

BLUE MOUNTAINS CITY COUNCIL

ORDINARY MEETING

13 March 2007

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BLUE MOUNTAINS CITY COUNCIL

Minutes of the Ordinary Meeting of the Council of the City of Blue Mountains held in the Council Chamber, Administrative Headquarters, Civic Place, Katoomba on Tuesday, 13 March 2007, commencing at 7:35 pm.

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There were present:

The Mayor (Councillor Jim Angel) in the Chair, and Councillors Creed, Frappell, Hamilton, McInnes, McLaren, Myles, O'Grady, Searle, Trindall and Van der Kley.

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In attendance:

General Manager, Group Manager BM City Services, Group Manager Community & Corporate, Group Manager Environmental & Customer Services, Executive Officer, Manager Corporate Planning, Manager Planning Health & Enforcement, Manager Contracts & SLA's, Acting Asset Manager, Social Planner Sustainable Communities, Principal Recreation & Cultural Planner, Building Operations & Facilities Administrator, Senior Environmental Ranger, Technical Assistant, Project Support Officer.

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Prayer / Reflection:

The Prayer / Reflection was read by the Mayor, as was the acknowledgment of the traditional owners, the Darug and Gundungurra people.

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MINUTE NO.44

C00679. Apologies

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and McInnes **that the apology tendered on behalf of Councillor Brown for her non attendance at the meeting be accepted.**

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MINUTE NO.45

C00336. Confirmation of Minutes - Ordinary Meeting, 20/02/07

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and McInnes that the Minutes of the Ordinary Meeting of 20 February 2007 be confirmed.

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MINUTE NO. 46

1. F00113. Report on the Inception Probity Audit on the Blue Mountains Cultural Centre and Mixed Use Development Project

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Van der Kley:

That the Council accepts this report from the Internal Auditor on the review of the Probity Audit on the Blue Mountains Cultural Centre and Mixed Use Development Project and note that:

- * **Probity Audit Clearance has been provided for each stage of the project; and**
- * **A Final Probity Audit Certificate has been released with no probity issues identified.**

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MINUTE NO. 47

2. C00694. Schedule of Invested Monies

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Creed: **That the Schedule of Invested Monies as at 31 January 2007 be received.**

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MINUTE NO. 48

3. C06023. Delegation to Determine Applications made under S96, S96AA and S95A of the Environmental Planning and Assessment Act

The meeting was addressed by Ivan Jeray.

A MOTION was moved by Councillors Van der Kley and Frappell:

1. That the following delegation adopted on 21 March 2006 continue to apply to the General Manager, or his nominee, within the terms of Section 377 of Local Government Act 1993.

To determine:

- a) a Section 96 or 96AA application to modify a development consent, or
- b) a Section 95A application to extend the lapse date of a development consent, in accordance with the Environmental Planning and Assessment Act 1979, unless two or more Councillors make a request in writing to the General Manager for an individual application to modify or extend the operation of a consent to be referred to the Council for determination.

2. That these delegations be reviewed in twelve months

An AMENDMENT was moved by Councillors McInnes and O'Grady

- 1. In addition to the motion, that the Section 96 delegation include a procedure whereby all the objectors to the original development application be notified in writing on the nature of the modification, and given 14 days from the date of receipt of the letter to lodge any possible objections;

Upon being PUT to the Meeting, the AMENDMENT was LOST, the vote being

For		Against	
Councillors	McInnes O'Grady McLaren Searle Trindall	Councillors	Angel Creed Frappell Hamilton Myles Van der Kley

Upon being PUT to the Meeting, the MOTION was CARRIED, the voting being:

For		Against	
Councillors	Angel Creed Frappell Hamilton Myles Van der Kley	Councillors	McInnes O'Grady McLaren Searle Trindall

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MINUTE NO.49

4. F00534. Establishing Business Clusters Between Councils: A Reform Initiative from the Minister of Local Government

A MOTION was moved by Councillors Van der Kley and McLaren:

1. That the report be received.
2. That the Council endorse the discussions that have taken place between representatives of this Council and the Penrith City Council.
3. That the Council agree in principle to the preparation of a partnership agreement with Penrith City Council, along the lines set out in paragraph 4 of this report, subject to a further report to the Council with a detailed agreement for each Council's consideration.
4. That the contents of this report be used as the basis for a response to the Minister of Local Government's request for proposals on revenue sharing.
5. That the Council records its view that any such proposals in response to the request by the Minister of Local Government for resource sharing proposals must not have the effect of either detracting from or reducing the current role of WSROC, nor limiting its opportunities to play a more influential role on behalf of Western Sydney in the future.

An AMENDMENT was moved by Councillors Searle and O'Grady:

1. That the report be received.
2. That the Council endorse the discussions that have taken place between representatives of this Council and the Penrith City Council.
3. That the Council agree in principle to the preparation of a partnership agreement with Penrith City Council, along the lines set out in this report, subject to a further report to the Council with a detailed agreement for each Council's consideration.
4. That the contents of this report be used as the basis for a response to the Minister of Local Government's request for proposals on resource sharing.
5. That the Council records its view that any such proposals in response to the request by the Minister of Local Government for resource sharing proposals must not have the effect of either detracting from or reducing the current role of WSROC, nor limiting its opportunities to play a more influential role on behalf of Western Sydney in the future.
6. This matter be referred to a Finance and Assets Working Party to explore resource sharing with the other Councils of WSROC.

Upon being PUT to the Meeting, the AMENDMENT was CARRIED unanimously.

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MINUTE NO.50

5. C00126. Department of Local Government Options Paper – Planning a Sustainable Future – Integrated Planning and Reporting for NSW Local Councils November 2006

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Frappell:

1. That the Council strongly endorses the strategic planning and reporting framework outlined in Option 3 of the Department of Local Government Options Paper on “Planning a Sustainable Future” November 2006.
2. That the Council notes its opposition to the establishment of Regional Monitoring and Liaison Teams.
3. That this report and Attachment 1 form the basis of a submission to the Department of Local Government.

