

Review of Public Submissions
to the Former Leura Golf Clubhouse Precinct
Draft LEP

(the **‘Review Document’**)

LEP 2005 - Draft Amendment 5 (Former Leura Golf Clubhouse Precinct)

A. Aims of this plan

DESCRIPTION

The aims of the plan are to include the Leura Golf Clubhouse Precinct within the planning framework of Local Environmental Plan 2005 (LEP 2005), and enable the provision of accessible housing in accordance with specific design requirements contained within the Plan.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	3 (37.5%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	1
Object	2
Other Comment	1
<i>Total Comments</i>	<i>4</i>

COMMENTS RAISED – by the Developer

Object – refinements requested 1 comment

- Objects to the use of prescriptive numeric standards for floor space ratio, site cover and landscaped space in the Draft LEP, requests no numeric standards be applied.

Comment 1 comments

- Comments that the aims of the plan would change if a decision were taken to retain the heritage listing of the former Golf Club House.

COMMENTS RAISED – by the public

Object 2 comments

- Objects strongly to the proposed draft amendment and proposed building development pursuant to original LEP 28.
- Opponent objects to the proposed Draft LEP zoning changes.

DISCUSSION

Rezoning process

The site of the former Leura Golf Clubhouse is currently zoned under Blue Mountains Local Environmental Plan No. 28 (LEP 28) as partly Special Uses 5(d) "Retirement Village" and partly 6(c) "Recreation Private".

Council considered a range of options in preparing precinct controls for the exhibition of the Draft LEP at its Council meeting of 4 October 2005. The preferred option was to proceed with rezoning the site under LEP 2005 to allow additional development in some areas of the site, but with an appropriate planning framework to ensure that any adverse impacts can be avoided or mitigated. Such an approach will work to rectify the design quality deficiencies of the existing development recognised by staff and representatives of the Developer, while providing for some expansion of the existing facility.

A. Aims of this plan

Precinct controls

The Leura Fairways retirement village accommodates accessible housing and a range of other services and facilities to meet the needs of current residents. Draft LEP Draft Amendment 5 aims to rezone the entire property to Recreation–Private, and apply a precinct (RP-LE01) with associated controls to the site that would enable future development providing a quality living environment for residents.

A key feature of the precinct is the inclusion of two new areas of the site for development. The two areas include the former bowling green fronting Fitzroy Street in the north of the site, and the southern “tongue” of the site, both of which are zoned 6(c) Recreation Private under LEP 28. The 6(c) zone applying to the former bowling greens and southern part of the site prohibits further development of the retirement village. Provided that the location and impacts of any further development on the site is suitably controlled through the precinct provisions, it is reasonable to consider the possibility of further development in these additional areas.

The use of prescriptive (or numerical) provisions guiding development density, building setback, building height and landscape setting is an important element of the proposed development for a number of reasons. Principal to these is the need to ensure that the streetscape character, living environment and aged care facilities are not compromised by inappropriate or excessive development on the site. In particular, the development must respond appropriately to the opportunities and constraints of the site, whilst providing sufficient certainty for Council, existing residents, and the community generally as to the form and design quality of future development.

Coupled with this, it was Council's original intention to enable the Developer to prepare draft precinct controls to guide future development in the Recreation–Private zone. Council staff provided a number of comments on the proposed precinct controls with respect to provisions that were considered to be deficient in key areas, and asked that the Developer revise the controls accordingly. The revised precinct controls, however, failed to incorporate Council's comments in those key areas seen to be deficient, and in some cases sought to extend development beyond limits initially proposed by the Developer. Consequently, Council staff were not in a position to recommend commencing a rezoning on the basis of the developer's draft precinct controls and proceeded to prepare the draft precinct controls (as exhibited).

It is necessary that the precinct controls achieve a reasonable balance between the competing objectives of the developer to extend development that provides for site viability and an increased number of units, and the role of Council as a consent and regulatory authority to control the form, design quality and streetscape contribution of the site thereby respecting the public interest. The precinct controls incorporate a number of concessions sought by the partnership/developer and are considered to represent a reasonable and appropriate balance between the need to increase development yield to maintain a high quality facility for residents, and respecting the site's particular character and context within an established residential area.

The generalised support and opposition to the aims of the Draft Amendment 5 is noted. When considering this issue further, it is necessary to outline the basis of the provisions for floor space ratio, site cover and landscaped space in this amendment in conjunction with comments raised specifically in relation to these issues from both the public and the Developer. These issues will be raised and discussed individually with respect to the relevant provisions of the amendment as part of this submission review document.

RECOMMENDATION

A. That the Aims of the Draft LEP are retained as exhibited.

B. Desired future character

DESCRIPTION

The intention of the precinct vision statement is to indicate the expectations for future development on the site. The vision allows for a quality living environment for older people with necessary services and facilities. The former clubhouse will be retained as a focal element of the precinct and facility for residents.

The precinct objectives ensure that specific outcomes sought for the development is in keeping with the streetscape and residential character of the locality and, respects the contribution of the former golf clubhouse as the primary character attribute and a resident facility.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	3 (37.5%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	3
Refinements Requested	0
Object / Refinements Requested	0
Object	0
Other Comment	2
<i>Total Comments</i>	5

COMMENTS RAISED – by the Developer

Support - refinements requested

3 comment

- Request amendment to the precinct vision statement to incorporate “*visitor accommodation, educational and recreational facilities*” to the streetscape character description.
- Request amendment to precinct vision statement to ensure built form is complimentary to the “*former clubhouse and other development in the locality*”.
- Request amendment to precinct objectives by inserting “*consistent with the character of the locality and utilises...*”

COMMENTS RAISED – by the public

Comment

1 comments

- Comments that the site is located in the heart of Leura’s historic garden precinct.
- Comments that development should be confined to the construction of suitably landscaped single story residential units.

DISCUSSION

Preservation of character

The site of the former Leura Golf Clubhouse is located in an area of Leura characterised by large building blocks, spacious landscaped gardens and older residences mainly constructed

B. Desired future character

before 1945. The site, at the corner of Gladstone Street and Fitzroy Street is located on a prominent tourist route between Leura town centre and Sublime Point. Non-residential development in the area (including the Blue Mountains International Hotel School opposite the site) maintains a compatible scale to residential development with buildings being set back from the street, and mature landscaped gardens located between the buildings and the street to mitigate the bulk of the buildings when viewed from the street.

The former Leura golf clubhouse remains the primary character attribute on the site. Future development on the site needs to retain the streetscape contribution of the clubhouse while responding appropriately to the surrounding residential and non-residential development, and recreation or tourist areas (e.g. the golf course). The proposed precinct controls are designed to protect and enhance the existing neighbourhood character, while allowing for a reasonable development outcome on the site.

Precinct vision statement

The precinct vision statement seeks to enable development to occur while preserving or enhancing the character of the neighbourhood. The streetscape character types, identified and mapped within local street context, as part of the background study to LEP 2005, enabled the incorporation of the residential character study into land use zones, protected areas and management provisions within the Part 3 Division 3 (Character and Landscape Assessment) of LEP 2005.

The Draft LEP vision statement refers to the precinct being located within an area of Leura recognised for its streetscape of garden setting character and older housing character. The “garden setting” is characteristic of surrounding residential and non-residential development, shown by large allotment sizes, large front building setbacks, limited building site cover and established and extensively landscaped gardens. Areas of older housing identified through the Residential Character Study are reflected in the application of the Protected Area–Period Housing Area to the north and west of the site.

The request to amend the vision statement to incorporate recognition of the site’s location within visitor accommodation, educational and recreational facilities is noted. These land uses, including the Blue Mountains International Hotel School opposite the site, do contribute to the character by maintaining a compatible scale to residential development in the area with setbacks of larger buildings from the street and the use of mature landscaped gardens between buildings and the street to mitigate the impacts of the bulk and scale of these buildings. However this development, in itself, is not considered to be a dominant streetscape character that needs to be recognised in the precinct vision statement in addition to the general statement already provided.

