



PLANNING PROPOSAL

FOR

Blue Mountains Local Environmental Plan 2005 Draft Amendment 26

Miscellaneous Amendments

- 171 Lurline Street, Katoomba (Lot 27 DP 2946)
- 67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street, Katoomba
- 65 (Lot 1 DP 447822) & 67 (SP 10795), Lurline Street, Katoomba
- 17 John Street, Lawson (Lot 9 DP 255987)
- 104A Douglas Street, Springwood (Lot 41 DP 249475)

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PART 1 OBJECTIVES OR INTENDED OUTCOMES

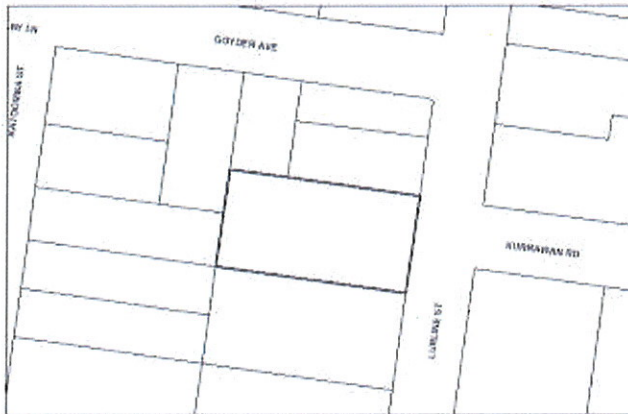
This Planning Proposal involves amendments to Local Environmental Plan 2005, to address minor anomalies to the following properties:

171 (Lot 27 DP 2946) Lurline Street, Katoomba

The objective of the Planning Proposal for this site is to apply a site specific additional use of 'commercial premises' to allow the operation of a 'day spa', and which is not permitted under the current zoning of the site.

The subject land includes the following allotments:

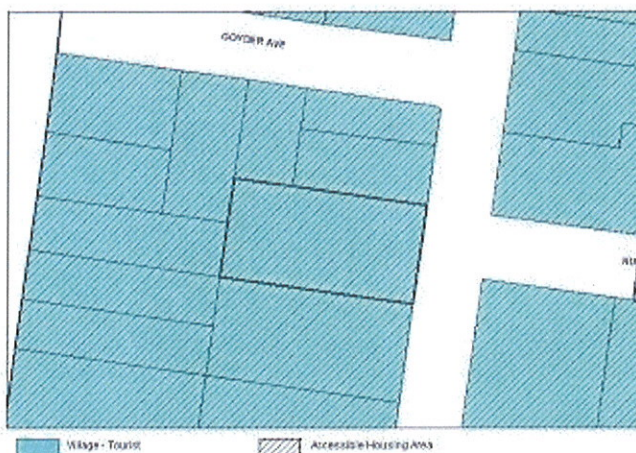
- Lot 27 DP 2946, 171 Lurline Street, Katoomba, currently zoned Village – Tourist with Protected Area - Period Housing Area and Protected Area - Water Supply Catchment Area.



Locality Plan



Aerial Photo



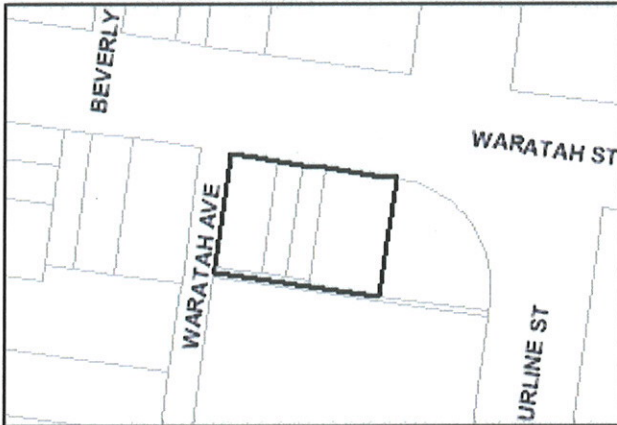
Current Zone Mapping

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

The objective of the Planning Proposal for this site is to rezone from Village - Tourist to Village - Town Centre. The current Village -Tourist zone appears to be an anomaly in view of the surrounding properties.

