

# Ordinary Council Meeting Minutes



**Minutes:** *Ordinary Council Meeting*

**Date:** *Tuesday 26 April 2016*

**Time:** *8.00pm*

# Ordinary Council Meeting

Tuesday 26 April 2016

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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.**

### **Community & Environment Committee held on Monday 11 April 2016**

- D1 Confirmation of Minutes of Meeting held on 29 March 2016
- D2 Woollahra Local Traffic Committee Minutes - 5 April 2016

### **Urban Planning Committee held on Monday 11 April 2016**

- D1 Confirmation of Minutes of Meeting held on 29 March 2016
- D2 Double Bay Working Party - minutes of meeting held on 15 March 2016 (SC2819)

### **Corporate & Works Committee held on Monday 18 April 2016**

- D1 Confirmation of Minutes of Meeting held on 21 March 2016
- D2 Disclosure of Interest Returns Submitted by Designated Employees for the Period 1 January 2016 to 31 March 2016
- D3 Monthly Financial Report - March 2016

### **Development Control Committee held on Monday 18 April 2016**

- D1 Confirmation of Minutes of Meeting held on 4 April 2016
- D2 DA523/2015/1 26 Vaocluse Road Vaocluse
- D3 Register of Current Land and Environment Court Matters and Register for Court Proceedings for Building Control, Environmental Control and Health Control



## Ordinary Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council  
held at the Council Chambers, 536 New South Head Road, Double Bay, on  
26 April 2016 at 8.01pm.**

Present: Her Worship the Deputy Mayor, Councillor Susan Wynne

Councillors: Ted Bennett  
Peter Cavanagh  
Luise Elsing  
James Keulemans  
Greg Levenston  
Anthony Marano  
Katherine O'Regan  
Andrew Petrie  
Matthew Robertson  
Deborah Thomas

Staff: Craig Bennett (Manager – Governance & Council Support)  
Allan Coker (Director – Planning & Development)  
Gary James (General Manager)  
Don Johnston (Acting Director – Corporate Services)  
Tom O'Hanlon (Director – Technical Services)  
Sharon Campisi (Acting Director – Community Services)

Also in Attendance: Nil

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## Confirmation of Minutes

(Levenston/Bennett)

**59/16 Resolved:**

That the Minutes of the Ordinary Council Meeting held on 11 April 2016 be taken as read and confirmed.

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## Leave of Absence and Apologies

Apologies were received and accepted from Councillors Toni Zeltzer & Jeff Zulman and leave of absence granted.

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## Declarations of Interest

Councillor Thomas declared a Pecuniary Interest in Item R1 Urban Planning Committee (Planning Proposal for 83 and 83A Yarranabbe Road, Darling Point), due to the ownership and potential development opportunities of her property located at 1/12 Longworth Avenue, Point Piper, which sits within 15 metres of the high water mark at Point Piper. Councillor Thomas vacated the meeting and did not participate in the debate or vote on this matter.

Councillor Thomas declared a Pecuniary Interest in Item R1 Urban Planning Committee (Planning Proposal for 83 and 83A Yarranabbe Road, Darling Point), as she is the Chief Executive Officer and Managing Director of the Ardent Leisure Group, who own and manage the D'albora Marinas. Councillor Thomas left the meeting and did not participate in the debate or vote on this matter.

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## Late Correspondence

Note Council resolution of 27 June 2011 to read late correspondence in conjunction with the relevant Agenda Urban Planning Committee Item R1 (83 & 83A Yarranabbe Road, Darling Point)

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## Petitions Tabled

Nil

## Suspension of Standing Orders

### Councillor Marano

- 60/16** That Standing Orders be suspended to allow Councillor Marano to advise Council of the ANZAC Day Ceremony.

**The Deputy Mayor ruled Urgency and permitted the Suspension of Standing Orders.**

**Adopted.**

### Councillor Marano advised:

That he attended the ANZAC Day Ceremony at the Double Bay Cenotaph on Monday 25<sup>th</sup> April 2016, more than 250 people attended the ceremony.

**The Council noted the information.**

### Councillor Thomas

- 61/16** That the Suspension of Standing Orders continue to allow Councillor Thomas to advise Council of the ANZAC Day Ceremony.

**The Deputy Mayor ruled Urgency and permitted the continuation of the Suspension of Standing Orders.**

**Adopted**

### Cr Thomas advised:

That the Deputy Mayor, Councillor Susan Wynne conducted the ANZAC Day Ceremony yesterday on behalf of Woollahra Council. The Hon Gabrielle Upton, Member for Vacluse and Attorney General also participated in the ceremony along with students from the Double Bay Primary School.

