

- Environmental Protection - Private zone to be amended back to come in line with the red way point line that validated the steep slope and heavily vegetated bushland below;
- Living - Bushland Conservation zone is to be amended to come into line with the proposed Environmental Protection - Private boundary;
- Protected Area - Ecological Buffer Area is to be put in place to protect the riparian corridor and water course to the north west of the property;
- A Protected Area - Slope Constraint Area put in place to the north east of the property where the assessment identified an area of slope 20% and above; and
- Part of the Protected Area - Slope Constraint Area that is over and around the dwelling house, terrace and newly landscaped areas will be removed as this area is level.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

171 (Lot 27 DP 2946) Lurline Street, Katoomba

The planning proposal is the best means of achieving the objectives/intended outcomes as an enabling clause in the planning instrument is required to allow this use to be considered and assessed as a permitted use.

67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street, Katoomba

The planning proposal is the best means of aligning the approved land use with the appropriate zone. A rezoning is the only method of achieving a zone where the land use of 'commercial', 'shop' and 'shop-top housing' is permissible

65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, Katoomba

The planning proposal is the best means of achieving the objectives and intended outcomes as a planning instrument is required to amend an anomaly in Schedule 6 and the heritage mapping to align the heritage listing with the correct property to conserve the heritage significance of the subject land from any future development proposals.

17 (Lot 9 DP 255987) John Street, Lawson

The planning proposal is the best means for achieving the objectives and intended outcomes as a planning instrument is required to amend an anomaly in the significant vegetation mapping to thereby giving a correct indication of the future development potential of the land.

104A (Lot 41 DP 249475) Douglas Street, Springwood

The planning proposal is the best means for achieving the objectives and intended outcomes as a planning instrument is required to amend an anomaly to change the boundaries of the zones and protected areas, so that they better reflect the building curtilages and environmental constraints of the subject land

3. Is there a net community benefit?

The following table addresses the evaluation criteria for conducting a "net community benefit test" within the Draft Centres Policy (2009) as required by the guidelines for preparing a planning proposal.

Evaluation Criteria	Y/N	Comment
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?	Y	This criteria is not really relevant due to the minor site specific nature of this Planning Proposal. However, none of the proposed amendments are inconsistent with this criteria
Is the LEP located in a global/regional city, strategic centre or corridor nominated	N	The subject sites are not identified within a key strategic centre or corridor. <u>17 (Lot 9 DP 255987) John Street, Lawson; 104A (Lot</u>

Evaluation Criteria	Y/N	Comment
within the Metropolitan Strategy or other regional/subregional strategy?		<u>41 DP 249475) Douglas Street, Springwood; 65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, and 171 (Lot 27 DP 2946) Lurline Street, Katoomba</u> Whilst the above sites are not situated immediately within or adjacent to the town centre, they offer, in a small way an opportunity to provide for additional residential development within the existing urban area, retention of industrial land and increase of employment opportunities. <u>67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street, Katoomba</u> The site is situated immediately within Katoomba Town Centre, the site offers an opportunity to provide for additional residential development and increase of employment opportunities.
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?		<u>17 (Lot 9 DP 255987) John Street, Lawson; 104A (Lot 41 DP 249475) Douglas Street, Springwood</u> The planning proposal is unlikely to set a precedent or create or change of expectations as the intent is to correct anomalies in the mapping of environment constraints to better reflect the building curtilages and environmental constraints on the land. However as technology in mapping improves, future site analysis as part of land use advise may identify anomalies on other properties and these will be assessed on case by case basis. <u>67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street, Katoomba</u> The planning proposal is unlikely to set a precedent or create or change of expectations as the intent is to correct an anomaly of a zone that was intended to be put on the subject land and aligns the approved land use with the appropriate zone. <u>65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, Katoomba</u> The planning proposal is unlikely to set a precedent or create or change of expectations as the intent is to correct an anomaly to align the correct heritage listing with the correct property. <u>171 (Lot 27 DP 2946) Lurline Street, Katoomba</u> The proposal will allow a use that is presently prohibited on the site. It is not thought likely to set a precedent or create expectations by landowners, but if there are requests by other landowners in the Village - Tourist zone to be able to use their sites for a day spa, consideration could be given to changing the relevant definitions to make a 'day spa' a permissible use in the Village -Tourist zone.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	N	The subject sites have access to existing services and infrastructure and there are no other current or previous spot rezonings within the localities of the subject sites, therefore no cumulative impacts are likely.
Will the LEP facilitate a	Y	<u>171 (Lot 27 DP 2946) Lurline Street, Katoomba</u>

