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2<sup>nd</sup> January, 2011.

To; Blue Mountains City Council

attn; Mr Gary Chalmers, Senior Building Certifier, BMCC.

Re; Development application X/1033/2010

Dear Mr Chalmers and Blue Mountains City Council.

I write again in response to the proposed development at 26 Old Bathurst Road, Woodford, pursuant to my submission of 2007 when an almost identical proposal was submitted to council.

In brief point form, this submission makes these points;

- 1) Opening statement – Council LEP and DCP guidelines.
- 2) Method of BMCC advice to community and nearby property owners.
- 3) Impact on heritage listed Cox's Road and other historic remains and property.
- 4) Impact on eastern gazetted access track.
- 5) Bulk and Scale – nature of the proposal. Potential future use.
- 6) Precedential legal possibility.
- 7) Impact on privacy; Lot 43 Old Bathurst Road.
- 8) Visual Impact – Acoustic impact.
- 9) On site detention (OSD) and Onsite Sewerage Management System (OSMS). Aquifer.
- 10) Flora impact.
- 11) Fauna impact.
- 12) Fire risk.
- 13) Final comment/closing statement – need to preserve history.
- 14) Request for acknowledgement of submission and future notification of any development.

It is apparent that this proposal breaches BMCC's Local Environment Plans and I believe, the guidelines of other Government authorities. I am disappointed that once again this proposal has even been allowed to proceed to a point of consideration and notification as it has, necessitating such waste of time and resources from so many persons, including myself and other persons from the community, including those of council itself, to deal with this ill conceived and poorly considered proposal.

I do not suppose to address individual items of council's LEP or other planning instruments, or that of other Government bodies within this submission, since it is my consideration that council and its various offices are far more qualified to address these than I am, and are bound to do so within their own areas of responsibility, expertise and duty of care.

Suffice to say that I am of the very sure belief that this proposal is in breach of a number of planning and protection instrumentalities.

I have significant concerns about the nature of this proposal, and the method by which I learned of it.

Although I was granted an extension of time to provide this submission to council, since I was notified of the proposal quite late into the process, the council website information regarding this proposal itself was withdrawn, making this submission extremely difficult to research.

## **NOTIFICATION PROCESS; OBJECTION TO METHOD.**

Given that during my previous communications, including my previous formal written submission in relation to this proposal **I specifically asked to be notified** of any further development application at this site, **and yet this did not occur**, I am extremely disappointed and somewhat suspicious of this process so far. Likewise, other local residents who have made their concerns in regard to this contentious site known to BMCC previously and who also asked to be notified of further development applications, such as has now occurred, were not. It is my understanding that **only one local person was notified**; why, and what is going on here?

I am also alarmed by the date of submission of this development application. In my experience applications made during the very late part of the year can be deliberately timed to “sneak” through at a time when the broader community is busy with the oncoming Christmas holiday season and so time constrained to be able to address issues arising from any application. Too, council staff are thinned out, and media is in a caretaker mode as is council itself, once moved into “delegated authority” for the seasonal end of year break.

Generally, given the original (December 2010) lack of notification to surrounding residents, and to previous formal objectors to the proposal (as noted, many of whom specifically asked BMCC to notify them of any future development applications), and the timing of the application, this does not look good as an overview of the formal process.

Councils letter of notification states that “As the owner of nearby land who may be affected by the proposal you may wish to make comment.”

The proposed site is almost immediately adjacent to my property, diagonally separated by only one lot (lot 41) and would not only directly overlook my property, but also certainly affect my only access to my property as well.

Since this proposal would have obvious direct impacts on me directly and my household generally, on a wide variety of levels, I am extremely disappointed that Blue Mountains City Council found it pertinent to apparently (originally) notify only one local household of the proposed development at 26 Old Bathurst Road. Fortunately that neighbour once again alerted me to the proposal; otherwise I would once again have been totally unaware of the proposal application until such time as any period to take proper action would have passed. This is the second time that this has occurred in relation to this same development application.

BMCC had completely omitted to notify any others, including myself, and yet given the bulk and scale, location, impact and nature of the proposal, many persons would suffer obvious significant negative impacts if this proposal were to be allowed to proceed in it's current guise.

As an ex serving independent councillor of a single party controlled Fairfield City Council between 1999 and 2004 I often saw dubious proposals “shuffled” and manipulated to attempt to push them through.

I trust that in this particular instance, once again, a simple notification error has occurred and there has been no unsavoury manipulation of process. Having spoken with council's Mr Chalmers, I am sure that this is the case, although, in the end I had to go to council to obtain such proper notification.