Councillor Thomas acknowledged the contribution by Woollahra Council staff.

**The Council noted the information.**

### Councillor Keulemans

- 62/16** That the Suspension of Standing Orders continue to allow Councillor Keulemans to advise Council of the ANZAC Day Ceremony.

**The Deputy Mayor ruled Urgency and permitted the continuation of the Suspension of Standing Orders.**

**Adopted**

**Councillor Keulemans advised:**

That he was heartened by the turnout. He was heartened by the young people that attended the ceremony. It is very important that future generations clearly understand the great sacrifices the fallen have made.

**The Council noted the information.**

**Councillor Cavanagh**

- 63/16** That the Suspension of Standing Orders continue to allow Councillor Cavanagh to advise Council of his attendance at the 75<sup>th</sup> anniversary of the battles for Crete and Greece.

**The Deputy Mayor ruled Urgency and permitted the continuation of the Suspension of Standing Orders.**

**Adopted.**

**Councillor Cavanagh advised:**

That he represented Woollahra Council at the 75<sup>th</sup> anniversary for the battles for Crete and Greece.

The Governor of New South Wales was at the ceremony along with a number of people from the Greek community.

Ministers from the New South Wales State Government along with Arthur Sinodinos, a Liberal Senator in the Federal Government was also at the ceremony.

It was a wonderful ceremony. Councillor Cavanagh was very proud to wear his fathers' medals at the ceremony.

**The Council noted the information.**

**Councillor Cavanagh**

- 64/16** That the Suspension of Standing Orders continue to allow Councillor Cavanagh to advise Council of his attendance at the Paddington RSL.

**The Deputy Mayor ruled Urgency and permitted the continuation of the Suspension of Standing Orders.**

**Adopted**

**Councillor Cavanagh advised:**

That he attended the Paddington RSL on Sunday 24 April 2016 and laid the wreath as is always done in order to allow everyone to attend the main ceremony on ANZAC Day.

**The Council noted the information.**

## Public Forum

**Item No:** 1  
**Person addressing Council:** Kilty O'Brien  
**Subject:** Save Bondi Pavillion

Ms Kilty addressed Council on the proposed upgrading of the Bondi Pavilion by Waverley Council.

**The Council noted the information.**

**Note:** Councillor Robertson requested the Deputy Mayor to consider ruling urgency in order for him to put forward a motion to the Council in response to the public forum address by Ms Kilty. The Deputy Mayor agreed to the request and ruled urgency.

**(Robertson/Petrie)**

**65/16 Resolved:**

That in accordance with Council's Code of Meeting Practice, that the following motion be brought forward as a Matter of Urgency:

That Woollahra Council:-

1. Notes the decision by Waverley Council to commit \$38 Million for the upgrading of the Bondi Pavilion.
2. Notes that the plans have attracted substantial opposition from the residents of Waverley, Woollahra and Randwick local government areas (LGAs).
3. Requests that the Mayor writes to the Premier of New South Wales, requesting a review of the lawfulness of Waverley Council's decision, pursuant to the Office of Local Government's (OLG) policy "*Council decision making during merger proposal periods*".

**The Deputy Mayor ruled Urgency.**

**Adopted.**

**(Robertson/Petrie)**

**66/16 Resolved:**

That Woollahra Council:-

1. Notes the decision by Waverley Council to commit \$38 Million for the upgrading of the Bondi Pavilion.
2. Notes that the plans have attracted substantial opposition from the residents of Waverley, Woollahra and Randwick local government areas (LGAs).
3. Requests that the Mayor writes to the Premier of New South Wales, requesting a review of the lawfulness of Waverley Council's decision, pursuant to the Office of Local Government's (OLG) policy "*Council decision making during merger proposal periods*".



**Note:**      *Councillor Robertson called for a Division on this Item.*

***For the Motion***

Councillor Bennett  
Councillor Elsing  
Councillor Marano  
Councillor Petrie  
Councillor Robertson  
Councillor Wynne

***Against the Motion***

Councillor Cavanagh  
Councillor Keulemans  
Councillor Levenston  
Councillor O'Regan  
Councillor Thomas

***6/5***

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## Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 18 April 2016 Submitted to the Council for Determination

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<b>ITEM No.</b>	R1 Recommendation to Council
<b>FILE No.</b>	DA201/2014/3
<b>ADDRESS</b>	48 Jersey Road Paddington
<b>PROPOSED MODIFICATION</b>	Modifications to the pavilion facade (deletion of <b>Condition C.7</b> ) and a new timber entry portico to existing entry
<b>REASON FOR REPORT</b>	In accordance with Council's meeting procedures and policy this matter is referred to full Council due to the Committee being divided between the Motion 3 Votes and the Amendment 3 Votes and the Committee resolved that both the Motion and the Amendment be submitted to Council for consideration.

