



# Ordinary Council Meeting

**Agenda:** *Ordinary Council Meeting*

**Date:** *Monday 13 May 2013*

**Time:** *8.00pm*

# Woollahra Municipal Council

## Notice of Meeting

9 May 2013

To: His Worship the Mayor, Councillor Andrew Petrie ex-officio  
Councillors Ted Bennett  
Anthony Boskovitz  
Peter Cavanagh  
Luise Elsing  
Elena Kirillova  
Greg Levenston  
Anthony Marano  
Katherine O'Regan  
Matthew Robertson  
Deborah Thomas  
Elena Wise  
Susan Wynne  
Toni Zeltzer  
Jeff Zulman

Dear Councillors

### **Council Meeting – 13 May 2013**

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Ordinary Council Meeting** to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 13 May 2013 at 8.00pm.**

Gary James  
General Manager

## Meeting Agenda

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## Leave of Absence

**Item No:** 1  
**From:** Councillor Deborah Thomas  
**Reason for Report:** Seeking leave of absence for all meetings of the Council and its Committees from Saturday 25 May 2013 to Wednesday 5 June 2013, inclusive.

**Recommendation:**

That leave of absence for all meetings of the Council and its Committees be granted to Councillor Deborah Thomas for the period Saturday 25 May 2013 to Wednesday 5 June 2013, inclusive.

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## 9.1 Corporate & Works Committee

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### Items with Recommendations from the Committee Meeting of Monday 6 May 2013 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council

**Subject:** **Holdsworth Community Centre Incorporated - Funding Agreement and Leases for the Woollahra Seniors & Community Centre and Holdsworth Community Centre**

**Author:** Kylie Walshe, Director Community Services

**File No:** 126.G, 148.334

**Reason for Report:** New Funding Agreement with Holdsworth Street Community Centre Woollahra Incorporated and Lease for Woollahra Seniors & Community Centre and Holdsworth Community Centre.

**Recommendation:**

- A. That Council adopt the revised Funding Agreement with Holdsworth Street Community Centre Woollahra Incorporated and Holdsworth Family Services Incorporated, incorporating the activities at the Woollahra Seniors & Community Centre, effective 1 July 2013.
- B. That Council exhibit the proposed lease of the Woollahra Seniors & Community Centre and Holdsworth Community Centre for 28 days as per Section 46 and Section 47 of the Local Government Act and that all objectors be notified of the conditions of the proposed lease.
- C. That the following changes as proposed in the late correspondence be made:
- Holdsworth must:
    - only use the outdoor deck (including for the setting up and removal of tables and chairs) during the following hours:
      - a) 8am to 4pm Monday to Friday
      - b) 10am to 4pm Saturday, Sunday and Public Holidays
    - not use amplification of any sort on the outdoor deck at any time
    - remove all outdoor furniture from the deck at the completion of each day of use.
  - The outdoor deck may also be used between 4pm to 6pm Monday to Sunday for community services activities only, on the condition that there is no amplified music in the centre at all at this time.
  - Council reserves the right to limit the hours of use of the outdoor deck after 4pm at any time, taking into consideration any complaints received.
  - No Smoking sign be included on the deck.
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**Item No:** R2 Recommendation to Council  
**Subject:** **Paddington Library Agreement**  
**Author:** Corinna Pierce, Library Customer Service Team Leader and Vicki Munro, Manager, Library & Information Service  
**File No:** 659.G  
**Reason for Report:** This report seeks Council's endorsement to finalise the negotiations for the Paddington Library Agreement with City of Sydney Council, for the period 1 January 2013 to 30 June 2015.

**Recommendation:**

That Council authorise the General Manager to finalise negotiations and enter into an agreement with City of Sydney Council for Paddington Library, for the period 1 January 2013 to 30 June 2015 with details as set out in this report.

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**Item No:** R3 Recommendation to Council  
**Subject:** **Draft 2013/14 Budget**  
**Author:** Don Johnston, Manager Finance  
**File No:** 331.G 2013/14  
**Reason for Report:** To present the Draft 2013/14 Budget to the Committee.

