

BLUE MOUNTAINS CITY COUNCIL

ORDINARY MEETING

1 AUGUST 2006

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BLUE MOUNTAINS CITY COUNCIL

Minutes of the Ordinary Meeting of the Council of the City of Blue Mountains held in the Council Chamber, Administrative Headquarters, Civic Place, Katoomba on Tuesday, 1 August 2006, commencing at 7:36 pm.

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There were present:

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

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In attendance:

General Manager, Group Manager BM City Services, Group Manager Community and Corporate, Acting Group Manager Environmental and Customer Services, Executive Officer, Manager - Information Policy & Management, Manager – Assets, Manager – Corporate Planning, Bushland Management Officer, Program Leader Community Outcomes, Aged & Disability Services Officer and Council Meeting Officer.

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Prayer / Reflection:

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

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MINUTE NO. 644

C00679. Apologies and Leave of Absence

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and McInnes **that the apology tendered on behalf of Councillors Brown and O’Grady for their non attendance at the meeting be accepted and leave of absence granted.**

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MINUTE NO. 645

C00336. Confirmation of Minutes - Ordinary Meeting, 11/7/06

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Trindall **that the Minutes of the Ordinary Meeting of 11 July 2006 be confirmed.**

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MINUTE NO. 646

1. C05892. Youth Council Third Year

The Meeting was addressed by Clare Power and Stuart Jones.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Angel and Creed:

1. **That the Minute by Mayor be received.**
2. **That the Council thank the 2005-2006 Youth Council for their hard work and contribution towards youth programs and a positive image for the youth of the Blue Mountains.**

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MINUTE NO. 647

S1. C07837. Cash Drive for East Timor

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

1. **That the Minute by Mayor be received.**
2. **That Council launch a Cash Drive to raise money for people in East Timor.**

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MINUTE NO. 648

2. C00713. Report on Possible Establishment of Grants Officer Position within the Council

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed:

1. **That due to the Council's current positive success rate in obtaining grant funding, the establishment of a Grants Officer position not be pursued.**
2. **That the development of internal initiatives to improve communication and coordination of grant funding opportunities be continued.**

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MINUTE NO. 649

3. C00694. Schedule of Invested Monies

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed **that the Schedule of Invested Monies as at 30 June 2006 be received.**

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MINUTE NO. 650

4. H01478. Item C1 in Confidential Business Paper – RTA Business Proposal

A MOTION was moved by Councillors Hamilton and Creed:

1. **That Item C1 in the Business Paper is 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 Item C1 in the Business Paper – RTA Business Proposal, pursuant to the provisions of Section 10A(2)(d)(i) and (iii) of the Local Government Act 1993, as the report contains, and discussion is likely to contain, commercial information of a confidential nature that would, if disclosed,**
 - (i) **prejudice the commercial position of the person who supplied it; and/or**
 - (iii) **reveal a trade secret.**

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

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

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MINUTE NO. 651

5. C07416. Adoption of Local Weed Control Plans for Class 4 Noxious Weeds of the Blue Mountains LGA

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Frappell:

1. That this matter be deferred for a meeting to take place with members of the Blue Mountains Bushcare Network. Any alterations made to the plans in the Business Paper must be in accordance with State Legislation requirements.
2. That Council gives delegated authority to the General Manager to approve these Plans.
3. That a report on any amendments be presented to the Environmental & Planning Working Party.

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MINUTE NO. 652

6. C05892. Blue Mountains Youth Council Third Year Report

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed:

1. That the Council receives and notes this report.
2. That the Council thank the 2005-2006 Youth Councillors for their contribution to the Blue Mountains community and for their profiling of issues affecting and concerning young people.
3. That the Council recognise the important contribution made by Angelique Henson and Annette Coulter to the establishment and development of the Blue Mountains Youth Council.
4. That the Council endorse the list of Blue Mountains Youth Councillors for 2006-2007 put forward by the Youth Council Advisory Committee as detailed in this report.

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MINUTE NO. 653

7. C01108. Community Services Grants Program – Funding and Service Agreements

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed:

1. That the Council endorse and affix the Common Seal to the Department of Community Services (DoCs) Service Agreements for funding towards the Council.
2. That the Council acknowledge the contribution of the NSW Department of Community Services towards these important Community Development positions and the Blackheath Vacation Care service.

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MINUTE NO. 654

8. C07796. Passenger Choice Project

The Meeting was addressed by Helen Walker.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Trindall:

1. That the Council endorse the Passenger Choice Project.
2. That the Council continue to be an active member of the Passenger Choice Project Consortium.

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MINUTE NO. 655

9. H00073 & C00322. Appointment of New Member to Blackheath Community Centre Committee

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed **that the Council formally appoint Delia Broun to the Blackheath Community Centre 377 Committee**

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MINUTE NO. 656

10. C01671. Offer to Extend Existing Funding Agreement between Department of Families, Community Services and Indigenous Affairs and Blue Mountains City Council - Family Day Care

RESOLVED UNANIMOUSLY on the MOTION of Councillors McLaren and Searle:

1. That the Common Seal of the Blue Mountains City Council be affixed to the Funding Agreement Form between the Department of Families, Community Services & Indigenous Affairs and the Blue Mountains City Council for the purpose of obtaining grant funding.
2. That the Council receive a further report on proposed responses to the significant reduction in grant funding.
3. That Council write to the Member for Macquarie, Kerry Bartlett expressing our concern that the funding for Family Day Care has been significantly decreased and request that he make representations on behalf of the Council to the Minister for Family and Community Services requesting a review of these funding arrangements and a re-instatement of the previous funding.

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MINUTE NO. 657

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

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed:

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

<u>Organisation</u>	<u>Amount</u>
Orpheus Strings	\$200
Mt Victoria and District Historical Society	\$200
Blue Mountains Basketball Association	\$200
Blackheath & Mt Victoria RSL Sub-branch	\$100
Blackheath Cricket Club	\$200
Katoomba RSL Swimming Club	\$200
Blackheath Rhododendron Festival Inc	\$200
Mt Victoria Community Association	\$200
Springwood Athletics Club	\$560
Springwood Neighbourhood Centre	\$60
Country Women's Association of NSW	\$500
Ghawazi Caravan	\$300
Special Olympics NSW Blue Mountains Region	\$100

Tibetan Institute of Performing Arts	\$100
Blue Mountains Musical Society	\$408.50
Friends of the Earth	\$250

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MINUTE NO. 658

12. C07732. Tender for Civil Work Component of the Tennis Courts Construction, Summerhayes Park, Winmalee

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed:

1. That the Council receives and notes the report.
2. That the Council resolves to accept the tender submitted by ROCKS SERVICES, RIVERSTONE for the Civil Works Component of the Construction of Two (2) Championship Tennis Courts at Summerhayes Park, Winmalee for the lump sum price of \$325,721 (\$296,110 + \$29,611 GST).
3. That in accordance with Clause 400 of the Local Government (General) Regulation, 2005 authority is granted for affixing the Council seal to the contract documents.

