

ITEM NO: 8

SUBJECT: DEVELOPMENT APPLICATION NO. X/239/2007 FOR A TOURIST ACCOMMODATION ON LOT 2 DP 7005, LOT 3 DP 7005 AND LOT 4 DP 7005, 256, 258 AND 260 KATOOMBA STREET, KATOOMBA.

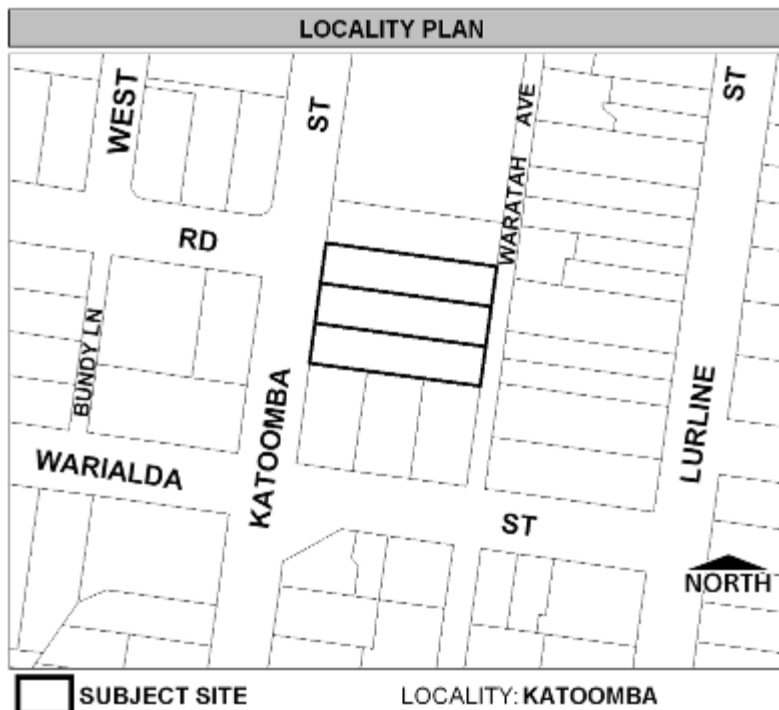
FILE NO: X/239/2007

**Recommendation:**

*That the Development Application No. X/239/2007 for tourist accommodation on Lot 2 DP 7005, Lot 3 DP 7005 and, Lot 4 DP 7005, 256, 258 and 260 Katoomba Street, Katoomba be determined pursuant to S.80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this report.*

**Report by Group Manager, Environmental and Customer Services:**

<b>Reason for report</b>	Referred by Councillors.
<b>Applicant</b>	Mr R Eldridge
<b>Owner</b>	Helmut's New Dawn Pty Limited
<b>Application lodged</b>	15-Mar-2007
<b>Property address</b>	256, 258 and 260 Katoomba Street, Katoomba



**Site description**

The application encompasses three sites, Nos 256, 258 and 260 Katoomba Street. The sites are located on the eastern side of Katoomba Street, approximately 260 metres south of the Katoomba town centre. The sites each have a frontage of 13.5 metres and a depth of 57 metres with an area of approximately 775m<sup>2</sup>.

Existing on each site is a dwelling-house with a setback from Katoomba Street of approximately 4-5 metres and a single level appearance. The dwellings have a two storey appearance from Waratah Avenue to the rear. Vehicular access to the sites is available to Nos 258 and 260. The sites contain five visually prominent trees around the perimeter of Nos 256 and 260. A two car garage is located to the rear of No 260.

The sites fall from Katoomba Street to Waratah Avenue by approximately 9 metres from the northwest corner of 256 to the southeast corner of 260.

The surrounding area is characterised by a variety of dwelling-houses and medium density housing, as well as tourist accommodation and commercial uses. Immediately north of 256 is a single dwelling, which is adjacent to the Canton Chinese restaurant. To the south of the site is Hinkler Park.

**Background**

Consent was granted for additions to the rear of the dwelling at No 258 on 6 February 2007 and for additions to the rear of the dwelling at No 260 on 25 October 2006. The additions to No 260 have been completed.

