

LAND USE MANAGEMENT

Ordinary Meeting, 31/1/06

ITEM NO: 9

SUBJECT: DEVELOPMENT APPLICATION NO. X04/1634 FOR THE STORAGE AND DISTRIBUTION OF CONSTRUCTION AND LANDSCAPING MATERIALS, FUEL HEATING SUPPLIES AND THE ERECTION OF A SITE SHED ON LOT 2 DP 855127, NOS. 12–14 MISTRAL STREET, KATOOMBA

FILE NO: X04/1634

Recommendation:

That Development Application No. X04/1634 for the storage and distribution of construction and landscaping materials, fuel heating supplies and the erection of a site shed on Lot 2 DP 855127, Nos. 12–14 Mistral Street, Katoomba be determined pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979 by the granting of Deferred Commencement Development Consent subject to conditions shown in Attachment 1 to this Report.

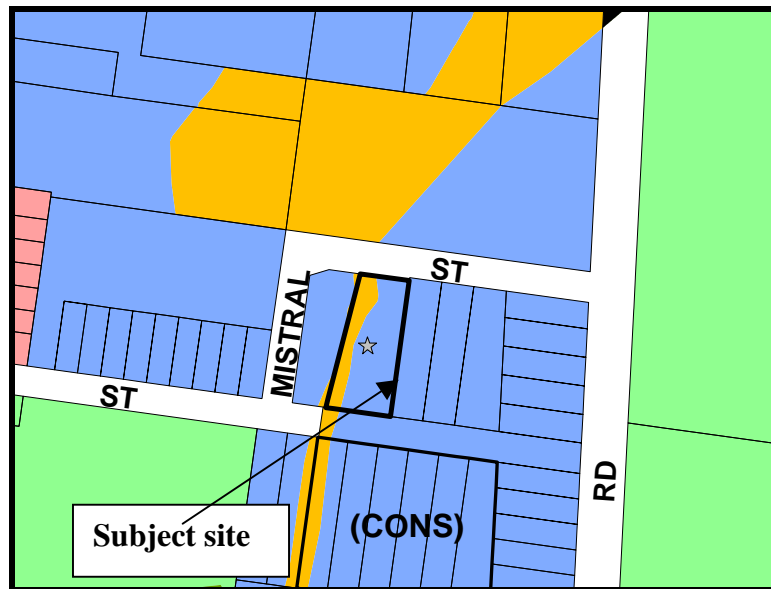
Report by Group Manager, Environmental and Customer Services:

Reason for report	The development application is referred to Council for determination, in accordance with Council's delegations, as the application is seeking to utilise of the 'Development in adjoining zone' provisions and the adjoining zone is Environmental Protection.
Applicant	G B Meyer & Associates
Owner	Mr G B Meyer and Mrs R T Meyer
Application lodged	12 November 2004

LAND USE MANAGEMENT

Item 9 - Ordinary Meeting, 31/1/06

Property address Lot 2 DP 855127, Nos. 12–14 Mistral Street, Katoomba

**Site description**

The subject property is located within the North Katoomba Industrial Area on the southern side of Mistral Street opposite the Katoomba Waste Depot. The land is of irregular shape having a frontage of 32.5 metres, a general depth of 90 metres, rear boundary of 43 metres and an area of 3,426m².

The site is generally level and in an unkempt condition. Vegetation of significance is confined to a number of eucalypts within the building line setback and two (2) eucalypts centrally located on the site. A section of the length of Yosemite Creek is located on the site adjacent to and forming part of the western boundary. It is in a poor condition due to weed growth and is generally within a designated drainage easement 6.095 metres wide over the land.

An existing wood/fuel yard presently occupies the site with adjoining development comprising a similar fuel yard to the east and the Katoomba Milk Depot on the other side of Yosemite Creek to the west.

A sealed carriageway without kerb and gutter services the site. All public utilities are available for connection.

Introduction

The development is considered to be low key, not involving any buildings other than a small 'portable' service shed to accommodate office and amenities. Construction is limited to the storage bins and an on-site concrete driveway kerb and crossover to Mistral Street.

LAND USE MANAGEMENT

Item 9 - Ordinary Meeting, 31/1/06

The development does however rely on use of part of the site zoned Environmental Protection – Private and is also within forty (40) metres of the watercourse (Yosemite Creek). As such, the Department of Natural Resources (formerly DIPNR) who administers the *Rivers and Foreshores Improvement Act 1948* (RFI Act 1948) is an approval body under the Act, together with Council.

The Department of Natural Resources (DNR) has consented to the application subject to a number of conditions including the preparation of a Vegetation Management Plan and the granting of a Part 3A Permit under the RFI Act 1948 prior to any site works commencing.

As DNR require approval of the Part 3A permit in the first instance it will be recommended that a Deferred Commencement Consent under Section 80(3) of the *Environmental Planning and Assessment Act 1979* (“the Act”) be granted, with the consent becoming operational once Council has been notified that the Part 3A Permit has been granted.

