

# Council Meeting

Monday 16 May 2011

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## **Items Determined Under Delegated Authority by Council Committees**

**The following Items were determined under Delegated Authority. To see the delegated decisions of Council please refer to the individual Committee Meeting Minutes.**

### **Corporate & Works Committee Meeting held on Monday 9 May 2011**

- D1 Confirmation of Minutes of Meeting held on 4 April 2011
- D2 Monthly Financial Report – March 2011

### **Development Control Committee Meeting held on Monday 9 May 2011**

- D1 Confirmation of Minutes of Meeting held on 18 April 2011
- D2 DA40/2011 – 62 Edgecliff Road, Woollahra – Alterations & additions – 7/2/2011
- D3 DA792/2008 Part 3 – 13 Burrabirra Avenue, Vaucluse – Section 96 Application – Proposed modification internal & external – 18/5/2009
- D4 DA681/2010 – 20 & 21 Marine Parade, Watsons Bay – Demolition of the existing single garage, construction of a new single garage, alterations & additions to an existing pair of semi-detached dwelling-houses including the formation of a single dwelling-house & consolidation of 2 allotments into 1 – 16/12/2010
- D5 DA598/2010 – 9 Milton Avenue, Woollahra – Alterations & additions including new 2<sup>nd</sup> floor level & double garage – 4/11/2010
- D6 DA332/2010 - 370 Edgecliff Road, Woollahra – Demolition of existing building & construction of a six storey boarding house with 46 boarding rooms, car parking for 20 vehicles, landscaping & site works 9/7/2010
- D7 DA414/2010 - 25 Walker Street, Edgecliff – Alterations & additions to existing child care centre to expand the capacity from 16 to 40 childcare places including a new three storey building at rear & a two storey extension to existing building (as amended by the applicant to 30 child care places) – 13/8/2010
- D8 DA137/2006 Part 2 – 72 Bellevue Road, Bellevue Hill - Section 96 Application – Proposed modification internal & external including changes to the configuration of the approved building – 28/9/2010 – **(See Item R1)**
- D9 DA591/2010 – 10 Oswald Street, Darling Point – Double underground garage with wheelchair lift – 3/11/2010
- D10 Register of Current Land and Environment Court Matters and Register of Court Proceedings for Building Control, Environmental Control & Health Control

### **Urban Planning Committee Meeting held on Monday 2 May 2011**

- D1 Confirmation of Minutes of Meeting held on 11 April 2011

### **Community & Environment Committee Meeting held on Monday 2 May 2011**

- D1 Confirmation of Minutes of Meeting held on 11 April 2011
- D2 Library Quarterly Report 1 January 2011 to 31 March 2011
- D3 Anti-social behaviour at Watsons Bay Baths and Redleaf Pool
- D4 Watsons Bay Baths - Sharing Sydney Harbour Access Program Funding Application 2010



# Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council  
held at the Council Chambers, Double Bay, on  
Monday 16 May 2011 at 8.00pm.**

Present: Her Worship The Mayor, Councillor Isabelle Shapiro  
Councillors Anthony Boskovitz  
Sean Carmichael  
Lucienne Edelman  
Nicola Grieve  
Chris Howe  
Andrew Petrie  
Ian Plater  
David Shoebridge  
Susan Wynne  
Malcolm Young  
Toni Zeltzer

Staff: Allan Coker (Director – Planning & Development)  
Stephen Dunshea (Director – Corporate Services)  
Gary James (General Manager)  
Tom O’Hanlon (Director – Technical Services)  
Vicki Munro (Acting Director – Community Services)  
Les Windle (Manager – Governance)

Also in Attendance: Nil

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## Confirmation of Minutes

(Carmichael/Wynne)

- 1/8 That the Minutes of the Council Meeting held on 2 May 2011 be taken as read and confirmed.

**Adopted**

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## Leave of Absence

(Plater/Zeltzer)

- 2/8 That leave of absence for all meetings of the Council and its Committees be granted to Councillor Susan Jarnason for the period Monday 16 May 2011 to Friday 20 May 2011, inclusive.

