



ITEM No. 1

2017SWT008

**REPORT:**

**DEVELOPMENT APPLICATION No. X/546/2017 for an Affordable Rental Housing development comprising 26 units in 2 residential flat buildings at 67 Waratah Street, KATOOMBA NSW 2780**

**Reason for report**

The proposal is for affordable housing and has a capital investment value greater than \$5 million. Accordingly, the proposal is considered to be regionally significant development under the provisions (Schedule 7) of *State Environmental Planning Policy (State and Regional Development) 2011*. Under clause 2.15 of the *Environmental Planning & Assessment Act 1979*, Sydney district planning panels are conferred with consent authority functions for regionally significant development.

**RECOMMENDATION**

That the Development Application X/546/2017 for an Affordable Rental Housing development comprising 26 units in 2 residential flat buildings at 67 Waratah Street, KATOOMBA NSW 2780 be determined in accordance with s4.16 of the *Environmental Planning and Assessment Act*, by the granting of consent subject to the conditions stated in Part 3 of this report.

**Reason/s in support of the recommended decision**

1. The development is consistent with the objectives of the LEP 2005 Village Tourist zone.
2. The development is consistent with the vision statement and objectives of the LEP 2005 VT-KA02 Lurline Street North Precinct.
3. The site is suitable for the proposed development due to its unique attributes including its location, size, development history, shape, multiple street frontages and existing vegetation.
4. The development proposal will ensure a prominent redevelopment site accommodates a built form and landscape outcome, including the retention of significant trees, which is compatible with the existing and desired character of the locality.
5. The breach of the building height control is considered to result in an improved built form outcome, will not adversely impact adjoining properties and will not result in a precedent.
6. Adjoining and nearby property owners were notified of the proposed development in accordance with Council's policy and concerns raised in submissions, where appropriate, have been addressed through design amendments.

7. The proposed development will add to the supply of affordable housing in the upper mountains.

<b>Disclosure</b>	Disclosure of any political donation and/or gift - No
<b>Declaration of interest</b>	The applicant has submitted a declaration that no conflicts of interest exist in relation to the assessment of this application
<b>Report author/s</b>	Alex Williams, Executive Principal - Planning
<b>Report authoriser</b>	Kim Barrett, Manager Development & Planning Services William Langevad, Director, Development & Customer Services
<b>PART 1</b>	<b>Development proposal</b>
<b>PART 2</b>	<b>Council assessment</b>
<b>PART 3</b>	<b>Proposed conditions of consent</b>

## PART 1: Development proposal

<b>Applicant</b>	Amelie Housing
<b>Land owner</b>	The Trustees of the Society of St Vincent De Paul
<b>Location</b>	67 Waratah Street, KATOOMBA NSW 2780
<b>Lot &amp; DP</b>	Lot 1 DP 810883, Lot 1 DP 844231, Lot 5 DP 1145606
<b>Date lodged</b>	19-Jun-2017
<b>Value of works</b>	\$16,720,000.00 (as per original Cost Estimate dated 13 July 2017)
<b>Proposal in detail</b>	<p>The development proposal seeks approval for construction of two (2) residential flat buildings containing a total of twenty-six (26) units. The proposal includes:</p> <ul style="list-style-type: none"><li>• Consolidation of three lots (Lot 1, DP 810883, Lot 5, DP 1145606 &amp; Lot 1, DP 844231) into one allotment;</li><li>• Construction of a three-storey residential flat building with basement/undercroft level for car parking across Lot 5, DP 1145606 &amp; Lot 1, DP 810883 and known as the western building. The development proposes fourteen (14) independent living units comprising of 1 &amp; 2 bedroom units;</li><li>• Construction of a three-storey residential flat building across Lot 5, DP 1145606 &amp; Lot 1, DP 810883 known as the eastern building. The development proposes twelve (12) independent living units comprising of 1 &amp; 2 bedroom units and two (2) of these units are proposed to be adaptable;</li><li>• Retention of the existing retaining wall on Lurline Street including repair works, where required;</li><li>• Retention of existing vegetation on the sites eastern boundary as detailed in architectural plans prepared by Melocco and Moore, installation of TPZ measures during the construction phase and compensatory planting for any loss of vegetation necessary to support the development of the site;</li><li>• Removal of existing vegetation across the proposed development footprint;</li><li>• Provision of communal open space and community garden across the Waratah Street property (Lot 1 DP 844231);</li><li>• Provision of a communal courtyard located between the eastern and western buildings to include general seating areas and an open courtyard;</li><li>• The main pedestrian entry to the site is via Waratah Street with this entry</li></ul>

proposed to be well lit, activated, gated and sign posted. The western building can be accessed by traversing the communal courtyard via the main pedestrian entry at Waratah Street. The eastern building can also be accessed via the Waratah Street entry or directly from Lurline Street;

- Intercom access is proposed to be provided at the entry to each building block with the car park entry secured with an electronically controlled overhead roller door;
- General storage, bin storage and bike spaces are provided within or adjacent to the underground car parking level of the Lurline Street Property (west);
- Use of the proposed development as Affordable Rental Housing under the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP);
- Key support infrastructure including electrical, stormwater, hard and soft landscaping, mail facilities, fencing and associated site works.

**Departure or variation to a development standard**

The applicant has lodged a request to vary three (3) development standards contained within Blue Mountains Local Environmental Plan 2005:

- Building height (Schedule 1, Part 4, Division 7 Katoomba Precinct VT-KA02, Clause 3.1)
- Private open space (Clause 67)
- Accessibility and adaptability of dwellings (Clauses 108 & 109)

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**Supporting documentation**

The plans and documents lodged are considered sufficient to enable assessment of the application. The application is supported by:

- Statement of Environmental Effects
- Architectural plans
- Design Verification Statement
- Blue Mountain LEP 2005 Compliance Table
- SEPP1 Objection – Building height
- SEPP1 Objection – Private open space
- SEPP1 Objection – Accessibility and adaptability of dwellings
- Blue Mountains DLEP2013 Compliance table
- Blue Mountains Better Living DCP 2005 Compliance table
- Apartment Design Guide – Compliance table
- External materials schedule

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- Landscape plan
  - Stormwater and civil engineering plans
  - Arborist report
  - BCA/Access report
  - Heritage impact statement and addendum
  - Waste management plan and report
  - Traffic report
  - BASIX certificate
  - Shadow diagrams
  - Perspectives
  - Structural assessment of existing retaining wall

**[Documentation online](#)**

Plans to scale and key documents lodged with the application can be viewed online. Go to [www.bmcc.nsw.gov.au/development](http://www.bmcc.nsw.gov.au/development) – Track and View applications. Search and select X/546/2017.

Reduced site and elevation plans are below.

## **PART 2: Council assessment**

### **2.1 Overview and summary of issues**

<b>Zoning</b>	Village Tourist zone – LEP2005 (Lot 1 DP 810883, Lot 5 DP 1145606) B2 Local Centre – LEP2015 (Lot 1 DP 844231)
<b>Characterisation of use</b>	Residential flat buildings / Affordable housing
<b>Permissibility</b>	The proposed development is permissible within the zone.
<b>Type of development</b>	Local / concurrence (WaterNSW)
<b>Applicable planning instruments</b>	<ul style="list-style-type: none"><li>○ State Environmental Planning Policy No 1 – Development Standards (SEPP No. 1)</li><li>○ State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)</li><li>○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP No. 65)</li><li>○ State Environmental Planning Policy (Affordable Rental Housing) 2009</li><li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX)</li><li>○ State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</li><li>○ Sydney Regional Environmental Planning Policy 20: Hawkesbury-Nepean River</li><li>○ Local Environmental Plan 2005 &amp; Draft Environmental Plan 2013</li><li>○ Local Environmental Plan 2015</li><li>○ Better Living Development Control Plan</li><li>○ Development Control Plan 2015</li></ul>
<b>Bushfire prone land</b>	The property is not mapped as bushfire prone.
<b>Heritage item or conservation area</b>	The property is not listed as a heritage item or place of Aboriginal significance. The northern portion of the site fronting Waratah Street (L 1 DP 844231) is within the Central Katoomba Urban Conservation Area.
<b>Potentially contaminated land</b>	The land is not listed on the Council's potentially contaminated land register and none of the activities that may cause contamination, listed in Table 1 of Planning

NSW's Managing Land Contamination Planning Guidelines, are being or are known to have been carried out on the site.

**Site context and description**

The site consists of three allotments that are legally described as Lot 1 DP 810883, Lot 5 DP 1145606 and Lot 1 DP844231. The combined overall site area is approximately 2,695m<sup>2</sup>. The site has a frontage of approximately 15m to Waratah Street, 41m to Lurline Street, and 42m to Waratah Avenue.

The site wraps around Dr Alex Allen Park which is located on the corner of Waratah Street and Lurline Street, sharing the park's western and southern boundaries.

To the north, the site also borders a group of commercial and retail buildings fronting Waratah Street, one of which is the St Vincent de Paul charity shop. Clothing bins associated with the charity shop are located at the rear of these building on the subject site. It is understood from the applicant that an alternate suitable location is being sought for these clothing bins.

The site shares its southern boundary with a residential property accommodating 'Gorleen', a two storey dwelling.

To the west of the site, across Waratah Avenue is the Katoomba Town Centre Motel.

To the east of the site, across Lurline Street, is the Clarendon Guesthouse.

The site slopes from its south-western boundary towards the Lurline Street and Waratah Street frontages. It has a cross fall of RL 96.66m from the south-western corner of the subject site to RL 89.25 to the most eastern boundary of the site and a length of 69m.

The land contains a significant amount of existing mature vegetation along the eastern boundary and along its interface with Dr Alex Allen Park which in part screens views into the site from Lurline Street and the park.



**Location plan**

**Development history /  
background**

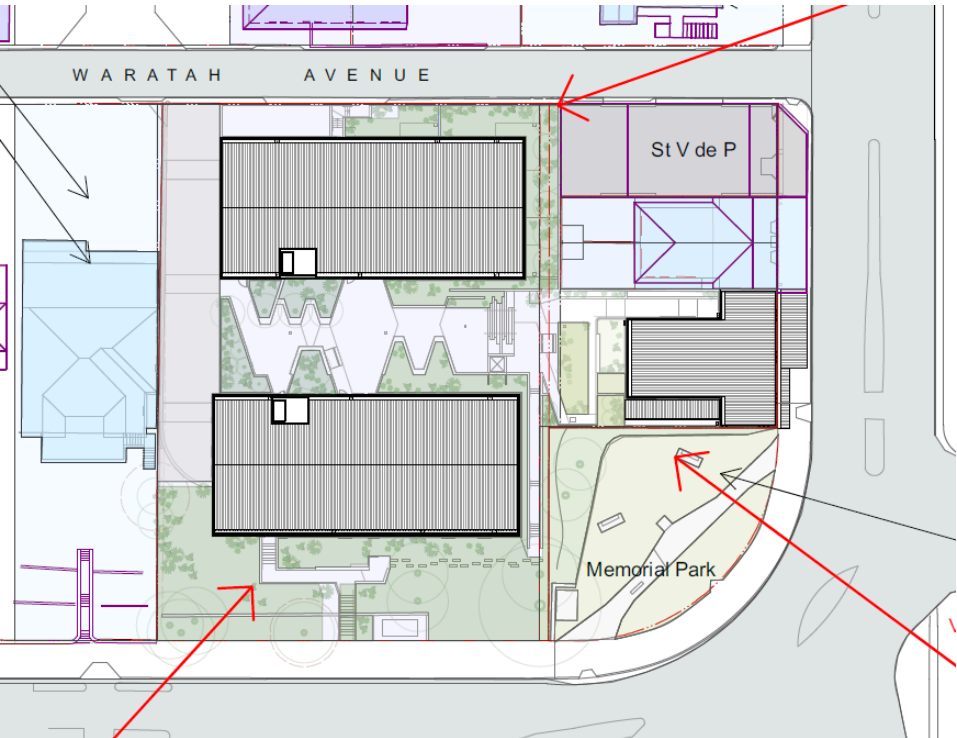
The existing site conditions, including existing retaining walls and steps from Lurline Street, indicate that the site once accommodated a significant building or buildings. The Heritage Impact Statement accompanying the original application identifies that the site appears to have accommodated 'Stretton Hall', a Victorian structure that was added to in the 1940s. It is not clear exactly when this building was constructed or demolished. Other than being used for informal parking and for St Vincent de Paul's clothing bins, the site has since remained vacant.

The current applicant sought formal planning advice from Council in early 2017 on a concept proposal for three (3) residential flat buildings with a total of 39 dwellings. Key issues raised the advice focused on bulk, scale, design and materiality, particularly as they relate to character.

Development Application No. X/546/2017 was lodged with Blue Mountains City Council on 16 June 2017. DA X/546/2017 originally proposed the construction of three (3) residential flat buildings containing 37 units, basement parking and associated site works under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. The submitted proposal was not



dissimilar to that which was the focus of the previously supplied planning advice.



Original site plan (now superseded)



Original elevation (east) (now superseded)



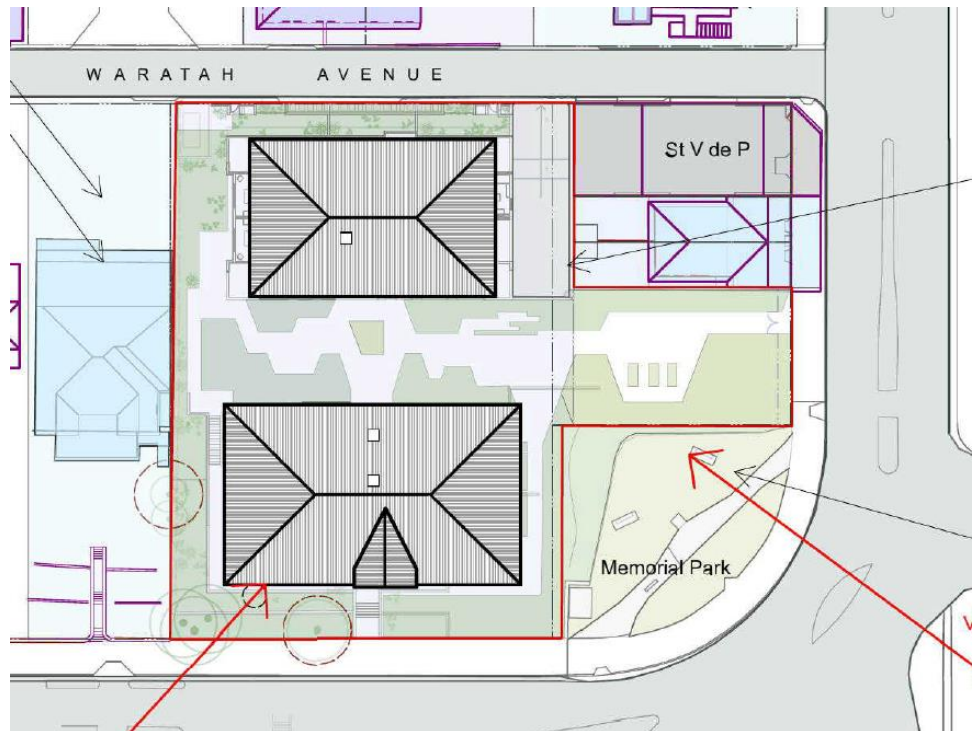
Original photomontage (view from Waratah St / Lurline St intersection) (now superseded)



Original photomontage (view from Lurline St) (now superseded)

During the assessment of the proposed development and post public notification period, a number of design issues were raised with the applicant relating to the proposed height of the development, building form and character, vehicular access, waste management and the proposed landscaping strategy.

A series of discussions were held with the applicant's project team, particularly architect David Melocco, to discuss various design solutions to overcome the matters raised with the most recent meeting occurring on 13 March 2018. Subsequent to that meeting, a revised design and associated documentation was submitted on 19 April 2018.



Revised site plan



Revised elevation (east)





Revised photomontage (view from Lurline St / Waratah St intersection)



Revised photomontage (view from Lurline St)

**City wide infrastructure contribution**

Section 25J(3)(l) of the *Environmental Planning and Assessment Regulation 2000* stipulates that, regarding the determination of the cost of development for the purposes of calculating a section 7.12 contribution, the cost of any development that is provided as affordable housing is not to be included in any cost calculation.

Accordingly, as all units in the proposed development are proposed to be used for the purpose of affordable housing, an infrastructure contribution cannot be charged and is not payable.

A condition of consent is proposed which will ensure all units are used for affordable housing for a minimum of 10 years. This is the maximum amount of time which can be imposed under State Environmental Planning Policy (Affordable Rental Housing) 2009.

**Referral authorities**

Concurrence was sought and obtained from:

- WaterNSW

Relevant comments have been included in the report and conditions imposed.

**Notification period**

The application was notified to owners within a radius of approximately 150m and published in the local paper with submissions accepted from Wednesday 5 July to Friday 4 August 2017.

**Number of submissions**

Six submissions were received in response to notification of the original proposal.

**Summary of issues raised**

Issues raised:

- Problems associated with the concentration of low cost housing,

including impacts on nearby businesses.

- Excessive building height and the setting of a precedent.
- Imposing built form and poor design.
- Inconsistency with LEP standards, local character and heritage.
- Traffic and parking impacts.
- Acoustic impacts.
- Overshadowing.
- Removal of trees/habitat.
- Impact on adjoining park.
- Poor materials selection.
- Impact of rezoning site to R1 General Residential.

**Re-notification period**

Following considerations of submissions and negotiations with Council staff, a significantly revised proposal was submitted to Council on 14 December 2017. The revised design (24 units in 2 buildings) differed in many ways from the previous scheme and was therefore re-notified to ensure the community could provide comment.

The application was re-notified to owners within a radius of approximately 150m and to all previous submitters. Submissions were accepted from Wednesday 10 January to Thursday 8 February 2018.

**Number of submissions**

Two submissions were received in response to notification of the revised proposal.

**Summary of issues raised**

Issues raised:

- Problems associated with the concentration of low cost housing, including impacts on nearby businesses.
- Excessive building height and the setting of a precedent.
- Traffic and parking impacts.
- Acoustic impacts.
- Removal of trees/habitat.
- Impact on adjoining park.
- Poor materials selection.
- Impact of rezoning site to R1 General Residential.

**Summary of assessment issues**

Key issues determined in the assessment are:

- Building height.

- Building character.
- Retention of significant trees.

Assessment issues are detailed below.

## 2.2 Evaluation

The application has been assessed in accordance with *s4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act)*. Only those provisions relevant to the proposed development have been addressed.

