

Ordinary Council



Minutes

Monday 9 March 2020

Ordinary Council Meeting

Monday 9 March 2020

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Items Determined Under Delegated Authority by Council Committees

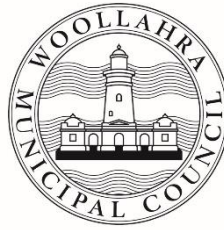
The following items were determined under Delegated Authority. To see the delegated decisions of Council please refer to the individual Committee Meeting Minutes.

Finance, Community & Services Committee held on Monday 02 March 2020

D1 Confirmation of Minutes of Meeting held on 17 February 2020

Environmental Planning Committee held on Monday 02 March 2020

D1 Confirmation of Minutes of Meeting held on 17 February 2020



Ordinary Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, 536 New South Head Road, Double Bay, on
9 March 2020 at 8.09pm.**

Present: Her Worship the Mayor, Councillor Susan Wynne, ex-officio

Councillors: Richard Shields
Peter Cavanagh
Claudia Cullen
Luise Elsing
Mary-Lou Jarvis
Anthony Marano
Nick Maxwell
Megan McEwin
Harriet Price
Lucinda Regan
Matthew Robertson
Isabelle Shapiro
Mark Silcocks
Toni Zeltzer

Staff:	Allan Coker	(Director – Planning & Development)
	Lynn Garlick	(Director – Community Services)
	Gary James	(General Manager)
	Don Johnston	(Director – Corporate Services)
	Tom O’Hanlon	(Director – Technical Services)
	Helen Tola	(Manager – Governance & Council Support)

Also in Attendance: Nil

Confirmation of Minutes

(McEwin/Shapiro)

31/20 Resolved:

THAT the Minutes of the Ordinary Council Meeting held on 24 February 2020 be taken as read and confirmed.

Leave of Absence and Apologies

Nil

Declarations of Interest

Nil

Late Correspondence

Note Council resolution of 27 June 2011 to read late correspondence in conjunction with the relevant Agenda Item R1 (F,C&S Committee) & NOM 16.1.

Petitions Tabled

Nil

Public Forum

Nil

Environmental Planning Committee

Items with Recommendations from the Committee Meeting of Monday 2 March 2020 Submitted to the Council for Determination

Item No:	R1 Recommendation to Council
Subject:	REVIEW OF PADDINGTON HERITAGE CONSERVATION AREA CONTROLS: INTRODUCING NUMERICAL CONTROLS TO CLAUSE 1.3.1 AND DEFINITION OF COURTYARD HOUSING.
Author:	Flavia Scardamaglia, Strategic Heritage Officer
Approvers:	Chris Bluett, Manager - Strategic Planning Allan Coker, Director - Planning & Development
File No:	20/23282
Reason for Report:	To obtain a Council decision to prepare a draft development control plan to amend the Woollahra Development Control Plan 2015.

(Jarvis/Zeltzer)

32/20 Resolved without debate:

- A. THAT a draft development control plan be prepared to amend the Woollahra Development Control Plan 2015, as described in detail in **Annexure 1** of the report to the Environmental Planning Committee meeting on 2 March 2020 subject to the following amendments:
1. The word ‘pavilion’ being deleted from the first line of C15 in clause 1.3.1.
 2. The link structure shown in the non-intrusive examples in Figure 3A in clause 1.3.1 being narrowed to match the link structures in Figure 3B in clause 1.3.1
 3. The notation for Measurement B in Figure 3B in clause 1.3.1 being amended to include the word “to” so as to read “...may be equal to or lower than...”
- B. THAT staff convene a Paddington & Oxford Street Working Party meeting to make recommendations to Council regarding controls for court yard housing and equivalent development relating to multi-story 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

Against the Motion

Councillor Cavanagh
Councillor Cullen
Councillor Elsing
Councillor Jarvis
Councillor Marano
Councillor Maxwell
Councillor McEwin
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Silcocks
Councillor Wynne
Councillor Zeltzer