The subject land includes the following allotments:

- 67 (Lot 1 DP 774340), 69 & 71 (Lots 3 & 4 DP 10191), & 75 (Lot 1 DP 844231), Waratah Street, Katoomba, currently zoned Village – Tourist with Precinct Controls VTC–KA01, Accessible Housing Area and Protected Area - Water Supply Catchment Area.



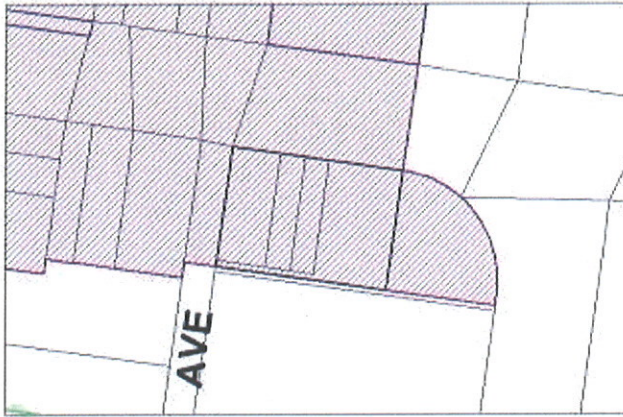
Locality Plan



Aerial Photo



Current Zone Mapping



 Heritage Conservation Area K156

Current Heritage Mapping



Existing Development



 Village - Town Centre

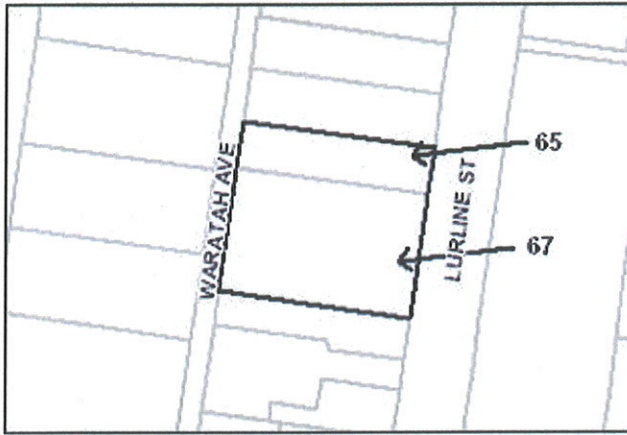
Proposed Zone

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

The objective of the Planning Proposal for this site is to correct an error in the Heritage Schedule of LEP 2005 so that it properly describes the location of Heritage Item No. K156 – Astor House, and to ensure that the Heritage Schedule also includes reference to the sandstone walls located at No 67 Lurline Street Katoomba, which has heritage significance. This will ensure that Astor House is properly protected by the Heritage Schedule (Schedule 6) of Local Environmental Plan 2005.

The subject land includes the following allotments:

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



Locality Plan



Aerial Photo



Current Heritage



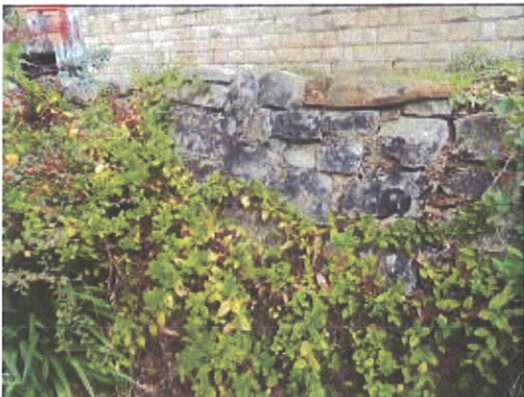
Astor House, 65 Lurline Street, Katoomba



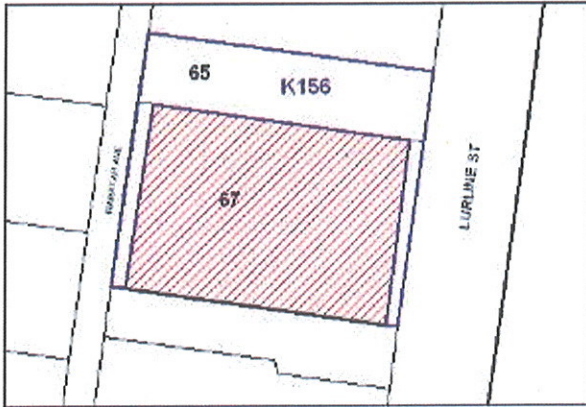
Astor House, 65 Lurline Street, Katoomba (Showing Sandstone Wall)



