

ITEM 15 – PAGE 82

Enclosure

**(Item 1 - Conditions of consent
Item 2 - Plans referred to as
Attachment 2 in the report)**

**For Meeting of
21 October 2008**

File No: S/11/2008
Address: Sorensen's Nursery
8 Herbert Street
Town: Leura

Attachment 1—Conditions of development consent

Development consent

Pursuant to s. 80(3) of the Environmental Planning and Assessment Act 1979, Blue Mountains City Council issues a deferred commencement consent to Development Application No. S/11/2008 subject to conditions stated hereunder.

PART A - DEFERRED COMMENCEMENT CONDITIONS

This consent shall not operate until the applicant satisfies the Council, in accordance with cl. 95 (Deferred Commencement Consent) of the Environmental Planning and Assessment Regulation 2000, as to matters specified in Part A – Deferred Commencement Conditions.

Vegetation Management Plan

- 1 In order to restore and protect the significant natural environment from impacts arising from weed invasion, concentrated stormwater discharge, construction works and future usage of the site, a detailed Vegetation Management Plan (VMP) is to be prepared to replace the previously approved bushland regeneration plan, which was not sufficiently implemented to provide a basis for specifying the required work program. The VMP is to apply to the natural areas of the site (generally being Management Areas 9, 10 and 11 referred to in the Figure on page 38 of the approved Conservation Management Plan, which forms Attachment 1 to these conditions) and such other locations on the site as the weed control actions are required.

The detailed VMP shall be prepared by persons with professional qualifications and/or knowledge and experience in weed control and bush regeneration/ rehabilitation practices and who are eligible for membership of the Australian Association of Bush Regenerators (AABR).

The VMP must be prepared in accordance with the Council's Guidelines for the Preparation of A Vegetation Management Plan, and submitted to and approved by the Council's Environmental/Landscape Assessment Officer or Environmental Scientist in the Environmental and Customer Services Group.

The key objective of the VMP is to restore the hanging swamp and native vegetation within the Management Areas 9, 10 and 11 to a condition where spontaneous regeneration of the endemic vegetation is enabled.

The VMP is to include:

- details of 'Urgent' priority works to be completed prior to the issue of the Operational consent;
- 'High' priority works to be completed prior to the issue of the Subdivision certificate;
- 'Medium/Low' priority works that require several seasons to achieve outcomes suitable for the transfer of remaining

works to the Association as 'Ongoing' works;

- 'Ongoing' maintenance works to be transferred to the Association members and/or the individual lot owners in accordance with the Neighbourhood Management Statement as approved;
- an appropriate time frame for completion of various subsequent stages of the VMP, provide explicit detail, defined by completion of approved work schedules and by performance indicators, which demonstrate when the obligations to implement the VMP cease to be the obligation of the developer and instead become part of the defined 'Ongoing' works, suitable for transfer to the Neighbourhood Association. (Once agreed, that information will provide the basis for part of the maintenance costs levy and definition of Association obligations within the Neighbourhood Management Statement).

The Vegetation Management Plan (VMP) must include, but not be limited to:

- a) Species identification of all noxious and environmental weeds on the site;
- b) Any stormwater treatment devices designed to protect water quality discharging into the natural area and their management requirements;
- c) A plan plotting the location, extent and species of noxious and environmental weeds identified within the total site;
- d) a detailed and staged weed control strategy, including method of removal of the various weeds that prevent dispersal of the weeds;
- e) a realistic timeframe for an appropriate level of weed control to be achieved on all parts of the site currently affected by the weeds;
- f) an ongoing weed management regime to ensure the weed removal is continued after the release of the subdivision certificate;
- g) methods to promote native vegetation regeneration in those parts of the site which are cleared or degraded or weed infested and which are to be retained as natural areas; and
- h) Details of proposed local provenance planting to supplement the natural regeneration.

prepare an updated Plan Implementation Schedule & Costing (Part 7 of the CMP). This document is to be submitted to and approved by Council, who shall consult with the Heritage Office of the NSW Department of Planning.

All works are to be defined in the priority categories 'Urgent' (works to be completed before the issue of the Operational consent for the subdivision), 'High' (works to be completed prior to the issue of the Subdivision Certificate), 'Medium/Low' (works in the approved VMP that are demonstrated to require several seasons to achieve outcomes suitable for the transfer of remaining works to the Neighbourhood association as 'Ongoing' works), 'Ongoing' (those maintenance works to be transferred to the Association members and/or the individual lot owners in accordance with the Neighbourhood Management Statement as approved).

