

**Review of
Public Submissions to
the Cultural Centre
Precinct DLEP**

**Enclosure to
Council Report of
28 June 2005**



LEP 2005 - Draft Amendment 2 (Katoomba Cultural Precinct)

A. Aims of the plan

DESCRIPTION

The aims of the plan are to include the Cultural Precinct within the planning framework of Local Environmental Plan 2005 (LEP 2005), and to promote the revitalisation of Katoomba by enabling a well-designed cultural facility and major retail outlet to be developed within the Katoomba town centre.

Summary of submissions on this issue

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

COMMENTS RAISED – from public exhibition

Support **3 comments**

- Supports application of LEP 2005 to the land [the inclusion of the site under LEP 2005]
- Supports the rezoning and plans in principle
- Supports the amendment in principle

Object **1 comment**

- Objects to the Cultural Precinct DLEP.

DISCUSSION

The large and centrally located former TAFE East site is a present gap in the urban structure of Katoomba Town Centre. The Cultural Precinct DLEP aims to rezone the site, together with the present site of the RTA motor registry and a parcel of Council owned land, to provide a civic and commercial focus that responds to the local character of Katoomba and fosters its revitalisation.

The support and opposition for the aims of the Cultural Precinct DLEP is noted. The objection is substantiated by specific comments that are discussed individually as part of this submission review document.

RECOMMENDATION

A1. That the aims of the plan be retained as exhibited in the Cultural Precinct DLEP.

LEP 2005 - Draft Amendment 2 (Katoomba Cultural Precinct)

B. Permissibility of land use

DESCRIPTION

The Cultural Precinct DLEP applies a Village – Town Centre zone to the site of the proposed Cultural Precinct. This would permit the range of commercial, civic and residential land uses ordinarily allowed in this zone to be developed on the site with development consent. It also allocates a Precinct to the site, the Katoomba Village Town Centre Precinct VTC-KA06. The Cultural Precinct DLEP makes a “cultural facility” permissible within this precinct, and allows a “district supermarket”, provided it is integrated with the development of a cultural facility.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	3 (37.5%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	0
Object	4
Other Comment	2
<i>Total Comments</i>	6

COMMENTS RAISED – from public exhibition

Object

4 comments

- Objects to a district supermarket and retail activities as permissible uses on the site, due to greater population and pressure on infrastructure and amenities.
- Objects to large parts of the site proposed for private (commercial) uses rather than community uses. Consider size of the proposed library to be compromised by private uses of the site.
- Objects to supermarket/ loading dock occupying one complete floor level of the anticipated development.
- Objects to retail uses on the site. All the land must be used for a cultural centre only.

Other Comment

2 comments

- Questions the benefits to the community of including a supermarket attached to a cultural facility; the developer should contribute more to the costs of development.
- Comments that one outcome of the Charrette was a rejection of a supermarket on all sites.

DISCUSSION

District supermarket and retail activities

The proposal of a district supermarket, retail activities and a cultural facility on the former TAFE East site and adjoining parcels (Katoomba Cultural Precinct) was recognised among the recommendations of the *Katoomba Charrette Outcomes Report & Town Centre Revitalisation Strategy* (Charrette Report) (April 1999). There was general consensus, as an outcome of the Katoomba Charrette, that any new supermarket should strengthen the Town Centre and not further jeopardise its viability in terms of both location and layout. The Charrette Report proposed three options for the development of the TAFE East site:

- Multi-Use Option ‘A’ – Proposed to retain the old TAFE building (which has since been destroyed by fire and subsequently demolished) as a possible cultural/ visitors centre to the north of the site. A cinema triplex, sleeved by retail and / or commercial businesses on the exposed south, east and west sides was also included, with underground parking;

B. Permissibility of land use

- Multi-Use Option 'B' – This design features roughly the same as Option 'A' however the old TAFE building was to be removed to gain more underground parking capacity and to allow residential development;
- Multi-Use Option 'C' – This design included a supermarket with related shops and a Cultural/Visitors Centre, with a "cultural end" being distinct from a "supermarket end", as well as rooftop residential development and underground car parking facilities.

The final design brief for the old TAFE site in the Charrette Report (April 1999) stipulated that any "development should incorporate a high quality public Cultural/Visitors Centre". The Charrette design brief does not reject a supermarket development on this site.

The indicative Charrette options were developed, refined and considered by Council, the State Government and the public as part of a five year planning process, as detailed in Section C (Desired future character). Council made the decision to progress with an option modelled on a combined cultural facility and retail facility on 20 August 2002, following consideration of six development options.

Stand-alone cultural centre

One of the options considered by Council on 20 August 2002 was for a stand-alone cultural centre, which is consistent with the approach noted in the objection above. While the development of a cultural centre without a commercial or retail component was possible, neither the State Government nor Council were prepared to fund the significant cost shortfalls. Instead Council adopted the mixed-use concept as its preferred option, the development of which necessitates a public private partnership. On this basis, the development of the Cultural Precinct relies on the supermarket or retail component for its viability.

There is significant planning merit in permitting an additional supermarket in a district level service centre like Katoomba on the site proposed. This was recognised during the Charrette and has informed deliberations for the precinct since this time. There are also significant opportunity costs in not proceeding with a supermarket on this site. That is, there are limited alternative sites in the Katoomba town centre that are suitable for accommodating a supermarket complex of this type. Should the site be developed as a cultural facility only, it is unlikely that an additional major supermarket could be accommodated in Katoomba without detrimental impacts on the town centre.

Community use of the site

The proposed Detailed Schematic Design (DSD) provides for the retail and cultural facility to operate on different levels, allowing for the necessary separation between these discrete functions. By the same token, the high rate of use and visitation associated with the supermarket is expected to enhance the vitality and the number of people visiting and engaging with the proposed cultural facility. In combination, these components will enhance the economic, social and cultural vitality of Katoomba.

The anticipated development would provide a podium, the site for a range of integrated cultural facilities. The podium is proposed to extend across the site, with a level equivalent to the ground level of College Lane adjacent to the Carrington Hotel. The podium would be located above the shopping complex, which would be primarily located underground, and creates a link between Katoomba and Parke Streets. The development would also provide significant parking for the proposed uses and support the current parking spaces in the northern part of the town centre. This parking would be provided over two levels below the shopping complex, ensuring that it did not compromise the streetscape.

Within this context, the proposed permissibility of a cultural facility and integrated district level supermarket, as well as the land uses generally permitted in the Village – Town Centre zone, is considered appropriate.

RECOMMENDATION

B1. That the permissibility of land uses be retained as exhibited in the Cultural Precinct DLEP.

C. Desired future character

DESCRIPTION

The intention of the precinct vision statement is to indicate the expectations for future development on the site. The vision allows for urban renewal of the site providing a focus of cultural, social, learning and shopping experiences.

The precinct objectives ensure that specific outcomes sought for the development allow people to interact with various activities to keep the place lively, to link Katoomba Street with other main attractions, to be safe and inviting, to make a positive visual contribution, to be sympathetic towards nearby heritage places and provide adequate car parking.

Summary of submissions on this issue

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

COMMENTS RAISED – from public exhibition

Object 1 comment

- Consider that the proposed new building is ordinary and should be an icon.

Comment 3 comments

- Cultural Centre should allow for the building to be visually prominent with high quality architecture, provided that the massing of the structure does not compromise the amenity of neighbouring sites. The Cultural Centre needs to be immediately recognisable to visitors of Katoomba as an identifiable cultural and tourism destination.
- The west elevation of the building [fronting Parke Street] needs to be appropriately designed, as this elevation becomes the site's "visual address".
- Concerned that the proposed development will cost Council and the community too much for a "mediocre" result. Comments that the existing TAFE buildings could have been adapted for the Cultural Centre at a much lower cost. Considers that substantial renovations/extensions to the Town Centre arcade would have been more economic, and given the facility a main street presence.

DISCUSSION

Site planning process

The former TAFE East site has been identified as a void in the urban structure of the Katoomba town centre for some time. This was formally recognised within the Katoomba Charrette and reported to Council as part of the *Katoomba Charrette Outcomes Report and Town Centre Revitalisation Strategy*, completed in April 1999. One of the outcomes of the Charrette was a conceptual design for a Cultural and Visitors Centre, incorporating retail space, car parking and residential development, on the site of the current proposed development.

C. Desired future character

This concept was refined through a number of public processes spanning five years. In August 1999, the Department of Public Works and Services completed a Master Plan for the site, which was placed on public exhibition in September to October and endorsed by Council in November 1999. In February 2000 the Department of Public Works and Services sought Expressions of Interest from development proponents for the project, and subsequently determined that a proposal by the Stevens Group warranted continued negotiations. However there were concerns that the proposal did not adequately provide for the desired planning outcomes, particularly as they related to the cultural component. In February 2002 Council endorsed a subsequent Master Plan prepared by Hassell, to address these concerns. At the Council meeting of 20 August 2002, Council resolved to commit to establishing a mixed-use redevelopment of the TAFE East site, including the provision of a Blue Mountains Cultural Centre (Minute No. 330). On 21 October 2003, Council resolved to engage Hassell to develop a revised detailed schematic Master Plan for the cultural facility over the three parcels of land that now form the proposed Cultural Precinct.

Development of a cultural precinct

The present Cultural Precinct DLEP seeks to enable the concept envisaged by the Charrette to occur. As such, it is based on detailed and extensive public consultation, and represents a key plank in Council's commitment to the revitalisation of the Katoomba town centre. The comment that alternative use could be made of the existing town centre arcade is noted. However, such development would not reflect the outcomes of the Charrette and in particular, would not result in the filling of a void within the town's urban fabric. The Civic Centre in the existing town centre arcade is also proposed for redevelopment in conjunction with the relocation of the Library. This redevelopment will provide a connection between the Civic Centre and the BM Cultural Centre, consequently providing access to the cultural facility from Katoomba Street. As such, the current proposal is considered preferable to the re-use of the existing Civic Centre, and provides an opportunity to upgrade the Civic Centre.

The suggestion that the existing TAFE buildings could have been adapted to a cultural centre is unclear, as the TAFE buildings on this site burnt down some years ago, leaving a vacant site used only for parking.

Managing the form of development

Two of the comments above reflect the perspective that the proposed development is insufficient for a cultural centre in terms of its scale, massing, visual prominence, and ability to stand out as an "icon" building within Katoomba. A further comment relates to the need to create a "visual address" for the site along its Parke Street frontage. These comments are noted. It is recognised that some perceptions in relation to such a public facility align with notions of a 'grand architecture' that has a substantial impact, albeit a positive and defining one, on the surrounding townscape.

These comments can be partly addressed with reference to the Cultural Precinct DLEP Precinct Vision Statement and Objectives. The precinct objective in clause 2(2)(g) is "to acknowledge the visual prominence of the site, and promote public access to views...". This, in part, reflects the need for the building design to respond to its visually prominent location. In addition, the Precinct Vision Statement envisages that the development will "enhance urban design in this part of Katoomba and will define the western edge of the town centre".

The Cultural Centre Technical Brief (December 2004) is also relevant, since it provides the intentions for development on the site. The technical brief states that essential elements of the Cultural Precinct include "imaginative and innovative architecture" and a "sense of arrival". It states that the precinct should be "easily visible and recognisable as a major public cultural building to visitors arriving by car, by train, by bus and as pedestrians". It describes Council's aim as being to create a "landmark and innovative building"; and defines a landmark building as follows:

"The building's design responds to its site during both day and night and presents a compelling statement between the Carrington Hotel and its surrounds, the adjacent built environment and the fabric of Katoomba Street and the railway station. It also results in a significant building that adds cultural value to the Blue Mountains."

C. Desired future character

In addition to these objectives, the technical brief requires buildings to be sensitive to heritage issues. Proposed buildings must “allow the Carrington and the chimney to remain visual landmarks while still establishing the visual significance of the Cultural Centre”. Views from the Carrington Hotel rooms (on the upper floor of the hotel) to the Jamison Valley are also to be preserved.

It is evident that a number of compromises are necessary between maintaining the visual prominence of the Carrington and creating a Cultural Precinct that is visually “iconic”. To avoid creating visual competition between the two structures, the main bulk of the Cultural Precinct has been amassed toward the southern end of the site. The proposed building has substantial bulk, particularly at the south-eastern corner where the top of the proposed Library reaches a height of 22 metres from College Lane. By way of comparison, new development in the Village – Town Centre precinct surrounding the site will generally have a maximum building height of 11 metres under LEP 2005.

Added to this, there is the desire to incorporate a supermarket and parking facility, without these becoming dominant elements in the street. This has necessitated substantial excavation with the result that the majority of the bulk of building form is hidden below street level. The development is also required to respond to the style and scale of buildings comprising the Katoomba streetscape. It is considered that the proposal has successfully integrated these elements into individual buildings at the podium level, achieving a human scale despite the size of the development.

The proposed structure will be a highly articulated addition to the Katoomba townscape, with a variation in built form that adds visual interest. Viewed from the south, it will add to the collective massing of built form beneath the outline of the Carrington, which will remain the dominant structure in the Katoomba skyline. In addition, large public art spaces on the north, west and south facing building façades will result in highly visible examples of public art that increase the interest of the site and attract visitors to it. There is also scope for an item of public art to be erected to a substantial height above the main public court, which may add to the ability to recognise the site as a major public cultural building from a distance. The form and height of this item is currently undetermined.

Achieving the desired future character

In general, the proposal has achieved many of the objectives set down in the Cultural Precinct DLEP and the design brief. It defers in form, scale and visual impact to adjacent heritage buildings. It adds cultural value due the provision of a robust space suitable for a range of community uses. It provides definition to the western edge of Katoomba, and gives access to magnificent views of the Jamison Valley. While being sensitive to its visual prominence, the proposed development responds well to the position and topography of the site.

However, it is considered that some aspects of the design could be improved to better meet the design brief and precinct objectives. Consideration has been given to three potential areas:

1. allowing for an entry statement from Parke Street;
2. reducing the emphasis on horizontal aspects of the Parke Street façade;
3. producing a development that is recognisable as a cultural facility, even from some distance.

The issues of an entry statement from Parke Street and the horizontal aspects of the Parke Street façade have been covered in the discussion under Section E (Townscape). In terms of the third issue, it is acknowledged that there are aspects of the technical brief and the Detailed Schematic Design which will assist the development being a recognisable cultural facility. However, it is considered that the Cultural Precinct DLEP could be modified to ensure that this occurs. Three changes are proposed in this regard:

1. the desired future character statement should be amended to make specific reference to the need to identify the building as a cultural facility;
2. a new precinct objective should be added to ensure that the precinct can be easily recognised as a major public cultural facility;
3. a new subclause should be added to the design considerations for townscape (subclause 4(2)), to provide detail on the need to integrate design elements both within and adjacent to the site, to ensure that the facility can be easily identified and can attract visitors.