Therefore;

**- I again request that any future notification or other dealings regarding this proposal or any others for that matter, in this area, be addressed to me directly, as well as all other nearby neighbours. As a community we all have a right to know what is planned or proposed within our direct locale.**

# **HISTORICAL IMPACT.**

## **Cox's Road/Old Bathurst Road.**

By far and away the most pertinent issue relating to this proposal is the very clear one of negative impact on extremely significant historical remains, particularly of Cox's road. Without any shadow of doubt, there will be massive damage, and in some cases, utter destruction, of unique major sections of the remains of the historic Cox's road.

It is important to note that there are two separate Cox's Road/Old Bathurst Road issues of impact. Given the size and location of the proposal, it is clear that there will need to be significant heavy machinery using the Old Bathurst Road section which would seriously compromise its quality.

**Within the block itself are more significant Cox's road historical remnants, which the building itself would be constructed directly on top of. (please see attached photographs and map)**  
**There is no mention of this in any of the applicants supplied report documentation.**

The proposed all weather driveway unclearly showed in provided documentation will also have major potential damage or complete loss of these historical markings as well.

There is no doubt what-so-ever, that the section of Cox's road which remains between Hepburn Road and the formed section of Old Bathurst Road past the gateposts and the flatrock south of the Rockcorry cottages is the most significant and original remnant of that road, and his work.

I am aware that there have been studies carried out on this section of ridge by various professional persons, one of whom made my acquaintance whilst searching for remains and information relating to this section of road. Mr Gibson is in the process of writing a book and thesis on this road, with particular emphasis on this most precious section of remaining roadway, because of its absolutely unique nature.

On 19/05/2006 Mr Gibson, myself and the RTA's Heritage Officer, Mr Bill Evans, went through this section of remnant road researching it. On the lot 26 block we found a remarkable series of markings, almost certainly made by William Cox himself, chipping into the rock with a long handled scutcheon or pick, to indicate the route of further road work progress for his crew. There is also apparent evidence of the beginnings of roadworks carried out by his convict road gang, which were seemingly abandoned when they must have discovered the adjacent natural flat terrace of rock which now constitutes the Old Bathurst Road, passing directly in front of the Rockcorry Cottages and beyond, and so changed their route in favour of a more convenient one which did not require such major rock excavation as would have been needed had they continued on the original top of the ridge route, in a straight line direction. To do so would have also necessitated traversing a fairly steep incline, also on Lot 26. It should be noted that Cox followed over land form, rather than cutting through land and rock form. If this is the case, then this would be one of, if not the most, significant remains of Cox's original work - essentially a primary signature by Cox himself, chipped into the rock. I am informed that this would therefore be the only remaining such example of Cox's original road marking. Photos of these are attached to this submission, and their location marked on the attached site boundary map.

It should be noted that this particular marked section, which is on lot 26, is on the only section of bare rock not over-covered by leaf litter and the light over-cover of new earth which typifies the rest of the lot. It is therefore entirely probable that there would be other markings and workings buried beneath the leaf litter, since the rest of the lot is directly in the alignment of these markings. These markings are to the southern end of the lot, and therefore the latter end of Cox's direction of roadwork construction, where as noted, he seems to have changed the route to a flatter more favourable one, once discovered, having already worked their way to this point. A photograph of evidence of a possible section of this abandoned

primary work, covered by leaf litter and immediately underneath the area of the proposal, is also included with this submission.

It is critical to understand that, if one views an overhead map, as is attached to this submission, one can clearly see that these markings and workings, on Lot 26, are in direct alignment with the remainder of the road to the north, and of that to the south. The natural flat terrace noted, is a deviation from a straight line between the north and south sections of the road, either end of Lot 26.

It should be noted that the section of narrow ridge between Linden and through Woodford, including the region of lot 26 is critical in regard to the Blaxland/Wentworth/Lawson route crossing the mountains. This is because at this point it is necessary to travel in a North/South direction along the only available ridge such as to enable further East/West crossing of the mountains, the only section of the original route where this occurs. Essentially, this ridge is the most important key to the Blaxland/Wentworth/Lawson route of crossing the mountains. If a traveller were to deviate from this route, they would have found themselves (and still would) lost into the deep valleys and gullies of the Grose Valley, Blue Labyrinth and other such impassable territory.

As previously noted, this narrow section must therefore have been travelled over by many famous persons, and also necessarily by all stock droving through the mountains on this route, hence the strategic location of the (then) Tollgate hotel at Linden. Since the road itself would have been used by horse and cart travellers, it stands to reason that stock crossing would have occurred to the east of the formed road, so as not to block the road itself. Who knows therefore, what treasures might lie beneath the thin layer of leaf litter over this very narrow ridge at this point? Given the very narrow nature of this ridge section, it stands to reason that there may well also be primary evidence of Mitchell's later roadwork, and of course, Lawson himself, who also conducted later road surveys.