St Jude Court 67 Lurline Street, Katoomba (Showing Original Front Sandstone wall)



St Jude Court 67 Lurline Street, Katoomba (Showing Original Rear Sandstone Retaining Wall & Steps)



Proposed Heritage Item K156 & Proposed Deletion

17 (Lot 9 DP 255987) John Street, Lawson

The objective of the Planning Proposal for this site is to amend the significant vegetation mapping to adjust the boundaries of the Employment - General zone and Environmental Protection - Private zone and the boundary of the Protected Area - Ecological Buffer Area. This will align the zone boundary with the vegetation and watercourse that are present on the site.

The subject land includes the following allotment:

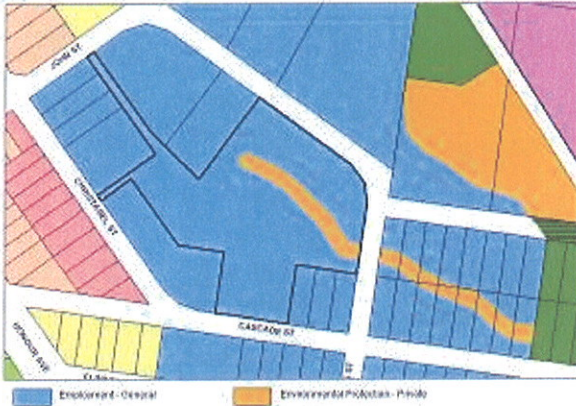
- Lots 9 DP 255987, 17 John Street, Lawson, currently zoned Part Employment - General and Part Environmental Protection - Private with Protected Area Protected Area - Ecological Buffer Area and Protected Area -Slope Constraint Area.