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MINUTE NO.51

6. F00534. Department of Local Government Position Paper - A New Direction for Local Government October 06

A MOTION was moved by Councillors Van der Kley and Frappell:

1. That this report, including Attachment 1, be endorsed as the Council’s position on the Department of Local Position Paper “A New Direction for Local Government October 2006”
2. That this report, including Attachment 1, form the basis of the Council’s submission to the Department of Local Government.

Upon being PUT to the Meeting, the AMENDMENT was CARRIED, the vote being

	For	Against
Councillors	Angel Creed Frappell Hamilton McInnes McLaren O’Grady Searle Trindall Van der Kley	Councillors Myles

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MINUTE NO.52

7. C07898. Tender for Design and Construction of a Skate Facility, Summerhayes Park, Winmalee

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Creed:

1. That the Council receives and notes the report.
2. That the Council resolves to accept the design phase (Separable Portion 1) of the tender for the design and construction of a skate facility at Summerhayes Park, Winmalee submitted by, Convic Skate Parks, Darlinghurst for the lump sum price of \$13,200 (\$12,000 + \$1,200 GST).
3. That conditional on Land Use Application approval being granted, and conditional on the Council resolving to allocate the required budget for the construction of a skate facility at Summerhayes Park, Winmalee in the 2007/08 Capital Works Program, Council officers be authorised to accept the construction phase (Separable Portion 2) of the tender submitted by Convic Skate Parks, Darlinghurst for the lump sum price of \$165,000 (\$150,000 + \$15,000 GST).
4. That in accordance with Clause 400 of the Local Government (General) Regulation, 2005 authority is granted for affixing the Council seal to the contract documents.

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MINUTE NO.53

8. F00409. Katoomba Library Technical Advisory Panel

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Creed:

1. That the Council approve the composition of the Katoomba Library Technical Advisory Panel as:
 - a. Chairperson – Mayor or his nominee
 - b. Group Manager BM City Services – Dave Allen
 - c. Manager Corporate Planning – Rosemary Dillon
 - d. Library Manager – Vicki Edmunds
 - e. Cultural Centre Director – Simon Ambrose
 - f. Representative of Gundungurra Aboriginal Heritage Association Inc – Merle Williams

g. Community member representing Friends of the Library interests – Jean Nicholson

- 2. That the Council write to the Blue Mountains Friends of the Library Group and the various Aboriginal groups thanking them for their nominations to the advisory panel and advising them of the appointments.**

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MINUTE NO. 54

9. H00135. New Appointment to Mid Mountains Community Centre Committee

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Creed:

That The Council formally appoint Ms. Delphine Annett to the Committee of the Mid Mountains Community Centre.

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MINUTE NO.55

10. H01351. Lawson Community Hall Options.

The meeting was addressed by Jerry Allan, John Sheehy, Colin Steele and Theresa Lock.

A MOTION was moved by Councillors Van der Kley and Frappell:

- 1. That an amended Draft Plan of Management be reported to the Council for placement on exhibition. The amended draft Plan of Management is to outline options for management of the Community Land with the recommended option being to demolish the Hall; upgrade the RFS for the Mid Mountains Youth Centre; and retain the site as community land subject to further investigations of co-location of the Mid Mountains Youth Centre and city wide youth services.**
- 2. That the Council continue to seek interim accommodation for the Mid Mountains Youth Centre.**
- 3. That the Council continue negotiations with the NSW Government and the Rural Fire Service regarding provision of a new station elsewhere in Lawson.**

An AMENDMENT was moved by Councillors Searle and McInnes:

1. That an amended Draft Plan of Management be reported to the Council for placement on exhibition. The amended draft Plan of Management is to outline options for management of the Community Land with the recommended option being Option 2.

Upon being PUT to the Meeting, the AMENDMENT was LOST, the vote being

For		Against	
Councillors	McInnes	Councillors	Angel
	McLaren		Creed
	O'Grady		Frappell
	Searle		Hamilton
	Trindall		Myles
			Van der Kley

Upon being PUT to the Meeting, the MOTION was CARRIED, unanimously.

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MINUTE NO.56

11. C05964 Proposed Approach to CCTV and Investigations Into External Funding Options for CCTV in Katoomba Town Centre

The meeting was addressed by Robert Stock..

A MOTION was moved by Councillors Myles and Van der Kley :

- 1. That the NSW Police Blue Mountains Local Area Command be formally approached to reconvene the Blue Mountains Community Safety Council to assist in the preparation of the Blue Mountains Crime Prevention and Community Safety Plan and to consider the applicability of CCTV schemes in public places in the City and in particular Katoomba Town Centre.**
- 2. That the 2002 Blue Mountains Crime Prevention and Community Safety Plan be updated and revised to reflect recent crime activity and incorporate emerging crime prevention strategies including CCTV where appropriate.**
- 3. That the NSW Police Blue Mountains Local Area Command be formally approached to undertake a Crime Assessment of the Katoomba, Springwood and Blaxand Town Centres in conjunction with the Blue Mountains Community Safety Council and other identified local stakeholders.**
- 4. That Council receive a report on the outcomes of the Crime Assessment of the Katoomba, Springwood and Blaxland Town Centres together with any**

recommendations from the NSW Police for the introduction of CCTV into these locations.