Managing the form of development

Two of the amendments above sought by the Developer reflect the position that future buildings and their streetscape character should be complimentary to other forms of development in the locality. This position is noted. It is recognised that the Developer is seeking a built form compatible with that of the non-residential development in the area whilst the Draft LEP promotes development that is generally residential in character and single storey in appearance.

These amendments can be addressed partly with reference to the contribution of other non-residential development to the streetscape character and partly regarding the context of the site. Firstly it should be noted that “other development in the locality” might refer to tourist development, such as tourist accommodation, and educational facilities, which are not permitted within the Recreation—Private zone. As mentioned above, the non-residential development facing Gladstone Road and Fitzroy Street, although larger in bulk and scale than

B. Desired future character

the surrounding residential development, maintains and contributes to the garden setting streetscape character through large setbacks, limited site cover, and established gardens and landscaping. If the desired future character statement was to be amended to allow buildings and architectural form to present complimentary to other non-residential development in the locality while maintaining streetscape character, the precinct objectives would require average building setbacks of at least 40m from Fitzroy Street (depth of the bowling green) and a further reduction on site cover.

The precinct vision statement and precinct objectives therefore necessitate a scale and architectural form that either preserves or maintains the primarily residential streetscape character. It is considered that this can only be achieved through the design and scale of buildings that are consistent with residential character in the locality and, generally presenting a single storey to Fitzroy Street. In achieving the desired future character of the precinct the Draft LEP consistently refers to the built form and scale in this context.

RECOMMENDATION

- B. That the Precinct Vision Statement and Precinct Objectives are retained as exhibited.

C. Building Height

DESCRIPTION

The clause sets the maximum height for development on the site. The controls set a height for buildings fronting Fitzroy Street, and buildings adjoining the Living-Conservation zone. Some exceptions to the controls are provided for understorey car parking structures if buildings retain a single story appearance or achieve a landscaped setting. All other buildings are generally limited in height to 8 metres.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	3 (37.5%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	2
Support / Refinements Requested	2
Refinements Requested	0
Object / Refinements Requested	0
Object	0
Other Comment	0
<i>Total Comments</i>	4

COMMENTS RAISED –by the Developer

Support in part - refinements requested 2 comments

- Amendment requested to clarify Building Height (1)(a), to read:

"(1)(a) A maximum building height of 6.0 metres and a maximum height at the eaves of 4.5 metres applies to:

(i) the street frontage of the buildings with a frontage to Fitzroy Street;
- Amendment requested to Building Height clause (1)(b) to read:

"For the purpose of determining building height in paragraph (a) (i), the height of the understorey levels may be excluded where..."

COMMENTS RAISED – by the public

Support in part - refinements requested 2 comments

- Two submissions request that:
 - the height of the proposed development not obstruct views from Apt. 30 and/or be no higher than the floor level of Apt. 31;
 - all garages to be below ground level; and
 - a maximum building height of 8 metres apply to the precinct.

DISCUSSION

A review of the comments made to this provision suggests differing views of the proposed building heights: some suggest the building heights are too low on Fitzroy Street, others that buildings are too high and should be restricted to a single-storey nature. In considering these comments, it is necessary to outline the approach taken to setting building heights in the Draft LEP Amendment 5.

C. Building Height

Building height on Fitzroy Street

Building height as defined by LEP 2005 is “the distance measured in metres vertically from the highest point of the roof to the finished ground floor level immediately below that point”.

The Draft LEP provides the residential character of buildings facing Fitzroy Street to be maintained through a maximum building height of 6.0 metres and a maximum height at the eaves of 4.5 metres. The bowling green level at Fitzroy Street marks the primary height benchmark for development facing Fitzroy Street. The bowling green is approximately 2 metres below the street level of Fitzroy Street, retained by a low wall and features an understorey car parking structure accessed via the rear of the green. Existing residential units are located approximately 1-2 metres below the finished level of the understorey car parking structure, as shown in the photo below:



East-west view showing bowling green understorey car parking and residential units. March 2005.

Subclause (1)(b) provides for the exclusion of the understorey car park structure where buildings have a single storey appearance from Fitzroy Street and where height is necessary to achieve a predominant landscape setting. Should the application of 6.0m building height apply to the front only of buildings facing Fitzroy Street and should the understorey structure allow both residential and car parking, as requested by the developer, it may have the effect of permitting the construction of a three storey building, when viewed from the rear.

A three storey structure of this type would not provide a reasonable transition from larger buildings in the centre of the site to domestic scale cottages when viewed from the golf course or other public places. Further, the scale of any proposed building would generate significant overshadowing of existing units at the rear of the bowling green (see photo above) and, as a consequence, a loss of amenity for current and future residents. An amendment of this nature would compromise the desired future character, building envelope and design consideration outcomes sought by the Draft LEP.

With consideration of the matters above, a recommendation is made to clarify that the 6 metre building height provision of subclause (1)(a) and (1)(b) is to be taken from the existing level of the bowling green.

Precinct building height

The Draft LEP precinct applies a maximum building height of 6 metres to the new development areas of the site, being those buildings with a frontage to Fitzroy Street and new development within the southern portion of the site. The building height requirement for the

C. Building Height

remaining areas of development is to comply with subclause (c) that is a maximum building height of 8 metres and a maximum height at the eaves of 6.5 metres. In relation to building height, LEP 28 prohibits the erection of a building where that building exceeds 8.5 metres in height above ground level.

In relation to the comment made regarding a maximum building height of 8 metres be applied to the site, the precinct controls for new development on the site will help to ensure that new development is consistent with this request.

Car parking facilities

It is uncertain whether the intent of the comment above is to restrict garages to the understorey levels or alternatively if the intent is for garages to be excavated below ground level. As the site slopes away from Fitzroy Street towards the golf course, car parking may be located understorey, but does not necessarily have to be below ground level. If ground level is considered to be that of Fitzroy Street then clause (1)(b) is consistent with this submitter's request.

RECOMMENDATION

- C. That the Building Height clause is retained as exhibited and amend paragraph 3(1)(b) to read as follows:
- (b) For the purpose of determining building height in paragraph (a)(i), the height of any buildings is measured from the finished ground level of the bowling green provided that:
 - (i) buildings have a single storey appearance from the street, and
 - (ii) an increase in building height is necessary to achieve a predominant landscape setting and to enhance the relationship of buildings to Fitzroy Street, and
 - (iii) buildings do not reduce solar access to less than 3 hours between the hours of 9am to 3pm on 21 June for any dwellings existing on the appointed day.

D. Building setback

DESCRIPTION

The development of the site allows for a varied setback of buildings fronting Fitzroy Street and a minimum setback for buildings fronting Gladstone Road. Buildings that adjoin the Living-Conservation zone or located along the southernmost boundary shall have minimum setback and height requirements to provide a transition between development within the precinct and existing housing forms of the adjoining Living –Conservation zone.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	5 (62.5%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	2
Object	4
Other Comment	4
<i>Total Comments</i>	10

COMMENTS RAISED – by the developer

Object - refinements requested

2 comments

- Objects to Living-Conservation zone setbacks, requests that side and rear boundary set backs should be the same as in the Living Conservation Zone. Amend clause to read:
 - "(i) a building that adjoins the Living-conservation zone shall have a minimum set back of 1m"*
- Amendment requested to delete clause (2)(e) and amend clause (2)(d) to read:
 - "(ii) a building that adjoins the golf course shall have a minimum setback of 2m and an average minimum setback of 4m, for a building with a height of 6m or less, or*
 - (iii) a building that adjoins the golf course shall have a minimum setback of 3m and an average minimum of 6m for a building with a height of greater than 6m."*

COMMENTS RAISED – by the public

Object

4 comment

- The objector states that development of the excluded areas to facilitate further construction of some 30 units would seriously degrade the setting and values of adjoining residences and existing developments including resort and recreation facilities, water conservation and wildlife habitat.
- Requests that new buildings be located behind the bowling green to enhance streetscape and views to the golf course.
- Objects to the application of the plan to the triangle ("tongue") of land on the southern side. This land was given over by the golf club to enable the original development to comply with the "open space" ratio required at the time of submission.

