

Agenda: Ordinary Council Meeting

Date: *Monday 8 February 2010*

Time: 8.00pm

Woollahra Municipal Council

Notice of Meeting

4 February 2010

To: His Worship The Mayor, Councillor Andrew Petrie Councillors Anthony Boskovitz Sean Carmichael Peter Cavanagh Lucienne Edelman Nicola Grieve Chris Howe Susan Jarnason Greg Medcraft Ian Plater Isabelle Shapiro David Shoebridge Susan Wynne Malcolm Young Toni Zeltzer

Dear Councillors

Council Meeting – 8 February 2010

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 8 February 2010 at 8.00pm**.

Gary James General Manager

Meeting Agenda

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9.	Rep	orts of the Committees		
	9.1	Corporate & Works Committee R1 Wallaroy Road – Road Safety Barrier	25 January 2010	6 6
	9.2	Development Control Committee R1 DA558/2009 - 11-13 Roylston Street, Paddington – Additional usage for a shop within an existing commercial space – 2/11/2009	25 January 2010	7 7
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Leave of Absence

Item No:	1
From:	The Mayor Councillor Andrew Petrie
Reason for Report:	Seeking leave of absence for all meetings of the Council and its Committees
	from Tuesday 2 February 2010 to Tuesday 23 February 2010 inclusive.

Recommendation:

That leave of absence for all meetings of the Council and its Committees be granted to the Mayor Councillor Andrew Petrie for the period Tuesday 2 February 2010 to Tuesday 23 February 2010, inclusive.

Item No:	2
From:	Councillor Peter Cavanagh
Reason for Report:	Seeking leave of absence for all meetings of the Council and its Committees
	from Tuesday 13 July 2010 to Sunday 15 August 2010, inclusive.

Recommendation:

That leave of absence for all meetings of the Council and its Committees be granted to Councillor Peter Cavanagh for the period Tuesday 13 July 2010 to Sunday 15 August 2010, inclusive.

Mayoral Minute

Mayoral Minute No:	1
Subject:	Donation Pledge to The Haiti Earthquake Appeal
Author: File No: Reason for Report:	The Mayor of Woollahra, Councillor Andrew Petrie 61.G To notify Council that a donation of \$5000 has been made on behalf of Council and the community to the International Red Cross to support their efforts to assist those people affected by the tragic Haiti earthquake.

Recommendation:

That Council endorse the donation of \$5000 to the International Federation of Red Cross and Red Crescent Societies as a contribution to their emergency appeal to deliver assistance to those affected by the devastating earthquake in Haiti on Tuesday 12 January 2010.

Background:

With officials warning the overall death toll may top 100,000, there are fears that desperate Haitians, already living in one of the world's poorest nations, will soon fall prey to hunger and disease. International rescue and support services are already responding to the devastation left behind following the 7.0 magnitude quake that struck Haiti on Tuesday 12 January; the strongest since 1770.

International aid is on hand and the International Red Cross and Red Crescent Societies are delivering emergency assistance.

With a network of volunteers in 186 countries around the world, Red Cross is able to respond moments after a disaster occurs, even in locations as remote as Haiti. Because of the nature of how Red Cross works, with a local society in each country, Red Cross is able to respond immediately, with volunteers on the ground moments after an emergency occurs.

The earthquake-affected area of Haiti is the West province, with a population of 2.2 million people. Many people were at work during the earthquake and vulnerable to collapsing office buildings. Government buildings have collapsed including the Presidential palace and several Ministries. A hospital has also collapsed and remaining hospitals are not admitting further people due to lack of capacity.

The funds raised through this appeal will be used to:

- support emergency relief, rehabilitation and recovery activities for communities affected by the disaster in Haiti
- send specialist aid workers to assist in the Red Cross Red Crescent Movement response
- support longer-term Red Cross programs of assistance in the affected areas.

A news item on the Red Cross Appeal has been added to the home page of our website so members of the community can also make a contribution.

Following a discussion with the Deputy Mayor and General Manager, in mid January soon after the earthquake, it was agreed that the payment of the \$5000 donation would be made immediately, with this Mayoral Minute tabled for endorsement at the next available Council meeting.

Conclusion:

We recognise the devastating impact of such a tragedy on the people of Haiti and hope our donation assists the International Red Cross and its staff in their efforts to assist them in a time of great need.

Our thoughts and prayers are with the people of Haiti and those who have been brought in to assist them.

