

**ADDENDUM REPORT OF GENERAL MANAGER**

**SPECIAL DEVELOPMENT COMMITTEE**

**TUESDAY, 17 JULY 2013**

**PLANNING AND DEVELOPMENT**

**1. Draft LEP 2013 – Post Exhibition Consideration of Additional Matters**

**File 3363E & 45262E**

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This report deals with the outstanding matters raised at earlier meetings of this Committee or that have arisen during the reporting process and need consideration.

**Issue 14.2: Site visit to Lot 2 DP 634373, 1361 Kangaroo Valley Road, Kangaroo Valley**

It was resolved at the SDC meeting of 24 July 2013 that:

- a) An on-site meeting be held for Request No 3 (4.4) to determine if the E2 zone is an appropriate zone; and*
- b) A report be brought back to the Special Development Committee.*

On Tuesday 30 July 2013, Councillor John Wells and Marie-Louise Foley (Senior Strategic Planner) conducted a site visit of Lot 2 DP 634373, 1361 Kangaroo Valley Road, Kangaroo Valley.

The landowner, Mr Paul Giammarco met us on site and took us on a tour of the property. He advised that his future plans for the site are to:

- Subdivide off part of the site under existing subdivision consent SF6969 approved 21 June 1991 (awaiting final works to be completed in order for a subdivision certificate to be issued).
- Construct a dwelling and possibly tennis courts and other ancillary activities in the existing cleared area.
- Tourist accommodation and associated facilities including walking tracks and potentially a BMX track.
- Viticulture on the rural zoned area in the south eastern corner.
- Cellar door in a small cleared area in the northern part of the site close to Kangaroo Valley Road.