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MINUTE NO. 659

13. C07468. Local Environmental Plan 2005 - Acquisition of Land for Environmental Protection Purposes

The Meeting was addressed by John Carr.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Frappell and Myles:

1. That the Council acquire those properties set out in the attached report under the Land Acquisition (Just Terms Compensation) Act, 1991.
2. That the Common seal of the Council be attached to the documents relating to these purchases as required.

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MINUTE NO. 660

14. X/1634/2004. Development Application No. X/1634/2004 for the Storage and Distribution of Construction and Land Scaping Materials, Fuel Heating Supplies and the Erection of a Site Shed on L 2 DP 855127, 12-14 Mistral Street, Katoomba Nsw 2780

The Meeting was addressed by Geoffrey Meyer and Lyndal Sullivan.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Myles and Creed:

That the Development Application No. X/1634/2004 for the storage and distribution of construction and landscaping materials, fuel heating supplies and the erection of a site shed on L 2 DP 855127, 12-14 Mistral Street, Katoomba be determined pursuant to S.80(3) of the Environmental Planning and Assessment Act 1979 by the granting of a Development Consent subject to the conditions in Attachment 1 to this Report.

Attachment 1

Proposed Operational Conditions

The following conditions apply to the site development and construction works once the consent is operational.

- | | |
|---|--|
| Confirmation of relevant plans | 1 To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans prepared by G B Meyer and Associates, Surveyors, numbered Dwg 37-03/03 Revision 3 dated 7/4/2006 and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent. |
| Department of Natural Resources Part 3A Permit | 2 Written evidence from the Department of Natural Resources shall be submitted to Blue Mountains City Council stating that a Part 3A Permit under the Rivers & Foreshores Improvement Act 1948 has been granted for the proposed development. |

In this regard, to assist in the preparation of the required documentation, a copy of the letter, conditions and advising documentation from the Department of Natural Resources is attached to this consent.

MINUTE NO. 660 Contd.

Note: Following submission of Dwg No.37-03/3 Revision 3 dated 7/4/2006 prepared by G B Meyer and Associates, Surveyors, condition 11 and 19 of the Department of Natural Resources' General Terms of Approval (ref ERM 05/6054) attached are deleted and replaced by the following:

Condition 11 (Access road):

Works are to be located no closer to Yosemite Creek than as shown on the submitted plan "Detail Survey Proposed Storage Yard", Plan 37-03/03 Revision 3 dated 7/4/06 by G.B. Meyer and Associates, Surveyors.

Condition 19 (Designation of riparian zone)

The extent of the riparian zone is to be measured from the top of the bank of Yosemite Creek (as approved by the Department of Natural Resources (DNR)) to the proposed "Kerb and Gutter" marked on the submitted plan "Detail Survey Proposed Storage Yard", Plan 37-03/03 Revision 3 dated 7/4/06 by G. B. Meyer and Associates, Surveyors. Where Kerb and Gutter is not proposed, the riparian zone shall be a width of 15 metres measured from the top of the bank of Yosemite Creek.

<hr/> Period of development consent	3	Physical commencement of construction is required within a two year period from the date of this consent. Should this not occur, the development consent will lapse.
<hr/> Construction certificate (building)	4	A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier.
<hr/> Building Code of Australia	5	All building work must be carried out in accordance with the provisions of the Building Code of Australia.
<hr/> Erosion & sediment controls	6	The applicant shall engage a qualified person to prepare a sediment and erosion control plan in accordance with the principles outlined in the 'Managing Urban Stormwater Soils and Construction' Manual by the Department of Housing, dated March 2004.

MINUTE NO. 660 Contd.

The applicant shall ensure the approved sedimentation and erosion control measures are installed prior to commencement of construction and that these measures are also maintained at all times during construction in accordance with the plan.

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

Workers amenities

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Before work starts, toilet facilities must be provided for construction personnel 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.

Site management

To safeguard the general amenity, reduce noise nuisance and prevent environmental pollution during the construction period:

- a. Areas of the site that are not to be developed other than for rehabilitation and revegetation purposes must be clearly marked and protected by the distinctive coloured plastic fencing or similar, to ensure that the area is not disturbed by construction or other works. (These areas include the land to the west of the approved driveway and the balance of the riparian corridor that is to be protected, the front setback and road reservation and the south east portion of the site, at the rear of the approved storage bins.)
- b. Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm and on Saturdays between 8am-3pm. Alteration to these hours may be possible for safety reasons but only on the approval of Council.
- 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 prevent the movement of such material off site.

MINUTE NO. 660 Contd.

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- d. 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 site.
- e. Builder's waste must not be burnt or buried on site. All waste (including vegetation removal) must be contained and removed to an approved Waste Disposal Depot.
-
- Fencing of building site** 9 All work must satisfy the requirements of the NSW Work Cover Authority.
-
- Plans on site** 10 A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times.
-
- Services** 11 Arrangements must be made with Integral Energy, Sydney Water and an approved telecommunications service provider for the extension of services to and within the site. Written evidence of such arrangements are to be submitted prior to the issue of the construction certificate.
- In this regard, a Section 73 Certificate is to be obtained from Sydney Water prior to issue of a Construction Certificate. Alternatively, a letter is to be obtained from Sydney Water stating that there are no objections to the issue of a Construction Certificate in which case a Section 73 Certificate is to be obtained prior to use or occupation of the facilities.
-
- Public utilities** 12 Any relocation or alteration of public utilities or any existing services made necessary by this development is to 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 and a copy submitted to Council prior to use or occupation of the facilities.
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- Driveway and car parking area** 13 On site parking, vehicular circulation and stormwater management shall comply with but not be limited to the following
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MINUTE NO. 660 Contd.

- a. All internal driveway and access shall be designed in accordance with Australian Standards 2890.1-2004
- b. All vehicles are required to enter and leave the site in a forward direction.
- c. The driveway, car parking and the turning area shall be constructed in accordance with the approved plan except as altered by the conditions.
- d. The maximum size vehicle entering and leaving the site shall not exceed a large rigid body truck, 11.0 metres in length as per AS2890.2 unless it can be demonstrated by further engineering design to the satisfaction of the Principal Certifying Authority that vehicles of greater length are able to leave and enter the site in a forward direction.
- e. All car spaces shall be clearly defined by appropriate line marking or similar and be designated 'visitor parking' by suitable signage.
- f. No goods, equipment or material shall be stored/displayed on any part of the driveway.
- g. All loading and unloading activities shall take place on site at all times.
- h. The driveway construction shall include a shaker device or similar inside the property which is installed and maintained so as to ensure that soil and other material is removed from vehicle tyres and is not tracked off the site or into a position where it can provide a source of potential contamination to the watercourse.
- i. All stormwater runoff from the site and driveway is to be collected and treated prior to discharge to the watercourse via a water quality control facility.(WQCF) The WQCF shall include an appropriately sized gross pollutant trap (CDS or similar) and a sand filtration device or similar to treat the contaminants not removed by the GPT. The facility shall be designed to treat runoff generated from a minimum 5 year average recurrence interval storm event, with provision for the safe overflow of stormwater to the watercourse for higher storm events, via a level spreader/swale (minimum 10m long) or similar to spread the discharge via sheetflow and minimise the risk of environmental damage.

