



Ordinary Council

Monday 9 September 2024

6.30pm

Minutes



Ordinary Council Meeting

Monday 9 September 2024

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Ordinary Council Meeting

Minutes of the Meeting of Ordinary Council held at the Council Chambers, 536 New South Head Road, Double Bay held via teleconference, on

9 September 2024 at 6.30pm

Present: His Worship the Mayor, Councillor Richard Shields ex-officio
Councillors Sarah Swan (Deputy Mayor)
Sean Carmichael
Peter Cavanagh
Luise Elsing
Nicola Grieve
Mary-Lou Jarvis
Harriet Price
Lucinda Regan
Matthew Robertson
Mark Silcocks
Merrill Witt
Susan Wynne
Toni Zeltzer

Staff: Jennifer Chenhall (Manager – Governance & Risk)
Ben Horn (Acting Director – Corporate Performance)
Rhys Johnson (Governance Coordinator)
Patricia Occelli (Director – Community & Customer Experience)
(via Zoom)
Tom O’Hanlon (Director – Infrastructure & Sustainability)
Scott Pedder (Director – Planning & Place) (via Zoom)
Mark Ramsay (Manager – Civil Works)
Craig Swift-McNair (General Manager)

Also in Attendance: Sue Prichard, Council Consultant (Audit Office of NSW) Item 12.1
Christian Morris, Council Consultant (Local Government NSW) Item 12.3

Note: Item 12.3 - General Managers Performance Review 2023-2024 & Performance Agreement for 2024-2025 was considered after Item 17.2 - Questions with Notice - Litigation Protocol Policy.

1. Opening

The Mayor declared the Ordinary Council Meeting of 9 September 2024 open and welcomed Councillors, staff and members of the public who are watching and listening to this evenings meeting.

2. Prayer

The Mayor read the Prayer:

Almighty God, you have given us a beautiful place to live in. We pray for your gift of wisdom that the decisions of this Council may benefit those we serve.

Be with us in our deliberations that this Municipality may know your blessing. Amen.

3. Acknowledgement of Country (Gadigal People and Birrabirragal People)

The Mayor read the following Acknowledgement of Country:

I would like to acknowledge that we are here today on the land of the Gadigal and Birrabirragal people, the traditional custodians of the land. On behalf of Woollahra Council, I acknowledge Aboriginal or Torres Strait Islander people attending today and I pay my respects to Elders past, present and emerging.

4. Acknowledgement of the Sovereign of the Day (King Charles III)

The Mayor read the following Acknowledgement of the Sovereign of the Day (King Charles III):

I also acknowledge, the King of Australia, King Charles III.

5. Leave of Absence, Apologies and Attendance by Audio-Visual Link by Councillors

An apology was received and accepted from Councillor Shapiro and leave of absence granted.

6. Confirmation of Minutes

Item No:	6.1
Subject:	CONFIRMATION OF COUNCIL MEETING MINUTES - 26 AUGUST 2024
Author:	Sue O'Connor, Governance Officer
File No:	24/141624
Purpose of the Report:	The Minutes of the Council of 26 August 2024 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program:	Strategy 11.3: Ensure effective and efficient governance and risk management.

(Wynne/Carmichael)

161/24 Resolved:

THAT the Minutes of the Council Meeting of 26 August 2024 be taken as read and confirmed, subject to the administrative amendments to Item 15.12 discussed at the Council meeting of 9 September 2024.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shields
Councillor Silcocks
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

14/0

Against the Motion

Nil

7. Late Correspondence

Note: Council resolution of 27 June 2011 to read late correspondence in conjunction with the relevant Agenda Item – General Managers Report Item 12.1 & Question with Notice Item 17.2.

8. Disclosures of Interest

Nil

9. Petitions Tabled

Nil

10. Mayoral Minute

Item No: 10.1
Subject: RECOGNITION OF SERVICE - MR MARK RAMSAY
Author: Richard Shields, Mayor
File No: 24/158436
Purpose of the Report: To acknowledge the long service and outstanding contribution of Mr Mark Ramsay to Woollahra Municipal Council and our community.

(Shields/Wynne)

162/24 Resolved:

THAT Woollahra Municipal Council formally acknowledges the exemplary service of Mr Mark Ramsay during his 36 years of employment and thanks him for his contribution to our community.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shields
Councillor Silcocks
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Against the Motion

Nil

14/0

Background:

On 27 September 2024, Mark Ramsay, Council's Manager Civil Operations, will retire from Council after 36 years of service. Mark's contribution to the Council organisation and the Woollahra community cannot be overstated.

Mark commenced with Council in 1988 as a mechanic. In the ensuing years he progressed his career in the roles of Plant Foreman, Supervisor and Plant and Fleet Coordinator. In 2005, Mark commenced his first management role, then titled Manager of Depot and Waste Services. In 2011, Mark's role was expanded to include a broader range of civil maintenance tasks, with a new title of Manager Civil Operations. In this role, Mark has been primarily responsible for many of Council's most critical functions including waste collection and processing; public domain cleaning; footpath and road maintenance and after hours/emergency response.

