

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, 8 March 2005, commencing at 7:36 pm.

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There were present:

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

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In attendance:

General Manager, Group Manager BM City Services, Group Manager City Solutions, Acting Group Manager City Sustainability, Group Manager Corporate Policy, Acting Group Manager Environmental and Customer Services, Executive Officer, Acting Manager Building & Construction, Manager Strategic Planning, Manager Corporate Property Management, Acting Business Paper & Administration Officer and Administration Officer.

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Prayer / Reflection:

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

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MINUTE NO. 46

**C00336. Confirmation of Minutes - Ordinary Meeting, 15/2/05**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Frappell that the Minutes of the Ordinary Meeting of 15 February 2005 be confirmed.

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

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DISCLOSURES OF INTERESTS, 8/3/05

MINUTE NO. 47

**C00336. Procedural - Disclosures of Interests, 8/3/05**

Councillor Angel made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following properties:-

40 NINTH AVENUE  
KATOOMBA

151 GOVETTS LEAP ROAD  
BLACKHEATH (DAUGHTER)

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

Councillor Hamilton made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following property:-

56 HAT HILL ROAD  
BLACKHEATH

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

Councillor O’Grady made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development control Plan because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following properties:-

4 VIEW ROAD  
WENTWORTH FALLS

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4 STEPHEN STREET  
LAWSON

9-11 ROMAINE STREET  
BLACKHEATH

49 LAWRENCE STREET  
BLACKHEATH

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

Councillor McInnes made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following properties:-

4 COOMASSIE AVENUE  
FAULCONBRIDGE

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

Councillor Searle made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following property:-

151 FALLS ROAD  
WENTWORTH FALLS (MY HOME)

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

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Councillor Van der Kley made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following properties:-

6 MURRAY AVENUE  
WENTWORTH FALLS (MY HOME)

1 MURRAY AVENUE  
WENTWORTH FALLS (MOTHER)

194 GREAT WESTERN HIGHWAY  
HAZELBROOK (PARTNERSHIP WITH FAMILY)

49 FLINDERS STREET  
LAWSON (PARTNERSHIP WITH FAMILY)

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

Councillor Henson made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following property:-

441 HAWKESBURY ROAD  
WINMALEE

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

Councillor McLaren made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I have not yet received exemption from the Minister for my new property, so I’ll be leaving the room when this debate is on.”

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Councillor Myles made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following property:-

12 RICHES AVENUE (PARENTS)  
WOODFORD

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

Councillor Brown made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following properties:-

4 BRIDGE ROAD  
BLAXLAND

17 CHAPMAN PARADE  
FAULCONBRIDGE

15 PLAINSVIEW CRESCENT  
MOUNT RIVERVIEW

17 PELLION STREET  
BLAXLAND

93 EMU PLAINS ROAD  
MOUNT RIVERVIEW

2 BARINA PLACE  
BLAXLAND

20 MEREDITH STREET  
BLAXLAND

2/93 GREAT WESTERN HIGHWAY  
BLAXLAND

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

Councillor Frappell made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 443 of the Local Government Act, 1993, in the following property:-

8 CHISHOLM CRESCENT  
BLAXLAND

113 GOVERNOR’S DRIVE  
LAPSTONE

47 EMMA PARADE  
WINMALEE

28 GLOSSOP ROAD  
LINDEN

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

The General Manager, Mr P M Willis, made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 456 of the Local Government Act, 1993, in the following property:-

10 Vale Street  
LEURA.”

The Program Leader – Sustainable Environmental and City Planning, Mr P Grimson, made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 456 of the Local Government Act, 1993, in the following properties:-

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28 Wilson Street  
LAWSON  
(Father)

12 View Street  
KATOOMBA  
(Uncle)

66 Redgum Avenue  
HAZELBROOK  
(Cousin)

5 Pauline Avenue  
WENTWORTH FALLS.”

The Acting Group Manager, City Sustainability, Ms R Dillon, made the following declaration with regard to Item 3 – Better Living Development Control Plan:

“I wish to disclose a possible pecuniary interest in the Draft Local Environmental Plan 2002 and the Draft Better Living Development Control Plan because of an interest, either of myself or of an associate, as defined in Section 456 of the Local Government Act, 1993, in the following property:-

113 BEE FARM ROAD  
SPRINGWOOD

33 MORVERN ROAD  
LEURA.”

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

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MINUTE NO. 48

**1. C02054 BMCC Role / Relationship with BIZNET Blue Mountains**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Van der Kley and O’Grady **that the matter be deferred to the next Finance Working Party Meeting.**

Councillors Brown, Henson, McLaren and Searle were not present in the Council Chamber when this matter was considered.

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MINUTE NO. 49

**2. Z08 048 Part 2. Blue Mountains Local Environmental Plan 2005 Draft Amendment 2 (Katoomba Cultural Precinct) – Public Hearing**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Myles:

1. That Council note the nature of the public response to the public exhibition of Blue Mountains Local Environmental Plan 2005, Draft Amendment 2 (Katoomba Cultural Precinct).
2. That Council note the key elements of the formal process required under Section 29 of the Local Government Act for reclassification of community zoned land.
3. That Council note the key elements of the formal process required under Section 68 of the Environmental Planning and Assessment Act for finalisation of DLEP Amendment 2.
4. That pursuant to Section 29 of the Local Government Act and Section 68(1) of the Environmental Planning and Assessment Act, Council conducts a public hearing into the reclassification of Lot 2, DP 547229, College Lane, Katoomba from community land to operational land.
5. That pursuant to Section 68(1) of the Environmental Planning and Assessment Act, Council not expand the terms of reference for the public hearing into the reclassification to include other issues raised in submissions as they are not considered of such significance that they should be the subject of a public hearing before the Council decides whether and, if so, what alterations should be made to Blue Mountains Local Environmental Plan 2005, Draft Amendment 2 (Katoomba Cultural Precinct).

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

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MINUTE NO. 50

**3. C05909. Better Living Development Control Plan**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Frappell:

1. That Council adopts the Better Living Development Control Plan in the form originally adopted on 9 March 2004 subject to the technical and administrative changes required for the Plan to correctly conform to the Blue Mountains Local Environmental Plan 2005 (LEP 2005).

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2. That Council delegates authority to the General Manager to make the required technical and administrative changes to the Better Living Development Control Plan to reflect the changes to the name of LEP 2005, cross references to clauses and the legal wording of clauses in LEP 2005 resulting from the Government's review of Draft LEP 2005.
3. That the Better Living – Development Control Plan take effect on the date of gazettal of the LEP 2005.
4. That Council give public notice in the manner prescribed by the Environmental Planning and Assessment Regulation 2000 as to the adoption of the Better Living Development Control Plan and the date that that Plan will come into effect.

Councillors Creed and McLaren were not present in the Council Chamber when this matter was considered.