**Recommendation:**

- A. THAT the report on the Draft 2013/14 Budget be received and noted.
  - B. THAT the Draft Budget be incorporated into the Delivery Program 2013 to 2017 and 2013/2014 Operational Plan for the purpose of public exhibition.
  - C. THAT Council note the inclusion of an Action in the draft Operational Plan 2013/14 stating Council's intention to undertake targeted community consultation in 2013/14 in relation to the review of its long term financial plan and potential special rate variation application to IPART for 2014.
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**Item No:** R4 Recommendation to Council

**Subject:** **Revised Community Strategic Plan – Woollahra 2025 and Draft Delivery Program 2013 to 2017 and Operational Plan 2013/14**

**Author:** Helen Tola - Governance & Corporate Planning Coordinator  
Stephen Dunshea - Director Corporate Services

**File No:** 1229.G 2013 to 2017

**Reason for Report:** To present the revised Community Strategic Plan - Woollahra 2025 and draft Delivery Program 2013 to 2017 and Operational Plan 2013/14 with a recommendation that the documents be placed on public exhibition for a period of 28 days.

**Recommendation:**

- A. THAT Council note the Urban Planning and Community & Environment Committees' endorsement of the Priorities and Actions proposed for inclusion in the draft Delivery Program 2013 to 2017 and Operational Plan 2013/14.
- B. THAT the revised Community Strategic Plan – *Woollahra 2025* and draft Delivery Program 2013 to 2017 and Operational Plan 2013/14, be placed on concurrent public exhibition for a period of 28 days in accordance with the requirements of Sections 404 and 405 of the *Local Government Act 1993*, commencing on Wednesday 15 May 2013.
- C. THAT Council note that information relating to Council's draft 2013/14 draft Budget and other relevant financial information will be incorporated into the draft Delivery Program 2013 to 2017 and Operational Plan 2013/14 prior to public exhibition.
- D. THAT a further report be presented following the public exhibition period advising of any submissions received in relation to revised *Woollahra 2025* and draft Delivery Program 2013 to 2017 and Operational Plan 2013/14.

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## 9.2 Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 6 May 2013 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council

**Subject:** **63 William Street, Paddington – Unauthorised works – external painting of buildings in sky blue, replacement of double hung windows on ground floor with full glass windows – 13/02/2013**

**Author:** Zarndra Piper – Assessment Officer

**File No:** DA39/2013

**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation to the Officer’s recommendation.

**Recommendation:**

- A. THAT Council, as the consent authority, refuse development consent to Development Application No. 39/2013 for unauthorised works, external painting of building in sky blue, replacement of double hung windows on ground floor with full glass windows on land at 63 William Street Paddington for the following reason:
1. Council has no power under the Environmental Planning and Assessment Act 1979 to grant retrospective consent to a development application in respect of works undertaken without development consent.
- B. THAT, as the unauthorised works are considered to be satisfactory in terms of environmental impact, Council take no action to require these works to be removed subject to the following conditions:
1. The owners making an application for, and Council issuing, a Building Certificate under Section 149A-149G of Environmental Planning and Assessment Act 1979 for the works. The required building certificate application is to be submitted to Council within twenty-eight (28) days of this determination;
  2. The ground floor windows to the façade and side elevation of the building are to incorporate a horizontal bar in order to interpret a double-hung sash window.
- C. That this matter be referred to the Manager- Compliance to take appropriate action under Part 6 of the Environmental Planning and Assessment Act 1979 in accordance with Council’s Enforcement Policy for failure to obtain Council’s consent prior to carrying out the unauthorised works
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**Item No:** R2 Recommendation to Council  
**Subject:** **232 Old South Head Road, Vaucluse – Alterations and additions to existing residential flat building – 08/11/2010**  
**Author:** Eleanor Smith – Senior Assessment Officer  
**File No:** DA601/2010  
**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation (refusal) to the Officer’s recommendation (approval).

**Recommendation:**

THAT the Council, refuse Development Application No. 601/2010 for alterations and additions to existing residential flat building on land at 232 Old South Head Road, Vaucluse, for the following reasons:

- The proposed mansard roof form is unsympathetic with the character of the area and would have a detrimental impact upon the streetscape.
- The design and form of the proposed mansard roof addition is not in keeping with the character of the subject interwar flat building.

- Item No:** R3 Recommendation to Council
- Subject:** **18, 18A & 20 Albert Street, Edgecliff – Subdivision of existing sites to enable construction of 2 residential flat buildings containing 6 units with basement car parking for 16 vehicles, new swimming pool, landscaping, site works and alterations and additions to existing buildings – 24/08/2012**
- Author:** Dimitri Lukas – Senior Assessment Officer
- File No:** DA347/2012
- Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation (refusal) to the Officer’s recommendation (approval).