Nil

15/0

Item No: R2 Recommendation to Council
Subject: **OUTDOOR LIGHTING CONTROLS IN RESIDENTIAL ZONES**
Author: Jorge Alvarez, Strategic Planner
Approvers: Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 20/4181
Reason for Report: To respond to a notice of motion adopted by Council on 10 December 2018 requesting a report on the potential amendments to planning controls for outdoor lighting in residential zones

(Jarvis/Zeltzer)

33/20 Resolved without debate:

- A. THAT the report on outdoor lighting controls in residential zones be received and noted.
- B. THAT standard condition I.49, as set out in **Annexure 1** of the report to the Environmental Planning Committee held on 2 March 2020, is applied to residential and non-residential development approvals in residential areas unless the Development Application does not involve the potential for outdoor lighting.
- C. THAT the conditions under which permits for cranes and hoardings on public roads are approved under the *Local Government Act* 1993 include standard condition E.19 of the standard conditions for Development Applications.

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

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Cullen
Councillor Elsing
Councillor Jarvis
Councillor Marano
Councillor Maxwell
Councillor McEwin
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Silcocks
Councillor Wynne
Councillor Zeltzer

Nil

15/0

Item No: R3 Recommendation to Council
Subject: **PLANNING PROPOSAL - MINIMUM LOT SIZE FOR DUAL OCCUPANCY (ATTACHED) DEVELOPMENT**
Author: Jorge Alvarez, Strategic Planner
Approvers: Anne White, Team Leader - Strategic Planning
Chris Bluett, Manager - Strategic Planning
Allan Coker, Director - Planning & Development
File No: 20/14279
Reason for Report: To report the advice made to Council by the Woollahra Local Planning Panel.
To obtain Council's approval to proceed with the planning proposal to amend clause 4.1A of the Woollahra Local Environmental Plan 2014 to increase the minimum lot size required for dual occupancy (attached) development in the R2 Low Density Residential Zone from 460 square metres to 800 square metres.

(Jarvis/Zeltzer)

34/20 Resolved without debate:

- A. THAT Council note the advice provided by the Woollahra Local Planning Panel on 30 January 2020.
- B. THAT the planning proposal attached as **Annexure 1** of the report to the Environmental Planning Committee meeting on 17 February 2020 be forwarded to the Department of Planning, Industry and Environment with a request for a gateway determination to allow public exhibition.

- C. THAT Council request the Minister for Planning and Public Spaces authorise Council as the local plan-making authority in relation to the planning proposal, to allow it to make the local environmental plan, under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

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

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Cullen
Councillor Elsing
Councillor Jarvis
Councillor Marano
Councillor Maxwell
Councillor McEwin
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Silcocks
Councillor Wynne
Councillor Zeltzer

Nil

15/0

Item No: R4 Recommendation to Council
Subject: **CREATIVE HOARDINGS POLICY - POST EXHIBITION REPORT**
Authors: Jo Jansyn, Cultural Development Coordinator
Jacquelyne Della Bosca, Executive Planner
Approvers: Lynn Garlick, Director - Community Services
Allan Coker, Director - Planning & Development
File No: 20/18453
Reason for Report: To report on the exhibition of the Draft Creative Hoardings Policy that establishes requirements to include artwork or images on construction site hoardings

(Jarvis/Zeltzer)

35/20 Resolved without debate:

- A. THAT Council notes the report to the Environmental Planning Committee meeting of 2 March 2020 on the exhibition of the Draft Creative Hoardings Policy.
- B. THAT Council approves the Woollahra Creative Hoardings Policy as amended and provided in **Annexure 1**.

