

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 March 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, McInnes, McLaren, Myles, O'Grady, Searle, Trindall and Van der Kley.

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In attendance:

General Manager, Group Manager BM City Services, Group Manager Community and Corporate, Group Manager Environmental and Customer Services, Acting Executive Officer, Communications Officer, Manager Strategic Planning, Manager Corporate Planning, Acting Manager Planning, Program Leader Community Development Outcomes, Senior Strategic Planner, Principal Recreation & Cultural Planner and Technical Assistant.

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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. 491

C00679. Apologies and Leave of Absence

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

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MINUTE NO. 492

C00336. Confirmation of Minutes - Ordinary Meeting, 21/2/06

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Searle that the Minutes of the Ordinary Meeting of 21 February 2006 be confirmed, with Minute No. 484 being amended to read as follows:

- “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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DISCLOSURES OF INTERESTS, 21/3/06

MINUTE NO. 493

C00336. Procedural - Disclosures of Interests, 21/3/06

Councillor Trindall made the following declaration with respect to Item 20 – Community Assistance / Donations - Recommendations by Councillors:

“As the Co-ordinator/Community Development Worker, I would have to declare an interest in the Council assistance to community organisations as in Winmalee Community Centre.”

MINUTE NO. 493 (CONTD.)

Councillor McLaren made the following declaration with respect to Item 13 - Development Application No. X05/0708 for an 11 (Eleven) Dwelling Seniors Living Development on Lot 5 DP 20951, Lot 1 DP 361128 and Lot 3 DP 570465, Nos. 416 and 418 Hawkesbury Road, Winmalee and No. 1A White Cross Road, Winmalee:

“I disclose a pecuniary interest in Item 13. My property is in close vicinity to the development which will impact on its value. I will take not part in discussion, consideration or voting in relation to this matter and will leave the Chamber.”

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SUPPLEMENTARY MINUTE BY MAYOR, 21/3/06

MINUTE NO. 494

S1. Tourism Chief, Kerry Fryer, Announced as Blue Mountains Woman of the Year 2006

RESOLVED UNANIMOUSLY on the MOTION of Councillors Angel and Van der Kley that Council receive a report and congratulate Ms Fryer on her Award as Blue Mountains Woman of the Year.

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REPORTS BY GENERAL MANAGER, 21/3/06

MINUTE NO. 495

1. H00702. Nomination of Councillor to the Hawkesbury Nepean Catchment Local Government Advisory Group

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

1. That Council defer the appointment of a replacement for former Councillor Henson as Council’s representative to the Hawkesbury Nepean Catchment Local Government Advisory Group, until Councillor Hamilton returns.
2. That Council thank former Councillor Henson for her work on the Advisory Group.

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MINUTE NO. 496

2. C01736. Nomination of Alternative Delegate to Serve on the Board of Blue Mountains Tourism Ltd

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

1. That Council nominate Councillor O'Grady as replacement for former Councillor Henson, as alternative delegate to serve on the Board of Blue Mountains Tourism Ltd for the term of this Council.
2. That Council thank former Councillor Henson for her work on the Board.

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MINUTE NO. 497

3. C00748. Election of One Councillor as Proxy to Council's Representatives on the Western Sydney Regional Organisation of Councils (WSROC Limited)

RESOLVED UNANIMOUSLY on the MOTION of Councillors Creed and Frappell:

1. That Council nominate Councillor Myles as replacement for former Councillor Henson, as a proxy for Councillors McLaren and Searle on the Western Sydney Regional Organisation of Councils (WSROC Limited).
2. That Council thank former Councillor Henson for her work on WSROC.

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MINUTE NO. 498

4. C05892. Election of One Councillor to the Youth Council Advisory Committee

RESOLVED UNANIMOUSLY on the MOTION of Councillors O'Grady and McInnes:

1. That Council nominate Councillor Trindall as replacement for former Councillor Henson, as one of Council's representatives on the Youth Council Advisory Committee.
2. That Council thank former Councillor Henson for her work on the Committee.

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MINUTE NO. 499

5. C00085. Nomination of One Councillor to the Community Donations Working Party

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

1. **That Council nominate Councillor Trindall as replacement for former Councillor Henson on the Community Donations Working Group.**
2. **That Council thank former Councillor Henson for her work on the Working Group.**

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MINUTE NO. 500

6. C07519. Financial Assistance to Community Groups – Parklands Development Application Appeal

The Meeting was addressed by Virginia King and Alan Lane.

A MOTION was moved by Councillors Van der Kley and Myles **that Council decline the request from BRAID (Blackheath Residents Against Improper Development) for financial support in relation to an appeal to the Supreme Court against in respect of the Parklands Development Application.**

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

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

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OFFICERS' REPORTS, 21/3/06

MINUTE NO. 501

7. C07606. Draft Blue Mountains Water Saving Action Plan

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

1. That Council adopts the Draft Blue Mountains Water Savings Action Plan and submits the Plan to the Department Energy Utilities and Sustainability (DEUS) for Ministerial approval.
2. That upon approval by DEUS, Council commences implementation of the Water Savings Action Plan.

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MINUTE NO. 502

8. C07703. Review of 2001 Sewage Strategy for the Blue Mountains

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

1. That Council note the review of the 2001 Sewage Strategy for the Blue Mountains and the achievements arising during that period.
2. That Council endorse the approach outlined in this report to progress issues not yet resolved in the 2001 Sewage Strategy through the preparation of a revised Sewage Strategy for the Blue Mountains.
3. That, following consultation with State Government and relevant non-government organisations, a report comes back to Council seeking endorsement of the revised Sewage Strategy for the Blue Mountains for the purpose of public exhibition.
4. That a copy of this report be sent to the Hon. Bob Debus Member for Blue Mountains, Hon. Karyn Paluzzano Member for Penrith and Hon. David Campbell Minister for Water Utilities, updating Council's position on improved sewerage services to Blue Mountains.

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MINUTE NO. 503

9. C00694. Schedule of Invested Monies

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Myles that the Schedule of Invested Monies as at 31 January 2006 be received.

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MINUTE NO. 504

10. C03004. Sale of Land for Unpaid Rates

A MOTION was moved by Councillors Van der Kley and Frappell **that Council note:**

- (i) the intention to hold a Sale of Land for Unpaid Rates in September/October 2006 for the properties listed in the Report;**
- (ii) the sale is pursuant to the provisions of Section 713 of the Local Government Act, 1993 that provides for councils to sell land for unpaid rates where the rates and charges have been outstanding for and in excess of five years;**
- (iii) there are 26 properties nominated for sale with a total unpaid value of \$197,658.21.**

An AMENDMENT was moved by Councillors McInnes and O'Grady that Council note:

- (i) the intention to hold a Sale of Land for Unpaid Rates in September/October 2006 for the properties listed in the Report;
- (ii) the sale is pursuant to the provisions of Section 713 of the Local Government Act, 1993 that provides for councils to sell land for unpaid rates where the rates and charges have been outstanding for and in excess of five years;
- (iii) there are 26 properties nominated for sale with a total unpaid value of \$197,658.21;
- (iv) Council is to remove from the list any property that is owner occupied.

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

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

MINUTE NO. 504 (CONTD.)

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

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

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MINUTE NO. 505

11. Review of Delegation – Modification of Consents

The Meeting was addressed by Ivan Jeray.

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

1. That the General Manager, or his nominee, be granted delegated authority within the Terms of Section 377 of Local Government Act 1993 to determine the following applications in accordance with the Environmental Planning and Assessment Act 1979:
 - a) a Section 96 or 96AA application to modify a development consent, or
 - b) a Section 95A application to extend the lapse date of a development consent, unless two or more Councillors make a request in writing to the General Manager for an individual application to modify or extend the operation of a consent to be referred to the Council for determination.
2. That the approach outlined in Recommendation 1 be reviewed in 12 months time.

An AMENDMENT was moved by Councillors McInnes and Searle:

1. **That the General Manager, or his nominee, be granted delegated authority within the Terms of Section 377 of Local Government Act 1993 to determine the following applications in accordance with the Environmental Planning and Assessment Act 1979:**
 - a) **a Section 96 or 96AA application to modify a development consent, or**
 - b) **a Section 95A application to extend the lapse date of a development consent, unless two or more Councillors make a request in writing to the General Manager for an individual application to modify or extend the operation of a consent to be referred to the Council for determination.**

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2. **That the approach outlined in Recommendation 1 be reviewed in 12 months time.**
3. **That, in addition to councillors being notified of Section 96 applications being submitted, that these also be notified in the Gazette in a timely manner.**

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

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

Upon being PUT to the Meeting the MOTION was CARRIED UNANIMOUSLY.

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MINUTE NO. 506

12. X05/1257. Development Application No. X05/1257 for the Construction of Two Additional Tennis Courts, Car Parking and other Supporting Infrastructure at Summerhayes Park being Pt Lot 2 DP 220070, Pt Lot 6 DP 661403, 326-340 Hawkesbury Road, Winmalee

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Myles that the Development Application No. X05/1257 for the two additional tennis courts, car parking and other supporting infrastructure at Summerhayes Park being Pt Lot 2 DP 220070, Pt Lot 6 DP 661403, 326-340 Hawkesbury Road, WINMALEE be determined pursuant to S.80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown as Attachment 1 to this report.

MINUTE NO. 506 (CONTD.)

Attachment 1 - Conditions of development consent

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| Development consent | <p>1. Blue Mountains City Council issues its consent, subject to conditions stated hereunder, in accordance with Section 80A of the <i>Environmental Planning and Assessment Act 1979</i>. Substantial physical commencement of construction is required within 5 years from (insert date of determination).</p> <p>To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans prepared by BM City Services, numbered A1 6480 and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent.</p> |
| Construction certificate (building) | <p>2. A construction certificate shall be issued prior to the commencement of any site or building works. Any relevant detail required by these conditions of consent, must be submitted to the nominated Principal Certifying Authority (PCA) prior to the release of a Construction Certificate.</p> |
| Engineers certificate | <p>3. A certificate from a registered structural/hydraulic engineer is to be submitted and approved by the PCA, prior to release of the Construction Certificate. The certificate shall attest to the adequacy of the proposed retaining walls and drainage of the development.</p> |
| Building Code of Australia | <p>4. All building work must be carried out in accordance with the provisions of the Building Code of Australia.</p> |
| Hoarding / fencing | <p>5. To ensure the protection of the public, hoardings are to be provided on the all relevant side(s) of the site to the requirements of NSW Workcover Authority.</p> |
| Site management | <p>6. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:</p> <p>a) Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm and on Saturdays between 8am-3pm. Alteration to these hours may be possible for safety reasons but only on the approval of Council.</p> |

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- 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 that have the potential to pollute, such as washing tools and concreting 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. Felled trees are generally to be chipped and stored on site for redistribution in established garden areas or other suitable locations across the site.

Protection of site features

- 7. To preserve the natural site features and limit site disturbance, all natural landscape features including native bushland (comprising trees, shrubs and groundcovers), natural rock outcrops, caves and soil are to remain undisturbed outside the footprint of the proposed tennis courts, car parking and associated works, as shown on the approved plans.

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

Exclusion zone

- 8. Prior to the commencement of any work on site, including clearing, an exclusion zone must be established and maintained around the proposed tennis courts, car parking and associated works to prevent damage to existing vegetation/site features. This area is to be clearly identified by the placement of a temporary brightly coloured barrier mesh around the perimeter of the area to be protected and the provision of weatherproof signage to indicate that no entry into the zone or removal of the barrier is permitted.

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Within this zone, there is to be:

- a) no placement of temporary buildings or stockpiling of material,
- b) no parking or movement of machinery
- c) no change to the soil grade or level
- d) no changes to soil aeration or hydrological capacity
- e) no open cut trenching
- f) no spillage/disposal of building chemicals of any description.

An inspection of these barriers must be arranged with the Principal Certifying Authority

- a) prior to the commencement of site works
- b) at the first critical mandatory stage inspection.

**Conservation and
Protection of trees**

- ^{9.} **A Tree Protection Zone using (permanent fencing or similar) must be erected around the mature Turpentine (*Syncarpia glomulifera*) located immediately north of the proposed car parking to restrict vehicle access and limit pedestrian access to the area within the drip-line of the Turpentine during any site preparation, construction activity and future usage of the car park and Summerhayes Park facilities.**

This area must not be used for the placement of temporary site buildings, vehicular movement or parking, storing of topsoil, mulch, building material or dumping of spoil.

The tree protection fence shall be:

- a) constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain fencing or other design to be approved by Council prior to installation.

The Tree Protection Zone must be established in consultation with Councils Environmental/Landscape Assessment Officer and must be in place prior to the commencement of works/ the first critical mandatory stage inspection completed by the Principal Certifying Authority.

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**Stormwater Quantity
and Quality
Management**

10. **Work shall be undertaken in accordance with the requirements of the Summerhayes Park Vegetation Management Plan, dated November 2005, except as otherwise modified by these conditions of consent. In this regard, the following should be noted:**
- a) **Car parking - Stormwater exiting the proposed car park surfaces shall be managed by provision of an appropriate sand/gravel absorption trench as shown on the endorsed plans, to prevent concentrated flows and ensure nutrient and pollution loads to the adjacent bushland and watercourses are minimised.**
 - b) **Tennis Court - The stormwater outlet servicing the tennis courts shall be amended to incorporate a level spreader to prevent concentrated flows entering the adjacent bushland.**
 - c) **The existing privet buffer located immediately to the west and adjacent to the proposed car parking, where located beyond the extent of the approved works, provides an important function as a nutrient soak for existing carpark runoff. In accordance with the Vegetation Management Plan, a privet buffer of at least 10m width should remain until a permanent stormwater quality treatment facility for the entire carpark facility is provided.**

Tree Replacement

11. **To preserve the tree canopy of Blue Mountain City areas, native trees removed within the footprint of the tennis courts shall be replaced. The existing trees, and additional trees to be planted, shall be shown on a Landscape Plan/Site Plan. The plan shall be submitted to Council and considered and approved by Council prior to the commencement of construction on site. All tree planting works shall be completed prior to release of an Occupation Certificate.**

**Rehabilitation of the
site**

12. **Adjacent bushland shall be rehabilitated and disturbed surfaces resulting from the approved building and/or ancillary works shall be revegetated and stabilised in accordance with the Vegetation Management Plan, by Andy Foster, dated November 2005.**

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

Prior to the issue of the Occupation Certificate all relevant works indicated on the approved Vegetation Management Plan (including planting) must be completed.

Inspection of rehabilitation

13. Prior to the issue of the Occupation Certificate, a site inspection must be undertaken by Council's Environmental/Landscape Assessment Officer to ensure compliance with site rehabilitation requirements. A mutually convenient time for this inspection will need to be arranged with the nominated Officer.

Noise mitigation

14. To improve the for noise mitigation between the proposed tennis court and the adjoining residential property, directly to the east, the applicant will undertake the following:

1. replacement of existing rear and side (southern) boundary fence, in consultation with the affected property owner. The fence shall be at the cost of the applicant and be a suitable type fence to aid noise attenuation. Details of the final fence shall be subject to Council for approval prior to its erection.
2. Undertake effective screen planting between the boundary fence and the pedestrian pathway.

Details of the above material and planing types shall be indicated on the Landscape Plan required in condition 11.

Lighting of tennis courts

15. To protect the amenity of the local area, the main lighting of the proposed tennis courts shall be positioned, directed and shielded so that it does not cause nuisance to adjoining and nearby properties.

The main court lights are not to remain illuminated after 9:30pm and shall only be illuminated during periods of use.

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The lighting shall comply with a maximum light spillage of 5 lux horizontal at 10m from the outside of the tennis court fence on all sides.

The design must comply with the requirement of Australian Standards 4282 (Control of the obtrusive effects of outdoor lighting) particularly in terms of vertical spill at residential property boundaries.

The proposed lighting will be subject to certification, from a suitably qualified person, indicating that the above illumination limits have been meet.

Parking space
construction

16. To ensure suitable access and parking, the proposed parking area is to comply with Council's specifications, and shall generally be a 30mm thick AC10 seal on a 150mm thick base course on an approved subgrade.

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MINUTE NO. 507

13. X05/0708. Development Application No. X05/0708 for an 11 (Eleven) Dwelling Seniors Living Development on Lot 5 DP 20951, Lot 1 DP 361128 and Lot 3 DP 570465, Nos. 416 and 418 Hawkesbury Road, Winmalee and No. 1A White Cross Road, Winmalee

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

1. That Council receive the following report, which is based on a report initially presented to Council at its Ordinary Meeting of the 13 December 2005 and note the outcomes of the meeting between the applicant and Council staff.
2. That Development Application No. X05/0708 for an 11 (eleven) dwelling seniors living development on Lot 5 DP 20951, Lot 1 DP 361128 and Lot 3 DP 570465, Nos. 416 and 418 Hawkesbury Road, and No. 1A White Cross Road, Winmalee be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by refusing consent to the application for the following reasons:

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- a) **The proposal will result in an unacceptable adverse environmental impact on land zoned Environmental Protection (containing native vegetation that has characteristics of a threatened species community) and the hydrological aspects of the locality. The adverse impacts will manifest through clearing of native vegetation for asset protection zones required in association with the unit development, provision of communal open space and vehicular access and will result in disturbance to native vegetation as a consequence of drainage and other infrastructure works.**
- b) **The proposal is an over development of the site evident in the failure to provide for safe and convenient vehicle manoeuvring on site. In addition driveway widths and turning circles do not comply with the minimum standards prescribed in Planning for Bushfire Protection and in Council's Better Living Development Control Plan.**
- c) **The proposal does not comply with minimum setbacks to the adjoining arterial road and proposes inadequate planting on site, particularly within the front setback to off-set the impacts arising from the level of development proposed on the site.**
- d) **The proposal does not provide for an adequate landscape setting and appropriately located communal open space within the site. The location of communal open space for Seniors Living development within the Environmental Protection zone is not acceptable.**
- e) **The proposal is an over development of the site having regards to the lack of amenity of private open space provided for the proposed residential units; particularly in relation to configuration, solar access and accessibility of that private open space.**
- f) **The proposal presents a deficient design response to the street and will result in a mirroring of facades to the street that does not respond to the objectives of the Living General zone and design requirements of Local Environmental Plan 2005 in providing residential building forms that are articulated and varied with an individual dwelling identity.**
- g) **The proposal is not permissible within the context of the Seniors Living State Environmental Planning Policy in that the application relies on land zoned Environmental Protection and land designated as bushfire prone land (vegetation category 1) to accommodate the proposed development, which is prohibited in Schedule 1 of that policy; and**
- h) **The proposed development may not occur because the application has not been supported by a Bush Fire Safety Authority in accordance with Section 91 of the Environmental Planning and Assessment Act 1979. The RFS have withheld issuing a Bushfire Safety Authority subject to written confirmation that:**

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- (i) the Council would, in relation to that part of the site zoned Environmental Protection, be willing to disregard that the land is designated as environmentally sensitive land, and
- (ii) it can be demonstrated that development may reasonably be sited on such land, and
- (iii) land zoned Environmental Protection can be cleared to provide the required asset protection zones.

Having regard to the circumstances of the site and its environmental context, Council is not in a position to provide the Rural Fire Service with confirmation of the above as support is not provided for the use of land zoned Environmental Protection for the primary provision of asset protection zones associated with the development.

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

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MINUTE NO. 508

14. X05/0532. Development Application No. X05/0532 for Demolition of Existing Dwellings and Construction of a Child Care Centre on Lots 14-15 DP 23355, 28-30 Layton Avenue, Blaxland

The Meeting was addressed by Kamal Tawadros, Garry McMahon and Barry Coad.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Frappell and McLaren **that Development Application No. X05/0532 for demolition of existing dwellings and construction of a child care centre on Lots 14-15 DP 23355, 28-30 Layton Avenue, BLAXLAND be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown as Attachment 1 to this report.**

Attachment 1 - Conditions of development consent

Development consent

1. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the following plans
 - prepared by N Billyard Pty Ltd, numbered 908-D01 to D03 and dated 1 December 2005
 - prepared by Monaco Designs, numbered 1405-05 and dated 26 April 2005and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent.

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Substantial physical commencement of construction is required within 2 years from [insert date of determination].

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|---|---|
| <hr/> Construction certificate (building) | 2. A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier. |
| <hr/> Consolidation | 3. To ensure the ongoing operation of the centre and use of the site, the two subject lots shall be consolidated into one parcel prior to the issue of a Final Occupation Certificate. A copy of the consolidated title shall be submitted to Council for its records. |
| <hr/> Access and mobility statement | 4. To ensure access and facilities are provided for people with a disability, the development shall comply with the provisions of the <i>Disability Discrimination Act 1992</i> , the <i>Australian Standard AS1428</i> and Council's <i>Access and Mobility Policy</i> . A statement confirming compliance shall be submitted to the Principal Certifying Authority with the Construction Certificate. |
| <hr/> Consent from Railcorp and registration of easement | 5. To ensure stormwater runoff from the subject site can be disposed in a satisfactory manner the applicant shall obtain written approval from Railcorp for the proposed stormwater discharge to rail property and comply with all Railcorp requirements prior to the release of a Construction Certificate. Details provided to Railcorp shall include an accurate plan showing the relationship of the proposed stormwater drainage to the rail corridor and Rail Infrastructure Corporation stormwater channel. The developer must enter into a stormwater deed with the State Rail Authority and Rail Infrastructure Corporation with respect to the development, which would include to the satisfaction of the parties: <ul style="list-style-type: none">▪ Unconditional bank undertakings and insurance during construction of stormwater pipes in the rail corridor. |

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- **Payment of all Rail Parties costs associated with the storm water drainage connection. Costs include one off land usage and occupation costs, annual maintenance and supervision costs during the construction of stormwater drainage.**

The developer is to show, to Railcorp's satisfaction, that this development will improve the existing stormwater flows at Layton Ave underbridge.

The development must comply with UPRCT guidelines of 80L/s/ha and an on site detention system is not likely to increase the flow at the culverts. Railcorp will only allow discharge on the above basis.

The developer must execute a transfer granting easement to Railcorp for noise, vibration and electrolysis on terms and conditions to be determined by Railcorp.

In this regard a drainage easement in favour of the subject land shall be registered over Railcorp's land to legalise the above requirement. Details regarding Railcorp's approval and conditions together with evidence from the Lands and Property Information Office that a drainage easement has been registered shall be submitted to Council.

**Noise
measures**

mitigation

- 6. To ensure the noise from childcare facility does not result in objectionable noise to any affected residence, the noise mitigation measures and the management practices in the acoustic report of Renzo Tonin & Associates Pty Ltd dated 16 December 2005 are to be complied with. In this regard an Acoustic Consultant shall be involved in the design phase of the development.**

Certification shall be provided by the Acoustic Consultant in relation to compliance of the mitigation measures to the acoustic report. This certification shall be provided to the Private Certifying Authority and a copy provided to Council prior to commencement of use.

- 1. Solid fences to the side and rear boundaries are to consist of a lapped and capped timber paling fence constructed as indicated in the acoustic report.**

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2. The noise barrier along the side boundaries shall be the height designated in the acoustic report behind the front building line of the adjoining dwelling, at which point it shall taper to be 900mm at the front boundary. No fence is to be provided along the site's western (front) boundary.
3. The solid screen structures over the identified 0-2 and 2-5 play areas located along the site northern boundary shall be a material that allows the maximum light penetration, within acceptable solar exposure levels, in accordance with the relevant regulations.
4. Any further screen structures required on site shall consist of a fabric material that allows the maximum solar and precipitation transmissions allowed in accordance with the relevant regulations.
5. The location and type of screen structures shall require the further written approval of Council prior to their erection.
6. No screen structures are to be located in the area forward of the front building line.

Landscaping

7. Landscaping is required to ensure that the development contributes to the character of the Blue Mountains and its environmental sustainability.
 - + Details shall be provided to regarding appropriate measures to be under taken to protect all trees to be retained during and after construction.
 - + The plant species shall be amended to exclude Leptopermum due to its identified allergenic qualities and susceptibility to damage.
 - + Water tank shall be provided on site for reuse of stormwater on established landscaped areas. The location, size and colour of the tank shall be subject to Council approval and such that it does not adversely impact on the adjoining neighbourhood.
 - + A Weed Management Plan is to be developed to outline how identified noxious weeds on site shall be removed.
- A revised Landscape Plan, including a Weed Management Plan shall be submitted to Council and approved prior to the issue of a Construction Certificate.

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| <hr/> Hoarding / fencing | 8. To ensure the protection of the public, suitable fencing shall be provided to all boundaries of the site to the requirements of NSW Workcover Authority. |
| <hr/> Signage | 9. 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. |
| <hr/> Site management | 10. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the demolition and construction periods: <ul style="list-style-type: none">a) Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm and on Saturdays between 8am-3pm. Alteration to these hours may be possible for safety reasons but only on the approval of Council.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. |
| <hr/> Demolition of Buildings generally | 11. 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 | 12. If any building is identified as containing asbestos, the applicant is to advise the Council in writing. Prior to the commencement of any demolition work, notification shall be forwarded to Council and adjoining residents, in writing, at least ten (10) working days prior to commencement of demolition. 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. |
| Disposal of Asbestos | 13. All asbestos material, including asbestos cement, is to be disposed of to an approved waste management facility licensed to receive asbestos. |
| Display of signage | 14. The developer will display appropriate asbestos/demolition signage prior to and during demolition works. |
| Plans on site | 15. A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times during demolition and construction work. |
| Materials & colours | 16. To have regard of the amenity of the area, the materials and colours to be used are: a) External walls: Rendered finish (Sandstone) b) Roof: Colorbond roofing (Slate Grey) c) Trim: Black. Any ancillary structures are to be finished in colours and materials of low reflective quality to blend with the surroundings. Any variation to the above materials / colours will require the prior written approval of Council. |
| External lighting | 17. 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. |
| Hours of operation | 18. The hours of operation of the childcare centre is limited to between 7:30am and 6:30 pm Monday to Friday. |

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Site stormwater system

19. All stormwater runoff from impervious areas of the site are to be collected and piped to Rail Corporation's land via an On Site Detention system. Discharge onto Rail Corporation's land is subjected to Rail Corporation approval and conditions. Written approval shall be obtained from Rail Corporation and all Rail Corporation's conditions are to be complied with.

Submission to the Principal Certifying prior to issue of Occupation a certificate from Railcorp confirming the satisfaction completion of the required Railcorp's works.

On site detention

20. 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 downstream
- 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.

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**On site detention
positive covenant**

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

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

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

The applicant shall bear all costs associated in the preparation of the subject 88E Instrument. The wording of the Instrument shall be submitted to and approved by Council prior to lodgement at NSW Land and Property Information. Proof of lodgement with NSW Land and Property Information shall be submitted to Council prior to the issue of the Occupation Certificate.

**Internal pavement and
carparking layout**

22. To facilitate access in and out of the site kerbs, 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 internal driveway and access shall be designed in accordance with Australian Standards 2890.1/2004 to ensure all vehicles using the site can enter and leave the site in a forward direction.

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Driveway crossings

23. For the driveway required across the Layton Street footpath, a new heavy duty concrete layback and apron crossing shall 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.

A “ Standard Gutter Crossing Application” must be lodged with Council prior to the construction of the driveway crossings. The applicant shall make arrangement with Council’s Development Engineer for inspection prior to placement of concrete.

External Engineering Works

24. To facilitate vehicular access and pedestrian movement to and from the site following engineering works shall be constructed by the applicant at the applicant’s expense prior to issue of Occupation Certificate:
- a. The construction of a minimum 1.2m wide concrete footpath along the entire Layton Street frontage of the site
 - b. The removal of redundant vehicular crossings and its replacement with vertical kerb and gutter along the frontage of the site.

Construction in Council’s roads

25. Where works are carried out on Council or public lands (ie. roads, parks etc.) by or on behalf of the applicant, the following conditions shall be satisfied:
- a. Before work commences in Council’s roads, plans and specifications prepared by a suitably qualified person are to be submitted to and approved by Council under the Roads Act 1993. Approval of the engineering designs by Council is subject to the payment of the prescribed Engineering Development Fees at the time of lodgement. All works in Council’s road are to be at no cost to Council.
 - b. An on site meeting is to be arranged with Council’s Supervising Engineer prior to the commencement of any work in Council’s road for the purpose of a pre-construction meeting. Council’s inspection fee is to be paid prior to the meeting.

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- c. **The person or company carrying out the works will be required to carry workers compensation and public liability insurance to the value of \$10 million. The policy shall indemnify Council from all claims arising from the execution of the works. Proof of the policy is to be provided to Council's Development Engineer at the pre-construction meeting.**
- d. **The person or company carrying out the works shall submit to Council reference demonstrating experience in the type of work proposed to be undertaken. The person or company shall obtain approval from Council to carry out the works prior to works commencing.**
- e. **The applicant will be required to pay for inspections in accordance with Council's fees and charges. The specific stages of inspection required will be advised at the pre-construction meeting.**

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

Following the final inspection, any work considered by Council as unsatisfactory shall be rectified to Council's satisfaction at no cost to Council. Council inspection and approval shall be obtained prior to the issue of the Occupation Certificate.

- f. **Prior to the issue of the Roads Act Approval, a Traffic Management Plan report prepared by a qualified person is to be submitted to and approved by Council. The Traffic Management Plan is to address but not be limited to the following: loss of on street parking, construction vehicle travel routes, safety of the public, materials storage and 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 Council.

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- 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.**
- h. The contractor shall submit to Council the names of proposed traffic controllers with a signed declaration that they are appropriately trained in the duties of traffic controllers and Roads and Traffic Authority accredited.**
- i. 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.**
- j. 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

- 26. A performance maintenance bond to the value of five (5) percent of the engineering construction or a minimum of \$10,000, whichever is the greater, to guarantee the safety of the public, environmental protection performance and maintenance during construction in Council's road shall be paid to Council.
This bond shall be retained for twelve (12) months after construction is completed to the satisfaction of Council's Supervising Engineer.
The bond is to be paid prior to the issue of the Construction Certificate.**

**Certification by
Council**

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

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| <hr/> Compliance with standards | <p>28. All internal and external engineering works required by this development are to be in accordance with Council's Specification for Engineering Work for Subdivisions and Development, Part 1—Design and Part 2—Construction (Development Control Plan No. 31), current version of Australian Rainfall and Runoff and other relevant Australian Standards. The design and construction is to include any additional works to make the construction effective.</p> <p>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. External roadworks are to be approved and supervised by Council's Development Engineer.</p> |
| <hr/> Works as executed plans | <p>29. Prior to the issue of an Occupation Certificate, a Works as Executed Plan of all external engineering works prepared by a registered surveyor shall be submitted to Council.</p> |
| <hr/> Sedimentation and erosion control | <p>30. 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.</p> <p>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.</p> <p>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.</p> |
| <hr/> Certificates from authorities | <p>31. To ensure satisfactory effluent disposal and utility services are provided, you are required obtain a Section 73 Certificate from Sydney Water prior to the issues of a Construction Certificate.</p> <p>A copy of the Section 73 Certificate is to be provided to Council.</p> |

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Use

32. To ensure the mitigation of potential impacts to surrounding properties, the centre is approved for ninety (90) long day care spaces only, which will consist of the following:
1. 0 – 2 year olds – 30 Spaces
 2. 2 – 3 year olds – 30 Spaces
 3. 4 – 5 year olds – 30 Spaces

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15. X05/1174. Development Application No. X05/1174 for the Construction of a New State Emergency Services Building at Jackson Park - Lots 3, 9 & Part Lot 4, Section C DP 625, and Lot 2 DP 1005841, 7 Sir Henrys Parade, Faulconbridge

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

1. That the Development Application No. X05/1174 for construction of a new building for NSW State Emergency Service at Jackson Park, being Lots 3, 9 and Part Lot 4, Sec. C in DP 625 and Lot 2 DP 1005841, 7 Sir Henrys Parade, FAULCONBRIDGE be determined pursuant to S.80(3) of the Environmental Planning and Assessment Act 1979 by the granting of a deferred commencement consent subject to:
 - (a) satisfying the deferred commencement conditions in Recommendation 2 within twelve (12) months from the date of this determination, and
 - (b) the terms of the proposed Operational Development Consent shown in Part 2 of Attachment 1.
2. That the Development Consent not become operational until the following condition is met to the satisfaction of the consent authority:

Amended architectural documentation and supporting information is to be prepared and submitted following an architectural review of the proposed SES building, based on the elevations by Bio-building Design Pty Ltd numbered 1-9 and dated 14 September 2005, which achieves the following design outcomes:

- (a) Revision of the principal façade and elevation as viewed from the street to:
 - (i) minimise the visual bulk of the building by increasing its articulation, and
 - (ii) respond appropriately to the building's setting and the locality, and
 - (iii) take account of the site's visual prominence, particularly as viewed from the railway corridor.

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- (b) In particular, the design review is to:
 - (i) improve the building's presentation and to provide enhanced solar access/natural lighting and ventilation (which will necessitate the reconfiguration of internal layout and relocation of toilet facilities), and which may include introducing windows and protruding entry elements to the street elevation, and
 - (ii) introduce a stepped building setback from the street, which would distinguish between the meeting/training room and vehicular area of the facility (preferably with the vehicular area set further back from the street), and
 - (iii) revise the roof lines of the building, particularly in relation to the meeting room, to improve presentation to the street with consideration given to a lean-to roof or introducing a pitched roof or curvilinear components for part or all of the building, and
 - (iv) review the materials and external wall treatments (including use of corrugated iron/custom orb in place of proposed Kliplok)
 - (c) Provide details of colours and materials for roofing, roller shutters, windows, walls and driveways that are compatible with, and contribute to, the bushland setting of the site.
 - (d) In completing the design revision in (a) above, the functional requirements of the building are acknowledged, and the following consequential modifications to the design may occur:
 - (i) the internal layout of the development may be modified, providing the overall area or footprint of the building is not increased,
 - (ii) the location of the disabled car park may be altered,
 - (iii) building setbacks may be increased, but not reduced unless site constraints require otherwise.
3. That the General Manager be given delegated authority to issue the operational Development Consent upon resolution of the deferred commencement conditions referred to in the Recommendations 1 above.

Attachment 1 - Conditions of development consent

Part 1 – Deferred Commencement Conditions of Consent

Design resolution of development

1. *Amended architectural documentation and supporting information is to be prepared and submitted following an architectural review of the proposed SES building, based on the elevations by Bio-building Design Pty Ltd numbered 1-9 and dated 14 September 2005, which achieves the following design outcomes:*

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- (a) *Revision of the principal façade and elevation as viewed from the street to:*
 - (i) *minimise the visual bulk of the building by increasing its articulation, and*
 - (ii) *respond appropriately to the building's setting and the locality, and*
 - (iii) *take account of the site's visual prominence, particularly as viewed from the railway corridor.*

- (b) *In particular, the design review is to:*
 - (i) *improve the building's presentation and to provide enhanced solar access/natural lighting and ventilation (which will necessitate the reconfiguration of internal layout and relocation of toilet facilities), and which may include introducing windows and protruding entry elements to the street elevation, and*
 - (ii) *introduce a stepped building setback from the street, which would distinguish between the meeting/training room and vehicular area of the facility (preferably with the vehicular area set further back from the street), and*
 - (iii) *revise the roof lines of the building, particularly in relation to the meeting room, to improve presentation to the street with consideration given to a lean-to roof or introducing a pitched roof or curvilinear components for part or all of the building, and*
 - (iv) *review the materials and external wall treatments (including use of corrugated iron/custom orb in place of proposed Kliplok)*

- (c) *Provide details of colours and materials for roofing, roller shutters, windows, walls and driveways that are compatible with, and contribute to, the bushland setting of the site.*

- (d) *In completing the design revision in (a) above, the functional requirements of the building are acknowledged, and the following consequential modifications to the design may occur:*

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- (i) *the internal layout of the development may be modified, providing the overall area or footprint of the building is not increased,*
- (ii) *the location of the disabled car park may be altered,*
- (iii) *building setbacks may be increased, but not reduced unless site constraints require otherwise.*

Part 2 – Proposed Operational Conditions of Consent

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| <hr/> Confirmation of relevant plans | 2. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans prepared by Bio-building Design Pty Ltd numbered 1-9 dated 14 September 2005 and Landscape Drawing prepared by <i>Kathryn Temple</i> and dated <i>October 2005</i> and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent. |
| <hr/> Period of development consent | 3. Physical commencement of construction is required within a two year period from the date of this consent. Should this not occur, the development consent will lapse. |
| <hr/> Certificates from authorities <i>Early contact with these authorities is recommended</i> | 4. To ensure satisfactory effluent disposal and utility services are provided to all lots on the subdivision, you are required to submit to Council certificates from – a) Sydney Water indicating that reticulated water and sewer has been made available to each lot in the subdivision. b) Integral Energy indicating that satisfactory arrangements have been made for the provision of (aerial / underground) electricity supply to each lot in the subdivision. c) An approved telecommunications service provider stating that satisfactory arrangements have been made for (underground /aerial) telephone services to each lot in the subdivision. |
| <hr/> Building Code of Australia | 5. All building work must be carried out in accordance with the provisions of the Building Code of Australia. |

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| <hr/> Survey report | 6. To ensure that the building does not encroach on the minimum required setbacks and is located within the boundaries of the property, a survey report 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) footing excavation.b) slab formwork.c) foundation walls.d) walls and completed eaves/gutter/fascia/gable.e) building on the site. |
| <hr/> Structural certificate | 7. To ensure the building is structurally sound and has 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. This shall certify that the building has been erected in accordance with the approved structural details and is structurally adequate for the imposed loads. |
| <hr/> Excavations | 8. All excavations are to be guarded and protected to prevent them from being dangerous to the public and surrounding properties. |
| <hr/> Signage | 9. 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. |
| <hr/> Site management | 10. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period: <ul style="list-style-type: none">a) Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm and on Saturdays between 8am-3pm. Alteration to these hours may be possible for safety reasons but only on the approval of Council. |

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- 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.**

Erosion & sediment controls

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

Soil erosion fences shall remain and must be maintained until all disturbed areas are restored by turfing, paving, revegetation.

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| <hr/> Soil erosion | 12. All exposed earthworks and disturbed areas shall have suitable sediment control measures in place <u>prior</u> to the commencement of construction to prevent soil erosion and the transport of sediment off the site during rainfall and runoff. The sediment control measures shall be continually monitored and maintained for the duration of construction and for six months after completion. All disturbed areas shall be revegetated with native vegetation endemic to the area. |
| <hr/> Recycling on site | 13. Any vegetation requiring removal for the purpose of access or dwelling construction shall be immediately mulched or chipped and stockpiled on site to be used for restoration on the completion of the works. |
| <hr/> Workers amenities | 14. Before work starts, toilet facilities must be provided for construction personnel on the site on the basis of 1 toilet for every 20 workers. Amenities are to be installed and operated in an environmentally responsible and sanitary manner. Toilets cannot remain on site for any longer than 12 months, without the further approval of Council. |
| <hr/> Plans on site | 15. A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times. |
| <hr/> External finishes | 16. To ensure that the development is compatible with the surrounding environment colours and finishes are to be muted bushland tones. Any outbuildings or other ancillary structures are to be finished in colours and materials of natural earthy tones and low reflective quality to blend with the surroundings. The driveway is to be finished in dark earth tones. |
| <hr/> Access and mobility statement | 17. To ensure access and facilities for disabled people are provided, a statement from the applicant or owner is required certifying that the development complies with the provisions of the <i>Disability Discrimination Act 1992</i> ; the <i>Australian Standard AS1428</i> and Council's <i>Access and Mobility Policy</i> . This statement is to form part of the construction certificate documentation. |

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| <hr/> Stormwater drainage | <p>18. To control rainwater runoff, roof water shall be connected to stormwater drainage lines discharging to</p> <ul style="list-style-type: none">a) a rainwater tank. Overflow to:b) the street gutter.c) the drainage easement.d) the existing stormwater system.e) stormwater pits (600mm wide x 600mm deep x 2m long, for each downpipe. Pits shall be located at least 4m from any building or property boundary). Note: A 100mm x 50mm downpipe is considered capable of draining up to 45m² of roof area.f) a dispersal area. <p>It is recommended that the drainage system be installed at the same time as the footings/slab. It must, however, be operational as soon as the roof is clad.</p> |
| <hr/> Work in road reserve | <p>19. All contractors working in Council's road reserve shall be covered for worker's compensation insurance and public liability insurance to the amount of \$10 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Written evidence of this insurance shall be submitted to Council prior to works commencing.</p> |
| <hr/> Annual fire safety statement <i>Each essential fire safety measure in the building</i> | <p>20. Each year, within 12 months of the previous statement or after a certificate of installation has been issued for the building (whichever is applicable), the owner of the building must ensure the Council receives a fire safety statement. This is to be in the format of Form 15A (copy attached) and must deal with each essential fire safety measure in the building.</p> <p>As soon as practicable after the statement is issued, a copy of the statement (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy is to be prominently displayed in the building.</p> |
| <hr/> Fire Extinguisher | <p>21. A fire extinguisher be installed to the kitchen area of the building</p> |

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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.**
- + **All works shown on the landscaping plan (including fencing details) shall be installed.**
 - + **All plants shown must be in an advanced stage of growth at the time of planting (minimum 50 litre container for trees and 25 litre container for shrubs). Trees must not be less than 2 metres in height.**
 - + **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.**

Fences and services

23. **To protect existing vegetation**
- a) **boundary fences**
 - b) **utility pipe lines**
- are to be hand cleared to a maximum width of 1 metre.**

**Completion of
Landscape Works**

24. **Landscape works shall be carried out in accordance with Landscape Drawing prepared by *Kathryn Temple* and dated *October 2005* submitted with the Development Application, except as amended by the following:**

Provide mulch only in garden bed areas and where spontaneous regeneration of pre-existing plant community is unlikely.

Mower strip to be provided along the bushland edge of the turfed area.

Minor substitutions of native species is permitted if necessary provided that intent of landscape is not compromised.

Include waster retaining crystals in the backfill at planting to minimise the requirement for maintenance watering.

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Conservation of areas

25. **Prior to the commencement of works on site, including site clearing/preparation, an exclusion zone must be established around vegetation to be retained. This area is to be implemented in accordance with the landscape Plan prepared by Kathryn Temple, dated October 2005 . An inspection of these structures must be arranged with Council prior to the commencement of site works.**

Such barriers are to remain in place until construction works are completed.

Rehabilitation /landscaping of the area immediately adjoining the protected area is to be undertaken following the completion of site works.

Within this zone, there is to be:

- **no placement of temporary buildings or stockpiling of material,**
- **no parking or movement of machinery**
- **no change to the soil grade or level**
- **no changes to soil aeration or hydrological capacity**
- **no open cut trenching**
- **no spillage/disposal of building chemicals of any description.**

The proponent/applicant must ensure that all contractors/tradespeople operating on the site are advised of the status of protected vegetation and exclusion zones prior to the commencement of the related demolition/ construction tasks

Filter fence- Sediment Controls

26. **To preserve and enhance the natural environment, a geofabric filter fence shall be installed along contour immediately downslope of construction and disturbed areas prior to the commencement of earthworks.**

Both ends shall be turned uphill by 1.0 metre. Approved geofabric, such as CSR - Humes "Propex" Terram 1000, Polyfelt TS500, Bidim U24 or Terratrack 2415 or equivalent is to be stretched between posts placed at 2.0 to 3.0 metre centres.

The base of the fabric must be buried at least 200mm in the ground on the upslope side. Geofabric material shall be replaced at intervals not exceeding 18 months, or as directed by the Principal Certifying Authority.

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The geofabric filter fence shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised.

Sediment shall be removed from the structure on a regular basis to ensure that the operational capacity of the fence is maintained at no less than 70 % at all times.

Divert and contain

27. **To preserve and enhance the natural environment, a diversion bank/catch drain shall be constructed between the building site and downslope bushland areas to intercept and convey sediment-laden runoff to an appropriately designed and located sediment trap or sedimentation basin within the boundaries of the site.**

Weed Control techniques

28. **Weed control is to be undertaken prior to or concurrently with the establishment of the landscape, and is to be undertaken on a regular basis to ensure the depletion of soil stored seed, and /or the successful establishment of the approved plantings.**
Where herbicide is proposed for use within the weed control strategy, operators must ensure that all chemicals are registered for use and used in strict accordance with a current, registered label.
Failure to do so may constitute a breach of the Pesticides Act 2000

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

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

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MINUTE NO. 510

16. C07519. Item C1 in Confidential Business Paper – Chase Developments Pty Ltd v BMCC (Parklands, 132-174 Govetts Leap Road, Blackheath)

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

1. That Item C1 in the Business Paper be deferred for consideration until all other business of this meeting has been concluded.
2. That Council close part of the Council Meeting for consideration of Item C1 in the Business Paper – Chase Developments Pty Ltd v BMCC (Parklands) pursuant to the provisions of Section 10A(2)(c) and (d)) of the Local Government Act 1993, as the report contains, and discussion is likely to contain legally privileged information pertaining to an Appeal before the Land & Environment Court.

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MINUTE NO. 511

17. C07639. Item C2 in Confidential Business Paper – Laurence Browning Pty Ltd v BMCC (80-104 Railway Parade, Wentworth Falls)

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

1. That Item C2 in the Business Paper be deferred for consideration until all other business of this meeting has been concluded.
2. That Council close part of the Council Meeting for consideration of Item C2 in the Business Paper – Laurence Browning Pty Ltd v BMCC (80-104 Railway Parade Wentworth Falls) pursuant to the provisions of Section 10A(2)(c) and (d)) of the Local Government Act 1993, as the report contains, and discussion is likely to contain legally privileged information pertaining to an Appeal before the Land & Environment Court.

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MINUTE NO. 512

18. H01343. Heritage Study of The Gully Aboriginal Place, Katoomba

The Meeting was addressed by Ivan Jeray.

A MOTION was moved by Councillors O’Grady and Van der Kley:

1. That Council receives and notes the Heritage Study of the Gully.

MINUTE NO. 512 (CONTD.)

2. That the Heritage Study is used to guide decision-making in regards to the significance and heritage values of the Gully.
3. That Council distributes copies of the study to key stakeholders.
4. That relevant Council staff are briefed on the study and Council's recommendations in relation to it.

An AMENDMENT was moved by Councillors Frappell and O'Grady:

- 1. That Council receives and notes the Heritage Study of the Gully.**
- 2. That the Heritage Study is used to guide decision-making in regards to the significance and heritage values of the Gully.**
- 3. That Council distributes copies of the study to key stakeholders.**
- 4. That relevant Council staff and Councillors are briefed on the study and Council's recommendations in relation to it.**

Upon being PUT to the Meeting, the AMENDMENT was AGREED TO UNANIMOUSLY and BECAME the MOTION.

Upon being PUT to the Meeting the MOTION was CARRIED UNANIMOUSLY.

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MINUTE NO. 513

19. H01269. Restricting Smoking near Sporting Activities at BMCC Venues

A MOTION was moved by Councillors Myles and McLaren:

1. That Council receives and notes this report.
2. That BMCC initiates a pilot program restricting smoking at some ovals and evaluate the outcome of the pilot after a 12-month period.
3. That the "Proposed Way Forward" outlined in this report be adopted.
4. That after the pilot program a review be conducted and a further report come back to Council.

An AMENDMENT was moved by Councillors McInnes and O'Grady that this matter be deferred and referred to the Policy Review Committee.

MINUTE NO. 513 (CONTD.)

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

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

A FURTHER AMENDMENT was moved by Councillors McInnes and O'Grady:

- 1. That Council receives and notes this report.**
- 2. That BMCC initiates a pilot program restricting smoking at some ovals and evaluate the outcome of the pilot after a 12-month period.**
- 3. That the "Proposed Way Forward" outlined in this report be adopted.**
- 4. That after the pilot program a review be conducted and a further report come back to Council.**
- 5. That the issue also be referred to the Policy Review Committee for consideration.**

Upon being PUT to the Meeting, the FURTHER AMENDMENT was AGREED TO UNANIMOUSLY and BECAME the MOTION.

Upon being PUT to the Meeting, the MOTION was CARRIED UNANIMOUSLY.

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MINUTE NO. 514

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

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Myles that Council approve the following donations from the Councillors' Minor Local Projects Vote:

| <u>Organisation</u> | <u>Amount</u> |
|--|---------------|
| Mid Mountains Youth Centre | \$200 |
| Mid Mountains Neighbourhood Centre | \$300 |
| Lawson Combined Services Social Club | \$200 |
| Blaxland Public School | \$200 |
| Blaxland/Glenbrook Sub Branch of RSL | \$200 |
| Lower Mountains Family Support Service | \$100 |
| Springwood Foundation Day | \$200 |

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

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MINUTE NO. 515

21. C07515. Draft Cultural Strategy 2006-16

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

1. That the draft City of Blue Mountains Cultural Strategy 2006-16 be placed on public exhibition and for a period of one month for comment.
2. That the draft City of Blue Mountains Cultural Strategy 2006-16 be forwarded to relevant external government agencies for comment.
3. That notice of the exhibition be sent to those people who were involved in the consultations.
4. That submissions received in response to the exhibition be assessed and reported to Council for consideration in adopting a final City of Blue Mountains Cultural Strategy 2006-16.

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MINUTE NO. 516

22. C02907. Applications for Continued Subsidy from Council and Continued Use of Community Buildings by Community Groups

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

1. That Council formally approves the continued use of Council's community buildings by the community services groups mentioned in this report.
2. That Council agrees to continue to subsidise the community groups mentioned in this report in accordance with their individual requests.
3. That the error on page 139 of the Business Paper, concerning the Mid Mountains Neighbourhood Centre making an annual contribution of "\$3,300 plus GST" be amended in the official minutes to read that the annual contribution be "\$3,000 plus GST".

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

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NOTICES OF MOTION, 21/3/06

MINUTE NO. 517

23. C07701. Kings Tableland Plateau, Wentworth Falls

RESOLVED UNANIMOUSLY on the MOTION of Councillors Angel and O'Grady **that a report be submitted to Council on the Kings Tableland Plateau, Wentworth Falls, with particular reference to the Queen Victoria Hospital site, such report to address the following:**

- adequacy of zoning and other planning controls; and
- preservation of environmental and cultural values in this unique area;
- protection of the surrounding world heritage area;
- protection of nationally endangered and regionally significant Blue Mountains swamps and the identification of adequate buffer areas;
- protection of significant communities and species (both flora and fauna);
- protection of indigenous sites and values;
- assessment of heritage values of the Queen Victoria buildings;
- assessment of bushfire history and risk to existing and potential future development;
- consideration of suitable size and location of any future development on Kings Tableland.

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MINUTE NO. 518

24. C00453. Springwood Soccer and Sports Club - 40th Birthday

RESOLVED UNANIMOUSLY on the MOTION of Councillors McLaren and Myles **that Council congratulate the Springwood Soccer and Sports Club on their 40th Birthday celebrations and recognises the importance of volunteers in our local community.**

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MINUTE NO. 519

25. X04/1224. Development Application – 38 Coolabah Road, Valley Heights

RESOLVED UNANIMOUSLY on the MOTION of Councillors McLaren and Myles:

1. **That the matter of 38 Coolabah Road, Valley Heights be referred to the next Environmental Working Party.**
2. **That an onsite meeting be convened as soon as possible with interested Councillors, staff and the owners of 40 Coolabah Road.**

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PRECIS OF SELECTED CORRESPONDENCE, 21/3/06

MINUTE NO. 520

26. C00680. Precis of Selected Correspondence, 21/3/2006

The Meeting was addressed by Ivan Jeray.

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

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MINUTE NO. 521

C00336. Procedural – Matter of Urgency

RESOLVED UNANIMOUSLY on the MOTION of Councillors McInnes and O’Grady **that Council now consider a matter concerning the anticipated changes recommended in the Environmental Planning and Assessment Amendment Bill 2006, such matter having been ruled by the Mayor to be a matter of great urgency.**

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MINUTE NO. 522

Matter of Urgency - Environmental Planning and Assessment Amendment Bill 2006

RESOLVED UNANIMOUSLY on the MOTION of Councillors McInnes and O'Grady that Council write immediately to the Premier, Morris Iemma, the Leader of the Opposition, Peter Debnam, the Minister for Planning, Frank Sartor, the Minister for Local Government, Kerry Hickey, and our local representative Bob Debus, expressing our vehement opposition to the anticipated changes recommended in the Environmental Planning and Assessment Amendment Bill 2006, on the grounds that it has been introduced to parliament without any consultation (including the LGSA), and that it allows for a significant increase in the power of the State Government to intervene in the planning decisions of local councils.

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MINUTE NO. 523

In accordance with the decision recorded at Minute No. 510, the Council Meeting was then closed to the public while the following matter was considered:

C1. C07519. Chase Developments Pty Ltd v BMCC (Parklands, 132-174 Govetts Leap Road, Blackheath)

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

1. That the Council, in order to maintain its intended interpretation of clause 10.8(e) of LEP 1991 as a prohibition and to provide the optimum outcome as far as the administration of the plan is concerned, joins the appeal as co-appellant.
2. That the Council decline to join as a co-appellant in relation to the question of whether the sewerage treatment plant forming part of the development approved by the Land and Environment Court is 'designated development'.
3. That Council authorise the General Manager to negotiate with the appellant on the option of cost sharing that part of the appeal relating to clause 10.8(e) and brings back a further confidential report for consideration and Council decision.

MINUTE NO. 523 (CONTD.)

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

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

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MINUTE NO. 524

In accordance with the decision recorded at Minute No. 511, the Council Meeting was then closed to the public while the following matter was considered:

C2. C07639. Laurence Browning Pty Ltd v BMCC (80-104 Railway Parade, Wentworth Falls)

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and Van der Kley that Council instruct its legal advisors to file a holding appeal to preserve the Council's rights in relation to the decision of the Land and Environment Court in respect of Laurence Browning Pty Ltd v BMCC (80-104 Railway Parade Wentworth Falls).

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MINUTE NO. 525

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 10:24 pm on Tuesday, 21 March 2006.

The Ordinary Meeting of the Council then closed.

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