

BLUE MOUNTAINS CITY COUNCIL

ORDINARY MEETING

11 December 2007

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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, 11 December 2007, commencing at 7:32 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 Assets and Contracts, Manager Planning, Health and Enforcement, Property Officer, Education for Sustainability Officer, Manager Environmental Management, Program Leader Waste and Resources, Waste and Resources Engineer, Senior Ranger, Project Support Officer Business Systems, Project Support Officer Governance Publications.

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Prayer / Reflection:

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

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MINUTE NO. 344

C00679. Apologies

RESOLVED UNANIMOUSLY on the MOTION of Councillors McInnes and Searle **that the apology tendered on behalf of Councillor Brown for her non-attendance at the meeting be accepted and a leave of absence granted.**

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MINUTE NO. 345

C00336. Confirmation of Minutes - Ordinary Meeting – 20 November 2007

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

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C00336. Declarations of Interest – Ordinary Meeting, 11/12/2007

Councillor McInnes made the following declaration with respect to Item 12 – Development Application No. X/508/2007 for the establishment of a car servicing department to operate in conjunction with the existing motor showroom on Lot 2 DP 208478, 435-437 Great Western Highway, Faulconbridge:

“I live in the vicinity of the proposed development at 435-437 Great Western Highway Faulconbridge and will leave the Chamber while this matter is being determined.”

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MINUTE NO. 346

1. Mayoral Minute – Regional Volunteer Award

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Van der Kley that the Council present the Sydney Greater West Senior Volunteer of the Year Award to Sabine Erika of Blackheath.

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MINUTE NO. 347

S1. Mayoral Minute – Delegation of Authority during the Christmas and New Year recess

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

1. That the Council appoint a Committee comprising the Mayor and General Manager (or in his absence the person acting as General Manager) to deal with and determine urgent matters arising during the recess of the Council between 12 December 2007 and 29 January 2008, in such cases applying the Council codes and policies, or where no such policies exist, discretion is exercised.
2. That the Committee only determine matters specifically relating to a Ward of the Council after consulting with the relevant Ward Councillors.

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MINUTE NO. 348

2. F03384. Public access to Council documents

A MOTION was moved by Councillors Myles and Van der Kley that the Council adopt the Blue Mountains City Council’s “Public Access to Council Documents Policy” and the related procedures.

MINUTE NO. 348 Contd

Upon being PUT to the Meeting, the MOTION was CARRIED, with Councillor Creed out of the Chamber, the vote being:

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

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F00088. Question without Notice

Councillor Myles: That matters in relation to privacy, if they be in conflict with the Council's "Public Access to Council Documents Policy", be reported to the Council in 2008.

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MINUTE NO. 349

3. 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 October 2007 be received.

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MINUTE NO. 350

4. F01155. Tender for the design, documentation and construction of Remediation Works at the dormant Lawson Landfill Site: Contract No. 2006-W921

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

1. That the Council accept the revised Tender Price of \$2,264,007 (plus any rise and fall provisions) from Thiess Services Pty. Ltd. to Design, Document and Construct the Remediation Works at the Lawson Landfill site subject to negotiation of Contract qualifications to the satisfaction of the General Manager.

It should be noted that acceptance of the full Tender Price is also subject to Development Approval and approval of the DECC being gained for the proposed works.

MINUTE NO. 350 Contd

2. That, consequent upon the acceptance of the Tender, the General Manager be authorised to sign on behalf of the Council all contract documents between the Council and Thiess, and that the Common Seal of the Council be affixed to any such documents, if required.
3. That the Council authorise expenditure of up to \$114,000 for any Contract Variations that may arise from unforeseen site conditions or additional requirements arising from the DECC and Development Approval processes.
4. That the Council receive a further report if the General Manager is not satisfied that the changes to Contract Conditions will meet the required Contract Outcomes.

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MINUTE NO. 351

5. F00808. Green Power Report

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

1. That the Council purchases 10% Green Power for its large sites from an accredited supplier and that this be implemented as soon as practicable for a period of 24 months after commencement.
2. That the Council note that energy cost savings will be used to fund the Energy Performance Contracts and to implement further energy saving initiatives and where possible to purchase Green Power in the future.
3. That a budget variation to increase the Council's 2007-2008 electricity budget by \$10,000, to cover the purchase of 6 months (January to June 2008) of Green Power, be endorsed and that an additional \$20,000 be budgeted for the 2008-2009 financial year and an additional \$10,000 be budgeted for the 2009-2010 financial year.
4. That prior to the end of the 24 month contract, a review of the purchase of Green Power be undertaken and a further report come back to the Council on the recommended way forward.
5. That the Council notes that there will be continued focus on reducing its energy consumption by implementing energy saving initiatives.

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MINUTE NO. 352

6. F03047. Revised Energy and Water Strategy

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

1. That the Council adopts the amended Energy and Water Strategy.
2. That the amended Energy and Water Strategy be submitted to the International Council for Local Environmental Initiatives (ICLEI) to satisfy the requirements of meeting Milestone 3 of the Cities for Climate Protection Program.

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MINUTE NO. 353

7. F03364. Confidential Business Paper

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Van der Kley, with Councillor Creed out of the Chamber:

1. That the Business Paper be deferred for consideration until all other business of this meeting has been concluded.
2. That the Council close part of the Council Meeting for consideration of the Business Paper Tender for the Provision of Recyclable Materials Collection Service: RFT No. 2006-003 pursuant to the provisions of Section 10A(2)(c) and (d) of the Local Government Act 1993, as the report contains, and discussion is likely to involve:
 - a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting business; and
 - b) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

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The Council Meeting was recessed from 8:43 to 8:58pm to enable Councillors who had not previously had the opportunity to read the Officer's report to do so.

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MINUTE NO. 354

C1. F03364. Confidential Business Paper – Tender for the provision of Recyclable Materials Collection Service: RFT No. 2006-003

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

MINUTE NO. 354 Contd

1. That the Council accept the Tender from JJ Richards and Sons Pty Ltd for their tendered schedule of rates, provided in Attachment 6 of this report, for the provision of the Council's Recyclable Materials Collection Service – Service Option 3 (Weekly 140L MB Fully Co-mingled), as described in the Council RFT 2006-003, for a period of seven (7) years.
2. That the Council also accept that;
 - a) the tendered rates will be subject to the annual rise and fall provisions as described in the Council RFT 2006-003; and
 - b) the amount due, each four weekly period, to JJ Richards and Sons Pty Ltd will be based on the availability of the Recyclable Materials Collection Service to nominated Service Entitled Premises whose number are subject to variation due to potential increases and decreases in premises, such as commercial premises, opting to take up the service.
3. That the General Manager be authorised to sign on behalf of the Council all contract documents between the Council and JJ Richards and Sons Pty Ltd, and that the Common Seal of the Council be affixed to any such documents, if required.
4. That an annual report be presented to the Council within two months of the Service anniversary date each year, providing the Council with a summary of the performance of the Contract including such information as service costs, participation levels, volumes of materials collected etc.

Upon being PUT to the Meeting, the MOTION was CARRIED, with Councillor Creed out of the Chamber, the vote being:

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

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MINUTE NO. 355

C00336. Procedural – Re-open Meeting to Public

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Frappell **that the Meeting be re-opened to public participation.**

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MINUTE NO. 356

8. F00434. Strategy for celebrating Christmas in Springwood and Katoomba

RESOLVED UNANIMOUSLY on the MOTION of Councillors Myles and McLaren, with Councillor Creed out of the Chamber:

1. That the Council notes that in consultation with the Katoomba and the Springwood Chambers of Commerce, decorative banners have been purchased and will be attached to nominated sections of street light poles along Katoomba St, Katoomba and Macquarie Rd Springwood to celebrate Christmas 2007.
2. That the Council has formed a partnership approach with the Katoomba Chamber of Commerce and Community and the Springwood Chamber of Commerce to assist with “works in kind” to decorate other public spaces where possible.
3. That an application be submitted as a Quarter Two budget variation to fund the supply and installation of the Christmas decorative banners in Katoomba and Springwood.
4. That the Council supports the provision of a \$500 contribution to the prize pool in both Springwood and Katoomba Town Centre with a matching amount provided by the relevant Chamber of Commerce and this contribution of \$1000 will be for Christmas 2008, as detailed on page 47 of the report.
5. That the Council, subject to the availability of Council funds, and a 50% contribution from the Blaxland Chamber of Commerce and the Glenbrook Chamber of Commerce, install similar banners and lighting within the townships of Blaxland and Glenbrook for Christmas 2008-09.