All sections of the Implementation schedule should be updated and provisions included for:

- the arrangements for public access to those parts of the site of category 1 and 2 significance(not including the interior of Sorensen's house) under the CMP on at least one occasion per annum;
- specific reference to appropriate subplans upon which the approval for the implementation schedule relies, such as VMP;
- the vegetation in the Retail Nursery Area (Arboretum), the Communal open space and the Northern Terrace (being Management Areas 1, 2 and 3 respectively, shown on page 38 of the approved CMP) is to be assessed for current condition (including a separate assessment for each specimen tree) and a new schedule of works is to be provided specifying all 'Urgent', 'High', 'Medium/Low' works required before the arboretum can be assessed as ready to handover to the purchaser of Lot 2 and/or the Association, for ongoing maintenance. The 'Urgent' works must also include any further excavation, filling or any other work required to install pathways, irrigation, replacement planting and other such outstanding works that can disturb the root zone of the trees;
- an updated Landscaping plan is to submitted that reflects any changes to the approved landscaping plans by way of different or additional replacement planting required as a result of the inventory of the condition of the current vegetation for the updated CMP Implementation Schedule & Costing;
- the work that has been completed to restore the irrigation system and work that is still required to be completed in satisfaction of the CMP requirements is to be documented. Outstanding restoration works will be the responsibility of

the developer and must be completed before the issue of a Subdivision Certificate. A plan of the irrigation system that is to form part of the heritage protection of maintenance obligations under the Neighbourhood Management Statement, is to be provided, to a standard sufficient to define those continuing obligations and any rights or obligations attaching to any lot owner vs those attaching to the Association in general;

- an appropriate 'Monitoring and reporting' section should be added to the CMP implementation schedule that provides for annual reports by qualified experts(bush regeneration, horticultural, financial) on the implementation of the CMP, describing and verifying the implementation work that has occurred and outcomes achieved for each of the management areas, including those still under the control of the developer. Those reports shall also review the adequacy of the maintenance levy and any increase recommended for that levy;
- Updated estimates are to be provided for the maintenance levy based upon the updated CMP schedule of 'Ongoing' works and for the 'Medium/Low' priority VMP works; and
- Estimates are to be provided for the 'Sinking Fund' to provide for major work and capital works that will not be covered by the general maintenance levy.

Completion of 'Urgent' priority works as identified in the updated CMP

3

In order to arrest the further decline of the site, all 'Urgent' works identified in the updated CMP Schedule of works are to be completed to Council's satisfaction prior to the issue of the Operational consent.

Works in Herbert Street

4

To minimise environmental and public risk, all areas disturbed or damaged in Herbert Street by the road, footpath, drainage and services works required by development consent D94/0678 are to be restored to Council's satisfaction prior to the issue of the Operational consent.

Amendments to approved plans

5

The applicant is to provide a package of all of the documents referred to in the Neighbourhood Management Statement, including any updated plans incorporating the amendments that arise from this or subsequent approvals by Council. Once those plans are agreed to represent the relevant package of supporting documentation, that documentation must be attached to and form part of the amended draft Neighbourhood Management Statement and the amended draft Development Contract submitted for the purpose of obtaining operational consent.

**Amendments to the
Neighbourhood
Management Statement
& Development Contract**

- 6 To ensure that the objectives of the conservation policies for the site, as espoused in cl 5.1 of the Conservation Management Plan, are properly implemented and maintained, the draft Neighbourhood Management Statement and draft Development Contract are to be amended to Council's satisfaction prior to the issue of the Operational consent.

The amendments are to include the following matters and other amendments arising as a consequent and that are required to make the amendments effective:

Development Contract

- The 'Warning' note is to include reference to the Conservation Management Plan, Development Control Plan 14 and any development consent granted by the Council including that granted in response to the subdivision application and all plans referred to in the clause should be attached to the Development Contract;
- Part 1(2) 'Amenities' makes reference to 'The Leisure Centre', but there is not currently any such facility approved for the site. Reference should either be removed or its retention justified;
- Part 1(3) should make reference to the theme of the landscaping being to retain and recover the heritage significance of the site as the site of the retail plant nursery and residence of Paul Sorensen and his family, generally as set out in the approved Conservation Management Plan for the site;
- The wording of Part 1 (4) is to be amended such that the site is to be landscaped in accordance with the landscape plan/s approved by the Council;
- Part 2, subclause (5) is to be amended such that no works are to be carried out onsite after 1pm on Saturdays; and
- Part 2 is to be amended such that the original proprietor is to repair without delay any damage caused to the association property by development activities. This is to include any damage caused to trees, other significant vegetation and artefacts of conservation significance that are found on the site.

Neighbourhood Management Statement

Part 6 clause 48 - Definitions require amendments as follows:

Developer: is to be expanded to include any successor, transferee or assignee of Daleport Pty Limited.

Development Approval: the definition is to be amended to read 'Development Consent' and cite the operational consent date being 23 October 1997, and acknowledge the

modification of the development consent or any additional development consents that may be issued from time to time, including the consent for subdivision.

Government Agency: definition should be expanded by the addition of the words “and includes the Council”.