### Environmental Planning Instruments – s4.15(1)(a)(i)

Permissibility for the proposed development is achieved via Clause 32 of Local Environmental Plan 2005 and Clause 2.3 of Blue Mountains Local Environmental Plan 2015. However, SEPP (Affordable Rental Housing) 2009 and SEPP No. 65 – Design Quality of Residential Apartment Development state that in the event of an inconsistency between these policies and another environmental planning instrument (which includes LEP 2005) these SEPP policies prevail to the extent of the inconsistency. Therefore, the below tables include an assessment against SEPPs followed by an assessment of the proposed development against relevant LEPs, including the provisions of LEP 2005.

### SEPP No. 65 – Design Quality of Residential Apartment Development

Part 4 of the SEPP requires Council to give consideration to the design quality of the development as evaluated against the nine design quality principles of the SEPP and the Apartment Design Guide (ADG). The relevant assessment is provided below.

#### Design Quality Principles

Principle	Discussion	Compliance Y/N
Principle 1 – Context and neighbourhood character	<p>The area in which the site is located is a higher density, town centre locality containing a mix of residential and commercial uses with larger residential flat buildings and guest houses dominating the area. These are generally well articulated buildings with hipped or gabled roofs and prominent entrances. Key buildings in the vicinity which help define local character include buildings on both Waratah Street and Lurline Street including the Clarendon Hotel, Raynton House and the former Presbyterian Church. To the west and south of the site, are the Katoomba Motel and Gorleen house, both of which are prominent buildings. However, the immediate locality, including the site itself and adjacent park, is very 'leafy' with significant vegetation breaking up these larger built elements.</p> <p>The proposal is considered to successfully respond to this context through the provision of two large but well-articulated apartment</p>	Y

	<p>buildings within a landscaped setting. Each building incorporates a steep pitched hipped roof, a common built element in the area, and further articulation and materiality which echo architectural detailing and finishes of the historic guesthouses and flat buildings in and around Lurline Street. This includes a gabled roof and prominent entry on Lurline Street which will give this frontage a sense of address.</p> <p>The landscaped entry off Waratah Street, as well as the landscaped building setbacks and retention of significant trees in the interface with Dr Alex Allen Park will retain and enhance the prominent greenery which currently characterises the south west corner of the Lurline Street / Waratah Street intersection.</p>	
Principle 2 – Built form and scale	<p>The proposal is divided into two separate blocks with appropriate separation between each and surrounding buildings, distributing the building mass across the site evenly. The roofs over both blocks are traditional hipped form reflecting the dominant roof type of the surrounding guest houses and apartment blocks.</p> <p>The building forms are broken horizontally by a division of materials, the top level being light weight weatherboard type profile to reflect the prevalent architectural character of taller buildings in the Katoomba area. All building blocks are also articulated vertically by recessed balconies placed one above the other to provide substantial breaks in the building mass. Further, inset balconies also protrude from the main building facade to enhance building articulation. Corner balconies with no structure to external corners reduce the impact of bulk and scale.</p> <p>The bulk and scale of the eastern block is consistent with surrounding buildings with particular cues taken from the guest houses and apartment blocks on the east side of Lurline street facing Kingsford Smith Park. These buildings present a solid stone base above a high planted embankment similar to the proposed eastern elevation. The roof form of the eastern building is broken with a gable feature over the Lurline Street Entry.</p> <p>The western block facing Waratah Avenue is separated from both the east block and the block across Waratah Avenue by 12m. It is set two levels higher than the eastern building as a representation of the natural topography of the site. From Waratah Avenue it presents as a three storey building with the third level substantially set back on four sides with a traditional hipped roof over.</p> <p>The form and scale of the proposed buildings are considered appropriate for the existing context and desired future character of this precinct of Katoomba.</p>	Y

Principle 3 – Density	<p>The proposed residential flat buildings are in a locality serviced by frequent local and regional bus services and are in close proximity to Katoomba Station. The site is also in close proximity to all services and amenities, including entertainment, retail, health and education.</p> <p>The design achieves a high level of amenity for each apartment, and does not unreasonably compromise the amenity of neighbouring properties or the surrounding area, including Dr Alex Allen Park.</p> <p>The proposal also complies with the applicable floor space ratio control (FSR). The proposed gross floor area of 1,866m<sup>2</sup> equates to an FSR of 0.69:1, which is below the LEP 2005 maximum of 0.8:1 and well below the 1.3:1 maximum awarded under SEPP (Affordable Rental Housing) 2009.</p> <p>The proposed density is therefore considered appropriate for the site and locality.</p>	Y
Principle 4 – Sustainability	<p>A BASIX certificate has been submitted with the application. The development is generally consistent with ADG requirements for solar access and cross ventilation to apartments (see below). Capture and reuse of rainwater for the irrigation of landscaping is proposed. Bioretention basins are proposed to ensure rainwater leaving the site does not pollute downstream waters. WaterNSW has assessed the development as being capable of achieving a neutral or beneficial effect on downstream receiving waters subject to conditions of consent being complied with. The proximity of the site to local services and retail opportunities means residents are highly likely to walk rather than drive a private vehicle for a large proportion of trips.</p>	Y
Principle 5 – Landscape	<p>A concept landscape plan has been submitted. A more detailed landscape plan will be required prior to the release of a construction certificate. Council's Landscape Assessment Officer has identified a range of issues that must be appropriately addressed. However, at a conceptual level, the proposed landscaping is considered a suitable design.</p> <p>The overall landscaping solution for the site provides for an open landscaped central area with privacy from the street, and perimeter planting to retain the leafy character of the streetscape.</p> <p>The proposal will result in the removal of a number of trees. However the submitted landscape plan has been annotated by Council's Landscape Assessment Officer which will result in these being replaced with more appropriate species.</p> <p>The eastern building facing Lurline Street is set back from the</p>	Y



	<p>street approximately 6.5m, providing for significant landscaping between the street boundary and the building. Importantly, some significant trees on the interface with Dr Alex Allen Park and Lurline Street are proposed to be retained.</p> <p>Communal open space areas are designed to accommodate a range of uses and opportunities for residents to meet in a variety of settings.</p>	
Principle 6 – Amenity	<p>The principle states that optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</p> <p>The proposal provides good amenity for future occupants. The proposed dwellings are of an adequate size, with sufficiently large living areas and appropriate access to sunlight and ventilation. Landscaped communal open space areas provide additional amenity to occupants.</p> <p>Building separation distances, both between the two proposed buildings and from adjoining buildings, contribute to the achievement of both internal and external amenity.</p> <p>The proportion of accessible and adaptable dwellings proposed is considered insufficient and this is discussed elsewhere in this report. Despite this matter, the design provides for a good amenity outcome.</p>	Y
Principle 7 – Safety	<p>The main pedestrian entrance to the site is via Waratah Street. This entry is on a significant pedestrian thoroughfare. The main access to both apartment buildings is via one common circulation spine with landscape seating areas, a community garden and a lighting scheme providing opportunities for passive surveillance at ground level and opportunities for people to interact.</p> <p>The circulation spine and associated landscaped seating areas are visible from apartments, balconies and windows off common hallways above. This will act as further surveillance of these areas.</p> <p>The applicant has stated that intercom access will be provided at the entry to each apartment building and that the car park entry will be secured with an electronically controlled overhead roller door.</p> <p>The proposal is considered to provide a suitable response to safety and security principles.</p>	Y
Principle 8 – Housing diversity and social	<p>The application is made under the provisions of the Affordable Rental Housing SEPP and it is this principle which underlies the</p>	Y

interaction	<p>proposal. The 26 dwellings will be either one or two bedrooms, and provide housing stock which is both affordable and of a type which is limited in the Blue Mountains Local Government Area.</p> <p>The landscaped design of the central courtyard and community garden has been well considered and will provide good opportunities for incidental interactions and common gatherings.</p>	
Principle 9 – Aesthetics	The proposed development is considered a good architectural outcome for the site. The proposed buildings borrow prominent elements from surrounding buildings in the locality, and their landscaped setting will help the proposal to integrate with the surrounding streetscape and existing character.	Y
<b>Apartment Design Guide</b>		
Principle	Discussion	Compliance Y/N
3A Site Analysis	An adequate Site Analysis Plan and accompanying statement has been provided	Y
3B Orientation	The north-south orientation of the two buildings allows for solar access to the central landscaped courtyard and gardens. The orientation also allows for the buildings to ‘step down’ from west to east in response to site topography. Overshadowing, which is partly a function of building orientation, is discussed elsewhere in this report.	Y
3C Public domain interface	<p>The Lurline Street interface is dominated by a 6.5m landscaped setback. This will be punctuated by a prominent entry point and steps leading up to the eastern building. This is an appropriate interface typical of guesthouses and apartment buildings in the area.</p> <p>The Waratah Street interface will comprise a landscaped entry point with a low level fence. While located on a ‘main street’ with active frontages, the provision of a landscaped interface here is considered appropriate to complement the adjoining park.</p> <p>The Waratah Avenue frontage will be treated with indented landscaping on the public side of the new fencing. In combination with the plantings in the private open space areas of the ground floor apartments, this will soften and improve the amenity of this otherwise neglected laneway. The ground floor apartments fronting Waratah Avenue will also allow for some direct street entry improving activation of this frontage.</p> <p>While setback from the frontages, apartment balconies will</p>	Y

	<p>encourage surveillance of public domain interface areas.</p> <p>A condition of consent is proposed to achieve fences appropriate to their location and function so as to achieve a desirable public domain interface.</p>	
3D Communal and public open space	<p>The development proposes 867m<sup>2</sup> of communal areas which equates to 32% of the site. This complies with the minimum 25% set out in the ADG.</p> <p>The majority of communal open space is consolidated into the central courtyard which acts as the primary access route for the apartment buildings from Waratah Street and accommodates well designed seating and a vegetable garden. It is a well-designed, easily identified and usable area with good solar access.</p> <p>A solar access diagram prepared by Melocco and Moore Architects demonstrates that a minimum 50% of the proposed communal open space achieves a minimum of 2 hours of direct sunlight in mid-winter. This complies with the ADG requirement.</p>	Y
3E Deep soil zones	<p>The proposed deep soil zone covers an area of approximately 682m<sup>2</sup> which equates to 25% of the site area, exceeding the ADG requirement of 7%. The proposed deep soil zone area meets the ADF requirement for a minimum dimension of 6m. The distribution of deep soil zones allows the retention of significant trees on the interface with Dr Alex Allen Park and Lurline Street.</p>	Y
3F Visual privacy	<p>A 12m building separation is proposed between the eastern and western buildings. Privacy between the two proposed buildings will also be aided by the 1m level change between the buildings and the significant plantings proposed within the communal courtyard. A 12m building separation is also proposed between the western building and the Katoomba Motel across Waratah Avenue. These separation distances comply with the ADG separation distance requirements.</p>	Y
3G Pedestrian access and entries	<p>The proposed building entries are easily identified from either the public domain (on Lurline Street) or the communal courtyard. The main entrance off Waratah Street will be a particularly attractive gateway to the site. Access to the private open space of some ground floor apartments is provided on the Waratah Avenue frontage. Pedestrian access and entries are given priority over vehicular access.</p>	Y
3H Vehicle access	<p>Vehicle access is provided via the secondary frontage on Waratah Avenue. This location minimises its visual impact on the</p>	Y

	<p>area and minimises the potential for pedestrian conflict. The length and slope of the access ramp is not ideal however this is a function of site topography and relocating vehicle access to another frontage would have a detrimental impact on streetscape and local character. Headlight glare from vehicles exiting the site via the steep access ramp will not shine on any windows of nearby buildings. Sightlines for vehicles exiting the site are compromised by the existing St Vincent de Paul building however this is considered manageable due to the negotiated proposal for a 2m splay on the southern side. This will allow the exiting vehicle to stop at a slight angle to the road providing the driver with adequate visibility.</p>	
3J Bicycle and car parking	<p>Twenty-six (26) units are proposed comprising the following mix:</p> <ul style="list-style-type: none"> <li>• 8 x 1 bedroom</li> <li>• 18 x 2 bedroom</li> </ul> <p>The provisions of SEPP 65 requires 21.9 (22) car spaces for a residential flat building development of this mix.</p> <p>However, the proposal provides 13 car spaces, which meets the requirements of SEPP (Affordable Rental Housing) 2009. The Affordable Rental Housing SEPP applies to this development and prevails over the SEPP 65 requirements in this instance.</p> <p>The car park will be secured via a roller door. The louvered grill fronting the communal car park will allow for natural ventilation, screens the car park and is integrated into the landscape design.</p> <p>Bicycle parking is provided adjacent the entrances of both apartment buildings.</p>	N
4A Solar and daylight access	<p>73% of the proposed apartments will receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter. This meets the minimum requirement set by the ADG.</p> <p>One apartment (Unit B1) receives no direct sunlight between 9am and 3pm at mid-winter. This represents 3.8% of apartments and is less than the maximum of 15% prescribed by the ADG. Re-orientation of this unit is not possible and deletion is considered unnecessary given the general high amenity of this unit and the likelihood of morning light pre-9am.</p>	Y
4B Natural Ventilation	<p>80% of proposed apartments will be naturally cross ventilated. This meets the minimum requirement of 60% set by the ADG.</p>	Y
4C Ceiling heights	<p>Habitable rooms will have a minimum 2.7m floor to ceiling heights and non-habitable rooms have a minimum 2.4m floor to ceiling</p>	Y

	height. These ceiling heights comply with ADG requirements.	
4D Apartment size and layout	The proposed development complies with the minimum internal area requirements set out in the ADG. The proposed development also complies with the depth of habitable rooms as well as minimum bedroom and living areas.	Y
4E Private open space and balconies	<p>All proposed balconies comply with the minimum size and dimension requirements set out in the ADG.</p> <p>Two out of seven proposed ground floor apartments do not meet the 15m<sup>2</sup> minimum size requirement for private open space. Apartment 1 proposes 10.1m<sup>2</sup> of private open space. Apartment 5 proposes 12.8m<sup>2</sup> of private open space. The justification for these non-compliances has been provided via a SEPP 1 objection provided by the applicant for non-compliance with the LEP 2005 private open space standards. This objection is considered below.</p> <p>It is noted that the submitted architectural plans do not show that access is available between 'balconies' and the remainder of at grade private open space for units 6, 9 &amp; 10. The applicant has confirmed that this is a drafting error and no balustrade will be provided between the two areas.</p>	N
4F Common circulation and spaces	Each residential flat building proposes the provision of a single lift to serve the proposed development. Each core is accessed by a maximum of 5 units on each level. Circulation spaces are generously sized and naturally lit. Long corridors are avoided.	Y
4G Storage	Each unit has access to the minimum storage required by the ADG. Storage is located both in individual units (50%) and within the basement level of the western building and the lower ground level of the eastern building.	Y
4H Acoustic privacy	Separation distances between buildings are considered acceptable. Circulation areas are generally located above or below each other and generally share walls with non-habitable rooms.	Y
4J Noise and pollution	The subject site is not located near a major road or a railway line and the surrounding area is generally not a noisy environment.	Y
4K Apartment mix	Twenty-six (26) units are proposed comprising of the following mix:	Y

	<ul style="list-style-type: none"> <li>• 8 x 1 bedroom</li> <li>• 18 x 2 bedroom</li> </ul> <p>This is considered an appropriate mix for the location and the target demographic.</p>	
4L Ground floor apartments	Direct street access is provided for most ground floor units fronting Waratah Avenue. Private open space for ground floor units fronting Lurline Street is elevated above street level allowing for a degree of security without compromising passive surveillance.	Y
4F Facades	<p>The building facades are broken horizontally by a division of materials. Weatherboard is used on the upper levels over a more solid brick base. This approach borrows from the general architectural character of taller buildings in the Katoomba area. The buildings are also articulated vertically by recessed balconies placed one above the other to provide substantial breaks in the building mass. Further, inset balconies with weatherboard cladding protrude from the main brick facade to enhance building articulation. Corner balconies with no structure to external corners help to reduce the impact of bulk and scale. Windows are generally oriented vertically reflective of nearby guest houses and apartment blocks.</p> <p>To provide certainty that this approach will be followed, a condition of consent is proposed that requires a materials palette to be approved by Council prior to the issue of a construction certificate.</p>	Y
4N Roof design	The roofs of both buildings are traditional hipped form reflecting the dominant roof type of nearby guest houses and apartment blocks. Consistent with other roof forms in the area, the roof form of the eastern building is broken with a gable feature over the Lurline Street entry. Skylights have been integrated into the roof design. The plans indicate that lift overruns are fully incorporated into the design and do not protrude from roof and this has been confirmed by the applicant.	Y
4O Landscape design	<p>A concept landscape plan has been submitted. A more detailed landscape plan will be required prior to the release of a construction certificate. Council's Landscape Assessment Officer has identified a range of issues that must be appropriately addressed. However, at a conceptual level, the proposed landscaping is considered a suitable design.</p> <p>The overall landscaping solution for the site provides for an open</p>	Y

	<p>landscaped central area with privacy from the street, and perimeter planting to retain the leafy character of the streetscape.</p> <p>The proposal will result in the removal of a number of trees. However the submitted landscape plan has been annotated by Council's Landscape Assessment Officer which will result in these being replaced with more appropriate species.</p> <p>The eastern building facing Lurline Street is set back from the street by 6.5m, providing for significant landscaping between the street boundary and the building. Importantly, some significant trees on the interface with Dr Alex Allen Park are proposed to be retained. Indeed the retention of these trees shaped negotiations and the revised design. Conditions of consent are proposed which will ensure appropriate management of significant trees through the construction process.</p> <p>Communal open space areas are designed to accommodate a range of uses and opportunities for residents to meet in a variety of settings.</p>	
4P Planting on structures	No planting on structures is proposed.	N/A
4Q Universal design	The applicant has stated that all units to the proposed development will be constructed to the silver level standards of the Liveable Housing Design guidelines exceeding the requirement set by the ADG.	Y
4R Adaptive reuse	The proposed development involves the creation of two residential flat buildings on a vacant site.	N/A
4S Mixed use	The proposed is a single use residential development.	N/A
4T Awnings and signage	No awnings are proposed.	N/A
4U Energy efficiency	<p>A valid BASIX certificate has been submitted with the application which will ensure a degree to energy efficiency is achieved. Rooms with similar functions are generally grouped together resulting in more efficient heating and cooling. The development is generally consistent with ADG requirements for solar access and cross ventilation to apartments. No communal clothes drying areas are proposed however the applicant has suggested that each units area of private open space will be capable of accommodating clothes drying.</p>	Y

