department; or	<b>Consistent.</b> The Planning Proposal is consistent with the CSP and LSPS
Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognized by existing planning controls.	<b>Not applicable.</b>
<b>Site-specific merit test criteria</b>	
The natural environment (including known significant environmental values, resources or hazards)	<b>Consistent.</b> The site is free of any significant vegetation. The amendment will have limited impact on the natural environment.
The existing uses, approved uses and likely future uses of land in the vicinity of the land subject to a proposal	<b>Consistent</b> The amendment will not implicate the land use tables for the relevant zones.  The small scale accommodation use is considered to be consistent with the low density nature of the surrounding and future development. Moreover, it supports and is compatible with the existing cellar door, winery and restaurant uses on the same site.
The services and infrastructure that are or will be available to meet the demands arising from the	<b>Consistent.</b>

Criteria	Assessment
proposal and any proposed financial arrangements for infrastructure provision	The proposal will not add strain on the proposed infrastructure or capacity.

# Appendix A – Traffic Assessment

CBR Consulting, March 2024.

## Accommodation – Shaw Winery and Cellar Door

This traffic assessment has been undertaken by CBR Consulting to inform a planning proposal, amending the Yass Valley Local Environmental Plan, Schedule 1, to allow a small-scale tourist and visitor accommodation development on land that accommodates the Shaw Winery, Cellar Door and Restaurant, located at 34 Isabel Drive Murrumbateman. The amendment would allow a development application to be lodged for the use.

The traffic from the proposed development has been considered together with the existing traffic volumes on Isabel Drive and that projected from the recent developments of Stage 1, 2 and 3 of the Fields.

The traffic distribution to the two main exits from the Estate onto the external road network (Isabel Drive and McIntosh Circuit), was determined by catchments within the Estate that lead to these external roads. This was also supplemented by traffic destination assumptions, where 85% of traffic was assumed to travel to Canberra. The remaining 15% of traffic was assumed to either drop of children in the childcare near the Murrumbateman town centre prior to travel to Canberra, or to the local town centre, or to other northern employment areas, such as Yass.

Based on these travel destination assumptions, the traffic catchments within the Estate were determined. The results of this was as follows:

Number of Lots	
27	lots from Stage 1 to Isabel Drive
48	lots from Stage 1 to McIntosh Cct
24	lots from Stage 2 to McIntosh Cct
18	lots from Stage 3 to Isabel Drive
8	lots from Stage 3 to McIntosh Cct

Based on the Guide to Traffic Generating Developments Updated traffic surveys (TDT 2013/04a, August 2013), the corresponding AM and PM peak traffic volumes were determined for the above catchment lots that feed into the surrounding road network. The rates taken from the RMS document per dwelling were 0.78 peak hour vehicle trips for the PM peak and 0.71 vehicle trips for the AM peak. See below relevant extract from the RMS guidelines used to inform the traffic generation rates.

## Summaries of land use traffic generation

### Low density residential dwellings

Eleven surveys were conducted in 2010, six within the Sydney urban area and five within regional NSW. The results of the surveys were as follows:

#### Rates

Daily vehicle trips = 10.7 per dwelling in Sydney, 7.4 per dwelling in regional areas  
 Weekday average evening peak hour vehicle trips = 0.99 per dwelling in Sydney (maximum 1.39), 0.78 per dwelling in regional areas (maximum 0.90).  
 Weekday average morning peak hour vehicle trips = 0.95 per dwelling in Sydney (maximum 1.32), 0.71 per dwelling in regional areas (maximum 0.85).  
 (The above rates do **not** include trips made internal to the subdivision, which may add up to an additional 25%).

### RMS TDT 2013/04a (August 2013)

Applying these rates to the assumed traffic catchment split from the Estate provided the below AM and PM peak hour volumes for each residential catchment.

Number of Lots	AM Peak	PM Peak
27 lots from Stage 1 to Isabel Drive	19	21
48 lots from Stage 1 to McIntosh Cct	34	37
24 lots from Stage 2 to McIntosh Cct	17	19
18 lots from Stage 3 to Isabel Drive	13	14
8 lots from Stage 3 to McIntosh Cct	6	6

Traffic count data for the existing network was provided by Yass Valley Council. This included traffic volume counts on Isabel Drive in various locations. The percentage heavy vehicles were also provided as part of this data. The relevant data to Isabel Drive has been left in black text, where the greyed out text has been omitted from this analysis, due to either not being in close enough proximity to the site in question, or being outdated.