Proposal

Approval is sought to establish a landscape supply yard including heating fuel supplies as well as the general storage of civil/construction materials. The development of the land is also to include a small administration/amenities building 6 metres x 6 metres and the construction of a sealed, kerbed driveway, 3 metres wide, approximately 7–8 metres from Yosemite Creek. The eastern and southern portion of the site is proposed to accommodate storage bins, customer parking and a chain wire enclosure in which the construction materials will be stored. It is also proposed to restore the banks of Yosemite Creek for the length of the site.

The proposed site development and its location in terms of the Yosemite Creek are shown on the survey plans accompanying the application, and have been provided as Attachment 2 to this Report.

Notification

The proposal was advertised in the Blue Mountains Gazette and to adjoining and nearby property owners for a period of 30 days commencing 15 December 2004. At the conclusion of this period, no written submissions had been received.

LAND USE MANAGEMENT

Item 9 - Ordinary Meeting, 31/1/06

Application Assessment

The application has been assessed in accordance with the Environmental Planning and Assessment Act 1979, in particular Section 79C (Matters for Consideration). The following issues have been identified as relevant for discussion prior to determination of the application:

1. Statutory Considerations
2. Development Impact
3. Car Parking/Traffic Movement
4. Landscaping

1. Statutory Considerations

Environmental planning instruments applying to the development are:

- i. Local Environmental Plan 2005 (“LEP 2005”) and Local Environmental Plan 4 (refer savings and transitional provisions of LEP 2005)
- ii. Better Living Development Control Plan;
- iii. Integrated Development (Environmental Planning and Assessment Act 1979);
- iv. SREP 20 (Hawkesbury/Nepean River Catchment)

i. Local Environmental Plan 2005

As the application was lodged prior to the gazettal of LEP 2005, Clause 6(4) ‘Savings and Transitional provisions’ apply to the assessment of this application. This requires the assessment of the proposal under the provisions of Local Environmental Plan No. 4 (LEP4) with consideration being given to LEP 2005 as if the plan had been exhibited but not made. As the certainty and imminence of LEP 2005 is therefore established, its planning approach is given significant weight for the purposes of this determination.

Zone/Development Controls

Under LEP 4 the land is zoned Industrial General 4(a), and under LEP 2005 it is zoned:

- Part Employment-General (72.3%) and
- Part Environmental Protection – Private (27.7%)

The site is also shown as being bushfire prone land and has an Ecological Buffer designation over 40.2% of the Employment-General zoning. The objectives for an Employment-General zone under LEP 2005 are:

- a To encourage the establishment of a broad range of industrial and associated land uses which will generate greater local employment opportunities;*

LAND USE MANAGEMENT

Item 9 - Ordinary Meeting, 31/1/06

- b. *To allow a wide range of employment generating land uses and facilities including industry, advanced technology, wholesale sales, storage, distribution, servicing, research and ancillary administrative uses, where these incorporate measures to conserve the sensitive environment of the Blue Mountains;*
- c. *To ensure that industrial development incorporates measures to mitigate the impact of its operation on the environment from noise generation or pollution;*
- d. *To allow retail development where it is associated with a primarily industrial land use or for appropriate bulky goods retaining;*
- e. *To ensure that the form and siting of buildings, colours and landscaping elements contribute to development of a landscape setting for industrial uses and retain any existing bushland character;*
- f. *To allow industrial and other compatible development which incorporates controls on potential impacts on the amenity of residents in adjoining residential areas.*

Inspection of the criteria within the zone objectives indicates that the proposal complies with the relevant objectives.

The following table summarises the development's position in respect to compliance with the Locality Management provisions for the Employment General zone within Schedule 3, Part 1 of LEP 2005.

Clause	Standard	Proposed	Compliance
<i>Division 1</i>	(Building envelope) Building height Maximum 10 metres	Mistral Street 3 metres South elevation 3 metres East elevation 3 metres West elevation 3 metres	Yes
2	Building setback Minimum 8.0 metres from road	36 metres	Yes
3	Site coverage - minimum 20% to be 'soft' landscaping (170m ²)	1000m ² of the allotment is to be retained as soft, pervious or landscaped areas	Yes
4	Development density Maximum FSR 0.5:1	0.1:1	Yes
<i>Division 2</i> <i>1 (1)</i>	(Design and operational considerations) Development near residential zone	Development does not adjoin and is not adjacent to a residential zone	Yes

