

## DEVELOPMENT ASSESSMENT REPORT TO THE JOINT REGIONAL PLANNING PANEL

**SUBJECT: RE-DEVELOPMENT AND ADDITIONS TO EXISTING RETAIL BUILDING AND ALTERATIONS TO CARPARK AT 30-34 WARATAH STREET, KATOOMBA INCLUDING WORK UNDER A PLANNING AGREEMENT AFFECTING THE LAND KNOWN AS PIONEER PLACE 38-40 PARKE STREET, KATOOMBA**

**COUNCIL FILE NO: X/823/2010**

**JRPP REF: 2010SYW062**

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### **Recommendation:**

*That the Development Application No. X/823/2010 for re-development and additions to existing retail building and alterations to Pioneer Place carpark on L 1 DP 787996, 30-34 Waratah Street, Katoomba; and work under a Planning Agreement affecting land known as Pioneer Place, 38-40 Parke Street, Katoomba be determined pursuant to S.80(3) of the Environmental Planning and Assessment Act 1979 by the granting of a deferred commencement consent subject to conditions shown in Attachment 1 to this report.*

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### **Report by Manager, Development and Planning Services**

<b>Reason for report</b>	This application is referred to the Sydney West Joint Regional Planning Panel for determination as it has a work value in excess of \$20,000,000 and affects property owned by Council.
<b>Applicant</b>	The Planning Group Pty Ltd
<b>Owners</b>	Gembond Pty Limited and Blue Mountains City Council
<b>Application lodged</b>	9 September 2010
<b>Property address</b>	30-34 Waratah Street, and 38-40 Parke Street, Katoomba



### Site description

The principal development site consists of a single allotment with a total area of approximately 9,655m<sup>2</sup>. This site is bound by Waratah Street to the south, Parke Street to the west, and retail development to the north. The Pioneer Place public car park is to the east, and then the Katoomba Town Centre. The proposed development includes a Planning Agreement that will result in development on the southernmost 15 lots comprising the Pioneer Place car park.

The majority of the site has been previously developed and currently includes a basement car park level, a discount department store (K-Mart) and a supermarket (Coles) at the ground level and a small mezzanine level for plant room, offices and storage use.

An existing access drive is located along the northern boundary of the subject building used to provide vehicular access between Parke Street and Pioneer Place. K-Mart Auto Services previously operated from this northern access drive.

The basement car park includes an area to the south-east that is leased from Council and is unaffected by this development. The car park area also provides various

operational functions to the site such as service areas, plant room and storage space. The basement car park currently exits to Pioneer Place and Parke Street. There is an existing loading dock located further south along Parke Street at its intersection with Waratah Street.

There are existing street tree plantings located along both the Waratah Street and Parke Street frontages.

The site is located outside the south-western extent of the Katoomba Heritage Conservation Area, with identified heritage items located to the west, across Parke Street, to the south across Waratah Street, and to the east across Pioneer Place.

## **Proposal**

The building foot print and site coverage of the proposed development is substantially the same as the existing building on site. The ground floor of the existing building will be extended to its northern and southern ends with the basement car park also extended to its southern end. In addition, the basement car park will be extended to its north-eastern boundary by excavation under the Pioneer Place car park. The development also includes a substantial internal reconfiguration to improve pedestrian access, vertical integration and store layout.

The proposed development is summarised as follows:

- Partial demolition works and enlarging the existing ground floor level by approximately 6 metres to both its northern and southern elevation.
- Reconfiguration of existing basement car park level and enlarging by approximately 6 metres to its southern elevation.
- Reconfiguration and additions to mezzanine level.
- Bulk earthworks to the north-eastern elevation of the basement car park for the provision of additional car parking beneath the existing Pioneer Place car park. Excavation area is approximately 14 metres in width, 63 metres in length and 3m metres in depth.
- Rationalising the existing car parking spaces within Pioneer Place in accordance with the Pioneer Place Master Plan and the adopted Planning Agreement.
- Continued use of the site for a supermarket and discount department store.
- Retention of existing hours of operation, being for the supermarket - Daily 6:00am–12:00 Midnight and the discount department store:
  - Weekdays (except Thursday) 8:00am–12:00 Midnight
  - Thursday 7:00am – 10:00pm
  - Weekends 8:00am – 10:00pm
- Associated signage.

A copy of the plans showing the site area and extent of the

proposed development has been provided in Attachment 2 to this Report.

**Environmental  
Planning Instrument  
and relevant policies**

**Local Environmental Plan 2005 (LEP 2005):**

Zone:  
Village Town Centre

Precinct:  
District Retail Precinct (VTC-KA02)

Protected Areas:  
Protected Area – Water Supply Catchment

**Regional Environmental Plan 1 – Drinking Water  
Catchment:**

Within identified hydrological catchment

**State Environmental Planning Policy 1 – Development  
Standards**

**State Environmental Planning Policy 64 – Advertising  
and Signage.**

**Better Living Development Control Plan (BLDCP)**

**Notification**

The original proposal was advertised in the Blue Mountains Gazette as well as written notification sent to adjoining and nearby properties. The notification included the draft Planning Agreement in accordance with Section 93F of the *Environmental Planning and Assessment Act 1979* with the exhibition period being from 22 September 2010 until 22 October 2010

A total of 3 submissions were received during the initial exhibition process.

However, during assessment a number of issues were raised which led to the proposal being amended and a need for the revised application and draft Planning Agreement to be re-notified.

The exhibition dates for the revised proposal was from 30 November 2011 until 3 January 2012.

Three (3) submissions were again received as a result of this re-notification process, with the submitters being the same as with the original notification. The submissions received during this notification process have been summarised under “Submission Issues” below.

**Issues**

**Submission Issues:**

- Blank façade to Parke Street will encourage graffiti, should be replaced with retail shops.
- Proliferation of signage will result in visual pollution.

- Roof top sign should be removed.
- The documentation suggests that the building height may exceed 15 metres and therefore a SEPP1 objection would be required.
- The view analysis should be from 1metre height (child's perspective) rather than 1.5 metre (adult's perspective).
- The architect of the Blue Mountain's Cultural Centre sought to obtain views not only from the podium but also the courtyard.
- Concern that the basement level car park cannot be considered for public parking given its location, and as such is inappropriate for "community" classified land.
- Entry from Parke Street does not achieve adequate pedestrian access.
- The removal of the Right of Carriageway will reduce vehicular access to Pioneer Place.
- Awning over Pioneer Place may compromise access by service or emergency vehicles.

The abovementioned issues have been addressed, either specifically or generally, in the report below.

**Assessment issues:**

1. Use of Council Property
2. Drinking Water Catchments Regional Environmental Plan 1
3. Local Environmental Plan 2005
4. State Environmental Planning Policy 1
5. Better Living Development Control Plan
6. Advertising Signage
7. Traffic Operation
8. View Analysis

**Variation to Policy:**

- Objection to Schedule 1, Part 4, Division 2, Clause 4(1)(a) of the LEP – Visible retail or other commercial activity to Parke Street.
- Objection to Schedule 1, Part 4, Division 2, Clause 4(3)(a) – Awnings over entire length of public footpaths and pedestrian areas.

**Evaluation**

The application has been assessed in accordance with Section 79C (Evaluation) of the *Environmental Planning and Assessment Act 1979* (the Act). A commentary on the assessment of the development against the 79C evaluation matters has been detailed in this report for the consideration of the Joint Regional Planning Panel.

**1. USE OF COUNCIL PROPERTY**

**1.1 Reclassification of Land**

At its Ordinary Meeting of 22 February 2011, Council resolved to support "*Council officers entering into discussions with Fabcot Pty Ltd*", regarding certain Council land identified as "community" land under the *Local Government Act 1993*. Reclassification will allow Council

to lease the land to facilitate the proposed excavation for the basement level car park associated with this application and will also give Council greater flexibility to manage, maintain and upgrade the parking facility.

A proposal to reclassify the subject parcels was subsequently prepared. Council endorsement of the planning proposal was sought at its Ordinary Meeting of 10 May 2011. The Council resolved to “*adopt the provisions of the Planning Proposal*” to re-classify “*lots 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 43, 45, 47, 49 and 51 in DP 239909 and lot 2 in DP 620370, Pioneer Place Katoomba*” from “community” land to “operational” land. *Blue Mountains Local Environmental Plan 2005* Draft Amendment 23 was subsequently prepared and forwarded to the Department of Planning and Infrastructure on 16 May 2011 seeking that the Minister reviews the planning proposal and determine whether the matter should proceed pursuant to Section 56 of the Act. Lot 1, DP 506174 and lot 2, DP 621621, which are the southernmost lots of Pioneer Place, were not included in Amendment 23. These were subsequently prepared for reclassification under Amendment 25. This amendment will be reported to Council on 13 March 2012 and should be finalised by late September/early October 2012.

Conditional approval to proceed with Amendment 23 was received from the Minister on 16 June 2011 with conditions including a 28 day public exhibition period as well as consultation with Roads and Maritime Services (RMS) and a public hearing. The conditions also included a 9 month timeframe for completion of the amending LEP. Initial consultation occurred between 29 June and 3 August 2011, with submissions raising procedural concerns. Further community consultation was carried out between 10 August 2011 and 28 September 2011, with the public hearing held on 20 October 2011.

The outcome of the public hearing process was reported to Council at its 22 November 2011 meeting. Council resolved to forward the planning proposal to the Department of Planning and Infrastructure and request that the proposed LEP Amendment 23 be completed. The reclassification was modified to reflect relevant points that arose during the public hearing process and was forwarded to the Department on 25 November 2011 to arrange the legal drafting of the proposal, as well as requesting that the Minister make the plan. As at 5 March 2012, the final stages of the plan-making process have not been completed. As the land required for the excavated basement car park and associated lease must be reclassified before the work can occur, it is recommended that the current application be determined as a “Deferred Commencement Consent”, under section 80(3) of the Act, pending the gazettal of the Amending LEP 23.