C. Desired future character

These changes to the Cultural Precinct DLEP, which are incorporated within the Recommendations below, will be brought to the attention of the proponent and the Council's Architect in accordance with recommendations made elsewhere in the review document.

RECOMMENDATION

- C1. That paragraph 3 of the desired future character vision statement in subclause 2(1) be amended as follows (amendments underlined):
- “Future development will acknowledge Katoomba's townscape qualities and the site's context, and will include access to views of the town's magnificent natural setting. The development will be immediately recognisable to visitors of Katoomba as an identifiable cultural and tourism destination.”
- C2. That a new subclause 2(2)(e) be inserted in Precinct Objectives, as follows:
- “To ensure that the precinct is easily recognisable as a major public cultural facility.”
- Amend lettering of subsequent subclauses accordingly.
- C3. That a new subclause 4(2)(k) be inserted in Townscape, as follows:
- “The development and adjacent public places shall adopt an integrated approach to urban design, landscaping, the display of public art and built form, which serves to identify, and act as a visual attractor for, the cultural facility.”

D. Building Height

DESCRIPTION

The clause sets the maximum height of development on the site. The controls set a height for a single podium or plaza level across the site. This podium level is equivalent to the level of College Lane to the north of the site and is approximately 10-12 metres high on the southern boundary. The proposed supermarket and parking are to be provided below that level. The buildings above the podium level, where the cultural facility is located, are generally limited in height to 8.5 metres. Some exceptions are provided, with increased height allowed for the proposed library, architectural embellishment and art works.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	2 (25%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	2
Object	1
Other Comment	0
<i>Total Comments</i>	3

COMMENTS RAISED – from public exhibition

Object – Refinements Requested

2 comments

- Proposed Podium height is too low, as much of the potential escarpment views will be lost behind the tree canopy. Request a multi-level podium to take full advantage of the views.
- Do not support the maximum building height of 8.5 metres. Consider this a domestic scale, and inappropriate to a building that should have civic prominence. Request revision of this standard, preferably with greater centralised massing and side setback controls to avoid over-development.

Object

1 comment

- Objects to building height of 12 metres, stating that it is too high and restricting views to the Jamison Valley, "The Gully" and surrounding areas.

DISCUSSION

A review of the above comments suggests a polarised view of the proposed building heights: some suggest the building and podium heights are too low, others that buildings should be higher to take advantage of views to surrounding areas. In considering these comments, it is necessary to outline the approach taken to setting building heights in the Cultural Precinct DLEP.

Podium level

The podium level provides the primary height benchmark for development of the site. Although it is designed to be equivalent to the ground level at College Lane to the north (in proximity to the Carrington Hotel), the fall of the site means that the podium has a height of approximately 10-12 metres at the southern boundary. As stated above, the supermarket and retail component are proposed to be located beneath the podium level.

D. Building Height

The comment that the podium level is too low is noted, as is the comment that it is too high. At the southern end, the podium will be at a height of 10 to 12 metres above the finished ground level. This end of the podium provides the primary viewing area to the World Heritage National Park. At this height there are distant views of Mount Solitary, the escarpment and Jamison Valley. While the canopy trees over the residential development of southern Katoomba do impede some of the view potential to Mount Solitary, these trees serve to frame the impressive views from the site. Importantly, the juxtaposition of urban settlement (including canopy trees) with the escarpment system differentiates this view from others available in the Upper Mountains, like Echo Point.

The provision of a multi-level podium as suggested would need to provide for significant height increases (upwards of 10 metres) to alter these views in any significant way. Such height increases would compromise other elements of the development including:

- the aim to provide a single, integrated level for the cultural facilities, and
- maintaining the visual prominence of the Carrington Hotel, and
- ensuring the supermarket and parking facilities are primarily located below ground level, and
- ensuring buildings are not inconsistent with their context in terms of building height.

It should be noted that some higher vantage points will be provided from within the upper storey of the library. Having consideration of the issue raised, it will also be recommended that the final design be revised to incorporate a higher viewing platform in the south-west corner of the site. Such a revision would be subject to the feasibility of integrating this proposal with the public art area and plant requirements. This would provide views to the Gully and towards Frank Walford Park. Such a location also provides for the optimal views to the valley between Mount Solitary and the Narrow Neck Plateau.

The comment that the podium is too high and would impede views to Jamison Valley and the Gully is unclear. In fact, the draft plan requires the opposite effect, with one of the precinct objectives requiring that the development is “to acknowledge the visual prominence of the site, and promote public access to views of the Jamison Valley and Frank Walford Park”. It is presumed that this comment may relate to views from the Carrington Hotel or across the site from Parke Street. Alternatively, it may refer to views of the development from these localities. In either event, the podium will not significantly impede views to either the Jamison Valley or the Gully to the south-west.

Building heights above the podium level

One of the submissions received objects to the proposed 8.5 metre building height limit above the podium, indicating that it is too low. While at face value it may be argued that such a height limit is of a domestic scale, it is important to note that such buildings will be located on the podium level. Provisions enable buildings up to 10 metres high on the eastern (College Lane) edge of the development site, meaning that buildings on the southern end of the site may have an overall height of up to 22 metres above the finished ground level. Dispensations are also made for public art works like sculptures or beacons (site markers) to exceed the prescribed building heights. It is considered that the development would have a ‘civic prominence’ when viewed outside the site.

For a visitor to the site, who would experience and view the buildings from the podium level, they would present at a human scale and would not overwhelm the viewer. In order to achieve the architectural vision, emphasis is placed on the interconnected spaces linking single-storey buildings, the individual identity of each building, and the expansive views, rather than the height and bulk of buildings. While development will provide an impressive scale, this needs to be balanced with the residential scale of adjacent development in Parke Street and the need to respond sympathetically to adjoining heritage items. On this last point, the Heritage Office have stressed that the height of buildings should not exceed proposed levels and the current massing of buildings towards the south of the site should be retained to create reasonable separation from the Carrington Hotel and maintain its prominence in the streetscape.

The point made in relation to increasing emphasis on centralised massing is noted. Meeting this objective needs to be coupled with the desire to create a series of interconnected courtyards that are edged by buildings. As building mass is drawn into the centre of the site, this can reduce the public area of the inner courtyards and separation between buildings. The Parke Street elevation effectively

D. Building Height

achieves the outcome of centralised massing; it is less critical on the eastern or College Lane elevation, which is more concerned with enhancing the sense of enclosure in the laneway.

That being said, it is considered that the principle of centralising mass has some application to the south-east corner of the site, which is the proposed location of the library. The combined height of the podium and the two-storey library is approximately 22 metres. While the visual impact of this aspect of the design is offset by the location of the existing premises to the south of the site (the 'Retravision' and 'Civic Video' outlets), it could be further improved by setting the library back from the edge of the podium level (whether at the ground floor or first storey) or providing some other cosmetic treatments to physically and/or visually reduce the verticality of this part of the development. This is an element that could be addressed at the development application stage, and would work to meeting the objective in the draft plan of incorporating a design that minimises visual bulk.

With consideration of the above, a recommendation is not made to increase building heights. However, should such an increase be proposed (either to the height of the podium level or individual buildings), this would need to be coupled with the introduction of side setbacks to relocate building bulk towards the centre of the site.

RECOMMENDATION

- D1. That the building height controls be retained as exhibited.
- D2. That the proponent and the Council's Architect be requested to investigate the feasibility and benefits of altering the setbacks of the library from the southern and/or eastern boundary (whether at the podium level or the first storey), to limit the verticality of the south-eastern portion of the development.
- D3. That the proponent and the Council's Architect be requested to consider altering the finishes of the podium and/or library exterior to limit or visually break the line of the south-eastern corner of the development.
- D4. That in responding to the precinct objective in subclause 2(2)(g), which includes to "promote public access to views of the Jamison Valley and Frank Walford Park", the proponent and the Council's Architect be requested to investigate the feasibility and benefits of providing a viewing platform to the south-west of the site, which may be located at a higher level than the podium.

E. Townscape

DESCRIPTION

Townscape design details how the building will present to the surrounding built form of Katoomba. In particular, façades should present a variety of active street frontages with both architectural and urban design elements.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	4 (50%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	1
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	3
Object	4
Other Comment	1
<i>Total Comments</i>	9

COMMENTS RAISED – from public exhibition

Support 1 comment

- Supports design of proposed library including window views

Object – Refinements Requested 3 comments

- Objects to the loss of view by the proposed wall, which blocks Froma Court (6 Froma Lane) and the entrance to Katoomba Street from the Civic Square. Comments that Froma Court is a beautiful Victorian-era building, which will contribute to the precinct of the proposed Civic Square.
- Objects to supermarket plant area with a flat wall facing Parke Street. Requests an architect-designed façade facing Parke Street that complements existing buildings such as the Carrington Hotel, along with the removal of the plant area.
- [Parts of the building fronting] College Lane need care taken to ensure massing does not create a tunnel or "back entrance" atmosphere along the narrow laneway.

Object 4 comments

- Objects to use of reflective materials (There is no definition of 'large expanses' [of reflective materials] or permissible measurements in the Cultural Precinct DLEP)
- Concern that the entry's design from Froma Lane will not encourage tourists and locals to link through to the main street (Katoomba Street). Concern that the entry will block a vista down the laneway.
- Objects to loading dock and plant areas facing Parke Street

Other Comment 1 comment

- Comments about the "dull flat walls of [the existing] Kmart, Coles and other buildings in Parke Street". Considers murals are appropriate to improve the streetscape. Considers that the Parke Street side of the Carrington Hotel needs some care to look more attractive to the public.

E. Townscape

DISCUSSION

The comments above concern the presentation of College Lane façade (eastern façade) and Parke Street façade (western façade); each will be addressed in turn below. In determining any recommended changes to the townscape clause in response to these comments, it is necessary to outline the requirements of LEP 2005, the Cultural Precinct DLEP and the approach taken in the corresponding Detailed Schematic Design (DSD).

Eastern façade (viewed along Froma Lane)

A submission has been received in relation to Froma Court, which is a building to the north-east of the Cultural Precinct located at the corner of College Lane and Froma Lane, with the latter providing a link between Katoomba Street and the Cultural Precinct. Froma Court is an example of a turn of the century Federation arts and crafts style house. This building is significant as the only surviving residential building behind the shops on the west side of Katoomba Street and will be listed as heritage item K112 in Schedule 7 to LEP 2005, being an item of local heritage significance.

The present proposal (as shown in the DSD) proposes a café/restaurant on this part of the eastern façade, which separates Froma Court from the proposed public square of the BM Cultural Centre. The submission requests that the development of the Cultural Precinct should provide an architectural response or address to Froma Court.

In considering the architectural merits of this suggestion, it is to be noted that like all other buildings along College Lane, Froma Court does not provide an address to College Lane or the eastern boundary of the Precinct. Instead Froma Court has its primary frontage to Froma Lane and presents a sidewall to the proposed development site. Froma Court's sidewall is a blank two-storey wall with four (4) small windows, which has a height similar to the proposed eastern façade of the cultural facility. It would not be recommended that the design of the cultural facility should be altered to increase visual access to this wall.

That being said, it is considered that Froma Court provides an important active street frontage to Froma Lane and it is expected that this building will contribute to the renovation and revitalisation of this laneway by Council as part of the development of the BM Cultural Centre.

Concern is also raised that the design of the eastern façade entrance to the cultural facility as viewed along Froma Lane does not provide an inviting link for visitors through to the Cultural Precinct. Froma Lane will play an important linking role as one of the three access routes to the site from Katoomba Street, as discussed in Section G (Accessibility). This role would be facilitated by improving the visual amenity of Froma Lane along with minor improvements to the eastern façade entry to the BM Cultural Centre. Both should recognise, and be sympathetic to, Froma Court.

It will be recommended that the development of final proposal for the BM Cultural Centre, as well as the proposed upgrade of Froma Lane, should demonstrate how the eastern façade entrance from Froma Lane will attract the public to the cultural facility and significance of Froma Lane as part of the eastern entrance to the Cultural Precinct. Consideration should be given to the inclusion of public art and design into the streetscape possibly via pavement design and cultural displays, in accordance with Townscape clause 4(2)(c) of the Cultural Precinct DLEP.

The proposed eastern façade will remove the views to the southwest currently enjoyed from Froma Court. While this comment is noted, the views from Froma Court across the site are available because the proposed site of the BM Cultural Centre is presently vacant. As a consequence, any reasonable development of the Cultural Precinct would be expected to restrict or otherwise compromise existing views from Froma Court.

Eastern façade (to College Lane)

One comment above requests Council to consider the tunnel or "back entrance" atmosphere that may be created along College Lane as a result of building height. This is of particular concern in the southern corner of College Lane due to the fall in topography. As discussed in Section D (Building height), the Cultural Precinct DLEP allows for a total height of 22 metres above the finished ground level at the

E. Townscape

southern edge of the precinct, in the vicinity of the proposed library. Centralised massing, as a treatment to reduce the verticality of this part of the development and minimise the tunnel effect, is raised and further discussed in Section D.

In considering other treatments to reduce the tunnel or “back entrance” atmosphere in this part of the College Lane façade, the final proposal would be expected to provide a stronger response to meet the townscape clause 4(2)(c), which requires “windows, openings or cultural displays [to be] the predominant element”. It will be recommended that the proponent and the Council’s Architect be requested to consider these issues in preparing the final design.

Western façade (to Parke Street)

Two submissions raise objection with the western façade of the proposal, suggesting that “dull flat walls” face Parke Street. The Cultural Precinct DLEP responds to the need to articulate walls facing Parke Street, through subclause 4(2)(f) which states that Parke Street is to “provide a variety of architectural and urban design elements such as landscaping, viewing places, windows or openings, artworks or display cases provided along the windowless façades”. Further modifications were proposed to the relevant clauses in a workshop with the Heritage Office – refer to Section I (Heritage) and Recommendation I.2. To ensure the western façade complements the Carrington Hotel, the architecturally designed western façade will use materials, finishes and colours that are “sympathetic to the [historic] Town Centre and adjacent heritage buildings” (Subclause 4(2)(h)). The relationship of the Cultural Precinct to the adjacent heritage buildings is further addressed in Section I.

The DSD locates two (2) plant areas to service the BM Cultural Centre and Supermarket above the podium level facing Parke Street. In considering the three (3) objections to the location of the plant areas and the likely impact on the streetscape, it is necessary to clarify that the sides of each designated plant area will be public art sites, which the DSD indicates will be “integral with building fabric” on the western façade. This is consistent with the Townscape clause 4(2)(i) of the Cultural Precinct DLEP which requires the building design to “indicate locations for public art”. The integration of public art with the overall design is a key aspect of the development.

The Cultural Precinct DLEP responds to the visual impact of the vehicle loading dock facing Parke Street through requirements outlined in subclauses (2)(e) and (2)(g). The loading bay is required to have minimal visual impact when viewed from public streets and places. It is to be screened through the provision of doors that are integrated with the architectural elements of the street façade.