- 5. That progress in implementing these recommendations be reported back to Council in July 2007.**

An AMENDMENT was moved by Councillor Myles:

1. That the NSW Police Blue Mountains Local Area Command be formally approached to reconvene the Blue Mountains Community Safety Council to assist in the preparation of the Blue Mountains Crime Prevention and Community Safety Plan and to consider the applicability of CCTV schemes in public places in the City and in particular Katoomba Town Centre.
2. That the 2002 Blue Mountains Crime Prevention and Community Safety Plan be updated and revised to reflect recent crime activity and incorporate emerging crime prevention strategies including CCTV where appropriate.
3. That the NSW Police Blue Mountains Local Area Command be formally approached to undertake a Crime Assessment of the Katoomba, Springwood and Blaxland Town Centres in conjunction with the Blue Mountains Community Safety Council and other identified local stakeholders.
4. That Council receive a report on the outcomes of the Crime Assessment of the Katoomba, Springwood and Blaxland Town Centres together with any recommendations from the NSW Police for the introduction of CCTV into these locations.
5. That progress in implementing these recommendations be reported back to Council in July 2007.
6. That the Community and Facilities Working Party consider the possibility of applying for Federal Government funding under the National Community Crime Prevention Program and/or other Federal or State Government Programs.

Upon being PUT to the Meeting, the AMENDMENT was CARRIED, unanimously.

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MINUTE NO. 57

12. C00944. Community Assistance/Donations – Recommendations by Councillors

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Creed:

That the Council approve the following donations from the Councillors' Minor Local Projects Vote:

<u>Organisation</u>	<u>Amount</u>
Winmalee High School	\$200.00
Springwood Foundation Day Committee	\$50.00
Blue Mountains Women's Health Centre	\$50.00
Braid/Raid	\$100.00
ATSI Mental Health First Aid	\$200.00
Lawson Combined Seniors Social Club	\$50.00
Lawson Combined Seniors Social Club	\$50.00
1 st Blaxland Scout Group	\$100.00
Blaxland/Glenbrook Sub branch – RSL of Australia NSW branch	\$200.00

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MINUTE NO.58

13. X05/0178. Development Application No. X05/0178 for a 10 Unit Multi Residential Development on Lots 4 and 9 DP 2061, 226 Katoomba Street, Katoomba

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Creed:

That Development Application No. X05/0178 for a 10 unit multi residential development on Lots 4 and 9 DP 2061, No. 226 Katoomba Street, Katoomba be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this Report.

Attachment 1

Conditions of development consent

A. Preliminary

Confirmation of relevant plans

1. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans prepared by *Frank Kosztelnik and Associates* numbered 2260, marked 'Issue E', dated 5 January 2007 and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent.

Period of development consent

2. Physical commencement of construction is required within a four (4) year period from the date on which the consent becomes operational pursuant to s.95 (Lapsing of Consent) of the *Environmental Planning and Assessment Act 1979*. An extension of 12 months may be provided in accordance with s.95A of the Act.

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

Building Code of Australia 4. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

B. Engineering Works

The Council's specification for engineering works 5. All engineering works required by this development (including sediment and erosion controls, road, access, footpath and drainage works) are to be in accordance with the Council's Specification for Engineering Work for Subdivisions and Development, Part 1—Design and Part 2—Construction (Development Control Plan No. 31), Australian Rainfall and Runoff 1987 and other relevant Australian Standards. The design and construction is to include any additional works to make the construction effective.

Internal pavement 6. Kerbs and formation paving and sealing of access driveways and car parking areas in the development site together with any necessary drainage, retaining walls and other engineering works that may be required to make the construction effective shall be provided.

All internal driveways, access and parking areas shall be designed in accordance with the current edition of Australian Standards 2890.1 and 2890.2.

Driveway crossings 7. For the driveway required across the Waratah Avenue footpath, new heavy duty concrete layback and apron crossings are to be constructed. The remainder of the frontage, not required for vehicular access, is to be reconstructed with standard kerb and gutter. This construction is to include any necessary alteration to existing infrastructures, drainage, signage, line markings etc. to make the construction effective

including transition of the verge and internal driveway, the adjustment of public utilities and regrading the driveway across the footpath to facilitate quick entry/exit movements and prevent scraping of vehicles.

- Redundant Vehicular Crossing** 8. The existing redundant layback in Katoomba Street is to be removed and replaced with standard kerb and gutter together with restoration of the footway area with asphaltic concrete.

C. Prior to issue of Construction certificate

- Refinements to the Katoomba Street elevation.** 9. In order to further articulate the principal façade to Katoomba Street and contribute to an active street frontage, the following modification to the Katoomba Street (western) elevation is to be made and approved by the Council prior to the issue of a construction certificate:

- a. a cantilevered balcony that is 5,400mm long by 1800mm wide is to be appended to the 3,000mm by 3,000mm balcony of Unit 9, as shown amended in red on Sheet 2 of the plans prepared by *Frank Kosztelnik and Associates* numbered 2260, marked 'Issue E', dated 5 January 2007.
- b. the appended balcony (without roof) is to be finished with balustrades as per other balconies in this elevation.
- c. fixed obscure glazing is to be applied to the window on the northern wall of Unit 10.

- Refinements to the Waratah Avenue elevation.** 10 In order to ensure that the visible walls of the basement facility are not left blank, unadorned or unarticulated, the following modifications are to be made and approved by the Council prior to the issue of a construction certificate:

- a. the eastern and southern elevations of the basement facility are to feature horizontal brick banding, which is architecturally integrated with the building.
- b. a security door is to be installed across the access way to the basement facility, and is to be of a dark coloured perforated mesh. The security door is to be recessed at least 1.0 metre from the principal building façade. A solid garage door of similar colour may be provided to Garage 1. Minor modifications to approved plans may be made to

make this aspect of the construction effective.

- c. the pitch of the roof cap of the lift tower is to be reduced to match that of the principal roof form.
- d. In order to provide a reasonable planting area in front of the northern end of the Waratah Street façade and adjacent retaining wall, the visitor parking spaces are to be reduced to provide one (1) visitor space meeting requirements for disabled parking and one (1) space with a width of no less than 2.5 metres.

