



PLANNING PROPOSAL

**Blue Mountains Local
Environmental Plan 2005 –
Draft Amendment 25**

**Reclassification of land in
Katoomba**

Contents

INTRODUCTION	3
PART 1 – OBJECTIVES OR INTENDED OUTCOMES	8
PART 2 – EXPLANATION OF PROVISIONS	8
PART 3 – JUSTIFICATION	8
PART 4 – COMMUNITY CONSULTATION	11
ATTACHMENT 1 – COMPLIANCE WITH SECTION 117 DIRECTIONS	12

INTRODUCTION

The preparation of a planning proposal is the first step in preparing a Local Environmental Plan (LEP). In this case, it is the first step in preparing an amending LEP to Blue Mountains LEP2005. A planning proposal is a document that explains the intended effect of the proposed LEP and the justification for making it.

This planning proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Department of Planning Guidelines 'A guide to preparing local environmental plans' and 'A guide to preparing planning proposals'. It addresses matters that must be considered to deliver an amending LEP that reclassifies certain parcels in Katoomba from community land to operational land.

The Sites

The Planning Proposal applies to three sites in the Local Government Area, described below.

Site	Address	Number of parcels	Lot and DP
1	Pioneer Place, 38-40 Parke Street, Katoomba (Southern Parcels)	2	Lot 1 DP 506174
			Lot 2 DP 621621
2	Pioneer Place, 38-40 Parke Street, Katoomba (Northern Parcels)	23	Lot 2 DP 580297
			Lots 1, 3, 5, 7, 9, 11, 13, 15, 55 DP 239909
			Lot 2 DP 585560
			Lot 4 DP 598367
			Lots A, B, C DP 388574
			Lots 1, 2 DP 1110749
			Lot 26 Section 2 DP 692
			Part lot 24 Section 2 DP692
			Lot 29 DP 1126688
			Lots 1, 2 DP 1110584
			Lot 1 DP 940365
4	Studleigh Place, 152-154 Katoomba Street	1	Part Lot 102 DP 1152617

Zoning

Site	Key	Map
1	Zones (LEP 2005) - Village - Town Centre - Village - Housing Provisions (LEP 2005) - Accessible Housing Area Precincts (LEP 2005) - Precincts	
2	Zones (LEP 2005) - Village - Town Centre - Village - Housing Provisions (LEP 2005) - Accessible Housing Area Precincts (LEP 2005) - Precincts	
4	Zones (LEP 2005) - Village - Town Centre Provisions (LEP 2005) - Accessible Housing Area Precincts (LEP 2005) - Precincts	

SITE 1 - Pioneer Place, 38-40 Parke Street, Katoomba (Southern Parcels)

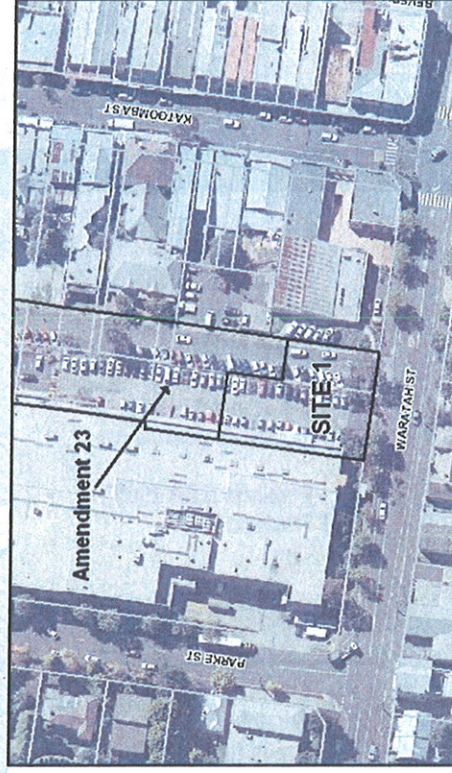
Site Analysis

Site 1 is made up of two parcels at the southern end of Pioneer Place, Katoomba. Pioneer Place is a Council owned and managed car park and has vehicular access from Katoomba, Waratah and Parke Streets. The two parcels have a combined area of approximately 1,285 sqm and are situated between the existing Coles supermarket to the west and Liquorland to the east.