The work proposed within the lots subject to Amendment 25 is ancillary to Pioneer Place’s existing use as a Car Parking facility and does not change its use and nature. Therefore it is not necessary to require a “Deferred Commencement Consent” pending its gazettal.

## **1.2 Planning Agreement**

Section 93F of the *Environmental Planning and Assessment Act 1979* defines a Planning Agreement as a voluntary agreement or other arrangement between a planning authority (or two or more planning authorities) and a person (the developer):

- (a) who has sought a change to an environmental planning instrument; or
- (b) who has made, or proposes to make, a development application; or
- (c) who has entered into an agreement with, or is otherwise associated with, a person to whom paragraph (a) or (b) applies.

Under such agreements the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose. Planning Agreements (PA) are negotiated between developers, councils and other planning authorities in the context of

specific proposals by developers under Section 93F of the Act. They can be used to mitigate the impacts of a development, achieve tailored development outcomes/ public benefits or for enhanced infrastructure delivery.

The owner of the subject site offered to enter into a PA with Council, outlining the matters they proposed to address. As part of the development assessment process, Council is required to publicly exhibit the PA along with the proposed development, although this does not mean that Council is obliged to accept the terms of the PA. Concern was raised with the initial PA that it did not adequately address public realm improvements (public benefits) but instead identified work that may ordinarily result from a development consent and associated conditions. To ensure that appropriate public realm improvements were achieved, a Stage 1 Master Plan for the Pioneer Place car park was developed by the Council and used as the benchmark for negotiated outcomes (see 1.3 below). A new draft PA was provided to Council, which was considered appropriate for notification and assessment.

At its meeting of 22 November 2011, the Council resolved to exhibit the draft PA. It was also resolved that a *report on the outcome of the public exhibition come back to the Council following the exhibition period.*

In summary the PA provides for the delivery of a range of public realm improvements to Pioneer Place with an estimated value of \$389,000 as summarised below:

- a. Bottom half of vehicle ramp between upper and lower tiers of Pioneer Place \$44,879.
- b. Awning over DDA car parking on upper tier of Pioneer Place \$77,790.
- c. Reconfigured Waratah Street vehicle access/egress \$39,997.
- d. Delivery of 70% of the lighting to the upper tier of Pioneer Place \$49,429.
- e. Waratah Street seagull medians \$30,807.
- f. Waratah Street pedestrian footpath as per Council's footpath hierarchy \$40,379.
- g. Monetary contribution \$105,718 in relation to lower Pioneer Place works.

It is worth noting that the value of works achieved through the PA is approximately \$184,000 greater value than what would be achieved if the Council levied the usual Section 94A levy instead.

The agreement included a number of requirements to be satisfied before the works in the PA are to be undertaken. This included that the development application is approved by the Joint Regional Planning Panel and that a Construction Certificate is issued for the development.

The other main conditions for the Council to satisfy under the PA are as follows:

- a. Enter into a lease over the land to be used for the basement car park that is owned by the Council;
- b. Initiate the reclassification process for the affected lands;
- c. Registration of easements over some allotments to allow overhanging awnings from the development over Council owned land; and
- d. Extinguish the existing right of carriageway burdening the land.

These requirements are likely to have been required by Council for the development to legally proceed, even in the absence of a PA.

The exhibited PA was amended as a result of the negotiation and notification process, and then reported to Council at its meeting of 22 February 2012 with the Council resolving as follows:

1. *That the Council approves the attached Planning Agreement for the delivery of public infrastructure improvements in Pioneer Place, Katoomba;*

2. *That the Mayor and General Manager be delegated authority to sign the Planning Agreement and that the Common Seal of Council be attached to the Agreement;*
3. *That the Mayor and General Manager be delegated authority to make minor changes to the Planning Agreement as provided for by Clause 9 of the Agreement, including changes to the design specifications for the proposed work; and*
4. *That the Council provide the Minister for Planning and Infrastructure with a copy of the Agreement within 14 days after the Agreement is entered into.*

A copy of the adopted Planning Agreement is provided at Attachment 3 to this report. A deferred commencement condition will require the execution of the Planning Agreement by both parties to the agreement.

### **1.3 Pioneer Place Master Plan**

Council had previously identified the need for a Master Plan to resolve parking and circulation matters within the Pioneer Place car park. At its 22 February 2011 meeting, Council resolved that a Master Plan for the entire Pioneer Place car park area be approached in two stages. Stage 1 is to focus on the southern section of Pioneer Place, which is in the vicinity of Waratah Street, including the area associated with this development application. As a result, the development of stage 1 of the Master Plan has progressed to address accessibility, connectivity and amenity matters. The design requirements developed as part of Stage 1 of the Master Plan have been incorporated into the application and considered in the assessment process. It is intended that the background studies associated with Stage 2 will commence shortly.

The \$389,000 worth of works proposed under the adopted PA will enable the implementation of a significant works package identified in the Pioneer Place Master Plan. The implementation of the works through the PA will complement works in Pioneer Place that are to be undertaken as a condition of development consent. In addition, further improvements envisaged by the Pioneer Place Master Plan will be achieved by utilising funds received from extinguishing the right of carriageway and leasing of Council land for the car park excavation.

In summary, this development proposal, the outcomes in the PA, capital from extinguishing the right of carriageway and the car park lease fee, will provide the Council with the funding opportunity to implement the Pioneer Place Master Plan in a more immediate timeframe than would otherwise be the case.

### **1.4 Right of Carriage Ways**

The proposed development includes an extension to its northern end over an area that includes a right of carriageway in favour of Blue Mountains City Council. Currently, an existing lane provides a vehicular access way between Parke Street and the Pioneer Place car park as well as providing access to the K-Mart auto service business operating from the western end of the lane. The access way is approximately 8 metres wide, which allows for two way traffic. It is estimated that it carries approximately 10 vehicles per hour during peak periods and that these vehicles are primarily associated with traffic movements to and from the auto service business. The right of carriageway needs to be extinguished before the building can be extended as proposed.

In addition to the right of carriage way, there is a 1.35 metre wide easement that runs the full length of the vehicular link that is for electricity purposes. The development proposes to retain a 1.8 metre pedestrian access way in place of the vehicular access way, which will allow sufficient space to maintain the easement and undertake any cable repairs as necessary.



This matter was initially reported to Council at its meeting of 19 July 2011, with Council resolving to enter into negotiations with the owner of the site regarding the release of Council's right of carriageway.

The outcome of this process was reported to Council at its meeting of 22 November 2011. Council's independent valuation of the benefit of the right of carriageway was calculated at \$195,000, whilst the owner offered a monetary contribution of \$163,750 for its extinguishment. This amount was offered as it represented a midpoint between Council's valuation and the owner's valuation of \$132,500.

This was considered a reasonable level of compensation with the amount to be factored into delivering the outcomes in the Pioneer Place Master Plan. At its 22 November 2011 meeting Council resolved to agree to the future extinguishment of the right of carriageway and that any funds from the extinguishment to be delivered towards the public improvements in the Pioneer Place car park. The extinguishment of the right of carriageway will be required as a condition of consent prior to the commencement of construction on site.

## **2. Drinking Water Catchments Regional Environmental Plan 1**

The proposed development is also located within a catchment identified under Drinking Water Catchments Regional Environmental Plan No. 1 (REP 1).

In accordance with the requirements of Clause 28 of REP 1, the Sydney Catchment Authority assessed the proposed development and provided their concurrence subject to specified conditions of consent. These conditions generally relate to the methods used for stormwater management and construction activities. The specified conditions have been included in the consent.

## **3. Local Environmental Plan 2005**

The proposed development has been assessed against the provisions of LEP 2005 with specific clauses commented on below. Any specific area of non-compliance has been identified and discussed below or after the table as required.

<b>General Provisions of the LEP</b>			
<b>Clause</b>	<b>Standard</b>	<b>Proposed/Comment/Assessment</b>	<b>Compliance</b>
Cl. 9	Considerations before development consent	The proposal satisfies Parts 1, 2, 3 and 4 of the LEP.	Complies
Cl. 10	Aim of the plan	The proposal is consistent with the aims of the LEP.	Complies
Cl. 11	Ecologically sustainable development	The proposal incorporates the principles of ESD and will not have any adverse impact on any threatened species of flora or fauna, or ecological communities identified in Schedule 5 of the LEP.	Complies
Cl. 12	Principal objectives of the plan	The proposal complies with the relevant principal objectives of the LEP as the proposal will: <ul style="list-style-type: none"> <li>not detract from the unique identity and values of the Blue Mountains;</li> <li>meet the needs of residents, visitors and the business community through the</li> </ul>	Complies

General Provisions of the LEP			
Clause	Standard	Proposed/Comment/Assessment	Compliance
		<p>provision of an appropriate balance of land uses and built forms;</p> <ul style="list-style-type: none"> <li>• respond to the principles of ecologically sustainable development;</li> <li>• conserve and enhance the ecological integrity, environmental heritage and environmental significance of the Blue Mountains;</li> <li>• conserve European heritage;</li> <li>• preserve water quality;</li> <li>• not have an unreasonable impact on infrastructure;</li> <li>• provide facilities to meet the social needs of existing and future residents;</li> <li>• provide reasonable access to buildings for all people; and,</li> <li>• be integrated with transport systems.</li> </ul>	
Cl. 13	General locality management	The proposal complies with Clause 1 as it is consistent with the zone objectives within Division 2 of the LEP (refer Clause 18 of this table) and the proposed uses are permissible with consent.	Complies
Cl. 14	Locality management within the villages	The proposal has been assessed in accordance with the provisions specified within Schedule 1. The proposal complies with most of those provisions excluding awning over foot path and active street frontage. Refer to Site Specific provisions within this table for further discussion.	Partial compliance (Subject to SEPP 1)
Cl. 18	Village—Town Centre zone	<p>The application satisfies the relevant objectives of the Village—Town Centre zone as the application will:</p> <ul style="list-style-type: none"> <li>- consolidate and develop retail activities within the Katoomba Town Centre;</li> <li>- promote the unique character of Katoomba;</li> <li>- promote the economic viability of Katoomba;</li> <li>- provide larger scale retailing within the district centre of Katoomba; and</li> </ul>	Complies