Evaluation Criteria	Y/N	Comment
permanent employment generating activity or result in a loss of employment lands?		The proposal facilitates a permanent employment generating activity as it allows an additional use of a 'day spa' which increases employment opportunities for the business and further opportunities from associated upkeep of the additional use. <u>17 (Lot 9 DP 255987) John Street, Lawson</u> The proposal although only changing the boundary of the zone to protect environmentally sensitive land will facilitate permanent employment generating activity by increasing employment opportunities available on the site, particularly if the proposal proceeds to manufacture modular homes. <u>67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street, Katoomba</u> The proposal facilitates a permanent employment generating activity as it rezones the land to a commercial zone that aligns the approved land use with the appropriate zone, and therefore allowing the continue use of commercial land uses that will generate continued employment.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	Y	The proposal is of minor significance and therefore will not impact upon the supply of residential land, housing supply and affordability.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future transport?	Y	For all the sites covered by this Planning Proposal the existing public infrastructure is adequate to meet the needs of the proposal. The sites are fully serviced and local buses service the areas with the exception of the Lawson Business Park. The sites are all contained within an established residential, commercial and industrial area.
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	N	The proposal will not result in any modifications to the planned road network and will therefore have nil impact on travel distances, times and road safety matters.
Are there significant Government investments in infrastructure or services in the area where patronage will be affected by the proposal? If so, what is the expected impact?	N	The proposal does not require further investment in public infrastructure, it will utilise the existing infrastructure and services.
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by	Y	<u>17 (Lot 9 DP 255987) John Street, Lawson; 104A (Lot 41 DP 249475) Douglas Street, Springwood</u> The proposal as it relates to these sites relates to riparian corridor buffers. The proposal adjusts the boundaries of the zone to more accurately align with their locations on the ground, and will better protect these areas with the Environmental Protection –

Evaluation Criteria	Y/N	Comment
environmental factors such as flooding?		Private zone with a provision of Protected Area - Ecological Buffer Areas & Protected Area -Slope Constraint Area. This will ensure a higher level of environmental protection for the riparian corridors, and therefore, the proposal will have a positive impact on land with environmental significance. There are no other environmental constraints associated with this proposal. <u>17 (Lot 9 DP 255987) John Street, Lawson</u> The subject site has been identified as being flood prone land within the recently adopted Glenbrook Erskine Catchments Flood Study. The next stage is to commence the Floodplain Risk Management Process – Floodplain Risk Management Study which will apply flood related development controls to the subject site. In the meantime clause 88 land subject to inundation to Local Environmental Plan 2005 and the Better Living Development Control Plan will require a flood study to be submitted to address storm water run-off and overland flow.
Will the LEP be compatible/ complementary with surrounding adjoining land uses? What is the impact on the amenity in the location and wider community? Will the public domain improve?	Y	The proposal is compatible and desirably complementary with adjacent land uses, which includes industrial, commercial, residential and riparian corridors. There will be no impacts on amenity or the broader community.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?		<u>171 (Lot 27 DP 2946) Lurline Street, Katoomba</u> The proposal does not impact on other retail and commercial land uses operating in the area. As the proposal is aligning a land use that is already operating in the area. <u>17 (Lot 9 DP 255987) John Street, Lawson</u> The proposal is realigning the mapping of significant vegetation including the watercourse to better represent the environmental constraints on the site. The expressed interest by Blue Eco Homes to manufacture modular homes will increase commercial premises in the area but will not increase choice and competition as this development is the first of its kind in this area. However, this proposed Development Application does not form part of this proposal. <u>67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street, Katoomba</u> The proposal does not impact on other retail and commercial land uses operating in the area. As the proposal is to rezone to align a land use that is already operating in the area.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	N	The proposal does not have the potential to develop into a centre.
What are the public interest reasons for preparing the draft	-	<u>171 (Lot 27 DP 2946) Lurline Street, Katoomba</u>