4V Water management and conservation	<p>A valid BASIX certificate has been submitted with the application which will ensure potable water use is minimised. Capture and reuse of rainwater for the irrigation of landscaping is proposed. WaterNSW has assessed the development as being capable of achieving a neutral or beneficial effect on downstream receiving waters subject to conditions of consent being complied with.</p>	Y
4W Waste management	<p>Demolition and construction:</p> <p>A Waste Management Plan has been provided in support of the proposal which outlines how demolition and construction waste will be managed. An acceptable demolition and construction waste sorting areas site plan has been provided.</p> <p>Operation:</p> <p>A garbage bin storage area for 18 x 240 litre mobile bins is proposed for the southern side of the western building and will generally not be visible from the public domain or the communal landscaped courtyard. A bin collection area for 18 x 240litre mobile bins has been negotiated for the Waratah Avenue frontage which will ensure bins left out for collection do not impact on the function of the street/laneway. The route from the bin storage area to the collection point is via the car park and vehicle access ramp which is not ideal. However, to prevent the collection area becoming a permanent bin storage area, a condition of consent requiring bins to be returned in a timely fashion following collection is included at Part 3 to this report.</p> <p>Proposed bin numbers are as follows:</p> <ul style="list-style-type: none"> <li>• 10 general waste bins (red) collected weekly</li> <li>• 6 recycling bins (yellow) collected fortnightly</li> <li>• 2 green waste bins (green) collected fortnightly</li> </ul> <p>Based on Council's standard waste service, Council's Waste and Resource Management Coordinator has identified that the proposed number of recycling bins is insufficient. The potential exists to increase the number of recycling bins by two without needing to redesign the bin collection area and negatively impacting the streetscape. This is possible as the bin collection area has been designed to accommodate 18 bins while under the current proposal a maximum of only 16 bins (red and yellow) will be out for collection at any one time. A condition of consent is recommended in Part 3 of this report to ensure this occurs and that the bin storage area is increased to accommodate twenty bins including the additional two bins.</p> <p>An adequately sized bulky waste storage area is included in the car park area adjacent to the bin storage area.</p>	Y





	<p>This clause also requires that the Floor Space Ratio (FSR) of the development complies with the maximum permitted on the land, and provides for a bonus FSR of 0.5:1 for development where the percentage used for affordable housing is 50% or higher.</p> <p>The maximum allowable FSR within the VT-KA02 – Lurline Street North Precinct is 0.8:1. When added to the bonus 0.5:1 allowable under the ARHSEPP, the maximum FSR permitted on the site is 1.3:1.</p> <p>The site area calculated for only the Lurline street property (Lot 5, DP 1145606 and Lot 1, DP 810883) is 2,319.2m<sup>2</sup>. The proposal is for a GFA of 1,866m<sup>2</sup>, which equates to an FSR of 0.8:1.</p> <p>The Waratah Street portion of the site contains no built elements.</p>	Y
14 Standards that cannot be used to refuse consent	<p>Clause 14(1)(b) <i>Site Area</i> requires a minimum site area of 450m<sup>2</sup>. The development site has an area of over 2,695m<sup>2</sup>.</p> <p>Clause 14(1)(c) <i>Landscaped Area</i> states that a development application cannot be refused if made by a social housing provider and if 35m<sup>2</sup> of landscaped area per dwelling is provided. The proposed development achieves a landscaped area of approximately 1,117m<sup>2</sup> easily achieving this requirement.</p> <p>Clause 14(1)(d) <i>Deep Soil Zones</i> requires that the deep soil zone occupies 15% of the site, each part having a minimum dimension of 3 metres, and two-thirds be located at the rear of the site. The proposed deep soil zone covers an area of approximately 682m<sup>2</sup> which equates to 25% of the site area. The proposed deep soil zone area meets the requirement for a minimum dimension of 3m. As the site straddles three street frontages the rear of the site is not easily identified. Subject to appropriate conditions of consent, the distribution of deep soil zones is considered appropriate in that it achieves landscaping objectives and allows for the retention of significant trees on the interface with Dr Alex Allen Park and Lurline Street.</p> <p>Clause 14(1)(e) <i>Solar Access</i> states that a development application cannot be refused if 70 percent of living rooms and private open space areas receive a minimum of 3 hours direct sunlight between 9am-3pm in mid-winter. 46% of the dwellings receive at least 3 hours of solar access. However it is noted that 73% of dwellings will receive at least 2 hours of direct sunlight between 9am and 3pm in mid-winter which complies with SEPP65 requirements. This is considered acceptable.</p> <p>Clause 14(2)(a) <i>Parking</i> requires that development on behalf of a social housing provider in an accessible area provides parking at the following rates:</p> <ul style="list-style-type: none"> <li>• 0.4 spaces per 1 bedroom dwelling</li> <li>• 0.5 spaces per 2 bedroom dwelling.</li> </ul> <p>Based on the dwelling sizes proposed, a total of 12.2 (13) spaces are required. 13 spaces have been provided within the</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>N</p> <p>Y</p>

	<p>basement/undercroft parking level of the western building.</p> <p>Clause 14(2)(b) <i>Dwelling Size</i> requires that each dwelling has the following minimum gross floor area:</p> <ul style="list-style-type: none"> <li>• 1 bedroom = 50m<sup>2</sup></li> <li>• 2 bedrooms = 70m<sup>2</sup>.</li> </ul> <p>All proposed dwellings comply with these minimum sizes.</p>	Y
15 Design requirements	As per clause 15(2), the design requirements called up by this clause do not apply to the subject proposal as design is regulated by SEPP65.	N/A
16A Character of local area	This clause states that the consent authority cannot consent to development unless it has considered whether or not the design of the development is compatible with the character of the local area. The development is consistent with other built forms in the locality and it is compatible with the character of the local area based on its design, siting and materials/finishes.	Y
17 Must be affordable housing for 10 years	<p>This clause requires that for 10 years from the date of the Occupation Certificate, the dwellings are to be used for the purposes of affordable housing, and will be managed by a registered community housing provider.</p> <p>Amelie Housing is a registered community housing provider. A condition will be included in any consent requiring that a restriction be registered on the title of the land in accordance with section 88E of the Conveyancing Act 1919 that will ensure this requirement is met.</p>	Y
18 Subdivision	This DA does not propose subdivision but the consolidation of lots.	N/A

#### State Environmental Planning Policy No 1 – Development Standards

##### SEPP 1 requested

The applicant has requested a variation to the following development standards contained within Blue Mountains Local Environmental Plan 2005:

- Building height (Schedule 1, Part 4, Division 7 Katoomba Precinct VT-KA02, Clause 3.1)
- Private open space (Clause 67)
- Accessibility and adaptability of dwellings (Clauses 108 & 109)

These requests are considered separately in the tables below.

#### SEPP No 1 – Development Standards (Building height)

<b>Development standard objected to</b>	The applicant has provided a written objection to the 8m (or 6.5m at eaves) building height control applying to the site which is contained within Blue Mountains Local Environmental Plan 2005 (Schedule 1, Part 4, Division 7 Katoomba Precinct VT-KA02, Clause 3.1).
<b>Nature and extent of non-compliance</b>	<p>The proposed western building has a building height of 13.16m when measured from natural ground level and exceeds the 8m height control by 5.16m. This is a breach of 64.5%.</p> <p>The proposed eastern building has a building height of 10.95m when measured from natural ground level and exceeds the 8m height control by 2.95m. This is a breach of 36.9%.</p>
<b>Objectives of the standard</b>	<p>The building height control is one of four building envelope controls which aim to achieve the Katoomba Precinct (VT-KA02) vision statement and precinct objectives. The precinct vision statement reads as follows:</p> <p><i>Development consolidates the higher density built form and tourist land uses within this area. The consolidation of land uses assists in providing a connection between the Katoomba town centre and Echo Point. Built form is of a comparatively denser scale and takes advantage of the unique views available to the east over the Jamison Valley. Architectural detailing reflects forms and finishes present in the historic guesthouses and flat buildings typical in and around Lurline Street.</i></p> <p>The precinct objectives are as follows:</p> <ul style="list-style-type: none"> <li><i>(a) To encourage development that complements the existing built form and that responds to the topography of the location.</i></li> <li><i>(b) To encourage active street frontages that enhance pedestrian amenity.</i></li> <li><i>(c) To promote pedestrian linkages to the town centre.</i></li> </ul>
<b>Justification</b>	<p>The applicant's submitted SEPP 1 objection provides statements intended to justify non-compliance with the standard.</p> <p>For the purposes of this assessment, strict compliance with the 8m (or 6.5m at eaves) building height control is considered <b>unreasonable</b> for the following reasons:</p> <ul style="list-style-type: none"> <li>○ A significant proportion of the exceedance is a result of the development incorporating steep pitched roofs. The height from the eaves to the ridge is some 2.5m for both buildings. Steep pitched roofs have been incorporated into the design in response to the VT-KA02 precinct vision statement which encourages architectural detailing and finishes that reflect the historic guesthouses and flat buildings in and around Lurline Street. A context analysis undertaken by Melocco &amp; Moore Architects on behalf of the applicant successfully demonstrates the characteristic architectural styles in and around Lurline Street, which include steep</li> </ul>

pitched hipped and gable roofs.

- The upper floor on the western building, which is responsible for a significant portion of the breach appears lightweight relative to the masonry façade of the floors below. Along with the roof above it, the upper floor is also setback from the building line which adds articulation and visual interest. If this floor were removed, it is highly likely the applicant would delete these design elements and a squat, overly solid development with a more overbearing roof element may result. For this reason the additional floor is considered to result in an improved built form outcome.

Strict compliance with the 8m (or 6.5m at eaves) building height control is considered **unnecessary** for the following reasons:

- The site demonstrates a unique combination of attributes meaning a significant non-compliant development can be accommodated without compromising the developments ability to complement existing buildings in the area and without unacceptable impacts to surrounding properties.
- The development successfully responds to site topography by stepping down from west to east.
- The development will generally appear as a two storey residential flat building when viewed from Lurline Street, consistent with other guesthouses and flat buildings in and around Lurline Street.
- The top storey of the western building is set back, reducing the perceived height of the building, particularly when viewed from Waratah Avenue.
- The largest exceedance, being on the eastern side of the western building, will generally only be perceived from within the site.
- The retention of significant trees (noted as 8, 13 and 14 on the submitted arborist report) contributes to the landscape buffer and aids in softening the proposed built form.
- The exceedance of the building height control will not unreasonably impact on the amenity of neighbouring properties. Shadow diagrams have been provided by the applicant that purports to show that the proposed development will not unreasonably obscure sunlight to habitable rooms or private open space of the property to the south during winter months.
- The exceedance of the building height control will result in a built form outcome that is generally consistent with the existing character of the area and the desired future character of the area as articulated in the precinct vision statement and precinct objectives.
- The exceedance of the building height control will not affect the achievement of relevant zone objectives, particularly:

*(c) To ensure that development contributes to a strengthening of the landscape character and visual setting along significant tourist routes; and*

	<i>(d) To retain and enhance the established traditional streetscape character and heritage values, including mature vegetation and gardens that contribute to the attraction of the area for residents and visitors.</i>
<b>State and regional matters</b>	The non-compliance with the development standard does not raise any matter of significance for State or Regional environmental planning.
<b>Public benefit</b>	There is no public benefit in maintaining the planning controls adopted by the environmental planning instrument in this instance. The integrity of the building height control is not considered to be compromised by this variation, in particular because the objectives of the development standard are met. The unique site attributes which combine in support of the scale of the development is unlikely to be realised on other development sites subject to this standard.
<b>Conclusion</b>	The SEPP 1 objection to the building height control is well founded and supported in this instance. The provision of flexibility is considered to be consistent with the aims of SEPP 1, and the non-compliance does not hinder the achievement of the objectives of the building height standard.

#### SEPP No 1 – Development Standards (Private open space)

CEP 1 No 1 Development Standards (Private Open Space)																													
<b>Development standard objected to</b>	<p>The applicant has provided a written objection to the private open space standards contained within Blue Mountains Local Environmental Plan 2005 (Clause 67). In particular, the objection relates to the 25m<sup>2</sup> and 40m<sup>2</sup> minimum area of private open space requirement for one-bedroom and two-bedroom ground floor apartments. As detailed above, there is a stated minimum area for private open space in the ADG which is less than that required by LEP 2005. Two units are proposed with less private open space than the ADG requirement.</p>																												
<b>Nature and extent of non-compliance</b>	<p>The development proposal includes seven ground floor apartments. Five of these ground floor apartments (units B1, B2, 1, 5 and 6) do not comply with the minimum private open space requirements set out at Clause 67.</p> <table><tr><th colspan="4">Ground floor apartments</th></tr><tr><th>Unit no.</th><th>Bedrooms</th><th>Proposed POS</th><th>Required POS</th></tr><tr><td>B1</td><td>2</td><td>16.93m<sup>2</sup></td><td>40m<sup>2</sup></td></tr><tr><td>B2</td><td>1</td><td>15.7m<sup>2</sup></td><td>25m<sup>2</sup></td></tr><tr><td>1</td><td>2</td><td>10.10m<sup>2</sup></td><td>40m<sup>2</sup></td></tr><tr><td>5</td><td>2</td><td>12.8m<sup>2</sup></td><td>40m<sup>2</sup></td></tr><tr><td>6</td><td>2</td><td>32.5m<sup>2</sup></td><td>40m<sup>2</sup></td></tr></table>	Ground floor apartments				Unit no.	Bedrooms	Proposed POS	Required POS	B1	2	16.93m <sup>2</sup>	40m <sup>2</sup>	B2	1	15.7m <sup>2</sup>	25m <sup>2</sup>	1	2	10.10m <sup>2</sup>	40m <sup>2</sup>	5	2	12.8m <sup>2</sup>	40m <sup>2</sup>	6	2	32.5m <sup>2</sup>	40m <sup>2</sup>
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	<table><tr><td>9</td><td>2</td><td>42m<sup>2</sup></td><td>40m<sup>2</sup></td></tr><tr><td>10</td><td>1</td><td>28m<sup>2</sup></td><td>25m<sup>2</sup></td></tr></table>	9	2	42m <sup>2</sup>	40m <sup>2</sup>	10	1	28m <sup>2</sup>	25m <sup>2</sup>
9	2	42m <sup>2</sup>	40m <sup>2</sup>						
10	1	28m <sup>2</sup>	25m <sup>2</sup>						
	<p>All apartments with balconies comply with the minimum standards for balconies.</p>								
<b>Objectives of the standard</b>	<p>There are no stated objectives for the ‘private open space and gardens for certain residential development’ standards within LEP 2005. However, DCP 2015 contains the same standards and includes the following objective:</p> <p><i>To ensure that private open space functions as an accessible extension to the living area of a dwelling, is designed to protect privacy and optimise solar access, and allow for passive recreation.</i></p> <p>While DCP 2015 is not a mandatory consideration in this matter, it was drafted to complement LEP 2015 which is intended to represent a translation of LEP 2005 provisions into the Standard Instrument format. For this reason, and in the absence of a direct statement of intent, the above objective can reasonably be considered to reflect the intent of the LEP 2005 private open space provisions.</p>								
<b>Justification</b>	<p>The applicant’s submitted SEPP 1 objection provides statements intended to justify non-compliance with the standard.</p> <p>For the purposes of this assessment, strict compliance with the minimum POS standards for the five non-compliant ground floor apartments is considered <b>unreasonable</b> for the following reasons:</p> <ul style="list-style-type: none"><li>• The State government’s Apartment Design Guide prescribes a minimum POS of 15m<sup>2</sup> for ground floor apartments. Only units 1 (10.10m<sup>2</sup> of POS) and 5 (12.8m<sup>2</sup> of POS) are non-compliant with this standard. All other ground floor apartments comply with the ADG standard.</li><li>• Regarding units 1 and 5, compliance would see the expansion of private open space at the expense of communal landscaping. For units 1 and 5 this would encroach on the central courtyard which is considered a vital component of the development which contributes to the amenity of the development for all prospective residents. Also of note is that the POS of units 1 and 5 ‘borrow’ some of the amenity of the central courtyard by function of their proximity.</li><li>• If made to be compliant, the private open space for units B1 and B2 would likely undermine the communal landscaped area fronting Lurline Street. The overall acceptability of the proposal relies heavily on its landscaped setting which contributes to the attraction of the area for both residents and visitors but also to screen and soften the proposed built form.</li><li>• If made to be compliant, the private open space for unit 6 would likely encroach upon the communal landscaping proposed for Waratah Lane as well as the proposed garbage bin collection area. Both of these elements have been negotiated to improve the overall amenity of the development and reduce its impact.</li></ul>								

	<p>Strict compliance with the minimum POS standards for the five non-compliant ground floor apartments is considered <b>unnecessary</b> for the following reasons:</p> <ul style="list-style-type: none"> <li>• Each non-compliant area of private open space is accessible from a large living area and well located taking into consideration outlook, solar access and usability.</li> <li>• The large communal central courtyard means that occupants of units with non-compliant private open space can still access opportunities for passive recreation.</li> <li>• With the possible exception of units 1 and 5, the non-compliant areas of private open space are designed to maximise privacy through fencing (unit 6) or through utilising the sites topography and landscaping (units B1 and B2).</li> <li>• For the above reasons the non-compliant areas of private open space are considered to achieve the objectives of the standard.</li> <li>• The attainment of the Village-Tourist zone objectives are not affected by the proposed non-compliances.</li> </ul>
<b>State and regional matters</b>	The non-compliance with the development standard does not raise any matter of significance for State or Regional environmental planning.
<b>Public benefit</b>	There is no public benefit in maintaining the planning controls adopted by the environmental planning instrument and those controls are not considered to be compromised by this variation.
<b>Conclusion</b>	The variation to the private open space standard is supported in this instance. The SEPP 1 objection is considered well-founded. The provision of flexibility in this instance is considered to be consistent with the aims of the SEPP 1, and the non-compliance does not hinder the achievement of the assumed objectives of the standard.
<b>SEPP No 1 – Development Standards (Accessibility and adaptability of dwellings)</b>	
<b>Development standard objected to</b>	<p>The applicant has provided a written objection to the accessibility and adaptability of dwellings standards contained within Blue Mountains Local Environmental Plan 2005.</p> <p>In the case of development comprising five or more dwellings or accommodation suites, Clause 108 requires at least 20 per cent of all dwellings or accommodation suites (to the nearest whole number) to be accessible to people with a disability.</p> <p>Clause 109 requires all dwellings within multi-dwelling housing to be adaptable in the manner prescribed in the relevant part of the Council's Better Living DCP. Better Living DCP Part D4.12 requires all dwellings to be adaptable in accordance with AS4299 – Adaptable Housing – Adaptable House Class A.</p>