LAND USE MANAGEMENT**Item 9 - Ordinary Meeting, 31/1/06**

Clause	Standard	Proposed	Compliance
<i>1 (2)</i>	Solar access to adjoining buildings not to be adversely affected.	Height of proposal will be lower than development on adjoining land.	Yes
<i>2 (1) and (2)</i>	Detailed landscape plan showing screen planting	Partially satisfied, in relation to planting in vicinity of Yosemite Creek. No details provided of planting elsewhere on the site.	Partially satisfied (may be conditioned)
<i>2 (3) (a)</i>	Plotting of existing vegetation	Existing trees to be retained have been shown on the plan, these being in the Mistral Street building line setback and within the central position of the site. A Vegetation Management Plan is required for the restoration of Yosemite Creek.	Yes
<i>(b)</i>	Replacement planting	Is proposed in the Mistral Street building line. A Vegetation Management Plan is required for Yosemite Creek	Yes
<i>(c)</i>	Growth in 10 years time	Not indicated	No (but may be conditioned)
<i>(d)</i>	Schedule of plantings	Has been provided for planting near watercourse, but not elsewhere on the site	Yes
<i>(e)</i>	Location of plantings	Has not been shown	No (but may be conditioned)

Comment (Locality Management):

Landscaping provisions have not been fully satisfied. However, given the nature of development, its location and the need and requirement for a vegetation management plan, appropriate conditions could form part of the Development Consent to address any concerns.

An assessment of the proposal in terms of the relevant provisions of Part 3 (Assessing the Site and Environmental Context) and Part 4 (Considerations for Development) of LEP 2005 is as follows:

LAND USE MANAGEMENT**Item 9 - Ordinary Meeting, 31/1/06****Division 1 (Site Analysis)**

Clause	Provision	Proposed	Compliance
42	Site Analysis Plan	Relevant components shown	Yes
43	Contents of Site Analysis Plan	The majority of the relevant criteria has been included. A Vegetation Management Plan is however required to supplement the detail provided. This must be approved by the Dept of Natural Resources prior to any works commencing.	Yes

Division 2 (Protecting Natural Environment)

Clause	Provision	Proposed	Compliance
44	Environmental Impact	Refer to discussion under “comment” below	Yes
45	Protected Area—Slope Constraint Area (123m ² or 3.6% of the site)	Small section located in south eastern corner of the site. Development does encroach marginally upon this area however the storage bin encroachment can be relocated.	Yes
47	Protected Area—Ecological Buffer Area (1,378m ² or 40.2% of the site)	The development is partly proposed within the designated Ecological Buffer Area. This provision requires that development is to be outside this area, except where no other practicable alternative is available considering the: <ul style="list-style-type: none"> ▪ design, type and site cover of proposed development; ▪ Characteristics of site; ▪ Suitability of site for development. See discussion under “comment” below	Yes

LAND USE MANAGEMENT

Item 9 - Ordinary Meeting, 31/1/06

Clause	Provision	Proposed	Compliance
51	Watercourses	See discussion below entitled "Integrated Development"	No
52	Significant Vegetation Communities and rare species of flora	No significant vegetation communities on site.	Yes
53, 54, 54A, 55	<ul style="list-style-type: none"> ▪ Retention and management of vegetation ▪ Bushland Protection/Preservation of Trees ▪ Weed management 	The site includes a number of eucalypts within the building line setback as well as two (2) in the centre of the land. All these trees may be retained as part of the development. A Vegetation Management Plan will be required for the restoration of the creek embankment.	Yes
56	Site Disturbance and Erosion Control	A fully detailed erosion and sedimentation plan has not been prepared however the development aims to improve and control indiscriminate runoff by kerbing the driveway and directing runoff through a siltation trap as shown on the plans submitted. The development will be conditioned to require the provision of an all weather sealed surface for vehicular access. No significant cut or fill is proposed.	Yes (subject to conditions)
57	Stormwater Management	As above	Yes (subject to conditions)
58/59	Modification of Land Form Bushrock removal	No significant change to the physical shape or level of the land is proposed. No visible bushrock located on site.	Yes

LAND USE MANAGEMENT**Item 9 - Ordinary Meeting, 31/1/06****Division 3 (Character and Landscape assessment)**

Clause	Provision	Proposed	Compliance
60	Consideration and character of landscape	All criteria have been taken into account with the proposed design. Development will considerably enhance the present streetscape and Yosemite Creek.	Yes (subject to conditions)

Division 5 (Bushfire Protection)

Clause	Provision	Proposed	Compliance
78–86	Bushfire Threat Assessment	The site is listed as bushfire prone on Council's mapping system. However the nature of development, proposed building materials and sealed road system servicing the site raise no concerns in respect to access or evacuation.	Yes

Division 6 (Hazard and Risk Assessment)

Clause	Provision	Proposed	Compliance
87–89	Crime minimisation Land inundation Contaminated land	Site and development is not subject to any known risks notwithstanding its location adjacent to Yosemite Creek. The site will be fenced to minimise crime risk.	Yes Yes Yes

Part 4 (Considerations for Development)**Division 2 (Services and Infrastructure)**

Clause	Provision	Proposed	Compliance
94–97	General provision of services	The development may be serviced by all public utilities. A Water Cycle Management Plan is not required with this proposal.	Yes

LAND USE MANAGEMENT

Item 9 - Ordinary Meeting, 31/1/06

Division 3 (Vehicular Access, Parking and Roads)

Clause	Provision	Proposed	Compliance
98-101	Access to Public road/car parking/loading/unloading.	Access proposed to and from Mistral Street. Access is to be available from a stable all weather vehicular access road to the satisfaction of the consent authority. This is discussed in relation to the Environmental Protection – Private zone and watercourse below. Four (4) car spaces provided with loading/unloading to take place within the site. It is proposed to modify the location of vehicle parking in relation to loading and access to site facilities.	Partial compliance – may be satisfied by conditions.