**Adopted**

**Note:** Leave of Absence has previously been granted to Councillors Peter Cavanagh and Greg Medcraft.

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## Apologies

Nil

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## Declarations of Interest

Councillor Petrie declared a Pecuniary Interest in Urban Planning Committee Item R1 (9A Cooper Park Road, Bellevue Hill – Opportunity site consultation for the Woollahra Principal Local Environmental Plan) as he owns property adjacent to the land. Councillor Petrie left the meeting and did not participate in the debater vote on the matter.

Councillor Carmichael declared a Non Significant Non Pecuniary Interest in Urban Planning Committee Item R1 (9A Cooper Park Road, Bellevue Hill – Opportunity site consultation for the Woollahra Principal Local Environmental Plan) as one of the objectors is a friend of his mother. Councillor Carmichael does not believe it would affect his vote.

Councillor Nicola Grieve declared a Non Significant Non Pecuniary Interest in Urban Planning Committee Item R1 (9A Cooper Park Road, Bellevue Hill – Opportunity site consultation for the Woollahra Principal Local Environment Plan) as her Aunt is one of the objectors to the proposal. Councillor Grieve does not believe it would affect her vote.

Councillor Young declared a Non Significant Non Pecuniary Interest in Urban Planning Committee Item R1 (9A Cooper Park Road, Bellevue Hill – Opportunity site consultation for the Woollahra Principal Local Environment Plan) as he formerly acted as Counsel for the Owners Corporation of

17A Cooper Park Road, Bellevue Hill on a building matter and a number of owners at 17A Cooper Park Road, Bellevue Hill have made submission to Council on this planning matter. Councillor Young does not believe it would affect his vote.

Councillor Zeltzer declared a Non Significant Non Pecuniary Interest in Development Control Committee Item R1 (72 Bellevue Road, Bellevue Hill) as she is familiar, through a mutual friend at Balmain, with one of the objectors. Councillor Zeltzer does not believe it would affect her vote.

Councillor Grieve declared a Pecuniary Interest in Development Control Committee Item R1 (72 Bellevue Road, Bellevue Hill) as her Aunt is an objector to the development. Councillor Grieve left the meeting and did not participate in debate or vote on the matter.

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## Corporate & Works Committee

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### Items with Recommendations from the Committee Meeting of Monday 9 May 2011 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** Goods and Services Tax Compliance Certification  
**Author:** Don Johnston, Manager Finance  
**File No:** 329G  
**Reason for Report:** To seek a recommendation to Council in regard to Goods and Services Tax compliance certification.

(Petrie/Carmichael)

**Resolved without debate:**

**3/8** THAT Council, having noted this report and the statement by the Responsible Accounting Officer, make the following resolution in regard to goods and services tax:

*To assist compliance with Section 114 of the Commonwealth Constitution, Council certifies that:*

- *Voluntary GST has been paid by Woollahra Municipal Council for the period 1 May 2010 to 30 April 2011.*
  - *Adequate management arrangements and internal controls were in place to enable Council to adequately account for its GST liabilities and recoup all GST input tax credits eligible to be claimed.*
  - *No GST non-compliance events by the Council were identified by or raised with the Australian Taxation Office.*
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**Item No:** R2 Recommendation to Council  
**Subject:** **Delivery Program 2009 to 2013 & Operational Plan 2011/12**  
**Author:** Don Johnston, Manager Finance  
Helen Tola, Governance & Corporate Planning Coordinator  
**File No:** 1229.G 2011/12  
**Reason for Report:** For the Committee to review submissions received following public exhibition of the draft Delivery Program 2009 to 2013 and Operational Plan 2011/12 and make a recommendation for the adoption of the Delivery Program 2009 to 2013 and Operational Plan 2011/12.

