

Planning Services

Gateway Determination Report

LGA	Blue Mountains
RPA	Blue Mountains City Council
NAME	4 Merriwa Street, Katoomba (0 homes, 5 jobs)
NUMBER	PP_BLUEM_003_00
LEP TO BE AMENDED	Blue Mountains LEP 2015
ADDRESS	4 Merriwa Street, Katoomba
DESCRIPTION	Lot 1 DP 124212
RECEIVED	29 September 2017
FILE NO.	17/13848
QA NUMBER	qA419834
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The planning proposal seeks to include the subject land under Schedule 1 Additional permitted uses, of the Blue Mountains LEP (BMLEP) 2015. This will enable the site to be used for the purposes of a 'registered club', as part of Katoomba RSL.

Subject Land

The subject site is located at 4 Merriwa Street, Katoomba and is legally known as Lot 1 DP 124212. The subject site is approximately 582sqm in area and rectangular. The site is zoned R2 Low Density Residential (refer Figure 1, below).



Figure 1: Extract from BMLEP 2015 Land Zoning Map (Sheet LZN_002GA), showing the site's R2 Low Density Zoning

The site comprises a single storey detached dwelling house, with a detached outbuilding at the rear of the site. Vehicle access is from the rear, across the adjoining RSL Club's car park (refer to figure 2).



Figure 2: Aerial view of the subject site



Figure 3: Subject site looking north from Merriwa Street

Surrounding Area

The site is located between the Katoomba RSL on the western boundary and Katoomba Public School on the northern and eastern boundaries. The southern side of Merriwa Street comprises a hotel and residential development. Further north is another hotel and a mix of retail and residential uses are to the south and west. Figures 3 and 4 illustrate.



Figure 4: Aerial view of subject site in wider context

The Katoomba RSL was destroyed by fire in February 2017 and the RSL club is subsequently seeking to rebuild the facility, incorporating the subject land.

The subject site adjoins the RSL club site; is an isolated residential allotment; and, was purchased to enable the Club's expansion.

Summary of Recommendation

The planning proposal is supported to proceed with conditions.

The development of the site, by its inclusion in Schedule 1 Additional permitted uses, will enable the orderly redevelopment of the club and provide a better land use and design outcome.

PROPOSAL

Objectives or Intended Outcomes

The objective of the proposal is to include the site under Schedule 1 Additional permitted uses, of the Blue Mountains LEP (BMLEP) 2015. This will enable the site to be used for the purposes of a Registered Club, as part of Katoomba RSL.

Explanation of Provisions

The proposal seeks to make a written amendment to the BMLEP 2015, by amending Schedule 1 Additional permitted uses, to include the following:

"Use of certain land at 4 Merriwa Street, Katoomba

(1) This clause applies to land at 4 Merriwa Street, Katoomba, being Lot 1 DP 124212.

(2) Development for the purposes of a Registered Club, in association with Katoomba RSL, is permitted with development consent."

Mapping

There are no mapping amendments as part of this proposal.

NEED FOR THE PLANNING PROPOSAL

When the Katoomba RSL was destroyed by fire in February 2017, the adjoining subject site, i.e. 4 Merriwa Street, was purchased by the RSL club with the intention of expanding the site.

The RSL club holds a club license under the *Liquor Act 2007* and is defined as a registered club under the BMLEP 2015.

R2 Low Density Residential Zone

The subject site is zoned R2 Low Density Residential and a registered club is prohibited in the zone.

Village – Tourist Zone

The adjoining RSL site is deferred from the BMLEP 2015 and is zoned Village – Tourist under Blue Mountains Local Environmental Plan 2005 (BMLEP 2005). Under BMLEP 2005, the RSL club is not a permissible land use in the Village - Tourist zone. The RSL club operates by virtue of existing use rights.

Existing Use Rights

Existing use rights provisions under the *Environment, Planning and Assessment Act 1979* and the *Environment, Planning and Assessment Regulation (Regulation) 2000* provide for the rebuilding or building, enlargement or expansion or intensification of an existing use, however, clause 42 of the Regulation limits rebuilding to the site on which the existing use rights operates. The existing use rights cannot be extended to the adjoining subject site.

Alternative Zones

The Department has previously indicated that additional uses should be minimised and proceed where a council can demonstrate that there is no other acceptable solution to progress the matter. For example, a council should not use Schedule 1 where a rezoning via a planning proposal can achieve the same outcome. Consideration has been given to the application of a zone to the site, as follows.

Registered clubs are permissible in a number of zones under the BMLEP 2015, however, these zones are not considered appropriate due the size of the subject land; its location; and, parking constraints.

The table below identifies the applicable zones and the rationale for applying an additional use in lieu of rezoning.