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

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Cullen
Councillor Elsing
Councillor Jarvis
Councillor Marano
Councillor Maxwell
Councillor McEwin
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Silcocks
Councillor Wynne
Councillor Zeltzer

Nil

15/0

Finance, Community & Services Committee

Items with Recommendations from the Committee Meeting of Monday 2 March 2020 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: **SIGNAL HILL RESERVE - LAND TRANSFER FROM THE AUSTRALIAN GOVERNMENT TO WOOLLAHRA MUNICIPAL COUNCIL.**

Author: Stephen Kuhn, Senior Property Officer, Property & Projects

Approvers: Zubin Marolia, Manager - Property & Projects
Tom O'Hanlon, Director - Technical Services

File No: 19/183339

Reason for Report: Acquisition of new parcel of Australian Federal Government land being Lot 1608 Deposited Plan 752011, Old South Head Road, Vaucluse, NSW by Council

Note: Late correspondence was tabled by Council's Manager Property & Projects, Zubin Marolia.

(Marano/Zeltzer)

36/20 Resolved:

THAT Council defers consideration of this matter until the Council Meeting on 23 March 2020.

Note: In accordance with Council's adopted Code of Meeting Practice voting on the Motion is noted below.

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Cullen
Councillor Elsing
Councillor Jarvis
Councillor Marano
Councillor Maxwell
Councillor McEwin
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Silcocks
Councillor Wynne
Councillor Zeltzer

Nil

15/0

Item No: R2 Recommendation to Council

Subject: **CLOSING OF ROAD RESERVE ADJOINING 48 CRANBROOK ROAD, BELLEVUE HILL (SC2398)**

Author: Anthony Sheedy, Senior Property Officer

Approvers: Zubin Marolia, Manager - Property & Projects
Tom O'Hanlon, Director - Technical Services

File No: 20/10699

Reason for Report: To consider the closing of portion of the Cranbrook road reserve adjoining 48 Cranbrook Road, Bellevue Hill

(Marano/Cavanagh)

37/20 Resolved without debate:

- A. THAT in accordance with Section 38D Roads Act, 1993 Council approve the closing of a portion of Cranbrook Road adjoining 48 Cranbrook Road, subject to the purchaser entering into a conditional Contract of Sale with the Council.
- B. THAT Council authorise the Mayor and General Manager to execute and affix the Council Seal to all necessary documentation to effect the Road closure and sale i.e. Plan of Road Subdivision, Transfer document etc.

Note: In accordance with Council's adopted Code of Meeting Practice voting on the Motion is noted below.

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Cullen
Councillor Elsing
Councillor Jarvis
Councillor Marano
Councillor Maxwell
Councillor McEwin
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Silcocks
Councillor Wynne
Councillor Zeltzer

Nil

15/0

Councillor Reports/Councillor Updates

General Item No: 15.1 Acknowledgement of Gary James, General Manager's 50 years in Local Government
Councillor: Wynne

The Mayor, Councillor Wynne advised:

On 2 March this year it marked 50 years in local government for Gary James our General Manager, and this year represents 33 with Woollahra Council and 21 years as the General Manager.

This year also marks Gary's last year with us as he decided not to renew his contract which expires mid-year.

So on the anniversary of his half century in Local Government I would like to congratulate Gary for his commitment to public service and to our community.

When Gary reflected on 20 years of service as our General Manager last year, he mentioned how at the start of his employment he thought Woollahra Council might be a stopover. Well it has turned into much more than that and we are grateful for his commitment and loyalty. To have chosen a life of public service is something he can be very proud of.

Gary, tonight we recognise your commitment to the NSW local government sector and we thank you for acquiring and sharing all the wisdom you have gathered over the last 50 years with us, with our staff and with our community, for all our benefit.

On behalf of everyone here we would like to congratulate and thank you for 50 years of great service. Like the good wine we are presenting you with - you have improved with age and we are lucky to have you.

The General Manager in response:

Thank you Madam Mayor.

General Item No: 15.2 International Women's Day Event
Councillor: Price

Councillor Price advised:

I attended the International Women's Day Event on Friday 6 March 2020 and I would like to congratulate Lynn Garlick, Director Community Services and her team for the event.