Guidelines: refers to the definition of “Landscape Design Guidelines”, also found in the Dictionary. The latter definition refers to the “Landscaping Design Guidelines for the Scheme” set out in the CMP. There is no such guideline in the CMP. This may be an attempted reference to Parts 5, 6 and 7 of the CMP. The definition should be amended, to ensure that it is sufficiently precise.

Heritage Water System: this definition invokes clause 6.1.9 of the CMP, which describes the irrigation system developed within Lot 1 by the late Paul Sorensen. However, the description of the system found in clause 6.1.9 is incomplete, and was dependent upon Mr Barry Sorensen providing a plan of the irrigation system, as existing in 2001. This definition should be amended to refer to the plan which is required in satisfaction of an item under deferred commencement condition No 2.

Housing Design Guidelines: this definition refers to both the development consent and the “Construction Certificate Plans”. Appropriate additional definitions should be included in the Dictionary and the relevant Construction Certificate Plans should also form an attachment.

Landscape Design Guidelines: are currently too imprecise but should be addressed with the satisfaction of the deferred commencement conditions and the attachment of the agreed updated and approved landscaping plans.

Retail Nursery Area: definition should be clarified as there is no ‘concept plan’ attached to the Management Statement. It is suggested that the area is more appropriately defined by reference to the CMP Management Area 1 in the figure on page 38.

Sorenson’s: The Management Statement includes as a defined term “Sorenson’s”, but in accordance with the CMP and DCP 14, “Sorensen’s” is the correct spelling. The correct spelling should be used when referring to extant documents and desirably, through out the Scheme documentation.

Introduction to the Management Statement

Clause 2(1) Aim of the Scheme: should be amended to incorporate the objectives in clause 5.1 of the CMP.

Clause 4.1 referring to 'Introduction': Clause 4.1 of the Management Statement should be amended. An appropriate description should be inserted under the heading "Introduction" within that clause. The existing two paragraphs should be relocated to describe the contents of Part 1, under the heading "By-Laws Fixing Details of Development".

Clause 4.1 referring to Part 1: The existing second paragraph under the heading "By-Laws Fixing Details of Development" refers to the "control and preservation of the essence or theme of the Neighbourhood Scheme". As previously noted, there is no adopted "theme" for the proposed Neighbourhood Scheme. This will be addressed by the amendments sought to the Development Contract.

Clause 4.1, Part 2: the opening paragraph incorrectly refers to Part 3: it should refer to Part 2.

Clause 4.1, Part 3: the two subparagraphs incorrectly refer to Part 4: they should refer to Part 3.

Part 4, Clause 4.1: this clause should refer to Part 4, not to Part 5.

Clause 4.2: clause 4.2(1) should refer to Part 2, not to Part 5.

Part 1 - By-Laws Fixing Details of Development

Clause 5.1 - Theme: although the heading before clause 5.1 refers to the "Theme of Neighbourhood Scheme", the clause as submitted does not identify any such theme. (Amendments have been requested to the Development Contract aim to rectify this deficiency). Clause 5.1 should also expand the reference in this clause to Objectives of the CMP as set out in Clause 5 of that document.

Clause 7 - General Development: clause 7.1 specifies that the developer proposes to develop "the Scheme pursuant to the Guidelines". In its present terms, the clause states that the Developer is not bound by the Guidelines. This clause should be amended to confirm that the development will be carried out in accordance with the

Guidelines, subject to amending the definition of that term as noted in separately requested amendments.

Clause 7.5: this clause confirms that the lots in the Neighbourhood Scheme will be sold as vacant land to members of the public, who will develop each lot pursuant to the Guidelines and the Management Statement. The Scheme should be clear that only Development Lots (currently proposed Lots 10 and 11) are to be sold vacant.

Part 2 - Restricted Neighbourhood Property

Clause 13: clause 13.3(2) should be amended to read:

“Subject to the Development Consent and to the developer’s compliance with the Guidelines, the Developer may....”

Clause 13.3(3): Subclause (a) requires the Developer to “repair any damage to Sorensens caused by exercising the rights of the Developer under this by-law”. It should be amended to clarify the obligation upon the Developer to repair any damage to the fabric, plantings and items of heritage significance (as identified in DCP 14 and in the CMP), generally being within proposed Lots 1, 2 or Lot 3 caused by the conduct of the development.

Clause 13.3(2): contains the error relating to the hours on Saturdays, during which the Developer may carry out work. Those hours should be stated as being 8am to 1pm.

Clause 13.4: this clause is intended to provide an end point for the Developer’s exclusive use rights in relation to the various parts of Lot 1 within which the development will be carried out. Appropriate amendment/s must be made to require that such notice can only be given where the Council has advised that the developer has met its obligations as set out in the development consent/s and related updated Implementation schedule contained in the CMP. – an appropriate item is to be added to Part 5.