(Petrie/Keulemans)

**67/16 Resolved Unanimously:**

THAT Development Application No. 201/2014/3 for extensive alterations and additions to the existing single storey building including a new two-storey pavilion structure with double hardstand car spaces, laundry, dining, two bedrooms and kitchen and new swimming pool to rear of site on land at 48 Jersey Road Paddington, be DEFERRED to the next Ordinary Council Meeting of Monday 9 May 2016 as late correspondence was submitted by the applicant and not included as part of the Ordinary Council Meeting of Tuesday 26 April 2016.

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## Corporate & Works Committee

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### Items with Recommendations from the Committee Meeting of Monday 18 April 2016 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **DRAFT 2016/17 BUDGET (SC2660)**  
**Author:** Don Johnston, Chief Financial Officer  
**Approvers:** Stephen Dunshea, Director - Corporate Services  
Gary James, General Manager  
**File No:** 16/42823  
**Reason for Report:** To present the draft 2016/17 Budget to the Committee.

(Cavanagh/Thomas)

**68/16 Resolved without debate:**

- A. THAT the report on the Draft 2016/17 Budget be received and noted.
  - B. THAT the Draft Budget be incorporated into the Delivery Program 2013 to 2017 and 2016/17 Operational Plan for the purpose of public exhibition.
- 

**Item No:** R2 Recommendation to Council  
**Subject:** **ROSE BAY CAR PARKS REDEVELOPMENT PROJECT**  
**Author:** Zubin Marolia, Manager - Property & Projects  
**Approver:** Tom O'Hanlon, Director - Technical Services  
**File No:** 16/47652  
**Reason for Report:** To report on the outcomes of the Property Assets Working Party meeting held on 23 March 2016 to recommend further actions to progress the Rose Bay car parks redevelopment project

(Cavanagh/Thomas)

**69/16 Resolved without debate:**

- A. That the minutes of the Property Assets Working Party meeting, held on 23 March 2016, be noted
- B. That a design team be engaged to further refine Option 3 Ian St with Option 1 Wilberforce Avenue, Rose Bay
- C. That ownership of the proposed retail and commercial office spaces be retained to ensure an on-going income stream for the Council
- D. That the proposed residential strata be sold to reduce the financial exposure
- E. That ownership of proposed public parking and community space be retained by Council, to ensure service delivery is not compromised
- F. That Council commences the Planning Proposal Process to re-zone Ian Street and amend the height restrictions on Ian Street and Wilberforce Avenue sites
- G. That a further report be submitted to the Property Assets Working Party detailing options for the optimal procurement model and funding based on the preferred design.

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## Urban Planning Committee

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### Items with Recommendations from the Committee Meeting of Monday 11 April 2016 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **PLANNING PROPOSAL FOR 83 AND 83A YARRANABBE ROAD, DARLING POINT**  
**Authors:** Brendan Metcalfe, Strategic Planner  
Anne White, Acting Team Leader - Strategic Planning  
**Approvers:** Chris Bluett, Manager - Strategic Planning  
Allan Coker, Director - Planning & Development  
**File No:** 16/35371  
**Reason for Report:** To report on late correspondence submitted to the Council meeting of 10 August 2015, further submissions and two petitions relating to the planning proposal for 83 and 83A Yarranabbe Road, Darling Point. To report on the proponent's community consultation on the planning proposal. To obtain Council's approval to proceed with finalisation of the planning proposal.

**Note:** Councillor Thomas declared a Pecuniary Interest in this Item, due to the ownership and potential development opportunities of her property located at 1/12 Longworth Avenue, Point Piper, which sits within 15 metres of the high water mark at Point Piper. Councillor Thomas vacated the meeting and did not participate in the debate or vote on this matter.

**Note:** Councillor Thomas declared a Pecuniary Interest in this Item, as she is the Chief Executive Officer and Managing Director of the Ardent Leisure Group, who own and manage the D'albora Marinas. Councillor Thomas left the meeting and did not participate in the debate or vote on this matter.

**Note:** Late correspondence was tabled by Garry Brown, Hazel Watson & Sam S Cullen.

**Motion moved by Councillor Petrie**  
**Seconded by Councillor O'Regan**

That Council **DO NOT** proceed with the planning proposal for 83 and 83A Yarranabbe Road, Darling Point and in fact **REFUSE** the application.

