

BLUE MOUNTAINS CITY COUNCIL

ORDINARY MEETING

21 NOVEMBER 2006

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21 NOVEMBER 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, 21 November 2006, commencing at 7:30 pm.

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There were present:

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

* * * * *

In attendance:

General Manager, Group Manager BM City Services, Group Manager Community & Corporate, Group Manager Environmental & Customer Services, Executive Officer, Chief Financial Officer, Executive Principal Planning, Manager Planning Health & Enforcement, Communications Officer, Principal Strategic Planner, and Council Meeting Officer.

* * * * *

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. 795

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

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Creed **that the Minutes of the Ordinary Meeting of 7 November 2006 be confirmed.**

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End of last Minute on Page

DISCLOSURES OF INTERESTS, 21/11/06

MINUTE NO. 796

C00336. Procedural - Disclosures of Interests, 21/11/06

Councillor Angel made the following declaration with regard to Item 9 – Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review:

“I wish to disclose a possible pecuniary interest in the Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following properties:-

40 NINTH AVENUE
KATOOMBA

The Minister for Local Government by instrument has given approval under Section 458 of the Local Government Act, 1993, for me to take part in considerations or discussions of the above matter and to vote thereon.”

Councillor Hamilton made the following declaration with regard to Item 9 – Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review:

“I wish to disclose a possible pecuniary interest in the Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following property:-

56 HAT HILL ROAD
BLACKHEATH

The Minister for Local Government by instrument has given approval under Section 458 of the Local Government Act, 1993, for me to take part in considerations or discussions of the above matter and to vote thereon.”

Councillor O’Grady made the following declaration with regard to Item 9 – Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review:

“I wish to disclose a possible pecuniary interest in the Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following properties:-

MINUTE NO. 796 . . . Contd.

4 VIEW ROAD
WENTWORTH FALLS

4 STEPHEN STREET
LAWSON

9-11 ROMAINE STREET
BLACKHEATH

49 LAWRENCE STREET
BLACKHEATH

The Minister for Local Government by instrument has given approval under Section 458 of the Local Government Act, 1993, for me to take part in considerations or discussions of the above matter and to vote thereon.”

Councillor McInnes made the following declaration with regard to Item 9 – Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review:

“I wish to disclose a possible pecuniary interest in the Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following property:-

4 COOMASSIE AVENUE
FAULCONBRIDGE

The Minister for Local Government by instrument has given approval under Section 458 of the Local Government Act, 1993, for me to take part in considerations or discussions of the above matter and to vote thereon.”

Councillor Van der Kley made the following declaration with regard to Item 9 – Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review:

“I wish to disclose a possible pecuniary interest in the Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following properties:-

6 MURRAY AVENUE
WENTWORTH FALLS (MY HOME)

MINUTE NO. 796 . . . Contd.

194 GREAT WESTERN HIGHWAY (PARTNERSHIP WITH FAMILY)
HAZELBROOK

The Minister for Local Government by instrument has given approval under Section 458 of the Local Government Act, 1993, for me to take part in considerations or discussions of the above matter and to vote thereon.”

Councillor Trindall made the following declaration with regard to Item 9 – Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review:

“I wish to disclose a possible pecuniary interest in the Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following property:-

61 SINGLES RIDGE ROAD
WINMALEE

356 HAWKESBURY ROAD (DAUGHTER)
WINMALEE

The Minister for Local Government by instrument has given approval under Section 458 of the Local Government Act, 1993, for me to take part in considerations or discussions of the above matter and to vote thereon.”

Councillor McLaren made the following declaration with regard to Item 9 – Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review:

“I wish to disclose a possible pecuniary interest in the Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following property:-

504A HAWKESBURY ROAD
WINMALEE

11 HEATHER ROAD (PARENTS)
WINMALEE

The Minister for Local Government by instrument has given approval under Section 458 of the Local Government Act, 1993, for me to take part in considerations or discussions of the above matter and to vote thereon.”

MINUTE NO. 796 . . . Contd.

Councillor Brown made the following declaration with regard to Item 9 – Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review:

“I wish to disclose a possible pecuniary interest in the Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following properties:-

4 BRIDGE ROAD
BLAXLAND

17 CHAPMAN PARADE
FAULCONBRIDGE

15 PLAINSVIEW CRESCENT
MT RIVERVIEW

17 PELLION STREET
BLAXLAND

98 EMU PLAINS ROAD
MT RIVERVIEW

2 BARINA PLACE
BLAXLAND

20 MEREDITH STREET
BLAXLAND

2/93 GREAT WESTERN HIGHWAY
BLAXLAND

The Minister for Local Government by instrument has given approval under Section 458 of the Local Government Act, 1993, for me to take part in considerations or discussions of the above matter and to vote thereon.”

Councillor Creed made the following declaration with regard to Item 9 – Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review:

“I wish to disclose a possible pecuniary interest in the Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following property:-

MINUTE NO. 796 . . . Contd.

6 BRIDGEVIEW CRESCENT
MOUNT RIVERVIEW

The Minister for Local Government by instrument has given approval under Section 458 of the Local Government Act, 1993, for me to take part in considerations or discussions of the above matter and to vote thereon.”

Councillor Frappell made the following declaration with regard to Item 9 – Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review:

“I wish to disclose a possible pecuniary interest in the Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following properties:-

8 CHISHOLM CRESCENT
BLAXLAND

113 GOVERNORS DRIVE
LAPSTONE

47 EMMA PARADE
WINMALEE

28 GLOSSOP ROAD
LINDEN

The Minister for Local Government by instrument has given approval under Section 458 of the Local Government Act, 1993, for me to take part in considerations or discussions of the above matter and to vote thereon.”

The Group Manager, Community & Corporate, P Adams, made the following declaration with regard to Item 9 – Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review:

“I wish to disclose a possible pecuniary interest in the Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) because of an interest, either of myself or of an associate, as defined in Section 456 of the Local Government Act, 1993, in the following properties:-

5 LAGOON DRIVE
GLENBROOK.”

* * * * *

End of last Minute on Page

MINUTE NO. 797

S1. C00299, C00576 Blue Mountains Sister Cities Committee

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

1. That the Council wish Ben Artup and Melinda Vernon every success in the Sanda City International Masters Half Marathon.
2. That the Council thank Marian Crossman, Chairperson of the Blue Mountains Sister Cities Committee, for her report for 2006 and that it be received.

* * * * *

MINUTE NO. 798

1. C07106. Policy for the Payment of Expenses and the Provision of Facilities to the Mayor, Deputy Mayor and Councillors

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

1. That Clause 9.12 in the Draft Policy for the Payment of Expenses and the Provision of Facilities to the Mayor, Deputy Mayor and Councillors be revised to increase the financial limit on phone calls (mobile, land line and fax) to \$200 per month per Councillor and \$310 for the Mayor.
2. That the Council place on public exhibition the revised policy.

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MINUTE NO. 799

2. C01900. First Quarter 2006/2007 Report - Management Plan (Including Capital Works Program) and Operating Budget

RESOLVED UNANIMOUSLY on the MOTION of Councillors Creed and Frappell:

1. That the General Manager's report together with the accompanying documents titled "Quarterly Review Management Plan including Capital Works September 2006 – 2006/2007" and "Quarterly Review Budget September 2006 – 2006/2007" (both separately enclosed) be noted and endorsed.
2. That the variations of income and expenditure as identified in the accompanying documents be noted.

* * * * *

MINUTE NO. 800

3. C00738. Financial Reports for the Year Ended 30 June 2006

RESOLVED UNANIMOUSLY on the MOTION of Councillors Creed and Frappell:

1. That Mr Dennis Banicevic, the Council external Auditor, of PriceWaterhouseCoopers, is invited to address the meeting in respect to the Financial Reports.
2. That the Financial Reports be presented and this report be received and noted.
3. That the Common Seal of the Council be affixed to the necessary documents dealing with this matter.

* * * * *

MINUTE NO. 801

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

RESOLVED UNANIMOUSLY on the MOTION of Councillors Creed and Frappell that the Council approve the following donation from the Councillors' Minor Local Projects
Vote:

<u>Organisation</u>	<u>Amount</u>
Kinship at Christmas Foundation	\$100

* * * * *

MINUTE NO. 802

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

RESOLVED UNANIMOUSLY on the MOTION of Councillors Creed and Frappell:

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.