**Recommendation:**

THAT refusal Development Application No. 347/2012 for subdivision of existing sites to enable construction of 2 residential flat buildings containing 6 units with basement car parking for 16 vehicles, new swimming pool, landscaping, site works and alterations and additions to existing buildings on land at 18, 18A and 20 Albert Street, Edgecliff, for the following reasons:

- The proposal is an over development of the site which results in excessive bulk and scale that will have an adverse impact on the amenity of adjoining properties
- The SEPP 1 objection to the floor space ratio control is not well founded and is not supportable
- The excessive FSR contributes to the non-compliance with the deep soil landscaping control which will have an adverse effect on the surface and sub-surface flow of water (drainage)
- The proposal does not comply with the number of storeys control
- The proposal will result in excessive excavation and does not comply with the setback of excavation controls
- The proposal will have an adverse impact on the visual and acoustic privacy of adjoining properties
- That the proposal will give rise to impacts to existing significant trees particularly in relation to those trees in close proximity to the swimming pool ,
- That the proposal will give rise to unacceptable impacts in relation to construction management

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## 9.5 Strategic & Corporate Committee

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### Items with Recommendations from the Committee Meeting of Monday 29 April 2013 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council

**Subject:** **Draft Woollahra Local Environmental Plan 2013 - Request to Endorse The Draft LEP for Public Exhibition**

**Author:** Jacquelyne Della Bosca – Team Leader Strategic Planning

**File No:** 1064.G (Principal LEP Draft Woollahra Plan)

**Reason for Report:** To obtain a decision to endorse, for the purpose of public exhibition, the Draft Woollahra Local Environmental Plan 2013.

**Note:** In accordance with section 451(2) of the Local Government Act 1993 Councillors Ted Bennett, Anthony Boskovitz, Elena Kirillova and Matthew Robertson have submitted a “*Form of special disclosure of pecuniary interest*” in relation to this Item.

#### Recommendation:

- A. That Draft Woollahra Local Environmental Plan 2013, provided at **Annexure 3** of the report to the Strategic and Corporate Committee meeting on 29 April 2013, is referred to the Director-General of the NSW Department of Planning and Infrastructure under section 64 of *Environmental Planning and Assessment Act 1979* (EP&AAct) with a request for a certificate under section 65 to allow the Draft LEP to be placed on public exhibition subject to the following changes:
1. Insert the following objective for Zone B4 Mixed Use:  
“To provide for development of a scale and type compatible with the amenity of the surrounding residential area”.
  2. Insert the land use “home occupations” as permissible without consent in the B4 Mixed Use Land use table. Delete the use “home occupations” as permissible with consent in the Land use table.
  3. Apply a floor space ratio of 2:1 on 13-17 Bellevue Road, Bellevue Hill
  4. Apply a floor space ratio of 1.5:1 on 156 Edgecliff Road, Woollahra.
  5. Remove two sites from *Schedule 4: Classification and reclassification of public land*. These sites are: Queen Street car park 53 Moncur Street, Woollahra and Land adjoining 15A Dumaresq Road, Rose Bay.
- B. That the Draft LEP provided at **Annexure 3** of the report to the Strategic and Corporate Committee meeting on 29 April 2013 and incorporating any minor amendments required by the Director-General, is publicly exhibited in accordance with the provisions of section 66 of the EP&AAct, and that the exhibition period is 12 weeks.
- C. That submissions to the exhibition of the Draft LEP are reported to the Strategic and Corporate Committee following completion of the consultation process.

## Notices of Motion

**Item No:** 1  
**From:** Councillor Matthew Robertson  
**Date:** 9 May 2013  
**File No:** 900.G

That Council:

- a) Notes the latest report from the Independent Local Government Review Panel
- b) Welcomes the report's position in support of no forced amalgamations.
- c) Expresses concern that the report proposes a 'Super-City' merger of Woollahra Council with the City of Sydney, Waverley, Randwick, Botany (and possibly Leichhardt and Marrickville councils), without citing demonstrable benefits for Woollahra residents.
- d) Notes that any merger of Woollahra Council with neighbouring councils will inevitably reduce the level of local representation and strength of local democracy in the east, city and inner west of Sydney.
- e) Commit to continue to support local government as the level of government closest to the people and maintain Woollahra residents' rights to determine the future of their municipality and their local representation.

