

ITEM 22 PROPOSED AMENDMENT OF YARROWLUMLA LOCAL ENVIRONMENTAL PLAN 2002

Reporting Officer Strategic Planner	File No PL/STR/24.1 and 6116
Budget Allocation N/A	Expenditure to Date N/A
Effect of Recommendation on Budget N/A	

Report Summary

The purpose of the report is to progress the proposed amendment of *Yarrowlumla Local Environmental Plan 2002* to amend the land use zone of Lot 30 DP 754889, Burra Road, Burra from 1 (a) (General Rural Zone) to 1 (d) (Rural Residential Zone).

Commentary

Introduction

A Planning Proposal to rezone Lot 30 DP 754889, Burra Road, Burra, from 1 (a) (General Rural Zone) to 1 (d) (Rural Residential Zone) under the *Yarrowlumla Local Environmental Plan 2002* has been prepared following a request from the owner's (Lot 30 DP 754889) planning consultant. The Planning Proposal is contained in this report. A report prepared by the property owner's planning consultant is included in the Appendices.

Background

Council has received a request for a Planning Proposal to be prepared which seeks to rezone Lot 30 DP 754889 from 1(a) (General Rural Zone) to 1 (d) (Rural Residential Zone) under the *Yarrowlumla Local Environmental Plan 2002*. The amendment would potentially allow the lot to be subdivided to create two rural residential lots.

Lot 30 DP 754889 is 15.286 hectares (Cooma-Monaro Shire Council rates data base) and is located on both sides of Burra Road, Burra. The lot is currently vacant. Access to the lot is from Burra Road. The location of the lot and the current land use zoning is shown in Figure 1 of the attached Planning Proposal.

Lot 30 DP 754889 is adjacent, on the western side to a Council approved rural residential subdivision for 25 lots (DA/178/09). Construction of the subdivision has not commenced.

Legislative process for a rezoning proposal

The following section outlines the process when the rezoning of land is sought by a property owner.

The Planning Proposal is submitted to Council for consideration. If Council wishes to proceed with the amendment of the Local Environmental Plan (required for a rezoning to occur), then the Planning Proposal is referred to the Director General of the NSW Department of Planning for a Gateway Determination. It should be noted that if it is determined through the Gateway Determination process that the Planning Proposal can continue, this does not mean that a rezoning is certain. The continuation allows the Planning Proposal to be advertised, consultation with the community and government agencies to occur and any required assessments to be undertaken. Once this stage is complete, Council and then the NSW Department of Planning and Infrastructure consider whether the Local Environmental

Plan is to be amended. Only the Minister of Planning and Infrastructure is able to amend a Local Environmental Plan.