* * * * *

MINUTE NO. 803

6. X06/0430. Development Application No. X06/0430 for the Demolition of Existing Structures and Construction of a New Retail Development to Provide Six (6) Retail Outlets, Including an Aldi Store, at Lot 1 DP 224396 and Lots 11-13 DP 837270 being No. 201 Katoomba Street and Nos. 39 and 43 Waratah Street, Katoomba

The meeting was addressed by Bridget Jarvis, Tim Rogers, Ross Lardner, Andrew Starr and Rhona Leach.

A MOTION was moved by Councillors Hamilton and Searle:

That Development Application No. X06/0430 for the demolition of existing structures and construction of a new retail development to provide six (6) retail outlets, including an Aldi store at Lot 1 DP 224396 and Lots 11-13 DP 837270 being No. 201 Katoomba Street and Nos. 39 and 43 Waratah Street, Katoomba be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this Report.

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

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

MINUTE NO. 803 . . . Contd.

Conditions of development consent

- | | |
|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Confirmation of relevant plans | 1. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the following plans: <ul style="list-style-type: none">▪ Architectural plans prepared by Suter Architects▪ numbered 8586 DA01-08 and DA12 dated April 2006▪ Landscape plans prepared by PSB numbered 06044 dated April 1 May 2006 and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent. |
| Period of development consent | 2. Physical commencement of construction is required within a three year period from the date of this consent. Should this not occur, the development consent will lapse. |
| Construction certificate (subdivision) | 3. A construction certificate is required prior to the commencement of any site works. This certificate can be issued either by the Council as the consent authority or by an accredited certifier. |
| Public utility provisions | 4. To ensure that appropriate provisions are made for utility provisions, including waste water disposal, certification is to be obtained each of the following providers: <ul style="list-style-type: none">▪ Certification from Sydney Water in relation to water and reticulated sewage systems, including any trade waste agreements. Contact should be made with Sydney Water Trade Waste officer on 02962244 and ensure you meet the relevant requirements.▪ Certification from Integral Energy in relation to electricity capacity and sub station requirement. |
| Building Code of Australia | 5. All building work must be carried out in accordance with the provisions of the Building Code of Australia. |
| Consolidation of site. | 6. To ensure the continued and effective operation of the site, all lots shall be consolidated into one allotment. |

Certification of consolidation of the lots shall be submitted to the Council prior to occupation and use of the site.

MINUTE NO. 803 . . . Contd.

Materials and colours

7. To have regard of the amenity of the area, and to achieve the requirements of the Heritage Impact Assessment, a material and colour board is to be provided to Blue Mountains City Council for approval showing the final details for external walls, roof, ground surfaces, fencing, and other ancillary structures.

The face brick proposed to the undercroft area of the car park (southern elevation) is to appropriately treated/design to allow affective anti graffiti measures.

Details are to be submitted and approved prior to the commencement of building construction work on site.

Landscaping

8. Landscaping is required to ensure that the development contributes to the character of the Blue Mountains and avoids adverse impact on the surrounding residential areas. Amended landscape plans need to be submitted and approved by Blue Mountains City Council showing the following:

- a. A revised schedule of planting both to the identified reserve areas as well as the formal car park planting. Planting to the reserve area shall be of an appropriate type and height to screen the development when viewed from the adjoining residential properties to the south, but avoid excessive overshadowing. In the revised plan the following should be noted.
 - *Agapanthus* must not be included as it is a Scheduled Weed of the Blue Mountains.
 - *Westringia fruticosa* is a short lived coastal species unlikely to provide a sustainable landscape in this location.
- b. Detail of the fencing to be provided around the proposed car park area. Fencing shall be of a suitable height and material to provide security and avoid car light spillage but be low enough to avoid obtrusive visibility.
- c. A boundary fence, approximately 1.8m high, shall be provided between the car park area and the youth hostel to the south. The fence shall run from the setback level of the youth hostel building and extend across the youth hostel's rear courtyard area. The fence shall then reduce in height to the fence height around the remainder of the car park.

MINUTE NO. 803 . . . Contd.

- d. Appropriate street planting and pavement detailing shall be provided along the Waratah and Katoomba Street frontages in a manner that complements the plant species and pavement detail used in the adjoining Katoomba Heritage Conservation Area.**

Contact is recommended with the Council's Landscape Officer prior to finalisation of the revised design. The revised landscape plan shall be submitted and approved prior to the commencement of any landscape work.

Potentially contaminated site

- 9. The development shall comply with the recommendations of the Environmental Site Assessment of Coffey Geosciences Pty Ltd (Coffey) numbered SEOO101/1-AH and dated 2 May 2006. In this regard, the following is required to be submitted to and approved by Blue Mountains City Council prior the release of a Construction Certificate**
 - a. A Remedial Action Plan (RAP) presenting remediation and validation procedures for the site.**
 - b. The RAP is to include an inspection and testing program to assess the waste classification of sandstone required to be excavated to facilitate construction of the basement on and around the service station site.**
 - c. A contingency plan is to be designed and implemented to deal with any potentially contaminated materials encountered within fill material during construction.**

Crime prevention

- 10. The development shall comply with the recommendations of the Crime Prevention Report of Brett Martin, dated 6 April 2006. In this regard, the following requirements should be particularly noted:**
 - a. Access to basement car park;**
 - b. Basement car park light and treatment;**
 - c. Landscape/planter boxes street level;**
 - d. Enclosed fire exits, lobbies and corridors.**

MINUTE NO. 803 . . . Contd.

Noise mitigation

11. The development shall comply with the recommendations of the Noise Assessment Report of Wilkinson Murray Pty Ltd, dated April 2006. In this regard, the following should be noted:
- a. All air conditioning/compressor units are to have low volume operational modes and be located so as to not exceed 5dBA above the background noise level when measured at the property boundary.
 - b. To ensure the noise from shopping development does not result in objectionable noise to any affected residence, the LAeq noise level emitted from the development including, onsite vehicle movements, mechanical plant and the other activities associated with the operation of the shopping complex is not to exceed the background noise level (L90) in any Octave Band Centre Frequency (31.5 Hz — 8k Hz inclusive) by more than 5 dB at the boundary of any affected residence.
 - c. Any acoustic screening necessary to achieve the required noise measurements to the plant equipment shall be designed to avoid being inappropriately visible to the surrounding area.
 - d. The 2.5 metre noise barrier identified in the report is not approved.

Prior to occupation of the development, the in-situ equipment shall be tested and a report produced from a qualified acoustic consultant certifying that these noise objectives have been met.

Light spillage

12. The development shall comply with the recommendations of the Obtrusive Spill Light Report of Webb Australia, dated 4 May 2006. In this regard, the following is particularly noted:
- The main car park lights shall be turned off no more than 30 minutes after closing time
 - Light bulbs used in the main car park lights shall be selected to avoid inappropriate glare during overcast or foggy periods.

MINUTE NO. 803 . . . Contd.

Prior to occupation of the development, the main car park lights shall be tested and a report produced from a qualified lighting consultant certifying that the recommendations in the Obtrusive Spillage Light Report have been met.

Geotechnical requirements

13. To ensure the safety of the site, the development shall be undertaken in accordance with the recommendation in the Geotechnical Investigation Report of Hughes Trueman Pty, dated 9 May 2006. In this regard, the following is particularly noted:

- Site preparation
- Excavation conditions
- Foundations
- Retaining walls
- Pavement design and construction parameters

An experienced geotechnical engineer is to be engaged during construction to directly supervise all excavation activities. The geotechnical engineer will be responsible for assessing the sub surface conditions and design requirements.

- 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.
- e. All surplus excavated soils or other material, including contaminated soil, shall be removed from the site and disposed of in an appropriate manner. Any use of clean excavated material at a secondary site shall be advised and approved by the Council, prior to its use at the secondary site.
- f. Quiet plant equipment should be used and regularly maintained
- g. Plant equipment is to be fitted with appropriate mufflers
- h. The use of hydraulic hammers should be minimised during demolition.

MINUTE NO. 803 . . . Contd.

Demolition management

14. Demolition work is to be executed by a competent person, with due regard for safe working practices and in accordance with the requirements of the WorkCover Authority.

At all times during demolition a competent person shall directly supervise work. Such work is to be carried out in accordance with the Occupational Health and Safety Regulations, 2001, and Australian Standard 2601 – 1991.

It is the responsibility of the person to ensure that:

- a. The requirements of the approved Remediation Action Plan are followed.
- b. The structures to be demolished and all their components are maintained in a stable and safe condition at all stages of the demolition work.
- c. Temporary bracing, guys, shoring or any combination of these, shall be added for stability where necessary.
- d. precautions are taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained particularly in the event of sudden and severe weather changes. Severe weather changes refer primarily to the localised high winds. In these circumstances loose debris can become airborne, particularly if it is in sheet form.
- e. The site shall be secured at all times against the unauthorised entry of persons or vehicles.
- f. Utility services within the structure not required to be maintained during the demolition work shall be properly disconnected and sealed off before any stripping or demolition commences.

Demolition of Buildings containing hazardous materials

15. The applicant is to notify the Council and adjoining residents, in writing, at least ten (10) working days prior to demolition involving an area containing hazardous material, including asbestos cement. In the case of adjoining residents, such notification is to be a clearly written note, on at least note pad size paper, giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately to the rear of the demolition site.

MINUTE NO. 803 . . . Contd.

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|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Disposal of Asbestos | 16. All asbestos material, including asbestos cement, is to be disposed of to an approved waste management facility licensed to receive asbestos. |
| Display of signage | 17. The developer will display appropriate asbestos/demolition signage prior to and during all demolition works. |
| Order of demolition | 18. Unless otherwise permitted by the Council, each existing structure on site shall be demolished in the reverse order to its construction. The order of demolition for building shall be progressive, having proper regard to the type of construction. |
| Adjoining buildings | 19. In consideration of the proximity of the development to the two adjoining heritage items and extent of excavation proposed, the following requirements shall be met: <ul style="list-style-type: none">▪ A structural engineer shall be on site during the excavation process and shall directly supervise the excavation work to ensure adequate shoring is undertaken.▪ The effect of vibration and concussion on the adjoining buildings is to be minimised by selection of appropriate demolition methods and equipment.▪ A Dilapidation Survey shall be undertaken of the two adjoining heritage items, being Homesdale to the south and the Baptist Church to the west, prior to the commencement of any excavation work. The survey shall have the aim of identifying the existing state of each building. A copy of the survey shall be submitted to the Council prior to the commencement of any excavation work.▪ Where the excavation extends below the level of the base of the footings of the adjoining buildings, all works shall be carried out to preserve and protect them. Where necessary, the building shall be underpinned and supported. At least 7 days notice must be given to the owner of an adjoining property indicating an intention to excavate.▪ No demolition or construction activity is to cause damage to or adversely affect the structural integrity of adjoining buildings. Consideration should be given to the use of shoring and underpinning and to changes in the soil conditions as a result of excavation and development and appropriate action taken. |

MINUTE NO. 803 . . . Contd.

- Safe access and egress from adjoining buildings is to be maintained at all times for the duration of the demolition and construction work.

Hoarding / fencing

20. To ensure the protection of the public, hoardings are to be provided on all sides of the site to the requirements of NSW WorkCover Authority.

Dust control

21. The techniques adopted for stripping out and for demolition are to minimise the release of dust into the atmosphere.
- Before commencing work, any existing accumulations of dust are to be collected, placed in suitable containers and removed. Selection of appropriate collection techniques, such as vacuuming or hosing down, shall take account of the nature of the dust and the type of hazard it presents (eg. explosive, respiratory etc).
 - Dust generated during stripping or during the breaking down of the building fabric to removable sized pieces shall be kept damp until it is removed from the site or can be otherwise contained. The use of excess water for this purpose is to be avoided. It should be borne in mind, that in certain environments and under certain stimuli, deposits of combustible dust on beams, machinery and other surfaces may be subject to flash fires, and suspensions of combustible dusts in the air can cause them to explode violently (see NFPA Handbook).

Food handling and preparation areas

22. a. Any food handling and preparation areas shall comply with National Food Standard 3.2.3 Food Premises and Equipment and Australian Standard 4674-2004 “Design, Construction and Fitout of Food Premises.”
- Details are to be submitted to the Principal Certifying Authority as part of the Construction Certificate documentation.

MINUTE NO. 803 . . . Contd.

- b. Garbage and recycling facilities are to be provided in accordance with Australian Standard 4674-2004.

Details including tap, and drain to the reticulated sewer are to be submitted to the Principal Certifying Authority as part of the Construction Certificate documentation.

- c. Designated hand washbasins will be required for washing of hands. The washbasin shall have a permanent supply of warm running potable water delivered through a single outlet. Taps to the hand washbasin must be hands free or elbow operated.

Hours of operation of the Aldi store

23. The hours of operation of the Aldi store is limited to the following:

- Monday to Wednesday 9:00am–6:00pm
- Thursday 9:00am–9:00pm
- Friday 9:00am–6:00pm
- Saturday 8:30am–6:00pm
- Sunday 10:00am–4:00pm

Deliveries to the Aldi store

24. To ensure the effective mitigation of potential noise and light impact to adjoining properties, deliveries to the Aldi store shall be limited as follows:

- Monday to Saturday 700am–700pm
- Sunday 8.00am–6.00pm
- Deliveries to the development by vehicles larger than a Small Rigid Truck are to be restricted to between 7am and 11am every day of the week

Variation of the above delivery times is possible with the written approval of Blue Mountains City Council

The following additional noise management measures shall also be implemented:

- Vehicles visiting the site shall be restricted to a maximum 19m long articulated semi-trailer.
- A maximum of 2 deliveries per day.
- Delivery trucks are to be fitted with rear facing video monitoring systems. Reversing alarms are not to be used.
- Trailer refrigeration units are to be switched off before entering the site and left off until after exiting the site.

MINUTE NO. 803 . . . Contd.

Advertising Structures

25. To minimise the potential for an adverse visual impact on the surrounding area, advertising on site shall be limited to the following:
- one wall advertisement sign (Katoomba/Waratah Street intersection)
 - one wall advertisement sign (East Elevation facing Waratah Street)
 - The wall advertisement sign shall not project more than 300mm from the façade.

First use

26. A separate development application is required to legally establish the first use of each of the remaining retail premises, prior to occupation or use of each premise.

Internal pavement

27. 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 certified as being designed in accordance with Australian Standards 2890.1/2004 and 2890.2/2004 as necessary. All clearance heights are to be certified as complying with AS 2890 and the Building Code of Australia.

The driveways and parking areas are to be changed in accordance with the stamped approved plans prepared by Suters, numbered DA04 issue A, DA 05 issue A, dates 5 May 2006 as amended in red by Council.

Delivery vehicle access routes

28. The arrival and departure routes for delivery vehicles larger than a Small Rigid Truck are restricted to Great Western Highway, Parke Street, Waratah Street and Katoomba Street.

MINUTE NO. 803 . . . Contd.

Site stormwater system

29. 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. 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 drainage system.

On site detention

30. 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 or commercial, and garage floor levels are to be located a minimum 300 mm and 100 mm respectively 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 drainage system.
- c. A 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.

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.

MINUTE NO. 803 . . . Contd.

On site detention and water quality device positive covenant

31. To ensure the on site detention system and water quality device 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:

- 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 (OSD) and water quality device (WQD) facilities 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 and WQD 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 and WQD or failure to clean, maintain and repair the OSD and WQD.

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 the Council prior to lodgement at NSW Land and Property Information. Proof of lodgement with NSW Land and Property Information shall be submitted to the Council prior to the issue of the Occupation Certificate.

Gross pollutant trap

32. Provision of a Water Quality Device (WQD) similar to a 'Humeceptor' shall be installed to treat the contaminated runoff, particularly gross pollutants and oils and greases, generated from the above ground car parking area. In this regard, the WQS is to be located upstream of the OSD and all stormwater runoff generated from the above ground car parking area is to be collected and piped to the WQD prior to discharging into the OSD.

MINUTE NO. 803 . . . Contd.

Works in the Council's roads

33. The following engineering works shall be constructed by the applicant at the applicant's expense:
- a. The construction of new 150mm vertical concrete kerb and gutter and reconstruction and sealing with asphalt of the footpath over the full Katoomba and Waratah Street frontages of the site.
 - b. The alignment of the kerb and gutter is to be generally the same as the existing kerb alignment, with provision made for realignment of the kerb return to accommodate the delivery vehicle departure route.
 - c. Subject to the approval of the Local Traffic Committee, 'No Stopping' restriction signs and stems are to be provided in the following locations:
 - On the eastern side of Katoomba Street opposite the entry driveway to the site, and extending approximately 27m north along Katoomba Street. This is to enable the entry manoeuvre to the site for large delivery vehicles.
 - On the western side of Katoomba Street from the entry driveway and extending approximately 21m to the south along Katoomba Street. This is to facilitate suitable sight distance along Katoomba Street.
 - This is to include the adjustment of the existing parking restrictions and the installation of generally as shown in red on the stamped approved plans and in accordance with the Australian Road Rules.
 - d. The driveway layback and footpath crossing is to be constructed in heavy duty construction.
 - e. These works are to include all necessary works, including transitions of the internal footpaths and driveways, service adjustments, line marking and signage, to make the construction effective.

Detailed engineering plans prepared by a qualified person and endorsed by a chartered civil engineer with NPER registration shall be submitted to and approved by the Council prior to the issue of the Construction Certificate.

Approval of the engineering designs by the Council is subject to the payment of the prescribed Engineering Development Fees, the amount of which will be advised at the time of lodgement.

MINUTE NO. 803 . . . Contd.

Construction in Council's
roads

34. Where works are carried out on the Council or public lands (ie. roads, parks etc.) by or on behalf of the applicant, the following conditions shall be satisfied:

Following the final inspection, any work considered by the Council as unsatisfactory shall be rectified to the Council's satisfaction at no cost to the Council. The Council's 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 the 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 handing, deliveries and construction traffic and parking.

- 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 with the Traffic Management Plan Report.

The contractor shall submit to the 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.

MINUTE NO. 803 . . . Contd.

- 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

35. An unconditional (open ended) performance maintenance bond to the value of five (5) percent of the engineering construction or a minimum of \$20,000, whichever is the greater, to guarantee the safety of the public, environmental protection performance and maintenance during and after construction in the Council's road shall be paid to the Council.

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

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

Relocation of services

36. 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

37. 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.

Certification by Council

38. 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 the Council's satisfaction.

MINUTE NO. 803 . . . Contd.

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| Compliance with standards | 39. All internal and external engineering works required by this development are to be in accordance with the Council's Specification for Engineering Work for Subdivisions and Development, Part 1—Design and Part 2—Construction (Development Control Plan No. 31), Australian Rainfall and Runoff 1987 and other relevant Australian Standards. The design and construction is to include any additional works to make the construction effective. |
| Structural works | 40. The design of all structural works shall be certified by a chartered structural engineer (NPER–3 Structural registered) as conforming to the relevant standards and load capacities. |
| Certification of structural works | 41. The construction of all structural works shall be certified by a chartered structural engineer (NPER–3 Structural registered) as conforming to the relevant standards and load capacities. |
| Supervision of internal engineering works | 42. 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. |
| Works as executed plans | 43. 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. |
| Sedimentation and erosion control | 44. 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' (Volume 1), dated March 2004 by Landcom NSW.

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. |

MINUTE NO. 803 . . . Contd.

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.

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MINUTE NO. 804

7. X05/1022. Development Application No. X05/1022 for the Addition of 3 by 128 Seat Cinemas, Rock Climbing Gym, Relocation of Existing Restaurant Facilities and Revised Retail on Lot 1 DP 848603, Nos. 225-237 Great Western Highway, Katoomba

The meeting was addressed by Grant Smith, Paul Gallagher and Max Fragar.

An AMENDMENT was moved by Councillors McInnes and O’Grady that this item be deferred to consider and reconcile the issue of increased floor space and reduced parking.

Upon being PUT to the meeting the AMENDMENT was LOST, the voting being:

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

A MOTION was moved by Councillors Hamilton and Myles:

That Development Application No. X05/1022 for addition of 3 by 128 seat cinemas, rock climbing gym, expansion and relocation of restaurant and fast food facilities and new signage on Lot 1 DP 848603, Nos. 225-237 Great Western Highway, Katoomba be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by the granting of development consent subject to the following conditions.

MINUTE NO. 804 . . . Contd.

Structure:

Conditions are generally organised in relation to the following stages of the development process:

- A. Preliminary
- B. Engineering Works
- C. Prior to issue of Construction Certificate
- D. Prior to commencement of works on site
- E. During construction
- F. Prior to issue of occupation certificate
- G. Occupation and ongoing use

A. Preliminary

Confirmation of relevant plans

1. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans prepared by Studio GA Pty Ltd and dated 27/07/05 (unless otherwise specified) and numbered:

5.05 DA 0501
5.05 DA 1101
5.05 DA 1201
5.05 DA 1202
5.05 DA 1301
5.05 DA 1302
5.05 DA 1401
5.05 DA 1501
5.05 DA 1601
L-02(C) Anton James Design 29.08.05

and supportive documentation, except:

- a. that the advertising signs are not approved as part of this development consent but will require the submission of a separate development application; and
- b. as further modified by the conditions of this consent.

Period of development consent

2. Physical commencement of construction is required within a three (3) year period from the date on which the consent becomes operational pursuant to s.95 (Lapsing of Consent) of the *Environmental Planning and Assessment Act 1979*. This period may only be extended by a period of one (1) year in accordance with Section 95A of the Act.

MINUTE NO. 804 . . . Contd.

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| Staging of construction | <p>3. a. The proposed development may be constructed as a single development or can be constructed and occupied in four stages generally in accordance with the staging plan prepared by Studio GA and the related description in item 4.14 of the Statement of Environmental Effects prepared by JBA Planning Consultants and dated September 2005, except as otherwise varied by the following requirements, including the Staging Management Plan:</p> <p>b. Stage One shall include construction of:</p> <p>i. all of the driveway, forecourt, and associated bus and car parking, loading bay and directional and information signage required to make the facility; and</p> <p>ii. all of the landscaping as shown in the concept landscaping plan, other than the elevated outdoor terrace, and the planting bed under cinema three, both of which are proposed to be completed at a later stage</p> <p>c. A Staging Management Plan shall be submitted to Blue Mountains City Council for approval prior to the release of the Construction Certificate for Stage 1 of the development showing how each stage is going to be appropriately completed, including finished material, any temporary walls, retaining walls and access ways such that each stage will effectively operate as a completed development.</p> <p>d. Unless otherwise specified, references to requirements for matters to be done prior to the issue of a certificate or at some other point in the process shall be read so as to apply to each Stage.</p> |
| <hr/> Construction certificate (building) | <p>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.</p> |
| <hr/> Construction certificate (food shop or refreshment rooms fit out) | <p>5. A construction certificate is required prior to the commencement of fit out of the food premises shown on plans 05.05 DA 1201 and 1301 This certificate can be issued either by Council as the consent authority or by an accredited certifier.</p> |

MINUTE NO. 804 . . . Contd.

B. Engineering Works

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| Council's Specifications for Engineering Works | 6. All engineering works required by this development (including sediment and erosion controls, road, access, footpath and drainage works) 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. |
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The design and construction is to include any additional works to make the construction effective.

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| Stormwater management and drainage system | 7. All stormwater runoff from impervious areas of the site is to be collected and drained by a gravity underground stormwater system to the Public road drainage system. The stormwater system is to be designed by a qualified person and endorsed by a chartered civil engineer with NPER registration for a 1 in 5 years ARI, 5 minutes duration storm and in accordance with ARR 1987. Provision shall be made for an emergency overland flow path capable of conveying all surcharge flows up to and including the 1 in 100 years ARI storms to the public road. |
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The stormwater drainage system shall include the following:

- Alteration or amplification of the onsite detention system as necessary, to ensure no post-development increase in discharge rates from the site for all storm events between a 1 in 5 and a 1 in 100 year ARI.
- Any works to make existing system effective.
- The restoration of all disturbed areas to Council's satisfaction.
- Measures to treat the runoff so that the water quality leaving the site after the development is equal or better in standard than that released prior to the development of the site.

C. Prior to issue of Construction certificate

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| Site disturbance and erosion control | 8. Provision of an Erosion and Sediment Control Plan (ESCP) for consideration and approval by the Principal Certifying Authority prior to the issue of any relevant construction certificate. |
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MINUTE NO. 804 . . . Contd.

**Stormwater management
and drainage system design**

9. Prior to the issue of the Construction Certificate for Stage 1, fully detailed engineering plans of the proposed stormwater drainage, onsite-detention and water quality control systems are to be submitted to the Principal Certifying Authority for consideration and approval.

Construction Management

10. Prior to the issue of any Construction Certificate, a Construction Management Plan is to be submitted for Council's consideration and approval. The Construction Management Plan is to detail the following:
- a. the construction program
 - b. routes of construction vehicles,
 - c. proposed hoarding location, type, height, and duration,
 - d. a Pedestrian and Traffic Management Plan detailing the proposed methods for maintenance of onsite parking, safe pedestrian and vehicle access within and through the site during the construction phase.
 - e. days and hours of construction
 - f. measures that will be taken to limit the impact of construction noise on adjoining residences,
 - g. proposed delivery/loading/storage/stockpile locations, ensuring that effective site operation is maintained and
 - h. means of protecting vegetation that is to be retained.

**Bus and Coach Management
Plan**

11. Prior to the issue of the Construction Certificate for Stage 1, a long-term Bus and Coach Management Plan is to be submitted for Council's consideration and approval. The Bus and Coach Management Plan is to detail all of the management operations associated with achieving safe management of the site, including the details of the following:
- a. time restrictions on the use of the parking area by domestic vehicles, buses and coaches
 - b. arrangements for the marshalling of bus and coach maneuvering within the car parking area
 - c. the management of vehicles entering the site via the slipway from the Highway so as to avoid conflicts
 - d. how buses and coaches are to be denied access from the highway, in conformance with the requirements of the RTA and any agreement reached with the RTA in this regard.
 - e. How bus and coach operations will be managed during any construction phase that may impact on the access to or availability of this area of the site.

MINUTE NO. 804 . . . Contd.

Satisfaction of the requirements of the Roads and Traffic Authority and Approval under the Roads Act 1993

12. a. The applicant must comply with the requirement of the Roads and Traffic Authority, that they are to be informed of the traffic measures to be undertaken to prevent bus access via the existing deceleration lane; and
- b. Provide evidence to the Council of the agreement of the RTA with the proposed measures prior to the issue of the Construction Certificate for Stage 1.
- c. Any work that is required in the Great Western Highway road reserve in order to implement any measures agreed with the RTA will require the approval of the RTA under the Roads Act 1993 prior to the issue of the Construction Certificate for Stage 1.
- d. Any relocation, alteration or new public infrastructure made necessary as a result of this development is to be carried out at no cost to Council or the community, with evidence that satisfactory arrangements have been made with the RTA submitted to the Principal Certifying Authority prior to release of the Construction Certificate for Stage 1.

Structural Design Certification

13. 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. The certification is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate for the relevant stage.
- Any certification of structural design for works that may be required in a public road reserve is to be submitted to the Council or the RTA (whichever is relevant) prior to issue of the Roads Act approval.

MINUTE NO. 804 . . . Contd.

Services

14. a. The development shall be connected to the Sydney Water reticulated sewerage and water supply systems.
- b. Arrangements must be made with Integral Energy, Sydney Water and an approved telecommunications service provider for the extension or amplification of such services to and within the site and written evidence of such arrangements are to be submitted prior to the issue of the construction certificate for the relevant stage.
- c. 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.
- d. Any relocation, alteration or new public utility infrastructure made necessary as a result of this development is to be carried out at no cost to Council or the community, with satisfactory arrangements being made with the authority concerned, and a certificate of clearance obtained from each relevant authority and submitted to the Principal Certifying Authority prior to release of the Construction Certificate.

A copy of written evidence or certificates referred to in (b), (c) and (d) above are to be supplied to Council for its records.

Access and mobility statement

15. To ensure access and facilities for disabled people are provided, a statement shall be provided with each stage that certifies that the development complies with the provisions of the *Disability Discrimination Act 1992*; Clauses 107 of *Local Environmental Plan 2005*, Australian Standard AS1428 and AS 4299 and Council's *Better Living Development Control Plan*. This statement is to be provided prior to the issue of a Construction Certificate for the relevant stage.

Fit out of food premises

16. The fit out of the new food premises shall comply with the requirement of AS 4674.2004 and Food Safety Standard 3.2.3. Full details are to be submitted to the Principal Certifying Authority with the relevant Construction Certificate documentation.

MINUTE NO. 804 . . . Contd.

Garbage, recycling and oil storage for food premises

17. To comply with AS4674-2004 “Design, construction and fit-out of food premises”, a designated garbage, recycling and waste oil storage area food premises shown as “shop/cafe” on the plan numbered DA 1004 (Ground Floor Plan) is to be provided with a water supply through a hose tap and paved with an impervious material and graded and drained to an approved waste disposal system.

Odour control

18. Prior to the issue of the Construction Certificate for Stage 1, the applicant is to submit a proposal to the Council for approval, demonstrating how best management practice construction, maintenance and monitoring methods will be implemented so as to prevent objectionable odours from cooking processes associated with all of the food premises in the complex, affecting nearby residences.

The odour control proposals must demonstrate consistency with the relevant standards and guidelines, including but not limited to AS 1668.2 1991 ‘Mechanical ventilation for acceptable indoor air quality’; ‘AS4674-2004 ‘Design, construction and fit-out of food premises; ‘Approved Method’s of Sampling and Analysis of air Pollutants in New South Wales 2005’ by the Dept Environment and Conservation(DEC), and any other relevant DEC endorsed guidelines.

Provision must then be made to incorporate the agreed construction, maintenance and monitoring proposals into the relevant documentation for each stage.

Detailed Landscaping Plan

18. The applicant is to submit a detailed landscaping plan suitable for the construction of the Landscape Concept Plan dated 29 August 2005 L-02(C) prepared by Anton James Design, which must specify the following matters, required to make the concept plan effective, prior to the issue of the Construction Certificate:
- a. how all of the approved landscaping, which must be installed in Stage 1 of the development, is to be protected during the construction of subsequent stages;
 - b. the construction of any planting beds where required, and the site preparation for each area of landscaping;
 - c. plant sizes and quantities. (All plants in readily accessible areas of the site and in the side boundary setback to the north must be in an advanced stage of growth at the time of planting-minimum 20 litre container for trees and 10 litre container for shrubs); and
 - d. maintenance regimes.

MINUTE NO. 804 . . . Contd.

D. Prior to commencement of works on site

Builders details 19. 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 20. 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:

- a. The statement "*Unauthorised access to the site is not permitted*".
- b. The names of the builder or another person responsible for the site along with an out of hours contact number.
- c. Lot or Street number.

Installation of sediment and erosion controls 21. Sediment and erosion controls are to be installed in accordance with the approved Erosion and Sediment Control Plan prior to the commencement of works on site.

Installation of pedestrian and traffic controls 22. All pedestrian and traffic controls are to be installed in accordance with the approved Pedestrian and Traffic Management Plan and Construction Management Plan prior to the commencement of works onsite.

E. During Construction

Plans on site 23. A copy of the stamped and approved plans, development consent, the construction certificate/s and relevant management plans are to be on the site at all times.

Demolition and removal of demolition waste 24. a. All demolished material and any spoil from the site shall be disposed of at an approved waste depot. No material is to be burnt on site.

MINUTE NO. 804 . . . Contd.

Site management

25. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, all works are to be managed in accordance with the approved Construction Management Plan, and the following:
- a. Site and building works (including the delivery or removal of materials) shall only be carried out on Monday to Friday between 7am-5pm only, and from 8.30am to 3pm on Saturdays. No site and building works (other than work that is inaudible off the site and which does not generate odour or dust), or delivery or removal of materials is to be carried out outside those hours.;
 - b. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be wholly contained within site, and stored clear of any drainage path or easement, and clear of any footpath, driveway or parking area required to maintain operations on the site 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 wholly within the development site. 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.

Demolition management

26. The work is to be executed by a competent person, with due regard for safe working practices and in accordance with the requirements of the WorkCover Authority. Such work is to be carried out in accordance with the Occupational Health & Safety Regulations, 2001, and Australian Standard 2601 – 1991.

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

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

MINUTE NO. 804 . . . Contd.

- c. these circumstances loose debris can become airborne, particularly if it is in sheet form.
 - d. The demolition area on the site shall be secured at all times against the unauthorised entry of persons or vehicles.
- Utility services within the structure not required to be maintained during the demolition work shall be properly disconnected and sealed off before any stripping or demolition commences.

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| Protection of retained vegetation | 28. The existing landscaping within the boundary setbacks as described in the approved Concept Landscaping Plan L-02(C) (Landscape Plan), is to be retained and protected, including by the use of temporary fencing in areas of site affected by construction activity. |
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| Construction Management Plan | 29. All measures of the approved Construction Management Plan are to be implemented during the construction phases of the development. |
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| Landscaping construction and maintenance | 30. <ul style="list-style-type: none">▪ All works shown on the detailed landscaping plan approved by the Council pursuant to earlier condition shall be installed in Stage 1 of the development, other than as described in Condition 3b..▪ 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. |
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| Survey report | 31. To ensure that the building does not encroach on the minimum required setbacks, a <i>survey report</i> by a registered Land Surveyor must be provided to the Principal Certifying Authority prior to the work proceeding beyond: <ul style="list-style-type: none">a. slab formwork.b. foundation walls.c. walls and completed eaves/gutter/fascia/gable. |
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F. Prior to issue of occupation certificate

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| Stormwater management and drainage system | 32. Prior to the issue of any Occupation Certificate, certification is to be provided to the Principal Certifying Authority by a chartered civil engineer with NPER registration that the stormwater drainage, onsite detention and water quality control systems have been installed in accordance with the approved designs. |
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MINUTE NO. 804 . . . Contd.

**Roads and Traffic Authority
Certification**

33. Prior to the issue of any Occupation Certificate, certification is to be provided to the Principal Certifying Authority from the Roads and Traffic Authority confirming that all works required to prevent bus access via the existing deceleration lane have been completed to the satisfaction of the Roads and Traffic Authority.

**Positive covenant for
maintenance of onsite
detention system**

34. 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 registration with NSW Land and Property Information shall be submitted to Council prior to the issue of the Occupation Certificate.

MINUTE NO. 804 . . . Contd.

Acoustic report and treatments

35. The building shall be designed and constructed in accordance with the Acoustic Design criteria and design controls specified in the acoustic report of Hyder Consulting Pty Ltd dated 13 September 2005 and the building is to be constructed to provide effective attenuation of noise and
- a. To ensure the amplified auditoria noise from the cinema complex does not result in objectionable noise at any affected residence, the L A1 noise levels are not to exceed the LA 90 noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive,) a report shall be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate for the relevant stage, from a suitably qualified and practising acoustic engineer certifying that this condition has been met.
 - b. To ensure that noise from the cinema complex does not result in objectionable noise at any affected residence, noise levels from all noise sources at the complex are not to exceed the LA 90 noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive, a report shall be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate for the relevant stage, from a suitably qualified and practising acoustic engineer certifying that this condition has been met

Structural certificate

36. To ensure all structural works have been completed in accordance with the approved structural details, a certificate from a registered Structural Engineer is to be submitted to the Principal Certifying Authority on completion and prior to occupation or use for each Stage. This shall certify that all structural components of the work have been constructed in accordance with the approved structural details and is structurally adequate for the imposed loads.

Repair of damage

37. 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. 804 . . . Contd.

**Operational Management
plan- Preparation**

38. a. In order to ensure the efficient and effective management and monitoring of the operations of the complex, an Operational Management Plan shall be prepared and submitted for the approval of the Council prior to the issue of the Occupation Certificate for Stage 1 and shall be updated and approved by the Council prior to the issue of the Occupation Certificate for each subsequent stage.
- b. The Operational Management Plan shall include a copy of the approvals applying to the building and operation of the building that are connected to the grant of development consent and the action to be taken by the operator to ensure that the complex is operated according to the conditions of this consent and any amendments thereto.
- c. The Operational Management Plan shall include but not limited to the following:
- i. Noise
 - Details of the management measures that are being implemented and by whom, to achieve compliance with the required noise outcomes and the noise report and
 - Management procedures to receive and manage neighbourhood noise complaints including detailed records of those complaints
 - Copies of any noise monitoring studies and any measures taken to respond to the results of that monitoring
 - ii. Odour
 - Details of the management measures that are being implemented and by whom, to achieve compliance with the odour control requirements
 - Management procedures to receive and manage neighbourhood odour complaints, including detailed records of those complaints
 - Copies of any odour monitoring studies and any measures taken to respond to the results of that monitoring
 - iii. Details of the approved operating capacity of each component (seating numbers, floor area and floor layout) and the hours of operation for each component and any other limitations agreed by the operator to apply to the operation of particular areas or component in order to achieve acceptable environmental outcomes
 - iv. Shall include a schedule of the maintenance and/or

MINUTE NO. 804 . . . Contd

- v. **monitoring tasks** required to comply with the site management as it relates to matters specified in the application and these conditions, including:
 - Stormwater detention and water quality controls
 - Sewage effluent management
 - Noise
 - Odour
 - Landscaping

Details of the implementation of the bus and coach management plan.

G. Occupation and ongoing use

Advertising signage

39. To protect the visual amenity of the neighbourhood and the city, an application for advertising signs must be made to and approved by Council prior to erection. Advertising signs must be in accordance with Council's *DCP 21- Advertising and Information Signage* and SEPP 64..

Permissible hours of operation & hours for delivery and waste removal

40. To minimise impacts on the residential amenity, the following limits shall apply to the hours of operation of the complex:
- a. Delivery and waste removal vehicles are not to access the site on Sundays or public holidays, with deliveries not to occur between the hours of 6.00 pm and 6.00 am.
 - b. The final sessions for the cinemas will commence no later than 8.30pm,;
 - c. The food court will be restricted to operation between the hours of 9am and 9pm.
 - d. The rock climbing gym will be restricted to operation between the hours of 7am and 9pm.
 - e. The restaurant shall be limited to opening hours of 11.30am to 3pm
 - f. The outdoor garden terrace shall not be open to patrons after 9pm.
 - g. The café cocktail bar is to be limited to between the hours of 4pm and 8.30pm.

These hours of operation may only be varied for specific occasion with the written approval of the Council.

Food Safety

41. Forty eight (48) hours notice is to be given to the Council prior to the premises being occupied, to enable a final inspection and assessment of compliance of the business with Food Safety Standards.

MINUTE NO. 804 . . . Contd.

**Operational Management
Plan- Implementation**

42. The approved Operational Management Plan shall be updated in and maintained by the operator, incorporating the agreed requirements in relation to each Stage and any amendments to the consent, and shall be available for inspection at any time during the normal hours of operation upon request by a duly appointed representative of the Council.

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

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

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MINUTE NO. 805

8. X06/0490 Development Application No. X06/0490 For A Seniors Living Development Of Ten Dwellings At Lot B Dp 391940, No. 33 Falls Road, Wentworth Falls

A MOTION was moved by Councillors Van der Kley and Creed that development application No. X06/0490 for a Seniors Living development of ten dwellings at Lot B DP 391940, No. 33 Falls Road Wentworth Falls be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by granting consent subject to the conditions included as Attachment 1 to this Report.

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

MINUTE NO. 805. . . Contd.

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

Proposed conditions of development consent

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| Confirmation of relevant plans | 1. | To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans prepared by Frank Kosztelnik, numbered 2305 sheets 1- 6, and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent. |
| Period of development consent | 2. | Substantial physical commencement of the use is required within a two year period from [insert date of judgement. Should this not occur, the development consent will lapse. |
| Concurrence of NSW Rural Fire Service and the Department of Environment and Conservation under Section 91 of the Act | 3. | The proposed development shall be carried in accordance with the General Terms of Approval issued for the site by the Rural Fire Service (ref D06/1204) and Department of Environment and Conservation (ref 9012580), copies of which are attached to this consent. |
| Section 94 Development Contributions | 4. | The payment to the Council of the following contributions pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979, prior to issue of the Occupation Certificate for the provision of: |

Element	Area	\$
Open Space	2	3,197.07
Bush Fire Services	2	1,895.40
Administration	2	248.85
Total contribution due		5,341.32

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

MINUTE NO. 805. . . Contd.

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

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- Construction certificate (building)**
5. A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by the Council as the consent authority or by an accredited certifier.
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- Access and mobility statement**
6. To ensure appropriate access and facilities for Older People or People with a Disability, a statement is required from a suitably qualified Access and Mobility Specialist, certifying that the development complies with all the relevant provisions of the following:
- State Environmental Planning Policy – Seniors Living, Clause 51-72
 - Australian Standard AS1428, and
 - Australian Standard AS4299-1995 Adaptable Housing Class C.
- This statement is to form part of the Construction Certificate documentation.
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- Building Sustainability Index.**
7. The plans submitted for the Construction Certificate shall reflect all the finished external and internal materials, including insulation levels etc, used to attain the respective Basix Certificate issued under ABSA assessor certificate number 83517353, dated 12 May 2006
- The material submitted for the Construction Certificate shall include a statement from the accredited ABSA assessor, that all material used for the rating has been incorporated into the Construction Certificate plans.
-
- Compliance with State Environmental Planning Policy Seniors Living**
8. An instrument is to be created, pursuant to Section 88B of the Conveyancing Act 1919, and submitted in a form acceptable to the Council, prior to occupation of the units, indicating that the only permitted occupants or owners of units within the development are as follows:
- a. Seniors (aged 55 years or over) or people who have a disability,
 - b. People who live within the same household with seniors or people who have a disability,
 - c. Staff employed to assist in the administration of and provision of services to housing provided under State Environmental Planning Policy (Seniors Living) 2004.

MINUTE NO. 805. . . Contd.

To ensure compliance with the intent of State Environmental Planning Policy (Seniors Living) 2004 and provide adequate emergency support facilities for residents of the development, formal service agreements are to be entered into with appropriately qualified persons, for the provision of emergency monitoring systems (such as the "Vitacall" system or similar) to each unit,, prior to occupation or use.

The Council is to be the only body with authority to vary either of the above provisions.

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| Certificates from authorities | 9. To ensure satisfactory effluent disposal and utility services are provided to all units on the subdivision, you are required to submit to the Council compliance certificates from:

a. Sydney Water <ul style="list-style-type: none">▪ A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained indicating all proposed units are serviced by reticulated water and gravity sewer systems.▪ The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Construction Certificate for the development. b. Integral Energy indicating that satisfactory arrangements have been made for the provision of underground electricity supply to each unit.
c. An approved telecommunications service provider stating that satisfactory arrangements have been made for underground telephone services to each unit. |
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| Building Code of Australia | 10. All building work must be carried out in accordance with the provisions of the Building Code of Australia. |
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| Builders details | 11. Prior to any works commencing on the site, written advice as to the builder's details (name, address and licence number) is required for the Council records. |
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| Signage | 12. 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: <ul style="list-style-type: none">▪ The statement "<i>Unauthorised access to the site is not permitted</i>".▪ The names of the builder or another person responsible for the site along with an out of hours contact number.▪ Lot or Street number. |

MINUTE NO. 805. . . Contd.

Site management

13. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during demolition or construction:
- a. Site and building works (including the delivery or removal of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm and on Saturdays between 8am-3pm. Alteration to these hours may be possible for safety reasons but only on the approval of the Council.
 - b. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - c. Building operations such as 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.

Demolition management

14. The work is to be executed by a competent person, with due regard for safe working practices and in accordance with the requirements of the Workcover Authority.

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

- a. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work. Temporary bracing, guys, shoring or any combination of these, shall be added for stability where necessary.
- b. Precautions are taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained particularly in the event of sudden and severe weather changes. Severe weather changes refer primarily to the localised high winds. In these circumstances loose debris can become airborne, particularly if it is in sheet form.

MINUTE NO. 805. . . Contd.

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

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| Demolition of Buildings generally | 15. The demolition work to be supervised by a competent person with due regard to safe working practices and in accordance with the requirements of the NSW WorkCover Authority;

Such work is to be carried out in accordance with the Occupational Health & Safety Regulations, 2001, and Australian Standard 2601 – 1991. |
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| Demolition of Buildings containing asbestos cement | 16. The applicant is to notify the Council and adjoining residents, in writing, at least ten (10) working days prior to demolition commencing, of their intention to commence demolition works. In the case of adjoining residents, such notification is to be a clearly written note, on at least note pad size paper, giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately to the rear of the demolition site. |
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| Disposal of Asbestos | 17. All asbestos material, including asbestos cement, is to be disposed of to an approved waste management facility licensed to receive asbestos. |
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| Display of signage | 18. The developer will display appropriate asbestos/demolition signage prior to and during demolition works. |
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| Workers amenities | 19. 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 the Council. |
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| Plans on site | 20. A copy of the stamped and approved plans, development consent and the construction certificate are to be held on site at all times during demolition or construction work. |
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MINUTE NO. 805. . . Contd.

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- External finishes**
21. To ensure that the development is compatible with the surrounding environment, variation from the colours and finishes as submitted with the proposal is only permissible with the written approval of Blue Mountains City Council
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- Landscaping**
22. Landscaping is required to ensure that the development contributes to the character of the Blue Mountains and its environmental sustainability.
- A detailed landscape plan is required to be submitted to Blue Mountains City Council and approved prior to release of the Construction Certificate. The plan shall include the following:
- An overall landscape concept for the site showing the species, number and sizes of plants to be used. Particular attention shall be paid to the front setback area, the landscape strips along the driveway and areas between the site and adjoining properties.
 - Where appropriate, existing substantial trees that are removed, shall be replaced with an appropriate mature species.
 - The proposed method(s) of protection of vegetation to be retained on the site.
 - 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.
 - All disturbed areas are to be revegetated or re-grassed. Kikuyu grass is not to be used for this purpose.
 - Due to the proximity of an identified water stream, the species used for landscaping are to be non-invasive.
 - Details of the type and height of all internal and boundary fences. No fencing shall be provided forward of the building setback to the Falls Road frontage.
-
- Protection of vegetation**
23. To limit disturbance of significant trees in the vicinity of the site, the Landscape Plan shall identify any significant trees, including their root systems, that are at risk of substantial damage during the construction phase.
- The Landscape Plan shall outline the nature of the risk and how these trees are to be protected to ensure continuation of their viability.

MINUTE NO. 805. . . Contd.

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- Lighting**
24. To protect the amenity of the local area, all external lighting is to be positioned, directed and shielded so that it does not interfere with traffic safety or cause nuisance to adjoining and nearby properties.
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- Relocation of services**
25. 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.
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- Site stormwater system**
26. 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. All drainage systems are to be piped and connected to the drainage system in Falls Road. 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 Falls Road. Treatments are to address blockages in accordance with ARR 1987. Overland flows from upstream catchments are to be treated likewise. No drainage is to be discharge into the pathway. The point of connection to the Council's drainage system is to be approved by the Council prior to the issue of the Construction certificate.
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- On site detention**
27. 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.

MINUTE NO. 805. . . Contd.

- c. A 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.

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

28. 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.

MINUTE NO. 805. . . Contd.

- 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 the Council prior to lodgement at NSW Land and Property Information. Proof of lodgement with NSW Land and Property Information shall be submitted to the Council prior to the issue of the Occupation Certificate.

Internal pavement

29. 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, access and parking shall be designed in accordance with Australian Standards 2890.1/2004. A report certifying that compliance with AS 2890.1/2004 has been achieved, prepared by a suitably qualified traffic engineer, is to be submitted prior to the issue of the construction certificate

All vehicles are required to enter and leave the site in a forward direction.

Works in the Council's roads

30. The following engineering works shall be constructed by the applicant at the applicant's expense:
- a. The existing old 150mm vertical Kerb and Gutter (K&G) is to be replaced by new 150mm vertical K&G over the full frontage of the development site. This shall include any necessary drainage, pavement correction or other works required to make the construction effective. Subsoil drainage is to be installed behind the new kerb.
- b. Existing disused driveways and laybacks are to be removed and replaced by vertical K&G, or new driveways and laybacks as allowed by this consent. The works shall included restoration of any disturbed areas of the nature strip.

MINUTE NO. 805. . . Contd.

- c. **The construction of a concrete footpath to council's standards for the full frontage of the site. To minimise the need for cut; the footpath may be located directly behind the back of kerb. Disturbed areas of the nature strip are to be battered or retained to the Council's satisfaction and topsoiled and landscaped.**
- d. **Footpaths shown to provide pedestrian access to the site are to be constructed to connect to the new concrete footpath along the property frontage adjacent the kerb and gutter. Footpaths proposed for used by disabled persons are to be designed strictly in accordance with the requirements of Blue Mountains Development Control Plan no 38 and AS1428-2001.**
- f. **The provision of a pedestrian refuge in Falls Road, the location of which shall be subject to approval by the Council and the Local Traffic Committee.**
- g. **The provision of pram ramps in Falls Road adjacent to the approved location of the new pedestrian refuge and a suitable linkage to the existing footpath on the eastern side of Falls Road.**
- h. **Any necessary cutting/ trimming of vegetation within the nature strip to ensure that the site distance from the new access driveway to Falls Road complies with Clause 3.2.4 of AS 2980.1 2004. Full details of works required are to be included in the plans submitted with the application for the Roads Act approval.**

Detailed engineering plans prepared by a qualified person and endorsed by a chartered civil engineer with NPER registration shall be submitted to and approved by the Council prior to the issue of the Construction Certificate.

Approval of the engineering designs by the Council is subject to the payment of the prescribed Engineering Development Fees, the amount of which will be advised at the time of lodgement.

- d. **The person or company carrying out the works shall submit to the Council reference demonstrating experience in the type of work proposed to be undertaken. The person or company shall obtain approval from the Council to carry out the works prior to works commencing.**
- e. **The applicant will be required to pay for inspections in accordance with the Council's fees and charges. The specific stages of inspection required will be advised at the pre-construction meeting.**

MINUTE NO. 805. . . Contd.

A minimum of 48 hours notice shall be given to the Council when arranging for an inspection. Work is not to proceed further until the works, or activity covered by the inspection has been approved.

Following the final inspection, any work considered by the Council as unsatisfactory shall be rectified to the Council's satisfaction at no cost to the Council. The Council's 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 the Council. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Management Plan is to be approved by the Roads and Traffic Authority before submission to the Council for approval.**

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

- g. Safety devices such as signs, barricades, barriers, warning lights, etc. shall be placed where works affect the Council's 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 the Council for its approval with the Traffic Management Plan Report.**

The contractor shall submit to the 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.

MINUTE NO. 805. . . Contd.

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

31. 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 the Council's road shall be paid to the Council.

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

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

Relocation of services

32. 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

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

Restore disturbed area

34. All disturbed earthworks and/or batters are to be restored, stabilised, topsoiled and turfed/revegetated to the Council's satisfaction prior to release of the Occupation Certificate.

Certification by Council

35. Prior to the issue of the Occupation Certificate, a certificate shall be obtained from the Council to verify that all external works have been completed in accordance with the approved plan and to the Council's satisfaction.

MINUTE NO. 805. . . Contd.

Driveway crossings

36. For the new driveways required across the Falls Road footpath, new heavy duty concrete layback and apron crossings are to be constructed. The surface is to be a featured surface. This construction is to include any necessary alteration to existing infrastructures, drainage, signage, line markings etc. to make the construction effective including transition of the footpath and internal driveway, the adjustment of public utilities and regrading the driveway across the footpath to facilitate quick entry/exit movements and prevent scraping of vehicles.

Compliance with standards

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

A qualified civil/structural engineer shall supervise all internal works and prior to issue of the Occupation Certificate, certification shall be obtained from a chartered civil/structural engineer with NPER registration and submitted to the Principal Certifying Authority confirming all works have been constructed in accordance with the approved plans and specifications.

Structural works

38. The design of all structural works including any retaining walls shall be certified by a chartered structural engineer (NPER-3 Structural registered) as conforming to the relevant standards and load capacities.

Certification of structural works

39. The construction of all structural works including any retaining walls shall be certified by a chartered structural engineer (NPER-3 Structural registered) as conforming to the relevant standards and load capacities.

Supervision of internal engineering works

40. 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.

MINUTE NO. 805. . . Contd.

Works as executed plans

41. **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 the Council for approval.**

Sedimentation and erosion control

42. **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.

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MINUTE NO. 806

9. C07094 Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 (Heritage Review for Lawson, Hazelbrook, Springwood and Blaxland) Post-Exhibition Review

The meeting was addressed by Erst Carmichael, Julius Timmerman and Jerry Allan.

A MOTION was moved by Councillors McLaren and Myles:

1. **That the Council notes the matters raised in the submissions lodged in respect of the public exhibition of Blue Mountains Local Environmental Plan 2005 Draft Amendment 1 — Heritage Amendment for Lawson, Hazelbrook, Springwood and Blaxland (Amendment 1).**
2. **That no public hearing be held in respect of Amendment 1 and that Amendment 1 not be subject to re-exhibition.**
3. **That Amendment 1 is adopted by the Council as set out in Attachment 2.**

MINUTE NO. 806 . . . Contd.

4. That the General Manager is authorised to undertake such amendments required to address any matters raised by the Parliamentary Counsel's Office in respect of the legal opinion where such drafting amendments do not alter substantially the application of the provisions of Amendment 1.
5. That, pursuant to Section 68 and 69 of the Environmental Planning and Assessment Act 1979, the Council submits Amendment 1 to the Minister of Planning with a request that the Plan be made, subject to deferring that land identified as SP056 from the Plan.
6. That a site meeting be arranged in relation to SP056 and a further report come to the Council.

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

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

Councillor Searle was absent from the Chamber for this matter.

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MINUTE NO. 807

10. C07886 Report on Kings Tableland Plateau, Wentworth Falls

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

1. That the Council note the information in the accompanying enclosure **Report on Kings Tableland, Wentworth Falls**, including the values, current land use pattern, risks, threats to values and assessment of the current planning controls which exist on Kings Tableland.
2. That the Council note the assessment in the Report that the current planning controls in place for Kings Tableland generally are considered appropriate to protect the values of the area.

MINUTE NO. 807 . . . Contd.

3. That the Council note that the planning controls on Kings Tableland will be assessed as part of the review of Local Environmental Plan (LEP) 1991, along with other key areas, and that the issues identified in this Report be considered as part of that assessment.
4. That the Council note the assessment of the planning issues associated with the former Queen Victoria Hospital site as outlined in the enclosure Report on Kings Tableland, Wentworth Falls.
5. That the draft heritage assessment of the former Queen Victoria Hospital Site be reported to the Council for endorsement as soon as possible so as to enable Council to pursue with the NSW Heritage Council listing of the site on the State Heritage Register.

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MINUTE NO. 808

11. R11/0035 Road Dedication - The Links, Jamison and Denison Roads Leura

RESOLVED UNANIMOUSLY on the MOTION of Councillors Creed and Frappell:

1. That pursuant to the provisions of Sections 16 and 17 of the Roads Act 1993 the Council give 28 days notice of its intention to dedicate for road purposes land identified as road in Deposited Plan 507 known as The Links Road, Jamison Street and Denison Street, Leura.
2. That following the period of notification for 28 days, if no objections are received the Council publish a notice in the Government Gazette of NSW dedicating the land as a public road.
3. That the Council Common Seal be affixed as required to any documents relating to this matter.

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End of last Minute on Page

MINUTE NO. 809

12. C07895 White Ribbon Day

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and McLaren:

1. **That the Council note that November 25 is White Ribbon Day, the International Day for the Elimination of Violence Against Women.**
2. **That the Council support the principles of White Ribbon Day and encourage members of the organisation to wear a White Ribbon on November 25.**

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MINUTE NO. 810

13. C00680 Precis of Selected Correspondence, 21/11/2006

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

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MINUTE NO. 811

C00336. Procedural – Matter of Urgency

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and McInnes **that a Matter of Urgency be heard.**

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MINUTE NO. 812

30 November Day of Community Action

A MOTION was moved by Councillors Searle and McInnes **that the Council permit its staff to attend, with pay, the Sky Channel Broadcast on the Day of Community Action on 30 November 2006. Further that the Council permit six staff to attend, with pay, the Day of Community Action rally in Sydney at Darling Harbour.**

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

MINUTE NO. 812 . . . Contd.

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

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MINUTE NO. 813

C00336. Procedural – Matter of Urgency

RESOLVED UNANIMOUSLY on the MOTION of Councillors Trindall and McInnes **that a Matter of Urgency be heard.**

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MINUTE NO. 814

Yellow Rock Bush Fire Brigade

RESOLVED UNANIMOUSLY on the MOTION of Councillors Trindall and McInnes **that a report be made available outlining current research into land availability at Yellow Rock for use by the Yellow Rock Bush Fire Brigade.**

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MINUTE NO. 815

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 10.00 pm on Tuesday, 21 November 2006.

The Ordinary Meeting of the Council then closed until 7:30 pm on Tuesday, 12 December 2006 in the Council Chamber, Council Headquarters, 2 Civic Place, Katoomba.

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End of last Minute on Page