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**Item No:** 2  
**From:** Councillor Matthew Robertson  
**Date:** 9 May 2013  
**File No:** 900.G

That Council:

- a) Welcomes the Commonwealth government's commitment to hold a referendum on the financial recognition of local government in the Australian Constitution.
- b) Reaffirms its support for financial recognition of local government in the Australian Constitution.
- c) Requests the Mayor to express these views in writing to the Prime Minister the Hon Julia Gillard, the federal Minister for Local Government the Hon Anthony Albanese and the NSW Minister for Local Government the Hon Don Page.
- d) Commit to hosting at least one public meeting during the referendum campaign period to educate local residents on the arguments for and against financial recognition in the Australian constitution.

### Background

The Commonwealth government has announced a referendum on the question of financial recognition of local government shall be held in conjunction with the federal election on 14 September 2013.

The Final Report from the Expert Panel on Constitutional Recognition of Local Government was handed down in March 2013. The Report found overwhelming bipartisan support from local councils and state governments for an amendment to the Australian Constitution to allow the federal government to provide direct funding to local councils.

In its present form the Australian Constitution does not recognise local government. Local government only exists pursuant to state based legislation.

The 2009 High Court case of *Pape v Commissioner of Taxation*, followed in 2012 by the case of *Williams v Commonwealth (School Chaplains Case)*, created legal [uncertainty](#) around the capacity of the federal government to directly fund local councils.

In a Mayoral Minute of 14 June 2011, Council resolved:

*“That Woollahra Council declares its support for financial recognition of local government in the Australian Constitution so that the Federal Government has the power to fund local government directly and also for inclusion of local government in any new Preamble to the Constitution if one is proposed, and calls on all political parties to support a referendum by 2013 to change the Constitution to achieve this recognition.”*

The need for reform is real and urgent. It is in the interests of communities like Woollahra, that Commonwealth governments, despite their political persuasion, enjoy the legal certainty to directly fund local government.

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## Questions for the Next Meeting

<b>Item No:</b>	13
<b>Subject:</b>	<b>Questions for Next Meeting</b>
<b>Author:</b>	Gary James, General Manager
<b>File No:</b>	467.G/Q 10
<b>Reason for Report:</b>	To provide a response to Questions for Next Meeting from Council Meeting of 22 April 2013 and for Councillors to ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

### **Recommendation:**

That the responses to previous Questions for Next Meeting be noted.

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### **Background:**

The provision for Councillors to ask Questions for Next Meeting is contained in Section 3.2 of Council's Code of Meeting Practice which states:

#### **3.2 QUESTIONS FOR NEXT MEETING – No previous notice of questions required**

- 1) *As a standard practice, "Questions for Next Meeting" shall be listed in all agendas of Ordinary Meetings of Council. The agenda item shall contain a report of the questions asked at the last Council Meeting and the responses to those questions and provide an opportunity for the Councillors to ask questions for the next Council Meeting.*
- 2) *Questions asked at a Council Meeting shall also be submitted in writing.*
- 3) *The Councillor must put every question directly, succinctly and without argument.*
- 4) *The Mayor shall refer the question to the General Manager or responsible Division Head, or if the question is directed to another Councillor, the Councillor concerned. There shall be no requirement to answer the question immediately.*
- 5) *If the answer to a question can be given immediately, and it makes sense to do so, then such shall be done and a record made in the Minutes of the Meeting. If an answer can be given, but not immediately, then the Mayor shall indicate to whom the question is to be directed.*
- 6) *In the spirit of achieving the expeditious discharge of Council business the agenda item "Questions for Next Meeting" shall generally be limited to not more than 30 minutes duration unless the Council determines otherwise, on the evening in question and by way of specific resolution.*

Questions for Next Meeting should be asked in accordance with the Code of Meeting Practice.

Responses to Councillors Questions for Next meeting on 22 April 2013 are as follows:

**Councillor Boskovitz asking (on behalf of himself and Councillors Bennett and Wynne):**

Vaucluse Road, Vaucluse has had an increasing amount of traffic on it over the last few years. A huge amount of work is being undertaken which has:

1. caused a large amount of illegal car parking which creates dangerous traffic conditions,
2. cause large amounts of damage to our roads.

Whilst I understand that we regulate car parking in this area and we collect bonds to repair the roads post development, these measures don't seem to be working.

What has Council done to remedy the issue of illegal parking and do Council have a plan to repair the extensively damaged road surfaces?

