

JRPP No:	Item 1 (2009SYW012)
DA No:	X/821/2009
PROPOSED DEVELOPMENT	Retail Development Leura Mall, including a Woolworths, specialty shops and car parking 152-160 Leura Mall, Leura
APPLICANT:	Ms M Higgins C/- TPG NSW
REPORT BY:	Blue Mountains City Council
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Assessment Report and Recommendation

Recommendation:

That Development Application No. X/821/2009 for the construction of a new retail development incorporating a Woolworths supermarket, four new specialty shops, underground basement car parking, reconfiguration of the Council car park and subdivision at 152-160 Leura Mal, Leura (Lot 1 DP 1123432) and various Council owned parcels comprising the Leura Public Car Park be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this Report.

Report by Acting Group Manager, Environmental and Customer Services:

Reason for report The application is referred to the Joint Regional Planning Panel for determination as the development application is subject to Part 3 (Regional Development) of *State Environmental Planning Policy (Major Development) 2005* as the development has a capital investment value of more than \$5 million and the Blue Mountains City Council is:

- The owner of a portion of land on which the proposed development is proposed to be carried out, and
- The Council is a party to an agreement or arrangement relating to the development.

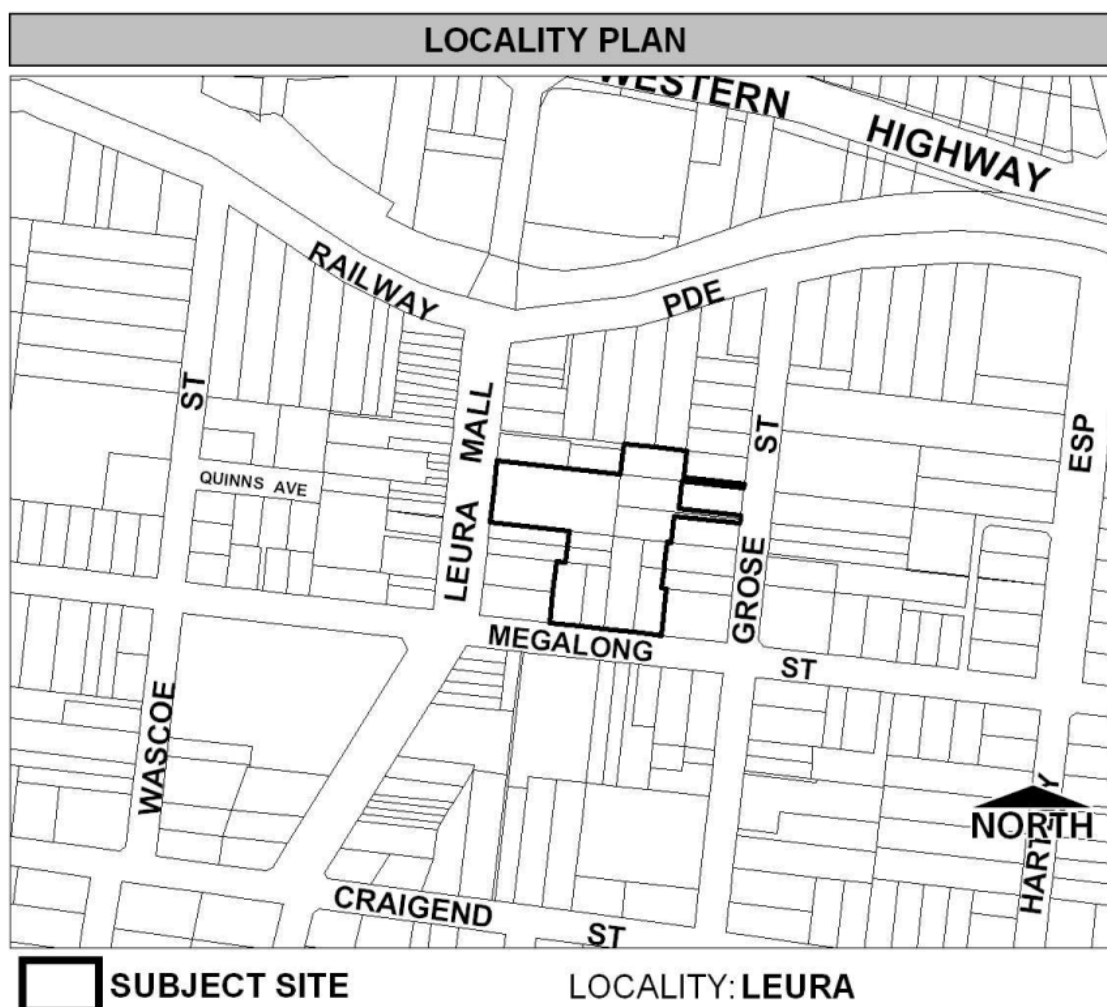
Applicant Ms M Higgins C/- TPG NSW

Owner Morris Petroleum Pty Ltd (Lot 1 DP 1123432) and Blue Mountains City Council ("**the Council**")

Application lodged 23 September 2009

Property address 152-160 Leura Mall, Leura, Lot 1 DP 1123432, also known as the former Colless site ("**the site**")

Leura Public Car Park, comprising the following parcels owned by the Council: Lot B DP 336264, Lot 11 DP 656593, Lot 3 DP 574808, Lot 4 DP 574808, Lot 1 DP 721833, Lot 1 DP 916990, Lot 2 DP 721833, Lot C DP 306845, Lot 1 DP



An aerial photograph depicting the site and car park in 2007 is provided at **Attachment 2**.

Site description

The principal site, 152-160 Leura Mall is rectangular, with a frontage to Leura Mall of 40.3 metres and a depth of approximately 80.5 metres. It has an approximate area of 3,236m².

An at-grade Council car park is located immediately to the rear of the site (the eastern boundary) and along the southern boundary, with two vehicular access points to the car park off Megalong Street.

The site formerly contained various warehouse buildings providing cold storage, truck parking and manoeuvring areas in association with Colless Foods, with heavy vehicle access via Leura Mall. It also included a small convenience store with a shop frontage to Leura Mall and a detached shop.

In physically commencing development approved by the NSW Land and Environment Court in 2006, the site has been excavated, with piling for a basement parking facility. There are two historic shop buildings with a frontage to Leura Mall that

have been retained on the site, with a substation located between them in accordance with the Court approval. The present condition of the site and works undertaken are illustrated on the demolition plan (DA01.02K).

Locality

The subject site is centrally located on the eastern side of Leura Mall, a traditional and contained shopping strip comprising a near continuous row of one and two storey shop fronts of Edwardian style buildings.

The heritage significance of the locality has been reflected in its listing as a heritage conservation area since the early 1980s. Leura Mall, with its landscaped median, is the central focus and organising element of the town centre, which presents at a village scale and provides a range of service and retail functions for residents and is a focus for tourist in Leura.

Council car parking is provided behind the shops on the eastern side of the street. Leura Railway Station approximately 120 metres along Leura Mall to the north of the site, is located, and a further 150m from the Railway station is the intersection for the Great Western Highway.