Conclusion

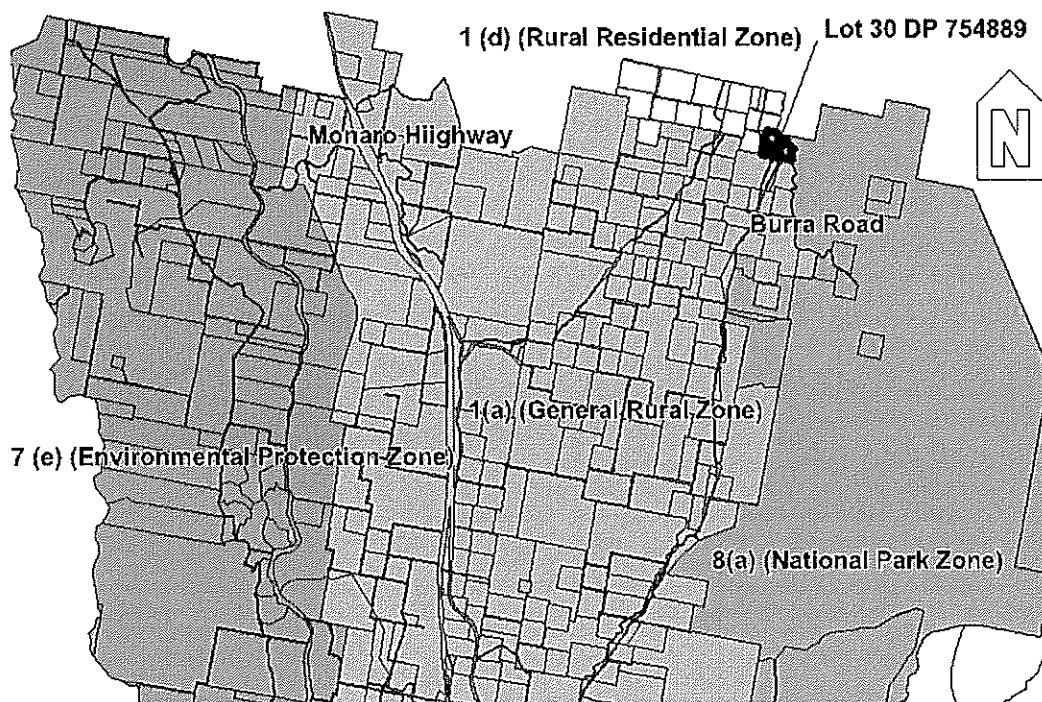
It is concluded from the assessment of the proposed amendment that the Planning Proposal for the rezoning of Lot 30 DP 754889 from 1 (a) (General Rural Zone) to 1 (d) (Rural Residential Zone) should be forwarded to the Director-General of the NSW Department of Planning and Infrastructure for a Gateway Determination.

**Cooma-Monaro Shire Council
Planning Proposal**

**Amendment of *Yarrowlumla Local Environmental Plan 2002* to rezone Lot 30 DP 754889
Burra Road, Burra from 1 (a) (General Rural Zone) to
1 (d) (Rural Residential Zone)**

The Planning Proposal concerns Lot 30 DP 754889 Burra Road, Burra. The lot is currently zoned 1 (a) (General Rural Zone) under the *Yarrowlumla Local Environmental Plan 2002*.

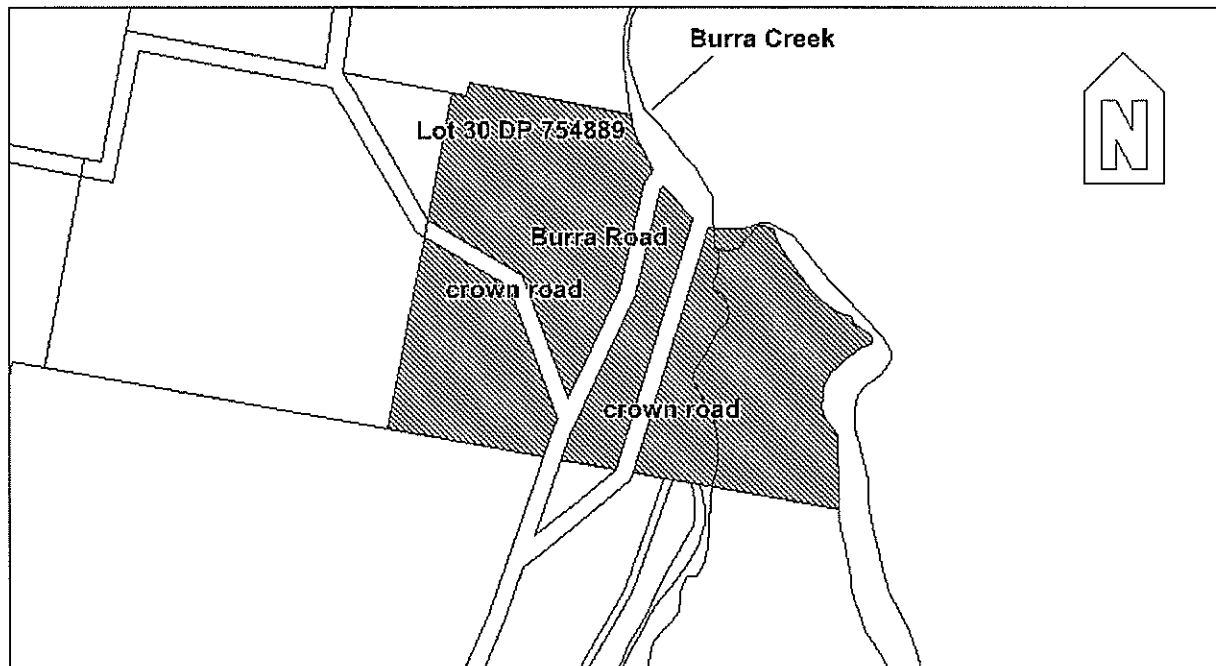
Lot 30 DP 754889 is 15.286 hectares (Cooma-Monaro Shire Council rates data base) and is located on both sides of Burra Road, Burra. The lot is currently vacant. Access to the lot is from Burra Road. The location of the lot and the current land use zones are shown in Figure 1 below.