**Amendment moved by Councillor Bennett**  
**Seconded by Councillor Levenston**

That the planning proposal be **DEFERRED** to the next Urban Planning Committee of Monday 9 May 2016.

**The Amendment was put and lost.**

**Amendment moved by Councillor Keulemans  
Seconded by Councillor Bennett**

- A. That Council proceed with the planning proposal for 83 and 83A Yarranabbe Road, Darling Point
- B. That Council exercise its delegation authorised by the Department of Planning and Environment on 12 May 2014, to finalise the planning proposal under section 59(2) of the *Environmental Planning and Assessment Act 1979*.

**The Amendment was put and lost.  
The Motion was put and carried.**

**(Petrie/O'Regan)**

**70/16 Resolved:**

That Council **DO NOT** proceed with the planning proposal for 83 and 83A Yarranabbe Road, Darling Point and in fact **REFUSE** the application.

*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 Cavanagh  
Councillor Elsing  
Councillor Marano  
Councillor O'Regan  
Councillor Petrie  
Councillor Robertson

***Against the Motion***

Councillor Bennett  
Councillor Keulemans  
Councillor Levenston  
Councillor Wynne

**6/4**

## Notices of Motion

**Item No:** 11.1  
**Subject:** NOTICE OF MOTION  
**From:** Councillors Matthew Robertson, Peter Cavanagh, Anthony Marano and Cr Toni Zeltzer  
**Date:** 20 April 2016  
**File No:** 16/54263

**(Robertson/Cavanagh)**

**71/16 Resolved Unanimously:**

That council requests staff to:

- a. Prepare a report reviewing council's controls which relate to rear pavilion additions in Paddington, specifically:  
  
C1.3.1 and  
C1.4.3 of the Woollahra DCP2015
- b. Consult with the Paddington DCP Working Party in preparing the review.
- c. Provide recommendations, where necessary, to improve how the DCP can be applied to best meet its heritage conservation objectives for Paddington.

**Adopted**

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**Item No:** 11.2  
**Subject:** NOTICE OF MOTION  
**From:** Councillors James Keulemans, Anthony Marano, Cr Toni Zeltzer and Luise Elsing  
**Date:** 19 April 2016  
**File No:** 16/53866

**Note:** Councillor Robertson requested that the minutes record his voting against the motion.

**(Keulemans/Marano)**

**72/16 Resolved:**

That the General Manager consider creating an extra shift or stagger the existing shifts for our Compliance staff, so that we have people on the ground late at night to monitor the breaches of our conditions of consent relating to hours of trading within our commercial areas and illegal parking of campervans on New Beach Road Darling Point.

Specifically:

- A. Convenience stores in Double Bay trading until 3 or 4am instead of closing at 12 midnight as they are supposed to.

B. Hotels in Woollahra and Double Bay

C. Camper vans illegally parking on New Beach Road

- i. Rostering Council rangers to operate later in the evening.
- ii. Applying more effective parking restrictions, such as a ten hour parking limit on the parkside of New Beach Road.

**Adopted**

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## Questions for Next Meeting

**Item No:** 12.1  
**Subject:** **QUESTIONS FOR NEXT MEETING**  
**Author:** Sue O'Connor, Secretarial Support - Governance  
**Approver:** Craig Bennett, Manager Governance & Council Support  
**File No:** 16/53137  
**Reason for Report:** To provide a response to Questions for Next Meeting from Council Meeting of 11 April 2016 and for Councillors to ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

**(Robertson/Bennett)**

**73/16 Resolved:**

- A. That the responses to previous Questions for Next Meeting be noted.
- B. That Councillors ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

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**Question Number:-** 12.1 Bookings at Bay Street, Double Bay

**Councillor Petrie asking:-**

I refer to the previous response from your staff where they have reported that only two (2) penalty notices were issued in Bay Street, Double Bay from the 11th April 2016 to the 19<sup>th</sup> April 2016, near the 18 Footers in that section over William Street. I invite staff to come down with me any morning or any afternoon and I will provide them with six (6) pins a day parked all over the nature strip. This developer has ruined all commuter parking for the ferries for the last year. Two (2) pins is absurd. This needs investigating.

**Director - Planning & Development in response:**

On Notice.

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**Question Number:-** 12.2 Paddington Plants – Robbery

**Councillor Petrie asking:**

Any update on the Paddington stolen plants?

**Director - Technical Services in response:**

I can confirm that in my absence last week the Manager – Open Space & Trees followed up again with the Rose Bay local area command. He has not had any further information provided by them.