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MINUTE NO. 357

9. F03588. Incoming funds pertaining to the temporary use of land near the Elsie Langford Centre

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

1. That the Council note the consultation undertaken with the Medlow Bath Community Association, and the options for use of the funds received from the leasing of the Elsie Langford Centre to Sydney Water.
2. That the 2008/09 Capital Works Program assessment process determine the merits and outcome of the Medlow Bath Community Association’s submission for the construction of a public toilet facility in Medlow Bath Park.
3. That should the 2008/09 Capital Works Program submission for the construction of a public toilet facility in Medlow Bath Park be successful, the funding be used to contribute toward the capital costs.

MINUTE NO. 357 Contd

4. That should the 2008/09 Capital Works Program submission for the construction of a public toilet facility in Medlow Bath Park be unsuccessful, the income be retained in a restricted asset account, and a further report be provided to the Council providing options for consideration on the use of the funds.

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MINUTE NO. 358

10. 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>
Mid Mountains Combined Church	\$100.00
Mid Mountains Combined Church	\$100.00
Kinship at Christmas Foundation	\$ 50.00
Kinship at Christmas Foundation	\$ 50.00
Kinship at Christmas Foundation	\$100.00
Fellowship of Australian Writers NSW Inc	\$ 60.00
Fusion Blue Mountains	\$ 85.00

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MINUTE NO. 359

11. C05861. Update on Companion Animals Event

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Creed that the report be noted.

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MINUTE NO. 360

12. X/508/2007. Development Application No. X/508/2007 for the establishment of a car servicing department to operate in conjunction with the existing motor showroom on Lot 2 DP 208478, 435-437 Great Western Highway, Faulconbridge

The meeting was addressed by Michael Ross, Paul Hartley and Patrick Hurley.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and Myles, with Councillors Creed and McInnes out of the Chamber:

MINUTE NO. 360 Contd

That the Council defer consideration of this item until next meeting of the Council:

- 1. To conduct a site inspection; and**
- 2. To obtain independent legal advice on the issue, preferably from a barrister who practices in the area.**

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MINUTE NO. 361

13. X/764/2007. Development Application No. X/764/2007 for the construction of an integrated housing and tourist accommodation development and a community title subdivision, with associated car parking and landscaping, at Lot 1 DP 840261, Nos. 132-174 Govetts Leap Road, Blackheath (property known as Parklands).

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

A. That the staged development application submitted by the applicant pursuant to Section 83B of the Environmental Planning and Assessment Act 1979, in relation to Lot 1 DP 840261, Nos. 132-174 Govetts Leap Road, Blackheath (property known as Parklands), being DA No. X/764/2007 and comprising:

- 1. A concept plan (labelled “Masterplan”) for the development of the site as a whole for the purpose of Integrated Housing and Tourist Accommodation and a Community Title Subdivision, which plan sets out the intent to lodge a further development application (Stage 2) for that part of the site identified as proposed Lot 35 once the Sydney Water reticulated sewerage system is certified by Sydney Water as having the capacity to service Stage 2 of the development; and**
- 2. The detailed development application for ‘Stage 1’ of that concept plan being development of the following:**
 - Construction of 4 additional tourist accommodation buildings comprising 8 community lots, containing a total of 16 tourist accommodation suites;**
 - Construction of 9 additional residential buildings comprising 18 residential dwellings;**
 - The retention of the existing Manager’s residence and 3 existing tourist accommodation buildings comprising 5 community lots containing a total of 12 suites;**
 - The associated facilities incorporated into Stage 1 such as car and coach parking, roads, services, a tennis court, stormwater management facilities and landscaping;**
 - Those site management and infrastructure works that are required as part of Stage 1 development but which are located within the Stage 2 area of the site; and**
 - Community title subdivision of the whole site into Lots 1-35 inclusive comprising:**

MINUTE NO. 361 Contd

- a. **Lot 1 (community title lot) and Lots 2-34 inclusive (community development lots), created within the area to be occupied by Stage 1 of the development; and**
- b. **Community development Lot 35, being the area of the site within which Stage 2 of the development will take place, subsequent to a further grant of development consent, providing for the development proposed in the Masterplan,**

be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to the conditions shown in Attachment 1 to this Report.

- B. A further development application must be lodged for development of that part of the site identified as “Lot 35 (Stage 2 – Future Development) before the development of that part of the site in accordance with the Masterplan may occur, with the exception only of the conduct within the area of proposed Lot 35 of the site management works and infrastructure required for Stage 1 of the development.**

Attachment 1 – Conditions of consent –

Confirmation of relevant plans

- 1 To confirm and clarify the terms of Development Consent, site development shall be carried out in accordance with the following except as modified by these conditions of consent:
 - a. Plans prepared by Rohan Dickson and Associates Pty Ltd being Drawing Nos 06-015 DA1.1 to 06-015 DA1.24, all dated 4 June 2007 and DA001, dated 12 October 2007.
 - b. Accompanying supportive material comprising submission titled Development Application for “Parklands” 132-174 Govetts Leap Road Blackheath and comprising of Volume 1, Appendices A and B, and Volume 2, Appendices C to T, except as otherwise provided or modified by the following conditions of this consent.
 - c. Draft Community Title Subdivision Plan prepared by CitiSurv Pty Ltd, Surveyors Ref 8720-Comm.
 - d. Any building or structure that would normally require development consent and which is generally referred to in the Community Management Statement (being Volume 2 Appendix S), if not indicated on the submitted Site Plan (being 06-015 DA1.2) shall be subject of a separate development application to the Council.
 - e. Construction work is confined to stage 1 of the approved plans except for certain works that

are located within stage 2 of the Concept Plan (proposed lot 35) but required by these conditions to be completed during stage 1 and prior to release of the Subdivision Certificate plan.

**Concept
Plan (Masterplan)**

- 2 In accordance with Section 83B of the *Environmental Planning and Assessment Act*, this is a Staged Development consent, approving:
 - a. stage 1 of the development together with all ancillary works associated with that stage; and
 - b. the concept proposals for stage 2 of the development, including the concept plan (Masterplan) for the entire site.

A separate development application and development consent will be required for stage 2 of the development. No work on stage 2 of the development is permissible without that subsequent development consent.

Section 83D of the *Act* provides that whilst ever this consent remains in force, the determination of any further development application in respect of this site must be consistent with this consent.

Stage 1

- a. Tourist buildings 4 - 7,
- b. Residential buildings 8 - 10, 36 - 40 and 42,
- c. Community title subdivision of the whole site into Lots 1-35 inclusive comprising:
 1. Lot 1 (community title lot) and Lots 2-34 inclusive (community development lots), created within the area to be occupied by Stage 1 of the development; and
 2. Community development Lot 35, being the area of the site within which Stage 2 of the development will take place, subsequent to the grant of a further development consent, providing for the development proposed in the Masterplan; amended as necessary to provide further works that must be undertaken in stage 1 but which are located in the stage 2 area ,
- d. Maintenance shed
- e. Historical display
- f. Continued operation of the existing manager's residence and tourist buildings 1-3

Completion of stage 1 is to include all access roads, landscaping, stormwater systems, turning facilities and the like required to service and facilitate the use of that stage of the development. All stage 1 works

and registration of the Community plan of subdivision must be completed prior to the occupation of any building constructed as part of stage 1.

Concept Plan – Stage 2 (Masterplan)

Substantial detail has been provided and assessed for the development associated with the Masterplan. A development application is required to enact the concept plan (Masterplan) for Stage 2, once the Blackheath Sewer Treatment Plant has been upgraded by Sydney Water and Sydney Water confirms in writing that its reticulated sewerage system has the capacity to service the entire development (including stage 2), as identified in the submitted documentation.

Section 73 certification by Sydney Water

- 3 The applicant must provide certification under Section 73 of the *Sydney Water Act 1994* for the stage 1 development.

The Section 73 certificate issued by Sydney Water for stage 1 shall be submitted to the Principal Certifying Authority, with a copy to Blue Mountains City Council, prior to the release of any Construction Certificate for stage 1.

Any structures relating to Sydney Water's requirements, such as private pump to sewer systems, shall be located and constructed such that they are not visually obtrusive and do not adversely impact on the appearance or amenity of the locality in which the site is situated or the historical significance of the site. Details of the location of such structures shall be submitted to Blue Mountains City Council for approval prior to their construction.