**Amendment to
landscape design and
completion of landscape
works.**

- 11 Prior to the issue of a construction certificate, the Landscape Drawing prepared by *P. Monaco of Monaco Designs* and dated *22nd January 2007* is to be amended by providing a planting bed with a minimum dimension of 2 metres along the length of the northern part of the Waratah Street façade and adjacent retaining wall as per Condition 10(d). Planting for this bed is to provide evergreen elements that present a visually interesting character through the use of variations in form, dimension and layering of selected plant species.

In order to achieve the required amelioration of the impact of the development, the tallest stratum is to achieve a height no less than three metres at maturity, and should be comprised of long-lived species consistent with the landscape elements of the locality.

The *Cupressus macrocarpa* (identified on the Landscape Drawing as tree no. 3 as rated as being in 'good condition') is to be retained and integrated into the landscape design, with any necessary modifications to be made to the bin storage area.

The retaining wall shown adjacent to Unit 4, is to be relocated approximately 4.0 metres to toward Waratah Street to accord with the approved architectural plans prepared *Frank Kosztelnik and Associates* numbered 2260, marked 'Issue E', dated 5 January 2007.

Landscape works shall be carried out in accordance with the amended Landscape Drawing. All plants shown must be in an advanced stage of growth at the time of planting (minimum 20 litre container for trees and 10 litre container for shrubs). Trees must not be less than 1 metre in height. All plants and landscaping on the site are to be maintained at all times. Any plants that die or are removed must be replaced with plants of

the same species and of a similar stage of growth.

- Materials and colours** 12 To have regard of the amenity of the area, the materials and colours to be used are:

a.	External walls	Beige
b.	Roof	Colorbond Woodland Grey
c.	Fascia, gables and gutter	Colorbond Night Sky
d.	Window frames	Colorbond Woodland Grey
e.	Driveway finish	Details to be submitted and approved by the Council prior to the issue of a construction certificate. A featured driveway finish shall be provided. The two (2) visitor spaces are to be paved so as to be differentiated from the driveway and integrated with the pavement design of pedestrian paths.
f.	Fencing and retaining walls	Details of finishes and materials are to be submitted and approved by the Council prior to the issue of a construction certificate.

Any variation to the above materials/colours will require the prior written approval of the Council. Colours referred to above are to be as per the Colorbond Colour Summary prepared by Frank Kosztelnik and Associates dated 3 January 2005.

- Services** 13 Arrangements must be made with Integral Energy, Sydney Water and an approved telecommunications service provider for the extension of services to and within the site. Written evidence of such arrangements is to be submitted prior to the issue of the construction certificate.

- NatHERS** 14 NatHERS certification is to be revised on the basis of the amended design subject to this consent. The building is to achieve a 4 star NatHERS rating, with verification to be submitted to the certifier prior to the issue of a construction certificate.
- Access and mobility statement** 15 To ensure access and facilities for disabled people are provided in accordance with the principles of the *Disability Discrimination Act 1992*, a statement shall be provided that certifies that the development complies with Clauses 108 and 109 of Local Environmental Plan 2005, Australian Standard AS1428 and AS 4299 and the Council's Better Living Development Control Plan. This statement is to be provided prior to the issue of a Construction Certificate.
- Erosion and sediment control plan** 16. The applicant shall engage a qualified person to prepare a sediment and erosion control plan in accordance with the principles outline in the "Managing Urban Stormwater Soils & Construction" manual by the Department of Housing dated March 2004. Plans and documentation is to be submitted and approved by the Principal Certifying Authority as part of the Construction Certificate Application.
- On site detention and site drainage** 17. An on site detention system to restrict post-development discharges from the site to pre-development discharges for all storms up to and including the 1:100 year ARI storm shall be provided.

The OSD and site drainage are to be generally in accordance with the plan prepared by Chris Hilder Pty Ltd, Dwg no 1279-S1 Concept Stormwater Drainage Details Rev C 12.02.07, with the following amendments;

The on-site detention system and site drainage system shall be designed to incorporate the following:

- a. All areas of the site not draining to the on - site storm water detention (OSD) system are to be

clearly shown on the plans. Calculations for OSD volume and discharge are to take into account areas of the site discharging directly to Waratah Road. Full calculations are to be included with design plans.

- b. To ensure architectural integration of storm water pipes with the southern elevation of the building, no storm water pipes are to be visibly attached to the outside of the walls or, alternatively, visible pipes are to be vertical only and integrated with the design detailing of the building.
- c. A drainage inlet pit is to be provided for each courtyard.
- d. A suitably sized RHS is to be provided from pit 4 to the kerb.
- e. An emergency overflow facility capable of safely conveying all storms up to and including the 1 in 100 year ARI storm to the public road is to be provided.

Engineering plans prepared by a qualified person and endorsed by a chartered civil engineer with NPER registration together with certification verifying the above requirements have been met shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

Rainwater re-use

- 18. Rainwater tanks with a minimum storage volume of 5000 litres are to be provided for reuse on site for irrigation of landscaping. This volume is in addition to that required for on-site stormwater detention. Details are to be included with the application for Construction Certificate

Traffic Management Plan

- 19. Prior to issue of the Construction Certificate, a Traffic Management Plan report prepared by a chartered civil engineer with NPER registration is to be submitted to the Council for approval.

The Traffic Management Plan is to address but not be limited to the following: loss of on street parking, construction vehicle travel routes, safety of the public,

materials storage and handling, deliveries and construction traffic and parking.

A minimum of seven (7) days notice shall be given to residents if access by residents will be affected.

**Construction
Management Plan**

20. A Construction Management Plan is to be submitted and approved by the Council prior to the issue of a construction certificate, which details:
- a. the construction program,
 - b. Routes of construction vehicles,
 - c. Where any hoardings are proposed, the location, type, height and duration, noting that separate approval is required for the erection under the Roads Act,
 - d. Proposed method of maintenance of safe pedestrian access along the Waratah Avenue and Katoomba Street frontages of the site,
 - e. Proposed method of maintenance of vehicular access along the Waratah Avenue frontage of the site.
 - f. Proposed methods of protecting adjacent buildings during the excavation process (note that this may require specialist input from a geotechnical or structural engineer),
 - g. Days and hours of construction,
 - h. Proposed delivery/loading/storage/locations, noting that roads shall not be used to store materials or plant.
 - i. Location of site shed and toilet.