Background

At the ordinary meeting of 22 November 2011, the Council resolved to proceed with an amendment (Amendment 23) to reclassify 17 parcels of land in Pioneer Place. Amendment 23 sought to reclassify land from community to operational to facilitate elements of a proposed supermarket redevelopment and to allow Council the flexibility to make infrastructure and public domain improvements associated with the Masterplan for Pioneer Place. The 2 parcels that form Site 1 are situated adjacent and to the south of the land reclassified through Amendment 23. The public hearing report for Amendment 23 recommended that Council reclassify the southern parcels to operational to ensure consistency. Furthermore, reclassifying Site 1 from community to operational will provide Council will greater flexibility in terms of managing Pioneer Place car park.



SITE 2 - Pioneer Place, 38-40 Parke Street, Katoomba (Northern Parcels)

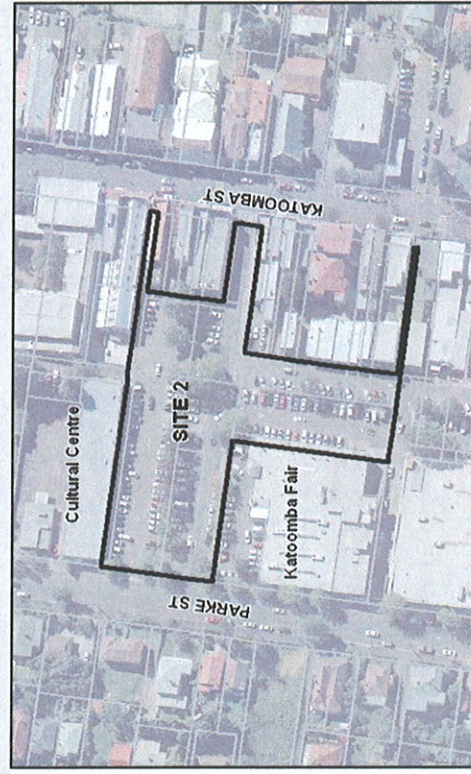
Site Analysis

Site 2 is made up of 23 parcels at the northern end of Pioneer Place, Katoomba. Like Site 1, the northern parcels of Pioneer Place form part of the Council owned and managed car park with vehicular access from Katoomba, Waratah and Parke Streets. The 23 parcels have a combined area of approximately 7,159 sqm and are situated to the south of the Cultural Centre (under construction) and adjacent to Katoomba Fair (Franklins).



Background

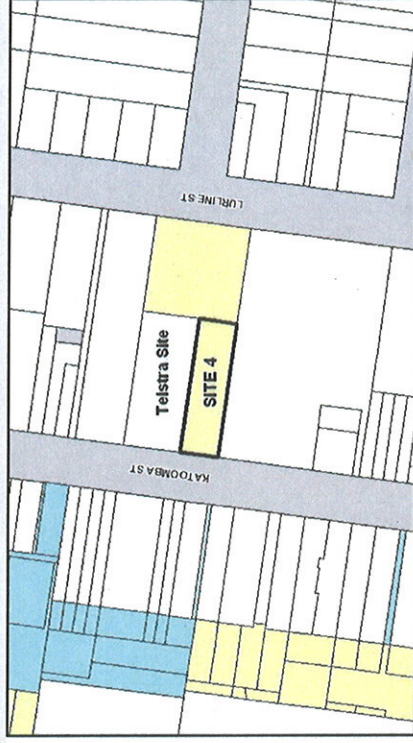
Following the commencement of the Local Government Act 1993, existing public land was classified as community land on 1 July 1994 *unless* the relevant Council resolved to classify the land as operational after considering public submissions. At the ordinary meeting of 21 June 1994, the Council resolved to classify a series of parcels as operational, including many of the parcels within Site 2. Legal advice later found that this resolution was void where parcels were acquired or developed using funds raised through the Katoomba Town Improvement Levy Fund (KTILF). The KTILF is considered a 'trust for a public purpose' and as a result, these parcels are classified as community land in accordance with Schedule 7 (the savings and transitional provisions) of the Act, specifically 6(2)(b). Site 2 is subject to a second phase of Masterplanning for Pioneer Place where an operational classification will allow Council the flexibility to make infrastructure and public domain improvements in line with Masterplan outcomes.