Land use

- 4 a. This Development Consent permits the use of the site as a Tourist Accommodation and Integrated Housing Development within both the existing buildings on the site and the proposed new buildings, as stated in the development application being:
- Buildings 1 to 7 inclusive—Tourist Accommodation;
 - All other buildings — Integrated Housing.
- b. The Tourist Accommodation component of the development shall only be used to provide visitor (short term holiday) accommodation.
- c. The Integrated Housing component of the development shall only be used as 'dwellings',

as defined under Local Environmental Plan No. 1991

- d. The existing Manager's Residence building shall be used as a dwelling house incorporating the manager's residence for the tourist accommodation component of the development.
- e. A Section 88B Instrument recording the restrictions on the use of land referred to in a., b. and c above shall be registered against the title of each lot in the community scheme. The draft Section 88B Instrument must be submitted to and approved by the Council (in writing) before it is registered.
- f. The Historical Display, located adjacent to the Govetts Leap Road entrance, shall provide material for community appreciation of the history of Parklands only. Details of an appropriately designed Display structure, including text and photographs, shall be submitted to Blue Mountains City Council for written approval prior to its construction.
- g. To ensure that the character of the development is consistent with the character of the area in which the development is to be located, the development shall not at any time become a 'gated community', with locked gates and/or a facility denying access unless a security card or similar device is used.
- h. The development shall be the subject of a community title subdivision in accordance with the Community Land Development Act 1989 and Community Land Management Act 1989. Each dwelling within the integrated housing component of the development, and each lot within the tourist component of the development, shall be a community development lot within the community scheme, and shall have its own title as shown on the 'Draft Community Title Subdivision Plan' by CitiSurv Ref 8720-COMM and shall have the building area shown on plan 06-015 DA1.5. The community title subdivision shall be registered at the NSW Land and Property Information Service prior to the occupation or use of any new building forming part of stage 1.

Period of Development Consent 5 This consent is valid for a four (4) year period from the date of notification by the Council. Should physical commencement not occur within this period, the Development Consent will lapse.

**Heritage Impact
Assessment**

- 6 The recommendations of the Heritage Impact Assessment, (HIA) prepared by Clive Lucas, Stapleton and Partners, dated 20 June 2007 being Appendix K of the supportive material lodged as part of the Development Application shall be implemented in accordance with the timeframes specified below:
 1. The original features of the site, including:
 - a. the mounding adjacent to the proposed location of building No.7 (as per plan titled and numbered 'Site Plan DA 1.2) and;
 - b. the pathway between the proposed tennis court and the existing spring fed pool, must be recorded by dimensioned drawings and photographs which must be lodged with the Blue Mountains City Council **prior** to issue of a Construction Certificate. A copy of these drawing and photographs shall also be forwarded to the Blue Mountains Library and retained at the development at completion of Stage 1.
 2. An archaeological research plan for the Building Precinct (refer to Figure 1, page 2 of the HIA) must be prepared, lodged with and approved by the Council **prior** to the issue of a Construction Certificate. The recommendations that are contained in the archaeological research plan for the investigation and recording to be carried out, in both the pre-construction and construction phases of the development, must be implemented on the site under the supervision of an archaeologist of not less than 7 years professional experience.
 3. Individual landscape designs (consistent with the approved Landscape Plan for the development) prepared for each building to be constructed as part of Stage 1, are to be prepared and submitted to the Council for approval **prior** to the issue of a Construction Certificate.
 4. A detailed proposal, directed at minimising tree loss from the construction of the proposed Overflow Path No. 2, is to be prepared, submitted to and approved by the Council **prior** to the issue of a Construction Certificate. The Overflow Path is not to be constructed until the Council's written approval is given.

5. A detailed proposal is to be prepared for the maintenance shed, the road connecting the maintenance shed and the proposed coach parking bays must be lodged with and approved by the Council **prior** to the issue of a Construction Certificate.
6. A detailed proposal is to be prepared for the historical display area for the approval of the Council **prior** to its construction. This is to be prepared by a heritage expert and should include historical photographs and text detailing the history and significant of the Parklands site.
7. A certificate prepared by a heritage consultant of not less than 7 years professional experience, confirming that the items identified in the drawings and the photographs have been retained within the development and must be provided to the Principal Certifying Authority, **prior** to the issue of the Subdivision Certificate or Occupation Certificate for Stage 1 in the development consent.

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|--|----|--|
| Construction certificate (building) | 7 | A construction certificate is required for all of the Stage 1 development works prior to the commencement of any building works or other works on the site. This certificate can be issued either by Council as the consent authority or by an accredited certifier but only after all conditions requiring approval by the Principal Certifying Authority have been satisfied. |
| Building Code of Australia | 8 | All building work must be carried out in accordance with the provisions of the Building Code of Australia. |
| Plans on site | 9 | A copy of the stamped and approved plans, development consent and the construction certificate are to be held on the site at all times during the construction of the development. |
| Builders details | 10 | Prior to any works commencing on the site, written notice of the principal building contractor's name, contact telephone number and licence number) must be given to the Council |
| Site management | 11 | To safeguard the amenity of the area in which the site is located, reduce noise nuisance and prevent environmental pollution during the construction period of Stage 1: |

- a. Delivery of building and construction materials to and from the site shall be carried out:
 - On Monday to Friday, between the hours of 7.00 am and 6.00 pm; and
 - On Saturdays between 8.00 am and 3.00 pm.No deliveries of those materials shall occur on Sundays or Public Holidays.
- b. Site excavation and/or building works shall not:
 - Commence prior to 8.00 am or be conducted past 5.00 pm, Monday to Friday; or
 - Commence prior to 8.00 am and continued after 1.00 pm on Saturdays.No delivery of materials or conduct of any site excavation or building works shall take place on Sundays or Public Holidays.
- c. 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 the satisfaction of the Council acting reasonably, to prevent the movement of such material off site.
- d. All excavated material must either be used in the building platform of the proposed buildings or be removed from the site for disposal/storage at a location approved for such purposes.
- e. All building operations such as brickcutting, washing tools, concreting and bricklaying shall be undertaken on the site. The pollutants from these building operations shall be contained on the site, and removed at regular intervals, to the satisfaction of the Council, acting reasonably.
- f. Builder's waste must not be burnt or buried on site. All waste (including any vegetation that is removed) must be contained on the site and removed, at regular intervals, to an approved Waste Disposal Depot.
- g. All construction vehicles and other associated vehicles are to enter and exit the site from the Govetts Leap Road access only. Care is to be taken to avoid adverse impact on any significant heritage element or vegetation on the site.

Workers amenities

- 12 Before work starts, toilet facilities must be provided for the construction personnel who will be present on the site on the basis of 1 toilet for every 20 workers. Amenities are to be installed and operated in an environmentally responsible and sanitary manner. Toilets cannot remain on site for any longer than 12 months, without the further approval of Council.

- Fencing of building site** 13 a. To ensure the protection of the public, the construction area, including any compound areas for the storage of materials, shall be appropriately fenced and clearly defined by signage. All work must satisfy the requirements of the NSW Work Cover Authority and comply with all applicable laws relating to workplace safety.
- b. The erection of any security fencing that is required on the site must not damage any tree, or involve the lopping or removal of any tree, that is located on the site at the date of this development consent.

- Public utilities** 14 a. Arrangements must be made with Integral Energy, and with an approved telecommunications service provider, for the extension of services to and within the site.
- b. Any relocation or alteration of public utilities or of any existing services, made necessary by this development, shall be carried out at no cost to Council. Arrangements are to be made with the authority concerned and a certificate of clearance obtained from each relevant authority, with a copy submitted to Council prior to commencement of the relevant work.
- c. All electricity services and telecommunication services required by or for the development shall be located underground, whether on or adjacent to the site.
- d. Any additional structures relating to public utility services for the development, such as sub-stations, shall be located such that they are not visually obtrusive and do not adversely impact on the appearance or amenity of the area in which the development is located or on the historical significance of the site. Details of the locations of all such structures shall be submitted to Blue Mountains City Council for written approval prior to the construction of the structures concerned.

- Survey plan** 15 Survey reports prepared by a registered land surveyor (survey reports) are to be prepared to ensure that the proposed development is located as approved. In this regard, survey reports shall be prepared for stage 1 at the following points:
- a. following the pegging of all building locations but prior to earthworks commencing, confirming that the building locations are in accordance with

the approved plans; and

- b. on completion of all ground floor levels verifying that the levels (RLs) comply with the RLs shown on the approved plans, or are as otherwise approved in writing by the Council; and
- c. on completion of roof construction verifying that the height of each building does not exceed the heights shown on the approved plans.

The survey reports are to be provided to the Principal Certifying Authority prior to construction work proceeding past each point and prior to building occupation in respect to point (c) above.