General Provisions of the LEP			
Clause	Standard	Proposed/Comment/Assessment	Compliance
		- be of a high quality urban design.	
32	Land use matrix	<p>The proposed development is located within the Village Town Centre zone and Katoomba Precinct VTC-KA02. The use is defined as a “district supermarket” with the supermarket proposed to have a gross floor area of 3485m<sup>2</sup> and the “discount department store” a gross floor area of 6210m<sup>2</sup>. The proposed use is permissible with the consent of the Council within the VTC-KA02 precinct in the Village - Town Centre zone.</p> <p>In addition, the Pioneer Place Car Park is identified as having the “special use” of parking. This use is permissible with consent. Refer to clause 126 of this table for further discussion.</p>	Complies
48	Protected Area – Water Supply Catchment	<p>The proposed development was referred to the Sydney Catchment Authority for concurrence in accordance with the requirements of the Drinking Water Catchments Regional Environmental Plan No.1. Refer to section 2 of this report for further discussion. The subject site is connected to reticulated sewer and stormwater systems in an appropriate and effective manner. The proposed development does not result in a significant increase in impervious area.</p>	Complies
57	Stormwater management	<p>A Stormwater/Water Cycle Management Plan submitted with the proposed development indicates that there will not be a substantial change in the quantity of stormwater leaving the site and that it is appropriately addressed within the proposed stormwater system. It will be required as a condition of consent that drainage from the loading dock will be treated for gross pollutants</p>	Complies

General Provisions of the LEP			
Clause	Standard	Proposed/Comment/Assessment	Compliance
		and contaminants.	
58	Modification of land form	The area of excavation associated with the proposed development is located to the north-east of the subject site and beneath the upper level of the Pioneer Place car park. There will not be a substantial change to the existing area except a 1.5 metre extension to the eastern edge of the upper level. The extent of cut is contained within the existing envelope of the Pioneer Place car park and makes efficient use of this area for car parking.	Complies
60	Character and landscape	The proposed development is considered to enhance the established character and streetscape of the surrounding area.	Complies
87	Crime minimisation assessment	<p>The proposed development was assessed in accordance with the principles of Crime Prevention through Environmental Design (CPTED). The assessment found that the design was acceptable in terms of surveillance, access, territorial reinforcement and space management. In summary, it stated that the following safety and security measures will be implemented:</p> <ul style="list-style-type: none"> <li>• All external windows shall be reinforced.</li> <li>• CCTV shall be installed.</li> <li>• Digital or video technology to record camera images.</li> <li>• Security lighting.</li> <li>• Appropriate lighting levels</li> <li>• Establish a lighting maintenance policy.</li> <li>• Maintain trees and landscaping.</li> <li>• Signage at entry/exit points.</li> <li>• Security signage.</li> <li>• Directional signage.</li> <li>• Loading dock and driveway access shutters to remain closed when not in use.</li> <li>• "Park Smarter" signage.</li> <li>• Anti-ram bollards to loading dock and store entry.</li> </ul>	Complies

General Provisions of the LEP			
Clause	Standard	Proposed/Comment/Assessment	Compliance
		These requirements will be included in the conditions of consent. The matter was also referred to the district police who had specific concerns in relation to the northern pedestrian walk due to its isolated location and elongated nature. The proposed development includes gates to the pedestrian walk along the northern boundary. It will be required as a condition of consent that the gates are closed to pedestrian access but the area is maintained free of rubbish and graffiti. It is considered that this, combined with the above measures, provides appropriate safety outcomes.	
89	Remediation of contaminated land	The site is not identified as a potentially contaminated site. However, a hazardous survey was undertaken of the existing building to assess the extent and condition of asbestos and other hazardous materials. The survey included a number of recommendations in relation to the handling and treatment of any potential hazardous material on site. The report notes that it was a visual assessment and that a number of areas were inaccessible on the day of their inspection. It will be required as a condition of consent that prior to a construction certificate being issued, a revised survey is to be undertaken that includes an assessment of these inaccessible areas, and that demolition, remediation and construction work is undertaken in accordance with the revised survey.	Complies
94	General provision of services	The proposed development was referred to Integral Energy who did not object to consent subject to permanent access being maintained to the substations. It will be required	Complies

General Provisions of the LEP			
Clause	Standard	Proposed/Comment/Assessment	Compliance
		as a condition of consent that the proposed development is subject to appropriate certification by Sydney Water and Integral Energy prior to the release of a construction certificate.	
98	Access to land from public road	The proposed development provides suitable access to the site from the adjoining public road with all required car parking located on site. The adopted Planning Agreement will provide for a revised entrance, seagull intersection and lane formation off Waratah Street. The conditions of consent require the provision of suitable heavy duty laybacks and crossing to the loading dock area that are designed for the sweep path and loads of the heaviest vehicles accessing the site. Also, to facilitate appropriate vehicular circulation at the Parke Street car park entrance, it will be required as a condition of consent that stop signs and line marking is provided in accordance with the relevant Australian Standard.	Complies
99	Car parking provisions	Proposed alterations to the Pioneer Place car park have been designed to accord with Council's Pioneer Place Master Plan. The Master Plan includes measures to improve its functionality such as accessible spaces at the main entry, slightly wider parking spaces (upper level), compliant pedestrian access between levels, a formalised "pickup" zone, large van space (for Breast screening vehicles etc), bike racks and improved entry/vehicular circulation design. Many of these outcomes will be delivered by the applicant either as a direct outcome of the conditions of this consent or as an outcome of the adopted PA. In addition, the south-eastern portion of the basement level car park is Council leased land within the	Complies

General Provisions of the LEP			
Clause	Standard	Proposed/Comment/Assessment	Compliance
		<p>Pioneer Place boundary. There are 59 existing car parking spaces affected by this Council lease that are unaltered by this development application.</p> <p>To ensure the impact from the proposed development is catered for within the development site, the above elements have been excluded from consideration in terms of increased parking demand.</p> <p>The BLDCP requires car parking for “district supermarkets” to be provided at the rate of 1 space/20m<sup>2</sup> of <i>leasable</i> floor area. The proposed development will result in a 747m<sup>2</sup> <i>net</i> increase of leasable floor area. This net increase would represent a demand for an additional 38 car parking spaces. However the proposed development will also result in the loss of a “car repair” business from the site, which represents a reduction of 6 spaces. Therefore, the final additional demand for the proposed development is 32 car parking spaces</p> <p>The existing basement car park (less leased area) has 258 car parking spaces whilst the proposed development (less leased area) has 291 car parking spaces, including 39 additional car spaces in the excavated area to the north east of the basement car park. The development will result in an overall increase of an additional 33 car parking spaces, a surplus 1 car parking space.</p> <p>The proposed basement car park also includes trolley storage, a lift, toilets, travelators, bike racks, motor bike parking, and a designated pedestrian link from Parke Street to the lower and upper levels of the Pioneer Place car park.</p>	
101	Loading and unloading	The existing building includes a loading dock located to the south-	Complies

General Provisions of the LEP			
Clause	Standard	Proposed/Comment/Assessment	Compliance
		<p>west of the site and accessed from Parke Street. The proposed development will modify its existing design to improve accessibility by delivery vehicles. The proposed design allows two 19 metre articulated trucks onsite and includes a separate garbage storage area. The design allows larger vehicles to forward into the southern part of the loading dock before reversing into the dock. On departure trucks will undertake a u-turn from the dock onto Parke Street.</p> <p>Consequently, the proposed design enables vehicles to enter and exit the site in a forward direction and this is conditioned. This is considered a substantial improvement over the existing operation.</p> <p>It is proposed that garbage bins will be stored in a designated waste area on site and brought out for emptying. It will be required as a condition of consent that the garbage bins are maintained in the designated waste area except at time of collection.</p>	
106	Sustainable resource management	<p>Private contractors will be used in the waste management process. Waste and recycling will be stored in the designated area (loading dock) until such time as it is to be collected.</p> <p>Approximately 95% of all cardboard will be compressed into bales by a cardboard compactor and collected. Glass waste will be kept separate from general waste and transported to a recycling facility under a similar arrangement.</p> <p>General waste will be managed through the provision of a skip bins housed in a screened waste enclosure, in close proximity to the loading dock.</p>	Complies



General Provisions of the LEP			
Clause	Standard	Proposed/Comment/Assessment	Compliance
107	Access to public buildings and public land	The proposed development has been designed to provide appropriate access for people with a disability in terms of appropriate car parking spaces, lift and pedestrian ramps. In addition, new covered compliant accessible car parking spaces have been proposed on the upper level of Pioneer Place car park adjacent to the main entry.	Complies
126	Special use	The Pioneer Place Car Park is identified as being a "Special Use - Parking". The proposal within the Pioneer Place Car Park is development carried out on Council land and will be used to provide a public facility. The development includes appropriate measures to limit adverse impact on the environment and will not impact on residential amenity.	Complies

Site Specific Provisions of the LEP – Locality Management within Villages Katoomba Precinct VTC–KA02 — District Retail Precinct			
Clause	Standard	Proposed / Comment / Assessment	Compliance
<b>Cl. 1 Consideration of Precinct</b>			
		<p>The subject site is within the "Katoomba Precinct VTC–KA02— District Retail Precinct".</p> <p>It is considered that the proposal is consistent with the desired future character provisions and the design considerations. The proposed development does not comply with the specific provisions relating to awning coverage and street activity. Refer to table below for further detail. Notwithstanding these areas of non compliance above, it is considered that the</p>	Complies