Proposal

Consent is sought for a retail development comprising:

- (a) Construction of a shopping complex, which includes a Woolworths fresh food store, four (4) new specialty shops and a pedestrian through-site link between Leura Mall and the Council car park.
- (b) Construction of a basement car parking area for 89 spaces inclusive of 2 disabled spaces, trolley storage area, plant room, pump room, fire egress stairs, travelators and lift access to the ground floor level.
- (c) A vehicle access ramp into the basement area from the Council car park
- (d) Retention of two historic shops within the site's frontage to Leura Mall without alteration.
- (e) Demolition of existing site works;
- (f) Removal of the existing layback from Leura Mall frontage and the reinstatement of kerb, gutter and the extension of landscape strip at Leura Mall;
- (g) Reconfiguration of the Council car park to the east and south of the site (including alteration and replacement of landscaping)
- (h) Relocation of an electrical padmount substation from the site's Leura Mall frontage to the rear of the site within the Council car park; and
- (i) Associated signage for Woolworths.

The Woolworths food shop has a gross floor area of 1500m², with the new specialty shops ranging in size from 89 to 144m². The retained shops have a floor area of 86m² and 100m². The Woolworths retail development proposes to employ 50 staff, and proposes to have opening hours between 7am to 10pm daily.

A copy of the architectural documentation for the development is

provided at Attachments 5-8.

The vehicle access ramp to the basement parking facility is to be located within a portion of the public car park (being a part of Lot B in DP 336264 and Lot 11 DP 656593). The proposal necessitates the acquisition of an area of approximately 320m² from the Council. The development application has been amended to include the subdivision of this land and its incorporation within the development site. A copy of the proposed plan of subdivision is provided at Attachment 14.

The application is supported by a Statement of Environmental Effects, Traffic Impact Study, a Waste Management Plan, Crime Prevention Report, Acoustic Report, Access Report, Stormwater Concept Plans, Heritage Impact Statement and Economic Impact Assessment.

The proposal and its design development have been informed by numerous pre-lodgement meetings with the Council's planning and asset staff during 2009.

Background to development application

On 12 December 2005, the Council refused consent to a proposed mixed residential/retail development on the former Colless site. The proposed development consisted of the retention of two traditional shop fronts and the provision of a new building comprising:

- a ground floor level supermarket, loading bay, 15 retail/business suites, and pedestrian arcade, providing access from Leura Mall to the public parking facility to the rear,
- a first floor level comprising 13 dwellings, with garden courtyard,
- a second floor level comprising 12 dwellings,
- a third level comprising 2 dwellings; and
- a basement level car parking facility for 78 cars, with a ramp access from the adjoining public parking facility to the rear of the site.

Without detailing the reasons for refusal, principal concerns with the proposal related to the impact of the bulk, scale and form of the 3 storey building on Leura village (both in terms of urban design and heritage conservation principles), the development's integration with the town centre and the inadequacy of car parking and access arrangements.

Existing Court Approval

During an appeal process before the Land and Environment Court, new architects were engaged to prepare a substituted proposal. On 2 November 2006, the Court upheld an appeal for a two and three storey mixed use development on the site. The development approved by the Court ("**existing Court approval**") comprised the following components:

- a new 1000m² supermarket
- retention of two (2) historic shops to Leura Mall,
- provision of ten (10) additional speciality shops and retail

court (total lettable area of approx. 846m², including the two historic shops)

- twenty-three (23) residential units
- an enclosed northern through-site link
- basement level parking facility with 83 spaces (23 reserved for residential use, 60 available for retail/commercial uses).
- use of the Council car park for manoeuvring of an articulated vehicle up to a length of 16.5 metres, with the resulting loss of 11 public car parking spaces.

Construction on the site has been commenced in accordance with the existing Court approval, but had ceased in early 2009.

Should consent be granted to the subject application, it will be recommended that a condition be imposed requiring the surrender of the consent granted by the Court pursuant to section 80A 1(b) of the *Environmental Planning and Assessment Act 1979* ("the EP&A Act").

Environmental Planning Instruments

Local Environmental Plan 2005 ("LEP 2005")

State Environmental Planning Policy No. 1 - Development Standards ("SEPP 1")

SEPP (Infrastructure) 2007

SEPP No. 55 – Remediation of Land

SEPP No. 64- Advertising Signage

Drinking Water Catchments Regional Environmental Plan No 1

Sydney REP No 20 – Hawkesbury-Nepean

Development Plans Control

Better Living Development Control Plan

Consideration of this DCP is incorporated into the assessment under LEP 2005 as relevant.

Development Control Plan- Advertising Signage

Development Control Plan- Community Consultation for Land Use Management No 35

Notification

The Application was notified by letter to affected property owners, and was advertised in the *Blue Mountains Gazette*, with notification commencing on 7 October and concluding on 6 November 2009. Notice of the proposal was also placed on-site.

An amended proposal, incorporating commercial offices on the first floor, was subject to a notice in the *Blue Mountains Gazette* on 9 December 2009 for re-notification. However, the exhibition was cancelled when the applicant withdrew the amended proposal immediately prior to the commencement of the exhibition.

Although amendments have been made to the proposal in response to concerns raised during the assessment process, such amendments have not warranted the re-notification of the proposal.

Submissions

Ten (10) submissions were received in response to the public exhibition process, with issues raised summarised as follows:

- Development out of character to the context of the existing shops on Leura Mall
- The proposed signage will be detrimental to the character of Leura
- There is no need for a full scale supermarket in Leura with neighbouring Katoomba providing Coles, Frankins and soon Aldi.
- New speciality shops may become cafes, which are already too abundant within Leura
- The traffic report does not take into account the circulation in the car park area and the potential conflict between car and truck movements. The SEE does not provide detail on the truck types and quantity of trucks. The trucks should be restricted from delivering during peak times
- Traffic flow and access to the Council car park
- Loading and unloading
- Shopping trolleys should be coin operated
- The community art wall and landscaping proposed on the northern elevation will not have access for maintenance and should be deleted.
- The trolley storage and the electrical kiosk are in inappropriate locations especially for loading and drop off to post office.
- Public toilets should be provided within the development

Evaluation

The Application has been assessed in accordance with Section s.79C (Evaluation) of the *Environmental Planning and Assessment Act 1979* ("the Act"). A commentary on the assessment of the development against Section 79C evaluation matters has been detailed in this report for the consideration of the consent authority:

Issues

The following assessment issues are further detailed in the report for the consideration of the consent authority:

- 1) Local Environmental Plan 2005
- 2) Regional Environmental Plan No 1 Sydney Drinking Water Catchment
- 3) Design and character (Leura Mall Precinct) and Heritage conservation
- 4) Building height (SEPP 1 Objection)
- 5) Active Frontage (SEPP 1 Objection)
- 6) Advertising signage
- 7) Vehicular access and the use of Council car park
- 8) Design and reconfiguration of the public car park
- 9) Car parking provision
- 10) Public use of basement facility
- 11) Traffic generation
- 12) Delivery vehicles, loading and managing noise impacts
- 13) Toilet facilities

1. Local Environmental Plan 2005

The development site and car park is land to which *Blue Mountains Local Environmental Plan 2005* ("LEP 2005") applies. The following zones, precincts and other map based annotations apply to the land:

152-160 Leura Mall, Leura, Lot 1 DP 1123432:

The following zone, precinct and mapped annotations apply to this land

Zone: Village - Town Centre
Precinct: Leura Precinct VTC-LE01 – Leura Mall Precinct
Protected Area: Water Supply Catchment
Heritage Conservation Area: Central Leura Urban Conservation Area LA018

Leura Public Car Park (excluding Lot B in DP 331251):

Zone: Village - Town Centre
Precinct: Leura Precinct VTC-LE01 – Leura Mall Precinct
Protected Area: Water Supply Catchment