Comment:

A planning and permissibility issue with this proposal is its location partly within the proposed Environmental Protection – Private zone. This zone affects and includes approximately 27 per cent of the site's area, and runs along the western boundary (Yosemite Creek) for the full length of the site, varying in width between 9 and 15 metres. The proposed access drive is proposed to encroach within the proposed Environmental Protection – Private zone by up to 3 to 6 metres for a length of approximately 30 metres.

An adjacent Protected Area - Ecological Buffer Area (EBA) also covers approximately 40% of the Employment General zoning. These designations combine to occupy 70% of the site leaving a small portion of unencumbered land adjacent to the eastern boundary. Provision is made under LEP 2005 for development to be located within the Protected Area – EBA, having regard to the size and suitability of the development for the site and the present degraded state of the land.

However, there are significant limits on any encroachment within the Environmental Protection – Private (“EP”) zone. Clause 34 of LEP 2005 (Development near zone boundaries) does enable Council to consider an encroachment by a maximum of 10 metres into an Environmental Protection – Private zone if Council is satisfied that carrying out the proposed development will:

- (a) have the effect of extending development that is being or will be lawfully carried out in the zone in which it is allowed in the absence of this clause, and
- (b) comply with the objectives of the zone in which it will be carried out.

LAND USE MANAGEMENT**Item 9 - Ordinary Meeting, 31/1/06**

The objectives set out in Clause 30 of LEP 2005 for a Environmental Protection – Private zone are:

- (a) *To protect land that is environmentally sensitive or has high scenic value from development where that land is privately owned or is not intended to be used as public open space;*
- (b) *To encourage land restoration works on disturbed bushland areas;*
- (c) *To allow bushfire hazard reduction that is in a form consistent with the protection of natural ecological values;*
- (d) *To restrict development on land that is inappropriate by reason of physical characteristics or high The site is shown as Bushfire Prone Land on Council's mapping system and given the nature of the proposal, some comment from a bushfire perspective may be relevant. Fire hazard, only where an adjoining zone makes complementary provision for development elsewhere on the land.*
- (e) *To allow for low impact nature-based recreational activities that are consistent with the protection of the land's natural ecological significance;*
- (f) *To contribute to the maintenance of bio-diversity in the Blue Mountains.*

In applying these requirements, Council should also have regard to the fact that the development of the land is defined and classified as 'Integrated Development' pursuant to Section 91A of the Act, as the site of the development is within 40 metres of Yosemite Creek. Consistent with zoning the watercourse as Environmental Protection – Private under LEP 2005, the Department of Natural Resources generally requires development to be a minimum of 10 metres from the top of the creek bank. Reference to the plan shown at Attachment 2 to this Report shows part of the access way of the development also encroaching within this setback.

In making a determination to permit the encroachment, development should have no adverse impact on the hydrological aspect of the locality or any watercourse (cl. 44). Where an adverse impact cannot be avoided, the development is to be designed to have the minimum possible adverse impact. Provision is also to be made to remedy or mitigate that impact and off-set impacts through the restoration of existing disturbed areas of the site (cl. 44(5)). This is to be balanced against the intended use of the site for industrial purposes and whether practical alternatives to the proposed development are available.

As part of the assessment process, consideration has been given to seeking an amendment to the proposal to remove any encroachment from the land zoned Environmental Protection – Private, being land that forms part of the watercourse corridor. Should the access drive be relocated so that it is not within the zone, however, this is likely to require the removal of a mature eucalypt at the front of the property. As the area of the encroachment within the Environmental Protection – Private zone is presently degraded and (with the exception of a single shrub) has no remanent trees or bushland, this is not a preferred option.

LAND USE MANAGEMENT**Item 9 - Ordinary Meeting, 31/1/06**

As will be discussed below, the DNR are willing to permit the encroachment of the access drive within its setback to the watercourse on the basis of retaining two mature eucalypts within the site. This same principle is recommended in not requiring a relocation of the development's driveway outside the EP zone.

However, in permitting this encroachment the issue of mitigating impacts and offsets within the site have been considered. It will be necessary for a Vegetation Management Plan to be provided for the watercourse corridor, and the application makes provision for the planting of wet shrub species in this area. A detailed landscape plan is required to demonstrate that planting of the site will contribute to maintaining a bushland setting and assisting in the restoration of degraded areas. This will assist in satisfying the clause 44 requirements of the LEP. In terms of limiting impacts on the watercourse, the location of the driveway in this area is preferred over other uses associated with landscape supplies. However, it will be necessary for the access drive to be a sealed surface to minimise sedimentation or suspended solids entering the watercourse. Having regard to the proposed loading uses and vehicle movements, there are practical benefits in requiring a stable all weather surface to be provided.