Map 1 Location of Lot 30 DP 754889 and current land use zoning

Source Cooma-Monaro Shire Council

A detailed illustration of the lot is shown below:



Map 2 Lot 30 DP 754889

Source Cooma-Monaro Shire Council

The western side of the lot is adjacent to the lots that are part of Development Approval 178/09 for 25 rural residential lots. These lots are zoned 1 (d) (Rural Residential Zone) under the *Yarrowlumla Local Environmental Plan 2002*. The construction of the subdivision has not commenced.

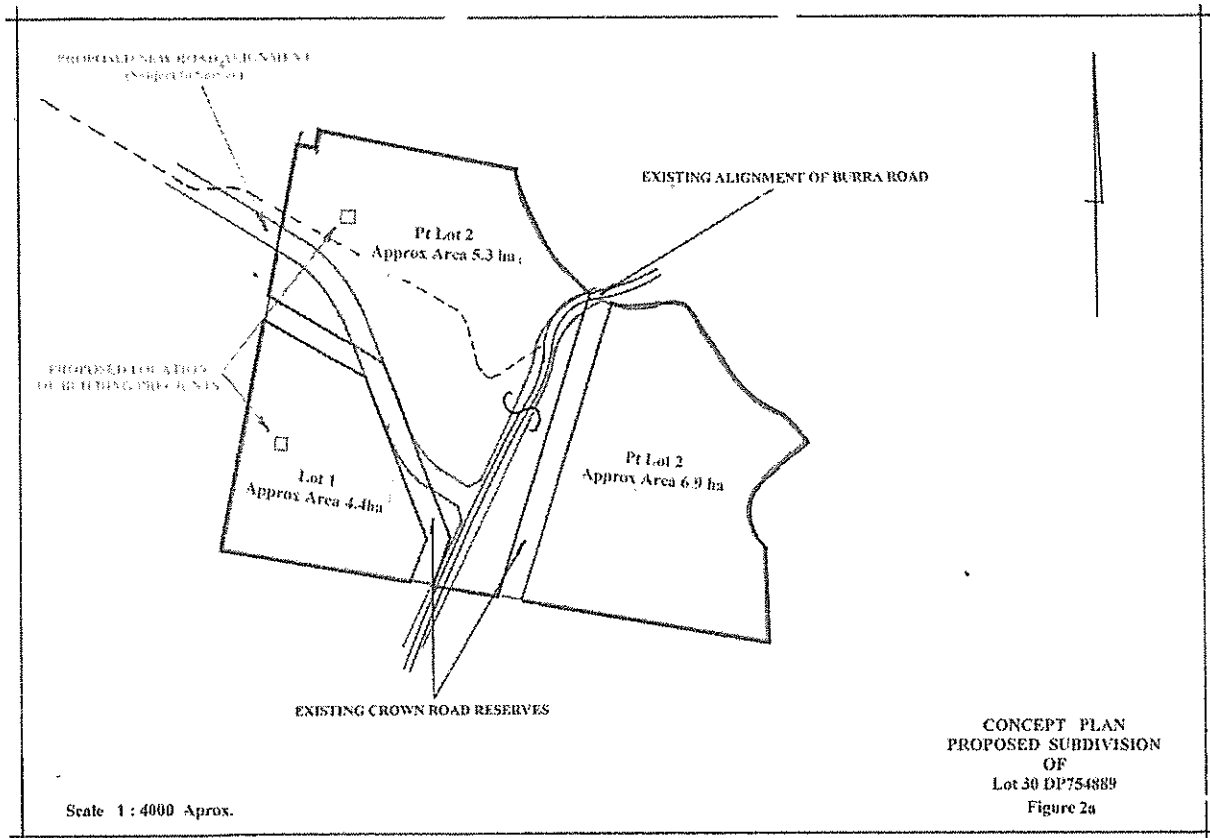
Part 1 Intended outcomes

Amendment of *Yarrowlumla Local Environmental Plan 2002* to rezone Lot 30 DP 754889, Burra Road, Burra from 1 (a) (General Rural Zone) to 1 (d) (Rural Residential).

Part 2 Explanation of the provisions that are to be included in the proposed local environmental plan

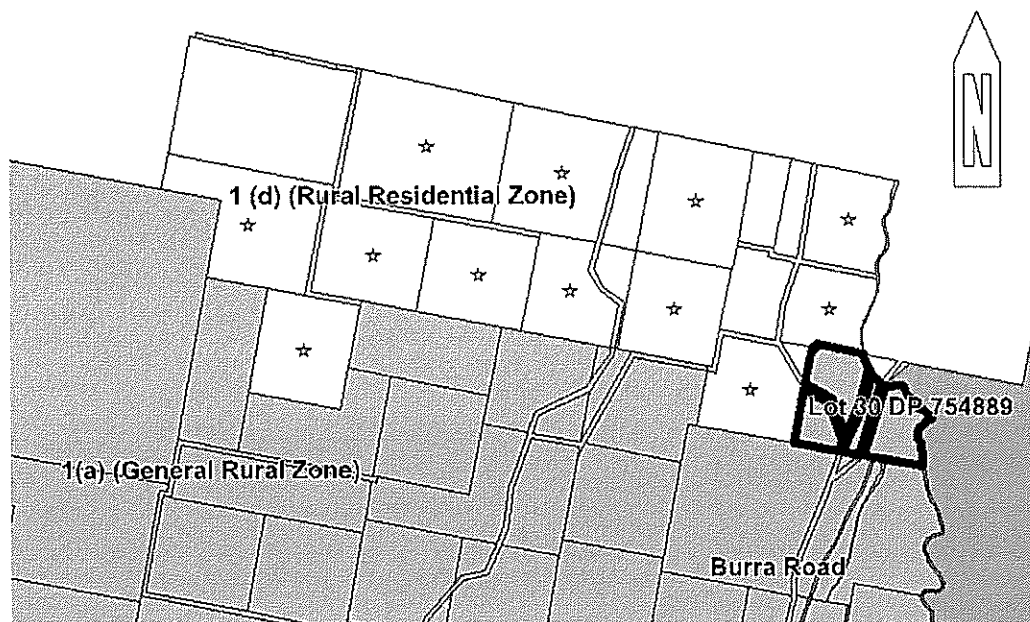
The rezoning of Lot 30 DP 754889 will extend the 1(d) (Rural Residential Zone) in the locality of Burra allowing rural residential development with consent, to occur. The proponent proposes to create two rural residential lots on the western side of Lot 30 DP 754889.

A concept plan of the proposed subdivision is shown below.



Map 3 Concept plan of the proposed subdivision of Lot 30 DP 754889

Source Land Planning Solutions



Map 4 Lots included in the approved rural residential subdivision

Source Cooma-Monaro Shire Council

Note The lots with stars are part of the approved rural residential subdivision.

Part 3 Justification for the intended outcomes and the process for their implementation

The property owner's planning consultant states that Lot 30 DP 754889 was purchased to provide access to the approved subdivision 178/09. Whilst the access to the subdivision is through Lot 30 DP 754889 there is sufficient area for two rural residential lots.