**Proposal**

It is proposed to convert the three existing dwellings for use as tourist accommodation. Each dwelling will contain three suites and a maximum of 12 visitors at any one time. Sleeping quarters for a manager are to be provided on the lower ground floor of No 260. No food or alcohol is to be served to visitors. The only external alterations to the dwellings will be a small deck to the rear of No 256.

The rear yard will contain a BBQ area for the common usage of visitors. A 10 space car park (including two disabled spaces) will extend across the rear of all three sites, with a separate vehicular entry and exit from Waratah Avenue. An accessible path is to be provided from the car park to the fully accessible dwelling at No 256. It is anticipated that a significant proportion of visitors will be transported to the development via a bus as part of a packaged tour.

A freestanding sign with a maximum height of 2.5 metres and

dimensions of 2.2 metres x 1.4 metres is to be positioned within the front setback of No 258.

Copies of the plans, showing the proposed development, are provided in Attachment 2 to this Report.

**Environmental  
Planning Instruments**

**Local Environmental Plan 2005**

**Zone:**

Village – Tourist  
Katoomba Precinct – Lurline Street North (VT-KA02)  
Accessible Housing Area

**Protected Areas:**

Water Supply Catchment  
Period Housing  
Slope Constraint

The site (No 260) is mapped as bushfire prone land (Buffer 100m).

**State Environmental Planning Policy No. 1**

**Drinking Water Catchment Regional Environmental Plan No. 1**

Identified as being within the Coxs river sub-catchment, which is an identified hydrological catchment under REP 1.

**Public Health (General) Regulation 2002**

**Notification**

The application was advertised for a period of 30 days from 11 April 2007 to 14 May 2007 in the Blue Mountains Gazette as well as written notification to adjoining and nearby properties.

Four (4) submissions were received as part of the notification period. The issues raised can be summarised as follows:

- With a maximum of 36 people, the development will be overcrowded.
- Noise concerns.
- Traffic safety concerns from cars leaving the site and entering the busy, one way, narrow, Waratah Avenue.
- Will a curfew be set?

The issues raised in the submissions are discussed in the body of the report.

**Evaluation**

The application has been assessed in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* (as amended), in particular the Section 79C Matters for Consideration.

The following issues are considered relevant in the determination of the application:

1. Local Environmental Plan 2005
2. Locality management provisions for the Village – Tourist Zone
3. State Environmental Planning Policy No. 1
4. Development Control Plan – Better Living
5. Drinking Water Catchment Regional Environmental Plan No. 1
6. Public Health (General) Regulation 2002
7. Resident Issues
8. Advertising and Information Signage – Development Control Plan No 21

**Discussion of Issues**

1. Local Environmental Plan 2005

The relevant provisions of *Local Environmental Plan 2005* (LEP 2005) are summarised in the table below:

<b>Clause</b>	<b>Standard</b>	<b>Proposed/Planning Comment</b>	<b>Compliance</b>
20	Zone objectives	The development will provide further tourist activity while maintaining and enhancing the established streetscape character and landscape setting.	Yes
32	Permissibility of land use	The use of ‘tourist accommodation’ is permissible with consent	Yes
45	Protected Area – Slope Constraint Area	Slope in excess of 20 per cent is located to the rear of the site, where the car park is to be located.  To provide a car park to the rear requires cut in excess of one metre. However, vehicular access from Katoomba Street is not achievable without the demolition or alteration to at least one of the existing dwellings, and locating the car park to the rear is generally preferred in retaining streetscape quality. The disturbed area can be adequately restored with suitable retaining wall and vegetation.	Yes
48	Protected Area – Water Supply Catchment	The development does not require referral to Sydney Catchment Authority. Stormwater will be satisfactorily managed via an on site detention system to achieve neutral effect on stormwater.	Yes

