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Nature Conservation Saves for Tomorrow

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cc Mayor Mr Mark Greenhill, Blue Mountains City Council
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Dear Dr Dillon,

X/1210/2025 Helipad ancillary to and within the grounds of the Fairmont Resort to facilitate the transportation of guests

The Blue Mountains Conservation Society (the Society) is a community volunteer organisation with over 900 members, which has been in existence for over 60 years. The Society's aim is to help conserve the natural environment of the Blue Mountains and to increase awareness of the natural environment in general. The Blue Mountains Conservation Society would like to make a submission in relation to the development application X/1210/2025 Helipad at Fairmont resort currently on Public Exhibition.

The Society strongly objects to this proposal. The Society has campaigned for many years to prevent incompatible commercial helicopter operations in the Blue Mountains, including the recent campaign regarding the commercial leasing of Katoomba Airfield, the new commercial helicopter business in Penrith and the long protracted community campaign in the 1990s opposing commercial joy/scenic flights operating from Katoomba Airfield.

Helicopter flights over key natural areas have been controversial throughout Australia (eg Uluru and Bungle Bungle National Park). To assess this development Council needs to assess the impacts of the helipad itself as well as the operations, including impacts of flights to and from the helipad. The primary impact of this proposal is from the helicopter operations, specifically the noise and visual intrusion caused by the proposed helicopter movements over the national park.

Permissibility under the Blue Mountains LEP 2015

The Statement of Environmental Effects (SOEE) states that the site under the Blue Mountains Local Environmental Plan 2015 (LEP) is zoned SP3 Tourist that permits, with development consent, tourist and visitor accommodation. The SOEE argues that the proposed helipad is ancillary to the approved and constructed tourist visitor accommodation on the site in the form of the Fairmont Resort, and therefore the helipad is a development ancillary to the core purpose of the existing development on the site so is permitted with consent.

The SOEE references *NSW Government Planning Circular PS 21 -008 – How to characterise development* to support this argument. The Planning Circular states that an ancillary use is a use that is subordinate or subservient to the dominant purpose i.e. if a component serves the dominant purpose, it is ancillary to that dominant purpose. However, the Circular goes on to state that if the component goes beyond what is reasonably required in the circumstances for the development to implement the dominant purpose, it is likely to be an independent use (regardless of whether it has ancillary qualities).

The Society argues that a helipad “goes beyond what is reasonably required in the circumstances for the development to implement the dominant purpose” on the site ie tourist accommodation facilities and is therefore not an ancillary use of the land but is an independent use. While tourist accommodation such as the Fairmont Resort cannot operate without parking, an internal road network, accommodation, food facilities such as a restaurant and other tourism-focused activities, it can operate without a helipad. Tourists can access the Fairmont Resort without resorting to the use of a helicopter, and a helipad is not a standard or necessary feature of the dominant purpose of the site ie tourism accommodation. The helipad is therefore not reasonably required to implement the dominant purpose of the tourism accommodation on the site, and therefore cannot be an ancillary development. As helipads are not a development permitted with consent in SP3 Tourism Zones, the helipad cannot be approved if it is not, as the Society argues, an ancillary development.

Failure to adequately assess environmental impacts consistent with the LEP

The Blue Mountains LEP Clause 6.1(2) states that development consent must not be granted for development that may have an adverse impact on environmentally sensitive land unless Council is satisfied that:

- a) the natural, scenic, scientific and historical values of the “City within a World Heritage National Park” will be maintained; and*
- b) the natural environment will be protected and the ecological integrity and environmental significance of the Blue Mountains will be maintained; ...’*

Further, Clause 6.1(3) states that Development consent must not be granted for development on land that is adjacent to, directly opposite or separated only by a local road from land in the Blue Mountains National Park unless the consent authority

- (a) has considered the impact of the proposed development on the heritage significance and scenic attributes of the National Park, and*

(b) is satisfied that the development incorporates effective measures to avoid, minimise or mitigate any adverse environmental impact on the land in the National Park.

The indicative flight plans indicate flights will leave and depart over the national park thereby avoiding residential areas. Therefore, the greatest impacts in terms of noise, visual amenity and scenic amenity from the helipad will be experienced by national park users. The SOEE totally fails to assess the impacts on the Blue Mountains National Park (one of the national parks that comprise the Greater Blue Mountains World Heritage Area) including visitor amenity, noise impacts on park users and scenic impacts – it merely states there will be no impact.

The proposed flight paths traverse the Jamison Valley, directly impacting:

- The Grand Cliff Top Walk: A major public investment in nature tourism, which is designed to attract thousands of users.
- Inspiration Point Walk and Lookouts, including Gladstone and Moya Point.
- Isobel Bowden Ridge walk.