Locality Plan



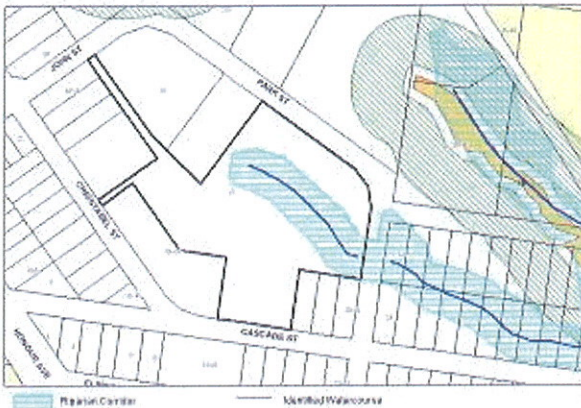
Aerial Photo



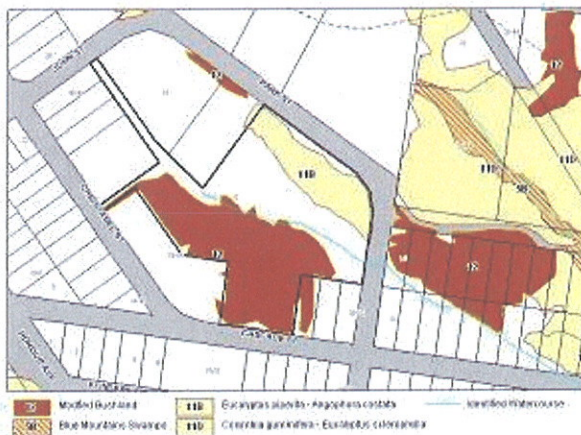
Current Zone Mapping



Current Protected Area Mapping



Environmental Management Plan 2002 Map Panel E Significant Vegetation



Current Vegetation Mapping



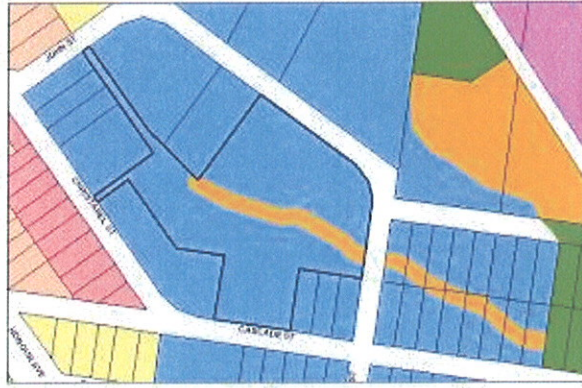
— Creek line

Verified GPS Location of Creek line



■ Vegetation Buffer ■ Vegetation Category 1 ■ Vegetation Category 2

Bushfire Prone Land



■ Environmental - General ■ Environmental Protection - Private

Proposed Zone



■ Protected Area - Slope Constraint Area ■ Protected Area - Ecological Buffer Area
■ Delimitation of Protected Area - Slope Constraint Area

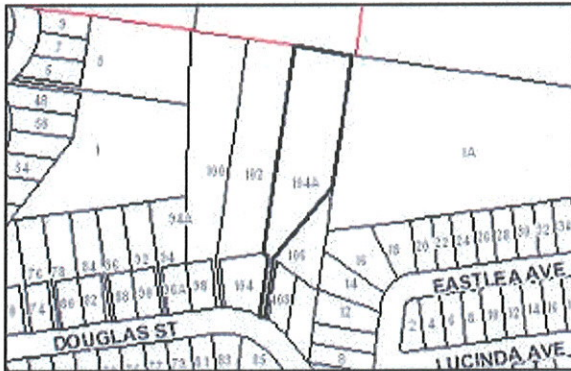
Proposed Protected Area

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

The objective of the Planning Proposal for this site is to reduce the Environmental Protection - Private zone and to replace the deleted part of this zone with a Protected Area -Slope Constraint Area to protect slopes 20% and higher and Protected Area - Ecological Buffer Area to buffers significant vegetation.

The subject land includes the following allotment:

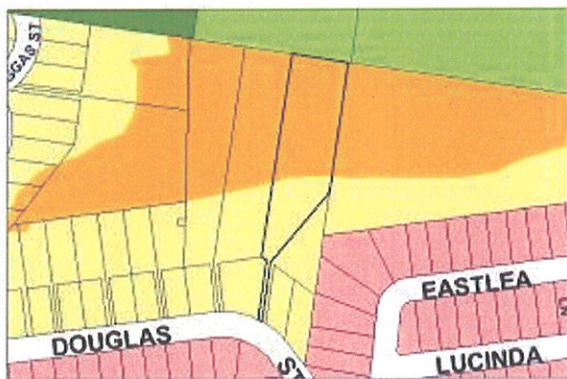
- Lot 41 DP 249475, 104A Douglas Street, Springwood, currently zoned Part Living – Bushland Conservation and Part Environmental Protection - Private with Protected Area -Slope Constraint Area.