53-55	Retention and management of vegetation	Vegetation is located around the perimeter of the sites. There are 5 trees within the sites which are significant. All three significant conifers are to be retained. The existing oak that straddles the boundary of Nos 256 and 254 is proposed for retention. However, although this tree is visually prominent, the earthworks previously undertaken on the site have caused structural damage to the root system. The tree will be retained if possible, otherwise it will be removed and replaced by another oak. This matter is covered via a condition.	Yes
56-57	Site disturbance/ erosion control/storm water management	Approximately 400m <sup>2</sup> of site disturbance is required for the car park. Sediment and erosion controls are currently in place for site disturbance. To ensure satisfactory sediment and erosion controls are utilised, this matter will be enforced via a condition.  The development proposes on site detention which has been subject to stormwater design.	Yes
58	Modification of land form	Cut is minimised as far as possible and will not adversely impact upon the sites visual presentation to Katoomba Street or Waratah Avenue.	Yes
60-61	Character and landscape/ Protected Area – Period Housing Area	The overall concept and scale of the development will result in a good outcome in regards to streetscape character; the existing dwellings are to be retained, there will be no new buildings, and car parking is located to the rear of the site. Character elements are discussed further below in relation to the locality management requirements of LEP 2005.	Yes
65-66	Landscape plan	Additional vegetation from that shown on the Landscape plan was considered necessary to improve the visual amenity of the area. Accordingly, the conditions of consent provide for amendment to the Landscape plan to provide additional planting.	Yes
78	Bush fire protection	A small portion of No 260 is mapped as bushfire prone land (buffer 100m), as such the development is classed as Integrated Development (special fire protection purpose) and a Bush Fire Safety Authority (BFSA) is required from the Rural Fire Service (RFS).  The RFS issued a BFSA with no specific conditions.	Yes

87	Crime minimisation	Generally satisfactory. The development will increase passive surveillance. A one metre fence along the rear boundary will be included into the landscape plan and a 1.8 metre fence included to the side boundaries.	Yes
94	General provision of services	Sewer, water, electricity and telephone services are connected to all dwellings.  Sydney Water advised that existing services to site are adequate for proposed use and that a s.73 Certificate be required. This matter is dealt with via a condition.	Yes
98-101	Vehicular access and parking.	2 existing accessways are available from Waratah Avenue. It is proposed to utilise both access points to enable a separate driveway for ingress and egress. This approach is preferred in terms of vehicular safety and reduces the required manoeuvring area.  There are 9 accommodation suites and it is expected that there will be 1 manager on site. This equates to a car parking demand of 10.  10 car parking spaces are proposed (including two disabled spaces). In addition, the existing 2 car garage will remain.  The car park is located across all three sites with each site relying on the other for vehicular access. Accordingly, to ensure the development can continue to operate as a single development, a condition is included requiring the consolidation of the sites.	Yes
108	Accessibility of dwellings	No 256 is fully accessible to people with a disability and is connected to the rear car park and Katoomba Street via an accessible path. The car park has two appropriately located and sized spaces for people with a disability.  Note: Two accessible suites are required, three are provided.	Yes
109	Adaptability of dwellings	All accommodation suites are to be adaptable.	No SEPP 1

**2. Locality management provisions for the Village – Tourist Zone Katoomba Precinct – Lurline Street North (VT-KA02)**

2	Precinct vision and objectives	Refer to discussion below table.	Yes
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3	Building envelope Height max 8m; 6.5m to eaves	No change from existing. No 260 is the tallest of the three buildings at a maximum of approximately 8.0 metres when measured from the rear elevation (6.1 metres from front elevation). No 260 measures a maximum of approximately 6 metres from the eaves.	Yes
	Setbacks are to be consistent with adjoining properties.	No change from existing. Existing setbacks consistent with No 254.	Yes
	Site coverage of buildings is a maximum of 50%	No change from existing building site coverage of 19%.	Yes
	Density 0.8:1	Floor space ratio is 0.18:1	Yes
4	Design considerations	Refer to discussion below table.	Yes

**Precinct Vision Statement**

The Precinct Vision Statement relevant to the sites anticipates the consolidation of comparatively higher density built form and tourist land uses in the area. In conjunction with this, architectural detailing is required to reflect forms and finishes present in historic guesthouses and flat buildings within the area. The proposal satisfies the above by introducing additional tourist accommodation to the area with only minimal external works to the dwelling at No 256. Significantly, no works are proposed to the front façade of the Period Housing listed buildings.

**Precinct Objectives**

- a) To encourage development that complements the existing built form and that responds to the topography of the location;
- b) To encourage active street frontages that enhance pedestrian amenity; and
- c) To promote pedestrian linkages to the town centre.

