

28 Pulpit Hill Road, Katoomba
Also known as Radiata Plateau



Figure 1: Aerial Location Map

*Clause 11.3
 11-4
 10-5 da
 db*

Site

Land Area	306.14 ha
Ownership	Private
Existing Uses	Vacant Land
LEP 1991 Zoning	EP - Environmental Protection BC(NS) - BC (No Subdivision) RES-BC (No Subdivision)
DLEP zoning	Environmental Conservation (E2) Environmental Management (E3) Environmental Living (E4)
DLEP 2013 Environment Information	PA – vegetation constraint area PA - watercourse PA – Ecological buffer PA – Slope constraint Fauna Bio-corridor
DLEP 2013 Development Information	Height Building 8m Lot Size 100 ha

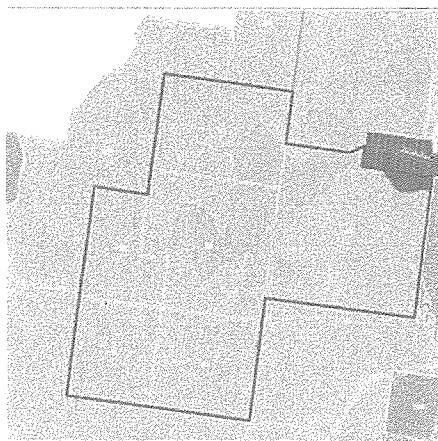


Figure 2: Current zoning

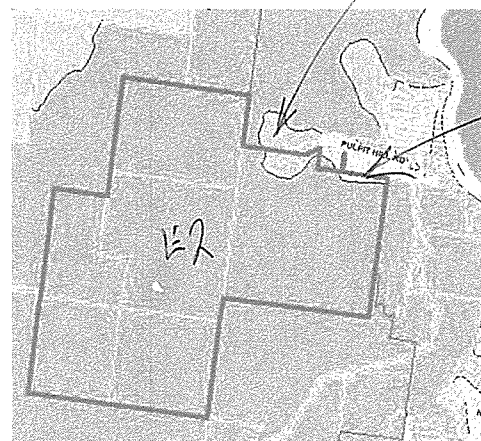


Figure 3: DLEP 2013 zoning

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Background

In August 1990, a development consent was granted for Stage 1 of a Transcendental Meditation Academy on the site, now known as 28 Pulpit Hill Road, Katoomba. The development proposal generated a high level of community interest with one community group made an appeal to the then Minister for Environment requesting the site be assessed for its potential to be included in the area in the Blue Mountains National Park. As a result, the National Parks association requested the State Government Minister for the Environment to place an Interim Protection Order on the Property. In 1992 the World Heritage Committee stated their support for the site to be permanently included on the World Heritage List.

The applicant subsequently submitted a revised development application which still attracted considerable community opposition and the application was withdrawn, with the applicant returning to the original approved plans due to time constraints. The applicant requested an extension of time, which council was unable to grant as the various relevant sections of the Environmental Planning and Assessment Act had not been satisfied.

There exist no current Development Approvals for the site.

The extent of E2 Environmental Conservation on the site was increased during the preparation of DLEP 2013, extending the area currently zoned EP - Environmental Protection under LEP 1991. This increase was based on the large percentage of the site covered with significant vegetation communities including 8 different communities listed as scheduled vegetation in DLEP 2013. The property is also highly constrained by steep slopes and several watercourses. These environmental constraints were the basis of the mapping of the E2 zone on the site, which was confirmed during the review of submission process of DLEP 2013.