Clause 14.1(2): the CMP and the development consent provide for public access to be provided to the culturally significant areas of the site. Any proposal for the owner of Lot 2 to be responsible for making the Garden available for the public once every calendar year must be consistent with the amendments sought under cl 14.1(1). Similarly, any reference to obligations of the owner of Lot 2 to maintain the Garden must be consistent with the use of this area as

communal open space.

Clause 14.1(3): this clause currently provides that if the proprietor of Lot 2 does not comply with the obligations imposed by sub clause (1) to maintain the Garden, the only sanction is that the Association may revoke the exclusive use rights granted to that proprietor. The clause should be amended to ensure that the Association will take over the responsibility for the maintenance obligations and the obligations to make arrangements for public access to the Garden, the details of which arrangements are subject to Deferred Commencement condition No 2.

Clause 14.2: requires the proprietor of Lot 3 (a term that should be amended to include the proprietor from time to time, consistently with clause 14.1) to open the “non-residential areas of Lot 3”, and any “improvements erected on Lot 3” at the times specified in paragraphs (a), (b) and (c). Those times are considered to be appropriate. Clause 14.2 does not impose any obligation on the proprietor of Lot 3 to maintain any of the features of heritage significance within the lot, for which the Association itself is not responsible. An appropriate amendment should be included to ensure that the maintenance of all heritage fabric on Lot 3 is either clearly the responsibility of the Association or the Lot 3 owner.

Clause 14.3(1): the Association “is to have” responsibility for the maintenance etc. of this system. The words concerned are to be amended to read “is responsible for” the matters identified in the clause. (Similar amendments should also be made in clauses 14.1 and 14.2).

Clause 18.2(3): imposes an obligation on the Association to maintain “all Neighbourhood Property including (without limitation) the Heritage Open Space Area in accordance with this Management Statement and the Conservation Management Plan”. This obligation appears to be inconsistent with the other obligations already identified as inappropriate. Each of the provisions relating to responsibilities for the maintenance of all of the heritage fabric in all of the Category 1 and Category 2 areas of significance, as defined in the Figure on page 25 of the CMP and translated into the Figure on page 38 of the CMP, must be reconciled so that there is no ambiguity and obligations are clearly defined in Management Statement.

Clause 18.3: specifies that the CMP will be implemented in accordance with Part 7. However, Part 7 is blank. It will

need to be completed with the relevant documentation once the updated documents, required under Deferred Commencement conditions 1 and 2, have been approved.

Clause 18.3(2): deals with the costs of maintaining the areas of heritage significance, and the contributions to be made, presumably by owners of lots within the Scheme. However, the clause incorrectly refers to those costs as being detailed in Part 7, when they are intended to be included in Part 8. An appropriate amendment is required and the figures will need to be included once the deferred commencement conditions 1 and 2 have been satisfied and an appropriate maintenance levy identified.

Clause 42: this clause deals with the Administrative Fund for the Association. The clause does not address the need for the Association to consider the maintenance obligations, for the site elements that are of heritage significance, nor for the restoration and maintenance of the natural areas imposed by the Management Statement, in association with the CMP, and to then determine the funds that will be required to meet those obligations. Amendments should be made to this clause to ensure that the full obligations of the Association are met in terms of funding the maintenance of the heritage and natural values of the site, as reflected in the plans to be submitted in satisfaction of the Deferred Commencement Conditions 1 and 2.

Clause 43: This clause deals with the establishment and administration of the Sinking Fund for the Association. Clause 43.2 requires that the Association make an estimate of the money required to be held in that fund for the purposes specified in subparagraphs 1(a) to (e) inclusive. The final item in that list is “any other expense of a capital nature”. Clause 43.2 then refers to Part 8 as detailing the initial estimated costs to be incurred “to ensure the protection, maintenance and rehabilitation of the Association Property”. However, Part 8 does not specify any capital costs. Rather, Part 8 deals with recurrent costs, which are more appropriately included in the budget of the Administrative Fund.

Given the nature of Lot 1, and of the heritage fabric and plantings within the Lots 1, 2 and 3, it is likely that there will be ongoing capital costs to maintain items such as the Heritage Water Systems, the stone walls and the significant plantings within the site. From time to time trees will need to be replaced and the walls and heritage water supply systems repaired. An appropriate levy should be struck

each year to provide capital contributions to the Sinking Fund to allow these items of capital expenditure to be met, as and when they arise. Part 8 should be amended to include appropriate estimates to cover such work.

Part 5 – By –Laws Required By Public Authority-

Include in Part 5 the following By-Laws made at the request of Blue Mountains City Council as a public authority:

1. There is a general obligation imposed upon the Association, and upon individual lot owners where appropriate, to expend the funds that are required to maintain the heritage fabric and plantings and the natural areas within the site, to the standard contained in the plans that have been approved pursuant to the updated Implemented Schedule for the CMP;
2. No amendment shall be made to the provisions in the Neighbourhood Management Statement relating to the restoration, protection or maintenance of the heritage fabric (as defined by the Conservation Management Plan) and the restoration and protection of the natural areas of the site, without the express written authority of the City of Blue Mountains
3. The exit of the developer from the Scheme and all attendant obligations must occur only upon agreement of the Council that the obligations of Developer, as set out in the Development consents and the related work approved under those consents including the CMP, have been fully discharged.

