

**Amendment of Yarrowlumla LEP 2002 to allow a dwelling on Lot 69 DP751813, Smiths Road
Clear Range, Cooma Monaro Shire**

Proposal Title :	Amendment of Yarrowlumla LEP 2002 to allow a dwelling on Lot 69 DP751813, Smiths Road Clear Range, Cooma Monaro Shire		
Proposal Summary :	Amendment of Schedule 9 (Development for additional purposes) of the Yarrowlumla LEP 2002 to enable a dwelling to be erected (with consent) on Lot 69, DP751813, Smiths Road, Clear Range in the Cooma Monaro Shire.		
PP Number :	PP_2012_COOMA_001_00	Dop File No :	11/22640

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions:

- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 4.4 Planning for Bushfire Protection
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information : The planning proposal is not supported by the Southern Regional Office.

Supporting Reasons : Council's planning proposal represents a significant contradiction in the information provided. Council's justification for the proposal included both the applicant's supporting arguments, alongside Council's own concerns with respect to a number of issues including precedent, environmental conservation and the broader integrity of the Cooma Monaro LEP 2002.

Key supporting arguments for the planning proposal rely on providing a dwelling right based on what was previously allowed under former planning controls that ceased operation 10 years ago and beyond. Conversely, Council's planning proposal identifies significant concerns with the precedent that would be created in essentially allowing assessment of applications/dwelling rights from provisions of previous planning instruments.

The Southern Region supports Council's concern and is conscious of the implications of essentially re-activating provisions/entitlements applicable under a previous Local Environmental Plans.

The Department previously refused to grant concurrence to a SEPP1 objection to vary the development standard on the subject land, and subsequent review of the decision by the Department's Executive Director, Planning Operations. The Department in its response encouraged Council to, should it wish to vary development standards in this locality, undertake a broader strategic approach to reviewing and justifying any change to the minimum lot sizes across the entire area/zone, rather than support applications on an ad-hoc basis. This approach is still preferred and this planning proposal merely provides another ad-hoc mechanism for allowing a dwelling where otherwise not permitted.

In addition the Department notes that the proposal is inconsistent with s117 Direction 1.5 Rural Lands. Clause (5) requires the proposal to be consistent with the Rural Subdivision Principles of the Rural Lands SEPP. In isolation the creation of one undersized lot may be considered to be of minor significance. However, the Department's reasons for refusing the previous SEPP1 Objection and Council's own justification for the planning proposal

**Amendment of Yarrowlumla LEP 2002 to allow a dwelling on Lot 69 DP751813, Smiths Road
Clear Range, Cooma Monaro Shire**

identify the potential for significant cumulative impacts from the likelihood of similar requests. This impact could not be argued to be of minor significance as previous Council advice has identified a significant number of undersized lots within the zone that do not have a dwelling entitlement. This was the reason the Department suggested if Council supported this lot size change then it should do it within a strategic context that considers a broader area.

The planning proposal has been identified by Council to be inconsistent with Direction 2.1 and Council has not attempted to justify this inconsistency. The proposal identifies that the subject site is home to a number of EEC's listed under the EPBC Act 1999. Council has identified that increasing density of humans in environmentally sensitive areas will have a negative impact on the protection and enhancement of the area. The Council would need to satisfy the Director General that the inconsistency is of minor significance taking into account the potential cumulative impact of similar applications.

Panel Recommendation

Recommendation Date : **22-Mar-2012**

Gateway Recommendation : **Rejected**

Panel Recommendation : **The Planning Proposal should not proceed for the following reasons:**

1. Sufficient strategic planning justification has not been provided to support the planning proposal proceeding.
2. The proposal does not provide sufficient justification in relation to a number of key planning issues to support it proceeding. The following information has not been provided:
 - a. An assessment of the impacts on the proposal on the existing environmental values of the area and in particular on areas of identified habitat for threatened species;
 - b. How the development will be serviced (water and sewer) and how access to the development will be provided in times of flood or bushfire hazard;
 - c. How any additional or augmented servicing to the area will be funded; and
 - d. Whether the development will have an impact on water management within the Murrumbidgee River catchment.
3. Proceeding with the planning proposal potentially creates a precedent in the area for further rural residential development which would proceed in the absence of an agreed coordinated residential development strategy.

Gateway Determination

Decision Date :

Gateway Determination : **Rejected**

Decision made by : **Director General**

Exhibition period : **Nil**

LEP Timeframe : **Nil**

Gateway Determination : **The Planning Proposal should not proceed for the following reasons:**

1. Sufficient strategic planning justification has not been provided to support the planning proposal proceeding.
2. The proposal does not provide sufficient justification in relation to a number of key planning issues to support it proceeding. The following information has not been provided:
 - a. An assessment of the impacts on the proposal on the existing environmental values of the area and in particular on areas of identified habitat for threatened species;
 - b. How the development will be serviced (water and sewer) and how access to the development will be provided in times of flood or bushfire hazard;
 - c. How any additional or augmented servicing to the area will be funded; and
 - d. Whether the development will have an impact on water management within the Murrumbidgee River catchment.

Amendment of Yarrawlumla LEP 2002 to allow a dwelling on Lot 69 DP751813, Smiths Road
Clear Range, Cooma Monaro Shire

3. Proceeding with the planning proposal potentially creates a precedent in the area for further rural residential development which would proceed in the absence of an agreed coordinated residential development strategy.

Signature:

SHaddadi

Printed Name:

Sam Haddad

Date:

28/4/2012.