Bond

21. An unconditional (open ended) performance maintenance bond to the value of five (5) percent of the engineering construction or a minimum of \$5,000.00 whichever is the greater, to guarantee the safety of the public, environmental protection performance and maintenance during and after construction in the Council's road shall be paid to the

Council.

This bond shall be retained for twelve (12) months after construction is completed to the satisfaction of the Council's Supervising Engineer. The bond period commences generally at the issue of a final inspection by the Council and/or subdivision certificate, whichever ever occurs the latest. The bond will be released upon an application being made by the applicant subject to the payment of a bond release fee and a bond release inspection that indicates all works are satisfactory.

The bond is to be paid prior to the issue of a Construction Certificate.

D. Prior to commencement of works on site

- Sedimentation and erosion control** 22. The applicant shall ensure sedimentation and erosion control measures are installed prior to commencement of construction and that these measures are also maintained at all times during construction in accordance with the approved plan.
- Neighbouring buildings** 23. Where the excavation extends below the level of the base of the footings of a building on an adjoining allotment, all works shall be carried out to preserve and protect the adjoining building from damage. Where necessary, the adjoining building shall be underpinned and supported. At least 7 days notice must be given to the owner of an adjoining property indicating an intention to excavate.
- Pre-construction Requirements – work in the Council's road** 24. An on site meeting is to be arranged with the Council's Supervising Engineer prior to the commencement of any work in the Council's road for the purpose of a pre-construction meeting. The Council's inspection fee is to be paid prior to the meeting.

At the preconstruction meeting, the person or company

carrying out the works will be required to provide;

- a. Proof of a policy carrying 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.
- b. The person or company carrying out the works shall submit to the Council reference demonstrating experience in the type of work proposed to be undertaken. Approval from the Council shall be obtained to carry out the works prior to works commencing.
- c. The applicant will be required to pay for inspections in accordance with the Council's fees and charges. The specific stages of inspection required will be advised at the pre-construction meeting. A minimum of 24 hours notice shall be given to the Council when arranging for an inspection. Work is not to proceed further until the works, or activity covered by the inspection has been approved.

- Dilapidation Report** 25 Prior to commencement of site works, a dilapidation report is to be submitted to the Council detailing:
- a) the condition of the Council's assets within the public road fronting the development site, and
 - b) the condition of buildings adjoining the site to the north and south.

The dilapidation report is to include photographic and/or video evidence of the current status of the Council's assets and adjoining buildings.

- Heritage Act 1977** 26. Under Section 139 of the Heritage Act 1977, an excavation permit is to be obtained from the Heritage Council before any excavation is undertaken. Early contact with the NSW Heritage Office is advised.

- Survey report** 27 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 slab formwork.

E. During construction

- Excavations** 28 All excavations are to be guarded and protected to prevent them from being dangerous to the public and surrounding properties.
- Signage** 29 To ensure that the site is easily identifiable for deliveries and provides information on the person responsible for the site, a sign displaying the following information is to be erected:
- The statement “*Unauthorised access to the site is not permitted*”.
 - The names of the builder or another person responsible for the site along with an out of hours contact number.
 - Lot or Street number.
- Site management** 30 To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:
- a. 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. Alteration to these hours may be possible for safety reasons but only on the approval of the Council. No site and building works or delivery or removal of materials is to be carried out on Sundays or public holidays.
 - b. 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.
 - c. Building operations such as brick cutting, washing tools, concreting and bricklaying shall be

undertaken on the building block. The pollutants from these building operations shall be contained on site.

- d. Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.

Protection of vegetation

31. To preserve the natural site features and limit site disturbance, ground covers and trees 3 metres or more from the outermost projection of the building are to be retained. Remaining vegetation must be protected by suitable guards / barriers to prevent damage as a result of the construction phase in accordance with cl. 53(4) of *Local Environmental Plan 2005*.

Disposal of material offsite

32. It should be noted that disposal of excess spoil within the Blue Mountains Local Government Area at a location other than an approved waste disposal depot will require the lodgement of a separate Development Application.

F. Prior to issue of occupation certificate

Dedication of land

33. Lot 9 DP 2061 shall be dedicated to the Council. This land is to be transferred to the Council (at no cost) prior to the issue of an interim occupation certificate.

This consent gives approval to the subdivision as shown on the approved plan. A separate certificate of compliance from Sydney Water relating to the subdivision must be obtained.

Separate application to the Council for a subdivision certificate is required.

Section 94 Development Contributions

34. The payment to the Council of the following contributions pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979,

prior to issue of an interim occupation certificate for the provision of:

		\$
Open Space	Area No. 2	3,552.30
Bush Fire Services	Area No. 2	2,106.00
Administration	Area No. 2	276.50
Total contribution due		5,934.80

The above amounts will remain fixed for a period of three months from the date of this consent after which time they will be indexed in accordance with the Council's Development Contributions Plan.

The Development Contributions Plan is available for inspection at the Council's Katoomba Office, Civic Place, Katoomba Monday to Friday, 8.30 am to 5.00 pm., or the Council's Springwood Office, Macquarie Road, Springwood, Monday to Friday, 9.00 am to 5.00 pm.

Supervision of Engineering Works 35. All internal/external engineering works shall be supervised by a suitably qualified professional. Certification from the supervisor shall be submitted to the Principal Certifying Authority to verify that all works have been constructed in accordance with approved plans prior to the release of the Occupation Certificate.