(Petrie/Carmichael)

**4/8 Resolved without debate:**

1. That Council note the three (3) submissions referred to in the report and the further submission included in the late correspondence tabled by the Director - Corporate Services on the draft Delivery Program 2009 to 2013 and Operational Plan 2011/12 in response to the public exhibition.
2. That Council adopt the exhibition copy of the draft Delivery Program 2009 to 2013 and Operational Plan 2011/12, including the Special Rate Variation Approval Scenario Budget and with the minor amendments detailed in this report, as its Delivery Program 2009 to 2013 and Operational Plan 2011/12.
3. That Council make and levy the Rates for 2011/12 as follows:
  - If the Special Rate Variation is approved: As set out in the Rating Structure – Scenario 1: Special Variation Approved - incorporating the 2.8% permissible increase plus a 7.02% Special Variation including renewal of the Environmental & Infrastructure Renewal Levy, resulting in an effective increase of 3.94%, subject to approval by the Independent Pricing & Regulatory Tribunal of its Special Rate Variation application.
  - If the Special Rate Variation is not approved in its entirety: As set out in the Rating Structure – Scenario 2: Special Variation Not Approved - incorporating only the 2.8% permissible increase and reduction of the Environmental & Infrastructure Renewal Levy by the expiring amount of \$1,739,111.
4. That advice of Council's adoption of its Delivery Program 2009 to 2013 and Operational Plan 2011/12, including the Special Rate Variation Approval Scenario Budget, be provided to the Independent Regulatory & Pricing Tribunal in accordance with the Special Rate Variation Application Guidelines.
5. That a further report be presented to the Corporate & Works Committee advising in respect of the Independent Pricing and Regulatory Tribunal (IPART) determination of Council's Special Rate Variation Application.
6. That the further report referred to in Recommendation 5 above include details of any amendments required to Council's 2011/12 budget and rating structure in the event that the Special Rate Variation is not approved in its entirety.

**Item No:** R3 Recommendation to Council  
**Subject:** **Reconstruction of Stephen Lane, Paddington.**  
**Author:** Jake Matuzic, Manager Civil Works and Infrastructure  
**File No:** Tender No 11/04  
**Reason for Report:** To recommend Council not accept any tenders

(Petrie/Carmichael)

**5/8 Resolved without debate:**

- A. That Council decline to accept any of the tenders and advise the unsuccessful tenderers accordingly.
  - B. That Council proceed with the project as per the revised scope of works described in this report, by entering into negotiations with any contractor (whether or not the contractor was a tenderer) with a view to entering into a contract in relation to the revised scope of works, through undertaking the necessary procurement processes for a project of this size.
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## Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 9 May 2011 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council

**Subject:** **72 Bellevue Road, Bellevue Hill - Section 96 Application – Proposed modification internal & external including changes to the configuration of the approved building – 28/9/2010**

**Author:** Sarah Chambers – Senior Assessment Officer

**File No:** DA137/2006 Part 2

**Reason for Report:** In accordance with Council's meeting procedures and policy this matter is referred to full Council due to the voting on the Amendment was 2 votes for the Amendment and 2 votes against the Amendment. Both the Motion and the Amendment are referred to Council for consideration.

**Note:** Councillor Zeltzer declared a Non Significant Non Pecuniary Interest in this Item as she is familiar, through a mutual friend at Balmain, with one of the objectors. Councillor Zeltzer does not believe it would affect her vote.

**Note:** Councillor Grieve declared a Pecuniary Interest in this Item as her Aunt is an objector to the development. Councillor Grieve left the meeting and did not participate in debate or vote on the matter.

**Note:** Late correspondence was tabled at the meeting from Lewis Adey (3 pieces), Ray Wilson (2 pieces), Michael & Annamarie Taub and Sarah Chambers, Council's Senior Assessment Officer.