**Manager Engineering Services in response:**

1. Most of Vaucluse Road has a marked centreline (dividing line). Vaucluse Road varies in width, particularly on the numerous bends in the road. However, the road is generally around 6 to 8 metres wide. Australian Road Rule 208 states:

208 Parallel parking on a road

- (1) A driver who parks on a road...must position the driver's vehicle in accordance with subrules (2) to (8).
- (6) If the road has a continuous dividing line or a dividing strip, the driver must position the vehicle at least 3 metres from any dividing line or dividing strip, unless otherwise indicated by information on or with a parking control sign.

Due to the narrow width of Vaucluse Road, many of the parked vehicles are parked significantly closer than 3 metres from the marked centreline. Therefore, many of the vehicles parked in Vaucluse Road are parked illegally and can be fined.

At the request of Engineering Services, the Rangers have increased their patrols in Vaucluse Road in the last month. For the first few days, the Rangers issued "Caution" notices to advise motorists that there were illegally parked. A caution is utilised where motorists have been parking illegally for some time and it is felt that a warning should be given prior to issuing infringements. Following the first few days of "Caution" notices, the Rangers have been issuing infringements for parking offences in Vaucluse Road.

In addition, Council's Traffic Team intends to survey the entire street to determine if additional parking restriction signage is required.

2. Council has a five year capital works program which aims to undertake necessary infrastructure renewal works on a prioritised basis. Works are prioritised based on the condition rating of the asset and factors such as the volume of vehicles and pedestrians.

Council is planning to undertake repairs to Vaucluse Road on a staged basis. Some works were completed this financial year (2012/2013). Council intends to undertake further repair works in Vaucluse Road over the next three financial years (2013/14 to 2015/16). These works will include road pavement reconstruction and footpath and kerb & gutter replacement. Council intends to start at the Nielson Park end of Vaucluse Road and work towards New South Head Road. These works are subject to Council confirmation of the budget.

**Councillor Kirillova asking:**

Could Council consider improving the signage at the intersection of Bay and Cross Streets, Double Bay to reduce motorist's confusion?

**Traffic & Transport Team Leader in response:**

Following receipt of additional information from Councillor Kirillova the following response is provided:

There are "Stop" signs and linemarking in Bay Street and therefore vehicles on Bay Street must stop and give way to vehicles on Cross Street. The "Stop" signs and linemarking are visible. Vehicles also slow down when approaching the pedestrian crossing in Cross Street. There are no suitable signs that can be installed at this intersection to inform motorists on how to use this intersection. Signs in Cross Street advising motorists that they have right of way could create more confusion and safety issues. From a road safety perspective, motorists slowing down while approaching the intersection to give each other or pedestrians way is seen as a positive outcome.

In 2008 Council narrowed this intersection by installing kerb extensions to improve sight lines for all vehicles approaching the intersection. The reduction in road width also assists with reducing vehicle speeds as well as making it safer for pedestrians crossing the road. A roundabout was also considered at this time however not pursued.

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**Councillor Thomas asking:**

Can we please get an update on the electrical issues affecting the street lights in New South Head Road from Bay Street on the left driving east?

The water/rain keeps blacking them out. I understand Council is looking into a long-term way of rectifying the problem.

**Traffic & Transport Team Leader in response:**

Our electrical contractor has undertaken some initial remedial works and the streetlights have been working. Our contractor is in the process of undertaking a detailed inspection of each pole and lantern including electrical connections, pits and cables. As part of this inspection, minor rectification works will be undertaken. Following this inspection a report will be prepared detailing any other works required and costings involved.

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**Councillor Zeltzer asking:**

In light of the fact we are approaching ANZAC Day, can we arrange some type of commemorative function around the Cenotaph in Double Bay, or lay a wreath at the Cenotaph and can the gardens and surrounds be tidied up for the day.

**Director Technical Services in response:**

We have an ongoing understanding that come the 25<sup>th</sup> April we have all of our Cenotaphs looking as good as they possibly can. I will speak to the Manager Open Space and Trees tomorrow to make sure that this Cenotaph gets special attention.

In terms of organising commemorative functions and laying wreaths, the RSL's organise those activities.

**Mayor in further response:**

These are valid points to consider for next year.

**Manager Open Space & Trees further response:**

All Centoaphs have been detailed for ANZAC Day and associated events.

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Gary James  
General Manager

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**Political Donations – matters to be considered by Councillors at Meetings**