Restoration on Completion of Works 36. The applicant shall repair or reconstruct all damages caused by construction activity relating to the development. All disturbed earthworks and/or batters are to be restored, stabilised, topsoiled and turfed/revegetated to the Council's satisfaction prior to release of the Occupation Certificate.

On site stormwater detention positive covenant 37. To ensure the on site detention system is satisfactorily maintained, a covenant under Section 88E of the Conveyancing Act, 1919 shall be prepared and registered over the subject land.

The terms of the 88E Instrument with positive

covenant shall include, but not be limited to, the following:

- a. The Proprietor of the property shall agree to be responsible for keeping clear and the maintenance of all pits, pipelines, trench barriers and other structures.
- b. The Proprietor shall agree to have the on site stormwater detention facilities (OSD) inspected annually by a competent person.
- c. 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 OSD or which convey stormwater from the said land and recover the costs of any such works from the Proprietor.
- d. 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 working of the Instrument shall be submitted to and approved by the Council prior to lodgement at NSW Land and Property Information. Proof of lodgement with NSW Land and Property Information shall be submitted to the Council prior to the issue of the Occupation Certificate.

- On site detention - works as executed plans** 38. On completion of the on site detention system, Works-As-Executed (WAE) plans, prepared by a registered surveyor or the design engineer, are to be submitted to the Principal Certifying Authority. The WAE plans are to be certified by the designer of the system and are to clearly make reference to;
- a. the works having been constructed in accordance with the approved plans, and
 - b. the actual storage volume and orifice size provided, and
 - c. any variation to the approved design and required remedial works, and

- d. The anticipated performance of the system with regard to the design intent.

Certification by the Council 39. Prior to the issue of any Occupation Certificate, certification shall be obtained from the Council to verify that all external works have been completed in accordance with the approved plan and to the Council's satisfaction.

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MINUTE NO. 59

14. F00752 (previously C07094). Consideration of the Deferred Matter Springwood Heritage Conservation Area SP056) to Blue Mountains Local Environmental Plan 2005 (Draft Amendment 1 — Heritage Amendment for Lawson, Hazelbrook, Springwood and Blaxland)

A MOTION was moved by Councillors Myles and Van der Kley :

That the Council reinstates the land subject to the Macquarie Road Heritage Conservation Area (designated SP056) to Blue Mountains Local Environmental Plan 2005 (Draft Amendment 1 — Heritage Amendment for Lawson, Hazelbrook, Springwood and Blaxland) pursuant to Section 68 of the Environmental Planning and Assessment Act 1979.

Upon being PUT to the Meeting, the MOTION was CARRIED, the vote being:

For		Against	
Councillors	Angel Creed Frappell Hamilton McInnes Myles O'Grady Searle Trindall Van der Kley	Councillors	McLaren

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MINUTE NO. 60

15. X06/1332. Development Application No. X06/1332 for Events at Everglades from February 2007 to February 2008 on Lots 9, 10 and 11 DP 3764 and Lot B DP 389723, "The Everglades", Nos. 37-49 Everglades Avenue, Leura

The meeting was addressed by Sandy Luxford, Harry Ostendorf and Bruce Cox.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Creed AND Van der Kley:

That the Development Application No. X06/1332 to conduct events at Everglades on Lots 9, 10 and 11 DP 3764 and Lot B DP 389723, Nos. 37-49 Everglades Avenue, Leura be determined pursuant to Section 80(5) of the Environmental Planning and Assessment Act 1979 by the granting of consent limited to the twelve month period from February 2007 to February 2008, for that aspect of the development not subject to a partial consent issued on 9 February 2007, subject to conditions shown in Attachment 1 to this Report.

Attachment 1

Conditions of development consent

**Confirmation
relevant plans**

- of 1. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the Statement of Effects and supporting information, for seven (7) of the eight (8) public events described below, to be held as follows:-

8 April 2007 – Easter Celebration (Large event)

Duration: 10.00am to 4.00pm

Estimated attendance: 900 people, with max 450 at any one time

24 June 2007 – Winter Magic Quest (Large event)

Duration: 10.00am to 4.00pm

Estimated attendance: 900 people, with max 450 at any one time

July 2007 (Day TBA) – Yulefest Serenade dinner-concert

Duration: 6.00pm to 9.00pm

Estimated attendance: 100 people

September 2007 (Day TBA) – Music/drama/dance/poetry/ children's

Duration: Daytime, 3 hours maximum

Estimated attendance: 100 people

September 2007 (Day TBA) – Cirquinox Circus

Festival (Large event)
Duration: 10.00am to 4.00pm
Estimated attendance: 600 people, with maximum 400 at any one time.

October 2007 (Day TBA) -
Music/drama/dance/poetry/ children's
Duration: Daytime, 3 hours maximum
Estimated attendance: 150 people

November 2007 (Day TBA) -
Music/drama/dance/poetry/ children's
Duration: Daytime, 3 hours maximum
Estimated attendance: 80 people

22 or 23 December 2007 (Day TBA) – Summer Solstice Festival (Large event)
Duration: 10.00am to 8.00pm
Estimated attendance: 900 people, maximum 450 an any one time,

and for eighteen (18) private functions, except as otherwise provided or modified by the conditions of this consent.

Time-limited consent 2. This Consent is only valid for the duration of the events described in the proposal, and shall cease to operate on Friday, 29 February 2008.

Parking 3. All parking associated with the holding of events, performances or exhibitions including street parking, shall be supervised by traffic marshals (who are to be identifiable by distinct vests or the like). A minimum of five (5) marshals shall be provided for any event attracting more than 200 patrons.

- a. The marshals shall direct persons to park in the off street parking areas prior to using kerb side parking spaces
- b. The marshals shall ensure vehicles are parked so as not to obstruct driveway access of any neighbouring residential premises
- c. The marshals shall direct parking away from Wentworth Street and Coniston Road.
- d. Coaches transporting patrons to any event

greater than 100 people, are not to be parked on street in front of residential properties in the area.