The Cultural Precinct DLEP supports the objection above to the “use of reflective materials” as part of the Townscape requirements. Particular reference is made to the building design elements in subclause 4(2)(h) which states that large expanses of reflective materials are to be avoided. The term “large expanses” is not defined in the Cultural Precinct DLEP, as it is considered that the intention of the provision is clear.

North-western corner (pedestrian entry adjacent to the Carrington Garages)

The need for a “visual address” on the Parke Street elevation is acknowledged. Further consideration of the design for the north-western corner of the site is warranted as this provides the first view of the BM Cultural Centre on the primary vehicle route along Parke Street from the Great Western Highway. At present, the DSD shows this corner occupied by planter boxes and an access stair to lower levels, immediately adjacent to College Lane. Immediately south of this is a ramp and gradual stairway, providing access from Parke Street to the main public court. These open areas are adjacent to service buildings including a switch room, sprinkler valve room, fire control room, and several store rooms that service the adjacent Gallery. A loading dock adjacent to these rooms is specifically designated for vehicles delivering to the Gallery.

Significant benefit may be derived from investigating the reconfiguration of this space to open up vistas to the public court and create an inviting entry statement for vehicles and pedestrians passing along Parke Street. Subject to architectural feasibility, this could include consolidating space presently assigned to the Gallery loading dock with the pedestrian access to the main public square, and reconfiguring the service rooms and store rooms associated with the Gallery, reducing the building bulk

E. Townscape

at this corner of the site. The loading dock will not receive heavy use and is considered compatible with an arrangement for shared vehicular and pedestrian movements within the pedestrian access way from Parke Street. Elements that interfere with views to the public court, such as the stairwell entrance or planter boxes, should be reduced or removed.

These are considerations for a more detailed design, and should be investigated by the proponent and the Council's Architect prior to the lodgement of a development application. It is considered that an additional subclause is required, along with investigating changes to the design, in order to reinforce the importance of the presentation of the north western corner of the site. These changes are provided as Recommendation E.1 and Recommendation E.2 below.

RECOMMENDATION

- E1. That a new subclause 4(2)(g) be inserted in Townscape, as follows:
"The north-western entry of the site shall achieve a sense of visual connectivity between Parke Street and the public court by measures such as the provision of an open visual entry statement and vistas of the public court for passing vehicles and pedestrians, and"
Amend lettering of subsequent subclauses accordingly.
- E2. That the proponent and the Council's Architect be requested to consider how the proposed design may be amended in the north western corner of the site to provide an open visual entry statement, including an investigation of the feasibility of the following:
 - consolidating the entrance to the loading dock servicing the gallery with pedestrian access to the public court;
 - reducing the footprint of built form in this location;
 - removing or reducing elements that block views to the public court, such as the enclosure to the stairwell and planter boxes.
- E3. That the proponent and the Council's Architect be requested to assess how the proposed design may be amended to improve the visual amenity of the eastern façade by:
 - incorporating public art and/or a design treatment for the eastern façade entrance from Froma Lane, and
 - considering window openings or cultural displays as a feature element on the southern end of the eastern façade.
- E4. That the proponent and the Council's Architect be requested to assess how the proposed design of the western (Parke Street) facade may be modified so that this principal facade may be broken into discrete bays or modules to limit horizontal expanses.

F. Public Spaces

DESCRIPTION

The development of the site allows for a major public square in Katoomba. The public square will require a high degree of use by pedestrians, and it must be safe and attractive at all times.

Summary of submissions on this issue

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

COMMENTS RAISED – from public exhibition

Support / Refinements Requested

2 comments

- Requests that the public court be open and visible to Parke Street to promote after-hours safety.
- Concerned about the public court area attracting anti-social behaviour. Considers that the space needs to be well lit and open, with good visibility at night if it is to be a desirable public space.

DISCUSSION

The Cultural Precinct DLEP requires the development application to “show how the crime minimisation objective is to be achieved, particularly for public spaces that could lead to anti-social behaviour” (subclause 4(4)(d)). The precinct objective in subclause 2(2)(d) also aims “to provide inviting, readily accessible and safe public spaces...”. In addition, the design brief requires issues of public safety to be considered, and states that all public outdoor areas must be well lit at night.

Further to these requirements, the application will be assessed against the principles of crime minimisation embodied in clause 87 of LEP 2005, as detailed in the *Better Living Development Control Plan*. LEP 2005 also allows for the consent authority to require a crime minimisation assessment that addresses the principles of crime minimisation. With these additional controls to apply through LEP 2005, it is considered that the Cultural Precinct Draft LEP has adequately incorporated public safety considerations.

Aspects of the design, such as cultural activities located on the podium level, will also work to minimise the impacts of anti-social behaviour. Parts of the podium level are likely to have 24 hour public access, and all public areas will be well lit at night.

RECOMMENDATION

- F1. That the clauses relating to crime minimisation within the Cultural Precinct DLEP be retained as exhibited.

LEP 2005 - Draft Amendment 2 (Katoomba Cultural Precinct)

G. Accessibility

DESCRIPTION

Public spaces and buildings intended for public use are required to be accessible to people with a disability to the extent prescribed by Australian Standards and the Better Living Development Control Plan. This requirement is contained within the body of the LEP 2005, and development within the proposed Cultural Precinct will be subject to this requirement.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	2 (25%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	1
Object	2
Other Comment	0
<i>Total Comments</i>	3

COMMENTS RAISED – from public exhibition

Object – Refinements Requested

1 comment

- Requests entrance from Katoomba Street to include ramps.

Object

2 comments

- Objects to steep stairway and enclosed entrance from Froma Lane, which compromises an almost flat pathway to the main street and is not accessible.

DISCUSSION

Clause 107 of LEP 2005 requires public spaces and buildings intended for public use to be accessible to people with a disability to the extent prescribed by Australian Standard 1428.1 – 2001, *Design for Access and Mobility – General Requirements for Access – New Building Work*, and Council's *Better Living Development Control Plan*. The proposed Cultural Precinct development will be subject to this requirement, and a full assessment will be made when a development application is lodged.

Providing pedestrian links with as low a grade as possible is critical to enhancing pedestrian use of the precinct by older people, people with a disability and members of the community with less mobility. The request for the entrance from Katoomba Street to include ramps is noted. This comment, and the objection to the steep stairway from Froma Lane, should be considered in context with the accessible pedestrian connections proposed for the precinct.

There are three identified routes from Katoomba Street to the Cultural Precinct. The primary pedestrian access route from Katoomba Street is the pedestrian link between Carrington Place, in front of the Carrington Hotel, to the public court in front of the cultural facility, with any proposal over private land being subject to the owner's approval. A ramp for those with limited mobility exists from Katoomba Street to Carrington Place, and a ramp is indicated on the Detailed Schematic Design (DSD) on the northern boundary of the precinct.

The second intended route to the Cultural Precinct and cultural facility is through the Civic Centre, which faces Katoomba Street. This route will become a clearly identified and straightforward entrance from

LEP 2005 - Draft Amendment 2 (Katoomba Cultural Precinct)

G. Accessibility

Katoomba Street through the rear of the Civic Centre and on to the Cultural Precinct. At the point where this link meets the BM Cultural Centre, a lift is provided on the DSD, as required in subclause 4(1)(d) of the Cultural Precinct DLEP.

The third route from Katoomba Street to the entrance to the Cultural Precinct is via Froma Lane. It is considered that, due to the provision of other pedestrian links to and from the Cultural Precinct, Froma Lane will not form a primary pedestrian access route and a ramp linking Froma Lane to the precinct is not considered necessary.

However, should the Carrington Place connection through the private allotments not be developed, Froma Lane will become a major link to the precinct. The "creation of a cohesive town centre through the provision of links through and to the site from the main streets" is a precinct objective of the Cultural Precinct DLEP (subclause 2(2)(b)). It is considered that, at least, the primary pedestrian route that links with the main streets should be accessible, something that the above precinct objective does not require. It is recommended that the Cultural Precinct DLEP reflect the need for the main links to be accessible to those with limited mobility. A minor change to the precinct objective is required, as recommended below.

In any case, Froma Lane will be required to be renovated and revitalised to a standard commensurate with its importance and significance as a part of attracting the public to the BM Cultural Centre. A more detailed discussion on the College Lane façade of the Precinct and the opening to Froma Lane is provided in Section E (Townscape).

RECOMMENDATION

- G1. That subclause 2(2)(b) be amended to read (amendments underlined):
- "(b) To contribute to the creation of a cohesive town centre through the provision of accessible links through and to the site from the main streets."

H. Traffic Management

DESCRIPTION

The future development proposal for the site will require an assessment of the likely effects on local roads and traffic.

Summary of submissions on this issue

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

COMMENTS RAISED – from consultation with Public Authorities

Support **1 comment**

- The Roads and Traffic Authority supports the inclusion of subclause 4(5) - Traffic Management into the Draft LEP, as requested in earlier correspondence dated 25 November 2004.

COMMENTS RAISED – from public exhibition

Object **1 comment**

- Object to shared pedestrian and vehicular access along College Lane for safety and aesthetic reasons. Pedestrian access / routes have not been indicated by the plans.

Other Comment

2 comments

- Traffic flow and impacts are not indicated on the plans.
- Car park entrances and exits not indicated on the plans.

DISCUSSION

Traffic impacts

Through Section 62 consultation on the Cultural Precinct DLEP, the Roads and Traffic Authority (RTA) requested Council to further address the impacts of traffic to and from the Cultural Precinct. As a result Council inserted clause 4(5)(a) into the Cultural Precinct DLEP, which requires a traffic impact assessment to be prepared to identify the traffic impacts of the proposed development and provide any required mitigation measures. The traffic impacts will therefore be considered in more detail following the submission of the Development Application in accordance with requirements outlined above.

Vehicular access

The objection to shared pedestrian and vehicular access along College Lane is noted. Vehicular access along College Lane is required for servicing the cultural facility and is currently used for servicing buildings backing on to College Lane with frontages on Katoomba Street. The shared pedestrian and vehicular access treatment along College Lane will require vehicles to give way to pedestrians, vastly improving pedestrian safety and amenity. The shared treatment will promote safe pedestrian connectivity between the Carrington Hotel and the public court on the podium level. It should be noted

H. Traffic Management

that if vehicular access to College Lane were prevented, existing developments with frontages to Katoomba Street would require services and deliveries via Katoomba and Parke Streets, which would be unsatisfactory and against Council policy. For these reasons, the proposal for shared vehicular access along College Lane is supported.

The Detailed Schematic Design (DSD, referred to as “the plans” in comments above) was placed on exhibition with the Cultural Precinct DLEP to better enable the DLEP to be understood. In relation to car park details, the DSD indicates car park entrance and exit points at the southern end of Parke Street. The DSD did not show traffic flow impacts; such impacts will be assessed at the completion of the Traffic Impact Assessment as part of the future development proposal.

RECOMMENDATION

H1. That subclause 4(5), Traffic Management, of the Cultural Precinct DLEP be retained as exhibited.

LEP 2005 - Draft Amendment 2 (Katoomba Cultural Precinct)

I. Heritage

DESCRIPTION

Clause 4(6) of the Cultural Precinct DLEP outlines the heritage values of the precinct. In particular, it states that architectural design is to acknowledge the heritage setting and heritage significance of the site as interpretive features within the development.

Summary of submissions on this issue

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

COMMENTS RAISED – from consultation with Public Authorities

Refinements Requested

1 comment

Heritage Office:

In a letter of 27 April 2005, the Heritage Office suggested a workshop with Council planning staff to reinforce the heritage provisions within the Cultural Precinct DLEP and to ensure that the proposed development did not have an unacceptable impact on surrounding heritage items.

Specifically, the Heritage Office suggested in its letter of 27 April 2005:

The Heritage Office believes that the provisions as currently written should be strengthened to ensure that any proposal for redevelopment on the land has due regard to archaeology, townscape and streetscape, design, bulk and scale, massing, height, use of materials, views and vistas and interpretation.

Following a workshop with Council planning staff on 30 May 2005, which identified proposals to modify the Cultural Precinct DLEP, the Heritage Office provided this advice by letter of 16 June 2005:

The Heritage Office notes that the revised Draft Amendment includes specific provisions in regard to building envelope, design considerations, townscape, heritage, and advertising structures for the subject land. The revised provisions substantively address the previous concerns of the Heritage Office about the impact of the proposed Draft Amendment on the heritage significance of the "Froma" site and the adjacent Carrington Hotel.

COMMENTS RAISED – from public exhibition

Object – Refinements Requested

1 comment

- Consider the heritage importance of all related buildings not just the Carrington Hotel (such as Froma Court).

DISCUSSION

Approach to heritage conservation

I. Heritage

The Cultural Precinct DLEP responds to the heritage context of the site at two levels. Broadly, it draws the site into the principal instrument, LEP 2005. This means the comprehensive heritage framework of Division 4 of Part 3 (Heritage Conservation) of the LEP would apply to development within the precinct. More specifically, the precinct provides for consideration of the heritage context of this site.

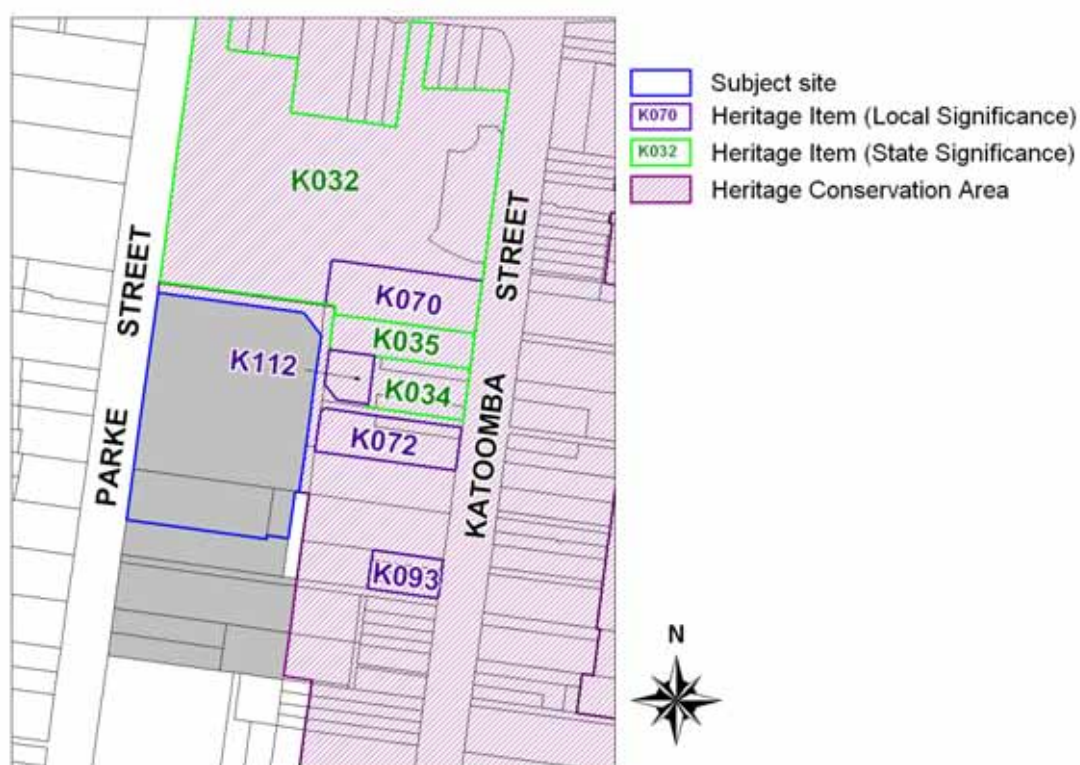
The heritage importance of the Cultural Precinct is recognised in both subclause 2(2) (Precinct Objectives) and subclause 4(6) (Heritage). Subclause 2(2) sets out the precinct objectives of the site, which includes the following consideration at objective (e):

- (e) *To respond to the heritage buildings and places in the adjacent urban conservation area, particularly the Carrington Hotel.*

Although the Carrington is singled out in the objectives, being one of foremost heritage items in Katoomba, the objective makes reference to all heritage sites in the adjacent urban conservation area, including Froma Court.