Time limit to resolve deferred commencement matters

7 In accordance with Section 95(6) of the EP&A Act, each of the deferred commencement matters are to be resolved within the following periods from the date of this notice:

- Conditions 1 and 2 are to be satisfied within 6 months of the date of this notice;
- Condition 3 is to be satisfied within 12 months of the date of this notice;
- Condition 4 is to be satisfied within 6 months; and
- Conditions 5 and 6 are to be satisfied within 18 months of the date of this notice.

This deferred commencement consent will lapse if the applicant fails to satisfy the consent authority as each of the matters specified in Part A of this consent within the time period specified from the date of this notice.

PART B – OPERATIONAL CONSENT CONDITIONS

Preliminary

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 Mony Chan Seng, Lean & Hayward P/L subject to changes arising to plans submitted and approved in satisfaction of the Deferred commencement condition:

Plan number	Title
74331.03.L01(1)	Neighbourhood Plan Draft
74331.03.L01(2) Sheet 2	Plan of subdivision of Lot 1 DP 867477
74331.03.L01(3) Sheet 3	Neighbourhood Plan Draft
74331.03.L01(4) Sheet 4	Neighbourhood Plan Draft
74331.03.L01(5) Sheet 5	Neighbourhood Plan Draft

and supportive documentation, including the draft Neighbourhood Management Statement and attachments, and the approved draft Development Contract and attachments except as amended by Council and otherwise provided or modified by the conditions of this consent.

Period of development consent

2. Physical commencement of the subdivision works is required within a two (2) year period from the date on which the consent becomes operational pursuant to Section 95 (Lapsing of Consent) of the Environmental Planning and Assessment Act 1979.

House numbering

3. To ensure appropriate definition of the allotments, the following house numbering shall apply to the proposed and existing lots:

Lot number	Street number
1	6 Herbert Street
2	8 Herbert Street
3	2 Herbert Street
4	14/6 Herbert Street
5	13/6 Herbert Street
6	12/6 Herbert Street
7	11/6 Herbert Street
8	10/6 Herbert Street
9	9/6 Herbert Street
10	1 - 8/6 Herbert Street
11	15 – 20/6 Herbert Street

Works to be carried out as part of the subdivision

Compliance with development consent D94/0678

- 4 To ensure appropriate completion of the development such that no major works are passed onto the Owner's Association, all conditions of development consent D94/0678 (as amended), with the exception of the construction of the stages 2 & 3 townhouses, are to be completed to Council's satisfaction prior to the issue of the subdivision certificate.

Satisfactory compliance with development consent includes the completion of all 'Urgent' and 'High' priority works identified in the approved updated Plan Implementation Schedule and the total completion of all road, drainage, access and services works internal and external to the site.

Completion of all works in Herbert Street

- 5 To ensure the public road reserve is made safe in a timely manner, all works within Herbert Street required by development consent D94/0678, including road, footpath, drainage works and the undergrounding of aerial services, are to be completed to Council's satisfaction within 3 months of the date of the issue of the operational consent.

Provision of services

- 6 To ensure all proposed allotments are appropriately serviced, the following utility services are to be provided to each lot prior to the release of the Subdivision Certificate:
- a. reticulated water and gravity sewer connections;
 - b. underground electricity supply; and
 - c. underground telephone supply.

Implementation of the approved VMP

- 7 To minimise the potential for spreading of weeds and minimise the risk to the Environmental Constraint Area and the hanging swamp, all 'Urgent' and 'High' priority VMP works shall be completed in accordance with the approved Vegetation Management Plan (VMP) to Council's satisfaction prior to the issue of the Subdivision Certificate.

Rehabilitation of existing cleared/disturbed areas

- 8 To minimise the risk of ongoing sedimentation and erosion, all disturbed areas of the site not directly on the footprint of the stages 2 and 3 townhouse construction, are to be restored and stabilised to Council's satisfaction prior to the issue of the Subdivision Certificate.

Prior to commencement of works

Prior to implementation of the approved VMP

- 9 An Australian Association of Bushland Regenerators (AABR) approved contractor must be engaged for the purpose of weed control and bushland regeneration and the contractor's details must be supplied to Council prior to the commencement of the approved VMP implementation.

The applicant is to arrange an onsite meeting between the approved contractor and Council's Environmental / Landscape Assessment Officer prior to commencement of the VMP implementation.

During Works

During implementation of the approved VMP

- 10 The VMP shall be implemented and maintained in accordance with the tasks, timeframes and performance targets specified in the plan to ensure a self sustaining locally endemic native vegetation community, with particular reference to the Blue Mountains Swamp community and its buffer area, is restored and maintained for the life of the development.