The development performs well against the Precinct Objectives. The built form will remain primarily unchanged, with the only additions to the existing dwellings being the addition of a deck to the rear of No 256. The strong Period Housing character elements to the front of the dwellings will remain as existing.

With a setback of at least 35 metres from the rear of the dwellings to Waratah Avenue, the rear yard presents an opportunity to improve upon the current landscaping. Accordingly, the Landscape Plan has been amended to promote a landscape setting and enhance the streetscape. Locating the car park to the rear will ensure minimal modification of the land form and, in combination with suitable screen planting, will provide for a positive outcome. To further enhance the visual interest to the rear of the sites and passive surveillance, a condition is included requiring the removal of the existing 1.8 metre colourbond fence and

replacement with a one metre fence of more appropriate materials (such as masonry or timber 'lapped and capped').

The proposal also provides for 'through site pedestrian access' improving permeability in this part of Katoomba.

### **Design Considerations**

LEP 2005 includes the following design considerations for this precinct:

1. *View sharing principles between the proposed development and existing surrounding development are to be adhered to;*  
The proposal will not obscure views enjoyed by surrounding developments.
2. *The ability to provide for basement car parking;*  
Due to the low density of this development, this is not considered necessary.
3. *The potential for through-site pedestrian links to improve permeability of the area;*  
This is provided.
4. *Development shall provide active street frontages;*  
This is achieved. The frontage to Katoomba Street will remain relatively unchanged, while from Waratah Avenue, new fencing and landscaping will improve the appearance of the sites.
5. *Buildings shall incorporate a form and finish that are consistent with, or complementary to the periods and architectural character of adjoining buildings;*  
This is provided. Construction of a deck to the rear of No 256 represents minor works.
6. *Visible walls shall not be left blank, unadorned or unarticulated;*  
Walls to remain as existing.
7. *Commercial signage shall be co-ordinated to reflect a village character;*  
Proposed signage discussed below.
8. *Local design themes are to predominate over corporate signage;*  
Discussed below.
9. *Parking shall be concealed or be located behind "active" or "inhabited" building frontages;*  
Generally achieved. Visitor parking is suitably located within the setback to Waratah Avenue. Landscape elements will help soften the visual impact of the car park.

### **3. State Environmental Planning Policy No. 1**

As noted in the table above, compliance with clause 109 of LEP 2005, which requires that all accommodation suites for tourist accommodation be made adaptable, is not achieved.

The applicant is required to lodge an objection to the standard under SEPP No. 1, where a variation is sought. The applicant has submitted an objection to the standard, with the following grounds put forward for departure from the clause:

- a) Strict compliance would effectively require that some of the existing buildings be demolished and redeveloped, which is not economically feasible (and could have adverse impacts on the Period Housing character elements of the dwellings);
- b) The vast majority of users of the accommodation will be young, fit back-packer travellers; and
- c) No. 256 is fully accessible to people with a disability (this represents a third of the development as accessible to people with a disability, more than LEP 2005 requires).

Based on the above grounds (particularly in relation to (a) and (c)), it is considered that it would be unreasonable to require the existing dwellings, which are recognised as being representative of Period Housing, to be modified or rebuilt to provide for adaptability as one accessible dwelling is provided. Accordingly, it is considered that the SEPP 1 objection to the development standard should be supported.

#### **4. Development Control Plan—Better Living**

The Better Living DCP provides supplementary controls to LEP 2005. Overall the proposal complies with these provisions and provides appropriate responses to relevant environmental issues.

##### Part C – General Principles

###### *C1. Protecting the Natural Environment*

The development integrates with the topography of the site and minimises cut. There are no significant or rare species of flora and fauna on the site. There are no weed species present. The proposal will have a neutral effect on stormwater management, with the use of an on site detention system.

###### *C2. Character and Landscape Assessment*

The buildings will remain generally as existing, with the presentation to Katoomba Street unchanged, apart from some new landscaping. The car park, new fencing and improved landscaping to the rear will present well to the Waratah Avenue street frontage.

###### *C3. Heritage Conservation*

The sites are not heritage listed, however south of No 260 is the heritage listed, Hinkler Park (K157). There is no foreseen impact on the heritage significance of Hinkler Park. Further landscaping on the southern boundary of No 260 will provide for an enhanced visual buffer between the two sites.