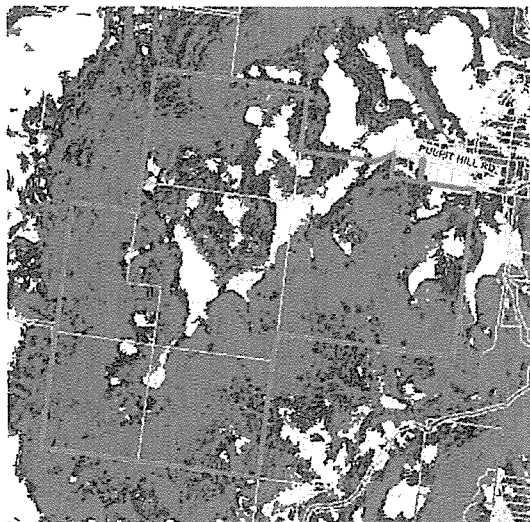


Figure 4: Slope mapping



Figure 5: Vegetation mapping

DLEP 2013

The site is currently zoned Bushland Conservation (No Subdivision), Residential Bushland Conservation (No subdivision) and Environmental Protection under LEP 1991. The equivalent zones under DLEP 2013 are E3 Environmental Management, E4 Environmental Living and E2 Environmental Conservation respectively. An assessment of tourism uses in the E3 Environmental Management zone and E4 Environmental Living zone are below.

The site contains split zoning and includes E2 Environmental Conservation zone, however development is permitted on more suitable parts of the site including the E3 and E4 zone.

E3 Environmental Management

The E3 Environmental Management zone is applied to land that has environmental and/or scenic values, and affects lands currently zoned under Bushland Conservation zone in LEP 1991. It contains special ecological, scientific, cultural or aesthetic attributes, or is highly constrained due to geotechnical or other hazards. The range of land uses permitted with consent in this zone is more extensive than land uses permitted in the E2 zone. A limited range of developments including dwelling houses; bed & breakfast accommodation, horticulture, secondary dwellings, and places of public worship are permitted with consent.

In the preparation of DLEP 2013 the land uses permitted in the E3 Environmental Management zone were a translation of existing land uses in the current planning instruments.

Tourism and the E3 Environmental Management zone

Practice Note 09-006 'Providing for tourism in Standard Instrument local environmental plans', provides advice regarding the provision of activities, accommodation and transport in standard instrument zones to support tourism opportunities. The land uses suggested are not necessarily exhaustive and the Practice Note explicitly states that "councils should choose those uses most appropriate for a particular zone, consistent with any relevant regional strategy and local considerations".

A comparison of the recommended tourism land uses from PN09-006 for the E3 Environmental Management zone and what is permitted for this zone under DLEP 2013 is shown below. Where a tourism land use is shown **highlighted** it means that use is permitted with consent.

E3 Environmental Management – Tourism Land Use Comparison

Range of permitted uses	Practice Note	DLEP 2013
Tourist and Visitor Accommodation (Group Term)		
Backpackers Accommodation		
Bed and Breakfast Accommodation		
Farm Stay Accommodation		
Hotel or Motel		
Serviced Apartment		
Caravan Park		
Camping Ground		
Eco-tourism facility		
Amusement Centre		
Boat launching ramp, boatshed		NA
Charter and tourism boating facility		NA
Community facility		
Entertainment facility		
Environmental facility		
Function centre		
Highway service centres		
Information and education facility		
Marina		NA
Recreation area		
Recreation facility (indoor)		
Recreation facility (major)		
Recreation facility (outdoor)		
Registered club		
Retail premises (group term)		
Cellar door premises		
Food and Drink Premises		
Pub		

Range of permitted uses	Practice Note	DLEP 2013
Restaurant		
Take away food and drink premises		
Kiosk		
Market		
Neighbourhood Shop		
Roadside stall		
Shop		
Water recreation structure		NA

Please note that land uses '*Boat launching ramp, boatshed*', '*Charter and tourism boating facility*', '*Marina*' and '*Water Recreation Structure*' have not been included in any DLEP 2013 zone and are appropriately marked as NA.

The E3 Environmental Management zone under DLEP 2013 also permits a range of non-tourism land uses including:

- Animal boarding or training establishments
- Bee keeping
- Building identification signs
- Bush fire hazard reduction work
- Business identification signs
- Child care centres
- Educational establishments
- Emergency services facilities
- Flood mitigation works
- Home-based child care
- Home industries
- Places of public worship
- Research stations
- Respite day care centres
- Roads
- Secondary dwellings
- Veterinary hospitals
- Water storage facilities

As can be seen from the above, the proposed E3 Environmental Management zone for the site permits a range of tourism and non-tourism land uses that exceed the recommended range of land uses from the Department of Planning.

