

BLUE MOUNTAINS CITY COUNCIL

ORDINARY MEETING

14 April 2009

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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, 14 April 2009, commencing at 7:37 pm.

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There were present:

The Mayor (Councillor Searle) in the Chair, and Councillors Creed, Gibbs, Greenhill, Hamilton, Luchetti, Mays, McLaren, Myles, 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 City Planning, Manager Assets and Contracts, Manager Planning Health and Enforcement, Manager Aquatic and Leisure Centres, Communications Officer, Ranger, Ranger, Team Leader Compliance, Assets Auditor, Youth Services Development Officer, Executive Principal Environmental Health & Building Surveyor, Strategic Planning Specialist – Transport and 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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C00679. Apologies

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Mays **that the apology tendered on behalf of Councillors Clark and McCallum for non-attendance at the Meeting be accepted and a leave of absence granted.**

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MINUTE NO. 112

C00336. Confirmation of Minutes - Ordinary Meeting – 24 March 2009

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Greenhill **that the Minutes of the Ordinary Meeting of 24 March 2009 be confirmed.**

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C00336. Declarations of Interest – Ordinary Meeting, 14 April 2009

Councillor Hamilton declared a significant non-pecuniary interest in Item 19 - Precis of Selected Correspondence, 14/04/2008:

“I may have a possible non-pecuniary interest if any issues are raised relative to the Darug correspondence. A member of the Gundungarra mob was on my election ticket. However, I will remain in the Chamber during the debate and voting.”

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MINUTE NO. 113

S/11/2008 Procedural Motion for changes to the order of the agenda

RESOLVED UNANIMOUSLY on the MOTION of Councillors Greenhill and Luchetti **that the Council reorder item 6 on the Business Paper.**

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MINUTE NO. 114

S/11/2008 Procedural Motion for changes to the order of the agenda

RESOLVED UNANIMOUSLY on the MOTION of Councillors Myles and Van der Kley **that the Council reorder item 15 on the Business Paper to ensure that it is dealt with first.**

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MINUTE NO. 115

S/11/2008 Procedural Motion for changes to the order of the agenda

RESOLVED UNANIMOUSLY on the MOTION of Councillors Mays and Van der Kley **that the Council reorder item 19 on the Business Paper.**

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MINUTE NO. 116

S/11/2008 Procedural Motion for changes to the order of the agenda

RESOLVED UNANIMOUSLY on the MOTION of Councillors Greenhill and Creed **that the Council reorder item 4 on the Business Paper to ensure that it is dealt with last, at the end of the meeting.**

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MINUTE NO. 117

1. X/786/2007. Cultural Centre / Library / Commercial Development on Lot 1 DP 123748, Lot 1 DP 566097, Lot 2 DP 547229, 30-32 Parke Street and 33-35 College Lane, Katoomba - Delegation to General Manager under section 96 of the Environmental Planning and Assessment Act to modify consent.

A MOTION was moved by Councillors Van der Kley and Myles that the General Manager be granted delegated authority within the terms of Section 377 of the Local Government Act 1993 to determine section 96 and 96AA applications in accordance with the Environmental Planning and Assessment Act 1979 to modify the development consent relating to development application X/786/2007.

An AMENDMENT was MOVED by Councillors Gibbs and Hamilton that this item on the Cultural Centre/Library/Commercial Development on Lot 1 DP 123748, Lot 1 DP 566097, Lot 2 DP 547229, 30-32 Parke Street and 33-35 College Lane, Katoomba, be deferred for a further briefing and be brought back to the next meeting.

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

For		Against	
Councillors	Gibbs Hamilton	Councillors	Creed Greenhill Luchetti Mays McLaren Myles Searle Van der Kley

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

For		Against	
Councillors	Creed Greenhill Hamilton Luchetti Mays McLaren Myles Searle Van der Kley	Councillors	Gibbs

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MINUTE NO. 118**2. F03848. Schedule of Invested Monies**

The Meeting was addressed by Michael Parker.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Greenhill and Van der Kley **that the Schedule of Invested Monies for March 2009 be received.**