Evaluation Criteria	Y/N	Comment
plan? What are the implications of not proceeding at that time?		The proposal is to allow an additional use to allow for a land use that is already operating in the area, and which Council believes is appropriate. The ongoing use of the site for this purpose will increase employment opportunities. The implications of not proceeding would be that the day spa would be operating illegally, even though the use is considered appropriate for the Village -Tourist zone. <u>67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street, Katoomba</u> The proposal is to rezone the site to a zone that was originally meant to be on the site, which will align a land use that is already operating in the area. The proposed development of this site will increase employment opportunities by providing for a range of commercial uses to occur that are appropriate for the site. The implications of not proceeding would be that commercial uses would be prohibited on the site, even though these uses have been operating for many years and could make these properties not viable in years to come. <u>65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, Katoomba</u> The proposal is to correctly align a heritage item on the appropriate property, which will allow the heritage values of the site to be protected in the future. The implications of not proceeding would be that future development proposals on the site would not allow for the appropriate conservation of the heritage item, and this could result in its damage to destruction. <u>17 (Lot 9 DP 255987) John Street, Lawson</u> Changing the boundaries of the zones will give a higher level of environmental protection and ensure the conservation of the riparian corridor. The proposed development of this site will increase employment opportunities The implications for not proceeding would be that the environmental constraints would remain incorrectly mapped and the environmental constraints on the site would not be assessed appropriately on any future development proposals for the site. <u>104A (Lot 41 DP 249475) Douglas Street, Springwood</u> The proposal is realigning the zone boundaries to better represent the environmental constraints and the building curtilage on the site. The implications for not proceeding would be that part of the existing house on the site will remain in an Environmental Protection - Private zone which is an inappropriate zone for the current land use.

Section B - Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub – regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

For all site, this Planning Proposal is of very minor impact. However, it is consistent with the objectives and actions contained within the Metropolitan Plan for Sydney 2036 and the draft North West Subregional Strategy for the following reasons:

- In the case of Lurline and Waratah Street, Katoomba it complies with the key directions towards employment growth as it is helping meet the employment capacity targets for the Blue Mountains LGA of 7,000, and
- In the case of John Street, Lawson, it complies with the key direction to retain land for industrial purposes.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

This Planning proposal is consistent with the Sustainable Blue Mountains 2025 and other adopted local strategic plans as the proposal complies with the principal strategies to contain development within the existing urban footprint, to manage the urban bushland interface to minimise urban development impacts and increase local employment opportunities.

6. Is the planning proposal consistent with applicable state environmental planning policies?

The following assessment is provided of the relationship of the planning proposal to relevant State Environmental Planning Policies (SEPPs): SEPPs are only discussed where applicable. The Planning Proposal is consistent with all other SEPPs or they are not applicable.

- **State Environmental Planning Policy No 22 - Shops and Commercial Premises**

- **171 (Lot 27 DP 2946) Lurline Street, Katoomba**

- The proposal is consistent with the provisions of the State Environmental Planning Policy 22 Shops and Commercial Premises as the additional land use allows for the current development to be a lawful land use.

- **67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street, Katoomba**

- The proposal is consistent with the provisions of the State Environmental Planning Policy 22 Shops and Commercial Premises as the proposal is amending an anomaly to a zone that was meant to have been applied to the site under Local Environmental Plan 2005, as the previous zone of Business General 3(a) under Local Environmental Plan No. 4 allowed commercial land uses. The rezoning to a commercial zone will align a land use that is already operating in the area.

- **State Environmental Planning Policy 44 Koala Habitat Protection**

- **17 (Lot 9 DP 255987) John Street, Lawson**

- The proposal is consistent with the provisions of the State Environmental Planning Policy 44 Koala Habitat Protection as a recent Flora & Fauna Assessment discussed further in Part 3 Section C Clause 8, did not identify any actual Koala population or record any tree types listed in Schedule 2 of this SEPP.

- **104A (Lot 41 DP 249475) Douglas Street, Springwood**

- The proposal is consistent with the provisions of the State Environmental Planning Policy 44 Koala Habitat Protection as a recent site assessment did not identify any actual Koala population or record any tree types listed in Schedule2 of this SEPP.

- **State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011**

- **171 (Lot 27 DP 2946) Lurline Street; 67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street and 65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, Katoomba**

- The proposal is consistent with the aims and objectives of the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011. The subject sites are

currently developed and any future development proposals on the land will be required to comply with the provisions contained within this SEPP and further the clauses discussed below will apply to any development on the subject land:

- Cl 48 Protected Area – Water Supply Catchment, of the Blue Mountains Local Environmental Plan 2005 (Blue Mountains LEP 2005) applies to any development on the subject land. Cl 48 requires any development on land within a Water Supply Catchment area is to comply with the objectives for a protected area, have a neutral or beneficial effect on water quality and to incorporate water quality management practices that are sustainable in the long term.
- Cl. 57 Stormwater Management, of the Blue Mountains LEP 2005 applies to development on land.
- Cl. 94 General Provision of Services, of the Blue Mountains LEP 2005 applies to development on the subject land. Cl. 94 requires that comments from Sydney Catchment Authority will be taken into account thereby ensuring that SCA current recommended practices will be applied to any relevant development on the subject land.
- Cl. 95 Provision of Services for Specific Land Uses, of the Blue Mountains LEP 2005 applies to residential and tourist development. Cl. 95 requires that any development must be connected to a reticulated sewerage system where there is adequate capacity for a development.
- **Sydney Regional Environmental Plan No. 20: Hawkesbury-Nepean River (No. 2 – 1997).**

The planning proposal is consistent with SREP No. 20. The land subject to this planning proposal is within the Hawkesbury Nepean Catchment. Future detailed development proposals will comprehensively consider the requirements of SREP No 20 to ensure appropriate environmental considerations to water quality, heritage, flora and fauna, etc. are undertaken.

The following sites subject to this planning proposal are within the following sub-catchments:

- **171 (Lot 27 DP 2946) Lurline Street; 67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street and 65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, Katoomba**
Cox River Sub-Catchment
- **104A (Lot 41 DP 249475) Douglas Street, Springwood**
Grose River Sub-Catchment
- **17 (Lot 9 DP 255987) John Street, Lawson**
Glenbrook Erskine Creek Sub-Catchment

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)

The following assessment is provided of the consistency of the Planning Proposal with relevant Section 117 Directions applying to planning proposals lodged after 1st September 2009. Section 117 Directions are only discussed where applicable. The Planning Proposal is consistent, with all other S117s Directions or they are not applicable.

- **Direction 1.1 – Business and Industrial Zones**

This section 117 direction places on Council a responsibility to encourage employment growth in suitable locations and protect employment land.

171 (Lot 27 DP 2946) Lurline Street, Katoomba

The proposal is allowing an additional use of a 'day spa' which increases employment opportunities for the business and further opportunities from associated upkeep of the additional use.

67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street, Katoomba

The proposal is rezoning the subject land to a commercial zone which will provide ongoing employment opportunities.

17 (Lot 9 DP 255987) John Street, Lawson

The boundary adjustment to move the Environmental Protection - Private zone boundary to correctly indicate the riparian corridor buffer will not have any adverse impacts on the Employment - General zone as it is not decreasing the area of the zone. However it will be a better outcome for the development potential of the land, without impacting on environmentally sensitive land.

- **Direction 2.1 – Environmental Protection Zones**

171 (Lot 27 DP 2946) Lurline Street; 67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street and 65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, Katoomba

The proposal is consistent with this direction as it does not seek alteration to the provision of Protected Area – Water Supply Catchment Area currently applying to the land and will continue to apply through Clause 48 to LEP 2005. Any development on the land will be required to comply with the provisions contained therein.

17 (Lot 9 DP 255987) John Street, Lawson

The proposal is consistent as the boundary adjustment is only to move and not to decrease the Environmental Protection - Private zone or Protected Area - Ecological Buffer Area, so that it correctly aligns with the conditions on the ground.

104A (Lot 41 DP 249475) Douglas Street, Springwood

The proposal is justifiably inconsistent as it will slightly decrease the size of the Environmental Protection - Private zone boundary. This is necessary because the Environmental Protection - Private zone presently goes through the middle of a dwelling house. However, there will be the provision put in place of a Protected - Ecological Buffer Area that will protect the riparian corridor & Protected Area -Slope Constraint Area to protect the slope of land around the building curtilage. The proposal will not have any adverse effects as the site is already developed and is amending an anomaly where the Environmental Protection - Private zone is passing through the building curtilage and the land around the development is already cleared.

- **Direction 2.3 – Heritage Conservation**

The proposal is consistent with this direction. The subject sites are currently developed and any future development proposals on the land will be assessed and shall comply with the heritage conservation provisions within Local Environmental Plan 2005 and the Better Living Development Control Plan as to the extent to which the proposed development would affect the heritage significance of the heritage item and/or heritage conservation area concerned. Detailed below is the extent of the heritage listings:

67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street

The land subject to this planning proposal is within Heritage Conservation Area K159 Central Katoomba Urban Conservation Area.

65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, Katoomba

The site at 67 Lurline Street is incorrectly listed as a heritage item in part as Heritage Item K156 – Astor House and the site at 65 Lurline Street which is Astor house is currently not listed. The proposal is to amend the heritage listing to be placed wholly on 65 Lurline Street correctly identifying Astor House and partly on 67 Lurline Street to conserve the stone wall that is carried through the frontage of both properties. This will allow the correct heritage items conservation to be assessed with any future development proposals.