MINUTE NO. 660 Contd.

The WQCF and level spreader/swale shall be designed and its construction certified by a chartered civil engineer or equivalent, with NPER registration.

- j. The discharge point to the watercourse shall be determined by engineering design to minimise erosion and scouring to the watercourse to the requirements of Dept of Natural Resources as part of the Part 3A permit.
- k. To ensure the Water Quality Control Facility (WQCF) is satisfactorily maintained, a covenant under Section 88E of the Conveyancing Act, 1919 shall be prepared and registered over the subject land.

The terms of the 88E Instrument with positive covenant shall include, but not be limited to, the following:

- a. The Proprietor of the property shall agree to be responsible for keeping clear and the maintenance of all pits, pipelines, trench barriers and other structures comprising of the WQCF
- b. The Proprietor shall agree to have the WQCF inspected annually by a qualified person to ensure the facility remains in operable condition at all times
- c. The Council shall have the right to enter upon the land referred to above at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures in or upon the said land which comprise the WQCF or which convey stormwater from the said land and recover the costs of any such works from the Proprietor.

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 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 Final Occupation Certificate.

Landscaping

- 14 A detailed landscape plan is to be submitted for approval prior to the issue of a construction certificate. The landscape plan is to show:

MINUTE NO. 660 Contd.

- a. Landscaping in accordance with the schedule shown on Dwg No. 37-03/03 Revision 3 dated 7/4/2006 prepared by G B Meyer and Associates, Surveyors unless amended by the Vegetation Management Plan required as part of the Part 3A Permit.
- b. The retention and protection of all eucalypts and undercanopy native vegetation within the 8m building line setback to Mistral Street (other than for the one (1) Eucalypt and other vegetation within the driveway entrance) The 8m building line setback shall be suitably defined by appropriate planting and other barriers on the site to ensure vehicle entry does not occur.
- c. Further supplementary screen planting of native species (trees and shrubs) of local provenance shall be undertaken:
 - within the 8 metre building line setback,
 - between the chainwire enclosures and the driveway,
 - along the rear property boundary,
 - adjacent to the driveway, turning areas and storage bins
- d. Revegetation of the riparian area to the west of the kerb and gutter shall be undertaken and consist of planting of local native species of local provenance appropriate for a creek line community. This area should be protected by a barrier or fence to prevent vehicle entry or other uses of this area.

Storage bins and enclosures

- 15
- a. The storage bins shall be of solid construction (concrete or sleeper construction provided the sleepers are not impregnated with copper chrome arsenic) and not exceed 2 metres in height.
 - b. All storage shall take place within the bins and not exceed 2.5 metres in height.
 - c. Dust emanating from any material stored shall be suppressed at all times by watering down and/or covers when windy conditions prevail.
 - d. Storage on site shall not include building rubble, spoil from construction site or any other material containing contaminants such as copper chrome arsenic.
 - e. The rear storage bins shall be modified in design and location to ensure encroachment beyond contour 962.5 does not occur.

MINUTE NO. 660 Contd.

- f. The driveway kerb shall link into or join with the storage bins to ensure that the landscaped area at the rear of the site is not encroached upon by motor vehicles and that untreated stormwater runoff is not discharged from the site or into the watercourse.
- g. The chain wire fence surrounding the enclosure is to be of black or dark coloured powder-coated finish of a height not less than 1800 mm or greater than 2200 mm.
-
- Advertising structure** 16 Any signage beyond that permitted by Development Control Plan No. 33 (Exempt and Complying Development) is prohibited unless approval from Council is granted prior to the erection of any such signage.
-
- External engineering works** 17 The following engineering works shall be constructed by the applicant at the applicant's expense:
- a. Construction of roll top concrete kerb and gutter and sealed shoulder pavement construction along the Mistral Street frontage of the site.
- b. For the driveway required across the Mistral Street footpath, a new heavy-duty R.C concrete layback and apron crossing is to be constructed. The driveway shall have a minimum width at the road boundary of 7.5m and at the kerb and gutter alignment as determined by engineering design for the largest vehicle using the site.
- c. The remainder of the footpath area is to be mulched and planted out with native plants of local provenance compatible with the adjacent remnant area of native bushland or the revegetated creek line area as appropriate.
-
- Construction in Council's roads** 18 Where works are carried out on Council or public lands (i.e. roads, parks etc.) by or on behalf of the applicant, the following conditions shall be satisfied:
- a. Before work commences in Council's roads, 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.

MINUTE NO. 660 Contd.

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 are to be at no cost to Council.

- b. An on site meeting is to be arranged with Council's Supervising Engineer prior to the commencement of any work in Council's road for the purpose of a pre-construction meeting. Council's inspection fee is to be paid prior to the meeting.
- c. The person or company carrying out the works will be required to carry public liability insurance to the value of \$10 million. The policy shall indemnify Council from all claims arising from the execution of the works. 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 references demonstrating 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.
- e. The applicant will be required to pay for inspections in accordance with Council's 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 works, 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 obtained prior to the issue of the Occupation Certificate.

- f. Prior to issue of the Roads Act Approval, a Traffic Management Plan report prepared by a qualified person is to be submitted to Council for approval.

MINUTE NO. 660 Contd.

The Traffic Management Plan is to address but not be limited to construction vehicle travel routes, safety of the public, materials storage and handling, deliveries and construction traffic and parking.

- g. Safety devices such as signs, barricades, barriers, warning lights, etc. shall be placed where works affect Council 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 Report.

The contractor shall submit to Council the names of proposed traffic controllers with a signed declaration that they are appropriately trained in the duties of traffic controllers and 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 bear all responsibility and costs associated with the proposed relocation of services.

Bond

- 19 A performance maintenance bond to the value of five (5) percent of the engineering construction or a minimum of \$10,000, whichever is the greater, to guarantee the safety of the public, environmental protection performance and maintenance during construction in Council's road shall be paid to Council.

This bond shall be retained for twelve (12) months after construction is completed to the satisfaction of Council's Supervising Engineer.

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

Repair of damage

- 20 The applicant shall repair or reconstruct any damage caused by construction activity relating to the development as required by Council's Supervising Engineer prior to release of the Occupation Certificate.

MINUTE NO. 660 Contd.

Land use

- 21 The land use shall not commence until all relevant conditions of this consent requiring works to be completed has been carried out to the satisfaction of the Principal Certifying Authority and an Occupation Certificate pursuant to Section 109C (c)(i) issued in accordance with the provisions of the Environmental Planning and Assessment Act 1979.

* * * * *

MINUTE NO. 661

15. X/773/2005. Development Application No. X05/0773 for Additions and Alterations to Anita Villa Nursing Home at Lot 51 DP 846605, 2-10 Gang Gang Street, Katoomba.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed:

That the Development Application No. X05/0773 for additions and alterations to Anita Villa Nursing Home at Lot 51 DP 846605, 2-10 Gang Gang Street, Katoomba be determined pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979 by the granting of development consent subject to the conditions shown as Attachment 1 to this report.