Weed control and supplementary restoration activities must be undertaken on the site in a systematic and effective manner to control noxious and environmental weeds on all parts of the site.

Initial weed control is to commence immediately following approval of the VMP, with follow up weed control undertaken on a regular basis to ensure eradication of mature (fruit bearing) and juvenile woody weeds, the suppression and effective control of all herbaceous noxious weeds, and the depletion of soil stored seed.

This work must coincide with supplementary activities designed to:

- a. reduce continuing opportunities for weeds to establish,
- b. reduce the factors promoting the weeds on site, and
- c. enhance the ecological processes operating on the site.
- d. ensure the successful establishment of the landscape (if appropriate).

Primary weed control is to be completed prior to occupation/line release. Progress and compliance with the weed control requirements is to be determined by Council's Environmental / Landscape Assessment Officer during regular inspections.

A copy of this development consent condition will also be forwarded to the Council Noxious Weeds Team, and these officers will be responsible for future and ongoing monitoring of the noxious weed control strategy following issue of the subdivision certificate.

Prior to issue of the Subdivision Certificate

Completion of all works 11 All works required by this consent are to be completed to the satisfaction of the Council prior to the issue of the Subdivision Certificate.

Bond for 'Medium/Low' priority VMP works. 12 Prior to the issue of the Subdivision Certificate, a bond equal to 150% of the cost of implementation of the 'Medium/Low' priority VMP works identified in the approved updated Plan Implementation Schedule is to lodged with Council prior to the issue of the Subdivision Certificate.

The value of the bond is to be based on quotations from an approved AARB contractor, submitted to and approved by Council.

The 'Medium/Low' priority VMP works are to be completed to Council's satisfaction in accordance with the timetable included in the approved VMP. The bond shall not be refunded until Council is satisfied that these works have been completed.

Contract for all 'Ongoing' priority works identified in the updated CMP 13 To ensure the future maintenance of the site is secured, the owner of the site is to enter into a contract with appropriately qualified and experienced contractors for the 'Ongoing' works identified in the updated CMP Implementation Schedule prior to the issue of the Subdivision Certificate.

The contract is to cover these works for a minimum 2 year period from the issue of the subdivision certificate.

Certificates from authorities 14 To ensure satisfactory effluent disposal and utility services are provided to all lots on the subdivision, you are required to submit to the Council compliance certificates from:

Early contact with these authorities is recommended

- Sydney Water
- A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained indicating all proposed lots are serviced by reticulated water and gravity sewer systems.
 - The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the subdivision certificate for the development.
 - Application must be made through an authorised Water Servicing Coordinator. For details, see the Sydney Water web site at www.sydneywater.com.au or telephone 132 092.
 - Following application, a 'Notice of Requirements' will be forwarded detailed water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and

building, driveway or landscape design.

Integral Energy indicating that satisfactory arrangements have been made for the provision of underground electricity supply to each lot in the subdivision.

An approved telecommunications service provider stating that satisfactory arrangements have been made for underground telephone services to each lot in the subdivision.

The compliance certificates are to be submitted to the Council prior to the issue of the Subdivision Certificate.

**Maintenance of Lots 1, 2
& 3 Public positive
covenant
88B Instrument**

15 To ensure appropriate long term maintenance of the site is achieved to Council's satisfaction, and to alert potential owners to their responsibilities, an instrument setting out the terms of a public positive covenant intended to be created, pursuant to Section 88E of the Conveyancing Act, 1919 shall be submitted in a form acceptable to the Council indicating the following:

- The Community Association and the individual owners of all lots within the Scheme are to restore (where appropriate) and maintain the fabric and plantings within Lots 1, 2 & 3 to the satisfaction of Blue Mountains City Council.

The covenant shall also contain a provision that it may not be extinguished or altered except by Blue Mountains City Council.

The S88B Instrument, to be registered with the plan of subdivision, shall be submitted with the Subdivision Certificate application to, and approved by the Council, prior to lodgement at NSW Land and Property Information.

**Compliance with NSW
RFS Bush Fire Safety
Authority**

16 All conditions within the NSW Rural Fire Service general terms of approval applying to this development dated 7 May 2008, a copy of which are attached as "Annexure A" to these conditions, are to be complied with to the satisfaction of the Rural Fire Service prior to the issue of the Subdivision Certificate.

Subdivision Certificate

17 An application for a subdivision certificate is required on completion of all conditions of Development Consent. The application is to be lodged with and approved by the Council. The application is to include the original plans of subdivision, the Neighbourhood Management Statement and attachments, the Development Contract and attachments and the Section 88B Instrument, plus five (5) copies of each document.