Northern lot of the Leura Public Car Park (Lot B in DP 331251):

Zone: Village - Housing
Precinct: Leura Precinct VH-LE03 – Eastern Edge Precinct
Protected Area: Water Supply Catchment

Compliance Table: Local Environmental Plan 2005

Clause	Standard	Proposed	Compliance
cl. 9	Consideration before development consent	The development satisfactorily complies with the aims, principles, locality provisions and the assessment requirements relevant to the development.	Yes
Div. 2 Part 1	Planning principles	The proposal is considered to comply with the planning principles of LEP 2005. Consideration of relevant principles and objectives are incorporated into the assessment below.	Yes
cl. 13	General locality management	<p>The development complies with zone objectives for the Village Town Centre zone applying to the site (see clause 18 below) and is permissible with consent (see cl. 32 below).</p> <p>With the exception of one lot, the Council car park is also within the Village – Town Centre zone, but the car park adjoins land in a Village-Housing (being properties with a frontage to Grose Street and Railway parade). Although these properties are principally professional offices and the like, they do include residences. It is considered that the development does not compromise the objectives of that zone and conditions are proposed to reduce adverse impacts arising from delivery vehicles</p>	Yes

Clause	Standard	Proposed	Compliance
		(particularly on weekends) and demonstrating compliance with recommendations of the submitted acoustic report.	
cl. 14	Locality management within the villages	The site is within the “Leura Mall Precinct” (VTC-LE01), the provisions of which are considered following this table.	Yes
cl. 18	Zone objectives	<p>The proposal promotes and consolidates Leura Village as a focus of retail, commercial and community activity by providing an anchor retailer providing fresh food and groceries. The development will support specialty trading of Leura Mall, and provides four additional specialty shops ‘completing’ the near continuous row of shops that characterise this main street.</p> <p>The proposal is supported by an economic impact statement, and the development is considered to promote the economic viability of the town, with increased retention of spending within the township of Leura. Such a proposal integrates development with transport systems and promotes sustainable access opportunities by reducing travel to other centres for local residents.</p> <p>Such benefits are expected to offset trading impacts, which are likely to be confined to existing chain supermarkets in Katoomba. However, the scale of the retail development has been contained to an extent that it does not shift the focus of large scale retailing and higher order uses from the district centre of Katoomba.</p> <p>As considered in more detail in an assessment against the desired future character for the Leura Mall Precinct, the proposal promotes the unique character of the village.</p>	Yes
cl. 32	Permissibility	<p>Development for the purpose of “shops” is permissible with consent in the Village-Town Centre zone.</p> <p>Development for the purpose of a parking facility and parking is permissible in the Village-Town Centre zone. The northern most lot is zoned Village-Housing in which a “parking facility” is prohibited. As this land is developed for this purpose, it is an existing use which may be altered in accordance with Division 10</p>	Yes

Clause	Standard	Proposed	Compliance
		(Existing Use), Part 4 of the EP&A Act and Regulations or in accordance with cl. 34.	
cl. 34	Development near zone boundaries	There is a zone boundary between the northern most lot of the car park (zoned Village-Housing) and the remainder of the car park (zoned Village-Town Centre). The entire northern lot is within 20 metres of the zone boundary, with development for any purpose permissible in the Village Town Centre, permitted to extend into that land.	Yes
Div. 1 Part 3	Site Analysis	The potential impacts of the development and measures to visually and physically integrate the proposal within Leura Mall were taken into account as part of the site planning process.	Yes
cl.44	Environmental Impact	The development has no adverse impact on the nominated environmental attributes, including any threatened species, populations or ecological communities as assessed in accordance with s. 5A of the EP&A Act.	Yes
cl.48	Protected Area – Water Supply Catchment	The proposal is within the water supply catchment area. Sydney Catchment Authority provided concurrence to the proposal, subject to conditions, as the development will have a neutral or beneficial effect on water quality within the catchment.	Yes
cl.56	Site disturbance and erosion control	The existing site excavations reflect the current development consent, which required remediation of contaminated land and enables the construction of the approved basement car park. The proposal will also provide a basement car park which is an appropriate built form for a commercial area. All the cut and fill will be maintained within the building footprint of the site and will not generate adverse environmental impact.	Yes
cl. 57	Stormwater Management	The application was accompanied by a Stormwater Management Plan. Previously, the site's stormwater discharge was via a pipe system to Leura Mall. The stormwater runoff from the development site will continue to drain via the Council pipe to Leura Mall the report states that approximately 93% of stormwater runoff from the roof area will be directed by a series of gutters and downpipes to the high level drainage system in the basement. The remaining 7% of roof area will be retained for reuse in a 4,000 litre rainwater tank located in	Yes

Clause	Standard	Proposed	Compliance
		<p>the basement.</p> <p>The water quality modelling demonstrates that by including a gross pollutant trap with an oil baffle, the quality of stormwater discharge from the site will improve. Conditions reinforce specify the required treatment measures.</p>	
cl.58	Modification of land form	The proposal is consistent with the cut and fill requirements and contains excavation within the development footprint.	Yes
cl.60	Consideration of character and landscape	The proposed development is considered to be consistent with the established character and streetscape of the surrounding area as considered having regard to the desired future character identified for Leura Village. Refer to Item 3. Design, Character and Heritage conservation for detailed discussion.	Yes
Div. 4 Part 3	Heritage conservation	A heritage impact statement was submitted with the application, as the development is located within the Central Leura Urban Conservation Area and is located adjacent to a heritage item-Leura Post Office building. Refer to Item 3. Design, Character and Heritage conservation for discussion.	Yes
Div, 5 Part 3	Bushfire protection	The site is not mapped as being bushfire prone land.	N/A
cl.87	Crime minimisation Assessment	<p>The proposed development provides natural surveillance and territorial reinforcement of the areas used by the public.</p> <p>The provision of the through-site pedestrian link on the southern portion of the site is integrated with an internal mall and the provision of significant glazing to the southern elevation and good sight lines to the east provide high levels of passive surveillance.</p> <p>The design of the basement facility and provision of fixed glazed walls to travelers maximises the safety for the public in this part of the site.</p> <p>Back of house service areas will be managed by CCTV.</p> <p>In most respects, the development responds positively to the principles of crime minimisation through environmental design. The exception to</p>	Yes, provided measures are taken to provide toilets for patrons in a more acceptable location.