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MINUTE NO. 51

**4. C00694. Schedule of Invested Monies**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Frappell **that the Schedule of Invested Monies as at 31 January 2005 be received.**

Councillors Creed and McLaren were not present in the Council Chamber when this matter was considered.

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MINUTE NO. 52

**5. H01402. Granting of Easement on Council Owned Land at Lot 116 Deposited Plan 737366, 14 Luchetti Ave, Hazelbrook**

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

1. That Council grant an easement over Public Reserve at Lot 116 Deposited Plan 737366, 14 Luchetti Ave, Hazelbrook in accordance with the terms and conditions as set out in this report.
2. That the Common Seal of Council be attached to the necessary documents.

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MINUTE NO. 53

**6. H00914. Hazelbrook Bowling and Sporting Club Lease**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and Van der Kley that Council consent to the mortgage of the lease to enable the Hazelbrook Bowling and Sporting Club Co-operative Limit (HBSC) to borrow money from the ANZ Bank to carry out its improvement works, subject to:

- (a) the ANZ Bank acknowledging Council's obligations to comply with the provisions of the Local Government Act, 1993 particularly Section 46 relating to the granting of a lease over Community Land in accordance with the provisions of the relevant plan of management; and
- (b) Council's right to be involved in the process of identifying any assignee of the lease to ensure compliance with the provisions of the Local Government Act, 1993 and with the relevant plan of management, and Council's right to approve the assignment of the leasehold to any organisation should the HBSC default under its mortgage and the ANZ Bank exercise its right under the mortgage provisions.

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MINUTE NO. 54

**7. R11/0207. Proposed Road Dedication & Closure - Beattie Street, Leura**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Frappell:

- 1. That pursuant to the provisions of Section 16 of the Roads Act 1993, Council give 28 days notice of its intention to dedicate for road purposes land identified as lane in Deposited Plan 4565, being known as Beattie Street, Leura.
- 2. That following the period of notification for 28 days, if no objections are received, Council publish a notice in the NSW Government Gazette dedicating the land as a public road.
- 3. That following the dedication of lane in Deposited Plan 4565 as public road, the application to close a portion of the lane that is surrounded by "The Braes" at 62-68 Grose Street, Leura proceed in accordance with Council's resolution of 31 August 2004 (Minute No. 363).

Councillors Creed and McLaren were not present in the Council Chamber when this matter was considered.

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MINUTE NO. 55

**8. A78410. Proposed Sale Lot 2, Deposited Plan 966721, 3 Wascoe Street, Glenbrook**

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

1. That the information contained in this report be received and noted.
2. That subject to confirmation of the Lower Mountains SES management regarding the suitability of another site and the availability of funds required for the proposed relocation of the Lower Mountains SES Station, Council sell 3 Wascoe Street, Glenbrook to the adjoining owner(s) by a selected tender process.
3. That the proceeds received from this property sale will be used to partially fund the purchase of land for South Warrimoo Park and partially fund the relocation of the Lower Mountains (Glenbrook) SES Station.
4. That the outcomes of the selected tender process be reported back to Council.

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MINUTE NO. 56

**9. X04/1255. Development Application No. X04/1255 for Alterations and Additions to Scenic World's Eastern Anchor Terminal to Include a Landing Platform, Shelter and Road Construction to Provide a Bus Picking Up and Setting Down Area at Skyway Lease, Part Portion 59 DP 751657, Cliff Drive, Katoomba**

The Meeting was addressed by Ivan Jeray, Neil Stuart and Steven Molino.

A MOTION was moved by Councillors Van der Kley and Myles that Development Application No. X04/1255 for alterations and additions to Scenic World's eastern anchor terminal to include a landing platform, shelter and road construction to provide a bus picking up and setting down area at Skyway Lease, Part Portion 59 DP 751657, Cliff Drive, Katoomba be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this Report.

**Attachment 1 – Conditions of consent (from report dated 15 February 2005)**

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Confirmation of relevant plans and landuse

1. i. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the following plans and supportive documentation, except as otherwise provided for or modified by the conditions of this consent.  
Site Treatment Plan prepared by PSB being Drawing No. 5KO1F dated 27 August 2004  
Road Layout Plan Prepared by SKM being Drawing No. C001 Amendment B dated 20 July 2004

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**Architectural and Design Plan prepared by PMDL  
being undated Drawing No. DA104.**

Any modifications of these plans involving increased building heights, site coverage or an access road of greater dimensions or different location than that shown on the plans shall not be constructed without the prior consent of the Council.

- ii. The development shall at all times only be for the transportation of people via the Skyway which may include people arriving and departing the site via coach or bus transport.
- iii. The use shall not extend to the establishment of amenities, refreshment outlets or kiosks on the site.

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**Period of Development  
Consent**

2. Substantial 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.

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**Construction certificate  
(building)**

3. A construction certificate is required prior to the commencement of any site or building works. The Principal Certifying Authority shall not issue the Construction Certificate should any departure from the approved plans in terms of the development's size, height, location and design be involved.

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**Building Code of  
Australia**

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

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**Structural certificate**

5. To ensure the alterations and additions are structurally sound and have been completed in accordance with the structural details to be approved prior to release of the Construction Certificate, 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 structure has been erected in accordance with the approved details and is structurally adequate for the use proposed.

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**Site management**

6. i. **Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path, bushland area or watercourse and shall have measures in place to prevent the movement of such material off site. To achieve this, a fenced and bunded compound shall be established within the construction area in which all building and road construction materials must be placed awaiting their use or disposal to an authorised waste disposal depot.**
- ii. **To establish an appropriate exclusion zone for machinery and personnel throughout the construction phase, protective fencing shall be erected not more than 2 metres from each side of the proposed sealed portion of the access road as shown on the approved plans, and adjacent to the southern side of the eastern anchor terminal, prior to any construction commencing. Signage shall be erected informing all employees and others connected with the project as to the importance of confining all activities and construction work to within the fenced areas and for the need to protect all bushland areas outside the boundaries of the protective fencing.**
- iii. **No material shall be burnt or buried on site. All waste (including approved vegetation to be removed) must be contained and removed to an approved Waste Disposal Depot on a regular basis.**
- iv. **Vegetation removed shall be restricted to that required to complete the access road as shown on the approved plans as well as minor tree thinning with the 10 metre Asset Protection Zone.**
- v. **To ensure that the site is easily identifiable for deliveries and provides information on the person responsible for the site, a sign displaying the following information is to be erected:**

**The statement “Unauthorised access to the site is not permitted”.**

**The names of the builder or another person responsible for the site along with an out of hours contact number.**

**The address of the property for easy identification.**

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**Erosion & sediment controls**

7. i. The applicant shall engage qualified personnel 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 August 1998 and such plan shall be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.
- ii. Sediment and erosion control measures are to be located on the lower side of the construction and driveway areas and must be of a standard that allow only water to pass through.
- iii. The applicant shall ensure the approved sedimentation and erosion control measures are installed prior to commencement of construction and that these measures are also maintained at all times during construction in accordance with the plan.
- iv. Following completion of the development and prior to release of the Occupation Certificate, any areas of site disturbance shall be revegetated following which all redundant sediment and erosion control structures are to be removed. Revegetation should consist only of small areas occurring on the outer side of the access road.