The property

The pictures below show the context of the property

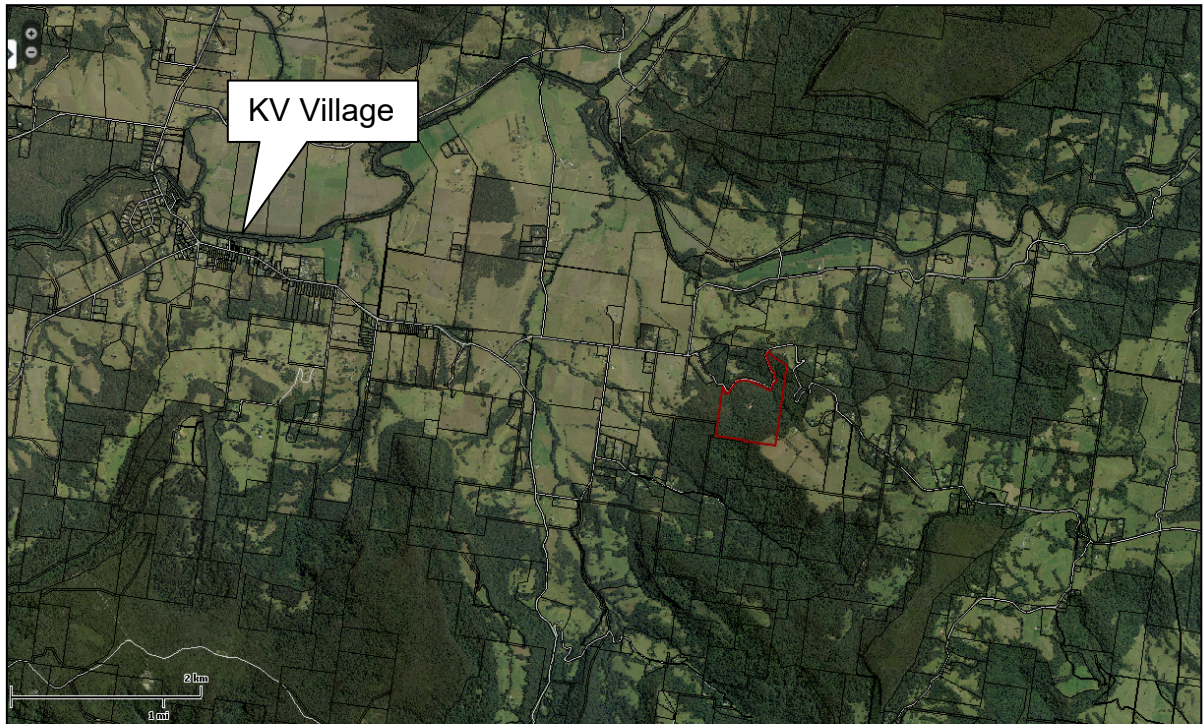


Figure 1: Context map – aerial photo of Kangaroo Valley

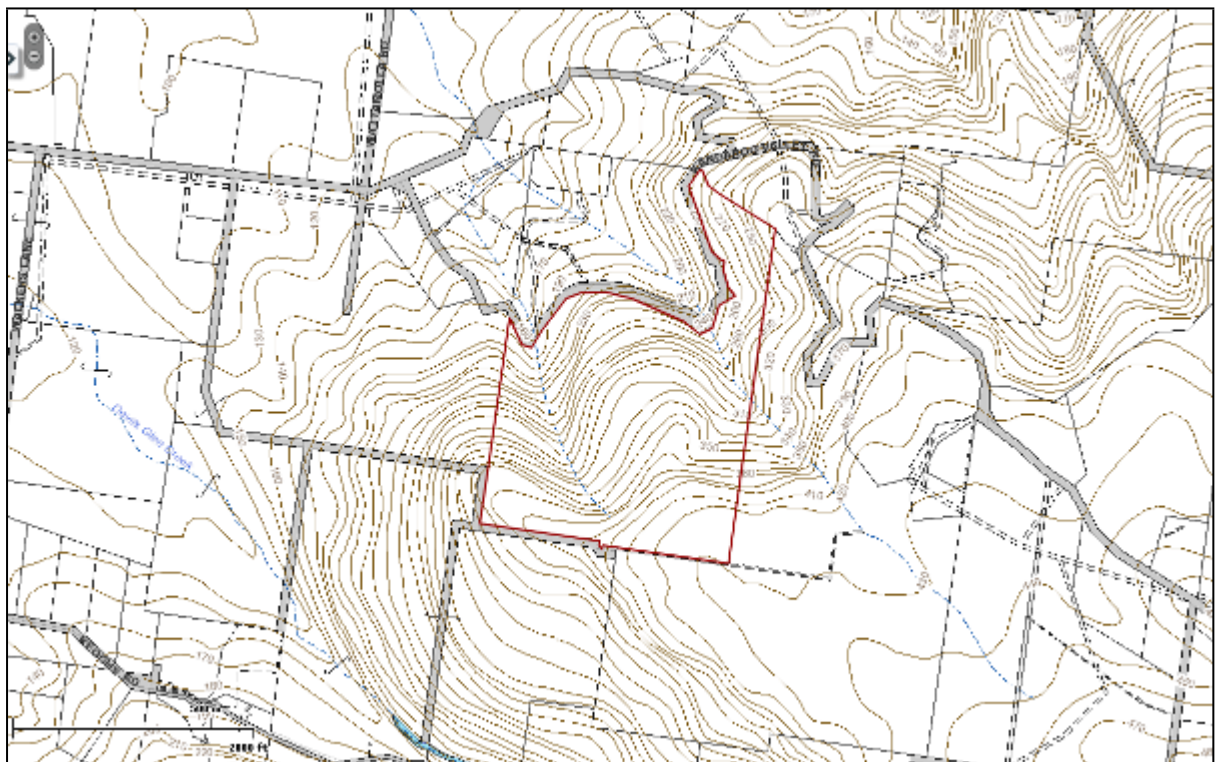


Figure 2: Topography of the property (10m contours)





Figure 3: Aerial photo of the property (2009)



Figure 4: View looking at the property from Kangaroo Valley Road





Figure 5: View from the cleared area looking west towards the village



Figure 6: Example of vegetation on the site

Observations

Overall the site is very steep with the only significantly flat areas being the cleared area where the existing shed is and the area of proposed RU2 land in the south eastern corner. The access to the cleared area is also quite steep and best suited to four wheel drive vehicles (although the landowner advised he had driven a two wheel drive vehicle up the driveway).