SITE 4 - Studleigh Place, 152-154 Katoomba Street

Site Analysis

Site 4 comprises part of a single parcel currently developed for car parking and known as Studleigh Place. The site has frontages to Katoomba and Lurline Streets with vehicular access from Katoomba Street. A public amenities block is situated towards the Katoomba Street frontage. The site is roughly 2,553 sqm in area and sits between the Uniting Church and Telstra sites to the north and St Canices to the south.



Background

In May 1959, Council purchased the western portion of this site (fronting Katoomba Street) for parking. With the commencement of the Local Government Act 1993, this land took up a community land classification. In August 2007, the Council resolved to purchase the rear of this block (eastern portion fronting Lurline Street) for the purposes of increasing parking provision in the short term and to provide further development opportunities in the future. The land acquired was subsequently classified as operational. The Katoomba Charrette Report and Town Centre Strategy identifies Studleigh Place and the neighbouring Telstra site as a crucial 'hole' in the urban fabric of Katoomba Town Centre where there is opportunity for development that will activate the street frontage. This land must be classified as operational before development can occur and before access to future development on the rear portion can be formalised.



PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The objectives of the planning proposal to reclassify the subject land are as follows:

- 1) **Site 1 & Site 2:** To reclassify land from community to operational to provide Council with greater flexibility to manage and maintain the Pioneer Place parking facility; including more flexibility to make public domain and general infrastructure improvements and to incorporate elements associated with the Masterplan for Pioneer Place.
- 2) **Site 4:** To reclassify land from community to operational to provide Council with greater flexibility to manage and maintain the Studleigh Place parking facility and to allow future development of the land, consistent with proposals put forward in the Katoomba Charrette and Town Centre Strategy.

PART 2 – EXPLANATION OF PROVISIONS

The following explanation provides an explicit statement of how the intended outcome described in Part 1 will be achieved.

Blue Mountains LEP 2005 is being amended by the insertion of the relevant parcel descriptions under Part 1 of Schedule 7. This schedule identifies land that has been classified or reclassified as operational land. Where interests have changed (for example, where easements are proposed to be extinguished) the land will be identified in Part 2 of Schedule 7, along with a description of the interest that has changed.

PART 3 – JUSTIFICATION

In the case of LEPs which are being prepared solely to classify or reclassify public land, the Director General of Planning has issued a set of requirements as to the specific matters that must be addressed in the justification for the planning proposal. In accordance with these requirements, this section sets out the case for changing the classification of the subject land as set out in Part 1.

A. Is the planning proposal the result of any strategic study or report?

The proposed reclassification of Sites 1 and 2 is the result of numerous Council reports relating to parking and functionality issues associated with the Council owned public car park, Pioneer Place, and is also closely related to the Master Planning exercise currently being undertaken as a means to address these issues.

In the case of Site 4 the planning proposal responds to the recommendations put forward in the Katoomba Charrette Report and Town Centre Strategy which include implementing development of the site at both the Katoomba and Lurline Street frontages.

B. Is the planning proposal consistent with the local council's community plan, or other local strategic plan?

The proposal to reclassify each of the 3 sites is consistent with Blue Mountains City Council's Community Plan – *Sustainable Blue Mountains 2025*. The planning proposal works towards achieving a number of objectives contained in this Plan including strengthening the liveability and vibrancy of towns and villages and providing integrated, accessible and sustainable choices for moving around. These objectives align with the 2010 NSW State Plan.

C. If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished.

The following table identifies interests in the land that are proposed to be discharged through the reclassification process. The table also provides a reason for the extinguishing the identified interest.