Councillor Andrew Petrie Mayor

Mayoral Minute

Mayoral Minute No:	2
Subject:	Australia Day Honours – 26 January 2010
Author: File No: Reason for Report:	The Mayor, Councillor Andrew Petrie 13.G/6 To inform the Council of the local recipients of the Australia Day Honours

Recommendation:

That letters of congratulation, be forwarded to the following recipients of the 2010 Australia Day Honours:

- i. Mr Mark Johnson, AO
- ii. The Honourable David Daniel Levine, AO
- iii. Major General David Lindsay Morrison, AO
- iv. Dr Michael Joseph Boyer, AM
- v. Mr John Simon Curtis, AM
- vi. Professor Michael Henry Fraser, AM
- vii. Mr Peter James Hall, AM
- viii. Emeritus Professor Bruce Graham Thom, AM
- ix. Mr Leslie Nicholl Walford, AM
- x. Mr John Clement Fordham, OAM
- xi. Sister Anthea Mary Groves, OAM
- xii. Mr William Bruce Kirkpatrick, OAM
- xiii. Mr Alfred Stein, OAM

I am pleased to inform the Council that 13 residents of the Woollahra Municipality were among those persons honoured in the recent Australia Day Honours. They are:

Officer (AO) in the General Division

i. Mr Mark Johnson, AO

For service to business, particularly through contributions to the Asia-Pacific Economic Cooperation and the Australian Strategic Policy Institute, through development and leadership roles within the finance sector, and to health care organisations.

- The Honourable David Daniel Levine, AO For service to the judiciary and to the law through the Supreme Court of New South Wales and leadership of state and national boards of review.
- Major General David Lindsay Morrison, AO For distinguished service to the Australian Army in the fields of training and education, military strategic commitments and force structure and capability; in particular, as Commander Australian Defence College, Head Military Strategic Commitments and Deputy Chief of Army.

Member (AM) in the General Division

- iv. Dr Michael Joseph Boyer, AM For service to medical oncology as an educator and clinical researcher and through the development of integrated care facilities for people with cancer.
- v. Mr John Simon Curtis, AM For service to business, and to the community through roles supporting charitable, youth and welfare organisations.
- vi. Professor Michael Henry Fraser, AM For service to the arts, particularly through the promotion of the interests and rights of Australian authors and artisans.
- vii. Mr Peter James Hall, AM For service to the community through philanthropic contributions to a range of medical, arts and charitable organisations, and to the finance management industry.
- viii. Emeritus Professor Bruce Graham Thom, AM For service to the environment as an adviser and advocate for the ecological management of the coastal zone, as a contributor to public debate on natural resource policy, and to the academic and professional discipline of geography.
- ix. Mr Leslie Nicholl Walford, AM For service to the performing arts, particularly in the field of theatre restoration and decoration, and to the profession of interior design.

Medal (OAM) in the General Division

- x. Mr John Clement Fordham, OAM For service to media, sports and entertainment management, to wine journalism, and to the community.
- xi. Sister Anthea Mary Groves, OAM For service to nursing, and to St Vincent's Hospital, Darlinghurst.
- xii. Mr William Bruce Kirkpatrick, OAM For service to the community, particularly through the Meniere's Research Fund.
- xiii. Mr Alfred Stein, OAM For service to the arts, particularly through the Australian Friends of the Israel Philharmonic Orchestra.

Cr Andrew Petrie Mayor

9.1 Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 25 January 2010 Submitted to the Council for Determination

Item No:	R1 Recommendation to Council	
Subject:	Wallaroy Road – Road Safety Barrier	
Author: File No: Reason for Report:	David Byatt – Purchasing Coordinator Tender No 09/14 To recommend to Council the acceptance of a Tender	

Recommendation:

- A. That Council enter into a Contract with D.H. Holland Constructions Pty Ltd for the Wallaroy Road Road Safety Barrier project for the lump sum of \$124,499 (excluding GST), and any provisional items used subject to a satisfactory financial capability assessment.
- B. That successful and unsuccessful tenderers be advised accordingly.

9.2 Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 25 January 2010 Submitted to the Council for Determination

Item No: Subject:	 R1 Recommendation to Council 11-13 Roylston Street, Paddington – Additional usage for a shop within an existing commercial space – 2/11/2009
Author: File No: Reason for Report:	Thomass Wong – Senior Assessment Officer DA558/2009 In accordance with Council's meeting procedures this matter is called to full Council by Councillor Edelman for the reasons that all Councillors should consider the broader impact of the development including the usage clauses of the WLEP 1995 in this area and the needs and conflicts of existing commercial operations with the amenity of existing residents particularly in the light of current parking and traffic congestion.

Recommendation: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, grant development consent to Development Application No. 558/2009 for additional usage for a shop within an existing commercial space on land at 11-13 Roylston Street Paddington, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 80 of the Environmental Planning & Assessment Act 1979 ("the *Act*") and the provisions of the Environmental Planning and Assessment Regulation 2000 ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 79C of the Act.