The SOEE does not consider the impact of helicopter operations on these walking tracks, and the Gladstone and Moya Point Lookouts on Inspiration Point within the Blue Mountains National Park. The flying height of helicopters when passing over the Grand Clifftop Walk, that is about 100 metres from the helipad, will probably be at less than 100 feet and will have a major impact on park users in terms of noise¹ and scenic amenity. The NSW Government has spent thousands of dollars on the development of the Grand Cliff Top Walk promoting it as a peak environmental visitor experience, which is not compatible with low-flying helicopters.

The section in the SOEE arguing that that existing helicopter flights already occur over the national park at low levels, as the National Parks and Wildlife Service conducts helicopter operations for the public purpose of park management, is totally irrelevant. Arguing that a commercial helipad where commercial flights are operating is equivalent to helicopter use in an emergency (such as air ambulance or the police) or for undertaking operations on public land commissioned by the NSW National Parks and Wildlife Service is ludicrous. The benefits in terms of protection of life and management of public lands more than justifies the “public benefit” for these types of infrequent helicopter flights versus the potential environmental impact on the national park.

Usage creep

The SOEE states the helipad development will:

- Have a proposed number of flight movements (one landing and one take-off are combined as one flight movement) up to a maximum of 20 per week. Daily flight movements will vary significantly pending guest demands.
- Only operate during daylight hours between 30 minutes after sunrise and 30 minutes before sunset
- Only be used for the purposes of transporting guests to and from the resort.
- Not include joy flights.

¹ Noise from an overhead helicopter at 100 feet would be 105 decibels (referenced in: <https://www.noisemonitoringservices.com/how-loud-is-a-decibel/#:~:text=Two%20good%20examples%20of%2085,How%20loud%20is%20110%20decibels?>)

As outlined in this submission the Society is opposed to this development. However, if Council does proceed to approval The Society strongly recommends that strict and enforceable consent conditions are applied, aimed at ensuring the helipad is used consistent with the above limitation. The Society is very concerned that usage creep will occur unless these conditions are included in the development consent and can be enforced. If the helipad is approved there is a real risk that flights greater than 20 per week will occur, that the helipad will be used for joy or scenic flight to and from the Fairmont (and not for transporting guests from locations outside of the Blue Mountains), that flights for transporting guests will incorporate scenic or joy flights over features such as the Three Sisters and that usage outside of the designated times will occur for the convenience of guests. There is a real and compelling risk that once the helipad is established that the Resort will seek to expand permissible flight times, increase flight movements and change flight purposes to include short term joy and scenic flights departing and landing from the Fairmont. This poses an unacceptable risk and only increases the impact on the Blue Mountains National Park.

The Society also recommends, that if the development is approved, a consent condition is imposed which requires all commercial flights to and from the helipad cease once either a bushfire emergency is declared within the Blue Mountains or a significant fire occurs within 20 km of the Fairmont, to ensure fire-fighting aircraft do not compete for airspace with commercial flights from the helipad.

Environmental Protection License

The *Protection of the Environment Operations Act* requires all “scheduled” development to be licensed by the Environmental Protection Authority (EPA) via an Environment Protection License (EPL). Scheduled helicopter-related development is defined under the Act as (emphasis added):

meaning the landing, taking-off or parking of helicopters (including the use of terminals and the use of buildings for the parking, servicing or maintenance of helicopters), being an activity—

(a) that has an intended use of more than 30 flight movements per week (where take-off and landing are separate flight movements), and

(b) that is conducted within 1 kilometre of a dwelling not associated with the landing, taking-off or parking of helicopters