General Item No: 15.3 Poets' Picnic
Councillor: Jarvis

Councillor Jarvis advised:

I attended the Poets' Picnic event the theme was *BiodiVerse*; a focus on the environment and sustainability. I would like to congratulate Lynn Garlick, Director Community Services and her team for the event.

General Item No: 15.4 Solar My School Project
Councillor: Shields

Councillor Shields advised:

I attended the Solar My School Project and I would like to congratulate Karen Sinclair, Michelle Rose and Anthony Weinberg and Glenmore Road Public School for the event.

General Item No: 15.5 Microplastics – Keep Our Harbour Beautiful – Rose Bay Beach Clean Up
Councillor: Regan

Councillor Regan advised:

I attended an event Keep Our Harbour Beautiful – Rose Bay Beach Clean Up and I would like to congratulate all involved in the event.

The Mayor, Councillor Wynne in response:

It was a great event. I found a phone and I was able to return it to the person and she was a very grateful tourist. It was a really nice outcome. The number of cigarette butts astounded me still.

They did not get as much glass or plastic. It was really fantastic not seeing all the plastic water bottles, plastic tops and takeaway disposable coffee cups, there was almost nothing. But the number of cigarette butts is still extraordinary, and you really had to sieve through as they lose their outer filter.

Seeing the schools, Cranbrook in particular, really actively involved and I know the schools in their houses had boys cleaning up all across the Municipality.

Notices of Motion

Item No: 16.1
Subject: NOTICE OF MOTION - RELIGIOUS DISCRIMINATION BILL
From: Councillors Harriet Price and Luise Elsing
Date: 3/03/2020
File No: 20/35782

Note: Late correspondence was tabled by Alex Greenwich Independent Member for Sydney.

Motion moved by Councillor Price
Seconded by Councillor Robertson

THAT Council:

1. Endorses Equality Australia's 'Freedom from Discrimination Statement' (as detailed below);
2. Supports fair and equal anti-discrimination laws that unite, rather than divide, the community; and
3. Requests that the Mayor writes to the Prime Minister, the Leader of Opposition, Attorney-General, Shadow Attorney-General and Mr Dave Sharma MP and each and every senator in the Commonwealth Parliament, informing them all that Woollahra Council:
 - a. endorses Equality Australia's 'Freedom from Discrimination Statement';
 - b. calls upon the Federal Government to remove unbalanced provisions in the proposed Religious Discrimination Bill that threaten safe and inclusive workplaces, schools and services, and privilege individual religious beliefs over the rights of patients; and
 - c. supports fair and equal anti-discrimination laws that unite, rather than divide, the community.

The Motion was put and Lost.

Note: In accordance with Council's adopted Code of Meeting Practice voting on the Motion is noted below.

For the Motion

Councillor Cullen
Councillor Elsing
Councillor McEwin
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Silcocks

Against the Motion

Councillor Cavanagh
Councillor Jarvis
Councillor Marano
Councillor Maxwell
Councillor Shapiro
Councillor Shields
Councillor Wynne
Councillor Zeltzer

7/8

LOST

Questions with Notice

Item No: 17
Subject: Questions with Notice
Author: Harriet Price, Councillor
Approver: Helen Tola, Manager - Governance & Council Support
Reason for Report: To table Questions with Notice received from Councillors.

(Cavanagh/Robertson)

38/20 Resolved:

THAT the Questions with Notice be received and noted.

QWN: 17.1
Author: Harriet Price, Councillor
Received on: 26/02/2020
Subject: Questions with Notice - Animal Advisory Committee

Councillor Harriet Price asking:

1. When the Animal Advisory Committee (AAC) last met?
2. Where the minutes of the AAC can be located on Council's website?
3. Whether the AAC has any delegated authority or is an advisory committee only? and
4. When the AAC's terms of reference were last reviewed?

Manager Compliance in Response:

1. The last meeting of the AAC that was convened in accordance with the adopted 'Terms of Reference' was held on 20 May 2015. The meeting convened on 21 October 2015 could not proceed as it did not satisfy the provisions of Clauses 9.1 or 9.2 of the Terms of Reference' as no Councillor was present. An informal meeting proceeded. The Meetings scheduled for 20 April 2016, 19 October 2016, 19 April 2017, 18 October 2017 and 18 April 2018 were all cancelled.