Site Specific Provisions of the LEP – Locality Management within Villages Katoomba Precinct VTC–KA02 — District Retail Precinct			
Clause	Standard	Proposed / Comment / Assessment	Compliance
		proposed development will result in a well designed, contemporary building that improves existing inadequacies in vehicular parking both on the site and within the Pioneer Place car park.	
<b>Cl. 2 Desired future character</b>			
(1) Precinct Vision Statement	Provide a core area for district scale retail. Development to be well designed and contemporary, with stronger interfaces with Parke and Waratah Streets.	<p>The proposal will provide an improved retail experience as well as improved vehicular and pedestrian links between Parke Street, the Pioneer Place car park and the Katoomba Town Centre. The updated façade treatment will create an appropriate south western corner of the Katoomba Village Town Centre zone. Parke Street and Waratah Street will have enhanced functions as principal vehicular entry routes to Katoomba.</p> <p>The proposal has been designed to minimise impact on the view lines from the podium within the Katoomba Cultural Centre, which is currently under construction.</p>	Complies
(2) Precinct objectives	(a) To promote the location of district scale shopping facilities and services within the precinct.	The consolidation of district-level retailing in this location achieves this objective.	Complies
	(b) To encourage a built form that exhibits a high quality urban design.	The proposal includes the updating and modernisation of an existing aged building, which has a poor streetscape presence.	Complies

Site Specific Provisions of the LEP – Locality Management within Villages Katoomba Precinct VTC–KA02 — District Retail Precinct			
Clause	Standard	Proposed / Comment / Assessment	Compliance
		The built form is considered appropriate in terms of its “District Retail” function and its location to the west of the Katoomba Town Centre.	
	(c) To enhance pedestrian linkages with adjacent precincts	The design of the proposal enhances pedestrian links with relevant adjacent precincts, in particular the pedestrian links between Parke Street, the basement car park, the upper and lower levels of the Pioneer Place car park and the southern end of the Katoomba Town Centre, including Katoomba Street.	Complies
	(d) To provide for efficient management of vehicular access, parking and loading.	The proposal will provide significantly improved and effective vehicular access, parking and loading facilities.	Complies
	(e) To minimise conflicts between pedestrians and vehicles.	The proposal results in good separation of pedestrian and vehicular movement with particular improvement for pedestrians moving from Parke Street into the basement car park or continuing onto the Pioneer Place car park. Movement has also been improved between the upper and lower levels of Pioneer Place car park, including the provision of two accessible pedestrian ramps.	Complies
	(f) To minimise vehicle access points from Parke and	The development will	Complies

Site Specific Provisions of the LEP – Locality Management within Villages Katoomba Precinct VTC–KA02 — District Retail Precinct			
Clause	Standard	Proposed / Comment / Assessment	Compliance
	Waratah Streets.	result in the removal of two vehicular access points to the site, by removing the vehicular drive along the northern boundary. The operation of the basement car park and loading dock, both accessed from Parke Street, has also been improved.	
	(g) To provide strong interfaces with Parke and Waratah Streets and Katoomba Precinct VTC-KA06.	A strong interface is provided through the design improvements to the basement car park, the Pioneer Place car park, Parke Street and Waratah Street. The development results in much improved pedestrian links between these areas and to the development site itself. The site does not have a direct interface with the VTC-KA06 (Cultural Centre) precinct as the northern part of the Pioneer Place car park and numerous building sites are situated between the two. The active frontage to Waratah Street (with glazing for 53% of the frontage) is an important improvement.	Complies
<b>Cl. 3 Building envelope</b>			
(1) Building height	(a) Buildings are not to exceed a maximum height of 15 metres.	The proposed development is an overall increase in height from that of the existing building, with increases ranging from zero at the southern extent up to 3.5m at the northern extent. The	Complies

Site Specific Provisions of the LEP – Locality Management within Villages Katoomba Precinct VTC-KA02 — District Retail Precinct			
Clause	Standard	Proposed / Comment / Assessment	Compliance
		maximum proposed height is approximately 14m in the vicinity of the Parke Street vehicular and pedestrian entry. This height results from the access ramp that grades up from the street level.	
	(b) Notwithstanding paragraph (a), if any building or part of a building is located within a distance of 50 metres to the northern boundary of this precinct (adjoining the precinct designated VTC-KA06) the building is not to exceed a maximum height of 12 metres .	The proposed site is approximately 120 metres south of this precinct's northern boundary.	Not applicable
	(c) and (d) Consent to a development application for the construction of a building within this precinct must not be granted unless the consent authority is satisfied, after considering a detailed view analysis, that all viewing opportunities from the podium level of the Blue Mountains Cultural Centre to the town, Jamison Valley and Frank Walford Park will be maintained.	Refer to section 8 of this report for further discussion.	Complies
(2) Building setback	(a) Buildings with a frontage to Parke and Waratah Streets are to have a setback of 0 metre to that frontage.	The proposed development provides a 0 metre setback to Waratah Street and Parke Street	Complies
(3) Development density	The maximum floor space ratio for development is 2:1.	The proposed floor space ratio is 1.15:1	Complies
<b>Cl. 4 Design considerations</b>			
(1) Active street frontages	(a) Visible retail or other commercial activity along a minimum of 50 per cent of a frontage to a public road (except Pioneer Place) or pathway.	The proposed development does result in the loss of landscaped elements to the Waratah Street frontage, but proposes	Non compliant

Site Specific Provisions of the LEP – Locality Management within Villages Katoomba Precinct VTC–KA02 — District Retail Precinct			
Clause	Standard	Proposed / Comment / Assessment	Compliance
		<p>new glazing to 53 per cent of the frontage, at a height of 1m from the finished floor level. This will provide view lines into and out of the southern portion of the supermarket. However it is important that these glazed areas are retained free of obstructions such as promotional material, racking, cabinets or the like. This is important as the definition of “active street frontage” requires the provision of “interactive spaces” that provides stimuli for pedestrians. Such interaction will not be possible if the glazed area is blocked. Maintaining this outcome is subject to conditions.</p> <p>The frontage to Parke Street does not include any visible retail or commercial activity. The applicant has submitted a SEPP 1 objection to this requirement. Refer to Section 4 of this report for further discussion.</p>	
	(b) Visible retail or other commercial activity along a minimum of 65 per cent of a frontage to Pioneer Place.	The proposed development retains the existing glazed frontage to the Pioneer Place car park for the majority of the supermarket and the southern half of the discount department store. The development provides a new airlock for customer access and pedestrian footpaths and links	Complies

Site Specific Provisions of the LEP – Locality Management within Villages Katoomba Precinct VTC–KA02 — District Retail Precinct			
Clause	Standard	Proposed / Comment / Assessment	Compliance
		between the retail component and the Pioneer Place car park. The proposed development provides for visible retail or other commercial activity for more than 65 per cent of the Pioneer Place frontage.	
(2) Built form and finishes	(a) Long elevations are to present varied heights and forms.	The proposed development appropriately varies the façade treatment and heights along the Parke Street and the Pioneer Place car park elevations. The existing substantially blank Parke Street elevation will be broken up by use of highlight painting, sheet fascia treatment / vertical framework, sectional awnings over footpaths and variations in heights and façade setbacks.	Complies
	(b) Visible walls are not to be left blank, unadorned or unarticulated.	Design features, variation and built articulation as well as use of varying materials and colours to ensure visible walls are not excessively blank.	Complies
	(c) Roof forms should conceal mechanical plant and equipment and will present well when viewed from adjacent buildings, private open space and public areas	The proposed condenser decks required for each retail tenant's plant room is located within a deck to the roof. The decks are fully enclosed, including a roof and will be acoustically screened. It will be required as a condition of consent that the roof, including the condenser roof, is coloured and finished to	Complies

Site Specific Provisions of the LEP – Locality Management within Villages Katoomba Precinct VTC–KA02 — District Retail Precinct			
Clause	Standard	Proposed / Comment / Assessment	Compliance
		minimise reflective glare and visual obtrusiveness.	
	(d) The design of parking and heavy vehicle loading and manoeuvring areas shall minimise visual impact when viewed from public streets and places.	The proposed development includes parking that is well contained on site as well as providing “through” access to the adjoining Pioneer Place car park. The development includes a loading dock to the south-eastern portion of the site. The loading dock is to be lengthened and redesigned so large vehicles are able to enter and exit the site in a forward direction. The top portion of the loading dock will be screened and waste bins will be contained at the top of the loading dock for collection.	Complies
	(e) The height and form of buildings, particularly those adjacent to Katoomba Precinct VTC-KA06, will not obscure views from the public areas on the podium level (as referred to in clause 3) of the Cultural Precinct.	The development is considered to appropriately address view lines from the podium level of the Cultural Precinct. Refer to section 8 of this report for further discussion.	Complies
(3) Pedestrian amenity and safety	(a) Awnings or colonnades over the entire length of public footpaths and pedestrian areas.	The proposed development will include an awning for the majority of its Pioneer Place frontage and connect with the awning over the Waratah Street frontage. This awning will continue to the bus shelter location in Waratah Street. There will then be a break	Not compliant