Zone	Explanation
B2 Neighbourhood Centre	The objectives of this zone are compatible with the proposed land use, however, this zone would permit land uses not suitable because of the size and location of the site. Unsuitable uses include an Amusement centre, Medical centre, Passenger transport facilities and Service stations.
B7 Business Park	Registered clubs are a land use permissible with consent in this zone, however, the subject site is not compatible with a B7 Business Park zoning. The objectives of this zone seek to provide a range of office and light industrial uses and would allow, with consent A number of land uses that are not suitable for the subject site, include Animal boarding and training establishment, Bulky goods premises and Freight transport facilities.
IN1 General Industrial	The objectives of this zone seek to provide a wide range of industrial and warehouse land uses. Industrial uses are often associated with noise, dust, odour, fumes and vibration. An IN1 General Industrial zonings is inconsistent with surrounding land uses (Primary School) and not considered suitable for the site.

Zone (continued)	Explanation (continued)
IN2 Light Industrial	The objectives of the IN2 Light Industry zones seek to facilitate light industry and warehouses. The subject sites location in Katoomba town centre and adjoining a primary school and hotel accommodation make this land zone unsuitable.
RE1 Public Recreation	This zone is not considered appropriate as the subject land is not publicly owned and is not proposed to be used for public open space or recreational purposes.
RE2 Private Recreation	This is the most appropriate potential zoning for the site, however, this zone is also considered unsuitable as the zoning would allow land uses such as Animal boarding and training establishments, Intensive plant agriculture and Camping grounds that are not suitable to the location or size of the subject land.

STRATEGIC ASSESSMENT

State

A Plan for Growing Sydney

A Plan for Growing Sydney provides directions for Sydney's productivity, environmental management and liveability; and for the location of housing, employment, infrastructure and open space.

The subject site is located within the West Subregion and the planning proposal is consistent with the following West Subregion priorities:

- support and develop the visitor economy to maintain the role of the Greater Blue Mountains World Heritage Area as nationally significant tourism destination, and the subregion's role as a visitor gateway to regional NSW; and,
- identify further opportunities to strengthen investment for employment growth in Western Sydney, including targeting overseas investors and incentives for business.

In this regard, the proposal is considered consistent with a Plan for Growing Sydney.

Regional / District

Draft West District Plan

The draft District Plans seek to enhance each districts productivity, sustainability and liveability. Katoomba is located in the Draft West District and has been identified as a District Centre. The proposal is considered consistent with the West District's vision to reinstate local jobs and support the growth of the visitor industry. Specifically, the proposal is consistent with the following:

- action P3: Develop infrastructure to support the growth of the visitor economy; and,
- 3.4 Planning for job targets ranges for strategic and district centres; and

Local

The proposal is considered consistent with the Blue Mountains City Council strategic plan 'Sustainable Blue Mountains 2025 – The Community Strategic Plan' as it particularly provides for key community, tourism and recreational facilities/assets.

Section 117(2) Ministerial Directions

The planning proposal is considered consistent with all applicable section 117 Directions, as discussed:

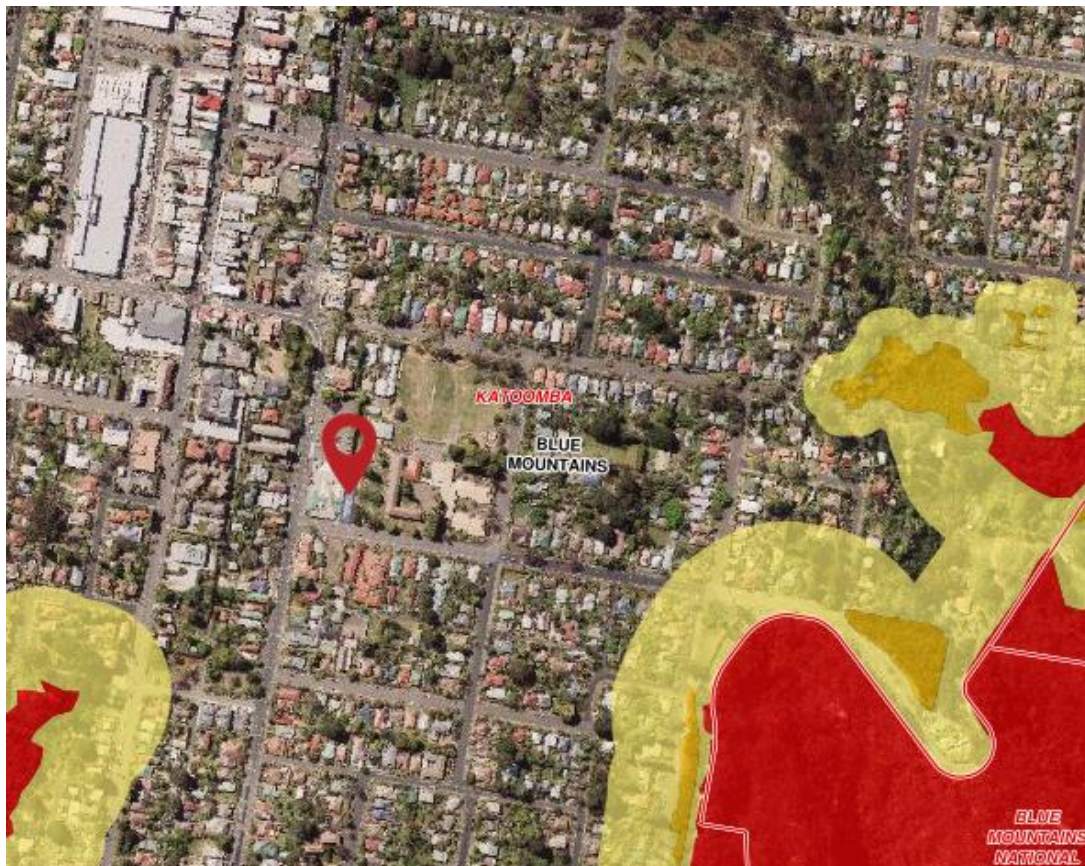
3.1 Residential Zones

This Direction applies as the proposal seeks to affect land within an existing residential zone. The proposal does not seek to rezone the subject site, and therefore, does not reduce the permissible residential density of the subject site. The proposal is considered consistent with this direction.

4.4 Planning for Bushfire Protection

The direction applies where a planning proposal affects or is in proximity to land mapped as bushfire prone land.

The site is not identified as land affected by bushfire, however, the land is within some proximity to land mapped as bushfire prone land. The following diagram illustrates (subject land identified by red indicator).



In view of the separation from identified bushfire prone land, and the nature of the proposal, it is considered that the direction does not apply.

5.2 Sydney Drinking Water Catchment

This Direction applies as the Blue Mountains Local Government Area is identified as being in the Sydney Drinking Water Catchment. The objective of this Direction is to protect water quality within the Sydney drinking water catchment.

The Planning Proposal indicates that the proposal will have a neutral effect on water quality and the proposal can be accommodated by existing storm water infrastructure. In addition, it is indicated that the proposal is not inconsistent with State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 and the Strategic Land and Water Capability Assessment prepared by the Sydney Catchment Authority.

Further, redevelopment of the site will require that detailed consideration be given to these issues at the development application stage.

In view of the above, and the minor nature of the proposal, it is considered that the proposal is consistent with the direction.

State Environmental Planning Policies (SEPP)

The planning proposal is consistent with all State Environmental Planning Policies, as discussed:

SEPP No 55 – Remediation of Land

SEPP No 55 requires the planning authority to consider whether the land is contaminated, and if so that the land is suitable for future permitted uses or if the land will require remediation to make it suitable for future permitted uses.

Given the subject site is zoned R2 Low Density Residential, is adjoining a primary school and the RSL club (which has been operation since 1923), it is unlikely that the site is affected by contamination.

SEPP (Sydney Drinking Water Catchment) 2011

This SEPP aims to provide healthy, high quality water within the Sydney drinking water catchment. The planning proposal states that measures relating to stormwater management and the protection of the drinking water catchment will be dealt with, in detail, at the development application stage.

As discussed above under section 117 direction 5.2 Sydney Drinking Water Catchment, it is not considered that the proposal is inconsistent with the State Policy.

SITE SPECIFIC ASSESSMENT

Social

Allowing the subject site to be used as a registered club, will allow the adjoining, RSL club to appropriately expand. Expansion will improve the club's facilities for tourists and local residents and result in approximately five additional job opportunities.

The use of Schedule 1 in this instance is unlikely to set a precedent or result in further requests given the RSL Club's corner allotment and as the club site and the subject land are bound by Katoomba Public school.

Environmental

The site is located in an established urban area and is not heritage listed. The site comprises little vegetation and is not identified as having any environmental constraints. It is unlikely that the proposal will result in any adverse environmental effects.

Economic

The subject site is located in an established area with access to services.

The proposal seeks to allow the subject site to be used as a registered club which will enable the expansion of the adjoining RSL club. The expansion of the site will maintain and enhance opportunities for employment and tourism.

CONSULTATION

Community

Council has indicated that the proposal is a low impact proposal as it is:

- consistent with the pattern of surrounding land use zones and/or land uses;
- consistent with the strategic planning framework;
- presents no issues with regard to infrastructure servicing; and,
- does not seek to reclassify land.

The proposal is consistent with the criteria for low impact proposals as set out in 'Local Environmental Plans: A guide to preparing local environmental plans', and therefore, a community consultation period of 14 days is recommended.

Agencies

Council has proposed that consultation may be required with the Rural Fire Service (RFS) and the Department of Education.

As discussed in this report, consultation with the RFS is not considered necessary and is not recommended. In view of the site's location adjoining Katoomba High School, however, consultation with the Department of Education is recommended.

TIMEFRAME

As the proposal is of a minor nature and does not involve mapping amendments, a six months completion time is considered appropriate.

Recommended that the timeframe for completing the LEP be 6 months, from the week following the date of the Gateway determination.

DELEGATION

Council has requested delegation of the plan making function. Given the minor nature of the proposal, it is considered appropriate for authorisation to be issued in this instance.

CONCLUSION

The planning proposal is supported to proceed with conditions. The inclusion of a new permissible use on the subject site, will enable a better design outcome for the redevelopment of the club.

RECOMMENDATION

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 14 days.
2. Consultation is required with the Department of Education.
3. The timeframe for completing the LEP is to be 6 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council be authorised to exercise delegation to make this plan



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