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MINUTE NO. 119**3. F00296. Policy for Councillor Access to Information, Council Officers and Council Premises**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Gibbs and McLaren **that the Council adopt the Policy for Councillor Access to Information, Council Officers and Council Premises 2009 with the following amendment to - Inappropriate Interactions: 'Councillors attending meetings organised by Council Officers with Development Applicants without permission of the General Manager or his delegate.'**

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MINUTE NO. 120**4. F02471. Adoption of Code of Meeting Practice, 2009**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Mays **that the Council defer the adoption of the Code of Meeting Practice 2009 until the next meeting.**

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MINUTE NO. 121**5. F01261. Revised General Power of Attorney**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed:

1. **That the holders of the following positions, the Mayor, the General Manager, and the Public Officer, be appointed as Council's attorneys to execute on Council's behalf all documents necessary to give effect to resolutions of Council and/or any duty properly delegated by Council;**
2. **That the instrument of appointment of the holders of the following positions, the Mayor, the General Manager and the Public Officer, be registered with the Department of Lands as Council's attorneys; and**

3. **That authority be granted for the affixing of the Council Seal to the General Power of Attorney instrument to give effect to the abovementioned arrangements.**

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MINUTE NO. 122

6. F04491 - 09/20. Graffiti Management

RESOLVED UNANIMOUSLY on the MOTION of Councillors Mays and Greenhill:

1. **That Council notes the report;**
2. **That Council hosts a city wide Graffiti Summit in the Lower Mountains by September 2009, involving key stakeholders such as the Police, Chambers of Commerce, Youth Council, MYST, Residents, Teachers, Career Advisors and the voluntary Katoomba based graffiti removal team;**
3. **That Council allocates \$10,000 to enact the agreed outcomes from the Graffiti Summit and that all agreed outcomes are actioned in a timely manner;**
4. **That \$2,000 is allocated by Council to host the Graffiti Summit;**
5. **That Council seeks State Government Grants to fund permanent voluntary Graffiti removal teams across the Mountains;**
6. **That Council provides \$10,000 towards the setup of 6 month trial Graffiti removal pilot programs in Winmalee and Blaxland (\$5,000 to each program) and that a report comes back to Council following the 6 month trial period;**
7. **That Council provides \$2,000 to the existing Katoomba/Leura voluntary Graffiti removal team to enable their efforts to be increased to other Upper Mountains locations;**
8. **By February 2010, Council develops a Graffiti Management Plan that addresses the four (4) recognised areas of Graffiti Management being:**
 - **Eradication (removal, prevention);**
 - **Engagement (street art permit process, graffiti mentoring program, building relationships);**
 - **Education (program in schools, improving communication); and**
 - **Enforcement (continuing to work with the Police)**

Upon its completion, that Council's proposed Graffiti Management Plan is exhibited for a period of 4 weeks to enable community feedback.

9. **That the Council develops a section on the BMCC website with useful information, tips, contact details and links for Crime Stoppers to assist the general public with the ways in which they can combat the problem of graffiti;**

- 10. That the Council continues to liaise with the NSW Police and provide regular information and photos to the Police so they can use this information for targeting problem areas and as a tool to identify regular taggers/offenders; and
- 11. That the Council notes the new powers under new legislation to remove graffiti from private property without authority or consent of the owner, and resolves that this power should only be exercised by the Council graffiti team in appropriate circumstances.

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MINUTE NO. 123

7. 08/353579. Review of Junior Soccer at Knapsack Park

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed that the Council receive and note this report with no further action required.

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MINUTE NO. 124

8. X/916/2008. Development Application No. X/916/2008 for additions and alterations to the dwelling on Lot 1 Sec. 35 DP 759075, 93 Valley Road, Wentworth Falls

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed that Development Application No. X/916/2008 for additions and alterations to the dwelling on Lot 1 Sec. 35 DP 759075, 93 Valley Road, Wentworth Falls be determined pursuant to S.80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this report.

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MINUTE NO. 125

9. F04877. Road Naming – Staples Lane, Benang Lane, and Renaming of Sections of Road Staples Crescent, Adelaide Street and Benang Street

RESOLVED UNANIMOUSLY on the MOTION of Councillors Gibbs and Mays that this item Road Naming – Staples Lane, Benang Lane, and renaming of sections Of Road Staples Crescent, Adelaide Street And Benang Street is deferred until residents in affected streets have been consulted about the proposed name changes. This will include, but is not limited to, direct letters to homes affected and a public meeting.