Subject to these matters being addressed through conditions, and given the present nature and state of the land, the proposal will enhance the current environmental management of the site. The provision of kerb and gutter along the western side of the driveway and cul de sac turning circle, the formal storage bins and proposed silt-trap within the driveway are all positive features in support of enhancing the site's environmental position through appropriate development. On that basis, it will be recommended that consent be granted to this aspect of the development, notwithstanding the encroachment within the Environmental Protection – Private zone.

ii. Better Living Development Control Plan

The Development Control Plan does not focus in detail on Industrial development and in particular where that development is not in proximity to, or will have an impact on, residential development. This proposal does however satisfy the provisions stated as applying to development occurring in an Employment-General zone.

iii. Integrated Development under the Act

As the development is proposed within forty (40) metres of Yosemite Creek, the development is defined and classified as 'Integrated Development' pursuant to Section 91A of the Act bringing into consideration the provisions of the RFI Act 1948. The Department of Natural Resources (DNR) have inspected the site and have responded to Council by indicating that the Department requires the provision of an average riparian zone of 15 metres (10 metres minimum) measured horizontally landward from the top of the bank of Yosemite Creek. This would require the relocation of the proposed kerb and roadway by some 3–4 metres to the east. The DNR however were concerned with the loss of two (2) mature eucalypts which otherwise could be retained. On the basis of their retention, the DNR were prepared to permit the kerb and roadway in the riparian zone as proposed.

LAND USE MANAGEMENT

Item 9 - Ordinary Meeting, 31/1/06

Final approval by the DNR remains subject to the granting of a Part 3A Permit under the RFI Act 1948 and this includes also the approval of a Vegetation Management Plan covering the improvement and restoration of the banks of Yosemite Creek for the entire length of the site.

The applicant is aware of these requirements and in fact seeks to carry out such work as part of the general improvements proposed for the land.

iv. Sydney Regional Environment Plan No. 20 (SREP 20) – Hawkesbury/Nepean River Catchment

SREP 20 includes a number of general planning considerations, policies and development controls that must be taken into consideration by Council is assessing a development subject to that Plan. The subject property is located within the Grose River catchment, being a Conservation Area Sub-Catchment under the Plan. Under the provisions of s11 Council is required to take into consideration the need to prevent adverse impacts on the sub-catchment. In this regard, the proposed development is essentially located within a previously cleared and disturbed area and does not involve the removal of any native vegetation or any earthworks of significance. Furthermore, the development will incorporate appropriate erosion and sedimentation controls and measure to minimise impacts on water quality and indeed for its part should improve Yosemite Creek adjoining the site.

In general, the proposed development is considered to be consistent with the relevant planning policies and strategies of the Plan.

2. Development Impact

i. Site Suitability

Site suitability in terms of the development's location and environmental position reveals the following:

- As noted previously, the site is zoned Part Employment General and Part Environmental Protection - Private under Local Environmental Plan 2005.
- The encroachment within the Environmental Protection – Private zone is less than 10m and therefore is permissible with Council consent.
- The Department of Natural Resources supports the proposal subject to the preservation of two (2) eucalypts.
- The site is within an industrial area where a number of light industrial activities presently exist. No residential areas are within 300 metres of the site.
- The land contains some eucalypts, which this development shall retain.
- The area upon which the development is located is level, not requiring any cut or fill of any significance, i.e. greater than 900mm.
- All utility services are available with the site accessed via a sealed road system.
- The development seeks to enhance the present streetscape and improve (for its part) the quality and ecosystem within Yosemite Creek.

LAND USE MANAGEMENT

Item 9 - Ordinary Meeting, 31/1/06

ii. Building Design/Visual Impact

The development will be particularly 'low key' when viewed from the street comprising a driveway, storage bins and a small office building. An 8 metre building line to Mistral Street is proposed in which existing trees are located and further shrub planting may be undertaken. The development will not adversely impact upon any adjoining land.

iii. Environmental Impact

The development is considered one that will enhance the creek system along the western property boundary redirecting and controlling surface flow into a siltation trap within the driveway.

The Department of Natural Resources do not oppose the proposal on environmental grounds however do require a vegetation management plan to be prepared and Part 3A Permit approved prior to the issue of a Construction Certificate or any work being carried out on the land..

3. Car Parking/Traffic Movement

Provision is made for four (4) visitor spaces on the site. Through conditions of consent, it is proposed to relocate car parking spaces adjacent to the site office and in closer proximity to the storage bins. As well as functional benefits for customers, it provides a safer and increased manoeuvring area for cars and removes potential vehicle-to-vehicle conflicts with trucks entering and exiting the site from Mistral Street. In terms of offset landscaping and improving the screening of development from the street, this modification will enable increased planting in the front portion of the site.