<b>Nature and extent of non-compliance</b>	<p>Clause 108 requires at least 20% of all dwellings to be accessible. This equates to a minimum requirement that 6 of the 26 proposed units must be accessible. Based on the information provided by the applicant, the development will not include any accessible units.</p> <p>Clause 109 requires all dwellings to be adaptable in accordance with AS4299 – Adaptable Housing – Adaptable House Class A. The proposal does not include any dwellings that meet this requirement. However, based on the information provided by the applicant, two dwellings are capable of complying with AS4299 – Adaptable Housing – Adaptable House Class C.</p>
<b>Objectives of the standard</b>	<p>The accessibility requirements at clause 109 do not have a stated objective. However using provisions within Part C5.7 of the Better Living DCP as guidance, the accessibility objectives can reasonably be considered to be to ensure development is designed such that people with disabilities are able to exercise their rights as Australian citizens in the same way as other members of the community; and to create a barrier free, universally accessible environment in housing, public areas and parking areas.</p> <p>The adaptability requirements at clause 109 do not have a stated objective. However using provisions within Part C5.6 of the Better Living DCP as guidance, the adaptability objectives can reasonably be considered to be to ensure housing is designed in such a way that it will easily adapt to suit the needs of the widest possible range of people such as:</p> <ul style="list-style-type: none"> <li>• People who wish to work from home</li> <li>• People who have physical disabilities</li> <li>• People who are older</li> <li>• People whose needs change as time passes</li> </ul>
<b>Justification</b>	<p>The applicant's submitted SEPP 1 objection provides statements intended to justify non-compliance with the standards. There appears to be some minor confusion in the document regarding the difference between accessible and adaptable housing with the terms sometimes used interchangeably. There is also some inconsistency with the content of the supplied access report. Further, the SEPP 1 objection relies heavily on assessment against the Liveable Housing Design Guidelines which are understood to be voluntary guidelines with no legal status.</p> <p>Notwithstanding, for the purposes of this assessment, strict compliance with the relevant LEP 2005 accessibility standard is considered <b>unreasonable</b> and <b>unnecessary</b> for the following reasons:</p> <ul style="list-style-type: none"> <li>• When LEP 2015 Amendment no. 1 comes into force, LEP 2005 will have no status and accessibility requirements will be determined by DCP 2015 and the BCA.</li> </ul>

	<ul style="list-style-type: none"> <li>• The BCA does not require the provision of accessible units in Class 2 buildings.</li> <li>• If the BCA does not require any units in this type of development to be accessible, there is merit in the argument that the LEP requirement for six units is excessive and onerous.</li> <li>• A condition of consent is proposed which will ensure compliance with the Disability (Access to Premises – Buildings) Standards 2010.</li> </ul> <p>Strict compliance with the relevant LEP 2005 adaptability standard is considered <b>unreasonable</b> and <b>unnecessary</b> for the following reasons:</p> <ul style="list-style-type: none"> <li>• The access report provided by the applicant has addressed Adaptable House Class C in AS4299 (all essential features) as it appears that the consultants have considered DCP 2015 instead of Better Living DCP to identify the adaptable class required. The access consultant has concluded that the current design is capable of complying with Class C in AS4299. However, it appears from the detail within the report that this only relates to two units.</li> <li>• The essential features (Class C) in AS4299 are considered to be the critical factors for adapting the units, as they include circulation spaces in bathrooms, laundries, kitchens, doorways and the like.</li> <li>• When LEP 2015 Amendment no. 1 comes into force, LEP 2005 will have no status and Class C requirements will be applicable to 8 of the 26 units via Part E3.2 of DCP 2015.</li> <li>• The BCA contains no requirements for adaptable housing.</li> <li>• A condition of consent is proposed which will require at least 8 units to be adaptable in accordance with Adaptable House Class C in AS4299. This will ensure the minimum standard in DCP 2015 is achieved.</li> </ul> <p>The proposed conditions of consent relating to accessibility and adaptability are considered necessary to ensure achievement of the following LEP 2005 objective:</p> <p><i>(i) To promote the provision of accessible, diverse and affordable housing options to cater for the changing housing needs of the community.</i></p>
<b>State and regional matters</b>	The non-compliance with the development standard does not raise any matter of significance for State or Regional environmental planning.
<b>Public benefit</b>	There is public benefit in maintaining the planning controls adopted by the environmental planning instrument. However the controls will soon be superseded by less onerous standards and, on balance and subject to proposed conditions of consent, the overall public benefit provided by the development is considered to outweigh these non-compliances. There is little risk of compromising the controls, particularly given that they will soon be superseded when LEP 2015 Amendment 1 comes into force.

<b>Conclusion</b>	The variation to the accessibility and adaptability standards is supported in this instance subject to the proposed conditions of consent being applied. The SEPP 1 objection is considered well-founded. The provision of flexibility in this instance is considered to be consistent with the aims of SEPP 1.

#### **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

In accordance with Clause 6(1) of the SEPP, BASIX applies to the development as defined by the EP&A Regulation. A BASIX affected building is defined as one that contains one or more dwellings. A valid BASIX Certificate has been completed for the proposal in accordance with the provisions of this SEPP and is included with the application.

<b>Condition of consent</b>	A condition has been included for compliance with the commitments indicated in the certificate.
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#### **State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011**

Discussion	Compliance Y/N
<p>The property is identified as falling within a catchment under SEPP (Sydney Drinking Water Catchment) 2011 and the proposed development is a type where the concurrence of Water NSW is required.</p> <p>Water NSW has assessed the proposal as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented. Accordingly, concurrence has been issued for the development application and the required conditions are proposed to be integrated into the development consent.</p>	Y

#### **Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River**

Discussion	Compliance Y/N
The site is located within the sub-catchment of the Cox River, and therefore requires consideration under this plan. The development has been assessed against the planning considerations as set out in Clause 5 and 6 of SREP 20 and is considered acceptable. The proposal has been designed to comply with the general planning considerations and the specific planning policies and related recommended strategies which are applicable to the proposed development, including water quality, water quantity and urban development.	Y

<b>State Environmental Planning Policy No. 55 – Remediation of Land</b>	
Discussion	Compliance Y/N
Consideration has been given to whether the land is contaminated, as required by cl.7 of the SEPP. The land is not listed on Council's potentially contaminated land register and none of the activities that may cause contamination, listed in Table 1 of Planning NSW's Managing Land Contamination Planning Guidelines, are being or are known to have been carried out on the site.	Y

<b>Local Environmental Plan 2005 (LEP2005) &amp; Draft Local Environmental Plan 2013 (DLEP 2013)</b>
<p>The main portion of the site accommodating the two proposed residential flat buildings, being Lot 5, DP 1145606 and Lot 1, DP 810883, is subject to the provisions of LEP 2005.</p> <p>The following table is an assessment of the provisions in LEP 2005. The proposed development has also been assessed against the provisions of DLEP 2013 with discussion provided accordingly.</p> <p>Where a draft clause is equivalent to a clause under LEP 2005, the clauses are listed together and a single assessment undertaken. Clauses within DLEP 2013 which represent new policy, if any, are listed at the end of the table.</p> <p>The application has been assessed against the provisions of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development including The Apartment Design Guide, and the SEPP policy prevails in the event of any inconsistency between it and LEP 2005. Therefore, the following compliance table has noted any provision in LEP 2005 that is considered to yield to the provisions of SEPP 65.</p> <p>The smaller lot fronting Waratah Street, being Lot 1, DP 844231, is subject to the provisions of LEP 2015 and is separately assessed.</p>

<b>Part 1 Division 2 Planning principles</b>			
Clause	Standard	Discussion	Compliance Y/N
11	Ecologically sustainable development a) integration b) community involvement c) precautionary behaviour d) equity within & between generations e) continual improvement f) conservation of biological diversity & ecological integrity g) improved valuation &	The proposal is considered to meet the principles and practices of ecologically sustainable development. The proposal will not result in environmental degradation, while providing a viable economic use for the site, and a positive social outcome. A BASIX certificate has been submitted with the application. The development is generally consistent with requirements for solar access and cross ventilation to apartments. Capture and reuse of rainwater for the irrigation of landscaping is proposed. Bioretention basins are proposed to ensure rainwater leaving the site does not pollute downstream waters. The proximity of the site to	Y

	pricing of environment resources	local services and retail opportunities, as well as the limited parking supply, means residents are highly likely to walk rather than drive a private vehicle for a large proportion of trips.	
12	Principal objectives of LEP	<p>The proposal is considered to be in keeping with all relevant objectives. In particular:</p> <p><i>(a) To maintain the unique identity and values of the City as the “City within a World Heritage National Park”.</i></p> <p><i>(b) To meet the needs of residents, visitors and the business community through the provision of an appropriate balance of land uses and built forms that respond to the principles of ecologically sustainable development.</i></p> <p><i>(e) To preserve and enhance watercourses, riparian habitats, wetlands and water quality within the Blue Mountains, the Hawkesbury-Nepean River catchment and Sydney’s drinking water catchments.</i></p> <p><i>(h) To identify and retain the diverse built and landscape elements that contribute to the character and image of the Blue Mountains.</i></p> <p><i>(i) To promote the provision of accessible, diverse and affordable housing options to cater for the changing housing needs of the community.</i></p> <p><i>(m) To integrate development with transport systems and promote safe and sustainable access opportunities, including public transport initiatives, walking and cycling.</i></p>	Y
DLEP2013 1.2		<p>DLEP2013:</p> <p>As above. The objectives from LEP 2005 have been incorporated into the objectives of DLEP 2013.</p>	Y
<b>Part 2 Locality management</b>			
Clause	Standard	Discussion	Compliance Y/N

14	Locality Management within the Villages	This clause requires development to comply with provisions set out for the relevant village as set out in Schedule 1. The proposal has been assessed against the relevant provisions at Schedule 1, as required. See Schedule 1 assessment below.	N/A
Part 2 Div 2	Objectives of the zone	<p>The land is zoned Village – Tourist. The proposal is considered to be in keeping with zone objectives, being:</p> <ul style="list-style-type: none"> <li><i>(a) To allow opportunities for the development of a variety of tourist-orientated land uses and services within a predominantly residential area.</i></li> <li><i>(b) To allow for the consolidation of tourism-related land uses in existing major tourism precincts in the Blue Mountains.</i></li> <li><i>(c) To ensure that development contributes to a strengthening of the landscape character and visual setting along significant tourist routes.</i></li> <li><i>(d) To retain and enhance the established traditional streetscape character and heritage values, including mature vegetation and gardens, that contribute to the attraction of the area for residents and visitors.</i></li> <li><i>(e) To ensure that the building form and design of non-residential land uses do not unreasonably detract from the amenity of adjoining or adjacent residents or the existing quality of the environment by its scale, height, bulk or operation.</i></li> <li><i>(f) To only permit development that does not place unacceptable demands on infrastructure and services.</i></li> </ul> <p>While not a tourist use, the proposal will contribute to the strengthening of the visual setting within this part of Lurline Street, through a built form that shares many of the characteristics of other significant buildings in the area. The incorporation of significant landscaped elements fronting Waratah Street and Lurline Street allows for the retention and enhancement of mature vegetation and gardens that contribute to the attraction and existing character of the area.</p>	Y

		With reference to objective (f), the proposal is not considered likely to place unacceptable demands on infrastructure and services.	
DLEP2013 Landuse table		DLEP2013: As above. The land is zoned R1 General Residential under DLEP 2013. The zone objectives of the LEP 2005 Village-Tourist zone have generally been incorporated into the objectives for the R1 General Residential zone.	Y
32 Part 2 Div 3. Sch 8	Development permissible on subject land	The land is zoned Village – Tourist with the proposed development being defined as multi-dwelling housing. This use is permissible with development consent in the zone.	Y
DLEP2013 2.6 for subdivision Landuse table		DLEP2013: The land is zoned R1 General Residential with the proposed development being defined as a residential flat building. The use is permissible with consent in the zone.	Y

### Part 3 Assessing the site and environmental context

Clause	Standard	Discussion	Compliance Y/N
41-43	Site analysis	The application was accompanied by a site analysis plan, an SEE and other supporting documentation which accurately identify key built and natural attributes relevant to the site and its locality. It is considered that the revised proposal successfully responds to these attributes by being site responsive and seeking to integrate with the established character of the locality.	Y
44	Environmental impact	The site is located on the edge of the Katoomba Town Centre. The proposal does not require the removal of any significant vegetation community and will not result in impact on threatened species, watercourses or wetlands. Some loss of existing trees is inevitable with development of this site. However, the revised design includes substantial replacement planting and retains a number of significant trees. In this regarding, minimal impact	Y

		on the site's ecological function is expected as part of this development.	
DLEP2013 6.1		DLEP2013: As above.	Y
48	Protected Area – Water Supply Catchment	The site is located within the Sydney Drinking Water Catchment. WaterNSW has assessed the proposal as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented. Accordingly, concurrence has been issued for the development application and the required conditions are proposed to be integrated into the development consent.	Y
53	Retention and management of vegetation	<p>This clause requires the consideration of the retention of trees which provide ecological and environmental benefits and/or contribute to the streetscape character of the locality.</p> <p>Some loss of existing trees is inevitable with development of this site. However, the revised design includes substantial replacement planting and retains a number of significant trees. In particular, the significant trees which present to the Waratah /Lurline street intersection, being two Bunya Pine trees a Cupressus torulosa. Further, a number of trees are proposed to be retained along the Lurline Street frontage.</p> <p>The removal of some trees and the ability to retain others is supported by an Arboricultural Report submitted by the applicant, and also by the assessment of Council's Landscape Assessment Officer. Trees to be removed generally have low retention value or have a limited useful life expectancy.</p> <p>Conditions will be included in any consent, requiring the protection of the trees identified for retention and the safe removal of others taking into consideration the potential impact on existing retaining walls.</p>	Y
DLEP2013		DLEP2013:	Y



5.9 5.9AA		As above	
56	Site disturbance & erosion control	<p>As noted in the background to this report, the site appears to have accommodated a significant building in the past and the natural form of the site has been significantly modified. While significant cut and fill is proposed, it is generally contained to the building footprint and the development is generally considered to respond well to the topography of the site.</p> <p>A soil and sediment erosion management plan has been provided by the applicant. Further, conditions of consent are proposed to ensure sediment and erosion control measures are in place during construction.</p>	Y
DLEP2013 6.14		<p>DLEP2013: As above.</p>	Y
57	Stormwater management	<p>A stormwater management plan (SMP) has been provided by the applicant.</p> <p>Roof water is drained to rainwater tank 10m<sup>3</sup> in size. This is for landscape use only. The rainwater tank overflows into an adjacent on-site detention storage tank. The location of an outside tap in a suitable location will be required to be shown on construction certificate plans.</p> <p>The remainder of the hardstand areas drain to a bio retention basin (25m<sup>3</sup>) located in the central courtyard, which in turn drains to the OSD storage (23m<sup>3</sup>). The OSD discharges via a high early discharge arrangement, through a water quality treatment cartridge to the street gutter in Lurline Street.</p> <p>3 x enviropod pit filters are proposed to be provided to pits in the courtyard area.</p> <p>The tanks are located in a basement and are sealed. It is critical that they are properly maintained to ensure there are no blockages, as any overflows will surcharge out from pits in the courtyard areas.</p> <p>A maintenance manual and registration of a covenant will be required prior to the issue of the</p>	Y

		<p>occupation certificate. A structural design for the rainwater/OSD tank will be required with the construction certificate application.</p> <p>WaterNSW provided conditional concurrence dated 9/5/2018. They were approached to revisit some of their requirements, specifically:</p> <ul style="list-style-type: none"> <li>the requirement that council reassess water quality plans prior to the issue of the construction certificate</li> <li>Conditions requiring the bio retention basin to be directly connected to Waratah Street</li> </ul> <p>The conditions have now been amended to address these concerns:</p> <ul style="list-style-type: none"> <li>Condition 2 requires revised drainage plans to be approved by WaterNSW prior to the issue of the construction certificate by the certifier. Review by Water NSW will only relate to water quality treatment devices, and will not extend to OSD.</li> <li>The bio-basin will discharge as designed via the OSD.</li> </ul> <p>WaterNSW concurrence conditions require the submission and implementation of a soil and water management plan, so no further conditions in this regard are considered necessary. Water NSW has also included a condition requiring the preparation of an 'Operational Environmental Management Plan' (OEMP) for the stormwater management systems. This will include OSD so no additional condition is considered necessary.</p> <p>The onsite measures outlined in the SMP, in conjunction with the proposed conditions of consent, including those imposed by WaterNSW, will achieve effective stormwater management.</p>	
DLEP2013 6.9		<p>DLEP2013:</p> <p>As above.</p>	Y
58	Modification of land form	<p>As noted in the background to this report, the site appears to have accommodated a significant building in the past and the natural form of the site has been significantly modified. While significant modification of the existing land form is proposed (up to 4.5m of excavation in places), this is</p>	Y

		considered necessary to ensure adequate access and is considered supportable given the existing slope, the modified character of the land and that it is generally contained to the development footprint.	
DLEP2013 6.14		DLEP2013: As above.	Y
<b>Character and landscape assessment</b>			
Clause	Standard	Discussion	Compliance Y/N
60	Consideration of character and landscape	The proposed development's relationship with the existing character and landscape of the site and locality has been addressed under SEPP 65. In summary, it is considered that the revised proposal responds well to the established character of the area which is defined by significant but well-articulated buildings and the 'leafy' setting of the subject site and Dr Alex Allen Park.	N/A
DLEP2013 6.18, 6.21		DLEP2013: As above.	Y
66	Detailed landscape plan for certain residential development	A detailed landscape plan has been provided in support of the application. Subject to annotations proposed by Council's Landscape Assessment Officer and appropriate conditions of consent, the landscape plan submitted with the application incorporates planting that will promote a garden setting and enhance the streetscape of the surrounding area. An amended landscape plan is required prior to the release of the construction certificate.	Y
67	Private open space and gardens for certain residential development	Proposed areas of private open space comply with the provisions of this clause with the exception of minimum areas of private open space for ground floor apartments. The applicable minimum area of private open space, based on the number of bedrooms in the dwelling is 25m <sup>2</sup> for a one bedroom dwelling and 40m <sup>2</sup> for a two bedroom dwelling. The development proposes seven units that are located wholly or partly on the ground floor.	N – SEPP1

Five of the seven apartments are non-compliant with these minimum standards. However, SEPP 65 and the Apartment Design Guide contain a minimum area for private open space standard for ground floor apartments of 15m<sup>2</sup>. This is set out in the table below:

Ground floor apartments				
Unit no.	Beds	POS	LEP min	ADG min
B1	2	16.93m <sup>2</sup>	40m <sup>2</sup>	15m <sup>2</sup>
B2	1	15.7m <sup>2</sup>	25m <sup>2</sup>	15m <sup>2</sup>
1	2	10.10m <sup>2</sup>	40m <sup>2</sup>	15m <sup>2</sup>
5	2	12.8m <sup>2</sup>	40m <sup>2</sup>	15m <sup>2</sup>
6	2	32.5m <sup>2</sup>	40m <sup>2</sup>	15m <sup>2</sup>
9	2	42m <sup>2</sup>	40m <sup>2</sup>	15m <sup>2</sup>
10	1	28m <sup>2</sup>	25m <sup>2</sup>	15m <sup>2</sup>

Only the private open space for Units 1 and 5 are non-compliant with the 15m<sup>2</sup> minimum standard. A SEPP 1 objection has been submitted and is considered separately below.