Throughout his time at Council, Mark has been highly regarded by his colleagues and the elected Council. He is known for his sharp intelligence, wisdom, calmness and humour. He has been a coach and mentor to a generation of operational staff and has provided an enormous contribution to the management and executive levels of Council.

As Council's first responder and key liaison with emergency services, Mark has responded to countless late night, early morning and weekend calls. He has been instrumental in developing and managing a very strong working relationship with Waverley Woollahra SES, which provides support to our local community during extreme weather and emergency situations.

As well as being a first rate operational manager, Mark has been an innovator and contributor to broader industry improvement, particularly in the area of waste management. It is noted that under Mark's management, Woollahra Council introduced a 'Kitchen to Compost' service in 2008. This type of service, now commonly known as 'FOGO', is only now becoming mainstream across local government and has been mandated by the NSW Government for introduction across the industry by 2030.

I would also like to specifically acknowledge the central role that Mark played in Council's response to the Covid 19 Pandemic. As a key liaison with other emergency responders and as the manager responsible for the most critically threatened operations, Mark's experience, agility, calmness and practical approach were pivotal in keeping our staff and community safe during that very difficult time.

Councillors, I believe that the dedication and loyalty Mark Ramsay has demonstrated during his 36 years of service to our organisation and the community is worthy of recognition and admiration. Please join me in thanking him for his exemplary service and wishing him well in his retirement and future endeavours.

Item No: 10.2
Subject: **EASTS RUGBY SHUTE SHIELD - CONGRATULATIONS**
Author: Richard Shields, Mayor
File No: 24/159948
Purpose of the Report: Acknowledge the Easts Rugby win of the Shute Shield - 2024

(Shields/Wynne)

163/24 Resolved:

THAT Council acknowledge and resolve that the Mayor write to congratulate the Eastern Suburbs District Rugby Union Football Club on their historic win of the 2024 Shute Shield.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shields
Councillor Silcocks
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Nil

14/0

Discussion:

Eastern Suburbs District Rugby Union Football Club (ESDRUFC) has a long and storied history in the Woollahra LGA, with the club's home having been Woollahra Oval (also known as Andrew Petrie Oval) in Rose Bay since 1949.

So it is with a great deal of pride that I and many members of the Woollahra community celebrated Easts' victory in the Shute Shield, the premier club rugby union competition in New South Wales, on Saturday 31 August – its first win in 55 years.

The club became first grade premiers for the first time since 1969 with a nail-biting one point victory over Norths, 36-35, at Leichhardt Oval. In addition to this historic win, the club also won premierships in 1st Colts, 3rd Colts and 4th Grade, wrapping up a fantastic year in which they also won the Club Championship. In the last three years, the club has won all of the eight competitions in which it competes, with a strong cohort of local juniors also now coming through.

Dominic Remond, CEO of ESDRUFC, said: *"This is a wonderful result for all the effort and hard work put in by our players, coaches, managers, volunteers and sponsors. To see the elation on faces at Leichhardt Oval and back at the clubhouse, was testament to the deep connections with our local community"* *"This has been somewhat a monkey on our back for over five decades and a great relief to have our names back on the Shute Shield."*

I know many of our Councillors have actively supported Easts Rugby and I am delighted that Woollahra Council's upgrade of Woollahra Oval to a sustainable synthetic turf playing surface, delivered in 2018, meant the facility could be used for 60 hours a week, year round, as opposed to its previous 20-hour limit. Both Easts and other local sporting clubs have benefited greatly from increased playing and training options in the years since.



Now the drought has been broken, we look forward to celebrating many more successes for the club into the future. Council will continue to work with Easts to look for ways to improve the amenities at Woollahra Oval and as per a recent resolution of Council, we are currently looking at how we can assist to deliver much-needed female change rooms as part of our commitment to supporting women and girls in local sport.

11. Public Forum

Nil

12. General Manager and Officer's Report

Item No:	12.1
Subject:	FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2024
Authors:	Henrietta McGilvray, Senior Corporate Accountant Esther Hii, Acting Senior Corporate Accountant Paul Ryan, Chief Financial Officer
Approvers:	Sue Meekin, Director Corporate Performance Craig Swift-McNair, General Manager
File No:	24/149418
Purpose of the Report:	To present the Financial Statements for the year ended 30 June 2024, provide commentary on the budget result for 2023-24 and recommend to Council the adoption of Council's Statement in relation to the Financial Statements.
Alignment to Delivery Program:	Strategy 11.2: Secure Council's financial position.

Note: Late correspondence was tabled by Paul Ryan, Council's Chief Financial Officer.