D. Building setback

- Requests that the old bowling greens be rezoned to permit development on the condition that the southernmost area is returned to recreation space and management for water conservation and wildlife habitat.

Comment

4 comment

- Comments that by allowing development on the bowling green contrasts with the concept of maintaining streetscape particularly clause (4)(3) and also the vehicular access clause (5)(2) of the Draft LEP.
- Comments that nothing has changed that would justify development on the southern portion limited open space area, which was designated as garden and should remain so.
- Comments on the reasoning behind the proposed over-development of the site to accommodate expansion plans of the present owner.
- Comments that the golf course outlook forms an integral part of the heritage garden at 92-94 Gladstone Road that would be spoilt by the proposed LEP amendment.

DISCUSSION

A review of the comments above presents opposition for and against the exhibited Draft LEP setback provisions by the public and the Developer. Of the public objections, four (4) would prefer to see development excluded on the former bowling green and southernmost portion, of the site zoned Recreation Private under LEP 28. The Developer, on the other hand seeks a reduction in the setback controls in these two areas of the site to enable development that exceeds the setback provisions of the exhibited Draft LEP.

In considering the objections and determining any recommended changes to the setback provisions of the plan, it is necessary to outline the site planning history concerning the decision to allow development to proceed in the areas zoned 6(c) Recreation Private under LEP 28. The site planning history is to be read in conjunction with the Council report of 4 October 2005.

Site planning history

Blue Mountains Local Environmental Plan No. 4

The site was previously zoned Recreation Private under Local Environmental Plan No.4 (LEP 4). Immediately after gazettal in 1982, Council commenced a rezoning process to permit a retirement village on the site. Council prepared a subsequent LEP to provide for a specified area in which development for the purpose of a retirement village would be permissible. In September 1984 the amendment to LEP 4 was gazetted as LEP 28. It rezoned a portion of the site as Special Uses 5(d) "Retirement Village" and specifically excluded parts of the site from development, being the northern bowling greens fronting Fitzroy Street, and the southern "tongue" of the site that adjoins the golf course to the south and east and private dwellings to the west.

At that time Council sought to impose limits to development on the southern portion of the property. This was in response to public concerns about development between the adjoining properties and the golf course, which would affect the views and privacy of neighbouring residents.

A further proposal to extend the range of uses on the site was considered by Council on 10 December 1996 to also permit conventional multi-unit housing or medium density

D. Building setback

development. This proposal was not progressed as Council considered that the outcome reflected a less rigorous approach to planning and development issues than taken today.

Blue Mountains Draft Local Environmental Plan 1997

Blue Mountains Draft Local Environmental Plan 1997 (Draft LEP 1997) proposed to zone the site Living Conservation. Such a zoning would have permitted housing for aged or disabled persons on the site, subject to an assessment against the zone objectives and height and setback provisions, including the requirement for buildings to be setback a distance equivalent to building's height.

Blue Mountains Draft Local Environmental Plan 2002

The site was initially proposed to be zoned Recreation–Private under Blue Mountains Draft Local Environmental Plan 2002 (Draft LEP 2002) when placed on public exhibition in between October and December 2002. Development for the purpose of a retirement village, termed “accessible housing” would have been permitted, but only if there was a precinct applying to the site. Such an approach may have permitted an extension to the existing retirement village, provided precinct controls were developed for the site through a subsequent LEP amendment.

In response to public submissions Council reconsidered the zoning of the site and resolved at its Extraordinary Meeting of 16 September 2003 to rezone the site “Living–Conservation”. Such a zoning, unlike Draft LEP 1997 was applied based on Council's policy intent to not permit “accessible housing” within the Living–Conservation zone, which applied to areas in the City identified within the Residential Character Study as having intrinsic character attributes (e.g. Garden Settings, Visually Significant Streetscapes, etc.).

However, five days after Council finalised its consideration of Draft LEP 2002, the developer wrote to Council expressing concern that future development on the site would not be able to take place under the proposed zoning and would require an amendment to Draft LEP 2002. Council, subsequently resolved to defer the site from Draft LEP 2002, in order to enable further investigation of planning options for the site.

Council staff considered a range of options available to rezone the site. It is possible that the site could remain zoned under LEP 4 and continue to be deferred from LEP 2005. However this would result in substantial areas of the site remaining unavailable for development and the demands from the developer to concentrate any future development onto the existing areas zoned 5(d) Retirement Village with the commensurate over-development of the site and loss of amenity for residents of the current retirement village as well as surrounding areas.

At the request of the Developer, the site was identified as a “Deferred Matter” in the gazetted LEP 2005 (gazetted on 7th October 2005). The intention was that a review of the zoning for the site would be considered as a separate amendment to LEP 2005 post gazettal.

Rezoning process

The Council report of 4 October 2005 details the extent of negotiations between Council staff and the Developer regarding proposed precinct controls submitted by the Developer. The precinct controls prepared by the developer failed on a number of occasions to incorporate Council's recommendations in key areas, and in some cases sought to extend development beyond limits initially proposed by the Developer. As a result, Council staff prepared draft precinct controls for exhibition, as staff were not in a position to support progressing the resolution of the Deferred Matter on the basis of the applicant's submitted precinct controls.

As such, Council proceeded with the public exhibition to rezone the site under LEP 2005, allowing additional development in some areas of the site, but with an appropriate planning framework to ensure that any adverse impacts on the character or amenity of areas surrounding the site can be avoided or mitigated.

D. Building setback

Proposed precinct controls

The Draft LEP precinct controls incorporate a number of requests sought by the Developer and are considered to represent a reasonable balance between the need to increase development opportunity (or yield) and to maintain a high quality facility for residents and respecting the site's character.

The proposed Draft LEP precinct includes two new areas of the site for potential development, being the former bowling green fronting Fitzroy Street on the north of the site, and the southern "tongue"; both zoned 6(c) Recreation Private. LEP 28 currently prohibits extension of the retirement village onto the existing Recreation Private zoned areas. Given that Draft Amendment 5 contains a number of provisions to control density, building setback, building height and landscaping, the precinct provides a higher degree of flexibility for development opportunities and, potentially, a better planning outcome for the site and for the amenity of the surrounding area. Enabling buildings to be constructed over a wider area with a lower bulk or height would provide a preferable outcome, compared to taller buildings that are inappropriate to the context of the site and surrounding area being constructed on the land that currently permits development.

The former bowling greens have been converted to a modest landscaped area. The existing landscaped area is not considered to contribute to the streetscape character, as it is located over a partially suspended concrete slab, which prevents a deep root zone and more mature trees surviving on the land.

Single storey dwellings with an individual street address, with a large setback from Fitzroy Street (12 to 15 metres) are considered appropriate in this area. A development setting of this type would enable a strong landscaped setting for additional development facing Fitzroy Street and to ensure, through establishing appropriate height limits, any new development is consistent or comparable with current development and, as a consequence the streetscape character of Fitzroy Street can be enhanced.

The southern portion of the site is located between the golf course and the rear of residential properties fronting Gladstone Road. While this land is included within the Leura Fairways site, an existing fence separates the southern portion from the balance of the site. This land is generally overgrown and not maintained. Single storey buildings with the appearance of detached dwellings may also be considered appropriate in this area. This form of development would allow for a transition in the scale and bulk of any new development; and preserve views from the golf course, larger residential dwellings existing on the site and the residential dwellings on adjoining properties.

In the southern area, the requirement to have any future single storey buildings set back from the golf course by 4.5 metres would provide sufficient space for landscaping along the boundary to screen buildings from the adjacent golf course. It also provides a degree of consistency with setbacks when compared with other buildings further along Gladstone Road to the south of the site.

Generally in response to the exhibition of the Draft LEP, four public submissions objected to development proceeding on either the site of the former bowling greens, or the southern tongue, or both of these areas. Comments raised the issue that further development in these areas would generally result in an overdevelopment on the site.

Specifically two comments from the public consider that development on the former bowling green would degrade streetscape character and reduce the amenity for existing residents. One comment suggests that views of the golf course from Fitzroy Street should be maintained by locating development behind the bowling green.