Construction signage

- 16 To ensure that the site is easily identifiable for deliveries and provides information on the person responsible for the site, a sign clearly displaying the following information is to be erected at the vehicular entrance to the site:
 - 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.
 - The street name and number of the site.

Materials and colours

- 17 a. To ensure the external appearance of the development is in character with existing development, the external materials of each building shall complement the materials used in the existing buildings on the site. External colours shall consist of mid range colours and tones. Full details of external colours, including that for roofs and walls, shall be submitted to the Council for approval prior to the granting of a Construction Certificate for stage 1.
- b. The completed buildings shall not be altered externally in finished material or colour without the prior agreement of the Council.

Residential amenity

- 18 a. Television aerials and/or satellite communication dishes shall be restricted to one common facility per building.
- b. Provision is to be made for the illumination of driveway and pathway areas. The lighting is to be positioned as close to ground level as possible, directed and shielded in such a manner so as to not interfere with traffic safety or cause nuisance to adjoining properties.

- c. On site mail delivery arrangements must be provided in accordance with the requirements of Australia Post.
- d. The street number of the property is to be prominently displayed in an appropriate location.
- e. Collection of refuse shall be undertaken on site by private contractor. No refuse bins of any description shall be located in Govetts Leap Road, Cleopatra Street or Lakeview Avenue, or within public view from any of those roads.
- f. Private garden courtyards shall not exceed the areas shown on the approved drawings and any fencing of the courtyards must not exceed 1.5 metres in height. The fences must be of a consistent colour and must be constructed of the similar material throughout the development. Fencing is to either comprise appropriate vegetation or to be timber picket fencing or fencing of an open metal design.
- g. Car spaces/carports shall not be used for any purpose other than for the parking of vehicles.
- h. All vehicles are required to enter and leave the site in a forward direction.

Community contribution

- 19 A contribution of \$611.78 for each stage 1 community development lot (18 lots within stage 1) proposed in the development application shall be made to the Council pursuant to Section 94 of the Environmental Planning and Assessment Act for Open Space/Recreation, Bush Fire Services and Administration.

The total amount payable in relation to stage 1 is \$11,012.04.

The contribution per lot consists of the following components:

Open Space/Recreation	\$229.37
Bush Fire Services	\$338.03
Administration	\$44.38
Total per lot	\$611.78

This contribution for stage 1 shall be paid to the Council prior to the issue of the Construction Certificate for stage 1.

The above amount will remain fixed for a period of three months from the date of this consent. After that time, each amount will be indexed in accordance with

Council's Development Control Plan. A copy of the Plan is available from the Council's Katoomba or Springwood office.

- Bush Fire Safety Authority** 20 The development shall comply with the Bush Fire Safety Authority issued in relation to the development under Section 100B of the *Rural Fires Act*, and provided as an attachment to this consent.
- Commercial signage** 21 To protect the residential amenity and character of the residential area in which the site is located, any signage advertising or promoting the development for sale purposes shall be submitted to and approved by the Council prior to its erection. In this regard, all signage should be placed adjacent to the site's main vehicular entrance in Govetts Leap Road.
- Access and mobility statement** 22 To ensure that appropriate access and facilities are provided within the completed development, a statement is required from a suitably qualified Access and Mobility Specialist, certifying that the development will, if constructed in accordance with the plans prepared as part of the Construction Certificate application, substantially comply with the requirements, including the identified recommendation, as contained in the submitted Access Report, prepared by Morris Goding Accessibility Consultant, dated 12 June 2007, being Appendix T of the submitted supporting material.
- Access and mobility certification** 23 To ensure appropriate access and facilities are provided, certification is required from a suitably qualified Access and Mobility Specialist, certifying that stage 1 of the development, as constructed, complies with the relevant requirements of the Access Report identified in condition 22.
- This certification is to be provided to the Principal Certifying Authority prior to release of an Occupation Certificate for this stage.
- Building Sustainability Index.** 24 The plans submitted with the application for the Construction Certificate shall otherwise depict or identify all the finished external and internal materials that are to be used in the development, including rainwater tanks, screening, insulation levels etc, to attain the respective BASIX Certificate ratings
- Subdivision certificate** 25 An application for a subdivision certificate must be lodged when all conditions of this Development Consent have been complied with, including the

required certification of the public utilities. The necessary plans as set out in paragraph two, must include appropriate provision for site management works and infrastructure works located in proposed lot 35 (Stage 2 – Future Development lot) but which are required to support the development and operation of Stage 1 of the development and which these conditions of consent require to be undertaken during Stage 1.

The application is to be lodged with and approved by the Council as the consent authority. The application must include the original community plan prepared in accordance with the Community Land Development Act (CLDA) and the Community Land Development Regulations) plus five (5) copies and must incorporate a Community Management Statement. The location of all buildings, private lots, common lots and future development space and/or other permanent improvements must be shown on one (1) copy.

**Community
Management Statement**

- 26 In order to ensure the effective management of the development in accordance with this development consent, the draft Community Management Statement submitted to the Council with the Development Application shall be amended to incorporate the following additional by-laws, which shall be designated as by-laws incorporated at the request of the Council in accordance with clause 4 of Schedule 3 of the CLDA and shall be drawn in terms that are satisfactory to the Council, acting reasonably:
- a. **Maintenance and management of landscaping.** This shall address the means of maintaining landscaping in accordance with an approved landscape plan, specifically in relation to the common open spaces and boundary planting.
 - b. **Bushland regeneration and Vegetation Management Plan.** Details of management and monitoring of the common open space including the identified vegetation buffer to the northern boundary and Popes Glen Reserve.
 - c. **Private sewer pumps.** Management of private individual pumps to sewer, as required, including monitoring, maintenance and control by the Community Association. Details of these arrangements shall be to the satisfaction of the Blue Mountains City the Council and Sydney Water Corporation.
 - d. **Fencing.** Details of maintenance of fencing and associated landscaping on the site.

- e. **Bushfire protection.** Details of maintenance and management of bushfire protection measures including firetrails and Asset Protection Zones.
- f. **Recreational Facilities.** The submitted plans do not indicate a swimming pool or separate building for the Clubhouse, as referred to under By Law 27 of the draft Community Management Statement. The Community Management Plan shall be amended to identify any areas to be used for general community purposes and how this is to be managed to avoid adverse impact on residents and the neighbourhood. It should be noted that such an area shall not include use for commercial functions or other uses that would otherwise require separate consent without such consent being obtained.
- g. **Section 88 instruments.** The terms and requirements of all Section 88 instruments/positive covenants identified by these conditions of consent.
- h. **Stormwater control devices.** This shall address the means of monitoring and maintaining stormwater control devices, including dams and basins, in accordance with these conditions of consent.
- i. **Use of buildings.** A statement regarding the approved use of buildings which identifies that buildings 1-7 (as shown on the plan titled and numbered '06-015 Site Plan DA 1.2') are tourist buildings and that all other buildings are integrated housing. The tourist buildings shall only be used for visitor (short term holiday) accommodation whilst integrated housing shall only be used as "dwellings, as defined under Local Environmental Plan 1991.
- j. **Built structures.** Any building or structure that would normally require development consent and which is generally referred to in the Community Management Statement (being Volume 2 Appendix S), but not detailed on the submitted Site Plan (being 06-015 DA1.2) shall be the subject of a separate development application to Council.

**Protection of
Threatened Species and
Endangered Ecological
Communities**

- 27 The site is identified as containing and/or being immediately adjacent to the following endangered ecological communities:

Blue Mountains Swamps in the Sydney Basin

Bioregion/Temperate Highland Peat Swamps on Sandstone (also known as vegetation unit 5B listed on Schedule 3 of LEP 1991 and a vulnerable/endangered ecological community under state/federal legislation). (Blue Mountains Swamp community)

The Blue Mountains Swamps community is located at the north-east corner of the site.

This community is listed under the NSW Threatened Species Conservation Act, 1995 (TSCA) and the Commonwealth Environment Protection and Biodiversity Conservation Act, 1999 (EPBCA).

Under the TSCA and the EPBCA it is an offence to harm threatened species, endangered ecological communities or their habitats.

The endangered ecological communities that are located within the site must be kept in good condition at all times.

Establishment of a Buffer

- 28 In order to minimise the potential for the development to have a significant impact on the Blue Mountains Swamp community, a buffer of 40 metres wide measured horizontally and at right angles from the northern boundary of the site must be established and maintained.

The buffer area must be rehabilitated by the establishment of dense vegetation of locally occurring native species to provide a water quality improvement and protective function to the Blue Mountains Swamps community and other sensitive riparian vegetation present at the north-east corner of the site and within the adjacent Popes Glen Reserve.