The latter two (2) meetings were cancelled because a new Committee had not been formed following the 2017 Mayoral Election.

Following the 2017 Mayoral elections Council ran two (2) advertising campaigns calling for nominations for Community Representatives for the AAC. The first campaign closed on 21 February 2018 and the second closed on 28 March 2018. No nominations were received after the first advertising period and only three (3) nominations for seven (7) Community Representative Positions were received by the close of the second advertising period. Therefore no Animal Advisory Committee was formed for the 2017 – 2019 period.

2. When the AAC was active, the minutes of the AAC could be accessed on the ‘Animal Advisory Committee’ page of Council’s website at www.woollahra.nsw.gov.au/council/meetings_and_committees/working_parties_and_sub-committees/animal_advisory_committee. With the change in Council’s committee structure and with no recent meetings of the AAC the web access to the minutes were archived.
3. The purpose of the AAC is detailed in Section 2.0 of the TOR as follows:

“To serve as an advisory body to Council to assist with the development of policies, programmes, services and plans for companion animals. The AAC shall not operate in a regulatory or authoritative capacity.”

With regard to ‘Delegated Authority’ Section 7.0 of the TOR states the following:

“The AAC is an advisory committee only and has no delegated authority.”
4. The current AAC TOR were adopted on 10 December 2012 with the last review and amendment adopted on 27 April 2015.

QWN: 17.2
Author: Harriet Price, Councillor
Received on: 26/02/2020
Subject: Questions with Notice - Dogs in Pubs

Councillor Harriet Price asking:

1. Outline current measures undertaken by Council over the past 2 years to educate and inform pub, café and restaurant owners about allowing dogs on their premises;
2. Confirm (for the period 1 January 2018 to date) the number of:
 - a. complaints about dogs in pubs;
 - b. Council inspections concerning dogs in pubs; and
 - c. Council infringements issued to dog owners and/or pub owners for allowing dogs inside a pub; and
3. Provide comment on whether the draft Companion Animals Amendment (Dining Areas) Bill 2017 (to extend provisions that allow dogs in indoor dining areas) will affect or alter the requirements of the Food Act 2003 (the Act) or the Australian and New Zealand Food Standards Code (the Code). In particular, the extent to which the provisions of the Code and the Act could be amended by state legislation.

Manager Compliance in Response:

1. The following measures have been undertaken over the past 2 years by Council’s Food & Health Officer (F&HO) and Animal Control Officer (ACO);
 - During routine inspections of food and health premises Council’s F&HO directly observes whether animals are present and also enquires with the business operator/staff as to whether they allow animals in their premises and if so where they allow them. The Officer will then discuss whether these areas meet the requirements of the Food Standards Code and include information on the individually completed ‘food premises inspection report’. When a breach has been noted or when further information is requested, additional information is sent via e-mail to the business operator.

- A poster has been developed by Council's F&HO and Communications team for business owners to put in their windows (if they choose) to help better educated customers with dogs. The poster was developed following requests from business operators and their staff who allege they had suffered abuse and/or were threatened by some people when they were told they could not take their dogs into certain areas.
- Council's F&HO has also approached dog owners when she has directly observed them taking their dog into enclosed dining or food handling areas, informing them of the requirements of the Food Standards Code and *Companion Animals Act 1998*. Council's F&HO has also suffered some negative reactions from dog owners when approached in this manner.
- Council's ACO has liaised directly with café and pub operators when she has received complaints regarding dogs in their venues to educate them about the legislative requirements and food safety concerns.