- **Direction 3.1 – Residential Zones**

- 104A (Lot 41 DP 249475) Douglas Street, Springwood**

- The proposal is consistent with this direction and it involves an alteration to slightly increase the existing residential boundary and will not have any adverse impact on the development potential of the land.

- **Direction 3.4 – Integrating Land Use and Transport**

- The Planning Proposal is consistent with this Ministerial Direction. The Proposal will not result in any modifications to the road and transport network infrastructure.

- **Direction 4.3 – Flood Prone Land**

- 17 (Lot 9 DP 255987) John Street, Lawson**

- The subject site has been identified as being flood prone land within the recently adopted Glenbrook Erskine Catchments Flood Study. The next stage is to commence the Floodplain Risk Management Process – Floodplain Risk Management Study which will apply flood related development controls. In the meantime clause 88 land subject to inundation to Local Environmental Plan 2005 and the Better Living Development Control Plan will require a flood study to be submitted to address storm water run-off and overland flow.

- **Direction 4.4 – Planning for Bushfire Protection**

- 17 (Lot 9 DP 255987) John Street, Lawson**

- This s117 direction applies as the subject sites are mapped as being bushfire prone land.

- The proposal is a boundary adjustment for the protection of environmentally sensitive land and any future development proposals will comprehensively demonstrate to the NSW Rural Fire Service the aims and objectives of the *Planning for Bushfire Protection 2006* to ensure for the protection of human life (including firefighters) and to minimise impacts on property from the threat of bush fire, while having due regard to development potential, onsite amenity and protection of the environment.

- The proposal will be forwarded to the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.

- 104A (Lot 41 DP 249475) Douglas Street, Springwood**

- This s117 direction applies as the subject sites are mapped as being bushfire prone land.

- The proposal is realigning the zone boundaries to better represent the environmental constraints and the building curtilage on the site as the current Environmental Protection - Private zone boundary passes through the development.

- Any future development proposals will comprehensively demonstrate to the NSW Rural Fire Service the aims and objectives of the *Planning for Bushfire Protection 2006* to ensure for the protection of human life (including firefighters) and to minimise impacts on property from the threat of bush fire, while having due regard to development potential, onsite amenity and protection of the environment.

- The proposal will be forwarded to the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.

Direction 5.2 – Sydney Drinking Water Catchments

Advice has not yet been sought from the Sydney Catchment Authority, as is required by the Direction, because for all sites the Planning Proposal is considered to be of minor significance. However, Council will refer the proposal to the Sydney Catchment Authority as part of the consultation process for the proposal, if required by the Department's Gateway Determination. As required by clause 6 of Direction 5.2, Council requests the agreement of the Director General, or is delegated officer to this approach. In considering this approach, Council considers that the proposal is generally consistent with this Direction, for the following reasons:

171 (Lot 27 DP 2946) Lurline Street; 67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street and 65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, Katoomba

The above sites are within the drinking water catchment and therefore maintenance of water quality is a significant environmental issue, and therefore subject to this Direction. The proposal is consistent with the 'Direction 5.2 – Sydney Drinking Water Catchments' direction because:

- Cl 48 Protected Area – Water Supply Catchment, of the Blue Mountains Local Environmental Plan 2005 (Blue Mountains LEP 2005) applies to any development on the subject land. Cl 48 requires any development on land within a Water Supply Catchment area is to comply with the objectives for a protected area, have a neutral or beneficial effect on water quality and to incorporate water quality management practices that are sustainable in the long term.
- Cl. 57 Stormwater Management, of the Blue Mountains LEP 2005 applies to development on land.
- Cl. 94 General Provision of Services, of the Blue Mountains LEP 2005 applies to development on the subject land. Cl. 94 requires that comments from Sydney Catchment Authority will be taken into account thereby ensuring that SCA current recommended practices will be applied to any relevant development on the subject land.
- Cl. 95 Provision of Services for Specific Land Uses, of the Blue Mountains LEP 2005 applies to residential and tourist development. Cl. 95 requires that any development must be connected to a reticulated sewerage system where there is adequate capacity for a development.
- The State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 applies to the subject land and any development on the land will be required to comply with the provisions contained therein.
- The Strategic Land & Water Capability Assessment maps note that the subject land has moderate to moderate land capability in terms of sewerage residential development representing a low to moderate risk to water quality.