Adjacent urban conservation area

Schedule 6 Part 2 (Heritage conservation areas) of LEP 2005 defines the Central Katoomba Urban Conservation Area, which is inclusive of Froma Court. Within the Urban Conservation Area there are approximately seven (7) heritage items that adjoin the Cultural Precinct. The heritage items are detailed in LEP 2005 Schedule 6 Part 1 (Heritage Items), a map of which is provided below:



LEP 2005 Schedule 6 Part 1 (Heritage Items)

Listed heritage items adjacent to the Cultural Precinct include:

- **K032** – 15-47 Katoomba Street, Carrington Hotel (State significant)
- **K070** – 49-57 Katoomba Street, Shops
- **K035** – 59-61 Katoomba Street, Former Katoomba Post Office (State significant)
- **K034** – 63-69 Katoomba Street, Paragon Café group (State significant)
- **K112** – 6 Froma Lane, Froma Court
- **K072** – 73-75 Katoomba Street, Former Empire Theatre

I. Heritage

- **K093** – 89-91 Katoomba Street, Crazy Prices

The consideration of this Conservation Area is reinforced by subclause 4(6), which requires the architectural design of the site to “acknowledge the heritage setting”, which in effect considers the heritage importance of all surrounding buildings, including Former Katoomba Post Office and Froma Court. This principle is reiterated within clause 76 (Development in the curtilage of a heritage item or in a heritage conservation area) within LEP 2005. On this basis, no alterations to the Cultural Precinct DLEP are required to address the issue raised in the public submission.

Amendments proposed by the Heritage Office

Following a meeting with the Heritage Office on 23 November 2004 during the preparation of the Cultural Precinct DLEP, Council staff have been working with the Heritage Office on two elements related to the precinct: the listing of the former Froma House residence as a heritage item and the preparation of an archaeological study for this site, and the design of the proposed development as it relates to its heritage context. This first aspect is dealt with in Section K (Listing of heritage item), while the design elements related to heritage are discussed below.

Following a letter from the Heritage Office of 27 April 2005, Council conducted a workshop with staff from the Heritage Office on 30 May 2005, which included a site visit to the Cultural Precinct. The Heritage Office have acknowledged the work undertaken in the development of the concept design for this precinct, and the approach to the design aspects which the Heritage Office noted in its letter of 27 April 2005 (as cited in ‘comments’ above). The preparation of the development proposal had significant regard to the site’s heritage setting, particularly in relation to State heritage items like the Carrington Hotel.

The amendments arising from the workshop held between staff from the Heritage Office and Council are provided below. Although the provisions relate to heritage aspects, they also touch on other design elements where relevant. These changes are recommended to Council for adoption. A letter provided by the Heritage Office on 16 June 2005 confirming this aspect of the Cultural Precinct DLEP is **attached as Figure 1** for the consideration of the Council.

RECOMMENDATION

11. That the precinct objective in subclause 2(2)(e) be amended to read (amendments underlined):
“(e) To protect and conserve the heritage significance of the cultural landscape, including heritage items and the adjacent urban conservation area, particularly the Carrington Hotel.”
12. That subclause 4(2)(b) (Townscape), be amended to read (amendments underlined):
“(b) Long, continuous elevations shall be avoided, with principal facades broken into discrete bays or modules; verticality is encouraged.”
13. That subclause 4(2)(h) (Townscape), be amended to read (amendments underlined):
(h) Building design elements such as the use of finishes, materials and colours shall be sympathetic to the historic town centre and adjacent heritage items and avoid large expanses of reflective materials.
14. That subclause 4(6)(a) (Heritage), be amended to read (amendments underlined):
“(a) Architectural design of any building must respect the heritage significance of the site and its heritage setting.”
15. That subclause 4(6)(c) (Heritage), be amended to read (amendments underlined):
“(c) The heritage impact statement shall demonstrate that the proposed development does not significantly impede views from the upper terrace level of the Carrington Hotel to the Jamison Valley.”

I. Heritage

FIGURE 1 Correspondence from Heritage Office

Contact: Alice Brandjes
Telephone: 02-9873 8560
brandja@heritage.nsw.gov.au
File: H00/00192 Part 1
Our Ref: HRL 33394
HRL 34633
HRL 34633
Your Ref: Z08 048

Michael Willis
General Manager
Blue Mountains City Council
Locked Bag No. 5
Katoomba NSW 2780

Attention: Mr Paul Grimson

Dear Mr Willis,

**Re: Draft Amendment to Blue Mountains Local Environmental Plan 2005
Development of a Cultural Centre, District Supermarket and Associated Facilities –
“Froma” Site - Parke Street and College Street Katoomba – s.66 Consultation**

Reference is made to the advice provided by the Heritage Office to Blue Mountains City Council in a letter dated 27 April 2005 in regard to the above draft Local Environmental Plan.

On 30 May 2005 Alice Brandjes of the Heritage Office met with Council's Robert Greenwood, Paul Grimson and Bill Langevad to discuss Heritage Office concerns about the wording of the Draft Amendment, specifically that the provisions of the Draft Amendment should be strengthened to ensure that any proposal for redevelopment on the land will minimise its impact on the heritage significance on “Froma”, the adjacent Carrington Hotel and adjacent historic precincts. Due regard must be given to archaeology, townscape and streetscape, design, bulk and scale, massing, height, use of materials, views and vistas and interpretation.

Since the meeting was held on 30 May 2005 Council officers have revised the Draft Amendment in accordance with the suggestions made by the Heritage Office and forwarded a copy to the Heritage Office for comment. The Heritage Office received the revised Draft Amendment on 31 May 2005.

The revised Draft Amendment has now been reviewed and the following advice is provided under the provisions of Section 67 of the Environmental Planning and Assessment Act 1979 and Section 84 of the Heritage Act 1977.

Section 84(1) of the NSW Heritage Act requires that any local environmental plan that will apply to land on which an item of environmental heritage is situated must contain provisions to facilitate the conservation of the building, work, relic, place or precinct.

The Heritage Office notes that the revised Draft Amendment includes specific provisions in regard to building envelope, design considerations, townscape, heritage, and advertising structures for the subject land. The revised provisions substantively address the previous

LEP 2005 - Draft Amendment 2 (Katoomba Cultural Precinct)

I. Heritage

concerns of the Heritage Office about the impact of the proposed Draft Amendment on the heritage significance of the "Froma" site and the adjacent Carrington Hotel.

The Heritage Office further notes that the parent instrument to the revised Draft Amendment that is Blue Mountains Local Environmental Plan 2004 also includes general heritage provisions which must be considered as part of the assessment of a proposal for development on the land.

As the provisions in both the Draft Amendment and the parent instrument must be considered for any proposed development and/or change of use of the subject land, the Heritage Office believes that it is unnecessary for any further heritage provisions to be included in the revised Draft Amendment.

Providing that all of the revised provisions of the Draft Amendment remain in Amendment 2 of Blue Mountains Local Environmental Plan 2005, the Heritage Office has no further objection to the Draft Amendment.

The Heritage Office encourages the consent authority for determination of any subsequent application for development of the subject land to be rigorous in its assessment and determination of the application. The design concerns of the Heritage Office in regard to the impact of the proposed development as articulated in the letters of 24 December 2004 and 27 April 2005 will need to be satisfactorily addressed by the consent authority in the assessment and prior to determination of such an application

It would be appreciated if Council would consider the above comments and incorporate them into the draft Plan.

I trust these comments are of assistance. If you require any additional information please contact Alice Brandjes on (02) 9873 8560.

Yours faithfully

Reece McDougall
Director

CC Mr Les Clements
NSW Department of State and Regional Development
Level 43 Grosvenor Place
225 George Street
Sydney NSW 1220

J. Advertising

DESCRIPTION

This clause applies to advertising signs used in conjunction with the commercial level of the development. The provision is intended to manage the extent and form of advertising. It limits advertising to business identification and prevents advertising of products. Specifically, advertising on Parke Street is limited to the name of the major retailer, whilst other businesses may advertise along College Lane.

The specifications within this clause are intended to ensure that the signs are suitable for the architectural style of the building and do not have an adverse impact on the streetscape. The clause provides flexibility for alternative forms of advertising should it be demonstrated that this leads to a reduction in the size of the signage.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	2 (25%)
COMMENTS	
Position	Count (%) of comments on this matter
Support / No Refinements	0
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	4
Object	6
Other Comment	2
<i>Total Comments</i>	12

COMMENTS RAISED – from public exhibition

Object **2 comments**

- Objects to the envelope areas of 15m² and 20m² permitted for advertising structures, as they are too large and will promote visual pollution.
- Objects to retail advertising as permissible in the Katoomba Cultural Precinct.

COMMENTS RAISED –late submission by Coles Myer Limited

Object **4 comments**

- Coles Myer Limited (“Coles Myer”) suggest that the Cultural Precinct DLEP is silent in respect to “whole of building or precinct identification ” signage and that the consent authority *may* include this form of signage in the restrictions applying to commercial signage related to the proposed supermarket and retail uses below the podium level.
- Concern that Parke Street signage restriction of 15m² is not of sufficient area to adequately identify the Coles Supermarket and associated specialty shops, for two reasons:
 - (a) the western façade is 86m long and 15m² represents a small percentage of the façade
 - (b) when directional signage (car park loading dock etc) is included in the 15m² the area available for business identification becomes visually insignificant.
- The 15m² signage envelope has been arbitrarily selected without considering the need for business identification signage and directional signage or the consideration of an integrated total advertising signage package for the building.
- It is necessary to provide signage that identifies the Coles loading dock, and due to limited space this will need to be provided above the podium level.
- The restriction of signage to below the podium level is not a practical response to signage requirements for the building. Cultural facility signage could be appropriately placed below the

J. Advertising

podium level in instances where the area is shared by both the retail complex and cultural facility. For example directional signage for pedestrian traffic off College Lane and car park entry signage off Parke Street.

Object / Refinements Requested

4 comments

- Coles Myer identifies the southern extent of Parke Street and College Lane facades as appropriate for "whole of building" or precinct identification signage, it could be designed in such a way as not to impact upon the primacy of the cultural facility and the proposed public art marker. Request amendment to allow whole of building or precinct identification signage to be located above the podium.
- The submitter recommends that the Draft LEP be amended to provide flexibility for a signage package that blurs the podium level restrictions and recognise the relationship between the uses of the building. The restriction of retail signage to the area below the podium will impact upon the operational requirements and economic viability of the Supermarket (and associated retail shops) and prevent an integrated whole of building directional and advertising signage approach.
- The submitter requests amendments to Clause 7 to provide the flexibility to a development application for an integrated signage package for the site. The proposed changes are:
 - Amend subclause 7(a) by inserting at the end "*or signage that identifies the entire building or precinct as a whole*".
 - Amend subclause 7(b) as follows : "*Advertising structures shall not be permitted above the podium unless they form part of an integrated signage package for the entire building.*"
 - Amend subclause 7(h) as follows: "*Advertising structures shall be compatible with a scale and proportion of the building on which the signage is to be located and shall be restricted unless part of an integrated signage package for the entire building to:*"The submission argues that these amendments will ensure the area above the podium is not dominated by commercial advertising signage, while allowing for an integrated approach to signage over the whole building.

Other Comment

2 comments

- Suggests that the Draft LEP has the effect of not enabling Council to approve any commercial advertising signage above the podium level, nor signage at or below that level with an area greater than 15m² on the façade that addresses Parke Street.
- The purpose of the submission is to allow for the opportunity to achieve an integrated design for all building signage in a manner consistent with subclause (7)(c), (d), (e) and (f).

DISCUSSION

Approach to advertising signage

The appropriate provision of advertising structures or signage is an important element of the proposed development for a number of reasons. Principal among these is the need to ensure that the presentation and function of the cultural facility and its contribution to the Katoomba townscape are not compromised by poorly designed or excessive signage. In particular, there is the potential for signage related to commercial or retail uses to compromise the outcomes sought for the cultural facility. Equally, however, it needs to be recognised that the viability of the retail and commercial development relies on reasonable business identification. In particular, the proposed retail component, which is largely located below ground, will rely on signage in place of a stand-alone or 'self-advertising' development. This can be achieved through a well-designed and coordinated signage suite or strategy that is effectively integrated with the architectural elements of the building.

Coupled with this, there is a guiding principle that the cultural facility is to be developed as a distinct entity. Although this public facility is proposed to occupy the same site as the commercial/retail component, it is to remain functionally and perceptually separate. The approach to advertising, like the

J. Advertising

development itself, is to be the product of an integrated approach. But it is to maintain the distinction between the cultural/civic aspects of the development and the retail component.