E4 Environmental Living

The E4 Environmental Living zone is intended for existing urban areas with special environmental values or scenic values, where low impact residential uses do not adversely affect these values, and where this type of development could be accommodated. It generally has a predominantly bushland character but may be subject to environmental constraints or limitations in servicing.

This zone has been applied to land previously zoned Living Bushland Conservation under LEP 2005 and Residential Bushland Conservation and Residential Investigation zone in LEP 1991. Some examples of permitted uses in this zone include bed and breakfast accommodation, dwelling houses, eco-tourist facilities, environmental facilities and secondary dwellings.

In the preparation of DLEP 2013 the land uses permitted in the E4 Environmental Living zone were a translation of existing land uses in the current planning instruments.

Tourism and the E4 Environmental Living zone

Practice Note 09–006 ‘Providing for tourism in Standard Instrument local environmental plans’, provides advice regarding the provision of activities, accommodation and transport in standard instrument zones to support tourism opportunities. The land uses suggested are not necessarily exhaustive and the Practice Note explicitly states that “councils should choose those uses most appropriate for a particular zone, consistent with any relevant regional strategy and local considerations”.

A comparison of the recommended tourism land uses from PN09-006 for the E4 Environmental Living zone and what is permitted for this zone under DLEP 2013 is shown below. Where a tourism land use is shown **highlighted** it means that use is permitted with consent.

E4 Environmental Living zone – Tourism Land Use Comparison

Range of permitted uses	Practice Note	DLEP 2013
Tourist and Visitor Accommodation (Group Term)		
Backpackers Accommodation		
Bed and Breakfast Accommodation		
Farm Stay Accommodation		
Hotel or Motel		
Serviced Apartment		
Caravan Park		
Camping Ground		
Eco-tourism facility		
Amusement Centre		
Boat launching ramp, boatshed		NA
Charter and tourism boating facility		NA
Community facility		
Entertainment facility		
Environmental facility		
Function centre		
Highway service centres		
Information and education facility		
Marina		NA
Recreation area		
Recreation facility (indoor)		
Recreation facility (major)		
Recreation facility (outdoor)		
Registered club		
Retail premises (group term)		
Cellar door premises		
Food and Drink Premises		
Pub		
Restaurant		
Take away food and drink premises		
Kiosk		
Market		
Neighbourhood Shop		
Roadside stall		
Shop		NA

Please note that land uses ‘Boat launching ramp, boatshed’, ‘Charter and tourism boating facility’, ‘Marina’ and ‘Water Recreation Structure’ have not been included in any DLEP 2013 zone and are appropriately marked as NA.

The E4 Environmental Living zone in DLEP 2013 also permits a range of non-tourism land uses including:

- Bee keeping
- Building identification signs
- Bush fire hazard reduction work
- Business identification signs
- Dwelling house
- Emergency services facilities
- Flood mitigation works
- Home-based child care
- Secondary dwellings
- Water storage facilities

As can be seen from the above, the proposed E4 Environmental Living zone for the site permits a range of tourism and non-tourism land uses, although not to the extent recommended in Practice Note 09-006. This restriction on the range of tourism land uses is in keeping with the existing controls, with the addition of eco tourist facility.

DLEP submissions

During the public exhibition of the DLEP 2013, Council received one submission in relation to the property. The submission related to the mapping application of various protected areas, clause 5.13 Eco-tourist facilities and the mapping of E2 on the site. These matters were addressed in the 4 September 2014 Extraordinary Council Report, with all proposed DLEP 2013 mapping confirmed at that meeting.

Strategic Tourism and Recreation Planning Study

The above study recommended a range of development possibilities for the site, along with potential issues. However these possibilities were based on high level preliminary investigations and further research into each site was recommended.