###### *C4. Hazard and Risk Assessment*

The only site mapped as bushfire prone is No 260. No building works are proposed on this site. The Rural Fire Service issued a Bush Fire Safety Authority with no specific conditions. The development design meets crime minimisation principles of natural surveillance and clearly defined individual areas.

###### *C5. Other Considerations for Development*

The development has all utility services available and is connected to sewer. There is sufficient available space and options for the provision of a garbage area and a clothes line. Vehicle access achieves minimum widths and grades, and provides adequate turning. Vehicles can enter and leave in a forward direction. The development complies with the accessibility requirements. Adaptability is discussed above.

Part D – Standards for Development 2005

*D7. Tourist Accommodation & Boarding Houses*

Part D of the Better Living Development Control Plan provides standards that are intended to supplement the approach of LEP 2005. These standards have been addressed in Section 1, 2 and 4 of this report.

**5. Drinking Water Catchment Regional Environmental Plan No. 1**

The Drinking Water Catchment Regional Environmental Plan No. 1 (REP 1) is concerned with maintaining the water quality within the drinking catchments and requires neutral or beneficial effect on water quality. Controls are in place in order to maintain the quality of effluent and stormwater leaving the site and entering the catchment. The controls contained within REP 1 are satisfied because the site is sewered and stormwater disposal is controlled via on site detention.

**6. Public Health (General) Regulation 2002**

Clause 22 (sleeping rooms) of the Public Health (General) Regulation 2002 limits any room used for sleeping accommodation (for less than 28 consecutive days) to 2 square metres or more for each person sleeping in it. The smallest bedroom within the development has approximately 3 square metres for each person sleeping in it. Accordingly, the bedrooms are not considered to be overcrowded for their intended use.

**7. Resident Issues**

Amenity

Concern was raised during the notification period that the development will be overcrowded and generate excessive noise.

The precinct vision statement emphasises the importance of tourism based land uses in the locality. In considering this, it should be noted that the subject proposal is well below the density controls permitted within this locality. It is therefore suggested that the scale of the development for a tourism based use in the locality, in terms of building site coverage and total occupants on site, is relatively minor and therefore amenity impacts on surrounding residents are not expected to be unreasonable, if the development operates in a satisfactory manner. It is therefore suggested that the operation of the development be conditioned in the following ways:

- Limiting the maximum number of guests to 36 at any one time;
- Limiting accommodation to short term paid accommodation only;
- Not permitting the use of the development for functions.

Overall the development is well designed to minimise impacts on the amenity of nearby development in terms of privacy and noise. The existing dwellings are located near Katoomba Street, away from the presumably more quiet, Waratah Avenue. No residential activity exists directly south of the development. The BBQ area is centrally located within the development away from property boundaries. A new 1.8 metre 'lapped and capped' timber fence will be required on the northern boundary of No 256 and a 1 metre fence of either masonry or 'lapped and capped' timber will be required to the eastern (rear) boundary. In addition, a considerably enhanced solution to landscaping from existing will be required to further reduce amenity impacts. Any lighting required for the development will be limited via a condition of consent.

During the notification period a submission enquired as to whether a curfew would be set to limit noise. The proposal does not suggest a curfew will be set for occupants and it would be difficult to justify in the absence of functions. Research of other tourism based uses in Katoomba, particularly those that target ‘backpackers’ revealed that curfews have on occasion been implemented. However they have been used for safety and security reasons, not noise related.

Traffic

Concern was raised during the notification period that the development would create traffic problems within Waratah Avenue, particularly as it is a one way street.

As the development is well below the density limitations within LEP 2005, a relatively low car parking demand is generated and the limited increase in vehicular traffic movements within Waratah Avenue is acceptable. This is particular the case as vehicles exiting the site pass Hinkler Park rather than residential properties. As noted previously, it is anticipated that a portion of visitors will arrive via bus as part of a packaged tour, and alight at Katoomba Street, further reducing traffic movements associated with the development. The provision of a new one metre fence along the eastern boundary will allow for safe ingress and egress from Waratah Avenue.

**8. Advertising and Information Signage – Development Control Plan No. 21**

The development will incorporate one freestanding sign within the front setback of No 258. The sign is of a suitable size to promote the business without adversely impacting on the character of the area. A condition is included requiring details be provided of the colours, design and any possible illumination of the sign prior to its erection.