Clause	Standard	Proposed	Compliance
		this is the provision of toilet facilities for use by patrons, a matter that is addressed at Item 13. Toilet facilities’.	
cl. 89	Remediation of contaminated land.	<p>The land was subject to contamination as it was previously the site of fuel diesel tanks. The site has been excavated and remediated as part of works authorised under the existing consent authorised by the Court.</p> <p>In accordance with conditions of that consent Geo-Logix Environmental Risk Management prepared a remediation report for the underground storage tanks and confirmed in March 2009 that the tanks had been removed and the site appropriately remediated.</p>	Yes
cl. 90-91	Subdivision	<p>The subdivision is a three into three lot boundary adjustment as depicted in the proposed plan of subdivision provided at Attachment 14.</p> <p>Proposed Lot 1 will comprise the principal development site (152-160 Leura Mall, Leura; Lot 1 DP 1123432) and 161.9m² portions of both Lot B DP 336264 and Lot 11 DP 656593. In effect, the subdivision extends the development site 8.05 metres eastward into the Council car park. Proposed Lot 2 and 3 are the residual of the parcels within the car park.</p> <p>The portion of the car park (322m²) to be acquired from the Council to form part of the development site will comprise the access ramp to the basement parking facility, with two parking spaces at its base.</p> <p>The lot layout provisions of cl. 90 do not apply to land in the Village – Town Centre zone.</p> <p>The lots created are capable of being connected to all necessary services. However, the proposed rights of carriageway and easements for services shown on the proposed plan of subdivision are recommended to be excluded from the consent.</p>	Yes
cl.94	General provision of services	Services are currently available to the site. The electricity substation is to be relocated from Leura Mall to the rear of the site within the Council’s car park. Relocating the existing substation is considered to be in the public interest as its present location has an adverse	Yes

Clause	Standard	Proposed	Compliance
		<p>impact on the Leura Mall streetscape, impedes access between the retained historic buildings, and prevents through-site access along the southern boundary, which complements other pedestrian linkages in Leura Village.</p> <p>During the assessment process, plans were amended to relocate the substation from the entry threshold to the pedestrian path to the north of the post office (as shown in exhibited plans).</p>	
cl.98	Access to land from a public road	Refer to discussion at Item 7. Vehicular access and use of Council car park	Yes
cl.99	Car parking provision	<p>The proposal provides for basement level car parking with 89 spaces, including two spaces for people with a disability.</p> <p>The surface level public car park is also reconfigured to improve function.</p> <p>Refer to Item 9. Car Parking Provision</p>	Yes
cl.100	Design for carparking	<p>The car parking arrangement within the basement gains access via a dual entry and exit ramp with a one way flow through the basement so that cars enter and exit the car park in a forward motion.</p> <p>The Council car park is to be rearranged to accommodate the provision of the access ramp into the basement car park and for the loading area. Refer to Item 8. Design and Reconstruction of Public Car Park and 9. Car Parking Provision</p>	Yes
cl. 101	Loading and unloading facilities	Satisfactory provision is made for loading and unloading facilities, subject to conditions. Refer to Item 12. Delivery vehicles, loading and noise management.	Yes
cl. 107	Access to public buildings and public land	<p>The proposed development has been designed to provide appropriate access for people with a disability and is supported by an access report.</p> <p>The proposal is conditioned to require that the design satisfies the access requirements within the <i>Better Living Development Control Plan</i> and the relevant Australian Standard as prescribed by this clause.</p>	Yes

Clause	Standard	Proposed	Compliance
		The applicant does not propose any works to existing shops 1 and 2 and does not proposed to make these shops accessible. The access provisions of LEP 2005 apply to the design of new buildings, facilities and structures. Provided no structural work or alterations to the existing access to these buildings is undertaken, a condition is not imposed requiring these premises to be made accessible.	
cl. 128	Development on community land	<p>Two parcels of land within the car park directly south of the development site (known as 164A and 168A Leura Mall) are deemed to be classified as community land under the <i>Local Government Act 1993</i>. The remainder of the car park is classified as operational land.</p> <p>No plan of management exists for these parcels of land. Pursuant to s. 44 of the <i>Local Government Act 1993</i>, the use and nature of the land must not be changed pending the adoption of a POM. The proposed development does not propose to change the use and nature of this land, which will continue to provide public parking. No rights of carriage way or easements shall be granted in relation to the community land, and this is subject to conditions.</p>	Yes

2. Drinking Water Catchments Regional Environmental Plan No. 1

The proposed development is located within a catchment identified under Drinking Water Catchments Regional Environmental Plan No. 1. The subject site is connected to the reticulated sewer and stormwater systems and will not adversely affect the water quality of the catchment. Sydney Catchment Authority has provided their concurrence subject to conditions which have been incorporated into the recommendations.

The subject site is also identified as being within the sub catchment of the Cox's River and is therefore subject to the provisions of Sydney Regional Environmental Plan No. 20 (Hawkesbury Nepean River). The development was assessed against the planning considerations as set out in Clause 5 and 6 of SREP 20 and considered acceptable.

3. Design and Character Leura Mall Precinct (VTC-LE01) and Heritage Conservation

Precinct Provisions

The LEP 2005 sets out provisions aimed at achieving the desired future character of the locality, in Schedule 1 Part 5 Division 1. Central to this place-based planning approach, has been the development of a statement outlining the expectations for future proposals within the Leura Mall Precinct:

2. DESIRED FUTURE CHARACTER

(1) Precinct vision statement

This precinct continues to operate as a traditional shopping strip for Leura residents as well as the central focus for tourists to Leura. The mall will increasingly become a community focus area and gathering place.

Presenting a village scale and character, the streetscape is dominated by the near continuous row of one and two-storey shop fronts of early twentieth century “Edwardian” style buildings. New development is of the highest design quality and respects the existing character.

The precinct experiences a gradual increase in the range of local services and facilities and the reuse and development of upper floor areas for commercial and residential uses.

The precinct remains a pedestrian-friendly environment with the large central median island representing a safe haven for pedestrians and the adjacent footpaths providing important areas of character and interest.

(2) Precinct objectives

- (a) To promote a diversity of retailing, other commercial, community, cultural and residential uses that serve the community, business and tourists.*
- (b) To promote a built form and scale that is consistent with that of the existing and adjacent streetscape.*
- (c) To conserve buildings with heritage significance and protect the identified heritage value and character of other buildings in the precinct.*
- (d) To promote active street frontages to all roads, lanes, footpaths and public areas.*
- (e) To promote Leura’s role as a tourist destination.*
- (f) To enhance pedestrian linkages within Leura Village.*

(LEP 2005, Leura Mall Precinct (VTC-LE01), cl. 2 – Desired Future Character)

These provisions were developed by urban design consultants and planning staff in response to a vision workshop for Leura attended by 120 members of the local community in May 2001. Prior to granting consent to development, it is necessary for a consent authority to determine whether the proposal complies with these “Precinct objectives” in achieving the “Precinct vision statement” for the Leura Mall Precinct.

Further, the significant attributes of the site itself and the proposed removal of the outmoded existing uses – which are incompatible with the form and function of Leura Mall - have the potential to contribute significantly to the stated desired outcome. This has previously been considered by Council in March 2004:

Future redevelopment of the site has the potential to make a significant contribution to Leura in terms of:

- satisfying local and tourist demand for retail and commercial floorspace into the future;*
- further enhancing the vitality of the centre; and*
- replacing the less attractive buildings with new elements that are more appropriate to the heritage character and urban design of the centre.*

(Business Paper, Ordinary Meeting, 9 March 2004, Item 2, p. 4)

In conjunction with a statement of desired future character, the Leura Mall Precinct also provides a “building envelope” and “design considerations”. Collectively, these provisions provide an integrated framework for determining the baseline parameters for development, while guiding the design resolution of future buildings to satisfy stated outcomes.

In complementing the achievement of this outcome statement, the building envelope for the Leura Mall Precinct comprises three components:

1. Building Height: this prescribes a maximum building height of 12 metres for a building and forces an additional setback of buildings above 7.5m in height.
2. Building Setback: this prescribes that a building at the primary street frontage, being Leura Mall, shall have no setback from the property boundary and shall have no setback to side boundaries, unless the side boundary adjoins a public place.
3. Site Coverage: development on this site may have up to 100 per cent site cover.