The owner of Rockcorry 1 advises me that when she first moved into the cottage in late 1978, the area was bared due to the massive fires which occurred in 1977, which utterly razed the area. She saw primary markings of other roadworks, such as formed rock verges and edges, clearly visible, in the direct area of this lot 26 proposal. Some 30 years of regrowth have since covered the area. It would be shameful to lose any of this by the considerable earthworks, construction and imported soil for absorption purposes, that would be attendant to this proposal. I attach to this submission several photographs of a section of probable preliminary road work by Cox's gang, which is buried under a light layer of leaf litter, on Lot 26.

Given the shocking damage done by the Waterboard to the original road north of Rockcorry cottages, I contend that there is even more importance and significance in retaining this last remaining undamaged section of Cox's road, and particularly in this case, his only evidence of primary signature in the rock, in original state.

During the investigation with RTA's heritage officer, we were informed that he/they were already somewhat disgruntled by the allowance of other constructions and works, over the remains of the original road, which had been allowed to occur.

- I believe therefore that it is critical that a proper and detailed historical ground survey be carried out over this area, by properly qualified professionals, if this proposal should be considered any further by BMCC, and that other Government bodies such as the RTA Heritage Department, and organisations such as the National Trust should also be approached in regard to opinion and comment on this proposal.

**- There is no doubt in my mind what-so-ever, that this area of land, particularly including Lot 26, should be heritage listed, and protected, due to it's absolutely intrinsic, inherent and undeniable historical value.**

## **Rockcorry Cottages.**

There is also the issue of historical impact on the Rockcorry cottages, which date back to 1880 and are some of the oldest remaining historical buildings left within the Blue Mountains, of which very few remain in original form. Rockcorry 1 in particular, has been maintained in strictly historical terms, with a clear focus on retaining its original character, by its current owner. She has done an outstanding job of doing this and well deserves congratulations for doing so.

There is no doubt in my mind that there would be significant impact on these historic cottages, since the proposal would be sited right near the Rockcorry cottages..

There would also be other significant impacts on these cottages, including that of increased water runoff, noise impact, vehicular traffic impact (on a sensitive section of Old Bathurst Road), notwithstanding the impact on it's own outlook in every sense.

## **DAMAGE ALREADY EXECUTED TO OLD BATHURST ROAD AND BUSHLAND ON SITE, BY APPLICANT.**

During the period prior to settlement of the purchase of this property, i.e. when he did not even own it, the applicant bored several holes into the heritage listed, and one of the most precious remaining sections of original roadway in Australia's history; namely Cox's Road/The Old Bathurst Road, apparently for the provision of some nature of private signage. This caused a great deal of concern amongst many local persons who saw this as a major desecration of a precious and significant historic item, and in some cases led to local persons in an upset state, ringing me to find out what had happened.

As a former driller and powderman which is known to some of my neighbours, there was even some consternation that it may have been me who might have bored these holes in the roadway for some reason; as if I would ever consider to do such a desecration and destructive thing to such a precious part of Australian history! This is the largest remaining section of the original road in original condition, with primary evidence of Mr Cox's road work, and along which noted famous persons such as Charles Darwin, Governor Macquarie and Oswald Brierly later passed, amongst a great many others. I will address other concerns and issues about the significance of this road in more detail, later in this submission.

During that period, and since settlement of purchase of the site, there has been considerable internal clearing of the block, such that there are a number of extremely large pilings of cut down trees and other bush within the block. I believe that this has been conducted by the applicant of this current development application. It is my understanding that in fact, council directed him to desist from this practise, which did not occur. I also understand that council fined the applicant for this behaviour, and yet, this still did not deter him from further clearing of the block.

As a long time member and ex president of the NSW Fairfield City/Horsley Park RFS, I would point out at this stage, that such large pilings of bushland timber present a significant fire risk and hazard, including to local RFS personnel who may have to attend any fire on the property, since such large accumulations of timber are apt to ignite easily and then cause extremely intense fires which are all but impossible to extinguish, and which burn for extended periods of time, with consequent flying ember issues. Several photographs of these piles are attached to this submission.

Suffice to say, and in regard to the fact that the applicant could well become a future neighbour with whom I do not wish any animosity or bad feeling, I never-the-less have concerns about the applicant's behaviour and genuine level of care for the local environment, history of the area, and amenity of his would be neighbours.