**Conclusion**

The scale of the development and proposed design is consistent with the desired future character of the precinct. The development retains the Period Housing character of the sites and provides for active street frontages and landscaped setbacks. The development provides tourist accommodation that is accessible to people with a disability and in proximity to the Katoomba town centre. The development significantly complies with planning requirements and is therefore recommended for approval subject to the conditions contained in Attachment 1 to this Report.

\* \* \* \* \*

**Attachment 1 - Conditions of development consent**

**Confirmation of relevant plans**

1. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the following plans, prepared by:
  - Darren Jackson Architectural Designs, numbered drawing No 07-11-019, sheet No 1 and 2, dated November 2007 (including landscape amendments marked in red).
  - G B Meyer & Associates Surveyors, numbered 79-06/5 dated 4 August 2007.
  - Environdesign Assoc. drawing S1 and A1 dated 24.9.07.
  - RFA Landscape Architects, drawing number L-01 dated 12 February 2007 (refer to condition 16 for limitations of plan).
  - The Katoomba trust for H.N.D Pty Ltd, drawing number T.A 006/07 dated February 2007.

and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent.

**Period of development consent**

2. Physical commencement of works is required within a five year period from the date of this consent. 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.

**Building Code of Australia**

4. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**Annual fire safety statement**

*Each essential fire safety measure in the building*

5. Each year, within 12 months of the previous statement or after a certificate of installation has been issued for the building (whichever is applicable), the owner of the building must ensure the Council receives a fire safety statement dealing with each essential fire safety measure in the building.

As soon as practicable after the statement is issued, a copy of the statement (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A

further copy is to be prominently displayed in the building.

**Change to land title**

6. To ensure that the overall development is integrated, all lots subject to this consent shall be consolidated into one parcel.

Evidence of registration with the Land Titles Office must be provided to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

**Operation of tourist accommodation**

7. To ensure the operation of the tourist accommodation has limited impact on surrounding residential properties:

- a) Accommodation shall be available for short term paid accommodation only.
- b) The development shall not incorporate the serving of food or alcohol.
- c) The use of the development for functions is not permitted
- d) Congregation of guests in outdoor areas (including the barbeque area) within the site is to cease by 9.00 pm.

**Sydney Water  
Section 73 Certificate**

8. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to issue of an Occupation Certificate.

- Builders details**
9. Prior to any works commencing on the site, written advice as to the builder's details (name, address and licence number) is required for the Council records.
- Signage**
10. To ensure that the site is easily identifiable for deliveries and provides information on the person responsible for the site, a sign displaying the following information is to be erected:
- The statement “*Unauthorised access to the site is not permitted*”.
  - The names of the builder or another person responsible for the site along with an out of hours contact number.
  - Lot or Street number.
- Site management**
11. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during site works:
- a. Site and building works (including the delivery or removal 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 the 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 building block. The pollutants from these building operations shall be contained on site.
  - d. Builders waste must not be burnt or buried on site. All waste must be contained and removed to a Waste Disposal Depot.
- Plans on site**
12. A copy of the stamped and approved plans, development consent and the construction certificate are to be held on site at all times during demolition or construction work.

**Advertising sign**

13. The dimensions and height of the sign are limited to the details shown on the plan prepared by The Katoomba trust For H.N.D Pty Ltd, drawing No T.A 006/07 dated February 2007. The advertising sign is to be located entirely within the property boundary.

Details of the materials, design, colours and any proposed illumination are to be provided to the Council for approval prior to the erection of the sign.

Any illumination is to be minimised so as to ensure no adverse impact on traffic flow or adjoining properties. Flashing signs are not permitted.

**Accessibility certification for constructed building**

14. To ensure appropriate access and facilities are provided, certification is required from a suitably qualified Access and Mobility Specialist, certifying that the development (dwelling No 256) as constructed complies with the relevant requirements of Australian Standard 1428.

The certificate shall also certify that an intercom system has been installed to enable a person located outside the primary entrance of No 256 (the accessible dwelling) to communicate with the manager within both the office and manager's quarters within No 260. The intercom system shall be maintained to enable communication at all times.

This certification is to be provided to the Principal Certifying Authority prior to release of an Occupation Certificate.

