

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 February, commencing at 7:35 pm.

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There were present:

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

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In attendance:

General Manager, Group Manager BM City Services, Group Manager Community and Corporate, Group Manager Environmental and Customer Services, Manager Corporate Finance, Acting Executive Officer, Manager Strategic Planning, Communications Officer, Senior Property Officer, and Councillor & Executive Administration Officer.

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Prayer / Reflection:

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

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MINUTE NO. 471

C00679. Apologies and Leave of Absence

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and O'Grady that the apology tendered on behalf of Councillor Brown for her non attendance at the meeting be accepted and leave of absence granted.

Councillor Creed was not present in the Council Chamber when this matter was considered.

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MINUTE NO. 472

C00336. Confirmation of Minutes - Ordinary Meeting, 31/1/06

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and McInnes **that the Minutes of the Ordinary Meeting of 31 January 2006 be confirmed.**

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OFFICERS' REPORTS, 21/2/06

MINUTE NO. 473

1. C03199. Blue Mountains Cultural Centre and Library Stakeholder Option Deed Update

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

1. **That Council note the decisions that have been made under delegated authority and the progress since the last report.**
2. **That Council request the Developer to enter into a contract with Hassell Pty Limited, under which Hassell will perform the role of BMCC Architect in accordance with the Option Deed.**

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

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

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MINUTE NO. 474

2. C01947. Additional Councillor Fees – 2005/2006

A MOTION was moved by Councillors McInnes and O’Grady that Council approve the 4% increase in Councillor and Mayoral fees for 2006/2007 in accordance with the determination of the Remuneration Tribunal.

An AMENDMENT was moved by Councillors Van der Kley and Myles:

1. **That the annual Councillor Fee for 2006/2007 be set at \$12,925, with effect from 1 July 2006.**
2. **That the annual Mayoral Fee for 2006/2007 be set at \$29,343.60 (inclusive of the 4 per cent increase as determined by the Remuneration Tribunal), with effect from 1 July 2006, and \$2,934 of the Mayoral Fee be set aside for the Deputy Mayor when acting in the role of Mayor.**

Upon being PUT to the Meeting, the AMENDMENT was AGREED TO and BECAME the MOTION, the voting being:

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

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

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

MINUTE NO. 475

3. C02157. Draft Enforcement Policy

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

1. That in accordance with Section 160 of the Local Government Act, Council advertise the draft Enforcement Policy for a period of forty-eight (48) days and invite comments in regard to the document.
2. That a further report be prepared for the consideration of Council following any submissions made.

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MINUTE NO. 476

4. C01900. December Quarter 2005-2006 Progress Report - Management Plan, Operating Budget and Capital Works Program

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

1. That the General Manager's report together with the document titled "Quarterly Review Management Plan December 2005 - 2005/2006" (separately enclosed) be endorsed.
2. That the General Manager's Report incorporating the separate documents titled:
 - Quarterly Review Budget December 2005 - 2005/2006, and
 - Quarterly Review Management Plan December 2005 - 2005/2006 be noted.
3. That the variations of income and expenditure as identified in the documents titled Quarterly Review Budget December 2005 - 2005/2006, and Quarterly Review Management Plan December 2005 - 2005/2006, be approved and voted.

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MINUTE NO. 477

5. C07468. Local Environmental Plan Acquisitions

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and Myles:

1. That 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 Council be attached to the documents relating to these purchases as required.

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MINUTE NO. 478

6. C05949/C06925. Proposed Acquisition for Road Widening Benang Street Lawson

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and Myles:

1. That Council purchase that area of Lot 10 Deposited Plan 1065594 required for road widening of Benang Street, Lawson, for \$43,000 plus costs.
2. That the Common Seal of Council be affixed to the necessary documents.

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MINUTE NO. 479

7. A78410. Owner Permission for Land Use Application Covering Council Property at 3 Wascoe Street, Glenbrook

RESOLVED UNANIMOUSLY on the MOTION of Councillors Frappell and Van der Kley that Council give owners permission for the Glenbrook Parish of the Anglican Church to submit a Land Use Application that includes the council owned property at 3 Wascoe Street Glenbrook, prior to possible sale, provided that:

- a) The Anglican Church are made aware that the granting of such consent does not guarantee that the land will be offered for sale;
- b) The sale of 3 Wascoe Street sale must follow a public process and will not occur until all funding for the mid-mountains SES base is secured; and
- c) The State Emergency Service is allowed ongoing occupancy of 3 Wascoe Street until suitable premises for temporary accommodation are found.

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MINUTE NO. 480

8. C00944. Community Assistance / Donations - Recommendations by Councillors

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

<u>Organisation</u>	<u>Amount</u>
Glenbrook-Blaxland Cricket Club Inc	\$300

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MINUTE NO. 481

9. H00135 & C00322. Resignation of Volunteer Committee Member from Mid Mountains Community Centre

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and Myles **that Council formally accept the resignation of Shirley Harris from the Mid Mountains Community Centre.**

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MINUTE NO. 482

10. H01417. Blackheath Pools, Construction & Refurbishment – Progress Report No. 5

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Van der Kley **that Council receives and notes this report.**

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MINUTE NO. 483

11. H00616 Pt 2. Provision of Additional Exercise Bikes for RPM Classes at the Springwood Aquatic & Fitness Centre

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and Myles:

1. **That Council notes that Springwood Aquatic & Fitness Centre has acted on the outcomes of this investigation based on a business case that supports the acquisition of a further 5 exercise bikes.**
2. **That an additional 3 V-Bikes have subsequently been purchased and are operational in the SAFC.**
3. **That an additional 2 V-Bikes to make up the total of an additional 5 V-Bikes will be purchased in the current financial year.**

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NOTICES OF MOTION, 21/2/06

MINUTE NO. 484

12. Z20/027. Churchill Street Tennis Courts / Springwood Aquatic Centre

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

1. That a full report regarding the status of the Churchill Street tennis court site, including any lands which have been identified for sale in its place be provided to Council as soon as possible.
2. That the Local Traffic Committee look at the traffic flow in Plateau Road and the parking on the road and speak to the affected residents who live in the road.
3. That Council look at the parking for the Aquatic Centre as we may be short of parking.
4. That Council also look at finding more parking for the Centre on the aquatic site or on the old tennis courts in Churchill Street.
5. That information about traffic issues be provided to Councillors either by a report to Council as soon as possible or through the Councillor Bulletin.

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MINUTE NO. 485

13. C00336. Questions With Notice

RESOLVED UNANIMOUSLY on the MOTION of Councillors McInnes and O'Grady that Questions with Notice are answered in the following business paper, or a brief explanation be given, in the Councillor Bulletin, as to why this cannot be achieved.

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MINUTE NO. 486

14. H01444. Lawson Golf Course Proposals

RESOLVED UNANIMOUSLY on the MOTION of Councillors McInnes and O'Grady that Council grant an extension of time, to 1 May 2006, for submissions with regard to the Lawson Golf Course proposals.

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PRECIS OF SELECTED CORRESPONDENCE, 21/2/06

MINUTE NO. 487

15. C00680. Precis of Selected Correspondence, 21/2/2006

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

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MINUTE NO. 488

C00336. Procedural – Matter of Urgency

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Hamilton **that Council now consider a matter concerning the pedestrian crossing on the Great Western Highway near the Blackheath Railway Station, such matter having been ruled by the Mayor to be a matter of great urgency.**

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MINUTE NO. 489

Matter of Urgency – Pedestrian Crossing on the Great Western Highway near the Blackheath Railway Station

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

1. **That Council still has grave concerns regarding the safety issues associated with the pedestrian crossing on the Great Western Highway near the Blackheath Railway Station and finds the response from the RTA, dated 6 February 2006, in withdrawing the current funding for the proposed upgrade unacceptable.**
2. **That Council, as a matter of urgency, writes to the RTA, calling on it to continue working towards implementing improved safety measures at the crossing in the current financial year. This would require that the current funding allocation remain in place to contribute towards improving safety for both pedestrians at the crossing and drivers using the Highway at this accident-prone location.**
3. **That, at the Blackheath Chamber meeting on 20 February 2006, it was unanimously agreed that the RTA be informed that traffic lights at the crossing are the ultimate solution but, in the meantime, as matter of urgency, and before any more serious accidents occur, the RTA be requested to provide better warning signage and road markings leading up to the pedestrian crossing for incoming traffic.**

MINUTE NO. 489 (CONTD.)

4. **That a copy of this letter be forwarded to the Minister for Roads, the Hon Eric Roozendaal, and the Member for the Blue Mountains, the Hon Bob Debus.**

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RESPONSES TO QUESTIONS WITH NOTICE, 21/2/06

16. C07094. Response to Question With Notice – Draft Amendments to LEP 2005 - Heritage Review

Question by Councillor P McInnes (22/11/05):

“When is the Heritage Schedule DLEP Amendment (deferred item LEP2005) likely to occur? What are the constraints on this occurring in the near future?”

Response from Group Manager, Community and Corporate:

Councillor McInnes’ question has two parts, each of which will be discussed below individually.

1. When is the Heritage Schedule DLEP Amendment likely to occur?

Council staff are preparing the heritage amendment in two or three stages, thereby enabling the heritage amendment to progress to exhibition and subsequent gazettal in manageable portions. The two or three stages include the following:

- Stage 1 (Amendment 1) includes the core village areas of Hazelbrook, Springwood and Blaxland currently omitted from LEP 2005, as well as the work undertaken in the core village area and Great Western Highway precincts of Lawson;
- Stage 2 involves the incorporation of heritage items in the LEP 1991 areas into LEP 2005 to provide a consistent framework for protecting items of heritage significance;
- Stage 3 (possibly capable of being merged with Stage 2) addresses minor errors and typographical mistakes in Schedule 6 of the currently gazetted LEP 2005. Some modifications to the mapping and schedule for items already identified within LEP 2005 is the scope of this stage.

This would, as a consequence, make the exhibition and consideration of heritage items concise and easy to understand for the community. It is noted that certain efficiencies can be gained by attempting to have a single amendment covering the review in its entirety. However, any such efficiency is negated by the delays involved in preparation of a substantial body of work and any consultation commensurate with the extent of this amendment. Furthermore, any delays with a particular part of the amendment will hold up the entire process while smaller components could be processed concurrently and independently.

The first stage (referred to as Amendment 1) attends to those matters that were not originally included within Blue Mountains Local Environmental Plan 2005, particularly with reference to the core village areas of Hazelbrook, Springwood and Blaxland, as well as the village and Great Western Highway precincts in Lawson. As the respective studies had not been completed in time to incorporate their findings into the Draft Local Environmental Plan 2002 for its public exhibition between October and December 2002, a further amendment to the Plan is necessary to bring in those further items.

To provide a degree of protection to existing items under Blue Mountains Local Environmental Plan 1991 (LEP 1991), these items so identified were incorporated into Draft LEP 2002 for its exhibition. It was recognised at that stage that a further amendment to the gazetted LEP 2005 to finalise the schedule of heritage items for Hazelbrook, Springwood and Blaxland, and the core village and Great Western Highway precincts in Lawson would be required. With the consultation to public authorities recently completed, Amendment 1 could then quickly be placed on public exhibition. Public exhibition is scheduled to have commenced on 8 February 2006 and will run for 8 weeks (until 7 April 2006), providing ample opportunity for the community to lodge submissions to this draft plan.

It must be noted that under the *Environmental Planning and Assessment Act 1979*, a Draft LEP cannot be prepared unless there is a principal planning instrument in place to be amended. Advice from the Department of Infrastructure, Planning and Natural Resources in 2004 suggested that they would not support the heritage amendment progressing to public exhibition until the Minister gazettes Draft LEP 2002. Prior to the gazettal of LEP 2005 on 7 October 2005, Council staff already commenced the first stage of the review addressing the issue of the heritage items identified in the works by Ian Jack Heritage Consulting Pty Ltd (for the core village areas of Hazelbrook, Springwood and Blaxland, as well as the heritage conservation areas identified in Lawson) and Biosis Pty Ltd (for their work on the heritage items in the Lawson core village area and that land affected by the road widening work on the Great Western Highway through Lawson). This work included the review of information provided by the heritage consultants, preparing a draft written instrument, and mapping the relevant items. This preliminary work is necessary to enable efficient progression through to consultation and subsequent public exhibition.

Prior to any Draft LEP going on public exhibition, Council must consult affected public authorities in accordance with Section 62 of the Act. Consultation with public authorities with respect to Amendment 1 commenced in early July 2005, and comments have been received from most parties. The RTA and RailCorp are notable parties that have not provided comment as yet. This consultation included the NSW Heritage Office, and comments from the Heritage Office were received in the first week of January 2006.

2. What are the constraints on this occurring in the near future?

Councillors would be aware of the sometimes complex statutory procedures that must be followed when preparing a Local Environmental Plan. One key matter with the Heritage amendments is the reliance on the quality of background information to justify Council's decision to list a property as a heritage item. To reinforce Council's position, work has been progressively undertaken across the entire Council area to provide an inventory for each heritage item in accordance with the State Heritage Inventory Program.

This work provides a robust investigation into the heritage significance of individual items or groups of items that justifies (if challenged) Council's intent to protect the heritage fabric by listing items within LEP 2005.

As Councillors may appreciate, the number of heritage items within the Council area numbers several hundred individual properties, and the time taken to review existing items as well as research new items is time-consuming. Ian Jack Heritage Consulting Pty Ltd has undertaken most of this research.

Once Council has received this information, it is reviewed and validated by staff in City Planning, and any errors have to be corrected. Each of the items must be mapped and incorporated onto Council's GIS layers to enable the preparation of relevant maps for the LEP amendments required for the inclusion of items within the Schedule of Heritage Items.

In essence, it is the time needed to ensure all the preparatory and supporting materials are completed and verified thoroughly that constrains the capability of staff to undertake the review in a prompt manner. That said, it is considered crucial to ensure that the quality of the information is of the highest standard, thereby avoiding inefficiencies (and potential costly re-exhibition) with having to undertake further amendments to correct any mistakes or errors in the information included within LEP 2005.

Conclusion

With respect to Councillor McInnes' question, the following actions have been undertaken:

1. Amendment 1, being an amendment to LEP 2005 that covers the core village areas of Hazelbrook, Springwood, Blaxland, and the village centre and Great Western Highway precincts of Lawson, has been drafted and is expected to be publicly exhibited for 8 weeks from 8 February 2006;
2. Work is well progressed to review the information provided for the LEP 1991 areas, and an amendment to LEP 2005 to incorporate heritage items in the LEP 1991 areas is expected to be completed in the second half of this year; and
3. Preliminary work is underway in identifying any errors in existing items already listed under LEP 2005. This includes typographical errors inserted by the Parliamentary Counsel's Office in the final gazetted LEP (e.g. Macquarie Street rather than Macquarie Road) and will either form a separate amendment to LEP 2005 or be incorporated with the amendment to include heritage items on land in the LEP 1991 areas into LEP 2005.

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17. C01518 Part 2. Response to Question With Notice – Section 94 Contributions

Question by Councillor C Van der Kley (13/12/05):

“How does the condition to require a Bank Guarantee for Section 94 Contributions operate?”

Response from Group Manager, Environmental & Customer Services:

The original Development Contributions Plan adopted by Council on the 29 October 1996, made provision for deferred contribution payments. Where applicants sought to defer settlement of the contribution a bank guarantee was requested for the full amount required by the condition of consent.

This approach is maintained within the current Development Contribution Plan. However due to the generally small amounts required as a developer contribution, deferral of the payment is now only considered in extenuating circumstances.

Bank guarantees provide Council with the certainty that it can call in the guarantee in the event that the applicant defaults on the deferred payment.

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MINUTE NO. 490

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 8:10 pm on Tuesday, 21 February 2006.

The Ordinary Meeting of the Council then closed.

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