Attachment 1

Conditions of development consent

Development consent

- 1 Blue Mountains City Council issues its consent, subject to conditions stated hereunder, in accordance with Section 80A of the *Environmental Planning and Assessment Act 1979*. Substantial physical commencement of construction is required within 2 years from 1 August 2006.

To confirm and clarify the terms of consent, the development shall be carried out in accordance with the following:

- Architectural plans by Gemnich Pty Ltd, numbered DA 00-DA 10, as issued for approval on 30 June 2006
- The Heritage Impact Statement by Rose Deco Planning and Design Pty Ltd

MINUTE NO. 661 Contd.

-
- Traffic and Parking Statement by Traffic Solutions Pty Ltd and dated 31 May 2006
- and other accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent.
-
- Construction certificate (building)** 2 A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier.
-
- Access and mobility** 3 To ensure suitable access and facilities are provided for people with a disability, the development shall appropriately comply the provisions of the *Disability Discrimination Act 1992*; relevant *Australian Standards* and Council's *Access and Mobility Policy*. The details of the appropriate level of compliance shall be submitted with the construction certificate documentation.
-
- Excavation** 4 Where the excavation extends below the level of the base of the footings of the adjoining building, all works shall be carried out to preserve and protect the adjoining building from damage.
- All excavation work shall be directly supervised by a suitably qualified person.
-
- Building Code of Australia** 5 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
-
- Positive Covenant** 6 A Positive Covenant created under the Conveyancing Act 1919, shall be prepared and registered over the title to ensure ongoing maintenance of the access road between the sealed section of Penault Avenue and the vehicular entrance to the site at Gang Gang Street (northern boundary).

This instrument shall be registered over the title before any construction works commence on the access road within the Gang Gang Street road reserve.

MINUTE NO. 661 Contd.

-
- The Positive Covenant shall be created to the satisfaction of Council and shall not be altered or extinguished without the written approval of Council.
-
- Builders details**
- 7 Prior to any works commencing on the site, written advice as to the builder's details (name, address and licence number) is required for Council records.
-
- Signage**
- 8 To ensure that the site is easily identifiable for deliveries and provides information on the person responsible for the site, a sign displaying the following information is to be erected:
- The statement “*Unauthorised access to the site is not permitted*”.
 - The names of the builder or another person responsible for the site along with an out of hours contact number.
 - Lot or Street number.
-
- Site management**
- 9 To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the demolition and construction periods:
- a. All demolition, construction or other site works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm and on Saturdays between 8am-3pm. Alteration to these hours may be possible for safety reasons but only on the approval of Council.
 - b. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - c. Building operations such as brickcutting, washing tools, concreting and bricklaying shall be undertaken on the building block. The pollutants from these building operations shall be contained on site.
 - d. Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.

MINUTE NO. 661 Contd.

Erosion & sediment controls

- 10 To avoid contamination of the surrounding area and to contain soil and sediment on the property, measures in accordance with Council's *Erosion & Sediment Control* policy are to be implemented prior to clearing of the site and the commencement of any site works. This will include:
- a. The installation of a sediment fence with returned ends across the low side of the site so that all water flows through. These shall be maintained at no less than 70% capacity at all times. Drains, gutters, roadways etc., shall be kept clean and free of sediment.
 - b. To prevent the movement of soil off site, a single entry/exit point to the property shall be constructed of 40mm blue metal aggregate or recycled concrete to a depth of 150mm. The length must be at least 5 metres with the width at least 3 metres.

Soil erosion fences shall remain and must be maintained until all disturbed areas are restored by turfing, paving or revegetation. Kikuyu grass is not to be used for re-turfing.

Plans on site

- 11 A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times during site preparation or construction work.

External finishes

- 12 To ensure that the development is compatible with the surrounding environment, a schedule of finished colours is to be submitted to Council for approval prior to the commencement of construction of any building work.

The schedule shall detail the finished colours of the existing and proposed development to ensure a unified colour scheme for the entire site.

Protection of vegetation

- 13 To preserve the natural site features, trees outside the designated development area, including the access road and parking areas, are to be retained. Any at risk vegetation must be protected by suitable guards / barriers to prevent damage as a result of any site works.

MINUTE NO. 661 Contd.

To preserve the existing landscape character, the existing significant Radiata Pine, adjacent to the intersection of Penault Avenue and Gang Gang Street, shall be retained.

Landscaping

- 14 A detailed landscape plan is to be submitted to Council for approval prior to release of the Construction Certificate. The landscape plan shall include, but not be limited to, the following:
- All terrace restoration works, as indicated in the Heritage Impact Statement by Rose Deco Planning and Design.
 - A schedule of all works to be carried out on site, to ensure the effective establishment of identified landscaped areas.
 - The method for retention of the significant Radiata Pine adjacent to the intersection of Penault Avenue and Gang Gang Street, specifically in relation to the turning head proposed within the intersection.
 - Landscaping at the boundaries of the newly constructed access in Gang Gang Street, including within the variable building setback so as to soften the building road interface and provide some foreground planting to the balconies.
 - All retained soft landscaping along the proposed access road in Penault Avenue shall be appropriately landscaped.
 - Schedule of works is to include restoration of the main access path from the Lovell Street to the front (southern) access point of the site.
 - Method of protection of at-risk vegetation during the construction period.
 - All plants shown must be in an advanced stage of growth at the time of planting (minimum 50 litre container for trees and 25 litre container for shrubs) and trees must not be less than 2 metres in height, or as otherwise agreed to by Council.
 - All plants and landscaping on the site are to be maintained at all times. Any plants that die or are removed, must be replaced with plants of the same species and of a similar stage of growth.

MINUTE NO. 661 Contd.

-
- All disturbed earthworks and/or batters are to be restored, stabilised, topsoiled and turfed / revegetated. Kikuyu grass is not to be used for re-turfing
-
- External Illumination** 15 External lighting is to be provided at an appropriate height and location. All light fittings are to be designed to cast horizontally downward and shall be located to avoid light spillage or over-lighting of adjoining properties.
-
- Noise** 16 To minimise noise levels, any noise resulting from plant equipment is not to reach a level that is 5dBA above the ambient background noise when read at the boundary of the nearest affected property. All ventilation or other openings that are noise affected shall be appropriately baffled or otherwise treated to ensure this requirement.
- The development is to be appropriately noise attenuated in accordance with the requirements of State Rail's Guidelines for Rail Noise and Vibration.
- Compliance with these requirements shall be confirmed by a suitably qualified acoustical expert prior to commence of use.
-
- Beds** 17 To maintain the level and scale of the approved facility, the nursing home is limited to a maximum of one hundred and twenty three (123) beds.
-
- Vehicular access** 18 a. All vehicles are required to enter and leave the site in a forward direction, except for the garbage collection vehicle. Such collection shall occur outside peak hours of operation.
- b. The two (2) existing industrial bins located in Penault Street are to be relocated on a pad at the western end of the access driveway as shown in red on the stamped approved plan
- c. The size of vehicles visiting the site shall be restricted to the B85 percentile
-
- Site stormwater system** 19 All stormwater runoff from impervious areas of the site are to be collected 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 20 years ARI, 5 minutes duration storm and in accordance with ARR 1987.

MINUTE NO. 661 Contd.