The development is consistent with all of the objectives for this precinct and complies with the specific provisions other than for two development standards, which are the subject of objections under State Environmental Planning Policy No 1. (SEPP 1) The details of compliance as set out in the table below and the SEPP one objections are evaluated in Item 4. Building Height (SEPP1 Objection) and Item 5. Active Frontage (SEPP1 Objection).

Heritage Conservation

The site is also located within the Leura Urban Conservation Area (UCA). The listing of the UCA is under LEP 2005 and is supported by State Heritage Inventory No. 1170519.A Heritage Impact Statement (HIS) was submitted with the application.

The northern boundary of the site adjoins the site of the former Leura Post Office building, which is locally listed as a heritage item under LEP 2005 (Item LA 071).

Leura Village significance is attributed by its streetscape and townscape context. The narrow fronted lots with the low-scale one to two storey retail/commercial shops provide awnings over the footpath that define the parapet rooflines. This design contributes to the important historic buildings features and representation of the late nineteenth to mid twentieth century.

Under cl. 68 of LEP 2005, consent cannot be granted to development within a heritage conservation area, an archaeological site or within the curtilage of a heritage item unless Council is satisfied that development complies with the relevant heritage values of the site.

The proposed development as submitted was assessed by the Council's Heritage Adviser for suitability and compliance with the relevant requirements of LEP 2005. A copy of the Heritage Advisers comments are contained at Attachment 13. The Heritage Adviser comments that whilst the relatively large supermarket will result in a substantial impact on the existing character it is a more appropriate visual response to the character of the Mall than the existing Court approval. The current proposals are also seen to have sensitively addressed the streetscape issues and the form and massing of the building envelopes. The Heritage Adviser agrees with the conclusions of the Heritage Impact Statement that the proposed development is of *'an appropriate one-to two storey scale within this significant conservation area..'* but that *"further design development is required for a number of aspects of the proposals."* The recommended design improvements were subsequently addressed by the applicant and have been incorporated into the final design that is the subject of this assessment. Those matters relate principally to the detailed design and finishes of the 3 new specialty shops, the articulation of the northern elevation fronting the Post Office and the height of the lift overrun, which is discussed in the item below, Item 4. Building Height (SEPP1 Objection).

The new shops fronting Leura Mall, are now specifically designed to relate to the significant character and context of the Mall. The new shop fronts are characteristically narrow and step down following the gradient of the street, so maintaining the rhythm and form of the traditional shop frontages. Similarly, the introduction of splayed entries with recessed doorways and the detailed framing of the doors and windows are now consistent with the

architectural character of the mainstreet shops. The integration and the retention of the two existing shops with the new shops is a highly positive aspect to the proposal.

The Woolworths food store with the underground car parking component of the development is the focus of the proposal. The scale and the bulk of the building respond to the context of the area. The design of the building has been adequately screened behind the shops fronting Leura Mall as the height of the building has been kept moderately low. Although the design to the rear of the site would be considered to be fairly modern, with exposed steel structures, glass doors and panels, as the building will be set behind the street frontages. The articulation of the building decreases the bulk to the various elevations.

Attachment 15 compares the elevations for the existing court approval and the current development application. That documentation clearly demonstrates the superiority of the current development application over that existing court approval in terms of character and heritage conservation properties.

Landscape quality

A great deal of the appeal of Leura derives from its character as a “garden village”. This character dominates throughout the mainstreet, adjoining access roads and is also visible to some extent, in the existing public car park. This pervading garden character, in concert with the built character and the quality and diversity of retail outlets, is a strong contributor to the quality of the visitor experience.

The development application proposes landscaping to the Leura Mall frontage, along the eastern elevation adjacent to the car park driveway. Additional supplementary landscape beds are to be provided to the car parking area.

The development application proposes some reconfiguration of the public car park which will require the removal of some established planting. This work is necessary and desirable in order to maximise the efficiency and number of car parking spaces. However, as discussed in Items 8. Design and reconfiguration of the car park and 9. Car parking Provision the conditions require that several proposed car parking spaces be deleted and converted to landscaping. Similarly the trolley bays in the public car park are to be deleted and replace by planting beds. Detailed conditions have also been imposed requiring the protection and ongoing maintenance of a number of existing trees including the English Oak adjacent to the entrance to the proposed supermarket.

Clause	Provision	Proposed	Compliance
1 (1)	Consideration of precinct	The proposal is considered to comply with the precinct vision and design considerations.	Yes
2 (1) (2)	Desired future character	The proposal will have a frontage to Leura mall that will be in keeping with the existing shop fronts in the designated Heritage conservation area. Refer to Item 3. Design and Character.	Yes
(3) (1) (a) (b)	Building envelope	<p>The proposed development does not exceed the maximum 12m building height.</p> <p>However, the lift core/signage pylon above is not contained within a building envelope projected at 30 degrees from a height of 7.5 metres above the boundary to a public place. Refer to Item 4. Building Height SEPP 1 objection.</p>	<p>Yes</p> <p>No</p> <p>SEPP 1 Objection lodged</p>

(3) (2)	Building setback	The proposal will have zero setbacks from the front, side and rear boundaries.	Yes
(3) (3)	Site Coverage	The proposal has a 100% site coverage of the site.	Yes
4(1)	Design considerations –active street frontage	<p>The proposal is designed to enable an active street frontage to Leura Mall with the inclusion of three speciality shops fronting the mall.</p> <p>The second active frontage is from the southern elevation to the Council car park which provides entry doors and glazing to the through site link and fresh food shop.</p> <p>The proposal does not, however, provide an active street frontage to the rear (eastern) elevation due to the location of the access ramp into the basement car park, as well as the loading dock facility and designated garbage area. Refer to Item 5. Active Frontage SEPP 1 objection.</p>	<p>Yes</p> <p>No</p> <p>SEPP 1 objection lodged</p>
4 (2)	Built form and finishes	<p>The narrow and diverse shop fronts stepping down the Leura Mall promote the desired built form of traditional mainstreet shop terraces and the finishes and form of the facades are consistent with the existing main street shop terraces dating from the Edwardian-era or Inter-War period.</p> <p>Floor space is distributed into well-articulated structures and car parking is accessed from the rear and is concealed in the basement.</p>	Yes
4 (3)	Pedestrian amenity and safety	The pedestrian network will be expanded by creating a thoroughfare from Leura Mall to the car park along the southern margins of the site. A new frontage to the car park will be provided on the southern elevation promoting passive surveillance to and from the car park.	Yes
4	Parking and vehicle access	The parking provided complies with the Council's Better Living Development Control Plan Refer to Item 9. Car Parking Provision.	Yes

4 Building Height (SEPP 1 Objection)

The applicant has submitted a State Environmental Planning Policy 1 (SEPP 1) objection to the standard relating to building setbacks specified in the locality management provisions of Clause 3(b) of Schedule 1 Part 5 Division 1 LEP 2005, which are reproduced below. A copy of the SEPP 1 objection to this standard is contained at Attachment 12 to this report.

3 Building Envelope

- (a) Buildings shall not exceed a maximum building height of 12 metres*
(b) External walls fronting a public place shall be contained within a building envelope projected at 30 degrees from a height of 7.5 metres above any boundary or boundaries to that public place.

LEP 2005 defines building height as follows:

Building height means the distance measured in metres vertically from the highest point of the roof to the finished ground level immediately below that point.