Typically there is tension between these competing objectives: on one hand, a necessity to limit and manage signage that may compromise the cultural facility and the streetscape more generally and, on the other, a desire to extend signage to provide for maximum commercial exposure. This is reflected in the submissions from the public (which object to the extent of commercial advertising or seek to prohibit it) and the late submission from Coles Myer Limited ("Coles Myer"), which seeks alterations to the provisions to limit restrictions on advertising in the draft plan. It is necessary that the provisions managing advertising in the Cultural Precinct DLEP achieve a reasonable balance between these objectives. In considering these submissions, it is necessary to outline the basis of the provisions for advertising structures (or signage) in the Cultural Precinct DLEP:

Depiction of advertising in the Detailed Schematic Design (DSD)

The location of signage, together with the proposed sites of public art displays, is depicted in the Detailed Schematic Design (DSD) prepared by Hassells Architects as part of the revised Master Plan. At its Ordinary Meeting of 9 March 2004, the Council endorsed the DSD as the basis for negotiations on a proposed agreement to develop the cultural and mixed-use precinct. Extracts from the DSD, including the plan of "Public Art and Signage Locations" accompanied the exhibition of the Cultural Precinct DLEP. Contrary to the suggestion in the Coles Myer submission, the proposed envelopes for advertising related to the commercial development are not arbitrary, but are derived from the DSD. The DSD not only considered commercial signage, as it relates to architectural features and entry statements, but its relationship to public art displays. The DSD depicts two (2) locations for commercial signage:

1. on the Parke Street façade a single envelope for signage, located directly above the primary pedestrian entry to the supermarket arcade as an under awning sign, which is situated immediately before the vehicle entry into the complex as one travels down Parke Street.
2. on the College Lane façade two contiguous envelopes, which show the possible extent of commercial advertising: one is located above the primary pedestrian entrance and is intended to identify the primary tenant and the other, smaller envelope is to the south and is proposed to show a secondary tenant.

Both of these locations represent prominent sites in relation to the commercial components of the development and are located at a height of approximately 5-6 metres from the ground level to the top of the sign.

Extent of commercial signage

In determining the size of commercial signage, the approach taken to the Cultural Precinct DLEP considers the principles outlined in the "Advertising and Information Signage Development Control Plan No 21" (DCP 21) as adopted by Council on 21 September 2001. The focus is on an integrated approach to signage, which aims to reduce visual clutter by rationalising the amount of signage. In turn, this provides for effective communication devices without unduly compromising the quality of the built environment. As stated above, consideration needs to be given to the distinctive qualities of the cultural facility, while also recognising the valid need for reasonable commercial exposure and identification for a retail outlet.

The proposed total area of 15m² for the Parke Street elevation provides a notional envelope of 1.8 metres by 8 metres. In terms of the College Lane elevation, the Draft LEP proposes 20m², which is a notional envelope of 1.8 metres by 7 metres, as well as an area of 1.2 by 6 metres for a secondary tenant. Subject to the proposed modification to the Civic Centre, which will involve providing access through the present site, this signage should be visible from Katoomba Street.

The objections in public submissions that the signage is too large and generates visual pollution are noted. It is not reasonable to attempt to prohibit advertising structures, as they are necessary for any commercial enterprise. In terms of the proposed envelopes, it is acknowledged that this signage allowance is more extensive than other signage provided in the Katoomba town centre or ordinarily permitted under DCP 21. However, this needs to be balanced against the commercial needs of the

J. Advertising

proposed retail outlet. In addition to this, the size and nature of the proposed retail development concerned, the comparatively limited number of commercial signs proposed on the Parke Street elevation, the size of the development site and the length of the street frontage have been taken into consideration.

Planning considerations for signage

In terms of the design considerations for the extent of commercial signage, the following key principles are noted:

- sight-lines to the development's western elevation are limited to a distance of approximately 100 metres by the crest of Parke Street (in the vicinity of the Carrington Hotel). This is along the primary access route for cars in a low speed environment. The commercial signage that would be permitted under the Cultural Precinct DLEP would be clearly visible and legible from that distance and appropriately located in relation to the entrance to centre car parking;
- signage to Parke Street and College Lane will be visible from the two primary streets or the 'spine' of the Katoomba town centre: namely Parke Street and Katoomba Street (with visibility from Katoomba Street reliant on modification to the Civic Centre);
- the "Coles" brand and trademark are nationally recognised, associated with the business of fresh food supermarkets and linked to extensive advertising campaigns. Any visible signage (being of a reasonable size) that utilises this brand will be effective in business identification and promotion;
- Coles has an established business presence in this part of Katoomba and will continue to be located on the same vehicular route as the existing premises. Its primary function is destination shopping, rather than passing trade, and its location will become readily known to shoppers and visitors;
- the proposed extent of signage is larger than that available to other businesses in the Katoomba town centre, while being commensurate with the size of the facility;
- the proposed signage is in a highly prominent location and is superior to the signage of the existing premises, which on the existing Parke Street elevation is smaller in area, is generally obscured by trees and has limited effectiveness because of its location well above the road;
- the façade of the cultural facility (with a length of approximately 85 metres) will not be used for advertising by any other businesses, meaning that any commercial signage will be conspicuous and does not need to compete with other signage;
- the consideration of signage has been an integral part of the design – it will be more effective if it remains well integrated as part of a high quality architectural outcome;
- Parke Street and College Lane do not presently have a large number of commercial signs. In the case of Parke Street, the western side of the street is mostly small business and residences. This has a twofold importance: (1) signage needs to be compatible with the adjoining uses and its role as the western edge of the Katoomba town centre (ie a transition to residential areas) and (2) the effectiveness of signage does not need to be predicated on the size and number of signs.

On this basis, the claims made by the planning consultants for Coles Myer that the 15m² and 20m² restrictions are likely to detrimentally effect "the economic viability of the Coles supermarket and speciality shops" is without foundation. In consideration of the above, the prescribed envelopes represent an upper limit to the commercial components of signage and are considered to be reasonable, particularly as they do not include any signs for joint components of development. Extensions beyond these areas for commercial signage would compromise the design of the centre, while being unlikely to contribute to enhanced business identification. Rather the prescribed envelopes provide certainty for both the community and developer on the expectations for signage and are recommended to be retained. This is subject to the concession below relating to the identification of the precinct as a whole.

Whole of building/centre identification

The Coles Myer submission seeks provision for whole of building/centre identification or a common name by which the cultural facility and retail centre are to be known. By way of example, Coles Myer suggested the name "Katoomba Central", but any other agreed name could be considered. This could include "Froma Square" in recognition of the first private house in Katoomba, which was located on this site (see discussion in Section K (Listing of heritage item) below). The Coles Myer submission is correct in indicating that the Cultural Precinct DLEP is silent on this form of signage. The draft plan

J. Advertising

does not contemplate this form of naming, and it is not included in the endorsed DSD. Instead signage provision is made to name the “cultural facility” and to permit commercial signage for the retail component.

In response to this submission, it is proposed to modify the Cultural Precinct DLEP to specifically enable whole of building/centre identification. In so doing, it is important to ensure such signage is appropriately located and does not compromise public art sites. The Coles Myer suggestion to permit this signage above the podium is not supported, as this area is the site of public facilities and art sites. However, suitable areas for such signage are available above the entry to the parking facility (but below the podium level) on the Parke Street elevation, and on the southern corner of the building fronting College Lane.

Such signage would have benefit to the retail component of the development as well as the cultural facility by naming the location or the centre as a whole. The joint naming of the centre as, say, “Froma Square” would provide an important anchor for retailing (eg “Shop x” located at “Froma Square”), but would also assist in way-finding for visitors more generally. It is anticipated that the provision of any such signage will be subject to negotiations between Council and other owners and the outcome of the DA process. However, it would appear reasonable to facilitate this outcome within the Cultural Precinct DLEP, subject to necessary controls to ensure such signage is fully integrated with the signage suite and is coordinated with adjacent public art sites.

Directional or ancillary signage

The Coles Myer submission indicates that the commercial signage would be “visually insignificant”, should the directional signage (car park, loading dock etc) be included in the prescribed envelopes. On this point, it is necessary to modify the provisions to make it clear that this signage allowance *does not* extend to joint facilities shared between the cultural facility and the retail component like car parking signage or pedestrian entries, or to signage not located on the site. However, it would include signage related to the loading dock, which services the retail component of the development. The indicative illustration provided with the Coles Myer submission for Parke Street depicts a sign for the loading bay with an area of 10-12m². This is excessive and unnecessary, when a discreet sign of 1-2m² located below the podium level would suffice.

A practical design outcome would be to provide for a 10-12m² primary business identification sign, with allowance provided for other ancillary signage within the remainder or residue of the envelope. In this respect, instead of limiting commercial advertising to a single envelope, it is proposed to increase flexibility by modifying the provisions to allow commercial advertising in more than one envelope, provided the total area of advertising is maintained.

Although the provisions require flush wall or under awning signs, the provisions currently provide flexibility to permit projecting wall signage, should this result in a reduction to overall signage area. In view of the approach from Parke Street, such projection signage (at right angles to the development) may provide a more effective approach to business identification.

Signage above the podium

Concern is raised with the restrictions placed on commercial signage above and below the podium. In respect to the first point, the Coles Myer submission is incorrect in suggesting that the Cultural Precinct DLEP restricts cultural facility signage above or below the podium level – no restrictions are provided in relation to the cultural facility signage. Presently the clauses apply only to the commercial signage related to retail uses located beneath the podium level (ie the district level supermarket and other retail outlets). It is proposed to modify the clauses so that the general principles for advertising are applied to all signage, while maintaining flexibility for cultural facility signage. In response to the submission, it is also proposed to clarify the expectation that all signage should be the subject of an integrated signage package.

The suggestion that commercial signage should be permitted above the podium on a community facility in public ownership is not supported. While it is acknowledged that Coles Myer do not propose commercial signage related exclusively to retail outlets above the podium, it is considered that the joint

J. Advertising

centre identification signage is not appropriate in this location as it would compromise public art sites. As identified above, alternative and effective locations below the podium are available.

Proposed amendments by Coles Myer Limited

The Coles Myer submission has a stated intention of not wanting to “water down” the advertising controls of the Cultural Precinct DLEP, or to permit business identification that dominates the Parke Street and College Lane facades. Although this is acknowledged, the proposed amendments by Coles Myer (as documented in ‘refinements requested’ in the ‘comments’ above) would have the effect of setting primary controls to one side, subject to a proviso that advertising “form part of an integrated signage package for the entire building”. Should the advertising be only required to be an integrated package - which is a likely pre-condition for a site being developed as a single development project and would be expected in any event - restrictions on the size of commercial signage and its location above or below the podium (ie on a public facility or on a private retail outlet) would be made redundant. This is not considered to be reasonable and could be seen to neutralise the provisions subject to public exhibition.

That being said, the key or baseline requirements illustrated for signage in the Coles Myer submission (excluding proposed loading dock signage) may be achievable under the exhibited provisions. However, and to ensure appropriate elements can be accommodated, the clause is recommended to be modified to:

- resolve interpretation issues identified in the Coles Myer submission,
- introduce a consistent approach to basic requirements for all advertising on the site, whether commercial or civic,
- make explicit allowance for additional ‘whole of building/centre’ identification,
- clarify that prescribed signage restrictions do not relate to advertising for joint facilities, like parking.

Such modifications are made within the context of providing a clear statement of Council’s expectations for appropriate advertising on this site, both for the public and to inform preparation of future development applications.

Conclusion

The recommended alterations to the advertising provisions are considered to represent a reasonable compromise between the commercial requirements of Coles Myer, the concerns raised in public objections and Council’s objective to maintain the primacy of the BM Cultural Centre as a premier public attraction in Katoomba. A number of the essential requirements sought by Coles Myer are considered to be reasonable, and have been accommodated in the recommended alterations to the provisions. By the same token, it is necessary to ensure that this facility represents best practice in urban design and contributes to the townscape of Katoomba. The recommended provisions will provide a responsive framework to ensure a sound outcome for advertising can be achieved through the development assessment process.

RECOMMENDATION

J1. That subclause 7 be amended to read: (amendments underlined)

“(7) Advertising structure signage

- (a) The consent authority must be satisfied that the design and size of advertising signage shall:
 - (i) be compatible with the cultural facility and respect the cultural significance of the building, and
 - (ii) reduce visual clutter by rationalising and simplifying signage, and
 - (iii) be the product of an integrated signage package for the entire building or the precinct as a whole.
- (b) Advertising signage shall be fully integrated with the architectural elements of that part of the building on which it is located.
- (c) Advertising signage that identifies, or relates to the use of, the entire building or the precinct as a whole shall:

J. Advertising

- (i) be designed to complement the display of any public art work on the building on which they are located, and
 - (ii) be located below the podium level prescribed in subclause 3 (1)(a) above.
- (d) Advertising signage related exclusively to development for the purpose of the district supermarket or other commercial premises located below the 'podium level' prescribed in subclause 3 (1)(a), and any associated facilities, shall:
 - (i) be compatible with the scale and proportion of the building on which the signage is to be located, and
 - (ii) be limited to business identification purposes for the major tenant for any signage within the precinct visible from Parke Street and shall be contained within an envelope or envelopes with a total maximum area of 15m², and
 - (iii) be limited to business identification purposes for the major tenant and associated retail tenants for any signage within the precinct that is visible from College Lane and shall be contained within an envelope or envelopes with a total maximum area of 20m², and
 - (iv) be located below the podium level prescribed in subclause 3 (1)(a), and
 - (v) not be used for product promotion or other temporary advertising purposes.
- (e) Subject to paragraph (f), advertising signage must be attached to a building and shall:
 - (i) be flush to the wall and shall not protrude beyond 300mm from the wall to which ~~is~~ the structure is attached, or
 - (ii) be suspended under an awning, entrance or the like, but only where a clearance of 2500mm is provided between the structure and the floor or road pavement below.
- (f) Advertising signage may be considered that does not comply with paragraph (e) only if:
 - (i) it is demonstrated that the signage assists in reducing the area of advertising signage and is of a high design quality and finish, or
 - (ii) the signage relates to development for the purpose of a cultural facility.
- (g) Any illumination of advertising signage must not:
 - (i) result in unacceptable glare,
 - (ii) affect the safety of pedestrians or vehicles,
 - (iii) detract from the amenity of any residence within the locality.
- (h) Safety issues that must be considered with respect to the signage must ensure that:
 - (i) users of the public road are not hindered or distracted by signage.
 - (ii) the sightlines for pedestrians and/or cyclists from public places are not obstructed.

Note: the order and configuration of subclauses is altered from the exhibited version for drafting purposes; the application of some subclauses (ie (a), (b) (e) (f) (g) and (h)) has been broadened to apply to all advertising signage, not just advertising related to the retail aspects of the development. The term "structures" has been altered to "signage" to accord with changes made to this term in LEP 2005.

K. Listing of heritage item

DESCRIPTION

Clause 5 of the Cultural Precinct DLEP adds the "Site of Froma" to the Schedule 6 (Heritage) of LEP 2005.

Summary of submissions on this issue

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

COMMENTS RAISED – from consultation with Public Authorities

Refinements Requested

1 comment

Heritage Office:

The Heritage Office has acknowledged Council's listing of the site of the former "Froma House" as a heritage item. In its letter to Council of 24 December 2004, the Heritage Office noted:

...that the land to which the draft local environmental plan will apply includes an item of environmental heritage that is the "Froma" site identified in the Blue Mountains Heritage Inventory. The Inventory states that "Froma" is the site of Katoomba's first privately owned permanent house built by James Neale circa 1867 and that it is likely that archaeological evidence (relics) relating to "Froma" is well preserved underneath the asphalt of the car park...