Locality Plan

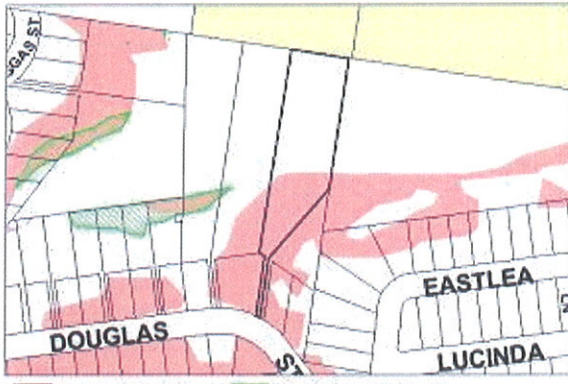


Aerial Photo

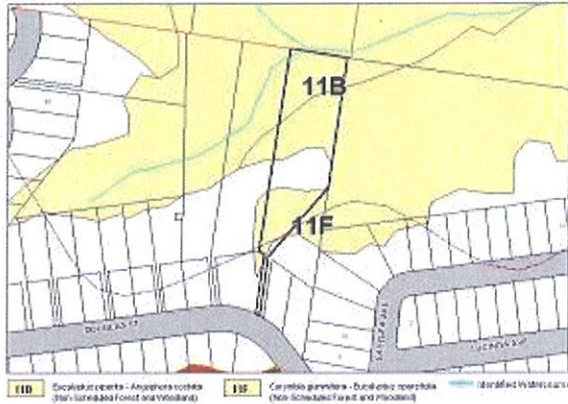


Current Zone Mapping

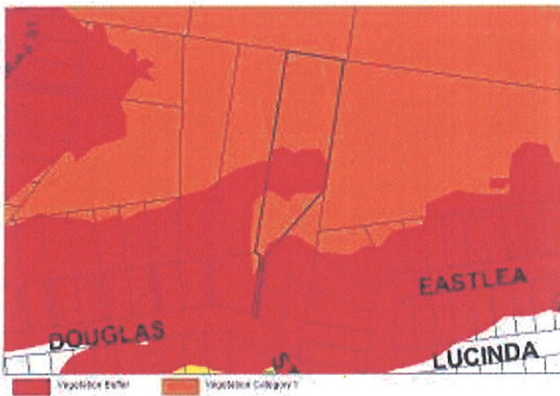
Legend:
Yellow: LV19 - Bushland Conservation
Orange: Environmental Protection - Private
Red: Environmental Protection - Private



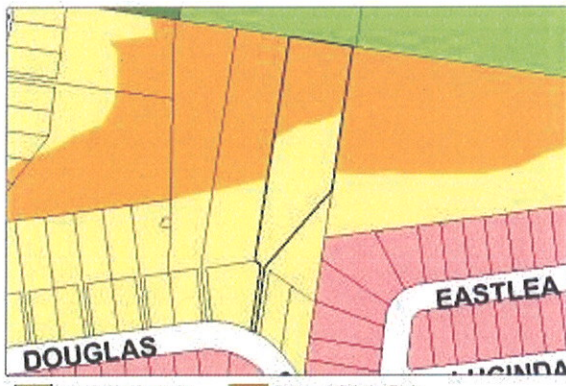
Current Protected Area Mapping



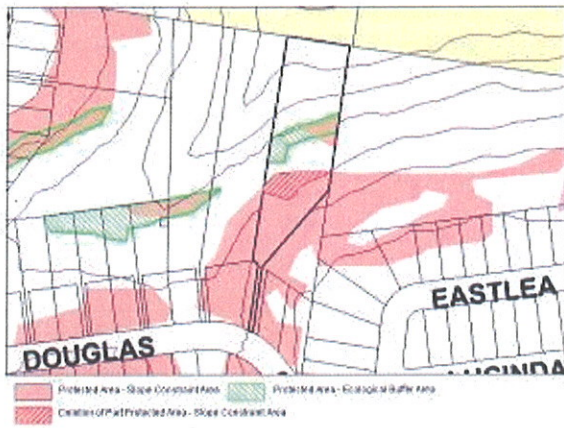
Current Vegetation Mapping



Bushfire Prone Land



Proposed Zone Mapping



Proposed Protected Area Mapping

PART 2 EXPLANATION OF PROVISIONS

171 (Lot 27 DP 2946) Lurline Street, Katoomba

The provisions of the Plan involve amendment of Blue Mountains Local Environmental Plan 2005 by inserting at the end of Schedule 8 the following:

“ALU06 171 Lurline Street, Katoomba

Lot 27 DP 2946: development for the purpose of commercial premises.

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

Amendment of the following map panels of the Blue Mountains Local Environmental Plan 2005 (Attachment 1):

- Map Panel A: Zones, Precincts and Provisions

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

Amendment of the following map panels of the Blue Mountains Local Environmental Plan 2005 (Attachment 2):

- Map Panel C: Heritage / Special Uses

Amendment to Schedule 6 to Blue Mountains Local Environmental Plan 2005 by omitting the matter relating to “67 Lurline Street, Astor House K156” and insert instead under the headings “**Address**”, “**Name**” and “**Number**”, respectively, the following:

“65-67 Lurline Street Astor House and Sans Souci (Site) K156”

17 (Lot 9 DP 255987) John Street, Lawson

Amendment of the following map panels of the Blue Mountains Local Environmental Plan 2005 (Attachment 3):