## **IMPACT ON EASTERN LOWER TRACK/ PERSONAL ACCESS ISSUE.**

I am more than a little alarmed that the applicant has once again, seemingly deliberately avoided to clearly identify the gazetted and lightly formed gravel and dirt single track leading to my property, or to any impact the proposal would have on that track, and yet this immediately abounds lot 26. Is this a deliberate obfuscation of all of the facts and impacts by the applicant?

The only access to my home is via this gazetted track which as noted traverses the eastern edge of Lot 26. Given the steep falls to the east, away from this track at the point alongside this proposed construction, there is no real chance to divert the track along any other route, and so I have real concern about future access to my house if this track were to be in any manner compromised or blocked.

This track is already in extremely poor condition, and it is impossible to see that during construction of this proposal this track would not be severely damaged. If this damage were to be severe enough it would leave us with no way to get to or from our house and property. As it is, massive volumes of water cascade from lot 26, down to and along this track turning it into an almost shallow creek like state in many places.

The provided “Blue Mountains Geological and Environmental Services” Geotechnical and Water Balance Assessment report shows that the proposal is to use a 3,200 litre septic tank system and that “it is important to ensure that appropriate water conservation practices are carried out in the dwelling so that water usage and the resultant volume of effluent generated is ideally kept as low as possible”. As noted previously, there is no guarantee that this “dwelling” will not be on sold and used for a greater number of people usage. If this should be for guest house or similar operations then there would be a far higher water usage by those utilising the property. Water flows downhill, and that would therefore be onto this track, which is barely able to cope with the volumes of water already flowing onto it from lot 26, just as natural forest and bushland. **Additional volumes of water to this caused by man made hard surface and cleared land will cause a major additional impact on this access track, not catered for in any way that I can find, in any of the proponents provided documentation.**

The Asset Protection Zone shown in the supporting plans for the proposal, and in the earlier Martens Bush Fire Assessment, indicate that the proposed protection zone extends across this track, outside of the boundary of Lot 26, effectively therefore taking claim on land which extends outside of the proponents property, and belongs to the RTA and not to the proponent, and which includes my access track. I believe that this is not permissible in any sense, and therefore in its own right should disallow approval of the proposal.

### **Common usage of track.**

I point out too, that a great many local persons who use the track to walk upon, as well as a frequent usage by mountain bicycle riders, and students of various educational and natural research facilities who frequent the area conducting various nature studies, would also be negatively impacted on in this regard.

The plans which the applicant has provided to council are entirely unclear as to genuine location of the proposal, but it would seem that there might be a real problem in relation to blocking access to my property. In this regard, at the time I purchased my property, I sought some assurance from the RTA in ensuring that I would always be able to access my property. I attach a copy of the letter I received from them, via my solicitors, which should therefore be regarded as an integral part of this submission.

- In the event that the proposal proceeds any further than the current comment process, I request that council ensure that there will be no closure for any period of time at all, impact, or other detriment to this track. I also request that there be a surety in planning that there could not be ever caused, any ground flow of water from the lot which could wash out my access track thereby rendering my family unable to access our house, or leave it.

I also note that I have little confidence that any retaining wall would be sufficient to permanently prevent slippage of the considerable volume of land fill which will need to be brought in for absorption purposes, onto this track, thereby also blocking it, and also potentially preventing ingress and egress from my property.

### **LOSS OF PUBLIC AMENITY.**

It might sound unrealistic, however, a surprising number of people could be negatively affected by this proposal, in terms of loss of amenity. As noted throughout this submission, University and other learning institution pupils, private researchers, local community who walk their dogs daily, bush bike riders, runners and bush walkers, amongst others, use this area on a constant and regular basis, including using the track which cuts through lot 26, joining Old Bathurst Road, and the lower access track. We commonly find people using the gazetted lower track all the way up to our gateway (and sometimes inside as well) on a constant regular basis.

### **ORIGINAL DESCRIPTION OF THE PROPOSAL VERSUS THAT NOW PROPOSED.**

When I first met with the applicant, who at the time was only considering to purchase the 26 Old Bathurst Road property, it was indicated to me that the nature of construction which they were proposing was to be of a small cottage style development incorporating state of the art environmental considerations including but not limited to passive solar electrical power supply and on site water storage and supply.

The proposal we are now confronted with bears no resemblance what-so-ever to that which was originally described to me.

### **GENUINE NATURE OF PROPOSAL - POTENTIALITIES.**

Unfortunately, this proposal brings out a cynical part of not only my nature, but that of a great deal of the community with whom I have spoken regarding this proposal. I am aware that the applicant is the manager and owner of the Clarendon Guest house in Katoomba, as described by the Blue Mountains Gazette.