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**Workers amenities**

8. 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.

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**Plans on site**

9. A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times.

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**Signage**

10. No signage, other than road and advisory signage shown on the approved plans shall be erected without prior Council consent. Approved signage shall include signage at the eastern anchor terminal and in appropriate locations on the edge of the access road advising people to keep to sealed areas on the site and not enter any bushland areas other than where a formally designated path exists.

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**Fencing of building site**

11. Any fencing of the site during the construction phase shall not involve the removal of any vegetation other than that required to complete the access road.

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**Materials and colours**

12. To ensure the appearance of the structure is not intrusive upon the surrounding environment, the alteration and additions shall be of a colour that integrates into the existing eastern anchor terminal infrastructure in a manner that results in the total development comprising a single entity.

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**Environmental management**

13. a. The development shall be carried out without impact or damage to vegetation outside the site or construction zone. To achieve this, a qualified bush regenerator shall be employed to supervise/monitor construction activity to ensure all work is undertaken within the areas of protective fencing and erosion and sedimentation controls are appropriately maintained.
- b. Periodic bush regeneration and weed management inspections shall be undertaken (each three months) post construction to ensure bushland areas continue to remain in appropriate condition at all times. A record of these inspections must be kept for inspection on request.
- c. The Prince Henry Cliff walk shall at all times be maintained at an appropriate standard and shall not be closed as a result of additional pedestrian movement arising from this development. Accordingly, sufficient funding must at all times be available to ensure necessary work is carried out if and when it is deemed necessary.

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- d. **Locked gates shall be provided at both the entry and exit points to prevent the unauthorised entry of vehicles when the Skyway is not operational.**

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**Bushfire requirements**

- 14. **To ensure the development including nearby bushland is adequately protected in the event of fire, the following requirements must be implemented:**

- a. **Provision for an Inner Protection Zone for a distance of 10 metres to the north/north east/south of the eastern anchor terminal. This area is to be clear of excessive ground fuels, leaf litter and is to include the selective thinning of trees in order that tree canopies do not provide a continuous path of travel in the event of fire.**
- b. **An Evacuation Plan for the facility is to be developed and approved by the Blue Mountains Rural Fire Service for display on the site advising of standard operating procedures during a Very High Fire Danger to Total Fire Ban and/or where there is known fire activity that has the potential to impact on the site.**
- c. **Access is to be provided to the facility for fire fighting personnel during a bushfire emergency. A key to the locked gates must be in the possession of the Rural Fire Service at all times.**
- d. **Access for the proposed loop road to the facility off Cliff Drive must meet all requirements of Section 4.3.2 – Planning for Bushfire Protection 2001.**
- e. **A fully automated drenching system (being constructed of non combustible materials) is to be fitted to the facility and connected to an underground static water supply tank of a minimum capacity of 20,000 litres. The supply tank shall be located adjacent to the terminal beneath the access road and/or forecourt. Alternatively, a surface tank may be incorporated into the eastern anchor terminal infrastructure provided its size satisfies the requirements of this condition. Details and location of a surface tank must be approved by the Blue Mountains Rural Fire Service prior to being installed.**

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**Residential and park  
amenity**

- 15. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during construction period:**
- a. Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 7am-6pm and on Saturdays between 8am-1pm. No work shall occur on Sundays or Public Holidays. Alteration to these hours may be possible for safety reasons but only on the approval of Council.**
  - b. The Skyway gondola shall not pick up or set down passengers outside the hours of 9.00 am to 5.00 pm each day.**
  - c. The eastern anchor terminal shall be used in respect to the transportation of people and is not to include any provision for food, drink or refreshments to be obtained on the site.**
  - d. Two (2) refuse bins of a design that blends with the scale and character of the development shall be provided within the footpath adjacent to the bus spaces and within the forecourt. Refuse must be removed on a daily basis by Scenic World or its contractors.**
  - e. Scenic World, through regular inspections or via management on the gondola, shall ensure through surveillance that people do not enter bushland areas adjacent to the access road contrary to advisory signage (see Condition No. 10).**
  - f. Only areas of site disturbance immediately adjacent to the access road and forecourt shall be revegetated. Existing bushland areas shall remain with any subsequent work carried out in accordance with Condition 13b above.**
  - g. The site shall not be fenced following completion of the development.**
  - h. Low level bollard lighting adjacent to the eastern anchor terminal may be installed for security and safety reasons. Such lighting shall not involve commercial power being provided in the form of underground or overhead electricity supplies.**

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**Vehicular access**

16. a. The proposed access loop road is to be restricted to buses/coaches only (up to 14.5m Austroads Long Rigid Bus) and emergency/service vehicles with signage to this effect erected at the entrance and exist driveways.
- b. All vehicles are required to enter and leave the access loop road in a forward direction.
- c. The access loop road is to be restricted to one way only in via the southern entry and out via the northern exit. Appropriate signage to this effect is to be provided.
- d. Right hand turns from Cliff Drive into the exit or entry driveway is prohibited.
- e. Right hand turns from the exit into Cliff Drive is prohibited.

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**Arrangements for buses**

17. a. Buses are to be controlled in such a way that there is no queuing from bus bay 1 to the Cliff Drive southern entry intersection.
- b. The bus loop proposal being designed to suit the 14.5m Austroads Long Rigid Bus. Bus bays 1 to 3 to be a minimum of 21.0m long and 3.3m wide with the adjacent through lane being a minimum of 3.7m wide.
- c. Parking is to be restricted to bus/coach spaces 1 to 4. Parking restrictions are to be provided so that:  
The approach from Cliff Drive to space 1 is kept clear;  
The departure side of space 4 to Cliff Drive is kept clear;  
At all times from the entry to the exit, through traffic is to be maintained without impediments.

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**Advertising of access arrangements**

18. The development is to be marketed and advertised such that the access requirements of the consent are promoted ie the approach to the site is to be from Katoomba Street, Birdwood Avenue and Cliff Drive. Egress from the site is to be via Cliff Drive and Katoomba Falls Road.  
The approaches to the entry and exits in Cliff Drive are to be provided with signage and advanced warning signs reinforcing the consent requirements, subject to the approval of the Local Traffic Committee.