Standard Condition: A1

A.2 Definitions

Unless specified otherwise words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act* 1987 as in force at the date of consent.

Applicant means the applicant for this Consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or *AS/NZS* means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*. Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs published by the Southern Sydney Regional Organisation of Councils).

Stormwater Drainage System means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

Owner means the owner of the site and successors in title to the site.

Owner Builder has the same meaning as in the Home Building Act 1989.

PCA means the *Principal Certifying Authority* under the *Act*.

Principal Contractor has the same meaning as in the Act or where a principal contractor has not been appointed by the *owner* of the land being developed *Principal Contractor* means the *owner* of the land being developed.

Professional Engineer has the same meaning as in the *BCA*.

Public Place has the same meaning as in the Local Government Act 1993.

Road has the same mean as in the Roads Act 1993.

SEE means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

Site means the land being developed subject to this consent.

WLEP 1995 means Woollahra Local Environmental Plan 1995

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piering, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or

- the occupation of the *site* by any person unless authorised by an *occupation certificate*.
- **Note: Interpretation of Conditions** Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council. Standard Condition: A2

A.3 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp "Approved DA Plans" unless modified by any following condition. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
DA1.01 (Issue C)	Architectural Plans	Jake Dowse Architects	8/12/2009

- **Note:** Warning to Accredited Certifiers You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.
- **Note:** These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.) Standard Condition: A5

A.4 Prescribed Conditions

Prescribed conditions in force under the Act and Regulation must be complied with.

Note: It is the responsibility of those acting with the benefit of this consent to comply with all prescribed conditions under the *Act* and the *Regulation*. Free access can be obtained to all NSW legislation at www.legislation.nsw.gov.au Standard Condition: A30

A.5 Development Consent is not granted in relation to these matters

This approval does not give consent to Signage. A separate Development Consent or Complying Development Certificate and Part 4A Certificates, as appropriate, will need to be obtained prior to the such development work commencing. Standard Condition: A9

B. Conditions which must be satisfied prior to the demolition of any building or construction

No condition

C. Conditions which must be satisfied prior to the issue of any construction certificate

No condition

D. Conditions which must be satisfied prior to the commencement of any development work

No condition

E. Conditions which must be satisfied during any development work

No condition

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 109M of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 109H (4) of the *Act*) unless an occupation certificate has been issued in relation to the building or part.

Note: new building includes an altered portion of, or an extension to, an existing building. Standard Condition: F1

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

No condition

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

No condition

I. Conditions which must be satisfied during the ongoing use of the development

I.1 Hours of use

The hours of use are limited to the following:

Monday to Friday:	9am – 6pm
Saturday:	9am – 6pm
Sunday:	Closed

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Note: Deliveries to or dispatches from the site must not be made outside these hours. Trading Hours may be more onerous than these general hours of use. This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling than such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws. Standard Condition: 11

I.2 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act* 1997.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (http://www.environment.nsw.gov.au/noise/nglg.htm) and the *Industrial Noise Guidelines* (http://www.environment.nsw.gov.au/noise/industrial.htm) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act* 1997.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the Protection of the Environment Noise Control Regulation 2000 (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (<u>www.acoustics.asn.au</u>/index.php).

Association of Australian Acoustical Consultants—professional society of noise related professionals (<u>www.aaac.org.au</u>).

Department of Gaming and Racing - (<u>www.dgr.nsw.gov.au</u>). Standard Condition: I50

I.3 Noise to Street

No music is to be directed out over the footpath of Cecil Street.

I.4 Display of Goods

No goods shall be displayed in the front windows on the ground floor of the premises

J. Miscellaneous Conditions

No condition

K. Advisings

K.1 Criminal Offences – Breach of Development Consent & Environmental laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence.** Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of *the Crimes (Sentencing Procedure) Act* 1999, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites: <u>http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf</u> and the Attorney General's <u>www.agd.nsw.gov.au</u>. <u>Standard Advising: K1</u>

K.2 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Caroline Owen, Assessment Officer, on (02) 9391 7150

However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference. Standard Condition: K14

9.3 Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 1 February 2010 Submitted to the Council for Determination

Item No:	R1 Recommendation to Council
Subject:	Overview of the latest Strategic Planning Working Party Meetings on Woollahra's New Principal LEP
Author: File No: Reason for Report:	Anne White - Senior Strategic Planner 1067.G WP To provide an overview of the latest Strategic Planning Working Party meetings held on the preparation of Woollahra's new Principal LEP. These meetings focused on addressing the State Government's housing targets.

Recommendation

- A. THAT the overview of the Strategic Planning Working Party meetings, held on the 18 June 2009, 9 July 2009, 6 August 2009 and 5 November 2009, be received and noted.
- B. THAT the progress on addressing the State Government's housing targets be received and noted.