Table 1: Interests to be extinguished

Site	Parcel Description	Interest to be extinguished	Reason for extinguishment
Site 2	Lot C in DP 388574	A18527 – This parcel is affected by a right of way, 1.22 wide along the parcel's southern boundary.	This lot and the land benefited by the right of way is now owned by Council and operates as a public parking facility, effectively rendering the right of way obsolete.
	Lot B in DP 388574	A69294 – This parcel benefits from a right of way, 1.22 & 2.44. This right of way is located on Lot 1 & 2 in DP 1110584.	This lot and the land affected by the right of way is now owned by Council and operates as a public parking facility, effectively rendering the right of way obsolete.
	Lot A in DP 388574	A69294 – This parcel benefits from a right of way, 1.22 & 2.44. This right of way is located on Lot 1 & 2 in DP 1110584.	This lot and the land affected by the right of way is now owned by Council and operates as a public parking facility, effectively rendering the right of way obsolete.
	Lots 1 & 2 in DP 1110749	652852 – This parcel benefits from a right of way, 1.22 & 2.44. This right of way is located on Lot 1 & 2 in DP 1110584.	These lots and the land affected by the right of way is now owned by Council and operates as a public parking facility, effectively rendering the right of way obsolete.
	Lots 1, 2 DP 1110584	652852 – These parcels are affected by a right of way, 1.22 & 2.44.	These lots and the land benefited by the right of way are now owned by Council and operate as a public parking facility, effectively rendering the right of way obsolete.
		A18527 – These parcels	These lots and the land benefited by the

Site	Parcel Description	Interest to be extinguished	Reason for extinguishment
		are affected by a right of way, 1.22 & 2.44.	right of way are now owned by Council and operate as a public parking facility, effectively rendering the right of way obsolete.
		A69294 – These parcels are affected by a right of way, 1.22 & 2.44.	These lots and the land benefitted by the right of way are now owned by Council and operate as a public parking facility, effectively rendering the right of way obsolete.
	Lot 1 in DP 940365	A18527 – This parcel benefits from a right of way, 1.22 wide along the southern boundary of Lot C in DP 388574 and a right of way, 1.22 & 2.44 wide within Lots 1 & 2 in DP 1110584.	This lot and the land affected by the right of way is now owned by Council and operates as a public parking facility, effectively rendering the right of way obsolete.
Site 4	Lot 102 DP 1152617	N208777 – This parcel is affected by a lease to BMCC	The land affected by the lease to Council is now owned by Council and as such it is redundant.

The following table identifies interests in that land that are proposed to be retained despite the reclassification of the land.

Table 2: Interests to remain

Site	Parcel Description	Interest to remain
Site 1	Lot 1 DP 506174	V289860 – Lease to New World Properties Pty Ltd (lease transferred to Gembond Pty Ltd vide dealing 7256346) for basement car park. DP787996 – Parcel is affected by an easement for support, variable width. DP787996 – Parcel is affected by an easement for overhanging roof 0.5 metres wide, 2.6 metres wide and 0.47 metres wide.
Site 2	Lot 2 DP 580297	H453560 – Parcel is affected by a right of footway, 1.83 metres wide benefitting Lot 18 in DP 239909 being 143 Katoomba Street.
	Lot 2 in DP 585560	H325317 – Parcel is affected by an easement for electricity purposes, 3.05 metres wide shown in DP 585560.
	Lot 55 in DP 239909	H824597 – Parcel is affected by an easement for electricity purposes, 6.096 metres wide.
	Lot 4 in DP 598367	R323949 – Covenant. Point 2 in the covenant implies that the land is not to be used otherwise than for a public car park.
	Lot 26 of Section 2 in DP 692	H787976 – Easement for electricity purposes
	Lots 1, 2 DP 1110584	634862 – Parcel is affected by a right of way, 1.22 & 2.44 metres wide benefitting Lot 1 in DP 938643. 657443 – Parcel is affected by a right of way,

Site	Parcel Description	Interest to remain
		1.22 & 2.44 metres wide benefitting Lot 1 in DP 114361.
		657444 – Parcel is affected by a right of way, 1.22 & 2.44 metres wide benefitting Lot 1 in DP 900878.
		A63275 – Parcel is affected by a right of way, 1.22 & 2.44 metres wide benefitting Lot 1 in DP 943710.
		A69295 – Parcel is affected by a right of way, 1.22 & 2.44 metres wide benefitting Lot 1 in DP 525651.
Site 4	Lot 102 DP 1152617	J18549 – Parcel affected by an easement for drainage 2.44 metres wide.
		DP1152617 – Parcel affected by an easement for electricity purposes 2 metres wide.
		DP1152617 – Parcel affected by an easement to drain water 2.5 metres wide.