**It is hard not to see that this proposal lends itself towards something far greater in design than just a simple “cottage” domicile for a retired couple of persons, as first described to me by the applicant.**

It is difficult to determine because the entire internal layout plan is not available for public view however given the inclusion of a “study” a “rumpus room” and a “plant room” as well as 4 bedrooms, the plan could indicate a potential 6 double bedrooms if the construction were to be use modified after approval. This would suggest that the proposed dwelling could be used as a potential dual occupancy, which is not permitted under council’s 1991 LEP.

As noted in the applicants “Starr Architects Statement of Environmental Impacts” the floor area of just the dwelling alone is 407.58 sq metres! That is almost as big as an entire standard urban lot in western Sydney.

The plan also lends itself to a potential use as a guest house, likewise not permitted under council’s LEP 1991 at this location. This could be particularly worrisome if the “dwelling” were to be on-sold by the applicant, after construction.

**If this proposal were to be used for either of the above purposes, then the impacts described in the applicants supporting documentation is absolutely incorrect, since the level of impact would be greatly increased in almost all aspects.**

I note too, that during that first meeting with the applicant I was left with the clear impression that they had very limited available finances. Given the massive scale of this proposal, and the obvious extraordinary landscaping and construction costs which would be involved, I must wonder therefore whether there might be some nature of commercial backing behind it, lending itself even more towards concern about the genuine intended nature of the proposal, and it's potential future use.

#### **FUTURE OWNERS - POTENTIAL FUTURE USE.**

In the event that this finalised construction should be on sold, as it must at some time in the inevitable future, then its use could be easily physically changed to a commercial operation of significant impact, particularly given its massive bulk and scale and the number of internal rooms.

#### **PRECEDENTIAL LEGAL POSSIBILITIES.**

As we all well know, approval of errant proposals such as this can lead to serious future problems, particularly for councils, whereas proponents of other undesirable projects can use earlier approvals as leverage, including by law, to facilitate and force other undesirable proposals, leaving approval authorities and bodies with little room to deny such approval. This can lead to considerable cost, which is borne by the greater community, and lost time to council authorities.

Given the considerable matters which are attendant to this proposal, this application, if consented to, could very probably leave behind it a very substantial problem of precedential approval issue in regard to loss of history and heritage, and protected/threatened flora and fauna etc.

#### **PERSONAL PRIVACY ISSUE.**

In regard to the level of personal impact on my home, I have real concern. The plans provided show the proposed structure would be located along the ridge behind my house. The southern aspect of our house and our main bedroom faces directly towards the massive all glass frontage of this proposal, and given the immediate steep fall of land southwards away from our house, we could not even plant trees (apart from the fact there is no soil) high enough to shield us from view. We would be placed in the unenviable position of privacy exposure to this entire proposed frontage. Even though the plans for this proposal indicate that the construction may be some 170 meters or so (difficult to determine given the various location discrepancies shown in the applicants provided documentation) from our house, never-the-less I believe that there would be a privacy issue demonstrated, since we can easily and clearly see the proposed site from our bedroom and the southern end of our house.

As noted, given that there is little or no topsoil over the sandstone rock throughout this area we would be unable to create any natural screening by plantation of tall trees and so would have to permanently curtain off our southern floor to ceiling windows to prevent this impact, which would utterly destroy the amenity of this aspect of our house, which in my opinion is it's most pleasant outlook.

- I therefore request that council require that if, in the event there should be any approval of any construction at the 26 OBR site, there should be a significant screening of trees required to be left, or planted, at the proposed site, such that a loss of privacy is not visited on my home and it's occupants. I note though, that given the location of the proposed "dwelling" I do not believe that even this would be sufficient to prevent our loss of privacy from this proposal.

## **VISUAL IMPACT.**

This proposal will without doubt, have a considerable impact on the visual amenity of the entire area, since it would be located near the top of the ridge, with a massive glass frontage. Even though there are a number of residences located to the south of my residence, none can be seen, at all, because they are sensitively located and blended within the environment. The southern outlook from my property is therefore a beautiful vista of natural landscape. This proposal would stand out within that landscape, jutting into the landscape as a massive visual blot cut into and covering over a totally natural setting, and so entirely altering its character.

Given its proposed location, and its considerable bulk and scale within a massive Area Protection Zone, it is my belief that this structure would in fact be outstandingly observable from many points of view, including even from a number of places in Springwood and further, as a visual blot within a pristine landscape.