The building complies with the maximum overall height of the building but the lift overrun, which is also being used to accommodate business identification signs intrudes into the setback delineated by a plane projected at 30 degrees from a point 7.5m above the finished ground level at the boundary. The overall height of the lift overrun building at that point is approximately 9.8m. The non-compliant corner of the structure projects by approximately 0.75m into the setback height plane at the closest point. This equates with a numerical variation from the development standard of approximately 7.6%.

The applicant argues that compliance is unreasonable or unnecessary and argues that the building in general and the non compliant feature in particular does not offend the underlying objectives, which the SEPP 1 objection postulates include:

- Protection of the public and private views:
- Minimise the visual impact of buildings viewed from adjoining properties
- Ensure buildings are compatible with existing buildings in terms of height and roof form, and
- Minimise effects of bulk and scale of buildings arising from new development in existing urban heritage areas.

The height of this non-compliant element has been reduced by 1m from that depicted in the application as originally submitted. The height was reduced in response to the comments of the Council's Heritage Advisor. The proposed height of the building and the non compliant element in particular are considered to be reasonable and appropriate to the setting because:

- It Is considered to be appropriate and in scale in relation to the overall building;
- It Provides an appropriate landmark for the entry to building from the car park;
- The building at this point is well setback from any adjoining heritage structures and streetscapes; and
- The advertising in that location is considered to be reasonable for the purposes of way finding.

(Item 6. Advertising signage contains more detailed discussion and evaluation of advertising proposals for this development.)

In this instance compliance with the standard is considered to be unreasonable and unnecessary and the objection is considered to be well founded and is recommended for support.

5. Active Frontage (SEPP 1 Objection)

The applicant has submitted a SEPP 1 objection to the standards in the locality management provisions in Clause 4 of Schedule 1 Part 5 Division 1 LEP 2005, which are reproduced below, relating to active street frontages. A copy of the SEPP 1 objection to this standard is contained at Attachment 11 to this report.

- 4 *Design Considerations, Active street frontages*
(b) On properties with secondary frontages to a public place:

- (i) new retail or other businesses are to be promoted along at least 50% of ground level frontages to public car parks, side streets and laneways, and*
- (ii) balconies or extensive windows, or both, facing the public place are to be incorporated in all storeys above the ground storey.*

LEP 2005 defines 'active street frontage' as:

Active street frontage with interactive spaces between the building frontage and adjacent footpaths, road reserves or other public spaces that:

- (a) provide interesting stimuli and activity for pedestrians to observe, thereby enhancing their experience of the village and town centre, or*
- (b) enhance pedestrian safety and amenity through the provisions of casual surveillance afforded by occupants.*

The proposal provides active street frontage to the Leura Mall frontage and to the secondary frontage along the southern boundary. The southern elevation is the main entry from the car park and incorporates windows and entry/exit points for more 50% of the frontage.

The access into the basement parking area and the loading facilities occupy most of the other secondary frontage to a public place being the eastern elevation to the car park denying any potential to meet the active frontage development standards on this elevation.

The applicant postulates that the underlying objectives of the standard are:

- To provide for visual interest to elevations which front a public place or street, and
- To minimise the visual impact of the buildings when viewed from adjoining properties.

The application states that the proposal is consistent with the objectives because the location of the pedestrian and vehicle entry points provide some activation to the eastern elevation, visual interest is provided by incorporating climbing plants to this elevation but promoting good surveillance of the loading bay and access ramp by using narrow planting. The applicant has also suggested that alternative passive surveillance methods can be provided, such as CCTV.

In addition to the underlying objectives identified by the applicant, the objectives of promoting passive surveillance of public spaces and promoting business function of the village centre by consolidating and linking commercial frontages, should be added. The applicant's SEPP1 objection has addressed the surveillance issue. As discussed in Item 7. Vehicular access and the use of the Council car park, the LEP requires that the onsite car parking be accessed from the rear. A 'back of house' area and function does need to be accommodated on the site and access via the car park is considered to be preferable to disrupting pedestrian flow and commercial frontages in Leura Mall.

It is considered that the design represents a good outcome in relation to achieving balance between the need to promote active frontages, and the need to provide for appropriate and safe vehicular access to the site. The concentration of cars and delivery vehicles to the eastern elevation promotes pedestrian safety.

In this instance compliance with the standard is considered to be unreasonable and unnecessary and it is recommended that the objection to the development standard be upheld.

6. Advertising Signage

The statutory planning framework for advertising is concerned with achieving contextually appropriate signage, which enables way finding, provides reasonable business identification and complements the identified values of a locality. In the case of Leura Village, there is a particular challenge in successfully integrating corporate signage in a manner that does not adversely impact on the design quality of Leura Mall, and surrounding streets.

The general approach adopted to signage in the case of this development is to minimise signage to Leura Mall, keeping this largely consistent with the established practices in the conservation area and focusing on pedestrian way finding. For instance, the specialty shops will readily incorporate awning and under-awning signage, which is shown on the plans. This contrasts with the approach to signage in relation to the car park and towards Megalong Street, which is directed to vehicles. Whilst the Megalong Street also has streetscape values that are to be considered in the approach to signage, it is expected that the building scale toward the car park can more successfully absorb larger signage, provided it is appropriately integrated with architectural features.

Leura Mall

The resolution of the Woolworths signage along Leura Mall at the entry to the through-site link is regarded as highly important to the success of this development proposal. The application as lodged included a proposal to extend the covered walkway across the footpath and apparently add a large illuminated sign, which would impede views to the retained historic buildings and would be otherwise inappropriate in this context.

In response to concerns raised, the proposal was amended to draw this logo back to the building line and to remove illumination, thus resolving impacts on the façade of the retained historic buildings. This is the only Woolworths signage shown on the plans for this elevation.

Although the Statement of Environmental Effects lodged with the application made reference to an “Illuminated two-sided projecting wall sign over the entry to the pedestrian link at the Leura Mall frontage with dimensions of 3.215m² x 2.894m²” this was not shown on the plans. Significantly, the applicant’s Heritage Impact Statement provided by Godden Mackay Logan raised reservations with such signage. Details of such signage, its location in relation to existing awnings was not provided and it does not form part of the proposed conditions.

It is considered that further way finding signage for pedestrians will need to be incorporated into the Leura Mall frontage and particularly at the entrance to the through-site link. Some scope is provided for this via proposed conditions, as well as for an under-awning sign to enable identification of the Woolworths proposal. Beyond this, any other signage would require amendment to the application or a further consent.

Related to signage, the illumination of signs, buildings (internal and external) and down lighting has the potential for adverse impact. This is particularly the case with strong illumination of parapets above the awning line. Leura Village has particular quality at night, which needs to be recognised in the approach of lighting to avoid an adverse impact.

Supermarket signage to the car park

The principal Woolworths signage proposed for the southern elevation comprises an illuminated top hamper sign over the entry to the proposed building from the Council car park with dimensions of 1.565m x 7.315m. Such signage is considered acceptable and necessary to provide a reasonable presence for the supermarket. In part it is a concession to the modest advertising proposed for Leura Mall. Provided the illumination of this signage is moderated to minimise glare impacts, it will successfully identify the store from the principal vehicle entry (particularly the eastern entry off Megalong Street) without unacceptable impact.

The pylon signage is well integrated into the building design and provides a strong corner statement, relieving the horizontality of this elevation. During the assessment process, it was reduced in height by 1.0 metres. Coupled with the retention of the English Oak, which is a feature of the public car park, signage pylon and its modest decals is a reasonable outcome.