- 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 the public road.
- Discharge drainage** 20 All discharge drainage is to be piped to the constructed Gang Gang/Lovel Street drainage system near the south western corner of the site. The treatment is to use the existing pipe crossing and location under the high level footpath at this location.
- On site detention** 21 An on site detention system to restrict post-development discharges from the site to pre-development discharges for all storms up to and including the 1:100 year ARI storm shall be provided.

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

- a. All habitable and garage floor levels are to be located a minimum 300 mm and 100 mm above the 1 in 100 year ARI top water levels.
- b. An emergency overflow facility capable of safely conveying all storms up to and including the 1 in 100 year ARI storm to the public road.
- c. 300 mm x 300 mm wide by 300 mm deep silt trap is to be drained by weep holes and a 90 mm diameter agricultural line surrounded by 200 mm thick gravel bed wrapped in a geofabric. The agricultural line shall be connected to the nearest downstream stormwater pipe/pit.
- d. Allowable storage depth shall be:
 - Car parks—0.2 metres maximum. Storage in carpark and driveway areas are permissible only for storms greater than or equal to the 1 in 20 year ARI storms
 - Landscaped areas—0.6 metres maximum. Depth greater than 0.6 metres is permissible subject to the installation of pool type fencing surrounding the detention area.
 - Underground tanks—0.8 metres minimum depth.

MINUTE NO. 661 Contd.

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

On site detention positive covenant 22 To ensure the on site detention system is satisfactorily maintained, a covenant under Section 88E of the Conveyancing Act, 1919 shall be prepared and registered over the subject land.

The terms of the 88E Instrument with positive covenant shall include, but not be limited to, the following:

- a. The Proprietor of the property shall agree to be responsible for keeping clear and the maintenance of all pits, pipelines, trench barriers and other structures.
- b. The Proprietor shall agree to have the on site stormwater detention facilities (OSD) inspected annually by a competent person.
- c. The Council shall have the right to enter upon the land referred to above at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures in or upon the said land which comprise the OSD or which convey stormwater from the said land and recover the costs of any such works from the Proprietor.
- d. The registered Proprietor shall indemnify the Council and any adjoining landowners against damage to their land arising from the failure of any component of the OSD or failure to clean, maintain and repair the OSD.

The applicant shall bear all costs associated in the preparation of the subject 88E Instrument. The 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 Occupation Certificate.

MINUTE NO. 661 Contd.

Drainage easements

- 23 A variable width drainage easement over the full width of the 100 year ARI surcharge path, the main drainage flow path and pipeline that contributes toward the convergence of public road stormwater, in Condition No. 18 and 19 above shall be created in favour of Council to legalise external discharges onto and through the site. The Easement shall extend from the upstream source and terminate at the applicable downstream road reserve as determined by engineering designs.

An 88E Instrument shall be registered over the subject land with appropriate wordings requiring the owners of the land and their successors to maintain at their expense the drainage systems located within the drainage easements.

The wording of the 88E Instrument is to be approved by Council.

All drainage easements are to have a minimum width of 3 metres with the exception of private interallotment drainage easements which are to comply with the following:

- For pipes less than 375 mm diameter, the easement width shall be a minimum of 1.2 metres.
- Easements for larger diameter pipes shall be the pipe diameter plus 1.0 metre wide with a minimum width of 2.4 metres.

Prior to release of the Occupation Certificate, a certificate from a registered surveyor shall be submitted to the Principal Certifying Authority to verify the above requirement has been met.

Internal pavement

- 24 Kerbs and formation paving and sealing of access driveways and car parking areas in the development site together with any necessary drainage, retaining walls and other engineering works that may be required to make the construction effective shall be provided. All driveways and sealed areas are to have a featured surface.

All internal driveway and access shall be designed in accordance with Australian Standards 2890.1/2004.

MINUTE NO. 661 Contd.

Turning facility

- 25 A turning facility suitable for a small rigid vehicle is to be constructed at the intersection of Penault Avenue and Gang Gang Street, generally in accordance with the facility sketched in red on the plan DA 01-G prepared by Gemnick Pty Ltd., dated 30 June 2005 and amended by Council.

The construction shall incorporate the following:-

- i. Protection of the significant Radiata Pine adjacent to the turning head.
- ii. Full width pavement reconstruction including roll top kerb and gutter in Gang Gang Street and vertical kerb and gutter in Penault Avenue. The kerb returns shall be constructed in vertical kerb and gutter.
- iii. All necessary drainage, retaining walls, fences and service utility relocation and works to make the construction effective.
- iv. Dedication of a 3.5m splay corner.
- v. The turning facility pavement is to be designed by a suitably qualified professional and is to be a minimum of 50mm AC10 seal on a 150mm DGB 20 base course on an approved subgrade.

Driveway from turning circle

- 26 The driveway from the abovementioned turning facility to the site is to include the following construction:
- i. a minimum 5.5m wide sealed driveway,
 - ii. four sealed parallel parking bays,
 - iii. a turning facility at the western end of the access to facilitate the forward entry and exit of service vehicles.
 - iv. A concrete bin storage pad adjacent to the turning facility. The bin pad is to have a feature surface finish to differentiate it from the driveway and turning area. The bin pad is to be wholly located within the site boundaries.
 - v. All necessary drainage, retaining walls, fence and service utility relocation and works to make the construction effective.
 - vi. Landscaping in the retained soft areas adjacent to the driveway.
-

MINUTE NO. 661 Contd.

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| Road reserves adjacent to the development | 27 | The road reserves adjacent to the development are to be retained with a retaining wall as necessary. All retaining structures are to be located wholly within the development site. |
| Construction in public roads | 28 | Where works are carried out on Council or public lands (ie. roads, parks etc.) by or on behalf of the applicant, the following conditions shall be satisfied:

a. Before work commences in the public road, 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 are to be at no cost to Council.

b. An on site meeting is to be arranged with Council's Supervising Engineer prior to the commencement of any work in Council's road for the purpose of a pre-construction meeting. Council's inspection fee is to be paid prior to the meeting.

c. The person or company carrying out the works will be required to carry workers compensation and public liability insurance to the value of \$10 million. The policy shall indemnify Council from all claims arising from the execution of the works. 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 reference demonstrating 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. |

MINUTE NO. 661 Contd.

- e. The applicant will be required to pay for inspections in accordance with Council's 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 works, 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 obtained prior to the issue of the Occupation Certificate. The applicant's engineer must certify that the work have been constructed in accordance with the approved plans, specifications and relevant Australian Standards.

- f. Prior to the issue of the Roads Act Approval, a Traffic Management Plan report prepared by a chartered civil engineer with NPER registration is to be submitted to and approved by Council.

The Traffic Management Plan is to address but not be limited to the following: loss of on street parking, construction vehicle travel routes, safety of the public, materials storage and handling, deliveries and construction traffic and parking.

A minimum of seven (7) days notice shall be given to residents if access by residents will be affected. A copy of the letter to residents and a list of addresses notified shall be submitted to and approved by Council.