**(Howe/Young)**

**6/8 Resolved:**

- A. That the matter be referred back to the Development Control Committee Meeting on 23 May 2011 for determination, to allow the objectors to comment on the amended plans.
  - B. That the objectors be notified as soon as possible that the matter will be going back to the Development Control Committee on 23 May 2011 and be provided a copy of the amended plans.
  - C. That the report to the Development Control Committee include a complete compliance table.
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## Urban Planning Committee

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### Items with Recommendations from the Committee Meeting of Monday 2 May 2011 Submitted to the Council for Determination

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- Item No:** R1 Recommendation to Council
- Subject:** **9A Cooper Park Road, Bellevue Hill – Opportunity site consultation for the Woollahra Principal Local Environmental Plan**
- Author:** Jacquelyne Jeffery– Team Leader Strategic Planning
- File No:** 1064.G Principal LEP
- Reason for Report:**
- To consider the submissions received during the section 62 consultation for the Woollahra Principal Local Environmental Plan – with regards to Opportunity Site 8 being 9A Cooper Park Road, Bellevue Hill.
  - To obtain Council’s approval to include the proposed planning changes identified for this opportunity site in the preparation of the Draft Woollahra Principal Local Environmental Plan.
- Note:** Councillor Petrie declared a Pecuniary Interest in this Item as he owns property adjacent to the land. Councillor Petrie left the meeting and did not participate in the debater vote on the matter.
- Note:** Councillor Carmichael declared a Non Significant Non Pecuniary Interest in this Item as one of the objectors is a friend of his mother. Councillor Carmichael does not believe it would affect his vote.
- Note:** Councillor Nicola Grieve declared a Non Significant Non Pecuniary Interest in this Item as her Aunt is one of the objectors to the proposal. Councillor Grieve does not believe it would affect her vote.
- Note:** Councillor Young declared a Non Significant Non Pecuniary Interest in this Item as he formerly acted as Counsel for the Owners Corporation of 17A Cooper Park Road, Bellevue Hill on a building matter and a number of owners at 17A Cooper Park Road, Bellevue Hill have made submission to Council on this planning matter. Councillor Young does not believe it would affect his vote.
- Note:** Late correspondence was tabled at the meeting from Allan Coker, Council’s Director Planning & Development and Michael & Beth d’Apice.

**Motion moved by Councillor Shoebridge  
Seconded by Councillor Grieve**

- A. That Council resolve not to proceed with the rezoning of 9A Cooper Park Road, Bellevue Hill for residential purposes.
- B. That Council undertake a thorough public consultation process on future community uses for the land at 9A Cooper Park Road, Bellevue Hill.
- C. That a report be brought to Council detailing how the public consultation can best be achieved.

**Amendment moved by Councillor Howe****Seconded by Councillor Zeltzer**

- A. That the proposed planning changes for Opportunity Site 8, *9A Cooper Park Road, Bellevue Hill*, as identified in Column 3 of the Table to the report to Urban Planning Committee of 2 May 2011, be included in the Draft Woollahra Principal Local Environmental Plan for public exhibition.
- B. That it be noted that, subject to the land reclassification and rezoning proceeding, a further report will be presented to the Corporate and Works Committee addressing how the proceeds from any future sale of the land are committed to public open space, recreation and community facility projects.
- C. That Council staff investigate the encroachments identified in the Late Correspondence from Council's Director Planning & Development.

**The Amendment was put and carried****The Amendment became the Motion****The Motion was put and carried****(Howe/Zeltzer)****7/8 Resolved:**

- A. That the proposed planning changes for Opportunity Site 8, *9A Cooper Park Road, Bellevue Hill*, as identified in Column 3 of the Table to the report to Urban Planning Committee of 2 May 2011, be included in the Draft Woollahra Principal Local Environmental Plan for public exhibition.
- B. That it be noted that, subject to the land reclassification and rezoning proceeding, a further report will be presented to the Corporate and Works Committee addressing how the proceeds from any future sale of the land are committed to public open space, recreation and community facility projects.
- C. That Council staff investigate the encroachments identified in the Late Correspondence from Council's Director Planning & Development.

*Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.*

***For the Motion***

Councillor Boskovitz  
 Councillor Wynne  
 Councillor Shapiro  
 Councillor Edelman  
 Councillor Zeltzer  
 Councillor Young  
 Councillor Plater  
 Councillor Carmichael  
 Councillor Howe

***9/2******Against the Motion***

Councillor Shoebridge  
 Councillor Grieve

## Notice of Motion

**Item No:** 1  
**From:** Councillors Grieve and Jarnason  
**Date:** 11 May 2011  
**File No:** 900.G

**(Grieve/Shoebridge)**

**8/8** Could Council please investigate:

1. The introduction of a shared zone and
2. Review parking options and the resident parking in Walker Avenue, Edgecliff

**Adopted**

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**Item No:** 2  
**From:** Councillors Grieve Shoebridge and Jarnason  
**Date:** 11 May 2011  
**File No:** 900.G

**(Grieve/Shoebridge)**

**9/8** That Council install Bicycle racks at the Double Bay Wharf or in the immediate vicinity.

**Adopted**

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## Questions for Next Meeting

**Item No:** 13  
**Subject:** Questions for Next Meeting  
**Author:** Gary James, General Manager  
**File No:** 467.G/Q 10  
**Reason for Report:** To allow Councillors to ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

(Boskovitz/Carmichael )

**10/8** That Councillors ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

**Adopted**

**The following questions were asked:-**

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**Councillor Shoebridge asking:**

Madam Mayor, when were you first advised of Cr Howe's conflict of interest regarding the former Ashington site? And by whom?

Could you provide Councillors with a copy of the emails?

**Mayor in response:**

It was by e-mail, I think it was on either the 28<sup>th</sup> or 29<sup>th</sup> April, I am not aware of the exact date. I was copied into the e-mail sent to the General Manager.

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**Councillor Shoebridge asking:**

General Manager, when were you first advised of Cr Howe's conflict of interest regarding the former Ashington site? And by whom?

**General Manager in response:**

By the same e-mail, but it would have been probably one day prior to that because I had a short discussion with Councillor Howe in relation to the matter and I advised him to declare a Pecuniary Interest.

**Councillor Shoebridge asking:**

Cr Howe, noting your answer to last Council Meeting regarding the former Ashington site at Double Bay, can you please advise Council of:

1. the dates on which you declared a conflict of interest,
2. the exact nature of the conflict of interest declared,
3. who in Council you advised of this conflict of interest, and when?.

**Councillor Howe in response:**

I am very pleased to do so. I met with the General Manager the day before I sent an e-mail to the General Manager, copied into the Mayor and copied into the Manager Governance. I am not going to debate what the date was because I have a copy of the e-mail and I will circulate it to all Councillors tomorrow morning. The following day, on having spoken to the General Manager and advising him I have a Pecuniary Interest in the matter I sent an e-mail to the General Manager, the Mayor and Mr Windle to confirm that and requesting that no information was provided to me in that respect and I would remove myself from all matters relating to that matter.

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**Councillor Plater asking:**

Could the General Manager please advise the process for Council investigating concerns about breaches of the Local Government Act, particularly after a declaration of interest has been declared?

**General Manager in response:**

The process for a breach of a Pecuniary Interest under the Local Government Act, that would involve the Department being provided with information and pursuing that investigation. The staff, the Council itself has no power to investigate.

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**Councillor Howe asking:**

Could staff please advise what response Council has received from the RTA in respect of my correspondence to Alan Opera some 3 weeks ago regarding the unsafe and non-compliant traffic lanes on New South Head Road adjacent to the STA bus stop outside the Rose Bay RSL?

My correspondence requested Mr Opera to ask the RTA to reconsider their previous response, namely that the RTA considered the lane width of the left land at 2.6m was adequate and did not constitute a traffic accident risk and did not require rectification, even though the lane was substantially less than the Australian Standard and could have been rectified by either an adjustment of the right lane width or deletion of two car spaces outside the RSL.

At a further time I asked Mr Opera to inform the RTA that I was in receipt of original information in respect of actual accidents that have occurred as a result of the non compliant lane width.

**Director Technical Services in response:**

I will be able to answer the question in part but I will have to provide follow up information to the Council.

My understanding is, that when Mr Opera put the question to the RTA about the lane widths, their response was that, as they were envisaging works to reseal the entire road in the next financial year, they were proposing to leave the line marking as it is for the moment but when they remark the road after resealing it they would have adjusted the lane widths.