The potential problem with this element is its illumination. It is important that illumination is managed so that this element does not become an illuminated beacon in the evenings, which would be entirely contrary to the values associated with Leura Village. As the signage on the northern and western has limited utility in the evenings (as cars can only access the site from the south), it is recommended that no illumination be permitted on these elevations.

In the case of the southern elevation illumination is not necessary, given the significant illuminated hamper that is provided. It is recommended that illumination not be permitted on the southern panel, or should be confined to a subdued internal illumination which enables the decal to be discerned and no more. Such an approach is incorporated into conditions. As with Leura Mall, managing the lighting of buildings will also be necessary to achieve a suitable outcome.

The provision of corporate signage within a historic precinct is a sensitive issue. On balance it is considered that the signage proposal is appropriate for a land use of this nature, and is reasonably responsive to its context.

7. Vehicular access and use of the Council car park

The development proposes access to the basement car parking facility through the Council car park. This complies with cl. 4(2)(e) of the Leura Mall Precinct (VTC-LE01) of LEP 2005 which requires that on-site parking area shall only be accessed from the rear or side of buildings via “existing public car parks, laneways or secondary streets”. Thus the provision of an access route to the basement parking facility via the car park is a requirement of LEP 2005. It is also suggested in the provisions that on-site parking be partially concealed, which is achieved via the provision of a basement facility.

Delivery vehicle access is also proposed via the car park. Such access over the car park for heavy vehicles contrasts with the former use of the site for the Colless food distribution business, which provided for heavy/articulated vehicle access via Leura Mall. This cross-over of a pedestrian path in Leura Mall was highly undesirable, both in terms of pedestrian amenity and safety. Such an access also in disrupted the near continuous row of one and two storey buildings, which are a feature of the Leura Mall (see Desired Future Character).

The LEP does not prescribe that loading is to be via the rear of the building. In urban design terms and for vehicular safety, there are compelling arguments why this access should not be retained via Leura Mall. Reversing from the site into Leura Mall is unacceptable and a forward in/forward out movement of trucks from Leura Mall would unreasonably prevent development. There is a practical necessity for heavy vehicles to access this site from the rear via the car park (as discussed in relation at 13. Loading below), and public planning benefits in providing for this access via the Council car park.

In accordance with clause 98 (Access to land from a public road), vehicular access over the car park is to be legally constituted. Conditions are proposed requiring a right of carriageway over the Council car park to enable vehicular access to the site.

8. Design and reconfiguration of the public car park

As part of the development, the Council car park is proposed to be reconfigured.

The car park was constructed in the mid 1990s. Prior to the commencement of construction for the development approved by the Court in 2006, the car park had a capacity of 146 cars. An aerial photograph showing the car park in 2007, is provided at Attachment 2. This image shows the existing layout of the car park and its heavy utilisation as the principal off-street parking facility for Leura Village.

The reconfiguration of the Council car park is required for several reasons:

- to facilitate the provision of an access ramp within the car park in order to optimise the number of parking spaces within the basement facility
- to improve the layout of the retail development, including in terms of the northern location of loading vehicles and provision of a southern through-site link
- to enable delivery vehicle access whilst minimising the loss or reduced use of parking spaces within the public car park.
- to alter the design of the at-grade parking facility to improve functionality and maximise the parking spaces provided.

The Council's asset managers and development engineers generally agree with the proposed reconfiguration of the car park, subject to conditions.

Presently the car park provides two way circulation along aisles, and this arrangement is proposed to continue as part of the application. However, there are two issues that require management:

- a) Vehicles attempting to access the basement facility by travelling eastward along the traffic aisle in front of the entrance to the retail complex will have difficulty performing tight left turn into the basement car park. Way-finding signage will be erected in the car park to direct vehicles to the basement car park by using the southernmost driveway; and
- b) There is potential for conflict between larger vehicles exiting the car park at the eastern access point to the car park off Megalong Street and cars attempting to enter. Two-way circulation at this entry point is considered necessary to facilitate efficient access to and from the basement parking facility. The potential for conflict will be managed by limiting use of the driveway by larger vehicles during peak periods. The restrictions on delivery vehicles are discussed under Item 12. Delivery vehicles, loading and noise management and are imposed by condition. A condition is also proposed which enables the Council to monitor and alter the configuration of the car park as necessary to ensure safe and efficient use.

Shopping trolley management

The management of trolleys within the development site itself (including trolley park, travelators and trolley bays in the basement level) is resolved.

However, the proposal also contemplates the use trolleys within the public car park. It can reasonably be expected that shoppers using trolleys will also park in the at grade facility. As the car park provides general parking for the Village, it is imperative that this car park functions effectively. Coupled with this, the car park is constrained to the extent that grades within the car park are in some areas is more than 5 per cent. Unattended trolleys have the potential to damage vehicles and present a hazard to pedestrians.

In October 2009, the Council sought information from the applicant on the range of available measures to manage trolleys and ensure their return to the store and/or to trolley bays. In terms of managing trolleys in the car park, it is the preference of asset managers that a coin operated system be used for trolleys to be used in the car park. This encourages the return of trolleys to bays or, preferably to the trolley park within the store. The latter avoids the need for trolley collection and impacts associated with use of trolley collector tractors on adjoining residents. This approach has been used successfully in other locations, and would minimise risks and other adverse outcomes associated with trolleys not being returned.

The concern with imposing this approach is that it would not be reasonable in terms of trolleys that are used in association with the basement facility. As there are measures available to prevent certain trolleys from being removed from a store (by electronic locks), there may be a combination of management measures to be implemented. Woolworths have suggested that such measures can be investigated.

It is considered reasonable that the Council, as asset manager, should be provided the opportunity to provide input into the use of trolleys in the car park, and ultimately agree to the measures proposed for use of the public asset. Woolworths have expressed their expectation that a collaborative approach can be adopted with Council in developing an optimum solution to trolley management in the car park.

As a condition of consent, the applicants are to submit a Shopping Trolley Management Plan (STMP) which is to address a number of matters designed to promote the return of trolleys to the storage within the supermarket site. Trolley bays currently depicted on the site plan within the public car park must be replaced with planter boxes or landscaping. Importantly, there is a provision for these to be reinstated by the applicant if so justified in the STMP and agreed by the Council as asset manager. It is expected that measures such as a coin operated system or similar will assist in the return of trolleys and minimise impacts on the car park, which is an important public facility in Leura Village.

9. Design and reconfiguration of the public car park

As part of the development, the Council car park is proposed to be reconfigured. The significance of this development for Leura, together with the pivotal role of the car park in the function and economic viability of this commercial precinct, has informed the approach with the applicant in reconfiguring the Council car park

The car park was constructed in the mid 1990s. Prior to the commencement of construction for the development approved by the Court in 2006, the car park had a capacity of 146 cars. An aerial photograph showing the car park in 2007, is provided at Attachment 2. This image shows the existing layout of the car park and its heavy utilisation as the principal off-street parking facility for Leura Village.

On-site basement facility

The development incorporates a basement parking facility providing 89 parking spaces. It is designed to comply with the design specifications of AS 2890.1:2004. In accordance with the requirements of the Council's *Better Living DCP*, the retail development of approximately 1,950m² requires the provision of 78 spaces, therefore the basement car park provides a surplus of 11 spaces.

This contrasts with the existing approval, which the Court identified had a shortfall of 27 spaces when compared to the requirements of the Council's DCP. Whilst the existing approval provides for a basement facility of 83 spaces, 23 of these were reserved in relation to approved residential use. In effect, the existing approval provides 60 spaces for a retail component in the range of 1,800m²-1,900m².