The lot is adjacent to an established rural residential land use zone and an approved rural residential subdivision. This and the lot having the rural residential subdivision access through it mean that a rural residential land use zoning of the lot would be compatible with the surrounding land use.

It is considered that the rezoning of the lot fits within Council's intended strategic direction for land use across the local government area.

Section A-Need for the planning proposal

1 Is the planning proposal a result of any strategic study or report?

Currently there is no strategic study or report. However, Council has prepared a *draft* Twenty Year Strategic Direction for the whole of the Cooma-Monaro local government area which most likely will be exhibited with the *draft* Local Environmental Plan.

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

An amendment of the *Yarrowlunla Local Environmental 2002* is the only means of changing the land use zone of the lot.

3 Is there a net community benefit?

The construction of two dwellings is of benefit to the regional economy.

Section B-Relationship to strategic planning framework

1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

There are no regional plans applying to this proposal.

2 Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan

There is no Strategic Plan for Cooma-Monaro Shire. Council is currently preparing a Community Plan as required under the *NSW Local Government Act 1993*. As stated above Council has prepared a *draft* Twenty Year Strategic Direction for the whole of the Cooma-Monaro local government area. It is anticipated that this will be exhibited with the *draft* Local Environmental Plan.

3 Is the planning proposal consistent with applicable state environmental planning policies?

Applicable State Environmental Planning Policies

<i>State Environmental Planning Policy</i>	<i>Consistency</i>
<i>State Environmental Planning Policy No 44—Koala Habitat Protection</i>	<i>Consistent</i> It is not thought that the lot is koala habitat. However, a flora and fauna assessment will be required if the Planning Proposal progresses.
<i>State Environmental Planning Policy No 55—Remediation of Land</i>	<i>Inconsistent</i> A contaminated lands assessment has not been undertaken. A stage 1 contaminated lands assessment for the lot will be required if the Planning Proposal progresses.
<i>State Environmental Planning Policy (Rural Lands) 2008.</i>	<i>Inconsistent</i> The subject lot is not State significant agricultural land. Additionally, the lot is only 15.286 hectares, fragmented by Burra Road and will be the access for the approved rural residential subdivision. This situation makes the lot unsuitable for agriculture. Given, the above it is suggested that whilst the Planning Proposal is inconsistent with the principles of the State Environmental Planning Policy that the inconsistency is minor.

4 Is the planning proposal consistent with applicable Ministerial Directions (117 directions)?

Applicable Ministerial Directions (Section 117 directions)

<i>Applicable Section 117 Ministerial Directions</i>	<i>Consistency</i>
<i>1.2 Rural Zones</i> The objective of this direction is to protect the agricultural production value of rural land	<i>Inconsistent</i> The subject lot is not State significant agricultural land. Additionally, the lot is only 15.286 hectares, fragmented by Burra Road and will be the access for the approved rural residential subdivision. This situation makes the lot unsuitable for agriculture. The inconsistency is considered to be minor.
<i>1.5 Rural Lands</i> The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	<i>Inconsistent</i> The subject lot is not State significant agricultural land. Additionally, the lot is only 15.286 hectares, fragmented by Burra Road and will be the access for the approved rural residential subdivision. This situation makes the lot unsuitable for agriculture. The inconsistency is considered to be minor.
<i>2.1 Environment Protection Zones</i> The objective of this direction is to protect and conserve environmentally sensitive areas.	<i>Inconsistent</i> A tributary of Burra Creek, Cassidys Creek flows through Lot 30 DP 754889. The proponent's planning consultant states that this part of the Lot (eastern) would not be used as a dwelling site.