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MINUTE NO. 126**10. F00465. Low Impact Facilities Wentworth Falls and Faulconbridge**

The Meeting was addressed by Michael Parker.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Luchetti and McLaren:

1. That the advice from Vodafone and Optus be noted;
2. That the Council seek to improve the outcomes achieved with respect to the community consultation undertaken in relation to proposals for low-impact facilities by requesting carriers:
 - To provide within their community consultation plans, at minimum, written advice to all dwellings and businesses within 250 metres of a proposed low-impact facility and to schools, preschools, aged care facilities and hospitals within 500 metres of a proposed installation;
 - To provide strategic information as part of any consultation with the Council and the community regarding proposed telecommunications facilities. That strategic information is required in addition to the matters required under the industry code to accompany notification of low-impact facilities and should include advice from carriers with respect to how the proposal relates to;
 - Carrier plans concerning the deployment of radio communications infrastructure in the locality;
 - Radio communications service level targets, current and proposed;
 - Information regarding facility co-location opportunities;
 - The location of heritage items, heritage conservation areas and national parks, where the installation is proposed within 250 metres of such a site; and
 - Other options that have been considered for the facility and the reasons for the selection of the particular location and facility, demonstrating how the carrier has adopted the precautionary approach to site selection and infrastructure design as set out in the Industry Code ACIF C564:2004 Deployment of Mobile Phone Network Infrastructure.
3. That the Council make representation to the Federal Minister for Broadband, Communications and the Digital Economy, the Hon Stephen Conroy, the local State and Federal members of parliament,, and to Western Sydney Regional Organisation of Councils, the Local Government and Shires Association, and the Australian Local Government Association, objecting to the current legislative framework and the related industry codes insofar as they effectively exclude local government and local communities from decision making in relation to low-impact facilities that are potentially significant. In particular, the Council registers strong objection and seeks amendments to legislation to address the following:

- a. The lack of any mechanism to review the carrier's determination about what constitutes 'low impact facility' other than litigation;
- b. The complexity of codes and statutory instruments, which should be simplified and made more accessible to local government and its communities;
- c. The key provisions of the Industry Code ACIF C564:2004 Deployment of Mobile Phone Network Infrastructure, and other related codes, should be enforceable;
- d. The means by which the carriers respond to and communicate their compliance with the precautionary approach to site selection and infrastructure design should be explicitly contained within information provided as part of the consultation requirements with local government and their communities;
- e. Longer and more effective consultation opportunities should be provided; and
- f. An amendment to the Telecommunications (Low-impact Facilities) Determination 1997, so as to provide for land adjoining heritage items, heritage conservation areas and the World Heritage listed national park system, to be included in the definition of 'Area of Environmental Significance' (cl 2.5) so as to exclude low impact facilities from those settings, or an amendment that otherwise achieves that affect.

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MINUTE NO. 127

11. X/890/2008. Development Application No. X/890/2008 for additions and alterations to the dwelling and a detached garage on Lot 43 DP 702706, 8 Fitzroy Street, Leura

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed that Development Application No. X/890/2008 for additions and alterations to the dwelling and a detached garage on Lot 43 DP 702706, 8 Fitzroy Street, Leura be determined pursuant to s.80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this report.

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MINUTE NO. 128**12. F03249 - 09/66343. Blackheath Pool Opening Season and Operating Hours**

The meeting was addressed by Jennifer Kelly.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Mays:

1. That the Council receives and notes this report on options and costs of extending the season and opening hours for the Blackheath Pool.
2. That the Blackheath Pool opening season remains at the current 4 months from December to March inclusive, and is reviewed during coming seasons in consultation with the Friends of Blackheath Pool and Memorial Park (FoBP&MP) and the community.
3. That the Blackheath Pool opening hours are extended to:
 - 7:00am – 10:00am and 3:00pm – 7:00pm weekdays, during school terms;
 - 8:00am – 7:00pm weekends and public holidays;
 - 7:00am – 7:00pm weekdays during the school holidays; and
 - 8:00am – 7:00 pm weekdays and public holidays during school holidays.

And are reviewed during coming seasons in consultation with FoBP&MP and the community.