D. Building setback

In relation to development on the southern tongue, two comments requested the southern portion be retained to maintain the views from the established garden at 92-94 Gladstone Road as this area was designated open space as part of previous LEP 28 and should remain as such. A third comment requested that the southern area is maintained as a garden setting.

Finally, one submission would like to see development go ahead on the bowling green in preference to the southern tongue to enable the southern area to be retained for wildlife and water detention/ conservation purposes.

The submission from the developer on the other hand seeks to reduce the building setback as exhibited to enable development to occur 1 metre from the boundary with the Living–Conservation zone, i.e. the boundary with existing residential development along the south-western part of the site. This setback is consistent with the requirements for the Living–Conservation zone, but is considered inappropriate in this context when having regard to the type of development proposed for the site – i.e. generally multi-dwelling buildings one or two-storeys high. The 1 metre setback is used in conjunction with the width of buildings across the block. In this case a provision setting the width of buildings across the block is not otherwise applied in this precinct (with the exception of setting a maximum 15 metre width and depth dimension for buildings fronting Fitzroy Street to provide a smaller “domestic” scale of building rather than a large block).

The developer also requests that:

- (a) the setback from the golf course boundary is also reduced to a minimum of 2 metres, with an average setback of 4 metres, for a building under 6 metres in height (single-storey); and
- (b) the setback from the golf course boundary is reduced to a minimum of 3 metres, with an average setback of 6 metres, for a building over 6 metres in height (two-storeys).

Consideration of the Precinct

The exhibition of Draft Amendment 5 represents the culmination of a site planning process ongoing since the exhibition of Draft LEP 2002. The Draft LEP precinct controls were exhibited as part of the rezoning process to redress the current status of the site as a “Deferred Matter” and bring the site into the framework of LEP 2005. The preparation of this amendment will provide sufficient certainty for Council and the community as to the form and design quality of future development, and is a prerequisite for the consideration of accessible housing on land outside that already identified as Accessible Housing Areas on Map Panel A of LEP 2005 (as per Part 4 Division 7). The option of retaining the site zoning under LEP 4 was not pursued due to the lack of a requisite framework to ensure that any further development occurs in a manner that responds appropriately to the site’s character and the context of surrounding residential and non-residential activities. The controls proposed in this amendment are considered to respond appropriately to the opportunities and constraints of the site, while taking into consideration a number of concessions sought by the Developer.

It is important to recognise that the public objections to the Draft LEP, in the main, concern the extension of the Recreation–Private precinct boundary to align with the property boundary, as set out above. The Draft LEP precinct boundary has the effect of enabling the consideration of development, in accordance with the provisions of the Plan, on that part of the site currently excluded from development under LEP 28.

The key issue is whether to proceed with the proposed controls as exhibited or adjust the precinct boundary to restrict development to the land currently zoned 5(d) “Retirement Village” under LEP 28. Council has two options to resolve this:

D. Building setback

1. Retain the precinct boundary as exhibited under the Former Leura Golf Clubhouse Precinct Draft LEP in order to allow the consideration of development on those areas excluded under LEP 4; or
2. Adjust the precinct boundary to match the extent currently zoned 5(d) "Retirement Village" under LEP 28 and rezone the area outside the precinct as Recreation-Private under LEP 2005. This would again have the effect of permitting accessible housing within the area currently zoned 5(d) Retirement Village and excluding it from the bowling greens and southern portion of the site.

The options are considered in detail below.

Option 1

This option retains the precinct boundary as publicly exhibited. It should be noted that, although the precinct boundary covers the entire property, some areas currently excluded from development under LEP 28 would not be able to be developed further by virtue of the development standards applying to the precinct (i.e. setbacks, height of buildings, site cover, etc.). The use of the precinct in this case provides a greater degree of flexibility as to the location of any future development on the site than would currently be available under LEP 28. However, that flexibility is tempered with a much higher degree of control with respect to any further development compared with the provisions set out in LEP 28. Whereas LEP 28 only restricted the building height to 8.5 metres and a limit of 77 dwellings, Amendment 5 provides a comprehensive and tailored approach to the area with specific objectives and development standards applicable only to this site that must be complied with as part of any development proposal. The Desired Future Character statement sets out the overall outcome anticipated for the precinct, while the objectives set the fundamental parameters to address future development on the site – such as minimising impacts through appropriate design and siting of buildings, maintaining and improving streetscape character amongst others.

The notion that development could occur at the rear of the bowling green in order to maintain views to the golf course as suggested above is unclear. The existing units at the rear of the bowling green could not accommodate any further development in this area without substantially increasing building height beyond the 8 metre limit permissible under the Draft LEP (or 8.5 metres under LEP 28 for that matter). Further, the south-east views experienced from Fitzroy Street, is dominated by the poorly landscaped former bowling green in the foreground, the red roofline of existing units on the site in the mid ground and mature trees located on the golf course in the background. The fairways of the golf course do not feature in the view from Fitzroy Street. On that basis, to require an increase in the setback of buildings on the Fitzroy Street frontage in order to enhance this view is considered unnecessary, and would not overly contribute to protecting or enhancing the existing neighbourhood character when having regard to the current streetscape presented to Fitzroy Street from the site.

The comment above that the Draft LEP would degrade the settings and values of adjoining residences and existing development is a point that the Draft LEP controls have considered closely in an attempt to avoid such an outcome on the site. Clause 3 (Building Envelope) and Clause 4 (Character Preservation) of the Draft LEP seek to encourage single storey dwellings that reflect architectural features typical of Blue Mountains cottages in the two new development areas of the precinct. Further, applying large setbacks on Fitzroy Street for new buildings coupled with the removal of the concrete slab under the bowling green are anticipated to result in a mature landscape in 10-15 years and a valuable contribution to the streetscape.

A number of objectors request the southern portion be retained as open space either for wildlife protection, as a garden, or to maintain views from the property adjoining the site at 92-94 Gladstone Rd. Although the Draft LEP has identified this area as a new development area,

D. Building setback

a key outcome of the Draft LEP in the southern portion is the preservation of views lines from each adjoining property in the Living–Conservation Zone. Achieving this outcome is anticipated through applying a minimum setback of 4.5m from this boundary and the golf course boundary in order to provide a landscape setting; and the provision outlined in subclause (2)(e) that each building is to contain no more than two dwellings. Such controls ensure that the amenity of areas surrounding the site are not adversely impacted and work to rectify the deficiencies in the design quality of the existing development.

When considering any future development on the site, recognising the opportunities inherent in low density development on both the Fitzroy Street frontage and the southern portion were identified as the most appropriate compromise to ensure that residential character could be maintained and enhanced, while ensuring that any potential adverse impacts could be avoided or mitigated.

The issue of site overdevelopment is acknowledged. It is considered that the site has potential capacity to accommodate future development on the basis that existing communal services and facilities are already provided onsite for current and future residents. The communal facilities may require some upgrading and augmenting to accommodate the additional demands of a higher population, and this matter would be addressed specifically at the time of development assessment. In regards to the principles and practices of sustainable development, LEP 2005 prefers to have development concentrated in an areas supported by existing services and facilities than replicating the same services at another site close by. Such a sustainable outcome can be achieved on the site as long as development is allowed to proceed in a controlled manner while ensuring that any potential adverse impacts on existing residents as well as surrounding residential character can be avoided or mitigated to Council's satisfaction.

In considering Option 1 it is also necessary to discuss the objections of the Developer to this clause. The Developer suggests that the boundary setbacks in the Living–Conservation zone be changed in order to permit a setback of 1 metre for buildings that adjoin the Living–Conservation zone, in effect giving the precinct the same setback provisions as contained within the Living–Conservation zone of LEP 2005.

Within the Living–Conservation zone, a setback of 1 metre is considered generally appropriate for a residential context. This setback is considered in conjunction with additional provisions relating to the width of buildings across the site, floor space ratios and specific matters to address character and amenity within the immediate area. Accessible housing (or other multi-dwelling accommodation) is not permitted in the Living–Conservation zone, nor is it permitted in the Recreation–Private zone, except where a precinct is applied to the site. Precincts are used to provide a tailored approach to regulating the form, density and scale of development on a single site or limited geographical area. The use of the precinct in this case:

- (a) provides an opportunity to consider a form of development that would otherwise be prohibited; and
- (b) to ensure the development recognises and maintains a high standard of amenity on the site and in surrounding zones, in this case the Living–Conservation zone, which is primarily low density residential in its context.

