

Rezoning of Lot 14 DP 773481 Moss Vale Road Kangaroo Valley

Proposal Title : Rezoning of Lot 14 DP 773481 Moss Vale Road Kangaroo Valley

Proposal Summary : The planning proposal seeks to rezone land at Lot 14 DP 773481 Moss Vale Road, Kangaroo Valley to R5 Large Lot Residential Zone to allow 11 large residential lots and 1 cluster housing lot for 6 dwellings. The remainder is to be zoned E3 Environmental Management and RU1 Primary Production Zones.

PP Number : PP_2014_SHOAL_003_00 Dop File No : 14/03420

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions :

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 5.2 Sydney Drinking Water Catchments
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information : The Deputy Director General, Growth Planning & Delivery, as delegate of the Minister for Planning and Infrastructure, determine under section 56(2) of the EP&A Act that an amendment to Shoalhaven Local Environmental Plan 2014 to rezone Lot 14 DP 773481 Moss Vale Road, Kangaroo Valley from RU1 Primary Production Zone to R5 Large Lot Residential Zone and E3 Environmental Management Zone to allow for subdivision and development into 11 large residential lots, 1 cluster housing lot (to accommodate 6 possible dwellings) and an agricultural residue lot should proceed subject to the following conditions:

1. The proposed additional local clause not be supported and Council instead use the Lot Size Map to define the appropriate density that meets the cap on dwellings required by servicing limitations.
2. The other site specific requirements be incorporated in a DCP amendment that is identified in the planning proposal and if practicable the DCP amendment be exhibited concurrently with the planning proposal.
3. Council consider the use of an allowance clause or Schedule 1 to permit multi dwelling housing on the 'cluster housing' lot.
4. Council shall arrange for a preliminary contamination report under clause 6 of SEPP 55 - Remediation of Land to be included in the exhibition materials.
5. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

(a) the planning proposal must be made publicly available for 28 days; and

(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.2 of 'A guide to preparing local environmental plans (Planning and Infrastructure 2013)'.

6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- (a) Roads and Maritime Services (access to Moss Vale Road);
- (b) Sydney Catchment Authority (s117 Direction 5.2); and
- (c) NSW Rural Fire Service (s117 Direction 4.4).

7. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).

8. The timeframe for completing the LEP is to be made within 6 months from the week following the date of the Gateway determination.

9. Council is to be authorised to use its delegation of the Minister's plan making functions.

s117 Directions

10. The Director General can be satisfied that the inconsistencies of the planning proposal with Directions 1.2 Rural Zones, 1.5 Rural Lands, 3.4 Integrating Land Use and Transport and 5.1 Implementing Regional Strategies are justified by the Shoalhaven Growth Management Strategy which supports the planning proposal and is currently being considered for endorsement by the Director General.

11. The Director General can be satisfied that the planning proposal will be consistent with s117 Directions 4.4 Planning for Bushfire Protection and 5.2 Sydney Drinking Water Catchments when the Council has consulted with the NSW Rural Fire Service and the Sydney Catchment Authority respectively.

12. The Director General notes that the planning proposal is not consistent with s117 Direction 6.3 Site Specific Provisions in that it seeks to cap development in relation to sewerage capacity. The amendment to clause 4.2B and the inclusion of a local clause are not supported. Clause 4.2B was developed to bring forward into Council's new Principal LEP a number of sites which had been zoned for specifically limited development through the Shoalhaven Rural Lands LEP. It is not considered appropriate to add to this list under the new LEP. Council should address these matters through the Lot Size Map and in its consideration of subsequent development applications for the land. The surrender of the existing consent should similarly dealt with when new development applications are considered.

13. The Director General can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are of minor significance.

14. The creation of an agricultural lot without a dwelling is not supported. Council should consider either attaching this land to a lot with a dwelling or allowing a dwelling on that land.

Supporting Reasons :

While the planning proposal can be supported for public consultation, there are a number of concerns raised by the provisions Council proposes to use to achieve the outcomes.

1. It seeks to create 6 dwellings for seniors housing within an R5 Large Lot Residential Zone where it is prohibited and where SEPP Housing for Seniors or People with a Disability does not apply.

2. The planning proposal uses the term 'cluster housing' which is not defined. 'Multi dwelling housing' or 'seniors housing' should be used.

3. It seeks to use a local clause to cap development rather than the Lot Size Map.
4. It creates an agricultural lot without a dwelling.
5. It requires the surrender of a previous consent at the time consent is issued for this subdivision.

Panel Recommendation

Recommendation Date : **27-Mar-2014**

Gateway Recommendation : **Passed with Conditions**

Panel Recommendation : **The planning proposal should proceed subject to the variations as outlined in the following conditions:**

1. Council should ensure that the proposed outcome and how this is to be achieved is clearly described in the planning proposal, particularly in relation to the 'cluster housing' development. Council is to work with the Department's regional office to determine the most appropriate mechanism prior to finalisation for the 'cluster lot' component of the planning proposal. Council is encouraged to explore the option of applying appropriate minimum lots sizes, and the application of clause 7.11 'Essential services,' which requires Council to be satisfied services are available for new development and include this in the planning proposal as an alternative for exhibition purposes.
2. The use of the term 'cluster housing' is not supported because it is not defined in the Standard Instrument LEP and is to be removed from the planning proposal. Council should instead permit 'multi dwelling housing' as these are defined land uses. The planning proposal is to be amended prior to undertaking public exhibition.
3. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. An initial site contamination investigation report is to be prepared to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Planning and Infrastructure 2013).
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - Roads and Maritime Services (regarding access to/from Moss Vale Road)
 - NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
 - Sydney Catchment Authority (S117 Direction 5.2 Sydney Drinking Water Catchments)Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
7. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Plan making delegation:

The Minister delegated his plan making powers to councils in October 2012. Council has now accepted this delegation. Council should be issued with plan making delegation

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because the proposal is considered to be a matter of local significance.

Signature:



Printed Name:

JAMES MATTHEWS

Date:

28/4/14.