Plant species selection, structure and densities within the southern 25m of the total 40m wide buffer shall be appropriately adapted to act as an asset protection zone (as required by the Bush Fire Safety Authority referred to in condition 20) whilst still functioning as a native vegetation buffer.

The establishment, rehabilitation and maintenance of the buffer must be addressed in detail in the Vegetation Management Plan to be prepared in accordance with condition 31.

Location and design of Dry basin C6

Prior to issue of the

- 29 To minimise the potential for the development to result in adverse impacts on the Blue Mountains Swamp community and on other vegetation within the Pope's Glen Reserve (Reserve) the dry detention

Construction Certificate

basin C6 currently proposed to be located within the identified buffer, in the northern portion of the site, must be redesigned so as to be relocated (to the satisfaction of Council and in accordance with the measures outlined in the SKM memo to Chase Property Investments Pty Ltd dated 30 October 2007), to be clear of the 15m wide native vegetation buffer required by condition 28. Basin C6 may be supplemented by a smaller localised basin as close as possible to the southern boundary of the 40m buffer to manage overflows from buildings 30, 31, 32 and 33.

The relocated basin C6 and any additional smaller localised basin for buildings 30, 31, 32 and 33 are to be:

- a. Designed to ensure the required capacity is achieved without interference with any groundwater table. This is to be achieved by construction of a bund or earthen mound rather than by excavation below existing natural ground levels; and
- b. located and designed to include scour protection, infiltration and dissipation to ensure the hydraulic performance of the basin or basins minimises adverse impacts on, and does not preclude the rehabilitation of, the vegetation buffer referred to in condition 28 and the Blue Mountains Swamp community and the swamp and riparian vegetation in the Reserve.

A revised site plan and design for dry basin C6 (inclusive of any additional smaller localised basin if required), that clearly identifies the new location(s), design and hydraulic performance, of the basin(s) relative to the buffer, swamp and riparian vegetation must be submitted to and approved by the Council prior to issue of a Construction Certificate for Stage 1.

Location of the emergency fire fighting turning circle

Prior to issue of the Construction Certificate

- 30 In order to minimise the potential for the development to result in adverse impacts on the Blue Mountains Swamp community and the other sensitive vegetation in the Reserve, the emergency fire fighting turning circle located within the identified 40m wide vegetation buffer required by condition 28, in the northern portion of the site, must be relocated to outside of that buffer to ensure that the establishment, rehabilitation, maintenance and effectiveness of the buffer is not hindered or restricted in any way.

A revised site plan that clearly identifies the new

location relative to the buffer must be submitted to and approved by the Council prior to issue of a Construction Certificate for Stage 1.

**Vegetation
Management Plan**

*Prior to issue of the
Construction Certificate*

- 31 A Vegetation Management Plan (VMP) is to be prepared in accordance with the Council's Vegetation Management Guidelines, by a suitably qualified professional with relevant experience in the restoration of natural bushland areas, and submitted to and approved by the Council prior to issue of a Construction Certificate.

The VMP must be primarily directed towards the conservation and enhancement of native vegetation communities occurring on the site and on adjoining public lands and must include details of:

- a. areas of native vegetation to be retained, and measures necessary to ensure the protection of that native vegetation during and after development;
- b. vegetation to be removed;
- c. the name and characteristics of the Blue Mountains Swamp community at the north-east boundary of the site;
- d. the delineation of the Blue Mountains Swamp community boundary;
- e. rehabilitation of the two minor drainage lines;
- f.. rehabilitation of the two stormwater wetlands within the site;
- g. rehabilitation of 33 biofiltration beds and two dry infiltration basins (rain gardens);
- h. proposed noxious and environmental weed control measures and timing;
- i. establishment and management of asset protection zones;
- j. The establishment of a 40 metre wide native vegetation buffer in accordance with these conditions that comprises the existing grassed area augmented by local native vegetation planting that achieves the following:
 1. Maintenance of the southern 25m of the 40m wide buffer as an inner protection area in accordance with the NSW Rural Fire Service document *Planning for Bushfire Protection 2006*.
 2. Protection of the heritage landscape and buildings against bushfire.
 3. Surface water infiltration and polishing.
 4. Mitigation of the edge effects on adjacent swamp and riparian vegetation communities.
 5. The effective maintenance of the buffer

area and of the vegetation within it;

- k. locally provenance plant species to be provided in the buffer area to the swamp community, and within vegetated flow lines entering that portion of the site.

The VMP is to be read in association with the approved Landscape Plan, but if there is any inconsistency between the VMP and the Landscape Plan then the provisions of the VMP shall prevail to the extent of that inconsistency.

The VMP is to be entirely consistent with the amended site plans in its delineation of the Blue Mountains Swamp community adjacent to and within the site.

Rehabilitation details must include source(s) of plant material for rehabilitation, establishment methods, sequencing of tasks, timeframes for completion, maintenance and performance monitoring relating to the rehabilitation of vegetation on the site. The plan is to include drawings that clearly show all necessary vegetation management measures. The plan is to clearly state planting densities and the species mix for all areas to be rehabilitated.

Natural regeneration within key areas is preferable to supplementary planting or landscape fabrication, and spontaneous recovery is to be promoted wherever it becomes apparent or is deemed probable.

Landscape plan and works

Prior to issue of the Construction Certificate

- 32 A detailed Landscape Plan will be prepared for stage 1 by a suitably qualified landscape consultant. The plan shall be submitted for consideration and approval by the Council prior to the issue of the Construction Certificate.

The landscape plan is required to address the cultural and heritage elements of the property and is to be read in conjunction with the VMP, but is to be subordinate to that document. The Landscape Plan is to include, but not be limited to, the following detail:

- a. Location of buildings, driveways and parking areas and pathways.
- b. The fencing and existing trees to be retained on the site, consistent with the arborist's recommendations.
- c. The extent and nature of vegetation to be removed to satisfy the requirements of the asset protection zone provisions.
- d. The names and quantities of all proposed trees, shrubs and ground covers. Only non invasive

- species are to be included within the plant selection.
- e. The Landscape Plan must also cover, but not be limited to, the site treatment required to ensure successful plant growth, in particular in those areas adjacent to the driveway and between the buildings and adjoining properties and adjacent to any scheduled vegetation identified in LEP 1991, the TSCA or the EPBCA.
 - g. All plants are to be healthy and vigorous at the time of planting. Native plants purchased as tube stock are acceptable.
 - h. All landscaping work shall be carried out by a person or persons appropriately qualified in the field of landscape construction and horticulture.
 - i. Healthy and vigorous plants must be established in accordance with approved detailed landscape plan prior to issue of the Subdivision Certificate or Occupation Certificate.
 - j. *Angophora costata*, *Eucalyptus crebra* and *Eucalyptus punctata* are to be omitted from the plant schedule as they are not locally indigenous natives;
 - k. The use of other non-locally indigenous natives such as *Thryptomene saxicola*, *Macrozamia communis*, *Grevillea 'Moonlight'*, *Grevillea 'Poorinda Royal Mantle'* and *Correa alba* must be restricted to areas distant from the northern boundary.

Rehabilitation of the vegetation on the site

Prior to issue of the Occupation Certificate

- 33 Prior to the issue of the Subdivision Certificate or Occupation Certificate for Stage 1 all works indicated on the approved VMP (including plantings) must be completed.

Inspection of rehabilitation

Prior to issue of the Occupation Certificate

- 34 Disturbed surfaces resulting from the approved building and/or ancillary works shall be stabilised and revegetated as soon as practicable in accordance with the VMP and Soil and Water Management Plan.

All temporary sediment controls are to be decommissioned and spoils removed to an approved landfill or, if uncontaminated, otherwise stabilised.

Prior to the issue of an Occupation Certificate for Stage 1 of the development, a site inspection must be undertaken by Council's Environmental/Landscape Assessment Officer to ensure compliance with site

vegetation rehabilitation requirements. A mutually convenient time for this inspection will need to be arranged with the nominated Officer.

Monitoring and compliance

- 35 A photographic record of the areas covered by the VMP must be maintained (preferably by the proponent/contractor undertaking the work). Pre-treatment photographs must be taken prior to commencement of the program.

These photographs must be made available to Council Officers upon request.

Protection of vegetation

- 36 No vegetation, apart from that shown on the approved VMP and/or approved Landscape Plan as vegetation to be removed or felled, may be damaged, destroyed, lopped or removed without the written consent of Council.

Any vegetation requiring removal (and approved for removal by the Council) shall be immediately mulched or chipped and stockpiled on site to be used for the site's restoration at the completion of the works.