Line marking of angled parking spaces in front of the site

4. In order to provide an efficient on street angled-parking in Everglades Avenue, the applicant is to re-establish the existing line-marking of the angled car parking spaces along the Everglades

Avenue frontage of the site to the Council's satisfaction. This work shall be completed prior to the first public event in April 2007 or as soon as practicable thereafter, with any alternative date agreed to by the Council in writing.

The line-marking is to utilise 'line-o-dots' and painted lines to the Council's approval.

The applicant is to arrange an onsite meeting with the Council's Senior Development Engineer prior to commencement of the line-marking to discuss the details of the line-marking works. Inspection fees will be charged in accordance with the Council's adopted fee schedule.

Waste collection

5. Satisfactory arrangements shall be made on site and at the frontage of Everglades for the provision of refuse bins for the purpose of collection of litter. Street litter shall be collected at the conclusion of each event/function.

Toilets

6. Temporary toilets serviced by a licensed contractor shall be provided for events exceeding 200 persons present at any one time.

Changes to site

7. No permanent change to the existing character or fabric of the site or to any buildings on the site shall be made as a result of any event or function conducted on the site in accordance with this consent.

Noise

8. a. Noise levels generated by events on the site shall not exceed 5dBA above the background noise level when measured at

the boundaries of the property adjoining residential premises.

- b. In relation to large events where amplification of performances and public address systems are used, the noise levels must be actively measured and monitored by an appropriately qualified person on the day of the event so that amplification can be managed to ensure that the maximum noise limits are not exceeded.

Equipment usage

- 9. The setting up/removal of equipment and the like associated with events/performances shall occur only within the approved hours of operation.

Parking for the Disabled

- 10 For the large events, an additional two parking spaces for the disabled shall be reserved at the front of the property.

Management Plan for Larger Events

- 11 A Management Plan shall be prepared for events having an expected attendance of 400 or more people. The Plan shall address in detail how Conditions 1, 3, 5 to 10, 13 and 14 of this Consent shall be met, and shall nominate the name and contact details of an event supervisor who can be contacted regarding any traffic or noise issues during the particular event. The Plan shall make provision for recording complaints from any members of the public concerning the particular event and means by which the complaint was addressed. A copy of the Plan of Management shall be submitted to the Council at least twenty eight (28) days prior to the date of the particular event.

Management of Any Complaints

- 12 After the first large event and before the submission of the Management Plan for the next large event, the applicant/organiser shall organise a meeting with the Council planning staff in order to present details of the implementation of the management plan, any complaints received in relation to the operation of that event and the means by which that/those

complaints were addressed. Improvements to the management arrangements arising from that review shall be incorporated into the Management Plan for the subsequent events.

Event Notification

- 13 A leaflet advising the date, times and nature of forthcoming public events, and the management arrangements that will apply to that public event, shall be letterbox dropped to neighbouring residential premises likely to be affected (as depicted on the map provided by the Council and attached to the consent) at least fourteen (14) days prior the public event. The leaflet shall specify the name of the event supervisor and their contact details for enquiries and response to complaints.

The Council and neighbouring residential premises shall be notified of the public event dates in the July to November period at least twenty eight (28) days prior to these events.

Vacating of site

- 14 All persons attending or performing in an event shall have vacated the site no later than thirty (30) minutes after the scheduled finishing time.

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MINUTE NO. 61

16. X06/1211. Development Application No. X06/1211 for the Demolition of the Existing Uniting Church Building at Lot 11 Dp 1077933, No. 285b Great Western Highway, Lawson.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Creed:

That Development Application No. X06/1211 for the demolition of the existing Uniting Church building at Lot 11 DP 1077933, No. 285B Great Western Highway, Lawson be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this Report.

Attachment 1

Conditions of development consent

Confirmation of relevant plans

1. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the following;
 - Survey plans prepared by Matthew Freeburn, numbered 30428, and dated 3 November 2006
 - Supporting statement prepared by Frank Kosztelnik and Associate, dated 10 November 2006.except as otherwise provided or modified by the conditions of this consent.

Period of development consent

2. Physical commencement of construction is required within a five year period from the date of this consent. Should this not occur, the development consent will lapse.

Demolition management

3. The demolition work is to be executed by a competent person, with due regard for safe working practices and in accordance with the requirements of the Workcover Authority and Australian Standard 2601-2001.

At all times during demolition a competent person shall directly supervise the work. It is the responsibility of the person to ensure that:

- a. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work. Temporary bracing, guys, shoring or any combination of these, shall be added for stability where necessary.
- b. Precautions are taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained particularly in the event of sudden and severe weather changes. Severe weather changes refer

primarily to the localised high Winds. In these circumstances loose debris can become airborne, particularly if it is in sheet form.

- c. The site shall be secured at all times against the unauthorised entry of persons or vehicles.
- d. Utility services within the structure not required to be maintained during the demolition work shall be properly disconnected and sealed off before any stripping or demolition commences.

Demolition of Buildings containing asbestos cement

- 4. Prior to the commencement of any demolition, the building shall be investigated for the presence of asbestos or other hazardous materials. A copy of this investigation shall be provided to Blue Mountains City the Council prior to the commencement of any demolition work on site.

If asbestos or other hazardous material is identified on site, the applicant is to notify the Council and adjoining residents, in writing, at least ten (10) working days prior to demolition commencing, of their intention to commence demolition works.

In the case of adjoining residents, such notification is to be a clearly written note, on at least note pad size paper, giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately to the rear of the demolition site.

Disposal of Asbestos

- 5. All asbestos material, including asbestos cement, or other hazardous material is to be disposed of to an approved waste management facility licensed to receive asbestos.

Display of signage

- 6. The developer will display appropriate asbestos/demolition signage prior to and

during demolition works.