Sun reflected glare from my neighbours house towards Hepburn road can be clearly seen by naked eye from Horsley Park, where I used to live, and it has substantial tree growth in front of it. This proposal essentially sits well above the tree top line in a far more exposed location, with ground form to the east sloping away steeply, so it will obviously be visible from a very considerable distance.

### **Acoustic considerations**

The elevated nature of this proposal, essentially towering over its neighbouring and nearby properties and residences indicates that there would likely be considerable potential acoustic impact on those properties and households. This would be particularly the case if the proposal were to be used for multiple occupancy purposes, which would seem likely given the bulk and scale of the building and the multiple large bedrooms indicated.

I also note that during the meeting I had with the proponent when first considering purchase of the lot he advised us that he was rather fond of loud rock music.

## **HARD SURFACE, ON SITE DETENTION.**

The proposal shows a massive roof area just for the main structure alone; an enormous hard surface generating run off. Coupled with this would be a further substantial increase in hard surface area for the car park and driveway etc. Combined, this indicates an enormous volume of run off water would be generated during periods of heavy downfall, which this location often experiences.

Given the sandstone nature of the area, it would be all but impossible to contain run off waters in any on site detention system. (OSD), particularly given that the same area would presumably be expected to also absorb the output of the site sewerage management system. If this were overlaid on an area of land already wetted by an on site sewerage management system (OSMS) then that impact will be severely magnified. Since an OSD must necessarily be located on the lower portion of any allotment, just where would this be; on the track itself? Below the track to the east is hard sandstone rock, as is the entire area essentially, so again, where and how would OSD be created?

As noted, during periods of heavy rain, Lot 26 due to its steep fall towards the east, discharges enormous volumes of water onto my access track as is, across a wide front, and frequently inundates it into a series of huge puddles and water logged along a very long section of the track, at least 150 metres in length.

My experience is that man made structures combined with man designed smooth surface earth work will create a situation where discharge and ground flow water will be effectively directed downhill towards a narrow runoff point, causing a situation where high speed, high volume water flow will likely cause

severe damage to my access track and render it impassable, and thus prevent me from accessing my home and property. Any natural absorption capability of the greater area of Lot 26 will be effectively removed due to the hard surface coverage the proposal will create.

### **Aquifer.**

I also point out that it would seem that there must be a fairly prolific water vent, presumably from an aquifer close to the surface, within lot 26. I evidence this by the fact that even in extremely dry weather, when there has been low volumes of rainfall, the access track leading to my house is commonly wet or damp, frequently with rivulets of water even running across it, that water having come out of lot 26.

I note that one of the reports submitted to council with the proponents plans, which I viewed at council, makes mention of this aquifer possibility, however this seems at best to be a rudimentary comment and made without any real investigation.

Given that the proposal is to rely on OSMS, and that any absorption area (noted within the Martens report as being insufficient) will necessarily have to be steeply sloped, there could well be an issue of contamination of an aquifer, or of down land over ground flow which has potential far reaching consequences, including that of pollution into the Sydney water drinking water catchment and/or the National Park. This potential impact would be all the more significant given that the land fall from this lot is steeply canted to the east, on a continuing basis with almost no flat land within it's direction of flow; down to the Glenbrook Creek.

- I request that the issue of any local aquifer on Lot 26, and it's attendant impacts on all aspects of the proponents plan, as well as any cumulative environmental impact caused off site, be properly investigated and proper ameliorative measures addressed, in the event that this proposal be allowed to progress any further than this current "comment" stage of the process.

### **FLORA IMPACT.**

The proposals submitted "Anderson Ecological Study" notes that the study was based on information provided by the client. This is simply not good enough, particularly given that the client has previously stomped, cut and otherwise cleared large tracts within the block with seemingly no particular care for any ground plants on site, or others, and then piling up a number of mounds of dead flora in locations variously scattered over the lot. Neither does the study indicate how long the study period was conducted over, and as is typical with the Blue Mountains flora and fauna makeup, this site continually changes with seasons and conditions. I note for instance, that the study does concede that there is a small area of Darwina Biflora, but does not make any effort towards properly protecting them, or any other species on the site, for that matter.

As noted previously, there would obviously be a massive impact on the Casuarina, Acacia and other unidentified flora on the site, with consequent attendant impacts on fauna.

- Clearly then, there is a demonstrated need for a far more comprehensive ecological study to be conducted over the entire site, over a full range of seasons, and conducted by properly qualified professional persons and/or organisations.

## **FAUNA IMPACT.**

As noted above, I have real concern regarding the ecological study submitted with the application, since it fails to mention issues of real significance.