Tree Management

- 37 Recommendations for tree protection, removal and replacement, as outlined in the submitted Arboricultural Assessment, prepared by Urban Tree Management Australia Pty Ltd, dated September 2005, are to be implemented, except as varied within the approved Landscape Plan.

Section 88E - Positive Covenant – Vegetation Management Plan

Prior to issue of the Occupation Certificate

- 38 To ensure the natural features of the site and adjacent areas are satisfactorily protected and managed, 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) Protect, maintain and rehabilitate the vegetation and land within the development site in accordance with the approved VMP;
- b) Maintain asset protection zones within the site in accordance with the location, methods and standards detailed within the approved VMP;
- c) Permit officers of the Council to enter onto the lot at reasonable times to inspect the vegetation on the site and, if the

Community Association or other Proprietor has failed to comply with its obligations under the positive covenant, permit the Council, at the sole cost of the Proprietor, to carry out such work as may be reasonably required to ensure that the VMP is fully implemented and that the objectives of the VMP are achieved.

The applicant shall bear all costs associated in the preparation of the subject 88E Instrument. The wording of the Instrument shall be submitted to and approved by Council prior to lodgement and registration at NSW Land and Property Information and prior to the issue of the Subdivision Certificate for Stage 1. Proof of lodgement with NSW Land and Property Information shall be submitted to Council. The positive covenant may not be extinguished or altered without the prior written approval of Council.

Site Stormwater System Design 39

Prior to issue of the Construction Certificate

All stormwater runoff from the buildings and from impervious areas (other than the runoff collected in the rainwater tanks, which is to be recycled for use in the buildings) on the site is to be directed to the nearest watercourse and drained by an underground stormwater system. The stormwater system is to be designed by a qualified person and endorsed by a chartered civil engineer with NPER registration for a 1 in 5 years ARI, 5 minutes duration storm and in accordance with ARR 1987. Provision shall be made for an emergency overland flow path capable of conveying all surcharge flows up to and including the 1 in 100 years ARI storms to an existing watercourse.

The detailed designs of the site stormwater system are to be prepared in accordance with the Stormwater Quality Management Plan Concept (SQMPC) for Parklands, Blackheath, dated June 2007, and contained as Appendix L of the submitted material and the must comply with the following:

1. the overall number of stormwater outlets delivering flows from bio-filtration beds and porous paving to the two waterways on the site must be minimised;
2. all stormwater outlets within the two waterways must be adequately scour protected utilising soft-engineering designs. To this end, all outlets are to be resting on, and packed in by, rock rip-rap, instead of utilising concrete head walls. Voids in the rock are to be topsoil filled and planted with local sedges and rushes;

3. the design and location of bio-filtration beds and dry infiltration basins (rain gardens) must address the presence or likelihood of perched ground water. To this end, these structures are to be located to avoid interference with any groundwater table and;
4. the porous paving and bio-filtration beds for stormwater generated from roads and buildings (12-19 and 27-33) located down-gradient of proposed conveyance and end-of-line treatments must be designed and sized to ensure effective water quality treatment to achieve pre-development objectives.

The stormwater design is to achieve the catchment values and objectives for water quality as identified in the SQMPC detailed design of the site stormwater system is to identify assumptions made by the designer and the relevant parameters to be used to measure the achievement of the values and objectives specified in the SQMPC in relation to the Popes Glen Creek catchment.

Drainage

- 40 All site drainage including piped drainage above is to be drained through on site detention systems and discharged into existing watercourses to the satisfaction of the Council, acting reasonably.

On site detention

- 41 On site detention systems/dams shall be provided 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. On site detention shall include the construction of all basins other than basin C6. The low flow pipe from basin C3 to the 900mm pipe in Cleopatra Street is to be a minimum size 375mm diameter RCP/RRJ pipe.

The on site detention systems/dams shall be designed to achieve and ensure the following:

- i. All habitable and garage floor levels are to be respectively located a minimum 500 mm and 100 mm above the 1 in 100 year ARI top water levels.
- ii. An emergency overflow facility/path capable of safely conveying all storms up to and including the 1 in 100 year ARI storm to a watercourse.
- iii. All cottages are to be located free of all drainage flow paths and emergency flow paths up to the 1:100 year ARI storm event. Floor levels to be as in (i) above.

NB: The location and finished floor levels of the buildings affected by this condition must be amended to achieve these outcomes.

Flood management

- 42 a. To ensure that the existing flooding regime is maintained, the existing flooding conditions upstream and downstream of the site at Govetts Leap Road and Cleopatra Street respectively are not to be exacerbated. In this regard a pre and post development flood study including detailed engineering designs and calculations is to be prepared by a chartered civil engineer with NPER registration to demonstrate the latter requirement has been met. This detail, including a part 4A compliance certificate, is to be submitted to the Principal Certifying Authority for approval before the issue of the construction certificate. Flood mitigation works identified by the study to achieve the requirements of this condition are to be implemented.
- b. Upon completion of any flood mitigation works that may be required as a result of the study referred to in 42 a., a compliance certificate (part 4A) is to be submitted to the Principal Certifying Authority certifying that the works have been carried out in accordance with the certified designs and that the existing pre-development flooding conditions are maintained.

Main drainage flow path – south east catchment

- 43 A grassed drainage flow path capable of conveying the 1:100 year ARI surcharge flows from Govetts Leap Road to Cleopatra Street is to be provided. In this regard, the Council must be satisfied as to the following:
- a. All buildings are to be located outside the 1:100 year ARI flow path.
- b. The finished floor levels of the buildings shall be a minimum 500mm above the 1:100 year ARI flow path flood level.
- c. The 1:100 year ARI flows from Govetts Leap Road are to be captured with additional drainage pits and pipelines as determined by engineering design. Allowances are to be made for blockages and inadequate drainage infrastructure in Govetts Leap Road.
- d. That the completed development will comply with the applicable safety requirements of the relevant standards and codes.

- e. The surcharge flows are to bypass dam C2.
- f. Where the vegetated flow path cannot be provided, as determined by engineering design, the flow path is to be concrete lined or similar, such as flagging. The design Mannings 'n' is to cater for the various vegetated conditions of the flow path required by the conditions of this consent.
- g. The construction of a gross pollutant trap and maintenance access works.
- h. The existing ground levels within the 1:100 year flow paths shall not be lowered (except for work required to comply with a-g above).

The above design shall include details regarding the on-going maintenance, auditing and performance assessment of the facility during the construction and post development phases of the development to ensure the pre-development water objectives are achieved. The maintenance of the various design Mannings 'n' in the post development phase is to be addressed and implemented.

The location and finished floor levels of any buildings affected by this condition are to be amended accordingly, to the satisfaction of the Council.

Sedimentation and erosion control

- 44 The applicant shall engage a qualified person to prepare and implement a Sediment and Erosion Control Plan (SECP) in accordance with the principles outlined in the 'Managing Urban Stormwater Soils and Construction' Volume 1, Landcom, dated March 2004 and generally outlined in the supportive documentation lodged with the development application (being SKM document titled "Soil and Water Management for the Construction Phase of the Parklands Development", in Appendix R of Volume 2 Development Application for Parklands, 132-174 Govetts Leap Rd, Blackheath submitted by Chase Property Investments Pty Ltd).

In particular the areas of disturbance/construction activity:

- a. Are not to exceed a total area of 2500m²; and
- b. are to be minimised at any one time; and
- c. are to be staged such that a new area is not to commence until the previous disturbed area is fully stabilised/revegetated.

The applicant shall ensure sedimentation and erosion

control measures in accordance with the SECP are installed prior to commencement of works on the site and that these measures are also maintained at all times during the conduct of any site works in accordance with the SECP.

Prior to release of the Occupation Certificate for stage 1, all disturbed areas are to be stabilised and all redundant sediment and erosion control structures are to be removed.

A compliance certificate shall be submitted to the Principal Certifying Authority certifying that the SECP has been developed and implemented in accordance with this condition. A copy of this SECP shall be submitted to Council prior to commencement of works on site.

Dam construction

- 45 All dams, including new and existing dams, are to be constructed and/or reconstructed to meet the current requirements of the relevant standards and codes. The design and construction shall address but not be limited to the following:
- Safety and fencing
 - Water quality
 - Structural adequacy and integrity
 - Maintenance/monitoring of water quality
 - Mosquito control and health risks

Engineering design plans for the dams are to be prepared by a chartered civil engineer with NPER registration. These design plans including a part 4A compliance certificate are to be submitted to the Principal Certifying Authority for approval before the issue of the Construction Certificate.