**Tree to be assessed**

15. Prior to the commencement of the development, a qualified arborist must assess the condition (SULE) of the Oak tree on the adjoining property (254 Katoomba Street) in order to determine if it is worthy of retention in the landscape, and if so, undertake or oversee any remedial canopy and root pruning necessary to ensure its survival.

Should the tree be considered by the arborist to be of poor health, form or unlikely to benefit from remedial works, the tree should be removed and a super advanced replacement tree of the same species provided.

**Completion of landscape works**

16. Landscape works, including planting bed preparation, planting out of approved plant species including turf grasses and maintenance requirements shall generally be carried out in accordance with Landscape Drawing

No **L-01** prepared by **RFA landscape architects** and dated **12<sup>th</sup> February 2007**. The plant schedule and lay out of the plantings shall be carried out in accordance with the Site and Ground Floor Plan, Drawing Number **07-11-019** prepared by **Darren Jackson** and dated **November 2007**, except as amended in red by the following:

- a) The Plant Schedule on this plan supersedes the Plant Schedule on the Landscape Plan;
- b) Plant densities and species selection as amended;
- c) Additional shade tree, *Quercus palustris* or similar to be provided as shown;
- d) Garden beds adjacent to Waratah Avenue to be increased in width and provided with deep soil area to assist with stormwater management;
- e) Existing plantings along Katoomba Street to be supplemented generally as indicated;
- f) Minor substitutions and amendment to the planting layout is permitted provided that the intent of the landscape is not affected;
- g) Single species hedges and other plantings are to be minimised;
- h) A diverse palette of plant material is to be provided along the Katoomba street frontage to achieve a level of screening of the development, but to provide an interesting an interactive street frontage;
- i) Screen planting shall be provided along Northern, Southern and Eastern boundaries in accordance with the amended plans;
- j) Should discrepancies exist between the plan and existing site conditions, further amendment to the planting layout and substitution of plants using approved plant material is permitted, provided that the screening, environmental or amenity function of the landscape is not compromised;
- k) Any plants that die or are removed must be replaced with plants of the same species and of a similar stage of growth;
- l) Trees are to be provided as super advanced specimens - 15 – 35 litre, large and screening shrubs as advanced to super advanced -5-15

litre, and smaller shrubs and ground covers as semi advanced to advanced – 150mm – 5 litre;

- m) Healthy and vigorous plants must be sighted in the landscape prior to issue of the Occupation Certificate.

**Fencing**

- 17. To protect the amenity and streetscape character of the locality, fencing is to be provided as follows:

- A 1.8 metre high 'lapped and capped' timber fence or equivalent is to be erected on the northern (side) boundary of No 256. The fence is to commence from the existing brick wall and taper down to the eastern (rear) boundary to a maximum height of 1 metre.
- A 1 metre high fence constructed of either masonry or timber ('lapped and capped') is to replace the existing colorbond fence on the eastern (rear) boundary of all three sites.

All fencing is to be completed prior to the release of the Occupation Certificate.

**Lighting**

- 18. To protect the amenity of the local area, all external lighting is to be positioned, directed and shielded so that it does not interfere with traffic safety or cause nuisance to adjoining and nearby properties.

**ENGINEERING**

**Compliance with standards**

- 19. All internal and external engineering works required by this development are to be in accordance with Council's Specification for Engineering Work for Subdivisions and Development, Part 1—Design and Part 2—Construction (Development Control Plan No. 31), Australian Rainfall and Runoff 1987 and other relevant Australian Standards. The design and construction is to include any additional works to make the construction effective.

A qualified civil/structural engineer shall supervise all internal works and prior to issue of the Occupation Certificate, certification shall be obtained from a chartered civil/structural engineer submitted to the Principal Certifying Authority confirming all works have been constructed in accordance with the approved plans and specifications.

**Sedimentation and erosion control**

20. 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' (Volume 1), dated March 2004 by Landcom NSW.

The applicant shall ensure 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.

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.

**Supervision of internal engineering works**

21. All internal engineering works shall be supervised by a chartered civil/structural engineer. Certification from the supervising engineer shall be submitted to the Principal Certifying Authority to verify that all works have been constructed in accordance with approved plans prior to the release of the Occupation Certificate.