A minimum 1 metre setback as requested by the developer would compromise existing or future development on allotments adjoining the site because of the potential impacts on privacy and overshadowing from any new buildings.

The developers have requested to amend (2) Building setback subclause (d) and (e) in order to allow new development the southern portion to align in a similar orientation to those properties facing Gladstone Street by allowing development to have varied setbacks in relation

D. Building setback

to the golf course boundary in an attempt to reduce the impact of buildings presenting a solid wall to the golf course.

There is considered benefit in the concept of articulated and stepped frontage of buildings to the golf course. The use of average minimum setbacks for development of multi-dwelling accommodation, as suggested by the Developer, is not supported due to problems in interpretation. Alternatively, the minimum average setbacks may apply to each individual building and not an average over the precinct. Wording changes to sub clause (2)(d) will be recommended to encourage stepped and articulated building forms.

It should also be noted that a degree of flexibility is available when considering a proposal in accordance with SEPP 1. The fundamental objective of this amendment is to have development standards in place to provide a high level of certainty to maintain and enhance the inherent residential character of the surrounding area, while enabling a degree of additional development to enhance an existing facility providing accessible housing. Issues about flexibility of the development should not be prescribed at this stage, but would be more appropriately addressed at the development application stage. The applicant can, at that time, suggest that some flexibility with respect to the setbacks of individual buildings may be a better planning outcome and justify such variations in accordance with SEPP 1.

The developer, in regards to clause 2(e), requests the deletion of that clause in the view that setbacks have been set for those adjoining the Living–Conservation zone and the golf course. Clause 2(e) specifically controls the form and scale of buildings within 50 metres of the southernmost boundary (i.e. the southern “tongue” of the site). This part of the site is located between the Living–Conservation zone and the golf course, and the inclusion of this clause recognises the location and character issues that distinguish this area in contrast to other areas of the site.

The deletion of clause (2)(e) would result in development in this area as having the same setback and height controls as all other areas of the precinct, a form and scale of development that does not recognise the inherent limitations of this particular area, and the potential impacts of intensified development on surrounding established residential areas.

Option 2

This option would result in development footprint being excluded on the former bowling green and the southern tongue. The Draft LEP precinct boundary would have to be adjusted to accord with that area of the property currently zoned 5(d) “Retirement Village” under LEP 28. The area remaining outside the precinct would be zoned “Recreation–Private” with no precinct. This option was supported by comments raised by public submitters and is consistent with the zoning pattern established under LEP 28.

This option, if it were to proceed, would result in substantial changes having to be made to the provisions in the Draft LEP to take into account the modified extent of the precinct. In addition, it is expected that the reduced area available for development will result in expectations of concentrated development with the commensurate loss in amenity and character being focused on the modified precinct area. Finally, such a change is substantial and, as a consequence, it would be necessary to re-exhibit the proposed amendment to LEP 2005.

Consideration of options

Matters raised above in Options 1 and 2 demonstrate the implications of adopting each option. Option 1 retains the precinct boundary as exhibited, addresses issues raised to the public exhibition, and recommends a minor wording change to subclause (2)(d). Whilst Option 2 adjusts the precinct boundary to reflect the zoning pattern of LEP 28, supported by public submissions to the exhibition. Council staff consider Option 1 as the preferred option which is consistent with the exhibited Draft LEP which recognises the opportunities of low density

D. Building setback

development on both Fitzroy Street frontage and the southern portion of the site and ensures that residential character is maintained and enhanced, while ensuring any potential adverse impacts are avoided or mitigated.

RECOMMENDATION

- D. Retain precinct boundary as exhibited and amend clause (2) Building Setback:
- (d) A building that adjoins the Living-Conservation zone or the golf course shall have:
 - (i) a minimum average setback of 4.5 metres, for each building with a building height of 6.0 metres or less, or
 - (ii) a minimum average setback of 6 metres, for each building height greater than 6.0 metres.

LEP 2005 - Draft Amendment 5 (Former Leura Golf Clubhouse Precinct)

E. Site coverage

DESCRIPTION

This clause outlines the maximum site cover for buildings in the precinct as being 30% of the total area and sets a specific site cover requirement for buildings located within 50 metres of Fitzroy Street.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	2 (25%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	1
Refinements Requested	0
Object / Refinements Requested	0
Object	1
Other Comment	0
<i>Total Comments</i>	1

COMMENTS RAISED – by the Developer

Support in part – refinements requested

1 comment

- Requests that the 30% site coverage should apply to across the whole site and suggest the clause be modified to read: "The maximum site coverage for buildings located on the former bowling greens is to be 1000m²", however this appears to be on the basis of the deletion of clause 3 a)

COMMENTS RAISED – by the public

Object

1 comment

- Does not support full development along the frontage of Fitzroy Street as it would remove the existing streetscape character - something that the amendment is trying to preserve.

DISCUSSION

The site cover provisions of the Draft LEP allow buildings, including ancillary buildings, to occupy 30% of the total precinct area (Draft LEP subclause 3(a)). To further control the outcome of development fronting Fitzroy Street the Draft LEP allows a maximum 1000m² site cover for buildings located within 50m of Fitzroy Street (subclause 3(b)). The intention of this clause is to avoid overdevelopment of the Fitzroy Street frontage currently occupied by the former bowling greens.

Prior to considering the amendment requested above it is necessary to understand the percentage of building site cover existing on the site, the percentage site cover approved vide development consent (Development Application No. X04/1064), and the remaining site cover available to the rest of the precinct.

Approximate calculations of site cover of the existing buildings and those proposed by development approval X04/1064 is 3488 m². This equates to approximately 31.5% of the land currently available for development under LEP 28 (i.e. that land zoned 5(d) Retirement Village) and excludes that land zoned Recreation Private (being the former bowling greens and the southern "tongue": portion between the golf course and 92-94 Gladstone Road). In

E. Site coverage

accordance with subclause 3(a) of the Draft LEP the 30% site cover applies to the whole site. The total area of the site is approximately 17,270 m², and the modified site cover when considering the extent of the proposed precinct under this Draft LEP reduces to 20.2%. Assuming that the maximum site cover can be met when taking into account the various other provisions that have to be met, there is the potential limit to the site cover of 5181 m², which provides for an additional 1693 m² of building footprint above that existing presently or approved by development application X04/1064.

Land within 50 metres of the boundary fronting Fitzroy Street is limited to a maximum site cover of 1000 m², which excludes the footprint of any buildings already in place within that area prior to the appointed day (i.e. the date that the draft amendment is gazetted). When considering the existing buildings already located within this area, the only viable location to which this 1000 m² limitation could apply is any development undertaken on the bowling greens (or minor alterations and additions to the former club house).

An amendment is sought by the Developer to sub-clause 3(a) and 3(b) to enable the 30% site cover provision to apply to the total precinct site, which includes the bowling green area. Subclause 3(a) of this amendment states that:

- (a) *The maximum site cover for buildings (including any buildings ancillary to the main building, swimming pools or tennis courts) is 30 per cent of the total precinct area.*

The provisions of subclause 3(a) are catering to the Developer's request, and no changes are required as a consequence. The Developer also suggests that the 1000m² site cover requirement should apply to buildings located on the former bowling green only, not the area 50m from Fitzroy Street as exhibited. Subclause 3(b) states that:

- (b) *The maximum site cover for buildings located within 50 metres of Fitzroy Street is to be 1000m² (excluding the site cover of any building existing on the appointed day).*

Unless the Developer is proposing substantial alterations to the existing buildings fronting onto Fitzroy Street, the existing buildings already constructed within 50 metres of the Fitzroy Street frontage would significantly limit further development capability near the club house and the north-western section of the site. The primary area that may be viable for further development would be where the former bowling greens are now located. As subclauses 3(a) and 3(b) are to be read in conjunction with each other (as well as other provisions within this amendment such as building setbacks and preservation of character), the requests of the Developer set out in the submission has already been accommodated through the provisions as exhibited.