Upon completion of the dams, a compliance certificate (part 4A) is to be submitted to the Principal Certifying Authority certifying that the works have been carried out in accordance with the certified design (maximum wall height for Dam C3 is to be 0.3 metres).

All dams are to be located within the Principal Development Area. In particular the dam located adjacent to Cleopatra Street (Dam C3) is to be located wholly behind the 15 metre setback from that street.

Drainage easements

- 46 A variable width drainage easement over the full width of the 100 year ARI main drainage flow path between Govetts Leap Road and Cleopatra Street shall be created over the site in favour of the Council

and shall be drawn in terms that permit external discharges onto and through the site. The easement shall extend from the upstream source and terminate at the applicable downstream watercourse as determined by engineering design.

A positive covenant under section 88E of the Conveyancing Act 1919 (the “88E instrument”) shall be registered over the subject land with appropriate wording requiring the Community Association and its successors to maintain at its expense the drainage systems located within the drainage easements.

The wording of the 88E Instrument is to be submitted to and approved by the Council prior to release of the Subdivision Certificate for Stage 1.

**Stormwater quality and
on site detention
management plan**

47 To ensure the structural integrity of the proposed on site detention systems and water quality control measures (including dams) and to ensure that post-development water quality and post-development discharge conditions meet the required pre-development objectives, a Stormwater Quality and On Site Detention System Maintenance and Management Plan (SQDSP) is to be prepared and implemented both for the construction phase and the operational phase of the development.

The SQDSP must address but not be limited to the following issues:

- Control of mosquitoes and other insects
- Auditing and performance assessment both for water quality, hydraulic performance and structural integrity. The maintenance of the various design Mannings ‘n’ is to be specifically addressed for the various flow paths.
- Remedial actions recommended and carried out to maintain the required objectives.
- Assessment of safety measures and issues rectification carried out.
- The frequency of the audits/maintenance to achieve the objectives is to be addressed but is to be no less than bi-annual.

The SQDSP is to be prepared and implemented by consultants who are qualified and experienced in this field.

The SQDSP is to be kept up to date and implemented at all times. A copy shall be held by the Community Association and shall be available for inspection by the Council upon request.

**Water quality
(stormwater) and on
site detention positive
covenant**

- 48 To ensure the on site drainage systems, on site detention (OSD) systems and the water quality control (WQC) systems on site are satisfactorily maintained, a covenant under Section 88E of the Conveyancing Act, 1919 shall be prepared and registered over the subject land.

The 88E Instrument shall include, but not be limited to, positive covenants to the following effect:

- a. The Community Association and its successors must keep clear and carry out all necessary maintenance on all pits, pipelines, trench barriers, gross pollutant traps, flowpaths, dams and other structures etc comprising the on site drainage systems, the WQC and OSD systems, to ensure the effective operation of these systems, as per their approved designs.
- b. The Community Association and its successors must have the on site drainage systems, OSD and WQC facilities inspected annually by a qualified and experienced person and conduct water quality tests where required to assess the performance of the systems. A report confirming the annual inspection and the continued effective operation of the systems, as per the approved designs, and actions taken must be submitted to the Council within 14 days of the report being delivered to the Community Association.
- c. If the Community Association or its successors does not comply with its obligations under this condition, the Council shall have the right to enter upon the site at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures which comprise the on site drainage systems, OSD and WQC systems or which convey stormwater within or from the site and recover the costs of any such works from the Community Association or its successors.

All stormwater drainage works including water quality control works and on site detention systems are to be completed prior to any building works commencing on site. These works are to include any necessary site stabilisation works.

The applicant shall bear all costs associated in the preparation of the 88E Instrument referred to in this condition. The wording of the Instrument shall be

submitted to and approved by Council prior to lodgement at NSW Land and Property Information. Proof of lodgement with NSW Land and Property Information shall be submitted to Council prior to the issue of the Subdivision Certificate or Occupation Certificate for Stage 1.

- Entry/exit** 49 All vehicles are required to enter and leave the site in a forward direction whether during construction or after completion of the development.
- Vehicle size** 50 The size of vehicles visiting the site is to be restricted to the following:
Cleopatra Street Access—6.4 metre small rigid vehicle complying with AS 2890.2, 2002 (except for emergency vehicles).
- Govetts Leap Road access** 51 The main entrance driveway off Govetts Leap Road is to be widened to a minimum of 9.0 metres wide for the first 30 metres from the road boundary within the site.
The existing driveway widths at the road boundary and at the kerb and gutter alignment (11.0 metres) are to be maintained.
- Internal pavement** 52
- Concrete kerbs and formation paving and sealing of access/circulation driveways, passing bays, turning areas and car parking areas for cars, tourist coaches, service vehicles and emergency vehicles 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. In this regard the circulation driveways are to be designed for construction traffic where required.
 - All internal driveways, circulation roads, parking areas, passing bays and accesses are to be designed in accordance with AS 2890.1/2004, AS 2890.02/2002, RFS Standards, revised Amcord Standards as well as the Roads and Traffic Authority Guide to Traffic Generating Development.
 - The minimum carriageway width is to be 4.0 metres.
 - The construction is to be modified to accommodate (without damage) the largest vehicle using the site including construction vehicles, emergency and service vehicle/coaches.

- Provision is to be made for parking and turning for emergency and service vehicles in accordance with the relevant standards and public authority requirements.
- Sealed areas are to be of a permeable pavement construction.

Coach parking areas 53 Provision is to be made for two coach parking area sites. The parking area and turning area is to be designed for coaches with a length of 14.5 metres.

Engineering works 54 a. The trees and undergrowth at the north-west corner of the intersection of Govetts Leap Road and Cleopatra Street within the development site, are to be removed and/or trimmed to the satisfaction of the Council. These works must be approved by the Council before they are carried out. The approved works must provide a minimum of 80 metres of sight distance from Cleopatra Street in a westerly direction up Govetts Leap Road.

b. The following engineering works shall be constructed by the applicant at the applicant's expense.

Govetts Leap Road

- i. The existing drainage infrastructure is to be improved as determined by engineering design to provide for capture and transference of surcharge flows to the proposed main drainage flow path through the site.
- ii. The footpath area is to be top soiled and turfed where required.
- iii. For the driveway across the Govetts Leap Road footpath at the main entrance to the site, a new heavy duty concrete layback and apron crossing is to be constructed. The surface is to be a featured surface. This construction is to include any necessary work to make the construction effective including transition of the footpath 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.

**Construction in
Council's roads**

55 Where works are carried out on Council owned or public lands (ie. roads, easements, parks etc.), including internal works that affect or are carried out on Council or public lands, by or on behalf of the applicant, the following conditions must be satisfied:

- a. Before work commences within Council's road reserves, plans and specifications prepared by a suitably qualified person and endorsed by a chartered civil engineer with NPER registration are to be submitted to and approved by Council under the Roads Act 1993.

Approval of the engineering designs by Council is subject to the payment of the prescribed Engineering Development Fees at the time of lodgement. All works in Council's road reserves are to be at no cost to Council.

- b. A pre-construction meeting, on-site, is to be arranged with Council's Supervising Engineer prior to the commencement of any work in Council's road reserves. Council's nominated inspection fee is to be paid to it prior to that meeting.
- c. The person or company carrying out any works referred to in this condition will be required to carry workers compensation and public liability insurance to the value of \$10 million. The public liability shall nominate the Council as a co-insured party (or otherwise provide cover that is satisfactory to the Council, acting reasonably) and, if required by the Council, include appropriate cross-liability clauses. Proof of the policy is to be provided to Council's Development Engineer at the pre-construction meeting.
- d. The person or company carrying out the works shall submit to Council at least two (2) references demonstrating his or its experience in the type of work proposed to be undertaken. The person or company shall obtain approval from Council to carry out the works prior to works commencing on the site.
- e. The applicant will be required to pay for all inspections of the works in accordance with Council's adopted fees and charges. The specific stages of inspection required will be advised at the pre-construction meeting.

A minimum of 48 hours notice shall be given to

Council when arranging for an inspection. Work is not to proceed further until the work or activity covered by the inspection has been approved.

Following the final inspection, any work considered by Council as unsatisfactory shall be rectified to Council's satisfaction at no cost to Council. Council inspection and approval shall be arranged and obtained prior to the issue of a Subdivision Certificate or an Occupation Certificate for Stage 1. The applicant's engineer must certify that the works have been constructed in accordance with the approved plans, specifications and relevant Australian Standards.

- f. Prior to issue of any Roads Act approval, a Traffic Management Plan prepared by a chartered civil engineer with NPER registration is to be submitted to 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; and
- traffic and parking.