Development Possibilities	Potential Issues identified by Study
<ul style="list-style-type: none">• Medium to large scale higher end resort• Outdoor activities course• Glamping accommodation to cater for development of overnight treks.	<ul style="list-style-type: none">• Important to note that development for the purposes highlighted would not require the entire site -perhaps half of the land.• Community support could be increased if development aesthetically resembles the local environment.

The Standard Instrument prescribes the land uses which are to be included in the land use table of the Local Environmental Plan, therefore the development possibilities suggested by the Study need to be translated in to uses identified by the Standard Instrument.

Medium to large scale higher end resort

The best fit definition under DELP 2013 for a 'resort' is a *Hotel or motel*, which is defined as being:

"a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short term accommodation on a commercial basis and that:
(a) comprises rooms or self-contained suites, and
(b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Note. Hotel or motel accommodation is a type of tourist and visitor accommodation — see the definition of that term in this Dictionary.

A *Hotel or motel* is currently permissible in E3 Environmental Management zone, although not in the E4 Environmental Living zone. However this land use in the E3 zone is controlled by Clause 6.28 'Rural and nature based tourism development' and restricts the scale of this land use to that "small enough to be generally managed and operated by the principal owners(s) and/or site manager living on the property."

Therefore while the land use is permitted, the scale is controlled such that a medium to larger scale use is unlikely.

Further, planning instruments such as the DLEP are unable to prescribe the market to which a development is aimed. It is the role of the property owner / developer to determine the market capacity and or interest for a particular product, be it 'high end' or 'budget'.

Outdoor activities course

As discussed previously, this is not a defined use under the Standard Instrument, however this use is likely to be captured within the definition of a *Recreation facility (outdoor)*. Under DLEP 2013 a *Recreation facility (outdoor)* means:

"a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

This land use is permitted in the E3 Environmental Management zone but not in the E4 Environmental Living zone.

Glamping accommodation to cater for development of overnight treks

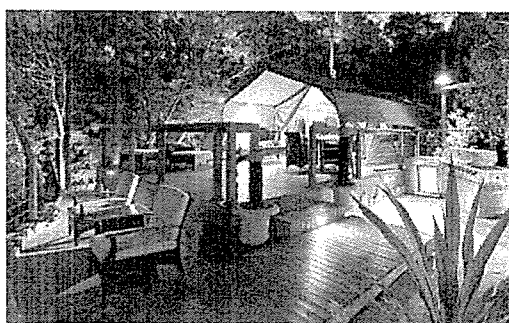
Glamping is defined as a glamorous form of camping and includes accommodation and facilities more luxurious than those associated with traditional camping. Glamping may also include reasonably basic camping facilities such as a pre-erected tent, campbeds, linen and lounge chairs at a unique site or special event, as with Cockatoo Island. Alternatively, a review of websites advertising glamping indicates that this form of camping may also include barns and cabins or tree houses and may include facilities such as ensuite bathrooms, TV/DVD, kitchen and/or verandah with BBQ. The most appropriate land use term would be a Camping ground which means:

"an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park."

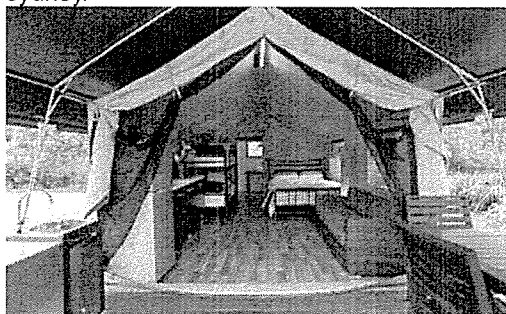
Some of the photos below are of glamping sites to give an idea of what the Stafford Report was specifically addressing.