(Zeltzer/Jarvis)

164/24 Resolved:

THAT Council:

- A. Note Council's financial position at 30 June 2024 including:
 - i. Net operating surplus for the year from continuing operations of \$13.757m
 - ii. Net operating deficit for the year before grants and contributions provided for capital purposes of (\$2.455m)
 - iii. A working funds balance of \$5.186m

- B. Note that Council exceeded six out of six of the Office of Local Government (OLG) Performance Ratio benchmarks for 2023-2024, being the:
 - i. Operating Performance Ratio
 - ii. Own Source Operating Revenue Ratio
 - iii. Unrestricted Current Ratio
 - iv. Debt Service Cover Ratio
 - v. Rates and Annual Charges Outstanding Percentage Ratio
 - vi. Cash Expense Cover Ratio

- C. Having noted the statement of confirmation provided in the report by the General Manager and the Chief Financial Officer (Responsible Accounting Officer) and the review by the Audit, Risk & Improvement Committee, adopt the following statement in relation to its Financial Statements for the year ended 30 June 2024:

That, in relation to the General Purpose Financial Statements for the year ended 30 June 2024, Council is of the opinion that:

The General Purpose Financial Statements have been prepared in accordance with:

- i. the Local Government Act 1993 (NSW) (as amended) and Regulations made thereunder;*
- ii. the Australian Accounting Standards and other pronouncements of the Australian Accounting Standards Board;*
- iii. the Local Government Code of Accounting Practice and Financial Reporting*

And to the best of our knowledge and belief, these Financial Statements present fairly Council's operating result and financial position for the year; and accord with Council's

accounting and other records; and further, the signatories to the Statement, to the best of our knowledge and belief, are not aware of any matter that would render the Statements false or misleading in any way.

- D. Formally refer the General Purpose Financial Statements for the year ended 30 June 2024 for audit; and
- E. In anticipation of receiving the Auditor's Reports, sets the Council meeting to be held on Monday 28 October 2024 as the meeting at which the Financial Statements will be presented to the public.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shields
Councillor Silcocks
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Nil

14/0

Item No: 12.2
Subject: **AUTHORISATION TO THE MAYOR AND DELEGATION TO THE GENERAL MANAGER FROM THE DATE OF THE NSW LOCAL GOVERNMENT ELECTIONS ON 14 SEPTEMBER 2024 TO THE FIRST MEETING OF THE NEW COUNCIL**

Author: Rhys Johnson, Coordinator Governance
Approvers: Jennifer Chenhall, Manager Governance & Risk
Craig Swift-McNair, General Manager

File No: 24/109688
Purpose of the Report: To authorise the Mayor to continue to exercise Civic and Ceremonial functions and to delegate to the General Manager the exercise of functions of Council for the period from the date of the NSW Local Government Elections on 14 September 2024 to the first meeting of the new Council, which is not covered under the General Manager's current Delegation of Authority.

Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

(Zeltzer/Wynne)

165/24 Resolved:

THAT Council:

- A. Authorise the outgoing Mayor, Councillor Shields to continue to exercise all Civic and Ceremonial functions normally exercised by the Mayor, for the period from the date of the NSW Local Government Elections, being Saturday 14 September 2024 to the first meeting of the new Council.
- B. In accordance with Section 377 of the *NSW Local Government Act 1993*, delegate to the General Manager all of its powers, authorities, duties and functions for the period from the date of the NSW Local Government Elections, being Saturday 14 September 2024 to the first meeting of the new Council, provided that the exercise of such powers, authorities, duties and functions by the General Manager shall not be contrary to Council's policies and decisions previously made by the Council by formal resolution.
- C. Request the General Manager table a report at the first Council Meeting following Saturday 14 September 2024 NSW Local Government Elections outlining:
 - i. The Civic and Ceremonial functions that have been exercised by the outgoing Mayor during the subject period; and
 - ii. The exercise by the General Manager (on behalf of the Council) of any functions that were not covered under the General Manager's general Delegation of Authority for the subject period.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shields
Councillor Silcocks
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Nil

14/0

Item No: 12.3
Subject: **GENERAL MANAGERS PERFORMANCE REVIEW 2023-2024 & PERFORMANCE AGREEMENT FOR 2024-2025**
Author: Craig Swift-McNair, General Manager
File No: 24/158656
Purpose of the Report: As per the guidelines provided by the Office of Local Government, this report details the process of the review undertaken for the General Manager's performance for 2023-2024 and the process relating to the setting of the 2024-2025 General Manager's performance agreement.
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

(Robertson/Carmichael)

Resolved:

THAT Council, in accordance with Section 10A (2) (a) of the *Local Government Act 1993*, resolve to enter into Closed Session with the press and public excluded to consider the Confidential Report on the General Managers Performance Review 2023-2024 and Performance Agreement for 2024-2025. These matters are to be considered as per Section 10A (2) (a) as they are personnel matters concerning particular individuals (other than Councillors).

Adopted

In Closed Session.

Note: The Council discussed the confidential report and drafted a confidential resolution, the time being 7.13pm.