#### Heritage conservation

Clause	Standard	Discussion	Compliance Y/N
68 - 72	Consideration of heritage conservation	<p>The portion of the site that is applicable to this LEP (being Lot 5, DP 1145606 and Lot 1, DP 810883) is not a local heritage item and is not located within a heritage conservation or period housing area. Therefore consideration is not required under these clauses.</p> <p>However, the application proposes lot consolidation of three allotments and Lot 1 DP 844231 (with frontage to Waratah St) is located within a heritage conservation area under Blue Mountains LEP 2015. LEP 2015, including relevant heritage conservation provisions, is considered separately below.</p>	Y
DLEP2013 5.10		<p>DLEP2013:</p> <p>As above.</p>	Y

74	Development affecting places or sites of known or potential Aboriginal heritage significance	A search of the Aboriginal Heritage Information Management System (AHIMS) database shows no identified aboriginal sites or places on or within 50m of the land.	Y
DLEP2013 5.10		DLEP2013: As above.	Y
75	Development affecting places or sites of known or potential non-Aboriginal heritage significance.	The site is located on the perimeter of the Katoomba Town Centre on a disturbed site. As noted above, a search of the Aboriginal Heritage Information Management System (AHIMS) database shows no identified aboriginal sites or places on or within 50m of the land. The development is therefore unlikely to adversely affect any known or potential Aboriginal sites or places.	Y
DLEP2013 5.10		DLEP2013: As above.	Y
76	Development in the curtilage of a heritage item or in a heritage conservation area	A Heritage Impact Statement and addendum were provided by the applicant. It is considered that the revised proposal will not will not impact the heritage significance of any heritage conservation area or heritage items.	Y
DLEP2013 5.10		DLEP2013: As above.	Y
<b>Bushfire protection</b>			
Clause	Standard	Discussion	Compliance Y/N
78	Consideration of bushfire protection	The land is not mapped as bush fire prone.	N/A
<b>Hazard and risk assessment</b>			
Clause	Standard	Discussion	Compliance

			Y/N
87	Crime minimisation assessment	The development is considered to adequately address the principles of surveillance, access control, territorial reinforcement and space/activity management. In particular, the development will improve overall surveillance of the site and its surrounds; there will be clear delineation between public and private areas with fencing and a gate proposed for the main entry point; the lighting proposal will improve night time safety; and the proposed car parking area will be secure, well-lit at night and is only a short walk to the buildings.	Y
89	Remediation of contaminated land	<p>Consideration has been given to whether the land is contaminated. The land is not listed on Council's potentially contaminated land register and none of the activities that may cause contamination, listed in Table 1 of Planning NSW's Managing Land Contamination Planning Guidelines, are being or are known to have been carried out on the site.</p> <p>No historical building materials were observed on site. However, given the age of surrounding structures and the development history of the site, historical contamination of the site by asbestos could have occurred. Conditions of consent are proposed to ensure any asbestos found on site is appropriately dealt with.</p>	Y

#### Part 4 Considerations for development

##### Services and infrastructure

Clause	Standard	Discussion	Compliance Y/N
94	General provision of services	Reticulated water, sewer and electricity connections are all available. Appropriate measures are proposed for the drainage of the site, as confirmed by Council's Development Engineer and WaterNSW. This will be reinforced by conditions of consent.	Y
DLEP2013 6.24		DLEP2013: As above.	Y
95	Provision of services for	The site is identified as having reticulated sewer	Y

	specific land uses	available for connection.	Y
DLEP2013 6.24		DLEP2013: As above.	
Vehicular access, parking and roads			
Clause	Standard	Proposed	Compliance Y/N
98	Access to land from a public road	Vehicular access to the site will be obtained from Waratah Lane via a new driveway.	Y
99	Car parking provision	<p>The proposed number of car parking spaces meets the minimum number required by SEPP (Affordable Rental Housing) 2009. The SEPP provision prevails over the LEP provision in this instance.</p> <p>Access to the car parking spaces is considered appropriate.</p>	<p>N/A</p> <p>Y</p>
100	Design for car parking	<p>Vehicle access is provided via the secondary frontage on Waratah Avenue. This location minimises its visual impact on the area and minimises the potential for pedestrian conflict. The length and slope of the access ramp is not ideal however this is a function of site topography and relocating vehicle access to another frontage would have a detrimental impact on streetscape and local character. Sightlines for vehicles exiting the site are compromised by the existing St Vincent de Paul building however this is considered manageable due to the negotiated proposal for a 2m splay on the southern side. This will allow the exiting vehicle to stop at a slight angle to the road providing the driver with adequate visibility. This has been incorporated into revised plans.</p> <p>Turning templates have been submitted showing that vehicles entering or exiting the carpark will require the full width of the access way. The applicant's traffic consultant contends that, given the comparatively small number of traffic movements, the potential conflict between vehicles is statistically insignificant. A mirror will be placed at the bottom of the access ramp to aid negotiation between approaching vehicles. This is considered</p>	Y

		<p>acceptable.</p> <p>The location of car parking below the western building ensures it is not a visually prominent element when viewed from the streetscape.</p> <p>Accessible paths of travel are provided from the car park to the residential flat buildings.</p>	
Privacy			
Clause	Standard	Discussion	Compliance Y/N
104	Privacy for other residential development	Privacy considerations have been addressed as part of the SEPP 65 / ADG assessment.	N/A
Energy efficiency			
Clause	Standard	Discussion	Compliance Y/N
105	Energy efficiency	<p>A BASIX Certificate and associated report has been provided by the applicant demonstrating compliance with the SEPP (BASIX 2004) which prevails over this clause in this instance.</p> <p>Shadow diagrams have been provided by the applicant which show that the proposed development will not unreasonably obscure sunlight to habitable rooms or private open space of the property to the south during winter months.</p>	<p>N/A</p> <p>Y</p>
106	Sustainable resource management	<p>LEP2005:</p> <p>Sustainable resource management considerations have been addressed under the SEPP 65 / ADG assessment.</p>	N/A
DLEP2013 6.22		<p>DLEP2013:</p> <p>As above</p>	N/A
Equity of access and housing choice			
Clause	Standard	Discussion	Compliance Y/N
108	Accessibility of dwellings	Under this provision, the development should include 20% (6) units accessible to people with a disability. Based on the submitted information, it	N – SEPP1



		appears that no accessible units are proposed. The applicant has submitted a SEPP 1 objection and this has been considered above.	
109	Adaptability of dwellings	Under this provision, all dwellings are to be adaptable in accordance with AS4299-1995 Adaptable housing. EPI status is conferred upon the Better Living DCP requirement for dwellings to meet Adaptable House Class A in AS4299. No dwellings comply with Adaptable House Class A in AS4299 but based on the information provided it appears that two dwellings comply with Adaptable House Class C in AS4299. As the Class A requirement is considered to be a development standard, a SEPP 1 objection has been provided and has been considered above.	N – SEPP1
110	Housing choice	House choice considerations have been addressed under the SEPP 65 / ADG assessment.	N/A

**Schedule 1 Division 7 Precinct Controls – VT-KA02 Lurline Street North Precinct**

Clause	Standard	Discussion	Compliance Y/N
2(1)	Precinct vision statement	<p>The precinct vision statement is as follows:</p> <p><i>Development consolidates the higher density built form and tourist land uses within this area. The consolidation of land uses assists in providing a connection between the Katoomba town centre and Echo Point. Built form is of a comparatively denser scale and takes advantage of the unique views available to the east over the Jamison Valley. Architectural detailing reflects forms and finishes present in the historic guesthouses and flat buildings typical in and around Lurline Street.</i></p> <p>Negotiations between Council staff and the applicant following lodgement of the original proposal have drawn heavily on the guidance provided by this vision statement.</p> <p>In summary, the revised proposal is considered to be of a scale and density consistent with that articulated by the vision statement. Further, the two apartment buildings are considered to successfully respond to this vision statement through the incorporation of steep pitched hipped roofs, a</p>	Y

		<p>common built element in the area, and further articulation and materiality which echo architectural detailing and finishes of the historic guesthouses and flat buildings in and around Lurline Street. This includes a gabled roof and prominent entry on Lurline Street which will give this frontage a sense of address, as well as the use of masonry and weatherboard as dominant materials.</p>	
2(2)	Precinct objectives	<p>The precinct objectives are:</p> <p><i>(a) To encourage development that complements the existing built form and that responds to the topography of the location.</i></p> <p><i>(b) To encourage active street frontages that enhance pedestrian amenity.</i></p> <p><i>(c) To promote pedestrian linkages to the town centre.</i></p> <p>The relationship of the proposal to existing built forms surrounding the site, has been considered in relation to SEPP 65 design principles 1 and 2. In summary, the proposal is considered to respond well to existing development through adopting design features and a similar scale to other prominent buildings while ensuring its landscaped setting softens its presence and maintains a leafy streetscape character in this location adjoining a park.</p> <p>The site slopes from its south-western corner to its Lurline Street and Waratah Street frontages. While significant modification of the existing land form is proposed, it is considered that the proposal responds well to this topography by stepping down with the slope in terms of both the ground floor of each building as well as their overall height. This is achieved while balancing competing considerations such as achieving adequate accessibility and using Waratah Avenue as the vehicular access point.</p> <p>It is considered that the proposed interfaces with Waratah Avenue and Lurline Street will provide an appropriate degree of 'activation' while achieving other objectives such as respecting the existing streetscape (note that the Waratah Street frontage is not within this precinct). Despite the significant landscaped setback from Lurline Street, the gabled roof and prominent entry will give this frontage a sense of address. The direct entry to ground floor</p>	Y

		<p>apartments and the modest landscaping on Waratah Avenue will achieve a degree of activation and amenity.</p> <p>While no public access is proposed through the site, the proposed design of public domain interface areas will ensure that pedestrian amenity is not diminished and in some ways will be improved. Particular note is made of the negotiated bin collection area on Waratah Avenue which will ensure bins do not obstruct the path of pedestrians (or vehicles).</p> <p>It is considered that the proposal successfully achieves the precinct objectives.</p>	
DLEP 2013 7.1-7.3, 7.7(8)		<p>DLEP 2013:</p> <p>As above. LEP 2005 precinct objectives are incorporated into DLEP2013.</p>	Y
3(1)	Building height	<p>The site is subject to an 8m building height control (or 6.5m at eaves).</p> <p>The proposed western building has a building height of 13.16m when measured from natural ground level and exceeds the 8m height control by 5.16m. This is a breach of 64.5%</p> <p>The proposed eastern building has a building height of 10.95m when measured from natural ground level and exceeds the 8m height control by 2.95m. This is a breach of 36.9%.</p> <p>The applicant has lodged a SEPP 1 objection to the building height development standard and this has been considered above.</p>	N – SEPP 1
DLEP 2013 4.3		<p>DLEP 2013:</p> <p>As above. The LEP 2005 building height control is incorporated into DLEP2013.</p>	N
3(2)	Building setback	<p>This clause requires that front setbacks be consistent with adjoining properties. The proposal provides for a 3.5m setback from Waratah Avenue and a 6.5m setback from Lurline Street.</p> <p>An eclectic front building setback is present along Lurline street with no consistency present. The</p>	Y

		<p>proposed setback does not align with the setback on the immediate property to the south. However, the setback on the property to the south is very large and not typical. The proposed setback does respond to the mixed setback pattern of Lurline Street running south and it is considered the proposed development complies with this clause.</p> <p>Similarly, building setbacks on Waratah Avenue are inconsistent and typical of a laneway function with some buildings constructed with a zero setback and others set well back to accommodate parking and service functions. The proposed setback on Waratah Avenue is considered to comply with this clause.</p>	
3(3)	Site coverage	This clause limits building site coverage to 50% of the site area. The proposed development will have a site coverage of 43.5%.	Y
3(4)	Development density	The proposal also complies with the applicable floor space ratio control (FSR). The proposed gross floor area of 1,866m <sup>2</sup> equates to an FSR of 0.69:1, which is below the LEP 2005 maximum of 0.8:1 and well below the 1.3:1 maximum awarded under SEPP (Affordable Rental Housing) 2009.	Y
DLEP 2013 4.4		<p>DLEP 2013:</p> <p>As above. The LEP 2005 development density (floor space ratio control) is incorporated into DLEP2013.</p>	Y
4	Design considerations	<p>This clause nominates the following design considerations for development within the precinct:</p> <p><i>(1) View sharing principles between the proposed development and existing surrounding development are to be adhered to.</i></p> <p><i>(2) The ability to provide for basement car parking.</i></p> <p><i>(3) The potential for through-site pedestrian links to improve permeability of the area.</i></p> <p><i>(4) Development shall provide active street frontages.</i></p> <p><i>(5) Buildings shall incorporate a form and finish that are consistent with, or complementary to the</i></p>	Y

		<p><i>periods and architectural character of adjoining buildings.</i></p> <p><i>(6) Visible walls shall not be left blank, unadorned or unarticulated.</i></p> <p><i>(7) Commercial signage shall be co-ordinated to reflect a village character.</i></p> <p><i>(8) Local design themes are to predominate over corporate signage.</i></p> <p><i>(9) Parking shall be concealed or be located behind "active" or "inhabited" building frontages.</i></p> <p>These considerations have been given focus in the SEPP 65 / ADG assessment above. The development is considered to be generally consistent with the design considerations.</p>	
<b>New policy introduced in DLEP 2013</b>			
Clause	Standard	Discussion	Compliance Y/N
There is no new policy introduced in DLEP 2013 that applies to the development.			N/A

<b>Local Environmental Plan 2015 (LEP2015)</b>			
<p>The main portion of the site accommodating the two proposed residential flat buildings, being Lot 5, DP 1145606 and Lot 1, DP 810883, is subject to the provisions of LEP 2005 and has been assessed above.</p> <p>The smaller lot fronting Waratah Street, being Lot 1, DP 844231, is subject to the provisions of LEP 2015.</p> <p>The following table is an assessment of the provisions in LEP 2015 as they relate to Lot 1, DP 844231, with discussion provided accordingly.</p>			
<b>Part 1 Preliminary</b>			
Clause	Standard	Discussion	Compliance Y/N
1.2	Aims of Plan	<p>The main entry, landscaping and communal areas proposed for Lot 1, DP 844231 are generally considered to be in keeping with the overall aims of LEP 2015, including:</p> <p><i>(a) to maintain the unique identity and values of the "City within a World Heritage National Park",</i></p> <p><i>(j) to identify and retain the diverse built and landscape elements that contribute to</i></p>	Y

		<p><i>the character and image of the Blue Mountains,</i></p> <p><i>(l) to ensure that the social needs of existing and future residents are met through the provision of appropriate community facilities, open space and services,</i></p> <p><i>(p) to integrate development with transport systems and promote safe and sustainable access opportunities, including public transport initiatives, walking and cycling.</i></p>	
<b>Part 2 Permitted or prohibited development</b>			
Clause	Standard	Discussion	Compliance Y/N
Land Use Table	Permissibility	Lot 1, DP 844231 is zoned B2 Local Centre. The landscaping and communal areas proposed on Lot 1 DP 844231 are ancillary and provided in conjunction with the proposed residential flat buildings. Residential flat buildings are permissible with development consent in the B2 zone.	Y
2.3	Zone objectives	The objectives of the B2 zone generally focus on the economic function of development and ensuring it is of good design and complements local character. While the proposed use of Lot 1, DP 844231 does not serve an economic function, it is considered that the proposed landscape design will complement the existing adjacent park where a building on this site may have compromised it. For this reason it is considered that the zone objectives are met, particularly: <i>To promote the unique character of each of the towns and villages of the Blue Mountains.</i>	Y
<b>Part 4 Principal development standards</b>			
Clause	Standard	Discussion	Compliance Y/N
4.3	Height of buildings	No buildings are proposed on Lot 1, DP 844231	N/A
4.4	Floor space ratio	No floor space is proposed for Lot 1, DP 844231	N/A

<b>Part 5 Miscellaneous provisions</b>			
Clause	Standard	Discussion	Compliance Y/N
5.10	Heritage conservation	Lot 1, DP 844231 is located within the Central Katoomba Urban Conservation Area. The proposed landscaping and communal space is considered to enhance and promote the overall urban design of the proposal especially when viewed from the Urban Conservation Area. The proposal will not affect the heritage significance of the Urban Conservation Area.	Y
5.10.8	Aboriginal places of heritage significance	A search of the AHIMS register on the OEH website shows no aboriginal sites or places on or within 50m of the land.	Y
<b>Part 6 Additional local provisions</b>			
Clause	Standard	Discussion	Compliance Y/N
6.9	Stormwater management	Lot 1, DP 844231 will be landscaped with minimal impervious surfaces. Stormwater is managed in an integrated manner with the remainder of the development site including opportunities for capture and reuse. The development has been assessed by WaterNSW as having a neutral or beneficial effect on receiving waters and Council's Development Engineer is satisfied that the proposal meets the provisions of clause 6.9 subject to conditions of consent being incorporated into any consent.	Y
6.14	Earthworks	The landscaping and communal areas proposed for Lot 1, DP 844231 will involve minimal earthworks with the natural gradient generally retained.	Y
6.17	Consideration of character and landscape	The landscaping and communal areas proposed for Lot 1, DP 844231 will contribute to the landscaped setting of the proposed residential flat buildings. It will also complement the landscaped setting of the adjacent park.	Y
6.19	Design excellence	The proposed use of Lot 1, DP 844231 does not involve the erection of a building. This clause	N/A

		therefore does not apply, despite the land being within a village precinct.	
6.20	Active street frontages	Lot 1, DP 844231 is not identified as an “Active street frontage” on the Active Street Frontage Map. This clause therefore does not apply.	N/A
6.21	Sustainable resource management	The development of Lot 1, DP 844231 is considered to meet the principles and practices of ecologically sustainable development. The proposal will not result in environmental damage or degradation. The communal vegetable garden will allow an opportunity for food production. Capture and reuse of rainwater for the irrigation of landscaping is proposed. Bioretention basins are proposed to help ensure rainwater leaving the site does not pollute receiving waters.	Y
<b>Part 7 Additional local clauses – development in villages</b>			
Clause	Standard	Discussion	Compliance Y/N
7.6(1) Katoomba Precinct B2-KA01	Objectives	The landscaping and communal areas proposed for Lot 1, DP 844231 are arguably not consistent with the objective of promoting active street frontages to all roads, footpaths and public areas. However, it is consistent with the precinct objectives seeking to promote consistency with the existing and adjacent streetscape. Further, the use of Lot 1, DP 844231 as the main entrance for the proposed apartment buildings will encourage a form of street activation through the coming and going of residents.	Y

#### Proposed planning instruments – s4.15(1)(a)(ii)

The following draft planning instrument applies to the site.