Road Name	Site Location	From	To	ADT	HV %
Isabel Drive	200m from McIntosh Cct	30/03/2004	13/04/2004	642	9.90%
Isabel Drive	Near McIntosh Cct	18/11/2009	1/12/2009	958	18.50%
Isabel Drive	Near roundabout intersection	3/03/2016	17/03/2016	320	11.10%

To bring the above traffic data to current traffic volume rates, the estimated resident population (ERP) was taken from the Yass Valley Council and Australian Bureau of Statistics' official 2020 population figures for all Local Government Areas (LGAs). The ERP percentage change by year was as follows:

Year	Change in Percentage
2013	6.64%
2014	1.46%
2015	1.11%
2016	-0.12%

2017	0.72%
2018	0.58%
2019	0.91%
2020	1.10%
<b>Median</b>	<b>1.01%</b>

The median was used as a representative change in percentage for years that are outside currently available information. As there appear to be outlying values in the change in percentage growth in a few years, the median was seen as most appropriate for traffic projections, rather than simply taking the average.

Applying these growth rates to the applicable site location traffic counts, which was provided as an ADT value, allowed projection to both current 2021 and future 2041 periods. These values were in turn divided by 10 to convert to AM and PM peak volumes on the existing roads, in the site locations provided. Based on this, the following has been calculated for existing and 2041 projected volumes on Isabel Drive:

Isabel Drive (near McIntosh Cct)

- Dates counts taken - 18/11/2009 to 1/12/2009
- ADT – 958
- HV % - 18.50%
- 2024 ADT – 1145
- 2041 ADT – 1362
- 2024 AM Peak – 114
- 2024 PM Peak - 114
- 2041 AM Peak – 136
- 2041 PM Peak – 136

The AM and PM peak volumes determined from the Estate catchments, mentioned above were combined with the above AM and PM peak hour traffic projections to provide overall morning and evening peak hour traffic volumes for the 2021 and 2041 scenarios for Isabel Drive. See below summary of values used for the preliminary analysis.

- 2024 AM Peak – 140
- 2024 PM Peak – 140
- 2041 AM Peak – 161
- 2041 PM Peak – 161

**Assessment** The traffic assumptions have been based on the proposed development comprising 12 self-contained accommodation units, each designed to accommodate a maximum of two occupants. Parking provision is anticipated at one space per unit, although the final allocation will be subject to the detailed assessment conducted during the Development Application (DA) process.

Cellar Door Occupancy Limitations: The maximum occupancy for the cellar door establishment is 70 individuals indoors and 30 individuals outdoors.

Olleyville Restaurant Occupancy Limitation: Olleyville Restaurant has a maximum occupancy limit of 100 individuals.

Estimated Daily Attendance at Cellar Door: An estimation of daily attendance at the cellar door is estimated at an average of 30-40 visitors per day from Monday to Thursday, increasing to approximately 50-60 on Fridays, and ranging between 120-130 on Saturdays and Sundays.

Estimated Daily Attendance at Restaurant and Operational Schedule: The restaurant operates with dinner service on Thursday evenings and both lunch and dinner service on Saturdays and Sundays. Thursday night dinners typically accommodate an average of 30-40 patrons. Lunch and dinner services on Saturdays and Sundays attract a total of approximately 50 patrons per seating, with approximately 65% arriving in cars and the remainder in groups utilising small buses or limousines.

The RMS Guide to Traffic Generating Developments (October 2002) emphasises the variability in traffic generation among restaurants, contingent upon their specific nature and type. It cautions against assuming full seat occupancy, recommending instead the use of the 85<sup>th</sup> percentile occupancy. A study conducted by the RTA in 1981 surveyed ten restaurants, revealing a mean peak seat occupancy of 91%, ranging from 63% to 133%. According to the RMS Guide, the rates for evening peak hour vehicle trips are 5 per 100 m<sup>2</sup> of gross floor area, and for daily vehicle trips, it's 60 per 100 m<sup>2</sup> of gross floor area.

Applying these guidelines to the estimated usage of Olleyville Restaurant, the weekday peak traffic can be estimated as follows:

- With a gross floor area of 665 m<sup>2</sup>, evening peak hour vehicle trips equate to 33 vehicles, adjusted by an occupancy factor of 65%, resulting in approximately **22 vehicles per hour** during the PM peak.

Similarly, the RMS Guide underscores the site specific nature of traffic generation for recreational and tourist facilities, often exhibiting seasonal fluctuations in usage. Recommendations are similar to those for restaurants, suggesting analysis based on predicted 85<sup>th</sup> percentile usage, rather than full capacity, while considering weekly and seasonal variations.

For the Cellar Door, traffic generation analysis can be based on estimated attendance during a weekday peak period, where 30 to 60 patrons are expected. Utilising the 85<sup>th</sup> percentile usage, approximately 56 patrons would travel during the weekday PM Peak period, translating to around **28 vehicles per hour**, with a general car occupancy rate of 2 to 2.5 patrons per vehicle and taking 2 as the most conservative rate.