4. That Council does not endorse the use of volunteer lifeguards in Blue Mountains pools.
5. That Council notes the comments of FoBP&MP that the culture of pool usage has diminished over the three years Blackheath Pool was closed and has since not recovered and that FoBP&MP seeks a vigorous, targeted promotional campaign by Council ahead of the 2009/10 season, in which FoBP&MP will actively participate.
6. That Council notes that Cr Hamilton will present a report to the next Council Meeting providing FoBP&MP's detailed analysis and feedback on this report.

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MINUTE NO. 129**13. X/5/2009. Development Application No. X/5/2009 for the upgrading of current sports lighting from 23 Lux to 100 Lux and conversion from 18m timber poles to 25m metal/concrete poles on Lot 7054 DP 1060809, Glenbrook Oval, 6 Moore Street, Glenbrook**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed **that the Development Application No. X/5/2009 for the upgrading of current sports lighting from 23 lux to 100 lux and conversion from 18m timber poles to 25m metal/concrete poles on Lot 7054 DP 1060809, Glenbrook Oval, 6 Moore Street, Glenbrook be determined pursuant to S.80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this report.**

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MINUTE NO. 130**14. F05049 – 09/53615. Blue Mountains City Council Submission to the Proposed Modification to Clarence Colliery Operations**

The meeting was addressed by Ilan Salbe and Colin Steele.

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

- 1. That the Council add to the submission concerns about the impact that increased coal mining will have on our World Heritage status, given the contribution of coal to the danger posed by climate change.**
- 2. That the Council write to Centennial Coal advising them of the Council's recommendations as contained in Attachment 1: "Blue Mountains City Council Submission on the proposed modification on Clarence Colliery".**
- 3. That the Council write to the Minister for Roads, the Hon. Michael Daley MP, the Member for Macquarie, the Hon. Bob Debus MP, the Member for Blue Mountains, Mr Phil Koperberg, the NSW Minister for Planning and the Director-General of the NSW Department of Planning seeking support for the matters detailed in this report and attached submission.**

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MINUTE NO. 131**15. 09/65880. Blue Mountains Cultural Centre Development: Stratum Issues**

MOTION WAS MOVED BY Councillors Gibbs and Mays **that this item is deferred until there has been a full briefing for Councillors about the implications of this decision and affected business and residents are fully consulted about the implications of this decision.**

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

For	Against
Councillors Creed Gibbs Greenhill Hamilton Luchetti Mays McLaren Searle	Councillors Myles Van der Kley

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MINUTE NO. 132

16. F00088. Notice of Motion - Equal Access to Railway Stations in the Mid Mountains

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

1. That Council writes to the Premier, the Honourable Nathan Rees with a copy to the Honourable David Campbell MP, Minister for Transport, to ask City Rail to upgrade one of the Railway Station in the Mid Mountains (Lawson or Hazelbrook) for people with a Disability; and
2. That a copy of this letter be sent to Mr Phil Koperberg MP, Member for the Blue Mountains, requesting his support in this matter.

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MINUTE NO. 133

17. F00088. Notice Of Motion – Proposed Reduction in Attendants at Blue Mountains Railway Stations

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

1. That Council, as soon as possible, writes to the Premier, the Honourable Nathan Rees with a copy to the Honourable David Campbell MP, Minister for Transport, expressing its strong concern and opposition to the proposal of Rail Corporation New South Wales:
 - a. To replace the current and traditional full time station attendant at Blackheath Railway Station with a casual station attendant employed for only four hours a day from 5.45 am to 9.45 am, Monday to Friday; and
 - b. To reduce the hours of station attendants at any of the other railway stations in the Blue Mountains.