The developer has provided Council with an update to their submission (dated 15 September 2006). This submission includes a request that subclause 3(b) be deleted. For the same reasons as already detailed above, this subclause is considered necessary in order to control development with a prominent streetscape, as sought by submissions from the public.

RECOMMENDATION

- E. That the Site Coverage clause is retained as exhibited.

F. Development density

DESCRIPTION

This clause sets the maximum floor space ratio for development of this site at 0.4:1. A further concession is provided whereby 50% of the gross floor area of the club house (as existing at the date this LEP is gazetted) can be deducted; provided that the former club house is retained as a communal facility for residents and as a key attribute of the streetscape.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	4 (50%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	1
Object	0
Other Comment	4
<i>Total Comments</i>	5

COMMENTS RAISED – by the Developer

Do not support - Refinements Requested

1 comments

- Requests the development density clause be modified to read:
“the maximum floor space ratio for the development is 0.6:1”
 However if the floor space ratio bonus for the clubhouse is retained by clause 4(b), suggest that Clause 4(a) be modified to read:
“The acceptable floor space ratio for development is 0.45:1.”

COMMENTS RAISED – by the public

Comment

4 comments

- Request that the development density should be restricted to no more than 21 additional single story units bringing the final total to 56 units.
- Comment that existing residents are concerned about the Partnership’s (developer) yield of 70-80 units that are referred to as being necessary to maintain financial viability.
- Comments that the proposed zoning of the site could result in an overdevelopment in what is primarily a residential area.

DISCUSSION

The development density provisions of the Draft LEP provide for a maximum floor space ratio of 0.4:1 across the whole precinct. The former clubhouse building is recognised as an integral component of streetscape and a common facility for residents. As an incentive for the retention of the former clubhouse building, up to 50 percent of the gross floor area may be excluded for the purpose of calculating the 0.4:1 floor space ratio across the precinct.

F. Development density

The request of the Developer is, at first, an increase in the floor space ratio to 0.6:1. If the deduction for the gross floor area (as specified in subclause 4(b) is retained, then a floor space ratio of 0.45:1 would be acceptable. The floor space ratio of 0.4:1 is consistent with that specified for Accessible Housing within the Living-General zone (Part 1 of Schedule 2 to LEP 2005). The submitter suggests that a floor space ratio standard is not required at all, and provides a comparison between other precinct controls within LEP 2005, where other precincts may have (or may not have as the case may be) floor space ratio requirements. Making such a comparison for the purposes of a development control is fundamentally flawed as each precinct has been especially prepared to address the intrinsic characteristics of the locality in which it is located, and such comparisons cannot be considered nor suggested to be consistent. The inclusion of the floor space ratio is deliberate to address the potential bulk of development across a very large site while ensuring that the retirement village maintains primarily a residential scale consistent with surrounding established residential areas.

Setting aside the flawed approach of comparing this precinct to others, the submitter does not provide any further justification to support the request to increase the floor space ratio requirements to 0.6 :1 or 0.45:1. Council has already provided a concession in respect of a deduction of 50% of the gross floor area of the former club house for the purposes of calculating the floor space ratio on the understanding that the club house is retained and reused as a communal facility for the residents. No other submissions had been lodged with respect to the specific floor space ratio requirements and, it is considered that subclauses 4(a) and 4(b) should be retained as exhibited.

The four comments raised by the public are concerned about an increase in development density as a result of new precinct controls. In the main, the comments are from current retirement village residents and relate to the number of units that may potentially be built on the site preferring to have development limited to 56 units.

LEP 28 limited the number of dwellings to 77 on that part of the site zoned 5(d) Retirement Village. This was based on the premise at the time that suitably sized dwellings within the retirement village were generally single bedroom units. The Developer has since advised Council that three bedroom units are the preferable unit option and a yield of 70 to 80 units is necessary to ensure the ongoing financial viability of the development.

The development expectation of 70 to 80 units (generally of 2 and 3 bedrooms) could not be accommodated within the planning framework applying to the site under LEP 28. Development at the yield sought in previous discussions with the developer of 70 to 80 units is an unrealistic expectation for this site, even if the expansion of the precinct is to extend over the entire property, and cannot be achieved without an unacceptable impact on surrounding character and amenity. Notwithstanding the proposed expansion of development on the site, the proposed precinct controls do not allow for such a yield.

Council could not support any rezoning that would increase the intensity of accessible housing development and the number of residents on site, unless it is satisfied that services will meet the relevant requirements. Both local (LEP 2005) and State government (Senior's Living SEPP) legislation require a baseline level of services to be provided within this type of housing development. Prior to granting consent to further development of the site, a consent authority needs to be satisfied that the development is viable and can sustain the required services, and that such services can be augmented where necessary to accommodate increased demands arising from further development occurring on the site.

RECOMMENDATION

F. That the Development Density clause is retained as exhibited.

G. Character preservation

DESCRIPTION

The character preservation clause of the Golf Clubhouse Draft LEP seeks to ensure that future development on the site retains the streetscape contribution of the clubhouse, while responding to the character of surrounding residential areas. In relation to the character contribution of the former Leura golf clubhouse the Draft LEP seeks the creation of a restrictive or positive covenant that provides for its maintenance and retention. In relation to Fitzroy Street, architectural features of new development are to reflect typical Blue Mountains cottages, with landscaped gardens and shady eaves.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	2 (25%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	1
Refinements Requested	0
Object / Refinements Requested	2
Object	0
Other Comment	0
<i>Total Comments</i>	4

COMMENTS RAISED – by the developer

Object - refinements requested **2 comments**

- Requests that the clause be modified to read, "(1)(b)(ii) not exceed 20m in width or 24m in depth, and..."
- Requests that clause (4)(b) be limited to control the exterior of the building only and be modified to read, "Consent shall not be granted to the demolition of the exterior of the former clubhouse building..."

COMMENTS RAISED – by the public

Support in part - refinements requested **1 comment**

- Considers the placement of a positive covenant is only of benefit to the owner and the Council but not the community at large. Supports the covenant if it were used in conjunction with a heritage listing.

DISCUSSION

The site is located on a prominent tourist route and is situated adjacent to a well established residential area identified within the Residential Character Study (2002) as having Garden Settings and areas of older housing. To recognise these characteristics, LEP 2005 applied the Living–Conservation Zone and a Protected Area – Period Housing Area to these properties. Accordingly, it is necessary that this Draft LEP seeks to preserve if not enhance the contribution that the precinct makes to the streetscape and surrounding character. The provisions of this clause ensure that new dwellings fronting Fitzroy Street reflect architectural

G. Character preservation

features of Blue Mountains cottages whilst the clubhouse, as the primary character attribute on the site, is retained and maintained through the development application process.

Fitzroy Street

The Draft LEP Precinct controls seek to ensure that future development along Fitzroy Street has minimal impact on the character and amenity of the surrounding area. In response, subclause 4(1) Character Preservation seeks an outcome whereby the architectural features of buildings fronting Fitzroy Street reflect those cottages *“typical of the Blue Mountains”*.

A comment from the Developer suggests that clause 4(1)(b) *“...that buildings fronting Fitzroy Street shall... not exceed 15 metres in width or depth”* is too restrictive and not reflective of residential and non-residential development in the area. The developer suggests that this clause be modified to read *“...buildings fronting Fitzroy Street shall ...not exceed 20 metres in width or 24 metres in depth”* on the basis that average frontages of residential and non residential development fronting Fitzroy Street is greater than 20m.

In considering this issue, building designs of proposed development on Fitzroy Street prepared by Peter Reed and Associates on behalf of the Developer, are also relevant. The drawings show two sections, one from the west elevation (proposed Block 17) and the second, a section between proposed Blocks 17 and 18. The scale at A4 indicates that the depth of proposed Blocks 17 and 18 is approximately 24m.