Regarding the 12 accommodation units, assessment against the RMS Guide's recommendation of 0.4 evening peak hour vehicle trips per unit is appropriate. Assuming full unit occupancy, peak hour traffic generated by the units can be estimated at 5 vehicles per hour. However, when considering existing similar developments and available unit occupancy data, applying rates based on 85<sup>th</sup> percentile occupancy during the peak day of the week is advisable. Consequently, the PM peak traffic generated by the accommodation units is estimated at approximately **4 vehicles per hour**.

Overall, the afternoon PM peak traffic generated by the development totals **54 vehicles per hour** during this period. This volume accounts for approximately 38.5% of the calculated traffic load on Isabel Drive during the current peak period of 2024 and 33.5% of the PM peak hour traffic anticipated in 2041.

Considering the geometry and current functionality of Isabel Drive, an increase from 140 vehicles per hour to a theoretical 144-145 vehicles per hour is not expected to significantly affect the road's operation or the adjacent McIntosh Circuit intersection. Consequently, the development has been assessed to exert minimal impact on the surrounding road network and remain within Isabel Drive's capacity.

Please note that this traffic assessment is preliminary in nature, the purpose of which is to demonstrate the capacity of the network to accommodate the proposed use. A more detailed assessment will be conducted, contingent upon the specific details available at the time of the Development Application (DA). The accuracy and conclusions of the assessment will depend on the comprehensive data and information provided during the DA process.

# Appendix B Correspondence



# yass valley council

the country the people

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14 December 2017

Francis Low  
Director  
National Business Lawyers, ACT

*ATTN: Kim Thompson*  
[kthompson@nblawyers.com.au](mailto:kthompson@nblawyers.com.au)

Dear Francis

## **Yass Valley LEP – R2 & R5 zones – G Shaw - Murrumbateman**

I refer to your letter regarding the zoning and permissibility of land uses on your client – Mr Graeme Shaw's land. I apologise for the delay in responding.

Prior to the Yass Valley LEP 2013, the former Yass LEP 1987 was applicable to this land which was zoned 1(c1) Rural Residential. Viticulture and grazing fell under the then broad definition of *Agriculture* which was permitted without consent.

Consent for a 'Vineyard subdivision' was granted under the former Yass Local Environmental Plan (LEP) 1987 over the land on 1/3/1999 and for a 'Winery Cellar Door and Café ancillary to Rural Industry' on 4/2/2004.

The comprehensive Yass Valley LEP came into effect in July 2013 and applied the R2 Low Density Residential and R5 Large Lot Residential zones to the subject lots (not RU2 Rural Landscape and RU5 Village as referred to in your letter). Note that since that time, the zones and permissible land uses applicable to your Client's land have not been altered or varied since gazettal.

Retaining the 'original zones' and 'land uses' within the Yass Valley LEP 2013 was not possible due to the NSW requirement to adopt the standard instrument format, including zones and definitions. Through the introduction of the comprehensive Yass Valley LEP in 2013, permitted land uses on individual lots across the LGA changed depending on which of the three LEP's (Yass, Gunning, Yarrowlumla) previously applied to the land, and the applicable equivalent zone in the (new) standard instrument. I have attached a guide to how the parent and child land use terms 'nest' under the standard instrument LEP.

In addition, Council considered that Viticulture (Intensive plant agriculture) was not an appropriate use to be encouraging within zones primarily for residential purposes (i.e. R2 and R5 zones) across the LGA due to the potential land use conflicts. The NSW Standard LEP Instrument definition for *cellar door premises* also includes a requirement that it be situated on land on which there is a commercial vineyard. It then follows that if a vineyard is not permitted, any associated cellar door premises would not be permitted.

Around the time of 2013 LEP, your Client had sought approval for the residential subdivision - Carrington Estate, and the zoning and lot size was adjusted consistent with the approval (R2 Large Lot Residential, 6500 sqm). Regard was given to the existing uses on your client's R2 zoned land, whilst

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allowing for residential intensification. This facilitated a significant increase in the residential development potential of the balance of your Client's land within the R2 zone.

Notwithstanding the above, your Client does retain Existing Use Rights under section 107 of the Environmental Planning and Assessment Act 1979 and in accordance with the Environmental Planning and Assessment Regulation 2000, for the existing cellar door, restaurant, viticulture and extensive agriculture (grazing) on land within the R2 Low Density Residential zone. The regulation sets out the requirements which allow for the enlargement or intensification of an existing use, or alterations, extensions or rebuilding of buildings and works.

The existing viticulture and extensive agriculture (grazing) uses on the subject land zoned R5 Large Lot Residential can also be continued under the above. The R5 zone within the Yass Valley LEP 2013 also permits extensive agriculture without consent.

Given the presence of existing use right provisions, Council does not consider that an amendment to the Yass Valley LEP 2013 is necessary. Amending the permitted land uses within the R2 and R5 zones would also apply to all other areas of R2 and R5 throughout the Yass Valley Local Government Area, which is not desirable.

Yours sincerely



Liz Makin

**Strategic Planning Manager**