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**Engineering works**

**19. The following engineering works shall be constructed by the applicant at the applicant's expense:**

**a. Loop Road Construction**

The full construction of the access loop road, bus parking, pedestrian forecourt and associated works generally as depicted on Drawing No. COO1 (B) (excluding the intersections) prepared by SKM and dated 20 July 2004. The construction shall include but not be limited to the following:

- i. Any necessary works to make the construction effective.**
- ii. The access road is to comprise a sealed pavement construction of a thickness to be determined by Development Control Plan 31 (DCP 31) – minimum pavement to be 50mm AC 10 on 150mm DGB 20. This surface is required to avoid pollutant infiltration into the site.**
- iii. All pedestrian pavements/steps and thoroughfares to be provided with slip resistant surfaces and provisions for visually impaired to the relevant Australian standards. Icy conditions are to be addressed. The pavement is to be of a porous material in order to allow maximum infiltration of surface water into the site.**
- iv. The provision of concrete dish drain on the inside/eastern side of the pavement.**
- v. The provision of concrete 150 mm vertical kerb and gutter on the outside/ western side of the pavement.**
- vi. Clean and polluted water collection and dispersal are to be addressed by separate systems. Water through and from bushland on the site from the Cliff Drive area is to be piped under the access road to the proposed outlets generally as shown on the Plan referred to in this condition above.**

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- vii. Provision of a grease and oil separator device to treat any contaminated runoff generated from the loop road prior to discharging into downstream stormwater system. The grease and oil separator shall be sized for at least the first 5 mm of rainfall generated over the catchment area to be treated and/or to Environmental Protection Authority requirements whichever is the greater.**
- viii. Discharges for both clean water and treated water systems are to be restricted to pre-development flows and flows that the existing vegetation and downstream drainage structures under Prince Henry Cliff Walk can withstand or have capacity. Accordingly on site detention is to be provided within the access road construction via underground systems. On site detention for the access road is to be provided downstream of oil and grease treatment system.**
- ix. All drainage is to be provided in accordance with Australian Rainfall Runoff 1987 and Hydraulic Gradeline method. Minimum pipe size to be 375mm diameter Reinforced Concrete Pipe/Rubber Ring Jointed.**
- ix. The location of oil and grease arrestors/treatment device is to be within the access road formation for maintenance access purposes.**
- x. The provision of a maintenance strategy for the on site detention and pollution control systems that demonstrates and ensures the systems will work at all times.**
- xi. In order to prevent the negative impacts of discharging water on the downstream bushland and drainage infrastructure at the discharge points, energy dissipaters and scour protection measures are to be provided. The discharge points are to be generally supportive of the existing drainage regimes without contributing to or exacerbating existing flows.**

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**xii. The provision of lighting including street lighting at no cost to Council. Lighting is to be maintained and operated by the applicant/lease owner at no cost to Council. The lighting is to be provided in accordance with the relevant standards and shall address and be operational when foggy or bad weather conditions prevail.**

**b. Southern and northern intersections with Cliff Drive and associated works**

**The widening of Cliff Drive at the proposed intersections together with transitional works either side of the intersection to provide for but not be limited to the following:**

- i. A minimum pavement/carriageway width of 8.4 metres in the straights. Wider pavement widths in the curves are to be provided to suit the turning path of Austroads Long Rigid Bus (14.5 metres) and the provision for a cycle way.**
- ii. The provision of 0.6 metres wide rumble bar medians in Cliff Drive to deter vehicles from turning right from Cliff Drive into the intersections and to deter vehicles from turning right from the northern intersection. The layout of the intersection is also to physically restrict the unapproved vehicular movements.**
- iii. The provision of kerb returns constructed with kerb and guttering, especially to define the intersections.**
- iv. Provision of signs (advance warning signs) and markings that address the conditions of consent (including regulatory signs and markings to Local Traffic Committee approval).**
- v. The provision of drainage in accordance with ARR 1987 and HGL. Minimum pipe size to be 375 diameter RCP/RRJ.**
- vi. The adequacy of the widening and intersection is to be demonstrated with the computer generated turning paths of a 14.5 metres Austroads Long Rigid Bus/Coach.**

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**vii. The provision of threshold treatments that control the entry and exit speeds and keep Cliff Drive water drainage out of the access loop road.**

**viii. Minimum sight distance and intersection requirements to be designed in accordance with AS 2890 Roads and Traffic Authority Standards/Guides and Austroads Standards.**

**ix. The provision of lighting and the maintenance of such lighting at no cost to Council.**

**In this regard a minimum standard is T5 lighting with 2 X 14 watts lights at both intersections.**

**x. The provision of pedestrian access and paths in particular linking the path adjacent to the bus bays and providing access between the proposed intersections together with linkages to the path required in condition 19(c) below.**

**xi. The intersections and associated Cliff Drive full extent of works is to be determined by engineering design. The design for the northern intersection is to start and include the bend north of the intersection and lease boundary and extend at least 20 metres to the south of the intersection's southern kerb return.**

**The design of the southern intersection is to start approximately 30 metres south of the intersection's southern kerb return and extend to the commencement of the straight north of the intersection.**

**c. Path paving construction – Cliff Drive**

**The construction of a 1.5 metre wide sealed pedestrian pavement from Katoomba Street to the southern access road to cater for pedestrians seeking to access the Skyway via Cliff Drive to the east and return.**

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Such path shall be the subject of engineering design and needs to comprise, in order to minimise tree removal, a path on the southern side of Birdwood Avenue for an approximate distance of between 60–80 metres from Katoomba Street then on the northern side of Cliff Drive to a point allowed by sight distance requirements to cross back to the south side. The work shall include but not be limited to the following:

- i. Any necessary drainage and works to make the construction effective.
- ii. Where there is no existing kerb and guttering, kerb and guttering and the adjacent sealed shoulder pavement is to be provided in order to support, protect and provide adequate drainage.
- iii. Kerb ramps at road crossing points.
- iv. The alignment of the kerb and guttering and path paving is to provide for 8.4m wide minimum road carriageway in the straights (wider in bends).

Detailed engineering plans covering all aspects of design referred to and required by (a), (b) and (c) above shall be prepared by a qualified person and endorsed by a chartered civil engineer with NPER registration. Such plans shall be submitted to Council for approval prior to the issue of the Construction Certificate.

All road construction detail shall demonstrate compliance with the minimum requirements of Council's Development Control Plan No. 31 – Public Infrastructure Works.