Direction 6.3 – Site Specific Provisions

171 (Lot 27 DP 2946) Lurline Street, Katoomba

This s117 direction applies as the proposal is allowing a particular development to be carried out on the site. The proposal as it applies to this site is not consistent with this Direction. However, the inconsistency is considered to be justified for the following reasons:

As discussed in Part 3 Section A Clause 1, the broader application of the *commercial premises* land use within the Village Tourist zone is not considered an appropriate option to address the concerns of this planning proposal, as the term 'commercial premises' encompasses uses as diverse as car washes, crematoria, commercial offices, funeral homes or in fact any business use not specifically captured elsewhere in the LEP. For this reason, 'commercial premises' are generally confined to the town centres and the Employment – General zone and uses under this term are not considered generally appropriate in the Village Tourist zone.

The operation of a day spa is compatible with and complimentary to other businesses located along Lurline Street. These businesses include bed & breakfasts, refreshment rooms and other accommodation / tourist businesses which are permitted in the Village-Tourist zone. The use of a day spa (as a type of commercial uses) would be consistent with these surrounding uses, and therefore would be more appropriate to be made permissible as an additional use through Schedule 8 of LEP 2005.

For these reasons, the agreement of the Director General or his delegated officer to this inconsistency is requested.

Direction 7.1 – Implementation of the Metropolitan Strategy

The proposal is consistent with this Ministerial Direction for the following reasons:

- complies with the key directions as it is helping meet the demands on housing supply and housing capacity targets in existing areas for the Blue Mountains LGA of 7,000 new dwellings by the year 2031, and
- complies with the key directions towards employment growth as it is helping meet the employment capacity targets for the Blue Mountains LGA of 7,000, and
- complies with the key direction to retain land for industrial purposes.

Section C - Environmental, Social and Economic Impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

171 (Lot 27 DP 2946) Lurline Street; 67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street and 65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, Katoomba

A flora and fauna assessment has not been undertaken for these sites as the development on these sites are already established and are nil of any vegetation that would hold any ecological communities or their habitats and therefore the proposal will not result in any adverse environmental impacts.

17 (Lot 9 DP 255987) John Street, Lawson

A Flora and Fauna Assessment Report was prepared by Applied Ecology dated 12 March 2012, which considered if future development of the site is likely to have a significant effect on threatened species, populations and/or endangered ecological communities. (Copy of Flora and Fauna Assessment see Attachment 10)

In summary, the assessment found the following:

- the location of the watercourse mapped by Environmental Management Plan 2002 is incorrect and it is located further south.
- Vegetation communities that were identified on the site are "Non-Scheduled Forest and Woodland – *Eucalyptus sieberi* - *Eucalyptus piperita* (North & South)", "Scheduled Blue Mountains Riparian Complex (degraded) and watercourse" (Centre) and "Highly Modified Vegetation (slither of land near John & Christabel Streets)". Council has them listed as Non-Scheduled Forest and Woodland – *Eucalyptus piperita* – *Angorophora costata* (North), "Modified Bushland (South)" and "Creek line (Centre)".
- A total of 110 species of native plants were recorded on the subject site including one threatened species - the Mossy Geebung *Persoonia acerosa*, listed as vulnerable under the NSW Threatened Species Conservation Act 1995, found in the slope areas of the northern aspect of the site.
- *Cryptostyllis hunteriana* (Leafless Tongue Orchid) (would be found in association with the other orchid species recorded in the northern aspect of the site) and *Hygrocybe reesiae* (fungi) (other fungi recorded on the site were also in the northern aspect), both species were not observed during surveys as they are not detectable during certain parts of the year. It is considered that any development could have the potential to have an adverse effect on the life cycle of the species and if present is likely to be place at risk of extinction.
- Of the fauna species recorded on the site, one threatened species - *Daphoenositta chrysoptera* (Varied Sittella) was recorded on the northern aspect of the site.
- No endangered populations were recorded on the site.
- No critically endangered or endangered ecological communities were recorded on the site.
- A 7 part test of significance was also undertaken on the site.