- g. Safety devices such as signs, barricades, barriers, warning lights, etc. shall be placed where works affect Council and Roads and Traffic Authority 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 (Sep 2003). Details prepared by a qualified person shall be submitted to Council for its approval

MINUTE NO. 661 Contd.

with the Traffic Management Plan Report.

The contractor shall submit to Council the names of proposed traffic controllers with a signed declaration that they are appropriately trained in the duties of traffic controllers and 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 bear all responsibility and costs associated with the proposed relocation of services.
- i. A prominently displayed sign identifying the contractor responsible for the work shall be erected. A contact telephone number should be provided on the sign.

Bond

- 29 A performance maintenance bond to the value of five (5) percent of the engineering construction or a minimum of \$5,000, whichever is the greater, to guarantee the safety of the public, environmental protection performance and maintenance during construction in Council's road shall be paid to Council.

This bond shall be retained for twelve (12) months after construction is completed to the satisfaction of Council's Supervising Engineer.

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

Relocation of services

- 30 The applicant shall carry out the relocation or alteration of public utilities or any existing services made necessary as a result of this development at the applicant's expense. Satisfactory arrangements shall be made with the relevant authority concerned and a certificate of clearance shall be obtained from each relevant authority and submitted to the Principal Certifying Authority prior to release of the Construction Certificate.

Repair of damage

- 31 The applicant shall repair or reconstruct all damages caused by construction activity relating to the development as required by Council's Supervising Engineer prior to release of the Occupation Certificate.

MINUTE NO. 661 Contd.

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| <hr/> Restore disturbed area | 32 | All disturbed earthworks and/or batters are to be restored, stabilised, topsoiled and turfed/revegetated to Council's satisfaction prior to release of the Occupation Certificate. |
| <hr/> Certification by Council | 33 | Prior to the issue of the Occupation Certificate, a certificate shall be obtained from Council to verify that all external works have been completed in accordance with the approved plan and to Council's satisfaction. |
| <hr/> Compliance with standards | 34 | 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. |
| <hr/> Structural works | 35 | <p>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.</p> <p>NB: The retaining wall in Conditions 25 and 26 above is to be designed for construction and service traffic loading.</p> |
| <hr/> Certification of structural works | 36 | 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. |
| <hr/> Supervision of internal engineering works | 37 | 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 release of the Occupation Certificate. |
| <hr/> Works as executed plans | 38 | Prior to the issue of an Occupation Certificate, a Works as Executed Plan of all external engineering works together with an engineer's certification confirming that all works have been constructed in accordance with the approved plans shall be submitted to Council for approval. |

MINUTE NO. 661 Contd.

Geotechnical investigation

- 39 Submission of a report from a geotechnical engineer on the current condition of the exposed cliff face or embankment, specifying what steps should be taken by the applicant to maintain the long term stability of the cliff face or embankment. The report shall be submitted prior to Council for approval prior to release of the Construction Certificate.

Sedimentation and erosion control

- 40 The applicant shall engage a qualified person to prepare a sediment and erosion control plan in accordance with the principles outlined in the 'Managing Urban Stormwater Soils and Construction' Manual by the Department of Housing, dated March 2004.

The applicant shall ensure sedimentation and erosion control measures are installed prior to commencement of construction and that these measures are also maintained at all times during construction in accordance with the plan.

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

Work within Gang Gang Street

- 41 Approval is to be obtained from the Department of Lands for all construction work to occur within the Crown Road reserve. That part of Gang Gang Street affected by the construction of the turning facility is to be transferred to Council ownership under Section 151 of the Roads Act 1993.

Approval for the work and transfer of the turning circle is to occur, to Council's satisfaction, prior to the commencement of construction within the road reserve. All fees necessary to facilitate this transfer are to be paid by the applicant.

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MINUTE NO. 662

16. X/1064/2004. Development Application No. X/1064/2004 for the Addition of Eight (8) Self Care Units to the Existing Retirement Village on L 1 DP 718861, Leura Fairways, 19-21 Fitzroy Street, Leura.

The Meeting was addressed by Max Fragar, Jeremy Townend and Arthur Leslie.

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

1. **That the Development Application No. X/1064/2004 for the addition of 8 self care units to the existing retirement village on L 1 DP 718861, Leura Fairways, 19-21 Fitzroy Street, Leura be determined pursuant to S.80(3) of the Environmental Planning and Assessment Act 1979 by the granting of a deferred commencement consent subject to:**
 - (a) **satisfying the deferred commencement conditions in Recommendation 2 within twelve (12) months from the date of this determination, and**
 - (b) **the terms of the proposed Operational Development Consent shown in Part 2 of Attachment 1.**

2. **That the Development Consent not become operational until the following conditions are met to the satisfaction of the consent authority:**

Stormwater disposal

1. To minimize downstream stormwater impacts and to ensure all stormwater runoff from the proposed development can be disposed safely and without adversely impacting water quality, the applicant shall submit a detailed Stormwater Management Plan and design prepared by a Chartered Engineer with NPER registration, that demonstrates:
 - a. how the development will achieve a neutral or beneficial impact on the quality of water leaving the site;
 - b. how the water quality management practices will be sustainable in the long term; and
 - c. how the specific requirements set out in item 2, 3 & 4 will be met.

The stormwater from the buildings is to be disposed safely to Gladstone Road. The stormwater drainage design shall incorporate but not be limited to the following requirements:

- a. All roof gutters, downpipes and stormwater pipelines are to be designed for a 1 in 100 year, 5 minutes duration ARI storm event with an allowance of minimum 20% blockage.

- 2.

MINUTE NO. 662 Contd.

- b. All roof down pipes are to be connected to an on-site detention system prior to discharging to the Gladstone Road underground stormwater drainage system.
 - c. The on-site detention system shall be designed to restrict post-development discharges from the proposed building areas to pre-development level for all storm events and durations up to and including the 1 in 100 year ARI storm event.
 - d. The use of suspended stormwater pipes is to be limited to minimize visual impacts. In this regard revised architectural plans are to be submitted clearly showing the proposed position of gutters and down pipes, together with any proposed architectural treatments to minimize visual impacts.
3. To improve infiltration capacity and facilitate efficient safe disposal of stormwater runoff from the proposed access driveway the applicant shall submit a revised stormwater drainage design. The design shall incorporate the following:
- a. The entire areas of the proposed access driveway and maneuvering areas shall be constructed using permeable paving. The infiltration capacity of the permeable paving is to be excluded from the sizing of the downstream driveway on-site detention system and absorption trenches located downstream. i.e. the infiltration capacity of permeable paving is assumed to be zero.
 - b. All runoff exceeding the infiltration capacity of the permeable paving are to be collected and disposed to the driveway on site detention system before discharging into infiltration trenches located downstream of the access driveway.
 - c. Infiltration trenches are to be spaced a minimum 3m part, located a minimum 10m from any downstream boundaries and parallel to existing site contours. The design shall allow for the upstream infiltration trench to be filled first, prior to overflowing into the next downstream trench. Over flow from the absorption trenches are to be distributed via sheet flow to the downstream catchment.
 - d. The detention time of the driveway onsite detention system shall be limited to a maximum of 24 hours.