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

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**On site detention  
positive covenant**

- 20. To ensure the pollution control devices and on site detention system and grease and oil separators are satisfactorily maintained and operated.**

**An agreement is to be made with Blue Mountains City Council that shall include the following:**

- a. The applicant/lessee 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 applicant/lessee 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 pollution control device and OSD or which convey stormwater from the said land and recover the costs of any such works from the Proprietor.**
- d. The registered applicant/lessee 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.**

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**Construction in  
Council's roads**

- 21. 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 and the issue of the Construction Certificate, plans and specifications prepared by a suitably qualified person and endorsed by a chartered civil engineer with NPER registration are to be submitted to and approved by Council under the Roads Act 1993 and the Local Traffic Committee approval.**

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- b. 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.**
- c. 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.**
- d. The person or company carrying out the works will be required to carry public liability insurance to the value of \$10 million. The policy shall indemnify Council from all claims arising from the execution of the works. Proof of the policy is to be provided to Council's Development Engineer at the pre-construction meeting.**

**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. The applicant's engineer must certify that the work have been constructed in accordance with the approved plans, specifications and relevant Australian Standards.**

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- f. **Prior to the issue of the Roads Act Approval, a Traffic Management Plan report prepared by a chartered civil engineer with NPER registration is to be submitted to Council for approval. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Management Plan is to be approved by the Roads and Traffic Authority before submission to Council for approval.**  
**The Traffic Management Plan is to address but not be limited to the following: loss of on street parking, construction vehicle travel routes, safety of the public, materials storage and handing, deliveries and construction traffic and parking.**  
**A minimum of seven (7) days notice shall be given to residents if access by residents will be affected. A copy of the letter to residents and a list of addresses notified shall be submitted to Council for approval.**
- 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 1998. Details prepared by a qualified person shall be submitted to Council for its approval with the Traffic Management Plan Report.**  
**The contractor shall submit to Council the names of proposed traffic controllers with a signed declaration that they are appropriately trained in the duties of traffic controllers and Roads and Traffic Authority accredited.**
- h. **The applicant shall indicate the extent of any service adjustments necessary and submit with the design proof of approval by the relevant service authorities. The applicant shall bear all responsibility and costs associated with the proposed relocation of services.**

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- i. A prominently displayed sign identifying the contractor responsible for the work shall be erected. A contact telephone number should be provided on the sign.

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**Bond**

22. 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 six (6) months after construction is completed to the satisfaction of Council's Supervising Engineer.

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

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**Repair of damage**

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

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**Restore disturbed area**

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

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**Certification  
Council**

by

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

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**Compliance  
standards**

with

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

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**A qualified civil/structural engineer shall supervise all the 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 Council confirming all works have been constructed in accordance with the approved plans and specifications.**

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**Structural  
(road/drainage) works**

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

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**Certification of  
structural  
(road/drainage) works**

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

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**Works as executed  
plans**

**29. Prior to the issue of an Occupation Certificate, a Works as Executed Plan of all external engineering works together with an engineer's certification confirming that all works have been constructed in accordance with the approved plans shall be submitted to Council for approval.**

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

<b>For</b>		<b>Against</b>	
Councillors	Angel	Councillors	Brown
	Creed		Henson
	Frappell		McInnes
	Hamilton		O'Grady
	McLaren		
	Myles		
	Searle		
	Van der Kley		

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**10. X04/0788. Development Application No. X04/0788 for Alterations and Additions to an Existing Tourist Resort at Lot A DP 414796, Part Lot B DP 414796, Lot 1 DP 940336, Part Lot 3 DP 4292 and Lot A DP 315787, Nos. 20-28 Fitzroy Street, Leura**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Frappell that Development Application No. X04/0788 for alterations and additions to an existing tourist resort at Lot A DP 414796, Part Lot B DP 414796, Lot 1 DP 940336, Part Lot 3 DP 4292 and Lot A DP 315787, Nos. 20-28 Fitzroy Street, Leura be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this Report.

**Attachment 1—Conditions of development consent**

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| <b>Confirmation of relevant plans</b>      | 1. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the plans prepared by Aloha Designs Pty Ltd numbered D2/04/04 & D2/04/05, dated 2 August 2004 and accompanying supportive documentation, except as otherwise provided or modified in red or by the conditions of this consent.  |
| <b>Period of development consent</b>       | 2. Physical commencement of the use is required within a two year period from the date of this consent. Should this not occur, the development consent will lapse.  |
| <b>Construction certificate (building)</b> | 3. A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier.   |
| <b>Building Code of Australia</b>          | 4. All building work must be carried out in accordance with the provisions of the Building Code of Australia.   |
| <b>Plans on site</b>                       | 5. A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times during construction.   |
| <b>Approved Use</b>                        | 6. To ensure adequate parking is maintained on-site, the existing function room shall cease to be used for functions or dining. The building may only be used for purposes ancillary to the operation of the resort. To avoid conflict between use of the Roof Garden and the surrounding residential amenity, the Roof Garden area shall not be used in association with either use of the Function Room or the Dining Facilities. |

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| <hr/> <b>External finishes</b>  | 7. To ensure that the development is compatible with the surrounding environment, colours and finishes are to be approved by Council prior to commencement of construction.<br>The proposed finished material shall be complementary to the existing buildings and character of the surrounding area.  |
| <hr/> <b>Certificates from authorities</b><br><br>Early contact with these authorities is recommended | 8. To ensure satisfactory effluent disposal and utility services are provided to the development, you are required to submit to Council, certificates from Sydney Water indicating that reticulated water and sewer is available for the proposed development.   |
| <hr/> <b>Access and mobility statement</b>  | 9. To ensure access and facilities for disabled people are provided, a statement from the applicant or owner is required certifying that the development complies with the provisions of the Disability Discrimination Act 1992; the relevant Australian Standards and Council's Access and Mobility Policy. This statement is to form part of the construction certificate documentation.   |
| <hr/> <b>Construction of Kitchen</b>  | 10. The kitchen construction is to comply with Australian Standard AS 4674-2004. Full details are to be submitted to and approved by the Principal Certifying Authority as part of the Construction Certificate documentation.<br>The kitchen shall be registered on the NSW Health data base prior to occupation and use.   |
| <hr/> <b>Landscaping</b>  | 11. Landscaping is required between the Fitzroy Street and Chamber Road boundaries, and the approved development. <ul style="list-style-type: none"><li>• A landscaping plan is to be submitted to Blue Mountains City Council for approval prior to the commencement of construction. All landscaping and planting to be in place prior to commencement of use.</li><li>• The Plan shall indicate all the plants to be retained and the method of protection during construction and site works.</li><li>• All plants and landscaping on the site are to be maintained at all times.</li><li>• Any plants that die or are removed, must be replaced with plants of the same species and of a similar stage of growth.</li></ul> |

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| <b>Protection of vegetation</b>    | 12. To preserve the natural site features and limit site disturbance, ground covers and trees within driveway areas and 3 metres or more from the outermost projection of the building are to be retained. Remaining vegetation must be protected by suitable guards/barriers to prevent damage as a result of the construction phase.  |
| <b>Survey report</b>               | 13. 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 peg out.  |
| <b>Hoarding / fencing</b>          | 14. To ensure the protection of the public, hoardings are to be provided on all sides of the site to the requirements of NSW Workcover Authority.   |
| <b>Workers amenities</b>           | 15. 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.  |
| <b>Sediment &amp; erosion plan</b> | 16. To preserve the unique environment of the Blue Mountains a soil and water management plan in accordance with Council's Erosion & Sediment Control policy is to be submitted to and approved by the Principal Certifying Authority, prior to clearing of any site vegetation and the commencement of site works.<br>This plan is to include scaled drawings and detailed specifications that can be readily understood and applied on site by supervisory staff. Items to be shown on the plan are to include: <ol style="list-style-type: none"><li>a. locality;</li><li>b. contours (existing and final);</li><li>c. existing vegetation;</li><li>d. existing site drainage;</li><li>e. limit of clearing, grading and filling (location of all earthworks including roads, areas of cut and fill and regrading);</li><li>f. locations and design criteria of erosion and sediment control structures;</li><li>g. site access;</li></ol> |