The lower part of the site has a number of tracks through it and as a result is degraded to some extent through weed infestation. The remainder of the site is heavily vegetated and includes rain forest vegetation and what could possibly be old growth forest. It is relatively undisturbed apart from several crude tracks that are accessible by four wheel drive only.

Current and proposed zoning

The current and proposed zoning of the site is shown on the maps below:

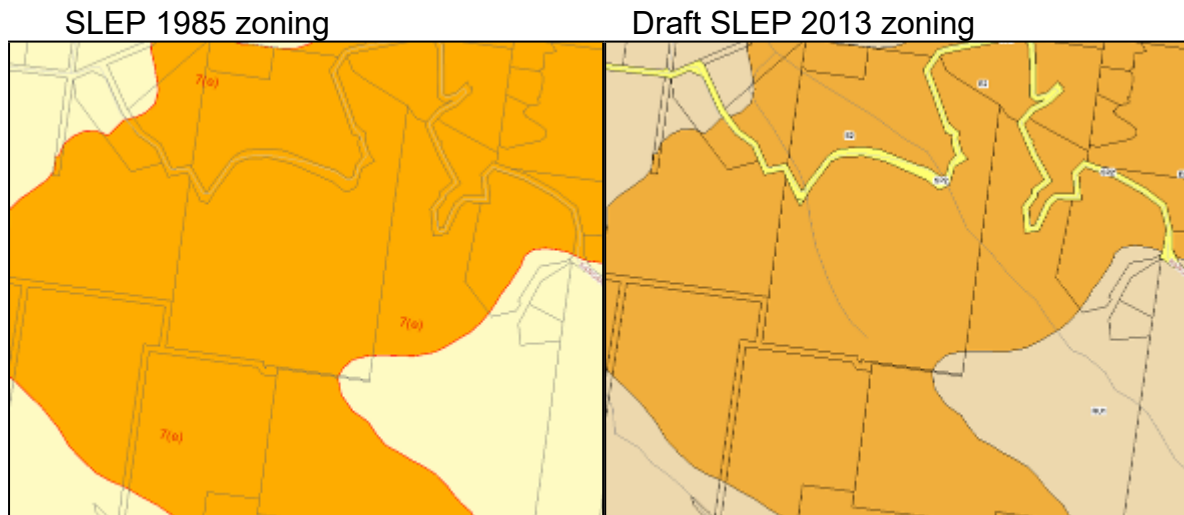


Figure 7: Current and proposed zoning of the site

The land use tables for the Environmental Protection zone and the E2 Environmental Conservation zone are set out in the table below to enable easy comparison.

Environment Protection 7 (e) (Escarpment)	E2 Environmental Conservation
<p><b>1. Objectives of zone</b></p> <p>The objectives are:</p> <p>a) to protect scenic, ecological, educational and recreational values of escarpment areas;</p> <p>b) to conserve and, where appropriate, reinstate the natural vegetation so as to protect steep slopes from erosion and slippage; and</p> <p>c) to maintain the role of escarpments as habitat links between conservation areas.</p>	<p><b>1 Objectives of zone</b></p> <ul style="list-style-type: none"> <li>• To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.</li> <li>• To prevent development that could destroy, damage or otherwise have an adverse effect on those values.</li> <li>• To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.</li> <li>• To protect the scenic, ecological, educational and recreational values of</li> </ul>