(Robertson/Carmichael)

Resolved:

THAT the confidential resolution in relation to this matter be adopted.

(Robertson/Carmichael)

Resolved:

THAT the Council move into "Open Session". Adopted In Open Session, the time being 7.35pm.

In Open Session

(Shields/Robertson)

166/24 Resolved:

THAT Council:

- A. Receive and note the 2023-2024 General Managers Performance assessment as approved under delegation by the General Managers Performance Review Panel, noting the outcome of the review is that the General Managers performance has been rated as exceeding expectations.

- B. Endorse the General Manager's Performance Review Panel's recommendation of a performance-based increase of 2% based on the General Manager's performance being assessed as exceeding expectations, as provided for under Clause 8.3 of the General Manager's contract of employment.
- C. In recognition of the General Manager's 2024-2025 performance and in addition to Part B above and in line with Clause 9.8 (Special Leave) of the General Managers contract (where Council may grant special leave, with or without pay, to the employee for a period as determined by Council to cover any specific matter approved by Council), resolve to grant the General Manager 5 x days Special Leave to be used within the 2024-2025 financial year, noting that that the Special Leave cannot be accrued, nor can it be cashed out.
- D. Receive and note the 2024-2025 General Managers Performance Agreement as approved under delegation by the General Managers Performance Review Panel.
- E. Note that this report titled General Managers Performance Review 2023-2024 & Performance Agreement for 2024-2025 and related document is to remain confidential.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shields
Councillor Silcocks
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Nil

14/0

13. Reports of the Committees

Nil

14. Rescission Motion

Nil

15. Councillor Reports/Councillor Updates (Section 8.4)

Note: Councillor Reports/Councillor Updates are to be confined to condolences, congratulations, presentations and matters ruled by the Chair to be of extreme urgency (in accordance with Section 8.4 of Council's Code of Meeting Practice).

General Item No: 15.1 Statement
Tabled by Councillor: Councillor Zeltzer

Councillor Zeltzer advised:

Thank you Mr. Mayor. I apologise to you all for not being with you on the 26 August. I missed that occasion, but I did hear the recording and I missed the party, and that's the bit I didn't want to miss either. I was standing down, but I came to a decision to remain on Council very abruptly just before I travelled. I had made travel plans when I understood that when I was standing down it would be in (during) caretaker mode so there'd be no major decisions made, so I apologise that I am making my valedictory remarks now and not in the meeting that happened on the 26th.

Knowing that 67 years of corporate history was going to be lost at the end of this Council term, from what I considered committed and experienced Councillors, I felt justified in not wanting the loss to blow out to 83 years, so I will be running and let's see how I go. I would like to now do some valedictory remarks on my departing Councillors and I am going to start with the sitting Mayor, Councillor Shields and then Councillor Shapiro. I would like to reserve the last three for my comrades in our fight against the mergers and do those at the end.

I am exceedingly proud and honoured to have worked with Councillor Shields, both as his running partner on the Double Bay ticket, but also as a close colleague on Council. I consider the mark of a good leader is to teach you, without being didactic and officious and in his company I have learned a lot. As ward Councillors we do not always agree on everything, but we have agreed to disagree and this to me is a mark of great respect, both me for him and him for me. His commitment for the local residents was across all cohorts and it was never in doubt when he first came on the scene right from the outset. He rolled up his sleeves and he tried to reinstate a bus service through Darling Point to provide for the elderly residents. I was particularly impressed that as a male, Councillor Shields took proactive steps to reduce any gender bias, whether it was in his advocacy for female change rooms at sporting fields or the unveiling of the portrait of the first female Woollahra Mayor affectionately named 'Dutchie'. These were real actions, not just words and they make material differences to gender bias.

As a Mayor, he has been in my view, insightful, decisive, calm and unflappable and all of these are desirable qualities of a leader. He has shown the strength of his conviction when he held out in his support of our local Jewish community under strong pressure from many circles and he was unwavering in his commitment. That to me shows strength of character. Councillor Shields has had to endure much during the last month and there have been a number of references as to whether it is appropriate to hold a Councillor position while holding down a day job. In my observation, over 16 years on Council, holding down a day job or having another role and being a Councillor is not mutually exclusive. In fact, I say it is eminently desirable for the increased value and broader perspective such a Councillor brings to any Council proceedings. It is not unusual or unprecedented to have had Councillors that have had other jobs, high quality candidates, high flyers, so to speak on Council who held significant day jobs. I reflect on former Councillors, Greg Medcraft who was Chair of ASIC while on Council. I reflect on Elena Wise, who was the head of AfterPay marketing in Japan while on Council and the other, beloved Elena Kirillova who was instated as Russian Trade Commissioner and of course Deborah Thomas who headed Bauer Media when she took on the role of Councillor.