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**Councillor Zeltzer asking:**

Can we please investigate the provision of a small bank of lockers at Redleaf Pool. I have been contacted by a number of users of the Pool who get there by public transport. There is an inability to store their clothes, keys and wallets in a secure way whilst they are swimming?

**Director Technical Services in response:**

On notice.

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**Councillor Grieve asking:**

I note that in relation to a Building Certificate regarding 3 Northland Road, Bellevue Hill that the applicant is seeking Council's approval for a certificate that includes a serious non-compliant balcony.

The non-compliant balcony has been built by the applicant in direct contraction of a condition of approval that was imposed by Councillors to address serious concerns raised by objectors concerning building bulk and privacy. Despite requests for action from myself, objectors and the PCA, it appears that rather than stand up for the conditions imposed on the development application, Council is waiting for the applicant to lodge a S96 to delete this condition.

Can this matter please be given your urgent attention and can all reasonable attempts be made to support conditions placed on DA rather than rely on the watering down of conditions via S96 application?

**Director Planning and Development in response:**

There is a lengthy history to this and there is already correspondence between the Manager of Compliance and Councillor Grieve on this matter. I will take the question On notice and I will get back to you with further information but one observation I can make, and that is, that if an applicant chooses to deal with this by way of a S96 application, an applicant has a right to do that.

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**Councillor Grieve asking:**

Could you please explain the urgency that required the teams of Council workers to be clearing up 9A Cooper Park Road last Saturday and were penalty rates paid for this weekend work?

**Director Technical Services in response:**

I will have to take the question partly On notice. I understand there was some clearing work done because we were attempting to investigate the encroachment question that came through the late correspondence that you passed on to us. As to it being done on the weekend and whether penalty rates were paid, I don't know the answer to that tonight.

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**Councillor Grieve asking:**

Has there been any communication between Council and any proponents discussing the sale or purchase of 9A Cooper Park Road?

**Mayor in response:**

Not that I am aware of.

**General Manager in response:**

No.

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**Councillor Petrie asking:**

Why did you, Cr Shoebridge, ask me the question you asked me at the last Council Meeting. Which was "Could you please place on the record any communication of which you have knowledge between Council, including any Councillors, and any proponents for increasing the density or FSR on what was the Ashington site at Double Bay." Why did you ask me that question? If you did ask me that question, was it a fishing exhibition or did you have any evidence of asking me that question?

**Councillor Shoebridge in response:**

I didn't ask you the question Councillor Petrie, I asked the Mayor the question and you jumped up and offered to answer it in your own right. You volunteered and because you jumped up to volunteer I said well then I will ask you that question Councillor Petrie. Because you volunteered yourself. Because you put yourself in the slot and volunteered yourself.

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**Councillor Petrie asking:**

I disagree with the minutes of the meeting of 2 May 2011.

In answer to Councillor Shoebridge, I said as I remember it, "I don't know bloody what you are talking about" was what I thought I said. Which sounds more like me than the way it is reported here, might I add to you. So I would like a report back next time on the minutes.

**General Manager in response:**

I am more than happy to check the recording but my understanding is that what is in the recorded response that is in the questions is from the recording.

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**Councillor Petrie asking:**

To Councillor Shoebridge and Councillor Grieve

Do you two Councillors still support the anti Israeli stance you took in Woollahra in support of the Palestinians?

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**Councillor Shoebridge in response:**

Madam Mayor, that question is out of order under 2.27 cause it is clearly argumentative. But for the record, I stand by the position that I have said publicly, that I am strongly in support of the human rights of the Palestinian people and ensuring that they have a fair and equal say in divisive questions over the Middle East. But I do that in the context of recognising and adopting the Australian Greens policy which recognises the right of Israel to exist in safe and secure UN mandated borders.

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There being no further business the meeting concluded at 9.12pm.

*We certify that the pages numbered 1003 to 1019 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 16 May 2011 and confirmed by Council at the ordinary Meeting of Council on 30 May 2011 as correct.*

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**General Manager**

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**Mayor**