2. **That Council earnestly requests the Premier and Minister to ensure that, in the best interest of the many residents and tourists who travel on the trains, there is no reduction in the hours of station attendants at any of the Blue Mountains railway stations; and**
3. **That a copy of this letter be sent to Mr Phil Koperberg MP, Member for the Blue Mountains, requesting his support in this matter.**

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MINUTE NO. 134

18. F00088. Notice Of Motion – Selling of Vacant Council Blocks to NSW Department Of Housing

RESOLVED UNANIMOUSLY on the MOTION of Councillors Greenhill and McLaren:

1. **That a report comes to Council that identifies Council owned vacant blocks by location and appropriate zoning that may be sold to the NSW Department of Housing. Further, that the report details the market value of the identified vacant blocks;**
2. **That Council indicates the individual blocks are for the provision of community housing; and**
3. **That Council states a preference for the model to comprise individual houses within established communities and that any clusters of community homes is to be avoided.**

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MINUTE NO. 135

19. C00680. Precis of Selected Correspondence, 14 April 2009

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

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MINUTE NO. 136

20. F04897. Response To Question With Notice - Costs to Date of the Springwood Town Centre Project

RESOLVED UNANIMOUSLY on the MOTION of Councillors Mays and Luchetti **that the Council receives and notes this report.**

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MINUTE NO. 137**21. F00544. Question With Notice – Future of Pointsman’s Cottage at Glenbrook**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed **that a question with notice by Councillor Greenhill be received:**

What is the latest information regarding discussions about the future of the Pointsman's Cottage at Glenbrook?

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MINUTE NO. 138**22. F00544. Questions With Notice – Inspections by Council Staff**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed **that questions with notice by Councillor McLaren be received:**

1. **What is the protocol in relation to notification of residents for council inspections on their properties?**
2. **Are council staff required to notify residents before entering their property for a routine inspection?**
3. **What methods are used by staff to deal with dogs who may be aggressive towards a stranger entering their property?**
4. **Does council take any responsibility for injuries incurred by dogs during the course of an inspection by council staff?**

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MINUTE NO. 139**C00336. Procedural – Matter of Urgency**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Greenhill and Creed **that Council now consider a matter concerning Development on the Escarpment, having been ruled by the Mayor to be a matter of great urgency.**

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MINUTE NO. 140**C00336. Matter of Urgency – Development of the Escarpment**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Greenhill and Creed **that:**

1. **BMCC writes to Penrith City Council expressing its opposition to any development on the escarpment;**
2. **This expressed general opposition to development on the Eastern Escarpment is supported via a letter from BMCC to Penrith City Council opposing the current application with a Mayoral letter to the NSW Premier and the Mayor of Penrith City Council;**
3. **The letter notes the visual impact of such a development as people approach the Blue Mountains and see the scar of development rather than the first ridges of the Blue Mountains;**
4. **BMCC seek, as a matter of urgency, legal advice regarding our options to halt any such development. Such advice to canvass Acts including, but not limited to, the National Parks legislation and other laws associated with land use in and around the Blue Mountains; and**
5. **A report comes to Council outlining the results of point 2 (above).**

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MINUTE NO. 141**C00336. Procedural – Matter of Urgency**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Van der Kley **that Council now consider a matter concerning the Central West Transport Needs Study, having been ruled by the Mayor to be a matter of great urgency.**

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MINUTE NO. 142**C00336. Matter of Urgency – Central West Transport Needs Study**

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

1. **BMCC writes to the Hon Anthony Albanese MP, Federal Minister for Infrastructure, Transport, Regional Development and Local Government, requesting that he:**

- **Makes available to the public the Central West Transport Needs Study which was funded by the Federal Government to focus, strategically, on the road and rail needs for passengers and freight between the NSW Central West and Sydney, Newcastle and Port Kembla and also to investigate the future role of major centres in providing intermodal transport and strategies to meet the regions' needs over the next 25 years; and**
 - **Ensures the Study is released before any decisions are made in relation to the upgrade of the Great Western Highway between Mt Victoria and Lithgow.**
2. **Forwards a copy of this letter, requesting their assistance in this matter, which is vital for the future of the Blue Mountains and the Central West of NSW, to:**
- **the Hon Bob Debus MP, Federal Minister for Macquarie and Minister for Home Affairs;**
 - **the Hon Michael Daley MP, NSW Minister for Roads;**
 - **the Hon David Campbell MP, NSW Minister for Transport; and**
 - **Mr Phil Koperberg MP, State Member for the Blue Mountains.**

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MINUTE NO. 143

C00336. Procedural – Question that Meeting Close

RESOLVED UNANIMOUSLY on the MOTION of Councillors Luchetti and Myles that as there was no further business before the meeting, the Council Meeting now close.

The ordinary Meeting of the Council closed at 10:04pm on Tuesday 14 April 2009

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