All of these and others including Councillor Shields have made exceptional contributions to Council *because* of their day jobs. Councillor Shields leaves an outstanding legacy in one year as Mayor. I am proudest of his inclusion of a school student competition of prose to be added to the ANZAC service at Steyne Park, a fitting tribute to the ANZACs, which enables their story to live on with the young. His legacy may be even more paramount if the referendum vote is 'Yes' and I am hoping that is the case.

I now move on to Councillor Shapiro. Councillor Shapiro shared a term with me in 2008 to 2012 and after a break came back to Council in 2017. But in 2012, Isabelle became Mayor and added real class and refinement to the role. For all of those who came after her, it left us with something to aspire to. The word that exemplifies Isabelle Shapiro in my view is 'grace' and she has it in spades, whether she is conducting meetings with constituents or speaking at Council meetings, in all proceedings, she sets a fine example for us all. Her stepping down leaves us with a huge knowledge gap as she started back in 2004, four years before any of us sitting here now. She will be greatly missed in urban planning. This has now become strategic planning. I can recall numerous site inspections which she and I attended and which gave Councillors great insight in those days and showed us how decisions on Council are metred out on the ground in developments. But these site inspections, provided solid foundations to understand how strategic planning metred out, but nowadays we are flying blind. Isabelle Shapiro had these skills, she picked them up on those site inspections like many others and we are losing that when we lose her.

Isabelle has championed suicide prevention, which has led to upgrades at Gap Park, which have saved many lives. She has expanded our appreciation for fine arts, whether through her initiative of forming the Woollahra Public Art Trust which became the Woollahra Art Panel or incorporating art on hoardings. She has always provided considerate advice for both Council and other matters and is someone you can count on for her accessibility, her knowledge and her candour. I value her good judgement immensely on many levels and losing Isabelle from Council is Council losing one of its greatest mentors.

I now come to the Councillors who are here with me fighting the fight against the mergers and I begin with Councillor Wynne. Firstly, I wish to congratulate Susan on getting an Emeritus Mayor award. Only three Mayors have this award in the history of this Council and it is a title in perpetuity. So congratulations Susan, whose work during COVID alone could have justified this award, but she has contributed much beyond this. We both started together in 2008 and she was a Residents First Councillor then and her intelligence was obvious to all. She was a young mother then and it was clear that raising her girls was her most important role. She became Mayor in 2011 and I was her Deputy and it was a great collaboration. Susan was accessible, easy to discuss matters with and solid in keeping your confidence. She has remained so. In 2016 the roles were reversed and she was my Deputy and we had the same strong and respectful relationship. When she joined the Liberals in 2016, it was my view that in my last Mayoral year, Susan could have easily contested for Mayor and after me holding the role for three consecutive years already, it would have not been unreasonable for her to do so, but she held back allowing me to finish the job I had started. So I quietly acknowledge and thank her for her restraint.

Just like all of us that were on Council then, when the time came to gather our 10,000 signatures to enable the matter of the mergers to go before the State Parliament, Susan worked hard to gather the numbers, as did Peter (Cavanagh), as did many others. But Susan garnered support from other avenues and we were able to exceed our 10,000 signatures. In fact, we got 11,000 in six weeks, which was unheard of. It usually takes parties and communities 12 to 18 months to gather that level of response. Susan's Mayoral term was characterised by sensitivity. She conducted Council meetings with the commendable mantra of leaving politics at the door. Her wish was to be fair to everyone and she put great effort into achieving this and her work in reducing red tape and stimulating small business is her legacy, as is her efforts on the environmental agenda. For this, she got down on her knees, close and personal to promote 'Reconophalt'. Road sheeting is not the sexiest of Council's initiatives, but Susan did not care. It would produce positive change through increased recycling and that's all that mattered to her. She also led in the initiation of the new General Manager.

I pass now to Councillor Peter Cavanagh, who also started with me back in 2008. When I first met Peter the very first time and he knew we were both going to be Councillors together, the one remark he made to me was "Toni, this is going to be fun" and I agreed with him. I think it was fun agreed Peter, I can recall attending the first Local Government conference at the Town Hall. That was the very first one we attended where Peter knew many of the politicians there and I was very impressed. At the formal dinner, he and I were singing along to some of the music and it was great fun. I assumed from then that he and I would step down from Council together and perhaps we would go out doing some karaoke of some of the same songs we heard that night. But sadly Peter, it was not to be. I am still staying on.

Peter was always a dapper dresser. He believed that to respect the role properly, you needed to be properly attired. His suits and ensembles after a return trip from Europe were sartorial splendour. I always imagined him being fitted on Savile Row. His waistcoats were remarkable. Councillor Cavanagh ran sharp meetings and he was big on ceremony. He attended all his invitations with great pride, whereas some Mayors, including myself, tended to delegate some of these invitations. Peter took the ceremonial role very seriously. Wherever he went, he looked the part. He was a gracious host in the Mayoral Chamber. I recall he changed some of the furnishing details as soon as he got the Mayor's role. Sometimes I thought perhaps I would see the arm chairs recovered in pink or purple velvet on my next visit to the Chamber. He also returned the flags to the Mayoral vehicle as a nod to ceremony. Peter is a known Royalist. So when we unveiled the new Queen Elizabeth Fountain at the top of Queen Street, I made sure his name was included on the plaque out of respect to his undying commitment to the reigning Monarch. If I am successful in this election, I will be moving to increase the font size Peter on that plaque, because at present you need a magnifying glass to read anything and that is even when you get down on the grass on your knees.