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- h. proposed vegetative buffer strips;**
- i. location of critical areas (drainage lines, water bodies etc.);**
- j. proposed techniques for stabilisation of disturbed ground;**
- k. procedures for maintenance of erosion controls;**
- l. details for staging works;**
- m. techniques for dust control.**

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**Site management**

- 17. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:**
  - a. Site and building works (including the delivery of materials to and from the property) shall be carried out Monday to Friday between 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.**

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**Repair of damage**

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

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**Restore disturbed area**

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

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- Earthworks**
20. Excavated and filled areas are to be graded and drained in a manner that will not be detrimental to adjoining properties or the environment. Where batters exceed a ratio of 3 horizontal to 1 vertical, retaining walls or terracing is required.
- 
- Fill**
21. Any fill imported to the site must meet the criteria of 'Virgin Excavated Natural Material' as defined in the Environment Protection Authority's Environmental Guidelines - Assessment, Classification and Management of Liquid and Non-Liquid Wastes, 1999.
- 
- Noise amenity**
22. To ensure the continued amenity of the surrounding residential area, all noise associated with use of the Function Room or Dining Facilities shall be adequately contained on site.
- Noise will be limited to a minimum of 5dBA above the ambient background noise when read at the nearest residential property boundary.
- Details of how the proposed development and use shall comply with this requirement shall be submitted with the Construction Certificate.
- 
- Hours of operation**
23. This approval does not amend the existing approved hours of operation of the tourist resort being 7am – 9pm 7 days a week.
- Modification of the hours of operation in relation to the Function Room and Dining Facility is only possible on the written approval of Blue Mountains City Council.
- 
- Engineering Conditions – Internal**
24. a. All vehicles are required to enter and leave the site in a forward direction.  
b. The driveways and parking areas being changed as shown in red on the approved plan.  
c. The size of vehicles visiting the site is to be restricted to the following:  
i. Chambers Road access – 12.5m Austroads Bus  
ii. Fitzroy Street access – Small Rigid and B85 Vehicles (6.4m) as per AS 2890.2 2002  
iii. All deliveries restricted to Small Rigid Vehicles (6.4m) as per AS 2890.2 2002

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- iv. All car parking areas and driveways to conform to AS 2890. Clearance height to be in accordance with AS 2890 and the Building Code of Australia.

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**Site stormwater system**

- 25. All stormwater runoff from impervious areas of the site are to be collected and drained by an underground stormwater system. The stormwater system is to be designed by a qualified person and endorsed by a chartered civil engineer with NPER registration for a 1 in 20 years ARI, 5 minutes duration storm and in accordance with ARR 1987. Provision shall be made for an emergency overland flow path capable of conveying all surcharge flows up to and including the 1 in 100 years ARI storms to the public road.

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**On site detention**

- 26. 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 in 100 year ARI storm shall be provided.

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

- a. All habitable floor levels are to be located a minimum 300 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 ARI storm to the public road.
- c. A 300 mm by 300 mm wide by 300 mm deep silt trap is to be drained by weep holes and a 90 mm diameter agricultural line surrounding 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.
  - 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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Engineering plans prepared by a qualified person and endorsed by a chartered civil engineer with NPER registration together with certification verifying the above requirements have been met shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate

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**On site detention  
positive covenant**

27. 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.

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

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**Sedimentation and erosion control**

28. 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 August 1998.

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

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

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**Internal pavement**

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

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

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**Council's works**

30. The following engineering works shall be constructed by the applicant at the applicant's expense:

- a. Replace existing kerb and gutter with new kerb and gutter over the frontages of Chambers Road and Fitzroy Street, commencing at the northerly side of the main driveway in Chambers Road and extending to power pole 205 approximately 44m east of the main driveway in Fitzroy Street. The construction is to include any necessary works to make the construction effective, including but limited to the following:
  - i. Correction of road pavement cross fall;
  - ii. Reconstruction of drainage structures;
  - iii. Removal and correction of old driveway crossing within bus stop east of main drive in Fitzroy Street;
  - iv. Reconstruction/replacement of existing driveway/laybacks/apron and correction of driveway grade;
  - v. Prevent scraping of vehicles and facilitate access.

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- b. Construction of concrete path paving over the frontage of Fitzroy Street from Chambers Road to pole 205 east of the main driveway. The construction shall include a pathway construction onto the site.**

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

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

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

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**Construction in  
Council's roads**

- 31. 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 and endorsed by a chartered civil engineer with NPER registration are to be submitted to and approved by Council under the Roads Act 1993.**

**Approval of the engineering designs by Council is subject to the payment of the prescribed Engineering Development Fees at the time of lodgement. All works in Council's road are to be at no cost to Council.**

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

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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 a 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. The applicant's engineer must certify that the works have been constructed in accordance with the approved plans, specifications and relevant Australian Standards.**

- f. **Prior to the issue of the Roads Act Approval, a Traffic Management Plan report prepared by a chartered civil engineer with NPER registration is to be submitted to Council for approval. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Management Plan is to be approved by the Roads and Traffic Authority before submission to Council for approval.**

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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 Council for approval.

- 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 1998. Details prepared by a qualified person shall be submitted to Council for its approval with the Traffic Management Plan Report. The contractor shall submit to Council the names of proposed traffic controllers with a signed declaration that they are appropriately trained in the duties of traffic controllers and Roads and Traffic Authority accredited.
- h. The applicant shall indicate the extent of any service adjustments necessary and submit with the design proof of approval by the relevant service authorities. The applicant shall bear all responsibility and costs associated with the proposed relocation of services.
- i. A prominently displayed sign identifying the contractor responsible for the work shall be erected. A contact telephone number should be provided on the sign.

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**Bond**

- 32. 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 six (6) months after construction is completed to the satisfaction of Council's Supervising Engineer.

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

- |                                  |                 |   |
|----------------------------------|-----------------|---|
| <b>Relocation of services</b>    | <b>33.</b>      | <b>The applicant shall carry out the relocation or alteration of public utilities or any existing services made necessary as a result of this development at the applicant's expense. Satisfactory arrangements shall be made with the relevant authority concerned and a certificate of clearance shall be obtained from each relevant authority and submitted to the Principal Certifying Authority prior to release of the Construction Certificate.</b> |
| <b>Repair of damage</b>          | <b>34.</b>      | <b>The applicant shall repair or reconstruct all damages caused by construction activity relating to the development as required by Council's Supervising Engineer prior to release of the Occupation Certificate.</b>  |
| <b>Certification<br/>Council</b> | <b>by 35.</b>   | <b>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.</b>   |
| <b>Compliance<br/>standards</b>  | <b>with 36.</b> | <b>All internal and external engineering works required by this development are to be in accordance with Council's Specification for Engineering Work for Subdivisions and Development, Part 1—Design and Part 2—Construction (Development Control Plan No. 31), Australian Rainfall and Runoff 1987 and other relevant Australian Standards. The design and construction is to include any additional works to make the construction effective.</b>        |

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.