	A preliminary flora and fauna report states that the lot contains native grasses and rock outcrops. Given this is possible habitat for temperate grassland threatened flora and fauna species and that the assessment was undertaken in winter and only the proposed building precincts were assessed it is recommended that a comprehensive flora and fauna survey of the entire Lot 30 DP 754889 be undertaken if the Planning Proposal proceeds. The assessment should be undertaken by a qualified ecologist experienced in the assessment of natural temperate grasslands during late Spring/early Summer. At this stage the proposal is inconsistent with the Direction however, the inconsistency may be minor if the flora and fauna report finds that the native vegetation is of low conservation value.
<i>2.3 Heritage Conservation</i> The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	<i>Inconsistent</i> An archaeological assessment of Lot 30 DP 754889 has not been undertaken. Preliminary archaeological advice states that a search of the NSW Office of Environment and Heritage data base (AHIMS) did not reveal any previously recorded Aboriginal archaeological sites on Lot 30 DP 754889 however, there were eight sites recorded nearby. Given, this and the location of Cassidy's Creek in relation to the lot, it is recommended that if the Planning Proposal proceeds that an Aboriginal Cultural Heritage Assessment be undertaken in accordance with the NSW Office of Environment and Heritage guidelines. There are no known non-Indigenous heritage or significant landscape areas on 30 DP 754889.
<i>2.4 Recreation Vehicle Areas</i> The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	<i>Consistent</i> The Planning Proposal will not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>).
<i>3.1 Residential Zones</i> The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	<i>Inconsistent</i> The inconsistency is considered to be minor as the number of dwellings to be developed will be small.
<i>3.2 Caravan Parks and Manufactured Home Estates</i> The objectives of this direction are: (a) to provide for a variety of housing types, and	<i>Inconsistent</i> The inconsistency is considered to be minor as the number of dwellings to be developed will be small and the location is unsuitable for either a caravan park or manufactured home estate.

(b) to provide opportunities for caravan parks and manufactured home estates	
3.3 Home Occupations The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	<i>Consistent</i> The <i>Yarrowlumla Local Environmental Plan 2002</i> permits home occupations without consent in the 1 (d) (Rural Residential) land use zone.
3.4 Integrating Land Use and Transport The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	<i>Inconsistent</i> The inconsistency is considered to be minor as the number of dwellings to be developed will be small.
4.4 Planning for Bushfire Protection The objectives of this direction are: (a) to 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) to encourage sound management of bush fire prone areas.	<i>Consistent</i> The majority of lot is not mapped as being bushfire prone. However, a small part of the eastern side is Category 1 (Cooma-Monaro Shire Council Bushfire Prone Land Map)
6.1 Approval and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	<i>Consistent</i> The Planning Proposal does not contain concurrence, consultation or referral provisions.
6.2 Reserving Land for Public Purposes The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	<i>Consistent</i> The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes. The land title shows that the land excludes a road shown in the title diagram and has an easement for a pipeline (Eastern Gas Pipeline)
6.3 Site Specific Provisions The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	<i>Consistent</i> The Planning Proposal does not impose additional requirements to those in the <i>Yarrowlumla Local Environmental Plan 2002</i>.

Section C – Environmental, social and economic impact

1 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?

A preliminary flora and fauna report states that the lot contains native grasses and rock outcrops. Given this is possible habitat for temperate grassland threatened flora and fauna species, that the assessment was undertaken in winter and only the proposed building precincts were assessed it is recommended that a comprehensive flora and fauna survey of the entire area of Lot 30 DP 754889 be undertaken if the Planning Proposal proceeds. The assessment should be undertaken by a qualified ecologist experienced in the assessment of natural temperate grasslands during late Spring/early Summer.

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

Aboriginal heritage

An archaeological assessment of Lot 30 DP 754889 has not been undertaken. Preliminary archaeological advice states that a search of the NSW Office of Environment and Heritage data base (AHIMS) did not reveal any previously recorded Aboriginal archaeological sites on Lot 30 DP 754889 however, there were eight sites recorded nearby. Given this and the location of Cassidy's Creek in relation to the lot, it is recommended that if the Planning Proposal proceeds that an Aboriginal heritage assessment be undertaken in accordance with the NSW Office of Environment and Heritage guidelines.

Bushfire hazard assessment

The majority of Lot 30 DP 754889 is not mapped as being bushfire prone. However, a small part of the eastern side is Category 1 (Cooma-Monaro Shire Council Bushfire Prone Land Map). Category 1 represents forests, woodlands, heathlands, pine plantations and wetlands.