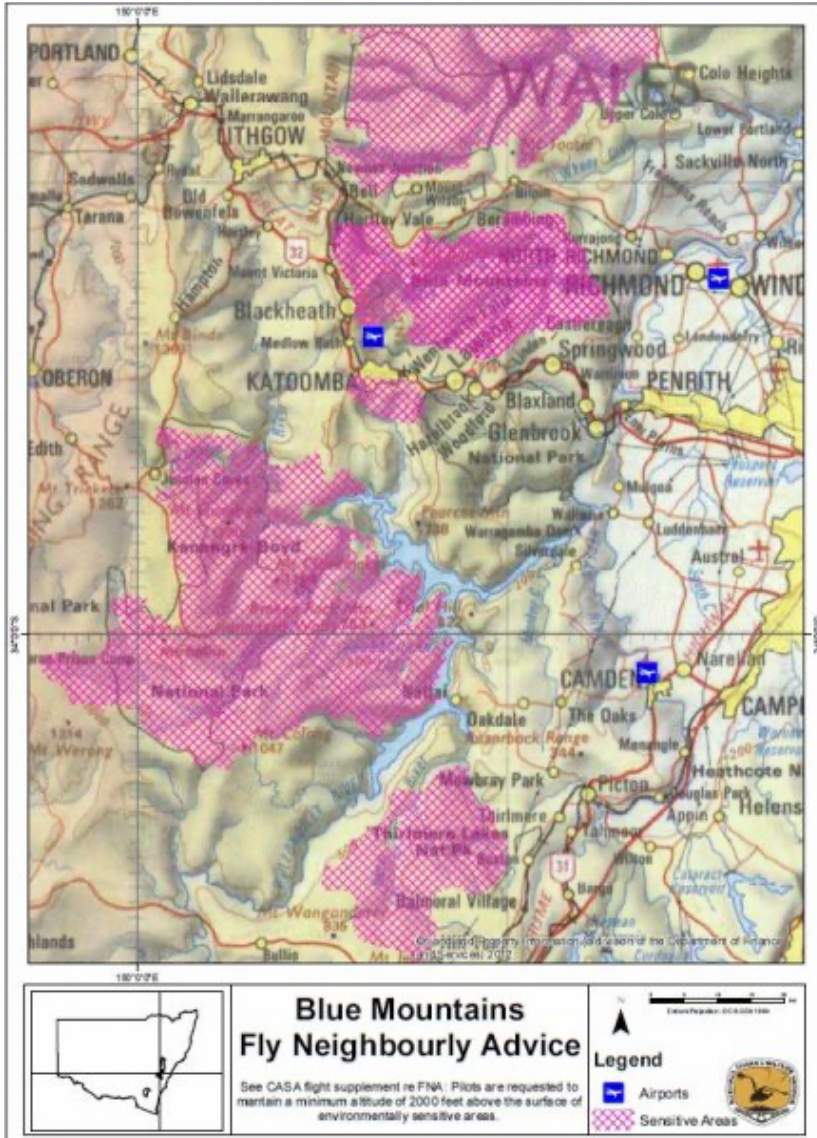
If the maximum number of flights at the Fairmont helipad is proposed to be a maximum of 20 flights per week (with, as per the SOEE (emphasis added), *one landing and one take-off combined as one flight movement*). This means, as the Society understands it, the proposed maximum flights are equivalent to 40 flights per week if take-off and landing are considered separate flight movements as per the *Protection of the Environment Operations Act*. The helipad appears to also meet the second criteria as the development is within 1km of a residential dwelling. The Society therefore believes the conclusions in para 4.1.3 of the SOEE are incorrect. The SOEE fails to consider the need for EPA license for the development, specifically in relation to noise pollution, and the development application makes no reference to consultation with the EPA on an EPL.

Non-Compliance with the "Fly Neighbourly" Agreement (BMFNA)

The "Blue Mountains Fly Neighbourly Agreement" (BMFNA) is the benchmark for acceptable helicopter operations which seeks to protect scenic and acoustic amenity of the Blue Mountains National Park. Fly Neighbourly agreements seek to "identify any natural environment areas or National Park areas which are considered particularly sensitive, for example due to concerns over disturbance of the environment because of vibration or noise" (*Fly Neighbourly Agreements – Information & Guidelines*, Civil Aviation Safety Authority). The BMFNA designates "Environmentally Sensitive Areas" where aircraft should maintain a minimum altitude of 2,000 feet (see map below). The BMFNA mapping clearly indicates that the areas of the national park adjacent to the Fairmont Resort sits squarely within the BMFNA Environmentally Sensitive Area. It is physically impossible for helicopters to maintain this 2,000-foot minimum during the proposed approach to and departure from the Fairmont Resort.

While noting Fly Neighbourly Agreements are voluntary, the helipad proposal is clearly inconsistent with the Blue Mountains Fly Neighbourly Agreement and Civil Aviation Safety Authority's best practice approach to flying over environmentally sensitive areas. It is unclear from the SOEE whether the proponent has consulted the National Parks and Wildlife Service on the proposed flight plans, as required under BMFNA where proposed flights paths will occur under 2,000 over the national park.

Refer to figure on page 6.



Environmentally Sensitive Areas where aircraft are to operate above 2,000 feet include areas adjacent to the Fairmont Resort

Biodiversity impacts

The Blue Mountains LEP identifies the helipad site as environmentally sensitive land by being within 60m of a significant vegetation community and also as being in a protected area - escarpment land. The SOEE does not consider whether the significant vegetation community only 60m away from the helipad may require clearing for safe helicopter operation on the proposed flightpaths.

The BAR states in terms of noise impacts from helicopter flights:

that the proposal will produce sounds up to 79.5 dB at 142 metres above ground level within the Greater Blue Mountains World Heritage Area. These sounds are moderate in volume and are likely to elicit a reaction from many fauna species that may be in close vicinity to the site of the proposed helipad. Based on the available literature, this reaction could for example involve actions such as,

becoming more alert, pausing foraging activity, changing the frequency or amplitude of vocalisations, short-term increases in heartrate or stress, or choosing to avoid selecting the location for nesting.