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	<p>wetlands, rainforests, escarpment areas and fauna habitat linkages.</p> <ul style="list-style-type: none"> <li>To conserve and, where appropriate, restore natural vegetation in order to protect the erosion and slippage of steep slopes.</li> </ul>
<p><b>2. Without development consent</b> Nil.</p>	<p><b>2 Permitted without consent</b> Nil</p>
<p><b>3. Only with development consent</b> Agriculture; bed and breakfast accommodation; dwelling-houses; home activities; passive recreation facilities such as walking trails; roads; tourist facilities.</p>	<p><b>3 Permitted with consent</b> Aquaculture; Bed and breakfast accommodation; Boat sheds, Dwelling houses; Eco-tourist facilities, Emergency services facilities; Environmental facilities; Environmental protection works; Home businesses; Home industries; Recreation areas; Research stations; Roads; Sewerage systems; Water recreation structures; Water supply systems.</p>
<p><b>4. Prohibited</b> Any purpose other than a purpose for which development may be carried out only with development consent.</p>	<p><b>4 Prohibited</b> Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3</p>

### Conclusion

The site forms part of the escarpment and is highly visible from the lower lying areas of Kangaroo Valley. The majority of the site is steeply sloped and highly vegetated with what appears to be rainforest/ old growth vegetation. The site visit confirmed that E2 Environmental Conservation is the appropriate zone for the Environmental Protection 7(e) (Escarpment) portion of the site.

The E2 zone will still enable the landowner to construct a dwelling and ancillary structures and also undertake tourist development in the form of 'bed and breakfast accommodation' and 'eco-tourist facilities' should he wish to. 'Viticulture' and any 'cellar door premises' would only be permissible in the proposed RU1 portion of the site under both the current LEP and the draft LEP. The nature of the rest of the site means that it would be unsuited to these uses.

### **Recommendation 14.2**

***Retain the exhibited E2 and RU1 zones for Lot 2 DP 634373, 1361 Kangaroo Valley Road, Kangaroo Valley.***

**Issue 14.3: Clause 11(3) of SLEP 1985**

Clause 11(3) of SLEP 1985 allows for the subdivision into smaller than the minimum lot size lots where there is a current legal use of the site. The Standard Instrument subdivision clauses do not contain an equivalent provision and as such, this provision was not included in the draft LEP 2013. A similar clause to the existing provision has been included in the draft Cooma-Monaro LEP which was exhibited in 2012, which could be amended to match the existing provision. It is recommended that this clause be added to the final LEP to ensure consistency with the existing provision in the LEP 1985.

**Recommendation 14.3:**

***Include a clause in the draft LEP via a future amendment to allow for subdivision smaller than the minimum lot size lots where there is a current legal use, similar to the clause included in the Cooma-Monaro draft LEP 2012.***

**Issue 14.4: Caravan Parks in E3**

Council resolved on 24<sup>th</sup> July that:

- a) *Caravan parks specifically identified in section 4.2 and other existing caravan parks identified by staff that are proposed to be zoned E3 be deferred from the Plan and included in a planning proposal to be commenced immediately;*
- b) *The General Manager be given delegated authority by Council to progress the planning proposal; and*
- c) *The Planning proposal seek to zone these caravan parks to SP3 and if possible the planning proposal be incorporated into the gazettal of the SLEP 2013*

This resolution inadvertently included 285 Murramarang Rd, Bawley Point. Council has since received several emails from residents indicating that this lot is not a caravan park but a 'primitive camping ground. Council's records show that the site has a recent approval for a "primitive camping ground" (3 sites). This will be catered for through the resolved insertion of "camping grounds" and "eco tourist facilities" in the E3 zone generally. Given this is the case, there is no need to include this property in the planning proposal seeking to zone existing caravan parks SP3. This would alleviate concern about possible intensification in this sensitive foreshore location.

**Recommendation 14.4:**

***Not include the primitive camping ground located at 285 Murramarang Road, Bawley Point in the Planning Proposal for caravan parks located in E3 zones and maintain the proposed E3 zone in this location.***



Tim Fletcher  
**DIRECTOR PLANNING & DEVELOPMENT**

R.D Pigg  
**GENERAL MANAGER**