Site Specific Provisions of the LEP – Locality Management within Villages Katoomba Precinct VTC–KA02 — District Retail Precinct			
Clause	Standard	Proposed / Comment / Assessment	Compliance
		between this point and the proposed pedestrian and vehicular entrance on Parke Street. Except for a break adjacent to the signage block, the awning continues from this point for the remainder of the Parke Street frontage. It will be required as a condition of consent that the awning continues over the area adjacent to the signage block. The break in the awning at the south-western corner of the building is primarily a result of the loading dock, which makes it impractical to design a suitably scaled and effective awning. The applicant has submitted a SEPP 1 objection to this standard. Refer to section 4 of this report for further discussion.	
	(b) Paths and plaza areas that minimise conflicts between vehicles and pedestrians.	The proposed development significantly improves pedestrian movement in shared areas by the use of formalised pedestrian paths and ramps, providing improved access between the upper and lower level of Pioneer Place as well as into and out of the B basement car park area.	Complies
	(c) Clear sight lines along the entire length of a pedestrian area	The proposed development results in improved sightlines along all pedestrian areas. One concern	Complies

Site Specific Provisions of the LEP – Locality Management within Villages Katoomba Precinct VTC–KA02 — District Retail Precinct			
Clause	Standard	Proposed / Comment / Assessment	Compliance
		was raised in relation to the footpath adjacent to the Parke Street vehicular entry, particularly for pedestrians heading north along Parke Street. It will be required as a condition of consent that this location includes stop signs, line marking and other appropriate measures to ensure clear sight lines are achieved in this area, in accordance with the relevant Australian Standard.	
	(d) Incorporate appropriate levels of lighting to all pedestrian areas. All light fittings will have a form and character that is consistent with that of the building.	The proposed development will result in the provision of 7 light poles in the Pioneer Place car park, consistent in design with Council policy, as well as providing improved lighting to the retail site.	Complies
	(e) The design and provision of any pedestrian access ways to Waratah Street, Parke Street, or adjoining precincts shall enable easy access for all pedestrians, including those with limited mobility and encumbrances such as strollers and the like.	The proposed development provides improved pedestrian access including designated pedestrian paths across the site and includes accessible ramps, lifts and travelators between levels.	Complies
(4) Parking and vehicular access	(a) The provision of parking spaces in accordance with the relevant part of the Council's <i>Better Living DCP</i> .	The proposed development includes an additional 31 spaces within the existing basement car parking area as well as reconfiguration of the layout to improve vehicular circulation and separation of	Complies

Site Specific Provisions of the LEP – Locality Management within Villages Katoomba Precinct VTC–KA02 — District Retail Precinct			
Clause	Standard	Proposed / Comment / Assessment	Compliance
		vehicular/pedestrian paths of travel. The development also provides a new design with improved access from Waratah Street and a parking layout that is in accordance with the Pioneer Place Master Plan (see cl. 99 – Car parking above).	
	(b) No additional vehicular access points shall be permitted off Parke or Waratah Streets	The proposed development results in a reduction of vehicular access points to the site from Parke Street and improves the existing access from Waratah Street.	Complies
	(c) Primary access to parking shall be off Parke Street	The primary access to the basement car park level is from Parke Street with an internal reconfiguration that improves entry and egress manoeuvres and reduces internal circulation conflict points.	Complies
	(d) The demonstration of safe and efficient heavy vehicle loading and manoeuvring areas.	The existing loading dock area has been extended and re-configured to allow heavy vehicles to enter and exit the site in a forward direction.	Complies

#### 4. State Environmental Planning Policy No. 1

State Environmental Planning Policy No 1 (SEPP 1) *“provides flexibility in the application of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects of the Act”*

The proposed development does not comply with two development standards within Schedule 1 (VTC-KA02 Precinct) of LEP 2005. The relevant development standards are clause 4(1)(a) “Active Street Frontages” and clause 4(3)(a) “Awnings over the Footpath” and consequently the development application was accompanied by two SEPP 1 objections.

##### 4.1 VTC-KA02 Precinct Clause 4(1)(a)

This clause requires “Visible retail or other commercial activity along a minimum of 50 per cent of a frontage to a public road (except Pioneer Place) or pathway”. The proposed development achieves this requirement to the Waratah Street frontage but it is not achieved to the Parke Street frontage. The development along Parke Street includes the western extent of the basement carpark, the loading dock and goods storage areas in both the ground level and the mezzanine level of the building.

The LEP does not provide specific objectives relating to this provision, therefore the overall objectives are to be drawn from the Precinct Vision Statement and the Precinct Objectives of the LEP, as outlined in the table above.

The relevant objective drawn from the “Precinct Vision Statement” and “Precinct Objectives” is considered to be: the importance of the function of the site as a district-scale retail facility, within a development that has a contemporary form. A further objective is that the development incorporates strong interfaces with Parke and Waratah Streets, including active street frontages and prominent building entries. In addition, there is an identified need to enhance the public domains for both pedestrians and vehicles, whilst minimising conflict between the two.

The applicant states that they have drawn the following underlying objectives from the “Precinct Vision Statement” and “Precinct Objectives”:

- “(i) Future development to be represented in well-designed, multi-level buildings of a more contemporary form that exhibits a high quality urban design.*
- (ii) Building designs to incorporate stronger interfaces with Parke and Waratah Streets, represented by active street frontages and prominent building entries.*
- (iii) To provide for efficient management of vehicular access, parking and loading.*
- (iv) The precinct is to provide an enhanced public domain that offers high levels of accessibility to both pedestrians and vehicles, but minimises conflicts between the two.*
- (v) To provide strong interfaces with Parke and Waratah Streets and Katoomba Precinct VTC-KA06”*

In considering the SEPP 1 objection, the applicant notes that the Parke Street frontage has been designed to significantly improve the design of the existing building, and that it would be inappropriate to relocate the main vehicular entry/exit position to Waratah Street and Pioneer Place. It is noted that these locations have a much more prominent pedestrian environment with direct access to other retail activities in the town centre. The applicant also considers that the development should avoid the enhancement of pedestrian activity in an area where the main entry/exit to the basement car parking level is, and where the access point to the loading dock is.

It is accepted that the identification of the site as a district-scale retail development results in a significant emphasis on the need for effective large scale loading dock functions. In addition, it is operationally appropriate to have processing and storage areas in close vicinity of the loading dock. It is also accepted that other office and operational functions should be contained in this area to minimise visual impact as well as improving their internal functionality.

The site currently operates with these areas along the Parke Street frontage, which is the most direct vehicular link to the Great Western Highway. The relocation of the loading dock and other functional measures away from Parke Street in order to achieve better retail activity is considered impractical. It would also result in the loss of valuable parking space, forcing larger vehicle numbers into inappropriate locations where pedestrian activity is much higher. The slope of Parke Street drops 6 metres from its northern boundary to the main

vehicular entry, meaning the provision of street activation, with appropriate accessibility, would be a difficult issue to resolve.

It is noted that the provision of a district-scale retail development provides significant social and economic benefits to the community as a whole. The development represents an orderly and economic use of the land and would support the continuation of the Katoomba Town Centre as a tourist and commercial hub. It is agreed that any proposal to relocate the existing car parking entrance away from Parke Street would significantly impact on the operation of Waratah Street and Pioneer Place and have a flow on affect on the operation of the Katoomba Town Centre. In this way, it is considered that the strategic objective of the LEP has been met and that the achievement of this specific design requirement would not result in an improved outcome.

The applicant suggests that strict compliance with the development standard is unnecessary as the *“development will still achieve the environmental and planning objectives”* and that compliance would be unreasonable as *“no environmental or planning purpose”* would be met. It is agreed that the strict application of the standard is considered to be unreasonable and unnecessary in the circumstances of this application as the proposed development achieves a much improved pedestrian connection between Parke Street, Waratah Street and Pioneer Place. In addition, compliance with the standard is likely to have a flow on adverse impact on the public domain around to the site and the Katoomba Town Centre generally.

It is accepted that the proposed development does provide an improved design that articulates an existing bland façade, resulting in good architectural quality and a contemporary outcome to Parke Street. It would be expected that pedestrian movement along Parke Street would primarily be to the residential interface to the west. It is also accepted that the main vehicular entrance and loading dock is most appropriately located within Parke Street, away from the pedestrian hub of Pioneer Place and the Katoomba Town Centre further to the east.

The proposed variation is considered reasonable and appropriate to maintain a consistent design approach given the mixed nature of Parke Street. The proposed development is considered consistent with the public interest and accords with the stated objectives for the precinct (VTC-KA02).

#### **4.2 VTC- KA02 –Precinct Clause 4(3)(a)**

This clause requires *“Awnings or colonnades over the entire length of public footpaths and pedestrian areas”*. The proposed development has an awning located along the Pioneer Place frontage, as well as along significant portions of Waratah Street and Parke Street, with the exception of the south-west corner of the site in the vicinity of the loading dock.

As identified under section 4.1 above, the LEP does not provide specific objectives relating to this provision, therefore the overall objectives should be drawn from the Precinct Vision Statement and the Precinct Objectives, as previously stated under section 4.1 above.

The applicant states that the underlying objectives identified under section 4.1 above are also relevant to this proposed variation.

Clause 4(3)(a) requires awnings over the entire length of public footpaths, with variation to this standard necessary in terms of the area around the loading dock. The applicant suggests the location of the awnings *“appropriately respond to expected pedestrian movements”*. As noted previously under section 4.1, the Parke Street frontage has been designed to significantly improve an existing building design, and that it would be inappropriate to relocate the loading dock position to Waratah Street or Pioneer Place.

The Waratah Street frontage has been designed to significantly improve the existing built design, and to respond to the site characteristics. The Waratah Street awning covers the main pedestrian route between the Woolworths/Big W entry, the Pioneer Place pedestrian links and the Waratah Street bus stop. In fact the applicant suggests that pedestrian movement past the corner of Waratah Street and Parke Street should be discouraged due to the proximity to the loading dock, although it is noted that Parke Street generally provides the interface between the residential area to the west and the commercial/retail area to the east. This interface is appropriately enhanced by the main pedestrian entry in Parke Street and links directly to the Pioneer Place pedestrian area (upper and lower levels). The interface allows pedestrians to conveniently move from Parke Street to a more appropriate pedestrian environment which includes accessible facilities, car parking, landscaping and direct access to other retail activities in the Katoomba Town Centre.