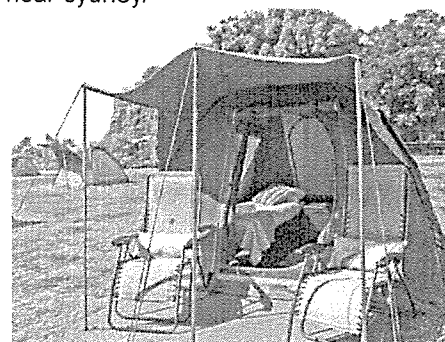
Paperbark Camp, Jervis Bay (\$395-670 per night)
(<http://concreteplayground.com/sydney/travel-leisure/leisure/the-ten-best-glamping-spots-near-sydney/>)



Tandara, Lane Cove National Park (\$90-200 per night)
(<http://concreteplayground.com/sydney/travel-leisure/leisure/the-ten-best-glamping-spots-near-sydney/>)



Safari Palm Tents, Central Coast (\$143-205 per night)
<http://concreteplayground.com/sydney/travel-leisure/leisure/the-ten-best-glamping-spots-near-sydney/>



Cockatoo Island (\$150-360 per night - site is a prime location for New Years Eve fireworks display)
<http://www.weekendnotes.com/best-glamping-sites-new-south-wales/>

This land use is permitted in the E3 Environmental Management zone and E4 Environmental Living zone. However, as with 'hotel or motel accommodation', Clause 6.28 'Rural and nature based tourism development' and restricts the scale of this land use to that "small enough to be generally managed and operated by the principal owners(s) and/or site manager living on the property." Therefore while the land use is permitted, the scale is controlled such that a medium to larger scale use is unlikely.

Further, planning instruments such as the DLEP are unable to prescribe the market to which a development is aimed and an application for 'camping; would not necessarily mean glamping. It is the role of the property owner / developer to determine the market capacity and or interest for a particular product, be it 'high end' or 'budget'.

Suitability for the SP3 Tourism Zone

The SP3 Tourist zone is a site specific zone in the Standard Instrument LEP. It is applied to a site when "tourism is considered the focus of the particular location and it is not proposed to include many other non-tourist related business or accommodation uses".

The comparison between the E3 environmental Management and E4 Environmental Living zones against the draft SP3 Tourist zone for DLEP 2013 is as below. Where a tourism land use is shown highlighted it means that use is permitted with consent.

Range of permitted land uses	E3	E4	SP3
Tourist and Visitor Accommodation (Group Term)			
Backpackers Accommodation			

Range of permitted land uses	E3	E4	SP3
Bed and Breakfast Accommodation			
Farm Stay Accommodation			
Hotel or Motel			
Serviced Apartment			
Caravan Park			
Camping Ground			
Eco-tourism facility			
Amusement Centre			
Community facility			
Entertainment facility			
Environmental facility			
Function centre			
Highway service centres			
Information and education facility			
Recreation area			
Recreation facility (indoor)			
Recreation facility (major)			
Recreation facility (outdoor)			
Registered club			
Retail premises (group term)			
Cellar door premises			
Food and Drink Premises			
Pub			
Restaurant			
Take away food and drink premises			
Kiosk			
Market			
Neighbourhood Shop			
Roadside stall			
Shop			

The site is highly constrained as it is impacted by scheduled vegetation, slope constraints and a watercourse. The site is also mapped on the Bushfire Prone Land map.

However, the site contains two separate areas where various development types are permissible. There is an area of E4 Environmental Living, adjoining residential lots to the south of Pulpit Hill Road, which is approximately 16,000m² in area. There is also an area of the site zoned E3 Environmental Management which is approximately 43,148m² in area.

Therefore, there is sufficient size to accommodate a tourist development on the site as both E3 and E4 permit an eco-tourist facility, while the E3 zone portion would permit a Hotel or motel, Camping ground or Recreation Facility (outdoor). These land uses are as recommended in the Stafford Report, although not perhaps of medium to larger scale.

The SP3 Tourist zone however would not be subject to clause 6.28 of DLEP 2013 and therefore medium to larger scale forms of Hotel or motel, Eco tourist facility and Camping ground could be achieved. The SP3 zone would also permit other forms of tourism accommodation such as backpackers and serviced apartment, again with no control regarding the scale of these land uses. Given the constrained nature of the site it is considered appropriate that the tourist accommodation uses permitted on the site under E3 are controlled in terms of scale.

Options

Option 1 Retain the zoning and provisions as exhibited with DLEP 2013.