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- Supervision of internal engineering works 37. All internal engineering works shall be supervised by a chartered civil/structural engineer with NPER registration. Certification from the supervising engineer shall be submitted to the Principal Certifying Authority to verify that all works have been constructed in accordance with approved plans prior to the release of the Occupation Certificate.
- Works as executed plans 38. Prior to the issue of an Occupation Certificate, a Works as Executed Plan of all external engineering works together with an engineer's certification confirming that all works have been constructed in accordance with the approved plans shall be submitted to Council for approval.
- Certification by Council 39. 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.

Councillors Creed and McLaren were not present in the Council Chamber when this matter was considered.

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MINUTE NO. 58

**11. X03/0520. Section 96 (2) Application to Modify Development Consent No. X03/0520/A for the Removal Trees and Additional Landscaping at 'The Braes' Lots 17, 18, 19, and 34 DP 5936, Lot 13 and 53 DP 4565, Lots 14-18 DP 4303 and Lot 1 DP 820338, Nos. 62-68 Grose Street, Leura**

The Meeting was addressed by Jerry Allan, Laurel Harris, James Stockwell and John Egan.

A MOTION was moved by Councillors Hamilton and O'Grady that **Development Application No. X03/0520/A for modification of consent for the removal of trees and additional landscaping at "The Braes", Lot 34 DP 5936, Nos. 62-68 Grose Street, Leura:**

1. be refused on the grounds that the line of Leyland Cypress trees along the boundary will adversely impact on the adjoining owner by blocking the access of the easterly breezes in summer and would cause overshadowing in winter and that Leyland Cypress trees are unsuitable for this site due to their excessive scale; and

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2. **the unauthorised Leyland Cypress trees be removed and replaced with Claret Ash trees, in accordance with the Development Application No. X03/0520, approved by Council on 3 October 2003.**

An AMENDMENT was moved by Councillors Van der Kley and Myles that the matter be deferred to enable independent further advice on the issue raised re: a site meeting.

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

<b>For</b>		<b>Against</b>	
Councillors	Angel Brown Henson Myles Van der Kley	Councillors	Creed Frappell Hamilton McInnes McLaren O'Grady Searle

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

<b>For</b>		<b>Against</b>	
Councillors	Brown Creed Frappell Hamilton Henson McInnes McLaren O'Grady Searle	Councillors	Angel Myles Van der Kley

\* \* \* \* \*

MINUTE NO. 59

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

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

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<u>Organisation</u>	<u>Amount</u>
Blue Mountains Women's Health Centre Inc	\$250
Lower Mountains Neighbourhood Centre Inc	\$150
Braemar Gallery	\$150

Councillors Creed and McLaren were not present in the Council Chamber when this matter was considered.

\* \* \* \* \*

MINUTE NO. 60

**13. H00515. Enhancing Customer Access to the Library's Popular Author Purchases**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and Hamilton **that the report be deferred pending a discussion at a Working Party Meeting.**

\* \* \* \* \*

MINUTE NO. 61

**C00336. Procedural – Number of Speakers to Item 14**

RESOLVED UNANIMOUSLY on the MOTION of Councillors McInnes and Henson **that all 4 speakers to Item 14 be heard.**

\* \* \* \* \*

MINUTE NO. 62

**14. H00287. Glenbrook Swim Centre – Winter Opening**

The Meeting was addressed by Clifford McHardy, Lois Patrick, James Fitzpatrick and Daniel Gaffney.

A MOTION was moved by Councillors Brown and Henson:

1. That Council receives and notes this report.
2. That Glenbrook Pool stay open for the 2005 Winter Season with the exception of July and August for maintenance work.
3. That Council pursue financial grant monies.

MINUTE NO. 62 (CONTD)

4. That any further decisions on the Winter opening of Glenbrook pool be considered after a briefing to Councillors takes place and a report comes to Council on the outcome of the marketing strategy.

An AMENDMENT was moved by Councillors Creed and Myles:

1. **That Council receives and notes this report.**
2. **That the pool stay open ten months of the year closing from 1 July – 31 August for maintenance work.**
3. **That these opening times become permanent for Glenbrook Pool in subsequent years; e.g. Pool open 1 September – 30 June annually with times for opening to be set similar to previous years but changing the Saturday opening time from 8am – 12pm to 8am to 4pm.**
4. **That Council seek to source grants from State and Federal bodies to assist with the upgrade of filtration system in accordance with current legislative requirements.**
5. **That, if in the event Council resolves to open Glenbrook Pool for extended seasons, that if there is to be an increase in fees and charges consistent with “user pays” principle, that this is done in consultation with community, prime user groups and Councillors as part of the 2005/6 Management Plan and budget process.**
6. **That a briefing to Councillors take place and a report comes to Council on the outcome of the Marketing Strategy.**

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

<b>For</b>		<b>Against</b>	
Councillors	Angel	Councillors	Brown
	Creed		Frappell
	Hamilton		Henson
	McLaren		McInnes
	Myles		O’Grady
	Searle		
	Van der Kley		

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

\* \* \* \* \*

MINUTE NO. 63

**15. H01411. Village Green Park, Bullaburra**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Searle and McInnes **that the information contained in this report be received and noted.**

\* \* \* \* \*

MINUTE NO. 64

**16. C00534. Local Traffic Committee**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Henson and Creed:

1. **That Council receives and notes this report.**
2. **That the items 2005.02, 2005.04, 2005.06, 2005.07 and 2005.08 contained in the report of the Local Traffic Committee meeting held on 8 February 2005 be approved by Council.**
3. **That the Director Client Services - Roads and Traffic Authority Blacktown, the Superintendent of Police - Blue Mountains Area Command and the Local Member's Representative be notified of Council's approval.**
4. **That the items 2005.01, 2005.03, 2005.05, and 2005.09 are noted.**

\* \* \* \* \*

NOTICES OF MOTION, 8/3/05

MINUTE NO. 65

**17. A38965. Anglican Community Church of St Lukes, Medlow Bath**

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

1. **That Council writes to the Right Reverend Ivan Lee, Bishop for Western Sydney Region stating it supports, in principle, negotiations by the Medlow Bath Resident's Association Inc. to be granted the use of the Anglican Community Church of St Lukes, Medlow Bath, under licence for a period of five years, given its local heritage significance.**
2. **That Council notes that, if successful, the premises will be independently administered by the Medlow Bath Resident's Association Inc. and Council will not be responsible for any financial assistance or ongoing maintenance.**