The conclusions and recommendations of the assessment include:

- Any clearing on the site should occur in late autumn and winter to avoid the extended nesting and nestling phase of the life cycle of the Varied Sittella. The breeding period in NSW has been recorded from August to January (Noske 1998).
- Choice of suitable plant species for landscaping clearly outlined as part of the development approval.
- Ongoing weed management as part of a comprehensive bush regeneration plan for the conservation zone.
- Management of soil stability on slopes and along creeklines by staged weed removal stabilisation and revegetation as required.
- Staged removal of shrub layer weeds to retain habitat elements.
- Offset weeds that provide food for small birds and possums by planning suitable native species.
- Provide supplementary nesting sites (Employment - General nest boxes) for possums to ensure ongoing food supplies for Owls.
- Management of runoff from development site to reduce impact from changed water quality and quantity.
- Supplementary flora survey in spring/summer to confirm presences/absence of threatened orchid species.
- Supplementary fungi survey in autumn to confirm presence/absence of threatened fungal species.

The report concluded that the areas not suitable for development include the waterways and riparian lands and the threatened species Mossy Geebung *Persoonia acerosa* can be removed with no threat to the viability of the local population, however they occur on slope constrained area which is currently protected by the provision of Protected Area – Slope Constraint Area. The assessment also recommends that the vegetation should be retained and managed with an addition of a 10 metre buffer to the watercourse. The already constrained areas of the northern aspect of the site will also assist in ameliorating the impacts on the other threatened species the *Daphoenositta chrysoptera* (Varied Sittella), however the assessment recommends that vegetation is retained in a narrow corridor across the site (North to south) to assist movement of the threatened Varied Sittella across the site. Further to the threatened species *Cryptostylis hunteriana* (Leafless Tongue Orchid) and *Hygrocybe reesiae* (fungi), the assessment proposes a supplementary survey done at particular times to confirm the presence of these species although they would most likely be within the already protected northern aspect of the site.

It is concluded that the planning proposal is unlikely to have an adverse effect on any threatened species, populations or endangered ecological communities or their habitats as the proposal is adjusting the boundary to more accurately align with the watercourse and riparian corridor location on the ground to better protect these areas with the Environmental Protection – Private zone and Protected Area – Ecological Buffer Area.

104A (Lot 41 DP 249475) Douglas Street, Springwood

Although a fauna assessment has not been undertaken for the site, a site assessment was conducted and found that the area of Environmental Protection - Private zone being reduced is modified or weed invaded, and no evidence of any vegetation of high ecological value in the area. However, the area is a buffer to a riparian corridor and water course and the provision of Protected Area - Ecological Buffer Area and Protected Area - Slope Constraint Area is being put in place, which will protect any ecological communities or their habitats.

The area where the Environmental Protection - Private zone is being reduced is currently developed and is void of any vegetation.

The proposal is considered of minor significance as it is amending a boundary of a zone to more accurately align with their locations on the ground it will therefore not result in any adverse environmental impacts.

9. **Are there any other likely environmental effects a result of the planning proposal and how are they proposed to be managed?**

171 (Lot 27 DP 2946) Lurline Street; 67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street and 65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, Katoomba

- **Protected Area - Water Supply Catchment Area**

The subject land is within a Protected Area - Water Supply Catchment Area and any future development will be assessed by the following LEP 2005 provisions and the provisions of the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 detailed below:

- Cl. 48 Protected Area – Water Supply Catchment, of the Blue Mountains Local Environmental Plan 2005 (Blue Mountains LEP 2005) applies to any development on the subject land. Cl. 48 requires any development on land within a Water Supply Catchment area is to comply with the objectives for a protected area, have a neutral or beneficial effect on water quality and to incorporate water quality management practices that are sustainable in the long term.
- Cl. 57 Stormwater Management, of the Blue Mountains LEP 2005 applies to development on land.
- Cl. 94 General Provision of Services, of the Blue Mountains LEP 2005 applies to development on the subject land. Cl. 94 requires that comments from Sydney Catchment Authority will be taken into account thereby ensuring that SCA current recommended practices will be applied to any relevant development on the subject land.
- Cl. 95 Provision of Services for Specific Land Uses, of the Blue Mountains LEP 2005 applies to residential and tourist development. Cl. 95 requires that any development must be connected to a reticulated sewerage system where there is adequate capacity for a development.
- The State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 applies to the subject land and any development on the land will be required to comply with the provisions contained therein.

17 (Lot 9 DP 255987) John Street, Lawson

- **Protected Area -Slope Constraint Area**

The site is identified as having areas of slope of less than 20% and areas of slope between 20-33%. Future development will be assessed by LEP 2005 clause 45 that requires any development on land within a Slope Constraint area to a detailed environmental assessment that the development complies with the objectives and other provisions of this clause that include the following, to minimise vegetation clearing and soil disturbance, encourage retention, restoration and maintenance of disturbed native vegetation on steep land and not adversely impact on the rate, volume or quality of water leaving the site.