One of the very local features of this location is that there is a significant flock of Red Tailed Black Cockatoo who obviously live within the small area between my access track and the Old Bathurst Road near Rockcorry Cottages. This area has dense areas of Casuarina trees and Acacia Pycnantha, which is the known habitat of these birds. It is normal to have huge flocks of them around our house and have them burst out of the bush at this Lot 26 location and then escort us up the track, our driveway, as we enter and leave our place. I have taken many photographs of these amazing birds, as well as film footage.

I make note too, that there are also significant numbers of yellow tailed Black Cockatoo in the local region, of which I have also taken numerous photographs.

The National Parks and Wildlife service note that;

The red-tailed black-cockatoo (*Calyptorhynchus banksii*) is listed as VULNERABLE on the schedules of the NSW Threatened Species Conservation Act. The species was listed because:

- Its population has been severely reduced
- It faces severe threatening processes
- It is an ecological specialist (it depends on particular types of diet or habitat)
- It has poor recovery potential

The Australian Government Department of Environment and Water Resources note that;

- There are five sub-species of red-tailed black-cockatoo, of which the southeastern red-tailed black-cockatoo (*Calyptorhynchus banksii graptogyne*) is the smallest. With an estimated population of just 1000 birds, it is in danger of extinction.

Given the considerable issues relating to just this one species of bird which has made this small grove of Casuarina trees it's home, it is apparent that there should be major consideration given to sensitive preservation of their habitat. The proposal currently before council does nothing at all to address this, and in fact would significantly impact on their habitat such that it may indeed cause a major problem on their ability to survive.

I am also aware that somewhere within the area of this block resides at least one family of Bower birds, since I have often heard their very distinctive call from this area, and have followed one after it had helped itself to a number of blue pegs from our washing line, into the 26 OBR block, or immediately nearby, where it disappeared into the dense scrub land and I could no longer track it. I did however, come across a (fortunately very sleepy) death adder which gave me a considerable start at the time since I was not aware that there might be such a species in the area, along with the tiger snake, black snake, brown snake and numerous lizard species which also reside in considerable numbers in the immediate area of the proposed building application.

There are an amazing number of other species of fauna which also inhabit this site.

I am also led to believe that there exists on this site, although I have not seen them first hand on the site, a number of "Blue Mountains Water Skinks" (*Eulamprus Leuraensis*). Certainly, I have seen them around my own property, as have my neighbours in the Rockcorry Cottages.

Council's website notes that: "The Blue Mountains Water Skink is considered endangered in NSW and is listed on Schedule 1 of the TSC Act. The Blue Mountains Water Skink is also listed nationally as an endangered species under the Commonwealth's EPBC Act."

- Given that there are probably at least 2 items of Fauna noted as “Threatened Species” which necessarily need protecting, I request that if this proposal were to be allowed to proceed any further than this “comment” stage, then an immediate halt should be placed on Council’s approval process, until such time as a properly detailed ecological flora and fauna study be carried out by a properly qualified expert, or experts, including council’s liaison with those relevant authorities noted on Councils website; NSW National Parks and Wildlife Service, State Forests of NSW, Sydney Catchment Authority, Blue Mountains Conservation Society, the Blue Mountains Rare and Endangered Species Group, and of course, Council’s own relevant departments, and that this information be then considered in context of whether or not to allow this proposal to proceed any further along the path of the approval process.

## **FIRE RISK.**

I note that the entire site is surrounded by dense bushland, and that the earlier “Martens” Bush Fire assessment rated the site as Bush Fire Prone Land; Category 1, the new one submitted by “Starr Architects” as “flame zone” and that the proposed structure will necessarily be (no matter which location used from provided plans) almost directly on a ridge top with a very steep bush covered gradient leading directly up to it. In fact, having spoken to the local Brigade, and a fire assessment officer whom I recently met, I understand that this location is in fact rated as a far higher risk category than that noted in the Martens Report.

I believe that this would be an extraordinarily dangerous location for a dwelling, for the health and safety of its occupants, since fire could arrive on such a dwelling with little warning period at all. I note that there has been an instance, prior to my purchase of my property, where an arsonist did in fact set fire to the area between my access track and Old Bathurst Road.

I also note that during the summer of 2007 I called out the Woodford Brigade senior officer to view a site, at Lot 26, and immediately next to the track on an exposed open rock, where a person or persons constantly lit fires during the late night and then left them still ignited, such that I often had to put them out in the morning when I found them. There have also been numerous instances where there have been large fires ignited on the “flat rock” late at night, by persons using the site for recreational purposes, often sizeable groups of young men. On a number of occasions, I and other persons within the neighbourhood have called police to these events. With a “flame zone” rating, such a fire during the night could arrive upon the occupants of any dwelling at this location with no warning.