2. Council's F&HO and ACO advise as follows:

- a. Complaints about dogs in pubs – three (3). Council also received six (6) complaints about other food premises and one (1) regarding a Pharmacy.
- b. Council inspections concerning dogs in pubs – All three (3) complaints were investigated with one (1) of the three (3) complaints relating to an alleged dog attack. 24 further routine food premises inspections were carried out on pubs by Council's F&HO during 2018 and 2019.
- c. Infringements issued to dog owners and/or pub owners for allowing dogs inside a pub – No infringements have been issued to either dog owners or business operators for dogs being in food premises, including pubs.

3. The following information was obtained from the Parliament of NSW's website with regard to the *Companion Animals Amendment (Dining Areas) Bill 2018*;

Type:	Private members
Status:	Lapsed in Accordance with Standing Orders, Thu 12 Apr 2018
Origin:	Legislative Assembly
Member with Carriage:	Parker, Jamie
Long Title:	An Act to amend the Companion Animals Act 1998 to permit dogs in indoor dining areas.

Progress

Initially introduced in the Legislative Assembly

Introduced by:	Parker, Jamie
Notice of Motion:	Wed 11 Oct 2017
Introduced:	Thu 15 Mar 2018
First Reading:	Thu 15 Mar 2018
2R Speech:	Thu 15 Mar 2018

The proposed Bill was prepared to permit dogs in indoor dining areas, however it did not include a provision to state it would prevail if it was inconsistent with any other statute. Conversely, the *Food Act 2003* includes the following provision;

“12 Relationship to other laws

- (1) *If, by or under any other Act (whether passed before or after the commencement of this section) any provision is made in relation to food for sale, being a provision that is inconsistent with the provisions of this Act or the regulations under this Act, the provisions of this Act or the regulations prevail to the extent of the inconsistency.”*

Therefore, with the Food Standards Code being called up by the *Food Act 2003*, it is considered that the proposed *Companion Animals Amendment (Dining Areas) Bill 2018* would not have overridden the requirements of the *Food Act 2003* and would not have provided any protection to food business operators and their staff.

QWN: 17.3
Author: Harriet Price, Councillor
Received on: 3/03/2020
Subject: Questions with Notice - Biodegradable Dog Waste Bags

Councillor Harriet Price asking:

- A. Can the Manager please confirm if Council provides biodegradable dog waste bags in its parks and reserves?
- B. If the answer to (A) (above) is ‘no’, can the Manager please confirm what type of bags Council currently stocks and the budgetary implications (if any) of changing to biodegradable bags?

To the Manager of Open Space and Tree in response:

The current bags we utilise are made of recycled plastics and are degradable.

Staff are currently reviewing the bags provided to ensure they are best practice from an environmental perspective.

Any change in bag would be a minimal financial implication.

QWN: 17.4
Author: Harriet Price, Councillor
Received on: 3/03/2020
Subject: Questions with Notice - Companion Animal Fund (the Fund)

Councillor Harriet Price asking:

As I understand it, the Companion Animal Act 1998 (the Act) establishes a Companion Animal Fund (the Fund). The Office of Local Government calculates a reimbursement from the Fund for each Council based on registrations received from cats and dogs residing in each Council area.

The Act requires Council to only use the money paid from the Fund for purposes that relate to the management and control of companion animals in its area (see s85(1A) of the Act).

Can the General Manager please confirm the amount paid from the Fund to Woollahra Council for the years 2017/18 and 2018/19 and detail how this funding was allocated?

Chief Financial Officer in response:

Woollahra Council received \$26,837.39 from the Fund in 2017/18 and \$22,315 in 2018/19. These monies were allocated to part fund our Animal Control activities within our Compliance Department, which includes the:

1. Employment of Council's specialist Ranger – Animal Control and associated costs of equipment;
 2. Education and enforcement of the provisions of the *Companion Animals Act 1998*;
 3. Animal impounding costs; and
 4. Legal expenses incurred enforcing the provisions of the *Companion Animals Act 1998*.
-

There being no further business the meeting concluded at 9.05pm.

We certify that the pages numbered 117 to 135 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 9 March 2020 and confirmed by the Ordinary Meeting of Council on 23 March 2020 as correct.

General Manager

Mayor