The on-site driveway and cul de sac at the rear of the site will enable all vehicles to leave and enter the site in a forward direction, except for a semi-trailer where difficulty may be experienced. While the application states that semi-trailer movements are proposed, these are for deliveries of firewood only and may involve 1 vehicle each 2 weeks in the period leading into and throughout winter. It is considered however that these deliveries could be made by a large rigid body truck (11 metres in length). It will be recommended that this be a requirement of development consent unless the applicant can demonstrate to Council's satisfaction that vehicles of greater length are able to leave and enter the site in a forward direction.

Conditions of consent and modifications to the proposed access drive are proposed to facilitate truck movement onto the site as sought by the Applicant. Should further modification of the driveway be required for larger semi-trailers which would result in the removal or unacceptable impacts on mature vegetation, the issue of relocating the driveway outside the area zoned Environmental Protection – Private would be re-evaluated as part of any subsequent assessment pursuant to s.96 of the Act.

In general however, the development (landuse) is considered one that will generate traffic movement to and from the site within the capacity of the existing road system.

4. Landscaping

A reasonable level of landscaping will be provided, comprising planting proposed as part of the application and as augmented by a vegetation management plan and by off-set planting proposed through conditions of consent. The proposal will result in the removal of noxious and environmental weeds located in Yosemite Creek adjacent to the site, and its upgrading in accordance with the provisions of the vegetation management plan.

Conclusion

The development is considered a 'low key' proposal appropriate for the zone. Notwithstanding the presence of and partial encroachment within the Environmental Protection – Private zone and the DNR's riparian zone, it is considered that minimal impact will occur within the development contributing to the environmental enhancement of the Yosemite Creek system.

It is recommended the application be approved subject to the conditions in Attachment 1 to this Report.

LAND USE MANAGEMENT**Item 9 - Ordinary Meeting, 31/1/06**

Attachment 1—Conditions of development consent

Part 1 – Deferred Commencement Conditions**Department of Natural Resources Part 3A Permit**

1. Written evidence from the Department of Natural Resources shall be submitted to Blue Mountains City Council stating that a Part 3A Permit under the Rivers & Foreshores Improvement Act 1948 has been granted for the proposed development.

In this regard, to assist in the preparation of the required documentation, a copy of the letter, conditions and advising documentation from the Department of Natural Resources is attached to this consent.

Time to comply with deferred commencement condition

2. Evidence that this condition has been satisfied must be provided to Council within twelve (12) months from the date of this consent. Should this not occur, the development consent shall cease to operate.

Part 2 – Proposed Operational Conditions

The following conditions apply to the site development and construction works once the consent is operational.

Confirmation of relevant plans

1. To confirm and clarify the terms of consent the development and site treatment shall be in accordance with Drawing Nos. 37-03 prepared by Geoff Meyer and Associates Pty Ltd dated 26 November 2004 and Revision 2 (8 November 2005) as amended in red or by additional detail required to satisfy Deferred Commencement Condition No.1 and accompanying supportive documentation accompanying the development application, except as otherwise provided or modified by the conditions of this consent.

Period of Development Consent

2. Substantial physical commencement of construction is required within a two year period from the date of notification that the deferred commencement matters have been satisfied. Should this not occur, the Development Consent will lapse.

Construction certificate (building)

3. A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier.

LAND USE MANAGEMENT

Item 9 - Ordinary Meeting, 31/1/06

Attachment 1—Conditions of development consent

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| <hr/> Building Code of Australia | 4. | All building work must be carried out in accordance with the provisions of the Building Code of Australia. |
| <hr/> Integrated development | 5. | All conditions contained in the Department of Infrastructure Planning and Natural Resources (now the Department of Natural Resources) general Terms of Approval under the Rivers and Foreshores Improvement Act 1948 as contained in the letter of notification dated 23 November 2005 (ref. ERM 05/6054) attaching to this letter of notification must be satisfied prior to the land use commencing. |
| <hr/> Erosion & sediment controls | 6. | <p>The applicant shall engage a qualified person to prepare a sediment and erosion control plan in accordance with the principles outlined in the 'Managing Urban Stormwater Soils and Construction' Manual by the Department of Housing, dated March 2004.</p> <p>The applicant shall ensure the approved sedimentation and erosion control measures are installed prior to commencement of construction and that these measures are also maintained at all times during construction in accordance with the plan.</p> <p>Prior to release of the Occupation Certificate, all disturbed areas are to be stabilised and all redundant sediment and erosion control structures are to be removed.</p> |
| <hr/> Workers amenities | 7. | Before work starts, toilet facilities must be provided for construction personnel on the site on the basis of 1 toilet for every 20 workers. Amenities are to be installed and operated in an environmentally responsible and sanitary manner. Toilets cannot remain on site for any longer than 12 months, without the further approval of Council. |