Alterations to parking provision within the Council car park

Prior to the commencement of the construction of the development approved by the Court, and as noted above, the Council car park provided 146 parking spaces.

The development approved by the Court also provided for access to the site via the car park. However, the entry to a basement facility, the location of the loading dock, and its use by a 16.5 metre articulated vehicle, meant that eleven (11) parking spaces adjacent to the eastern boundary of the development site within the public car park could not be used as they were deleted or where within the swept path of loading manoeuvres. This deficit was partially offset by the provision of 2 parking spaces within the Leura Mall frontage. Taking this into account the Council car park would effectively provide 137 car parking spaces in the car park in the event that the existing approval is implemented.

The proposed reconfiguration of the car park as part of the present application provides for 141 parking bays. Some of these spaces have been provided at the cost of the landscape setting that characterises the car park and Leura Village more generally. As discussed in relation to landscaping, it is proposed that three (3) of the proposed spaces will be deleted to provide opportunity for planting and to facilitate pedestrian linkages between the car park and Grose Street.

Taking into account the 11 additional spaces provided within the basement facility, 152 spaces are notionally available for public car parking (not including the 78 spaces required to service the proposed retail development in accordance with DCP requirements). This is an improvement on the pre-development scenario. Even with the loss of three spaces for landscaping, the public parking capacity is maintained and enhanced. The proposal subject to this application results in significantly greater parking provision compared to the existing approval.

10. Public use of the basement facility

The basement parking facility and loading area will in part occupy an area presently providing 14 public car parking spaces. The basement parking facility is to be made available for use by the public during operating hours of the retail complex. It is also the case that some customers of the retail complex will use the at-grade Council car park. The car parking facilities will in fact be shared. Time restrictions are proposed to apply to the basement facility, to ensure that it is not parked out by long stays such as commuter parking. A condition of consent is proposed to facilitate this outcome.

A condition is also recommended requiring the installation of an electronic capacity indicator for the basement car parking facility, to ensure effective utilisation of parking.

The requirement for an electronic capacity indicator was imposed by the Land and Environment Court in relation to the existing approval. Whilst the condition was disputed in proceedings, the Court held that it was a reasonable requirement in the circumstances of this site. As shown in Attachment 2, the aerial photograph, the public car park is presently used to capacity even without a retail development like that proposed in this application. There is a recognised shortage of parking capacity in the town centre during peak visitation periods, and measures are required to ensure all available capacity is utilised.

Subject to these measures, the development satisfactorily addresses the requirements for parking under LEP 2005 and the Better Living DCP.

11. Traffic generation

The development application is supported by a Traffic Report prepared by Colston Budd Hunt and Kafes. That assessment indicates that the proposal would have a low additional traffic generation of some 40 and 20 vehicles per hour two-way during weekday afternoon and Saturday peak periods respectively, compared to approved development. The traffic report concludes that the road network will be able to cater for the additional traffic from the proposed development.

The applicant nominated that the proposal was subject to clause 104 (Traffic generating development) of *State Environmental Planning Policy (Infrastructure) 2007*, being development described in Column 3 of Schedule 3 of the SEPP. The application was referred to the Roads and Traffic Authority (RTA) for comment, and no objections were raised. Conditions suggested by the RTA have been incorporated, as relevant, within the proposed conditions of consent in Attachment 1.

12. Delivery vehicles, loading and management of potential noise impacts

The applicant proposes to service the site with vehicles no larger than a 14.4 metre articulated truck. The path of travel for delivery vehicles is limited to the access aisle off the eastern entry off Megalong Street, with this aisle to be reinforced as part of the development.

The application proposes that deliveries occur between the hours of 7am and 12 midnight, seven days a week.

The existing approved development was subject to conditions that prevented deliveries to the site on Saturday, Sunday and Public holidays. This limitation was imposed in recognition of the peak tourist activity in Leura Mall at these times. The Court also imposed a condition requiring that deliveries not occur between the hours of 6pm to 6am, noting that that proposal was a mixed use development involving a residential component.

In terms of traffic management, it is preferable that deliveries occur outside of peak use periods of the car park, which is generally in the early morning or later in the evening. However, clearly deliveries too late at night or too early in the morning have the potential to cause disturbance to residents in properties immediately adjoining the Council car park.

The acoustic report submitted with the application concludes that the noise associated with loading dock and truck movements will be comply with the relevant assessment criteria provided that certain management measures are installed. These include the erection of a 2.4m acoustic barrier along the boundary between the car park and the properties to the east of the car park, and an upgrading the existing fence to northern properties.

Nonetheless, a precautionary approach is recommended and a condition of consent is proposed that imposes detailed restrictions on the times during which deliveries can be made to the loading dock. The restrictions include:

- no deliveries are to occur outside the hours of 7am to 8pm normal weekdays;
- during nominated peak periods (weekends and public holidays) vehicles are only permitted to access the loading dock between the hours of 8am and 10am and between the hours of 4pm and 6pm, and the number of trucks in any of these periods is limited to 3, and they cannot be larger than 8.8m Medium Rigid Vehicle.

Such a regime requires deliveries to occur outside of peak use periods of the car park, but removes the risk of adverse noise impacts on adjoining residents in the 10pm to midnight and early morning periods. It nonetheless enables the fresh food outlet to maintain appropriate operation.

13. Toilet facilities

The application proposes a unisex toilet and baby change facility accessed off Leura Mall and located between two of the speciality shops. The toilet would serve staff of the specialty shops as well as patrons to the supermarket and shops. This is considered to be inadequate level of provision and the location of the facility is not considered to be acceptable.

The supermarket will trade at hours well beyond those of the other retail premises in Leura. As an anchor tenant the supermarket will generate a need for such a facility in and of itself. The facility proposed by the application is too remote from the supermarket, particularly at night. The configuration and location of the proposed facility does not provide for good passive surveillance particularly at night and therefore does not meet criteria for crime prevention through good design. The toilets do not invite use by the public. The public toilets that are located in the car park to the south of the development site are also not well located for night use, something that has not been necessary to date and a need which is only now generated by the evening trading of this attractor. A condition of consent is proposed requiring the provision of a unisex toilet facility within the mall/access way of the development.

S.79C(1)(b)(c)(e) – The likely environmental social and economic impacts, the suitability of the site, and the public interest

The compliance table discussion addresses these issues. The LEP addressed the strategic suitability of the location for this type of development. The development of this proposal is considered to be consistent with the public interest as it will provide the village with a small supermarket and a mix of retail shopping capable of enhancing the role of the village as a local service centre for residents. The development is also consistent with and protects the valued character of Leura, thereby ensuring that the role of the village as a tourist attractor is not diminished.

Conclusion

It is recommended that the development application be approved subject to conditions, which are contained at Attachment 1. The development satisfies the planning provisions as set out in LEP 2005 but moreover it is considered that the development would make a significant contribution to Leura by providing for a range of services that satisfy both local and tourist needs, enhancing the permeability, connectivity and vitality of the village. The development will replace a development that is less attractive and less suitable but which has development consent, with a development that is more appropriate to the heritage character and urban design of the centre.



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WILL LANGEVAD
Acting Manager, Land Use Management

23 February 2010
Date



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LEE MORGAN
Acting Group Manager, Environmental & Customer Services

23 February 2010
Date

Blue Mountains City Council