It is also noted that the proposed extent of awning is consistent with the Footpath Hierarchy from the Pioneer Place Master Plan adopted by Council

The proposed variation is considered reasonable and appropriate to maintain a consistent design approach given the mixed nature of Parke Street. The proposed development is considered consistent with the public interest and accords with the stated objectives for the precinct (VTC-KA02).

## **5. Better Living Development Control Plan**

The proposed development is considered to appropriately comply with the relevant sections of the Better Living DCP, as summarised below:

1. **Site Planning:** A site plan and site analysis was included in the application and appropriately identified the relevant characteristics for assessment.
2. **Biodiversity:** The site does not contain threatened species or significant vegetation communities, with a minimal vegetation loss being proposed. The quality and quantity of the stormwater is appropriately contained and treated and will not have an adverse impact on threatened species or significant vegetation communities downstream.
3. **Stormwater:** The proposed development is considered to result in minimal additional stormwater impacts and an appropriate Stormwater Management Plan has been prepared by Hughes Trueman. The proposed stormwater impacts have been assessed and considered acceptable by both Council and the Sydney Catchment Authority, subject to the imposition of conditions of consent.
4. **Site Management:** It is considered that the site will be able to be managed appropriately to minimise the time and extent of disturbance. A sediment and erosion control plan, as well as construction, traffic and pedestrian management plans have been required as conditions of consent.
5. **Crime Minimisation:** The consistency of the proposal with the key principles of crime minimisation through design (being surveillance, access control, territorial enforcement and space management), have been considered, and the proposal found to satisfactorily incorporate crime minimisation through design, subject to conditions of consent.
6. **Health and Safety:** The health and safety of the future users of the proposed building will be ensured through the use of appropriate materials and practices as well as the effective handling of food and maintenance of mechanical and ventilation systems, as required.
7. **Waste Water and Services:** The proposed development is capable of being serviced subject to the requirements of the relevant public utility service providers.

8. **Streetscape and Character:** The impact of the proposal on the surrounding streetscape and character of the locality is considered below and found to be satisfactory, subject to the imposition of conditions of consent.
9. **Landscaping:** There is only a small area of soft landscaping proposed to the southern extent of the site, as well as additional landscaped areas within the Pioneer Place car park and street trees within Parke Street and Waratah Street. The landscape requirements have been assessed and landscape conditions imposed to ensure the ongoing viability of all identified landscape elements. It is considered that the landscaping proposed, although minimal, is adequate for a development of this type and location.
10. **Vehicular Access, Parking and Roads:** Traffic and parking matters have been assessed and the proposal found to be satisfactory, subject to the imposition of a number of conditions of consent.
11. **Amenity:** It is considered that the proposal will not result in an unreasonable adverse impact on amenity, including noise, pollution, traffic, light spill or the like. Specific conditions of consent have been imposed to set requirements in relation to delivery times, light spill and noise impact.
12. **Energy:** The proposed development includes specific measures to minimise energy consumption including material performance, lighting efficiency, thermal insulation, glazing, low energy refrigeration performance and other technological measures.
13. **Access and Mobility:** Accessibility for people with disabilities or of limited mobility within the site is considered to be adequate and provides a substantial improvement on the existing situation. The development will result in suitable and safe access across the site and between the levels of the development.

## 6. Advertising Signage

The original proposal included a total of 14 advertising signs arranged across the three frontages of the proposed development. The number, location and spread of the original advertising signs has been summarised as follows:

Roof:

- “Big W and Woolworths” wall sign on condenser deck (roof) – 1 sign.

Parke Street:

- “Big W” and “Woolworths” wall sign – both ends as well as to centre of building – 3 signs.
- “Big W” and “Woolworths” projecting wall sign - centre of building – 2 signs.
- “Woolworths Welcome” Hamper sign – centre of building – 1 Sign

Waratah Street:

- “Big W” and “Woolworths” wall sign - either end of building – 2 signs

Pioneer Place”

- “Big W” and “Woolworths” wall sign - either end of building – 2 signs.
- “Big W”, “Woolworths” and “Katoomba” Hamper signs – 3 Signs

During the assessment process a number of concerns were raised in relation to the proposed signage with the applicant amending the development to reduce the proposal to 10 advertising signs. The number, location and spread of the amended proposal has been summarised as follows:

Roof:

- “Big W” and “Woolworths” deleted.

Parke Street:

- “Big W” and “Woolworths” wall sign – southern end and centre of building – 2 signs.

- “Big W” and “Woolworths” projecting wall sign - centre of building – 1 sign.
- “Woolworths Welcome” Hamper sign – centre of building – 1 Sign

Waratah Street:

- “Big W” and “Woolworths” wall sign – eastern end of building – 1 sign

Pioneer Place:

- “Big W” and “Woolworths” wall sign - either end of building – 2 signs.
- “Big W”, “Woolworths” and “Katoomba” Hamper signs– 3 signs

This assessment of advertising signage does not include the proposed parking, entry and exit signage that is also included in the proposed development.

## **6.1 Development Control Plan 21 – Advertising and Information Signage**

This DCP commenced on 1 October 2001 which is prior to the gazettal of LEP 2005. As a result it does not specifically reference the zones from LEP 2005. Table 1 of the DCP identifies appropriate signage types for various zones, with the Town Centre provisions considered to be the comparative requirement for the proposed development.

The Town Centre provision includes business identification signs, which is a sign that indicates a business and may include a logo. The signs identified above are considered to comply with this definition. The DCP is then divided into Part 2 “Area Specific Guidelines” and Part 3 “Sign Type and Design Criteria”. The proposal has been assessed against these provisions below.

### **6.1.1 Part 2 – Area Specific Guidelines**

In assessing an application, consideration must be given to the objectives of the DCP and the general assessment criteria, which relates to elements such as character, views and vistas, site and building, illumination and safety as well as specific controls for the Town Centre. The general assessment criteria have been drawn from the SEPP 64 policy and have been discussed further under section 6.2 of this report.

The DCP provides that signage should not dominate the streetscape of a town centre and should be generally confined to the ground level, awning fascia or under awning areas. It also provides that there should be a maximum of two signs per business.

It is important to note that the Town Centre description in the DCP is based on *“low-scale commercial buildings set along a single “Main Street”*. It then identifies that the number and design of signage needs to compliment the unique quality, character and setting in which it is located.

The site is to the west of the Katoomba Town Centre and is not part of its streetscape. However, there are a number of obscured view lines between the Town Centre and the subject site. The site is also outside of the Katoomba Heritage Conservation area which is to the east.

A fundamental consideration is the extent that the existing development as well as the proposed development is consistent with the Town Centre description used in the DCP. The site currently has an existing development that is similar in scale to a district supermarket, with a total of six existing advertising signs on site. These signs consist of three wall signs to Parke Street, one above awning sign to the northern frontage, and two above awning signs to Pioneer Place. The site frontage to Parke Street and Pioneer Place is approximately 170 metres in length with Waratah Street being approximately 60 metres in length. The combined character of district retail scaled development with three long frontages is



considered sufficient to warrant a variation in the number of signs per business. It is also important to note that the site is well separated from the Town Centre streetscape.

The proposed development has two flat wall signs, a projecting wall signs and a Hamper sign to Parke Street. The signage block for each of these flat wall signs projects above the adjoining façade by between 1m to 3m and appears proportionally appropriate to the scale of the building in this location. The majority of signs are located around the vehicular entry with a wall sign also located to the Parke Street/Waratah Street intersection. The Waratah Street intersection sign is located 70m to the south of the main signs and on a different plane (setback approximately 8 metres) due to the loading dock. The main signs have one wall sign with one projecting wall sign being viewed to the north and south along Parke Street. The Hamper sign acts as an indicator of the pedestrian access point from Parke Street.

The proposed development then has two flat wall signs and three Hamper signs to Pioneer Place, with the wall signs indicating the southern and northern extent of the building. It is also proposed to have a flat wall sign located on Waratah Street that “book-ends” the southern Pioneer Place wall sign. This “book-end” approach creates an entrance signage block to Pioneer Place and is shown in Photo 1 below. The signage block is adjacent to the vehicular entrance to Pioneer Place, and projects approximately 5.2m above the Pioneer Place façade. This extent of projection is substantially above the existing façade and considered out of scale with the proposed development as well as other development in the vicinity. It is also considered that it will be visually obtrusive when viewed from east or west along Waratah Street or from Pioneer Place.



It will be included as a condition of consent that the sign is reduced to be similar to the other signage blocks in terms of its proportions relevant to the adjoining building façade.

The proposed Hamper signs to Pioneer Place are considered acceptable. One Hamper sign identifies “Katoomba Marketplace” and is located over the main central entrance of the building. The proposal then has a “Woolworths” Hamper sign to the south and a “Big W” Hamper sign to the north. These Hamper signs are located over each tenancy respectively. The “Katoomba Marketplace” hamper sign will be visible with obscured sight lines along Hapenny Lane.

The tenancy hamper signs identify the location of each tenancy and aids pedestrian decision making as they approach the site. The range and location of signs, as modified by the conditions of consent, is considered appropriate given the length of the Parke Street and Pioneer Place frontages and the function of the site.

### 6.1.2 Part 3 Sign Types and Design Criteria

Part 3 of the DCP outlines design criteria for each of the signs, including dimensions such as area, height and width. The wall signs are all the same dimensions except the one to the northern extent of Pioneer Place, which is smaller.