LAND USE MANAGEMENT

Item 9 - Ordinary Meeting, 31/1/06

Attachment 1—Conditions of development consent

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| Site management | 8. To safeguard the general amenity, reduce noise nuisance and prevent environmental pollution during the construction period: <ol style="list-style-type: none"> a. Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm and on Saturdays between 8am-3pm. Alteration to these hours may be possible for safety reasons but only on the approval of Council. b. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site. c. Building operations such as brickcutting, washing tools, concreting and bricklaying shall be undertaken on the site. The pollutants from these building operations shall be contained on site. d. Builder's waste must not be burnt or buried on site. All waste (including vegetation removal) must be contained and removed to an approved Waste Disposal Depot. |
| Fencing of building site | 9. All work must satisfy the requirements of the NSW Work Cover Authority. |
| Plans on site | 10. A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times. |
| Services | 11. Arrangements must be made with Integral Energy, Sydney Water and an approved telecommunications service provider for the extension of services to and within the site. Written evidence of such arrangements are to be submitted prior to the issue of the construction certificate. |

In this regard, a Section 73 Certificate is to be obtained from Sydney Water prior to issue of a Construction Certificate. Alternatively, a letter is to be obtained from Sydney Water stating that there are no objections to the issue of a Construction Certificate in which case a Section 73 Certificate is to be obtained prior to use or occupation of the facilities.

LAND USE MANAGEMENT

Item 9 - Ordinary Meeting, 31/1/06

Attachment 1—Conditions of development consent

Public utilities

12. Any relocation or alteration of public utilities or any existing services made necessary by this development is to be carried out at no cost to Council. Arrangements are to be made with the authority concerned and a certificate of clearance obtained from each relevant authority and a copy submitted to Council prior to use or occupation of the facilities.

Driveway and car parking area

13. On site parking and vehicular circulation shall comply with but not be limited to the following
- a. The driveway, car parking and the turning area shall be constructed in accordance with the approved plan (as amended in red) which is referred to in Condition 1 of the Operational Consent.
 - b. The maximum size vehicle entering and leaving the site shall not exceed a large rigid body truck, 11.0 metres in length as per AS2890.2 unless it can be demonstrated by further engineering design to the satisfaction of the Principal Certifying Authority that vehicles of greater length are able to leave and enter the site in a forward direction.
 - c. All loading and unloading activities shall take place on site at all times.
 - d. All car spaces shall be clearly defined by appropriate line marking or similar and be designated 'visitor parking' by suitable signage.
 - e. No goods, equipment or material shall be stored/displayed on any part of the driveway.

Landscaping

14. A detailed landscape plan is to be submitted for approval prior to the issue of a construction certificate. The landscape plan is to show:
- a. Landscaping in accordance with the schedule shown on Drawing No. 37-03 prepared by G B Meyer and Associates Pty Ltd dated 26 November 2004 as amended 8 November 2005 unless amended by the Vegetation Management Plan to be as part of the Part 3A Permit.

Attachment 1—Conditions of development consent

- b. The retention of two (2) eucalypts located approx 50 metres from the frontage of the site and 20 metres from the eastern boundary, and measures to protect them during the construction phase by adequate fencing and throughout the life of the development.
- c. The retention and protection of eucalypts and undercanopy native vegetation within the 8m building line setback to Mistral Street. The 8m building line setback shall be suitably defined by appropriate planting and other barriers on the site to ensure vehicle entry does not occur.
- d. Further supplementary screen planting of native species (trees and shrubs):
 - within the 8 metre building line setback,
 - between the enclosures and the driveway,
 - along the rear property boundary,
 - adjacent to the driveway, turning areas and storage bins
 to offset any adverse impacts arising from locating development within the ecological buffer to the watercourse corridor and land zoned Environmental Protection – Private.

Storage bins and enclosures

- 15. a. The storage bins shall be of solid construction (concrete or sleeper construction) and not exceed 2 metres in height.
- b. All storage shall take place within the bins and not exceed 2.5 metres in height.
- c. Dust emanating from any material stored shall be suppressed at all times by watering down and/or covers when windy conditions prevail.
- d. Storage on site shall not include any material containing contaminants, building rubble or spoil from construction sites.
- e. The rear storage bins shall be modified in design and location to ensure encroachment beyond contour 962.5 does not occur.
- f. The driveway kerb shall link into or join with the storage bins to ensure that the landscaped area at the rear of the site is not encroached upon by motor vehicles and to limit the movement of sediment and suspended solids into the watercourse.

Attachment 1—Conditions of development consent

- g. The chain wire fence surrounding the enclosure is to be of black or dark coloured powder-coated finish of a height not less than 1800 mm or greater than 2200 mm.

Advertising structure

- 16. Any signage beyond that permitted by Development Control Plan No. 33 (Exempt and Complying Development) is prohibited unless approval from Council is granted prior to the erection of any such signage.