- **Protected Area - Ecological Buffer Area**

The site is identified as having an ecological buffer area that buffers a riparian corridor of a watercourse.

Future development of the site will need to comply with the 'Protecting the Natural Environment' provisions of LEP 2005 that includes clause 47 objectives to protect water quality, aquatic ecosystems, watercourse corridors and significant vegetation communities and the Better Living DCP which requires a Flora and Fauna Assessment to be conducted to establish whether the proposed development may impact on an ecological

- **Bushfire Prone Land**

The site is identified on Blue Mountains Bush Fire Prone Lands as having vegetation category 1 including a 100m buffer & vegetation category 2 including a 30m buffer.

Future development of the site will need to comply with the assessment criteria of the Bushfire protection provisions in LEP 2005 and the Better Living DCP and further demonstrate to the NSW Rural Fire Service the aims and objectives of the *Planning for Bushfire Protection 2006* to ensure for the protection of human life (including firefighters) and to minimise impacts on property from the threat of bush fire, while having due regard to development potential, onsite amenity and protection of the environment.

104A (Lot 41 DP 249475) Douglas Street, Springwood

- **Protected Area -Slope Constraint Area**

The site is identified as having areas of slope of less than 20% and areas of slope between 20-33%. The subject site is currently developed and any future development will be assessed by LEP 2005 clause 45 that requires any development on land within a Slope Constraint area to a detailed environmental assessment that the development complies with the objectives and other provisions of this clause that include the following, to minimise vegetation clearing and soil disturbance, encourage retention, restoration and maintenance of disturbed native vegetation on steep land and not adversely impact on the rate, volume or quality of water leaving the site.

- **Bushfire Prone Land**

The site is identified on Blue Mountains Bush Fire Prone Lands as having vegetation category 1 including a 100m buffer.

The subject site is currently developed and any future development of the site will need to comply with the assessment criteria of the Bushfire protection provisions in LEP 2005 and the Better Living DCP and further demonstrate to the NSW Rural Fire Service the aims and objectives of the *Planning for Bushfire Protection 2006* to ensure for the protection of human life (including firefighters) and to minimise impacts on property from the threat of bush fire, while having due regard to development potential, onsite amenity and protection of the environment.

10. How has the planning proposal adequately addressed any social and economic effects?

The proposal will have a positive social and economic benefit through the provision of additional housing stock. The intended development will cater for the changing demographic and offer diversity of housing choice.

The proposed development will generate employment which will provide a stimulus to the local economy through:

- development of the subject land will create additional employment for the construction and related industries during the construction phase and long term employment once the development is completed,
- employment opportunities from ongoing servicing from the proposed and current land uses.

Section D - State and Commonwealth Interests

11. Is there adequate public infrastructure for the planning proposal?

The existing public infrastructure is adequate to meet the needs of the proposal. The sites have ready access to all the necessary utilities which will be extended onto the site. The sites are contained within an established area and will not place unnecessary or additional demands on the public infrastructure.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

So far, no consultation has been held with any Public Authorities. The Public Authorities identified in the gateway determination and will summarise any issues raised by public authorities not already dealt with in the planning proposal. In view of the minor nature of the proposal, it is not expected that any authorities will object to the Planning Proposal.

PART 4 COMMUNITY CONSULTATION

This part will outline the community consultation that is to be undertaken, having regard the requirements set out in the "*A Guide to Preparing Local Environmental Plans*".

ATTACHMENTS

Attachment 1: Amendment Map – 67, 69, 71 & 75 Waratah Street, Katoomba

Attachment 2: Amendment Map – 65 & 67 Lurline Street, Katoomba

Attachment 3: Amendment Map – 17 John Street, Lawson

Attachment 4: Amendment Map – 104A Douglas Street, Springwood

Attachment 5: Council Resolution & Report dated 31-1-12, - 171 Lurline Street, Katoomba

Attachment 6: Heritage Assessment Report – 65 & 67 Lurline Street, Katoomba

Attachment 7: Proposed Heritage Inventory Sheet – 65 & 67 Lurline Street, Katoomba

Attachment 8: Council Resolution & Report dated 31-1-12, 17 John Street, Lawson

Attachment 9: Site Inspection Results - 17 John Street, Lawson

Attachment 10: Flora and Fauna Assessment, 17 John Street, Lawson

Attachment 11: Site Assessment, 104A Douglas Street, Springwood