- Order of demolition**
7. Unless otherwise permitted by the Council, the building shall be demolished in the reverse order to that of its construction. The order of demolition for the building shall be progressive, having proper regard to the type of construction.
- Adjoining buildings**
8. In consideration of the proximity of the site to adjoining buildings:
- Safe access and egress from adjoining buildings is to be maintained at all times for the duration of the demolition work.
 - No demolition activity is to cause damage to or adversely affect the structural integrity of adjoining buildings. Consideration should be given to the use of shoring and underpinning and to changes in the soil conditions as a result of demolition and appropriate action taken.
 - The effect of vibration and concussion on adjoining buildings and their occupants is to be minimised by selection of appropriate demolition methods and equipment.
- Dust control**
9. The techniques adopted for stripping out and for demolition are to minimise the release of dust into the atmosphere.
- Before commencing work, any existing accumulations of dust are to be collected, placed in suitable containers and removed. Selection of appropriate collection techniques, such as vacuuming or hosing down, shall take account of the nature of the dust and the type of hazard it presents (eg., explosive, respiratory etc).
 - Dust generated during stripping or during the breaking down of the building fabric to removable sized pieces shall be kept damp until it is removed from the site or can be otherwise contained. The use of

excess water for this purpose is to be avoided.

It should be borne in mind, that in certain environments and under certain stimuli, deposits of combustible dust on beams, machinery and other surfaces may be subject to flash fires, and suspensions of combustible dusts in the air can cause them to explode violently (see NFPA Handbook).

- Removal of material** 10. All demolished material and excess spoil from the site shall be disposed of at a location and in a manner approved of by the Council. No material is to be burnt on site.
- Stabilisation of the site** 11. To ensure the long term stability of the site, and at the conclusion of demolition work, all disturbed areas are to be graded, topsoiled and turfed, spraygrassed or otherwise treated to avoid excessive runoff, erosion or siltation leaving the site.

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MINUTE NO.62

17. C01779. Confidential Business Paper – Council Owned Land at Redfern Street & Somme Avenue, Wentworth Falls.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Van der Kley:

1. That Council accept the offer for the purchase of Lot 7 Deposited Plan 31895 Somme Ave and Lots 68, 69 & 70 Deposited Plan 31895 Redfern Street, Wentworth Falls.
2. That the offer is accepted in conjunction with the adjoining owners with the Council share being \$156,666 of the sale price of \$235,000 less costs.
3. That the Common Seal of Council be affixed as required to the documents relating to this matter.
4. That the funds received from the sale of the land be deposited in the Property Management Investment Fund, according to the Council's adopted Corporate Property Policy.

5. **That this report corrects a typographical error in a Council Resolution, Minute Number 386, 22/11/2005 on Lot Numbers**

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MINUTE NO. 63

18. C00534. Local Traffic Committee.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Creed:

1. **That Council receives and notes this report.**
2. **That item 2007.03 contained in the report of the Local Traffic Committee meeting held on 6 February 2007 be approved by Council.**
3. **That the Director Client Services - Roads and Traffic Authority Blacktown, the Superintendent of Police - Blue Mountains Local Area Command and the Local Member's Representative be notified of Council's approval.**
4. **That the items 2007.01, 2007.02 and 2007.04 are noted by Council.**

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MINUTE NO. 64

19. F00088 Report To Community & Facilities Working Party

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Hamilton:

That a report be presented to the Community & Facilities Working Party, within one month: (a) listing all Committees on which Councillors represent the Council; and (b) how the minutes of those Committees are circulated to the Councillors and relevant Council Officers.

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MINUTE NO. 65

20. F00088 Report On Feasibility Of Creating A Rail-Trail

A MOTION was moved by Councillors McInnes and O'Grady :

That Council receive a report on the feasibility of creating a 'rail-trail' between Wentworth Falls and Mount Victoria.

An AMENDMENT was moved by Councillors Hamilton and Frappell:

That Council notes that this matter is already listed on the agenda of the Environment and Planning Working Party meeting of 20 March 2007 and, in due course, a report will come to Council.

On being PUT to the Meeting, the AMENDMENT was carried unanimously.

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MINUTE NO. 66

21. C00680 Précis Of Selected Correspondence, 13/3/2007

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and O'Grady:

That the Précis of Selected Correspondence be received and appropriate letters forwarded where necessary.

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MINUTE NO. 67

C00336. Procedural – Matter of Urgency

RESOLVED UNANIMOUSLY on the MOTION of Councillors McInnes Creed **that two Matters of Urgency be heard.**

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MINUTE NO. 68

Open and Close Sporting Ovals

RESOLVED UNANIMOUSLY on the MOTION of Councillors Myles and Van der Kley **that the Community and Facilities Working Party conduct a review of the Delegations under Section 377 of the Local Government Act 1993 No.30 concerning the powers to open and close Sporting Ovals. Further, that the community and Facilities Working Party consider the possibility of delegating authority over opening and closing of Sports Fields to a Committee consisting of the Mayor, the General Manager, the Chair of the Sports Council and one Councillor per Ward.**

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MINUTE NO. 69

Delegation of Authority of Matters (including road closures) related to Springwood Foundation Day Saturday 31 March 2007.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Myles and Van der Kley that authority to approve matters in relation to this Council's involvement in the organisation of Springwood Foundation Day be delegated to a committee comprising the Mayor and General Manager.

Question without Notice

Following a review of the legal advice on the Lawson Community Hall draft plan of management, provide either:

- (a) the reasons for the legal advice being confidential be disclosed to councillors; or
- (b) the Council publish the legal advice for the benefit of the general public and councillors.

MINUTE NO. 70

C00336. Procedural – Question that Meeting Close

As there was no further business before the meeting, the Mayor then PUT the QUESTION “that the Council Meeting now close”.

Upon being PUT to the meeting, the QUESTION was AGREED TO UNANIMOUSLY, the time being 9.20 pm on Tuesday, 13 March 2007.

The Ordinary Meeting of the Council then closed.

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