

Proposed SLEP Amendment for Tourist Development

Objectives

- To address the disproportionate level of tourist development around Berry and Kangaroo Valley by applying stricter local planning controls to those areas.
- To implement the Planning Minister's request for consistency in the treatment of all types of tourist accommodation (eg tourist cabins, farm stay cabins & eco-tourist cabins)

Recommendation

Expand SLEP Part 7 'Additional Local Provisions' to address tourist development as follows -

- 1) The objective of this clause is to protect the natural and cultural values of the Berry and Kangaroo Valley areas and to manage the impacts of tourist development on communities and sensitive locations.
- 2) This clause applies to land zoned RU1, RU2 & E3 identified as "Cl xx" on the Clauses Map.
- 3) Despite any other provision of this Plan, if development for the purposes of tourist and visitor accommodation, farm stay accommodation, eco-tourism or camping grounds is permitted under this Plan on land to which this clause applies, the accommodation must –
 - consist of no more than 4 bedrooms or individual tent sites
 - be clustered close to the owner's or manager's residence and be supervised at all times
 - require a minimum Lot area of 5 hectares for the first bedroom/ tent site, and each additional bedroom/ tent site will require a Lot area of 5 hectares
 - be within buildings with gross floor areas not exceeding 70 square metres (this limit also applies to any communal buildings)
 - be located to avoid any visibility above ridgelines and against escarpments
 - be set back a minimum 50m from all boundaries and 200m from any dwelling located on an adjoining lot.

These conditions also apply to existing dwellings/garages/sheds that are to be converted to tourist accommodation or Farm stay accommodation.

- 4) Despite any other provision of this Plan, if development for the purposes of a function centre is permitted under this Plan on land to which this clause applies, either through use of Clause 2.8, Clause 5.10 or any new land use for Farm events, there must be an absence of adverse impact on any adjoining land or the amenity of the neighbourhood.

Schedule 1 'Additional Permitted Uses' can be used for a special requirement in a specific area.

Managing the Impacts of Tourist Development - Berry & Kangaroo Valley

The Berry and Kangaroo Valley communities are being subjected to significant loss of amenity and property values as a result of inadequate planning provisions. Tourist development needs to be managed in a well-controlled, sustainable way that preserves the rural environment that attracts tourists to the area and appeals to the local community.

Current Situation

Of the 37 DAs lodged in the Shoalhaven in the 20-months to December 2020 for tourist accommodation in rural/environmental zones, 87% were around Berry/ Kangaroo Valley.

SLEP 2014

The group term 'tourist and visitor accommodation' (TVA) was retained by Council in SLEP 2014 to provide flexibility for approving tourist cabins and other innominate uses. However, developers are using the group term to circumvent LEP Dictionary definition constraints and Clause 5.4 scaling controls in rural zones, and SCC has no ability to defend appeals against refusal of DAs in the Court.

Density Controls

- SLEP Clause 5.4 specifies a maximum number of 7 bedrooms for farm stay cabins and 5 for Bed & Breakfast accommodation, but there are no controls for tourist or eco-tourist cabins.
- The unenforceable SDCP density 'guidelines' list the number of tourist cabins allowed per hectare (based on the outdated 1985 concept of one-bedroom cabin structures) with no maximum number for tourist cabins. On a 40ha lot, 21 cabins are 'permitted' and if each cabin contains more than two accommodation units, each with two bedrooms, more than 100 bedrooms could be approved.

Cabin Size Controls

- There is no LEP scaling control on the size of tourist cabins.
- The current SDCP maximum floor area guideline of 120sqm is twice the size permitted by other councils. However, an SCC refusal of 195sqm was overturned at the LEC.
- Andrew Lissenden's staff assessment of the Rockfield Park application in 2017, which was agreed by the LEC, established the precedent that each bedroom should be counted as the base unit for assessing cabin density compliance. However, the precedent has not been adhered to by Council.