Non potable water supply

Clause 18 (1) (f) of the *Yarrowlumla Local Environmental Plan 2002* requires the following:

- (f) where less than 5 allotments are proposed to be created or the provision of a reticulated non-potable water supply system is proved to be not practicable, an adequate non-potable water supply will be available to each allotment, being either:*
- (i) a dam on each allotment with a capacity of at least 0.75 megalitre and a catchment area of at least 8 hectares, or*
 - (ii) a ground water supply with a flow rate of 0.5 litre per second to provide a minimum annual supply of 0.75 megalitre,*
subject to the total volume of water provided being within the limits of the maximum harvestable rights dam capacity and current Department of Land and Water Conservation policy relating to ground water access which last applied to the land prior to subdivision, and

Advice from the consultancy Soil and Land Conservation Consulting to the proponent's planning consultant states that the site has no surface catchments suitable for dams sites and that the amount that would be licensed for groundwater would be inadequate. The advice suggests that a practical option would be to utilise the non potable water supply on the adjacent subdivision.

It is recommended that if the Planning Proposal proceeds, that an assessment of options regarding non potable water supply be undertaken and that the Planning Proposal be forwarded to the NSW Department of Primary Industries, Office of Water for comment.

Site and Soil Assessment (on-site effluent report)

Advice from the consultancy Soil and Land Conservation Consulting to the proponent's planning consultant finds that there is sufficient suitable land for the disposal of wastewater on the western side of the lot.

Contaminated Lands Assessment

A Stage 1 Contaminated Lands Assessment has not been undertaken. It is recommended that a Stage 1 Contaminated Lands assessment be undertaken for the entire lot.

Flooding

The area proposed for the dwelling sites is not known to be flood prone.

3 How has the planning proposal adequately addressed any social and economic effects?

Given the small number of residential lots (approximately 5 additional people) to be potentially created it is considered that the impact on existing community, health and emergency services will be minor – assuming that there is a mix of age and needs.

Section D – State and Commonwealth interests

1 Is there adequate public infrastructure for the planning proposal?

Burra Road will be upgraded as part of the development of the approved subdivision on the western side of Lot 30 DP 754889.

The current level of public infrastructure is considered adequate given the small number of residential lots to be potentially created.

2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

There has been no consultation with any State and Commonwealth public authorities.

If the Planning Proposal proceeds it will be referred to the following organisations:

- NSW Rural Fire Service
- NSW Department of Premier and Cabinet, NSW Office of Environment and Heritage
- Department of Trade and Investment, Regional Infrastructure and Services, Department of Primary Industries
- Department of Trade and Investment, Regional Infrastructure and Services, Department of Primary Industries, NSW Office of Water

If the flora and fauna assessment concluded that the proposal would have a significant impact on a species and/or community listed under the *Environment Protection and Biodiversity Conservation Act 1999*, it would be recommended that the proponent refer the Planning Proposal to the Department of Sustainability, Environment, Water, Population and Communities.

Part 4 – Community Consultation

There has been no community consultation by Council relating to this Planning Proposal. However, there has been consultation regarding the approved subdivision on the western side of Lot 30 DP 754889.

The Planning Proposal will be exhibited for 28 days.

Additional information pertaining to the reclassification of land

If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished

Not applicable.

The concurrence of the landowner, where the land is not owned by the relevant planning authority

Not applicable.

RECOMMENDATION

That the Planning Proposal relating to Lot 30 DP 754889 be referred to the Director General of Planning for a Gateway Determination in accordance with Section 56 of the *NSW Environmental Planning and Assessment Act 1979*

29/12

RESOLVED (McDonald/Kaltoum)

That the Planning Proposal relating to Lot 30 DP 754889 be referred to the Director General of Planning for a Gateway Determination in accordance with Section 56 of the *NSW Environmental Planning and Assessment Act 1979*

CARRIED UNANIMOUSLY (8-0)