Peter has been a very well-known champion for preserving Paddington's heritage. We would often speak on the impact of a merged Council on the heritage value of Paddington. This unthinkable possibility steeled us both to fight the fight. Peter had many friends supporting the other side and I am sure the pressure on him to let go of our fight for independence would have been immense. But he stood his ground and his beloved Paddington remained within Woollahra Council. His wonderful initiative of the Garden Awards has fallen away due to some consultant or another, but this is a case in point in my view, where consultants got it wrong. Whether he was Mayor or not, Peter was always our representative of the Paddington RSL ANZAC Service and he is very well regarded by returned soldiers for that commitment. Through his financial insight and acumen, Peter's greatest legacy is in the negotiation of our loan for Kiaora Lands. We were able to secure a loan at a reduced interest rate for the full remaining life of the loan and while interest rates climb, we are immune. This will save millions for our local community in the life of the loan, a contribution that has been much underrated and for which he should be very proud.

I pass on now to Councillor Elsing. Luise came to council in 2012 and brought a breadth of legal expertise and a genuine bonhomie. While stating many times before she started her speeches on Council that, "I'm going to be brief", she was never lost for words, but she knew her stuff, was very earnest about the subject matter, was very well prepared so no one begrudged her the time. She was great fun at the Local Government conferences and I recall a fabulous few days we spent together in Melbourne at a conference on placemaking. But Luise is a girl of many talents and crochet is now considered one of those with the outstanding exhibition of her work recently at the Woollahra Gallery. Some recall her doing her crochet at Council, but again, no one begrudged that either as no one can doubt the ability of this accomplished multitasker.

I also wish to congratulate Councillor Elsing on her recent Masters of Law achievement, an incredible result that well-demonstrates that some of our older cohort can and do excel in higher education. Another vote of thanks for Luise for her steadfast support of me during our fight on the mergers. She was invaluable in providing a legal eye on the court proceedings and giving me feedback on our prospects of success at every step.

She was always with me at all Court battles, whether it was the Land and Environment Court, the Court of Appeal or the High Court of Australia, we would congregate at the cafe 'Legal Grounds' on Macquarie Street and debrief on the Court proceedings under a mural of Lady Justice herself. Gary James often joined us there as did Councillor Marano, Councillor Robertson and others. The High Court experience was surreal and something I shared with her, Councillor Marano and Councillor Levinson on that very important day. Yes, Councillor Elsing was there. We will never forget it. We were granted leave by the High Court in four minutes, which was unheard of and so we went outside and posed outside the High Court imitating that moment from the cult film, 'The Castle'. This High Court decision turned everything around for this Council and Luise was a witness, and Lady Justice was finally on our side.

I appreciated Louise's assistance in initiating the annual cultural days, starting first with the 'Greek Day Out'. This is something I brought to Council but subsequently has fallen away. I don't know why. It was attended by thousands but anyway, that's another story where consultants may have got it wrong, but Luise was very much involved in that Committee and she was a great supporter of mine, as we went off to do the 'Greek Day Out', followed after by the 'Chinese New Year', the 'French Soirée', the 'Latino Fiesta' and the 'Fiesta Italiano' on Glenmore Road, which Councillor Cavanaugh opened and it was a major success, as were all of them. Luise was instrumental in these well supported community functions that attracted thousands. For the first one, which was the big 'Greek Day Out', Luise donned a traditional Greek costume for women called the 'Amalia', and Greek-danced with me and others around the lawn in front of the Chambers for a photo. When Luise commits to anything, she does it with generous spirit and with gusto. She is also an ardent supporter of women suffering domestic violence and brought the current initiative to Council, which supports housing to these women and their children. Her heart is big.

I have enjoyed the comradery and friendship of all those Councillors departing. I respect them immensely and hold all of them in high esteem. They have made major and significant contributions to this Council and to the Woollahra community. They have also made my life much richer for knowing them all, and I will be saddened if they don't all keep in touch. Thank you.

16. Notices of Motion

Nil

17. Questions With Notice

(Zeltzer/Wynne)

167/24 Resolved:

THAT the Questions with Notice be received and noted.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shields
Councillor Silcocks
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Nil

14/0

QWN: 17.1
From: Councillor Jarvis
Subject: Questions with Notice - Boats trailers and Other Vehicles Overstaying their Welcome on Our Roads

Councillor Jarvis asking:

I refer to my question on notice answered on 15 November 2023 regarding action taken by Council regarding the Council boats and trailers parked on New South Head for weeks, possibly months and were being addressed under the Public Spaces (Unattended Property) Act and regulations.