The Heritage Office believes that the provisions of Draft Amendment No. 2 specifically building envelope, heritage and built form should ensure that no adverse impacts to the heritage significance of the archaeological resource or the Carrington Hotel occur as a result of the rezoning and development of the subject land...

It is considered that Council should engage a suitably qualified and experienced archaeologist to prepare an archaeological assessment of the "Froma" site. This is because an archaeological assessment is imperative to properly inform the design process for any subsequent development of the subject land. An archaeological assessment will identify the significance of the archaeological resource and more importantly assist in determining how the resource will be managed in the future...

The Heritage Office understands that planning for the development of the subject land is already well advanced. Based on the recent experience of the Heritage Office with new development and the management [of] archaeological resources in other local government areas Council would be well advised to obtain an archaeological assessment for the "Froma" site as a matter of priority.

Council prepared and forwarded a copy of a draft brief for commissioning an appropriate archaeologist to the Heritage Office on 16 February 2005. In its letter of 27 April 2005, the Heritage Office acknowledged its receipt of that brief, and formalised feedback which the Office had provided to Council staff in February to early April 2005. The assistance provided by the Heritage Office in finalising the archaeological brief is acknowledged.

K. Listing of heritage item

COMMENTS RAISED – from public exhibition

Support

1 comment

- Supports the inclusion of the Froma site as a heritage item.

DISCUSSION

Heritage listing of the “Site of Froma”

The support for listing of the “Site of Froma” as a heritage item, both by the Heritage Office and in the public submission, is noted. The proposed heritage listing is based on the recommendations from Dr Ian Jack, with Pamela Hubert, Colleen Morris and Soibhan Lavelle for the University of Sydney as part of the *Heritage Review Katoomba Leura* (2001). This provides a detailed heritage assessment of the site, which accords with the principles for heritage conservation and adheres to the format established by the State Heritage Inventory Project. A recommendation will be brought before Council to retain the exhibited proposal to list the “Site of Froma” as a heritage item.

Archaeological assessment

Division 4 (Heritage Conservation) of Part 3 of LEP 2005 provides the primary framework for the assessment and protection of heritage resources such as the remains of Froma House, which is understood to have been demolished in 1912/13. These provisions require that a heritage impact statement be prepared in relation to an archaeological site such as Froma house. More specifically, the Cultural Precinct DLEP requires that the heritage significance of the site as the location of the first permanent private residence in Katoomba and then as a school site in Katoomba since 1912 be acknowledged as interpretative features in the development.

Although the principal planning instrument and the Cultural Precinct DLEP provide an appropriate framework for assessing the archaeological significance of the site, the Heritage Office was concerned to ensure that an archaeological assessment of the site be undertaken early on in the planning process. In its letter of 24 December 2004, the Heritage Office formalised its request for Council to undertake such a study, rather than waiting for a study to be undertaken as part of the preparation of a development application for the site.

On 4 January 2005, Council advised the Heritage Office that it would engage a suitable archaeologist. Council prepared a draft brief that was forwarded to the Heritage Office on 16 February 2005. Advice was provided to the Office that “although the site is owned and managed by the State Government, Council is willing to manage this study to assist in finalising the draft LEP and to ensure an appropriate response to the archaeological resources on this site”.

Following incorporation of comments from the Heritage Office to the brief as noted above, Council forwarded the brief to commission the necessary study to six (6) archaeologists on 19 April 2005. No suitable responses have been received to date, primarily due to the large project commitments of a very limited range of suitable specialists. However, Council anticipates receiving an expression of interest from a suitable archaeologist in the near future.

Council understands the Heritage Office is satisfied with the response made by Council in seeking the necessary archaeological study for the site. Due to the difficulties in engaging an appropriate specialist, Council does not anticipate having the study completed by the time that the Cultural Precinct DLEP is made by the Minister. However, there is an expectation that the study is to be completed prior to the lodgement of a development application for the provision of a cultural facility and retail development.

This study will contribute to the appropriate interpretation of the heritage resource (being the remains of Froma House) as part of the proposed redevelopment of the site. To this end, and arising from the workshop with the Heritage Office on 30 May 2005 (as discussed in Section I (Heritage) above), it is proposed to alter the relevant provision of the Cultural Precinct DLEP to ensure that the future use of the site incorporates an interpretation of the remains of Froma House.

K. Listing of heritage item

RECOMMENDATION

- K1. That the proposed listing of the "Site of Froma" as a Heritage Item in Schedule 6 of LEP 2005 be retained as exhibited in the Cultural Precinct DLEP.
- K2. That Council note the preparation of a brief by Council, with input by the Heritage Office, to commission a study to assess the archaeological significance of the site of the former Froma House ("Site of Froma") and for such a study to inform the management of the archaeological resources of the site as part of any future redevelopment proposal.
- K3. That paragraph (d) in subclause 4 (6) (Heritage), be amended to read (amendments underlined):
 - "(d) The heritage significance of the Precinct as the location of the first permanent private residence in Katoomba (Froma House, 1867) and as a school site since 1912 shall be interpreted as part of any proposed development that occurs on the site."

L. Reclassification of Public Land as Operational Land

DESCRIPTION

This clause will change the classification of Lot 2 DP 547229 from Council community land to Council operational land pursuant to the *Local Government Act 1993*.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	2 (25%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	1
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	0
Object	2
Other Comment	0
<i>Total Comments</i>	3

COMMENTS RAISED – from public exhibition

Support 1 comment

- Support the reclassification.

Object 2 comments

- Object to reclassification from Community Land to Operational Land. Considers the land should remain in public hands for the benefit of the public.
- Objects to Council entering into legally binding contracts without prior public consent for the community land to be reclassified.

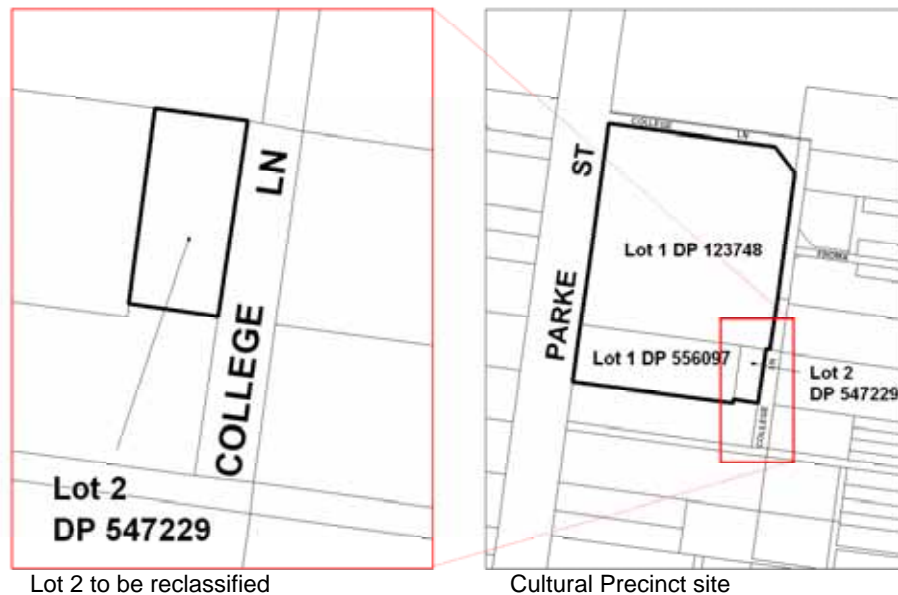
DISCUSSION

In accordance with Council's resolutions of 8 March 2005, the public land known as 33-35 College Lane, Katoomba, being Lot 2 in DP 547229 ("**Lot 2**"), was the subject of a Public Hearing held on 7 April 2005 at Council Chambers, Katoomba. Mr Peter Walsh independently chaired the hearing, held in accordance with the provisions of Section 29 of the *Local Government Act 1993* & Section 68 of the *Environmental Planning and Assessment Act 1979*.

Lot 2 has a frontage to College Lane, Katoomba, and is located immediately west of the present RTA motor registry site and south of the former TAFE East site. With an approximate area of 183.4m², Lot 2 is currently used for the provision of fourteen (14) reserved car parking spaces related to the use and management of the Katoomba Civic Centre (which includes a library) and commercial premises located to the east of College Lane. The location of Lot 2 is shown below.

Council received five (5) submissions to the public hearing for reclassification of Lot 2. All submissions were considered by Mr Walsh at the public hearing and within the scope of his subsequent report. **A copy of that report is attached as Figure 2.** The above objections to reclassification were considered within the report to the Public Hearing and will not therefore be further considered as part of this review.

L. Reclassification of Public Land as Operational Land



On the proposed reclassification of land at Lot 2, the Public Hearing report concludes that, "having considered the submissions, the proposed classification of the subject land to operational land is supported".

Recommendation No. 2 of the Public Hearing report is that:

Council support the classification of the subject land (Lot 2 DP 547229, College Lane Katoomba) as operational land under the Local Government Act, 1993, and advance the required further statutory process[es] to gain State government approval for such classification.
(Public Hearing Report May 2005)

The reclassification will allow for Lot 2 to be considered in the proposed development of the Cultural Precinct. Within this context, Lot 2 is proposed to form part of the site of a contemporary two-storey library, as well as forming the south-eastern portion of the shopping complex and two levels of basement car parking. While contributing Lot 2 to the development site for a notional sum, Council will become the owner of a strata subdivision allotment covering most of the development site as identified in the revised Master Plan, and car parking spaces that replace those currently provided on Lot 2. As a result, Council will have a new cultural facility of over 2000m² in area.

The objection above to Council entering into contractual arrangements is noted. Any development agreement contracts entered into are contingent upon the outcomes of the public planning processes as prescribed by the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*.

RECOMMENDATION

- L1. That Council receive and consider the attached report prepared by the independent chair of the Public Hearing into the reclassification of Lot 2 DP 547229 (33-35 College Lane, Katoomba) from community land to operational land.
- L2. That Council support the reclassification Lot 2 DP 547229 (33-35 College Lane, Katoomba) as operational land under the *Local Government Act 1993*, and advance the required further statutory processes to gain State government approval for such classification as recommended by the report referred to in Recommendation L.1 above.

L. Reclassification of Public Land as Operational Land

FIGURE 2 Public Hearing Report

REPORT TO BLUE MOUNTAINS CITY COUNCIL

BLUE MOUNTAINS LOCAL ENVIRONMENTAL PLAN 2005 – DRAFT AMENDMENT 2
(KATOOMBA CULTURAL PRECINCT)

PROPOSED LAND RECLASSIFICATION
LOT 2 DP 547229, COLLEGE LANE KATOOMBA

Report on a Public Hearing Held in Accordance with the Provisions of Section 29 of the Local Government Act 1993 & Section 68 of the Environmental Planning and Assessment Act 1979

Prepared by

Peter Walsh

Independent Chairperson

MAY 2005

CONTENTS

	Page
1. INTRODUCTION	
1.1 Context	1
1.2 Classification of Public Land	2
1.3 Public Hearing	2
1.4 Scope and Structure of Report	3
1.4 This Report and Future Council Decisions	4
2. SUBMISSIONS	
2.1 Council Submission	5
2.2 Public Submissions	6
[2.3 Submissions to the exhibition of the draft LEP	9]
3. KEY ISSUES	
3.1 Consideration of Financial Arrangements	10
3.2 Carparking for Current Users of Subject Land	11
3.3 Consideration of Design of Centre	12
3.4 Whether Community Land should be Classified for a Commercial Purpose	13
3.5 Contingency Considerations	13
4. CONCLUSIONS & RECOMMENDATIONS	14

ANNEXURES

- A. List of Persons Attending Hearing

LIST OF ABBREVIATIONS USED IN REPORT

Council	Blue Mountains City Council
EP&A Act	Environmental Planning and Assessment Act 1979
LG Act	Local Government Act 1993
BMLEP	Blue Mountains City Local Environmental Plan 2005
Subject Land	Lot 2 DP 547229, 33-35 College Lane, Katoomba

L. Reclassification of Public Land as Operational Land

1. INTRODUCTION

1.1 Context

There is a proposal before Blue Mountains City Council (Council) to reclassify certain land located in Katoomba town centre. The instrument for this proposal is *Blue Mountains City Local Environmental Plan 2005, Draft Amendment 2 (Katoomba Cultural Precinct)* (the draft LEP). The proposal provides for the classification of an area of public land to “operational” land under the Local Government Act 1993 (LG Act).

There are concurrent related proposals to amend the planning provisions applying to the subject land, and a larger area which surrounds it. These provisions would allow for the development of a mixed use cultural centre and commercial development, in what is termed the *Katoomba Cultural Precinct*.

The public land subject to the hearing is known as 33-35 College Lane Katoomba, being Lot 2 in DP 547229 (“subject land”). The site has an area of some 183.4m².

See figures below.

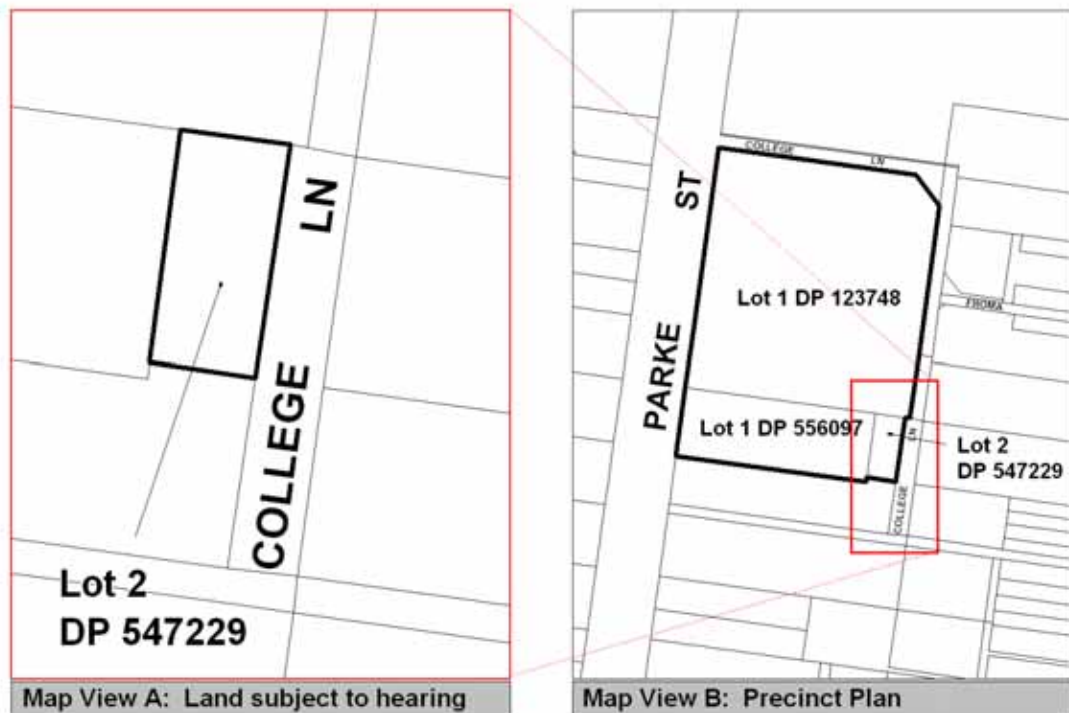


Figure 1: Cadastral boundaries of subject land (Map View A) and in the context of the larger Katoomba Cultural Precinct Setting (Map View B).¹

¹ Source: Council submission to public hearing

L. Reclassification of Public Land as Operational Land



Figure 2: Aerial photographs of subject land (Map View A) and in the context of the larger Katoomba Cultural Precinct Setting (Map View B).²

1.2 Classification of Public Land

Under the regime for the classification of public land introduced with the LG Act, all public land must be classified as either community or operational land. Public land comprises all land “vested in or under the control of the council”³. As such, both land which a council may have under its control for use by the community, and land which a council may hold, say, for investment purposes or for storage of plant and equipment, are all designated as public land. The principal effect of the classification of public land is to “restrict the alienation and use of the land”⁴.