D. The concurrence of the landowner, where the land is not owned by the relevant planning authority.

Blue Mountains City Council is the owner of all the subject parcels of land.

PART 4 – COMMUNITY CONSULTATION

The Council will undertake exhibition of the planning proposal in accordance with the Gateway Determination.

ATTACHMENT 1 – COMPLIANCE WITH SECTION 117 DIRECTIONS

Directions	Sites 1 – Pioneer Place Car Park (Southern Parcels)	Site 2 – Pioneer Place Car Park (Northern Parcels)	Site 4 – Studleigh Place Car Park
1.1 Business and Industrial Zones	Existing land use zone (Village – Town Centre) permits retail and commercial uses. Planning proposal does not seek to adjust or alter the extent of the existing land use zone or the land uses permissible within the zone. Nor does the proposal seek to reduce the total potential floor space area for business uses within the subject sites. Each site currently operates as a Council owned public parking facility and it is currently the intention of Council that each site continues to be used for this purpose.		
1.2 Rural Zones	N/A	N/A	N/A
1.3 Mining, Petroleum Production and Extractive Industries	N/A	N/A	N/A
1.4 Oyster Aquaculture	N/A	N/A	N/A
1.5 Rural Lands	N/A	N/A	N/A
2.1 Environment Protection Zones	N/A	N/A	N/A
2.2 Coastal Protection	N/A	N/A	N/A
2.3 Heritage Conservation	The Planning Proposal seeks to amend LEP 2005 by reclassifying three sites in Katoomba Town Centre. LEP 2005 contains provisions that facilitate heritage conservation. The Planning Proposal does not adjust or amend existing heritage conservation provisions.		
2.4 Recreation Vehicle Areas	N/A	N/A	N/A
3.1 Residential Zones	Existing land use zone (Village – Town Centre) permits residential uses. Planning proposal does not seek to adjust or alter the extent of the existing land use zone or the land uses permissible within the zone. Each site currently operates as a Council owned public parking facility and it is currently the intention of Council that each site continues to be used for this purpose.		
3.2 Caravan Parks and Manufactured Home Estates	N/A	N/A	N/A
3.3 Home Occupations	Home occupations are allowed within the Village – Town Centre zone without development consent. Planning proposal does not seek to adjust or alter the extent of the existing land use zone or the land uses permissible within the zone.		
3.4 Integrating Land Use and Transport	N/A	N/A	N/A

3.5	Development Near Licensed Aerodromes	N/A	N/A	N/A
3.6	Shooting Ranges	N/A	N/A	N/A
4.1	Acid Sulfate Soils	N/A	N/A	N/A
4.2	Mine Subsidence and Unstable Land	N/A	N/A	N/A
4.3	Flood Prone Land	A flood study has not been undertaken in this locality (Katoomba Town Centre). These sites have therefore not been identified as being flood prone.		
4.4	Planning for Bushfire Protection	N/A	N/A	N/A
5.1	Implementation of Regional Strategies	N/A	N/A	N/A
5.2	Sydney Drinking Water Catchments	The Planning Proposal seeks to reclassify land with Katoomba Town Centre and will not directly result in any intensification of land use. Each site currently operates as a Council owned public parking facility and it is currently the intention of Council that each site continues to be used for this purpose. The impact of the planning proposal on water quality within the Sydney drinking water catchment is considered to be neutral.		
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A	N/A	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A	N/A	N/A
5.8	Second Sydney Airport: Badgerys Creek	N/A	N/A	N/A
6.1	Approval and Referral Requirements	The Planning Proposal does not include provisions that will require the concurrence, consultation or referral of development applications to a Minister or public authority.		
6.2	Reserving Land for Public Purposes	The Planning Proposal seeks to reclassify land with Katoomba Town Centre which will have the effect of reducing community land. Approval of the Director-General of the Department of Planning and Infrastructure is sought to reclassify each site. The provisions of this Planning Proposal that are inconsistent with the terms of this direction are of minor significance. The Proposal seeks to improve Council's ability to manage the public parking facilities that exist on the nominated sites and will not impact on community access to public land.		
6.3	Site Specific Provisions	N/A	N/A	N/A

7.1	Implementation of the Metropolitan Plan for Sydney 2036	Consistent	Consistent	Consistent
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