A minimum of seven (7) days notice shall be given by the contractor engaged in the works to residents if access by residents to their respective properties will be affected by the works. A copy of the letter to residents and a list of addresses notified shall be submitted to Council for approval.

- g. Safety devices such as signs, barricades, barriers, warning lights, etc. shall be placed where works affect public roads and shall be in accordance with Australian Standard No. 1742—Manual of Uniform Traffic Control Devices and Roads and Traffic Authority Manual—Traffic Control at Work Sites 1998. Details prepared by a qualified person shall be submitted to Council for its approval with the Traffic Management Plan.

The contractor that will carry out the works concerned shall submit to Council the names of proposed traffic controllers with a signed

statutory declaration that the controllers are appropriately trained in the duties of traffic controllers and are Roads and Traffic Authority accredited.

- h. The applicant shall indicate the extent of any service adjustments necessary and submit with the design proof of approval by the relevant service authorities. The applicant shall undertake all works, and bear all costs associated with the proposed relocation of services.
- i. A prominently displayed sign identifying the contractor responsible for the works shall be erected. A contact telephone number must be provided on the sign.

Bond

- 56 An **unconditional (and open ended)** performance maintenance bond for an amount equivalent to five (5) percent of the cost of the engineering construction works or a minimum of \$20,000, whichever is the greater, to guarantee the safety of the public, environmental protection, repairs to damaged infrastructure, performance and maintenance during and after construction in Council's road reserve shall be paid to Council before any works commence in the road reserve.

This bond shall be retained for twelve (12) months after the construction works are completed, to the satisfaction of Council's Supervising Engineer. The period of twelve months shall be calculated from the date of issue of the subdivision certificate for the development. 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.

Repair of damage

- 57 The applicant shall repair or reconstruct all damage caused by construction activity relating to the development, as required by the Council, acting reasonably, prior to the issue of the Subdivision Certificate or Occupation Certificate.

Restore disturbed area

- 58 All disturbed earthworks and/or batters are to be restored, stabilised, topsoiled and turfed/revegetated to Council's satisfaction prior to release of the Subdivision Certificate or Occupation Certificate for Stage 1.

- Certification by Council** 59 Prior to the issue of the Occupation Certificate for Stage 1, a certificate shall be obtained from Council to verify that all external works (including repairs) have been completed in accordance with the approved plans and to Council's satisfaction.
- Compliance with standards** 60 All internal and external engineering works required by this development are to be in accordance with 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.
- Structural works** 61 The design of all structural works shall be certified by a chartered structural engineer (NPER-3 Structural registered) as conforming to the relevant standards and load capacities.
- Certification of structural works** 62 The construction of all structural works shall be certified by a chartered structural engineer (NPER-3 Structural registered) as conforming to the relevant standards and load capacities.
- Supervision of internal engineering works** 63 All internal engineering works shall be supervised by a chartered civil/structural engineer with NPER registration. Certification from the supervising engineer shall be submitted to the Principal Certifying Authority to verify that all works have been constructed in accordance with approved plans prior to the issue of the Subdivision Certificate or Occupation Certificate for Stage 1.
- Works as executed plans** 64 Prior to the issue of the Subdivision Certificate or Occupation Certificate, a Works as Executed Plan of all external engineering works, associated with the relevant stage, together with an engineer's certification confirming that all works have been constructed in accordance with the approved plans shall be submitted to the Council for approval.
- Construction access** 65 All construction and associated vehicles are to use the Govetts Leap Road access during the construction phase.
- Dedication of splay corner** 66 At the south east corner of the site, that is at the north west side of the intersection of Govetts Leap Road

and Cleopatra Street a splay corner is to be dedicated to the Council. The area of the splay to be dedicated to the Council shall be the area of land required to provide and achieve the 80m sight distance in condition 54a.

This condition must be satisfied no later than the date of registration of the Plan of Subdivision for Stage 1 of the development.

External road and drainage works

- 67 All external and internal road and drainage works, including stormwater drainage, water quality control, on site detention systems and major flow paths (south east catchment and north east catchment) are to be completed prior to any building works commencing on site. These works are to include any necessary site stabilisation works (sedimentation and erosion controls) and water quality revegetation works.

Upon being PUT to the Meeting, the MOTION was CARRIED, with Councillor Creed out of the Chamber, the vote being:

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

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MINUTE NO. 362

14. F00550. Dedication of land in Deposited Plan 1711 as public road – Burrawang Street, Katoomba

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

1. That pursuant to the provisions of Sections 16 and 17 of the Roads Act, 1993, the Council give 28 days notice of its intention to dedicate an 80 metre long portion of Burrawang Street, Katoomba, identified as Road in Deposited Plan 1711, for road purposes.
2. That following the period of notification for 28 days, if no objections are received, the Council publish a notice in the Government Gazette of NSW dedicating the 80 metre portion of Burrawang Street as a public road.
3. That the Council's Common Seal be affixed to any necessary documents relating to this matter.

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NOTICES OF MOTION

MINUTE NO. 363

15. F00088. Dog Off-Leash Area for the Blackheath Community

A MOTION was moved by Councillors Hamilton and Frappell:

- 1. That Council notes the petition signed by 45 residents requesting the provision of a user-friendly dog off-leash area within walking distance of Blackheath village.**
- 2. That a report comes to the first Council Meeting in 2008 concerning the possibility of establishing a user-friendly dog off-leash area at the bottom of Whitley Park on the corner of Prince Edward and Wentworth Streets, Blackheath, as a pilot scheme.**
- 3. That, if Council agrees to the pilot scheme, Council agrees to an advance draw down on contracted income to be received from Sydney Water's use of the old Aerodrome, Hat Hill Road, Blackheath, to fund the implementation of the user-friendly dog off-leash area at Whitley Park.**
- 4. That the pilot be trialled for three months and, if successful, it becomes a permanent facility and the results be used to develop a model for the provision of other user-friendly dog off-leash areas in the Blue Mountains.**
- 5. That the Community and Facilities Working Party continues to be involved in the assessment and development of user-friendly dog off-leash areas for the community and regular reports come to Council.**

Upon being PUT to the Meeting, the MOTION was CARRIED, with Councillor Creed out of the Chamber, the vote being:

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

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MINUTE NO. 364

16. F00088. Power Failures at BMCC HQ

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Creed that the Community Facilities Working Party be provided with information regarding options for increasing the capacity of electricity generation within the BMCC Katoomba Admin. HQ.

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MINUTE NO. 365

17. C00680. Précis of Selected Correspondence, 11/12/2007

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Creed, that the Précis of Selected Correspondence be received and appropriate letters forwarded where necessary.

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F00086. Question With Notice – Power failures at BMCC HQ

By Councillor Myles: How much work time has been lost due to the impact of power failures at the Katoomba Admin. HQ in the past month?

Has there been a similar impact on the South Street depot?

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MINUTE NO. 366

C00336. Procedural – Matter of Urgency

RESOLVED UNANIMOUSLY on the MOTION of Councillors Myles and Van der Kley that Council now consider a matter concerning the LGSA policy document “Principles for Planning Reform – A Policy Platform”, having been ruled by the Mayor to be a matter of great urgency.

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MINUTE NO. 367

C00336. Matter of Urgency – LGSA policy document “Principles for Planning Reform – A Policy Platform”

RESOLVED UNANIMOUSLY on the MOTION of Councillors Myles and Van der Kley that this Council endorses the Local Government and Shires Association policy document “Principles for Planning Reform – A Policy Platform” in principle and that the content of the policy document be analysed for potential inclusion in a report to the Council on the subject.

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MINUTE NO. 368

C00336. Procedural – Matter of Urgency

RESOLVED UNANIMOUSLY on the MOTION of Councillors McLaren and Hamilton that Council now consider a matter concerning the Council’s contribution to the Young Women’s Leadership Program, having been ruled by the Mayor to be a matter of great urgency.

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MINUTE NO. 369

C00336. Matter of Urgency – the Council’s contribution to the Young Women’s Leadership Program

RESOLVED UNANIMOUSLY on the MOTION of Councillors McLaren and Hamilton:

1. That consideration be given to increasing the Council’s contribution to the Young Women’s Leadership Program to \$5000 in 2008.
2. That Council provide a letter of support regarding the program to Kellie Darley, Manager of the Program, to be used to accompany applications for funding.

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MINUTE NO. 370

C00336. Procedural – Question that Meeting Close

RESOLVED UNANIMOUSLY on the MOTION of Councillors Frappell and O’Grady that as there was no further business before the meeting, the Council Meeting now close.

The ordinary Meeting of the Council closed at 9:28 pm on Tuesday 11 December 2007.

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