An assessment of the proposed signage compared to the relevant provisions from Part 3 design criteria is provided as follows:

Sign Type	DCP provision	Proposal
Projecting Wall	<ul style="list-style-type: none"> <li>• Not above awning</li> <li>• Maximum width 1.2m</li> <li>• Located 6m from other signs</li> </ul>	<ul style="list-style-type: none"> <li>• Above awning</li> <li>• Width 2.4m</li> <li>• Located 6m from other signs</li> </ul>
Wall Signs	<ul style="list-style-type: none"> <li>• Not project above parapet</li> <li>• Maximum 1 wall sign per elevation</li> <li>• Maximum area 4.5m<sup>2</sup></li> <li>• Not internally illuminated</li> </ul>	<ul style="list-style-type: none"> <li>• Not project above parapet</li> <li>• 3 wall signs Parke St, 1 wall sign Waratah St, 2 wall signs Pioneer Place.</li> <li>• Maximum 33.2m<sup>2</sup></li> <li>• Internally illuminated</li> </ul>
Hamper Signs	<ul style="list-style-type: none"> <li>• Located on ground floor and not above awning</li> <li>• Maximum width 1.2m</li> <li>• 1 sign per 6m and 2 per business.</li> </ul>	<ul style="list-style-type: none"> <li>• Located on ground floor and not above awning</li> <li>• Maximum width 15m</li> <li>• 1 sign per 6m and 2 per business (total 4 signs).</li> </ul>

The applicant states that the “*existing development is a key retailing facility in Katoomba*” with the proposal seeking to “*consolidate this use and the proposed signage appropriately identifies these key retail businesses*” As discussed under section 6.1.1, it is agreed that the provisions of DCP 21 relating to Town Centre development does not reflect the specific characteristics of a district retail development, which has particular requirements in terms of customer identification and direction. The applicant states that the signage has been developed as it “*efficiently directs vehicles and pedestrians into and around the site in a clear and concise manner*”. It is considered that the proposal does not, in the circumstances of this proposal, create a proliferation of signs. The type and location of signage, as modified by the conditions of consent, sits within the overall scale of the district retail development, without significantly impacting on the surrounding streetscape or nearby Town Centre.

## 6.2 Sate Environmental Planning Policy 64 – Advertising and Signage

Clause 3(1)(a) of this policy requires that signage is compatible with the desired amenity and visual character of an area as well as providing effective communication in suitable locations, and is of high quality design and finish.

The proposed signage is defined as a “*business identification sign*” which under the policy is a sign that indicates the business carried on at the premises and may include a logo.

Clause 8 and clause 9 of the policy means that prior to granting consent, the consent authority is to be satisfied that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a) above, and satisfies the assessment criteria specified in Schedule 1.

The assessment criteria provided in Schedule 1 can be summarised as follows:

1. Character of the area
2. Special areas
3. Views and vistas
4. Streetscape, setting or landscape
5. Site and building

6. Associated devices and logos with advertisements and advertising structures
7. Illumination
8. Safety

These criteria are the same as the Assessment Criteria under Part 2 of DCP 21 above.

The proposed development was assessed in terms of these criteria. During this assessment it is noted that the precinct control in LEP 2005 clearly identifies the future character of the area as a district scale retail facility. The signage, as modified by the conditions of consent, aids in providing clear pedestrian and vehicular decision choices, and provides a tangible link between Katoomba Street and the precinct, without creating a visually prominent element in the Heritage Conservation Area.

The proposed modified signage will not create a visually prominent element when viewed from the podium level of the Katoomba Cultural Centre to the north, and does not compromise views from the surrounding residential and commercial area. The signage is considered to be consistent with the scale of the building and provides business identification signs that are compatible with that scale.

The proposed development removes existing signage that appears to have developed overtime in an ad-hoc manner, and replaces it with a consistent theme and reduces existing visual clutter. The proposed modified signage, particularly along Parke Street and to the centre of the building, is well contained within the existing landscape and street tree regime. It will be required as a condition of consent that the provision of signs, as well as other elements within the road reserve, avoids excessive and inappropriate trimming of the street trees.

The proposed development is also considered to appropriately address glare overall. However, it will be required as a condition of consent that signage includes “warm white” lights; extinguished no more than 30 minutes after the cessation of trading and signage is to conform with the Australian Standard 4282 – *“Control of the obtrusive effects of outdoor lighting”*.

The proposed modified signage is assessed as being compatible with the future character of the locality identified by LEP 2005 as well as appropriately minimising potential amenity impacts on the surrounding area. The proposed signage is considered to be a quality design and finish that is consistent with the scale of the development on site.

## **7. State Environmental Planning Policy (Infrastructure) 2007**

This policy has the aim of facilitating the effective delivery of infrastructure across the State including consultation with relevant public authorities during the assessment of certain development applications. Clause 104 of the policy relates to *“Traffic-generating development”* and identifies that, prior to enlarging a premises of a *“relevant size or capacity”* a consent authority must provide a written notice to the Roads and Maritime Services and take into account any submission from them. It also requires that the consent authority assesses the accessibility of the site, including efficiency of movement to and from the site, minimisation of car travel and any potential traffic safety, road congestion or parking implications of the development.

Schedule 3 of the policy categorises traffic generating development into two types, these being sites with access to a classified road (or within 90 metres of a classified road) and sites with access to any road. The subject site is more than 90 metres from a classified road (Great Western Highway) and therefore only the second category would apply.

The relevant sizes that relate to the development are *“shops - 2,000m<sup>2</sup>”* and *“any purpose – 200 or more motor vehicles”*. Although it was considered that the proposed development did

not strictly require referral to RMS, due to the enlargement not being of the identified relevant size, the matter was nonetheless referred to the RMS.

On 1 November 2010, the RTA advised that *“the development application has been reviewed and the RTA raises no objection to the proposed development...”*

The relevant matters identified in the policy for assessment have been considered in the following sections.

## **7.1 Traffic Operation**

A Traffic Report was submitted with the development application, as well as additional detail submitted in response to matters raised during the assessment process. A survey of the intersections around the development site found that the Waratah Street and Parke Street intersection operated with a less than 20 second delay during identified peak periods, which is deemed a satisfactory level of service. Similarly the Waratah Street and Pioneer Place intersection operates with a satisfactory level of service. It also found that the site, by virtue of its vicinity to the Katoomba Town Centre, is well serviced by public transport, providing connections to the surrounding areas and further afield.

The Traffic Report identified a number of pedestrian routes between Parke Street and Pioneer Place, including Penny Lane (northern boundary), through the existing basement car park and along Waratah Street. An assessment of pedestrian movement during the identified peak period found that the pedestrian route through the existing basement car park has the highest usage whilst Penny Lane has the lowest usage. It is considered that the proposed development provides improved pedestrian connectivity circulation between the basement car park, the retail levels, Pioneer Place and the Katoomba Town Centre.

## **7.2 Loading Dock**

The existing loading dock is to be modified to improve access by larger delivery vehicles and has been designed to accommodate two 19 metre articulated trucks, as well as garbage storage and collection areas. Trucks access the site from the Great Western Highway and then along Parke Street. By increasing the length the loading dock, trucks are able to enter and exit the site in a forward direction. They achieve this by pulling forward into the southern end of the dock before reversing up the extended dock area. This is an improvement over the current process which sees trucks pulling across Parke Street to reverse into the loading dock.

Trucks exiting the site need to perform a u-turn, moving from the dock across Parke Street, which is manoeuvre that is consistent with current practice. Truck swept paths were provided with the submitted material and it is considered that the service arrangements are supportable. It will be required as a condition of consent that the loading dock complies with the relevant Australian Standard

## **8. View Analysis**

Clause 3 of the relevant Precinct Controls in Schedule 1 LEP 2005 includes provisions relating to “Building envelope” and “Building height”. Relevantly clause 3(c) states as follows”

*“Consent to a development application for the construction of a building within this precinct must not be granted unless the consent authority is satisfied, after considering a detailed view analysis, that all viewing opportunities from the podium level of the Blue Mountains Cultural Centre to the town, Jamison Valley and Frank Walford Park will be maintained.”*

Further clause 3(d) states:

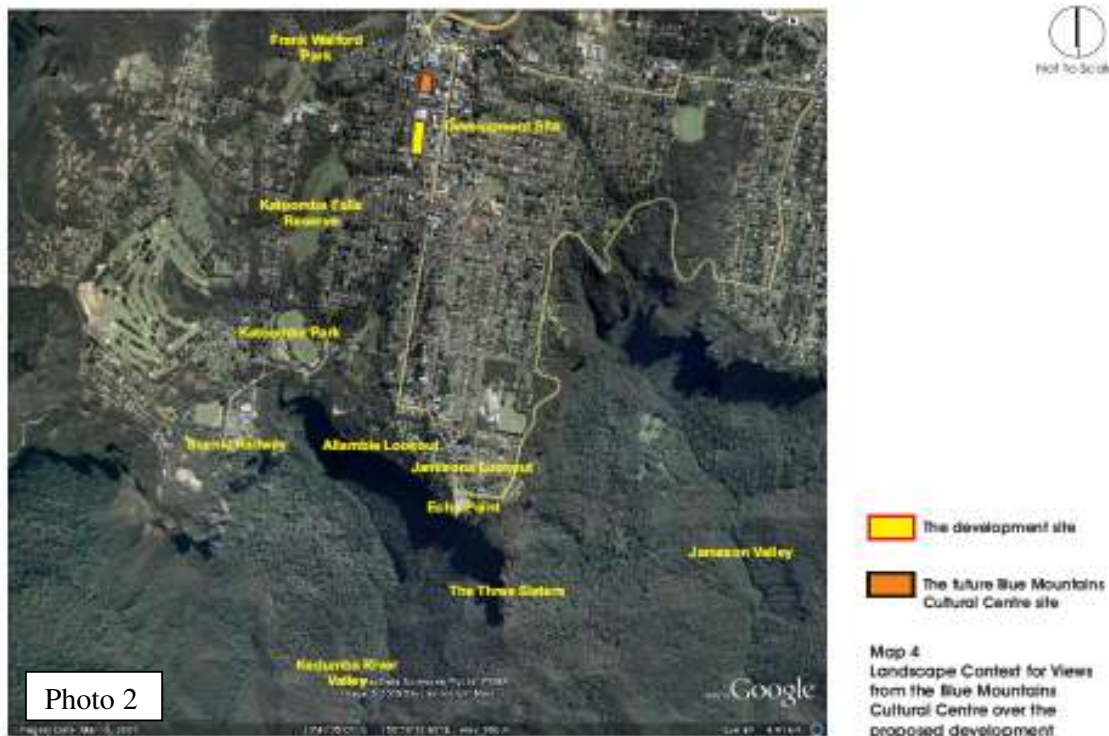
*“For the purposes of paragraph (c), podium level is:*