Internal driveway

- 17. Kerbs and formation paving and sealing of access driveways and car parking areas as amended in red in the development site together with any necessary drainage, retaining walls, silt traps and other engineering works that may be required to make the construction effective shall be provided and incorporate to following:
 - a. All internal driveway and access shall be designed in accordance with Australian Standards 2890.1
 - b. All vehicles are required to enter and leave the site in a forward direction.

Note: All driveway and parking areas shown on the approved plan marked in red are to be of sealed pavement/concrete construction.

External engineering works

- 18. The following engineering works shall be constructed by the applicant at the applicant's expense:
 - a. Construction of roll top concrete kerb and gutter and sealed shoulder pavement construction along the Mistral Street frontage of the site extending from the existing layback out side No. 10 Mistral Street west to the existing roll top kerb and gutter adjacent to the western boundary of the site.
 - b. For the driveway required across the Mistral Street footpath, a new heavy-duty R.C concrete layback and apron crossing is to be constructed. The driveway shall have a minimum width at the road boundary of 7.5m and at the kerb and gutter alignment as determined by engineering design for the largest vehicle using the site.
 - c. The remainder of the footpath area is to be topsoiled and turfed.

Attachment 1—Conditions of development consent

**Construction
Council's roads**

- in** 19. Where works are carried out on Council or public lands (i.e. roads, parks etc.) by or on behalf of the applicant, the following conditions shall be satisfied:
- a. Before work commences in Council's roads, plans and specifications prepared by a suitably qualified person and endorsed by a chartered civil engineer with NPER registration are to be submitted to and approved by Council under the Roads Act 1993. Approval of the engineering designs by Council is subject to the payment of the prescribed Engineering Development Fees at the time of lodgement.
 - b. An on site meeting is to be arranged with Council's Supervising Engineer prior to the commencement of any work in Council's road for the purpose of a pre-construction meeting. Council's inspection fee is to be paid prior to the meeting.
 - c. The person or company carrying out the works will be required to carry public liability insurance to the value of \$10 million. The policy shall indemnify Council from all claims arising from the execution of the works. Proof of the policy is to be provided to Council's Development Engineer at the pre-construction meeting.
 - d. The person or company carrying out the works shall submit to Council references demonstrating experience in the type of work proposed to be undertaken. The person or company shall obtain approval from Council to carry out the works prior to works commencing.
 - e. The applicant will be required to pay for inspections in accordance with Council's fees and charges. The specific stages of inspection required will be advised at the pre-construction meeting.

A minimum of 48 hours notice shall be given to Council when arranging for an inspection. Work is not to proceed further until the works, or activity covered by the inspection has been approved.

Attachment 1—Conditions of development consent

Following the final inspection, any work considered by Council as unsatisfactory shall be rectified to Council's satisfaction at no cost to Council. Council inspection and approval shall be obtained prior to the issue of the Occupation Certificate.

- f. Prior to issue of the Roads Act Approval, a Traffic Management Plan report prepared by a qualified person is to be submitted to Council for approval.

The Traffic Management Plan is to address but not be limited to the following: loss of on street parking, construction vehicle travel routes, safety of the public, materials storage and handling, deliveries and construction traffic and parking.

A minimum of seven (7) days notice shall be given to residents if access by residents will be affected. A copy of the letter to residents and a list of addresses notified shall be submitted to Council for approval.

- g. Safety devices such as signs, barricades, barriers, warning lights, etc. shall be placed where works affect Council and Roads and Traffic Authority roads and shall be in accordance with Australian Standard No. 1742—Manual of Uniform Traffic Control Devices and Roads and Traffic Authority Manual—Traffic Control at Work Sites 1998. Details prepared by a qualified person shall be submitted to Council for its approval with the Traffic Management Plan Report.

The contractor shall submit to Council the names of proposed traffic controllers with a signed declaration that they are appropriately trained in the duties of traffic controllers and Roads and Traffic Authority accredited.

- h. The applicant shall indicate the extent of any service adjustments necessary and submit with the design proof of approval by the relevant service authorities. The applicant shall bear all responsibility and costs associated with the proposed relocation of services.

Attachment 1—Conditions of development consent

Bond

20. A performance maintenance bond to the value of five (5) percent of the engineering construction or a minimum of \$10,000, whichever is the greater, to guarantee the safety of the public, environmental protection performance and maintenance during construction in Council's road shall be paid to Council. This bond shall be retained for twelve (12) months after construction is completed to the satisfaction of Council's Supervising Engineer. The bond is to be paid prior to the issue of a Construction Certificate.

Repair of damage

21. The applicant shall repair or reconstruct any damage caused by construction activity relating to the development as required by Council's Supervising Engineer prior to release of the Occupation Certificate.

Land use

22. The land use shall not commence commercially until all relevant conditions of this consent requiring works to be completed has been carried out to the satisfaction of the Principal Certifying Authority and an Occupation Certificate pursuant to Section 109C (c)(i) issued in accordance with the provisions of the Environmental Planning and Assessment Act 1979.