<b>Draft Local Environmental Plan 2013 (DLEP 2013)</b>	Provisions within DLEP 2013 have been considered in the assessment of LEP 2005 above.
<b>Amendment 1 to LEP 2015 - Rezone deferred land</b>	Amendment 1 to LEP 2015 seeks to incorporate land zoned Village-Tourist under LEP 2005 into LEP 2015. This land, which includes the subject site, is proposed to be zoned R1 General Residential under LEP 2015.  Despite clause 1.3(1A) of LEP 2015 explicitly stating that LEP 2015 does not



	<p>apply to the land identified as “Deferred matter” on the Land Application Map (which includes the subject site), the consideration of LEP 2015, including Amendment 1, has been undertaken for the avoidance of doubt.</p> <p>LEP 2015, including Amendment 1, is intended to be a translation of LEP 2005 provisions into the Standard Instrument LEP format. This extends to the LEP 2005 Precinct objectives that apply to the subject site, which have been reproduced in LEP 2015. LEP 2015, including Amendment 1, has been considered with relevant issues addressed under the assessment of LEP 2005 and DLEP 2013.</p>
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#### Development Control Plans – s4.15(1)(a)(iii)

The following development control plans apply to the site.

##### **Better Living Development Control Plan 2005 (BLDCP) - Lot 1 DP 810883 and Lot 5 DP 1145606**

State Environmental Planning Policy 65, Clause 6A states that the content of a development control plan has no effect in relation of the following matter that are the focus of objectives, design criteria and design guidance within Parts 3 and 4 of the Apartment Design Guide:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

Accordingly, an assessment of the development proposal against Parts 3 and 4 of the Apartment Design Guide is provided above. The proposed development has been assessed against remaining provisions of the Better Living Development Control Plan (BLDCP) with significant points of consideration being identified and discussed in the Local Environmental Plan 2005 section of this report.

<b>Development Control Plan 2015 (DCP 2015) - Lot 1 DP 844231</b>	<p>State Environmental Planning Policy 65, Clause 6A states that the content of a development control plan has no effect in relation of the following matter that are the focus of objectives, design criteria and design guidance within Parts 3 and 4 of the Apartment Design Guide:</p> <ul style="list-style-type: none"> <li>(a) visual privacy,</li> <li>(b) solar and daylight access,</li> <li>(c) common circulation and spaces,</li> <li>(d) apartment size and layout,</li> <li>(e) ceiling heights,</li> <li>(f) private open space and balconies,</li> <li>(g) natural ventilation,</li> <li>(h) storage.</li> </ul> <p>Accordingly, an assessment of the development proposal against Parts 3 and 4 of the Apartment Design Guide is provided above. The proposed development has been assessed against remaining provisions of Development Control Plan 2015 (DCP2015) with significant points of consideration being identified and discussed in the Local Environmental Plan 2015 section of this report.</p>
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#### Planning Agreements – s4.15(1)(a)(iiia)

There are no planning agreements that apply to the proposed development or the subject site.

#### Regulations – s4.15(1)(a)(iv)

The *Environmental Planning and Assessment Regulation*, provides controls and regulations that relate to the management of the proposed development. These requirements are inherent in the assessment processes undertaken for the proposal.

#### Likely impacts – s4.15(1)(b)

##### Likely impacts on the natural and built environment

	Discussion
<b>Vegetation</b>	<p>The proposal will result in the removal of a number of trees. Trees for removal, and the reasons for their removal, have been determined by the submitted arboriculture report with review by Council's Landscape Assessment Officer. The submitted landscape plan has been annotated by Council's Landscape Assessment Officer which will result in these being replaced with more</p>

	<p>appropriate species.</p> <p>The eastern building facing Lurline Street is set back from the street approximately 6.5m, providing for significant landscaping between the street boundary and the building. Importantly, some significant trees on the interface with Dr Alex Allen Park and Lurline Street are proposed to be retained. The strong desire by Council to see these trees retained has had a significant impact on the design of the proposal and the proposed conditions on consent. Their retention will ensure their important contribution to streetscape and character of the locality continues.</p> <p>The internal courtyard, which extends to Waratah Street, as well as the private open spaces fronting Waratah Avenue, will also allow for significant landscaping and plantings.</p> <p>The proposal is considered to have an overall acceptable impact in terms of vegetation removal and management.</p>
<b>Heritage</b>	<p>A search of the Aboriginal Heritage Information Management System (AHIMS) database shows no identified aboriginal sites or places on or within 50m of the land. Having previously accommodated development, the site is highly modified with no original landforms able to be identified. The proposal is considered unlikely to have an impact on Aboriginal heritage.</p> <p>The revised proposal will not will not adversely impact the heritage significance of any heritage conservation area or heritage items. The design and materiality of the proposed residential flat buildings, as well as the proposed landscaping and communal space, are considered to enhance and promote the overall urban design of the proposal especially when viewed from the Central Katoomba Urban Conservation Area.</p>
<b>Character and amenity</b>	<p>Key buildings in the vicinity which help define local character include buildings on both Waratah Street and Lurline Street including the Clarendon Hotel, Raynton House and the former Presbyterian Church. To the west and south of the site, are the Katoomba Motel and Gorleen house, both of which are prominent buildings. However, the immediate locality, including the site itself and adjacent park, is very 'leafy' with significant vegetation breaking up these larger built elements.</p> <p>The proposal is considered to successfully respond to this context through the provision of two large but well-articulated apartment buildings within a landscaped setting. Each building incorporates a steep pitched hipped roof, a common built element in the area, and further articulation and materiality which echo architectural detailing and finishes of the historic guesthouses and flat buildings in and around Lurline Street. A gabled roof and prominent entry on Lurline Street have been negotiated which will give this frontage a sense of address consistent with other buildings in the area.</p> <p>Building separation distances between the two proposed buildings and adjoining buildings, as well as the proposed design, materiality and landscaped setting, all contribute to the achievement of a satisfactory impact on the amenity of the area</p>

	<p>and surrounding properties.</p> <p>Shadow diagrams have been provided by the applicant that purports to show that the proposed development will not unreasonably obscure sunlight to habitable rooms or private open space of the property to the south during winter months. The applicant was requested to provide additional information in relation to this matter, including additional shadow diagrams, however this was not forthcoming. Based on the information provided, the impact of the proposed development on the property to the south appears acceptable.</p>
<b>Stormwater</b>	<p>A stormwater management plan has been provided by the applicant. Capture and reuse of rainwater for the irrigation of landscaping is proposed. Bioretention basins are proposed to ensure rainwater leaving the site does not pollute downstream waters. WaterNSW has assessed the development as being capable of achieving a neutral or beneficial effect on downstream receiving waters subject to conditions of consent being complied with.</p>
<b>Traffic</b>	<p>Thirteen car parking spaces are provided. The RMS's guide to traffic generating development (revised traffic counts for high density development, August 2013) indicates that average daily vehicle trips per car space will be 1.34 in Sydney and 3.22 in regional areas. Accordingly, the development is likely to result in an estimated traffic increase of 18 – 42 vehicle trips per day. These numbers are not considered significant enough to result in any substantial traffic impacts.</p>
<b>Parking</b>	<p>The development proposes only 13 parking spaces to service 26 apartments. This may result in some reliance on on-street parking. Despite this impact, the parking supply conforms to the parking rates contained within State Environmental Planning Policy (Affordable Rental Housing) 2009 which regulates parking space numbers in this instance. The potential for parking 'overspill' will be minimised by the site's proximity to local services and retail opportunities meaning there is likely to be a relatively low vehicle ownership rate among future occupants.</p>
<b>Retaining walls</b>	<p>A significant retaining wall exists along the Lurline Street frontage with a return at its northern end. The applicant has submitted a structural assessment report stating that, with the exception of the northern return, the existing retaining wall is suitable for retention subject to appropriate remedial works being undertaken. Conditions of consent are proposed to ensure that necessary works are undertaken and that the structural integrity of the wall is certified by a suitably qualified person.</p>
<p>It is considered that the development does not have an adverse impact on the natural environment. It is also considered that the development does not have an adverse impact on the built environment.</p>	

Likely social impacts	
	Discussion
<b>Affordable housing</b>	In accordance with provisions of the SEPP (Affordable Rental Housing) 2009, a condition of consent will require use of all proposed dwellings as 'affordable housing' for a minimum period of 10 years. This will have a positive social impact through the provision of affordable housing. The applicant has indicated an intention to operate the development for affordable housing purposes beyond the minimum 10 year requirement set by the SEPP.
<b>Noise</b>	<p>A noise report has been provided by the applicant. It is considered that mechanical noise emitted from the site will not have an unacceptable impact on neighbouring properties or the amenity of the neighbourhood. The car park area is naturally ventilated and private air conditioning units will be contained to semi enclosed areas of private open space. Regardless, a condition of consent is proposed to regulate mechanical noise emission to an acceptable level.</p> <p>Separation distances between buildings are considered acceptable in terms of acoustic privacy.</p>
<b>Crime</b>	The development is considered to adequately address the principles of surveillance, access control, territorial reinforcement and space/activity management. In particular, the development will improve overall surveillance of the site and its surrounds; there will be clear delineation between public and private areas; the lighting proposal will improve night time safety; and the proposed car parking area will be secure, well-lit at night and is only a short walk to the buildings.
It is considered that the development does not have adverse social impacts.	
Likely economic impacts	
	Discussion
<b>Employment</b>	The construction of the development will result in a positive, albeit marginal and ephemeral, impact on the local economy. The increase in population in central Katoomba will have a marginal positive impact on the local economy through increased patronage of local shops and restaurants. In turn, this will have a marginal but positive impact on local employment.
It is considered that the development does not have an adverse economic impact.	

<p><b>Site suitability</b></p>	<p>The site is considered suitable for the proposed development for the following reasons:</p> <p><b>Location</b></p> <p>The site's location on the periphery of Katoomba Town Centre, which has a range of retail and service options, and within a precinct characterised by large buildings, means the site is suitable for a development of significant density such as that proposed.</p> <p><b>History</b></p> <p>The site appears to have previously accommodated a significant building or buildings. It is not clear exactly when this building was constructed or demolished. The site is therefore highly modified but currently vacant (other than being used for informal parking and for St Vincent de Paul's clothing bins) meaning it is a prime development site.</p> <p><b>Size</b></p> <p>The size of the site, being 2,695m<sup>2</sup>, means it is able to accommodate a significant development while achieving appropriate separation distances from adjoining properties and achieving a landscaped setting including through the retention of important vegetation.</p> <p><b>Shape/orientation</b></p> <p>The shape and orientation of the site allows for the two proposed apartment buildings to be appropriately sited on the larger southern portion of the site away from the Waratah Street frontage and Central Katoomba Urban Conservation Area, leaving the northern Waratah Street portion free for communal areas and landscaping.</p> <p><b>Multiple street frontages</b></p> <p>The site has three street frontages meaning that vehicular access and garbage collection can occur on the laneway (Waratah Avenue) without compromising the amenity and streetscape character of the primary frontages on Waratah Street and Lurline Street.</p> <p><b>Topography</b></p> <p>The site slopes from its south-western corner to its Lurline Street and Waratah Street frontages. This poses problems for vehicle access from Waratah Avenue and demands a site responsive design. While significant modification of the existing land form is proposed, this is considered necessary to ensure adequate access and is considered supportable given the modified character of the land and attempts by the architect to step the buildings down with the topography.</p> <p><b>Vegetation</b></p> <p>Existing vegetation on site, particularly on the interface with Dr Alex Allen Park and Lurline Street, provides the opportunity to screen or soften the proposed development.</p>
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## Submissions – s4.15(1)(d)

Consultation was undertaken in accordance with the requirements of Part H (Public Participation) of Blue Mountains Development Control Plan 2015 and the requirements under the Environmental Planning and Assessment Regulations.

<b>Notification</b>	<p>The application was notified to owners within a radius of approximately 150m and published in the local paper with submissions accepted from Wednesday 5 July to Friday 4 August 2017.</p> <p>Six submissions were received.</p>
<b>Re-notification</b>	<p>Following consideration of submissions received and negotiations with Council staff, significant amendments were made to the proposal. The application was therefore re-notified to owners within a radius of approximately 150m and to all previous submitters. Submissions were accepted from Wednesday 10 January to Thursday 8 February 2018.</p> <p>Two submissions were received.</p>

## Consideration of issues raised

<b>Concern</b>		<b>Comment</b>
1.	Problems associated with the concentration of low cost housing, including impacts on nearby businesses.	This issue was raised during both notification periods by multiple submitters. The development will be owned and managed by Amelie Housing who is a subsidiary of St Vincent De Paul. The applicant has stated that Amelie Housing operate a number of affordable housing developments and manage those effectively. There appears little evidence that this type of development will promote anti-social behaviour or have a negative impact on nearby businesses.
2.	Excessive building height and the setting of a precedent.	<p>Whilst the development proposes a technical non-compliance to the building height control, the revised development is considered to achieve a built form that is of similar scale to other developments in the area and does not result in any unacceptable impacts on surrounding properties.</p> <p>The unique attributes of the site render it capable of accommodating a significant development. This set of site attributes is unlikely to be available to other sites in the area. It is therefore considered that there is minimal risk of setting a precedent in this instance.</p>
3.	Imposing built form and poor design.	The revised design is considered to satisfactorily resolve previously expressed concerns regarding the imposing nature and poor design of the original proposal. The revised proposal is for two well-articulated apartment buildings within a landscaped setting and is considered to be of good design.

4.	Inconsistency with LEP standards, local character and heritage.	<p>The inconsistency with the building height control is noted and is the subject of a SEPP 1 objection which is considered above. Other LEP standards which are contravened are either overridden by State policy or are also the focus of SEPP 1 objections which are considered above.</p> <p>The revised design is considered to successfully integrate with the established character of the locality as well as the desired future character of the locality as described in the precinct provisions of LEP 2005. The revised proposal is also considered to have no adverse impact on heritage, particularly noting that the third building that was located within the Central Katoomba Urban Conservation Area has been deleted in the revised proposal and replaced with significant landscaping and communal areas.</p>
5.	Traffic and parking impacts.	<p>As noted in the above assessment, the development proposes only 13 parking spaces to service 26 apartments. This may result in some reliance on on-street parking. Despite this impact, the parking supply conforms to the parking rates contained within State Environmental Planning Policy (Affordable Rental Housing) 2009 which regulates parking space numbers in this instance. The potential for parking 'overspill' will be minimised by the site's proximity to local services and retail opportunities meaning there is likely to be a relatively low vehicle ownership rate among future occupants.</p> <p>Traffic generation resulting from the proposed development is unlikely to result in any substantial traffic impacts. The one way function of Waratah Avenue means the minor increase in traffic resulting from the proposal will be dispersed in the local road network.</p>
6.	Acoustic impacts.	<p>A noise report has been provided by the applicant. It is considered that mechanical noise emitted from the site will not have an unacceptable impact on neighbouring properties or the amenity of the neighbourhood. The car park area is naturally ventilated and private air conditioning units will be contained to semi enclosed areas of private open space. Regardless, a condition of consent is proposed to regulate mechanical noise emission to an acceptable level.</p> <p>Separation distances between buildings are considered acceptable in terms of acoustic privacy.</p>
7.	Overshadowing.	<p>Shadow diagrams have been provided by the applicant which purport to show that the proposed development will not unreasonably obscure sunlight to habitable rooms or private open space of the property to the south during winter months. The applicant was requested to provide additional information in relation to this matter, including additional shadow diagrams, however this was not forthcoming. Based on the information</p>



		provided, the impact of the proposed development on the property to the south appears acceptable.
8.	Removal of trees/habitat.	<p>As noted in the above assessment, the proposal will result in the removal of a number of trees. Trees for removal, and the reasons for their removal, have been determined by the submitted arboriculture report with review by Council's Landscape Assessment Officer. The submitted landscape plan has been annotated by Council's Landscape Assessment Officer which will result in these being replaced with more appropriate species.</p> <p>Relevant provisions of the Biodiversity Conservation Act 2016 have been considered including an assessment of significance of the impact of the development upon threatened species. Ringtail possums are a common species in urban areas in the Blue Mountains and are often at increased population densities due to food resource and nesting availability. No possum drays were identified on site during site inspections.</p> <p>The eastern building facing Lurline Street is set back from the street approximately 6.5m, providing for significant landscaping between the street boundary and the building. Importantly, some significant trees on the interface with Dr Alex Allen Park and Lurline Street are proposed to be retained.</p> <p>The internal courtyard, which extends to Waratah Street, as well as the private open spaces fronting Waratah Avenue, will also allow for significant landscaping and plantings.</p> <p>The proposal is considered to have an overall acceptable impact in terms of vegetation removal and management.</p>
9.	Impact on adjoining park.	<p>The original development proposal included a third building on Lot 1 DP 844231 that directly adjoined the park with zero building setback. This building has been deleted in the revised proposal and replaced with significant landscaping and communal areas. This has significantly improved the relationship between the development proposal and Dr Alex Allen Park. The communal areas and landscaping will act as a visual extension of the park. A condition of consent is proposed to ensure any fences are restricted in height and visually permeable. The proposed apartment buildings are setback from the park with significant trees retained at the interface between the two properties.</p>
10.	Poor materials selection.	<p>A materials schedule has been provided by the applicant. The proposed materials and finishes, such as an iron roof and masonry and weatherboard facades generally reflect dominant themes in the areas architecture and are considered to be appropriate.</p> <p>One submission raised particular concern with the proposed dark cement rendering on the base of the eastern Lurline Street Building. However, the materials and finishes to the base of the Lurline Street building are</p>

		considered appropriate to add strength at the base, add articulation and break up the overall built form.
11.	Impact of rezoning site to R1 General Residential.	<p>As noted above, Amendment 1 to LEP 2015 seeks to incorporate land zoned Village-Tourist under LEP 2005 into LEP 2015. This land, which includes the subject site, is proposed to be zoned R1 General Residential under LEP 2015.</p> <p>LEP 2015, including Amendment 1, is intended to be a translation of LEP 2005 provisions into the Standard Instrument LEP format. This extends to the LEP 2005 Precinct objectives that apply to the subject site, which have been reproduced in LEP 2015.</p> <p>For these reasons, the anticipated rezoning of the site to R1 General Residential under LEP 2015 would not have a substantive impact on the assessment of the proposed development. Of note, the development type would still be a permissible land use.</p>
<p>Submissions received in response to the original notification as well as the notification of the revised development proposal have been considered. No further amendments to the development proposal are considered necessary to respond to issues raised subject to the conditions of consent at Part 3 of this report being complied with.</p>		