- Map Panel A: Zones, Precincts and Provisions
- Map Panel B: Protected Areas

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

Amendment of the following map panels of the Blue Mountains Local Environmental Plan 2005 (Attachment 4):

- Map Panel A: Zones, Precincts and Provisions
- Map Panel B: Protected Areas

PART 3 JUSTIFICATION:

Section A - A Need for the Planning Proposal

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

171 (Lot 27 DP 2946) Lurline Street, Katoomba

This planning proposal is a result of a Council resolution dated 31 January 2012. The resolution identified options available to allow permissibility of a 'day spa' that is currently a prohibited use under the current Village - Tourist zone on the site. (Copy of report see Attachment 5). The Council resolved to:

- "1. That Council notes this report; and*
- 2. That Council endorses Option 2, which allows Yindi Day Spa to continue operating at 171 Lurline Street Katoomba, until the review of LEP 1991 is complete."*

(Minute No. 30)

Notwithstanding this resolution, the estimated timeframe for the completion of the LEP 1991 review and its integration into LEP 2005 is at least 2-3 years away. The site is presently being used for a day spa which is not a permissible use, and to allow this use to continue for this extended period is not considered desirable. However, the use of this site for a day spa is considered appropriate for this zone, and will complement the other tourist related businesses located in the Village Tourist zone, such as bed & breakfasts, refreshment rooms and other accommodation and tourist businesses which are permitted in this zone. It was for this reason that the Council previously resolved to allow the site's use as a day spa to continue, rather than closing it down. This planning proposal provides an immediate opportunity to resolve this issue in the short term, rather than waiting for the review of LEP 1991 to occur, by including an amendment to make "*commercial premises*" a permissible use on this site, thereby regularising the unauthorised use that presently occurs. However, when LEP 2005 is reviewed, consideration will be given to including a separate definition in the LEP to encompass the term "day spa", and making this a permissible use in the Village Tourist zone. This will need detailed discussions with the Department of Planning and infrastructure to ensure its compatibility with the Standard instrument LEP.

In preparing this amendment, consideration was also given to allowing the use for '*commercial premises*' to apply to all land within the Village Tourist zone. However, this was not considered an appropriate option as the term '*commercial premises*' encompasses such diverse uses as car washes, crematoria, commercial offices, funeral homes or in fact any business use not specifically captured elsewhere in the LEP. These uses are confined to the town centres and the Employment – General zone, and are not considered suitable for the Village -Tourist zone.

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

The planning proposal is not the result of any strategic study or report.

This planning proposal has resulted from the need to correct an inconsistency in which the site is zoned Village - Tourist and the application of Precinct Controls of VTC-KA01 which belong to the Village - Town Centre zone. Investigations have concluded that the subject land was intended to be zoned Village - Town Centre.

Prior to Local Environmental Plan 2005 the subject land was zoned Business General 3(a) under Local Environmental Plan No. 4 and identified in Blue Mountains Environmental Management Plan as being within a core village area. The land uses 'commercial', 'shop' and 'shop-top housing' that currently exist on the subject land are consistent with the Village - Town Centre zone, but not permissible in the Village - Tourist zone.

Recent land use advice was given for properties 69 & 71 Waratah Street that a proposal to change the use from 2 shops with 2 residential units to refreshment rooms and the amalgamation of two residential units was not a permissible land use in the Village - Tourist zone and for the applications to re apply for the change of use based on existing use rights which was subsequently approved.

The proposed zone of Village - Town Centre will align existing and approved land uses with the appropriate zoning, and will result in a more appropriate location for the southern boundary of the Katoomba commercial area.

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

The planning proposal is not the result of any strategic study or report.

This planning proposal has resulted to correct an anomaly in which 67 Lurline Street, Katoomba has been incorrectly identified as being a Heritage Item K156 – Astor House, which is in fact on the neighbouring property 65 Lurline Street.

The anomaly came about through the Heritage Inventory Sheet for K156 – Astor House that described the address as being 67 Lurline Street and therefore was mapped and inserted into Schedule 6 of Local Environmental Plan 2005 as being on that property.