**Question Number:** 12.3 Fitness Centre - Bellevue Hill

**Councillor Petrie asking:**

Be fit runners are running on the footpaths outside of all Council approved outside seating areas. On the 25<sup>th</sup> April 2016 at 9.45 a.m. I was buying my wife a cappuccino and I nearly got hit by three (3) runners running at full pelt. This is clearly a major safety problem. I need more than what I have got so far. There is a safety issue as we have granted these seats and licenced tables to these business owners and you cannot move from the coffee shop to your seat without being run over by be fit runners.

**Director - Planning & Development in response:**

In relation to the fitness runners I have had discussions with our regulatory staff about this. I will be happy to update you all with a further written reply. Our staff either have or will be speaking to the fitness operators on the basis of trying to persuade them to change their practices. There is no regulatory solution to this issue. It is an issue that we can only get a result by negotiation and by request to the people who conduct this business.

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**Question Number:-** 12.4 No Camping Signs – Royal Hospital for Women Park

**Councillor Cavanagh asking:**

As per our previous conversation have “no camping” signs been erected in the Royal Hospital for Women Park?

**General Manager in response:**

On notice.

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**Question Number:-** 12.5 Licenced Fitness Operators in Yarranabbe Park

**Councillor Robertson asking:**

What actions are available to Council staff to remedy this situation?

**Director - Planning & Development in response:**

On Notice.

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**Question Number:** 12.6 Council Representatives on the Double Bay Chamber of Commerce

**Councillor Robertson asking:**

In the awful event that Woollahra is abolished as a local government authority and we Councillors lose our elected roles what will become of the Councillor representatives on the Double Bay Chamber of Commerce? I note that this question is pertinent given Councillor O'Regan is currently the Chair of the Chamber. Does the Chamber's board have the power and authority to appoint a new Chair in the absence of Woollahra Councils' continued existence?

**General Manager in response:**

Madam Deputy Mayor I think the first part of that would be to say that it would depend on anything that is contained within the proclamation. The Minister has certain powers at the time of the proclamation of the Council to continue either former Councillors or persons in particular roles.

There would be reference to those roles that are undertaken because they are elected as a Councillor. If there is no particular reference to that and that Councillor is not continuing on an interim Council then I would suggest that all representation would cease whether it is the Double Bay Chamber or any other representation on any other community group.

I cannot quote the specific power of the Double Bay Chamber but what is normal within these organisations where there is a vacancy that is created for any reason there is mechanisms to fill these vacancies.

The constitution of the Double Bay Chamber of Commerce will be circulated to all Councillors.

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**Question Number:-** 12.7 Court Hearing

**Councillor Keulemans asking:**

In relation to the court case held last week will Councillors be provided with an update about the arguments put forward both by the State Government and ourselves.

**General Manager in response:**

Madam Deputy Mayor I noticed when I arrived back from a meeting in town this afternoon there was a summary from Speed and Stracey in relation to the two days in court. My intention is that when the meeting is closed I am going to circulate that to all Councillors.

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**Question Number:-**      12.8 Planting Verges

**Councillor Elsing asking:**

I am referring to the planting verges. I think the Director of Technical Services was away when I asked the questions on Monday 11 April 2016. I note the response to previous Question 12.7 from this meeting.

Basically they say that the replanting will occur on the verges in winter. They also make reference to a matter that I find quite disturbing. That there is a long term issue with getting the plants established due to the pedestrian traffic across the islands. For the verges that I am familiar with around West Woollahra and Paddington I find that very unlikely that there would be pedestrian traffic over them. My question is asking you to specifically comment on the planting proposals for Paddington Street, Paddington and Queen Street and Nelson Street, Woollahra.

It seems unlikely to me in those particular areas that pedestrians would walk over the traffic devices. Given that it seems to be in there because of this problem you may not be planting them out I'm asking whether you can advise in the absence of Council plantings whether the residents can plant out the verges at their own expense and effort?

**Director - Technical Services in response:**

Madam Deputy Mayor we will provide more detail about the other traffic verges. I read nothing about Mr Fraser's response to suggest that we are not going to plant them. We will still be planting them.

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**Question Number:-**      12.9 Status of pot holes

**Councillor O'Regan asking:**

What is the status of the correspondence from former Councillor Howe regarding the 29 pot holes?

**Director - Technical Services in response:**

On notice.

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There being no further business the meeting concluded at 9.26 pm.

**We certify that the pages numbered 904 to 921 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 26 April 2016 and confirmed by Council at the Ordinary Meeting of Council on 9 May 2016 as correct.**

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**General Manager**

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**Mayor**