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4. To ensure the proposed development is protected from upstream stormwater overflows the applicant shall submit engineering details of the existing stormwater and OSD system upstream together with a report by a chartered civil engineer outlining how this has been achieved. Alternatively, detail a proposal how this can be achieved in the current stormwater design without exacerbating downstream conditions.
3. **That the General Manager be given delegated authority to issue the operational Development Consent upon resolution of the deferred commencement conditions referred to in the Recommendations 1 and 2 above.**

Attachment 1

Conditions of development consent

Part 1 – Deferred Commencement Conditions of Consent

Stormwater disposal

1. To minimize downstream stormwater impacts and to ensure all stormwater runoff from the proposed development can be disposed safely and without adversely impacting water quality, the applicant shall submit a detailed Stormwater Management Plan and design prepared by a Chartered Engineer with NPER registration, that demonstrates:
 - a. how the development will achieve a neutral or beneficial impact on the quality of water leaving the site;
 - b. how the water quality management practices will be sustainable in the long term; and
 - c. how the specific requirements set out in item 2, 3 & 4 will be met.
2. The stormwater from the buildings is to be disposed safely to Gladstone Road. The stormwater drainage design shall incorporate but not be limited to the following requirements:
 - a. All roof gutters, downpipes and stormwater pipelines are to be designed for a 1 in 100 year, 5 minutes duration ARI storm event with an allowance of minimum 20% blockage.
 - b. All roof down pipes are to be connected to an on-site detention system prior to discharging to the Gladstone Road underground stormwater drainage system.

MINUTE NO. 662 Contd.

- c. The on-site detention system shall be designed to restrict post-development discharges from the proposed building areas to pre-development level for all storm events and durations up to and including the 1 in 100 year ARI storm event.
 - d. The use of suspended stormwater pipes is to be limited to minimize visual impacts. In this regard revised architectural plans are to be submitted clearly showing the proposed position of gutters and down pipes, together with any proposed architectural treatments to minimize visual impacts.
3. To improve infiltration capacity and facilitate efficient safe disposal of stormwater runoff from the proposed access driveway the applicant shall submit a revised stormwater drainage design. The design shall incorporate the following:
- a. The entire areas of the proposed access driveway and maneuvering areas shall be constructed using permeable paving. The infiltration capacity of the permeable paving is to be excluded from the sizing of the downstream driveway on-site detention system and absorption trenches located downstream. i.e. the infiltration capacity of permeable paving is assumed to be zero.
 - b. All runoff exceeding the infiltration capacity of the permeable paving are to be collected and disposed to the driveway on site detention system before discharging into infiltration trenches located downstream of the access driveway.
 - c. Infiltration trenches are to be spaced a minimum 3m apart, located a minimum 10m from any downstream boundaries and parallel to existing site contours. The design shall allow for the upstream infiltration trench to be filled first, prior to overflowing into the next downstream trench. Over flow from the absorption trenches are to be distributed via sheet flow to the downstream catchment.
 - d. The detention time of the driveway onsite detention system shall be limited to a maximum of 24 hours.

MINUTE NO. 662 Contd.

4. To ensure the proposed development is protected from upstream stormwater overflows the applicant shall submit engineering details of the existing stormwater and OSD system upstream together with a report by a chartered civil engineer outlining how this has been achieved. Alternatively, detail a proposal how this can be achieved in the current stormwater design without exacerbating downstream conditions.

Part 2: Proposed Operational Conditions of consent

Development consent

1. Blue Mountains City Council issues its consent, subject to conditions stated hereunder, in accordance with Section 80A of the *Environmental Planning and Assessment Act 1979*.

To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans prepared by Peter Reed and Associates - Architects numbered

0310. DA.00A,
0310. DA.01B
0310. DA.02A
0310. DA.03A
0310. DA 04A
0310. DA 05A
0310. DA 06A
0310. DA 07A
0310. DA 08A

dated 12/1/05 and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent.

Period of Consent

2. Substantial physical commencement of construction is required within 2 years from (...). Should this not occur, the Consent will lapse and a new Development Application will need to be submitted.

**Construction certificate
(building)**

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

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Access and mobility statement

4. To ensure access and facilities for disabled people are provided, a statement from the applicant or owner is required certifying that the development complies with the provisions of the *Disability Discrimination Act 1992*; the *Australian Standard AS1428* and *AS4299* and Council's *Better Living Development Control Plan*. This statement is to form part of the construction certificate documentation.

Community contribution

5. A contribution of \$4747.84 shall be made to Council under s.94 of the *Environmental Planning & Assessment Act* for:

- Open Space and Recreation
\$355.23 x 8 = \$2,841.84
- Bushfire \$210.60 x 8 = \$1,684.80
- Administration \$ 27.65 x 8 = \$ 221.20
\$4,747.84

This contribution shall be made prior to the issue of the occupation certificate.

The above amounts will remain fixed for a period of three months from the date of this consent. After this time, the amount will be indexed in accordance with Council's *Development Contributions Plan*. A copy of the Plan is available from Council's Katoomba or Springwood office.

Services

6. Arrangements must be made with Integral Energy, Sydney Water and an approved telecommunications service provider for the extension of services to and within the site. Written evidence of such arrangements are to be submitted prior to the issue of the construction certificate. In this regard a Section 73 Certificate is required from Sydney Water.

Building Code of Australia

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

Signage

8. To ensure that the site is easily identifiable for deliveries and provides information on the person responsible for the site, a sign displaying the following information is to be erected:

- + The statement "*Unauthorised access to the site is not permitted*".

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-
- + The names of the builder or another person responsible for the site along with an out of hours contact number.
- + Lot or Street number.
-
- Site management**
9. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:
- a) Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7.30am-5pm and on Saturdays between 8am-3pm. Alteration to these hours may be possible for safety reasons but only on the approval of Council.
- a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
- b) Building operations such as brickcutting, washing tools, concreting and bricklaying shall be undertaken on the building block. The pollutants from these building operations shall be contained on site.
- c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
-
- Drainage**
- 10 The entire development, including all drainage works, is to be contained within 10m of the current 5(b) zone boundary.
-
- Positive covenant**
- 11 To ensure the on-site detention permeable paving and absorption system are satisfactorily maintained a covenant under Section 88E of the Conveyancing Act 1919 shall be prepared and registered over the subject land.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

MINUTE NO. 662 Contd.

- (i) The Proprietor of the property shall agree to be responsible for keeping clear, and the maintenance of the “system” which includes all pits, pipelines, trench barriers, permeable paving, absorption trenches and other associated structures.
- (ii) The Proprietor shall agree to have the system inspected annually by a civil engineer and carry out all remedial works identified in the engineer’s report
- (iii) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order of the system and recover the costs of any such works from the proprietor.
- (iv) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the system, or failure to clean, maintain and repair the system.

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 at the Land Titles Office. Proof of lodgement with the Land Titles Office shall be submitted to Council prior to the issue of the Final Occupation Certificate.

Erosion & sedimentation control plan

- 12 Submission of an erosion & sedimentation control plan prepared and endorsed by a Chartered engineer with NPER registration shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate. The erosion and sedimentation control plan shall be prepared and implemented in accordance with the principles as outline in the current edition of “Managing Urban Stormwater Soils & Construction” manual by the Department of Housing.