#### Public interest – s4.15(1)(e)

<b>Public interest</b>	<p>No issues have arisen during the assessment that would indicate the proposed development is not in the public interest.</p> <p>The proposed development is considered to be in the public interest for the following reasons:</p> <ul style="list-style-type: none"> <li>○ It will add to the supply of affordable housing in the upper mountains.</li> <li>○ It will ensure a prominent redevelopment site accommodates a built form and landscape outcome that is compatible with the existing and desired character of the locality.</li> </ul>
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## PART 3 Proposed conditions of consent

### General

#### Confirmation of relevant plans and documentation

1. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the following plans and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent:

Document	Prepared by:	Drawing No	Issue	Date
Site plan	Melocco & Moore Architects	00	N	13/4/2018
Basement Level	Melocco & Moore Architects	1703-D-07	J	13/4/2018
Carpark / Level 1	Melocco & Moore Architects	1703-D-01	V	13/4/2018
Level 2	Melocco & Moore Architects	1703-D-02	S	30/4/2018
Level 3	Melocco & Moore Architects	1703-D-03	R	13/4/2018
Level 4	Melocco & Moore Architects	1703-D-04	Q	13/4/2018
Roof plan	Melocco & Moore Architects	1703-D-06	L	13/4/2018
Sections and Elevations 01	Melocco & Moore Architects	1703-D-10	Q	13/4/2018
Sections and Elevations 02	Melocco & Moore Architects	1703-D-11	M	13/4/2018
Sections and Elevations 03	Melocco & Moore Architects	1703-D-12	N	30/4/2018
Sections and Elevations 04	Melocco & Moore Architects	1703-D-13	N	30/4/2018
External cladding schedule	Melocco & Moore Architects	Amended 04	-	-
Landscape Architectural Drawing Set (including Council annotations in red)	Sturt Noble Associates	-	-	13/4/2018
Arboricultural Impact Appraisal and Method Statement	Naturally Trees	-	-	11/4/2018
Waste Management Plan (as amended)	Dickens Solutions	-	Final rev.	17/4/2018
Structural assessment of existing retaining walls	Partridge Structural Pty Ltd	-	-	29/3/2018
Ground floor drainage plan	Greenview consulting	170320	C02	-
Basement 1 drainage plan	Greenview consulting	170320	C03	-
Roof drainage plan	Greenview consulting	170320	C04	-

#### Building Code of Australia

2. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

#### Construction certificate

3. A construction certificate is required prior to the commencement of any building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier.

#### Occupation certificate

4. The building must not be used or occupied prior to the issue of any occupation certificate in accordance with sections 109H and 109M of *the*

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*Environmental Planning and Assessment Act 1979.*

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**WaterNSW**

5. The subject site is within the Sydney Drinking Water Catchment and, in accordance with the provisions of SEPP (Sydney Drinking Water Catchment) 2011, WaterNSW grants its concurrence to the proposed development subject to specified conditions contained within its letter dated 17 May 2018. Conditions contained within the WaterNSW letter of concurrence dated 17 May 2018 are to be fully complied with.

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**BASIX**

6. Under clause 97A of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate for the development are fulfilled.

In this condition:

1. Relevant BASIX Certificate means:
  - a) BASIX Certificate number 827618M\_05, issued on 13 April 2018, or
  - b) If the development consent is modified under section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified, or
  - c) If a replacement BASIX Certificate accompanies any subsequent application for a Construction Certificate, the replacement BASIX Certificate, and
1. BASIX Certificate has the meaning given to that term in the *Environmental Planning & Assessment Regulation 2000*.

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**Mechanical noise**

7. Plant equipment shall be located and managed to minimise adverse noise impact. As a minimum level of performance, the LA10 noise level emitted from the premises shall not exceed the background noise level by more than 5dB(A) up to midnight and shall not exceed the background noise after midnight when measured at the boundary of the worst affected residence.

**Prior to the commencement of works and during construction**

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**Appointment of  
supervising arborist**

8. To ensure the health, condition and future viability of all trees identified to be retained on and adjacent to the subject site, the person acting upon this consent is to engage a qualified arborist (minimum Australian Qualification Framework (AQF) Level 5) to supervise or implement all necessary tree retention and protection measures as specified at Part 4 and Appendix 7 of the approved Arboricultural Impact Appraisal and Method Statement (Naturally Trees, dated 11 April 2018), and as identified by these consent conditions.

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**Approval under the  
Roads Act 1993**

9. Prior to the commencement of any works within the road reserve fully detailed engineering plans of all works, prepared by a suitably qualified professional, are to be submitted to and approved by the Council under the Roads Act 1993.

The design plans are to be based upon a detail contour survey carried out by a registered surveyor.

These plans are to include details of sediment and erosion controls and pedestrian and traffic management during the works in the road reserve.

Fees for the assessment and approval of the plans will be charged in accordance with the Council's Schedule of Fees and Charges.

Works are to include adjustment of services and any other works required to make construction effective.

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**Works required in  
Council's Roads**

10. The following engineering works shall be constructed by the applicant at the applicant's expense:
- The construction of a new layback and apron crossing to suit the new entrance driveway to the carpark in Waratah Avenue, in accordance with Councils standards for heavy duty.
  - Removal of all redundant layback and apron crossings, replacement with standard concrete kerb and gutter and restoration of the footpath area.
  - The installation of a galvanized RHS across the footway area for stormwater discharge to the kerb and restoration of the footway area.

Details are to be provided with the Roads Act application for approval.

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**Security Bond**

11. In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of \$50,000.00 is to be lodged with Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site during construction.

The bond can be in the form of an unconditional bank guarantee or cash deposit. A fee is payable upon lodgement of the bond and application for release of the bond in accordance with the Council's schedule of fees and charges.

The bond is refundable on application, 6 months after the completion of all work subject to satisfactory performance of the works.

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**Construction in Council's  
roads**

12. Prior to the commencement of works in the Council's road reserve an onsite preconstruction meeting is to be arranged with Council's Supervising Engineer.

The person or company carrying out the works are required to have workers compensation and public liability insurance to the value of \$10 million. The policy shall indemnify the Council from all claims arising from the execution of the works. Proof of the policy is to be provided to

	<p>the Council's Supervising Engineer at the preconstruction meeting.</p> <p>Inspections of the works will be required at specific stages, which will be advised at the pre-construction meeting. The applicant will be required to pay for the inspections in accordance with the Council's Schedule of Fees and Charges.</p> <p>A minimum 48 hours notice is required to book an inspection. Works are not to proceed further until that stage of the works has been approved in writing by the Council's Supervising Engineer.</p>
<b>Dilapidation report on surrounding Council assets</b>	<p>13. A dilapidation report on Council's surrounding public roads and drainage system is to be prepared by the applicant and submitted to Council at least 10 business days prior to the intended commencement date for works. The dilapidation report is to include the route of trucks transporting excavated material from the development site to the Great Western Highway.</p>
<b>Installation of pedestrian and traffic controls</b>	<p>14. All pedestrian and traffic controls are to be installed in accordance with the approved Construction and Traffic Management Plan prior to the commencement of works and ongoing throughout the construction phase.</p>
<b>Building dilapidation report</b>	<p>15. A dilapidation report shall be prepared on the adjoining buildings on 69 and 71 Waratah Street (Lots 6 &amp; 7 DP10191) and 61 and 61A. This report is to cover internal and external aspects of the building and be submitted to the Council at least 10 business days prior to the intended commencement date for works.</p>
<b>Vibration Management Plan</b>	<p>16. The effect of vibration and concussion on adjoining buildings and their occupants shall be minimised by the selection of appropriate low impact construction methods and equipment.</p> <p>A vibration management plan for the development is to be prepared, provided to and approved by the Certifying Authority prior to the commencement of any proposed excavation works. Where relevant, these plans are to include recommendations for:</p> <ul style="list-style-type: none"> <li>• performance standards to be met during works to be undertaken (in terms of acceptable ground vibration);</li> <li>• strategies proposed for the management of ground vibration; and monitoring requirements for vibration through the construction phase.</li> </ul> <p>These plans are to be prepared and implemented by an appropriately experienced geotechnical engineer or engineering geologist. The approved vibration management plan is to be adhered to during the excavation and construction phases.</p>
<b>Geotechnical</b>	<p>17. A Geotechnical Management Plan is to be submitted to the Certifying</p>

<b>Management Plan</b>	<p>Authority prior to commencement of works. The Geotechnical Management Plan is to be prepared for the site detailing the requirements for temporary and permanent retaining structures for soil and rock excavations. Design of temporary and permanent retaining structures shall be certified by an appropriately experienced geotechnical engineer or engineering geologist.</p>
<b>Protection of neighbouring buildings</b>	<p>18. Where the excavation extends below the level of the base of the footings of a building structure or work on adjoining land, the person having the benefit of the development consent must, at the person's own expense:</p> <ul style="list-style-type: none"> <li>• Protect and support the adjoining premises from possible damage from the excavation.</li> <li>• Where necessary, underpin the adjoining premises to prevent any such damage.</li> </ul>
<b>Construction zones within the road reserve</b>	<p>19. Closure of all or part of the footpath for the undertaking of works, and/or the establishment of a temporary construction zone requires separate application and approval from Council under the <i>Roads Act 1993</i>.</p> <p>Details of fencing or hoardings to protect pedestrians, and a traffic and pedestrian management plan, shall be included in Roads Act application. The traffic and pedestrian management plan is to be prepared in accordance with <i>Australian Standard No. 1742.3-2009: Manual of uniform traffic control devices - Traffic control for works on roads</i> and <i>Roads and Traffic Authority Manual—Traffic Control at Work Sites Version 4.0/2010</i>.</p> <p>Assessment and approval fees will be charged in accordance with Council's Fees and Charges. Occupation of the footpath and/or street parking spaces may attract an ongoing use fee</p>
<b>Structural integrity of existing retaining walls</b>	<p>20. Should further deterioration of the existing retaining walls become evident during construction, works are to cease, Council's development engineer is to be notified and further advice is to be sought from a suitably qualified structural engineer with any recommended remediation works undertaken as soon as practicable and at the developers expense.</p> <p>Where remediation is required adjacent to any retained tree(s), advice must also be sought from the project arborist prior to commencement of any works. The arborist is to ensure that proposed works are in accordance with Australian Standard 4970-2009 <i>Protection of Trees on Development Sites</i> and provide supervision of such as necessary.</p>
<b>Inspections of bio-retention systems during construction</b>	<p>21. To ensure that all works are completed in accordance with the approved specifications and plans, compliance certificates are to be issued to the Principal Certifying Authority by an appropriately</p>

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accredited certifier at the completion of each of the following stages during construction:

**Bio-retention system(s)**

- a) after set out (prior to excavation);
- b) after excavation and prior to placement of the bottom media layer or any liner;
- c) after installation of subsoil drainage;
- d) after placement of each media layer; and
- e) after planting of vegetative components.

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**Bio-retention media bed certification**

22. Prior to the installation of the bio-retention system(s) media bed material, certification is to be provided to the Principal Certifying Authority from a NATA registered laboratory confirming that the proposed bio-retention system(s) filter media bed material complies with the 'Guidelines for Filter Media in Bio-retention Systems Version 3.01 dated June 2009' prepared by the Facility for Advanced Water Bio Filtration (Monash University).

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**Supervision of works by consulting arborist**

23. **Prior to the commencement of works:**
- a) The person acting upon this consent is to arrange a pre-commencement meeting with the appointed arborist to determine and agree upon a programme of tree protection implementation and supervision of such measures.
  - b) The appointed arborist is to verify that the following actions have been implemented in a manner consistent with the approved Arboricultural Method Statement (AMS);
    - i) trees approved for removal in accordance with *Appendix 2 Tree Schedule* of the approved arborist report are clearly indicated with spray paint
    - ii) all specified tree protection measures for each retained tree have been fully implemented and in a manner consistent with Australian Standard 4970-2009 *Protection of Trees on Development Sites*, except where doing so may compromise the ability of tree removal contractors to safely operate during approved tree removal activities.

**Prior to and during tree removal** the project arborist must:

- c) specify tree and other vegetation removal methods and precautions to minimise damage to nearby retained trees and conserve the structural integrity of the existing retaining walls, and
- d) oversee all approved tree removal works adjacent to the visually significant trees 8, 13 and 14, and
- e) ensure any machinery used during tree removal procedures is designed and operated in a manner which minimise soil disturbance



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and compaction within the tree protection zone of retained trees.

**During construction** the project arborist is to ensure that:

- f) compliance monitoring inspections of all tree protection measures are undertaken at an interval agreed to at the pre-commencement meeting and in consultation with the appointed Principal Certifying Authority (PCA), and
- g) root investigation and mapping is undertaken prior to excavation works and services installation proposed within the tree protection zones (TPZ's) of retained trees, and
- h) arboricultural supervision is provided during all excavation, service installation and retaining wall construction and/or repair in the established TPZ's, and
- i) all work within the TPZ has utilised the least damaging techniques available (e.g. under boring rather than trenching), and
- j) any canopy or root pruning of retained trees, necessitated by approved works is undertaken in accordance with Australian Standard 4373-1996 *Pruning of Amenity Trees*, and.
- k) severed tree roots and exposed root-plate profiles are immediately provided with adequate temporary protection until such time as backfilling operations provide permanent re-covering of exposed surfaces, and
- l) In the event of unauthorised damage to retained trees, appropriate repair work is undertaken within 48 hours, and
- m) arboricultural advice and response is readily available to construction personnel and supervisors on tree related matters which may arise following commencement of approved excavation and construction works.

**Following the completion** of construction works, the arborist is to;

- n) undertake an assessment of each retained tree to check for damage and disease, and oversee any remedial works required, and
- o) provide advice to the person who benefits from this approval on ongoing maintenance so as to conserve the structural stability and life expectancy of each retained tree, and
- p) recommend appropriate timing for an ongoing monitoring regime to assess the retained trees for decline and hazards.

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## Survey report

24. To ensure that the building does not encroach on the minimum required setbacks and is located within the boundaries of the property, a survey report by a registered Land Surveyor must be provided to the Principal Certifying Authority prior to the work proceeding beyond:
- a) peg out of building.
  - b) completion of slab.

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c) completed building on the site.

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**Sydney Water  
building plan approval**

25. A building plan approval must be obtained from Sydney Water Tap in™ to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval receipt from Sydney Water Tap in™ must be submitted to the Principal Certifying Authority prior to works commencing.

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) - Plumbing, building & developing - Sydney Water Tap in™, or telephone 13 20 92.

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**Site management**

26. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:

- Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm and on Saturdays between 8am-3pm, excluding public holidays. Alteration to these hours may be possible for safety reasons but only on the agreement of Council.
- Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
- Building operations such as brickcutting, washing tools, concreting and bricklaying shall be undertaken on the building block, with pollutants contained on site.
- Builders waste generated under this consent (including felled trees, tree stumps and other vegetation) must not be burnt or buried on site.
- All waste must be contained and removed to an approved Waste Disposal Depot or in the case of vegetation, with the exception of environmental and declared noxious weeds, mulched for re-use on site.

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**Asbestos and other  
hazardous materials**

27. Any asbestos or other hazardous material uncovered, dismantled or disturbed during site works, requires compliance with the following:

- • Work Health and Safety Act 2011
- • Work Health and Safety Regulation 2017
- • AS 2601 The demolition of structures
- • SafeWork NSW
- • Protection of the Environment Operations (Waste) Regulation 2014

All asbestos or other hazardous material is to be disposed of to an

	approved waste management facility licensed to receive the waste.
<b>Workers amenities</b>	28. Before work starts, toilet facilities must be provided for construction personnel on the site. Amenities are to be installed and operated in an environmentally responsible and sanitary manner.
<b>Erosion &amp; sediment controls</b>	<p>29. To preserve the unique environment of the Blue Mountains and to contain soil and sediment on the property, controls in accordance with the Development Control Plan are to be implemented prior to clearing of the site vegetation and the commencement of site works. This will include the installation of a sediment fence with returned ends across the low side of the site so that all water flows through. These shall be maintained at no less than 70% capacity at all times. Drains, gutters, roadways etc., shall be kept clean and free of sediment.</p> <p>Soil erosion fences shall remain and must be maintained until all disturbed areas are restored by turf, paving or revegetation.</p>

#### Prior to the Issue of a Construction Certificate

<b>Internal engineering design</b>	30. Prior to the issue of the Construction Certificate detailed engineering plans prepared and endorsed by a suitably qualified person, together with certification verifying the requirements of conditions relating to the internal access and drainage systems have been met, shall be submitted to and approved by the Principal Certifying Authority.
<b>Construction Management Plan</b>	<p>31. To ensure the protection of the public and to limit the impacts of construction traffic and construction activities/works, a Construction Management Report and Plan, shall be submitted to and approved by Council, prior to the issue of the construction certificate.</p> <p>The reports and plans are to be prepared by a suitably qualified person. The reports and plans are to address/include and be not limited to the following:</p> <ul style="list-style-type: none"> <li>a) Construction programming, time lines, procedure and management,</li> <li>b) Construction/earth moving vehicle sizes, travel routes and parking, with construction traffic to minimise the use of Waratah Avenue for access to the site (except in relation to specific works fronting the Waratah Avenue frontage. Waratah Avenue must remain open to through traffic.</li> <li>c) any proposed hoarding and/fencing location, type, height, and duration,. <u>Note</u>:- a separate approval is required under the Roads Act 1993 for the erection of any hoarding or fencing in the road reserve.</li> <li>d) Location of site sheds, toilets and other construction amenities</li> </ul>

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- e) Proposed method for maintenance of safe pedestrian access along the frontages of the site at all times.
  - f) Proposed delivery/loading/storage locations, noting that the road reserve or public reserve shall not be used as loading or storage locations.
  - g) Details of the proposed parking and access arrangements for workers and sub-contractors.
  - h) Advertising and consultation process, including a contact number for a person nominated to manage enquiries and complaints from the public.
  - i) Safety devices such as signs, barricades, barriers, warning lights etc. shall be placed where works affect the Council roads and shall be in accordance with Australian Standard No. 1742—Manual of Uniform Traffic Control Devices and Roads and Traffic Authority Manual—Traffic Control at Work Sites 1998. Details are to be included in the CPM.