The Biodiversity Assessment Report (BAR) then concludes that:

A review of the measured values and academic literature on the subject indicated that it is likely that the project could induce low to moderate stress to threatened and non-threatened fauna in the adjacent ridge area of the Greater Blue Mountains World Heritage Area. Though there are fundamental uncertainties to consider, the stress is likely to be temporary during and shortly after each landing and take-off occurrence and is not likely to become a high stress event.

Therefore the proposal was assessed as being unlikely to impact threatened species in a way that would: lead to deaths of individuals or a reduction in species population, changes in the species life cycle including breeding, change the area of occupancy, remove habitat (including habitat critical to the species survival), fragment or isolate habitat, or contribute to threats to the species (such as invasive species or disease).

The Society has undertaken their own review of current literature on the impacts of helicopters on fauna as well as directly observing impacts of helicopter flights on the Blue Mountains honeyeater migration (see Attachment A). Our research and these observations directly challenge the conclusions in the BAR that *the stress is likely to be temporary during and shortly after each landing and take-off occurrence and is not likely to become a high stress event* and therefore will not significantly impact on threatened and non threatened fauna. Our research suggests in fact the opposite - that there will be impacts on local fauna and we contest the BAR's conclusion that these stated risks will not significantly impact threatened and non-threatened fauna within the Blue Mountains National Park. The risks to fauna are well established as identified in our research and in the BAR from their review of current literature. Where species numbers are low and species are classified as threatened, any impacts have an increased risk of causing overall population decline. The BAR identifies a number of threatened species which may occur within the national park which are vulnerable to impacts from noise and down draft from helicopter movements.

The Society also challenges the conclusions in the BAR as the BAR admits there is a high level of uncertainty in terms of assessing the environmental impacts of helicopter movements on biodiversity. Where high levels of uncertainty exist, the precautionary principle needs to be applied, which is well-established in environmental case law in NSW in terms of the assessment of environmental impacts. It is clear that in the light of scientific uncertainty, the BAR does not take precautionary approach in its assessment methodology.

The assessment of fauna impacts, as estimated in the BAR, are also not consistent with cl 6.1 of the Blue Mountains LEP in terms of ensuring the natural environment will be protected and the ecological integrity and environmental significance of the Blue Mountains will be maintained. The SOEE fails to assess ecological integrity as per clause 6.1(2). The BAR appears to only examines stress on individual species, which can contribute to a deterioration in but is not the same as overall ecological integrity. Regular disturbance of fauna can disrupt ecological integrity such as impacts on breeding, feeding (under nourishment), and rest can have long-term impacts on fauna species and interactions with vegetation. Regular subjection to helicopter rotors

may possibly affect vegetation growth, fauna grazing, and air quality in adjacent ecological communities, producing detrimental effects on fauna including flight and stress, and the temporary inability to avoid predators. It is highly unlikely that fauna will adapt to the helicopter noise and the noise from the transport of people to and from the helipad.

Helicopter flights occurring shortly after sunrise and until shortly before sunset will affect grazing behaviour at times typical of swamp wallabies (there is a community located at the site) and other herbivores i.e. early morning and evenings. Helicopter noise is also known to affect song-bird vocalisations, affecting breeding, feeding and raising of young. Therefore it is quite possibly and even likely that ecological integrity in the vicinity of the proposed helipad will be disrupted, and that fauna are likely to learn to avoid this area. The relatively small amount of intact bushland on the escarpment, and the territorial nature of all fauna, is likely to compound direct ecological impacts i.e. many fauna are restricted in their ability to migrate in order to avoid deleterious impacts. The BAR does not seem to have considered or assessed these impacts which is a major deficient.

The Blue Mountains LEP identifies the helipad site as environmentally sensitive land by being within 60m of a significant vegetation community and also as being in a protected area - escarpment land. The helipad is likely to require some installation of hard impermeable surface for operational reasons, including fuel storage, adjacent paths and parking. This will result in the concentration of stormwater and nutrient enriched runoff into sensitive vegetation downslope of the helipad and the potential for erosion and vegetation disturbance. The SOEE has not addressed these environmental impacts or any mitigation measures consistent with the watercourse and water quality protection clauses in the LEP.

Conclusion

The Society strongly opposes the proposed development of a helipad at the Fairmont Resort.

Thank you for the opportunity to comment on development application. The Society is happy to discuss any aspects of this submission - please contact me on president@bluemountains.org.au or on my mobile 0450215125.

Yours sincerely



Annette Cam
President
Blue Mountains Conservation Society