Can staff please provide Council with updated figures from the last response provided by staff (November 2023) to the present time on the following questions:

1. How many fines by Woollahra Council have been issued since the Public Spaces (Unattended Property) Act and regulations since the date the last advice was given?
2. How many items of property have been impounded in our area since the new Act and regulations came into effect on 1 November 2022 and since the date of the last advice?
3. Of the overall investigations how many boat trailers or other vehicles have been found to be unregistered and what action has been taken since the last advice?
4. What is the total monetary amount of such fines imposed and any amounts recovered where property has been impounded since the last advice?

5. Is it possible to identify the cost of enforcement or at least the number of staff allocated to compliance within the Council area since the last advice?
6. More specifically in Vaucluse around Ray Reserve and Johnston's lookout, in response to the requests I submitted on 15 May 2024, on the Woollahra Council app (request 91173) where on 19 May staff marked 37 vehicles boats and trailers on New South head Road Vaucluse primarily between Ray Ave and Giralang; how many were eventually issued with infringement notices and fines (and the monetary amount) under the new rules, noting that in the last report 5 parking infringements were issued and a further 3 were being investigated as potentially "unattended vehicles".
7. Noting that on 21 June there were 35 such vehicles and by 24 June on New South Head Road the number had increased to 37 vehicles again, mostly boats and trailers but also one large truck and a caravan (12 around Johnston's lookout, 18 around Ray Reserve and 7 around St Michaels / Kincoppal). What action has been taken most recently?
8. More specifically on Wentworth Road on May 15 2024 (request 91175) regarding parked boat trailers, the advice on June 19 was that *"all trailers have been added to a separate IC each. This one will be finalised, the others are remaining open to send letters to registered owner"*. What action has been taken since then?

June 24 at Johnston's lookout



June 21 around Ray Reserve



Regulatory Coordinator in response (*In Italics*):

1. How many fines by Woollahra Council have been issued since the Public Spaces (Unattended Property) Act and regulations since the date the last advice was given?

Since the NSW Public Spaces (Unattended Property) Act came into effect on 1 November 2022;

- *64 penalty notices have been issued since 1 November 2022 and*
- *39 penalty notices have been issued since the last advice*

2. How many items of property have been impounded in our area since the new Act and regulations came into effect on 1 November 2022 and since the date of the last advice?

Since the NSW Public Spaces (Unattended Property) Act came into effect on 1 November 2022;

- *90 items and vehicles have been impounded and*
- *26 items and vehicles have been impounded since the last advice*

3. Of the overall investigations how many boat trailers or other vehicles have been found to be unregistered and what action has been taken since the last advice?

Since the NSW Public Spaces (Unattended Property) Act came into effect on 1 November 2022;

- *378 unregistered vehicles were detected and issued a penalty notice*

Since the last advice;

- *233 unregistered vehicles were detected and issued a penalty notice*
- *36 Penalty Notices were issued under the NSW Public Spaces (Unattended Property) Act and*
- *26 items and vehicles impounded and sold*

4. What is the total monetary amount of such fines imposed and any amounts recovered where property has been impounded since the last advice?

\$117,886.00 in penalty notices and \$24,243.00 where items and vehicles have been impounded and sold.

5. Is it possible to identify the cost of enforcement or at least the number of staff allocated to compliance within the Council area since the last advice?

All regulatory staff are involved in attending to or managing these processes including parking officers, rangers and supervisors and is estimated to be equivalent to one full time staff member.

6. More specifically in Vaucluse around Ray Reserve and Johnstons lookout, in response to the requests I submitted on May 15 on the Woollahra Council app (request 91173) where on May 19 staff marked 37 vehicles boats and trailers on New South head Road Vaucluse primarily between Ray Ave and Giralang, how many were eventually issued with infringement notices and fines (and the monetary amount) have been issued under the new rules, noting that at last report 5 parking infringements were issued and a further 3 were being investigated as potentially 'unattended vehicles'.

Refer to the answer to question 7 below.

7. Noting that on 21 June there were 35 such vehicles and by 24 June on New South Head Road the number had increased to 37 vehicles again, mostly boats and trailers but also one large truck and a caravan. (12 around Johnstons lookout, 18 around Ray Reserve and 7 around St Michaels/Kincoppal), what action has been taken most recently?