The Heritage Inventory sheet details the physical description of Astor House which describes the building that is in reality situated on the neighbouring property 65 Lurline Street.

The incorrectly listed property 67 Lurline Street is a 1960s style two story orange bricked set of two block of flats known as St Jude Court which have no significant heritage values.

However the retaining stone wall on the front boundary of 67 Lurline Street is of significance as it is the continuation of the stone wall fronting 65 Lurline Street which the Heritage Inventory Sheet for K156 details.

Council's Heritage Advisor has conducted a heritage assessment on the site and his findings concluded that Heritage Schedule (Schedule 6) of Local Environmental Plan 2005 needs to be amended to remove K156 from part of 67 Lurline Street but retain the curtilage around the front and rear retaining walls and to place the Heritage Item K156 wholly on 65 Lurline Street (Copy of Heritage Assessment Report including current Heritage SHI Form see Attachment 6) and (Copy of Amended Heritage SHI Form see Attachment 7)

17 (Lot 9 DP 255987) John Street, Lawson

This planning proposal is a result of a Council resolution dated 31 January 2012 to support a company that expressed an interest in developing Council owned land to manufacture modular homes. The environmental considerations component of the report identified a creek line that is in a different position to a Protected Area - Ecological Buffer Area declared under LEP 2005. (Copy of report see Attachment 8)

Vegetation mapping has since been reviewed and has identified the creek line as being further south. A field inspection was conducted on 6 January 2012 and the position of the stream was mapped using a GPS and the findings verify that the current vegetation mapping shows the creekline as being correct and the EMP 2002 Significant Vegetation mapping as incorrect (Mapping shown in Part 1 to this proposal). (Copy of site inspection see Attachment 9)

A Flora and Fauna Assessment Report was prepared by Applied Ecology dated 12 March 2012 and is discussed further in Part 3, Section C Clause 8. (Copy of Flora and Fauna Assessment see Attachment 10)

The mapping needs to be amended to change the boundary of the Environmental Protection - Private zone and Protected Area - Ecological Buffer Area to better represent the true position of the creek and the environmental constraints. This will

ensure that future development of the site will be able to manage the impact on the creek and the riparian buffer area.

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

The planning proposal is not the result of any strategic study or report.

This planning proposal has resulted from a Development Application for an addition of a brick terrace at the rear of the dwelling house which was approved using existing use rights and further to a land owner request to amend the Environmental Protection - Private zone boundary to better represent the natural constraints of the site.

The zone boundary runs diagonally through the existing dwelling with the rear of the dwelling encroaching into the EP zone by up to approximately 11.5 metres.

The existing dwelling standing on the site was approved on 13 December 1983, prior to the introduction of Local Environmental Plan 2005. At that time, the site was zoned Res. 2(a1) under the then provisions of LEP 4 and a dwelling house was permissible within the zone with the consent of Council. With the gazettal of LEP 2005, the property was rezoned to part Living-Bushland Conservation and part Environmental Protection-Private.

The recently added terrace is located wholly within the Environmental Protection - Private zone and encroaches approximately a further 13.3 metres into this zone. As a result, Clause 34 of Local Environmental Plan 2005 that permits Council to grant consent to development that extends up to 10 metres into the Environmental Protection zone could not be relied upon in this instance, so the development was approved using 'existing use rights' under the Act.

A field inspection was conducted on 7 May 2012 and a Garmin hand held GPS unit was used to locate waypoints along the newly landscaped areas associated with the dwelling and terrace (shown by a green line on the map below), and the first rock escarpment below these features (shown by a red line on the map below). (Copy of Site Assessment see Attachment 11)



In summary the assessment found the following:

- The newly landscaped areas above the green line around the associated dwelling house and terrace are clear of vegetation and mostly level.
- Most areas between the green and red line are modified or weed invaded, and although dominated by indigenous vegetation, there is no evidence of any vegetation of high ecological value in this area.
- The landscaped area below the green line becomes increasingly steep and portions terminate abruptly:
- The area below the red line has a high density of vegetation and the slope of the land is steep.

In conclusion the following proposed boundary adjustments to zones and protected areas are to be incorporated that will better reflect the building curtilages and environmental constraints of the subject land: