

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, 30 May 2006, commencing at 7:32 pm.

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There were present:

The Mayor (Councillor Jim Angel) in the Chair, and Councillors Frappell, Hamilton, 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, Executive Officer, Manager Corporate Planning, Manager, Building and Construction, Principal Environmental Policy Advisor, the Council's Legal Advisor 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. 572

C00679. Apologies and Leave of Absence

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

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MINUTE NO. 573

C00336. Confirmation of Minutes - Ordinary Meeting, 9/5/06

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and Frappell **that the Minutes of the Ordinary Meeting of 9 May 2006 be confirmed.**

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MINUTE NO. 574

1. C07408. Independent Inquiry into the Financial Sustainability of NSW Local Government

RESOLVED UNANIMOUSLY on the MOTION of Councillors Angel and Hamilton:

1. That the minute be received and noted.
2. That the Independent Panel be commended on the successful conduct and completion of this watershed Inquiry.
3. That the Local Government and Shires Association (LGSA) be commended for initiating the Inquiry.
4. That the Council commit to support the LGSA in an ongoing effort to rebuild and strengthen the financial sustainability of NSW Local Government.
5. That the LGSA establish an implementation framework and process to consult with councils and other stakeholders; and to advance the key recommendations of the report that have been endorsed by members.
6. That the Council call on the NSW Government to establish an “Independent Commission consisting of equal representation from the LGSA and the state to assess the gravity of the problems facing Local Government, to recommend urgent action to be undertaken, to help implement such changes in cooperation with Local Government and to monitor progress in achieving agreed outcomes” (recommendation 49, Final Report).

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MINUTE NO. 575

2. C00679. Application for Leave of Absence

RESOLVED UNANIMOUSLY on the MOTION of Councillors Angel and Frappell **that Councillor Anna Brown be granted leave of absence from the Council meetings for a period of three months from 28 May 2006.**

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MINUTE NO. 576

3. C01626. 2004-05 Supplementary State of the Environment Report for the City of Blue Mountains

The Meeting was addressed by Stuart Jones.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Frappell and Searle:

1. **The Council endorses the “2004-05 Supplementary State of the Environment Report for the City of Blue Mountains” for submission to the Minister of Local Government as required by Section 428 of the Local Government Act 1993.**
2. **In the Council’s next Management Plan process, the Council considers the issues identified in the “2004-05 Supplementary State of the Environment Report for the City of Blue Mountains” that require attention by decision makers.**
3. **The Council accepts the State of the Environment Report as a key tool for guiding decisions about its Management Plan Key Principle Activity Area ‘Looking After Environment in the Blue Mountains.**

Councillor Van der Kley was out of the Chambers.

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MINUTE NO.577

4. C01900. March Quarter 2005-2006 Progress Report - Management Plan (Including Capital Works Program) and Operating Budget

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and Hamilton:

1. **That the General Manager’s report together with the accompanying documents titled “Quarterly Review Management Plan including Capital Works Program March 2006” and “Quarterly Review Budget March 2006 - 2005/2006” (both separately enclosed) be noted and endorsed.**
2. **That the variations of income and expenditure as identified in the accompanying documents be approved and voted.**

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MINUTE NO.578

5. C06026. Revised General Power of Attorney

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

1. **That the Mayor, the General Manager and the Public Officer be appointed as the Council's attorneys to execute on the Council's behalf all documents necessary to give effect to resolutions of the Council and/or any duty properly delegated by the Council.**
2. **That the instrument of appointment of the Mayor, the General Manager and the Public Officer as attorneys be registered with the Department of Lands.**
3. **That authority be granted for the affixing of the Council Seal to the General Power of Attorney instrument to give effect to the abovementioned arrangements.**

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MINUTE NO. 579

6. C00694. Schedule of Invested Monies

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

That the Schedule of Invested Monies as at 30 April 2006 be received.

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MINUTE NO. 580

7. C01230. Groundwater Update, Including Report on the Groundwater Community Forum

The Meeting was addressed by Stuart Jones.

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

1. **That the Council note the outcomes of the Community Groundwater Forum and the recent developments in the Council efforts to have a greater role in the management of groundwater in the Blue Mountains.**
2. **That the Council endorse that copies of this Council Report, once adopted, are sent to the government agencies involved in the Community Groundwater Forum along with letters of thanks for their participation.**

MINUTE NO. 580 Contd.

3. **That the Council write to the Dept of Natural Resources and Hawkesbury Nepean Catchment Management Authority**
 - reiterating the need for another Community Groundwater Forum as soon as possible specifically to discuss the Groundwater MacroPlan covering the Blue Mountains, prior to the plans formulation;
 - that the Council is consulted on the process and format for the community consultation for the Groundwater MacroPlan covering the Blue Mountains;
 - that until a Groundwater MacroPlan has been finalised, including determination of an overall ecological sustainable extraction limit and the consideration of the protection of groundwater dependant ecological communities, that the precautionary principle is applied to any assessment of new bore licence applications;
 - that any strategic planning for groundwater management and extraction covering the Blue Mountains is linked and co-ordinated by the Dept of Natural Resources with any surface water management planning, ideally in one overall plan.

4. **That in light of the Dept of Planning's response, that the Council do not pursue further a formal approval or concurrence role for the Council in relation to groundwater extraction, at this stage, through amendments to the LEPs.**

5. **That the Council endorse the following proposed actions as an outcome of the liaison undertaken to date with Dept of Natural Resources**
 - a. **that the Council develop a map of areas of special significance or sensitivity in terms of groundwater management, including groundwater dependent ecological communities and species, and liaise with the Blue Mountains Conservation Society and other relevant bodies in respect to the preparation of the map;**
 - b. **that the Council meet with senior staff from the Dept of Natural Resources to:**
 - provide the map outlined above and explain how it was developed;
 - discuss the development of a groundwater enforcement and education campaign with assistance from the Council; and
 - further discuss increased groundwater monitoring in the Blue Mountains.
 - c. **that, at this stage, the Council do not pursue with the Dept of Natural Resources the proposed MOU or the referral of bore licence applications to the Council for comment but that this position is reviewed after the draft Groundwater MacroPlan covering the Blue Mountains has been prepared, and the Council have an opportunity to review the adequacy and comprehensiveness of the draft MacroPlan provisions.**

6. **That the Council staff will meet with Sydney Catchment Authority in regard to further test bore drilling at Leonay, and to discuss future community consultation in regard to any proposed bore field.**

MINUTE NO. 580 Contd.

7. That the Council request that Department of Natural Resources not grant any new approvals for bores in the Blue Mountains until Macro Plans have been completed.

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MINUTE NO. 581

8. X05/0125. Section 82A Application to Review the Determination of Development Application No. X05/0125 for an Enlargement of the Carport and Rear Deck and a Pergola/Awning over the Deck on Lot 48, DP 207235, No. 22 Bellbird Crescent, Blaxland

A MOTION was moved by Councillors McInnes and O’Grady

1. That the application for a review of determination of Development Application No. X05/0125 for an enlargement of the carport and rear deck and a pergola/awning over the deck on Lot 48, DP 207235, No. 22 Bellbird Crescent Blaxland be determined pursuant to Section 80(4) and Section 82A of the Environmental Planning and Assessment Act 1979 by the granting of consent for the carport component only of the development subject to the following condition.

“Blue Mountains City Council issues its consent, subject to conditions stated hereunder, in accordance with Section 80A of the Environmental Planning and Assessment Act 1979. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans dated 8 February 2005 and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent.

Note: This consent relates to the approval of the carport and fence only.

2. That the Council proceed with the issue of notices and orders requiring the demolition of the rear deck extension and the associated pergola/awning.

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

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

MINUTE NO. 581 Contd.

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

That the application for a review of determination of Development Application No. X05/0125 for an enlargement of the carport and rear deck and a pergola/awning over the deck on Lot 48. DP 207235, No. 22 Bellbird Crescent Blaxland be determined pursuant to Section 80(4) and Section 82A of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to the following conditions.

- 1. Blue Mountains City Council issues its consent, subject to conditions stated hereunder, in accordance with Section 80A of the Environmental Planning and Assessment Act 1979. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans dated 8 February 2005 and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent.**

- 2. To minimise the visual impact of the building on adjoining premises, a row of shrubs or small trees shall be planted between the pool deck/awning and the western boundary as shown in red on the approved plans. Such plants shall be at an advanced of stage of growth at the time of planting, and when fully grown capable of attaining a height of between 2.5 metres and 3 metres and screen the rear yard area of the adjoining property from view from the deck. The plantings shall be maintained for the life of the building. Any plants that die or are removed shall be replaced with plants of the same species and a similar stage of growth. All plants shown must be in an advanced stage of growth at the time of planting.**

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

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

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MINUTE NO. 582

9. S04/0012. Development Application No. S04/0012 for Lots 1-13 DP 270422, Nos. 1-18 And 22-25, The Escarpments and No. 227 Cliff Drive, Katoomba (Formerly Lot 3 DP 1026915, No. 227 Cliff Drive, Katoomba)

The Meeting was addressed by Ivan Jeray.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and Hamilton **that this matter be deferred until after the confidential business paper has been decided.**

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MINUTE NO. 583

9. S04/0012. Development Application No. S04/0012 for Lots 1-13 DP 270422, Nos. 1-18 And 22-25, The Escarpments and No. 227 Cliff Drive, Katoomba (Formerly Lot 3 DP 1026915, No. 227 Cliff Drive, Katoomba)

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

1. **That Council officers enter into negotiations with Reed Constructions Australia Pty Ltd to extend the expiry date of the performance bond (Bond number GPFB-R7-69) lodged in respect of the construction of the roundabout at the southern access point to the Katoomba Golf Course redevelopment at the intersection of Acacia Street and Cliff Drive, Katoomba, from 30 June 2006 until 31 December 2006.**
2. **That if, by 5.00 pm on 9 June 2006, the bond not be extended, the Council forward a letter of demand to Great Lakes Reinsurance (UK) PLC calling upon the performance bond (Bond number GPFB-R7-69) lodged in respect of the subject works.**
3. **That the Council attach its Common Seal to certification required to accompany the letter of demand as required under the terms of the performance bond, as necessary.**

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

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

MINUTE NO. 583 Contd.

Councillor O'Grady was out of the Chambers when voting occurred.

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MINUTE NO. 584

10. X05/1109. Development Application No. X05/1109 for the Establishment of a Seniors Living Development Comprising Four (4) Dwellings at Lot 7 DP 15743, No. 32 Wascoe Street, Glenbrook

The Meeting was addressed by Floyd Chambers, Karl Berzins, Des Durieu, A. B. Doran and Eric Pollard.

RESOLVED UNANIMOUSLY on the MOTION of Councillors Frappell and Hamilton:

That Development Application No. X05/1109 for the establishment of a seniors living development comprising four (4) dwellings at Lot 7 DP 15743, No. 32 Wascoe Street, Glenbrook be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by refusing consent to the application for the following reasons:

- 1. The proposal is contrary to Clause 38(3) of the State Environmental Planning Policy (Seniors Living) 2004 in that the allotment does not have a 20 metre frontage at the building line (to Wascoe Street) and the State Planning Policy Objection to this development standard is not considered to be well founded.**
- 2. The proposal is contrary to the requirements and intent of Clause 31(a) of State Environmental Planning Policy (Seniors Living) 2004 in that the proposal in its present form does not recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.**
- 3. The design principles proposed and the present form of the development does not maintain reasonable neighbourhood amenity and appropriate residential character that reduce concerns involving bulk, scale and loss of privacy.**
- 5. The use of Pool Lane by higher density development is not supported due to its width and resultant loss of residential character.**
- 6. The on site driveway fails to provide a sufficient setback from the boundary in which landscaping could be undertaken to assist in ameliorating the impact of the development to the adjoining dwelling house.**
- 7. The proposal is contrary to Clause 110 of Local Environmental Plan 2005 in that a dwelling not exceeding a floor area of 100m² has not been provided.**
- 8. The proposal is contrary to Clause 60 of Local Environmental Plan 2005 in that the development fails to minimise visible bulk and ensure that the building form and design are articulated and varied to provide an individual dwelling identity in character with the area.**

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MINUTE NO. 585

11. C07751. H00128. Tender for Internal Refurbishment & Construct Shade Structure at Glenbrook Visitors Centre

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

1. That the Council receives and notes this report.
2. That the Council resolves to accept the tender submitted by ALLIANCE NETWORK INTERNATIONAL PTY LTD, SILVERWATER for the lump sum price of \$163,550.64 (\$148,682.40+\$14,868.24 GST).
3. That in accordance with Clause 400 of the Local Government (General) Regulation, 2006 authority is granted for affixing the Council seal to the contract documents.

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MINUTE NO. 586

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

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

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

<u>Organisation</u>	<u>Amount</u>
Winmalee and District Pre-school	\$500
Hazelbrook Soccer Club	\$150
Blue Mountains RSPCA	\$50
Glenbrook Swimming Club	\$200
Lawson Amateur Swimming Club	\$200
Hazelbrook-Lawson Guides	\$300
Braemar Gallery	\$180
BMCC (for Wentworth Falls Bowling Club)	\$450
Through Fresh Eyes Project	\$500

2. That the Council approve the following donations from the Mayoral Contingency Fund:

<u>Organisation</u>	<u>Amount</u>
Glenbrook Swimming Club	\$298
Katoomba Winter Magic Festival Inc.	\$3780

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MINUTE NO. 587

13. C07739. H01318. Tender for Alterations and Additions to Katoomba Neighbourhood Centre, 6 – 8 Station Street Katoomba – Contract No. 2005-W032

The Meeting was addressed by Suzie van Opdorp.

RESOLVED UNANIMOUSLY on the MOTION of Councillors O’Grady and Searle:

1. That the Council receives and notes this report.
2. That the Council resolves to decline tenders received in accordance with Clause 19(1)(b) of the Local Government Tendering Regulation 1999 as the tenders exceed available funding.
3. That the Council investigates alternative design options and scope of work to allow the project to proceed and this be done at the Community Facilities Working Party.
4. That the Council receive a further report after alternative design options and scope of work is concluded.
5. That the Council adopts the recommendation contained in the report that the balance of 2005/2006 funds be carried over for the financial year 2006/2007 and that all of these funds be allocated to improving the accommodation of Blue Mountains Family Support Service.

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MINUTE NO. 588

14. H00215. Deed of Agreement Between the Reserve Trust, the Council and Blue Mountains Cricket Association to Grant Permission to Construct a Pavilion and Occupancy Rights at Peter Carroll Field

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

1. That the Council affix the Common Seal of the Council to the Deed to enable construction to commence on the Pavilion at Peter Carroll Field.
2. That the Council thank and acknowledge the voluntary commitment by the Blue Mountains Cricket Association to the provision of high quality cricket opportunities in the Blue Mountains.

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MINUTE NO. 589

15. C00680. Precis of Correspondence

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

That a brief report come to the next Council Meeting outlining the criteria used for selecting the correspondence for the ‘Precis of Correspondence’.

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MINUTE NO. 590

16. C07749. Draft Enforcement Policy

A MOTION was moved by Councillors O’Grady and McInnes:

That as the exhibition period for the Draft Enforcement Policy is now complete it is requested that:

- 1 This matter be referred to the Policy Review Working Party for consideration before the final report is submitted to the Council.**
- 2 That a copy of the submissions, received during the exhibition period along with a summary be made available in preparing the Policy Review Working Party meeting.**

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

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

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MINUTE NO. 591

17. H00777. Summerhayes Park

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

1. That Councillors recognise that Springwood Soccer and Sports Club has been offered a lease over the clubhouse at Summerhayes Park by the Council (“the first agreement”).
2. That the Council negotiate with the Springwood Soccer and Sports Club a separate lease over other conditions regarding the use of Summerhayes Park that are not covered by the first agreement.
3. That the negotiations include discussions on the netball courts, lower playing field and the grandstand.
4. That the Council recognise the significant finances that the Springwood Soccer and Sports Club has invested in Summerhayes Park over a period of many years.

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MINUTE NO. 592

18. C00680. Precis of Selected Correspondence, 30/5/2006

RESOLVED UNANIMOUSLY on the MOTION of Councillors Myles and Searle:

That the Precis of Selected Correspondence be received except for Part 4 and appropriate letters forwarded where necessary.

RESOLVED UNANIMOUSLY on the MOTION of Councillors McLaren and Searle:

Part 4:

1. That the Council invite Natalie Hull from WSROC to give a presentation on the Western Sydney Young Women’s Leadership Program to a Briefing Session of Councillors at Springwood and members of Blue Mountains Youth Council be invited to attend.
2. That participants from the first program who reside in the Blue Mountains local government area be invited to address the same briefing session and share their experiences from the program.
3. That a report come to the Council on a possible financial contribution from Blue Mountains City Council to the Young Women’s Leadership Program.

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MINUTE NO. 593

S1. H00003. Item C1 in Confidential Business Paper – Katoomba Golf Course Development – Progress and Legal Implications

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

1. **That Item C1 in the Business Paper be deferred for consideration until all other business of this meeting has been concluded.**

2. **That the Council close part of the Council Meeting for consideration of Item C1 in the Business Paper – Katoomba Golf Course Development, pursuant to the provisions of Section 10A(2)(c), (d) and (g) of the Local Government Act 1993, as the report contains, and discussion is likely to involve:**
 - **information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting business;**
 - **commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it and;**
 - **advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**

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

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

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MINUTE NO. 594

In accordance with the decision recorded at Minute No. 593, the Council Meeting was then closed to the public while the following matter was considered:

C1. H00003. Katoomba Golf Course Redevelopment

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

1. That the Council consent to the proposed assignment of the rights and obligations of the Noroton Group under the Katoomba Golf Course Development Agreement (and associated documentation) to the Reed Group, subject to the terms of the proposed deed of assignment being acceptable to it.
2. That as part of the proposed assignment, the Council grant appropriate releases and waivers in favour of the Reed Group and the Noroton Group, subject to receiving reciprocal releases and waivers from those parties.
3. That the Council grant reasonable extensions of time in relation to the proposed development of Lot 1, and that consequential amendments to the positive covenant registered against the title to Lot 1 be made.
4. That the Council accept that practical completion of the golf course upgrade works has been achieved, subject to the Council securing the agreement of the Reed Group, on terms acceptable to the Council:
 - (a) to carry out the work required to the 14th and 17th greens within the golf course and to complete the proposed water storage and irrigation works within the golf course; and
 - (b) to extend ongoing financial support to KGCL.
5. That the Council consent to the assignment of Noroton's rights and obligations under the Golf Course Management Agreement to KEE.
6. That the Council seek the reaffirmation of its buy-back rights in relation to Lot 1, and such re-documentation of those rights as may be necessary.
7. That the Council resolve to sign all documents that are required to be signed to give effect to these decisions.
8. That the Council delegate to the General Manager the authority to participate in the required negotiations with the Noroton Group, the Reed Group and KGCL (either directly or through the Council's legal advisers) and the authority to approve the terms of any documents to be signed by the Council to give effect to the Council's decision.
9. That the Council resolve to affix its seal, or to otherwise sign, the documents prepared by the Council's legal advisers to implement the Council's decisions.

MINUTE NO. 594 Contd.

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

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

MINUTE NO. 595

C00336. Procedural – Re-open Meeting to Public

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

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MINUTE NO. 596

C00336. Procedural - Question that Meeting Close

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

Upon being PUT to the meeting, the QUESTION was AGREED TO UNANIMOUSLY, the time being 9.22 pm on Tuesday, 20 June 2006.

The Ordinary Meeting of the Council then closed.

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