- (i) at or below an Australian Height Datum of 1024.5 metres, and*
- (ii) at or below the finished level of College Lane at the northern boundary of the precinct, and*
- (iii) at or below 12 metres above the finished level of College Lane at the south eastern boundary of the precinct”.*

In accordance with this requirement, an independent View Analysis (VA) of the proposed development was prepared for the applicant by Dr. Richard Lamb, and dated August 2010. During the assessment process it was noted that the submitted Statement of Environmental Effects states that the proposed development complies with the building height, whilst the VA states that it exceeds the building height and that a SEPP 1 objection had been submitted with the application. The submitted material did not include a SEPP1 objection and the plans did not provide sufficient levels to clarify this situation. The applicant was asked to consider this discrepancy and to provide revised detail in response. The applicant confirmed that the development did comply with the building height requirements and revised plans were submitted. The revised plans included, amongst other things, additional detail in relation to proposed levels. Also the notation in the VA was identified as a drafting error. The report was corrected and resubmitted for assessment. All the photos and diagrams used in this section have been extracted from the resubmitted View Analysis by Dr Lamb.

The VA notes that, during Council’s assessment of the Blue Mountains Cultural Centre, a variation to the podium level was approved resulting in a AHD 1025.500 and not AHD 1024.500, as identified under clause 3(d) of the LEP. The raised viewing platform on the podium level results in an overall height of AHD 1026.2. It should also be noted that the Blue Mountains Cultural Centre is currently under construction.

Photo 2 shows the location of the development site, the Blue Mountains Cultural Centre and the surrounding significant features. The Katoomba Town Centre is directly to the east and north east of the development site and the Blue Mountains Cultural Centre, whilst Frank Walford Park is to their north-west.



What is evident from this photo is that the most at risk elements in terms of obstructed view lines would be those elements directly to the south of the development and towards the Jamison Valley, in the vicinity of Allambie Lookout.

The Kedumba and Jamison Valleys are of high significance in terms of cultural, historic and scenic values. However, the VA assessed that the escarpment edge and scenic features such as the Three Sisters, Ruined Castle, Kedumba River Valley and the valley floor itself would not be visible from the podium, even without the proposed development, due to their levels relative to the podium.

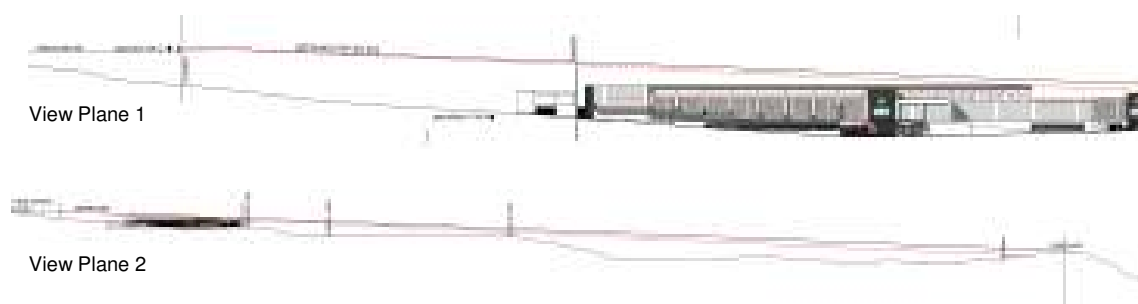
The views in the Jamison Valley that could potentially be affected by the proposal are the middle to distant views of Mt Solitary and the Narrow Neck Plateau and the distant ridges surrounding the Kedumba and Cocks River Valleys to the south.

Photo 3 was taken from College Lane looking over the Blue Mountains Cultural Centre development site and south towards the Kedumba and Jamison Valleys. The brick wall at the end of the earthworks will be the approximate location of the front edge of the podium whilst the flat white roof in the middle ground is the existing building to be developed. This photo was taken approximately 1m lower and at the back of the podium level. Therefore, when viewed from the front of the podium, the development site will visually drop slightly compared to the middle and distant views.



What is evident from this photo is that the southern portion of the proposed development has the highest potential for impact on the view lines available from the Blue Mountains Cultural Centre podium. However, development to the southern end of the site generally maintains existing roof heights except the signage block to the eastern corner and the new mezzanine level along the building's western portion. The new mezzanine level will vary the existing roof height from between 1 metre up to 1.8 metres above the existing mezzanine roof level, whilst the new signage block will be approximately 3.5 metres above the existing main roof level. The submitted material with the development application included View Planes showing view lines drawn from the podium at an eye level of 1.5 metres. This is a typical "eye height" and considered appropriate for use in the View Planes.

In View Plane 1, the (dashed) view line extends from the Blue Mountains Cultural Centre (left hand side) and over the subject development (right hand side), whilst View Plane 2 shows the same line projected until it meets the natural ground level. The report notes that the drawings disregard vegetation located along the view line and which includes taller vegetation typically 20-25 metres in height. This ensures the VA is assessed in terms of the view line to the relevant feature, in this case the escarpment at Allambie Lookout and the Jamison Valley



It can also be seen in View Plane 1 that the view line responds to the highest elements of the proposed development. The view line shows that the proposed increased height will impact on views to the near and middle ground, including residential development and vegetation, but views to the middle and distant ground, including the escarpment and distant ridges, will still be available.

The proposed additions will not impact on views across the Katoomba Town Centre and to the south-east towards the Jamison Valley. Also any views from the Blue Mountains Cultural Centre north-west towards Frank Walford Park will not be affected by the proposed development.

The VA concludes that *"the proposed redevelopment is in accordance with the Council's relevant planning strategies and controls with regard to visual and view issues and is acceptable on visual grounds"*, which is a position that is considered supportable. The development is not considered to significantly impact on view lines to scenic features of the Kedumba and Jamison Valleys and will be visually similar with the existing built and natural composition when viewed from the approved podium level of the Blue Mountains Cultural Centre. It is also noted that it will be required as a condition of consent that the finished material of the proposed roof, plant room and all elements located above the eaves line of the proposed development shall be of a colour and type to minimise visual obtrusiveness and avoid reflective glare.

## **9. Heritage Assessment**

A Statement of Heritage Impact was submitted in accordance with the requirements of clause 76(2) of LEP 2005. This clause requires that consent shall not be granted for development in the curtilage of a heritage item or in the vicinity of a heritage conservation area unless a heritage impact statement has been assessed and the development considered to not adversely impact on the heritage significance or visual setting of that item or area.

There are approximately 6 heritage items in the vicinity of the site being 3 to Katoomba Street and 3 to Waratah Street. In addition the sites along the eastern side of Pioneer Place are within the Katoomba Heritage Conservation Area. The SHI found that the development *"respected or enhanced"* the heritage significance of items and the conservation area in the vicinity because it will replace the existing worn *'brutalist'* style building and provide better articulation and pedestrian connection to surrounding residential areas. The report also stated that the proposed Waratah Street Signage could have detrimentally impacted on heritage significance, however this was minimised due to the recessive colour. It should be noted that during the assessment process a signage panel located to the Waratah Street/Parke Street intersection was removed and the extent of white associated with the "Big W" signage was reduced.

The existing elevations will be improved in appearance with the overall proportion and scale of the proposed development being visually coherent with that of the existing development. The treatment proposed for elevations with street frontages, such as awnings, fascia elements and varied finishes, will improve the building's interaction with the heritage items and the Heritage Conservation Area.

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

The discussion regarding the compliance table and provisions of the LEP has addressed these issues, including the strategic suitability of the location for this type of development. The development is considered to be consistent with the public interest as it will provide the Town Centre and surrounding environs a district supermarket that is capable of enhancing the role of the Town Centre as a broad service centre. The development is also consistent

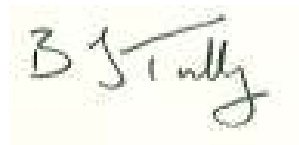


with and protects the Heritage Conservation values of the Katoomba Town Centre, ensuring that the role of the Town Centre as a tourist destination and hub is not diminished.

### **Conclusion**

The proposal will revitalise an existing district retail centre that is currently outdated. The development provides improved pedestrian and vehicular circulation, with pedestrian links between Parke Street, both levels of Pioneer Place and the Katoomba Town Centre to the east. A number of public benefits will result from the proposed Planning Agreement that will improve public use of Pioneer Place, with the identified public benefits being in accordance with the Pioneer Place Master Plan Stage 1. The proposed development has a simple but contemporary design and generally complies with the objectives of the LEP and is considered to be an appropriate development for the site.

It recommended that the proposal be determined by the grant of a deferred commencement approval, subject to conditions as provided in Attachment 1 of this report.



Byron Tully  
Principal Town Planner



Will Langevad  
Manager, Development & Planning Services

Attachment 1	Conditions of consent
Attachment 2	Architectural Plans
Attachment 3	Adopted Planning Agreement.