Fees for assessment of the plan will be charged in accordance with Council's adopted fees and charges.

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**On site detention**

32. The OSD system is to restrict post-development discharge rates from the site to pre-development discharge rates for all storms up to and including the 1:100 year ARI storm.

The OSD system shall be designed to incorporate and or address the following:

- a) The discharge requirements and other requirements of this consent
- b) The OSD volume is to be calculated assuming that all water reuse tanks are full
- c) All habitable floor levels are to be located a minimum 300mm above the 1 in 100 year ARI top water surcharge levels.
- d) An emergency overflow facility capable of safely conveying all storms up to and including the 1 in 100 year ARI storm to Lurline Street.

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**OSD detailed design****Amend to include water quality devices**

33. The detailed design for the stormwater management system is to be approved by Council or an appropriately accredited certifier.

The stormwater concept plan is for development application purposes only and is not to be used for construction. The detailed design is to reflect the approved concept plan and include the requirements of the Sydney Catchment Authority conditions.

A design compliance certificate for the stormwater management system can be issued by Council or a suitably accredited private certifier subject to application and payment of the required fees.

<b>Tank structural design</b>	34. The rainwater and on site detention tanks are to be certified as structurally adequate by a practicing structural engineer. The certified design is to be submitted to the Principal Certifying Authority with the Construction Certificate application.
<b>Repairs to existing retaining walls</b>	35. Recommendations within the approved structural assessment report prepared by Partridge Structural Pty Ltd and dated 29 March 2018 shall be incorporated into design plans and submitted to Council's Development Engineer for approval prior to submission to the Principal Certifying Authority. This includes the recommendation in section 3.6 of the structural assessment report to keep the existing northern return wall insitu, and to build a new retaining wall immediately in front of it. All works relating the retaining wall are to be at the developer's expense.
<b>Retaining walls structural design</b>	36. All retaining walls, new and existing, are to be certified as structurally adequate by a suitably qualified structural engineer. The certified design is to be submitted to the Principal Certifying Authority with the Construction Certificate application.
<b>Accessibility and adaptability design statement</b>	<p>37. To ensure appropriate access and facilities are provided, a statement is required from a suitably qualified Access and Mobility Specialist, certifying that the development complies with the following:</p> <ul style="list-style-type: none"> <li>a) Eight dwellings/ sole occupancy units comply with Adaptable House Class C in AS 4299-1995 <i>Adaptable Housing</i>.</li> <li>b) The provisions of the Disability (Access to Premises – Buildings) Standards 2010.</li> </ul> <p>This statement is to form part of the Construction Certificate documentation.</p> <p>Nothing in this condition alters any obligations imposed under the <i>Disability Discrimination Act 1992</i>.</p>
<b>Fences</b>	<p>38. To ensure an appropriate transition between the private and public domain and to retain and enhance the amenity of the public domain:</p> <ul style="list-style-type: none"> <li>a) Fences along the Waratah Street frontage and on the interface with Dr Alex Allen Park shall be constructed of high quality and visually permeable materials and shall be no higher than 1.2 metres above ground level.</li> <li>b) The fence on the Waratah Street frontage shall be set back from the property boundary as shown on the approved landscape plan.</li> <li>c) Fences along the Waratah Avenue frontage shall be constructed of high quality materials and shall be no higher than 1.8 metres above ground level.</li> </ul>

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- d) No fences shall be constructed on the Lurline Street boundary with the existing retaining wall being used to delineate private and public space.

To ensure that fencing complies with the above requirements, and prior to the issue of a construction certificate, plans and specifications for the proposed fencing shall be provided to and approved by Council's Executive Principal - Planning.

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**Use of rainwater tank water**

- 39. To ensure collected rainwater can be used on site, the location of suitable connection points, such as outside taps, shall be shown in suitable locations for outdoor use on construction certificate plans.

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**Submission of amended and detailed landscape plans**

- 40. Prior to release of a construction certificate, an amended and detailed construction stage Landscape Planting plan, Plant Schedule and Landscape Specifications are to be developed and submitted to Council's Landscape Assessment Officer for consideration and approval.

The final planting layout and garden structure is to be generally in accordance with the approved Landscape Architectural drawings, prepared by Sturt Noble Associates, dated 13/04/18, inclusive of all Council annotations, except as detailed below.

- a) An amended planting schedule indicating the common name, botanic name, expected ultimate height and width, planting size and number of proposed plantings is to be provided.
- b) All plant species selected for inclusion must be fit for purpose, of appropriate scale, climatically suited to their proposed location, low water use, non-invasive and characteristic of the locality.
- c) Additional plant species as noted by Council on approved plans are to be utilised to amend and enhance key planting areas to suit microclimatic and access constraints.

Landscaping documentation is to demonstrate that at establishment the landscaped area will achieve the following:

- a) sensitive and appropriate integration of retained trees within an enhanced landscape setting, and
- b) a landscape setting containing a variety of non-invasive species, selected from the planting schedule and located in accordance with the approved planting layout, and
- c) plantings which are suitably advanced, vigorous, structurally sound and correctly installed, and
- d) effective integration of stormwater management system

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elements into the landscape setting and

e) completion of all structural landscape elements including retaining walls, garden edging, fencing, paving, seating and lighting, and

f) bespoke protection of all new and established plantings from pedestrian and climatic impacts to ensure successful establishment and/or optimum longevity.

And that at maturity, the completed landscape planting will provide:

g) a prominent and complex garden setting commensurate with the local character and the position of the site in relation to major tourist destinations, and

h) subtle screening of the development from roadway and pedestrian areas whilst maintaining an active street frontage to enhance the visitor experience, and

i) appropriate screening of the development from adjoining public land, and

j) public open spaces which demonstrate effective safety by design aspects, and

k) the adequate conservation and enhancement of tree canopy across the site.

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**Amended plan-  
Vegetative components  
of bio-retention systems**

41. In order to ensure that the effective operation of the proposed bio-retention system, amendments to the planting schedule for the vegetative components of the rain garden are required prior to the issue of a construction certificate.

The planting schedule is to be comprised of at least six different species of groundcovers, tufting plants and shrubs. Plants are to be established at a minimum density of at least 8 plants per square metre across the base and side batters of the bio-retention system.

The following species are considered suitable, but their final selection, frequency and planting positions are to be based on final site conditions:

**Shrubs:** *Allocasuarina distyla*, *Callistemon citrinus*, *Calytrix tetragona*, *Melaleuca thymifolia*.

**Sedges/rushes/grasses/ferns:** *Baloskion tetraphyllum* 'Feather Top', *Blechnum nudum* or *B. cartilagineum*, *Carex longebrachiata* or *C. appressa*, *Doodia aspera*, *Gahnia sieberiana*, *Lomandra 'Tanika'*, *Poa sieberiana*, *Themeda australis*.

**Spreading groundcovers:** *Brachycome species*, *Dianella revoluta*, *Westringia* 'Low Horizon', *Myoporum parvifolium*.

These changes shall be reflected in construction certificate plans.

<b>Bin storage area</b>	42.	The designated garbage bin storage area located on the southern side of the western apartment building shall be design to accommodate at least twenty 240 litre mobile bins. This requirement shall be shown on construction certificate plans.
<b>Clothes drying areas</b>	43.	Communal outdoor clothes drying areas are to be provided where they are not visible from any public place. This requirement shall be shown on construction certificate plans. Should this prove impractical the Principal Certifying Authority shall be satisfied that a suitable area for clothes drying is provided within the private open space area for each unit without being able to be seen from any public place.
<b>Air conditioning units</b>	44.	Air conditioning units, where required, shall be located in areas of private open space for each unit and not visible from any public place. This requirement shall be shown on construction certificate plans.
<b>Consolidation of Allotments</b>	45.	<p>To ensure that the overall development is integrated, the following parcels are to be consolidated into one parcel:</p> <ul style="list-style-type: none"> <li>• Lot 1 DP844231</li> <li>• Lot 1 DP810663</li> <li>• Lot 5 DP 1145606</li> </ul> <p>Evidence of registration of lot consolidation with NSW Land and Property Information must be provided to the Principal Certifying Authority prior to the issue of the construction certificate.</p>
<b>Utility Services</b>	46.	Arrangements must be made with Integral Energy and an approved telecommunications service provider for the extension of services to the site. Written evidence of such arrangements shall be submitted prior to the issue of the Construction Certificate.
<b>Sample board of finished colours and materials</b>	47.	To ensure that the development is compatible with the surrounding environment and streetscape, and prior to the issue of a construction certificate, a sample board of finished colours and materials shall be provided to and approved by Council's Executive Principal - Planning.

#### **Prior to the Issue of an Occupation Certificate**

<b>Sydney Water Section 73 Certificate</b>	48.	A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
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		<p>Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.</p> <p>Application must be made through an authorised Water Servicing Coordinator. For help either visit <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a> Plumbing, Building and Developing &gt; Applications and Approvals &gt; Applications, or telephone 13 20 92.</p> <p>The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.</p>
<b>Repair of damage</b>	49.	<p>The applicant shall repair or reconstruct all damages caused by construction activity relating to the development as required by the Council's Supervising Engineer prior to release of any Occupation Certificate.</p>
<b>Certification by Council</b>	50.	<p>Prior to the issue of any Occupation Certificate, a certificate shall be obtained from Council to verify that all works, including any repair or reconstruction works within the road reserve have been completed in accordance with the approved plans and to Council's satisfaction.</p>
<b>Certification – Site's stormwater system including OSD ,Water Quality Treatment – Construction</b>	51.	<p>The on-site stormwater detention and/or water quality treatment device/s must be completed to the satisfaction of the Principal Certifying Authority prior to the issue of an occupation certificate.</p> <p>The following documentation is to be submitted to the Principal Certifying Authority, prior to the final inspection(with a copy provided to Council were Council is not the PCA):</p> <ul style="list-style-type: none"> <li>• A works as executed plan prepared by a registered surveyor,</li> <li>• Certification by the system designer, or other suitably qualified person that the system has been constructed in accordance with the approved plans and will function as intended,</li> <li>• Any variation to the approved design is to be noted together with any required remedial works to ensure the system will function as intended.</li> </ul> <p>Any works required to ensure the system functions as intended are to be certified as having been completed prior to the issue of any occupation certificate.</p>
<b>Operational Environmental Management Plan (OEMP) positive covenant (Maintenance)</b>	52.	<p>To ensure the water quality and on-site detention system (OSD) is satisfactorily maintained, a covenant under Section 88E of the Conveyancing Act, 1919 shall be prepared and registered over the subject land.</p> <p>The terms of the 88E Instrument with positive covenant shall include, but</p>

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not be limited to, the following:

- The Proprietor of the property shall agree to monitor, maintain and manage all stormwater devices in accordance with the Operational Environmental Management Plan (OEMP).
- The Council shall have the right to enter upon the land referred to above at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures in or upon the said land which comprise the water quality, OSD or which convey stormwater from the said land and recover the costs of any such works from the Proprietor.
- The registered Proprietor shall indemnify the Council and any adjoining landowners against damage to their land arising from the failure of any component of the OSD or failure to clean, maintain and repair the OSD.

The applicant shall bear all costs associated in the preparation of the subject 88E Instrument. The wording of the Instrument shall be submitted to and approved by Council prior to lodgement at NSW Land and Property Information.

Proof of lodgement with NSW Land and Property Information shall be submitted to Council prior to the issue of the Occupation Certificate.

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**Access and mobility –  
verification that  
completed development  
complies**

53. To ensure the completed development has been constructed to provide access and facilities for people with a disability or limited mobility in accordance with the principles of the *Disability Discrimination Act 1992*, the Council's planning instruments and the conditions of the development consent, written verification shall be provided by a suitably qualified Access and Mobility Specialist.

This verification statement is to be provided to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Nothing in this condition alters any obligations imposed under the *Disability Discrimination Act 1992*.

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**Final fire safety certificate**

54. The essential fire safety measures referred to in the fire safety schedule issued with the construction certificate, excluding any existing measures, are to be installed within the building.

A final fire safety certificate is to be furnished by the owner of the building to the Principal Certifying Authority (PCA) prior to the issue of any occupation certificate, in respect of all essential fire safety measures specified in the above schedule.

The certificate should state that each specified essential fire safety measure has been assessed by a properly qualified person (chosen by

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the owner), and was found to be capable of performing to a standard not less than that specified in the schedule.

A copy of the certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire & Rescue NSW by email at [afss@fire.nsw.gov.au](mailto:afss@fire.nsw.gov.au). A further copy is to be prominently displayed in the building.

#### Advice

A person who carries out the assessment must inspect and verify the performance of each specified fire safety measure and must test the operation of each new item of equipment installed in accordance with the schedule.

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#### **Restriction as to Use 88E Instrument**

55. To comply with the requirements of Clause 17 of the *State Environmental Planning Policy (Affordable Rental Accommodation) 2009*, an instrument restricting the use of land is to be created, pursuant to Section 88E of the Conveyancing Act, 1919 and shall be submitted in a form acceptable to Council indicating the following:

- For 10 years from the date of issue of the occupation certificate:
  - a) All dwellings are to be used as affordable housing, as defined in the policy, and
  - b) All dwellings are to be managed by a registered community housing provider, as defined in the policy
- The restriction shall be registered against the title before the date of issue of the occupation certificate.

The 88E Instrument shall also contain a provision that it may not be extinguished or altered except by Blue Mountains City Council.

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#### **Certification-Tree protection and management**

56. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority (PCA) is to obtain a written certification statement from the appointed Project Arborist, and be satisfied, that all tree protection and management works have been implemented in accordance with the approved Arboricultural Method Statement (AMS) and these consent conditions. Where any deviation from the AMS has occurred, the arborist is to recommend any remedial works necessary to ensure the long term health of retained trees where damage is detected.

The person having the benefit of the consent must complete any works directed by the PCA or Council in order to satisfactorily achieve these requirements prior to the issue of any Occupation Certificate.

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#### **Certification – Landscape implementation**

57. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority (PCA) is to obtain a written certification statement from a qualified landscaping practitioner or Blue Mountains Council Landscape Assessment Officer and be satisfied, that all landscaping and associated

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works have been implemented in accordance with the approved plans, landscape specifications and these consent conditions.

The person having the benefit of this consent must complete any remedial works directed by the PCA or Council in order to satisfactorily achieve these requirements prior to the issue of any Occupation Certificate.

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#### **External lighting**

58. To protect the amenity of the local area and to avoid obtrusive light spill to the surrounding properties, all external lighting including illumination of the central courtyard, car park, pathways and signage, shall meet the following requirements:
- a) The lights are to be 'warm white' in colour; and
  - b) The lights are to have a light output distribution sufficient to achieve the required illumination purpose while avoiding excessive light spill to the surrounding properties.

As a minimum level of performance, the light output distribution shall conform with the standards in Table 2.1 "Recommended maximum values of light technical parameters for the control of obtrusive light" and Table 2.2 "Maximum luminous intensity per luminaire for pre-curfew operating times", as outlined within AS 4282 *Control of the obtrusive effects of outdoor lighting*.

To ensure this requirement is achieved, a light spill verification statement prepared by a suitably qualified person shall be provided to the PCA prior to the issue of any occupation certificate.

#### **Ongoing use**

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##### **Annual fire safety statement**

59. Each year, within 12 months of the previous statement or after a certificate of installation has been issued for the building (whichever is applicable), the owner of the building must submit to Council an annual fire safety statement that must demonstrate that each essential fire safety measure in the building is being maintained.

A copy of the statement (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire & Rescue NSW by email at [afss@fire.nsw.gov.au](mailto:afss@fire.nsw.gov.au). A further copy is to be prominently displayed in the building.

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##### **Monitoring of retained trees**

60. Following the practical completion of construction works and for a minimum period of twenty four months, the person benefitting from this consent is to engage a qualified consulting arborist (minimum Australian Qualification Framework (AQF) Level 5) to undertake monitoring of the

		<p>retained trees in accordance with the timing schedule nominated by the project arborist. The appointed arborist is to inspect the trees for decline and hazards and determine the adequacy of the maintenance regime for the purpose of maintaining tree health and longevity.</p> <p>Where significant evidence of tree decline or structural instability is detected, the inspecting arborist is to immediately notify and provide a report detailing identified issues and recommending remedial actions to Councils Tree Management Officer.</p>
<b>Landscape Maintenance</b>	61.	<p>Following practical completion of landscape works, landscape maintenance is to be undertaken for the life of the development at sufficient intervals to promote successful establishment and growth of all new plantings and maintain all landscaped areas in optimal condition. Plants that die or are removed are to be replaced with the same or similar species in an equivalent stage of growth.</p> <p>Maintenance is to include pruning, fertilising, weeding, re-mulching, watering and irrigation, pest/ disease control, rubbish removal, leaf litter management, drain clearing, monitoring and replacement of stakes, ties and other tree protection devices and tree maintenance.</p>
<b>Garbage bin collection area</b>	62.	<p>The designated garbage bin collection area fronting Waratah Avenue is not to be used for permanent storage of bins. Garbage bins are to be returned to the garbage bin storage area on the southern side of the basement car park as soon as practicable following collection.</p>
<b>Garbage, recycling and green waste bins</b>	63.	<p>The development must accommodate the following numbers of bins:</p> <ul style="list-style-type: none"> <li>• 10 general waste bins (red) collected weekly</li> <li>• 8 recycling bins (yellow) collected fortnightly</li> <li>• 2 green waste bins (green) collected fortnightly</li> </ul>