The depth of both buildings at 24m greatly exceeds subclause 4(1)(b) of the Draft LEP that buildings shall *“not exceed 15 metres in width or depth”*. The proposed development designs would sustainably compromise the bulk and scale sought by the desired future character and objectives of the Draft LEP that, amongst other matters, seek to ensure a “residential scale” to any new buildings, particularly along the Fitzroy Street frontage. When considering the general built form of accessible housing, especially when multi-dwelling accommodation is proposed, such a restriction is appropriate to provide certainty to the developer as to Council's expectations for that part of the site, as well as ensuring to residents already on-site and surrounding the property that excessive bulk and scale of new buildings are not acceptable in a predominantly residential context with detached dwellings having a separate identity and suitable areas for landscaping. The proposed Blocks 17 and 18 as provided by the developer have the potential to adversely affect the amenity of residential units located at the rear of the bowling green, creates issues of overshadowing and would fail to comply with the requirements of subclause 3(1)(b)(iii) that *“buildings do not reduce solar access to less than 3 hours between the hours of 9am to 3pm on the 21st of June for any dwellings existing on the appointed day”*.

Further, the anticipated development outcome on Fitzroy Street is reflective of neither residential nor non-residential properties on the northern side of Fitzroy Street but cottages typical of the Blue Mountains. In the surrounding area the frontage of cottages, particularly those fronting Gladstone Road, range between 10 to 20 metres and are, on average, 15 metres in width. Accordingly, it is considered that the 15 metre frontage provision outlined at Clause 4(1)(b) should be retained in order to reflect the character outcome sought by the Draft LEP.

Clubhouse building

As mentioned previously the clubhouse building is to be retained as a character contribution to the site through subclause 4(5) *“consent shall not be granted to the demolition of the former clubhouse building”* unless the building is structurally unsound or not economically repairable. The Developer in a comment above, requests that any reference to demolition be restricted to refer to the exterior of the building only. Any changes to the building required on an operations basis would still be permitted under the provisions of this clause. However an

G. Character preservation

amendment to clarify that this clause applies to the exterior of the building only is consistent with the intent of this clause.

The comment relating to the application of a positive covenant and the benefits of its application conjunction with a heritage listing of the clubhouse is discussed in Section J Heritage Conservation.

RECOMMENDATION

- G. That clause 4(5) be modified to read
“Consent shall not be granted to the demolition of the exterior of the former clubhouse building..”

H. Built form and landscape setting

DESCRIPTION

This clause applies to the built form and landscape setting of the precinct. The clause seeks to ensure that future development on the site retains the streetscape contribution of the clubhouse, while responding to the character of surrounding residential areas.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	2 (25%)
COMMENTS	
Position	Count (%) of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	1
Refinements Requested	0
Object / Refinements Requested	1
Object	0
Other Comment	0
<i>Total Comments</i>	2

COMMENTS RAISED – by the developer

Support in part – Refinements requested **1 comment**

- The reference to domestic scale cottages is open to interpretation. It should be considered in terms of *adjoining buildings in the locality*.

COMMENTS RAISED – by the public

Do not support – Refinements requested **1 comment**

- Suggests that any further buildings on the bowling green site will detract from the streetscape and the existing vista through to the golf course. This area should be planted with low plantings to enhance the view, reinstate the sites former character and give a link to the past.
- Requests the initial landscape plans for the southern area be implemented and maintained, as was a condition upon approval of the current development.

The built form and landscape setting clause ensures that future development that fronts Fitzroy Street enhances the site’s contribution to the area and also that there will be a transition between cottages and larger existing buildings. Building materials and building form is specified in order to complement the former clubhouse, and provide deep planting zones for the re-instatement of garden settings.

Please refer to discussion under Section B. Desired Future Character for a detailed response in regards to the domestic scale cottages comment above.

Clause (1)(d) is consistent with the request for deep plantings along the Fitzroy Street frontage. This clause requires a deep planting zone to be provided on the site to allow a mature setting to be established over the next 10-15 years.

H. Built form and landscape setting

The Draft LEP does not make provision for the landscape setting of the buildings located in the southern portion of the site. Consideration should be given to inserting a clause in relation to landscaped setting of the southern portion of the site.

RECOMMENDATION

H. That a new clause is inserted to 5(1) as follows:

- (f) To separate the site from existing residential properties in the Living–Conservation zone and the golf course a sufficient landscaped screen shall be provided along the perimeter of the shared boundaries.

I. Vehicular access

DESCRIPTION

This clause states that vehicular access should be limited to a single point on Fitzroy Street. To minimise the visual impact when view from the street, access, parking and garages shall be provided to the rear of dwellings that front Fitzroy Street.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	2 (25%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	0
Object	0
Other Comment	2
<i>Total Comments</i>	2

COMMENTS RAISED – from public exhibition

Comment **2 comments**

- Comments that access to the southern residential strip may present serious difficulties in regards to construction traffic on the site.
- Comments that current access for fire and emergency vehicles is inadequate and proposes that development to the south of the site would exacerbate the situation.

DISCUSSION

Site access

Specific access arrangements during construction fall outside the scope of the Draft LEP . However, it should be noted that the existing development on the site combined with the inability to obtain access from Gladstone Road to the southern portion of the site by virtue of existing residential development places significant limitations on opportunities to have alternative access. Arrangements for access during construction will be considered as part of the Development Application process. This issue should be resolved prior to the commencement of works and will need to be negotiated by the developer and the surrounding property owners.

Emergency Vehicles

Emergency vehicles will be required to enter and leave the site via Fitzroy Street. As stated above, existing residential development adjoining the site on Gladstone Road effectively precludes the ability to provide alternative access to the site. The provisions of Part 4 Division 7 (Accessible Housing) within LEP 2005 specify certain standards of on-site accessibility for this form of development. It is expected that any future development proposal would be capable of addressing those provisions to Council's satisfaction if consent for the development application is to be granted. Accessible housing, while focusing on providing accommodation for older people and people with a disability, should not discount the expectations and demands for private motor vehicles as older people often maintain a high degree of mobility.

I. Vehicular access

RECOMMENDATION

I. Retain the Vehicular Access clause as exhibited.

LEP 2005 - Draft Amendment 5 (Former Leura Golf Clubhouse Precinct)

J. Heritage Conservation

DESCRIPTION

This clause removes the Former Leura Golf Club House, 19-21 Fitzroy Street item number LA032 from LEP 2005 Schedule 6 (Heritage), Part 1 (Heritage Items).

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	1 (12.5%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	2
Object	1
Other Comment	2
<i>Total Comments</i>	5

COMMENTS RAISED – by Heritage Trust of Australia- Blue Mountains Branch

Do not support – Refinements Requested 2 comments

- Objector requests that the heritage item be retained and refined to enable additional heritage conservation incentives and covenants to be considered.
- In light of the precedent that it gives, the deletion of the Former Leura Golf Club House from the heritage list based on the item no longer having heritage value should be reconsidered.

Do not support 1 comment

- Does not support the cause of deletion of the heritage item being the fact that it is no longer physically associated with the golf course and the game.

Comment 2 comments

- Comments that the dislocation of the Clubhouse from the golf course and the game has been the result of Council in approving developments on the site.
- Comments that the listing of the Clubhouse should be based on the significance of what the Clubhouse used to represent.

DISCUSSION

In response to the exhibition of the Draft LEP Council received one (1) submission regarding the Heritage Conservation clause. The submission from the Blue Mountains Branch of the National Trust of Australia objects to, amongst other items, the deletion of the former Leura Golf Clubhouse as a heritage item. Each of the issues raised in the submission are considered in turn below.

J. Heritage Conservation

Consideration of the site's heritage significance

The National Trust submission questions the deletion of the heritage item and the basis on which the decision was made. In responding to this issue the steps taken by Council in its decision to remove the item from the Heritage Register should be noted.

The former clubhouse building on the site is currently listed on Council's heritage register as item number LA032 under LEP 2005 Schedule 6 (Heritage), Part 1 (Heritage Items). The recommendation for listing was made in 1983 by Croft and Associates and Meredith Walker prior to any development of a retirement village. At the time of the heritage listing the clubhouse was associated with the golf course both functionally and physically.