37 vehicles and boat trailers audited and investigated via Service Request 91173 specifically New South Head Road Vaucluse:

- 21 vehicles moved within the prescribed time frame of 28 days under the NSW Public Spaces Unattended Property Act
- 16 Section 28 Notices sent directing the owner to remove the vehicle
- 1 penalty notice issued – Fail to comply with Section 28 Notice to remove the vehicle and vehicle was removed by the owner
- 1 vehicle is attended owner lives adjacent where the vehicle is parked no further action is proposed
- Total amount of penalty notices issued for this service request is \$1,320

<i>Follow up service requests arising from 91173</i>	
<i>Service Request 95986</i>	<i>Vehicle removed</i>
<i>Service Request 95989</i>	<i>Vehicle removed</i>
<i>Service Request 95990</i>	<i>Vehicle removed</i>
<i>Service Request 88628</i>	<i>Vehicle removed</i>
<i>Service Request 96308</i>	<i>Vehicle removed</i>
<i>Service Request 95391</i>	<i>Vehicle removed</i>
<i>Service Request 96310</i>	<i>Vehicle removed</i>
<i>Service Request 95392</i>	<i>Vehicle removed</i>

- No vehicles were impounded from service request 91173
- 11 August 2024 New South Head Road Vaucluse checked and all vehicles had been removed for City to Surf.

8. More specifically on Wentworth Road on 15 May 2024 (request 91175) regarding parked boat trailers, the advice on 19 June was that “all trailers have been added to a separate IC each. This one will be finalised, the others are remaining open to send letters to registered owner”. What action has been taken since then?

9 vehicles and boat trailers audited and investigated via Service Request 91175 specifically Wentworth Road Vaucluse:

- 2 penalty notices issued ‘stand unregistered registerable Class A vehicle on a road’
- 3 vehicles moved within the prescribed time frame of 28 days under the NSW Public Spaces Unattended Property Act
- 6 Section 28 Notices sent directing the owner to remove the vehicle
- 2 penalty notices issued – Fail to comply with Section 28 Notice and vehicle(s) were removed by the owner
- 1 vehicle is attended – vehicle is attended owner lives adjacent where the vehicle is parked no further action is proposed
- Total amount of penalty notices for this service request is \$3,244
- 1 vehicle impounded and 1 pending

<i>Follow up service requests arising from 91175</i>	
<i>Service Request 93893</i>	<i>Vehicle removed</i>
<i>Service Request 93894</i>	<i>Penalty notice issued vehicle impounded awaiting collection or sale</i>
<i>Service Request 94117</i>	<i>Penalty notice issued – impound pending</i>
<i>Service Request 94121</i>	<i>vehicle is attended owner lives adjacent where the vehicle is parked no further action is proposed</i>

QWN: 17.2
From: Councillor Witt
Subject: Questions with Notice - Litigation Protocol Policy

Note: Late correspondence was tabled by Rosemary Bullmore, Council's Manager Legal, Compliance & Enforcement.

Councillor Witt asking:

1. Could Council seek confirmation from applicants that amended plans approved by the LEC, either through an S34 Conciliation Conference or as a result of a hearing, are substantially complete? Too often LEC approved plans are subject to S.4.56 modification applications that request changes to the most contentious aspects of the LEC approved plans.
2. Could potential litigants be given advice about recent LEC decisions that have upheld the Council's Woollahra Local Environment Plan 2014 (WLEP) and/or the Woollahra Development Control Plan 2015 (WDCP) as a means to deter appeals against WLPP refusals?
3. Could Council engage a property barrister to provide advice on the likelihood of success in the LEC earlier in the process, i.e. before the S34 Conciliation Conference is conducted?

Discussion

On 15 August 2024, the Woollahra Local Planning Panel (WLPP) approved a S4.56 modification request to a LEC approved DA (DA 280/2022/1 294-298 New South Head Road & Nos. 2-10 Bay Street Double Bay). See *2 Bay Street Pty Ltd v Woollahra Municipal Council* [2023] NSWLEC 1222

<https://www.caselaw.nsw.gov.au/decision/187fe6a167070384d55bb2a2>

Manager Legal, Compliance & Enforcement in response:

1. *Council cannot prevent further modifications being made as that avenue is provided by the Environmental Planning and Assessment Act 1979.*
2. *Council staff can provide applicant's with copies of relevant Court decisions for reference only, however it is not appropriate or allowable for Council staff to provide legal advice. Further, in our experience, most Litigants are represented by very competent planning consultants and environmental planning lawyers who are well versed in recent Appeals including decisions that have been made involving Woollahra Council Applications in the Court.*
3. *It is the Court's practice to require parties at attend a conciliation conference, this is usually unavoidable. Council is required to participate in the section 34 conference in good faith to try to resolve issues, or reach agreement with the applicant. Often applicant's make significant concessions in the conciliation conference which may affect Council's future prospects of success. It is Council's current practice prior to entering into any s34 Agreement that it obtains "Prospects of Success Advice " if it were to proceed to a hearing. Engaging a barrister early in the process is possible but may not be the most efficient approach for Council.*

18. Supplementary Responses to Previous Questions with Notice

Nil

19. Confidential Matters

Nil

20. Conclusion of the Meeting

There being no further business the meeting concluded at 7.40pm.

We certify that the pages numbered 560 to 584 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 9 September 2024 and confirmed by the Ordinary Meeting of Council on 9 October 2024 as correct.

General Manager

Mayor