ANNEXURE A - NSW Rural Fire Service Conditions of Consent

All communications to be addressed to:

Headquarters
NSW Rural Fire Service
Locked Mail Bag 17
GRANVILLE NSW 2142

Telephone: (02) 8741 5555
e-mail: developmentcontrol@rfs.nsw.gov.au

Headquarters
NSW Rural Fire Service
15 Carter Street
HOMEBUSH BAY NSW 2127

Facsimile: (02) 8741 5550



The General Manager
Blue Mountains City Council
Locked Bag 1005
KATOOMBA NSW 2780

Attention: Paul Koen

Your Ref: S/11/2008
D08/0604
Our Ref: G08/1003
DA08041850133 JC

7 May 2008

Dear Sir/Madam,

Integrated Development: Subdivision, 1//867477, 8 HERBERT STREET, LEURA NSW

I refer to your letter dated 1 April 2008 seeking the NSW Rural Fire Service general terms of approval for the above integrated development proposal under section 91 of the *Environmental Planning and Assessment Act 1979*.

Based upon an assessment of the additional plans and documentation received for the proposal, this bush fire safety authority is issued subject to the following conditions:

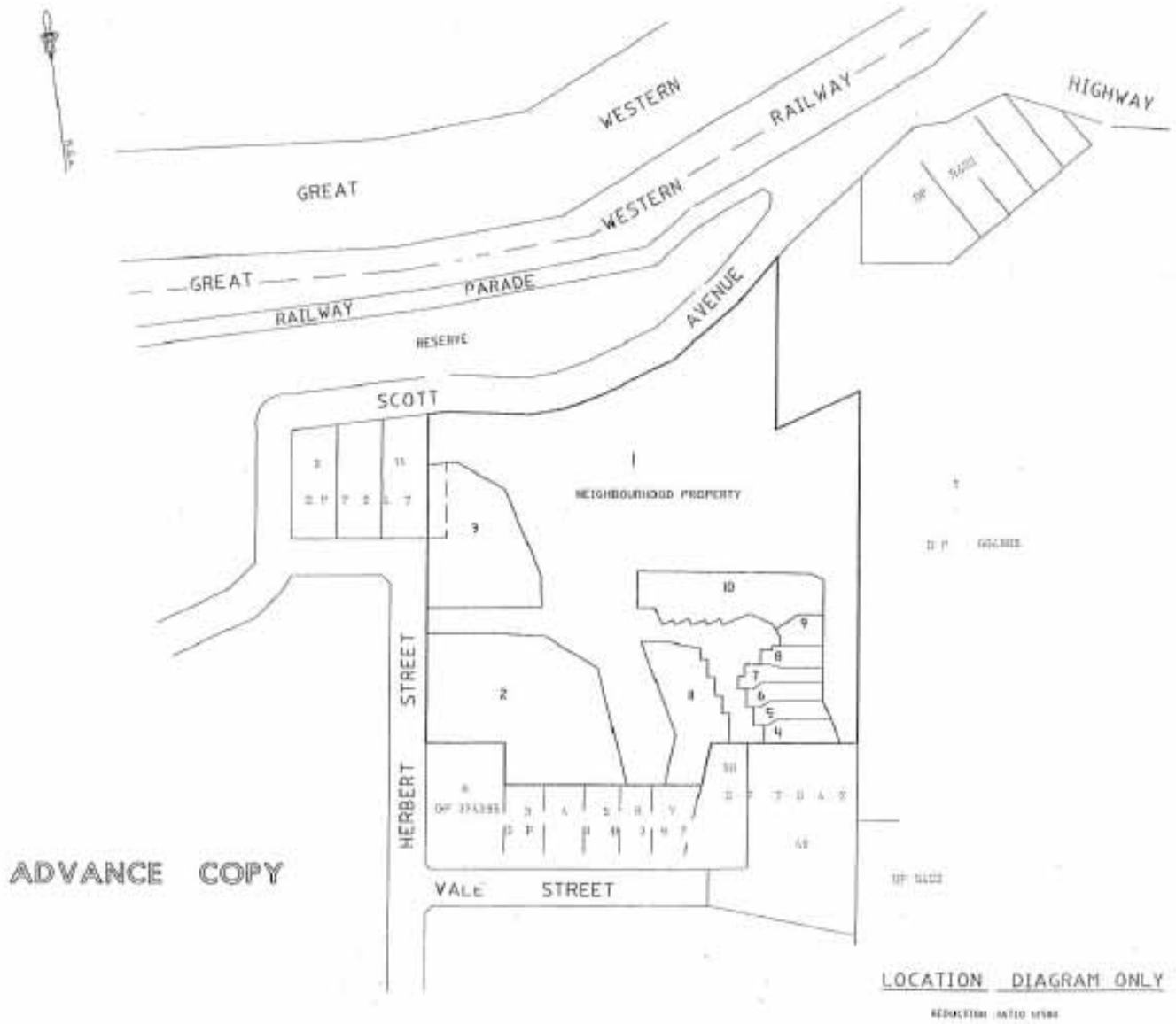
1. The development proposal is to comply with the subdivision layout identified on the drawing identified as sheet 5 with surveyors reference 74331.03.L01(5).