Works as Executed plan

- 13 Submission to Council prior to issue of an Occupation Certificate a “Works as Executed” Plan of all engineering works prepared by a registered surveyor together with an engineer’s certification confirming all works have been constructed in accordance with the approved plans.

MINUTE NO. 662 Contd.

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|---------------------------|----|--|
| <u>Access driveways</u> | 14 | The provision of kerbs and permeable paving for the access driveways and car parking areas in the development site, together with any necessary drainage, retaining walls and other engineering works that may be required to make the construction effective. |
| | | All internal driveway access and parking shall be designed to ensure all vehicles using the site can enter and leave in a forward direction and comply with the Australian Standards AS 2890.1 - 2002. |
| <u>Rural Fire Service</u> | 15 | The development is to be built to construction level 1 under AS 3959. |
| <u>Landscaping</u> | 16 | The landscape plan is amended to include the provision of trees to provide a high level of screening (60%) along the eastern boundary. Planting is to be provided and maintained to Council's satisfaction. |

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MINUTE NO. 663

17. C00534. Delegation of Authority for Local Traffic Committee Issues

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed:

1. **That the Council delegate those functions, as shown in Table 1 of this report, to the General Manager in accordance with the Local Government Act, 1993. The General Manager sub-delegates those functions, as described, to the Manager – Assets.**
2. **That in order to give Councillors and the Blue Mountains Local Traffic Committee members an opportunity for input into those items sub-delegated to the Manager – Assets, a summary be provided and a period of fourteen (14) calendar days be given to enable a response to be forwarded in writing to the Manager – Assets.**
3. **That the “Work Flow Diagram” as shown in Supporting Document “C” be adopted for those items to be handled under delegated authority.**

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MINUTE NO. 664

18. R05/0140 & X04/1211. Acquisition of Land for Road Purposes in Faulconbridge

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Frappell:

1. That Council acquires the portions of land set out in Plan of Acquisition, Deposited Plan 1096671 as intended for use as public road for \$1.00 payable on demand.
2. That the Council accept the easement to drain water affecting the part(s) shown so burdened in Deposited Plan 1096671 and the positive covenant of land to be maintained as Inner Protection Zone (Fuel Free Zone) as shown in DP 1096671
3. That the Common Seal of the Council be attached to the necessary documents.

Councillor McInnes was out of the Chamber for this matter.

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MINUTE NO. 665

19. C02391. Referral Agreement

A MOTION was Moved by Councillors Searle and McLaren:

1. That the Council hold discussions with its staff and relevant unions with a view to entering into a “referral agreement” within the meaning of s146A of the *Industrial Relations Act 1996* (NSW) (“the Act”) to ensure that any dispute, issue or difficulty arising between the Council and any of its employees, former employees, contracted workers, or former contracted workers, about an “industrial matter” as defined in the Act is (if not resolved beforehand) able to be referred to the Industrial Relations Commission of NSW for conciliation and, if necessary, arbitration.
2. That the referral agreement should make it clear that in fulfilling this role, the Industrial Relations Commission of NSW is able to exercise any power or function conferred upon it by the Act and that any arbitrated decision is legally binding upon the parties to the dispute, issue or difficulty referred.
3. That referral to the Industrial Relations Commission of NSW be effected by a notification by any one of the Council, any relevant union, or any individual employee, former employee or contracted worker who is party to the dispute, issue or difficulty referred.
4. That the terms of any proposed referral agreement be reported to the Council before it is entered into.

MINUTE NO. 665...Contd.

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

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

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MINUTE NO. 666

20. C00308. Lithgow Council

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Searle **that the Council writes to Lithgow Council congratulating it on its recent significant win in the Land & Environment court and thereby preventing a commercial overdevelopment in the Megalong Valley which would have had serious adverse impacts on the natural environmental, heritage values and existing residential amenity.**

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MINUTE NO. 667

21. C07749. Cigarette Butts

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and Van der Kley

- 1. That a report come to the Council on the feasibility of introducing a Council Ranger or ensuring Council Rangers are responsible for enforcing policies relating to the responsible disposal of cigarette butts. This Ranger would be responsible for issuing on the spot fines to people who discarded cigarette butts other than in a bin.**
- 2. That this matter be referred to the Environmental and Planning Working Party prior to a Report being returned to the Council.**

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MINUTE NO. 668

22. C07754. Climate Change

RESOLVED UNANIMOUSLY on the MOTION of Councillors McLaren and Searle:

1. That the Council recognise that climate change is a key environmental issue.
2. That the Council recognise the work that BMCC has undertaken to reduce energy consumption and greenhouse gas emissions by the organisation.
3. That the Councillors receive a briefing on the status of the Council environmental initiatives in relation to energy consumption and greenhouse gas reductions.
4. That this matter is referred to the Environmental and Planning Working Party for discussion on further initiatives to reduce greenhouse gas emissions.

Question Without Notice – Has a report on Climate Change – Point 2 been presented to Councillors at either a Council Meeting or a Working Party?

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MINUTE NO. 669

23. H00701. Open/Closed Signs

RESOLVED UNANIMOUSLY on the MOTION of Councillors McLaren and Myles that the Council urgently review the decision to remove the open/closed signs from sporting fields by referring the issue to the Community and Facilities Working Party. The Working Party is to explore the use of Sporting Associations to take responsibility for closing/opening a field and whether the Council should abdicate their responsibility in this area.

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24. H00692. Summerhayes Park

This matter was withdrawn.

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MINUTE NO. 670

25. C03408. Child Care Issues

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed:

1. That Blue Mountains City Council write to WSROC in support of its efforts to organise a seminar on child care issues.
2. That Blue Mountains City Council send representatives (both staff and Councillors) to participate in the seminar.

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MINUTE NO. 671

26. C00680. Precis Of Selected Correspondence, 1/8/2006

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed **that the Precis of Selected Correspondence be received and appropriate letters forwarded where necessary.**

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In accordance with the decision recorded at Minute No. 650, the Council Meeting was then closed to the public while the following matter was considered.

MINUTE NO. 672

C1. H01478. RTA Business Proposal

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

1. That the Council accept the offer from the RTA for the operation of the agency for the Katoomba registry services based on the fixed price Option 2, plus set up costs, as outlined in the report.
2. That the commercial rental Option 1 remains available in the event that it is not possible to reach agreement with the RTA on the financial basis for establishing an agency operation.
3. That the General Manager be authorised to negotiate the final details of the agreement and subject to satisfactory legal advice, enter into an agreement with the RTA.
4. That the Common Seal of Council be affixed to appropriate documents relating to this matter.

MINUTE NO. 672...Contd.

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

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

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MINUTE NO. 673

C00336. Procedural – Re-open Meeting to the Public

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and McLaren **that the Meeting be re-opened to Public participation.**

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MINUTE NO.674

C00336. Procedural - Question that Meeting Close

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

Upon being PUT to the meeting, the QUESTION was AGREED TO UNANIMOUSLY, the time being 9:18 pm on Tuesday, 1 August 2006.

The Ordinary Meeting of the Council then closed.

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