\* \* \* \* \*

MINUTE NO. 66

**18. C01508. Naming of Ship in Royal Australian Navy**

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

1. **That this Council write to the Defence Minister Senator Robert Hill asking him to name a ship after the town of Katoomba.**
2. **That we also write to the Federal Member Mr Kerry Bartlett MP and the State Member Mr Bob Debus for their support.**

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

<b>For</b>		<b>Against</b>	
Councillors	Angel Creed Frappell Hamilton McLaren Myles Searle Van der Kley	Councillors	Brown Henson O'Grady

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

\* \* \* \* \*

MINUTE NO. 67

**19. Child Safe Ground Covering – Springwood Baby Health Clinic**

**RESOLVED UNANIMOUSLY on the MOTION of Councillors McLaren and Myles that a report come back to Council outlining the cost of appropriating child-safe ground covering for the playground outside the Baby Health Clinic in Springwood; and the resources required to undertake an audit of all Council playgrounds to ensure that the ground cover complies with child-safety regulations.**

\* \* \* \* \*

PRECIS OF SELECTED CORRESPONDENCE, 8/3/05

MINUTE NO. 68

**20. C00680. Precis of Selected Correspondence, 8/3/2005**

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

Councillors Creed and McLaren were not present in the Council Chamber when this matter was considered.

\* \* \* \* \*

RESPONSES TO QUESTIONS WITH NOTICE, 8/3/05

**21. H01399. Block of Land Containing Medlow Bath Park**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Frappell **that the Council note the response.**

**Question by Councillor T Hamilton (23/11/04):**

“With reference to the block of land at Medlow Bath, bounded by Railway Parade, St Albans Road, Portland Road, Atlingworth Street and Park Street, which contains Medlow Bath Park:

1. What is all the land that Council owns within these boundaries? (preferably, identification should be by means of both a map and Lot No/DP references)
2. For each portion of such land that Council owns, what is its classification (Operational Land or Community Land)?
3. For each portion of land classified as Community Land, what is its category (Park, Natural Area, etc.)?
4. What is all land within the same boundaries that is owned by other government or semi-government bodies (eg Department of Education, Telstra etc)? (preferably identification should be by means of both a map and Lot No/DP references).”

**Response from Group Manager, Corporate Policy (15/03/05):**

1. As shown on the attached locality plan hereunder, Council owns 16-18 Railway Parade, Medlow Bath on which the Elsie Langford Neighbourhood Centre is located. The land is legally described as Lot 1 Section 1 in Deposited Plan 2590.
2. In June 1994 Council classified the land at 16-18 Railway Parade, Medlow Bath as *Operational Land*. However, as Council purchased the land in September 1980 for cultural and community purposes and the local community has used its since for community meetings and activities, professionally advice is that it is now effectively classified as “deemed” *Community Land*.

3. As a plan of management has not been prepared for the land at 16-18 Railway Parade, Medlow Bath, it has not been categorised.
4. Crown Land administered by the Department of Lands within the area identified is as follows:
  - 2-6 Railway Parade, Medlow Bath – vacant land designated as a public school site
  - 8 Railway Parade, Medlow Bath – currently used as a bushfire station
  - 10-14 Railway Parade, Medlow Bath – currently used as Medlow Park.

Council also owns a vacant block of *Community Land* at 8 Blue Gum Avenue, Medlow Bath.

Councillors Creed and McLaren were not present in the Council Chamber when this matter was considered.

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## **22. H00003. Katoomba Golf Course Development**

RESOLVED UNANIMOUSLY on the MOTION of Councillors Hamilton and Frappell **that the Council note the response.**

### **Questions by Councillor P McInnes (15/2/2005):**

“With regard to the works currently being undertaken on the Katoomba Golf Course site:

1. Who is responsible for inspecting the sedimentation controls at this site?
2. When were the sedimentation controls last inspected?
3. Are these controls functioning adequately?”

### **Response from Acting Group Manager, Environmental & Customer Services:**

1. Amended development consent dated 10<sup>th</sup> August 2004 has been granted vide X/905/1998/A to construct a 120 room hotel, 102 residential units, effect alterations to the clubhouse, effect alterations to the golf course and to subdivide land into five lots.

McKenzie Group Consulting has been appointed as the Principal Certifying Authority (PCA) in respect to this development.

The PCA must, under the Environmental Planning & Assessment Act 1979 and Building Legislation Amendment (Quality of Construction) Act 2002, ensure that works proceed in accordance with the terms of development consent and in accordance with the Building Code of Australia.

Conditions are included in the above consent to specifically address the provision and maintenance of sedimentation control measures.

Council also has an overarching role to enforce compliance with the terms of development consent and to enforce relevant environmental legislation, however Council is not resourced to undertake routine regular inspections of these kinds of development sites. In respect to the enforcement of environmental legislation where Council owned assets are involved, the Department of Environment and Conservation (NSW) assumes this role.

2. Sedimentation controls associated with this development have been inspected by either the PCA or Council on the following occasions:
  - 8<sup>th</sup> March 2004 (Council)
  - 10<sup>th</sup> March 2004 (Council)
  - 1<sup>st</sup> May 2004 (PCA)
  - 18<sup>th</sup> February 2005 (Council)
  - 22<sup>nd</sup> February 2005 (Council)
  - 23<sup>rd</sup> February 2005 (Council)
  
3. Sedimentation and erosion controls for this development have by and large been implemented in accordance with the approved plans. Controls include the construction of three (3) large sediment detention basins, smaller detention basins, swales / rock check walls and other barrier type measures.  
However, as of 22<sup>nd</sup> February 2005, the installation, maintenance and monitoring of the sedimentation controls is considered to be inadequate and the following action has been taken by Council:
  - a) The principal contractor has been directed by Council officers to implement proper sedimentation controls throughout the development site, and moreover to:
    - i. Replace damaged silt arrestors adjacent to road gully pits
    - ii. Properly locate silt arrestors adjacent to road gully pits
    - iii. Replace compacted crushed aggregate to temporary driveways
    - iv. Line detention ponds adjacent to road construction works
    - v. Reinstall damaged silt fencing to trafficable areas.
    - vi. Re-install siltation fencing adjacent to all disturbed areas in a proper manner.
    - vii. Remove sediment deposits from siltation fencing and rock check walls
    - viii. Regularly maintain all sediment & erosion controls
  
  - b) The Principal Certifying Authority (McKenzie Group Consulting) has been requested to increase surveillance of sedimentation controls to ensure the development is carried out in accordance with the terms of development consent.

Councillors Creed and McLaren were not present in the Council Chamber when this matter was considered.

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MINUTE NO. 69

**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 10.30pm on Tuesday, 8 March 2005.

The Ordinary Meeting of the Council then closed until 7:30 pm on Tuesday, 29 March 2005 in the Council Chamber, Council Headquarters, 2 Civic Place, Katoomba.

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