Item No:	R2 Recommendation to Council
Subject:	Draft Woollahra Section 94A Development Contributions Plan 2009
Author: File No: Reason for Report:	Anne White – Senior Strategic Planner 1180.G To report on the public exhibition of the Draft Development Contributions Plan and obtain Council's approval of the Draft Plan which will repeal the Woollahra Section 94A Development Contributions Plan 2005.

Recommendation

That consideration of the matter be deferred to the next meeting of the Urban Planning Committee for staff to obtain legal advice on:

- 1. whether Council can include the additional projects contained in the submission from the Manager Open Space and Trees (Woollahra Council) in the Woollahra Section 94A Development Contributions Plan 2009, and
- 2. if Council cannot include the projects in the Woollahra Section 94A Development Contributions Plan at this stage, how can Council expedite the inclusion of the projects in the plan.

Item No:	R3 Recommendation to Council
Subject:	Obscure glazing to upper Floor Windows & Screening for Privacy
Author: File No:	Jacquelyne Jeffery—Team Leader Strategic Planning 900.G
Reason for Report:	To respond to a Notice of Motion seeking a review of the DCP controls relating to privacy

Recommendation:

That consideration of this matter be deferred and a further report be submitted to the Urban Planning Committee meeting on 22 February 2010 addressing the matters discussed at the Urban Planning Committee meeting on 1 February 2010.

9.5 Community & Environment Committee

Items with Recommendations from the Committee Meeting of Monday 1 February 2010 Submitted to the Council for Determination

Item No:	R1 Recommendation to Council	
Subject:	Woollahra Small Sculpture Prize	
Author: File No: Reason for Report:	Jo Jansyn, Cultural Development Coordinator 20.G To provide a detailed evaluation of the 2009 Woollahra Small Sculpture Prize and recommendations for the 2010 Woollahra Small Sculpture Prize	

Recommendation:

- A. That the 2009 Woollahra Small Sculpture Prize Evaluation Report be noted.
- B. That the Woollahra Small Sculpture Prize exhibition be extended by a seven day period, inclusive of an additional weekend, to support and celebrate the tenth anniversary year of the Woollahra Small Sculpture Prize in 2010.
- C. That the proposal to tour Woollahra Small Sculpture Prize acquisitions as part of the Woollahra Small Sculpture Prize tenth anniversary be noted and endorsed.

9.6 Community & Environment Committee

Items with Recommendations from the Committee Meeting of Monday 14 December 2009 Submitted to the Council for Determination

Item No:	R2 Recommendation to Council
Subject:	Redleaf Pool During Summer
Author: File No: Reason for Report:	Paul Fraser - Team Leader - Open Space & Recreation Planning 145.G, 900.G Investigation of the possibility of allowing an acoustic band at Redleaf Pool and the hire of beach umbrellas at Redleaf Pool and Camp Cove Beach during summer.

Recommendation:

THAT consideration of this matter be deferred until the next meeting of the Community & Environment Committee.

Notices of Motion

Item No:	1
From:	Councillor Boskovitz
Date:	25 January 2010
File No:	900.G

That the Mayor write a letter, on behalf of the residents of Woollahra Municipal Council, to the Premier, Kristina Kennelly, and the leader of the opposition Barry O'Farrell as well as to the member for Vaucluse Peter Debnam calling on each of these individuals and their respective parties to amend s633 Local Government Act 1993 to remove Lady Bay (Lady Jane) Beach from its list of designated nude bathing beaches.

In addition the Mayor should write letters to National Parks and Wildlife requesting that they:

- 1) Remove Lady Jane Beach from its register of Nude Beaches;
- 2) Rebrand Lady Jane Beach as a family friendly beach.

Item No:	2 Councillans Susan Jamasan David Shashridaa & Nicela Crieve
From: Date:	Councillors Susan Jarnason, David Shoebridge & Nicola Grieve 28 January 2010
File No:	900.G

Noting that Woollahra's increased household energy use is causing:

- a) the apparent need for unsightly electrical substations on our streets, especially heritage streets and
- b) excessive and unnecessary energy and carbon emissions;

That a report be brought to the Ecological Sustainability Taskforce on options for Woollahra Council to undertake a "Woollahra Unplugged" campaign that will aim to, amongst other things:

- a) increase the knowledge and capacity of households to increase their use of renewable energies and become more energy efficient;
- b) monitor and reduce their household electricity use; and
- c) work with the community to develop local initiatives to reduce Woollahra's energy use.

POLITICAL DONATIONS DECISION MAKING FLOWCHART FOR THE INFORMATION OF COUNCILLORS