Access

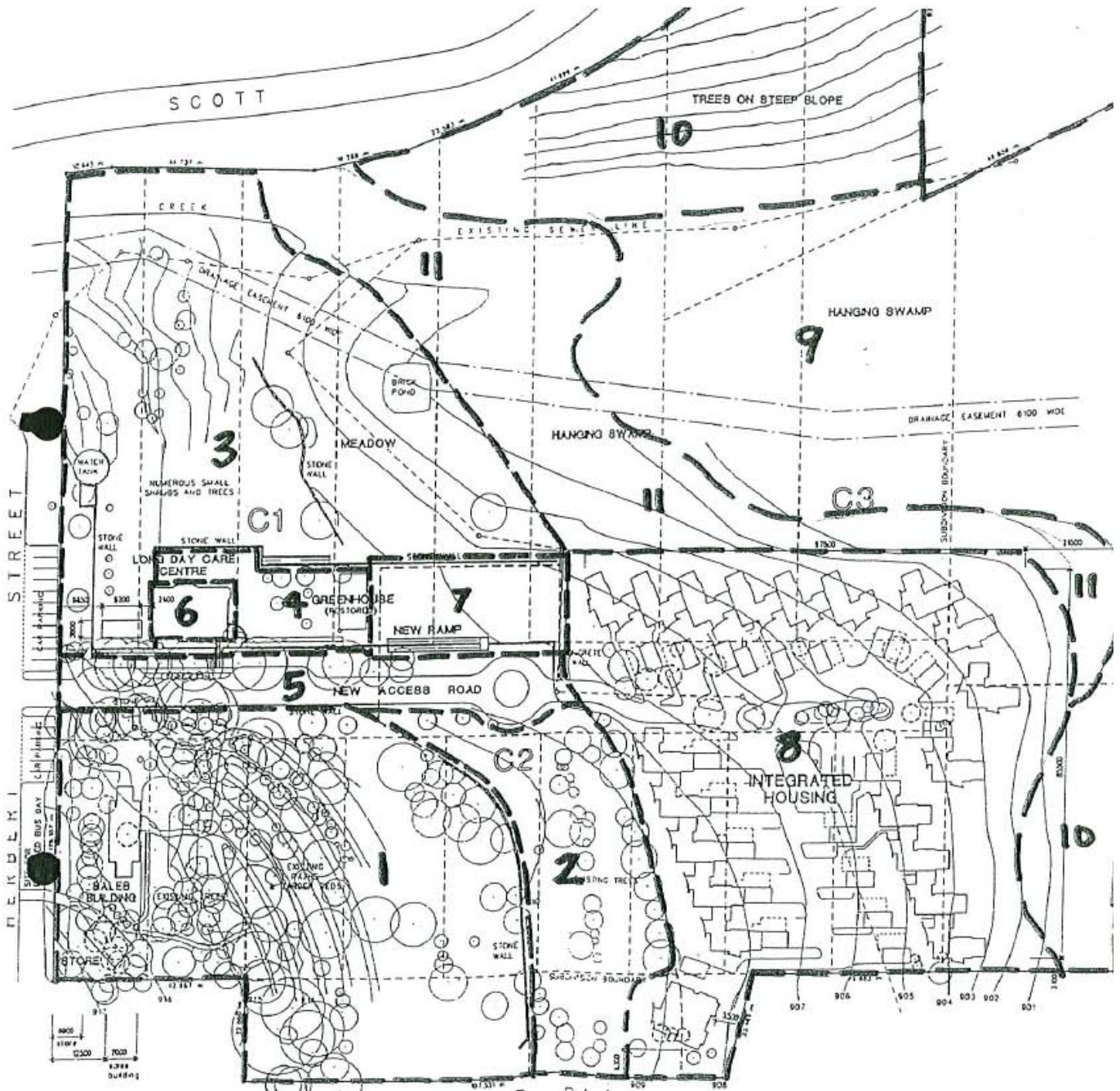
The intent of measures for property access is to provide safe access to/from the public road system for firefighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

2. Public access roads shall comply with section 4.1.3 (1) of *Planning for Bush Fire Protection 2006*.

ITEM 2 – PLANS REFERRED TO AS ATTACHMENT 2 IN THE REPORT



ATTACHMENT 1 - MANAGEMENT AREAS PLAN



1	Retail Nursery Area (Arboretum)	7	Propagation Terrace
2	Communal Open space	8	Integrated Housing Area (proposed)
3	Northern Terrace Garden	9	Hanging Swamp
4	Front Courtyard	10	Open Forest
5	Poplar Street	11	Disturbed Land
6	Sorensen's House		