Operational land has no special restrictions other than those that may apply to any piece of land.

1.3 Public Hearing

Where there is a proposal to reclassify community land to operational land, section (s) 29 of the LG Act provides that Council must arrange a public hearing in accordance with the provisions

² Source: Council submission to public hearing

³ There are some exceptions noted in the Dictionary to the LG Act. For example a public road, and land to which the Crown Lands Act applies.

⁴ Department of Local Government, *Public Land Management – Practice Note 1 Revised May 2000*, ISSN 1320-6788.

L. Reclassification of Public Land as Operational Land

of s68 of the Environmental Planning and Assessment Act 1979 (EPA Act). Section 68(2) of the EPA Act provides that at the conclusion of a public hearing:

... (a) report of the public hearing shall be furnished to the council and the council shall make public the report.

Section 47G(2) of the LG Act provides as follows:

The person presiding at a public hearing must not be:

- a) a councillor or employee of that council holding the public hearing, or*
- b) a person who has been a councillor or employee of that council at any time during the 5 years before the date of his or her appointment.*

In accordance with the above provisions I was appointed to preside over the hearing and prepare a report. This document is intended to comprise the report of the public hearing in accordance with the requirements of s68(2) of the EPA Act.

The general administration of the public hearing was undertaken by Council officers. I understand that due notice of the public hearing was given in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000. The hearing itself was conducted on the evening of 7 April 2005 at Council's Administrative Centre in Katoomba. There were six members of the public in attendance. Four Council officers were also in attendance. Those attending the hearing are nominated at **Annexure A**. The proceedings generally followed the following program:

1. Welcome and introduction to hearing process from chairperson
2. Outline of the proposal by Council staff
3. Public submissions and questions with regard to the proposal
4. Concluding remarks and comments on next steps from chairperson.

1.4 Scope and Structure of Report

With the appointment of an independent chairperson/report author, a public hearing provides the opportunity for a party at "arms length" from a council to consider the submissions and provide an independent report for due consideration by that council.

At Council's meeting of 8 March 2005 it was determined that the terms of reference for the public hearing should not be expanded beyond the statutory requirements of the LG Act. Thus the hearing's terms of reference, and this report, are focused on the proposed classification of community land. Issues associated with the overall mixed use development scheme were only of interest to the hearing to the extent that they are of direct interest to the proposed classification of the subject land.

The body of this report summarises the submissions to the hearing. Conclusions and recommendations are provided based on the oral and written submissions to the hearing itself and consequent analysis.

L. Reclassification of Public Land as Operational Land

1.5 This Report and Future Council Decisions

As s68(3) of the EPA Act provides:

The council shall consider the submissions and the (public hearing report) and make any alterations it considers are necessary to the draft local environmental plan arising from its consideration of submissions or matters raised at any public hearing.

Mindful of s68(3) and informed of public submissions and the findings of this report, Council is now required to make the decision it feels is appropriate with regard to this matter.

L. Reclassification of Public Land as Operational Land

2. SUBMISSIONS

2.1 Council's Submission

Council's administration presented a written submission with a series of enclosures including a number of prior Council reports related to the Katoomba Cultural Precinct. Council's Program Leader City Planning, Mr Bill Langevad, presented Council's oral submission to the hearing. The following key points were made in the Council administration's submission:

On the subject land

It was submitted that the subject land was now reserved for carparking use, and the users of the 14 stacked spaces were associated with the Katoomba Civic Centre and adjacent commercial premises. Mr Langevad indicated that the site was not suitable for, and nor does it provide, general public parking. It was indicated that it would be "a planning requirement and a reasonable public expectation that its parking function would be replaced or otherwise compensated should this land be redeveloped for another purpose".

On the planning for the Katoomba Cultural Precinct

It was submitted that Council was now at the latter stages of what had been a long term planning project commencing in 1998 with an interactive process ("charette") to generate ideas for the revitalisation of Katoomba. Subsequently masterplanning work had been undertaken for an area including that now described as the Katoomba Cultural Precinct, land principally in State government ownership. The NSW Department of Public Works and Services commenced an Expression of Interest process to seek proponents for the development of the precinct and an organisation known as Stevens Group had been won selection for further participation. Architects were also engaged to prepare a master plan which included a focus on a cultural component. Plans have continued to advance and there is now a proposal for a Development Agreement which would provide for development of the mixed use precinct. The Development Agreement would apparently be concluded between the Minister for State Development, Council, the developer and any guarantors. The statutory planning process for the precinct is also continuing with the current draft LEP.

On why reclassification of the subject land is necessary

It was submitted that a component of the proposed Development Agreement is that Council transfer the subject land for incorporation into the development scheme. Public land classified as "community land" would be unable to be transferred for this purpose.

Mr Langevad indicated that it was not altogether clear whether reclassification was in fact necessary for the subject land. He noted that Council had actually resolved in 1994 to classify the land as operational land, and the land was so designated in Council's land register. However there was an uncertainty as to the legitimacy of this classification and Council had decided to formally work through the current process of reclassification of the subject land to clarify this matter.

L. Reclassification of Public Land as Operational Land

On plans for the Cultural Precinct and the Subject Land

Plans provide for the development of a cultural centre, major retail facilities and extensive underground parking in accordance with stated design requirements. Should the draft LEP be supported, the ultimate form of development would be dependent on the outcome of a development assessment process, under the Environmental Planning and Assessment Act, 1979.

It was submitted that while the subject land was only a small part of the overall development site, its location near the Civic Centre, and potential to provide for connectivity to Katoomba Street, were among the reasons which made logical its inclusion in the scheme. The development scheme provided for the subject site to comprise part of a “contemporary two-storey library, as well as forming the south-eastern portion of the shopping complex and two levels of basement car parking”.

Mr Langevad indicated the deficiencies of the current carparking uses at the subject land (“not suitable for general public use” due to stacked parking, and need for cars to reverse onto College Lane). At the same time it was noted that the development scheme would replace the lost parking spaces in a undercover parking layout meeting modern standards, with reserved spaces equivalent to the present.

On community benefit

The proposed development scheme was seen to bring extensive community benefits, previously identified to be of need. Council would have ownership of a stratum lot covering most of the upper level of the development site, and:

... a new cultural facility of over 1800m², comprising an Interpretive Centre, art gallery, theatrette, multi purpose room, shop, tourist information, café and administration. There will also be a site for a new library of approx 900m² floor space, extensive outdoors areas, some secured and some open to the general public.

Improved parking and connectivity are other benefits seen to accrue with the proposed development scheme.

In relation to the subject land Mr Langevad notes:

To the extent that the reclassification of Lot 2 enables the development of the proposed cultural precinct to proceed, there is significant community benefit in proceeding with the change to the land’s classification.

2.2 Public Submissions

Mr Robert Stock

Mr Stock made an oral submission and provided a copy of his written speaking notes. Mr Stock submitted he was Chairperson of the Katoomba Mainstreet Association and wanted to make clear the objection of the Association to this reclassification. This objection was based on the following main points:

L. Reclassification of Public Land as Operational Land

- Belief that the financial arrangements between the proposed developer of the precinct and Council was not a “good deal” and therefore the proposal and land reclassification should not proceed. A series of figures are cited on outgoings for Council and the State government. The figures cited by Mr Stock include:
 - Council gives (the subject land) to Stevens Group for \$1.
 - Council gives land underneath College Lane (North) to Stevens Group for nothing.
 - Council gives the right to Stevens Group to demolish part of the Civic Centre (to provide access to the Supermarket) for nothing.
 - State government sells to the Stevens Group the RTA building and the TAFE East site for an amount (\$2,100,000) which has been independently assessed as a third of its market value.
 - State Government gives to the Stevens Group \$4,200,000.
 - Blue Mountains City Council Gives to the Stevens Group a further \$3,000,000.
 - The Stevens Group gives to Blue Mountains City Council a strata lot for a Cultural Centre which has a built area of 1835m² and is located on the roof of a supermarket.

Issues are also raised with respect to recurrent costs for running the facility. Mr Stock suggests that financial plans are overly optimistic in terms of Council income projections.

- The attachment to Mr Stock’s written notes suggests:

Council needs to tread with extreme care when committing the ratepayers of the Blue Mountains to these expenditures that will continue long into the future.

On this point it is submitted that such care is not presently apparent.

- There are unreasonable adverse effects on current users of the existing carparking on the subject lands. Currently, the subject land provides carparking and the opportunity for unloading for occupants of the shops on the lower level of the existing Civic Centre and parking for Council’s librarians. It is indicated that the development plans would not provide “similarly accessible” parking, with parking to be provided via the supermarket and its entries. It is suggested that “in fairness to its tenants” Council should maintain or improve parking.
- Concerns generally with the prospects of the proposed cultural centre attracting visitors in accordance with expectations due to design issues (in particular what is seen as poor street exposure), and by implication, ineffective use of former community land.

Mr Stock indicated that he had significantly more detail on what were termed “extremely serious design problems”, but recognised that this hearing was to focus on matters relevant to land reclassification.

L. Reclassification of Public Land as Operational Land

Ms Lorraine Dawson Hawkins

Ms Dawson Hawkins made an oral submission and provided written notes. Mr Dawson Hawkins major concerns included:

- The proposed development was not really a cultural centre as a cultural centre needed large spaces for performing arts (eg shows, theatre). It was seen to be the case that it was because the proposed supermarket was so large that there was insufficient space for a performing arts facility.
- The proposed development's provision of a supermarket was not supported by the community, and Council was not listening to the community.
- Objection to use of community land and land now comprising Parke Street and College Lane for major retail and supermarket development, and that this land should only be used for the cultural precinct and library.
- General concerns about the proposed design of the new development especially with respect to the Parke Street streetscape, and loading areas. This led to the conclusion that the supermarket should not occur within the cultural precinct.
- Concerns about coach parking for visitors and the direct link to the subject land which could provide parking, or a number of other community based uses.
- Ms Dawson Hawkins also made comments relating to theatre design.

Ms Dawson Hawkins' particular vision was that the subject land be used for a "freestanding ... lift, rising to a height to look over the township and valleys of Katoomba" with a viewing platform provided at the top. Generally Ms Dawson Hawkins opposed the reclassification of the subject land and "deals with developers" as this community land "must be kept for the people".

Ms Dawson also requested written responses to a series of questions. I have forwarded this request to Council's officers.

Mr Tim Goodwin

Mr Goodwin made an oral submission to the hearing and provided his written speaking notes. He indicated that he did not object to the reclassification of the subject land, and transfer of it as a component of the proposed redevelopment project. Mr Goodwin suggested that a significant benefit of the proposal was the "300+ car parking spaces", and that "carparking has been a large problem affecting the revitalisation of Katoomba".

Mr Goodwin's concerns were that with all the concentration on the mixed use proposal "let's not forget the current use" and tenants who would lose parking spaces currently enjoyed.

A further point of principal was that there be acknowledgement that the proposed parking was not only for the supermarket and new development, but rather was intended to benefit the revitalisation of Katoomba more generally. In particular he saw that it was "vital" that there be a direct pedestrian access from the proposed underground parking to College Lane, a point that had been made already in many forums. Such access would service both customers and workers wishing to access the existing Civic Centre area and the walkway to Katoomba Street. Current proposals indicated that pedestrian access would need to be via the supermarket access

L. Reclassification of Public Land as Operational Land

ramp. This concentration on the supermarket was seen to be inconsistent with the notion that the proposed development can assist in the revitalisation of all of Katoomba.

Mr Goodwin indicated that in discussions with Council it had been indicated that this matter could be resolved at the development stages. He was seeking assurances that this was the case.

Ivan Jeray

Mr Jeray provided a written submission to the hearing. Key points from the submission included:

- Belief that “public land should remain for the community” and not be used for private uses including supermarket purposes when there were already sufficient retail outlets
- Concerns about the proposed development scheme, including:
 - Inadequate response to unmet demand for performing arts space and oversupply of retail space instead
 - Unresolved relationship with Civic Video and Retravisio buildings.

Mr Jeray also raised concerns about what were understood to be binding contractual relationships with third parties for the subject land prior to its formal reclassification.

2.3 Submissions to the exhibition of the draft LEP

I have been provided with and reviewed copies of six submissions to the draft LEP. Some of which had relevance to the proposed reclassification. These submissions are summarised below:

- Mr Ivan Jeray – apart from the points made above in respect to Mr Jeray’s written submission to the public hearing, Mr Jeray makes a series of comments relating to the proposed development concept and its design.
- Maxwell King – Mr King indicated his support for the proposed rezoning and plans “in principle” and made a series of comments in relation to the design scheme including in particular its relationship with Froma Court.
- Lynette Gee – Ms Gee raised a number of concerns about the proposed cultural centre and supermarket, including concerns about wasted resources and the potential for the facility’s ongoing running costs to burden local residents into the future.
- Ms Lorraine Dawson Hawkins – Ms Dawson Hawkins also made an oral and written submission to the hearing. Ms Dawson Hawkins’ key points of relevance to the matter before the hearing are discussed above.
- Simon Hearn – Mr Hearn’s written submission to the draft LEP nominated his support for the proposed reclassification of the subject site. The submission made comments on matters of detail relating to the proposed redevelopment scheme including in relation to: access to views, streetscape, and that the design should reflect the visual and cultural prominence of the proposal to Katoomba.
- Roads & Traffic Authority – The RTA’s brief response has no relationship with the matter before the hearing.