In early 2005, as part of a City-wide review of heritage items under the State Heritage Inventory Program, Council's heritage consultant Professor Ian Jack reviewed the listing of this site and recommended that the listing be removed as:

"Although the Leura Golf Course retains considerable historical significance as the earliest course in Katoomba-Leura, the clubhouse no longer reflects its original appearance nor its original function. The clubhouse has now lost all physical association with the game and has lost its heritage significance."

(Jack Heritage Consulting Pty Ltd, SHI 1170723, dated 17 January 2005).

As the Inventory report was recommending the removal of a heritage item, Council sought the views of the NSW Heritage Office. In a letter dated 21 September 2005, the Heritage Office stated that it has no objection to the proposed exhibition of draft amendment and noted that:

...the heritage significance of the former Clubhouse has been compromised by the loss of original building fabric, croquet lawns, bowling greens and redevelopment of the land with a retirement village.

The comment above that the dislocation of the Clubhouse from the golf course and the game is largely the result of development for a retirement village on the site is acknowledged. The Heritage Office also sought further clarification and advice on why there had been a loss of significance, specifically in relation to the loss of original appearance and function of the building. The discussion on the matter in the Council report is relevant here:

In terms of the functional aspects, the discontinuation of the use of the building as the clubhouse has its origins in modifications to the Leura Golf Course and the relocation of the golf club, which was associated with the development of the Fairmont complex. There is limited evidence to suggest that in developing LEP 28 to permit a retirement village on the site, sufficient consideration was given to the likely impacts on heritage significance arising from creating a physical and functional disassociation between the clubhouse and the golf course. While the subsequent redevelopment of the site has contributed to the retention and adaptive re-use of the clubhouse building, and included measures to mitigate the impact on the heritage item, the review by Professor Ian Jack suggests that this has been insufficient to maintain its significance and has compromised the building's original fabric.

(Council Report, 4 October 2005).

It is clear that the clubhouse building retains value as a character element and is a significant asset of the present development. The deletion of the heritage item as part of the Draft LEP is based on:

- a) the appearance of the clubhouse no longer reflecting its original function having undergone unsympathetic changes with the conversion of the building and its environs for use as a community building associated with aged housing on the site; and

J. Heritage Conservation

- b) the function of the clubhouse no longer reflects its original function as a result of the relocation of the golf club and associated functions to the Fairmont complex.

Heritage listing

Council, at its ordinary meeting of 4 October 2005, in making its resolution to adopt the Former Leura Golf Clubhouse Draft LEP for the purpose of public exhibition, carried an amendment that sought to retain the listing of the Clubhouse as a heritage item by deleting that component of the Draft LEP that:

- “(d) amends Schedule 6 (heritage) Part 1 (heritage items) by deleting that site from Council’s heritage register, in accordance with the assessment of Professor Ian Jack, Council’s heritage consultant, as contained in the inventory data sheet...”*

(Business Paper, 4 October 2005, Rec. 1(d), p.1)

To give effect to Council’s stated intention of conserving and retaining the clubhouse as a heritage item, Council considered a further report on the matter at its Ordinary Meeting of 1 October 2005. At that meeting Council resolved to:

1. *That Council place on public exhibition Draft Amendment 5 as provided in Attachment 1 and as considered by Council at its Ordinary Meeting of 4 October 2005, that:*
 - (a) amends Schedule 6 (Heritage) Part 1 (Heritage items) by deleting the site from Council’s heritage register, in accordance with the assessment of Professor Ian Jack, Council’s heritage consultant, as contained in the inventory data sheet provided in Attachment 2, and*
 - (b) provides for the retention and contribution of the former clubhouse building to the streetscape and character of the locality,*
 - (c) provides an economic incentive for the retention of the building through a specific floor space bonus,*
 - (d) enables the provision of covenants for the continued maintenance and retention of the clubhouse building, which is consistent with advice from the NSW Heritage Office, and*
 - (e) prevents the demolition of the former clubhouse building except if the building is structurally unsound and is not economically repairable.*
2. *That in placing Draft Amendment 5 on exhibition, Council confirm its support for the preservation of the character and social values associated with the former clubhouse building, including the role of the clubhouse as a key facility for residents of the site.*

The approach of the report regarding the heritage listing was to:

- “...enable the public to consider the proposal to remove the heritage listing, as well as the alternative measures proposed to protect the values associated with the clubhouse. Submissions made to the public exhibition may provide Council a basis for re-considering whether or not it should pursue a heritage listing.”*

Council received one (1) submission during public exhibition in relation to the proposed deletion of the heritage item LA032 – Former Leura Golf Club House, from the Blue Mountains Branch of the National Trust of Australia. The submission questioned the decision making process used to remove the item from the heritage register and how the loss of significance came about as a result of subsequent development on the site. The submission however, did not raise any issues of heritage significance that would warrant Council to re-consider pursuing a heritage listing of the Clubhouse.

Planning controls and conservation incentives

J. Heritage Conservation

The comment regarding heritage conservation initiatives and the request to use the heritage listing in conjunction with a positive covenant, raised earlier in Section G. Character Preservation, are noted. The decision to place a positive covenant over the site was based on advice received by the Heritage Office.

The Heritage Office, in the letter of 21 September 2005, requested that Council:

“...give consideration to the use of a positive covenant on the title to the subject land that requires retention and ongoing maintenance of the clubhouse building”.

In accordance with advice received from the Heritage Office, provision is made in the Draft LEP for the ongoing retention and management of the former Clubhouse building. Specific measures have been incorporated in Amendment 5 to secure the clubhouse’s contribution to the streetscape character and its social role as a communal facility supporting the retirement village.

RECOMMENDATION

J. That the Heritage Conservation clause be retained as exhibited.

K. Miscellaneous

DESCRIPTION

Miscellaneous items fall outside of the provisions of the Golf Clubhouse Precinct Draft LEP.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	4 (50%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	0
Object	0
Other Comment	6
<i>Total Comments</i>	6

COMMENTS RAISED – from public exhibition

Comment **6 comments**

- The number of units proposed on the site to maintain viability contradicts the operator's original representation.
- Comments that the Management's Representative informed residents that an additional 21 units were to be constructed to ensure financial viability.
- Comments that proper drainage will be critical to any future development.
- Comments that the Draft LEP provisions should overcome drainage problems that have arisen in the past from additional buildings on the site.
- Comments that the proposed precinct controls are to apply when Council considers the revised stage 3 Development Application.
- Comments that any future development should bear in mind the risk of stray golf balls.

DISCUSSION

The miscellaneous comments above refer to a range of issues that fall outside the scope of the Leura Golf Clubhouse Draft LEP. The comments are discussed below and where appropriate will be further considered as part of the development proposal stage.

Financial viability

The comments regarding the sites financial viability and number of units proposed on the site by the owner are noted. Any application for accessible housing on the site will be assessed against clauses 114 and 115 of LEP 2005 or against the State Environmental Planning Policy (Seniors Living) 2004. Both instruments outline the services that must be provided for accessible housing. These include access to support services including home delivered meals, personal care, medical assistance, and the like. Council would not be in a position to approve further accessible housing on the site unless there is evidence that the appropriate services and facilities can continue to be provided on the site. Such evidence would need to be based on a development proposal that could conceivably be approved on the site without unacceptable amenity impacts.

K. Miscellaneous

Drainage

The comments regarding the new development and potential drainage impacts are noted. The drainage issues associated with the site will be separately assessed as part of the development assessment stage in accordance with Council's planning policies.

Development assessment

The risks from stray golf balls are noted. To ensure that dwellings are less susceptible to damage from golfing activities the Draft LEP provides for buildings adjoining the golf course to have an average 4.5m (or average 6.0m) setback to allow sufficient space for a landscaped screen along this boundary to separate the site from the golf course. Alternative solutions can be employed to avoid or mitigate the risk of damage from golf balls, including the use of toughened glass where windows from buildings face the golf course, as well as further consideration of building location and design. These are specific matters that can be addressed in detail at the development application stage and do not warrant specific provision within this Draft LEP.

RECOMMENDATION

- K1. That the comments made above be noted.
- K2. That no changes be made to the Former Leura Golf Club House Precinct Draft LEP as exhibited in response to those comments.