I contend therefore, that the risk of fire at this location, particularly at night, is in fact a very real one.

## **FINAL COMMENT.**

I recognise that every person has a right to purchase land, and if appropriate, build a dwelling on that property. I feel for the applicant of this proposal, because although he/they have a right to build and own a home, it would seem that the location they have chosen has such significant issues attached to it, that this may preclude such a desire in this instance. I am also very aware that my own home is in such a situation such that I doubt that any authority would ever allow such a construction to take place had it been applied for in today’s political and protected environment. The person who built and owned the place before me, and from whom I purchased it, was of that very same opinion. In fact, it was for this very reason that although extremely expensive, I purchased the property on which I live, as I believed that as an isolated instance, it would be the only chance I would ever have to live in such a delicate and beautiful environment.

I point out too, however, that my own block of land does not contain anything like the unique mix of complicated and delicate flora and fauna as exists between my access track and Old Bathurst Road, such as exists on the 26 OBR block, or the same fire risk, since my own block is essentially one enormous flat plateau slab of sandstone rock, with an entirely different flora and fauna makeup, and which is essentially self clearing of large trees because of it's almost total lack of topsoil. I also point out that approval for my own house was made well before this area was declared as a World Heritage Listed area, and before "Land between towns" legislation. Times have changed.

More to the point however, is the fact that the application as proposed is far more significant in terms of impact on Flora, Fauna and particularly historical loss and damage than my own house, and is proposed at an entirely different time in history, and in an entirely different time of environmental awareness and set of environmental circumstances.

**Closing statement.**

The applicant was made well aware of the numerous historical issues and sensitive ecological nature of the area, and Lot 26 in particular, by myself and other members of the local community prior to his purchase of the property.

With all due respect to the current owner of the property, I believe that such a strong case exists, in so many aspects, for this block to be preserved in it's current natural state, that it should be purchased by any one of a number of Government authorities, or a combination of all, and given protected status, such that it remains protected for all time, for the future.

We do after all, proudly profess to be the World Heritage listed "Historic Blue Mountains", hardly the case if we unwisely destroy the values of our significant items of history or cover it with concrete, soil, mortar and bricks, and ignore issues of significant ecological and historical concern.

—ooo0ooo---

In regard to this submission, I request a written advice from council to me, that it has been received and considered, and further, request that any further advice regarding this issue, including Council's minuted committee and full Council deliberations, be sent to me either by mail, and/or my email address; [corky01@optusnet.com.au](mailto:corky01@optusnet.com.au)

**In regard to the advent of any issue, including any proposed development of Lot 26 Old Bathurst Road, I request notification of any such information or any meeting where this issue will be discussed or deliberated on, prior to its occurrence, which I and my fellow members of the Woodford community may attend. I.e. I wish to remain informed, by council, of the continued ongoing status of this lot please.**

I take the opportunity to thank the Blue Mountains City Council for the opportunity to comment on this proposal.

—ooo0ooo—

Yours faithfully

Peter Cork

*Our reference:* *rue:* 44.3310  
*Mr John Hudson:* *Telephone:* 8814 2397  
*Fax:* 8814 2945



11 February, 2005

Mr Paul Anderson  
Turks Legal  
GPO Box 2554  
Sydney N.S.W 2001

**Local Government Area of Blue Mountains.**  
**Access across RTA land from 43 Old Bathurst Road, Woodford**  
**Cork from McKenzie**

Dear Mr Anderson,

I refer to your letter dated 25<sup>th</sup> January, 2005 regarding the subject property, Your Ref : PRA/43680.

The RTA has no objection in principle to access across the Authority's land to Lot 6, D.P 447 provided the access is restricted to existing tracks.

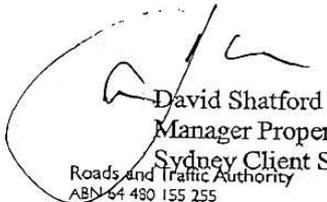
Any proposed construction or enhancement of access by an adjoining owner would be subject to the approval of Council and the RTA. However due care of any historical items such as the old convict road remains would need to be taken in the construction of any access.

The Authority is still reviewing the need for this road corridor and thus is not in a position to consider the provision of a Right of Way to an individual owner. However any future RTA considerations in regard to the Authority's land would include the access needs of adjoining owners.

The vendors Solicitor has been forwarded similar advice this day.

Do not hesitate to contact the Authority should you need to further discuss this matter.

Yours sincerely

  
David Shatford  
Manager Property Services  
Sydney Client Services  
Roads and Traffic Authority  
ABN 64 480 155 255



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