L. Reclassification of Public Land as Operational Land

3. KEY ISSUES

The key issues raised in submissions can be summarised as follows:

- Financial arrangements for the project suggest a high risk, and do not suggest overall value to Council and thus the reclassification of the subject land should not occur
- Adverse effects on those who currently use the subject land for carparking purposes
- Inadequacies in the design of the facility (eg inadequate public exposure, through links, coach parking, building appearance, etc) such that it will not attract sufficient visitors and thus reclassification would provide for ineffective use of community land
- Inadequacies in the complement of cultural facilities to be provided, specifically lack of performing arts facilities
- General view that community land should not be reclassified for commercial purposes, and associated lack of support for proposed supermarket.

These issues are considered below.

3.1 Consideration of Financial Arrangements Involved in the Overall Cultural Precinct Project

I have noted the points made in Mr Stock's submission in particular, and his view that due to financial uncertainties with the overall project as it currently stands, the proposed classification of the subject land should not proceed. It could be considered that detailed financial matters relating to the project are beyond the scope of this hearing, and indeed I have limited expertise to make any meaningful contribution to the financial analysis. I can agree that the public hearing process in relation to the subject land, albeit that this land is only of small scale compared to the overall project, does provide one point in the chain of public scrutiny to which, in this instance, a public private partnership project of this nature will be subject. My review has been quite limited however and based on a plain reading of the General Manager's report to Council on this matter of 9 March 2004. This report provides details on the then financial considerations relating to the project. It seems to me the following points can be made in relation to Mr Stock's submissions:

- The actual transfer of the subject land would form part of a major overall financial arrangement and the nominal price (\$1) for transfer of the subject land, or for rights to land under College Lane does not seem to me to be any indicator of the financial merits of the arrangement for Council.
- The submission's reference to the amounts paid to the Stevens Group and the inference of Council obtaining "a strata lot for a cultural centre" in return, simplifies what presents is a quite complex arrangement between State government, Council and the potential developers.
- I am not familiar with suggested proposals to grant rights to demolish parts of the Civic Centre or with suggestions that State government owned lands were to be transferred at a lower than market value price to the Stevens Group, and see these matters as outside the scope of the hearing in any event.

L. Reclassification of Public Land as Operational Land

I do concur with Mr Stock's view that "extreme care" is necessary with regard to the project, given its scale and complexity, and both short and longer term financial implications. The General Manager's Report of 9 March 2004 is, in my appreciation, was intending to indicate the complexities and financial implications of the project. The report suggests a requirement for additional borrowings, but notes that the proposed loan raising would not take Council outside industry benchmarks for debt servicing. The report submits that "Council budgets will be put under pressure by this project, but not intolerably so"⁵. The report acknowledges that there is a need to consider what community benefits would accrue as a consequence of the significant financial investment.

The General Manager's report makes clear the importance of the proposed public-private sector partnership arrangement which involves three tiers of government. The arrangement is seen to provide what is termed a "once in a generation opportunity" to provide a series of contemporary facilities which have been identified as being of need in many planning studies over 10 years or more now. The proposed facilities are seen to be very important to Katoomba and have significant benefits for the wider community.

Comment

It is apparent to me that there has been scrutiny of the commercial arrangements involved in the project by executive management at Council, and that the details have been put to Council in its deliberations in this matter. It has been made clear to Council that there are significant financial commitments required for the project. I can appreciate the view that this project, successfully completed, can provide very significant community benefits indeed, the characteristics of which have been developed in consultation with the local community. It is beyond my capacities in this matter to determine whether there has been the required level of diligence in the scrutiny of the financial arrangements. I do note the General Manager's reports references to the "conservative" nature of many of the assumptions in the financial modelling.

In respect of the proposed reclassification of community land to operational land, in this report is appropriate to re-iterate the need for Council to exercise due diligence in the financial analysis of this complex project which has brought on the need for the reclassification.

3.2 Carparking for Current Users of the Subject Land

In my understanding the intent is that there be replacement carparking for the 14 spaces that will be lost as a consequence of development of the subject land. The issue is more related to convenience, given the current easy accessibility between the subject land and the Civic Centre precinct.

Mr Greenwood of Council indicated at the hearing that provision of a direct access between the proposed underground carparking spaces and College Lane was under consideration. Mr Greenwood indicated that there had been suggestions from the Stevens Group that there were potential problems with arranging levels to make a doorway and access to carparking given the gradient of College Lane in this vicinity. A further concern was whether an access point off

⁵ General Manager's Report to Council, *Item 6 – Ordinary Meeting Blue Mountains Cultural Centre, 9/3/04*, p63.

L. Reclassification of Public Land as Operational Land

College Lane would bring security problems (unlawful access, vandalism etc, with reduced public scrutiny).

Comment

This issue presents as an example of a relatively minor consideration in the scale of a major overall project. Nevertheless, it is important for detailed project planning to retain a focus on “cushioning” potential adverse effects like this. Certainly there are examples of secondary stairway access to underground parking areas aimed at facilitating pedestrian access to destinations other than what may be the core uses (eg supermarket and cultural centre in this instance)⁶. In this instance, recognising the otherwise adverse effects on the parking tenants, and recognising a key project purpose of Katoomba revitalisation and improving cross pedestrian links generally, there does not seem to be an obvious downside to the provision of a separate pedestrian access point at College Lane. If security concerns are quite serious then it may be that such access is limited to holders of reserved parking. This would lessen the potential benefits which would accrue from the costs associated with the provision of such access. The matter warrants continued Council involvement with a view to providing direct access to College Lane if practicable. However it would not, in my view, be a matter which would prevent the land reclassification from proceeding.

3.3 Consideration of the Design of the Centre and Proposed Cultural Facilities

The submission is that due to design inadequacies the Cultural Centre will not attract sufficient visitors and thus is ineffective use of community land. The design deficiencies cited included: inadequate public exposure, through links, coach parking, building appearance, among others. It is further submitted that the proposed scheme does not provide sufficient cultural facilities, with the need for a performing arts centre a point of particular emphasis.

Comment

I note that Council did consider the terms of reference of this public hearing and in a deliberative sense determined that the hearing terms of reference not be expanded beyond the requirements of section 29 of the Local Government Act. In turn the hearing has been limited to concerns regarding the land reclassification.

It is apparent to me that Council has worked consciously, and in an open manner, in the development of a scheme which addresses the “desired planning outcomes” for the Cultural Centre precinct. It is not surprising that the view has been expressed that there are serious design problems and problems with the mix of facilities proposed, albeit that the number of submissions expressing such views at this point is quite low. Further it is apparent to me that problems remain with the resolution of issues, including in relation to large vehicle access and parking, appearance of the building from Parke Street among others.

In my view the submissions raised in regard to design issues and adequacy of cultural facilities are not sufficient to suggest that the proposed reclassification not proceed. That is not to say that there will not be any consideration of these submissions. Indeed it would be expected that Council will itself give consideration to such submissions and it is a legislative requirement

⁶ A recent example is the construction of the Pittwater Place centre in Mona Vale town centre.

L. Reclassification of Public Land as Operational Land

that Council refer all submissions to the draft LEP to the Director-General of Planning with its submission under Section 68(4) of the EPA Act.

3.4 Whether Community Land Should Be Reclassified for Commercial Purposes

The submission is that as a matter of principle community land should be retained for community purposes, and in particular not transferred for use as a supermarket.

Comment

In my opinion a council acting reasonably will look for achievable, innovative approaches to generation of funding to achieve its planning and servicing goals. In my view it is not unreasonable of itself for a council to move to reclassify community land to operational land. It is the merits of the particular case that require analysis. In the circumstances the reclassification and transfer of the relatively small area of community land is aimed at contributing to what is a major project which is seeking to deliver major community benefits. It is also a relevant consideration in the circumstances that the land is not subject to general community use at present in any event.

3.5 Contingency Considerations

In the hearing I raised a contingency consideration, asking Council officers if there was any view on what classification should be placed on the subject land if the mixed use development scheme does not proceed. I raised this comment in regard to whether I should make any recommendations of relevance to this in my report.

A written response was provided to my question which indicated a preference that the land should retain an operational status even should this project not proceed. The reasons for this were principally:

- Site is currently used for reserved parking. The use is essentially private and would not accord with the framework for the management of community land set by the Local Government Act 1993 (LG Act 1993).
- As detailed in Council's submission to the hearing, Council had previously resolved to classify the land as operational land, reflecting its use characteristics, and it appears as such in Council's land register
- The zoning of land as Business General 3(a) which provides flexibility for the re-development of the land in the future in accordance with the relevant planning provisions.
- The general public does not currently use the land. The site does not have attributes that are conducive to its future use as a public place or a community facility.

Comment

A comment on whether the classification of the land should be contingent on the proposed development scheme is considered overpage in the context of the overall conclusions.

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L. Reclassification of Public Land as Operational Land

4. CONCLUSIONS & RECOMMENDATIONS

The subject land comprises a small area of some 181m² which is currently ostensibly classified as operational land and currently in use for what are seen to be for the most part private purposes for reserved carparking. The matter before the hearing is whether the subject land should be classified as operational land, in what would be a second attempt to do so. Apparently there are questions on the legitimacy of the first attempt.

Submissions to the public hearing raised a number of matters which were principally concerned with the development scheme for the mixed use cultural facility commercial development. It does not seem to me that there were substantive arguments to suggest that the land should have a community land status intrinsically. That is, that the land should be retained for general use and availability to the community.

Community land is different (from operational land). Classification as community land reflects the importance of the land to the community because of its use or special features. Generally it is land intended for public access and use.... This gives rise to the restrictions on the LG Act, intended to preserve the qualities of the land.

(Department of Local Government)⁷

Having considered the submissions, the proposed classification of the subject land to operational land is supported, and a recommendation to this effect is provided. Recognising the existing use, management and physical characteristics of the land, it appears to me that an operational land classification is the most suitable one for the subject land, with or without Cultural Centre Precinct proposal.

While I observe the arguments that the proposed major development scheme should be altered or should not proceed at all, it seems to me that these arguments need to proceed on their own merits and it is unreasonable that the current land classification should fetter such consideration of the merits of the proposed scheme.

The public hearing, its relationship with public land and Council's custodianship role of such land does bring attention to the need for due diligence in the financial deliberations on the project and a recommendation to this effect is provided.

Recommendations

1. The submissions to the public hearing be noted.
2. Council support the classification of the subject land (Lot 2 DP 547229, College Lane Katoomba) as operational land under the Local Government Act, 1993, and advance the required further statutory processes to gain State government approval for such classification.

⁷ DLG, op cit.

L. Reclassification of Public Land as Operational Land

3. Council note the concerns relating to financial considerations for the Katoomba Cultural Precinct project, raised in submissions. The hearing report endorses the need for due diligence in this project, given its serious financial considerations for Council.
4. The design issues raised in the hearing be given consideration in Council's analysis of the merits of the Katoomba Cultural Precinct project, including in particular, provision of direct pedestrian access between the proposed underground carparking to College Lane if practicable.
5. This report be placed on public exhibition.

L. Reclassification of Public Land as Operational Land

Annexure A

List of People Attending Hearing

1. Tim Goodwin 126 Narrow Neck Road Katoomba
2. L Dawson Hawkins Katoomba Street Katoomba
3. Tony Paulton 28 Waratah Avenue Katoomba
4. G Dawson Ocean Avenue Newport
5. Robert Stock PO Box 543 Katoomba
6. Josee Paulton 28 Waratah Avenue Katoomba

Representative Council officers were also in attendance, as follows:

1. Robert Greenwood, Acting General Manager
2. Paul Grimson, Manager Strategic Planning
3. Bill Langevad, Program Leader City Planning
4. Karen Fitzherbert, Strategic Planning Officer.

M. Miscellaneous

DESCRIPTION

Miscellaneous items fall outside of the provisions of the Cultural Precinct DLEP.

Summary of submissions on this issue

SUBMISSIONS	
Number (%) of Submissions on this matter	2 (25%)
COMMENTS	
Position	Count of comments on this matter
Support / No Refinements	1
Support / Refinements Requested	0
Refinements Requested	0
Object / Refinements Requested	0
Object	0
Other Comment	5
<i>Total Comments</i>	6

COMMENTS RAISED – from public exhibition

Support 1 comment

- Support the library being built in this area. Requests more room for the library to allow for expansion in the future.

Other Comment 5 comments

- Concerned about the loss of mature trees between Parke Street and College Lane.
- Objects to bin area located adjacent to College Lane stair entrance.
- Request the performing arts theatre be increased to include a large stage, audience seating, dressing rooms, toilets and showers, loading dock for shows, rehearsal room, stage managing area, and a stage door.
- Insufficient space allocated to performing/ visual arts or purpose built 200/300 seat capacity hall.
- More space, and more and larger facilities, are needed for an appropriate Cultural Centre - including meeting rooms, a large art gallery, performing arts theatre and theatre.

DISCUSSION

The miscellaneous comments above refer to a range of issues that fall outside the scope of the Cultural Precinct DLEP. The comments are discussed below and where appropriate will be further considered as part of the development proposal stage.

Loss of mature trees

A number of large trees currently stand on the former TAFE east site between Parke Street and College Lane. The comment above regarding the loss of trees is acknowledged. A review of Council's tree register indicates that there are no significant trees listed for this site, suggesting that the presence of trees on the site should not unduly restrict or limit the development potential of the site. The removal of trees from the site will be separately assessed as part of the development assessment stage in accordance with Council's planning policies.

Refuse facilities

The comment regarding the location of the refuse facilities is noted. The Detailed Schematic Design locates the refuse facilities for the cultural facility on College Lane to the south of the Froma Lane stair entrance. The refuse facility is located to be accessible directly from the rear of the

M. Miscellaneous

café/restaurant/shop. It is considered that the relocation of refuse facility to the north elevation of College Lane would impact on the visual amenity of the proposed public space. Alternatively, to relocate the refuse facility on Parke Street would increase truck movements and heavy vehicle loading to Parke Street and impact on the functionality of the café/restaurant/shop with waste being moved through the public square. A more detailed assessment of the refuse facility, its location and visual impact will be undertaken as part of the assessment of a development application.

Cultural facility

The comments regarding the cultural facility and associated requirements for a performing arts facility are noted. Discussions regarding the potential location of a dedicated entertainment/performing arts facility were undertaken as part of the Katoomba Charrette public planning process. The Charrette Report (April 1999) identified the potential for the Savoy/Trocadero to be restored as a performing arts venue, dance hall, and/or cinema complex.

The final design brief for the Cultural Precinct was for a development to “incorporate a high quality public Cultural/Visitors Centre”. As such the public planning process has been informed by the outcomes of the Charrette and does not provide for a performing arts complex. That being said, the Cultural Precinct DLEP, in its definition of *cultural facility*, does not preclude a performing arts venue on the site.

RECOMMENDATION

- M1. That the comments made above be noted.
- M2. That no changes be made to the Cultural Precinct DLEP as exhibited in response to those comments.