**Construction in Council's roads**

22. Where works are carried out on Council or public lands (ie. 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 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. All works in Council's road are to be at no cost to Council.

- 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 Engineer at the pre-construction meeting.

- d) The person or company carrying out the works shall submit to Council reference 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 24 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.

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. The applicant's engineer must certify that the work have been constructed in accordance with the approved plans, specifications and relevant Australian Standards.

- f) Prior to issue of the Construction Certificate, a Traffic Management Plan report prepared by a chartered civil engineer with NPER registration is to be submitted to Council for approval. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Management Plan is to be approved by the Roads and Traffic Authority before submission 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 handing, 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.
- i) A prominently displayed sign identifying the contractor responsible for the work shall be erected. A contact telephone number should be provided on the sign.

### **Bond**

- 23. An **unconditional (open ended)** 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 and after 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 period commences generally at the issue of a final inspection by Council and/or subdivision certificate, which ever occurs the latest. The bond will be released upon an application being made by the applicant subject to the payment of a bond release fee and a bond release inspection that indicates all works are satisfactory.

The bond is to be paid prior to the issue of a Construction Certificate.

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| <b>Relocation of services</b>              | 24. The applicant at the applicant's expense shall carry out the relocation or alteration of public utilities or any existing services made necessary as a result of this development. Satisfactory arrangements shall be made with the relevant authority concerned and a certificate of clearance shall be obtained from each relevant authority and submitted to the Principal Certifying Authority prior to release of the Construction Certificate.   |
| <b>Repair of damage</b>                    | 25. The applicant shall repair or reconstruct all damages caused by construction activity relating to the development as required by Council's Supervising Engineer prior to release of the Occupation Certificate.  |
| <b>Driveway crossings</b>                  | 26. For the driveways required across the footpath, new heavy duty concrete laybacks and apron crossings are to be constructed. The surface is to be a featured surface. This construction is to include any necessary alteration to existing infrastructures, drainage, signage, line markings etc. to make the construction effective including transition of the footpath and internal driveway, the adjustment of public utilities and regrading the driveway across the footpath to facilitate quick entry/exit movements and prevent scraping of vehicles. |
| <b>On site detention</b>                   | 27. An on site detention system to restrict post-development discharges from the site to pre-development discharges shall be provided.<br><br>Engineering plans prepared by a qualified person and endorsed by a chartered civil engineer verifying that the above requirements have been met shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.  |
| <b>On site detention positive covenant</b> | 28. To ensure the on site detention system is satisfactorily maintained, a covenant under Section 88E of the Conveyancing Act, 1919 shall be prepared and registered over the subject land.  |

The terms of the 88E Instrument with positive covenant shall include, but not be limited to, the following:

- a) The Proprietor of the property shall agree to be responsible for keeping clear and the maintenance of all pits, pipelines, trench barriers and other structures;
- b) The Proprietor shall agree to have the on site stormwater detention facilities (OSD) inspected annually by a competent person;
- c) The Council shall have the right to enter upon the land referred to above at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures in or upon the said land which comprise the OSD or which convey stormwater from the said land and recover the costs of any such works from the Proprietor;
- d) The registered Proprietor shall indemnify the Council and any adjoining landowners against damage to their land arising from the failure of any component of the OSD or failure to clean, maintain and repair the OSD.

The applicant shall bear all costs associated in the preparation of the subject 88E Instrument. The working of the Instrument shall be submitted to and approved by Council prior to lodgement at NSW Land and Property Information. Proof of lodgement with NSW Land and Property Information shall be submitted to Council **prior to the issue of the Occupation Certificate.**

#### **Internal pavement**

29. Kerbs and formation paving and sealing of access driveways and car parking areas in the development site together with any necessary drainage, retaining walls and other engineering works that may be required to make the construction effective shall be provided. All driveways and sealed areas are to have a featured surface.

All internal driveway and access shall be designed in accordance with Australian Standards 2890.1/1993.

#### **Works as Executed plans**

30. Prior to the issue of an Occupation Certificate, a Works as Executed Plan of all external engineering works together with an engineer's certification

confirming that all works have been constructed in accordance with the approved plans shall be submitted to Council for approval.

Attachment 2 – Plans

